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PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Tuesday, October 4, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota.

The PRESIDING OFFICER. The prayer this morning will be offered by guest chaplain, the Reverend Clifford T. Stewart.

PRAYER

The Reverend Clifford T. Stewart, of St. Francis of Assisi Episcopal Church, Wilsonville, OR, offered the following prayer:

Let us pray:

Almighty God, in whom we live and move and have our being: We humbly pray Thee so to guide and govern us by Thy Holy Spirit, that in all the cares and occupations of our life we may not forget Thee, but may remember that we are ever walking in Thy sight.

We beseech Thee so to guide and bless our U.S. Senators in Congress assembled that they may enact such laws as shall please Thee, to the glory of Thy name and the welfare of this people. Grant them wisdom and grace in the exercise of their duties.

We pray in the name of our Lord and Savior, Jesus Christ. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 4, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BYRON L. DORGAN, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DORGAN thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

THE GUEST CHAPLAIN

Mr. HATFIELD. Mr. President, it is with great pleasure that I welcome an old friend and very distinguished Oregonian to the Senate this morning to open the Senate Chamber with prayer, the Reverend Cliff Stewart, who, as it has been noted, has been the pastor of St. Francis of Assisi Episcopal Church in Wilsonville, OR. He is accompanied today by his wife, Eleanor, and by his son, Bob.

Mr. President, our friendship goes back over 50 years, when we attended Willamette University together and belonged to the same fraternity. I would like to say even in those days there were those upperclassmen who set the pace, who set the standard, who were the role models—and Cliff Stewart was one such person. In everything moral, in everything upright, in everything noble, he served as that kind of role model for all of us in that fraternity.

After 34 years as a distinguished member of an accounting firm, one of the six largest in the country, he retired and started teaching at Lewis and Clark College, and then was called into the ministry. He attended seminary and was ordained in 1989, and he has since been a minister and pastor to this particular congregation. He considers his ministry is an outreach serving the poor, the weak, the sick, and the lonely. I think we might all qualify here in this body this morning for the benefit of his prayer.

I thank the Chair.

EXECUTIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now go into executive session to proceed to the consideration of the nomination of H. Lee Sarokin, of New Jersey.

The Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

THE JUDICIARY

The assistant legislative clerk read the nomination of H. Lee Sarokin, of New Jersey, to be U.S. circuit judge for the third circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. shall be divided and controlled equally between the Senator from Delaware [Mr. BIDEN] and the Senator from Utah [Mr. HATCH] or their designees.

The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be divided equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, once again my colleagues on the other side of the aisle have adopted a tactic of prematurely filing a cloture motion, this time on President Clinton's controversial and ill-advised nomination of Judge Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. My colleagues, of course, are wholly within their rights in pursuing this type of a tactic, and we will undoubtedly hear many inaccurate cries of filibuster and obstructionism from their ranks. But my colleagues have, I am afraid, cried wolf far too often, and their credibility on this matter has long since worn thin.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Let me make two points perfectly clear: First, I do not have, and have not ever had, any intention of filibustering the Sarokin nomination. Nor am I aware of any of my colleagues who have such a design. On the contrary, I and my Republican colleagues on the Judiciary Committee accommodated the senior Senator from New Jersey by making sure that Judge Sarokin received his confirmation hearing before the Senate took its August recess. Since that time, I have attempted to work out a time agreement for the orderly consideration of this nomination.

The second point that requires emphasis is that the nomination of Judge Sarokin is an important and controversial nomination that warrants careful consideration on the floor of this Senate. In the 15 years since he was appointed to the Federal district court in New Jersey by Jimmy Carter, Judge Sarokin has earned a nationwide reputation as a stridently liberal judicial activist. On a broad range of telltale issues—such as crime, quotas, reverse discrimination, pornography, and minimal community standards of decency and behavior—Judge Sarokin has pursued his own political agenda instead of following the law. In so doing, he has ignored, defied, and even stampeded binding Supreme Court and third circuit precedent, and he has flaunted his own biases and sentiments on the sleeve of his judicial robe.

These are not just my views, nor just the views of outside critics. The third circuit itself has, for example, lambasted Judge Sarokin for "judicial usurpation of power," for ignoring "fundamental concepts of due process," for destroying the appearance of judicial impartiality, and for "superimpos[ing his] own view of what the law should be in the face of the Supreme Court's contrary precedent." The New Jersey Law Journal on September 14, 1992, has reported that Judge Sarokin "may be the most reversed federal judge in New Jersey when it comes to major cases."

Law enforcement and victims rights organizations that have announced their opposition to Judge Sarokin's nomination include the Fraternal Order of Police, the Law Enforcement Alliance of America, the New Jersey State Police Survivors of the Triangle, Organized Victims of Violent Crime, the League of American Families, Citizens for Law and Order, Citizens Against Violent Crime, and Voices for Victims, Inc.

I just do not understand why, at a time when the President says that he is finally getting serious about crime, he is appointing to a top judgeship someone whose soft-on-crime views are so strongly opposed by many police and crime victims. Indeed, it is particularly notable that groups like the Fraternal Order of Police, which joined with President Clinton in supporting the crime bill, oppose Judge Sarokin's nomination.

Let me emphasize that this nomination is especially worrisome since Judge Sarokin, as a court of appeals judge, would have enormous power and would function, in effect, as the final decisionmaker in the vast majority of cases he hears. I believe that this nomination requires a reasonable airing.

The Clinton administration, having postured itself as tough on crime, wants to hide the fact that it is supporting soft-on-crime judges, like Rosemary Barkett and Lee Sarokin, who will undermine our Nation's anticrime effort. But the American people deserve to know what kind of judges this President is putting on the Federal courts of appeals.

Mr. President, I am prepared to have a reasonable time agreement on this nomination. I will vote in favor of cloture on this nomination, and I urge all of our colleagues on both sides of the floor to do so as well. I expect that most or all of my colleagues on this side of the aisle will vote the same way. But I will not abandon the Senate's duty to debate and expose this nomination. I therefore give notice that I and other Senators who are deeply concerned about this nomination intend to debate it after the cloture vote in order to present Judge Sarokin's record and to explain why we will vote against his nomination.

Having said all that, having met Judge Sarokin, having watched him, I have to say he is a genteel and interesting and apparently a very fine person. That does not necessarily qualify a person to the circuit court of appeals. He may be a fine person and I like him personally, but it is his judicial opinions that I am finding fault with and I think so many others have found fault with.

I notice the distinguished Senator from New Jersey is on the floor. At this point, I reserve the remainder of my time so he can speak to this nomination.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. BRADLEY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Jersey [Mr. BRADLEY].

Mr. BRADLEY. Mr. President, let me say at the outset how much I appreciate the courtesy that has been extended to me by the distinguished Senator from Utah throughout this process. He has been more than generous and accommodating under difficult circumstances, and I appreciate very much his willingness and his cooperative spirit.

I hope, as he stated, that after the cloture vote takes place today around 10:20, as I understand it, that we will be able to get a time agreement so that we will not have to go for 30 hours after cloture is invoked, if it is invoked, as I hope it will be invoked. I know the distinguished Senator from Utah is working to achieve that objective, and I thank him very much.

Mr. President, I know we are awaiting the distinguished chairman of the Judiciary Committee, Senator BIDEN, who, I am sure, wants to make an opening statement, but since we have only until 10 o'clock before there is a vote, and he is not here—I am told he is on his way—I will go ahead and make a brief opening statement and reserve much of what I have to say for the debate as it evolves over the course of the day.

Mr. President, I speak in favor of the nomination of Judge H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. Judge Sarokin has served on the District Court for the District of New Jersey since 1979. He is a jurist of the highest principles and unquestioned integrity. His humility and fairness have been hallmarks of his legal career, and Judge Sarokin's demonstrated record as a district court judge indicates that he is eminently qualified to serve on the third circuit.

Before being named to the district court by President Carter, Judge Sarokin practiced law for 25 years. He was a partner and trial counsel in the firm of Lasser, Lasser, Sarokin & Hochman, which he joined in 1954. From 1959 to 1965, Judge Sarokin served part time as assistant Union County counsel. Judge Sarokin has taught real estate law at Rutgers Law School and is a frequent lecturer at Harvard and Yale, and other law schools across the country. He is a graduate of Dartmouth College and the Harvard Law School and the author of numerous scholarly legal articles. He is known for his keen intellect.

Mr. President, Judge Sarokin's achievements during his 15-year tenure on the bench are laudable. The following facts indicate that Judge Sarokin, based on his distinguished record as a 15-year veteran of the district court, is highly qualified to serve on the third circuit.

First, Judge Sarokin has received a unanimous "well qualified" rating from the American Bar Association, which is the highest possible rating. He has been an extremely effective jurist on the district court. His decisions have yielded a body of case law that is based on adherence to the Constitution and the rule of law. For example, of the over 2,000 written opinions issued by Judge Sarokin, approximately 50, or less than 3 percent, have been reversed or vacated on appeal. At least two of those reversals occurred when legislation was subsequently changed as a result of his rulings. In addition, two of the reversals were themselves reversed by the U.S. Supreme Court.

So Judge Sarokin's record and effectiveness is clear for anyone to see. Judge Sarokin has also held several leadership positions within the Federal judiciary itself. He has been appointed by Chief Justice Rehnquist to the Judicial Conference Committee on Judicial Improvements and the Committee on Court Administration and Case Management. He has also served as the chair of the Subcommittee on Case Management.

In addition, he is the only judge chosen to chair the Third Circuit Judicial Conference twice and has twice served as the program chair of the Conference of Federal Judges and was recently reappointed as chair of the National Conference of Federal Judges.

Third, Mr. President, much of New Jersey's law enforcement community supports Judge Sarokin's nomination to the third circuit. Frank Ginesi, president of the New Jersey State Police Benevolent Association, by far the largest police organization in New Jersey representing over 30,000 police officers, urges Judge Sarokin's confirmation to the third circuit.

Also, David Blaker and Thomas Little, president of the State Troopers and Noncommissioned Officers Association and local 105 of the New Jersey State Policemen's Benevolent Association, representing over 5,000 correctional officers, respectively, have endorsed Judge Sarokin. In addition, the Bergen County Police Conference, the State Troopers Fraternal Association of New Jersey, and the Police Foundation have indicated their support for Judge Sarokin's elevation to the third circuit. According to the New Jersey State Troopers Association, Judge Sarokin's service on the Third Circuit Court of Appeals is "in the best interest of law enforcement."

Moreover—and I think this is an important point, Mr. President—the legal arm of Federal law enforcement is supportive of Judge Sarokin's nomination. Four former U.S. Attorneys for the District of New Jersey—Herb Stern, William Robertson, W. Hunt Dumont, and Michael Chertoff—have endorsed the nomination.

Mr. President, these are the Federal law enforcement officials who have practiced before the judge for the last 15 years. William Robertson served as the U.S. attorney for the Carter administration while Herbert Stern, Hunt Dumont, and Michael Chertoff served under the Nixon, Reagan, and Bush administrations, respectively.

Michael Chertoff, who recently served as the Republican minority counsel in the Whitewater hearings and was an outstanding U.S. attorney, states the following:

> In presiding over complicated and sometimes contentious criminal trials, Judge Sarokin was patient, firm, and fair.

In addition, James Zazzali, the former chairman of the New Jersey State Crime Commission and a former State attorney general, supports Judge Sarokin and states that the judge "would bring extraordinary talent, experience and perspective to the third circuit."

Mr. President, members of the New Jersey legal community also have endorsed Judge Sarokin's nomination and done so with enthusiasm. William McGuire, president of the New Jersey Bar Association, and Thomas Curtin, immediate past president of the New Jersey Bar Association, have proclaimed their support for Judge Sarokin.

Also, Gerald Eisenstat, a past president of the New Jersey Bar Association, and Vincent Apruzzese, another past president of the New Jersey Bar Association and a former member of the board of governors of the American Bar Association, have endorsed the nomination of Judge Sarokin.

Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator from New Jersey the Senator from New Jersey has 17½ minutes remaining.

Mr. BRADLEY. Will the Chair please inform the Senator from New Jersey when he has 15 minutes remaining?

The ACTING PRESIDENT pro tempore. The Chair will do that.

Mr. BRADLEY. Mr. President, Judge Sarokin is held in high regard by his fellow judges in the third circuit. Now, these are the judges that we will hear a lot of comments about today and quotes from various opinions by these judges, and yet these judges overwhelmingly support Judge Sarokin's ascension to the third circuit.

According to Judge Leonard Garth, a Nixon appointee and senior judge of the third circuit who has known Judge Sarokin over 13 years, he has throughout his career "exhibited the compassion, the resourcefulness, the intelligence, the heart and the fairness that are hallmarks of an outstanding jurist."

In addition, Mr. President, every living former judge of the third circuit—Judge Ruggero J. Aldisert, Judge John Gibbons, and Judge Leon Higginbotham—has praised the exceptional judicial performance of Judge Sarokin. As I said, today we are likely to hear that the third circuit has reversed Judge Sarokin on a few occasions, and, indeed, what judge has not been reversed? But make no mistake about the support of these judges for their future colleague. Former Chief Judge Aldisert has written that Judge Sarokin is "one of the most outstanding district judges in the third judicial circuit, a true scholar, and at the same time a genuine humanitarian, constantly in quest for justice for the parties who appear before him."

Former Chief Judge Gibbons, a Nixon appointee who is presently a professor of law at Seton Hall Law School, stated that Judge Sarokin "would bring both intellectual strength and needed ideological balance to the Court of Appeals."

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator that there are 15 minutes remaining.

Mr. BRADLEY. Mr. President, could I take 2 more minutes?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. In addition, former Chief Judge Higginbotham notes that Judge Sarokin is "thoughtful, fair and impressive." Judge Aldisert states that an ideal appellate judge should possess the following qualities: fairness, justice, and impartiality; second, devotion and decisiveness; third, clear thought and expression; fourth, professional literacy; fifth, institutional fidelity; sixth, political responsibility. With regard to Judge Sarokin's judicial abilities, Judge Aldisert writes that "Judge Sarokin passes these rigorous qualifications with flying colors."

Mr. President, there are many highly respected members of the academic community also who support Judge Sarokin's elevation. Professor George Priest of the Yale Law School, who testified in support of former Judge Robert Bork during his confirmation hearings, states that "Judge Sarokin is among the very first rank of Federal judges whose most important quality is what I would call a deep judiciousness, consisting of a combination of seriousness, a commitment to making sense of the law, and a devotion above all else to fair treatment of the parties to the litigation."

Prof. Owen Fiss of the Yale Law School echoes the sentiment of his colleague by noting that "Judge Sarokin's courtroom has become one of the temples of justice of this nation."

Moreover, Prof. Herbert Koh of the Yale Law School writes that Judge Sarokin is "extraordinarily well qualified for elevation to the third circuit."

Mr. President, I reserve the remainder of my time. I will finish in just 30 seconds.

Mr. President, I have known Judge Sarokin for over 20 years. He is a principled jurist who possesses the demonstrated judicial temperament to serve as a circuit judge. Based on his outstanding record as a 15-year veteran of the Federal bench and the broad level of support he has received from people knowledgeable of his accomplishments, Judge Sarokin is eminently qualified to be elevated to the third circuit. Indeed, George Priest has said, and many will agree with what he has said about Judge Sarokin's nomination, it "will prove to be among the country's most distinguished judicial appointments of many decades."

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey yields the floor.

Who seeks recognition?

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG] is recognized for 5 minutes.

Mr. CRAIG. Mr. President, there are few duties of the Senate more important than its role in the confirmation of the nominees for a position on the Federal bench. I do not know of any Senator who takes this responsibility lightly. Certainly this Senator does not. The lives of all Americans are daily affected by the decisions issuing from the judicial branch for a Federal judge's lifetime. For that reason, the qualifications of the nominees must be weighed critically and deliberately, no matter what level of the court system the nominee is supposed to join.

When I first joined the Senate, I was struck by how closely my colleagues scrutinized these appointments. Members on both sides of the aisle repeatedly cautioned the Senate not to blindly confirm the President's nominees, but to work as a vital partner in reviewing nominations.

I think it was the senior Senator from Illinois who once said "There should be no automatic presumption that the President gets the judges he wants."

And more recently, the senior Senator from New York said that "Any notion that there is a rebuttable presumption on behalf of a nomination—that the Senate ought to be basically pliant in response to a nomination—is altogether unconsitutional—even anticonstitutional, and speaks to a right of the American people."

My decision on a judicial nominee's fitness is based on my evaluation of three criteria: character, competence, and judicial philosophy—that is, how the nominee views the duty of the court and its scope of authority.

It is my strong belief that the judiciary should hold to its original purpose, neither rubberstamping legislative decisions nor overreaching to act as substitute legislators. Time and again, I have heard from citizens complaining about the harm done by social activists on the bench—harm that may only be reversed by an extraordinary action on the part of the legislative branch, if at all.

It is this aspect of the nomination before us that concerns me a great deal.

I have reviewed the background materials on Judge Sarokin provided by the administration and others, and I cannot ignore the nominee's penchant for imposing his own political vision on the case before him, regardless of settled precedent and fundamental principles of due process.

Now, I am not a lawyer. That is why in my own State of Idaho, I have worked to establish a Justice Department Nominee Review Commission modeled on those of a number of the States, to advise me on Idaho's Federal judicial nominees. It is why I have sought the views of other members of the legal profession on pending nominations.

And when it comes to how members of his own profession view Judge Sarokin's judicial activism, we have before us the remarkable action and opinion of the Third Circuit Court of Appeals in the Haines antitobacco case.

The administration has done its best to put a good face on that particular event, but the fact remains that the third circuit vacated Judge Sarokin's order and removed him from the case—an action the court itself said was an "extreme" remedy justified only in "exceptional circumstances amounting to a judicial usurpation of power." That is a pretty strong statement from the court. It characterized Judge Sarokin's ruling as being contrary to our "common law tradition," that it ignored "fundamental concepts of due process," and destroyed any appearance of impartiality.

I will leave the scholarly debate about Judge Sarokin's ruling to the lawyers here in the Senate. But even a rancher from Idaho can understand how seriously he departed from accepted judicial standards and practices.

He used his position to launch an unnecessary and inappropriate attack on the tobacco industry. Adding insult to injury, after having been rebuked and removed from the case by the third circuit, he accepted an award from an antismoking interest group for his "significant achievement" on the issue.

Mr. President, I am not a smoker. I am a reformed smoker. I am almost an antismoker. But I speak out on this issue because I think this judge went beyond the bounds of his responsibility.

Mr. President, that is not the kind of fairness, impartiality, and prudence Americans rightfully expect to see in those who occupy seats on the bench.

Even if that were the only incident of its kind, it would weigh very heavily with me. But Judge Sarokin's record contains a number of other troubling episodes. One example that struck me was another reversal by the third circuit in the Blum case, in which the court of appeals pointed out that Judge Sarokin had "proceeded in accordance with his own views" in defiance of Supreme Court precedent.

I know others have additional cases to discuss, so I will move on to another troubling aspect of this nominee: his record in criminal justice matters.

The administration's background information on this nominee stresses that he is supported by the law enforcement community. While some may support him, Mr. President, there are others in both the law enforcement and victim's rights communities that oppose this nominee, (for example: the Fraternal Order of Police, Law Enforcement Alliance of America, New Jersey State Police Survivors of the Triangle, Organized Victims of Violent Crime, Citizens for Law and Order, Voices for Victims Inc.

They oppose him because of his peculiar views in the area of criminal justice—views which are at odds with the kind of tough crime stance that this Senate has adopted and this administration claims to support. For example, in an article he wrote for the West Virginia Law Review, Judge Sarokin opposed preconviction detention of criminal defendants and opposed mandatory and uniform sentencing.

And if there has been one Senator, there have been a multitude of Senators that have spoken out in behalf of mandatory sentences for certain types of crimes and preconviction detention

I know the administration must make the best case possible for its nominees, but they cannot expect this Senate, or this Senator, to ignore "the rest of the story." Judge Sarokin's record reflects a pattern of disdain for settled legal precedent and principles of judicial decisionmaking, an eagerness to use his authority to accomplish social change, and a readiness to impose his own moral views on the case before him. In sum, I believe it would be a mistake to advance Judge Sarokin to the third circuit, and I will vote against cloture and against confirmation.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BIDEN. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. Mr. President, there are a lot of—as we used to say in law school—"red herrings" that have been raised about this nominee, as have been raised about others over the past months, years, and decades. It is part of the process. I think part of it has to do—I say this respectfully—with occasionally a lack of understanding of constitutionally guaranteed processes that are built into the Constitution and the State constitutions that on its face make things look relatively difficult. It is easy to overwhelmingly paint an overwhelmingly inaccurate picture of someone's record in the law because it is very difficult to in many cases in a matter of a sentence or two or paragraph or a book justify certain things that are stated.

For example, as I have said on this floor, I wonder how many people would voted if the vote were taken today in this body on having a fifth amendment, assuming we did not have a fifth amendment. We all pay homage. We just paid homage to the 200th anniversary of the Bill of Rights. I wonder how many people would vote in here if we would factor our constituents and, say: By the way, we want to have an amendment which says when some bad guy is accused of doing something wrong that bad guy under oath can stand there and say, "I am takin' the fifth. I ain't saying nuttin'."

People may say, "That is ridiculous. Isn't that an awful thing?"

Obviously, these are bad guys. These are Mafia, or Colombian drug cartel people.

It is easy to say, "How could you possibly have a fifth amendment? Who would vote for a fifth amendment?"

Well, the point I am trying to make is a broad point, which is that if you take any one case of any one judge, particularly if you are not a trained lawyer or an academician, and you look at it, you can easily—with positive intentions, not attempting to misrepresent anything—come up with a very skewed picture.

Let us talk about this one case everybody talks about—James Landano, a bad guy, convicted in 1978 of shooting a police officer. I was riding through New York City yesterday on the way to visit my son, who is going to school up in New Haven and going through the Bronx. There was a great big billboard of a very eye-catching thing. It gives a number of such-and-such cop, and there is a splash of blood across the billboard, and it says there is a reward of *x* thousand dollars for anybody reporting someone who has shot a police officer. And if it results in an arrest and conviction, which is a good thing, I am all for that.

The point is, the one thing you do not want to do—and there is good reason for it—is ever shoot a cop. And I am one who has written laws and voted for laws to strengthen the penalties for anybody who shoots at a cop, kills a cop, or maims a cop. I am one of the people who has increased the funding the families get for police officers killed in the line of duty. I do not think there are, well, there are as many as sympathetic but nobody more sympathetic than me. I see red when I hear someone has shot a cop or has been accused of shooting a cop. This guy, Landano, who is not someone, I suspect, you would want your daughter to go out with, and not somebody, I suspect, you would invite home for dinner, gets accused of shooting a cop. And if Landano committed that crime, the son-of-a-gun should fry, in my view. I support the death penalty. I think he should be put to death.

So on the face of it, you start off with this guy who is not the most appealing guy in the world, and he appeals to a judge after having been convicted of shooting a cop. Now you have a judge who has a Constitution, and he sits in front of him and he says this bad guy is sitting there, and it is not whether he committed the crime or not, although he has been convicted, but a guy who is not appealing. Landano comes along and says: Look, I am innocent, and the reason I am innocent is that they got a conviction based on false testimony. Somebody who testified lied. So Landano says: By the way, not only did this guy lie who caused my conviction, but the cops withheld evidence and the prosecutor withheld evidence that can prove that I am innocent.

He presented this evidence to Judge Sarokin, and the judge considered it carefully and rejected the petition. The first time out, he said, "I do not think you have shown me enough to generate any change in outcome here." So Landano came back a second time, and this time he came back with more proof. This time he did persuade Judge Sarokin that the trial he had was unfair because there was false testimony and because the prosecution withheld exculpatory evidence, which is a fancy way of saying they had facts which they were required to tell the court about that would have shed light on the possibility of innocence as opposed to the possibility of guilt.

But what you hear up here in the Senate—not from my friend from Utah, because he knows the law much too well—you would think after the judge saying: OK, I think you have presented sufficient evidence and, by the way, here is the key to your cell; unlock yourself, let yourself go, you are free. He did not say that. He said: Stay in jail; you are not going anywhere, you are still under arrest. We are going to give you a new trial, though. In this new trial you have a chance to bring up this additional evidence.

So he simply ordered a new trial. Far from being an outrageous decision, his ruling was fully vindicated by the New Jersey State courts. They looked at the same new evidence and looked at it independently. The guy is convicted now, remember. I want to make this as basic as I can. This guy, who you would not invite home to dinner, is convicted of killing a cop. After that, he says: I have proof, judge, that the guy who gave testimony against me lied and, second, that the prosecution had other evidence which would have sustained my case, and they did not let it come into court.

So the New Jersey State court, separate and apart from Judge Sarokin, a Federal court judge, reached the same conclusion. Now, I want to tell you something. If you want to make sure you are getting something straight, try to get a State court to overrule a conviction of a guy who is not the sweetest guy in the world for killing a New Jersey cop. The reason they did it is they are required to do that. They are required to do that.

So independently and separately from this Federal judge, who is one of the most respected minds, most respected intellects, most respected judges in the entire Federal court system, a New Jersey State court reaches the same conclusion. And it ruled that Landano was entitled to a new trial. Judge Sarokin's courageous act did not free a cop killer. Judge Sarokin found a fundamental flaw in a highly charged trial, and he sent it back so it could be retried. That is what Federal judges are supposed to do. It is not popular to do that. No one is going to be happy with that—I will end with this—and I guess we are going to get a lot of chances to debate this afterward, unfortunately, once we get cloture. Any of you that saw that movie about the military called "A Few Good Men," there is a young guy preparing for trial and he is the prosecutor. He is assigned to defend these military guys, and Jack Nicholson is the bad guy in the movie. He stands up there and he is going through this with the young prosecutors and young defendant, going through his preparation with the young people in his unit, and one says: "We can prove they did not do it." He turns and says, "It is not enough to prove our client did not do it. A good defense attorney not only has to prove that; he also has to prove who might have done it, or at least give the jury an answer as to who might have done it."

The reason everybody gets upset when you overturn a jury trial is because the jury wants to know "who done it." The public wants to know "who done it." When you say this guy did not do it and we do not know who did it, it leaves people uneasy.

The judge did what he should have done, what he had to do, and it was independently arrived at. It was the same conclusion by the other State court judges. It is not popular, but it is the right thing. We want judges to do the right thing.

The ACTING PRESIDENT pro tempore. The Senator from Utah controls 10½ minutes, and the Senator from Delaware controls 1½ minutes.

Mr. HATCH. Mr. President, one of the games that is being played around here is that whenever the majority leader wants to move something along, he files cloture, whether or not anybody has decided to use extended debate. I have heard the majority leader —who is a person I have great regard and respect for—say how beset we are with filibusters in this body.

Naturally, in the last week or so of a session, there is going to be the threat of some filibusters. It is one of the few tools that the minority has to protect itself and those the minority represents. But this is not a filibuster. I find it unseemly to have filed cloture on a judgeship nomination—where I have made it very clear that I would work to get a time agreement—and make it look like somebody is trying to filibuster a Federal court judgeship.

I think it is wrong, and I think it is wrong to suggest in the media that this is a filibuster situation, because it is not.

I personally do not want to filibuster Federal judges. The President won the election. He ought to have the right to appoint the judges he wants to.

On the other hand, when his appointed judicial activist judges ignore the law and substitute their own policy preferences for that of the law, then it is incumbent upon the Members of the U.S. Senate to stand up and say, "Hey, that is wrong," because if judges will not abide by the law, why should anyone else?

What are judges for other than to implement the laws, to abide by them, to interpret them, not to make them. They are not elected. This man, Judge Sarokin, was appointed for life as a district court judge. Nobody can take that away from him. The reason we appoint Federal court judges for life is because we know they will have awesome power to interpret the laws made by people like you, Mr. President, and myself, and others, who are duly elected and must stand for election on their ideas to make the laws.

It is our job to make the laws, not Judge Sarokin, and yet time after time after time, this judge, who I admit is a very bright man, who I admit is a nice man—I liked him personally, so this is it not a personal attack—time after time this judge has ignored the law which was clear on its face and has substituted his own policy preferences for that of the law.

If we ever allow that to occur on a broad-based basis, this country will no longer be a country that is ruled by law. Judges have extraordinary power. Federal judges have even more extraordinary power than State judges. They are interpreters of the laws, not makers of the laws. They should not act as judicial legislators in black robes.

That would indeed scare anybody, because Federal judges are unaccountable to the voting population. And that is why we believe the legislative branch at the Federal level should be especially vigilant, whereas in many States the voters directly elect judges who run for office just like any other common politician.

In the Federal courts we nominate these people, and we confirm them for their lives. We give them full salary when they retire. These are some of the most important positions in our society.

And here we have a judge who lacks the support of some of the most important organizations in New Jersey, Pennsylvania, Delaware, and other areas of this country because he has been a judicial activist who ignores what the law is.

Now, we will have to fully debate this matter after cloture is invoked, and I am recommending to all Members of our side to vote for cloture because we should never have had a cloture vote on this judgeship. We should have worked it out and had a reasonable debate. We now have to have postcloture debate because of this ridiculous use of the cloture rule and allow Senators an opportunity to stand up and say pro or con what they want to about this particular nomination.

But nobody should misconstrue this. These nominations are extremely important. This is one of the most important obligations the Senate has, and under the Constitution we are the only ones who have this obligation of confirming Federal court judges.

As to the basic arguments that Judge Sarokin's supporters have offered on behalf of this nomination, if I can define them, I would define them as three. The first argument is rooted in the fact that the White House and Judge Sarokin's other supporters have successfully solicited letters of support for Judge Sarokin from a number of judges and lawyers. If these people support Judge Sarokin, the argument goes, he cannot be all that bad.

Nevertheless, this ad homen argument is no substitute for the careful detailed analysis of Judge Sarokin's troubling record. A number of Judge Sarokin's supporters used misleading claims like the claim that Judge Sarokin has been reversed or vacated in less than 3 percent of his opinions, since a large but undisclosed number of Judge Sarokin's opinions were not even appealable. Since another presumably even larger a number of opinions were not even appealed, the 3 percent of Judge Sarokin's supporters cite is virtually meaningless. A far more relevant figure is what percentage of appeals from his decisions are successful. Judge Sarokin's supporters are strikingly silent on this matter.

Even more relevant is what Judge Sarokin's does in these major cases. Here the single most telling report is from the New Jersey Law Journal which says that Judge Sarokin's—and let me give a direct quote—"may be the most reversed Federal judge in New Jersey when it comes to major cases."

Judges hear a plethora of cases that are not major, innumerable cases that really do not mean all that much in the overall constitutional makeup of the country. But in major cases, the New Jersey Law Journal said he may be the most reversed Federal judge in New Jersey.

Third, Judge Sarokin's supporters sweep over his actual opinions and instead make unsubstantiated claims on his overall record. I believe the careful attention to Judge Sarokin's willful defiance of precedents in particular cases and the activist pursuit of ideological agenda is the best measure of what type of judge he really is. We find him wanting. We find him an activist judge who substitutes his own policy preferences, his own visceral preferences, for that of what the law really is.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be divided equally.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The time is divided equally.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, since the debate has begun, the distinguished Senator from Utah has quoted the New Jersey Law Journal twice.

I will ask at this time to have printed in the RECORD the strong endorsement of this nomination by the New Jersey Law Journal in which the final sentence is "Lee Sarokin is a fine district judge who has served with distinction for a decade and a half. He would be a great judge for the Third Circuit."

I ask unanimous consent that this endorsement of Judge Sarokin's nomination be printed in the RECORD so that when we hear references to that quote from the New Jersey Law Journal, remember the New Jersey Law Journal has endorsed the candidacy for this nomination.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New Jersey Law Journal, Aug. 1, 1994]

THE SAROKIN NOMINATION

President Bill Clinton, on the recommendation of Sen. Bill Bradley, has nominated United States District Court Judge H. Lee Sarokin in the Court of Appeals for the Third Circuit. The Senate Judiciary Committee will tomorrow hold a hearing on this nomination. We support confirmation.

As a federal judge, Sarokin has written more than 2,000 opinions, 250 of which have been published, and has presided over jury and nonjury trials, both civil and criminal. Judge Sarokin was twice chosen to chair the Third Circuit Judicial Conference. Recently he was named the national chair of the conference of the Federal Judge's Association. Chief Justice William Rehnquist has named Sarokin to two committees on judicial administration. As chair of the * * * management subcommittee, Sarokin was charged with implementation of the Civil Justice Reform Act.

While this litany impressed, the judgment of his peers impresses more. Judge Sarokin received a unanimous "well-qualified" rating from the American Bar Association, the highest rating possible. His nomination has been endorsed by Judges Ruggero J. Aldicers, John Gibbons, Joseph Weis, Jr., Leon Higginbotham and Leonard Garth, all the living former chief judges of our circuit.

Lee Sarokin is a fine district judge who has served with distinction for a decade and a half. He would be a great judge for the Third Circuit.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, one comment. The facts count here, not endorsements. The facts are the law journal found he has been reversed in major cases basically because he decided them wrongly. Those are the facts.

It does not make any difference what they say otherwise. This is a bright man. This is a nice man. But do we want another judicial activist who ignores what the law is on the bench? And that is what is involved here. In this case, this man is an extreme judicial activist, I think a judicial activist in the worst sense of that term.

The ACTING PRESIDENT pro tempore. The Chair announces that the Senator from Utah controls 2 additional minutes, and the Senator from Delaware controls 30 seconds.

Mr. HATCH. I am happy to yield my colleague time if he wants it.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, it is my expectation that we will get cloture on this. I imagine we are going to have some discussion after cloture so I will reserve any remarks I have until then.

I am prepared to yield back the remaining 5 seconds I probably have.

The ACTING PRESIDENT pro tempore. The Senator from Delaware yields back his time.

Is the Senator from Utah willing to yield back time?

Mr. HATCH. I am happy to yield back my time.

THE NOMINATION OF RICKI RHODARMER TIGERT, OF TENNESSEE, TO BE A MEMBER OF THE FEDERAL DEPOSIT INSURANCE CORPORATION

The Senate resumed the consideration of the nomination.

Mr. BIDEN. Mr. President, I ask for the yeas and nays on the Tigert nomination.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, I rise today to oppose the nomination of Ricki Rhodarmer Tigert to be Chair of the Federal Deposit Insurance Corporation. I originally supported her nomination when it came out of the Banking Committee this past spring, and I had every intention of supporting her on the floor, but recent developments have raised questions concerning her ability to chair the FDIC in an independent manner. Until these doubts are resolved, I can not in good conscience support her nomination. Moreover, until she answers some questions about her independence and candor before the committee, I believe it is imprudent for the Senate to vote on the nomination.

Mr. President, on March 2, 1994, along with the Republican leader, Senator DOLE, and 41 other Republican Senators, I wrote to the distinguished majority leader, Senator MITCHELL.

The purpose of this letter was to inform the majority leader that we would object to any agreement to proceed to consideration of Ricki Tigert's nomination as Chairman of the FDIC until, and I quote, "the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings & Loan." Following extensive correspondence, debate and numerous votes along partisan lines, the Senate voted to prevent such broad inquiry and limited the Banking Committee to hearings on subjects and areas that Independent Counsel Robert Fiske had completed investigating or was not going to investigate at all. On June 21, the Senate passed Senate Resolution 229. The Senate resolution instructed the Banking Committee to hold hearings in only three very narrow areas: the death of White House Counsel Vince Foster, contacts between the White House and the Department of Treasury, and the handling of documents in Vince Foster's office immediately following his death. These areas were referred to as the "Washington phase" of the investigation.

Mr. President, even though the resolution permitted inquiry into all three areas, shortly before our public hearings were scheduled to commence, Mr. Fiske informed the committee that had had not thoroughly completed his investigation into the handling of the Foster documents. Accordingly, we were down to two very narrow areas in which we were allowed to probe. I will refer to these hearings later, but it is clear that the Senate was blocked from looking into the RTC's handling of the Madison Guaranty Savings & Loan situation. Until we have those answers, I feel we should not proceed on the nomination.

Mr. President, I ask unanimous consent that the March 2 letter signed by 42 of my colleagues, be printed in full at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 2, 1994.

Hon. GEORGE J. MITCHELL,
U.S. Senate,
Washington, DC.

DEAR MR. LEADER: We are writing to inform you that we will object to any agreement seeking consent to proceed to the nomination of Ricki R. Tigert, President Clinton's nominee to chair the Federal Deposit Insurance Corporation, until the Senate Banking Committee has an opportunity to thoroughly examine the Resolution Trust Corporation's handling of its civil investigation into Madison Guaranty Savings and Loan.

As you know, the Acting Chief Executive Officer of the RTC, Roger Altman, recently disclosed that he sought a meeting with White House officials to give them a "heads-up" on the RTC's investigation. Needless to say, such a meeting is highly improper and raises very real questions about Mr. Altman's impartiality and the alleged independence of the investigation. Specifically, why were Harold Ickes and Margaret Williams present, in addition to White House Counsel Bernard Nussbaum? According to the Washington Post, Mr. Ickes, the Deputy Chief of Staff, is responsible for Whitewater "damage control". Ms. Williams, Chief of Staff for Mrs. Clinton, had previously participated with Mr. Nussbaum in searching Vincent Foster's office and sending all or some of the materials to David Kendall of Williams and Connally who is representing the President and Mrs. Clinton.

We believe public hearings are required to explore these and other questions involving the attendance of political operatives at the White House in briefings by the head of a supposedly independent agency on matters that have nothing to do with the Executive Office of the President.

We regret having to delay the Senate's consideration of Ms. Tigert's nomination. Nevertheless, the American people deserve to have confidence that the RTC conducts its important business in an independent and impartial fashion. A Congressional hearing is an appropriate forum in which to examine the important ethical and regulatory issues raised by the Altman-White House meeting.

Sincerely,

Alfonse D'Amato, Bob Dole, ——— ———, Malcolm Wallop, Phil Gramm, Judd Gregg, Larry E. Craig, Trent Lott, Dan Coats, Connie Mack, Conrad Burns, John McCain, Robert F. Bennett, Kit Bond, Ted Stevens, Lauch Faircloth, Bob Packwood, Arlen Specter, John H. Chafee, Jim Jeffords, Alan K. Simpson, Jesse Helms, Don Nickles, Mitch McConnell, Orrin G. Hatch, Strom Thurmond, Thad Cochran, Pete V. Domenici, Hank Brown, Frank H. Murkowski, Larry Pressler, Bill Roth, John C. Danforth, Chuck Grassley, Ben Nighthorse Campbell, Dave Durenberger, Slade Gorton, Richard G. Lugar, Bob Smith, Nancy Landon Kassebaum, John Warner, Dirk Kempthorne, Kay Bailey Hutchison.

Mr. D'AMATO. The following day, March 3, 1994, at a Senate Banking Committee hearing on regulatory consolidation, I made reference to our letter. I shared with my fellow committee members my concern that Federal banking regulators should be free of political pressure. I expressed dismay at the shocking disclosures about White House-Treasury meetings regarding the RTC's handling of Madison Guaranty. In my remarks at the hearing, I addressed the letter that my colleagues and I had sent to the majority leader regarding Ms. Tigert's nomination. I indicated that until we had hearings into the White House-Treasury secret meetings, we could have no confidence that she could head up the FDIC independently.

Mr. President, especially in light of the Banking Committee's recent

Whitewater hearings and the shocking testimony and documentation of numerous improper meetings between Treasury officials and the White House, I am now skeptical that the FDIC could be indpendently headed by Ricki Tigert any more than the RTC was headed independently by Roger Altman. The committee and the American people learned from these televised hearings that Ms. Tigert had contacts with White House and Treasury officials. Unfortunately, the committee has not had a chance to question her about these contacts and we should before the Senate is asked to vote on Ms. Tigert's confirmation. Spokesmen on her behalf have expressed her view that there were no contacts or one contact, but she has said little publicly about the meetings.

Mr. President, questions have been raised about the number and substance of these contacts which Ms. Tigert should address prior to confirmation. For example, a member of the White House Counsel's office said in a recent Wall Street Journal article that he had the one and only contact with Ms. Tigert. I doubt this is the full extent of the contacts between the White House and Ms. Tigert. Moreover, I believe there is direct evidence to the contrary. My colleagues should not forget that Roger Altman, who resigned his position as Deputy Secretary of Treasury following misleading testimony to Congress about his contacts with the White House involving his recusal from matters involving the Clintons, only admitted to one meeting until the committee pressed him for the truth. With Ricki Tigert, we should have a chance to question her and she should have a chance to defend herself. Until then, I cannot support her. There are just too many doubts about whether or not she could carry out her duties and responsibilities as chair of the FDIC independently and free of White House or Treasury interference.

Mr. President, the Banking Committee, under the able leadership of Chairman RIEGLE, has been tireless in improving the supervision and regulation of the banking and thrift industries. FIRREA and FDICIA are the best examples of legislation designed to prevent a reoccurrence of the freewheeling and inappropriate use of federally-insured deposits and, ultimately, to protect the taxpayer. In the community development bill that President Clinton signed into law 2 weeks ago, Congress successfully pruned costly and antiquated regulatory and paperwork burdens. Also, this year, Senator RIEGLE led the committee in an ambitious effort to consolidate the bank regulatory agencies. Democrats and the Republicans have worked together, shoulder to shoulder, to make certain the bank and thrift regulators were truly independent—of both the Congress and the administration. We have a long way to go, but the regulation and supervision of insured banks and thrifts has been both streamlined and strengthened. But no matter how much Congress works to ensure the independence of these agencies, all of our legislative efforts will go down the drain if the Senate votes to confirm nominees who are not truly independent.

And, Mr. President, I want to observe that many of the financial regulatory agencies are not functioning properly—they are either leaderless, run by temporary appointees or operating without a quorum.

Let us look at some of the agencies: the Resolution Trust Corporation is still without a chairperson; the FDIC has an Acting Chairperson, and only three of five members; it has not had a full Board in over 2 years.

The OTS has been run by an Acting Chairperson since December 1992; and the Federal Housing Finance Board has two of five members, not even a sufficient number of a quorum to allow that Board to do business. The committee held a hearing last Friday on two vacancies in an effort to correct this dismal record before we recess and authorize this important agency to act.

Mr. President, the existence of so many vacancies and temporary arrangements at so many important agencies is probably unprecedented. I know it is unwise and I think it dangerous. This situation has continued too long. It is now almost halfway through the term and the administration has neglected to nominate candidates for most of these important positions. Fortunately, we have had no emergencies and the acting leaders have done great jobs. I agree the FDIC needs a Chair; however, it took the President nearly 1 year into his term to nominate an FDIC candidate. The position has been vacant since August 1994. Let us fill this position, but let us fill it with a candidate who would have no conflicts of interest requiring recusal from any matter at the FDIC.

Mr. President, the Senate needs to confirm qualified candidates for these vital agencies—candidates in whom Congress and the American people can have total confidence. And by total confidence I mean confidence in both their independence and their lack of any conflict of interest. And the administration needs to restrain its penchant for attempting to interfere with the work and the decisions of supposedly independent agencies. During the Whitewater hearings, the Banking Committee heard firsthand testimony, under oath, about improper communications between the White House and RTC and Treasury officials designed to influence ongoing law enforcement activities and investigations at independent agencies, and to interfere with agency decisions involving the private affairs of the Clintons. We have direct testimony, diaries and documents that provide incontrovertible evidence of unethical—if not illegal—conduct by overzealous political associates and friends of the Clintons attempting to control and to influence the actions of agencies that Congress intended to be beyond the White House's political control and influence.

Mr. President, we have heard too much lately about recusals and conflicts of interests in connection with the bank regulatory agencies. The American people, as well as the Congress, must have total confidence in the independent financial regulators. This is why I have reconsidered my position concerning Ms. Tigert.

Mr. President, if confirmed as FDIC Chair, Ms. Tigert would preside over an agency that is already investigating Madison and the Rose law firm. At our recent Whitewater hearings, the former White House Counsel and others made repeated reference to her in the context of discussions about Roger Altman's recusal. At a minimum, the committee needs to examine Ms. Tigert and investigate these references further before her nomination is considered.

The Senate must not proceed to the nomination until we have complete answers on whether political pressure from White House political operatives and administration insiders also extended to Ms. Tigert's nomination and testimony before the committee on February 1, 1994.

Mr. President, I believe there is evidence that the White House interfered with Ms. Tigert's nomination and her decision to recuse herself from all matters dealing with the FDIC and the RTC's investigation into Madison Guaranty Savings & Loan. Recently, questions have been raised through newspaper articles and documents which suggest more contacts occurred between White House officials and Ms. Tigert in reference to her recusal. In the September 28 edition of the Wall Street Journal, Joel Klein, deputy White House counsel, admits that he discussed the issues of recusal with Ricki Tigert. I would like to insert a copy of this article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

REPUBLICANS HOLD UP TIGERT'S FDIC NOMINATION OVER WHETHER SHE IS A FRIEND OF THE CLINTONS

(By Albert R. Karr)

WASHINGTON.—Backers of Ricki Tigert are pushing an unusual argument for a Clinton nominee: She really *isn't* a friend of Bill, or Hillary.

President Clinton nominated Ms. Tigert, a Washington banking lawyer, last November to head the Federal Deposit Insurance Corp. In March, Senate Republicans vowed to block her confirmation until the Banking Committee was promised Whitewater hearings. The first hearings have come and gone. But Sens. Lauch Faircloth of North Carolina and Alfonse D'Amato of New York, who led the call for hearings, are still holding her nomination hostage.

The problem isn't the qualifications of the former Treasury and Federal Reserve Board official. The problem, the senators say, is that the proposed regulator is a friend of the Clintons, even though she has said she has only met them at public functions. Meantime, the FDIC, which regulates 7,200 banks and insures bank and thrift deposits, has been without a head for two years.

The standoff is a case history of how in Washington a mere mention in the media can take on a political life of its own. The questions about Ms. Tigert's ties are built largely on one blurb in Time magazine's Jan. 17, 1994, issue about last New Year's Renaissance Weekend in Hilton Head, S.C., an annual gathering of the elite attended by the Clintons. It said in full: "Hillary's Favorite Activity: Hanging out with friends, including FDIC nominee Ricki Tigert, attorney Renee Ring and Patsy Davis, wife of lawyer Joel Klein, who replaced Vince Foster."

PUBLIC EVENTS

In interviews, Ms. Ring and Ms. Davis both say they are personal friends of Ms. Tigert, but not of Hillary Rodman Clinton. Ms. Ring says she considers herself only an "acquaintance" of Mrs. Clinton, adding that Ms. Tigert is "not as close an acquaintance" of the first lady as she is. Ms. Tigert, who isn't giving interviews, has told Senate staffers that she has only met Bill or Hillary Clinton casually at about 10 public events, mostly Renaissance Weekends, over the past eight years.

The White House and Ms. Tigert's defenders say the GOP senators are using the issue to renege on their promise to let the Senate confirm her once Democrats agreed to Whitewater hearings. In a March 3 letter to Senate Majority Leader George Mitchell, 43 Senate Republicans said they would oppose acting on Ms. Tigert's confirmation until the Banking Committee had "an opportunity" to examine the Resolution Trust Corp's investigation of the failed Madison Guaranty Savings & Loan in Little Rock, Ark., and any diversion of Madison funds to Whitewater Development Corp., which was partly owned by the Clintons when Mr. Clinton was Arkansas governor. The Republicans also said in a news release that they wanted hearings on briefings given White House officials by Roger Altman, then the Treasury deputy secretary and acting RTC chief executive.

"They really got everything they wanted and more," says Mr. Klein, the White House deputy counsel. "I must say, I am baffled as to why they are holding [Ms. Tigert] up. It's obviously an effort to use the confirmation process for political embarrassment, and it's unfair to her."

RECUSAL ISSUE

Sen. D'Amato says that from the Whitewater hearings "it seems clear" that the White House counsel and others were directly involved in advising Mr. Altman and Ms. Tigert on how to react to requests to recuse themselves from issues involving Whitewater and Madison. The Senate Banking Committee in February voted 18-1 to recommend Ms. Tigert's confirmation after she agreed—following initial reluctance—to recuse herself from FDIC actions involving the Clintons. Though he voted for Ms. Tigert's confirmation in committee, "I am reconsidering my position," Sen. D'Amato says. Deputy Counsel Klein says he had the only White House conversation with Ms. Tigert on the recusal issue, agreeing with her view that she should decide herself what to do.

Sen. Faircloth, who placed the original hold on the Tigert nomination after casting the lone vote against her, says, "It's still there, and I'm not taking it off." He says that "even the limited look" that the Banking Committee got of White House involvement in Madison-Whitewater "thoroughly convinced me that we need somebody independent to head the FDIC, not a friend of Bill's."

He says the continuing probe of Whitewater will include the FDIC's supervision of "all these banks" for which the Rose Law Firm did some work. Sen. Faircloth notes that Mrs. Clinton was a Rose partner and says that "Ricki Tigert is her favorite friend. We are appointing her to get documents from the Rose Law Firm? How more incestuous can you get?"

Ms. Tigert, a lawyer at the firm of Gibson, Dunn & Crutcher, has no Whitewater, Madison or RTC connection. Most of the controversy about her appears to be based on the Time mention. Sen. Faircloth took off from that blurb repeatedly during Ms. Tigert's confirmation hearing in February, calling her "a very close friend of the Clintons" and Mrs. Clinton's "closest personal friend;" and referring to this very, very close friendship with Mrs. Clinton, limited to her, [while she] says she enjoys hanging out with you." Ms. Tigert didn't try to rebut Sen. Faircloth's descriptions of her during the hearing, though she later referred to her "casual friendship with the Clintons in her recusal letter.

"HANGING OUT" PHRASE

In fact, the phrase that Mrs. Clinton enjoys "hanging out" with the women mentioned was Time's, not Mrs. Clinton's. Time columnist Margaret Carlson, who didn't attend the Renaissance Weekend, says she contributed the information that was used in the magazine's blurb. Ms. Carlson says Time editors decided to list the three women as Mrs. Clinton's friends and wrote the flashline. They apparently based their decision, she says, at least partly on what she gleaned from her sources.

One was a journalist who attended the Weekend, but who doesn't want to be quoted on the record. This man says he saw several women, including Ms. Tigert, sitting with the first lady at a Weekend brunch, and they "appeared to know each other." He says, "They seemed to be friends—I have no idea whether they were or not. I just saw them in a room together."

Ms. Tigert's associates say that at the Renaissance Weekend Mrs. Clinton arrived late at a brunch for 1,200 people and only happened to sit at Ms. Tigert's table, which was already occupied by the other women. Susan Ness, a Federal Communications Commission member, was at the same table and confirms their account.

So does Kathie Berlin, a former MGM executive and currently a free-lance public-relations woman, who says she walked into the brunch with Mrs. Clinton and sat down at the table with her. Ms. Berlin, who says she is a good friend of the first lady, says that she, Ms. Berlin, vaguely knew several people at the table, but that she had to ask others who Ms. Tigert was. "She wasn't a friend of any of ours," she says.

President Clinton's nomination of Ms. Tigert came after a recommendation by Fed Chairman Alan Greenspan. Three former high-level Reagan-and-Bush-administration officials, including former Treasury Undersecretary Beryl Sprinkel, recently wrote The Wall Street Journal to back her, saying: "The notion that she is a Clinton 'crony' is a canard. She has met the Clintons, but only in public. She has never spent time alone with either of them."

Sen. Mitchell says he plans to try to get the nomination moving, and at least some of the GOP senators who signed the March letter are ready to relent. A spokesman for Sen. Phil Gramm says the Texan feels that "it's time to get on with the [Tigert] nomination.

Mr. D'AMATO. He believes that he had the "only White House conversation with Ms. Tigert on the recusal issue." Nevertheless, the documents supplied to the Committee by the White House during the Whitewater hearings contain a memo written by David Gergen on March 7, 1994, on the subject of contacts with the RTC/FDIC. Mr. Gergen stated that Ricki Tigert called him at home to ask him if he felt she should recuse herself from matters relating to Whitewater. I ask unanimous consent to insert the entire Gergen memo into the RECORD.

There being no objection, the memorandum was ordered to be printed into the RECORD, as follows:

[Memorandum]

THE WHITE HOUSE,
Washington, DC, March 7, 1994.

From: David Gergen.
Subject: Contacts with RTC/FDIC.

To the best of my memory, I have not had any conversations—direct or indirect—with officials representing RTC about the content of subjects under investigation. My files also do not show any phone calls or contain papers which suggest contacts.

For purpose of the record, I wish to take note of the following:

Last Monday, February 28, I placed a call to Roger Altman to congratulate him on recusing himself with regard to Madison Guaranty. I though he had voluntarily taken the proper step and I wanted to be sure he knew of my support.

This past Saturday morning, March 5, Roger Altman called me to discuss a public letter he had sent to Senator Riegle explaining aspects of his earlier meeting with White House officials, including the fact that his office had obtained prior clearance from the Office of Ethics at Treasury. He wished to ensure that White House officials and members of the press were more fully apprised of the letter, and I assured him we would make an effort to make sure people knew of its contents. At the end of the conversation, I raised the subject of his coming testimony to Congress and I emphasized how strongly the President wished that in all such matters, his people be forthcoming and honest.

This past Sunday evening, March 6, my wife and I had dinner at Mr. Altman's home. It was largely a social occasion. He and I did talk about the controversies there were in the press re: Whitewater but we did not talk about anything which might have been untoward (e.g., we specifically avoided discussion of his forthcoming testimony at the request of Special Counsel Fiske). (I have previously attended one other dinner at Roger Altman's home but I believe the subject of the RTC never came up, nor can I recall any other conversations with Mr. Altman about it.)

On another front: about three Sundays ago (I may be off by a week or so), I received a call at home from Ricki Tigert, a friend, who wanted to discuss her pending appointment to the chairmanship of the FDIC and the question of whether she should recuse herself from matters relating to Whitewater. She expressed a preference for recusal, and I encouraged her to seek such recusal. She asked if I would discuss her interest in a recusal with others at the White House, and I promised her that I would. Thereafter, I spoke with Joel Klein, who also supported a recusal. Joel notified me that Monday (possibly Tuesday) that Ricki would indeed be recusing herself.

My memory is a little hazy, but I believe these conversations represent my contacts with regulators in the Madison matter.

Mr. D'AMATO. If that is not a "White House conversation, or contact then what is? Only after questioning Ms. Tigert, will we know whether to characterize it as proper or improper? Is Ms. Tigert truly acting independently when she is seeking opinions and advice about her recusal from numerous White House officials? At the time, Mr. Gergen was a Senior White House Adviser to the President. Their conversation was a White House contact. In light of David Gergen's memo, Mr. Klein's version of Ms. Tigert's contacts with the White House is simply incorrect. We need to hear from Ms. Tigert, not her spokesman or her fan club. We need to know the truth before the Senate can vote on the nomination.

In preparation for the Whitewater hearings, the committee's special counsels deposed scores of administration officials. Ms. Tigert's name was mentioned frequently. In his sworn deposition, Dennis Foreman, Deputy General Counsel at Treasury and designated Agency Ethics Director, relates a conversation he had with Associate Counsel to the President Beth Nolan. Foreman was asked in his deposition: "What do you remember about the discussion [with Beth Nolan] concerning the Ricki Tigert nomination?" He answered: "That obviously that was a very visible matter in both Congress and in the media and showed the sensitivity of this recusal issue, not only as it related to her, but obviously it was not that distant from the question that Mr. Altman was facing."

In Beth Nolan's deposition, she was asked about the same conversation between herself and Dennis Foreman. She claims that Mr. Foreman contacted her after having read a newspaper article about Ricki Tigert's nomination. She continued by telling the special counsels that Mr. Foreman had called twice on February 4 to ask if the White House had a view on Tigert's decision to recuse herself. I ask unanimous consent to insert part of Beth Nolan's deposition into the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPTS FROM BETH NOLAN'S DEPOSITION

A He [Foreman] had called me to ask my guidance on whether the White House should take a position with respect to Ricky Tigert's decision to offer to recuse herself during her confirmation process for FDIC.

Q What was that conversation?

A It was a fairly brief conversation. He indicated that I believe Ms. Tigert had called him and asked if the White House had a view. He asked me if I thought we had an interest in the matter. I believe I indicated that, yes. Again, we always had an institutional interest in recusal promises that could have precedental effect and mentioned that that was the same kind of interest that had been present. When I spoke with Mr. Foreman about Mr. Altman's recusal, he concluded the conversation by saying that he believed he was just going to tell her that she should do whatever she wanted.

Q He was going to tell Ricky Tigert?

A Yes.

Mr. D'AMATO. Mr. President, questions are raised. These questions require answers and explanations. Did Mr. Foreman ever discuss the issue of recusal with Ms. Tigert between her February 2 confirmation hearing and February 7 when she sent the committee her conditional recusal letter? I have copies of telephone messages, dated February 4 and February 9, to Beth Nolan from Dennis Foreman, that suggest further contacts among administration officials on this matter. I ask unanimous consent that these messages be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

To B.N.
Date: 2/4.
From: Dennis Foreman.

He said it was urgent! He said Mr. Nussbaum said you should talk this morning about. He said it was subject Mr. Nussbaum said you should discuss last night.

To B.N.
Date: 2/9.
From: Dennis Foreman.

Need to speak with you urgently.

To Beth.
Date: 2/9.
From: Dennis Foreman.

Wanted to add to last message. You should look at front page at business section in Washington Times article: Nominee to FDIC Ricki Tigert.

Mr. D'AMATO. Mr. President, why were Dennis Foreman, head ethics officer at Treasury, and Bernard Nussbaum, counsel to the President, discussing an FDIC nominees' indecisiveness to recuse? Why did Mr. Foreman feel that these calls were so urgent?

Many witnesses concurred that, in light of the pressure placed upon Ricki Tigert to recuse herself from all Madison matters, recusal "Q's and A's" were prepared for then Deputy Secretary Roger Altman's briefing book for the February 24 RTC oversight hearing in front of the committee. Former Treasury General Counsel Jean Hansen had discussions concerning the impact of Tigert's recusal upon Altman's decision to recuse. She was asked about those discussions during her prehearing sworn deposition. Here is her testimony.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Q. Between February 2 and February 24, did you have any discussions with anybody concerning the impact of Ricki Tigert's—the controversy over Ricki Tigert's recusal and the impact that that might have on Mr. Altman's decision about his own recusal?

A. Yes.

Q. Who were those discussions with?

A. I don't recall, but there was a question and answer prepared for the testimony, for the hearings, for the oversight hearing because there was a question that was considered to be possibly—that possibly could have been raised, which wasn't raised to my recollection during the oversight board hearing, as to why, if Ms. Tigert had recused herself, Mr. Altman did not.

Q. Other than that, did you—other than in the preparation of the question and answer, did you talk about the Ricki Tigert question with Mr. Altman in connection with whether that ought to influence his own decision?

A. Not to my recollection.

Mr. D'AMATO. Deputy White House Counsel Joel Klein, as I mentioned before, spoke directly with Ms. Tigert about the issue of recusal. During his deposition, Mr. Klein related the details of a conversation he had with White House Counsel Bernard Nussbaum concerning the possibility of the Senate calling for recusals for some of the pending nominations. Let me read the question posed to Mr. Klein:

Q. What did—can you recall about those discussions with Mr. Nussbaum?

A. Yeah, I remember a few things. I remember that the people on the Hill were calling for him to recuse himself. Simultaneously there was an issue regarding Ricki Tigert, who was then to be nominated for chair of the Federal Deposit Insurance Corporation and the issue of her recusal had been raised at her hearing and then subsequently she had decided to recuse herself.

In that context, there were discussions that I would have had with Bernie about the question of whether people would recuse themselves, should recuse themselves and those matters. And there are probably a few of them. So anyhow let me—why don't you follow up?

Q. Did you take a position on whether or not Ricki Tigert should recuse herself?

A. I took the position with Bernie Nussbaum—I took the following position in our discussions and it's my position generally, I think it's a very bad thing for people to sort of go through these hearing processes, these confirmation hearings and have other people extract sort of—a Senator extract a blanket recusal. That is something that sort of politicizes the events and I think is unfortunate. I took the position with Bernie that it was certainly my hope that this issue wouldn't come up for Ricki and indeed that she wouldn't be required, as a quid pro quo for confirmation, to recuse herself. I did take that position.

Mr. President, why were they so concerned about Ms. Tigert's recusal? How can they expect the Senate not to ask questions regarding blatant conflicts of interest? Did they want Ms. Tigert to be the decisionmaker at the FDIC concerning Madison as badly as they wanted Altman to be the ultimate decisionmaker at the RTC? We know the lengths the White House went to interfere with Roger Altman's attempt to recuse himself. Did the White House resist Ms. Tigert's recusal?

Bernard Nussbaum relates his side of the conversation by saying that he agreed with White House senior adviser Bruce Lindsey and disagreed with Joel Klein. According to Mr. Nussbaum's deposition:

> *A.* I believe I discussed it with Mr. Klein in my office who expressed sometimes disagreement with me. I think Mr. Klein thought that we should just let Ms. Tigert—he was involved in that confirmation process so his view contrary to my view, was maybe we should just—if she wants to recuse herself in advance, we should just let it go, which is not that important. I disagree with that and I let him know that.
>
> Q. Who else?
>
> *A.* I don't remember who else. It could have been people in the chief of staff's office. It could have been Harold Ickes. I believe there was such discussion with various other people. I just don't remember them now. I do remember discussing it with Mr. Lindsey. I remember Mr. Lindsey agreed with me. He had significant position. He was head of White House personnel or former head of White House personnel and I feel very strongly about this issue.

It seems as though everyone in the White House was talking about the Tigert nomination. Everyone had their own opinions on what she should do. How many of these people picked up the phone and discussed their opinions with her. Did Harold Ickes call her? Did Bruce Lindsey, call her? We know Mr. Klein spoke to her. But did Mr. Nussbaum share his strenuous objections to her to recusal with her? These are questions I think we need to ask her before the Senate votes. They will surely be asked at some point, even if she is confirmed.

Let me continue reading from Mr. Nussbaum's deposition.

> *Q.* Did Mr. Klein also disagree with you about your view concerning whether Mr. Altman ought to recuse himself—I'm not talking about the fact that you had the conversation, but did he also agree with your view on the issue of whether Mr. Altman ought to recuse himself?
>
> A. I don't specifically recall, but probably, because he also disagreed with me on Tigert, on Ricki Tigert. I don't remember actually discussing that ultimate issue with him, but I may well have. He's deputy counsel, and we discussed a lot of these things, but I do remember the discussion with respect to Tigert. He said let her recuse herself and I said that would violate at least the policy that I and the others at the White House wanted to put into effect.

What kind of general administration policy on recusal is Mr. Nussbaum referring to? More important, how does the administration enforce these policies?

It appears, Mr. President, that White House counsel felt that if conflicts of interest exist, it is irrelevant to the issue of recusal. The committee's special counsels asked Mr. Nussbaum whether he saw a difference between RTC decisions involving Madison as it affected Mr. Altman as CEO of the RTC and Ms. Tigert as head of the FDIC? Mr. Nussbaum responded: "No, because the issue was the principle, the principle of whether or not people should recuse themselves and they have no legal or ethical duty to do so. That principle is the same in both cases."

Mr. President, does White House counsel totally disregarded the conflict of interest that exist between FOB's and FOH's appointed to head independent agencies that will be looking into matters of Whitewater/Madison and the FDIC? Certainly, the Senate should not.

Mr. President, the interest shown by White House and Treasury officials over Ms. Tigert's recusal was not limited to statements made behind closed doors during sworn depositions. Administration officials publicly testified during the Senate Banking Committee Whitewater hearings that the Tigert nomination was of concern to many high level Clinton administration officials.

Roger Altman, Deputy Secretary of Treasury at the time of the hearings, said that his briefing book for the February 24th hearing contained a series of questions and answers on recusal.

> I anticipated being asked directly about recusal, just as Ricki Tigert had been by the Committee a few weeks earlier, but I was asked no such questions.

He continued later in saying that he had thought about recusing himself when the issue had been raised about Ms. Tigert's recusal. Let me read you this dialog between Senator SARBANES and Mr. Altman.

> Senator SARBANES. Now, it is the case that you had been debating this question of recusing yourself; isn't that correct?
>
> Mr. ALTMAN. I'd been seeking advice on it.
>
> Senator SARBANES. For what, a number of days or weeks?
>
> Mr. ALTMAN. No, no, just one or two days. It didn't even enter my mind until I saw that Ricki Tigert issues come up in terms of the, you know, the pressure she came under to recuse herself in advance, and I think that was just a couple of days before February 2nd but I'm not positive.
>
> Senator SARBANES. So when was the meeting set up with Mr. McLarty?
>
> Mr. ALTMAN. I believe it was the day before.
>
> Senator SARBANES. And you set that up by calling him and talking with him?
>
> Mr. ALTMAN. Yes, sir.
>
> Senator SARBANES. And at that time your intention was to talk about the procedural aspects on this—

At that point he sought advice on how to address the recusal issue from White House and Treasury officials. Let me read a comment and question posed by Chairman RIEGLE to Roger Altman at the Whitewater hearing.

> The CHAIRMAN. Just on this question of you just stated a minute ago that the day before you were still sort of up in the air on the recusal, you'd stopped in to see Secretary Bentsen to get his advice. And I take it that sometime then in a sense between that meeting and the meeting in the White House on the 2nd, you actually had come to a judgment that you were going to go ahead and recuse yourself. And when you got into the meeting you gave that indication and that's when Mr. Nussbaum reacted vigorously to the contrary; is that—do I have that right?
>
> Mr. ALTMAN. Yes, sir.

Again, I ask, who is making the recusal decision? Is it Altman or the White House? Is it Tigert or the White House?

Neil Eggleston, associate White House counsel, in answering a question I posed during the hearing, concerning whether Altman had a legal obligation to recuse himself, stated:

> I don't have enough fingers to have quite counted up the number of entities, apart from myself, who are legal and ethics experts who have come to the conclusion that Mr. Altman did not have a legal or ethical obligation to recuse himself. The discussion and the issues that were under discussion at the time were not legal/ethical discussions. If he had a legal or ethical obligation to recuse himself, he would do so. It was political. It was how was it going to look. It was where was he going to take more heat. Was he going to take more heat if he stayed there or was the administration going to take more heat through the sort of impact of domino effect after Ricki Tigert.

A few minutes later Mr. Eggleston again makes reference to how there was White House concern that the Tigert nomination would cause a domino effect. He said:

> The issue that Mr. Nussbaum was actually talking about at the time was the perception of recusals it was the perception of Rickie Tigert having to rescue. It was the perception for not legal or ethical reasons. She had told I think this committee that she would consult her ethics officer. And my recollection from the press really was that at least to some people that was not acceptable. And he was concerned about a perception sort of a domino effect of how it would look if people who did not have a legal or ethical obligation to recuse themselves were nevertheless either being forced to recuse or maybe sua sponte start recusing themselves even though they had no action. That was the matter, that was the perception that Mr. Nussbaum was talking about at the time as it relates to this issue.

As Mr. Eggleston finished his explanation of Mr. Nussbaum's involvement, Mr. Klein entered the discussion with the following:

> Mr. KLEIN. Senator RIEGLE, if I can add to that because I had numerous discussions—it is my view as well and I think this is something that Senator Sarbanes raised before that when this started with Rickie Tigert and is, sort of the price of admission other confirmation was that she had to agree to a blanket recusal, no specific matter before her because she was a "friend of the First Family's," when I know the extent of Rickie Tigert's familiarity with the First Family.
>
> This seemed to me the worst sort of politics, to be perfectly candid about it, that somehow this was going to be used against the President that his nominees could not sit on any matter that was in any way relevant to him and so the cost of all these matters would be an extraction of recusal. So when Mr. Eggleston says that there were important political considerations, there were important political considerations and I at least was very concerned about the politics of the matter. And I think that——
>
> The CHAIRMAN. In that sense.
>
> Mr. KLEIN. And so was Mr. Nussbaum in that sense.

Mr. President, recusal must have been the hottest topic in the White

House in February. Ms. Tigert signed a limited recusal agreement after initially resisting it. Treasury and White House officials wanted Roger Altman to resist pressure from Congress as well as resist his own judgment and the advice of others at Treasury to recuse himself. The officials did want Altman to get flustered if he were to be questioned about recusing. All involved staff wanted to be sure that Altman would come across better than Tigert if the issue of recusal surfaced during the Banking Committee's RTC oversight board hearing to be held on February 24. Assistant to the President and Staff Secretary John Podesta met with Assistant Secretary of Treasury for Legislative Affairs Michael Levy. At the hearing, Podesta said the following about his conversations with Assistant Secretary Levy:

> On February 15, I met with Mike Levy, assistant secretary of the Treasury, and discussed the expected RTC oversight board hearing in the Senate Banking Committee. Mr. Levy briefed me on the composition and functions of the RTC oversight board. During the remainder of that week, Mr. Levy and I had several telephone conversations concerning the hearing. We never discussed the underlying investigation of Madison, nor did I discuss that subject any else at Treasury or the RTC.
>
> Mr. Levy and I did briefly discuss the fact that Roger Altman would need to be prepared to answer questions about recusal in light of the fact that Ricki Tigert, our nominee to chair the Federal Deposit Insurance Corporation, had been pressured on recusal during her confirmation hearings.

Senator BOND asked Podesta if he were involved in any preparation or followup to the February 24 hearing. He says his only work on the hearing was the conversation with Michael Levy the week of February 14:

> Senator BOND. You were involved only in the follow-up after the hearings? Is that the extent of your activity with Mr. Altman as respects——
>
> Mr. PODESTA. That's the only time I spoke with Mr. Altman and I did not—I was not involved in his preparation or, as it were, I testified to the two things I did that might be responsive to your question. One was I did have a conversation the week of the 14th with Mr. Levy saying he needed to be prepared to answer a question on recusal. I think that was in light of the fact that Ricki Tigert had been pressured the week before that in this Committee.

Bernard Nussbaum, former counsel to the President, stated in his opening statement that the possibility of recusal was not just academic, but a matter of principle. He said in his opening statement that recusal was of immediate concern to the administration.

> Just a day before this February 2nd meeting a nominee for the Chair of the FDIC, Ricki Tigert, had been asked by certain Senators on this Committee to agree to commit in advance to rescue herself on any issues connected to Madison or Whitewater. She was asked to do so for the stated reasons that she knew the Clintons and was being nominated by the President.
>
> Ms. Tigert had taken the position that, if she were confirmed and asked to address Madison/Whitewater-related questions, she would consult the appropriate agency ethics officer and follow his or her advice. The inquiring Senators told—the inquiring Senators indicated that Ms. Tigert's response was not sufficient. She told her if she would not agree to recuse herself in advance, regardless of whether she was legally or ethically required to do so, they would block her nomination.

White House Counsel continued by saying that during the February 2 meeting, he and other White House officials felt it was important to resist nominees being forced to recuse themselves in advance, when recusal is not legally or ethically required.

> At the time of the February 2 meeting, I and others in the White House believed it was important for the Executive Branch to resist efforts to force nominees to agree in advance to rescuse themselves in situations where recusal was not legally or ethically required. We felt that those seeking Ms. Tigert's commitment to rescuse herself were tampering with the agency adjudicative process.

Mr. President, what kind of adjudicative process is he referring to? What about the need to avoid the appearance of conflict? Why did they take such a narrow view—probably, they worked to make certain that Roger Altman would not have to recuse himself from acting RTC Chairman in connection with the Clinton personal affairs and that Tigert could preside over such discussions and decisions at the FDIC.

Mr. President, we may need to consider the issue of recusals in the future. The report the committee is preparing for the Senate pursuant to Senate Resolution 229 may even discuss the subject at some length. White House Counsel refers to the principle at stake; I am more concerned about the practice of putting into such a key position individuals with close personal relationships to high public officials—not to mention the President and his wife—who are already the targets of ongoing investigations. The narrow view that recusal is warranted only in the narrowest of circumstances—where it is legally or ethically required—is not acceptable. Even Ms. Tigert endorsed a broader view of recusal before the Banking Committee.

When asked about recusing herself during her February 2 confirmation hearing, Ms. Tigert stated:

> With respect to any matter where there is an appearance of conflict of interest, after consultation with the appropriate ethics officials, I will take the necessary steps to assure the credibility of the regulatory and enforcement process.

On February 7, only 5 days after her confirmation hearing, I received this letter and her notarized recusal statement. In her letter she states:

> In addition to my own sensitivity about the need to avoid even the appearance of a conflict of interest, I have also consulted with ethics officials of the Federal Deposit Insurance Corporation (FDIC) and through them with the Office of Government Ethics. They have informed me that no actual conflict of interest is involved, given the casual nature of my friendship with President and Mrs. Clinton. Nevertheless, because of the attention this issue has received, the FDIC ethics officials concur that it would be consistent with agency precedent to rescuse myself to avoid even the appearance of a conflict of interest.

Let me repeat: "the FDIC ethics officials concur that it would be consistent with agency precedent to recuse myself to avoid even the appearance of a conflict of interest." During her confirmation hearing, she was not really worried about appearances. In answering my question on recusing herself, all she worried about was whether an ethics official would say she was ethically or legally required to recuse. The technicality of even though it may not look good, if the ethics officer says it is legally and ethically OK, then I'm not going to worry about it is the connection between Ricki Tigert's recusal and Roger Altman's recusal. No one cared how things appeared. These officials just cared how some ethics officer interpreted the rules on conflict of interest and recusals.

Mr. President, without a chance to question Mr. Tigert and others carefully about these statements and documents that have come to public attention since Ms. Tigert was before the committee, I must conclude that the White House wanted her in this position in order to monitor and, if necessary, intervene to protect the interests of the First Family. The record is clear with respect to White House interference with the RTC; it is probably the same with the FDIC. I intend to find out, sooner or later. I would prefer—and I think Ms. Tigert should welcome—a chance to address these questions and dispel the doubts that I and many others have as a result of participating in the committee's Whitewater hearings in July and August.

Mr. Nussbaum relates that at this February 2 meeting, Altman out of the blue said he was inclined to remove himself from the RTC investigation. He said:

> So when Mr. Altman said, sort of out of the blue without any advance notice, that he was inclined to remove himself from the RTC investigation, without a legal or ethical basis for doing so, I felt he might create an unfortunate precedent for our administration and future administrations and would make a shambles of our position in the Tigert nomination.
>
> As White House Counsel, as an Executive Branch official, I was concerned about what Mr. Altman was considering doing. But I did not tell him to remain in the matter.

Let me repeat this—White House Counsel said that Altman's recusal "might create an unfortunate precedent for our administration and future administrations and would make a shambles out of our position in the Tigert nominations." What kind of shambles? Should the White House have been involved in this? Was it? Shouldn't we have an opportunity to find out before the nominee is confirmed?

White House Counsel continued by saying that he did not urge Altman to stay on the case. He said it was Altman's decision to make. He goes on to explain the reason he told Altman to consider not recusing himself:

> I made it because of the principle I previously discussed, that a public official has a duty to do his or her duty. I also made it because an Altman recusal would undermine our position on the Tigert nomination.

In concluding his opening statement, Nussbaum asserts:

> In Mr. Altman's case, it was all the more important to urge careful deliberation since he and others such as Ms. Tigert were being pressed by the President's political opponents to recuse themselves.
>
> As I have stated, I believed then, and I firmly believe now that Executive Branch officials and agency heads should not remove themselves from sensitive matters simply because of political advantage or expediency or for their own personal convenience. They should do their duty.

Chairman DON RIEGLE addressed Mr. Nussbaum at the hearing, stating that Mr. Nussbaum was wrong in interfering with Altman's recusal decision. Nussbaum justified his position by saying:

> An Executive Branch official has a duty to do his duty unless he's legally or ethically required to recuse himself. This affects all Executive Branch officials. We were handling the Tigert nomination. What Mr. Altman was suggesting would have had an effect on that nomination. I was acting in my role as a senior Executive Branch official in order to get him to consider whether or not he should do something which might adversely impact that important policy.

Mr. President, what is it that Mr. Nussbaum is saying? These appointees have an obligation to the American people to make decisions which will affect everyone. If there is a shadow of a doubt on whether a person could be a 1,000 percent impartial on a decision, then that person should not make that decision. It does not matter if some Government ethics manual or an ethics officer says recusal is not necessary. That person should not be involved in any aspect of the decision.

Why, Mr. President, would Roger Altman's recusal make shambles out of the White House's position on the Tigert nomination? What would one official's recusal have to do with the other recusal? These agencies are supposed to be independent. The White House and Department of the Treasury should have no say or influence in the recusal of an independent agency official, particularly when that agency is already conducting investigations involving the President, the First Lady, their partners, and their associates. It was Congress's understanding that the White House was not taking a position on the issue of recusal. We know differently now.

There is another point, Mr. President, that just does not make sense. How would Altman's recusal undermine the White House position on the Tigert nomination? Again, I ask, how and why would Tigert's recusal affect Altman's decision? As Ms. Tigert and Mr. Altman were friends of the Clintons, does the administration believe that these officials would be completely impartial on any decision connected to the investigations of Madison Guaranty and the investigation of the Rose Law firm? And who knows. This was not the time to play "Let's wait and see." The American people could not wait to cross the Whitewater bridge once we got there. The decision to recuse had to be made prior to the Madison-Rose issues coming up before the FDIC and the RTC.

Mr. President, the issue of Ricki Tigert's nomination now before the Senate is more than her friendship with the Clintons. The issue of her nonination is more than her decision of whether or not to recuse herself. The real issue before this Chamber at this moment is whether or not Ricki Tigert can effectively lead the Federal Deposit Insurance Corporation. As I said earlier, many of the financial regulatory agencies are not functioning properly—they are either leaderless, run by temporary appointees or operating without a quorum. I want to see this corrected. But not at the expense of the effectiveness and credibility of the agency. Given the particular factors surrounding Ms. Tigert's nomination and the need, in my opinion, for further hearings in committee, I do not believe she can lead this agency through the important issues it must address in the months and years ahead.

Mr. President, let me make one thing clear—I am not motivated by personal animosity toward Ms. Tigert—in fact, I voted to report her nomination from committee last February. Rather, I am motivated by a desire to get the facts on the table, and to make sure that independent regulatory agencies are permitted to operate in an independent fashion.

Mr. President, we have now had extensive hearings into these secret and improper meetings between the White House and Treasury officials. But even now, do the American people have confidence that there was not improper interference by other independent agencies? How will the people know that interference won't continue, this time plugging any leaks and destroying all evidence? How can the American people be certain of Ms. Tigert's ability to head up the FDIC in a truly independent fashion?

Mr. President, due to stonewalling by the RTC led by Roger Altman and influenced by White House staff, Congress had to extend the statute of limitions for Madison and other savings and loans by statute. Earlier this year, we passed a 5-year extension of the RTC's civil statute of limitation, by a vote of 95 to 0, as part of the Emergency Supplemental Appropriations Act.

Mr. President, Congress should have been able to rely on the agencies to ensure that investigation and enforcement of the laws are pressed to the fullest. We now know that the administration attempted—and succeeded—in interfering with the implementation of these laws by agencies that are supposed to be independent. The White House overstepped proper boundaries in its relationships with Roger Altman and Jean Hansen. The President personally sought advice about Madison from Eugene Ludwig, the Comptroller of the Currency and a member of the FDIC Board. The exact relationship between the Clintons and Ms. Tigert, and the White House staff and Ms. Tigert remains unknown but it is at least possible—if not probable—that the White House has stepped across the border of propriety in its contacts with Ms. Tigert. Maybe not, but we won't know unless we look into the matter further.

Mr. President, the FDIC is an independent agency with a crucial role to play in assuring that the Nation's banks and S&L's operate safely, and retain the faith of the millions of ordinary Americans who deposit their savings in FDIC-insured institutions. Unfortunately, the FDIC has another crucial role—in the Whitewater/Madison Guaranty controversy.

Ms. Tigert's relationship with the Clintons, particularly Hillary Rodham Clinton, has been well-documented. In January it was reported that Mrs. Clinton's favorite activity at Renaissance Weekend was hanging out with a group of friends that included Ms. Tigert. I ask unanimous consent that the text of the article be inserted into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Time Magazine, Jan. 17, 1994]

SHOULD AULD CONNECTIONS BE FORGOT

As their somewhat wonky way of celebrating New Year's, President Clinton, Hillary Rodham Clinton and their daughter Chelsea joined about a thousand other people on Hilton Head Island, South Carolina, for the "Renaissance Weekend," an annual gathering the Clintons have attended for a decade, at which successful liberal yuppies talk about policy and personal growth and make contacts. To be included in the Renaissance Weekend, one must promise not to discuss publicly what happens there, but despite this vow of omerta, some information could be gleaned:

What Bill Talked About in His Speech: You've got to be persistent.

What Hillary Talked About in Her Speech: Making choices—I made the choice to follow Bill to Arkansas, and I've never regretted it.

Bill's Favorite Activity: Golf.

Hillary's Favorite Activity: Hanging out with friends, including FDIC nominee Ricki Tigert, attorney Renee Ring, and Patsy Davis, wife of lawyer Joel Klein, who replaced Vince Foster.

Zoe Baird Moment: In audience when Bill said you sometimes end up hurting people.

Dress Code: Ultracasual. Hillary in jogging suit and no makeup.

How This Year Was Different from Last Year: No printed, networker-friendly list of participants' professional affiliations.

Cost: About $1,000, not including air fare and hotel room.

What Rush Limbaugh Was Doing over the Same Weekend: Sailing in the Virgin Islands with Bush Commerce Secretary and millionaire Robert Mosbacher and his wife Georgette.

Mr. D'AMATO. Now, these connections to the Clintons may not be a cause for alarm in and of themselves. But Ms. Tigert has been nominated to run the FDIC. And that is a crucial point—Ms. Tigert has been nominated to run the FDIC—an agency that the Rose law firm had extensive and controversial dealings with—and one of the agencies with a central role in the Whitewater quagmire. Recent news accounts have claimed that she is not a close acquaintance of the Clintons. She has recently claimed during meetings with my Senate colleagues and their staffs, that she has only met the President and First Lady casually at about ten public events, mostly Renaissance weekends, over the 8 past years. However, during her February 1 confirmation hearing before the Senate Banking Committee, an issue was posed regarding her friendship with the Clintons:

Q. Is it accurate to say that you are a personal friend of both Mrs. Clinton and President Clinton?

A. I have known the President and Mrs. Clinton for 8 years and I respect and admire both of them.

At no time during this hearing did she mention the fact that she was merely an acquaintance of the first family. On the contrary, when terms such as "you are a very close friend of the Clintons," "this very, very close friendship with Mrs. Clinton," "favorite hanging out buddy," and "closest personal friend" were spoken, Ms. Tigert never tried to dispute that fact that the Clintons and Ms. Tigert were more than acquaintances. She was even asked "Are they really your close, personal friends?" She never answered the question.

The agency that Ms. Tigert would head up has extensive ties to the Rose law firm. The Rose firm has represented the FDIC on a number of occasions. Rose also represented the former FSLIC, on numerous occasions—and the FDIC is FSLIC's successor. Several of these representations were plagued with possible conflicts of interest and overbillings.

In February of this year, Mr. President, the FDIC did a report on the Rose law firm. The report has been criticized in the press and by Members of Congress. The shortcomings of this report are blatant:

The FDIC report concludes that "In 1989, the Legal Division lacked formal procedures regarding the determination of conflicts of interest. * * *" This raises some serious questions:

What exactly did the FDIC's rules require with respect to disclosure of potential conflicts in 1989?

How do the FDIC's current rules differ from those in effect when the Rose firm was retained to sue Frost & Co?

Would the Rose law firm's involvement in the Frost & Co. lawsuit constitute a violation of the FDIC's current conflict-of-interest rules if they had been in place in 1989?

How can it be said that the Rose law firm did not maintain a close relationship with Madison Guaranty, when the Rose firm had been retained by Madison Guaranty for 15 months only several years earlier?

What consideration, if any, did the FDIC give in their analysis to the implications of Mrs. Clinton's involvement with former Madison Guaranty owner Jim McDougal in the Whitewater land deal?

Were witnesses whose statements were incorporated in the FDIC report questioned under oath?

Is it true that no documents were reviewed as part of the FDIC's internal review that produced this report?

My point is that the FDIC is already deeply involved with investigations of the Clintons, their former associates and business partners, and their business activities.

Let me get back to Ms. Tigert and her reluctance to recuse herself. Now, it is true that Ms. Tigert has recused herself from "any investigation, inquiry, or determination concerning the President or Mrs. Clinton in their personal capacities, currently or hereafter pending before the Federal Deposit Insurance Corporation* * *." I should take this opportunity to insert Ms. Tigert's recusal into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GIBSON, DUNN & CRUTCHER,
Washington, DC, February 7, 1994.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: During my confirmation hearing, you raised a question about whether I would recuse myself from a matter that could personally involve the President or Mrs. Clinton. As I stated in the hearing, I have no personal knowledge of any such matter other than what I have read in the press, but I am very mindful of the concerns you have raised. I want to resolve this issue as expeditiously as possible and I assure you that I will recuse myself from any such matter. I am extremely sensitive about even the appearance of any conflict of interest.

In addition to my own sensitivity about the need to avoid even the appearance of a conflict of interest, I have also consulted with ethics officials of the Federal Deposit Insurance Corporation (FDIC) and through them with the Office of Government Ethics. They have informed me that no actual conflict of interest is involved, given the casual nature of my friendship with President and Mrs. Clinton. Nevertheless, because of the attention this issue has received, the FDIC ethics officials concur that it would be consistent with agency precedent to recuse myself to avoid even the appearance of a conflict of interest.

The FDIC has a long and distinguished, 60-year history as an independent bank regulatory agency. The continued independence of the FDIC, and the credibility of the regulatory process, are my foremost concerns.

Therefore, if I am confirmed by the United States Senate, I will recuse myself from any consideration of this matter. Attached is a copy of the statement of recusal that I have signed today.

Sincerely,

RICKI RHODARMER TIGERT.

Attachment.

RECUSAL STATEMENT

In order to avoid any appearance of conflicts of interest or loss of impartiality in connection with any investigation, inquiry, or determination concerning President or Mrs. Clinton in their personal capacities, currently or hereafter pending before the Federal Deposit Insurance Corporation, I, Ricki Rhodarmer Tigert, will, if confirmed by the United States Senate to the office of Chairperson of the Federal Deposit Insurance Corporation, recuse myself immediately from participation in any such investigation, inquiry, or determination.

In Witness Whereof, I have hereunto subscribed my name in the City of Washington, District of Columbia, this 7th day of February, 1994.

RICKI RHODARMER TIGERT.

Mr. D'AMATO. Mr. President, even this recusal leaves open questions: what does the reference to personal capacities mean? Does it cover Mrs. Clinton in all her capacities as a private citizen, or just in her personal capacity as an investor in Whitewater?

The Rose firm, in which Mrs. Clinton and other former administration were partners, provided legal services to the FDIC on numerous occasions. Not all these legal services were rendered by Hillary Rodham Clinton, but we can't deny that she and the President have a stake in avoiding disclosure of possible ethical violations at her former law firm.

The Rose-FDIC connection is one of the many topics that is not covered by the hearing format that the Senate adopted on a party-line vote in Senate Resolution 229. Since the Rose-FDIC connection was not a part of the Senate Banking Committee's hearings this past July, I will take a moment to summarize some of the allegations for my colleagues:

First, there have been allegations that the Rose law firm overbilled certain clients.

When a law firm represents a Federal agency, the American taxpayer ultimately gets stuck with the bill. If there are improprieties involving the Rose law firm's representation of the FDIC, the American taxpayer is entitled to know.

A second question with respect to the FDIC-Rose connection: did the Rose law firm fail to disclose possible conflicts of interest to Federal agencies?

In 1989, the FDIC retained the Rose law firm to sue Madison's outside auditors, Frost & Co. for failing to conduct adequate audits of Madison. The lawsuit, which sought $6 million in damages was ultimately settled by the Rose law firm for $1 million.

There is no evidence that the Rose law firm disclosure potential conflicts of interest in that case.

The potential conflicts included the fact that Webster Hubbell, who was at that time a partner of the Rose law firm, had family members who were in litigation involving the FDIC and Madison.

It was Webster Hubbell who handled the FDIC's lawsuit against Frost & Co. Meanwhile, his father-in-law, Seth Ward, obtained a $325,000 judgment against Madison which the FDIC was challenging in court.

Webster Hubbell's brother-in-law, Seth Ward II was also in litigation with Madison.

Hubbell's situation was so outrageous that FDIC staff raised red flags about it.

One FDIC attorney warned that Hubbell's access to information contained in the Madison audit files could be "damaging to our case"—referring to the FDIC lawsuit with Webb Hubbell's father-in-law. He also wrote that there "appears to be a conflict in representation and a question of loyalties."

I ask unanimous consent to insert a letter prepared by an FDIC attorney into the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MADISON GUARANTY,
Little Rock, AR, June 8, 1989.

Re No. 8313 Madison Guaranty Savings and Loan, Little Rock, Arkansas, In Conservatorship March 2, 1989, Madison Guaranty Savings & Loan vs. Frost & Company, Case No. 88-1193, Circuit Court of Pulaski County, Arkansas

Ms. APRIL BRESLAW,
Federal Deposit Insurance Corporation,
Washington, DC.

DEAR APRIL: The referenced audit suit was transferred from the Gerrish & McCreary Firm to the Rose Law Firm shortly after March 27, 1989. The Managing Agent and Sue Strayhorn, litigation coordinator for Madison, have informed me that the staff attorney to whom these files were delivered is Webb Hubbell. Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider, who was able to obtain a judgment against Madison of approximately $447,000. Mr. Hubbell was present at the trial of the Seth Ward matter and appears to have been an interested (indirectly) participant in the Ward proceedings.

Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. An appeal of the remand order is being vigorously pursued. After appeal, a new trial will be sought whether in state or federal court. At a minimum, the state judgment will be attacked under various special FDIC defenses on its general inappropriateness. Ms. Strayhorn has informed me that information contained in the audit files could be damaging to our case, especially if a new trial is granted.

In addition to the Seth Ward matter, Mr. Hubbell's brother-in-law, Seth Ward, II, has initiated a suit against Madison claiming a side agreement containing an interest rate concession. This case was referred to the Friday firm for removal to Federal court.

I offer this information because there appears to be a conflict in representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interests in the Seth Ward matter. However, I believe it important that you are aware of this situation so that you are able to deal with it appropriately.

Sincerely,

PAUL A. JEDDELOH,
FDIC Staff Attorney.

Mr. D'AMATO. Another FDIC staffer stated that it was "naive" to believe that none of the information that Hubbell had access to would get back to his family.

I ask unanimous consent to insert this letter into the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MADISON GUARANTY,
Little Rock, AR, August 10, 1989.

Mr. JOHN O'DONNELL,
FDIC S & L Project Area Coordinator, c/o First Federal Savings & Loan, Little Rock, AR.

DEAR JOHN: Since arriving at Madison Guaranty on August 7th, a situation concerning a possible conflict of interest has come to my attention involving Madison Guaranty vs. Frost & Company. Madison Guaranty sued their former accountants in 1988 for negligence and breach of contract involving their 1984 and 1985 audits of the institutions.

At the time of the conservatorship, the action was removed from Madison Guaranty's attorney to the Rose Law Firm of Little Rock at the behest of April Breslaw, FDIC investigations attorney. The attorneys who are handling these accounts are Rick Donovan and Webb Hubbell.

An apparent conflict exists in that Mr. Hubbell is the son-in-law of Seth Ward who was an insider at Madison Guaranty and is the brother-in-law of Seth Ward, II. Both of these men have sued Madison Guaranty. We are currently defending an action from Seth Ward, II concerning a side agreement for interest rate concessions and are appealing a judgment in a case we lost to Seth Ward (Sr.) to the tune of $470,000.

Our attorney, April Breslaw, was made aware of this possible conflict. Her response is encaptulated in the attached letter and letters she requested from Mr. Hubbell.

In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guaranty used in day to day operations. We are making this information available, in detail, to Mr. Hubbell. To believe that none of this information will make it back to his family is naive. I do not know whether or not any information upcoming will be damaging. However, I would like someone with a wider scope of authority to review the situation and possibly eliminate this conflict.

Sincerely,

KEN K. SCHNECK,
Credit Specialist.

Mr. D'AMATO. The FDIC's February 1994 report on this conflict situation ducked a lot of issues and offered little more than half-answers.

Mr. President, at the urging of the Senate Banking Committee, the FDIC's inspector general is busy reviewing the Rose firm's work for the Government. They apprised the Senate of their progress in the following correspondence:

[Memorandum]

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, February 25, 1994.

To: James A. Renick, Inspector General.
From: Andrew C. Hove, Jr., Acting Chairman.
Subject: Investigation of the Rose Law Firm.

This is to request that you initiate investigation into the following two matters: (1) the handling by the Rose Law Firm of a lawsuit (captioned First American Savings and Loan Association v. Lasater and Co.) on behalf of the FSLIC conservatorship of First American Savings and Loan Association, Oak Brook, Illinois during 1986 and 1987 and (2) the 1989 retention by the FDIC of the Rose Law Firm for the FSLIC conservatorship of the Madison Guaranty Savings and Loan Association, Little Rock, Arkansas. In your investigation, please determine whether there were any conflicts of interest or other improprieties in those representations and, if so, what, if any, sanctions or other actions are warranted.

Because of the serious nature of this matter, please try to complete your investigation and submit your report to me within 90 days. If additional time is necessary, please advise me accordingly.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, March 30, 1994.

Hon. ALFONSE M. D'AMATO,
Ranking Minority Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: I am writing to you to request any information which you may have relating to the law enforcement inquiry being conducted by my office into the retention of the Rose Law Firm by the Federal Deposit Insurance Corporation. As your staff has been informed, Acting FDIC Chairman Hove on February 25, 1994, requested me to conduct an independent inquiry into this matter. My office has initiated an audit and investigation, and has contacted your staff to inform them and to obtain any available information relating to this inquiry.

Our inquiry will cover allegations of conflict of interest by the Rose Law Firm in representing the FDIC in two cases: the handling by the Rose Law Firm of a lawsuit (captioned First American Savings and Loan Assoc. v. Lasater and Co.) on behalf of the FSLIC conservatorship of First American Savings and Loan Association, Oak Brook, Illinois during 1986 and 1987; and the 1989 retention by the FDIC of the Rose Law Firm for the FSLIC conservatorship of the Madison Guaranty Savings and Loan Association, Little Rock, Arkansas. The inquiry also will review the report dated February 17, 1994 by the FDIC Legal Division on the retention of the Rose Law Firm for the Madison Guaranty Savings and Loan conservatorship. Lastly, our auditors will review and analyze fee bills and charges by the Rose Law Firm relating to First American, Madison, and other FDIC, TRC, and FSLIC legal matters managed by the FDIC. We are coordinating our efforts in these areas with Mr. Fisk's staff at the Office of the Independent Counsel, and with the Inspector General of the Resolution Trust Corporation, both of whom are conducting related inquiries.

It is imperative that we fully address the allegations of conflicts of interest relating to the Rose Law Firm. Therefore, I would appreciate receiving any documents, reports, and other information relating to the retention of the Rose Law Firm by the FDIC, including possible additional sources of information. My staff will contact your staff regarding these matters.

Thank you for your assistance. If you have any questions regarding this request, please do not hesitate to call me at (202) 942-3620, or have your staff call Carolyn R. Ryals, Deputy Inspector General, at 942-3615, or Thomas D. Coogan, Assistant Counsel, at 942-3622.

Sincerely,

JAMES A. RENICK,
Inspector General.

[Memorandum]

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, April 29, 1994.

To: Andrew C. Hove, Acting Chairman.
From: James A. Renick, Inspector General.
Subject: Investigation of the Rose Law Firm.

In your request that the Office of Inspector General conduct an investigation into certain aspects of the activities of the Rose Law Firm in performing work for the FDIC and the former FSLIC you asked that I advise you if the time necessary to complete our work would exceed 90 days. This time frame would require issuance of a report approximately June 1, 1994.

Members of my staff have now been deeply involved in this work for two months. Moreover, we are coordinating our work with the RTC Inspector General and the Independent Counsel. Due to the complexity of the work involved, the scope of the activity under investigation, the volume of documents and investigative interviews, and the difficulty we are experiencing in obtaining some subpoenaed documents I must inform you that it will not be possible to issue a report by June 1. Even at this time we are not sure when certain documents will be made available.

Let me assure you that we realize the seriousness of this matter and are giving this work our highest priority. Unfortunately, the nature of investigative activity does not lend itself to projecting completion dates with any certainty. However, you should know that because of the various factors previously mentioned we do not anticipate an early completion of this project.

Mr. President, I have no reason to believe that the FDIC is not diligently pursuing its duty. But what if this investigation does not resolve all of the questions about the Rose-FDIC connection? What assurances do we have that the complete truth will be made available to the American people? What assurances do we have that the FDIC will follow up on the IG's findings in an independent fashion?

Unfortunately, the limited scope of the Banking Committee's first round of hearings under Senate Resolution 229 did not allow us to touch upon anything other than Treasury-White House contacts. Chairman RIEGLE and I met with Independent Counsel Kenneth Starr last week and have concluded that no more "public hearings will be scheduled until we believe such hearings will not impede his investigation." But, it will take many more hours of hearings to get the complete story. It may take the committee years to get to the bottom of the entire issue. Piece by piece, bit by bit, I will be persistent in trying to get to the bottom of all of it. Hundreds and hundreds of questions have yet to be answered. And as the investigation continues and more information surfaces, more questions will need to be answered.

Mr. President, the potential conflict problems for Ms. Tigert as FDIC chair, are not limited to the Clintons. They also involve former Associate Attorney General Webster Hubbell. After all, Hillary Clinton and the Rose law firm were also on retainer to Madison Guaranty during 1984 and 1985.

And Madison Guaranty wasn't the only failed S&L that the Rose law firm did legal work for. In fact, the Rose law firm actively solicited S&L work from the FDIC. On February 28, 1989, the same day that Madison was deemed insolvent, a letter was sent to the FDIC from the Rose law firm seeking work on insolvent institutions. In fact, the Rose law firm did extensive work for the FDIC and the former FSLIC, handling legal work on a number of failed banks and S&L's, such as:

Corning Bank of Corning, AR;
Penn Square Bank, N.A., of Oklahoma City, OK;
First Continental Bank and Trust Company of Del City, OK;
First National Bank of Oklahoma City, OK;
Bohemian Savings and Loan Association, of St. Louis, MO;
Central Savings and Loan Association, of Conway, AR;
Guaranty Federal Savings and Loan, of Harrison, AR;
Home Federal Savings and Loan Association, of Bartlesville, OK;
Knox Federal Savings and Loan Association, of Knoxville, TN;
First American Savings and Loan Association, of Oak Brook, IL;
Sunbelt Federal Savings Bank of Baton Rouge, LA;
Sunrise Savings and Loan Association, of Boynton Beach, FL;
State Federal Savings and Loan Association, of Lubbock, TX;
Ultimate Savings Bank/Citizens Federal, of Richmond, VA;
Madison County S&L, of Granite City, IL;
Home Savings and Loan Association, of Mountain Home, AR;
Independence Federal Savings and Loan Association, of Batesville, AR;
First State Savings Bank, of Mountain Home, AR;
Savers Federal Savings and Loan, of Little Rock, AR;
Home Federal Savings and Loan, of Centralia, IL;
Capital S&L, of West Helena, AR;
First Federal Savings, of Fayetteville, AR;
Capitol Federal S&L, of Little Rock, AR;
First State Savings, of Mountain Home, AR;
Aspen Savings Bank, of Aspen, CO;
Independence S&L, of Batesville, AR;
Clinton Federal S&L, of Little Rock, AR;
First Federal of Arkansas, of Little Rock, AR;
Arkansas Federal S&L, of Little Rock, AR;
Savers Federal S&L, of Little Rock, AR;
San Jacinto Savings, of Bellaire, TX;
Security Federal S&L, of Albuquerque, NM;
American Home Savings, of Edmond, OK;
Midwest Federal Savings, of Minot, ND;
Tennessee Federal S&L, of Cookeville, TN; and
Citizens Security Bank, of Borser, TX.

Mr. President, in addition to Madison Guaranty Savings & Loan, there are a number of other financial institutions that have been linked to the Whitewater Development Corp. In order to fully understand the operations of Whitewater, it will probably be necessary to understand the full relationship between these institutions, the McDouglases, the Clintons, and Whitewater Development Corp. Many of these institutions are supervised by the FDIC, and the FDIC will be called upon to provide information and cooperation in any investigation. Further, to the extent that wrongdoing is discovered, the FDIC will have primary responsibility to take administrative enforcement actions. FDIC independence is thus critical. And again, lest we forget, it's worth noting that Madison Guaranty is not the only relevant depository institution connected to Whitewater, there are several others identified in the press to date:

Madison Bank and Trust (Bank of Kingston) Kingston, AR. This bank was acquired by James McDougal in 1980. On December 16, 1980, Hillary Clinton obtained a mortgage from this bank secured by Whitewater property. The proceeds of the loan were used to build a model home on the Whitewater tract. Whitewater Development Corp. paid the interest on the loan.

First Bank of Arkansas (Bank of Cherry Valley), Wynne, AR. This bank made a $50,000 loan to Clinton used to finance Clinton's 1984 gubernational campaign. Whitewater Development Corp. obtained a loan from this bank. Whitewater Development was allowed to overdraw its account at this bank by more than $9,000.

Citizens Bank and Trust, Flippin, AR. In 1978, the Clintons and McDougals obtained a loan from this bank secured by a 230 acre tract that became Whitewater. Whitewater real estate agent Chris Wade says he deposited all Whitewater money into a bank in Flippin, AR.

Security Bank, Paragould, AR. In 1993, Clinton borrowed $20,800 from this bank. The loan proceeds were made payable to Madison Bank (formerly Bank of Kingston). The proceeds were used to pay off Hillary Clinton's $30,000 loan from the Bank of Kingston. On October 4, 1984, Whitewater paid Security Bank $4,811 on Bill Clinton's $20,800 loan. This payment resulted in an overdrawn account. On November 7, 1985, Whitewater paid Security Bank $7,322 on Clinton's loan.

Mr. President, if the Senate approves through this nomination the majority will have closed the loop. The wagons will have been completely circled; the Whitewater stonewall will be complete. A stonewall that started in Little Rock, will now run from 1600 Pennsylvania Avenue right up to the Capitol. The Republican minority will have lost its most effective tool to ensure that the White House will not have too much influence in what is supposed to be an independent agency.

In March, we informed the majority leader that we would object to seeking an agreement to proceed on the Tigert nomination until the Senate Banking Committee has an opportunity to thoroughly examine the RTC's handling of its civil investigation into Madison. That examination has not thoroughly occurred, and we should not allow the majority to push through this nomination at this time.

And I would remind my colleagues that of the two Houses of the Congress, it is the Senate that has rules that allow the minority a real voice. In the check and balances that this Government is based upon, the Senate has the responsibility of confirming Presidential appointments and judges. I strongly believe that we, the Senate, will be doing a disservice to the American people by confirming this nominee at this time. I don't question Ms. Tigert's competence or her ability to manage such a vital part of the U.S. banking system as the FDIC. However, I strongly feel that the FDIC Chairperson must be someone who can run the place as an independent agency. I do not think that person is Ricki Tigert.

Mr. President, I want to have confidence that the regulators will exercise independent judgment. I want to have confidence that issues will not be decided based on politics or personal relationships. I want every issue decided on the facts and the merits. We cannot afford to have regulators who are, or even appear to be, susceptible to undue political influence. And this is a standard that I want followed by every regulator and in every administration, no matter which party controls the White House or the Congress.

Mr. President, the American people have heard too much lately about recusals and conflict of interest in connection with the bank regulatory agencies. The American people, as well as the Congress, must have total confidence in the financial regulators.

For these reasons, Mr. President, I changed my position on the nomination of Ms. Tigert to chair the FDIC. I voted for confirmation in February. But I must strenuously oppose her confirmation today. If confirmed as FDIC Chair, Ms. Tigert would preside over an agency that is already investigating Madison and the Rose law firm. At our recent Whitewater hearings, the former White House Counsel and others referenced her name in discussing Roger Altman's recusal. At a minimum, the committee needs to investigate these references further before her nomination is considered.

Mr. President, I am forced to conclude that it would be imprudent for the Senate to consider Ms. Tigert's nomination. Despite her considerable qualifications, I do not believe she should be confirmed by the Senate for this position. I urged the President to withdraw her name. Today, I urge my colleagues to vote against her confirmation.

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now vote on the nomination.

The question is, will the Senate advise and consent to the nomination of Ricki Rhodarmer Tigert, of Tennessee, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 7, as follows:

[Rollcall Vote No. 317 Ex.]

YEAS—90

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
Danforth
Daschle
DeConcini
Dodd
Dole
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Thurmond
Warner
Wellstone
Wofford

NAYS—7

Brown
D'Amato
Domenici
Faircloth
Helms
Smith
Wallop

NOT VOTING—3

Bond
Kennedy
Stevens

So the nomination was confirmed.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the following nominations en bloc:

Ricki Tigert, to be chairperson of the FDIC, Executive Calendar No. 693; Andrew Hove, to be a member of the FDIC, Executive Calendar No. 694; Andrew Hove, to be vice chairperson of the FDIC, Calendar No. 695.

Under the previous order, the nominations shall be considered as having been confirmed en bloc; that the motions to reconsider be laid on the table en bloc; and that the President be notified of the Senate's action.

So the nominations were considered and confirmed en bloc.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on Executive Calendar No. 1126, the nomination of H. Lee Sarokin to be United States Circuit Judge for the Third Circuit:

Frank R. Lautenberg, George Mitchell, Byron L. Dorgan, D.K. Inouye, Kent Conrad, Carl Levin, John F. Kerry, Pat Leahy, J. Lieberman, Bill Bradley, Ben Nighthorse Campbell, Paul Simon, John Glenn, Harry Reid, Charles S. Robb, Don Riegle, Joe Biden.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of H. Lee Sarokin, of New Jersey, to be U.S. circuit judge for the third circuit shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Missouri [Mr. BOND] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 85, nays 12, as follows:

[Rollcall Vote No. 318 Ex.]

YEAS—85

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Glenn
Graham
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Simon
Simpson
Smith
Specter
Warner
Wellstone
Wofford

NAYS—12

Coverdell
D'Amato
Ford
Gorton
Gramm
Helms
McCain
Nickles
Sasser
Shelby
Thurmond
Wallop

NOT VOTING—3

Bond
Kennedy
Stevens

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 12. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, under rule XXII, I yield my 1 hour of debate to the leader, Senator DOLE.

The PRESIDING OFFICER. The Senator has that right.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I would be pleased to yield to the majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague.

UNANIMOUS-CONSENT AGREEMENT

APPOINTMENT OF CONFEREES ON S. 21

Mr. MITCHELL. Mr. President, as if in legislative session, I ask unanimous consent that the Senate turn to the message from the House on S. 21, the California desert bill; that the Senate request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not, but at a later time today, I will make a statement about this legislation. The statement will go to the effect that I have no objection—and I think the Senator from California realizes—to the protection of the desert, though I feel that it is now. But I have an equal feeling and obligation to the National Park System and Park Service which in effect are being taxed beyond their capacity by the endless addition of new parks and new demands on them. So with the understanding, Mr. President, that at some moment during the day in connection with this I may make that statement, I will not delay it now.

There being no objection, the Presiding Officer (Mr. WELLSTONE) appointed Mr. BUMPERS, Mr. JOHNSTON, and Mr. WALLOP conferees on the part of the Senate.

Mr. MITCHELL. I thank my colleague.

Mr. THURMOND. Mr. President, I rise today in opposition to the nomination of Judge Sarokin to serve on the U.S. Court of Appeals for the Third Circuit.

Judge Sarokin was appointed to the district court 15 years ago by President Carter and since that time he has earned the reputation as a liberal judicial activist. In 1992, the New Jersey Law Journal observed that Judge Sarokin is considered the most liberal member of the Federal bench in New Jersey and further that Judge Sarokin may be the most reversed Federal judge in New Jersey when it comes to major cases. Additionally, the Almanac of the Federal Judiciary stated that "Sarokin is the most liberal judge on the District of New Jersey bench, according to a majority of civil attorneys." Also, the third circuit, the very court to which he has been nominated, has criticized Judge Sarokin for "judicial usurpation of power", for ignoring "fundamental concepts of due process", for destroying the appearance of judicial impartiality, and for "superimposing his own view of what the law should be in the face of the Supreme Court's contrary precedent."

Mr. President, these comments and a thorough review of Judge Sarokin's opinions have caused me great concern that he may be elevated to such an important court as the U.S. Court of Appeals for the Third Circuit. I questioned Judge Sarokin extensively during his nomination hearing before the Senate Judiciary Committee and his responses did little to mitigate my concerns based on his record before us.

For example, I questioned Judge Sarokin on his opinion in the case of Kreimer versus Bureau of Police for the Town of Morristown where he was reversed by the third circuit. In that case, Kreimer was a homeless man who frequented the public library in Morristown. According to the library staff, Kreimer often exhibited offensive and disruptive behavior, including following library patrons, talking loudly to himself and others. Also, according to the library staff, Kreimer's odor was so offensive that it prevented library patrons from using certain areas of the library and prohibited library employees from performing their jobs. In 1989, the library enacted a written policy prohibiting certain behavior in the library and authorizing the library director to expel persons who violated them. After he was expelled from the library at least five times for violating these rules, Kreimer sued the library and others in Judge Sarokin's court. In granting summary judgments in favor of Kreimer, Judge Sarokin ruled that the library policy was facially unconstitutional.

Judge Sarokin found that the library is a traditional public forum. Under Supreme Court precedent, the category of traditional public forums covers public places, such as streets, sidewalks, and parks, that have, by long tradition, been devoted to assembly and debate. Of course, under the Supreme Court's precedent, regulations affecting speech in a "traditional public forum" are accorded a strict standard of review.

As I stated earlier, Judge Sarokin found that a public library is a "traditional public forum", yet he cited no precedent in support of that ruling. I do not believe that his ruling was faithful to existing precedent.

Mr. President, I would just point out that the third circuit found Judge Sarokin's ruling to be clearly wrong. As the third circuit observed and I quote, "Obviously, a library patron cannot be permitted to engage in most traditional First Amendment activities in the library, such as giving speeches or engaging in any other conduct that would disrupt the quiet and peaceful library environment." End quote. Also, I note that the third circuit disagreed with Judge Sarokin that a library is a full-fledged designated public forum. Under Supreme Court precedent, a full-fledged designated public forum is a public place that has been designated by the government as devoted to assembly and debate. Clearly under this precedent, the third circuit got it right, a library is not a place of open assembly and debate.

Additionally, Judge Sarokin also ruled that the library policy was unconstitutional overbroad and he relied heavily on a misreading of a 1966 Supreme Court ruling in Brown versus Louisiana. Judge Sarokin defended his opinion on a position taken only by a plurality of the Supreme Court in the

Brown decision. Again, the third circuit did not see it his way and found that the library policy was not substantially overbroad.

Additionally, Judge Sarokin ruled that the library policy was unconstitutionally vague. In fact, he stated that paragraph one of the library policy was "hopelessly vague." Mr. President, the following is paragraph one of the library policy which Judge Sarokin found unconstitutional and "hopelessly vague":

"Patrons shall be engaged in activities associated with the use of a public library while in the building. Patrons not engaged in reading, studying, or using library materials shall be required to leave the building."

Frankly, Mr. President, that paragraph seems clear to me and certainly not muddled enough to be unconstitutionally vague as Judge Sarokin found it. In fact, the third circuit had no difficulty concluding that paragraph one and the other paragraphs of the library policy were sufficiently clear.

Judge Sarokin also concluded that the library policy violated the equal protection clause. According to his analysis, just as a poll tax for voting draws an improper line based on wealth, so does the library's hygiene rule, since it has a disparate impact on those poor patrons who do not have regular access to shower and laundry facilities. The third circuit, noting that the homeless do not constitute a suspect class, rejected his analysis and held that the library policy did not violate equal protection.

Mr. President, I have spent a significant amount of time on this case because it appears to be a good example of Judge Sarokin's approach to judging, one of judicial activism. The third circuit made clear that in each of his rulings on the issues I have just discussed, he was patently wrong. It strikes me that Judge Sarokin's ruling in this case distorts precedent.

I find this ruling as one in furtherance of an ideology which, whether intended or not, restricts a community from enforcing even minimal standards essential to the public good. This concerns me as to how Judge Sarokin would approach a community's ability to govern itself. I would just note that my concerns are heightened by his opinions in cases like E-Bru, Inc. versus Graves—in which Judge Sarokin spoke for the right of those who want to open adult book stores in communities that do not want them—and Knoedler versus Roxbury Township—in which Judge Sarokin ruled facially invalid an ordinance prohibiting the sale of drug paraphernalia.

Mr. President, I would now like to turn to Judge Sarokin's 1984 opinion in United States versus Rodriguez. In this case, Mr. Rodriguez was arrested on theft-related charges. At FBI headquarters, he was handed a form in Spanish advising him of his rights and stating that by his signature he agreed to waive them. Mr. Rodriguez read the form, but rather than signing his own name, he signed a false name. He then answered certain questions asked of him by an FBI agent.

Despite Judge Sarokin's express finding that Rodriguez read the form and was aware of his rights before he spoke with the FBI agent, Judge Sarokin granted his motion to suppress evidence of his statements to the FBI agent.

Judge Sarokin offered two primary reasons in support of his conclusion. First, he cited the fact that Rodriguez signed a false name to the waiver form. In Judge Sarokin's view, and I quote, "it does not strain logic to find the use of a name other than one's own to be wholly inconsistent with a voluntary waiver of rights: defendant might well have believed that by using a false name he was not committing himself to anything." End quote. In short, Judge Sarokin's ruling adopts a per se rule that anytime a defendant signs a false name, he cannot be deemed to have voluntarily waived his rights, no matter how compelling other evidence is concerning voluntariness.

Mr. President, there is no precedent of which I am aware that compels his result. In his opinion, Judge Sarokin cited United States versus Chapman which held that a false signature is not relevant to the issue of the voluntariness of the confession. This is contrary to Judge Sarokin's ruling that the use of a false name is inconsistent with a voluntary waiver of rights.

The defendant's appearance before the magistrate was the second factor on which Judge Sarokin relied in finding his statements to the FBI agent involuntary. Mr. Rodriguez was asked by the magistrate whether he wanted a lawyer and he stated that he did. It was Judge Sarokin's opinion that this "certainly gives rise to an inference of nonvoluntariness with respect to the earlier waiver."

Mr. President, I see no logical inconsistency between the fact that Rodriguez told the magistrate that he wanted a lawyer for assistance at trial and a conclusion that earlier he voluntarily agreed to speak with an FBI agent in the absence of counsel. It appears to me that Judge Sarokin made quite a stretch here for excluding the evidence in his case.

Mr. President, I have mentioned several cases where Judge Sarokin's activist approach to judging causes concern. My colleagues have gone into other opinions by Judge Sarokin which leave doubt to his service as an impartial jurist should he be elevated to the U.S. Court of Appeals for the Third Circuit.

I accord the President considerable deference in his constitutional responsibility to nominate individuals to the federal judiciary. In fact, we are fast approaching 100 Federal judges nominated by President Clinton which I have supported. However, in this instance, I cannot in good faith support the elevation of Judge Sarokin to the U.S. Court of Appeals for the Third Circuit. Although a pleasant and engaging individual, Judge Sarokin's record is one of judicial activism where time and time again he followed his own agenda rather than adhering to binding judicial precedent from the Supreme Court and the third circuit. It is for these reasons that I will vote against the nomination of Judge H. Lee Sarokin to serve on the U.S. Court of Appeals for the Third Circuit.

Mr. President, I ask unanimous consent that the letters I now submit be printed in the CONGRESSIONAL RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, Aug. 5, 1994.

Hon. STROM THURMOND,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR THURMOND: As you appraise the nomination of Judge H. Lee Sarokin of the U.S. District Court in New Jersey to the Third Circuit Court of Appeals, we urge you to carefully consider his record and reject his nomination.

Judge Sarokin has a lengthy record of freeing criminals at the expense of their victims. His nomination by President Clinton to a higher federal court is opposed by the National Sheriffs' Association, the Law Enforcement Alliance of America, the Fraternal Order of Police, Organized Victims of Violent Crime, the U.S. Business and Industrial Council, and the League of American Families.

In one of his more infamous trials—Landano v. Rafferty—Judge Sarokin gave freedom without redemption to James Landano, who shot several times at close range and killed a Newark, NJ police officer. Landano was convicted to life imprisonment by the New Jersey Superior Court; however, due to Judge Sarokin's personal judicial activism, Landano has been freely roaming the streets. In this particular case, Judge Sarokin's rulings to free Landano have been so egregious that the U.S. Court of Appeals was forced to reverse his decisions four times.

In the Landano case, Judge Sarokin attempted to project his authority over the State's highest court and to extend Landano's opportunities for release. Additionally, he ordered the FBI to turn over federal documents to Landano for use in his defense, despite the fact that the FBI felt that this would jeopardize the safety of federal informants. In the final reversal, rejecting Sarokin's permission to release Landano on bail, the Third Circuit intimated that Judge Sarokin's personal bias was an obstacle to justice in this case: "[the U.S. District Court for NJ] has already determined that [Landano] may be innocent of the charges for which he was convicted."

Crime has become so prevalent in our neighborhoods that Americans have nearly become desensitized to it. And much of the blame lies with judges like H. Lee Sarokin who have neglected the rights of Americans to be safe in their communities. As Representatives from the State over which

Judge Sarokin presently presides, we can attest to the fact that New Jerseyans are becoming fed up with this elitist attitude from the bench.

Just last week in Hamilton Township, an average middle-class suburb of Trenton, a seven-year old girl was brutally raped and murdered by a man living in her neighborhood. The killer had been twice convicted of violent sex-crimes against children and had been released from jail after serving only three-fifths of his sentence. Residents of Hamilton joined a nationwide "night out" on Tuesday to show criminals, like the one who confessed to killing little Megan Kanka, that they will no longer tolerate such deviant behavior. We believe that it is critical for members of our judicial system to keep criminals in jail. Judge Sarokin's inclination for early release of criminals runs contrary to community sentiment and therefore should not be rewarded.

Enclosed are materials from Coalitions for America and the Free Congress Foundation, as well as a Wall Street Journal editorial from August 3, 1994, summarizing Judge Sarokin's record. We hope that you will take these facts into consideration when voting on Judge Sarokin's nomination.

We appreciate your attention to this matter.

Sincerely,

JIM SAXTON.
DEAN A. GALLO.
CHRISTOPHER H. SMITH.
DICK ZIMMER.
BOB FRANKS.

LAW ENFORCEMENT ALLIANCE OF AMERICA,
July 26, 1994.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: The recent nomination of U.S. District Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit by President Clinton is the latest example of the liberalization of our criminal justice system that began 30 years ago.

Judge Sarokin has repeatedly made use of his judicial position to promote social and personal issues and causes. He has also made it plain that he will continue to do so if confirmed to the United States Court of Appeals.

Crime is the number one concern of the American public. People are demanding real criminal justice reform—life imprisonment for repeat offenders, greater involvement for victims in the judicial process, the building of more prisons to take violent criminals off our streets.

Confirming Judge Sarokin will place another roadblock in the path of justice. Judge Sarokin, in the West Virginia Law Review, stated that he was opposed to both pre-trial detention of violent criminals and mandatory minimum sentencing guidelines. He also stated that admission of evidence guidelines should be stricter to protect criminals' rights.

Clearly, criminals will have a friend on the bench of the United States Court of Appeals if Judge Sarokin is confirmed.

The 40,000+ law enforcement officers, victims of crime and concerned citizens of the Law Enforcement Alliance of America ask you to not confirm Judge Sarokin to the United States Court of Appeals. Justice will not be served in America as long as the rights of criminals are placed above the rights of law-abiding citizens.

Sincerely,

JAMES J. FOTIS,
Executive Director.

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE COMMITTEE,
Lindenwold NJ, August 5, 1994.

Re nomination of H. Lee Sarokin to the U.S. Court of Appeals.

U.S. SENATE,
Washington, DC.

TO THE MEMBERS OF THE U.S. SENATE: On behalf of the 250,000 member National Fraternal Order of Police and, in particular, the members of the Fraternal Order of Police in the State of New Jersey, I am informing you that we are in total opposition to the appointment of Judge Sarokin to the U.S. Court of Appeals for the Third Circuit.

In at least one case, he has shown a propensity to be more of an advocate of social and personal causes than a judge. In a case involving the murder of a Newark, New Jersey police officer Judge Sarokin made it his mission to set a convicted person free.

Briefly stated, in 1976, Vincent Landano was convicted and sentenced to life in prison for the murder of a police officer during an armed robbery. Ignoring his oath of office and even after at least four reversals by the U.S. Court of Appeals for the Third Circuit and the U.S. Supreme Court, Judge Sarokin ordered Landano's release in June of 1989.

We, in the F.O.P., find this action appalling and adamately request that Judge Sarokin's nomination be denied. Our legal counsel in Washington is currently researching other cases that Judge Sarokin was involved in and hope to be able to bring more information to you as it becomes available.

Respectfully,

ROBERT J. ROBBINS,
New Jersey National Trustee.

LEAGUE OF AMERICAN FAMILIES,
Ringwood, NJ, August 4, 1994.

Senators HATCH and DOLE,
U.S. Senate,
Washington, DC.

GENTLEMEN: The Senate is considering the nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. I strongly urge you to oppose this nomination for two reasons. First, as evidenced by his removal from the tobacco liability case by the U.S. Court of Appeals, he lacks the basic judicial temperament to be a judge. All Americans should demand judges who will be fair and impartial. Judge Sarokin has proven—even to the satisfaction of the liberal New York Times—that he lacks these qualities. His excuse at his hearing yesterday that, well, he is just "irrepressible" at times, is ridiculous.

Second, Judge Sarokin injects into his cases personal views that will have a devastating effect on American families. You have received information about his views on criminal justice issues. His opposition to pretrial detention of criminal defendants would, in particular, put families and children especially at risk.

In E-Bru v. Graves, 566 F.Supp. 1476, a case dealing with the town of Paterson's prohibition on an adult bookstore opening, Judge Sarokin delivered the kind of lecture that characterizes many of his decisions. He made the outrageous statement that "the harmful effect" of pornography "has never been clearly established."

Since you voted last year to condemn the Justice Department's attempt to weaken the child pornography laws, you must know that this statement is simply false. New books have been published just in the last few years cataloging the harms of pornography. In addition, however, why does Judge Sarokin find this question significant at all? The Supreme Court has ruled that a community's ability to control pornography does not depend on scientific specifics. This is another example of his imposing his own personal standards in place of what the law requires.

Judge Sarokin testified at his hearing on August 3 that he would object to an adult bookstore opening near his home. Apparently, he is perfectly willing to impose on others an evil that he does not have to endure himself. America has enough judges who are so ignorant of the real-world impact of their decisions. Please do not add Judge Sarokin to that list by elevating him to the U.S. Court of Appeals.

Very truly yours,

JOHN T. TOMICKI, J.D.

COUNTY OF CUMBERLAND,
OFFICE OF THE SHERIFF,
Bridgeton, NJ, July 21, 1994.

President WILLIAM CLINTON,
The White House,
Washington, DC.

DEAR PRESIDENT: As a Sheriff from New Jersey with over thirty-five years experience in the Law Enforcement, I find it incredible that you would consider nominating H. Lee Sarokin to the U.S. Court of Appeals.

I don't know who advised you on this but they were either asleep at the switch or they really don't give a damn about Law Enforcement. Judge Sarokin's crusade in behalf of cop-killer Landano is legendary in New Jersey.

As a Democrat, I'm astounded that you would make such a nomination. As a Law Enforcement Officer, I'm disappointed, disillusioned, and damned mad.

Please reconsider this nomination of this notorious cop-hating Judge.

Thanking you, I am

Very truly yours,

JAMES A FORCINITO,
Sheriff, Cumberland County.

Mr. THURMOND. Mr. President, these several letters are in opposition to Judge Sarokin.

The first letter I received was from five Members of the U.S. House of Representatives—all from New Jersey where Judge Sarokin currently sits—in opposition to Judge Sarokin's nomination. These Congressmen state unequivocally their opposition to Judge Sarokin and state that he has "a lengthy record of freeing criminals at the expense of their victims."

Another letter comes from Mr. James Fotis, executive director of the Law Enforcement Alliance of America [LEAA] in opposition to this nomination. In his letter speaking on behalf of the LEAA, Mr. Fotis stated that "Judge Sarokin has repeatedly made use of his judicial position to promote social and personal issues and causes." He further stated that "confirming Judge Sarokin will place another roadblock in the path of justice."

The 250,000 member National Fraternal Order of Police sent a letter to the U.S. Senate expressing their "total opposition" to Judge Sarokin's nomination.

Still another letter comes from the League of American Families strongly urging opposition to Judge Sarokin's nomination. The League of American Families believes that Judge Sarokin lacks the judicial temperament and the ability to be a fair and impartial jurist on the U.S. Court of Appeals for the Third Circuit.

Finally, I have submitted a letter from the sheriff of Cumberland County in New Jersey to President Clinton in opposition to Judge Sarokin. This Democrat sheriff with over 35 years of experience in law enforcement stated to the President that he was astounded, disappointed, and disillusioned over this nomination.

Mr. President, these letters come from people who know Judge Sarokin's record and they speak loud and clear concerning his nomination to the Circuit Court.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. LAUTENBERG] is recognized.

Mr. LAUTENBERG. Mr. President, I rise to express my support for the confirmation of Judge H. Lee Sarokin to the Third Circuit Court of Appeals. My senior colleague, Senator BRADLEY, recommended Judge Sarokin to the President for this position, and I support him in that recommendation.

Judge Sarokin is a native of my home State of New Jersey. He has had a distinguished career as a trial lawyer and a district court judge. He has received the unanimous, well-qualified backing of the American Bar Association.

Throughout his career, Judge Sarokin has demonstrated that he is a man of deep insight and keen intellect and is held in the highest esteem by colleagues, as well as numerous attorneys who have appeared before him in the court. I have spoken to a lot of those people, and their judgment is almost unanimously supportive. Without question at all, he has the talent and temperament to discharge the duties of his office with distinction and with fairness.

Both Democrats and Republicans have expressed their support for Judge Sarokin's nomination. As a matter of fact, Senator SPECTER, a distinguished Republican Senator and former prosecutor from Pennsylvania, has supported Judge Sarokin's nomination and voted in his favor in the Judiciary Committee. Judge Sarokin has also been endorsed by four former U.S. attorneys in New Jersey, including Michael Chernoff, now Republican counsel to the Whitewater hearings. He has been supported also by the noted conservative Yale law professor, George Priest, who describes Sarokin as among the very first rank of Federal judges.

But, Mr. President, despite Judge Sarokin's impressive background and sound credentials, we are going to hear some opposition to his confirmation and questions about his fitness to serve on the Third Circuit Court of Appeals. I think that is because Judge Sarokin has not shirked from hard decisions, whether they affect the tobacco industry, the first amendment, or about other controversial issues.

His decisions were based on deeply thought out legal principles and objective judicial analysis, even though they might not have passed a popularity litmus test at the moment. In fact, Judge Sarokin was criticized by tobacco companies for lacking objectivity, and yet, despite his strong criticism of the industry, he actually ruled in their favor more often than not in pretrial motions.

Judge Sarokin has also been criticized for a decision that he made in the famous case of James Landano. Landano was convicted in 1978 of shooting a police officer during an armed robbery. He is now free because of new evidence suggesting that he might be innocent. The murder of a police officer is a heinous crime, and it ought to be punished swiftly, severely, and certainly. Police officers put their lives on the line for us each and every day, and I would not support confirmation of a judge who willy-nilly lets a cop killer go free.

But before we get lost in the debate on the Landano case, we should remember the facts as we heard them from the distinguished chairman of the Judiciary Committee earlier this day. It is worth repetition. Landano filed a habeas corpus petition with Judge Sarokin in 1987 after the chief witness against him recanted and said that his testimony at the trial was fabricated. When this occurred, Judge Sarokin, harboring serious doubts about Landano's guilt, still did not grant the petition, because a State judge before him had already rejected the petition. Landano stayed in prison for 2 more years. And then in 1989 Landano brought forth additional evidence pointing to his innocence. At this point, because of the new evidence, it was appropriate for the district court to review the case again. And Judge Sarokin, this time, granted the habeas corpus request.

In the literature from conservative organizations that oppose Judge Sarokin's nomination, they would have you believe that Judge Sarokin is personally responsible for the fact that James Landano is out of jail. It simply is not the case. It was a New Jersey State court, a court within our State, an appeals court, that ultimately decided that there was enough new evidence to raise serious doubt about Landano's guilt, and it was a New Jersey State court that decided to grant him a new trial. Even at this moment, prosecutors have not yet made a decision that there is sufficient evidence to present a new case against him.

Federal judges are constantly besieged with habeas corpus petitions, and during his 15 years on the Federal bench, Judge Sarokin has reviewed between 500 and 1,000 of these requests. In all that time, he has granted just 5 of those appeals. That is far less than 1 percent.

Of course, we want Federal judges who are going to pursue the law and lock up the bad guys, but we also want judges who are fair. And sometimes the circumstances that we read about present a different view than those who are in the courtroom hearing the case or judging the case. We want judges who can take a step backward and make sure that in our eagerness to fight crime, and all of us are bent on that mission today, that we are not locking up innocent men and women.

Five times in 15 years, Judge Sarokin has seen something disturbing in a conviction and has granted a habeas corpus petition. That certainly does not make him soft on crime.

So as we listen to this debate, let us remember that Judge Sarokin's occasional statement has not affected the substance of his decisions and that he is by no means soft on crime or criminals.

Mr. President, Judge Sarokin has not allowed his personal views to affect his judicial decisions. And we should not allow our personal or political views to affect our judgment on his fitness for the job.

Judge Sarokin's decisions have been consistently upheld by the Third Circuit Court of Appeals, the court to which he is now being nominated. Less than 3 percent of his written opinions have been reversed or vacated, and at least two of those reversals were ultimately reversed again themselves by our Supreme Court.

In a New York Times editorial last month, the minority leader said that Republicans have not tried to thwart President Clinton's Cabinet and judicial nominees because he believes that a President should have a fairly free hand in choosing those nominees.

I believe that is why we saw in the vote just taken such strong support, 85 votes for cloture, and a conclusion to this matter.

We should not allow partisan bickering to stall Judge Sarokin's confirmation to the third circuit.

I want to say to my colleagues on the other side, obviously by the vote taken this does not register as a general partisan accusation. A lot of them voted for cloture. I would be interested in hearing the comments.

But he is a thoughtful, fair-minded jurist with a deep commitment to justice, the law, the public it serves, and our most cherished liberties.

I am confident that he will be a distinguished addition to that court, and I urge my colleagues on both sides of the aisle to confirm this nomination for this well-qualified judge without further delay.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I rise today to speak in opposition to President Clinton's nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. I do so with regret because I believe Judge Sarokin to be well-intentioned and capable. But I do so with the firm conviction that his record establishes that he will pursue his own ideological agenda instead of applying the law.

Before turning to Judge Sarokin's record, let me place this nomination in broader context. By the time his term ends in 1997, President Clinton may well have appointed well over 200 lower-court Federal judges. In many or most of the cases that come before them, these judges will effectively be the final decisionmakers. In short, they have enormous power. This is particularly true of Federal appellate judges. Because the Supreme Court is able to review so few cases, Federal appellate judges function in effect as the Supreme Court—the Court of last resort—in the cases that they decide.

Nowhere, in my view, is it more important how judges exercise their enormous power than in the criminal field. No matter how much Government leaders talk about crime, no matter how many tough measures we enact, no matter how much money liberal Democrats force taxpayers to spend on social program boondoggles that are marketed as preventing crime, if we have judges who are activist on behalf of criminals and who undermine public order, then everyone's anticrime efforts are wasted.

Let me be clear about this. Because the conference report on the crime bill contained billions of dollars in pork that were not in the original Senate bill, and because important tough-on-crime provisions in that original bill were taken out by the Democrat-controlled conference, I opposed the final crime bill. At the same time, largely as a result of Republican amendments, the final crime bill did contain a number of good provisions that I support. But if even these provisions are watered down or overridden by soft-on-crime judges, then the whole crime bill effort will have been an utter waste by any measure.

Unfortunately, it is clear that President Clinton does not have the battle against crime as a priority—or even as a consideration—in his selection of lower court judges. Even worse, he has in fact, appointed some judges who are demonstrably soft on crime—Rosemary Barkett is just one notable example—and he has appointed a number of others whose records raise serious questions.

Let me now turn to Judge Sarokin and his record. In the 15 years since he was appointed to the Federal district court in New Jersey by Jimmy Carter, Judge Sarokin has earned a nationwide reputation as a stridently liberal judicial activist. On a broad range of telltale issues—such as crime, quotas, reverse discrimination, pornography, and minimal community standards of decency and behavior—Judge Sarokin has pursued his own political agenda instead of following the law. In so doing, he has ignored, defied, and even stampeded binding Supreme Court and third circuit precedent, and he has flaunted his own biases and sentiments on the sleeve of his judicial robe.

These are not just my views, nor just the views of outside critics. The third circuit itself has, for example, lambasted Judge Sarokin for "judicial usurpation of power," for ignoring "fundamental concepts of due process," for destroying the appearance of judicial impartiality, and for "superimpos[ing his] own view of what the law should be in the face of the Supreme Court's contrary precedent." The New Jersey Law Journal [9/14/92] has reported that Judge Sarokin "may be the most reversed Federal judge in New Jersey when it comes to major cases."

Law enforcement and victims rights organizations that have announced their opposition to Judge Sarokin's nomination include the Fraternal Order of Police, the Law Enforcement Alliance of America, the New Jersey State Police Survivors of the Triangle, Organized Victims of Violent Crime, the League of American Families, Citizens for Law and Order, Citizens Against Violent Crime, and Voices for Victims, Inc.

Now I just do not understand why, at a time when the President says that he is finally getting serious about crime, he is appointing to a top judgeship someone whose soft-on-crime views are so strongly opposed by many police and crime victims. Indeed, it is particularly notable that groups like the Fraternal Order of Police, which joined with President Clinton in supporting the crime bill, oppose Judge Sarokin's nomination.

A careful examination of Judge Sarokin's record highlights the concerns that these law enforcement and victim rights organizations have raised about Judge Sarokin's liberal judicial activism. These concerns are aggravated by Judge Sarokin's own testimony at his confirmation hearing.

Judge Sarokin has described himself as a "flaming liberal" as a judge. [Speech to Federalist Society, May 16, 1994.] On this point there should be no disagreement. Take, for example, Judge Sarokin's views on pretrial detention of dangerous criminal suspects. Judge Sarokin argues that pretrial detention is "in direct contradiction of the presumption of innocence." [90 West Va. L. Rev. 1003, 1005 (1988).] Let me repeat that: Judge Sarokin argues that pretrial detention is "in direct contradiction of the presumption of innocence." With all due respect to Judge Sarokin, this position is dead wrong. The presumption of innocence establishes that the burden of proof at trial lies with the Government. It does not require that society turn a blind eye to the fact that certain arrested criminal suspects would pose a grave threat to society if they were released. A completely separate set of procedural guarantees—including, for example, the requirement of probable cause to arrest and detain a suspect—affords the necessary constitutional protections against unlawful detention.

Judge Sarokin's position that dangerous criminal suspects should not be subject to pretrial detention would, if taken seriously, have tragic consequences for society. Repeat violent criminals would be unleashed to prey on innocent law-abiding citizens. Witnesses to the crime for which the criminal suspect had been arrested would be subjected to brutal intimidation. The liberal revolving door for criminals would spin even faster.

Judge Sarokin has likewise argued that the rules governing disclosure of information in criminal cases need to be loosened up in favor of the criminal defendants, in order to provide more information sooner. As Judge Sarokin recognizes, the balance struck by the existing rules is designed to protect against the serious problem of witness intimidation and witness tampering. But in Judge Sarokin's view, "the assumption of such improper conduct undermines the presumption of innocence accorded to the accused." [43 Rutgers L. Rev. 1089 (1991).] Here again, Judge Sarokin distorts the presumption of innocence—an important but narrow rule that sets forth who has the burden of proof at trial—into a wholesale obligation to bend all rules in favor of the criminal defendant. Under Judge Sarokin's logic, one might as well say that criminal defendants should not be subjected to trial since trial is inconsistent with the presumption of innocence. The sorry fact is that witness intimidation and tampering are severe problems. The existing rules structure pretrial disclosure of information in a way that minimizes these problems at the same time that they preserve the defendant's right to a fair trial. There is no reason to change these rules to benefit criminal suspects and to harm innocent citizens.

If my disagreement with Judge Sarokin on these and other matters were simply a matter of differing policy views, I might not be so troubled by his nomination, since judges should not engage in policymaking. But the fact of the matter is that Judge Sarokin has worked to smuggle his soft-on-crime views into his criminal opinions. For example, in granting a defendant a hearing to review his continuing pretrial detention, Judge Sarokin expressed, and relied on, his view that pretrial detention conflicted with the presumption of innocence. [*United States* v. *Mendoza*, No. 87-5 (D.N.J. 1987) ("The concept that those presumed to be innocent can be held in custody on the assumption that they will commit further crimes if released poses grave concerns in a free society").] In yet another case, the third circuit reversed Judge Sarokin on the ground that he had no authority to order the release on bail of an undocumented alien. [*In re Ghalamsiah*, 806 F.2d 68 (3d Cir. 1986), reversing No. 86-767 (D.N.J. 1986).]

Similarly, in his opinions Judge Sarokin has stated and implemented his view that "the discovery obligations of the government in criminal matters should be construed as broadly as possible" and has expressed his "amazement" that existing rules are not broader than they are. [*United States* v. *Khater*, No. 84-148 (D.N.J. 1985).]

Judge Sarokin has a clear record of implementing his liberal ideological agenda in the guise of judicial opinions. Judge Sarokin is perhaps most notorious for his precedent-defying opinion in the case of *Kreimer* v. *Bureau of Police for the Town of Morristown* [765 F. Supp. 181 (D.N.J. 1991), rev'd, 958 F.2d 1242 (3d Cir. 1992)]. Kreimer was a homeless man who lived outdoors in Morristown, NJ. According to various news accounts, Kreimer was homeless because he had squandered a $340,000 inheritance, turned down job offers, and refused to live in a shelter. In any event, Kreimer frequently occupied the public library in Morristown. According to library staff, Kreimer often engaged in offensive and disruptive behavior, including staring at and following library patrons and talking loudly to himself and others. Also, according to library staff, Kreimer's body odor was so offensive that it prevented others from using certain areas of the library and kept library employees from performing their jobs. A logbook instituted to catalog disciplinary problems faced by the library described incidents such as "Kreimer's odor prevents staff member from completing copying task," "Kreimer spent 90 minutes—twice—staring at reference librarians, "Kreimer was belligerent and hostile toward [the library director], and "Patron [was] followed by Kreimer after leaving Library."

In 1989, the library enacted a written policy prohibiting certain behavior in the library and authorizing the library director to expel persons who violated them. After he was expelled from the library at least five times for violating these rules, Kreimer sued the library and others in Federal district court, alleging that the library's policy violated the first amendment and the due process and equal protection clauses of the 14th Amendment.

In a remarkable ruling, Judge Sarokin granted summary judgment in favor of Kreimer. Judge Sarokin's ideological bias is manifested in his grandiose assertion that "[i]f we wish to shield our eyes and noses from the homeless, we should revoke their condition, not their library cards." This rhetoric is, of course, a red herring: The library was not revoking the library cards of the homeless, nor was it singling them out. It was instead simply requiring that all patrons comport with minimal standards of behavior and decency.

Judge Sarokin proceeded to concoct a number of specious arguments that the library policy was unconstitutional. Judge Sarokin ruled that the library policy violated the first amendment. He ruled that it was unconstitutionally overbroad. He ruled that it was unconstitutionally vague. He ruled that it violated substantive due process. He ruled that it violated equal protection. And he ruled that it violated the New Jersey Constitution.

One problem with these six separate rulings by Judge Sarokin is that all of them are clearly, conspicuously, and extravagantly wrong. Not surprisingly, the third circuit, in a thorough opinion, unanimously reversed each of Judge Sarokin's six rulings. In order to understand how baseless and lawless Judge Sarokin's opinion was, it is useful to examine some of the many flaws in his rulings.

Judge Sarokin's first ruling was that the library policy was not a reasonable time-place-and-manner regulation and therefore violated the first amendment. This ruling hinged in part on Judge Sarokin's assertion that a public library is a traditional public forum, like the public streets, sidewalks, and parks. Notably, Judge Sarokin did not cite any precedent in support of this assertion. Nor could he, for the assertion is untenable under Supreme Court precedent. Judge Sarokin's assertion that the library is a full-fledged designated public forum was also without any support in precedent. Remarkably, Judge Sarokin did not even explore the alternative that the library was a limited-purpose public forum, as the third circuit ruled it was.

Judge Sarokin's second ruling—that the library policy was unconstitutionally overbroad—misstated the holding of the Supreme Court case on which it purported to rely. Judge Sarokin took the position, both in his opinion and in his hearing testimony, that the Supreme Court had held that the protesters in a 1966 case called *Brown* v. *Louisiana* [383 *United States* 131 (1966)] had engaged in a "constitutionally protected protest." In fact, Judge Sarokin mistakenly attributed to the Supreme Court a position taken by only a three-Justice plurality, as Justice Brennan's opinion concurring in the judgment in the *Brown* v. *Louisiana* case makes clear. The distinction between a holding of the Supreme Court and a position taken by a plurality is elemental. Yet Judge Sarokin ignored this distinction in making his mistaken ruling. In the remainder of his overbreadth analysis, he then engaged in the sort of hyperimaginative hypothesizing that would doom every statute.

Judge Sarokin's third ruling—that the library policy was unconstitutionally vague—was also defective in many respects, as the third circuit ruled. Among other things, Judge Sarokin applied the vagueness standard applicable to criminal statutes even though the library policy was civil in nature. In addition, the library policy listed specific behavior that was proscribed, and its hygiene provisions rested on an objective test of reasonableness. It is difficult to see how any policy could ever survive Judge Sarokin's approach. Indeed, this approach, if applied consistently, might well deprive society of the power to set any rules of behavior.

Judge Sarokin's fourth and fifth rulings employ two of the standard tools of the liberal judicial activist: so-called substantive due process and the equal protection clause. Under well-established Supreme Court precedent, courts must give very broad deference to rules unless those rules impinge on a fundamental right or affect a suspect class. Judge Sarokin's ruling ignored this precedent. Remarkably, Judge Sarokin asserted that the library policy imposed "a reader-based restriction, analogous to prohibited speaker-based restrictions," even though he acknowledged that "the restriction is not because of the reader's views." Judge Sarokin's creation of a suspect class defined by poor hygiene or homelessness had no basis in equal protection precedent. His use of disparate impact analysis also defied the Supreme Court's decision in Washington versus Davis, which makes clear that discriminatory intent—along a recognized suspect line—is necessary to trigger strict scrutiny. Judge Sarokin's disparate impact approach would enable judges to impose pervasive quotas throughout society. More generally, Judge Sarokin's freewheeling use of substantive due process and equal protection poses the threat of judicial nullification of whatever laws or rules displease him or disserve his liberal agenda.

Finally, Judge Sarokin's sixth ruling—that the library policy violated the State constitution—was without precedent in State law and illustrates the dangers of activist judges using State constitutions as a weapon to override the political process.

In sum, Judge Sarokin's opinion in the Kreimer case is liberal judicial activism at its worst. Each of Judge Sarokin's rulings noted above is not just wrong, but patently wrong. Judge Sarokin does not simply misread precedent. He defies it and distorts it in furtherance of an ideology that prevents a community from enforcing even minimal standards essential to the public good. By effectively giving Richard Kreimer a right to disrupt and disturb a library, Judge Sarokin deprives the mass of citizens of the right to use a library in peace.

As the Wall Street Journal noted in a fine editorial [6/12/91], the conduct that Judge Sarokin protects when engaged in by a homeless man would never be tolerated if done by anyone else:

> When a college professor or business executive looks at a woman in a way she considers disturbing, he nowadays may be subject to reprimands, departmental hearings, threats to his job and status, and accusations of sexual harassment. Mr. Kreimer, on the other hand, has been treated as a hero, embraced by the politically correct who have apparently decided that harassing women is acceptable so long as the harasser is homeless.

I am also troubled by the fact that Judge Sarokin painted a very misleading picture of Kreimer at his hearing. Here is what Judge Sarokin had to say about this case:

> There were two issues that were presented to me. * * * The first one was whether or not there was a constitutional right of access to the library under the first amendment. I said that there was, and the third circuit agreed. * * * [T]he only issue with which the third circuit disagreed was whether or not the regulations were vague and overbroad. They did not disagree about the first amendment analysis." [46:1-5,19-22]

Judge Sarokin's summary of Kreimer is mistaken or distorted in several critical respects. First, as I have discussed, there were at least six separate legal claims decided by Judge Sarokin. The third circuit reversed Judge Sarokin on every claim. In short, Judge Sarokin was 0-for-6, not 1-for-2. Second, the question whether the first amendment was implicated at all by the library policy was a minor—and easy—part of the determination whether the policy was a reasonable time-place-and-manner regulation. Judge Sarokin properly devoted only about a half page of his 17-page opinion to this issue, yet he incorrectly stated at his hearing that this was one of two major issues in the case.

Third, the real question on the basic first amendment analysis was what standard of review applies. Judge Sarokin held, without any basis in precedent, that a library is both a traditional public forum and a full-fledged designated public forum and that all the provisions of the library policy were therefore subject to a high level of scrutiny. These holdings are strikingly groundless, and were repudiated by the third circuit. In short, the third circuit did "disagree about the First Amendment analysis"—and it did so vigorously.

Fourth, it is especially worrisome that Judge Sarokin did not even recall that he had relied on unprecedented uses of substantive due process and equal protection to strike down the library policy. Is a judge who wields these weapons so carelessly and thoughtlessly fit for elevation to the third circuit? These two constitutional provisions, if misused, are among the most powerful available to a judge who seeks to substitute his own views for those of the legislative branch.

The White House's defense of Judge Sarokin's ruling in this case is as false and feeble and slick as its defense of the pork-laden crime bill. The White House claims that the third circuit "agreed with Judge Sarokin that the strictest scrutiny would apply to the library's hygiene regulation." One problem with this claim is that it is not true: The standard applied by the third circuit to the hygiene regulation is distinct from, and far more permissive than, the standard of strict scrutiny for race-based classifications under the equal protection clause. Another problem with the White House's claim is that it is deceptive: The White House deliberately obscures the fact that the third circuit subjected most of the provisions of the library policy to a very deferential reasonableness test. In short, the White House's effort to present Kreimer as a "close" case upon which reasonable minds could differ is absurd.

Judge Sarokin's opinion in the Kreimer case is just one example of a slew of opinions by liberal activist judges that deprive communities of the ability to regulate themselves and to maintain minimal standards of decency and public order. All too often, when communities attempt to combat such scourges as drug dealing, prostitution, and pornography, liberal activist judges concoct excuses to cripple these efforts. The link between these liberal activist rulings and this Nation's growing crime problem is, in my view, beyond fair dispute. In short, if we have activist judges like Judge Sarokin who are eager to override community standards, our crime problem will only get worse. Another case that illustrates Judge Sarokin's soft-on-crime liberal activism is the 1984 case of *United States* v. *Rodriguez* [Crim No. 84-18 (D.N.J. 1984)]. In that case, Judge Sarokin found that the defendant, Rodriguez, had read a form advising him of his Miranda rights, had signed the part of the form waiving those rights, and was aware of those rights before he spoke with an FBI agent. Judge Sarokin nonetheless granted Rodriguez' motion to suppress evidence of his statements to the FBI agent. In concluding that Rodriguez did not waive his Miranda rights and that his statement should therefore be deemed involuntary, Judge Sarokin relied heavily upon the fact that Rodriguez did not sign his own name to the waiver form, but instead signed the false name Lazaro Santana. According to Judge Sarokin, "it does not strain logic to find the use of a name other than one's own to be wholly inconsistent with a voluntary waiver of rights: Defendant might well have believed that by using a false name he was not committing himself to anything." It does indeed strain logic to conclude that signing an alias is wholly inconsistent with a voluntary waiver: the far more natural conclusion is that Rodriguez, use of the alias may simply have been an effort to conceal his identity. But what is even more remarkable is that Judge Sarokin's ruling was directly contrary to controlling third circuit precedent, as Judge Sarokin himself recognized.

At his hearing, Judge Sarokin claimed that the third circuit had held only that the use of a false name is "certainly not dispositive" but could well be relevant. [91:15] Such a claim is contrary to the reading of that precedent made by Judge Sarokin himself in Rodriguez. It also finds no support in the third circuit case. But as a result of Judge Sarokin's liberal judicial activism, critical evidence against a criminal suspect was suppressed.

Mr. President, we do not need more judges who will handcuff the police in the war on crime. We do not need more judges who will create hypertechnical rules that free the guilty. We do not need more judges who will ignore existing precedent and twist laws to favor criminals. Liberal judicial activism has taken that approach for the past 30 years, and the results have been all too predictable: Soaring rates of murder, rape, and other violent crimes, and communities riddled with drugs and at the mercy of gangs of thugs. Enough is enough.

Numerous other cases also illustrate Judge Sarokin's propensity to pursue his own agenda and to defy precedent. The case of Haines versus Liggett Group—which involved a personal injury action against cigarette manufacturers—is an all-too-telling example. [140 F.R.D. 681 (D.N.J. 1992), writ granted, 975 F.2d 81 (3d Cir. 1992).] In this case, the plaintiff Haines sought discovery of certain documents that the defendant cigarette companies said were protected by the attorney-client privilege. Haines argued that even if the documents were within the scope of the attorney-client privilege, the crime-fraud exception applied and annulled the privilege. A magistrate judge determined that the documents were privileged and that the crime-fraud exception did not apply.

Haines appealed the magistrate judge's order to Judge Sarokin. Judge Sarokin ordered the parties to supplement the record with materials from the record in a similar case, Cipollone, in which he was the trial judge. He then issued a ruling that the crime-fraud exception did apply and that Haines was entitled to discovery of the documents at issue.

Three aspects of Judge Sarokin's opinion merit special attention:

First: Judge Sarokin opened his opinion on this discovery dispute with this inflammatory prologue:

> In light of the current controversy surrounding breast implants, one wonders when all industries will recognize their obligation to voluntarily disclose risks from the use of their products. All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sales over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their prosperity!
>
> As the following facts disclose, despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation.

Second: Judge Sarokin held that the magistrate judge's ruling could not survive under even the clearly erroneous standard of review—a standard of review that is supposed to be very deferential and that, not incidentally, is the standard of review that court of appeals judges are generally obligated to apply to trial court factual findings. In reversing the magistrate judge's ruling, Judge Sarokin relied not only on the supplemental evidence that he ordered from the Cipollone trial but also on his "own familiarity with the evidence adduced at the Cipollone trial discussed in the directed verdict Opinion" in that case. [140 F.R.D., at 694.] Judge Sarokin stated that having heard the trial evidence in Cipollone, he was "in the unique position of being able to evaluate the full scope of evidence supporting plaintiff's crime/fraud contention in the instant case." [Id., at 694 n. 12.]

Third: In a stated effort to show "some of the most damaging evidence" on this crime-fraud exception, Judge Sarokin quoted extensively from those documents as to which privilege had been found to exist by the magistrate judge. [140 F.R.D., at 695.]

In a remarkably impressive opinion, the third circuit unanimously granted an extraordinary writ vacating Judge Sarokin's order and removing him from the case. The third circuit emphasized that a writ was an extreme remedy to be used "only in extraordinary situations" and that "only exceptional circumstances amounting to a judicial usurpation of power will justify the invocation of this extraordinary remedy." [975 F.2d, at 88 (internal quotes omitted and emphasis added).] But the third circuit found that Judge Sarokin's ruling was in fact a judicial usurpation of power. Among other things, the third circuit ruled that in reviewing the magistrate judge's order under the clearly erroneous standard, Judge Sarokin was not permitted to receive further evidence. [975 F.2d, at 91.] As it observed, our "common law tradition [does not] permit a reviewing court [(in this case, the district court)] to consider evidence which was not before the tribunal of the first instance." [Id., at 92.] Because Judge Sarokin considered and relied on portions of the Cipollone record that were not in the record before the magistrate judge, his order could not stand. [Id. at 93.]

The third circuit also sharply scolded Judge Sarokin for disclosing the contents of the documents as to which privilege had been claimed. In its words:

> This, too, must be said. Because of the sensitivity surrounding the attorney-client privilege, care must be taken that, following any determination that an exception applies, the matters covered by the exception be kept under seal or appropriate court-imposed procedures until all avenues of appeal are exhausted. Regrettably this protection was not extended by the district court in these proceedings. Matters deemed to be excepted were spread forth in its opinion and released to the general public. In the present posture of this case, by virtue of our decision today, an unfortunate situation exists that matters still under the cloak of privilege have already been divulged. We should not again encounter a casualty of this sort. [975 F.2d, at 97.]

Finally, in what the third circuit described as "a most agonizing aspect of this case," it then removed Judge Sarokin from the case on the ground that the prologue to his opinion on this preliminary discovery issue destroyed any appearance of impartiality. The court noted that the prologue stated "accusations" on the "ultimate issue to be determined by a jury" in the case: whether defendants "conspired to withhold information concerning the dangers of tobacco use from the general public." It further noted that Judge Sarokin's inflammatory remarks were reported prominently in the press throughout the nation. [975 F.2d, at 97–98.]

The third circuit's observations that Judge Sarokin's ruling amounted to a judicial usurpation of power, was contrary to our common law tradition, ignored fundamental concepts of due process, eviscerated the defendants' rights of appeal, and destroyed any appearance of impartiality scratched only the surface of Judge Sarokin's betrayal of the role of a judge in this litigation. Consider, for example, some of the many other respects in which Judge Sarokin's prologue was grossly inappropriate: What do his blanket assertions about the values of businessmen say about his ability to preside fairly in any dispute between an individual and a business? To whom is he referring as the other rising pretenders to the throne of concealment and disinformation?

Incidentally, at his confirmation hearing, Judge Sarokin ultimately made only a modest concession: "I concede that the language was strong and maybe unduly strong; and if I could take it back, I probably would." [60:11–13] The fact of the matter is that Judge Sarokin could have taken it back: these were carefully composed written comments, not off-the-cuff oral remarks.

Judge Sarokin also stated that "I was also hoping that I could discourage the tobacco companies from continuing to conceal the risks of smoking and deny that they existed." [110:20–23] This statement vindicates the third circuit's concern that Judge Sarokin was broadcasting his opinion on the ultimate issue to be decided by the jury. It also shows that Judge Sarokin was pursuing an agenda rather than simply deciding the legal issue before him.

Similarly, Judge Sarokin's reliance in Haines on his familiarity with the evidence in another case, Cipollone, is a flat admission of predisposition and bias. Judge Sarokin was, in his words, "unique[ly] position[ed]" to decide the issue only in the sense that he had already made up his mind.

Perhaps the most troubling aspect of this whole case is the manner in which Judge Sarokin responded to the third circuit's order removing him from the case. In referring to this removal in a written opinion, Judge Sarokin flamboyantly declared: "I fear for the independence of the judiciary if a powerful litigant can cause the removal of a judge for speaking the truth based upon the evidence, in forceful language that addresses the precise issues presented for determination." In short, Judge Sarokin not only voiced his disagreement with the ruling of the higher court. He also cast aspersions on the independence and integrity of the third circuit judges by charging that a powerful litigant had caused them to rule as they did.

Equally remarkably, unchastened by his well-earned scolding, Judge Sarokin personally accepted "the C. Everett Koop Award for significant achievement toward creating a smokefree society." This award, from an organization called the New Jersey Group Against Smoking Pollution was given for the very comments that led to the third circuit's order removing him from the cigarette case. It is disturbing enough as an ethical matter that a judge would accept an award for an opinion in a particular case. It is beyond the pale that he would accept an award for a case in which he had already been found to have destroyed the appearance of impartiality, especially when the award is given for the very act that destroyed the appearance of impartiality.

It is true that in removing him from Haines, the third circuit stated that Judge Sarokin "is well known and respected for magnificent abilities and outstanding jurisprudential and judicial temperament." But in context, this can only be understood as sugarcoating a bitter pill.

Yet another case that illustrates Judge Sarokin's willful implementation of his own agenda is *Blum* v. *Witco Chemical Corp.* [702 F. Supp. 493 (D.N.J. 1988), rev'd, 829 F.2d 367 (3d Cir. 1987).] This case involved an award of attorney's fees in an age discrimination suit. In his opinion, Judge Sarokin first criticized and sarcastically attacked the governing Supreme Court precedent and the third circuit opinion construing that precedent. For example, he stated:

> The Supreme Court has sent a Christmas gift to this court delivered via the Third Circuit Court of Appeals. It is called "How To Make an Attorney Fee Multiplier." However, the instructions are so confusing and inconsistent that this court has been unable to put the gift together. [702 F. Supp., at 494–496 (citation omitted).]

Significantly, Judge Sarokin purported to be "duty bound to apply the [Supreme Court and third circuit precedent] to the facts of this case." [702 F. Supp., at 497.] But the third circuit, in unanimously reversing his ruling, found that Judge Sarokin had simply defied this precedent. In the Third Circuit's words, Judge Sarokin, "without concealing its disapproval of both the Supreme Court's decision and ours, proceeded in accordance with [his] own views." [888 F.2d, at 977 (citation omitted).] The third circuit cited "at least four respects" in which Judge Sarokin had deviated from precedent, [id., at 981–983] and it scolded Judge Sarokin for "superimpos[ing his] own view of what the law should be in the face of the Supreme Court's contrary precedent." [888 F.2d, at 983–984.] In short, the third circuit recognized that Judge Sarokin defiantly refused to follow precedent even while professing to follow it.

One final case that warrants careful attention is *Vulcan Pioneers* v. *New Jersey Dep't of Civil Service,* [588 F. Supp. 716 (D.N.J. 1984), vacated, 588 F. Supp. 732 (D.N.J. 1984)]. This case is of particular interest because it illustrates Judge Sarokin's sympathies for unconstitutional race-based quotas.

This case concerned a 1980 consent decree that some New Jersey cities entered into regarding the hiring and promotion of firefighters. The decree set numerical hiring goals, or quotas, for racial and ethnic minorities. A few years later, Newark, faced with a fiscal crisis, threatened to lay off firefighters. Both nonminority and minority firefighters went back to court to protect their respective interests. The union sought to have seniority honored, as required by State law. The minority firefighters sought to have the seniority system disregarded in favor of affirmative action quotas.

In May 1984, when a ruling by the Supreme Court in Firefighters versus Stotts on this very issue was known to be imminent, Judge Sarokin modified the consent decree to require layoffs on a proportional basis rather than according to seniority. Thus, more senior nonminority firefighters were to be laid off in favor of less senior minority firefighters.

In an especially bizarre twist, Judge Sarokin ruled that his order denying whites their seniority rights constituted an unconstitutional taking and that the Federal Government—which vigorously opposed Judge Sarokin's modification of the consent decree—should nonetheless be required to provide compensation for the taking.

Shortly thereafter, the Supreme Court, in the Stotts case, effectively reversed Judge Sarokin's decision regarding the layoffs. In his original opinion, Judge Sarokin had expressed sympathy for the nonminority firefighters who would have lost their jobs under his ruling: "Though not themselves the perpetrators of the wrongs inflicted upon minorities over the years, these senior firefighters are being singled out to suffer the consequences." In vacating his own ruling in June 1984, Judge Sarokin changed his tone and attacked the nonminority firefighters:

> The non-minority firefighters and the unions who represent them resisted layoffs in this matter on the ground that they were blameless and innocent of any wrongdoing. But, in reality, they know better. If they have not directly caused the discrimination to occur, many certainly have condoned it by their acquiescence, their indifference, their attitudes and prejudices, and even their humor. [588 F.Supp. at 734.]

In short, once he was unable to pursue his own quota agenda, Judge Sarokin lashed out at those nonminority firefighters whom he thought should have had to lose their jobs.

Mr. President, considerations of time do not permit me to explore in detail all the other matters that cause me grave concern over this nomination. So let me conclude with the observation that Judge Sarokin has shown, time and time again, that he will pursue his own liberal ideological agenda on the bench in lieu of applying the law. If he is elevated to the federal court of appeals, Judge Sarokin would have even greater freedom and opportunity to implement his own ideological biases. And so I say to my colleagues, if you truly respect the fundamental distinction between judging and policymaking, if you truly care about handcuffing criminals rather than the police, if you truly want judges who follow precedent and apply the law, you should vote against the confirmation of Judge Sarokin.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I have great respect for my friend from Utah but I must tell you, I used to have a teacher in high school who, when we would stand up and say something in defense of a position we used to have to defend—he would put forward a proposition and the question was put before the class: Defend or reject the proposition. Some would stand up and debate form and debate style and make some conclusory statements, unsubstantiated by the facts. And he used to look down and say, "Poppycock." I never used to know what poppycock meant literally. I knew it meant you did not like whatever someone said, but you had to sustain your point.

I was reminded of that because there is a lot of poppycock today. I thought we were refighting the crime bill. The Republicans tried to exercise their gridlock and filibustered for a total of 2 years in earnest. They tried the last time to defeat the crime bill. They told the public how awful this crime bill was. We passed the crime bill, the toughest crime bill. Even a Wall Street Journal poll says the American people support what we passed, including the prevention provisions.

Here we are again. We have now this new deal that somehow the Republicans tried to make the crime bill tougher. I say poppycock, they did not make anything tougher. I wrote that bill. I wrote into the bill the death penalty, the enhanced penalties for the commission of certain crimes. They added nothing. They added nothing except gridlock. They added nothing except saying no. And now this crime bill, which I guess they like parts of now because it is playing differently out there, somehow they made some contribution to it.

Six or seven Republicans did make a contribution. They voted for the crime bill. It passed because of their help. I guess that makes it bipartisan.

We have a new definition of bipartisan. If you can get three Republicans to raise their hands and say they are for something, it is now bipartisan.

Look what we are going through here. We just went through this exercise in gridlock. We were forced to go to a cloture vote on this. I ask the clerk—72 Members voted for cloture? What the devil did we have the cloture vote for? The reason we had the cloture vote is they wanted to stall. They wanted to stall, stall, stall, stall, stall. My friend from Michigan said the GOP should be renamed the "Gridlock Only Party" instead of the "Grand Old Party." This is gridlock only.

Why do we have to negotiate this thing for days to get this to the floor—and I will say for the RECORD, my friend from Utah tried to get a time agreement so we could do this. No, we are forced to go to a cloture vote, eating up more time. Why? So we do not get to other things on the agenda we should deal with. Here we are now relitigating the crime bill with the debate on this judge.

Pretrial detention was mentioned. I am having my staff check to be precise about this, but I am 90 percent certain that that is a bill that I drafted in 1984, the Bail Reform Act of 1984. It never occurred before. The Democrats put that bill in place back in 1984.

Mr. President, we have done so much good stuff on crime, I have forgotten what we have done—what, when, the time. So we have pretrial detention. That came out of my subcommittee because what I found was more and more of these drug dealers were posting bail. The Presiding Officer knows this better than anyone. Down in Florida, you arrest somebody, the judge would post a million dollars bail, they would post their bail and leave because they had $5 or $7 or $10 million from a drug deal they did. That is why we put in pretrial detention, and it has worked. The Democrats did that.

Now I am told, OK, we have a judge here: "Isn't he a terrible guy? Yeah, he's brilliant; yeah, he's this, he's a terrible guy," because he made a speech and it was recorded in the West Virginia Law Review, I think it was, speaking to a bunch of Law Review editors, and he stated the obvious. Pretrial detention is, in fact, on its face—and I am the guy who proposed it, OK—it is on its face a contradiction to the presumption that someone is innocent, if you just look at it in layman's terms, because usually we say, OK, you are accused. What we are going to do, as long as we think you are going to show up for trial, what we do is we let you go free until you have a trial, and they decide at the trial whether you are guilty or innocent. The presumption is you are innocent, though.

We did this unusual procedure, relatively speaking, because we found that people, even though we still had the presumption of innocence, that they, in fact, were skipping town after posting an awful lot of bail because it did not matter to them because they were probably guilty, is why they did not come back. So we accommodated that.

That cannot be done anymore. If a judge finds they are a danger to the community, and a few other things, he can say, "We are going to keep you in jail until your trial," because, again, the Democrats passed the Speedy Trial Act Amendments Act, which I did author with the help of a staffer named Mark Gitvenstein in 1979, saying you have to take someone within 60 days—90 under certain exceptions, another 30 days—because we found these are the people out there committing the crimes, people out on bail.

So now we are told that we have a judge, appointed by this awfully liberal President and this liberal panoply of judges we have now voted for under this liberal environment. And we say this judge made a critical comment or an observation—not even a critical comment—about pretrial detention. What he was doing, he was talking to a bunch of Law Review editors basically saying, "Look, the mood out there is ugly and we have a serious problem with crime and what we have to keep our eye on here is we do not give up civil liberties, the thing that ultimately protects us as citizens, in order to get at the bad guy."

That was the thrust of what he was saying, and he stated the obvious about pretrial detention. But let me tell you, in over 100 cases, this judge affirmed keeping someone in jail without bail before trial. Over 100 times. Where is this wacko liberal judge who is against pretrial detention, that you would think, listening to my Republican friends, they invented? Like all of a sudden now they somehow are for the crime bill. This is absurd.

Let us talk about these liberal judges my friend from Utah keeps talking about. Let me just state the record. You all draw your own conclusions. We have had two Supreme Court Justices. Unlike previous Presidents, this President did not pick people based on an ideological litmus test, and he said he was going to pick moderate, mainstream judges. He did. He has only had two chances to pick Supreme Court Justices, and who did he pick? Justice Breyer and Justice Ginsburg. Every single person in the academic world writing about them is talking about them forming the moderate middle with Kennedy, O'Connor and I think probably the best Justice that we, in my view, have ever confirmed since I have been here, Justice Souter, a Republican Justice.

If this President were as these guys paint him, why did he not send us left-wingers, like President Reagan and Bush sent us right-wingers most of the time? Why did he not do that? And if they were so bad, why did they not vote against them?

Mr. President, Republicans overwhelmingly voted for these two wacko liberal judges. The vote counts for these two Supreme Court Justices were 96–3 for Justice Ginsburg, and 87–9 for Justice Breyer.

We have confirmed out of the committee 72 Federal judges. Again, I thank my Republican colleagues—and I mean this sincerely—on the committee. Under the leadership of Senator HATCH, they have not engaged, in that committee, in gridlock. They have let these people come up and be voted on, this liberal cadre of judges which, out of 72 judges, 70 passed with unanimous consent.

I may be mistaken—I see my friend from Montana on the floor, he is a conservative Republican. I see other people come on the floor. I do not remember them saying, "By the way, these liberal judges you Democrats are putting through, stop them." To the best of my knowledge—and I will stand corrected and I may be wrong, I may be a judge or two off—twice we have been asked to vote on a judge on this floor and there has been objection. One was Rosemary Barkett, a distinguished justice from the State of Florida, and the second one was this one.

Maybe there has been a couple of others that never got out of committee. There have been some that did not get out of committee. Once they got to the floor, if you listen to my friend, you would think—if you are sitting in the gallery or watching on TV—they would have been pushing through a bunch of really liberal judges out there and that this has been a real fight and this has been tough.

Look at the Supreme Court of the United States of America and the two judges that a Democratic President and a Democratically controlled Senate with the overwhelming support of Republicans voted for. Are they the liberals he is talking about? Are they in this panoply of liberal activists that he is talking about? Or maybe it is—I think we confirmed—I will ask my staff who does nominations to give me an exact number. But I think we have confirmed roughly 70 Federal court judges so far. I want to be precise. I believe we confirmed 70 so far. We have not confirmed them on the floor of the U.S. Senate. They are passed—72 judges we have passed so far out of the U.S. Senate to take their seats on the bench. Where are the liberals among them? Where are these activists among them?

I do not quarrel with the fact that my friend from Utah or any of my Republican friends argued against Rosemary Barkett, or argued against this judge. But to turn that into what sounded like the speech that somehow there is this overwhelming liberal bias in putting these criminal-loving judges on the bench is preposterous, or, as my high school teacher would say, "poppycock."

Let us look at the two judges that have been the focus of opposition, legitimate by the way. I do not argue with the right of any Senator or group to stand up and say that judge is too conservative, that judge is too liberal, that judge is not honest, too honest, whatever they want to say. They have a right to do so. Rosemary Barkett, I have been hearing some of the political advertising that has been going on around this country and arguments against her, and this is incredible. It is absolutely incredible. As a matter of fact, I am told Senator HATCH—I was off the floor—in his opening statement mentions Rosemary Barkett as a soft-on-crime judge. I will come back to that because I want to speak to that. But that is preposterous as well. But, at least we are in the ball park because they have been involved in some controversial decisions, both Barkett and Sarokin.

I want the record to show, and I challenge anyone here to come on the floor—any Republican or any Democrat to come on the floor —and sustain the argument that this President has sent up and we have confirmed a bunch of liberal "1960" judges who are soft on crime. I challenge anyone. I hope everyone back in their office is listening. I ask every Republican Senator to come to the floor and make that case. I want to hear it. I am fascinated by it because, if it is true, why did they let go by consent—which is the same in this place as unanimously passing—the vast majority of these judges? I guess because they are soft on crime, or they are procriminal. Is that the reason?

So, No. 1, I hope we will stop this malarkey about judges generally in this administration.

Let us get specific about these two judges. One of the things is that we are told—and a couple of cases are taken, I would argue, slightly out of context although I would argue not intentionally by people who have spoken thus far about how bad this judge is because they give a fact pattern in a case that actually occurred and let this person go. First of all, let us make it clear. This judge did not let anybody go. He has ordered a retrial in the case that we keep hearing about, a case involving a fellow who was convicted in the lower court of killing a cop. He ordered a retrial. Let us get that part straight.

Again, I have seen a couple of ads where people actually ran ads in this political campaign period. So letting free these people saying you have to have a new trial is not letting you go free. At least I do not think it is. I do not think any legal scholar would say it is. No one with any shred of intelligence would say it is. But some without the intelligence, some without any insight, some engaged in pure demagoguery would say it is. No one on the floor has said that to the best of my knowledge. I am commenting on the universe of what I am hearing out there and some of ads.

But let us focus on this case. If you take a single case and say you draw a conclusion from that case, like with Rosemary Barkett, they say she is against the death penalty. She voted for the death penalty well over a hundred times. She voted for the death penalty as a supreme court justice in Florida over a hundred times. But she is against the death penalty.

Now we are hearing this guy is soft on crime because of a case they cite involving a guy named Landano. I would suspect that there is no one in this Chamber who would argue, for example, that who do you think the most—if we were to sit down and say, OK, let all of us in the Chamber pick out who we think is the most well-known conservative judge in all of America is. I will make you a bet. No, I can prove it. But I will make you a bet if you gave everybody 5 minutes and told them to write down on a piece of paper, every Member of this body, who they thought the most conservative judge or jurist in America is, I will bet you anything that you would get the name Scalia written on a piece of paper more than any other name.

I doubt whether anybody would suggest that Justice Scalia is a liberal. As a matter of fact, he is the most brilliant conservative Justice and jurist probably in the country. He is anything but soft on crime.

Let us reverse roles here. Let us assume Scalia was up for reconfirmation and I wanted to make the case because we know it is damaging if you say any judge is soft on crime, and I went through the following case with you. Let me make sure I have the facts exactly right. I stood on the floor and turned to my friend from Iowa who is standing on the floor and others and said, you know, can you believe what this judge did, this procriminal judge, this prodefendant, anticop judge named Scalia did?

Let me tell my friend what he did. In 1987, when he sat on the Supreme Court of the United States in a case which was originally a Florida case, Justice Scalia wrote an opinion for the Court. Justice Scalia wrote that he should reverse the death sentence of a man who was convicted of strangling his 13-year-old stepniece. These are the facts; strangled his 13-year-old stepniece. The defendant confessed that he had killed his stepniece. And do you know why he killed her? He said he killed her because she threatened to tell her parents that he had intercourse with her. So he raped her. These are the facts. She was 13 years old. He raped her. She threatened to tell her mom and dad and he killed her. And then he admitted that he killed her and told the reason why he killed her. And guess what? That "radical, liberal" Judge Scalia insisted that the case of that person who was sentenced to death be sent back. He insisted that the State of Florida erred and they should reconsider and hear additional evidence as to whether or not that person should get the death penalty. I can see the gallery sort of nodding—my God, how could he do that? He must be a cop hater. He must be a wacko liberal. Obviously, that is why he did that.

Well, obviously, Justice Scalia is no liberal. Obviously, Justice Scalia is a pantheon of conservative intellects serving on the Court—and he is—who is anything but prodefendant. But guess what? He is a judge. He is required to follow the law and the Constitution. And out of all the cases, he wrote, for a unanimous Court, that this guy, who raped and then murdered his niece when she threatened to tell her parents, should have his case heard again. Maybe we should start a petition to impeach him. My conservative friends might vote for that. Let us impeach the judge for doing this.

Mr. HATCH. Will the Senator yield on that point?

Mr. BIDEN. Yes.

Mr. HATCH. Is it not true that he later repudiated that?

Mr. BIDEN. I do not know whether he later repudiated it. But is there a denial he wrote that?

Mr. HATCH. No, not at all. He has later repudiated that. Our argument is that he has not applied existing precedent. He made precedent out of old cloth.

Mr. BIDEN. I will get to that. We have no disagreement as to what Scalia did. My friend said that is what all of them did, and he is dead right. He made the right decision under the Constitution and law and existing precedence. The point I am making is that you can stand up here and take the hundreds of cases that any judge has decided and find a gruesome fact pattern—in fact, patterns—that in fact would make it look like this judge must be, for example, against pretrial detention. There is one paragraph out of a law review article, even though over 100 times he has held people without bail pending trial. There are a total of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 sentences.

Mr. BRADLEY. Will the Senator yield at that point?

Mr. BIDEN. Yes.

Mr. BRADLEY. It should be re-emphasized that not only was this a comment, there is nothing in or around these sentences you point to that says in any way whatsoever that Judge Sarokin opposes pretrial detention. There is no sentence stated anywhere that he opposes pretrial detention. To the contrary, since he has been a sitting judge, he has ordered pretrial detention in over 100 cases.

So I think the Record should reflect what the facts are.

Mr. BIDEN. The Senator has made the point more clearly. He was commenting, as I read the article, on the overall environment and why these young law review editors should, in fact, focus on the Constitution and not forget the underlying basic principles in the Constitution.

But, again, I want to make it clear for the record that Justice Scalia is a fine and honorable Justice. Justice Scalia is not a liberal; he is not prodefendant; Justice Scalia is not someone who probably was appalled by the facts in the case I read. But he applied the law, as Judge Sarokin did, as he saw it and believed it to be. But you can make anybody look like they are foolish by citing these cases, by picking out a handful of cases. The fact of the matter is that in the case of Landano, the one they keep referring to about why he is soft on crime, on February 25, 1994, the appellate division of the State of New Jersey overturned the New Jersey trial court ruling and agreed with Judge Sarokin on virtually every count, finding that the prosecutor withheld exculpatory evidence in granting Landano a new trial.

The New Jersey appellate court found independently what Judge Sarokin found. Let me cite the grounds upon which they ordered a new trial, and they did not set anybody free.

First, the State suppressed evidence that Joseph Pascutti, the only eyewitness to the shooting, rejected Landano's photograph because the perpetrator had curlier hair than Landano. In other words, the prosecutor had that evidence. The chief witness against, the only eyewitness against Landano—I do not care whether he is guilty or innocent—but the only eyewitness initially, when the cops gave them the photograph of Landano, said, "No, that is not him. The other guy's hair was a lot curlier." They had that. Under our rules that exist for fair trials in America, the prosecution is supposed to share that evidence because, remember, the prosecution's job is not to convict, it is to do justice. That is why we have that rule. That is why we have the rule. That was the first thing the appellate court said in New Jersey. It stated this evidence, and they did not tell it during the trial so that they would have all the facts. They did not tell the jury they had that.

The second thing was that the State—the prosecutor—suppressed evidence that his chief witness, Roller, an alleged accomplice, committed two armed robberies similar to the one for which they convicted Landano and that the State suppressed further evidence that the witness and his closest associate had committed an earlier armed robbery in Jersey City in 1975, in which the gun used to kill officer Snowe had been fired. That evidence, again, under our rules, generally speaking, to do justice, they were supposed to let the jury know that and let the defendant know that, and they did not.

The third reason why the New Jersey court—not Sarokin, the New Jersey court—agreed with Sarokin independently was that the State further suppressed evidence that its principal identification witness, the proprietor of the check-cashing shop, Jacob Roth, was under investigation for having ties with organized crime and was suspected of having engaged in loan sharking and money laundering. That can provide motive, among other things. And, further, on the very day that the witnesses' earlier tentative identification of Landano became positive, he was questioned about his involvement in illegal activities. So you have this guy Roth, who is under investigation. The day that he identifies Landano is the day that he is being questioned for further illegal activities and potential ties with organized crime.

Why is that important for a jury to know? The jury can weigh that evidence. But it may be they figured, oh, wait a minute. If we know that, maybe ROTH made a deal. Maybe ROTH is trying to get himself out of difficulty.

I do not know that to be the truth. No one knows that is the truth. But the jury is entitled to know that.

The fourth thing that the New Jersey appellate court found was another witness, a waitress who had seen the codefendant and his companion the day before and the morning of the robbery and killing, also rejected Landano's photograph because the individual that she met was younger than Landano. The State had that evidence, too.

Now, under our system, just like Judge Scalia had to send back that case I talked about where a guy admits to raping and murdering his niece because she was going to tell her mom and dad about being raped, this judge said, hey, wait a minute, under our system, you are not allowed to do that, prosecution. Go back and give this guy a fair trial under what we have 100 years of precedent for.

That is what happened here. But to listen to my friends, you would think we have a guy out there saying:

> You know, these guys who kill cops, I cannot blame them really. They were raised in an environment where police were not nice to them. And you know what further happens is they probably did not get the right formula when they were kids and they were in a position where that affected their psyche and they were raised in a circumstance in a community that has an antagonism toward police. So I can understand and empathize with someone who would go kill a cop.

That is what they make it sound like, this sort of psychobabble that comes from the far left.

Well, the problem is I am not, and Senator BRADLEY, the President, the judge, are not on the far left. Republicans would like to get us there.

But back to the thing I said this morning, I say to my friend, who is a graduate of Harvard Law School, in school we used to talk about red herrings. When there is a fact thrown in that has nothing to do with anything that has to do with the case, it is to throw you off, that is a red herring. That has nothing to do with this. Or it is a straw man. We are setting up a straw man here to knock down with his liberal psychobabble they talk about.

That is not this judge, again, anymore than Scalia is the judge—if I took that one case and that was the only thing you knew about Justice Scalia, what would my colleagues in here think? If I gave you nothing but that, you knew nothing at all about Scalia except that case, you would say: "Oh, my God." You would not say you know he is an honest jurist required to follow the law and precedents. He did that. We would all stand up here because we do not want to offend anybody and we would say: "Oh, my God, he is one of those wacko liberals, lover of cop killers, lover of people who rape 13-year-old nieces."

It is ridiculous. It is beneath this place. It should be beneath this institution. But, my lord, I keep hearing it and hearing it and hearing it.

I am talking too long, and I do not want to delay this. I have two of my colleagues here to speak, and I will have plenty of time to rebut their assertions, although maybe I will agree with their assertions. They are all enlightened people, and redemption is all part of the process. Now that they know some of the facts, they may change their views. For the RECORD, I am being facetious.

Pretrial detention. In a speech to law students that Senator HATCH referred to, Judge Sarokin talked about pretrial detention—keeping accused persons in jail before they have been charged. In this academic speech, Judge Sarokin said that this type of detention before trial was in some conflict with the presumption of innocence.

But you have to look at what Judge Sarokin has done as a judge. As a judge, he has detained hundreds of defendants before trial, applying the law as passed by Congress, without flinching.

So whatever Judge Sarokin may have said in an academic speech is not relevant to our task today. Our task today is to look at his record as a judge, and that record shows he is entirely willing to detain defendants before trial, as the law requires.

I also will at a later time, in response, speak in more detail to what I think is an emerging pattern here, at least as we get closer to an election, of characterizing the actions of judges in what I think are a distorted fashion.

I am not suggesting everyone who votes against Judge Sarokin is engaging in misrepresentation. There is reason enough if you want to vote against Judge Sarokin. The Constitution says to give advice and consent. It does not set out how you give it. It does not say it has to be reasonable. It does not say it has to be based on anything at all other than what you think your particular inclination or whim is at the time. It does not set out in any detail the circumstance under which you can exercise or withhold that consent. So, that is everyone's right.

The only thing I am asking for here is I am asking to put in focus, No. 1, where all of the judges, if you take them all as a whole, who have been sent up by this President fit in the political spectrum. You will not find any conservative or liberal act of omission, who is an expert on the Court, who will say that this is a new left-wing coterie of judges that has been put in place by this President and this Senate. It simply does not even approach reality.

No. 2, as to the assertion that you have this overwhelming liberal machine that is running through this place and putting all these judges on the bench, I again cite for you that we have had 72 judges confirmed. I do not know of any of those judges who did not either have a majority of all the Republicans, or all of the Republicans through unanimous consent before them, and of the two Supreme Court Justices no one is accused of being liberal.

As a matter of fact, if my friend, the Presiding Officer, will recall, those who opposed them and spoke against them were liberals. It was HOWARD METZENBAUM who did not like Breyer—not personally did not like him—but his concern that Breyer was too liberal. Most of the questions about Breyer, the new Supreme Court Justice, were from the left and not the right, from the center and not the right.

So I hope we will stop this malarkey about procrime/anticrime judges and justices, and the like. Maybe as we refine further the criminal justice system, maybe from this point on we will actually have Republican participation and willingness to pass something as we go down in terms of and start to deal with our whole effort to deal with drugs in society and our antidrug legislation.

Other than Barkett and possibly this nominee, a majority of Republicans, to the best of my knowledge, voted for every one of the other justices. Again, I will stand to be corrected on that if that is not true.

So if that is the case, either we have a majority of Republicans who are liberals or these judges are not, and they are mainstream, moderate judges by and large.

But as I said, there is much more to say on this. I see my friend from New Hampshire is here. I will be delighted to yield the floor to him or anyone else who seeks recognition.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, I rise in opposition to the confirmation of President Clinton's nomination of H. Lee Sarokin to be a circuit judge of the U.S. Court of Appeals for the Third Circuit.

Mr. President, true to his political strategy—and I think it is a political strategy—of portraying himself as a "New Democrat," Bill Clinton has done an awful lot of talking on crime and about how we need to be tough on crime in this country. I certainly agree with him that we do need to be tough on crime.

But as the old proverb tells us, "actions speak louder than words." And President Clinton's act of nominating Judge Sarokin to the U.S. Court of Appeals, the level of the Federal judiciary just below the Supreme Court, speaks volumes, I believe, as to how the President really stands on the issue of crime.

Frankly, Mr. President, Judge Sarokin's views on criminal law issues make him better suited, I think, to a seat on the board of directors of the American Civil Liberties Union than a seat on the U.S. Court of Appeals.

Now, some would say this is harsh. But I want to point out that in this country today there is a great wave, almost, I would say, a tidal wave of support for dramatic efforts in this country to put away criminals, especially violent ones, make them serve their sentences and keep them from preying on the rest of us in society. In order to do that, you have to nominate and ultimately appoint and confirm tough judges. That is the secret.

Ask anybody. Ask any law enforcement official about how they feel about the sentences that judges give out and then on top of that the situation when they get out on the street not too many years after they have been sentenced.

We see in the State of Virginia Governor Allen's no parole; overwhelming support in the State. This is a wave that is going across this country.

But the President is not caught up in that wave, I regret to say. He is in rhetoric, I would agree, but in the actions, in the nominees that he is sending to the judiciary, unfortunately, it does not back up the President's rhetoric.

As the recently enacted crime bill demonstrated, those who control the White House—and both Houses of Congress, I might add—believe passionately in what I believe to be the fundamentally misguided notion that a lack of sufficient government spending on social programs causes crime. It is as if to say, if we do not spend hundreds of millions and billions of dollars on all of these social programs, if we do not do that, we are not doing our part to stop crime.

Now, we have been spending hundreds of millions of dollars and billions of dollars on social programs and we still have crime. Not only do we have crime, we have more crime than we had when we started spending the money on these social programs.

Speaking at a conference in Washington in May of this year, Judge Sarokin made it clear that he is an enthusiastic proponent of what I believe to be an erroneous point of view.

"If we truly want to deal with crime and make our streets pleasant and safe," Judge Sarokin proclaimed, "we must identify the mentally and physically ill, the drug addicts and the alcoholics, and then either treat them or hospitalize them." "And," Judge Sarokin continued, "we must feed, clothe, and shelter the homeless and, most important, for those who can benefit, we must educate and train them so that they can have some hope and some reason to live."

Now, I am not critical at all of identifying mentally and physically ill people, treating them, hoping to treat alcoholics and drug addicts and see that they recover, hospitalize the sick, feed, shelter, and clothe the homeless. There is nothing wrong with any of that. But what does that have to do with the violent crime in the United States of America today?

Mr. President, as that quotation demonstrates, Judge Sarokin does not get it. He just does not get it. "It's the criminal, stupid," to use an expression that was used in the last campaign, referring to the economy. Criminals cause crime.

Why do we all have to feel guilty because somebody who had a tough childhood or some social problem commits a violent crime? And it is our fault, not his fault or her fault; not the perpetrator of the crime. It is not their fault. It is society's fault—do not accept any responsibility in society today, absolutely not; blame somebody else; whatever happens to me, it is somebody else's fault. If I commit a murder it is not my fault. I had a tough childhood. I did not get any help from the rest of society when I needed it. So, therefore, somebody else is to blame for the fact I killed somebody.

In his public statements, his written articles, and his opinions in cases on which he has sat as a Federal district judge, Judge Sarokin has shown time and again that he has inordinate sympathy for criminal defendants, that he has a disturbing attitude toward law enforcement, and that he gives insufficient weight to the requirements of public safety.

This is the nomination that we are faced with here today on the floor of the U.S. Senate. The President makes a choice. We do not challenge that. We confirm. The question is, if you want someone who is tough on crime, really tough on crime, is Judge Sarokin your man? Not in my estimation.

A prime example of this, what I call, soft-on-crime philosophy is Judge Sarokin's steadfast opposition to the preconviction detention of criminal defendants. In a 1988 article entitled "Beware the Solutions!" which was in the West Virginia Law Review, Judge Sarokin stated his belief that any incarceration of accused criminals violates the presumption of innocence and, therefore, he opposes "[p]utting people in jail before they are convicted."

Now, that is a very, very dramatic and far-reaching statement—very much so. A violent person who is accused—admittedly accused—of a crime but a very violent one should not be jailed. The people around that person in that community should not be protected from that person, even though he committed a violent crime or may have committed a violent crime, is accused of committing a violent crime. He should not be incarcerated. We should leave him out on the street.

So that would include, I suppose, under the judge's definition, Charles Manson, Sirhan Sirhan, and others. Let them back out. They are not convicted yet. Leave them out on the street. Maybe they will do it again to somebody else four or five more times. How many times do they have to do it, I would say to the judge? Do they have to kill 25 times, 6, 7, 8, 15, before we finally say, "Well, this is a violent person; we ought to keep them incarcerated pending trial"? How many times? What is the threshold?

The time-honored presumption of innocence, however, relates to conviction and not to preconviction detention. And that is a very important point.

As the Washington Post reported in a July 1994 news article, more and more violent crimes are being committed by criminal defendants who are released pending trial. The American people are not interested in this kind of a judicial attitude. The American people are interested in trying and convicting and punishing violent criminals. Period. They do not want them out on the street.

Judge Sarokin does not get it. President Clinton does not get it, because if he did he would not be sending this nomination to the U.S. Senate.

This same Post report focused on how witnesses to crime are increasingly being terrorized and even murdered. The people who witnessed the crime are being terrorized and even murdered by the accused. If Judge Sarokin's extreme view were to become the law, I believe this trend would get worse.

Mr. President, not only does the judge that is before the Senate right now for confirmation, Judge Sarokin, think that the accused—and often dangerous—criminals should be allowed on the streets before they are convicted, he is also a very strong supporter of a liberal legal doctrine that makes it harder to get them convicted at all—at all.

In his West Virginia Law Review article, Judge Sarokin stated his opposition to even the good-faith exception to the controversial so-called "exclusionary rule. Judge Sarokin believes that suppressing evidence obtained by a search that is later to have been determined to have been improper is necessary to deter police lawlessness, even when the police acted in the good faith belief that their search was conducted properly, and even when it means that a guilty defendant will go free. Even in that circumstance, even in that circumstance, Judge Sarokin believes that this evidence obtained by that search is improper.

This is a very liberal view of the law—a very, very liberal view of the law. And in my opinion out of touch, way out of touch with the mainstream of the citizenry of this country.

Judge Sarokin took this view, even though the Supreme Court recognized just such a good-faith exception to the exclusionary rule 4 years before his law review article appeared. Not only does this judge think that even violent criminals should roam free pending conviction, and not only does he have a view of the exclusionary rule that makes it more difficult for prosecutors to get criminals convicted, but Judge Sarokin also opposes tough sentences even for criminals who have been convicted. In this very revealing article in the 1988 West Virginia Law Review, Judge Sarokin took the position that he is opposed to "mandatory and uniform sentencing." Such tough-on-crime approaches to criminals, the judge says, "deprive judges of the right to grant mercy." That deprives judges of the right to grant mercy.

So, this judge wants the right to grant mercy to a convicted murderer. I do not think the American people are interested in mercy for a convicted murderer. How about some mercy for the victims? How about some compassion for the victims of the murderer, and their families?

We see, again, the judge and the President just do not get it. That is not what the American people are saying when they say get tough on crime. Again, it goes back to the crime bill debate. Everybody is against crime. Where we differ is punishment for the crime committed—that is where we differ. That is where Republicans and Democrats have had some huge debates on this issue. Do you punish the violent criminal or not? That is why parole in Virginia was eliminated—or will be. That is why, because in Virginia, as well as other States all across America, they are sick and tired of the rhetoric, they are sick and tired of the inaction, they are sick and tired of judges letting people out on the street as fast as the police officers arrest them. That is what the American people are saying. And if you want to change it, you want to stop it, you cannot put judges in powerful positions like this one. And in spite of the rhetoric, in spite of all the talk on the tough crime bill, here comes this appointment.

Thus far I have illustrated Judge Sarokin's liberal philosophy on crime by quoting from a speech that he made, and from his 1988 law review article. Let us take a look, now, at his judicial record on the U.S. District Court for New Jersey. In 1984, in the case of U.S. versus Rodriguez, which I know has been discussed earlier in this debate, the defendant was arrested on theft-related charges and given his Miranda warning. In addition, the defendant was then provided with a form, again advising him of his rights, and stating that by voluntarily signing the form—voluntarily signing the form—he could agree to waive those rights. Rodriguez did, indeed, voluntarily sign the form, thus indicating his waiver of his rights. But in so doing he used a false name.

Notwithstanding Rodriguez's voluntary written waiver of his rights, Judge Sarokin granted the defendant's motion to suppress his subsequent incriminating statements to the FBI—to suppress his incriminating statements to the FBI. Ruling in direct contravention of governing third circuit precedent, Judge Sarokin contended that Rodriguez' use of a false name made his waiver of rights somehow involuntary.

I guess that sends out a pretty clear message to anybody who is apprehended by a law enforcement official anywhere around the country, does it not? If you get caught red-handed, give a false name and you are home free. That really makes a lot of sense. I guess there are people—judges, I suppose are a lot smarter than the rest of us. They seem to be a lot smarter than the American people—at least they think they are. You tell me how in the world anyone could justify that kind of an argument? That is what it says. All the criminals out there listening to this debate, or any potential criminal, just give a false name and you are home free. Do not sign your name because then you have given yourself the waiver. Sign somebody else's name and you get off. The Rodriguez case demonstrates Judge Sarokin's propensity to ignore settled, governing law in order to create loopholes for criminal defendants. That is a fact.

Perhaps the worst example of where Judge Sarokin's soft-on-crime judicial philosophy has led him in the criminal cases that have come before him on the district court is his record in the case of a convicted cop killer by the name of James Landano, a case to which a number of Senators have alluded to and referred to during this debate. Judge Sarokin was reversed no less than 4 times—4 times—by the U.S. Circuit Court of Appeals and the U.S. Supreme Court during the course of his consideration of the Landano case.

In one of his opinions in that case, Judge Sarokin offered the following social commentary. Remember, Landano was a murderer, a cop killer. Here is what the judge said.

> We must ask ourselves why the current clamor and rush to carry out death sentences, but no similar urgency in freeing one who might be wrongly convicted and confined. * * * Rather than crying out for speedy convictions for those who have been convicted of capital crimes, we should be crying out for prompt release of those who may have been wrongly convicted and confined—cries of freedom rather than death.

It is interesting, no one would disagree that if somebody is wrongly convicted we should be crying out for prompt release. But why would you make a statement like that during the case of a convicted cop killer? It is obvious, because, again, the sympathy is with the accused. The sympathy is with the killer—not with the victim. Do you hear the victim mentioned anywhere? Not that I hear; not that I read.

Mr. President, that statement by Judge Sarokin in this case seems to me to reveal a very clear prejudice on his part toward the death penalty. President Clinton has said—this is where it really gets interesting. Let us just put the rubber right on the road. President Clinton has repeatedly said he supports the death penalty. Once again we see a certain divergence, to put it kindly, as nicely as I can, between Mr. Clinton's tough-on-crime rhetoric and his latest soft-on-crime judicial nominee.

Actions do speak louder than words. Is it not a pretty simple question that involves a basic simple answer? If you are for the death penalty, and you are the President of the United States, why would you not appoint judges who are for the death penalty? You are only President, if you are lucky, for 8 years; and most for 4. You do not have that many judicial appointments, nominations. When you make them, why not appoint people who back up and support your feelings on the various issues?

Here again, this is not the first one. There have been others. He sends us a judge who does not support the death penalty. So do not tell me President Clinton supports the death penalty. I know he carried it out as a Governor of Arkansas. But he has a chance to impact, for years, crime in this country, by appointing tough Federal judges. And he is not doing it.

Do not believe me. Read the cases. Read the facts. Listen to the debate. Early in his administration President Clinton nominated another liberal law professor, Lani Guinier, to be the Assistant Attorney General in charge of the Civil Rights Division of the Justice Department. As some of her more radical writings on legal issues came to light, President Clinton's nomination of Ms. Guinier came under increasing fire. Finally, President Clinton reported, he sat down and read some of the most controversial of Ms. Guinier's legal articles. After doing so, President Clinton said, he decided to withdraw the Guinier nomination.

Mr. President, I would respectfully suggest that President Clinton ought to sit down and read Judge Sarokin's 1988 West Virginia Law Review article. While he is at it, he ought to study Judge Sarokin's actions in the Rodriquez and Landona cases. As the Wall Street Journal noted in its fine editorial opposing the Sarokin nomination, "* * * perhaps Mr. Clinton doesn't even know his real record."

Mr. President, if President Clinton really means it when he talks tough on crime, then I trust that he will conclude that he has no choice but to withdraw the Sarokin nomination. Failing that, Mr. President, I urge my colleagues in the Senate to vote against confirming Judge Sarokin for a seat on the Court of Appeals for the Third Circuit.

Thank you, Mr. President. I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will be in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:16 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mrs. MURRAY).

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

LEGISLATION PENDING

Mr. LEAHY. Madam President, I am going to shortly put the Senate into a quorum. Before doing so, I will mention that there are a couple major pieces of legislation still pending—actually more than a couple, I should say, but certainly two in which I am most interested. One is the digital telephony bill.

I am greatly, greatly concerned that at least a couple Members of the Senate have felt a necessity to hold up this bill—one, until this morning and, since then, yet another one. I am not sure why. I suspect it is a piece of legislation with a rollcall vote that would pass virtually unanimously. In all likelihood, it could go through on a voice vote.

I mention it because I hope that nobody, for whatever personal reason they might have, or political reason, holds up this bill just for the sake of holding it up. If they want to vote against it, of course any Senator has that right. But this will allow the FBI and Federal law enforcement to follow the exact same laws we have today and same rules we have today, to be able to conduct wiretap in kidnaping cases, national security cases and others.

I suggest to Senators if anybody does want to hold it up, I hope that at this time next year, neither they nor their constituents, nor anybody they know, is a kidnap victim or victim of a terrorist, and have somebody ask why nothing can be done, and be told because a law that had probably 99 percent support in the House and the Senate did not pass.

On another matter, Madam President, which I am hoping that we will pass very soon—in the next day or so—the Department of Agriculture reorganization bill, basically the Leahy-Lugar bill that we passed twice in the U.S. Senate and has now been passed in the other body.

I think that if Leahy-Lugar comes back here and passes yet again, it will be the third time. I see my friend from Indiana on the floor. That will be the third time our legislation will have passed, and I urge this body to do it. I think it will be the most significant reorganization of the Department of Agriculture, literally, in my lifetime. It will save the taxpayers billions of dollars and it is something that the Senator from Indiana and I have worked on in a bipartisan fashion now for more years probably than either he or I want to think about.

With that, Madam President, I suggest the absence of a quorum. I withhold my request.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. LUGAR. Madam President, I join my distinguished chairman in commending the U.S. Department of Agriculture reorganization legislation, the administration that offered the bill, my chairman, and others who have been so vigorous in support of it.

This clearly meets the challenge that the Nation has given to us; namely, is it possible that a bureaucracy can be reorganized, can be downsized, can be made more efficient.

The U.S. Department of Agriculture bureaucracy is the fourth-largest in all of Government. It has a significant project to rationalize what people are doing in that Department. It is apparent that the Secretary will have the authority to reduce 43 agencies to 29, to reduce the number of employees by 8,500, to reduce the expenditures by several billions of dollars over the next 5 years alone with the reorganization of the field offices as well as the bureaucracy. I think it is an exciting moment for our Government, and we are delighted that this action could occur in this Congress in these final days.

I thank the Chair. I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

NAME REMOVED AS A COSPONSOR

Mr. BROWN. Madam President, I ask unanimous consent my name be removed as a cosponsor from S. 1770.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The VICE PRESIDENT. The majority leader.

Mr. MITCHELL. Mr. President, I ask that the Senate be in order and that all Senators take their seats.

The VICE PRESIDENT. The Senate will be in order. Senators will please take their seats.

RECESS

Mr. MITCHELL. Mr. President, and Members of the Senate, the camera is located in this corner of the gallery. I ask that all Senators turn their chairs toward the camera, and then there will be a total of 10 flashes.

So I ask Senators to remain until the photographer has indicated that they have completed their work.

Mr. President, I now ask that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 2:34 p.m. recessed until 2:40 p.m.; whereupon, the Senate at 2:40 p.m. reassembled when called to order by the Presiding Officer (Mrs. MURRAY).

EXECUTIVE SESSION

NOMINATION OF H. LEE SAROKIN, OF NEW JERSEY, TO BE U.S. CIRCUIT JUDGE FOR THE COURT OF APPEALS FOR THE THIRD CIRCUIT

The Senate continued with the consideration of the nomination.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRASSLEY. We are on the nomination of Judge Sarokin; is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRASSLEY. Mr. President, I believe that a President is entitled to great deference in confirming executive nominees. And even in the case of judicial nominees, a President is entitled to some level of deference as well. I recognize that President Clinton won the election, and as President, he has the sole power to nominate Federal judges. I also accept that few of the individuals President Clinton has nominated to the Judiciary would have been nominated by Presidents Reagan or Bush. Whether the nominee comes from a Democratic or Republican President, I have applied the same criteria in determining whether to vote to confirm them: Does the individual have the requisite intellect, knowledge, integrity, judicial temperament, and philosophy to serve. Of the approximately 140 judicial nominees that President Clinton has transmitted, I have been able so far to vote to confirm 98 percent. I have voted to confirm both of his Supreme Court nominees. And I have voted for every lower court nominee but one, Rosemary Barkett, until now. Some of the Clinton lower court nominees have been of very high quality, such as Jose Cabranes of the second circuit and William Bryson on the Federal circuit. And the President's sole nominee for a Federal judgeship in Iowa, Mark Bennett, was a very fine selection. Therefore, I am sorry to say that I must now oppose a second nominee, Judge H. Lee Sarokin.

Judge Sarokin is a known quantity. He is 65 years old and has been a Federal judge in New Jersey for 15 years. Thus, his record is well established. And it forms my basis for opposing him. In my view, the district judges that should be elevated to the courts of appeals are those who have been the best and deserve a promotion. My reading of his record is that he is one of the worst Federal judges anywhere. I regret that he was appointed to the district court, and I see no reason why he should be elevated. I place no weight on the American Bar Association's "well qualified" rating of Judge Sarokin, any more than I have relied on the ABA's "not qualified" ratings of a number of Clinton judicial nominees that I have voted for. Any singularly activist judge who repeatedly follows his own views instead of the law, and who repeatedly disregards controlling precedent is not qualified, let alone "well qualified," to be a Federal appellate judge.

One of the reasons Senators should rarely oppose lower court nominees is that such judges are bound by precedent, unlike Supreme Court Justices. Some people thus might wonder why so many Senators would be concerned about a lower court nominee. Indeed, unlike district judges, court of appeals judges can do nearly nothing on their own. Those courts hear cases in panels of threes, and these judges need to be able to convince another judge to prevail in any case. Additionally, the third circuit is 1,000 miles from my home State of Iowa. So why should we spend time debating this nomination?

The answer is that Federal judges have power that extends beyond their circuits. Federal judges across the country look to courts of appeals decisions from other circuits when their own courts have yet to decide particular legal issues. Additionally, as the number of court of appeals decisions have increased, while the number of Supreme Court decisions have declined, the court of appeals is effectively the court of last resort for the vast majority of cases. Yesterday was the first Monday in October. And for the first time in modern history, the Supreme Court convened a new term without granting a single petition for a writ of certiorari, although it granted some in September. The Court is hearing only about half as many cases as it did in the early 1980's. That makes the courts of appeals more important than ever.

I questioned Judge Sarokin about a number of his troubling opinions at his confirmation hearing before the Judiciary Committee. For example, in 1991, in Lebrun versus Thornburgh, Judge Sarokin struck down two former provisions of the Immigration laws. One provision required that for children born out of wedlock to American fathers and foreign mothers to become citizens, the father must acknowledge the child before age 21. And the second required that the child live in the United States for a particular period before reaching age 28. Despite the clear Supreme Court precedent that congressional enactments on the subject of Immigration are entitled to great deference, Judge Sarokin struck down both provisions.

In disregarding the law requiring deference, Judge Sarokin instead set forth his moral objection to the statute. He wrote, "It is wrong for a father to have the unilateral ability to confer or to deny citizenship to his daughter." Judge Sarokin failed to defer to Congress, which determined that citizenship should not be afforded to someone who had never lived in the United States, or who had no connection or familiarity with our country. And Congress wanted to foster parental responsibility by making parents acknowledge paternity.

Judge Sarokin cited a 1972 Supreme Court decision that struck down certain classifications based on illegitimacy. It is telling to compare Judge Sarokin's treatment of this decision with Justice Breyer's view of the same case. Justice Breyer said that in light of the changes in society since 1972 in the number of children born out of wedlock and the social ills associated with such births, the 1972 decision might be worth revisiting.

While Members of Congress from both parties seek to take steps to discourage illegitimacy, and President Clinton has given speeches encouraging the postponement of pregnancy until after marriage, Judge Sarokin found distinctions on the basis of legitimacy to be "an archaic reminder of the past discriminatory treatment, in addition to being inhuman and unfair. In this way, a distinction on the basis of legitimacy is also an impractical distinction in today's society where unwed mothers abound and single parenthood has become a norm." Of course, over the last 25 years, illegitimacy has skyrocketed as judges like Judge Sarokin have destroyed legal distinctions between births to married and unmarried parents.

Even worse, Judge Sarokin extended the 1972 Supreme Court decision more broadly than any other judge. And in doing so, he disregarded other controlling Supreme Court precedents. The Supreme Court cases involved intentional classifications against illegitimacy. But Judge Sarokin struck down the residency requirements in the Lebrun case due to their "impact of discriminating against a protected group, in violation of the equal protection clause." But the Supreme Court has expressly held, in Washington versus Davis, that disparate impact is not an available theory under the 14th amendment. There must be both discriminatory intent and effect for a classification to violate equal protection. Yet, when I cited Washington versus Davis to Judge Sarokin, he did not even "pretend to remember the specific holding." This was a landmark equal protection case, and yet, Judge Sarokin was unfamiliar with it. This may explain why he applied his own views that run very much counter to those of the American people, rather than the law.

Does President Clinton really want to reduce illegitimacy, as he said recently? Or is there a gap between rhetoric and his real position when he nominates someone who would strike down statutes designed to reduce illegitimacy?

Let me expose another gulf between President Clinton's rhetoric and the actuality of this nominee's views. President Clinton opposes drug use. But Judge Sarokin thinks excessively broad notions of privacy are much more important than reasonable measures aimed at stopping drug use. In 1986, Judge Sarokin wrote in the Capua case that drug testing "Is George Orwell's Big Brother society come to life." He struck down random drug testing for firefighters. To avoid a case from a higher court that had approved drug testing for jockeys, Judge Sarokin actually ruled that the State's interest in making sure that jockeys' drug use did not interfere with racing is greater than its interest in making sure that firefighters' drug use did not interfere with fighting fires or rescuing victims. Where does President Clinton truly stand on the issue of reducing drug use? Does he believe what he says or what his nominee says?

There is also a large gap between President Clinton's professed views on crime and Judge Sarokin's views. Judge Sarokin opposes mandatory minimum sentences and sentencing guidelines that "deprive judges of the right to grant mercy in those circumstances in which the facts may cry out for it." In fact, Judge Sarokin has stated that it should be relevant in imposing a sentence that the defendant had a tough life.

These guidelines and mandatory minimums were enacted precisely to deprive judges like Judge Sarokin from quickly letting dangerous criminals back on the streets to commit new crimes upon new victims. President Clinton says he supports at least one kind of mandatory minimum, three-strikes-and-you're-out. Yet he chose this nominee.

Judge Sarokin told me that he has never departed from the sentencing guidelines, except when the Government wanted a stiffer sentence imposed. This is not so. And given Judge Sarokin's overall philosophical opposition to sentencing guidelines, I am concerned that he has not always followed the guidelines. For instance, last year, in United States versus M.B., a woman who had been the subject of incest and physical abuse had been charged with embezzlement. I am sympathetic to the victims of these crimes, and I understand when no reasonable person can resist any longer the abuse that they suffer. But in this case, the abuser was not present when the embezzlement occurred. Under the guidelines, the sentence was to be 10 to 16 months. The defendant asked for probation based on her mental and emotional background. The guidelines say that mental and emotional conditions are not relevant, unless they are extraordinary. Judge Sarokin found the defendant's mental condition was extraordinary. He sentenced the defendant to probation, mental health counseling, drug counseling or treatment, and restitution.

At his nomination hearing, Judge Sarokin stated that both the probation officer and the Government recommended the downward departure from the guidelines. Had the Government recommended probation, I would of course have cause to think that a departure from the guidelines was warranted. Since Judge Sarokin did not mention the Government's position in his opinion, I asked him to check the file and tell me whether indeed the Government recommended probation. In fact, the Government opposed probation and recommended that imprisonment be imposed, as the guidelines required. Judge Sarokin disagreed.

Judge Sarokin also opposes the use of illegally obtained evidence even if the police acted in good faith. The Supreme Court has ruled that evidence so obtained satisfies the requirements of the fourth amendment. Judge Sarokin also opposes requiring lawyers to disgorge payments they have received from the illegal proceeds of their clients' criminal acts. He believed that such a process hurts the lawyer-client privilege and harms the effective assistance of counsel. The Supreme Court disagreed with him on this issue as well. Does President Clinton agree with Judge Sarokin on these criminal law positions of Judge Sarokin?

Judge Sarokin also opposes pretrial detention of the accused, which he has called a "direct contradiction of the presumption of innocence." I think most people recognize that pretrial detention saves lives. A very large number of crimes today are committed by people who have already been arrested for another crime, but are set free before they have to face trial. Thousands of people are needlessly victimized by the policy that Judge Sarokin advocates. Let me mention one example that hit home for me recently. A former intern of mine, Daniel Huston, last month was fatally shot in the back in an attempted carjacking in suburban Maryland. Three persons were arrested in connection with the crime. One of them, according to the Washington Post, "was arrested last month and charged with possession of a handgun and drugs, according to Maryland court records. After posting bond, [the suspect] was released but failed to appear for a court date a week later. A judge issued an arrest warrant on Sept. 2, records show." Pretrial detention might well have saved Daniel Huston's life. Without pretrial detention, the State of Maryland expended resources to take this suspect into custody for the earlier crime. Then, they let him go. Then, when he failed to show, the State spent additional resources swearing out a warrant in order to spend resources to capture the suspect a second time. That is the wrong way to do it. I support pretrial detention, I am pleased that we have it in the Federal system, and I applaud the Senators of whatever party who have enacted it. But Judge Sarokin does not support it.

Although Judge Sarokin is not to blame for this murder, the American people are understandably fed up with policy views like his, which favor criminals and lead to unnecessary deaths and injuries. No wonder his nomination is opposed by the National Fraternal Order of Police and its New Jersey chapter, the Law Enforcement Alliance of America, the Federal Investigators Association, Organized Victims of Violent Crime, Citizens for Law and Order, and Citizens Against Violent Crime. Does President Clinton share his nominee's views on this issue as well?

Judge Sarokin's views on obscenity are also of great concern. In 1983. Judge Sarokin considered a challenge to the application of a zoning requirement that kept an adult bookstore from opening. The only issue before Judge Sarokin was whether the zoning ordinance had been applied in a discriminatory fashion. But Judge Sarokin used his courtroom as a soapbox, issuing personal opinions on the subject of pornography. These opinions were not necessary to decide the case, and their content is very troubling. He wrote:

> If a merchant announced his intention to open a store dedicated to murder mysteries, no matter how violent or bloody, nary a picket or protester would appear. But should one announce that sex is to be the main

> theme, then organized opposition is inevitable. The public permits books, movies and television to inundate us with murder by gun or knife, strangling, rape, beatings and mayhem, all of which are illegal. But the depiction of sexual acts, most of which are legal, are condemned with a furor. We will tolerate without a murmur a movie showing the most brutal murder, but display a couple in the act of love and the outcry is deafening. . . . We must remember that we are dealing only with words and pictures, the harmful effect of which, if any has never been established.

I am appalled that Judge Sarokin reached out to write those words. The Supreme Court has ruled that legislative bodies can ban words and pictures that are obscene without demonstrating harmful effects from any of them. We can legislate based on the common sense view that these materials harm the people who pose for them, the people who use them, and the public generally. There is even evidence that some crimes are committed by people as a result of their exposure to obscenity. Judge Sarokin's extreme libertarianism on the subject of obscenity is very troubling.

Last November, all 100 Senators voted to disapprove of the Justice Department's position in the Knox child pornography litigation. That case had been decided by the third circuit, the court to which Judge Sarokin has been nominated. The third circuit ruled that child pornography need not portray the children in total nudity. In that case, the videos focused unnaturally on the scantily clothed genitals of young girls. The Justice Department argued that the child must be nude, and that the child must herself intend to act lasciviously. Thus, posed or sleeping young girls could not be protected in the Justice Department's view of the statute.

Because of the Justice Department's switched position, the Supreme Court reversed its decision to hear the case and sent the case back to the third circuit. And the third circuit again affirmed its position—a position that reflected congressional intent in enacting the statute—and rejected the Justice Department's liberation view. I shudder to think how a Judge Sarokin sitting on the third circuit would have decided this case.

Judge Sarokin to my knowledge has not decided any child pornography cases. And he might say that he strongly opposes child pornography. But even if that is true, that does not satisfy my concerns about his obscenity cases. Child pornography is not any more illegal than obscenity. One is not better than the other. Both are illegal. Both kinds of laws can be enacted without an explicit showing of harm. Both kinds of laws are to be equally enforced. But in a case where obscenity laws were not themselves at issue, Judge Sarokin reached out to decide that the harmful effects of these materials have not been established. And he also criticized citizens who sought to keep adult bookstores out of their neighborhood, notwithstanding what often occurs near locations where adult bookstores are established. I believe that citizens should be able, if they choose, to take legal measures to try to keep their families safe from obscene materials. They do not need a lecture from Judge Sarokin that first amendment principles, which do not apply to obscenity in any way, should make people welcome these bookstores.

Judge Sarokin, if confirmed, may be assigned to another appeal in the third circuit that is the subject of a Justice Department shift. Sharon Taxman, a high school teacher in New Jersey, was laid off her job solely because of her race, which is white. Taxman and another teacher were equally qualified and had equal seniority. The school district decided to lay off a business education teacher and the choice was between Ms. Taxman and a Ms. Williams, a black teacher. In the past, the decision of who to lay off in these circumstances would have been decided by lot. And I think that would have been fair.

Instead, the school district decided that in an effort to ensure diversity and to create role models for minority students, the teacher laid off would be Ms. Taxman because she was white. They made this decision despite the fact that the school district had never discriminated and that the proportion of teachers in the district that were members of minority groups was higher than the minority percentage of the population of the district as a whole. The district decided that this one department should always have an African-American teacher. Under the school District's view, for the first time, race conscious plans would be used to maintain a racial balance, not to achieve one. Moreover, the district's plan would go on without end.

The school district's position is not supported by Supreme Court decisions. And the Justice Department under President Bush and also under President Clinton took the side of Ms. Taxman against the School District. But recently, even though the Justice Department won the case in the district court, it filed a brief in support of the school district, even though the Department had obtained all kinds of client confidences and attorney work product from Ms. Taxman.

Given the importance of this case and Judge Sarokin's record on affirmative action, I fear that if this case comes before a circuit Judge Sarokin, Ms. Taxman's lawyer should just forget it. I think that despite the law on Ms. Taxman's side, there is virtually no chance that a circuit Judge Sarokin would support Ms. Taxman. Does President Clinton think that people should be laid off solely because of their skin color, even when the employer has never discriminated, and already employs a work force that has a greater proportion of minority members than the workforce as a whole?

Let us consider another of Judge Sarokin's cases, the notorious Kreimer versus Bureau of Police. In that 1991 decision, Judge Sarokin considered a case of a homeless person who had been barred from a public library. Mr. Kreimer, who had recently inherited a large sum of money, and who had refused job offers, failed to bathe. His odor made it impossible for other library patrons to use the library for its ordinary purpose. In addition, Mr. Kreimer harassed and followed individuals around the library, which also prevented people from using the library for its intended purpose.

Judge Sarokin ruled against the library's policy of removing people from the library who were not able to conform their conduct to that necessary for the functioning of a library and who were not using the library as a library. Judge Sarokin wrote that,

> Society has survived not banning books which it finds offensive from its libraries; it will not survive banning persons whom it likewise finds offensive from its libraries. The greatness of our country lies in tolerating speech with which we disagree; the same toleration must extend to people, particularly where the same toleration must extend to people, particularly where the cause of revulsion may be of our own making. If we wish to shield our eyes and noses from the homeless, we should revoke their condition, not their library cards.

The library insisted that people act a certain way to use the library so that others may also use it. But Judge Sarokin said that it was the fault of the people who followed the rules that the homeless Mr. Kreimer could not behave. He said that the public could not insist that Mr. Kreimer follow the rules; rather, the community effectively had to turn the library into a homeless shelter. Of course, the town spent many millions of dollars on social services, but because of Judge Sarokin's ruling, which was eventually overturned, the town had to spend hundreds of thousands of dollars on legal fees, money that could have gone to better the town and its people.

President Clinton has delivered speeches stressing the importance of personal responsibility. But Judge Sarokin believes it is the responsibility of the community to make sure that homeless people are clean or otherwise tolerate the smell and behavior of homeless people in libraries. Is it President Clinton's speech or his nomination of Judge Sarokin that reflects his true view of personal responsibility?

Judge Sarokin's decision applied his personal views, not the law. Describing himself as a "flaming liberal," Judge Sarokin recently stated his personal view that,

> If we truly want to deal with crime and make our streets pleasant and safe, we must identify the mentally and physically ill, the drug addicts and the alcoholics, and either treat them or hospitalize them. And we must feed, clothe, and shelter the homeless and, most important, for those who can benefit, we must educate and train them so that they can have some hope and some reason to live.

What a remarkable coincidence it is that Judge Sarokin's personal view and the decision he reached in Kreimer coincided exactly.

Not only does Judge Sarokin's ruling defy common sense, it also disregarded controlling Supreme Court decisions. The cases relied on were twisted beyond recognition in order to support the result that Judge Sarokin had already determined that he wanted to reach. Although he testified that the third circuit agreed with him on the issue of access, this is plainly false. Judge Sarokin considered the library to be a designated public forum, a key issue on the subject of access. The court of appeals disagreed. Moreover, Judge Sarokin once again failed to follow Supreme Court precedent by ruling that the library policy was "an irrational and unreasonable wealth classification with a disparate impact on the poor." As I mentioned in connection with the Lebrun case, disparate impact has been foreclosed as a basis for equal protection decisions by the Supreme Court. In fact, Judge Sarokin's decision in Kreimer shows even more disregard for precedent than did Lebrun. In Lebrun, at least the classification related to a group, children born out of wedlock, who receive heightened scrutiny under the equal protection clause. But the Supreme Court 20 years before the Kreimer decision ruled that the poor are not a suspect class that is entitled to heightened constitutional protection. Once again, Judge Sarokin followed his own social views rather than the law. Nor should we forget his cases in which he has explicitly failed to follow binding precedent.

Judge Sarokin also has the unfortunate distinction of being removed from a case by a higher court for an appearance of bias. This occurred only 2 years ago in a case involving cigarettes. In deciding a mere discovery motion, not in making a final decision in the case, Judge Sarokin wrote,

> In light of the current controversy surrounding breast implants, one wonders when all industries will recognize their obligation to voluntarily disclose risks from the use of their products. All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their own prosperity!

The third circuit found that these comments reflected an appearance of bias on Judge Sarokin's part. And the appellate court found that Judge Sarokin had committed "a judicial usurpation of power." The New York Times, which editorialized in the third circuit's opinion, agreed, finding that Judge Sarokin had "flunked an important test of credibility."

Moreover, Judge Sarokin made his comments about the breast implant industry even though no breast implant company was a defendant in the case. So Judge Sarokin made the comments about breast implants based solely on personal opinion and not on any evidence. Additionally, the cigarette materials were under a protective order. Judge Sarokin's decision destroyed any effect of that protective order, by quoting from the documents. When the third circuit took Judge Sarokin off the case and revoked his ruling, there was no way for the defendant to be made whole for the damage that Judge Sarokin caused it.

It has been argued that Judge Sarokin cannot really be biased against tobacco companies because he ruled in their favor in pretrial motions more often than not. I submit that this is a weak argument. Judges who want to rule against particular litigants frequently rule in that litigant's favor in pre-trail motions, then rule against them when it matters. When the losing litigant appeals, what arguments for reversal can he raise? Since all of the pretrial rulings went in favor of that litigant, the litigant will have no basis for appeal. That is one of the reasons why it is so hard to show bias and why it is so infrequent that judges are removed for an appearance of bias.

Some will say that Judge Sarokin would not have been removed from the case under a very recent Supreme Court decision. That may be true. However, the law that the third circuit applied was certainly the governing law at the time that Judge Sarokin made his decision. And the bias issue is quite real, given that Judge Sarokin accepted an award from an antismoking group for this decision. Even worse, after he was taken off the case, Judge Sarokin wrote, "I fear for the independence of the judiciary if a powerful litigant can cause the removal of a judge for speaking the truth based upon the evidence, in forceful language that addresses the precise issues presented for determination." To be sure, Judge Sarokin, in a confirmation conversion, now says that he regrets the language that he used. Of course, these words cast unjustified aspersions on the character of the judges who reversed him. And because they were written down after reflection, not oral comments, I think one can conclude that Judge Sarokin had such animosity toward the tobacco companies that he had lost all ability to be objective.

Under our constitutional system, Congress makes the laws. Judges rule on their meaning and their constitutionality. In deciding constitutionality, judges are to disregard any personal opinions. Judge Sarokin, however, never misses an opportunity to state his view of the wisdom of laws, a subject that should not concern him. For example, in 1980, Judge Sarokin wrote that:

> Section 94 of the National Bank Act should be repealed or the appellate courts should reconsider the constitutionality thereof. . . . Whatever justification existed for the original enactment no longer exists today . . . having thus vented its views on the statute in question, the court considers the subject case.

Federal judges are not to vent their views. That is not their role. That is not consistent with the judicial temperament that the Framers intended and that the American people are entitled to.

Whether the issue is crime, illegitimacy, drugs, obscenity, personal responsibility, or sentencing, Judge Sarokin has revealed himself to be the Joycelyn Elders of the judiciary.

Judge Sarokin's nomination is like something out of Casablanca. In that movie, Bogart is asked why he came to Casablanca. He replies that he came to Casablanca for his health, for the waters. But he is told that Casablanca has no waters; it is in the middle of the desert. Bogart replies, "I was misinformed." I thought that President Clinton was a new Democrat. I thought he was tough on crime, illegitimacy, personal irresponsibility, and drugs. I think the American people want to believe that. But when President Clinton nominates judges like Judge Sarokin to important posts, then, like Bogart in Casablanca, the American people have been misinformed.

It is bad enough to give a lifetime appellate judicial appointment to someone who holds such disturbing views. What is worse, Judge Sarokin ignores the law and imposes those views in his decisions through judicial activism. If there is a more activist sitting Federal judge in this country, I am unaware who it is. I fear that Judge Sarokin was nominated precisely because of his radical views and style of judging.

Mr. President, when nominees are considered, we in the Senate often recognize the checks and balances function of the advise and consent clause of article II. But we often overlook a critical reason why the Framers of the Constitution gave the power to nominate to the President and the power to confirm to the Senate. That system was adopted in order to hold the President and Senators accountable for appointments. As Hamilton wrote in Federalist No. 77, "The circumstances attending an appointment, from the mode of conducting it, would naturally become matters of notoriety, and the public would be at no loss to determine what part has been performed by the different actors." As a result, "The blame of a bad nomination would fall upon the President singly and absolutely. The censure of rejecting a good one would lie entirely at the door of the Senate. * * * If an ill appointment should be made the Executive for nominating and the Senate for approving would participate though in different degrees in the opprobrium and disgrace."

In my view, the appointment of H. Lee Sarokin to the third circuit would be a disgrace for the reasons I have stated. The President is solely responsible for making such an ill-considered nomination. And any Senator who supports it will share in the responsibility if he is confirmed. The American people will hold both the President and any Senators who support the nomination accountable for it, as the Framers intended. I know that Senator BRADLEY, for whom I hold great respect, strongly favors Judge Sarokin's confirmation. Regrettably, I do not share his opinion. For myself, I am quite sure that I fulfill my constitutional responsibility as to this nominee by opposing this poor appointment.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized.

Mr. LOTT. Mr. President, I rise to oppose the nomination of H. Lee Sarokin, U.S. district judge for New Jersey, to be a judge to the U.S. Court of Appeals for the Third Circuit.

I commend the distinguished Senator from Iowa for the remarks he just delivered. I thought they were very thoughtful, and obviously as a member of the Judiciary Committee, he has done a lot of work on this nomination. I certainly agree with his findings with regard to this confirmation.

I, too, have the highest respect for the Senator from New Jersey [Mr. BRADLEY], and I understand his support for this nominee. But after reviewing Judge Sarokin's conduct in the lower court and a number of law review articles he has written, and cases that he has participated in, I just do not feel that it is proper to promote this judge to the U.S. Court of Appeals for the Third Circuit.

Mr. President, I remember in 1968, when I was a relatively young man, I was privy to a conversation between the then chairman of the House Rules Committee, Chairman Bill Colmer, and the newly elected President of the United States. That President, a Republican, called this House committee chairman to establish contact with him and tell him he wanted to work with him on behalf of our country. And I remember Chairman Colmer, who was a man of relatively few words, giving one piece of advice to this newly elected President. He said: "Nothing that you do will be more important for the long-term future of the country than the appointments you make to the Federal judiciary." He said: "We have major problems now with activist Federal judges that are trying to write the laws instead of interpreting the laws and the Constitution, who seem to be more concerned with the rights of the criminals than the rights of victims and the rights of society. Judicial appointments will be the most important thing you do. I hope you will appoint strong law and order men and women to the Supreme Court and throughout the judiciary."

That conversation made an indelible impression on me, because I was hearing one end of a conversation between a Congressman and the President of the United States, and I certainly agreed with what Chairman Colmer has said.

I oppose this nomination because Judge Sarokin has a soft-on-crime judicial philosophy and does not have, in my opinion, the proper judicial temperament for this appointment. I oppose him on the basis of philosophy, on the basis of temperament but, most importantly, I oppose him on the basis of judgment. I think that is totally legitimate territory for Members of the U.S. Senate, in our role of advise and consent, to consider a judge's, or prospective judge's, judgment.

Philosophy should not be the determining factor. There are many times when Democrats and Republicans, conservatives and liberals, vote across party lines and philosophical lines. I have done that this year. I voted to support one of the President's nominees to the Supreme Court this year.

Temperament certainly is something we should consider but, again, it is not totally definitive. But judgment is the point that I have used on the floor of this Senate with regard to other nominees in the past, where if there is a problem there, if there is a question there, if a man or woman lacks good judgment, then surely they should not sit in the appellate court system.

I have said before here in the Senate, Mr. President, that I have always felt the President of the United States is entitled to his own nominations, and only in extreme circumstances should the Senate vote down a Presidential nominee. I still feel that way. But that brings me back to the point that I was making about the conversation earlier. These are very important appointments, and Presidents need to be very careful about the men and women they appoint to these positions. In this case, I have great difficulty reconciling the President's rhetoric about fighting crime in America and this appointment and some of the other appointments.

When I have been home recently, I have had constituents come up to me and say: We heard about the crime bill, but whether or not that was a good bill or did all it was supposed to do, what is the Federal role? What can you do at the Federal level to fight crime in America?

Our constituents quite often are smarter than we are. They know that in the final analysis, crime is going to have to be fought at the local level and in the hearts of men and women and in the families and in the communities, with policemen and State law enforcement agencies. The role of the Federal Government really is quite limited. But we have a clear role. There is no question that our law enforcement organizations—FBI, DEA, and others—are very important in fighting crime in America.

But one place where we clearly can help fight crime is the confirmation process of judges who go on the bench and start coming up with the problems we have in America now, where we have endless appeals. We have not been able to reform habeas corpus. There was nothing in the crime reform package to deal with that. Yet, if you ask average Americans what do you think we ought to do in the criminal justice system, that is one they will certainly mention. Stop these endless, expensive appeals.

Another one is the exclusionary rule. We did nothing to support the good-faith efforts of our policemen in seizing evidence and arresting victims. That was not in the crime bill either. The people we put on the Federal bench have a lot to do with the criminal laws in America, how they are interpreted, how our district attorneys and attorneys general can do their jobs, and certainly our law enforcement people. So when I see a nominee like this by the President of the United States, I first have to question what would this activist judge do on the appellate court, and why did the President nominate such a person with the record that he has?

Judge Sarokin is an extreme case. This judge is another extremist judge who has been sent to the Senate by the Clinton administration who, in my opinion, is out of the mainstream. I remember a few years ago a nominee was defeated because he was not in the mainstream. This judge is clearly not in the mainstream.

I remember in the midst of the recent crime bill debate the administration sent the nomination of Rosemary Barkett, an obviously soft-on-crime judge, to the Senate for confirmation.

Judge Barkett, nominated to the Eleventh Circuit Court of Appeals, blamed society for criminals' behavior. She was known as the most procriminal judge in the State of Florida.

While the President has been talking about being tough on criminals, he sent that judge to the Senate, and now he has sent this judge to the Senate for promotion to a higher court. These are judges who, based on their record, it seems to me, would undermine our efforts to keep our streets safe and keep criminals behind bars.

The crime bill has been signed. Maybe it will help. Obviously, we still need to do more to fight crime in America. The American people want more action on our part.

The nomination of Judge Sarokin is not the type of action, I believe, that Americans want. Over 80 percent of Americans feel that the judicial system is "too soft" on crime and criminals. Judge Sarokin is the poster boy for soft-on-crime judges. These are some of the things he believes.

He believes that criminals should not be jailed before conviction. In many instances, think what you are talking about here. These are potential murderers, rapists, and violent felons. But they should not be jailed before conviction? What do you think they are going to be doing? They are going to be running loose on the streets, in many instances doing the same thing again. This is not a position that is in the mainstream of thinking for the American people.

He believes that there should be no minimum sentencing or even no uniform sentencing. Judge Sarokin, then, is against "three strikes and you're out," which was the amendment that I got added to the Senate crime bill last year and President Clinton stood in the front of the House Chamber in the joint session and endorsed. I do not see how you reconcile that position with the position of this judge. He is against minimum sentencing even if it is three times you have committed a violent felony.

He believes there should be no good faith exception to the exclusionary rule. If policemen stop a car in good faith and find drugs in the car, then, in Judge Sarokin's eyes, the cops are bad and the drug dealer should go free.

How ridiculous. How many of us have heard about and read about cases where, on technicalities, evidence is thrown out and criminals go free back on the streets to commit their crimes again? We all know the statistics. Most of the really heinous crimes in America are committed by repeat offenders, and many times they go through the revolving door right back out on the street because the policemen did not comply with every little technical requirement that Federal judges, judges like this one, have imposed on the law enforcement system in America.

This judge believes that crime is society's fault, because society does not provide enough social services like job training. Oh, surely we can do more there. We should do it. Preventive efforts, absolutely. But is crime society's fault? I do not accept that.

Judge Sarokin's views are definitely out of the mainstream. In fact, in May of this year, at a conference he described himself as "a flaming liberal." That has been referred to earlier. I did not call him that. That is what he called himself. And somebody might say, "So what?"

Well, for a judge, a man or woman, who is supposed to be showing impartiality, they should not describe themselves as flaming anything, liberal, conservative or anything else. They should consider the facts of the cases and not be coming at it from a biased position like I think this judge does. We do not need social crusaders on the court of appeals. We still have too many there today. Judge Sarokin has overstepped his bounds as a judge for political ends. And here are some of the things that he has done or that has happened to him.

He has been removed from a case by the third circuit, a lawsuit against several tobacco companies he had presided over for 9 years. Because of Judge Sarokin's bias, the third circuit court blasted him, in what I thought was unusually tough language, when they said "judicial usurpation of power" and for "ignoring fundamental concepts of due process."

This is a rare event. It is unusual when the appellate court removes a district court judge, certainly when he has been on a case for 9 years, because he was so biased and exhibited it so clearly that he had ignored fundamental concepts of due process.

This judge engaged in a personal crusade to free a convicted cop killer, James Landano. Judge Sarokin was reversed not once, not twice, not three times—four times—by the U.S. Court of Appeals, to which he now would be promoted, and by the Supreme Court for getting involved in a State criminal matter because he made up his mind about how that case should be decided about the innocence or guilt of this criminal.

This judge ruled that homeless people can loiter and harass patrons of public libraries, expanding the rights of the homeless at the expense of patrons who go to libraries to read, not to be harassed.

This judge has been called by the New Jersey Law Journal the most liberal and most reversed judge in New Jersey.

This judge, Judge Sarokin, has been opposed by many organizations, including the 250,000-member National Fraternal Order of Police and Organized Victims of Violent Crime.

Judge Sarokin has shown hesitancy in getting tough on criminals. He has shown, in my opinion, a lack of respect for due process, for community standards, for law enforcement agencies.

Where are our colleagues now who on this floor called for more crime control, for tough crime control this year when we were talking about the crime bill? Where are they now when a judge with certainly a very questionable record when it comes to criminals comes before this Chamber for confirmation?

Mr. President, I ask unanimous consent to print in the RECORD a report by Thomas L. Jipping, called "Flunking the Credibility Test: Judicial Temperament and Judicial Philosophy," parts 1 and 2.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From Coalitions for America, July 20, 1994]

FLUNKING THE CREDIBILITY TEST: JUDICIAL TEMPERAMENT AND JUDICIAL PHILOSOPHY

(An analysis of President Bill Clinton's nomination of H. Lee Sarokin to be a judge on the U.S. Court of Appeals for the Third Circuit by Thomas L. Jipping[1])

"Judge Sarokin Flunked an Important Test of Credibility"—Editorial, The New York Times, 9/10/92.

President Clinton has nominated H. Lee Sarokin, currently a U.S. District Judge in New Jersey, to the U.S. Court of Appeals for the Third Circuit (PA, NJ, DE, VI). His record includes a rare combination of factors arguing against confirmation. First, Judge Sarokin has demonstrated that he lacks judicial temperament. His personal bias has been so severe that the U.S. Court of Appeals—the very court to which he has now been nominated—had to remove him from a case over which he had presided for nine years. The Supreme Court has held that this extraordinary step is reserved only for situations where a judge's behavior amounts to a "judicial 'usurpation of power'."[2]

In addition, Judge Sarokin has an extremely activist judicial philosophy that places him far outside the mainstream. He has made unusually plain his intention to use his judicial role to pursue social or personal causes. Pursuing that goal, he repeatedly ignored or misinterpreted precedent, applied incorrect standards, or invented new rights. As a result, Judge Sarokin has repeatedly been reversed and chastised by higher courts, sometimes several times in the same case.

The court of appeals has criticized him for basing decisions on his "own views"[3] or his "own intuition" and that he tries "to superimpose [his] own view of what the law should be in the face of the Supreme Court's contrary precedent."[4]

This nominee, then, has the distinction of both an injudicious temperament and an extremely activist philosophy of judging. While reasonable people may differ about the second, they should not tolerate the first. Most Americans would, no doubt, be utterly mystified at the criteria that would justify putting someone like this on the second most powerful court in the land.

I. PERSONAL INFORMATION

Born in New Jersey in 1928, H. Lee Sarokin received his B.A. from Dartmouth College and his law degree from Harvard. He was in private practice in Newark from 1955 to 1979, during which time he served as assistant county counsel for Union County, New Jersey from 1959 to 1965. President Jimmy Carter appointed him to the U.S. District Court in New Jersey in 1979.

II. JUDICIAL TEMPERAMENT

Debates over judicial nominees usually focus on judicial philosophy. The cases reviewed below, along with many others, demonstrate that Judge Sarokin has an extremely activist record. He is unusually plain in announcing and implementing his intention to use his judicial role for personal and social causes.

Even those Senators, however, who adopt a fairly deferential posture on judicial nominations, should at least demand that nominees exhibit appropriate judicial temperament, the ability to be fair and impartial. As the Supreme Court has said, "any tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias."[5] Every Senator—Democrat and Republican, liberal and conservative—should demand appropriate judicial temperament.

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[1] Footnotes at end of article.

Judge Sarokin has demonstrated that he lacks these essential qualities. He presided over a very high-profile and lengthy lawsuit against the tobacco industry. His decisions and behavior in the case evidenced such personal bias that the U.S. Court of Appeals took the extraordinary step of removing him from the case because he could no longer maintain even the appearance of impartiality.

A. A "Judicial 'Usurpation of Power'"

1. facts

The daughter of a man who died after smoking for 40 years sued several tobacco companies and the Tobacco Institute. During the discovery process, she sought documents related to the Council for Tobacco Research, a foundation formed to finance research on the potential health hazards of smoking. The defendants objected, arguing that the documents were protected by the attorney-client privilege since the Council was created to respond to possible legal action. The plaintiff argued that, if the privilege did apply, the crime-fraud exception to the privilege should still make the documents available since the tobacco companies were allegedly using the legal advice to further an ongoing conspiracy of fraud. The plaintiffs sought to publicly disclose as much of this information as possible.

Judge Sarokin appointed a special master who concluded that the attorney-client privilege did apply to some of the documents at issue. He also appointed a magistrate who decided that the crime-fraud exception to the attorney-client privilege did not require the defendants to produce those documents. The plaintiffs appealed to Judge Sarokin.

2. Judge Sarokin's decision

Judge Sarokin reversed the magistrate's decision and, in his published opinion, actually included portions of the documents the magistrate had concluded were protected by the attorney-client privilege. He then launched a scathing attack on the tobacco industry, beginning with these words:

"In light of the current controversy surrounding breast implants, one wonders when all industries will recognize their obligation to voluntarily disclose risks from the use of their products. All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sale over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their own prosperity! As the following facts disclose, despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation."[6]

3. The Court of Appeals' decision

Because this decision concerned a discovery request and was not a final judgment, the defendants could not appeal it in the ordinary manner. Instead, they went to the U.S. Court of Appeals and asked for a writ of mandamus.[7] The defendants sought a writ ordering Judge Sarokin to vacate his order that they produce the documents and removing Judge Sarokin from the case because of his personal bias.

It is very important to understand what an extraordinary step this is for a court of appeals to issue a writ of mandamus. Citing Supreme Court precedent, the court of appeals wrote: "Because the remedy is so extreme, courts should invoke it only 'in extreme situations.'"[8] The Supreme Court has held that "only exceptional circumstances amounting to a judicial 'usurpation of power' will justify the invocation of this extraordinary remedy."[9]

a. reversing Judge Sarokin

Judge Sarokin initially faced a critical choice, namely, whether to be deferential to, or substitute his own judgment for, the magistrate's decision. The court of appeals called it "undisputed"[10] as well as "clear and unambiguous"[11] that the correct standard was deference; Judge Sarokin could only consider the evidence that was before the magistrate and could only overturn a decision that was "clearly erroneous and contrary to law."

Judge Sarokin ignored the law, ordered the parties to submit evidence from a different case that the magistrate had not even seen, and substituted his own judgment. This was a sufficiently serious judicial "usurpation of power" to warrant the "extraordinary" and "exceptional" remedy of a writ of mandamus.

b. removing Judge Sarokin

But Judge Sarokin's behavior in this case was even more serious. The court of appeals called its decision to remove Judge Sarokin's "a most agonizing aspect of this case."[12] Noting that the media had prominently reported Judge Sarokin's accusations throughout the country,[13] the court wrote that "it is impossible for us to vindicate the requirement of 'appearance of impartiality' in view of the statements made in the district court's prologue to its opinion."[14]

"The New York Times applauded the Third Circuit's decision to remove Judge Sarokin, editorializing that he had been "far out of line" and concluding: "Judge Sarokin flunked an important test of credibility."[15]

The court of appeals concluded not only that Judge Sarokin had committed a judicial "usurpation of power" in his substantive decisions in this case, but also that he had forsaken even the appearance of impartiality, rendering him unable to be fair and no longer fit to preside in this litigation. This extraordinary conclusion relates to Sarokin's judicial temperament rather than his judicial philosophy and ought to gravely concern those who ordinarily are tolerant of a nominee's substantive views.

Judge Sarokin not only committed a judicial usurpation of power, but thereafter accepted an award from an anti-smoking interest group. The Group Against Smoking Pollution (GASP) give its 1993 C. Everett Koop Award to Judge Sarokin "for significant achievement toward creating a smokefree environment." According to the New Jersey Law Journal, "Sarokin won the award for sentiments contained in an opinion he wrote in February 1992 in Haines v. Liggett Group."[16] To state is clearly, Judge Sarokin abandoned the appearance of impartiality in Haines, for which he was removed as the presiding judge and then rewarded by an interest group. It would be difficult to imagine a more stark violation of a judge's duty. If Judge Sarokin wants to be an anti-smoking crusader, he should resign from the bench and work toward that political and social cause.

B. A Pattern of Disregarding the Law

Even if this were an isolated incident, it would be a terrible stain on this nominee's record and would seriously call into question his fitness to serve on the very court that was forced to remove him from presiding over the Haines litigation. But this was not the first time that Judge Sarokin ignored the law and substituted his own judgment in this manner. And is was not the first time that the U.S. Court of Appeals had to take the extraordinary step of issuing a writ of mandamus on the same issues to correct Judge Sarokin's judicial usurpation of power.

Discovery in the Haines litigation was supervised by a magistrate and merged with another lawsuit against the same defendants brought by the same attorney. In March 1985, after two years of discovery, the magistrate granted the defendant's request for a protective order. The plaintiffs appealed to Judge Sarokin, who reversed the magistrate's decision and ordered production of the documents. The defendants sought a writ of mandamus to block Judge Sarokin's decision, which the court of appeals granted.

1. standard of review

The Federal Magistrate Act states that "a magistrate's order is not to be reconsidered unless it is 'clearly erroneous or contrary to law.'"[17] The U.S. Supreme Court,[18] the Federal Rules of Civil Procedure[19] and the General Rules of Judge Sarokin's own court[20] say the very same thing. Judge Sarokin ignored the law and substituted his own judgment. As the court of appeals put it: "The 'clearly erroneous' standard obviously would have been less onerous for the defendants than was the district court's plenary review standard."[21] Judge Sarokin ignored the law precisely so he could be as onerous as possible on the parties he disfavored. Such ad hoc invention of new judicial standards raises serious questions about his suitability to be a judge at all.

2. interpretation of precedent

Judge Sarokin also completely misinterpreted the applicable Supreme Court precedent.[22] He again had to decide between an interpretation that was deferential to the magistrate's decision and one that allowed him to substitute his own judgment. He chose the latter, and the reason did not escape the court of appeals. Judge Edward Becker cited Sarokin's "perception that [the magistrate's order] would favor the economically powerful defendants."[23] Indeed, Judge Sarokin had written that he could not "ignore the might and power of the tobacco industry and its ability to resist the individual claims asserted against it and its individual members."[24] This was also serious enough to constitute an independent ground for the writ of mandamus.

This is a rare, but very serious, matter. The Supreme Court has said that "any tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias."[25] Judge Sarokin has failed this test in the most blatant and obvious way. No Senator, regardless of the view of judicial philosophy, should support someone who thus lacks the demonstrated ability to be fair and impartial.

III. JUDICIAL PHILOSOPHY

For those who evaluate judicial nominees also according to judicial philosophy, seeking to ensure that those activists who are plainly outside the mainstream do not occupy lifetime positions on the federal bench, Judge Sarokin's record offers great cause for concern. The New Jersey Law Journal observed that "Sarokin, the former civil litigator who was appointed by President Carter in 1979 and who is considered the most liberal member of the federal bench the New Jersey, has met resistance from the higher court. Although the Third Circuit does not keep statistics on reversals, Sarokin may be the most reversed federal judge in New Jersey when it comes to major cases."[26] The Almanac of the Federal Judiciary also states that "Sarokin is the most liberal judge on the District of New Jersey bench, according to a majority of civil attorneys."[27]

A. Fighting to Free a Cop-Killer

In 1976, a Newark, New Jersey, police officer was shot several times at close range and killed. Vincent Landano was convicted of the crime and sentenced to life in prison. His efforts to appeal his conviction and to obtain a new trial were unsuccessful and Landano sought freedom in 1982 by petitioning for a writ of habeas corpus in state court.

He offered the statement of Raymond Portas, a witness who had placed Landano at the crime scene but had recanted his testimony, claiming undue police influence. During the hearing on Landano's petition, however, Portas was very equivocal: "It's hard to know whether you've been influenced or not, as far as I am concerned, I don't know."[28]

The New Jersey Superior Court denied Landano's petition, finding Portas' recantation to be "untrustworthy" and "lack[ing] the capacity to cast serious doubt upon the truth of his trial testimony."[29] While Portas had apparently believed that his testimony alone convicted Landano, three other witnesses, including an accomplice, also testified. The New Jersey Supreme Court also denied relief.

In October 1985, Landano sought relief from Judge Sarokin. Because the prosecutor had repeatedly reminded Portas that his testimony was under oath, Judge Sarokin insisted that the state court's evidentiary hearing "was not a search for the truth, but rather an exercise in harassment and intimidation in an effort to dissuade the witness from any recantion."[30] He personally believed Portas' recantation[31] but a federal statute[32] prevented him from simply substituting his own judgment outright for the state court's finding. He seemed to adopt freedom for his cop-killer as a personal mission, writing:

"The court candidly admits an exhaustive search for grounds to grant the writ, but could find none without violating the court's oath to follow existing precedent. In upholding the law, the court fears a great injustice has occurred and respectfully invites reversal of its decision.[33]

In "a bitter exercise in judicial restraint,"[34] Judge Sarokin denied Landano's petition. Landano then took Sarokin's invitation for reversal to the U.S. Court of Appeals. That court declined, holding that the state court's hearing "comported with due process standards and was otherwise 'full, fair, and adequate.'"[35] The U.S. Supreme Court refused even to review this decision.[36]

Judge Sarokin continued his quest to free this cop-killer. On June 7, 1989, Landano sought to reopen the previous habeas corpus proceeding in Judge Sarokin's court because he supposedly had new evidence. This time, Judge Sarokin issued a conditional writ of habeas corpus and ordered New Jersey to release Landano or grant him a new trial within 90 days.[37] Landano has been free to this day.

The U.S. Court of Appeals overturned Sarokin's order, ruling that a federal district court has no jurisdiction until a convict first exhausts his remedies in state court.[38]

On May 1, 1991, after staying Landano's arrest following the Third Circuit's decision, the New Jersey Supreme Court ordered that Landano could be arrested. The next day, Judge Sarokin granted Landano federal bail so he could remain free pending a decision on his latest state court appeal.[39] Judge Sarokin then attempted to bully the New Jersey courts into granting Landano's habeas corpus petition by declaring:

"Either the state court will grant the relief which this court previously granted or, failing same, this court will do so when the matter is returned to it—the same facts and law being presented."[40]

He offered the following social commentary:

"We must ask ourselves why the current clamor and rush to carry out death sentences, but no similar urgency in freeing one who might be wrongly convicted and confined. * * * Rather than crying out for speedy executions for those who have been convicted of capital crimes, we should be crying out for prompt release of those who may have been wrongly convicted and confined—cries of freedom rather than death.[41]

After securing the release of this cop-killer, and virtually ordering the state courts to give him yet another chance, Judge Sarokin next ignored the clear precedent of the U.S. Court of Appeals in seeking to give Landano additional tools to enhance his chances for success in future proceedings. When the FBI refused Landano's request under the Freedom of Information Act (FOIA) for the agency's files on his case, Judge Sarokin ordered the FBI to comply. He rejected the FBI's argument that two exemptions from FOIA, protecting individuals named in such documents[42] as well as individuals who supplied information during an investigation,[43] applied.

The Third Circuit reversed Judge Sarokin regarding individuals named in the documents.[44] The U.S. Courts of Appeals for at least seven different circuits have upheld this principle—including the Third.[45] On appeal, the U.S. Supreme Court left this conclusion undisturbed. It seems Judge Sarokin's commitment to his "oath to follow existing precedent"[46] had evaporated.

While the Third Circuit affirmed Judge Sarokin regarding individuals who supplied information during the investigation, this decision was unanimously reversed by the U.S. Supreme Court.[47] As such, none of Judge Sarokin's efforts to help Landano by compromising the FBI were consistent with the law.

The Third Circuit later reversed Judge Sarokin one more time on the question of granting Landano federal bail so he could remain on the streets. In doing so, the court demonstrated just how much Judge Sarokin was letting his personal bias displace his judicial duty by flatly rejecting all of Judge Sarokin's arguments. One of these was that "this court has already determined . . . that petitioner may be innocent of the charges for which he was convicted."[48] The court of appeals pointed out that "probable innocence" is a factor relating to granting a writ of habeas corpus, not to granting bail.[49] Judge Sarokin also argued that Landano "has been at large since this court issued the writ of habeas corpus . . . and, to the court's knowledge, has done nothing to suggest that he presents a risk of flight or danger to the public."[50] The court of appeals reminded him that there was no legal impediment to the arrest.[51]

B. Refusing to Follow Supreme Court Precedent

In *Blum v. Witco Chemical Corp.*,[52] Sarokin again blatantly disregarded the precedents of both the U.S. Court of Appeals and the U.S. Supreme Court in his quest for his own preferred results.

In this case, three chemists brought an age discrimination suit against their former employer. Sarokin awarded them attorney's fees plus a 20% multiplier for pre-judgment delay and risk. The Third Circuit ordered Sarokin to reconsider the multiplier award in light of a recent Supreme Court decision.[53] Sarokin appointed a magistrate who recommended that the plaintiffs' request for a free multiplier be denied. Sarokin originally adopted the magistrate's recommendation but, after considering the plaintiffs' objections, changed his mind and awarded a 50% multiplier instead!

Judge Sarokin's opinion began as follows:

"The Supreme Court has sent a Christmas gift to this court delivered via the Third Circuit Court of Appeals. It is called "How to Make an Attorney Fee Multiplier" However, the instructions are so confusing and inconsistent that this court has been unable to put the gift together.[54]"

Even though Sarokin conceded that the Supreme Court's decision precluded a multiplier in this case,[55] he increased the multiplier he was originally ordered to reconsider. Not surprisingly, the Third Circuit reversed Sarokin and correctly identified the problem by writing that "the district court, without concealing its disapproval of both the Supreme Court's decision and ours, proceeded in accordance with its own views."[56] Because Judge Sarokin had offered no explanation for awarding a 50% multiplier (after earlier rejecting the plaintiffs' request for the same thing), the court of appeals observed:

"[T]he error with the district court's judgement was the 50 percent multiplier it arrived at was supported only by the court's own intuition. This is precisely what the Supreme Court and this court held is impermissible. Neither the district court nor this court is free to superimpose its own view of what the law should be in the face of the Supreme Court's contrary precedent."[57]

C. Inventing Rights

1. the right to loiter and harass library patrons

a. facts

In perhaps his most infamous decision, Sarokin turned one town's effort to ensure that all its citizens can use its library facilities into a personal crusade that cost the town nearly a quarter of a million dollars and damage to its reputation. It also exacted a heavy cost from the cause of justice.

Richard Kreimer was a homeless man in Morristown, New Jersey, and often visited the town's public library. He claimed he did so to read or contemplate, but the library staff contended that Kreimer engaged in offensive and disruptive behavior including staring at patrons and staff, following them around the library and even when they left the building, talking loudly to himself and others, and emitting such a foul odor that patrons were prevented from using entire portions of the library and staff were prevented from effectively accomplishing their duties.[58] The staff kept a detailed log documenting Kreimer's "belligerent and hostile" behavior. The Morristown mayor said that other homeless people used the library facilities without similar disruption.[59]

The library's board tried to implement new rules to deal with "problem behavior" so that all patrons could use the facilities. With the aid of the American Civil Liberties Union, Kreimer filed suit seeking damages for "pain and suffering, emotional distress, humiliation, negligence, violation of . . .

civil rights to enter a public building, first amendment rights violations, harassment, defamation of character, and discrimination because of his [homeless] state."[60]

b. Judge Sarokin's decision

Judge Sarokin first appointed two pro bono attorneys to assist Kreimer in his lawsuit even though Kreimer received nearly $500 per month in Social Security payments, had split a $340,000 inheritance with his brother, and inherited a house which he had sold for $61,000.[61] One of those attorneys admitted later that if Judge Sarokin had not taken this step, the case "would have gone away in three weeks."[62] Instead, Kreimer made so many claims against so many defendants that the city's insurance company settled for $80,000 a case that the city later won on appeal. He also won a $150,000 settlement in a separate harassment suit against the police department.[63]

In the suit against the town's library, Judge Sarokin rules for Kreimer, insisting that the library was intentionally discriminating against Kreimer because of his homeless condition, his appearance, and his odor. He struck down the library rules on their face, without considering evidence of Kreimer's actual behavior, by granting a motion for summary judgment. He concluded that the generally applicable hygiene requirements violated the due process clause and the equal protection clause of the Fourteenth Amendment, as well as the First Amendment rights of free assembly and association.[64] Once again, he opened his opinion with a sermon revealing a personal crusade. He wrote:

"The danger in excluding anyone from a public building because their appearance or hygiene is obnoxious to others is self-evident. The danger becomes insidious if the conditions complained of are borne of poverty. . . . Society has survived not banning books which it finds offensive from its libraries; it will survive not banning persons whom it likewise finds offensive from its libraries. The greatness of our country lies in tolerating speech with which we do not agree; that same toleration must extend to people, particularly where the cause of the revulsion may be of our own making. If we wish to shield our eyes and noses from the homeless, we should revoke their condition and not their library cards."[65]

The Third Circuit reversed. While Sarokin insisted that deferring to the library board's discretion in such decisions was "entirely inconsistent with the applicable law,"[66] the court of appeals ruled that indeed "we must accord some deference to the library officials."[67] The court also stated a principle so obvious that only blindness from one's personal crusade could ignore it:

"Kreimer's right has no lesser, or greater, significance than that of other residents. Accordingly, his right to reasonable access to the Library cannot be expanded to such an extent that it denies others the same guarantee."[68]

The evidence shows that Richard Kreimer was not merely down on his luck, homeless beyond his control, and helpless in his condition. Citizens in Morristown had attempted to help Kreimer, and the town had several homeless shelters; he was thrown out of one because he had urinated in the chapel. Some of the officials actually named in the lawsuit had tried to help him. One member of the city council allowed him to spend most of one winter in her home; he left after she repeatedly insisted that he clean himself up.[69]

"The *New York Times* editorialized that society's general attitude toward the homeless doesn't mean that library users need to endure being stared at, followed around or simply driven away by body odor. . . . The rightful lesson of this case is that society need not apologize or surrender to every accusation of unfairness."[70]

2. THE PROTECTED STATUS OF PRISON-PARALEGALS

In 1977, the U.S. Supreme Court ruled that prisoners must be afforded meaningful access to the courts.[71] The Court held that prisoners must be provided with either an adequate law library or legal assistance in preparing legal documents. In 1981, the Third Circuit added that this right "must be freely exercised without hindrance or fear of retaliation."[72] The number of lawsuits over prison conditions filed by inmates in federal court has skyrocketed[73] and activist judges use them as opportunities to maintain supervisory control over correctional facilities.

In 1993, a group of prisoner-paralegals filed suit before Judge Sarokin alleging that the senior corrections officer in the East Jersey State Prison violated their constitutional rights by harassing them.[74] They said he verbally abused them, searched their legal materials, and denied one inmate a meal on two occasions. The defendant filed a motion for summary judgment, claiming that the prisoner-paralegals lacked standing to bring the suit and that the undisputed facts did not support the cause of action.

Sarokin admitted that verbal harassment does not amount to a constitutional violation.[75] He admitted that three searches of materials and two denied meals did not rise to the level of "cruel and unusual punishment" prohibited by the Eighth Amendment.[76] One would think that the case would be over if the judge decided against those claiming constitutional rights violations. Judge Sarokin, however, had another personal mission to pursue and insisted that someone's rights had been violated. He concluded that inmates not even before the court were the real victims in this case. He wrote:

"Because a prisoner has no protected interest in providing legal representation to other inmates . . . the only right of access at stake in this case is that of the prisoners whom the plaintiffs assist in the preparation of litigation. . . . [I]f the legal assistance provided by the . . . paralegals is constitutionally necessary, then it is clear that defendant's alleged harassment of the paralegals gives rise to a constitutional violation."[77]

Not only is this conclusion bizarre to the extreme,[78] but the issue of other inmates' due process rights had never been raised in this case! No evidence was offered that their access to the courts had been affected in any way by the alleged actions of the defendant prison official. Undeterred, Sarokin ordered the parties to brief this new issue and appointed counsel to assist the plaintiffs in preparing their brief.[79]

V. CONCLUSION

Judge Sarokin lacks the judicial temperament necessary to justify his appointment to the U.S. Court of Appeals. No Senator should support a nominee who has so clearly and egregiously demonstrated his inability to be fair and impartial. Judge Sarokin has, by his own actions, forfeited his chance to be elevated to the second highest court in the land. Even those Senators who apply a more lenient standard regarding judicial philosophy must apply a strict test regarding judicial temperament. Judge Sarokin flunks that test.

In addition, however, Judge Sarokin's judicial philosophy is extremely activist and places him outside the mainstream. He repeatedly ignores applicable law and pursues his own social and personal causes in spite of being repeatedly reversed and rebuked by higher courts. His efforts to free cop-killer James Landano are especially outrageous and is invention of constitutional rights so that he can effect changes in social policy demonstrate his inability to distinguish policymaking from judging.

FOOTNOTES

[1] Legal Affairs Analyst, Coalitions for America, B.A. with honors, Calvin College (1983); J.D. *cum laude*, State University of New York (SUNY) at Buffalo (1987); M.A., SUNY–Buffalo (1989). Law Clerk, U.S. Court of Appeals (1988–89). Many thanks to Phillip Troyer for extensive research assistance.

[2] *Will v. United States*, 389 U.S. 90,95 (1967).

[3] *Blum v. Witco Chemical Corp.*, 888 F.2d 975,977 (3d Cir. 1989).

[4] *Id.* at 983.

[5] *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 U.S. 145 (1968)

[6] *Haines v. Liggett Group*, 140 F.R.D. 681,683 (D.N.J. 1992).

[7] The All Writs Act, 28 U.S.C. 1651(a), allows courts of appeals to issue "all writs necessary or appropriate in aid of their respective jurisdictions."

[8] *Haines v. Liggett Group, Inc.*, 975 F.2d 81,88 (3d Cir. 1992), quoting *Kerr v. United States District Court*, 426 U.S. 394,402 (1976).

[9] *Will v. United States, 389 U.S. 90,95 (1967).*

[10] *Haines*, 975 F.2d at 92.

[11] *Id.* at 91.

[12] *Id.* at 97.

[13] The court cited newspapers including the *New York Times*, *Wall Street Journal*, and *Washington Post* on the east coast to the *Chicago Tribune* in the midwest and the *Los Angeles Times* on the west coast. *Id.*

[14] *Id.* at 98.

[15] Editorial, *New York Times*, September 10, 1992, at A22.

[16] Kanige, "Sarokin Upheld, by Anti-Smoking Group," *New Jersey Law Journal*, June 7, 1993, at 14.

[17] *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108,1113 (3d Cir. 1986), citing 28 U.S.C. 636(b)(1)(A).

[18] See *United States v. Raddatz*, 447 U.S. 667,673 (1980).

[19] See Fed.R.Civ.P. 72(a).

[20] See General Rule 40D(4) of the U.S. District Court for the District of New Jersey.

[21] *Cipollone*, 785 F.2d at 1120.

[22] That precedent is *Seattle Times Co. v. Rhinehart*, 467 U.S. 20 (1984).

[23] *Cipollone*, 785 F.2d at 1114 n.8.

[24] *Cipollone v. Ligget Group, Inc.*, 106 F.R.D. 573,577 (D.N.J. 1986).

[25] *Commonwealth Coatings Corp. v. Continental Casualty Co.*, 393 U.S. 145 (1968).

[26] Schroth, "Sarokin Off Tobacco Case After Circuit's Rare Move," *New Jersey Law Journal*, September 14, 1992.

[27] *Almanac of the Federal Judiciary*, vol. 1, at 17 (1994).

[28] *Landano v. Rafferty*, 670 F.Supp. 570,577 (D.N.J. 1987).

[29] *Id.*

[30] *Id.* at 578.

[31] *Id.* at 579.

[32] 28 U.S.C. 2254. This statute creates a presumption of correctness for factual findings by state courts during habeas corpus proceedings. See *Landano*, 670 F.Supp. at 581–82.

[33] *Landano*, 670 F.Supp. at 572.

[34] *Id.* at 590.

[35] *Landano v. Rafferty*, 856 F.2d 569,572 (3d Cir. 1988), quoting 28 U.S.C. 2254(d)(6).

[36] *Landano v. Rafferty*, 489 U.S. 1014 (1989).

[37] *Landano v. Rafferty*, 126 F.R.D. 627 (D.N.J. 1989).

[38] *Landano v. Rafferty*, 897 F.2d 661,673 (3d Cir. 1990).

[39] *Landano v. Rafferty*, 782 F.Supp. 986,990 (D.N.J. 1992).

[40] *Id.* at 987. Sarokin's threat my have had some effect. When Landano went back to state court with his new evidence, the trial court again denied his request for a new trial, but the appeals court said Landano should have yet another bite at the apple. That decision is now on appeal to the New Jersey Supreme Court.

[41] *Id.* at 987–88.

[42] Exemption 7(C) of FOIA exempts from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . could reasonably be expected to constitute

an unwarranted invasion of personal privacy." 5 U.S.C. 552(b)(7)(C).

[43] Exemption 7(C) of FOIA exempts from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information . . . could reasonably be expected to disclose the identity of a confidential source." 5 U.S.C. 552(b)(7)(D).

[44] *Landano v. U.S. Department of Justice*, 956 F.2d 442,426 (3d Cir. 1992).

[45] See *Patterson by Patterson v. FBI*, 893 F.2d 595 (3d Cir.), *cert. denied*, 111 S.Ct. 48 (1990).

[46] *Landano*, 670 F.Supp. at 572.

[47] *Department of Justice v. Landano*, 113 S.Ct. 2014 (1993).

[48] *Id.* at 986.

[49] *Landano v. Rafferty*, 970 F.2d 1230,1241 (3d Cir. 1992).

[50] *Landano*, 782 F.Supp. at 993.

[51] *Landano*, 970 F.2d at 1241.

[52] 702 F.Supp. 493 (D.N.J. 1988).

[53] *Pennsylvania v. Delaware Valley Citizens' Council for Clean Air*, 483 U.S. 711 (1987).

[54] *Blum*, 702 F.Supp. at 495.

[55] *Id.*

[56] *Blum v. Witco Chemical Corp.*, 888 F.2d 975,977 (3d Cir. 1989).

[57] *Id.* at 983.

[58] *Kreimer v. Bureau of Police for Town of Morristown*, 958 F.2d 1242,1246–47 (3d Cir. 1992).

[59] See Pliskin, "Homelessness No Bar to Library, Judge Rules," *New Jersey Law Journal*, May 30, 1991.

[60] *Kreimer*, 958 F.2d at 1248–49.

[61] See Span, "Morristown's Man on the Street," *Washington Post*, October 14, 1992.

[62] *Id.*

[63] See Gottlieb, "Settlement Ends Portion of Morristown Homeless Case," *New Jersey Law Journal*, March 9, 1992.

[64] *Kreimer v. Bureau of Police for Town of Morristown*, 765 F.Supp. 181,196 (D.N.J. 1991).

[65] *Id.* at 182–83.

[66] *Id.* at 187.

[67] *Kreimer*, 958 F.2d at 1267.

[68] *Id.* at 1265.

[69] See Shah, "He's Homeless and He Won't Simply Go Away," *St. Petersburg Times*, May 11, 1992. This reporter described Kreimer's body odor as "so foul it gives one the sensation of being garroted in the underarm of a caveman."

[70] Editorial, "Library Hygiene in Morristown," *New York Times*, March 28, 1992, at 22.

[71] See *Bounds v. Smith*, 430 U.S. 817 (1977).

[72] *Milhouse v. Carlson*, 652 F.2d 371,374 (3d Cir. 1981).

[73] See Smith, "Jailhouse Blues," *National Review*, June 13, 1994, at 40–44 (number of suits alleging inhumane treatment has risen from 218 in 1966 to 53,713 in 1993).

[74] *Prisoners' Legal Association (PLA) v. Roberson*, 822 F.Supp. 185 (D.N.J. 1993).

[75] *Id.* at 189.

[76] *Id.* at 189.

[77] *Id.* at 190–91.

[78] Neither of the cases Sarokin cited were on point. Both *Milhouse v. Carlson*, 652 F.2d 371 (3d Cir. 1981) and *DeTomaso v. McGinnis*, 970 F.2d (7th Cir. 1992), involved allegations of harassment against prisoners who were themselves seeking access to the courts, not against persons providing legal assistance for other prisoners.

[79] *Prisoner's Legal Association*, 822 F.Supp. at 192.

[From Coalitions for America, Aug. 20, 1994]

FLUNKING THE CREDIBILITY TEST, PART 2: COMPARING THE TESTIMONY TO THE TRUTH

(By Thomas L. Jipping)[1]

President Clinton has nominated H. Lee Sarokin, currently a U.S. District Judge in New Jersey, to the U.S. Court of Appeals for the Third Circuit (NJ, PA, DE, VI). The Senate Judiciary Committee conducted a hearing on the nomination on August 3, 1994. Senators fulfilling their constitutional role of advice and consent look at a nominee's substantive record and testimony at his hearing. Coalitions for America has already provided extensive analysis of Judge Sarokin's record;[2] this memorandum examines his hearing testimony. Judge Sarokin was, at best, disingenuous and, at worst, dishonest about some of the very controversial parts of his record. His testimony painted a picture of a judge who consistently respects precedent and maintains his proper role as a judge no matter what his personal views, a judge whose decisions are rarely reversed on appeal, and a judge with mainstream views on important issues. Comparing the testimony to the truth shows that this picture is false.

I. INVENTING NEW RIGHTS

A. The testimony

In the so-called "library case," arguably Judge Sarokin's most infamous decision, he struck down a library's rules for the behavior and hygiene of patrons. On the one hand, it is just one of many activist decisions that was reversed on appeal. On the other hand, however, it is a striking example of how Judge Sarokin attempts to advance social and personal causes in the guise of judicial decisionmaking. It is also a clear example of how Judge Sarokin misled the Judiciary Committee and, therefore the Senate, about the very controversial nature of his record.

In *Kreimer v. Bureau of Police for Town of Morristown*,[3] Judge Sarokin effectively created a constitutional right not to be discriminated against on the basis of behavior or hygiene. He struck down regulations adopted by the Morristown library board regarding behavior and hygiene standards for library patrons. The board had adopted those regulations after repeated, yet unsuccessful, attempts to handle a continually disruptive and obnoxious patron. At his August 3 hearing, and in other settings, Judge Sarokin maintained that "[t]here were two issues that were presented to me," namely, a First Amendment issue and a vagueness/overbreadth issue. He claimed that "the only issue with which the Third Circuit disagreed was whether or not the regulations were vague and over-broad. They did not disagree about the First Amendment analysis."

B. The truth

This is simply not true and it is difficult to understand how Judge Sarokin could so blatantly misrepresent his own decision and the basis for the Third Circuit's reversal. In fact, the Third Circuit disagreed with every substantive part of Judge Sarokin's First Amendment analysis as well as every other issue. The record is very clear about what Judge Sarokin decided and what the Third Circuit reversed:

Judge Sarokin held that a library is a "traditional" or "quintessential" public forum for the expression of ideas[4] akin to "streets and parks".[5] The Third Circuit reversed that decision.[6]

Judge Sarokin held that a library is a full-fledged "designated public forum."[7] The Third Circuit disagreed.[8]

Judge Sarokin held the library's rules were "not reasonable time, place, or manner restrictions."[9] The Third Circuit reversed that decision.[10]

Judge Sarokin held that the library's rules were unconstitutionally overbroad.[11] The Third Circuit reversed that decision.[12]

Judge Sarokin held that the library's rules were unconstitutionally vague.[13] The Third Circuit reversed that decision.[14]

Judge Sarokin held that the library's rules violated the due process clause of the Fourteenth Amendment.[15] The Third Circuit reversed that decision.[16]

Judge Sarokin held that the library's rules violated the equal protection clause of the Fourteenth Amendment.[17] The Third Circuit reversed that decision.[18]

Judge Sarokin held that the library's rules violated the New Jersey Constitution.[19] The Third Circuit reversed that decision.[20]

Anyone reading these decisions, each a matter of public record, will see that at least these eight issues were addressed in the *Kreimer* case. The appeals court reversed Judge Sarokin on every one of them. Given the clarity of the record, his statement to the Judiciary Committee that there were only "two issues" involved and that the appeals court disagreed on only one could only have been an attempt to cover up the strikingly activist and very controversial nature of his record. This lack of candor is cause for serious concern about this nominee and his fitness to serve on the second highest court in the land.

The Third Circuit not only reversed Judge Sarokin on all of these issues, it also disagreed with several of his interpretations of important precedents. For example, citing a Supreme Court decision, Judge Sarokin insisted that the Court has "consistently held that government must limit time, place, and manner restrictions of a public forum to prohibitions of activity which actually and materially interferes with the peaceful and orderly management of the public space."[21] As the appeals court pointed out, this is not at all what the Court has held.[22] The case Judge Sarokin cited involved prohibition of particular symbolic political speech on the basis of its content; this lies at the heart of the First Amendment and this type of regulation would be subject to the strictest judicial scrutiny. In addition, that case involved the unique setting of public schools. There is neither a factual nor legal parallel in the *Kreimer* case.

Senator Strom Thurmond (R–SC) asked Judge Sarokin if he believed his ruling on vagueness was faithful to Supreme Court precedent. The nominee insisted that the Supreme Court's decision in *Brown v. Louisiana*,[23] which he had cited in his opinion in *Kreimer*, explicitly held protected by the First Amendment activity (sitting in silent protest) which the library's regulation in *Kreimer* would have prohibited. As he told the Committee, "that is why I thought it was unconstitutional." Yet, as Justice Brennan's concurring opinion in *Brown* clearly emphasizes, only a three-Justice plurality took the position that silent protest was protected under the First Amendment.

Perhaps H. Lee Sarokin, with 25 years of litigation experience and another 15 years as a U.S. District Judge, simply misread an important Supreme Court decision (he told the Committee that *Brown* was "the most significant case on this issue"). If this is the case, he should long ago have been willing to admit this and correct his mistake. Yet later in his hearing, after Senator Thurmond had pointed out his misreading of *Brown*, Judge Sarokin repeated his error, again insisting that the opinion of a Supreme Court plurality was actually the holding of a Supreme Court majority and, therefore, dictated his decision in *Kreimer*.

Perhaps Judge Sarokin simply utilized whatever he could to buttress his preferred result. As this memorandum points out below, the Third Circuit in other cases has rebuked Judge Sarokin for deciding cases on the basis of his own "intuition,"[24] his "own views"[25] and for refusing to follow binding precedent with which he disagreed.[26] In a 1984 case, Judge Sarokin even cited the very Third Circuit precedent that he ignored to reach his preferred result.[27] Perhaps in *Kreimer* he knew what he was doing after all.

II. OPPOSITION TO PRETRIAL DETENTION AND MANDATORY SENTENCING

A. The testimony

On March 20, 1987, Judge Sarokin addressed the Mid-Atlantic Conference of Law Reviews.

Footnotes at end of article.

This speech was published as an article in the *West Virginia Law Review*.[28] He stated that law journals should analyze various proposals for changes in the civil and criminal law. He also made very plain his own opinion about some of those proposals. He stated:

"Look at what is happening in the criminal area. We have pretrial detention of the accused in direct contradiction of the presumption of innocence. . . . Mandatory and uniform sentencing is in the wings depriving judges of the right to grant mercy.[29]

B. The truth

There is no question about Judge Sarokin's opinion of pretrial detention, mandatory sentencing, and uniform sentencing—he opposes each of them. These are very controversial views. Perhaps understanding this, he responded at his hearing to a question by Senator Thurmond by insisting that "I merely outlined for them a number of issues that I thought Law Reviews should take up. I certainly did not suggest to them how they should come out." This statement is simply not true, and one need only read the article to see this on its face. He made very clear what his opinion on these matters were. Again, it is very difficult to square Judge Sarokin's statements to the Judiciary Committee with the clear public record.

III. DEFERENCE TO LOWER COURTS

Senator Joseph Biden (D-DE), Judiciary Committee Chairman, asked Judge Sarokin some questions about his judicial philosophy to determine whether the nominee has a sufficient understanding of his proper role as a judge. At various times, this role requires a judge to be deferential to lower courts as well as respectful to higher courts. Senator Biden asked Judge Sarokin about both areas.

A. The testimony

In certain instances, appellate judges must be deferential to decisions by lower courts. Because trial judges are finders of facts in the first instance, appellate judges must defer to those factual findings unless they are "clearly erroneous." This means appellate judges cannot simply substitute their own judgment whenever they wish. Senator Biden asked Judge Sarokin whether, if appointed to the appeals court, he could "accept factual findings by the lower court." Not surprisingly, Judge Sarokin assured the Committee he would "certainly" do this successfully.

B. The truth

Senators need not wait until Judge Sarokin sits on the appeals court, however, to know the truth about this important issue. Even in his capacity as a trial judge, Judge Sarokin has been required to apply the same deferential standard and has already demonstrated that he cannot do so successfully. The Federal Magistrate Act states that "a magistrate's order is not to be reconsidered unless it is 'clearly erroneous or contrary to law.'"[30] The U.S. Supreme Court,[31] the Federal Rules of Civil Procedure[32] and the General Rules of Judge Sarokin's own court[33] require the same standard. Judge Sarokin, therefore, is presently required to apply to magistrates' decisions the very same standard that, as an appellate judge, he would have to apply to district judges' decisions.

He has repeatedly refused to apply this deferential standard and has instead applied a "plenary" standard that allowed him to substitute his own judgment. In one high-profile case, the U.S. Court of Appeals reversed Judge Sarokin for applying the wrong standard and wrote: "The 'clearly erroneous' standard obviously would have been less onerous for the defendants than was the district court's plenary review standard."[34] Judge Sarokin ignored the law precisely so he could be as onerous as possible on the parties he disfavored.

Several years later, in the very same case, Judge Sarokin again had to review a magistrate's recommendation. The court of appeals said it was "undisputed"[35] as well as "clear and unambiguous"[36] that the correct standard was deference; Judge Sarokin could only consider the evidence that was before the magistrate and could only overturn a decision that was "clearly erroneous and contrary to law." Instead, he ignored the law, ordered the parties to submit evidence from a different case that the magistrate had not even seen, and substituted his own judgment. This was a sufficiently serious judicial "usurpation of power"[37] to warrant the "extraordinary" and "exceptional" remedy of a writ of mandamus reversing this decision. In addition, as described below, the Third Circuit actually removed Judge Sarokin as the presiding judge in this case because he could not maintain an appearance of impartiality.

Judge Sarokin may well say that he will, as an appellate judge, have no problem applying the deferential "clearly erroneous" standard to lower court findings. His record, however, shows that he has disregarded this very standard as a district judge when reviewing magistrate recommendations.

IV. RESPECT FOR HIGHER COURTS

A. Supreme Court

1. The testimony

As part of his discussion about judicial philosophy, Senator Biden also asked Judge Sarokin if, as a court of appeals judge, he would follow binding precedent. Judge Sarokin responded that he would be "clearly bound by any Supreme Court precedent" and that he would "have no trouble with that" whether or not he agreed with the particular precedent.

2. The truth

The truth is that, in some cases, Judge Sarokin has been more than willing to distort Supreme Court precedent to fit his jurisprudential needs and, in other cases, quick to disregard entirely Supreme Court precedent that does not allow him to achieve his preferred results.

For example, in *Kreimer v. Bureau of Police for the Town of Morristown*,[38] discussed above, Judge Sarokin held that library rules governing patron behavior and hygiene were unconstitutional. He cited the Supreme Court's decision in *Brown v. Louisiana*[39] and insisted that the Court there had held that a silent protest in a library was "constitutionally protected."[40] Yet, as Justice William Brennan's concurring opinion in *Brown* emphasized, only a plurality of the Court believed that the silent protest was protected.

In *Blum v. Witco Chemical Corp.*,[41] three chemists brought an age discrimination suit against their former employer. Judge Sarokin awarded them attorney's fees plus a 20% multiplier. The U.S. Court of Appeals ordered him to reconsider in light of a recent Supreme Court decision.[42] He appointed a magistrate who recommended that no multiplier be awarded, but he granted a 50% multiplier instead. The appeals court reversed Judge Sarokin and, noting that he had "offered no explanation why the specific figure of 50 percent was chosen"[43] and earlier had actually "rejected plaintiffs' request for a 50 percent increase,"[44] severely criticized Judge Sarokin for imposing his personal views and ignoring relevant precedent. among the Third Circuit's criticisms were the following:

> [T]he district court, without concealing its disapproval of both the Supreme Court's decision and ours, proceeded in accordance with its own views.[45]
>
> We conclude that in at least four respects essential to its decision, the district court applied the incorrect legal standard.[46]
>
> It appears that the court proceeded to follow its own view of the relevant market in ascertaining the availability of adequate legal representation.[47]
>
> In making its determination on the risk associated with this individual case, the court failed to follow the clear direction of [the Third Circuit and the Supreme Court]. . . . The district court made no secret of its disagreement with the instruction it received on this issue.[48]
>
> [I]n another departure from the task set for it, the district court established a contingency multiplier for this individual case rather than setting a standard which would be applicable to future litigation within the same market.[49]
>
> Finally, and perhaps most importantly, although the district court concluded that the plaintiffs had failed to meet their burden of proof by not quantifying the contingency premium, the court nonetheless relieved the plaintiffs of their burden of proof.[50]

The court finally rebuked Judge Sarokin by concluding that "the error with the district court's judgment was the 50 percent multiplier it arrived at was supported only by the court's own intuition. This is precisely what the Supreme Court and this court held is impermissible. Neither the district court nor this court is free to superimpose its own view of what the law should be in the face of the Supreme Court contrary precedent."[51] This is an unusually harsh series of rebukes, justified because Judge Sarokin had rendered an unusually activist series of decisions, openly expressing his personal distaste for binding precedent and openly ignoring that precedent.

Similarly, in *LeBrun v. Thornburgh*,[52] Judge Sarokin made clear his personal views of the issues and law involved and followed those personal views rather than the law. In this cases, Judge Sarokin held that certain immigration law provisions violated the equal protection clause of the Fourteenth Amendment. These provisions (which are no longer operative) required that in order for children born out of wedlock to American fathers and foreign mothers to be U.S. citizens, the father must acknowledge the child before age 21 and the child must live in the United States for a certain number of years before age 28. Judge Sarokin made clear his personal objection to the statutory provisions, calling them "inhumane and unfair" as well as "sexist."[53] He even took exception to using the term "illegitimate" to describe children born out of wedlock, calling it "discriminatory" and "archaic."[54] The basis for his decision seemed to be his personal observation that the policy in the statue "is wrong."[55]

In addition to clearly stating his personal moral objections to this requirement, Judge Sarokin wrote that his holding "may be analogized to the 'disparate impact' doctrine under Title VII."[56] The Supreme Court has explicitly held, however, that the equal protection clause requires showing intentional discrimination; the disparate impact theory does not apply. Judge Sarokin was simply wrong as a matter of law to hold otherwise. Yet, in response to a question by Senator Charles Grassley, however, he insisted that there was "ample case law to support that conclusion."

B. U.S. Court of Appeals

1. The testimony

Later in the hearing, Senator Thurmond asked Judge Sarokin if, as a district judge, he is presently bound by the U.S. Court of Appeals for the Third Circuit. Not surprisingly, Judge Sarokin agreed that he is. Yet just as he has openly defied Supreme Court precedent and decided cases based on his own views and own intuition, Judge Sarokin has ignored binding precedent from the Third Circuit. It is no wonder that he is the most reversed federal judge in New Jersey.

2. The Truth

In one of the more egregious examples, Judge Sarokin not only refused to follow binding Third Circuit precedent, he even cited the very precedent he was ignoring. In *U.S. v. Rodriguez*,[57] a criminal suspect read and signed a waiver of his *Miranda* rights. He signed the waiver with a false name. Judge Sarokin held that, because of this, the waiver was not voluntary. In doing so, he included the following citation:

"*But see United States v. Chapman*, 448 F.2d 1381, 1386 n.7 (3d Cir. 1971)" (contention that signature was not one's own is not relevant to the issue of the voluntariness of the confession).

Judges or authors use "but see" to introduce the citation of legal authority that may contradict but does not affect their conclusion. That is, Judge Sarokin thought to reference this directly contrary Third Circuit precedent, and even to describe its contrary holding, but did so in such a way as to indicate his belief that it was of interest but no consequence for his decision. In response to a question by Senator Thurmond at his hearing, however, Judge Sarokin insisted that this decision was "definitely" in accord with Third Circuit precedent.

In response to a question by Senator Hank Brown (R-CO), Judge Sarokin stated that the Third Circuit had decided in *Chapman* that using a false name was not "dispositive" on the question of voluntariness. Yet in *Rodriguez*, Judge Sarokin himself described the Third Circuit's decision in *Chapman* as holding that using a false name is not even "relevant" to that question.

Later in the hearing, Senator Brown read a question submitted by Senator Orrin Hatch (R-UT) about the same issue. Judge Sarokin stated that "I can't imagine that the Third Circuit's ruling would be that use of an alias was never relevant in this type of a proceeding." Yet this is exactly the way Judge Sarokin himself described the Third Circuit's holding in *Chapman*. Judge Sarokin insisted that "it would be inconceivable to me that I found the Third Circuit decision that said you can't use this as a factor and in the same sentence I said I am going to." Yet in *Rodriguez*, Judge Sarokin cited the Third Circuit's decision in *Chapman*, described that holding as saying that using a false name is "not relevant" to the issue of voluntariness, then held that the suspect in the case before him had not made a voluntary waiver because he had signed the waiver with a false name. The contradiction should be plain for all to see.

V. IGNORING PRECEDENT IN OBSCENITY AND PORNOGRAPHY CASES

A. The testimony

In *E-Bru, Inc. v. Graves*,[58] Judge Sarokin granted an injunction blocking the town of Paterson, New Jersey, from applying its zoning ordinance to an adult bookstore. In his opinion, Judge Sarokin wrote: "We must remember that we are dealing only with words and pictures, the harmful effects of which, if any, has never been clearly established."[59] At his August 3 hearing, Judge Sarokin responded to questions by Senator Charles Grassley (R-IA) about this case and insisted such statements were his way of emphasizing "that there were First Amendment implications here that necessitated the action that I took. It was an effort on my part to try to explain and justify the legal ruling that I had made."

B. The truth

Judge Sarokin did not even attempt to explain why evidence of harm from pornography was at all relevant to his discussion of the legal issues. He provided no basis for his conclusory statement that such harm "has never been clearly established." And he never distinguished, or even cited, the Supreme Court's rejection of the argument that scientific data conclusively demonstrating adverse effects is necessary for communities to regulate pornography and obscenity.[60] How can it be, then, that his assertion that harm from "words and pictures" has not been established was necessary to "explain and justify" his legal ruling? It cannot be. As in so many other cases, the only explanation is Judge Sarokin basing his decisions on his personal views and, further, injecting his personal views directly into his written opinions.

VI. JUDICIAL TEMPERAMENT

Judge Sarokin presided over a high-profile lawsuit against several tobacco companies. The plaintiffs sought thousands of documents and the defendants argued that some of them were protected by the attorney-client privilege. Judge Sarokin appointed a special master who concluded that the attorney-client privilege did apply to some of the documents. He also appointed a magistrate who concluded that the crime-fraud exception to the privilege did not apply. Judge Sarokin not only reversed the magistrate's decision but actually included portions of the documents in his published opinions. The Third Circuit reversed him and, based on actions like these and outrageously biased statements against one of the parties before Judge Sarokin, actually issued a writ of mandamus removing him as the presiding judge in the case.

A. Judge Sarokin's testimony

At his August 3 hearing, responding to Senator Brown, Judge Sarokin admitted that disclosing these documents "probably was an error" and said that "probably I should have avoided it." Yet he still attempted to justify this extraordinary breach of judicial duty by saying that "there was not some wholesale disclosure." This is another example of how Judge Sarokin's personal biases or views drive his jurisprudence. Those biases lead him to make decisions which, like this one, are often reversed on appeal. Those biases also prompt him to make statements or take actions which are completely unnecessary to decide the legal issues before him, but instead serve to pursue his own personal agenda.

B. The truth

The Supreme Court has said that "any tribunal permitted by law to try cases and controversies not only must be unbiased but also must avoid even the appearance of bias."[61] The Third Circuit removed Judge Sarokin as the presiding judge in this case after concluding that "it is impossible for us to vindicate the requirement of appearance of impartiality in view of the statements made in the district court's prologue to its opinion."[62] Those statements were included in a diatribe against all big business, claiming they place "money over morality" and "put the buying public at risk solely for the purpose of making profits."[63] He called the very companies who were parties before him in that case "the king of concealment and disinformation."[64] While the Third Circuit had refused a request earlier in the litigation to remove Judge Sarokin because of his obvious bias,[65] this time the court had had enough. Even the liberal *New York Times* agreed with removing Judge Sarokin, concluding that he had "flunked an important test of credibility."[66]

CONCLUSION

Judge H. Lee Sarokin has a very activist and very controversial record, a record he tried to cover up or run away from at his hearing before the Judiciary Committee.

He claimed, in response to a question by Senator William Cohen, that his record on appeal is "maybe a little bit better" than "anyone else on the [district] court." Yet the *New Jersey Law Journal* concluded that "Sarokin may be the most reversed federal judge in New Jersey when it comes to major cases."[67]

These are just some of the obvious and serious discrepancies between Judge Sarokin's testimony at his hearing and the record he has developed during his years as a federal judge. It is perhaps understandable that he would want to downplay his very liberal, very activist, and very controversial record. But just as he had to be removed from an important case because he could no longer even maintain an appearance of impartiality, he should be prevented from assuming a seat on the U.S. Court of Appeals because he cannot maintain the appearance of candor or restraint.

FOOTNOTES

[1] Legal Affairs Analyst, Coalitions for America.

[2] See "Flunking the Credibility Test: Judicial Temperament and Judicial Philosophy," report dated July 20, 1994; two Nomination Memoranda dated August 18, 1994; Nomination Memoranda dated August 4 and July 25, 1994.

[3] 765 F.Supp. 181 (D.N.J. 1991)

[4] *Kreimer*, 765 F.Supp. at 187.

[5] *Id.* at 186, quoting *Perry Education Assn.* v. *Perry Local Educators' Assn*, 460 U.S. 37,45 (1983).

[6] *Kreimer*, 958 F.2d at 1256.

[7] *Kreimer*, 765 F.Supp. at 187.

[8] *Kreimer*, 958 F.2d at 187.

[9] *Kreimer*, 765 F.Supp. at 189.

[10] *Kreimer*, 958 F.2d. at 1262–64.

[11] *Kreimer*, 765 F.Supp. at 190.

[12] *Kreimer*, 958 F.2d at 1265.

[13] *Kreimer*, 765 F.Supp. at 193.

[14] *Kreimer*, 958 F.2d at 1267–68.

[15] *Kreimer*, 765 F.Supp. at 195.

[16] *Kreimer*, 958 F.2d at 1269.

[17] *Kreimer*, 765 F.Supp. at 196.

[18] *Kreimer*, 958 F.2d. at 1269 n.36.

[19] *Kreimer*, 765 F.Supp. at 197.

[20] *Kreimer*, 958 F.2d. at 1270.

[21] *Kreimer*, 765 F.Supp. at 188, citing *Tinker* v. *Des Moines Indepenent Community School District*, 393 U.S. 503 (1969).

[22] *Kreimer*, 958 F.2d 1242, 1263 n.25.

[23] 383 U.S. 131 (1966).

[24] See, e.g., *Blum* v. Witco Chemical Corp., 888 F.2d 975,983 (3d Cir. 1989).

[25] *Id.* at 977.

[26] *Id.* at 982.

[27] See *United States v. Rodriguez*, Crim. No. 84–18 (D.N.J. 1984).

[28] Sarokin, "Beware the Solutions!," 90 *West Virginia Law Review* 1003 (1988).

[29] *Id.* at 1005.

[30] *Cipollone* v. *Liggett Group, Inc.*, 785 F.2d 1108,1113 (3d Cir. 1986), citing 28 U.S.C. §636(b)(1)(A).

[31] See *United States* v. *Raddatz*, 447 U.S. 667,673 (1980).

[32] See Fed.R.Civ.P. 72(a).

[33] See General Rule 40D(4) of the U.S. District Court for the District of New Jersey.

[34] *Cipollone*, 785 F.2d at 1120.

[35] *Haines* v. *Liggett Group, Inc.*, 975 F.2d 81,92 (3d Cir. 1992).

[36] *Id.* at 91.

[37] See *Will* v. *United States*, 389 U.S. 90,95 (1967).

[38] 765 F.Supp. 181 (D.N.J. 1991), *rev'd*, 958 F.2d 1242 (3d Cir. 1992).

[39] 383 U.S. 131 (1966).

[40] *Kreimer*, 765 F.Supp. at 191.

[41] 702 F.Supp. 493 (D.N.J. 1988), *rev'd*, 888 F.2d 975 (3d Cir. 1989).

[42] That decision was *Pennsylvania* v. *Delaware Valley Citizens' Council for Clean Air*, 483 U.S. 711 (1987).

[43] *Blum* v. *Witco Chemical Corp.*, 888 F.2d 975,979 (3d Cir. 1989).

[44] *Id.* at 980.

[45] *Id.* at 977.

[46] *Id.* at 981.

[47] *Id.* at 982.

[48] *Id.*

[49] *Id.*

[50] *Id.* at 983.

[51] *Id.* at 977.

[52] 777 F.Supp. 1204 (D.N.J. 1991).

[53] *Id.* at 1206.

[54] *Id.* at 1213.

[55] *Id.* at 1212.

[56] *Id.* at 1213 n.6.

[57] Crim. No. 84–18 (D.N.J. 1984).

[58] 566 F.Supp. 1476 (D.N.J. 1983).

[59] *Id.* at 1478.

[60] See *Paris Adult Theatre I* v. *Slaton*, 413 U.S. 49,58,60 (1973).

[61] *Commonwealth Coatings Corp.* v. *Continental Casualty Co.*, 393 U.S. 145 (1968).

[62] *Haines* v. *Liggett Group, Inc.*, 975 F.2d 81,98 (3d Cir. 1992).

[63] *Haines* v. *Liggett Group, Inc.*, 140 F.R.D. 681,683 (D.N.J. 1992).

[64] *Id.*

[65] *See Cipollone* v. *Liggett Group, Inc.*, 822 F.2d 335 (3d Cir. 1987).

[66] Editorial, *New York Times*, September 10, 1992, at A22.

[67] Schroth, "Sarokin Off Tobacco Case After Circuit's Rare Move," *New Jersey Law Journal*, September 14, 1992.

Mr. LOTT. Mr. President, I also ask unanimous consent to print in the RECORD, in case they have not been included, a whole group of letters that have been sent in opposition to Judge Sarokin's nomination.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FRATERNAL ORDER OF POLICE,
NATIONAL LEGISLATIVE COMMITTEE,
Lindenwold, NJ, August 5, 1994.

Re nomination of H. Lee Sarokin to the U.S. Court of Appeals.

U.S. SENATE,
Washington, DC.

TO THE MEMBERS OF THE U.S. SENATE: On behalf of the 250,000 member National Fraternal Order of Police and, in particular, the members of the Fraternal Order of Police in the State of New Jersey, I am informing you that we are in total opposition to the appointment of Judge Sarokin to the U.S. Court of Appeals for the Third Circuit.

In at least one case, he has shown a propensity to be more of an advocate of social and personal causes than a judge. In a case involving the murder of a Newark, New Jersey police officer Judge Sarokin made it his mission to set a convicted person free.

Briefly stated, in 1976, Vincent Landano was convicted and sentenced to life in prison for the murder of a police officer during an armed robbery. Ignoring his oath of office and even after at least four reversals by the U.S. Court of Appeals for the Third Circuit and the U.S. Supreme Court, Judge Sarokin ordered Landano's release in June of 1989.

We, in the F.O.P., find this action appalling and adamately request that Judge Sarokin's nomination be denied. Our legal counsel in Washington is currently researching other cases that Judge Sarokin was involved in and hope to be able to bring more information to you as it becomes available.

Respectfully,

ROBERT J. ROBBINS,
New Jersey National Trustee.

FRATERNAL ORDER OF POLICE,
NEWARK LODGE NO. 12,
Newark, NJ, September 22, 1994.

Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing to you at this time in order to express our strongest opposition to the appointment of Judge H. Lee Sarokin to the Federal Court of Appeals. As President of the Newark Fraternal Order of Police with an excess of 1,500 members, the appointment of this liberal jurist to such an important position would be an insult to every Newark Police Officer who ever wore a badge.

On August 13, 1976, Newark Police Officer John Snow was brutally slain by a coward named James Landano. Mr. Landano was subsequently convicted by a jury of his peers. Over the ensuing years, Mr. Landano began to use the court system in an attempt to gain his release from prison.

Judge Sarokin became involved in the case and began to interject his social opinions into the case rather than just interpret the law. Even though several of Judge Sarokin's attempts to free Mr. Landano were reversed, Judge Sarokin eventually had Mr. Landano freed from jail. After 18 years, Mr. Landano still stands indicted for the murder of our brother officer.

We ask you to stand with our 250,000 members of the Fraternal Order of Police and show that it is time to get tough with criminals and there is no room for a liberal jurist in a position such as this who frees "COPKILLERS". We ask you to send a message to "SET 'EM FREE LEE" and other jurists interested in pushing their own social beliefs upon the rest of society, that they are in the wrong profession.

Thank you for your anticipated help.

Fraternally,

JACK MCENTEE,
President.

FRATERNAL ORDER OF POLICE,
PHILADELPHIA LODGE NO. 5,
September 15, 1994.

Re Judge H. Lee Sarokin.

Senator TRENT LOTT,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: The Fraternal Order of Police, Philadelphia Lodge No. 5, is opposed to the appointment of Federal Judge H. Lee Sarokin, to the United States Court of Appeals for the Third Circuit.

Our reasons for opposition are illustrated by the manner in which Judge Sarokin handled three important cases which illustrate his unacceptable judicial philosophy.

1. U.S. v. James Landano, convicted of the murder of Newark N.J. Police Officer John Snow, on August 13, 1976, at the Hi-Way Check Cashing Service, near Kearny, N.J. The murder took place during the course of a robbery. Judge Sarokin unwisely freed Landano based on specious, unverified evidence from an unknown alleged witness.

2. Cipollone v. Liggett Group, Inc. In this case, Judge Sarokin was ousted from his position as Trial Judge, sitting in the U.S. District Court in New Jersey. He was disqualified because of remarks considered intemperate and biased. The disqualification judgement was issued by the U.S. Court of Appeals for the Third Circuit, in Sept. 1992.

3. Richard Kreimer v. Public Library of Morristown, N.J. In this case, Judge Sarokin was reversed after ruling against the Public Library, which had barred entry to Richard Kreimer, a homeless resident of the park. The Library had barred Kreimer's presence on account of his offensive smell and disruptive behavior, which interfered with the research and study activities of other Library patrons. In upholding vagrant Kreimer, Judge Sarokin revealed less concern for the peaceful patrons than for the disruptive vagrant.

These three cases illustrate an insensitivity to the public interest by Judge Sarokin, which bodes ill for the legitimate interest of those who nurture and protect our society. The philosophy which led to these flawed judgements, augurs poorly for the future.

Of particular concern to us as Police Officers, is that to free one convicted of a police officer's deliberate and cold-blooded murder, on the most trivial and deceptive grounds, which sported with the legal system, reveals a disdainful unconcern for officers whose lives are increasingly treated as expendable.

It is with this in mind that we urge you to reject H. Lee Sarokin's appointment to the federal bench. Thank you for your consideration.

Sincerely,

MICHAEL G. LUTZ,
President.

JULY 26, 1994.

Hon. JOSEPH R. BIDEN, JR.,
U.S. Senate, Washington, DC.

DEAR SENATOR BIDEN: The recent nomination of U.S. District Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit by President Clinton is the latest example of the liberalization of our criminal justice system that began 30 years ago.

Judge Sarokin has repeatedly made use of his judicial position to promote social and personal issues and causes. he has also made it plain that he will continue to do so if confirmed to the United States Court of Appeals.

Crime is the number one concern of the American public. People are demanding real criminal justice reform—life imprisonment for repeat offenders, greater involvement for victims in the judicial process, the building of more prisons to take violent criminals off our streets.

Confirming Judge Sarokin will place another roadblock in the path of justice. Judge Sarokin, in the West Virginia Law Review, stated that he was opposed to both pretrial detention of violent criminals and mandatory minimum sentencing guidelines. He also stated that admission of evidence guidelines should be stricter to protect criminals' rights.

Clearly, criminals will have a friend on the bench of the United States Court of Appeals if Judge Sarokin is confirmed.

The 40,000+ law enforcement officers, victims of crime and concerned citizens of the Law Enforcement Alliance of America ask you to not confirm Judge Sarokin to the United States Court of Appeals. Justice will not be served in America as long as the rights of criminals are placed above the rights of law-abiding citizens.

Sincerely,

JAMES J. FOTIS,
Executive Director.

Organized Victims of Violent Crime,
Madison, TN, August 2, 1994.
Senator Orrin Hatch,
Senate Judiciary Committee,
Washington, DC.

Dear Senator Hatch: In reference to President Bill Clinton's nomination of Judge H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. We strongly urge you to vote NO on his forthcoming Confirmation Hearing to this court. This same Court for which the President has nominated him to has found much fault with him and his lack of Judicial temperment and his abundance of Judicial activism. This same Court also was forced to remove him from a nine year old case on grounds of "usurpation of power".

The Organized Victims Of Violent Crime has no doubt the Senate Judiciary Committee is well aware of the extreme liberal behavior and decisions of which he is already responsible for while currently sitting as a U.S. District Judge in the state of New Jersey. Not only does Judge Sarokin practice extreme activist Judicial philosophy, he based his decisions on his own views and radical beliefs. We feel no Judge should practice his or her own Judicial bias or personal activism. We do not feel Judge Sarokin will be an asset to our Judicial System on such a Court as powerful as the U.S. Court of Appeals of the Third Circuit. He has demonstrated many times over that he lacks the essential qualities of Judicial fairness and temperment to be called "Your Honor". The American people should never have to accept or tolerate any Judge who ignores the tried and tested and true laws in favor of writing his own as he skims along.

The Organized Victims Of Violent Crime still remembers and still chaffs from the appointment of Martha Craig Daughtery to the 6th Circuit Court of Appeals. Her Judicial philosophy and temperment matches that of Judge Sarokin.

As we have watched carefully and sadly, we have seen more and more liberal socialist gaining a foothold in the highest offices in our Government. They now control our courts also.

We believe our Congress can rid us of this blight that has been forced upon us. First though, Congress must clean up it's own houses. What better place to start than the Senate Judiciary Committee who has the responsibility of saying who gets voted into whatever certain high positions of such great importance to our entire nation. America must once again become the great free Republic she once was that was the envy of the world. Until then, God help us all!!

Sincerely,
Edith S. Hammons,
President.

County of Cumberland,
Office of the Sheriff,
Bridgeton, NJ, July 21, 1994.
William Clinton,
President of the United States,
Washington, DC.

Dear President: As a Sheriff from New Jersey with over thirty-five years experience in the Law Enforcement, I find it incredible that you would consider nominating H. Lee Sarokin to the U.S. Court of Appeals.

I don't know who advised you on this but they were either asleep at the switch or they really don't give a damn about Law Enforcement. Judge Sarokin's crusade in behalf of cop-killer Landano is legendary in New Jersey.

As a Democrat, I'm astounded that you would make such a nomination. As a Law Enforcement Officer, I'm disappointed, disillusioned, and damned mad.

Please reconsider this nomination of this notorious cop-hating Judge.

Thanking you, I am
Very truly yours,
James A. Forcinito,
Sheriff.

Legal Defense Fund, Inc.,
Manalapan, NJ, August 4, 1994.

Dear Senators Biden, Hatch, and all Members of the Judiciary Committee: We write to urge you to reject the nomination of Judge H. Lee Sarokin to the U.S. Court of Appeals.

Our organization is composed of law enforcement officers, their families, and supporters. We find his handling of the case of cop killer Vincent Landano, and his obsession with putting this criminal back on the streets repugnant.

If Sarokin is confirmed, New Jersey's "thin blue line" and its supporters will not forget those responsible for the promotion of this radical judge.

Please reject this nomination.

Sincerely,
Greg Kaye.

League of American Families,
Ringwood, NJ, August 4, 1994.
Senators Hatch and Dole,
U.S. Senate, Washington, DC

Gentlemen: The Senate is considering the nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. I strongly urge you to oppose this nomination for two reasons. First, as evidenced by his removal from the the tobacco liability case by the U.S. Court of Appeals, he lacks the basic judicial temperament to be a judge. All Americans should demand judges who will be fair and impartial. Judge Sarokin has proven—even to the satisfaction of the liberal New York Times—that he lacks these qualities. His excuse at his hearing yesterday that, well, he is just "irrepressible" at times, is ridiculous.

Second, Judge Sarokin injects into his cases personal views that will have a devastating effect on American families. You have received information about his views on criminal justice issues. His opposition to pretrial detention of criminal defendants would, in particular, put families and children especially at risk.

In *E-Bru* v. *Graves*, 566 F.Supp. 1476, a case dealing with the town of Paterson's prohibition on an adult bookstore opening, Judge Sarokin delivered the kind of lecture that characterizes many of his decisions. He made the outrageous statement that "the harmful effect" of pornography "has never been clearly established."

Since you voted last year to condemn the Justice Department's attempt to weaken the child pornography laws, you must know that this statement is simply false. New books have been published just in the last few years cataloging the harms of pornography. In addition, however, why does Judge Sarokin find this question significant at all? The Supreme Court has ruled that a community's ability to control pornography does not depend on scientific specifics. This is another example of his imposing his own personal standards in place of what the law requires.

Judge Sarokin testified at his hearing on August 3 that he would object to an adult bookstore opening near his home. Apparently, he is perfectly willing to impose on others an evil that he does not have to endure himself. America has enough judges who are so ignorant of the real-world impact of their decisions. Please do not add Judge Sarokin to that list by elevating him to the U.S. Court of Appeals.

Very truly yours,
John T. Tomicki, J.D.,
League of American Families.

Mr. LOTT. Mr. President, those letters opposing Judge Sarokin come from the National Organization of Fraternal Order for Police, the Fraternal Order of Police in Newark, NJ, the Fraternal Order of Police in Philadelphia, the Law Enforcement Alliance of America, the Organized Victims of Violent Crime, the sheriffs in New Jersey, the Joe Occhipinti Legal Defense Fund, and the League of American Families.

And I would like to read from one of the letters just a passage that really bothered me. It is from the Fraternal Order of Police, Newark, Lodge Number 12.

> Dear Senator: I am writing at this time in order to express our strongest opposition to the appointment of Judge H. Lee Sarokin to the court of appeals. As President of the Newark Fraternal Order of Police with excess of 1,500 members, the appointment of this liberal jurist to such an important position would be an insult to every Newark police officer who ever wore a badge.

That is pretty strong, and that is from New Jersey. That is from the area where this judge has been ruling.

There are comments like this throughout these letters and they are not frivolous, light letters. They refer to specific cases and specific rulings by this particular judge.

I would like to note, also, a piece that has been written by the Coalition of America that goes through a list of concerns about Judge Sarokin and including several of the cases that have already been referred to about how he opposes mandatory uniform sentencing and his involvement in the cop killer case and that he has ignored law to create loopholes for criminal defendants.

The evidence against Judge Sarokin is clear. He should not be given a promotion. He really should be under questioning about why he should be allowed to stay where he is with all this conduct, like being taken off a case by the appellate court—and now we are going to promote him to serve in that same appellate court. I think he has done enough damage already. Putting on a robe of a judge does not make anybody above the law or precedents.

Our legal system is meant to find justice, not to undertake crusades. Our judges should follow the law and punish wrongdoing, not throw away laws when it is convenient, or free criminals because of the judge's own views or the politics of the case.

Judge Sarokin has thrown out law and precedent, he has undertaken crusades, and he has not been impartial. Can we trust him now with a higher, more important position?

How many times will it take for the administration to realize that it is undermining its own program of making this country safer for all Americans when they come up with judges like this?

Many Members have said they want to be tough on crime. Well, a vote for Judge Sarokin is not a vote for tougher criminal penalties, or respect for law and standards. The reverse is true.

I urge the opposition of all my colleagues to this nomination. If you really do want strong law and order, if you really do want to do something about fighting crime in America, then you should vote against this nominee. He does not deserve to be promoted.

I yield the floor, Mr. President.

Mr. LEAHY. Mr. President, I join in supporting Judge H. Lee Sarokin to be a judge on the U.S. Court of Appeals for the Third Circuit. Judge Sarokin has served with distinction on the U.S. District Court for the District of New Jersey since 1979. Before that he worked in private practice for 24 years before that appointment. He has taught at Rutgers University. He has received high marks from the American Bar Association and the New Jersey Bar Association.

During his service on the district court, Judge Sarokin's work and reputation have earned him the distinction of being named chair of the Third Circuit Judicial Conference twice. He was also Chair of the 1993 Nation Conference of Federal Judges, and has been named to chair this conference again in 1997. He was also reappointed to a second term as chair of the Federal Judges Association.

He has received support from many people, including former Chief Judges of the third circuit Ruggero Aldisert, Leon Higginbotham, and John Gibbons. Former Nixon appointees to the third circuit, Judge Joseph Weis and Judge Leonard Garth both support and speak very highly of him. I think we can all agree that this is indeed a distinguished group of supporters. And if that were not enough, four former U.S. attorneys, a former New Jersey Attorney General, and the former chairman of the New Jersey State Crime Commission strongly endorse his nomination.

He has also received strong support from the New Jersey State Policemen's Benevolence Association, the Bergen County Police Conference, the State Trooper's Noncommissioned Officers Association, the Police Foundation, and the State Troopers Fraternal Association. He has the support of numerous prominent law professors.

Judge Sarokin's legal ability is highly respected and his integrity is beyond question. Judge Sarokin received his undergraduate education from Dartmouth and his law degree from Harvard. He taught law for 5 years at Rutgers University, and has lectured at numerous other prominent law schools, including Harvard and Yale. He has done a wide variety of pro bono work, including representing indigent persons at the request of judges.

Lee Sarokin is a judge of proven competence, temperament, and fairness. He is a humble person. He has the exceptional experience of 15 years on the district court. I believe Judge Sarokin is an excellent choice for the Third Circuit Court of Appeals.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I am not going to speak on this subject, but rather seek consent that I be permitted to speak for 5 minutes, as if in morning business.

The PRESIDING OFFICER. Hearing no objection, the Senator from New Mexico is recognized for up to 5 minutes, as if in morning business.

Mr. DOMENICI. Thank you Mr. President. In particular I want to thank Senator BROWN, who is scheduled to go next on the subject before the Senate, for yielding 5 minutes of his time. I know it is an inconvenience, but I thought I would make a report to the Senate about a very important event that occurred today.

NATIONAL CHARACTER COUNTS WEEK

Mr. DOMENICI. First of all, let me remind the Senate that 6 months ago, a very distinguished group of U.S. Senators from both sides of the aisle—Senators NUNN, DODD, COCHRAN, DANFORTH, BENNETT, LIEBERMAN, and MIKULSKI—joined me in introducing a resolution calling upon the President to issue a proclamation declaring the week of October 16 through the 22d as National Character Counts Week. That resolution was soon joined by many other Senators from both sides of the aisle.

It was then introduced by House Members. The group in the House that put it together and worked very hard to get it passed were Representatives TONY HALL, FRANK WOLF, EMERSON from Missouri, HAMILTON, HUGHES, HENRY HYDE, MOAKLEY of Massachusetts, and SMITH of Maine.

Now all of these are bipartisan, about equal from both sides. And sooner rather than later, the resolution passed both Houses in identical language and was signed.

We introduced this very simple resolution for two reasons. First, we believed that it is time to stand up with thousands of Americans who are supporting the issue of character development; and, second we believe that there were six core elements of character with which we could identify and find no disagreement. We actually took these from a group in America, bipartisan in nature, cochaired in terms of its spokesmen by former Representative Barbara Jordan of Texas and movie actor Tom Selleck, as the cospokesmen for the Character Counts Coalition.

They developed, over a long period of debate, six core elements of character. They are very simple but profound. They are trustworthiness, respect, responsibility, fairness, caring, and citizenship.

The U.S. Senate, urged by the eight Senators that I have just referred to, now believe that these six core elements are fundamental precepts that transcend religious, socioeconomic, and cultural differences.

Today, we had a celebration in anticipation of this October 16 through the 22d National Character Counts Week. A number of organizations, many of them from around the country, came and sent representatives so as to show the grass roots support across America for this endeavor.

I ask unanimous consent that the formal list of participants be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

PARTICIPANTS

Don Whatley, Albuquerque Teachers Federation.

Sal Panzetti, American Youth Soccer Organization.

Rev. Monsignor Joseph W. Ariano, Boys Town.

City of Albuquerque, Mary Jane Aguilar.

Michael Casserly, Council of Great City Schools.

Frances Hesselbein, Tom Selleck and Michael Josephson from the Character Counts! Coalition.

Keith Sovereign, Joseph P. Kennedy, Jr. Foundation, Community of Caring.

Sylvia Peters, Crossroads.

Vic Hackley, Chancellor, Fayetteville University.

Alma Hobbes, Deputy Director, Dept. of Agriculture for the 4-H.

William Rable, Goodwill Industries.

Steve Keener, Little League Baseball.

Diane Berreth, Association for Supervision and Curriculum Development.

John Martin, Character Education Partnership.

Dr. Fred Close, Ethics Resource Center.

Rocco Marano, National Ass'n of Student Councils and National Ass'n of Secondary School Principals.

Fred Brigham, Nat'l Catholic Educational Ass'n.

Raul Yzaguirre, Nat'l Council of La Raza.

Father Leonard Wenke, Nat'l Federations for Catholic Youth Ministries.

Richard Schubert, Points of Light Foundation.

Nancy Van Gulick, Youth at Risk, Red Cross of America.

Linda Blick, The Chesapeake Institute.

Nancy Kennedy, United Way of America.

C.J. VanPelt, YMCA of USA.

Terry Bomar, Young Adventurers, Inc.

Ray Nickoliason and Arlene Bomar, Young Adventurers.

Ellen Mugmon, Maryland Governors Council on Child Abuse & Neglect.

Mary Johnston, Sponsor-A-Child.

Mr. DOMENICI. Mr. President, this morning, Senators NUNN, DODD, COCHRAN, BENNETT, LIEBERMAN and MIKULSKI from the U.S. Senate—original cosponsors of this resolution—joined me with our friends from the House, and we addressed a number of cameras and hundreds of people, a number of newspaper people, and many radio people. We urged that the United States take seriously this National Character Counts Week. Many superb words of admonition, concern and praise were stated this morning by Members of both Houses and by others who joined with us in stating to the people of our country that we all want to join with the grass roots efforts across our land, which is going to try to put these six core elements of character back into our daily lives.

This group of Senators and Representatives, joined by leaders of different organizations—including the leadership of the Character Counts Coalition—do not want to tell anyone what to do but, rather, we want to join with what apparently is a national effort, growing by leaps and bounds, indicating anxiety and concern, feeling confident that what we need are the imposition of these six core elements of character into our lifestyles, into our schools, into our businesses, into all our institutions. Many cities, many counties, many States, many public officials and many grass roots organizations today expressed their willingness to make these six character pillars of character, these six elements of character, part of our daily lives, indicating that that week would be used to stimulate the original enthusiasm to get this effort going. We were also privileged to hear the positive and inspiring remarks about the importance of these efforts from a number of distinguished friends and guests: Tom Selleck, Frances Hesselbein, and Michael Josephson of the Character Counts! Coalition; Keith Sovereign of the Joseph P. Kennedy Foundation; Rocco Marano of the National Association of Student Councils; John Martin of the Character Education Partnership; Diane Berreth of the Association for Supervision and Curriculum Development; Fred Close of the Ethics Resource Center; Alma Hobbes, Deputy Director, Department of Agriculture, 4-H; Fred Brigham of the National Catholic Educational Association; and Vic Hackley, Chancellor of Fayetteville University.

We joined together, not because we are interested in this week, October 16 through the 22nd, but because we are interested in this effort of reestablishing the basic character, the basic virtue of America, back into our society through these six pillars of character. We did this because we want this to be an ongoing effort by our parents, by those who run playgrounds, by those who run youth organizations, by those who run schools and businesses and the like.

It was a very big success. But it will not be successful unless more and more Americans decide that they want to be part of this growing grass roots phenomenon of Americans to put character back into our daily lives and lifestyles, and pushing hard for such basic principles and concepts of trustworthiness, respect, responsibility, fairness, caring and citizenship, becoming part of our daily lives.

I thank the Senate for yielding me 5 minutes out of order to discuss our original success one step at a time. Today was a second success since passing the resolution in both Houses and getting it signed by the President. The week of October 16 will be the next big success. And after that, if it catches on and becomes part of our daily lives, indeed we might have started something that will cause this country of ours to be less anxious about itself, less concerned, less worried, because indeed we will get to the root of our problem which seems to have to do with the relationship of individuals to individuals, of individuals to society, and whether they can make their hearts and their heads come together and work on very simple character qualities that must be part of a civilized society.

To paraphrase the great Greek philosophers: A country without character is a country that is lost, and a country with character is a country where people have character.

Those of us joining in this effort believe that wholeheartedly. We think it is time everyone make an effort to put that back in our daily lives.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

I want to be certain that the distinguished Senator from New Jersey does not wish to speak now, because he has been on the floor, too.

I thank the Senator.

I ask unanimous consent that it be in order for me at this point to make a relatively brief statement about another matter which is of some consequence.

The PRESIDING OFFICER. Is there objection? There being none, the Senator is recognized to speak as if in morning business.

Mr. HELMS. And then, Madam President, of course, I will proceed to the Sarokin nomination.

USDA AGREES TO REINSTATE DR. KARL MERTZ

Mr. HELMS. Madam President, earlier today, I lifted the holds that I felt obligated several months ago to place on all agriculture legislation and nominations. I lifted the holds when the able Secretary of Agriculture, Mr. Espy, and I agreed last evening on a mechanism by which a gentleman named Dr. Karl Mertz will be reinstated to his previous job, a job from which he should not have been dislodged in the first place.

Secretary Espy has assured me in a letter that this will be done without further delay.

Dr. Mertz, by way of explanation, is the highly respected USDA employee who earlier this year was removed from his job simply because he questioned a proposal by the Department of Agriculture to adopt a number of elements of the homosexual agenda. That is putting it mildly.

To be blunt about it, the Department of Agriculture is being overrun by homosexuals, and they have been running the store to a great extent. I took offense at that, particularly when this good man, Dr. Mertz, was removed from his job for having made a sensible statement.

Dr. Mertz was in Biloxi, MS, on personal leave when he was interviewed by a television reporter who asked him about the homosexual practices and proposals in the USDA. Dr. Mertz made the statement that we ought to be heading "toward Camelot, not Sodom and Gomorrah."

By nightfall, this good man was being removed from his job and transferred to another job for which he was not qualified and had no experience, and the USDA stonewalled when I protested. That is when I put the holds on everything on the calendar involving the U.S. Department of Agriculture. I am not going to stand idly by when a good and decent man is persecuted by homosexuals in the USDA.

I finally won my point last night. Secretary Espy assured me in writing that he would reinstate Dr. Mertz, and he gave his commitment that Dr. Mertz would not again be removed without first being provided the opportunity of a public hearing, a public hearing that will occur here in Washington, DC, if that is where Dr. Mertz wants it to be conducted.

Let me read just a portion of Secretary Espy's letter to me, dated October 3. It will be only a portion but I ask unanimous consent to have printed in the RECORD the entire letter at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF AGRICULTURE,
Washington, DC, October 3, 1994.

Hon. JESSE HELMS,
U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: Let me take this opportunity to inform you of the status of Dr. Karl Mertz of our Agricultural Research Service. As you know, Dr. Mertz was reassigned from his position as an Equal Employment Opportunity officer because of actions he took which strongly indicate that Dr. Mertz disagrees with, and cannot faithfully implement, our current nondiscrimination policy.

Since that time, Congress has adopted legislation which requires the Department of Agriculture to provide the opportunity for a public hearing to anyone in Dr. Mertz's situation prior to removing the employee from his or her current position. This legislation requires the Department to return to his or her former position any employee who has been removed for publicly criticizing department policies since February 15, 1994. This legislation applies to Dr. Mertz.

In keeping with this Congressional mandate, the Department will return Dr. Mertz to his former Equal Employment Opportunity position without further delay pending an opportunity for a public hearing. As you know, Dr. Mertz has filed a complaint with the Federal Office of Special Counsel. If the Special Counsel determines that Dr. Mertz's constitutional or legal rights were violated Dr. Mertz will, if he so chooses, retain his job as an Equal Employment Opportunity manager. If the Special Counsel does not determine that Dr. Mertz's constitutional or legal rights were violated, before the Administration transfers Dr. Mertz to a position he finds unacceptable, the Department will give Dr. Mertz the opportunity for a public hearing pursuant to the Congressional legislation at a mutually acceptable location.

Sincerely,

MIKE ESPY.

Mr. HELMS. Secretary Espy says: "In keeping with this congressional mandate"—and he is speaking of an amendment that I have put on two pieces of legislation requiring the USDA to do precisely what Secretary Espy agreed to do in writing last night. So:

> In keeping with this Congressional mandate, the Department will return Dr. Mertz to his former Equal Employment Opportunity position without further delay pending an opportunity for a public hearing. As you know, Dr. Mertz has filed a complaint with the Federal Office of Special Counsel. If the Special Counsel determines that Dr. Mertz's constitutional or legal rights were violated Dr. Mertz will, if he so chooses, retain his job as an Equal Opportunity Employment manager. If the Special Counsel does not determine that Dr. Mertz's constitutional or legal rights were violated, before the Administration transfers Dr. Mertz to a position he finds unacceptable, the Department will give Dr. Mertz the opportunity for a public hearing, pursuant to the Congressional legislation at a mutually acceptable location.

That letter is perfectly satisfactory to me. I believe my previous unanimous-consent request covers the printing of the entire letter.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I thank the Chair.

Now, Madam President, Senators may also be interested to note that, included in the crop insurance bill, which is likely to pass the Senate today and be sent to President Clinton for his signature, is the amendment that I offered which, in effect, codifies this agreement between Secretary Espy and this Senator. It reads:

> Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

Madam President, I wrote that amendment consciously to give Secretary Espy no alternative, unless he was willing to violate the law at the demand of the homosexuals in his Department.

So, Mr. President, 6 months after Dr. Mertz was summarily removed from his job, it appears that this issue has been resolved, and Dr. Mertz' amendment rights upheld.

Let me remind Senators what happened to Dr. Karl Mertz, a former equal employment opportunity manager for the 10 State southeastern region of the Agricultural Research Service in Athens, GA.

Despite his spotless record, Dr. Mertz was—on March 28, 1994—handed a letter by his supervisor telling him he had been removed from the EEO staff. As Dr. Mertz put it, he was summarily "stripped of a title, tripped of support staff, stripped of working in the field of [his] expertise," and then transferred immediately to a busy work position newly created job dealing with workforce forecasting—whatever that is—which was a purgatory created for him by his superiors.

What was Dr. Mertz's heinous offense that cost him his position in USDA? On his own time, and after making it clear his views did not reflect those of the Department, he dared to criticize the Department's transparent efforts to promote the homosexual agenda in the Federal workplace.

Shortly after a March 4, 1994, USDA conference, and while on his personal time, WLOX-TV in Biloxi, MS, interviewed Dr. Mertz about the Department's proposed homosexual initiatives. Dr. Mertz stated that on a personal level, he took exception with the USDA's proposals that partners of homosexual employees be offered the same taxpayer funded benefits as the legally married spouses of heterorsexual workers, saying:

> USDA has had a reputation, rightly or wrongly, of having a plantation mentality, and no one would deny we need to get away from that kind of situation. But we need to be moving toward Camelot, not toward Sodom and Gomorrah, and I'm afraid that thats' where our leadership is trying to take us.

This, I say again Mr. President, was after Dr. Mertz made clear that he was voicing his own views—not the Department's. By that evening, reports the Wall Street Journal, the homosexual lobby had contacted the "higher-ups" at the Department demanding they remove Dr. Mertz.

So, for exercising his rights under the first amendment of the Constitution, Dr. Mertz lost his job. Sure, he retained his grade and salary, but he was stripped of his field of work, his responsibilities, and everything that made his work meaningful to him.

Mr. President, I do not recall seeing where it says that one must check his or her constitutional rights at the door when one joins the staff of the Department of Agriculture. But that is evidently the case now if you want to exercise those rights in opposing the agenda of the powerful homosexual lobby.

After reading of Dr. Mertz's case in the Wall Street Journal and the Washington Times, I called Secretary Espy, and I wrote him a letter, dated June 27, 1994, requesting that he put Dr. Mertz back on his job. Once Secretary Espy was willing to rectify this situation by restoring Dr. Mertz to his rightful position, I would then remove my holds from USDA nominations and their projects before the Senate.

Mr. President, I ask unanimous consent that the articles in the Wall Street Journal and the Washington Times as well as my June 27, 1994, letter to Secretary Espy be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. HELMS. It was ironic that neither I, nor my staff, heard from Secretary Espy until the day I was on the floor of the U.S. Senate offering the first of two amendments to the fiscal year 1995 agriculture appropriations bill. In fact, I heard from Secretary Espy twice on July 19. Apparently he thought the situation grave enough at that time to pen not just one, but two letters explaining his decision to push Dr. Mertz around at the behest of the homosexual lobby.

The next day, I offered, and the Senate passed, my second amendment to the fiscal year 1995 appropriations bill protecting the free speech rights of employees. The amendment, passed by a vote of 59–41, prohibits USDA from removing any employee from his or her position without public hearings on the basis of their remarks on their own time opposing the Department's policies on homosexuals. The amendment would have restored an individual—such as Dr. Mertz—to his or her position if such action had occurred prior to the law's enactment.

During the debate on my amendment, I addressed the discrepancies in Secretary Espy's letter regarding the direction in which the Department of Agriculture is heading regarding special rights for homosexuals and lesbians. Of course, the U.S. Senate concurred with me the day before when they passed my first amendment to the fiscal year 1995 appropriations bill—by a vote of 92–8—that would have prohibited USDA from using Federal funds to conduct seminars or other activities to encourage or to promote homosexuality as a morally acceptable lifestyle.

Senator BUMPERS promptly offered an amendment which gutted the amendment to restore Dr. Mertz to his position. The Senate then passed my original amendment by voice vote as part of the Federal Crop Insurance Reform Act of 1994. Fortunately for the employees at the USDA, this provision will remain in the compromise struck between the House and Senate on crop insurance legislation—H.R. 4217—and will be signed into law once this bill passes the Senate.

Mr. President, I ask unanimous consent that my amendment which will be included in H.R. 4217 be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 2.]

Mr. HELMS. Mr. President, since I decided to place a hold on all agricultural nominees until Dr. Mertz was returned to his previous position, I heard from folks inside and outside the Beltway. I had nothing personal against any of the individuals on the calendar whose nominations were reported by the Agriculture Committee. In fact, I daresay the 13 other Senators who signed a letter to Senator DOLE objecting to any unanimous consent agreements on the various agriculture nominees had anything personal against them as well.

But these 13 other Senators realize, as I did, that the Federal Government, and in particular the USDA, wronged Dr. Mertz. The American people realized Dr. Mertz had been wronged as well. Scores of letters have poured into my office from folks around the country applauding Dr. Mertz's courage to speak out against moral decay in the Federal Government as it attempts to indoctrinate its employees.

However, in his three letters to this Senator, not once did Secretary Espy admit what the Senate felt to be the truth when it voted on July 20, 1994—that Dr. Karl Mertz had been punished because he dared to speak his conscience when it comes to a matter of moral and spiritual significance.

Perhaps Secretary Espy or someone at the Department read the Washington Times editorial on July 23, 1994, titled "HELMS vs Espy, Round One" which stated "Whether Mike Espy will see the error of his ways remains to be seen." The Wall Street Journal, in an editorial on August 4, 1994, accurately pointed out that "The ball is now in Agriculture Secretary Mike Espy's court."

Mr. President, I ask unanimous consent that the editorials from the Wall Street Journal and the Washington Times be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 3.]

EXHIBIT 1

[From the Wall Street Journal]

A DIFFERENT KIND OF WHISTLE BLOWER

(By Max Boot)

Karl Mertz is a whistle-blower. But unlike most members of that species, he's not exposing sexual harassment on the job or military contractors who overbill the government. He's blowing the whistle on a less publicized kind of fraud: the promise that affirmative action policies result in a more "just" society.

Mr. Mertz has seen how such policies operate from the inside. Since 1987, he's been a senior Equal Employment Opportunity manager at the Agriculture Department in Atlanta, a commissar in the battle against racism, sexism and other "isms." Before that, he performed similar jobs for the Labor Department and the Army. It's a calling for which he has impeccable credentials: After getting a Vanderbilt doctorate, he went to work as a Methodist pastor in Mississippi and promptly got in trouble with the locals for preaching racial tolerance.

Like most Americans, Mr. Mertz is dedicated to "equal opportunity" for all, no matter what race, creed or sex. But he quickly found that those rules don't apply to white males like himself. When he's applied for numerous EEO jobs at other federal agencies since 1984, he's been turned down cold. At the Internal Revenue Service, he got top scores on his exam but didn't even land a job interview; all eight finalists were black females. Mr. Mertz tried pursuing a job-discrimination claim against the government, but when that proved fruitless he decided to express his frustration on CNN.

On the program, aired Feb. 20, Mr. Mertz declared: "People in the '60s set up a big policy machine and said we're going to try and open up doors for people who have been wrongly excluded from society, and then they put the machine in gear, and kind of turned their backs on it. Now it's rumbling across the landscape doing pretty much what it wants."

Mr. Mertz tells some hair-raising stories about what the machine is doing. Agriculture Department managers hire "twofers" (say, a black female) or "threefers" (say a disabled Hispanic female) in order to get a bonus for meeting affirmative action quotas. Postdoctoral fellowships are funded for one year if the recipient is a white male, two years if he (or, more likely, she) is a minority. And—get this—a new training program at the department, designed to build self-esteem, is open only to senior African-American male managers. "These people are already in senior positions!" Mr. Mertz exclaims. "Why spend taxpayers' money to boost their self-esteem?"

Mr. Mertz has had to live with such programs for a while. What he wasn't prepared for was Agriculture Secretary Mike Espy's gay-rights agenda, part of the Clintonites' kowtowing to a key group.

At a Washington meeting of the department's affirmative-action administrators on Feb. 25, Mr. Mertz listened to a report by the head of the department's gay employees group. An outline distributed by the gay activist during her presentation states: "Until our relationships are recognized and respected and benefits are available to our partners and families, we are not full members of Team USDA." Top executives pledged to hold "sensitivity training" to spread this message among the ranks, and to punish those who don't toe the line.

In other words, homosexual employees aren't just asking to be left alone—Mr. Mertz is in favor of that. They want other employees to actively approve of their lifestyle. And Mr. Espy is backing the gay-rights agenda with taxpayer-funded indoctrination courses for the department's workers. "I was pushed as far as I could go," Mr. Mertz says.

A week later, on March 4, Mr. Mertz attended a departmental conference in Biloxi, Miss. Afterward, a local TV reporter asked him to comment on the gay-rights policy. After making clear that he was voicing his own views, not the department's, the Christian expressed his disapproval of homosexuality and said that the Agriculture Department should be headed "toward Camelot, not Sodom and Gomorrah."

When he got home to Atlanta later that night, Mr. Mertz received a phone call from a Washington-based Agriculture Department bureaucrat who said he had heard about the TV interview from gay activists. Then silence—until March 28, when Mr. Mertz was summoned into the office of Mary Carter, South Atlantic area director of the department's Agriculture Research Service.

Without waiting to hear his side of the story, Ms. Carter handed him a momorandum announcing that his TV interview "reflect[s] a disagreement with Departmental Civil Rights Policy, which could seriously undermine your ability to perform your responsibilities." Then without hint of due process, he was transferred, effective immediately, to a newly created job dealing with something called "work force forecasting."

Ms. Carter insists that the reassignment "isn't punishment," but try telling that to Mr. Mertz. "I've been stripped of a title, stripped of support staff, stripped of working in the field of my expertise," he complains.

The truly noxious part of this is that Mr. Mertz is being punished for exercising his First Amendment rights, not—as the memo claims—failing to do his job. In a telephone interview, Ms. Carter couldn't name a single instance when Mr. Mertz had failed to enforce department policy for homosexuals or anyone else. In fact, Mr. Mertz's evaluation forms give him high marks in every category, including "supports EEO and Civil Rights Programs."

Given what's happened, it's a bitter irony that Mr. Espy's statement on civil rights policy says: "I am especially concerned about allegations of a 'culture of reprisal' at USDA." The secretary was writing about reprisals for filing affirmative action complaints, but that concern is equally pertinent here.

Mr. Mertz is appealing for help from those who traditionally champion the cause of whistle-blowers, ranging from the federal Office of Special Counsel to "60 Minutes" to various government-watchdog groups. It will be interesting—and highly telling—to see what support he gets.

[From the Washington Times, June 13, 1994]

MAN'S OPINIONS LEAD TO TRANSFER—HE SPOKE AGAINST GAY RIGHTS AT AGRICULTURE DEPARTMENT

(By Ruth Larson)

Karl Mertz has spent his professional life helping guarantee equal employment opportunities for federal employees, but voicing his personal opinions on homosexuality cost him his job at the Department of Agriculture.

For seven years Mr. Mertz, 49, was the equal employment opportunity manager for the 10-state Southeastern region of the Agricultural Research Service, based in Athens, Ga. On March 28 he was removed from his

GM-13 post for remarks made during a March 4 TV interview.

In the interview, Mr. Mertz took exception with USDA policies on homosexuals. In particular, he opposed departmental proposals that partners of homosexual workers be offered the same benefits as spouses of heterosexual workers.

"USDA has had a reputation, rightly or wrongly, of having a plantation mentality, and no one would deny we need to get away from that kind of situation," Mr. Mertz said. "But we need to be moving toward Camelot, not toward Sodom and Gomorrah, and I'm afraid that that's where our leadership is trying to take us."

As an EEO manager, Mr. Mertz enforced the Civil Rights Act, which forbids discrimination based on race, sex, age or religious beliefs.

Mr. Mertz was on annual leave at the time of the interview, and the segment, which aired that evening on WLOX-TV in Biloxi, Miss., made clear that his comments reflected his personal views.

In a telephone interview, Mr. Mertz said his reassignment to work force forecasting—a job in which he has "no experience, no training and no interest"—was in retaliation for his views.

"I believe that my freedoms of speech and religion have been trampled," Mr. Mertz said in a letter to The Washington Times. "Furthermore, I sincerely believe that USDA and the Agricultural Research Service have created, and are expanding upon, a work environment hostile to heterosexual employees."

Mr. Mertz has filed a complaint with the Office of Special Counsel, arguing that he was removed without due process and that he suffered reprisals for exercising his First Amendment right to free speech.

Government employees who disclose fraud or abuse are protected under whistleblower laws. But their rights under the First Amendment must relate to matters of public concern, and their interests are weighed against the government's, an administration official said.

USDA spokesman Tom Amontree declined to comment on the case because it is a personnel issue.

But at a department diversity conference in April, Agriculture Secretary Mike Espy urged participants to cultivate increased sensitivity when managing "people of different ethnic and religious groups, people with different lifestyles, people of the opposite sex."

Homosexual advocacy groups decried Mr. Mertz's view.

"It undermines the whole concept of the discrimination-free workplace, and it's particularly inappropriate coming from an EEO manager," said Gregory King, spokesman for the Human Rights Campaign Fund.

Mr. Mertz said that when he arrived home in Atlanta the evening the interview was broadcast, a senior USDA official called to tell him Mr. Espy had received complaints from homosexual groups.

On March 28, Mr. Mertz was handed a letter telling him he was being removed from the EEO staff. The letter said his statements in the interview "reflect a disagreement with departmental civil rights policy" that could hamper his ability to handle EEO duties.

"As a private citizen you have every right to express your opinions freely. * * * However, you must recognize the fact that in publicly disagreeing with an admittedly controversial position of the departmental leadership, you have made it difficult for employees and managers of the agency to accept that you actively support these same policies in your official assignment," the letter said.

Mr. Mertz was allowed to retain his grade and salary in the move.

"Getting that letter was a shock," Mr. Mertz said. "No due process—I'd broken no laws. In fact, the things we're being asked to do, accepting the homosexual lifestyle, are illegal. They're not part of the civil rights law, they're not the law of the land, and they are a personal affront to all I believe."

U.S. SENATE,
Washington, DC, June 27, 1994.

Hon. MIKE ESPY,
Secretary, Department of Agriculture,
Washington, DC.

DEAR MIKE: You're too nice a guy and have far too much going for you to be participant in letting Dr. Karl Mertz's career go down the drain. He's a good guy and has served USDA well. However, I've got no ax to grind except that Mertz—and you and I, and everybody else—deserve better than to risk reprisal for taking a stand on moral and spiritual matters.

I appreciate your calling me back. I merely wanted you to know of my respect for you—and of my determination that neither USDA nor any other federal entity is going to get by with pushing faithful people like Mertz around. I don't know the man but I have looked into this episode—and Mertz does not deserve the treatment he's getting.

Put Mertz back on his job and I'll remove my holds from USDA nominations and projects.

Kindest personal regards.

Sincerely,

JESSE HELMS.

EXHIBIT 2

SEC. 302. FIRST AMENDMENT RIGHTS OF EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

EXHIBIT 3

[From the Wall Street Journal, Aug. 4, 1994]

HELP FROM HELMS

Senator Jesse Helms is often a figure of fun for the nattering classes but unlike many of his colleagues, he doesn't shy away from unpopular causes. Karl Mertz can be grateful for that. As reported on this page by Max Boot ("A Different Kind of Whistle-Blower," April 27), Mr. Mertz is the Agriculture, Department equal employment opportunity officer removed from his post for questioning a new gay-rights policy. In an effort to get redress for Mr. Mertz, Senator Helms has put a hold on several administration nominees and proposed two amendments, passed by the Senate, to the agriculture appropriations bill. The most important of the Senate's amendments retroactively forbids the Agriculture Department from removing an employee from his job without hearings for making remarks about gay policies outside of working hours. The ball is now in Agriculture Secretary Mike Espy's court.

[From the Washington Times, July 23, 1994]

HELMS VS. ESPY, ROUND ONE, ETC.

First amendment alert: Sen. Jesse Helms is in the middle of a bravura performance in defense of mistreated Agriculture Department employee Karl Mertz, pulling out all the legislative and rhetorical stops in his quest for restitution.

For seven years Mr. Mertz, 49, had been the equal employment opportunity manager for the 10-state Southeastern region of the Agricultural Research Service, based in Athens, Ga. But his career in that office came to a screeching halt when, on March 4, while on vacation, he voiced his objections to new USDA policies on homosexuals in a TV interview, particularly the department's move to allow homosexual partners of Agriculture employees to be covered by agency benefits. Reaction from the thought police was virtually instantaneous: When he arrived home in Atlanta the evening the interview was broadcast, a senior USDA official called to tell him Mr. Espy had received complaints from homosexual groups.

And then, on March 28, Mr. Mertz was handed a letter telling him he was being removed from the EEO staff. The letter said his statements in the interview "reflect a disagreement with departmental civil rights policy" that could hamper his ability to handle EEO duties. "As a private citizen you have every right to express your opinions freely. * * * However, you must recognize the fact that in publicly disagreeing with an admittedly controversial position of the departmental leadership, you have made it difficult for employees and managers of the agency to accept that you actively support these same policies in your official assignment," the letter said.

Mr. Helms just couldn't agree that a government employee should be penalized for voicing his personal opinions. Last week, he put a "hold" on confirmation of four administration nominees in an effort to force Agriculture Secretary Mike Espy to reinstate Karl Mertz to his job (he was reassigned, to a job for which he has no training, no experience and no interest). And this week, he proposed an amendment—passed by the Senate 59-41—prohibiting removal, without public hearings, of employees who make remarks on personal time opposing the USDA's homosexual policies. Another Helms amendment, prohibiting "the use of taxpayer funds to encourage employees to accept homosexuality as a legitimate or normal lifestyle," passed 92-8.

Whether Mike Espy will see the error of his ways remains to be seen. But here's to Sen. Helms, a man who could never be accused of pulling his punches where principle is concerned.

Mr. HELMS. Mr. President, whatever the reason, I am pleased that Secretary Espy agreed to return this faithful employee to his position at the Department of Agriculture. I am confident that the homosexual lobby is displeased and I am sure their disapproval of Secretary Espy's actions will be heard loud and clear.

But regardless of who stands in the way, the defense of our citizens' constitutional right to express freely their opinions when it comes to moral and spiritual convictions is a defense well worth the fight. When the Federal Government decides that this right is no longer valid, the miracle of America will be in grave jeopardy.

THE CRIME BILL

Mr. HELMS. Madam President, having been a Member of the Senate for 22 years, it still seems remarkable to contemplate that, for no more than 1 or 2 years out of those 22, there has been, every year, a so-called crime bill and, without exception the American people have been exhorted, every year, to believe that this crime bill would take care of the crime problem in America once and for all.

I remember hearing it day after day, year after year: "This is it. Just spend these billions of dollars or hundreds of millions of dollars," and so forth. And what did it get us? Nothing.

The proponents of each of these crime bills have boasted that this one, their crime bill, do you not see, would be the sure-fire miracle cure. Every time there have been assurances that crime in the streets would be stopped and drug trafficking and murders and rapes and other acts of violence would be things of the past.

These statements were made by Senators in good faith who I am sure believed what they were saying. Slowly but surely, it has finally become obvious that America's crime problem will be solved only when one or two other problems have been solved. As a nation, the American people must—and I underline "must"—restore some fundamental principles upon which this country was founded in the first place. If we do not do that, nothing is going to work.

For weeks this year, there has been a steady flow of the same old political rhetoric about the 1994 crime bill with numerous charges and countercharges. Last month at a church outside of Washington, President Clinton said that the 1994 crime bill gives America a chance, a chance to be tough and smart. I do know what he meant by that statement, but that is what he said. It was certainly an interesting semantical performance. Then, with a great oratorical flourish, the President launched into bewildering comments. He said:

> My fellow Americans, the problem of violence is an American problem.

Is that news?

Then he said:

> It has no partisan nor philosophical element. Therefore, I urge you to find ways as quickly as possible to set aside partisan differences and pass a strong, smart, tough crime bill.

When I heard him say that on the news—there was a taped portion of the President's speech being replayed in a newscast—it occurred to me that so many Americans have already compared this rhetoric with the President's actions on crime prevention.

Consider, for example, his nominee for the Eleventh Circuit Court of Appeals, Rosemary Barkett, confirmed by the Senate 61 to 37 on April 14 of this year. Sixty-one Senators out of 100 chose to ignore the fact that during her tenure on the Supreme Court of Florida, Judge Barkett sought to prevent the enactment of laws to ban obscenity and preserve community order and decency. She was opposed to it, and she made no bones about it.

She contrived roadblocks to laws that are essential to community policing and to maintaining law and order. While on the Florida bench, Judge Barkett issued a series of search and seizure decisions which, if and when implemented, would severely hamper the ability of the police to enforce laws against drug trafficking and other crimes.

Mr. Clinton put this woman on the Eleventh Circuit Court of Appeals, and in the next breath he says, "Look at how tough I am."

This is another case, I suppose, of an emperor having no clothes, strutting around saying, "Look at my dress." That story is familiar to every child, I expect.

Less than 3 weeks after Mr. Clinton signed the crime bill, he directed the Senate majority leader to take up the nomination of Judge Lee Sarokin, the Clinton nominee to fill a vacancy on the U.S. Court of Appeals for the Third District. So here we go again.

Mr. Sarokin is one of those judges with curious notions, to say the least. If he were a farmer, he would put a fox in charge of the hen house. One of his bright ideas was to release prisoners who are charged with violent crimes and put them right back on the streets where they committed mayhem before they were tried and convicted and sent to prison.

In an article in the West Virginia Law Review, volume 90, summer of 1988, Judge Sarokin declared that jailing those charged with violent crimes until tried, violates, he said, the presumption of innocence. If the judge is right about that, Madam President, law enforcement has been stood on its ear. Vicious criminals, such as those who bombed the World Trade Center, would be set free under Judge Sarokin's notion, set free to roam the streets or to escape trial, and left free to commit further deadly crimes.

The Senate, I happily note for the RECORD, recognizes that pretrial detention is an essential public safety precaution. The crime bill, passed by the Senate almost a year ago, encouraged the States to have pretrial detention laws in place for characters charged with violent crimes.

Judge Sarokin has likewise taken aim at mandatory sentencing, insisting, and I quote him, insisting that "mandatory and uniform sentencing deprives judges of the right to grant mercy in those instances in which facts cry out for it."

Madam President, after reviewing Judge Sarokin's sympathies for criminals, Senators may wish to consider his judicial temperament.

While serving on the Federal district court in New Jersey, Judge Sarokin presided over a case in which several tobacco companies were the defendants. And during the trial, Judge Sarokin's bias against the defendants was so blatant that the third circuit, the very same court for which President Clinton now wants Judge Sarokin to serve, took the extraordinary step of removing Judge Sarokin from the case. Even the New York Times applauded the Sarokin removal saying Sarokin has been "far out of line." And the New York Times further said Judge Sarokin had flunked an important test of credibility.

The third circuit court has had other things to say about Judge Sarokin. The third circuit court lambasted him for his "judicial usurpation of power" and for ignoring "fundamental concepts of due process" for destroying the appearance of judicial impartiality and for "superimposing his own view of what the law should be in the face of the Supreme Court's contrary precedent."

In fact, we have before us a nominee, nominated by President Clinton, of course, who has repeatedly downplayed or avoided the most controversial aspects of his record. During the Sarokin nomination by the Senate Judiciary Committee—and that was, I believe, on August 2—one of the Senators asked him about his infamous decision that struck down regulations about a library that had adopted a policy of unruly behavior and hygiene. Judge Sarokin said in this case that this policy discriminated against the homeless. During his U.S. Senate confirmation hearing, Judge Sarokin insisted that the Court of Appeals had agreed with him. The fact is, however, the court had reversed him on every major first amendment issue.

Judge Sarokin has demonstrated an unusual penchant for ignoring judicial precedent in reaching his own desired findings. His refusal to follow precedent was so blatant in one case that it prompted the Third Circuit Court of Appeals to remind Judge Sarokin that the court was not free "to superimpose its own view on what the law should be in the face of the Supreme Court's contrary precedent."

There is more. The New Jersey Law Journal considers Judge Sarokin to be the most liberal and most often reversed Federal judge in New Jersey. So, Madam President, the question is apparent, obvious: Is this the kind of man Senators want to have sitting on the Court of Appeals for the Third Circuit, a judge who has set free a criminal because the criminal had used a false name to sign a waiver of his Miranda rights?

There is a reason why the national Fraternal Order of Police and, in particular, the Fraternal Order of Police in the State of New Jersey, oppose Judge Sarokin's nomination. These law enforcement officers, speaking for countless other officers, describe Judge Sarokin as "more of an advocate of social and personal causes than a judge." One New Jersey sheriff was so appalled that President Clinton had nominated Judge Sarokin for the third circuit that the sheriff wrote President Clinton a little letter. Let me quote from it. He said:

> DEAR MR. PRESIDENT: I don't know who advised you on this but they were either asleep at the switch or they really don't give a damn about Law Enforcement. As a Democrat, I'm astounded that you would make such a nomination. As a Law Enforcement Officer, I'm disappointed, disillusioned, and damned mad.

So, Madam President, I guess the bottom line is that even if Congress ever gets around to passing anything resembling the toughest crime bill in history, that still will make no difference whatsoever if the President insists on nominating a manifestly unsuitable judge like Lee Sarokin to one of the Nation's highest courts.

Bear in mind, I say to the American people who might be looking at these proceedings on C-SPAN, that Judge Sarokin will have lifetime tenure. He will serve for life if he wants to on the U.S. Court of Appeals for the Third Circuit. And if he continues to conduct himself as he has as a district court judge, Mr. Sarokin's liberal philosophy will permeate his decisions, and he will not hesitate to abuse his judicial power to override the actions of elected representatives of the people.

If the Senate confirms Judge Sarokin, nothing will have been done to remedy the cataclysmic problem of crime in America's streets. Indeed, this nominee, when he becomes a judge for the third circuit, based on his record, could do little more than exacerbate the problems that already exist.

Therefore, Madam President, I cannot support this nomination. His confirmation, if it happens, will be among the many great mistakes made during this 103d Congress.

I truly hope that it does not happen.

I thank the Chair. I yield the floor.

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. BROWN. Thank you, Madam President. I rise in opposition to Judge Sarokin's nomination.

Madam President, the judge has been described as liberal in his philosophy and thinking. I think that is probably true. But that is not totally unique with regard to nominees and it should not be the only basis on which one makes a decision.

I, like others, have voted for the administration's nominees 99 percent of the time, not because I agreed with 99 percent of them. I do not. But it is the practice, and I think with some basis, to let the President exercise the powers of that office. But that does not mean and should not mean that the Senate's power of confirmation should be ignored or avoided. At least to this Member, we have a responsibility to review the nominees to see if they are capable, if they are honest, and if they are bright. In this case, at least in my view, Judge Sarokin satisfies all of those criteria. He has a bright, engaging personality. He is intellectually bright as well as socially bright. I found nothing that would indicate to me that he is anything less than honest, and he is quite clearly of capable intellect.

But, Madam President, I have concerns about the nomination, and I am going to oppose the nomination because I think there are other standards for a judge as well, not simply whether you like them because he is quite likeable, and not simply because he has the intellectual potential because he clearly does. I am concerned about two things that I observed in his record, that I have confirmed by reviewing his cases and his opinions and that I discovered in questioning.

Basic to a judge is whether or not that judge will follow the law. We, in the U.S. Senate, and in the U.S. Congress, expect the judges that are nominated to follow the law; that is, if the law is clear, the judge ought to follow it.

I believe an objective review of the judge's opinions will indicate that he is reluctant to follow laws that he disagrees with; that is, the law can be clear, and, if he does not like it, he will ignore it. That is a serious charge, Madam President. But I intend to go through specific examples that suggest to me that Judge Sarokin has placed his own view above that of Congress and he is likely to ignore the law if he is confirmed.

I think we have a right to expect that judges will enforce the law, will enforce the law that he likes, and will enforce the law that he does not like. Why? If we are offered protection under the law, it ought to apply to all Americans, not simply ones that a judge likes and not with those he does not like. It ought to apply to all Americans. It ought to be the kind of thing that citizens can count on. We have a right to expect that if there are protections in our Constitution or in our statutes that they apply to everyone and that you are not faced with your rights being lost if the judge does not like the color of your skin, does not like our occupation, or does not like your appearance. I believe an objective review of the cases that Judge Sarokin has ruled on indicates that he is unable to be objective in those areas. Those are serious charges. I want to be specific because I think the specific examples can be quite illustrative.

The Rodriguez case involved a question of the admissibility of a statement made to police. Judge Sarokin created a new rule for voluntary waiver of rights. If this rule were a new area of law, it might be called for, but it is not. The judge acknowledged in his own opinion that the third circuit had ruled differently on the very point that was in question, and he flatly and openly disregarded the ruling of the third circuit.

Let me repeat that because I think it is important. The judge acknowledged in his own opinion that the third circuit had a different view, the circuit court which governs his district court, and he declined to follow their guidelines. This is a clear example of the judge declining to follow the law in an attempt to further his own view.

Here are the facts of the Rodriguez case. The FBI picked up a suspected thief. They brought him in for questioning. Ultimately, they obtained damning evidence. The accused challenged the statements he made to the FBI. What can you challenge your own admissions, your own statements on? You can challenge them on the basis that you did not make those statements.

But, apparently, that was not the case here. This defendant challenged the statements on the basis they were not made voluntarily. Our Constitution protects us from involuntary statements. We do not want police beating a confession out of someone. The reason we do not is out of concern for the person but also out of concern for the validity of the statement. If it is made involuntarily, we, as a society, question the validity of what was said.

The basis of Judge Sarokin's denying admissibility of these statements was that they were involuntary. Let us take a look at what Judge Sarokin says is involuntary.

Here are the facts of how the FBI obtained the statement. I think, as all Members know, the FBI is not the bottom of the grade with regard to our police, but the top—the top in education, training, and performance. Here is what they did: The FBI spoke to the accused in Spanish, his own language. They went out of their way to speak in a foreign language to the accused so he would understand them. They provided a written description of his rights in English and Spanish. They not only spoke the language of his preference, but they also provided his rights, written in both languages. They asked if he wanted a lawyer. The accused said that he did not want a lawyer and he signed a form, written in his language, that explained his rights, and waived the right to counsel while making a statement.

What is wrong with this? Well, the accused signed a false name. The accused gave the wrong name. He signed the form but gave the wrong name.

Judge Sarokin said that this shows that his statement was involuntary. Let me repeat that. Because the accused lied about his identity, the judge ruled that the confession was involuntary. This is incredible. There is no allegation that the FBI did anything wrong. There is no allegation they beat him or tortured him or mislead him. There is no indication that they failed to give him the Miranda rights, or that they failed to speak in a language of his preference. There is no indication that they did not give his rights, both verbally and in writing. What the judge found is that because the accused lied, he was going to rule out the confession. This is not just liberal, this is saying that if you lie, you can undermine the admissibility a confession.

Madam President, Judge Sarokin's analysis means that no matter what the police go through, no matter what procedures are followed, no matter how reasonable they are, no matter how voluntary the statement is, this judge is on the side of the accused.

We expect that judges will be objective, that they will apply the law, and that they will render justice.

It is this Senator's viewpoint that this judge departed from that standard. It is my view that this judge had his mind so set with regard to the outcome, he was willing to ignore the clear rulings of the third circuit, willing to ignore the law, and was willing to throw out the statement.

The problem for Mr. Sarokin's analysis is that the third circuit, which Judge Sarokin is bound to follow, had already addressed this issue in another case. Madam President, that is right. This particular issue had already been addressed by the circuit. They had found that signing a false name was not relevant to finding voluntariness. In other words, the issue on which the judge ruled had already been reviewed by the court of the third circuit and it ruled the opposite way Judge Sarokin had ruled.

He simply, consciously chose to ignore the precedent and ignore the law. Madam President, it is not just a question of whether you agree or disagree with the judge; it is a question of whether or not we should allow judges to ignore the law and decide cases based on their own personal viewpoint.

Once we have judges that do that, we destroy the integrity of the system. It is not just a question of whether or not we agree with that judge, it is a question of whether that judge will ignore the law and the rulings and the precedents. Virtually every judge that comes before the Judiciary Committee is asked whether, and virtually everyone responds, they will follow the laws and the rules as they understand them.

Here is a judge who has clearly not done that. Let me go on, because there are other specific examples. In the Blum case, Judge Sarokin first ruled to award attorney fees to the prevailing party, as well as a multiplier, as a penalty. The court of appeals suggested that Judge Sarokin reanalyze his approach and suggested, as the magistrate in the case did, that his award was unfounded. In other words, the judge made a ruling, and it was appealed and remanded back to his court with directions that the judge had been incorrect in the way he handled it.

What did the judge do? Well, I think we would all expect the judge to follow the ruling of the superior court. Perhaps even some of us would have felt a bit sheepish about getting the rule wrong. Judge Sarokin did not do that. As a matter of fact, rather than follow the dictates of the superior court, Judge Sarokin mocked the Supreme Court and the court of appeals for their opinions on the subject. He mocked their rulings and did just the opposite. This approach to judging is sort of in your face. This is sort of like saying: I do not care what the Supreme Court says, or what the circuit court says, and I do not care that it has been remanded and reversed. I am going to do what I want in despite of all that.

And did he show them. He not only mocked them in his opinion, but he turned around and did the opposite of what they suggested. He commented in his opinion on the attorney's fee multiplier, with mocking disregard of the court. He said, "The Supreme Court has sent a Christmas card to this court delivered via the Third Circuit Court of Appeals. It is called 'How to make an Attorney Fee Multiplier.' However, the instructions are so confusing and inconsistent that this court has been unable to put the gift together," referring to the rulings of the superior court. The court of appeals, in criticizing Judge Sarokin for failing to following precedent, said: "The district court, without concealing its disapproval of the Supreme Court's decision and ours, proceeded in accordance with its own views."

The court of appeals went on to say, "Neither the district court nor this court is free to superimpose its own views on what the law should be in the face of the Supreme Court's contrary precedent." I will repeat that because it describes the approach of Judge Sarokin. The circuit court of appeals in describing his approach said: "Neither the district court nor this court is free to superimpose its own views on what the law should be in the face of the Supreme Court's contrary precedent."

Madam President, this is a judge who does not follow precedent, even though he sees it and hears it and understands it. He still places above everything else his own view.

If this body confirms Judge Sarokin, they will be saying that even a judge who is unwilling to follow the law and the rulings of superior courts is going to be confirmed. Ask yourself: If you are required to go to court, if you are sued or you go to the courts to sue for justice, do you really want a judge that will ignore the law, ignore the precedents, ignore the rulings? That is what is at stake in this confirmation vote.

In the Kreimer case, Judge Sarokin broke new ground in constitutional law, raising numerous constitutional issues. When the case was appealed, Judge Sarokin was not only reversed, he was reversed on almost every constitutional issue that he raised. That particular case involved a homeless man who harassed patrons of a public library.

The library was responding to a problem of harassment that plagued the library and its patrons, denying them the ability to receive and enjoy information in accordance with an ordinance drafted to preserve order at the public library. So what we have here is a city that has a library, and they are trying to help people use it, and they draft an ordinance to protect the people using it. The judge found the ordinance unconstitutional. He said the city council's ordinance was unconstitutional. He found a number of ways to protect the rights of the homeless man. He held that the ordinance was vague, overbroad, and violated substantive due process and violated equal protection. The third circuit reversed him on all those counts. The third circuit simply acknowledged the obvious: A library may constitutionally impose order and quietude.

Ask yourself what happens to your public library if it is unconstitutional for a library to try and preserve order and quietude. That makes no sense at all. It is not simply a matter of expressing concern for someone who is homeless or who has a problem. It is a matter of being so wrapped up in your own views that you do not consider the views of other people, and you do not consider the Constitution and the clear rulings of superior courts. The troubling part is that Judge Sarokin reached out so aggressively and widely to reach the result he wanted that he ignored existing law. Judge Sarokin equated imposing order in a public library with a violation of substantive due process. He equated imposing order in a public library with a violation of due process. It makes no sense.

Using the Constitution, particularly the idea of substantive due process, to subvert the legislative process is a dangerous trend in our courts.

How can this body complain if any court ignores our legislation if we confirm judges like Judge Sarokin? If Judge Sarokin can throw out those ordinances and the will of the people elected to represent this community, by saying it simply violates his idea of substantive due process, we threaten and undermine the whole concept of our representative democracy.

Madam President, I do not want to go into too many cases, but I want to assure the Members if they will look at the cases and the rulings of the judge, they will be shocked by what he has said and done, and they will find numerous examples, not only of where he has been reversed, but examples of where he has ignored the plain meaning of the law.

Here is one of the most striking examples. In the Vulcan Pioneers case, which Judge Sarokin ultimately vacated, he plainly disregarded the civil rights statute. Let me read it because there is no question that the judge knows what the statute says. It is printed in the opinion. It is title VII of the Civil Rights Act of 1964. Here is the statute which he has quoted:

> Notwithstanding any other provision of this subchapter, it shall not be an unlawful employment practice for an employer to apply different standards of compensation for different terms, conditions or privileges of employment pursuant to a bona fide seniority system.

The statute goes on to point out that this applies unless the results show an intention to discriminate. In other words, it specifically mentions that it is all right to follow the seniority system. In the case, the judge does not find that this seniority system had the intention to discriminate. In other words, the one out that is in the statute, the judge found did not apply.

So the judge is aware of the statute, he quotes the statute, he agrees that the intent of the statute is not to discriminate. And what does he do? He ignores the statute. Having cited it, having read it, having pointed out that the one out does not apply, the judge then proceeds to ignore it. Here are his words:

> The act does not insulate such systems from alteration as an aspect of the relief available under this act.

In other words, he can do what he wants to. That is indeed what he does. He casts aside the statute. He set a numerical racial goal even though there was no intent to discriminate and he found there was no intent to discriminate in place on a bona fide seniority system.

Now, Madam President, what we are looking at here is a very clear statute and a very clear ruling and a judgment by the judge that, in spite of what this statute says, he is going to render the kind of opinion that he wants. No one in this Chamber should vote on this issue without knowing in advance that this judge is not going to follow the law if he does not like it and not going to follow the precedents if he does not like them.

This is one Member who recognizes the President's ability to nominate people of his preference. I have voted for both of his Supreme Court nominees. I have voted for the vast majority of his nominees to other courts. But, Madam President, this is a judge who says in your face, "I am not going to follow the law, and I am not going to follow the precedents."

I think it is a mistake for either party, either Democrat or Republican or liberal or conservative, to put a judge on the bench who makes it so clear that he is not going to follow the law, and I think it is a disservice to the American people to have someone of that ilk serve on the bench.

The voters of this country rightly believe that, regardless of what your party is, you ought to at least listen to them when they have a concern about legislation. I think they rightly believe that a judge in court ought to be objective enough to at least listen to what both sides of the case are before they make up their mind, and they ought to be at least reading the laws and trying to follow them. I think most Americans, regardless of their party affiliation or their philosophy, would expect that judges would follow the law and follow the rules whether they agreed with them or not.

This nomination tests that. In the Haines case, Judge Sarokin was reversed for his ruling on the confidentiality of the material prepared in anticipation of litigation. The issue in the case was whether the information was to remain confidential.

Madam President, you could rule either way on this. I assume there are precedents that deal with it. But what the judge did says a lot about the kind of judge Mr. Sarokin really is. When he issued his opinion, he quoted a portion of the confidential information that was in question. In other words, regardless of what the circuit court of appeals did, or other courts did, the confidentiality of the information had been destroyed.

I suspect most Members will find it hard to believe what the judge did. There was a question about whether the information came under the attorney/client privilege and whether or not it should be kept confidential or whether it could be introduced in evidence or be made public. It was a question of confidentiality.

Judge Sarokin ruled that it would be admissible. But, in his opinion, he quoted a significant portion of the language—not all of it—a portion of it, so it was made public. In other words, if he was wrong, the case would be lost anyway.

What he said was, in effect, that he felt so strongly about the issue, he did not care whether it was wrong or right, he was going to make it public whether it was reversed on appeal or not. Ask yourself if this is impartial justice.

Let me read to you what happened. The magistrate who sits on these matters and determines these matters reviewed the issue of privilege. He decided that the information should not be disclosed, that it came under the attorney/client privilege.

The law allows Judge Sarokin to review the magistrate's ruling on disclosure to determine whether it was erroneous, given the facts that the magistrate considered, not if he was right or wrong, but whether it was erroneous under the facts considered. The judge reversed the magistrate and considered new evidence contrary to the established review standard. He believes so strongly in his view that he revealed parts of the privileged information in his opinion, thereby ending any effective appeal the party might have otherwise had.

Ask yourself if you think that is just or fair. His opinion was so outrageous in the case that the appeals court took two extraordinary steps. They did not simply overrule him. Here is what they did.

First, the court of appeals issued a writ of mandamus, which is reserved for exceptional cases, cases resulting in judicial usurpation of power; second, the court of appeals removed Judge Sarokin from the case.

Madam President, this is not a normal judge. This is a judge who would prejudice the constitutional rights of the people before his court when he disagrees with existing law.

When commenting on his removal, Judge Sarokin suggested that moneyed interests controlled the judiciary and that his own position represented the truth.

Well, each of us who serve in this body are familiar with examples when we are convinced we represent the truth and the other side surely represents evil. But to overrule someone's constitutional rights and publicly make public the information in a way that someone is deprived of those rights is unfair. It is not only the wrong opinion, it is unfair to those people.

Madam President, I want to just go through a couple of the things that the circuit court of appeals said about Judge Sarokin, and I want to give you the quotes. These are directly from the circuit court as they reversed Judge Sarokin in the Blum decision.

They said four things.

First:

> It appears the court proceeded to follow its own view of the relevant market in ascertaining the availability of adequate legal representation.

Second: In making its determination on the risk associated with this individual case, the court failed to follow the clear direction, and here they are referring to the third circuit and the Supreme Court. The district court made no secret of its disagreement with the instructions it received on the issue.

Third:

> In another departure from the task set for it, the district court established a contingency multiplier for this individual case rather than setting a standard which would be applicable to future litigation within the same market.

Fourth:

Finally, and perhaps most importantly, although the district court concluded that the plaintiffs had failed to meet their burden of proof by not quantifying the contingency premium, the court nevertheless relieved the plaintiff of the burden of proof.

Madam President I believe any Member who objectively reviews the cases that we have talked about, and many, many others, will conclude that this is not a judge that is able to protect people's rights when he disagrees with them.

If justice in this country means the rule of law and not the whim of man, then Judge Sarokin should not be on the circuit court.

But I hope Members, before they vote, be they liberal or conservative, be they a friend of Judge Sarokin or not, will give some thought to the precedent we set, because I believe with this vote and with this judge, the message goes forth that it does not matter what the law is, and it does not matter what the precedents are, if Judge Sarokin does not agree with you, you are in trouble.

That is not the justice system that America prides itself on. It is not consistent with what we think the role of a judge is. And I would submit that this is not a judge this body ought to confirm.

I yield the floor, Madam President.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPELL). The Senator from Utah is recognized.

Mr. HATCH. Mr. President, at this particular point I would like to just put some letters in the RECORD.

Take for instance, the August 6, 1994 letter from Robert J. Robbins, National Fraternal Order of Police, New Jersey Fraternal Order of Police, National Legislative Committee.

To the Members of the United States Senate,

On behalf of the 250,000 member National Fraternal Order of Police and, in particular, the members of the Fraternal Order of Police in the State of New Jersey, I am informing you that we are in total opposition to the appointment of Judge Sarokin to the U.S. Court of Appeals for the Third Circuit.

Or take this other letter from the Fraternal Order of Police, Newark Lodge, dated August 4.

DEAR SENATOR HATCH: I am writing to you at this time urging you to reject Judge H. Lee Sarokin in his quest to become a member of the Federal Court of Appeals.

It has been reported that Judge Sarokin has the support of law enforcement. Nothing could be further from the truth. The Newark Fraternal Order of Police Lodge #12, is the largest police organization in the city of Newark with over 1500 members and is the largest lodge in the State of New Jersey. We vehemently oppose this liberal jurist's appointment to such an important post.

Then in the last paragraph, it says:

There is a part of the new Crime Bill entitled "Three Strikes and you're in!" Well, Judge Sarokin has already given criminals more "Strikes," at the citizens of New Jersey than has Nolan Ryan in his Hall of Fame career! I would urge you to truly show the citizens of this state and country, that you are serious about crime in this country, and to do this you must reject Judge Sarokin's appointment to the Court of Appeals.

Or this letter from the Law Enforcement Alliance of America.

DEAR SENATOR HATCH: The recent nomination of U.S. District Court Judge H. Lee Sarokin to the United States Court of Appeals to the Third Circuit by President Clinton is the latest example of liberalization of our criminal justice system that began 30 years ago.

Judge Sarokin has repeatedly made use of his judicial position to promote social and personal issues and causes. He has also made it plain that he will continue to do so if confirmed to the United States Court of Appeals.

Crime is the number one concern of the American public. People are demanding real criminal justice reform—life imprisonment for repeat offenders, greater involvement for victims in the judicial process, the building of more prisons to take violent criminals off our streets.

Confirming Judge Sarokin will place another roadblock in the path of justice.

Or the last two paragraphs:

Clearly, criminals will have a friend on the bench of the United States Court of Appeals if Judge Sarokin is confirmed.

The 40,000-plus law enforcement officers, victims of crime and concerned citizens of the Law Enforcement Alliance of America ask you to not confirm Judge Sarokin to the United States Court of Appeals. Justice will not be served in America as long as the rights of criminals are placed above the rights of law abiding citizens.

Or this letter from the League of American Families, dated August 4; or the letter from Citizens Against Violent Crime, dated October 3 of this year; or the letter from the Organized Victims of Violent Crime, which is dated August 2 of this year; or Voices for Victims, Inc., dated August 9; or the New Jersey State Police Survivors of the Triangle. This is dated August 1. I will read just a couple of lines from this letter.

My name is Donna Lamonaco. I am a mother of three, and a widow of New Jersey State trooper Philip Lamonaco, who was gunned down and murdered, four days before Christmas in 1981.

The two murderers, members of a terrorist revolutionary group, plotting to overthrow the United States Government, were captured three and a half years later, and the last trial ended in December of 1991, ten years after my husband's death.

I can't express the fear, trauma and emotion, myself and my family went through, but we survived, partly because the system worked.

I understand President Clinton plans to nominate Judge H. Lee Sarokin, to the 3rd circuit court of appeal, tomorrow. I am asking you to help all the survivors of police families and society in which we live, by opposing the nomination of Judge Sarokin.

Or this letter from Citizens for Law and Order, Inc., dated August 8, 1994. I will just read one paragraph out of it. It is written to Senator DOLE.

Senator DOLE, Judge Sarokins' views on crime and criminal procedure are unusual and dangerous, and his confirmation to sit on the U.S. Court of Appeals for the Third Circuit should be rejected by the United States Senate.

Finally, let me put one more in, from the County of Cumberland, James A. Forcinito, Sheriff, Office of the Sheriff, written to the President of the United States.

As a Sheriff from New Jersey with over thirty-five years experience in the Law Enforcement, I find it incredible that you would consider nominating H. Lee Sarokin to the U.S. Court of Appeals.

I don't know who advised you on this but they were either asleep at the switch or they really don't give a damn about Law Enforcement.

One other sentence:

As a Democrat, I'm astounded that you would make such a nomination.

This is a Democrat writing.

As a Law Enforcement Officer, I'm disappointed, disillusioned, and damned mad.

To be honest with you, we have had a year of talking about the crime bill and about being tough on crime. And we see these kinds of nominees coming before the Senate who have a reputation of being very soft on crime—not just crime but a whole raft of other issues as well in the law. It is a matter of great concern to me because I think in this day and age we have to have judges who are fair, constitutionally sound, and are not activist apologizers for criminals and especially violent criminals who are killing our society as well as individual people.

I ask unanimous consent that all of these letters be printed in the RECORD at this point.

There being no objection, the letter were ordered to be printed in the RECORD, as follows:

ORGANIZED VICTIMS OF
VIOLENT CRIME,
Madison, TN, August 2, 1994.

Senator ORRIN HATCH,
Senate Judiciary Committee, Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: In reference to President Bill Clinton's nomination of Judge H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit. We strongly urge you to vote NO on his forthcoming Confirmation Hearing to this court. This same Court for which the President has nominated him to has found much fault with him and his LACK OF Judicial temperment and his abundance of Judicial activism. This same Court also was forced to remove him from a nine year old case on grounds of "unsurpation of power."

The Organized Victims of Violent Crime has no doubt the Senate Judiciary Committee is well aware of the extreme liberal behavior and decisions of which he is already responsible for while currently sitting as a U.S. District Judge in the state of New Jersey. Not only does Judge Sarokin practice extreme activist Judicial philosophy, he bases his decisions on his own views and radical beliefs. We feel no Judge should practice his or her own Judicial bias or personal activism. We do not feel Judge Sarokin will be an asset to our Judicial System on such a Court as powerful as the U.S. Court of Appeals of the Third Circuit. He has demonstrated many times over that he lacks the essential qualities of Judicial fairness and temperment to be called "Your Honor". The American people should never have to accept or tolerate any Judge who ignores the tried and tested and true laws in favor of writing his own as he skims along.

The Organized Victims of Violent Crime still remembers and still chaffs from the appointment of Martha Craig Daughtery to the 6th Circuit Court of Appeals. Her Judicial philosophy and temperment matches that of Judge Sarokin.

As we have watched carefully and sadly, we have seen more and more liberal socialists gaining a foothold in the highest offices in our Government. They now control our courts.

We believe our Congress can rid us of this blight that has been forced upon us. First though, Congress must clean up it's own houses. What better place to start than the Senate Judiciary Committee who has the responsibility of saying who gets voted into what ever certain high positions of such great importance to our entire nation. America must one again become the great free Republic she once was that was the envy of the world. Until then, God help us all!!

Please distribute a copy of this opposition to all members of your committee.

Sincerely,

EDITH S. HAMMONS,
President.

VOICES FOR VICTIMS, INC.,
Hackettstown, NJ, August 9, 1994.

To: Senator Orrin Hatch.
From: Richard C. Kramer.

Voices For Victims Inc., is a support group formed in 1988 made up families of murder victims as well as other victims of violent crime.

As a citizen, I believe Judges should be impartial and open to all arguments. I personally believe that Sarokin is following his own twisted agenda, and has already placed himself above the Supreme Court clearly indicating he is intent on writing his own book of law. Giving him additional powers affecting a larger population of the United States is fightening, especially to those of us who are crime victims and have suffered re-victimization by the system. We have had enough with bleeding hearts concerned with the care and feeding of murderers and rapists while we stand outside looking in. Pleased hear us, don't let Sarokin in the U.S. Court of Appeals, he is doing enough damage where he is.

NEW JERSEY STATE POLICE,
SURVIVORS OF THE TRIANGLE,
Belvidere, NJ, August 1, 1994.

Senator ORRIN HATCH,
U.S. Senate
Washington, DC.

DEAR SENATOR HATCH: My name is Donna Lamonaco, I am a mother of three, and a widow of New Jersey State Trooper Philip Lamonaco, who was gunned down and murdered, four days before Christmas in 1981.

The two murderers, members of a terrorists Revolutionary group, plotting to overthrow the United States Government, were captured three and a half years later, and the last trial ended in December of 1991, ten years after my husband's death.

I can't express the fear, trauma and emotion, myself and my family went through, but we survived, partly because the system worked.

I understand President Clinton plans to nominate Judge H. Lee Sarokin, to the 3rd. circuit court of appeal, tomorrow. I am asking you to help all the survivors of Police families and society in which we live, by opposing the nomination of Judge Sarokin.

In 1976, a New Jersey police officer was killed, after rehearing the case, Judge Sarokin released his murderer, just five years ago.

We do not need anyone filling the Judgeship position, who allows Cop Killers to be released.

Please help, by opposing the nomination of Judge Sarokin, by President Clinton, to the 3rd. circuit court of appeal.

Respectfully,

DONNA E. LAMONACO,
Secretary.

FRATENRAL ORDER OF POLICE,
NATIONAL LEGISLATIVE COMMITTEE,
Lindenwold, NJ, August 5, 1994.

Re nomination of H. Lee Sarokin to the U.S. Court of Appeals.

U.S. SENATE,
Washington, DC.

TO THE MEMBERS OF THE U.S. SENATE: On behalf of the 250,000 member National Fraternal Order of Police and, in particular, the members of the Fraternal Order of Police in the State of New Jersey, I am informing you that we are in total opposition to the appointment of Judge Sarokin to the U.S. Court of Appeals for the Third Circuit.

In at least one case, he has shown a propensity to be more of an advocate of social and personal causes than a judge. In a case involving the murder of a Newark, New Jersey police officer Judge Sarokin made it his mission to set a convicted person free.

Briefly stated, in 1976, Vincent Landano was convicted and sentenced to life in prison for the murder of a police officer during an armed robbery. Ignoring his oath of office and even after at least four reversals by the U.S. Court of Appeals for the Third Circuit and the U.S. Supreme Court, Judge Sarokin ordered Landano's release in June of 1989.

We, in the F.O.P., find this action appalling and adamately request that Judge Sarokin's nomination be denied. Our legal counsel in Washington is currently researching other cases that Judge Sarokin was involved in and hope to be able to bring more information to you as it becomes available.

Respectfully,

ROBERT J. ROBBINS,
New Jersey National Trustee.

FRATERNAL ORDER OF POLICE,
NEWARK LODGE NO. 12,
Newark, NJ, August 4, 1994.

DEAR SENATOR HATCH: I am writing to you at this time urging you to reject Judge H. Lee Sarokin in his quest to become a member of the Federal Court of Appeals.

It has been reported that Judge Sarokin has the support of law enforcement. Nothing could be further from the truth! The Newark Fraternal Order of Police Lodge #12 is the largest police organization in the city of Newark with over 1500 members and is the largest lodge in the state of New Jersey. We vehemently oppose this liberal jurist's appointment to such an important post.

Judge Sarokin is responsible for the freeing of a convicted "COP KILLER", James Landano. Mr. Landano is the coward who gunned down Newark Police Officer John Snow, on August 13, 1976. Judge Sarokin's decision has turned a career criminal into a media celebrity. Although 18 years have passed since his murder, the members of our FOP lodge have not forgotten this vicious act and never will! We also will not forget who has allowed this vermin back into society. Some other of Judge Sarokin's decisions are so far out into "Left Field", he is no longer even in the "Ball Park", but somewhere in the parking lot. When someone in Law Enforcement is asked why we have the crime problems that exist in the United States today, they will tell you it is because of jurists such as Mr. Sarokin.

There is a part of the new "Crime Bill" entitled, "Three strikes and you're in!". Well, Judge Sarokin has already given criminals more "Strikes", at the citizens of New Jersey than has Nolan Ryan in his Hall of Fame career! I would urge you to truly show the citizens of this state and country, that you are serious about crime in this country, and to do this you must reject Judge Sarokin's appointment to the Court of Appeals.

Fraternally,

JACK MCENTRE,
President.

LAW ENFORCEMENT ALLIANCE
OF AMERICA, INC.,
Falls Church, VA, July 26, 1994.

Hon. ORRIN G. HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: The recent nomination of U.S. District Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit by President Clinton is the latest example of the liberalization of our criminal justice system that began 30 years ago.

Judge Sarokin has repeatedly made use of his judicial position to promote social and personal issues and causes. He has also made it plain that he will continue to do so if confirmed to the United States Court of Appeals.

Crime is the number one concern of the American public. People are demanding real criminal justice reform—life imprisonment for repeat offenders, greater involvement for victims in the judicial process, the building of more prisons to take violent criminals off our streets.

Confirming Judge Sarkoin will place another roadblock in the path of justice. Judge Sarokin, in the West Virginia Law Review, stated that he was opposed to both pretrial detention of violent criminals and mandatory minimum sentencing guidelines. He also stated that admission of evidence guidelines should be stricter to protect criminals' rights.

Clearly, criminals will have a friend on the bench of the United States Court of Appeals if Judge Sarokin is confirmed.

The 40,000+ law enforcement officers, victims of crime and concerned citizens of the Law Enforcement Alliance of America ask you to not confirm Judge Sarokin to the United States Court of Appeals. Justice will not be served in America as long as the rights of criminals are placed above the rights of law-abiding citizens.

Sincerely,

JAMES J. FOTIS,
Executive Director.

LEAGUE OF AMERICAN FAMILIES,
Ringwood, NJ, August 4, 1994.

Seator HATCH and DOLE,
U.S. Senate,
Washington, DC.

GENTLEMEN: The Senate is considering the nomination of H. Lee Sarokin to the U.S. Court of Appeals for the Third Circuit, I strongly urge you to oppose this nomination for two reasons. First, as evidenced by his removal from the tobacco liability case by the U.S. Court of Appeals, he lacks the basic judicial temperament to be a judge. All Americans should demand judges who will be fair and impartial, Judge Sarokin has proven—even to the satisfaction of the liberal New York Times—that he lacks these qualities. His excuse at his hearing yesterday that, well, he is just "irrepressible" at times, is ridiculous.

Second, Judge Sarokin injects into his cases personal views that will have a devastating effect on American families. You have received information about his views on criminal justice issues. His opposition to pretrail detention of criminal defendants would, in particular, put families and children especially at risk.

In *E-Bru v. Graves*, 566 F.Supp. 1476, a case dealing with the town of Paterson's prohibition on an adult bookstore opening, Judge Sarokin delivered the kind of lecture that characterizes many of his decisions. He made the outrageous statement that "the harmful effect" of pornography "has never been clearly established."

Since you voted last year to condemn the Justice Department's attempt to weaken the child pornography laws, you must know that this statement is simply false. New books have been published just in the last few years cataloging the harms of pornography. In addition, however, why does Judge Sarokin find this question significant at all? The Supreme Court has ruled that a community's ability to control pornography does not depend on scientific specifics. This is another example of his imposing his own personal standards in place of what the law requires.

Judge Sarokin testified at his hearing on August 3 that he would object to an adult bookstore opening near his home. Apparently, he is perfectly willing to impose on others an evil that he does not have to endure himself. America has enough judges who are so ignorant of the real-world impact of their decisions. Please do not add Judge Sarokin to that list by elevating him to the U.S. Court of Appeals.

Very truly yours.

JOHN T. TOMICKI, J.D.,
League of American Families.

CITIZENS AGAINST VIOLENT CRIME,
Charleston, SC, October 3, 1994.

Hon. ORRIN G. HATCH,
Ranking Member, Senate Judicial Committee, Washington, DC.

DEAR SENATOR HATCH: Citizens Against Violent Crime (CAVE) is a victim's advocacy group based in Charleston, SC and Charlotte, NC. We number approximately 30,000 members in North & South Carolina.

We have followed the Judge Sarokin case very closely and wish to express our intense wish that this judge not be seated on the federal bench.

CAVE has fought reviews of South Carolina circuit court judges on past occasions. We know first hand the terrible impact a bad judge can have on victims. Judge Sarokin is a bad judge. Probably not a bad person, but definitely a bad judge.

CAVE has been fighting for everything Judge Sarokin detests; increased pre-trial detention, mandatory sentences and removal of all but minimal civil rights for convicted felons. It is the job of our Congress and State Assemblies to provide space for criminals—this issue is not, and cannot be a factor used by the judge to sentence criminals.

The confirmation of Judge Sarokin would be a gross step backward for the criminal justice system.

Sincerely,

JAMES M. GREGG,
Founder and Chairman.

CITIZENS FOR LAW
AND ORDER, INC.,
Oakland, CA, August 8, 1994.

Re Rejection of President Clinton's nomination of Judge H. Lee Sarokin.

Senator BOB DOLE,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOLE: Citizens for Law and Order (CLO) believes all citizens have the basic right to live in physical safety in our communities, homes, schools and places of business.

Working within our nation's constitutional framework, CLO's 5,000 members seek to significantly decrease the incidence of violent crime, restore victims and survivors to a central position within the criminal justice system, eliminate inequity and unfairness from our judicial process and reduce further victimization.

For the past two decades CLO has been a strong promoter of hard-hitting anti-crime legislation, a severe critic of overly lenient judges and district attorneys, and a caring advocate for crime victims.

Perhaps most disturbing, Judge Sarokin suggests that the pre-trial and pre-conviction detention of those charged with violent crimes violates the presumption of innocence. Sarokin, "Beware the Solutions," 90 West Virginia Law Review at 1003, 1004, 1006 (1988).

Judge Sarokin also opposes post-conviction incarceration whenever a judge thinks a criminal "might be" innocent. He was reversed four times by the U.S. Court of Appeal and the U.S. Supreme Court during his effort to free cop-killer James Landano. See *Landano* v. *Rafferty*, 782 F.Supp 986, 988 (D.N.J., 1992).

Judge Sarokin opposes even a "good faith" exception to the exclusionary rule. 90 West Virginia Law Review, note 1, at 1006. Such a view is in direct conflict with the decisions of the United States Supreme Court in the cases of *United States* v. *Leon*, 468 U.S. 897 (1984) and *Illinois* v. *Krull*, 480 U.S. 340 (1987).

Finally, Judge Sarokin opposes mandatory and uniform sentencing. He believes these approaches to sentencing deprive judges of the right to grant mercy. 90 West Virginia Law Review, note 1, at 1005. Apparently, Judge Sarokin prefers lenient treatment of criminals rather than punishment that would protect public safety.

Senator Dole, the members, directors and officers of Citizens for Law and Order, Inc., are appalled at the soft on crime philosophy exemplified by Judge Sarokin. We join with other crime victims rights organizations as well as other national law enforcement organizations to urge the United States Senate to reject the nomination of Judge Sarokin.

Sincerely,

KEVIN WASHBURN,
President.

COUNTY OF CUMBERLAND,
OFFICE OF THE SHERIFF,
Bridgeton, NJ, July 21, 1994.

The PRESIDENT,
The White House.

DEAR PRESIDENT: As a Sheriff from New Jersey with over thirty-five years experience in Law Enforcement, I find it incredible that you would consider nominating H. Lee Sarokin to the U.S. Court of Appeals.

I don't know who advised you on this but they were either asleep at the switch or they really don't give a damn about Law Enforcement. Judge Sarokin's crusade in behalf of cop-killer Landano is legendary in New Jersey.

As a Democrat, I'm astounded that you would make such a nomination. As a Law Enforcement Officer, I'm disappointed, disillusioned, and damned mad.

Please reconsider this nomination of this notorious cop-hating judge.

Thanking you, I am

Very truly yours,

JAMES A. FORCINITO,
Sheriff.

Mr. HATCH. Mr. President, when I look at this nomination I have mixed emotions because I like Judge Sarokin personally. That has nothing to do with it. He is clearly a nice person. I believe he is an honest man who almost anybody would like.

The difference is that it is one thing to be a nice person. It is another thing to be a judicially activist judge who ignores what the law really says and does whatever his viscera tells him to do. That is not what we need in the Federal courts.

I think it is the wrong time in our society's history to put a judge on the bench who is always looking for ways of letting the criminals off the hook, who is always looking for a way of finding some excuse for what the criminals have done, and always looking for a way to blame society instead of the criminals for what happens.

So, while the President is talking about being tough on crime, at the same time he is putting judges in who are not tough on crime, who are known for being weak against criminals, and who are known for making excuses and blaming society rather than having people stand up and take individual responsibility for what they have done. I am concerned about it.

We do not take on many judges. Look, if I was President of the United States I would not have recommended a lot of these judges that we have passed through the Senate this year. By the end of this congressional term, our subcommittee—and I am ranking member on this committee and I have worked hard to do this—will have passed through the Senate and confirmed well over 100 judges to the Federal bench, both the circuit courts of appeals and the district courts and two Supreme Court Justices.

Most of them have gone through here without any difficulty at all, even though they may be more liberal than I like. The fact that Judge Sarokin is very liberal is not the issue. He can be as liberal as he wants as long as he interprets the laws as they were meant to be interpreted instead of applying his own ideas and enforcing his own ideas in contravention of the laws. That is one of the problems that we have here and it has been a big problem.

So we have only taken on a few of these judges and this is one we just felt duty bound to take on, especially following the crime bill that we all worked so hard on, and especially in this year when every one of us know one of the major issues for the American people is: Are we going to get tough on these criminals?

The answer to that is, "I suppose, but." And the "but" is pretty big. Because if the President continues to send up people like this we might as well hang it up because this society is going to be crime-ridden and we are going to see nothing but problems from this time on.

I notice the distinguished Senator from Wyoming is here so I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank the Presiding Officer.

I have listened to the debate by my good friends. They are indeed—Senator HATCH, Senator BRADLEY—two people I greatly enjoy and enjoy working with in this remarkable Senate Chamber and in our committee efforts and in our work.

I am here to support this judge. I have also advised Senator HATCH and my colleague I have visited with this man. I asked all the tough questions. I hope every one of us could have visited with this gentleman for 35 or 40 minutes, 1 hour, or 1½ hours. I did take some time. I believe Judge Sarokin has the education and the judicial experience to be a very capable appellate judge.

He is a graduate of Dartmouth College and Harvard Law School. You have heard his credentials. He has served as a Federal district judge now for 15 years—that is quite a record.

Prior to his appointment to the U.S. District Court in New Jersey, the judge practiced law as a trial lawyer. He was a part-time county counsel and he taught law at Rutgers University. He received a unanimous "well-qualified" rating from the American Bar Association.

I am one who has often said that our decisions should not swing on the ABA. I certainly do not swing with the ABA. But their views are worthy of note, in any event. And that is the unanimous "well-qualified" rating. Judge Sarokin's fellow jurists, his own peers, have shown their confidence in him by naming him twice as the chairman of the National Conference of Federal Judges.

Yes, he is controversial, we know that through the debate. We have had a few of those kind. But, as I say, I have visited with him. He can and does listen. He has done some boneheaded decisions, and your loyal correspondent has done some boneheaded decisions in his life—myself. I know what that is. If we are just judged on our errors in life, for the times we miscue and misstep, it would not be much. So he has admitted what occurred in these cases; he has grown and matured on the bench. He is ready for this challenge. He will do well. He will do what the law requires and not allow his own human biases to control or intervene.

He is also very fortunate to have Senator BILL BRADLEY on his side and as his friend. He, being a dear friend of many of us, has greatly aided the Senate passage which I think will take place.

I am personally very satisfied that this man possesses the education, judicial experience, temperament to serve as a Federal appellate judge. Those are the things we should weigh, and I will vote to confirm the nomination.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, another case that illustrates Judge Sarokin's soft-on-crime liberal activism is the 1984 case of *U.S.* v. *Rodriguez* [Crim, No. 84–18 (D.N.J. 1984)]. In that case, Judge Sarokin found that the defendant, Rodriguez, had read a form advising him of his Miranda rights, had signed the part of the form waiving those rights, and was aware of those rights before he spoke with an FBI agent. Judge Sarokin nonetheless granted Rodriguez' motion to suppress evidence of his statements to the FBI agent. In other words, to keep his agreed-upon statements out of the record in the trial. In concluding that Rodriguez did not waive his Miranda rights and that his statement should therefore be deemed involuntary, Judge Sarokin relied heavily upon the fact that Rodriguez did not sign his own name to the waiver form, but instead signed the false name Lazaro Santana. According to Judge Sarokin,

> It does not strain logic to find the use of a name other than one's own to be wholly inconsistent with a voluntary waiver of rights: defendant might well have believed that by using a false name he was not committing himself to anything.

That indeed, strains logic to conclude that signing an alias is wholly inconsistent with a voluntary waiver: The far more natural conclusion is that Rodriguez's use of the alias may simply have been an effort to conceal his identity. But what is even more remarkable is that Judge Sarokin's ruling was directly contrary to controlling third circuit precedent, as Judge Sarokin himself recognized.

At his hearing, Judge Sarokin claimed that the third circuit had held only that the use of a false name is "certainly not dispositive" but could well be relevant [91:15]. Such a claim is contrary to the reading of that precedent made by Judge Sarokin himself in Rodriguez. It also finds no support in the third circuit case. But as a result of Judge Sarokin's liberal judicial activism, critical evidence against a criminal suspect was suppressed. That means not allowed in.

Mr. President, we do not need more judges who will handcuff the police in the war on crime. We do not need more judges who will create hypertechnical rules that free the guilty. We do not need more judges who will ignore existing precedent and twist laws to favor criminals. Liberal judicial activism has taken that approach for the past 30 years, and the results have been all too predictable: soaring rates of murder, rape, and other violent crimes, and communities riddled with drugs and at the mercy of gangs of thugs. Enough is enough.

I just gave you that one little case. It is just an illustration of the way this man is judicially an activist, somebody who ignores what the law really says and just does what he thinks is right. That is not good enough for me. I think when people are nominated and confirmed for lifetime appointments, with full pay upon retirement, that they ought to stand up and uphold the law, they ought to know what the role of judges is, and it is not to create laws from the bench.

Frankly, I do not know how anybody could vote to sustain this person on the Third Circuit Court of Appeals, when you read these cases. True, we cannot go into all his cases. It would take forever on the floor. We are only bringing up a number of them. But these are significant and they are illustrative of what Judge Sarokin's judicial philosophy and judicial propensities really are. So I am really concerned, Mr. President. I am concerned about what is happening here.

Mr. President, there are numerous other cases which illustrate Judge Sarokin's approach to the law that I think we all ought to be concerned about and which I think illustrate his propensity to pursue his own agenda and to defy precedent.

The case of Haines versus Liggett Group—which involved a personal injury action against cigarette manufactures—is an all-to-telling example. [140 F.R.D. 681 (D.N.J. 1992), writ granted, 975 F.2d 81 (3rd Cir. 1992).] In this case, the plaintiff Haines sought discovery of certain documents that the defendant cigarette companies said were protected by the attorney-client privilege. Haines argued that even if the documents were within the scope of the attorney-client privilege, the crime-fraud exception applied and annulled the privilege. A magistrate judge determined that the documents were privileged and that the crime-fraud exception did not apply.

Haines appealed the magistrate judge's order to Judge Sarokin. Judge Sarokin ordered the parties to supplement the record with materials from the record in a similar case, Cipollone, in which he was the trial judge. He then issued a ruling that the crime-fraud exception did apply and that Haines was entitled to discovery of the documents at issue.

Three aspects of Judge Sarokin's opinion merit special attention:

First: Judge Sarokin opened his opinion on this discovery dispute with this inflammatory prologue:

> In light of the current controversy surrounding breast implants, one wonders when all industries will recognize their obligation to voluntarily disclose risks from the use of their products. All too often in the choice between the physical health of consumers and the financial well-being of business, concealment is chosen over disclosure, sales over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe that illness and death of consumers is an appropriate cost of their prosperity!
>
> As the following facts disclose, despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation.

Second: Judge Sarokin held that the magistrate judge's ruling could not survive under even the "clearly erroneous" standard of review—a standard of review that is supposed to be very deferential and that, not incidentally, is the standard of review that court of appeals judges are generally obligated to apply to trial court factual findings. In reversing the magistrate judge's ruling, Judge Sarokin relied not only on the supplemental evidence that he ordered from the Cipollone trial but also on his "own familiarity with the evidence adduced at the Cipollone trail discussed in the directed verdict Opinion" in that case [140 F.R.D., at 694.] Judge Sarokin stated that having heard the trial evidence in Cipollone, he was "in the unique position of being able to evaluate the full scope of evidence supporting plaintiff's crime/fraud contention in the instant case." [Id., at 694 n. 12.]

Third: in a stated effort to show "some of the most damaging evidence" on this crime-fraud exception, Judge Sarokin quoted extensively from those documents as to which privilege had been found to exist by the magistrate judge. [140 F.R.D., at 695.]

In a remarkably impressive opinion, the third circuit unanimously granted an extraordinary writ vacating Judge Sarokin's order *and removing him from the case*. The third circuit emphasized that a writ was an "extreme" remedy to be used "only in extraordinary situations" and that "only exceptional circumstances amounting to a *judicial usurpation of power* will justify the invocation of this extraordinary remedy." [975 F.2d, at 88 (internal quotes omitted and emphasis added).] But the third circuit found that Judge Sarokin's ruling was in fact a judicial usurpation of power. Among other things, the third circuit rules that in reviewing the magistrate judge's order under the clearly erroneous standard, Judge Sarokin was not permitted to receive further evidence. [975 F.2d, at 91.] As it observed, our "common law tradition [does not] permit a reviewing court [(in this case, the district court)] to consider evidence which was not before the tribunal of the first instance." [Id., at 92.] Because Judge Sarokin considered and relied on portions of the Cipollone record that were not in the record before the magistrate judge, his order could not stand. [Id. at 93.]

The third circuit also sharply scolded Judge Sarokin for disclosing the contents of the documents as to which privilege had been claimed. In it words, it said this:

> This, too, must be said. Because of the sensitivity surrounding the attorney-client privilege, care must be taken that, following any determination that an exception applies, the matters covered by the exception be kept under seal or appropriate court-imposed procedures until all avenues of appeal are exhausted. Regrettably this protection was not extended by the district court in these proceedings. Matters deemed to be excepted were spread forth in its opinion and released to the general public. In the present posture of this case, by virtue of our decision today, an unfortunate situation exists that matters still under the cloak of privilege have already been divulged. *We should not again encounter a casualty of this sort.* [975 F.2d, at 97 (emphasis added).]

That is strong language from the appellate court, the court that Judge Sarokin is going to be elevated to if he is confirmed today.

Finally, in what the third circuit described as "a most agonizing aspect of this case," it then removed Judge Sarokin from the case on the ground that the prologue to his opinion on this preliminary discovery issue destroyed any appearance of impartiality. The court noted that the prologue stated accusations on the ultimate issue to be determined by a jury in the case: whether defendants "conspired to withhold information concerning the dangers of tobacco use from the general public." It further noted that Judge Sarokin's inflammatory remarks were reported prominently in the press throughout the nation. [975 F.2d, at 97–98.]

The third circuit's observations that Judge Sarokin's ruling amounted to a judicial usurpation of power, was contrary to our common law tradition, ignored fundamental concepts of due process, eviscerated the defendants' rights of appeal, and destroyed any appearance of impartiality scratched only the surface of Judge Sarokin's betrayal of the role of a judge in this litigation. Consider, for example, some of the many other respects in which Judge Sarokin's prologue was grossly inappropriate: What do his blanket assertions about the values of businessmen say about his ability to preside fairly in any dispute between an individual and a business? To whom is he referring as the other "rising pretenders" to the throne of "concealment and disinformation"?

Incidentally, at his confirmation hearing, Judge Sarokin ultimately made only a modest concession: "I concede that the language was strong and maybe unduly strong; and if I could take it back, I probably would." [60:11–13] The fact of the matter is that Judge Sarokin could have taken it back: these were carefully composed written comments, not off-the-cuff oral remarks.

Judge Sarokin also stated that "I was also hoping that I could discourage the tobacco companies from continuing to conceal the risks of smoking and deny that they existed." [110:20–23] This statement vindicates the third circuit's concern that Judge Sarokin was broadcasting his opinion on the ultimate issue to be decided by the jury. It also shows that Judge Sarokin was pursuing an agenda rather than simply deciding the legal issue before him.

Similarly, Judge Sarokin's reliance in Haines on his familiarity with the evidence in another case, Cipollone, is a flat admission of predisposition and bias. Judge Sarokin was, in his words, "unique[ly] position[ed]" to decide the issue only in the sense that he had already made up his mind.

Perhaps the most troubling aspect of this whole case is the manner in which Judge Sarokin responded to the third circuit's order removing him from the case. In referring to this removal in a written opinion, Judge Sarokin flamboyantly declared: "I fear for the independence of the judiciary if a powerful litigant can cause the removal of a judge for speaking the truth based upon the evidence, in forceful language that addresses the precise issues presented for determination." In short, Judge Sarokin not only voiced his disagreement with the ruling of the higher court, the court that he is about to ascend; he also cast aspersions on the independence and integrity of the third circuit judges by charging that a "powerful litigant" had "caused" them to rule as they did.

Equally remarkably, unchastened by his well-earned scolding, Judge Sarokin personally accepted "the C. Everett Koop Award for significant achievement toward creating a smokefree society." This award, from an organization called the New jersey Group Against Smoking Pollution, was given for the very comments that led to the third circuit's order removing him from the cigarette case. It is disturbing enough as an ethical matter that a judge would accept an award for an opinion in a particular case. It is beyond the pale that he would accept an award for a case in which he had already been found to have destroyed the appearance of impartiality, especially when the award is given for the very act that destroyed the appearance of impartiality.

It is true that in removing him from Haines, the third circuit stated that Judge Sarokin "is well known and respected for magnificent abilities and outstanding jurisprudential and judicial temperament." But in context, this can only be understood as sugarcoating a bitter pill.

Mr. President, I notice the distinguished Senator from Texas is here in the Chamber, and so I will yield the floor at this time.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, I wish to thank the distinguished Senator from Utah for going through and documenting all of the cases involving Judge Sarokin.

Let me say, Mr. President, in order to save the time of the Senate, the point I want to make in this debate is not directly related to this judge. It is related to the person who has nominated this judge.

Whether you are talking about bums who are harassing people at the library or whether you are talking about brutal murderers who kill police officers, we have here a documented case of a judge who engages in a sort of a moral crusade to right society's wrongs by blaming society for all of the wrongs that exist and holding individuals responsible for virtually nothing they do, a person who seems to visualize himself as a lawmaker in robes. I think basically that the question is not why does this judge act as he does, with some of his decisions overturned by the very appellate court to which the President seeks to appoint him, but the question is why did the President appoint him in the first place?

Now, let me go back and try to address each of these issues. I have always taken the position that it is not my job to judge people's basic political philosophy. I am a firm believer that elections have consequences, and when the American people elected Bill Clinton President, they knew or they should have known that he was going to appoint liberals to the Federal bench. So I have taken the position in thousands of nominations the President has made that I am not going to vote against somebody simply because I disagree with him. If I voted against the President's nominees simply because I disagree with him philosophically, very, very few people nominated by Bill Clinton would have gotten my vote.

What I have tried to do is to set up what I believe is a reasonable test, and the test is not does this person's philosophy reflect my opinion, but the test is, is this an individual that the American people could have reasonably expected Bill Clinton, who was a candidate in 1992, to appoint?

From anything that then Governor Clinton said in the campaign about crime and punishment, about the role of the courts, could the American people have expected him to appoint a person who has the record of the nominee before us? In his viewpoint as a judge, with a documented record of having cases overturned because of the injection of his values rather than the law into the case, is that person in the mainstream of liberal thought in our courts to such an extent that people who voted for Bill Clinton should have known at least that this is the kind of person who would have been appointed?

I believe that Judge Sarokin fails on that test.

I have also tried to set out a couple of other standards. One standard is, does this person have the temperament that goes with the job for which they are nominated? I believe the judge before us fails that test. I could repeat some of the things that Senator HATCH and others have said. We are all familiar with this now famous court decision because it has been written up in editorials all over the country, basically because it is such an outrageous decision.

A person named Kreimer, who had inherited the nucleus of a small fortune, $340,000, which he had squandered, basically became a nuisance who hung out at the library, did not change his clothes, harassed people, taxpayers, who paid for the library. When women came into the library, he stalked them and followed them around and gawked at them, and people complained about it. After all, they paid for the library.

Now, when people complained about it, when the case went to court, and when it ultimately found its way before our judge in question, here is what he said about it. And I think this is relevant because this shows a temperament that is not suited to someone who will be wearing a black robe and interpreting the law. Quite frankly, it is a temperament that perfectly suits many of the people who run for public office. The problem is this judge wants to make the law without the inconvenience of having to run for public office, to be credentialed to do it. So here is a case—and I do not think anybody disputes the facts. You have a bum who is hanging out at the public library harassing people who are trying to use the library in Morristown, NJ, people who paid for it. They come to the library. He harasses them. He follows women around. He sits and stares at them. He stinks. He does not change his clothes. So they throw him out of the library—perfectly reasonable behavior, it seems to me. In the America in which I grew up, they would have thrown him out of the library and they would have arrested him had he come back, and for good reason. Now, this case comes before this particular Federal judge, and here is what he says:

> The greatness of our country lies in tolerating speech with which we do not agree. That same toleration must extend to people particularly where the cause of revulsion may be of our own making. If we wish to shield our eyes and nose from the homeless, we should revoke their condition and not their library card.

Mr. President, here is the point. First of all, not that it is terribly relevant to this case, but this guy was not poor. This person inherited more money than most Americans accumulate in their lifetime. This person was not out giving speeches about his position on moral values or overthrowing the Government or some other activity protected by the first amendment. He was stalking and staring at women who had come to the library. He was harassing people who were trying to use a public asset that, after all, they had paid for with their taxes.

What this particular judge basically said is that society should be dealing with this person's plight and that, in fact, he has every right to rub their noses in his problem; he has every right to deny them use of a facility that they have paid for. And what this judge is citing is not the law of nuisance or the right of people to extend their freedom as long as it does not interfere with anybody else's—what this judge is doing is failing to quote any law by which he forced this library to pay this person.

What he is doing is stating his opinion. It is his opinion that society ought to do something about people who want to come to the library and harass taxpaying citizens.

Mr. President, if this individual had decided to run for the Senate in New Jersey, I certainly would not have supported him. I would have voted against him, had I been voting in New Jersey. But it is a perfectly reasonable position to take if you want to run for the Senate and say I think smelly, offensive people who want to brutalize people at the library ought to be able to do it, and I am going to write a law that says they can do it. Personally, I think it would be a silly law. I would vote against it. And I cannot imagine anybody elected from New Jersey or anywhere else who would propose such a law.

But the point is that is legitimate. It is not legitimate to put your hand on the Bible and swear to uphold, protect, and defend the Constitution and the laws of the country, and then go around moralizing about what society ought to be and what society ought to do, when your job is not to moralize, your job is not to make the law; your job is to interpret the law and to carry out the law.

I could get into a bunch of other cases. Senator HATCH has gone through dozens of cases. Let me mention another one. I do not smoke; I have spent lots of time in my life trying to get my mom to quit smoking; I will not let her smoke in my house. She has always threatened when she goes out on the porch in the cold that she is going to call somebody from the newspaper and tell them my poor old mom is out in the cold because I am mean to her.

I do not have a lot of truck with people who smoke; I do not like it; I cannot imagine being married to anybody who smokes. But it is a free country. People have a right to smoke.

But if you read this judge's language, a judge who is supposed to be impartial, who is supposed to carry out the law and judge the facts, if you read what he says about smoking and about tobacco companies putting money over morality—who empowered a Federal judge to judge money or morality in American free enterprise?

If someone was a Member of Congress, or a social critic, or an author, or an editorialist, or a bum at the library, they would have every right to be moralizing about whether tobacco companies ought to be trying to make money on tobacco, or whether it was moral to sell it. I mean those are kind of goofy views, in my opinion. I do not blame the tobacco company that my mother smokes. They are not making her smoke. She is choosing to do it. Of course, she says she has lived to be older doing it than I probably will live not doing it.

But the point is, should we have Federal judges engaging in these sorts of moral pronouncements and in turn substituting them for the existing law of the land when making decisions?

I could go on and talk about hoodlums who brutally murdered police officers—on and on—but I am not going to get into those details of the case for two reasons: One, I made my point and, number two, I am not in a position to judge the technicalities of the law here. That is not my point.

My point is this: I am a strict constructionist. I believe if you want to make the law, you ought to run for Congress, you ought to submit your ideas to the American people. If you get elected, you ought to come up here and try to convince people to change the law. And if you are successful, you can change it. That is how this system works.

I believe judges ought to be in the business of interpreting the laws, not making them. I knew when Bill Clinton was elected that he was going to appoint liberals and activists to the bench. I have supported a lot of them. I voted for a lot of them. I would say there probably are not 10 of them—maybe none of them—that I or a Republican in a similar position would have appointed. But I have always felt when people voted for Bill Clinton they knew, or they should have known, that he was going to appoint liberals to the bench who, to some degree or another, take the view that it is their job to fill in the blanks in the law, rather than asking Congress to do it.

But I believe, Mr. President, in the case of this particular judge, that he steps way over the line of what anybody should expect from someone like Bill Clinton; he steps over the line of a judge that someone would expect the Bill Clinton, who ran for President in 1992, to appoint to the Federal bench.

That is the point. The point is not that this is a bad person. My guess is that this is a wonderful person. My guess is that he is very much consumed by all these things. He might be the kind of guy I would like to live next door to. I might want him to be the father-in-law of my children. But the point is that a person who holds his views chose the wrong business. The person who holds his views ought not to be an appellate judge. In fact, many of his decisions have been reversed by the very appellate court that the President is now appointing him to, and not just reversals where they said we believe that while one could take the interpretation of the law that this particular judge has taken, that it is our opinion that his decision was wrong.

The court to which he is being appointed today has said that his view was so outrageous, so far from the law, so out of bounds, that in unanimous rulings they have thrown out his opinion.

So the concluding point I want to make is this: I am going to vote against this judge because Americans voting in 1992 could never have believed that the person who was running for President, named Bill Clinton, who was a new kind of Democrat, who believed in the death penalty, who wanted to be tough on crime—there was no reason that they would have believed that he was going to nominate this judge to be a Federal circuit judge. There was no way a rational person could have concluded that this nomination could have been expected or reasonable.

Second, a person who wants to substitute their own values for the law, in my opinion, does not have the temperament to be a Federal judge. So I am going to vote against this nomination. But I want to make an important point.

A great political philosopher said: In no way can you get a truer insight into the nature of a leader than to look at the people he surrounds himself with. If you want to know who somebody is, look at who they appoint, look at the people that they empower through their individual decisions. And I have to reflect, as I have on maybe six or seven other nominations—our Surgeon General being one, the Ambassador to Finland, who, for 25 years, argued against the very fundamental foundation of American capitalism and economic freedom, was another—I believe this nomination tells us something about our President, and I think it tells us that our President was not leveling with the American people when he ran for office in 1992.

I think it tells us that our President was elected under false pretenses. I do not think you can look at this nomination and conclude that President Clinton is serious about grabbing violent criminals by the throat. I think when you combine this nomination with his crime bill, which overturned minimum mandatory sentencing for drug felons, that what we are seeing is a huge gulf between what he is telling the American people about getting tough on crime and what is being done.

So I believe that the nomination of this judge is out of bounds. I think it is out of reason as to what people could expect. I do not challenge the fact that the American people elected Bill Clinton and that they knew or should have known that he was going to appoint liberals. But this person is not just a liberal. This judge is a person who wants to substitute his individual opinion, his moral values, his conception of the world and how it ought to be under the Constitution for the existing law of the land. And while that is a reasonable thing to do, and it is a high calling, it is not the job of a Federal judge. As a result, I do not believe this judge should be elevated to the appellate court. I think this is a bad mistake and, of course, he is going to be there for a long time.

So I cannot support this nomination, and I think the nomination reflects on the person who made this appointment.

I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. McCONNELL], is recognized.

Mr. McCONNELL. Mr. President, regrettably, I, too, must oppose this nomination. Although I believe the President should be accorded deference in the exercise of his constitutional power to nominate, this particular nominee, as previous speakers have pointed out, is incredibly flawed. I, for one, have serious concerns about Judge Sarokin's ability to be impartial, his tendency to legislate from the bench, and his lack of regard for judicial precedent.

For example, he approached a personal injury case against tobacco companies with a direct bias against the defendants. In an early pretrial proceeding, before evidence had been introduced into the record, Judge Sarokin accused cigarette manufacturers of being "the king of concealment and disinformation." From the bench, imagine that, Mr. President, from the bench, early in the case, the judge says that the tobacco companies, cigarette manufacturers, who were a party in the case before him, were the "kings of concealment and disinformation."

His decision—to override the attorney-client privilege and allow certain evidence to be admitted as evidence of crime-fraud—was subsequently reversed by the third circuit, and Judge Sarokin was removed from the case. This is a fellow who is up for elevation to the next circuit. They removed him from the case for his obvious bias.

The third circuit found extremely exceptional circumstances, "amounting to a judicial usurpation of power" in removing him from the case. The third circuit said, exceptional circumstances "amounting to a judicial usurpation of power." That is what they said in justifying his removal.

The third circuit also found Judge Sarokin violated our "common law tradition," with his ruling, in removing him, and that he violated the defendant's right to due process. Judge Sarokin let his bias against the defendants interfere with their right to a fair trial. He was so totally biased against one side in this case, said the higher court in removing him from the case, that he simply violated their right to a fair trial. Every litigant who walks into a courtroom, Mr. President, should be entitled to fairness. Parties should not have to face a judge who they know has a prejudice against them—in this case, openly stated as a prejudice against them in advance.

Shortly after being disqualified from the case, after he was removed from the case for his obvious bias, Judge Sarokin accepted an award—still on the bench—from an antismoking group for his significant achievement toward creating a smoke-free society. Here we have a judge accepting awards of this sort. It is troubling that any judge would accept any award for his role in a particular case. But that Judge Sarokin accepted this award in the face of the third circuit's finding that he lost all impartiality in the case is exceptionally disturbing.

Judge Sarokin's lack of impartiality should disqualify him from being elevated to the third circuit. But this is not the only strike against this nominee. He also practices judicial activism. He legislates from the bench, imposing his view of right and wrong upon parties who appear in his courtroom.

In one case, Judge Sarokin struck down a town library's rule against vagrants loitering in the library. He ruled on behalf of the vagrant, intent on disrupting and disturbing law-abiding citizens' use of the library. To achieve his result, the judge misused relevant precedent. In this case, the third circuit unanimously reversed the nominee.

In another case, dealing with an award of attorneys' fees, Judge Sarokin showed disdain for a relevant Supreme Court decision. When the third circuit again reversed the nominee before us, the court found he had "simply defied the Supreme Court's opinion * * *" He just defined it. He did not like it. So he would not follow it.

The third circuit also stated that Judge Sarokin followed his own views and he "failed to follow the clear direction" of both the third circuit and the Supreme Court.

Finally, Mr. President, Judge Sarokin has shown excessive leniency in criminal cases.

He is on record as opposing the detention of criminal defendants until they are finally convicted; he opposes mandatory minimums as well as uniform sentencing guidelines. He does not want to punish those who murder, rob, and rape. Instead, he would rather dispense shelter, provide job training and turn our prisons into therapy centers.

The New Jersey Law Journal has called the nominee before us the most liberal, as well as the most reversed Federal judge in New Jersey. The Senate should not reward Judge Sarokin for his bias, for his judicial activism, for his substituting his own judgment for that of the political branches of Government, or for his disregard of precedent.

Mr. President, I think this is a particularly flawed nomination. I hope the Senate will not approve him.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey [Mr. BRADLEY], is recognized.

Mr. BRADLEY. Mr. President, I have listened all afternoon to the opponents of the nomination of Judge Sarokin. I would at this time like to make a few points in support of his nomination, given the context and content of what we have heard during the afternoon.

The first thing that needs to be said is that Judge Sarokin has written over 2,000 opinions, and only actually a little less than 50 of those have been reversed and 2 of those have been reversed again by the Supreme Court and 2 have been reversed because of a change in the law after the opinion.

There are those who say, well, 50 out of 2,000, that is about a 3 percent reversal rate. That is pretty good. Others say, well, you know all of his opinions were not appealed. So the reversal rate might be higher.

All I can say is that any case in any district court has the right of automatic appeal to the circuit, and if they were not appealed, then clearly both sides felt they were correct, which is one of the marks of a successful jurist. So of the over 2,000 opinions, less than 3 percent have been reversed.

Now, is it possible out of 2,000 opinions to find 5, 6, 7, or 8 isolated opinions to focus on and exaggerate? Sure it is possible for virtually any judge who sat as long as Judge Sarokin has on the district court since 1979.

A lot has been made of the New Jersey Law Journal saying he was the most reversed judge in New Jersey, and when there is a major case; yet the New Jersey Law Journal has endorsed his ascension to the third circuit. The New Jersey Law Journal has strongly stated its support for him. And if you are going to take major as meaning controversial, then of course he has had some controversial cases. There is no question about that. When you have a controversial case which often involves issues of first impression, sometimes you will be reversed, and indeed he has, but only 3 percent out of over 2,000 opinions.

There has been a point raised by an article by Mr. Jipping.

I ask unanimous consent that a point-by-point rebuttal of his article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRISONER'S LEGAL ASSOCIATION (PLA) V. ROBERSON: HARASSMENT OF PRISON PARALEGALS

What really happened?

The PLA and several prisoners who served as paralegals alleged that a prison official had harassed them in retaliation for helping another prisoner file a claim against him. They made claims under the Eighth and Fourteenth Amendments. Defendant moved for summary judgment.

Judge Sarokin ruled that verbal harassment, several denials of meals, and several searches did not constitute cruel and unusual punishment under the Eight Amendment.

The paralegals also asserted a Fourteenth Amendment claim on behalf of the prisoners to protect the prisoner's right of access to the courts. Judge Sarokin denied defendant's motion for summary judgment on this issue because there was no evidence in the record indicating whether the prisoners had access to the courts other than through the paralegals.

Since the parties had not extensively addressed whether the paralegals could assert third-party standing to enforce the prisoner's rights, Judge Sarokin decided additional briefing was appropriate.

Judge Sarokin made no ruling on the merits of the claim.

Didn't Judge Sarokin search for a claim that the parties hadn't raised and then appoint counsel to brief it?

The plaintiff's primary claim for relief was their Fourteenth Amendment claim. It would have been impossible for Judge Sarokin to ignore it.

The defendant, not Judge Sarokin, raised the standing issue on which he requested further briefing.

The defendant, not the plaintiffs, challenged the ability of the PLA to proceed without an attorney. Based upon recent Supreme Court precedent requiring that all "associations" be represented by licensed counsel in court, Judge Sarokin appointed counsel. Legally, the matter could not have proceeded otherwise.

Didn't Judge Sarokin create a protected status for prison paralegals?

In fact, Supreme Court precedent clearly establishes a prisoner's right of effective access to the courts, either through a law library or legal assistance. Furthermore, under established Third Circuit law, otherwise permissible actions by prison officials are unconstitutional if taken in reaction to a prisoner exercising his constitutional right of access.

In this case, Judge Sarokin recognized that if the paralegals provided the only access to courts, then preventing their assistance would prevent exercise of this right.

HAINES V. LIGGETT: MANDAMUS OVER DISCOVERY ORDERS AND REASSIGNMENT OF TOBACCO LITIGATION

What really happened?

In two actions six years apart, the Third Circuit Court of Appeals disagreed with

Judge Sarokin's decisions in disputes over discovery in the hard-fought litigation between the tobacco companies and heirs of those killed by smoking. It issued writs of mandamus to reverse the decisions.

In the second action, the Third Circuit was also asked to exercise its supervisory powers (*not* to issue a writ) to reassign Judge Sarokin because the tobacco companies felt he had evinced prejudice in the language of one of his orders. The Court said that while it did "not agree that [Judge Sarokin] was incapable of discharging judicial duties free from bias and prejudice," it would reassign the case in order to preserve "*not only the reality* but also the appearance" of neutrality.

Isn't extremely unusual?

Issuing a writ of mandamus, although not an everyday occurrence, is not an earth-shattering event. The Court of Appeals was required to issue writs of mandamus on the discovery orders because such orders are not appealable through the normal process. During the 15 years that Judge Sarokin has been on the bench, the Third Circuit has issued 31 writs of mandamus to District Court judges [—Republicans and Democrats, liberals and conservatives.] Even if Judge Sarokin was wrong on the law—on these two motions out of [hundreds] decided during the tobacco litigation—his actions and the writs of mandamus issued by the Court of Appeals were "typical of trial court error common in the day-to-day supervisory experience of an appellate court." (N.J. Law Journal, 10/5/92)

Reassignment is much less common, to be sure. But the same year it took action against Judge Sarokin, the Third Circuit reassigned Reagan appointee Judge Kelly (E.D.Pa.) from asbestos litigation.

Did Sarokin really 'ignore the law' in the two discovery motions on which he was reversed?

In fact, both cases turned on the relatively technical question of the standards and methods of review of magistrates' decisions on discovery motions in particular settings.

In the earlier case, involving a protective order against public disclosure of documents, Judge Sarokin had interpreted a Supreme Court decision to require an expansive standard of review because constitutional guarantees of free speech were implicated. At least [two] Court[s] of Appeals had reached the same conclusion. The Third Circuit, in a decision announced *two months after* Judge Sarokin's decision, reached the opposite conclusion. Thus, the law he is alleged to have ignored did not exist at the time.

In the later case, Judge Sarokin had, in reviewing the magistrate's decision, considered evidence from a related case. Although the Third Circuit, apparently addressing the question for the first time, disagreed with this approach, Judge Jack B. Weinstein (E.D.N.Y.) endorsed it (Brooklyn Law Review 1993). Contrary to the allegations of Judge Sarokin's critics, this was a close question, not a lawless seizure of power.

Judge Sarokin's critics have distorted the language of the Third Circuit's opinion. References to "judicial usurpation" are *not* used to describe Judge Sarokin but are rather boilerplate references to Supreme Court precedents on mandamus. The actual discussion of Judge Sarokin's actions turn on close questions of law.

Most importantly, *Judge Sarokin was not reassigned because of his rulings of law*, on which reasonable judges can and have disagreed, but *because of the way he expressed himself.*

Don't Sarokin's remarks show a lack of judicial temperament?

In fact, in announcing its "most agonizing" decision to re-assign Judge Sarokin, the Third Circuit stated unequivocally that he "is well known and respected for *magnificent abilities and outstanding jurisprudential and judicial temperaments.*" Even a critic of his remarks in the tobacco litigation has called Sarokin "*one of our best judges.*" Prof. Monroe Freedman, Hofstra Law School (Brooklyn Law Review 1993).

The Court of Appeals did not hold that Judge Sarokin abandoned "*even* the appearance of impartiality," as Judge Sarokin's critics have chosen to twist the opinion to say. The Court stated outright that Sarokin could be fair *in fact* and that only the appearance of impartiality was implicated by his remarks.

Was Sarokin's removal consistent with the law?

Judge Sarokin's remarks, although perhaps ill-considered, came after years of reviewing evidence in the tobacco litigation. No one alleged that his views—whatever they were—came from anything but the evidence. Five of the six Circuit Courts that had considered the question—including the Third Circuit, *see Johnson* v. *Trueblood*, 629 F.2d 287 (1980)—had clearly held that appearances of judicial bias originating in judicial proceedings should not result in removal. These courts recognized that in order to issue rulings, a judge must develop views based upon the weight of the evidence presented.

Most commentators agreed that Judge Sarokin should not have been removed under the prevailing legal standard:

"[T]he *Haines* opinion is troubling because it appears to directly contradict the well-settled Third Circuit position . . .. Judge Sarokin was making a determination regarding whether the crime-fraud exception applied to certain documents. The Third Circuit Court of Appeals did not address how the judge was to make his determination without addressing the issue of whether the tobacco companies had engaged in concealment." Comment, Seton Hall Law Review (1994).

"[T]he [Third Circuit's] decision . . . ignored both governing statutory authority and the fundamental distinction between judicial and extrajudicial bias . . .. [T]he court's failure even to mention this issue was judicially dishonest . . .." Prof. Paul C. Gluckow, Seton Hall Univ. Law School (Seton Hall Law Review 1993).

"What Sarokin said was . . . intemperate, but I don't think it warranted disqualification under the case law. The distinction between information that is judicially acquired, or not, is an important distinction." Prof. Jeffrey Stempel, Brooklyn Law School (quoted in N.J. Law Journal, 9/14/92).

"I have found no other case where a judge has been disqualified for an appearance of bias for remarks contained in a judicial opinion, based on facts in the record, and relating to the merits of the case." Prof. Bennett L. Gershman, Pace Univ. Law School (N.Y. Law Journal, 9/21/92).

In fact, the United States Supreme Court recognized this distinction earlier this year in its decision in *Litekey* v. *United States*, 114 S.Ct. 1147 (1994). The Court sided with the majority of Circuit Courts who had held that although a judge may often appear biased because of views developed from hearing the evidence in judicial proceedings, removal is required only when the judge "display[s] a deep-seated favoritism or antagonism that would make fair judgement impossible." 114 S.Ct. at 1157. Since the Third Circuit explicitly stated that it did not doubt Judge Sarokin's *actual* ability to adjudicate the case impartially, its decision in *Haines* v. *Liggett* could not survive the Supreme Court's decision in *Litekey*.

But why was Sarokin making these remarks?

Judge Sarokin had to decide a technical question of attorney-client privilege, the so-called crime-fraud exception. He needed to determine whether documents otherwise protected by the privilege had been generated as part of an effort to conceal facts about tobacco from the public. So the degree of deceptiveness of the tobacco companies was directly relevant to the question presented, even though it was also inevitably related to the issue to be decided at trial.

Judge Sarokin, after considering the evidence, did his duty. He found that the manufacturers had indeed engaged in fraud and ordered them to disclose some (not all) of the documents. His strong comments on the evils of concealing health risks and the statement that the tobacco industry 'may be the king of concealment and disinformation' were within the scope of the issue." Prof. John Leubsdorf, Rutgers Law School (New York Times, 9/16/92).

[H]is introductory remarks were made in the context of a judicial determination finding that prima facie evidence existed demonstrating that the tobacco industry defendants had engaged in widespread fraud and deception. . . . Seen in this context, Judge Sarokin's statement in the prologue of his opinion . . . becomes interconnected with his judicial evaluation of the proof. There is no more of an appearance of bias here than in the case of a judge who concludes after a trial that a witness has given false testimony, or who, after reviewing a record, concludes that a party is guilty of a cover-up." Prof. Bennett L. Gershman, Pace Univ. Law School (N.Y. Law Journal, 9/21/92).

"Judge Sarokin was asked to rule on the viability of plaintiffs' fraud theory, namely that the defendants knew about, but concealed and, in fact, distorted the hazards of smoking cigarettes. He was *required* to examine the facts presented by both sides to determine whether it was reasonable to conclude that the cigarette industry had in fact attempted to mislead the public. Finding 'sufficient prima facie evidence of fraud in connection with the public assurances made by defendants to declare the crime-fraud exception shall apply in this matter' was *an appropriate exercise of judicial power.*" Judge Weinstein (Brooklyn Law Review 1993).

LANDANO V. RAFFERTY

What really happened?

Landano was convicted in 1977 for murdering Newark police officer John Snow during a robbery of a check-cashing establishment. In 1985, he brought the first of two *habeas corpus* proceedings in federal District Court. After an evidentiary hearing, Judge Sarokin found that there was good reason to believe some of the evidence against Landano was not reliable. He nevertheless denied the petition because principles of judicial restraint required him to defer to the state court's findings.

In 1989, Landano brought another *habeas* petition based on *new* evidence that had not been available to the state court. Judge Sarokin found that this new evidence indicated that the prosecution had suppressed evidence that would have exculpated Landano and therefore Sarokin granted the petition. The Third Circuit reversed not because it disagreed with Sarokin's evidentiary conclusions, but because Landano had not exhausted his state remedies by bringing the new evidence in the first instance to the attention of the state court.

In 1994, *the Appellate Division of the New Jersey agreed with Judge Sarokin on virtually every count and granted Landano a new trial. State* v. *Landano*, 637 A.2d 1270 (1994). The court found as follows:

"First, the State suppressed evidence that its principal identification witness [the proprietor of the check-cashing shop] was under investigation for having ties with organized crime . . . [and] on the very day his earlier tentative identification of [Landano] became positive, he was questioned about the possibility he had paid illegal gratuities to Officer Snow.

"Second, the State suppressed evidence that its chief witness [Landano's alleged accomplice] . . . had committed numerous armed robberies similar to [this one and had suppressed evidence that] the witness "and his closest associate had committed an earlier armed robbery in which the gun used to kill Officer Snow had been fired.

"Third, the State suppressed evidence that the only eyewitness to the shooting rejected [Landano's] photograph . . ." 637 A.2d at 1271.

Wasn't Sarokin on some kind of crusade to free Landano?

Far from engaging in a crusade, Judge Sarokin denied the first petition *even though he felt the evidence indicated a strong possibility that Landano was innocent.* The opportunity to free a prisoner whom one believes to be innocent is the strongest temptation to which a judge can be subjected, but Sarokin said in his opinion that he could not do so "without violating the court's oath to follow existing precedent." 670 F.Supp. at 572.

Sarokin's critics have mocked his statement that he conducted "an exhaustive search for grounds to grant the writ," but in doing so for a prisoner he believed to have been done an injustice, Judge Sarokin was upholding the finest traditions of the federal courts.

If Sarokin was engaged in a crusade, why did he wait four years to re-open the case? Because he did not re-open it. In fact, Landano brought a new petition, having worked on his own to develop new evidence that the prosecution had suppressed exculpatory evidence at the first trial.

After concluding that the prosecution did suppress evidence, a conclusion with which the state court ultimately agreed, Judge Sarokin granted the second petition. He concluded that Landano had effectively met the requirement that he exhaust his state remedies because the substance of his claim—that another man had done the killing and that the state had suppressed evidence—had already been presented to the state court.

Two of the three judges on the Third Circuit panel disagreed; the third, Judge Rosenn, agreed with Judge Sarokin that "[t]hough the newly discovered evidence . . . may be a new development for the petitioner, it is not for the State. It had possession of the information during the entire habeas corpus proceedings in the state courts and during the initial hearing before the United States District Court and failed to fulfill its constitutional duty to divulge the evidence." Judge Rosenn said that "the State's case [against Landano], erected upon a house of cards, has little, if any, credible foundation to it." 897 F.2d at 685.

Didn't the third circuit reverse Sarokin again when he granted Landano bail?

Sarokin did grant Landano federal bail while he pursued his remedies in the state court system, a process that culminated in the Appellate Division's ordering him a new trial. The Third Circuit split 2 to 1 in reversing. Contrary to the claims of some critics, the court said nothing to indicate that it believed that Judge Sarokin was letting personal bias displace his judicial duty. Rather, the Third Circuit agreed with the fundamental proposition that there was precedent for the authority of a federal court to grant bail to a state prisoner under these circumstances. In dissent, Judge Sciraca went further, agreeing with Judge Sarokin that "a finding of probable innocence" warranted Landano's bail.

Didn't Sarokin Stretch FOIA to permit Landano access to FBI files? And didn't the Supreme Court reverse him?

When Landano asked for access to his FBI files, the government took the position that it was entitled to what the Supreme Court later characterized as a "sweeping presumption" that all persons or entities giving information to the FBI in the course of a criminal investigation were confidential sources and not FOIAble. Judge Sarokin accepted this presumption as to regular FBI informants, but said that as to other named sources the government would have to make a particularized showing. The Third Circuit affirmed.

The Supreme Court, in *U.S. Department of Justice* v. *Landano*, 113 S.Ct. 2014 (1993), *agreed with Judge Sarokin's essential holding* that the government's position was untenable. Speaking for a unanimous Court, Justice O'Connor held that the government "offers no persuasive evidence that Congress intended for the Bureau to be able to satisfy its burden in every instance simply by asserting that a source communicated with the Bureau during the course of a criminal investigation." 113 S.Ct. at 2023. The Supreme Court did go on to say, however, that the government establish a presumption in favor of nondisclosure of information in "more narrowly defined circumstances." *Id. Using the very example that Judge Sarokin had below*, Justice O'Connor said that "it is reasonable to infer that paid informants normally expect their cooperation with the FBI to be kept confidential." *Id.*

KREIMER V. BUREAU OF POLICE FOR THE TOWN OF MORRISTOWN HOMELESS MAN EXPELLED FROM LIBRARY

What really happened?

Judge Sarokin ruled that the Morristown library's policy banning those with poor hygiene from the library infringed upon established First Amendment rights.

The Court of Appeals agreed with Judge Sarokin that the strictest scrutiny would apply to the library's hygiene regulation, because it effectively prevented some from enjoying their First Amendment rights. And while it did disagree with Judge Sarokin, finding the regulation survived constitutional "strict scrutiny" (a test rarely passed), its painstaking analysis reveals how close a question this was.

Didn't Judge Sarokin invent a new right?

The Court of Appeals agreed fully with Judge Sarokin that the First Amendment guarantees all citizens not only the right to express their ideas to others, but also "the right to receive information and ideas" from others. It described a long line of Supreme Court case supporting this right as essential to a democratic society. It called the public library "the quintessential locus of the receipt of information," affirming Judge Sarokin's determination that citizens enjoy a right of access to the public library. Thus, Judge Sarokin in no way invented a new right.

Didn't Judge Sarokin insist the library was discriminating against Mr. Kreimer?

Actually, the library freely admitted that its policy (which also includes prohibitions on loitering and annoying other patrons) was designed explicitly to restrict the access of Mr. Kreimer and other homeless people to the library. It created the policy specifically to respond to Mr. Kreimer. The library's own statements, not Judge Sarokin's insistence, established the discriminatory intent.

What was the real problem with the regulations?

Judge Sarokin found not that the library couldn't regulate access to its facilities, but that the regulations, because they were so *vague*, would allow library officials to discriminate *arbitrarily*. He believed that the prohibitions against hygiene falling below "community standards" and against "annoying" behavior gave too much discretion to library officials, allowing them to use the regulations as a justification to expel those of whom they did not approve. A similarly open-ended law may give a police officer discretion to remove a speaker or a member of her audience solely because that person annoyed others or because his or her hygiene did not meet community standards.

While the Court of Appeals did not agree that the regulations were unconstitutionally vague, at least one commentator, Jeremy Rabkin of Cornell University, has said the Court of Appeals decision went "against the trend." He points out that the Supreme Court has struck down traditional vagrancy laws as excessively vague and threatening to the First Amendment right of assembly (William and Mary Law Review 1992).

Didn't Judge Sarokin fail to consider Mr. Kreimer's behavior?

The case wasn't really about Mr. Kreimer at all. Because the library itself sought summary judgement only on whether the regulations were valid "on their face," Judge Sarokin had no choice but to consider only the general application of the regulations, regardless of Mr. Kreimer's conduct. The Court of Appeals properly followed this same course.

Mr. BRADLEY. Mr. President, there is a question raised, Is this one of those judges who is soft on crime? I would assert that Judge Sarokin on criminal justice issues falls within the broad mainstream of the Federal judiciary.

Let me give you some examples that I think you have not heard on the floor today about Judge Sarokin. There has been talk about the Landano case, and there has been talk about the Rodriguez case, but you did not hear about Holland versus the Attorney General of New Jersey. Holland versus the Attorney General of New Jersey was in 1985 where a convicted armed robber sought a writ of habeas corpus, and Judge Sarokin denied the writ of habeas corpus to this convicted armed robber. He was reversed. He was reversed. We did not hear about that reversal. This is an example, one, of a tough judge.

Take another reversal. In 1992, Judge Sarokin was reversed in U.S. versus Rodriguez for imposing excessive sentences on drug traffickers. He was reversed for imposing excessive sentences on drug traffickers. You did not hear about that reversal on the floor here today either.

So, if we went down to take just a few others—I mean there are 2,000 cases. You could pick many. But just take a couple. There is the case of U.S. versus Clark in 1991. It was an upward departure from the guidelines, an upward departure from the guidelines. People worry about him going downward. It was an upward departure from the guidelines to impose a life sentence for kidnapping a postal employee, and the life sentence was imposed because of the impact that kidnapping had on the victim's family, an upward sentence.

Is he weak on crime? No. He is tough on crime.

What about U.S. versus Vegoa, in 1985, where before there were any guidelines, in 1985, before there were any sentencing guidelines, he imposed a 30-year sentence for cocaine importation. Does that sound like that is a coddling judge? No.

Or take U.S. versus Hernandez in 1988 where he denied a motion to suppress wiretap evidence even though the wiretap violated State law. Does that sound like a judge who is soft on crime? The answer is absolutely not.

These are just a few examples out of the over 2,000 cases that clearly refute the contention that Judge Sarokin is soft on crime.

What about pretrial detention? We heard that Judge Sarokin is a little soft on pretrial detention. Judge Sarokin has never stated he opposed pretrial detention. He has himself imposed pretrial detention in over 100 cases.

So, what is all this talk about him not wanting pretrial detention? He has imposed it over 100 times since he has been sitting on the Federal bench.

Or what about he has never stated that he opposes a good faith exception to the exclusionary rule, never. No one has put that in the RECORD today.

He has never stated that he opposes mandatory or uniform sentences. Indeed, the only time that he has ever departed downward from sentencing guidelines was upon the final recommendation of a probation officer.

So, Mr. President, I think you could easily argue that Judge Sarokin is in the mainstream of the Federal judiciary when it concerns criminal justice.

Now, a lot of time has been devoted to the so-called Landano case on the floor today, and Senator BIDEN, the distinguished Senator from Delaware, the chairman of the committee, I thought did a very effective job of laying the context and also the evidence out for Judge Sarokin's actions, but just to recap quickly:

An individual was murdered, a police officer, in 1976. In 1977, a James Landano was convicted in a New Jersey trial of that murder. In 1985, 8 years later, Mr. Landano came before Judge Sarokin, filed a petition for a writ of habeas corpus. Judge Sarokin denied the petition because principles of judicial restraint required him to defer to the State court finding. Four years later, Landano came back with new evidence, new evidence. Judge Sarokin then issued a conditional writ.

The third circuit reversed Judge Sarokin, not because it disagreed with his evidentiary conclusions—meaning that the facts had changed, that there was new evidence—but because Landano had not exhausted his State remedies by bringing the new evidence in the first instance to the attention of the State court. In other words, a procedural grounds for reversal.

Well, it went back to the State court system and in February 1994, the appellate division of the New Jersey Superior Court overturned the New Jersey trial court's ruling and agreed with Judge Sarokin on virtually every count, on virtually every count.

So in 1994, the New Jersey appellate division and the Supreme Court essentially agreed with what Judge Sarokin had stated in 1989. And the grounds were that the State suppressed evidence; that the only eyewitness to the shooting rejected Landano's photograph because the perpetrator had curlier hair than Landano. In other words, there was a photograph. The only eyewitness rejected that it was Landano. That was not shared with the defense. The State suppressed evidence that its chief witness, Alan Roller, Landano's alleged accomplice, had committed two armed robberies similar to the one that Landano was charged with and had also suppressed evidence that the witness and his closest associates had committed an earlier armed robbery in which the gun used to kill Officer Snow had been fired. That was not shared, either, with the defendant.

Further, the State suppressed evidence that the principal identification witness, the proprietor of the check cashing shop, was under investigation at the time for having ties with organized crime and was suspected of having engaged in loan sharking and money laundering. And, further, on the very day that the witness identified Landano, he had been questioned about his involvement in possible illegal activities.

Now, none of this was shared with the defense. These were the grounds, in addition to others, for the New Jersey appellate court, sustained by the Supreme Court, to overturn the trial court and order a new trial, which has not taken place. The prosecution has not brought the case.

In addition, this is a very difficult and trying case because there was indeed an officer killed.

I would like to have printed in the RECORD a letter from the individual who was the director of the Newark Police Department at the time, Hubert Williams, who is now the head of the Police Foundation in support of the Sarokin nomination. I think the letter itself speaks both of the anguish of seeing a fallen officer and the merit of Judge Sarokin's elevation to the Circuit Court.

I would also like to have printed in the RECORD a letter of support from the NOBLE organization.

I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

REPRESENTATIVES OF POLICE ORGANIZATIONS

POLICE FOUNDATION,
Washington, DC, October 4, 1994.

Hon. BILL BRADLEY,
U.S. Senate, Hart Building, Washington, DC.

DEAR SENATOR BRADLEY: I served as director of the Newark Police Department for 11 years before coming to Washington, D.C. as president of the Police Foundation. When Officer Snow was killed in a bank holdup in Newark, New Jersey, I was the director of the Newark Police Department. This killing sent shock waves throughout our department.

I've seen the judicial process unfold and I've watched the attacks made on Judge Sarokin, who rendered a decision in this matter that was not necessarily the one that we in law enforcement wanted, but which was clearly based upon a careful assessment and judicial application of the facts to the law. This decision was ultimately upheld by the appellate division of the New Jersey Superior Court and the New Jersey Supreme court.

It is my view that litmus tests for our judiciary must not be predicated upon the outcome of a decision but on whether or not the facts are applied to the law and a just and reasonable determination is made regarding the question of innocence or guilt. If we pursue any other course, the justice that we all hold dear will perish in the process. We cannot allow that. For these reasons, I think that based on Judge Sarokin's record as a whole, he deserves elevation to the appellate division. I understand the pain and anguish of the members of my department who, as I do, still suffer from the trauma associated with the brutal killing of one of our brother officers. But our judicial system must function beyond emotions. Reason and judicial temperament must be the determining factors in the selection of jurists.

Judge Sarokin has a long and distinguished career that warrants his elevation to the appellate division. I strongly endorse and urge his confirmation.

Sincerely yours,
HUBERT WILLIAMS,
President.

NATIONAL ORGANIZATION OF BLACK LAW ENFORCEMENT EXECUTIVES,
October 4, 1994.

Hon. BILL BRADLEY,
Hart Building, Washington, DC.

DEAR SENATOR BRADLEY: The National Organization of Black Law Enforcement Executives (NOBLE) comprises over 3,500 members, Chief Executive Officers of Law Enforcement Agencies at federal, state, county and municipal levels, administrators, command personnel and criminal justice instructors and officials.

As Executive Director of NOBLE, I am writing to articulate our staunch support for the nomination of Judge H. Lee Sarokin to the Third Circuit Court of New Jersey. We have consulted with our members who are familiar with the work and reputation of

Judge Sarokin and the responses are unanimous. He is very highly respected and admired by prudent, fair and objective-minded officials and private citizens. He is noted for his enlightened approach to judicial decisions that crucially impact families and invidiauls of our distressed communities. We appreciate his courage and willingness to induce fairness and compassion into his decisions.

Although we consider this fine Jurist's attitude toward justice and fairness to be paramount, we are equally impressed with his strong criminal justice and academic background.

We are very proudly urging confirmation of the Honorable Judge H. Lee Sarokin to The United States Court of Appeals for the Third Circuit.

Sincerely,

IRA HARRIS,
Executive Director.
HUBERT T. BELL,
National President.

July 22, 1994.

Re Nomination of the Honorable H. Lee Sarokin for appointment to the United States Court of Appeals For the Third Circuit.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: As Chairman of the Bergen County Police Conference I am pleased to write you in support of the nomination of Judge Sarokin for appointment to the United States Court of Appeals for the Third Circuit. Our police conference represents over 3,000 law enforcement officers. His opinions in areas effecting our membership have been examplary and well composed. He is, without question, a jurist exhibiting the highest standards of integrity and impartiality.

We are privileged to have this opportunity to offer our support for Judge Sarokin's nomination.

Very truly yours,

MICHAEL J. MADONNA,
Chairman,
Bergen County Police Conference.

NEW JERSEY STATE POLICEMEN'S
BENEVOLENT ASSOCIATION, INC.,
Woodbridge, NJ, May 16, 1994.

Re nomination of the Honorable H. Lee Sarokin for Appointment to the United States Court of Appeals for the Third Circuit.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: I serve as President of the New Jersey State Policemen's Benevolent Association, an organization which represents 30,000 police officers in the State of New Jersey. It is, beyond question, the largest law enforcement organization in this State, and one of the largest in the nation.

I am pleased to support the nomination of United States District Court Judge H. Lee Sarokin for appointment to the United States Court of Appeals for the Third Circuit.

Judge Sarokin has a reputation, and justly so, for faithful and impartial application of the law. His integrity and independence, his compassion and courage, have earned the respect of all citizens of the State of New Jersey. There is no question but that he would bring exceptional competence to the Circuit.

Thank you for your kind attention.

Very truly yours,

FRANK J. GINESI,
State President.

STATE TROOPERS FRATERNAL
ASSOCIATION OF NEW JERSEY, INC.,
Manasquan, NJ, May 6, 1994.

Re Honorable H. Lee Sarokin Nomination.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: As President of the State Troopers Fraternal Association of New Jersey, an organization representing 1665 State Troopers, it is my privilege and pleasure to recommend the nomination of the Honorable H. Lee Sarokin for appointment to the United States Court of Appeals for the Third Circuit.

During over 14 years of service as a District Court Judge, Judge Sarokin has earned the respect of law enforcement for his faithful and impartial application of the law as required by the Constitution of the United States. Judge Sarokin is a scholarly, knowledgeable and honest jurist, and his integrity and impartiality have earned him the esteem of the law enforcement community.

Please use your valuable influence in support of Judge Sarokin's nomination; his service on the Third Circuit Court of Appeals is in the best interests of law enforcement and will greatly benefit our great State and Nation in general. Please feel free to contact me if you have any questions.

Respectfully,

THOMAS J. ISKRZYCKI.

STATE TROOPERS NCO ASSOCIATION
OF NEW JERSEY, INC.,
BORDENTOWN, NJ, JULY 26, 1994.

Re Nomination of the Honorable H. Lee Sarokin.

Hon. JOSEPH R. BIDEN,
Russell Senate Building, Washington, DC.

DEAR SENATOR BIDEN: I am president of the New Jersey State Troopers Non-Commissioned Officers Association, an organization which represents all New Jersey State Police non-commissioned officers. In that capacity, I am often asked to recommend individuals for various positions. This recommendation is the easiest recommendation I have ever made.

The Honorable H. Lee Sarokin has been nominated for appointment to the United States Court of Appeals for the Third Circuit. I highly commend Judge Sarokin to you. He has almost fifteen years service as a District Court Judge and has earned the respect of the law enforcement community and the federal Bar. Judge Sarokin's decisions are based on knowledge, impartiality, honesty and concern for those who appear before him.

Again, I highly commend Judge Sarokin to you and request you favorably view his nomination. Judge Sarokin will vigorously and impartially apply all relevant laws, regulations and rules.

Most respectfully yours,

DAVID E. BLAKER.

POLICE FOUNDATION,
May 10, 1994.

Hon. JOSEPH R. BIDEN, JR.,
Chairman Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

SENATOR BIDEN: This is to express our strong support for the nomination of Judge Lee Sarokin to the Third Circuit. He is an outstanding jurist with a deep sense of commitment to fairness and impartiality. We believe that his appointment would be of benefit to society in general and to the law enforcement community in particular. We urge his confirmation.

Sincerely,

HUBERT WILLIAMS.

FORMER U.S. ATTORNEYS

LATHAM & WATKINS,
ATTORNEYS AT LAW,
New York, NY, June 17, 1994.

Re nomination of Honorable H. Lee Sarokin to the United States Court of Appeals for the Third Circuit.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR: Please accept this letter in support of the nomination of the United States District Court Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit.

Although I am currently a Partner at the above-named law firm, for the past ten years I have been a federal prosecutor, first in the Southern District of New York and then in the District of New Jersey. From 1990 until my resignation this past May, I was the United States Attorney for the District of New Jersey, having been appointed by President Bush.

As United States Attorney I was thoroughly familiar with Judge Sarokin's work and reputation as a United States District Judge in New Jersey. In addition to significant personal contact with Judge Sarokin on official business, I was personally involved in supervising matters handled by the United States Attorney's office in his court.

I support Judge Sarokin's nomination to the Third Circuit without reservation. Judge Sarokin's written opinions exhibit genuine scholarship and lucid exposition. In presiding over complicated and sometimes contentious criminal trials, Judge Sarokin was patient, firm and fair. In my experience, Judge Sarokin has interpreted and applied governing law faithfully. By intellect, temperament and experience, H. Lee Sarokin is highly qualified to sit on the United States Court of Appeals.

I would be delighted, of course, to render any further assistance to the Judiciary Committee in its consideration of this nomination.

Respectfully submitted,

MICHAEL CHERTOFF.

ROBINSON, ST. JOHN & WAYNE,
ATTORNEYS AT LAW,
Newark, NJ, May 6, 1994.

Hon. JOSEPH R. BIDEN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing to urge your Committee to endorse the recent nomination of Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit.

Since Judge Sarokin's appointment to the federal bench in New Jersey in 1979, I have had occasion to appear before him for motions, a trial and on numerous occasions as an observer. These appearances were both as a private practitioner and as U.S. Attorney for the District of New Jersey between 1981 and 1985.

Judge Sarokin is a highly intelligent and thoughtful individual, who, in my experience, was always well prepared and fair to both lawyers and litigants alike. However, his greatest asset is probably the many written opinions which he was authored over the years as a Federal Judge.

Evidence of the quality of Judge Sarokin's opinions and the manner in which he has conducted proceedings, is his rare reversal rate by the Court of Appeals. Moreover, he has handled a number of landmark cases in this District and rendered some very significant decisions in vital areas of the law. Through it all, he has always been courteous to those before him.

I fully recommend Judge Sarokin to your Committee and to the United States Senate as a whole for confirmation to the Third Circuit Court of Appeals.

Sincerely,

W. HUNT DUMONT.

HANNOCH WEISMAN,
COUNSELLORS AT LAW,
Roseland, NJ, May 10, 1994.

Re The Honorable H. Lee Sarokin Judge, U.S. District Court for the District of New Jersey.

Hon. JOSEPH R. BIDEN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I write to unequivocally support the nomination of The Honorable H. Lee Sarokin, Judge of the United States District Court for the District of New Jersey, to the United States Court of Appeals for the Third Circuit.

I have had the privilege of knowing Judge Sarokin throughout his tenure as a Judge for the United States District Court for the District of New jersey, having myself served as an Assistant United States Attorney (1972–1976); Chief of the Department of Justice Organized Crime Strike Force for the District of New Jersey (1975–1978); First Assistant United States Attorney (1978–1980); and, finally, as the United States Attorney for the District of New jersey (1980–1981).

Throughout the course of all of my appearances in whatever capacity before Judge Sarokin, the vast majority of which were on behalf of the United States, he has consistently demonstrated an extraordinary ability to handle the most difficult matters many of which were multi-defendant and of high public visibility. On behalf of the United States I was always confident that my client had received a complete, fair and intelligent evaluation of the merits of its position and ultimately that justice was done. From my observation of other matters (primarily civil matters in which the United States was not a party), I can attest that at all times Judge Sarokin performed his duties in a similar fashion.

I sum, there are very few words that I could muster to describe the high regard in which Judge Sarokin is held by all of my colleagues who have had the privilege of practicing before him. He will be unquestionably an asset to an already distinguished Circuit bench. I unequivocally support the nomination and am ready to provide whatever further information you or the other members of the Committee may require.

Respectfully yours,

WILLIAM W. ROBERTSON.

STERN & GREENBERG,
COUNSELORS AT LAW,
Roseland, NJ, May 9, 1994.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: I am in the unusual position of having had Judge Sarokin appear before me when I was United States District Judge, serving with him as a colleague on the Federal Bench, and now having appeared before him as a lawyer in the private practice of law.

From each of the vantage points, I can say that he is an individual of intelligence, compassion and a judicial demeanor of the highest order. I firmly believe that his nomination to the United States Court of Appeals for the Third Circuit is not only deserving but one which will enrich all of us who care about our Federal Courts.

I write this letter in full support of the nomination of Judge Sarokin.

Respectfully submitted,

HERBERT J. STERN.

PRACTICING ATTORNEYS
NEW JERSEY STATE BAR ASSOCIATION,
New Brunswick, NJ.

Hon. JOSEPH BIDEN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: As a practicing New Jersey lawyer for 25 years and as the current President of the New Jersey State Bar Association, I am pleased to support the decision of Senator Bill Bradley to recommend the Honorable H. Lee Sarokin to the Third Circuit Court of Appeals.

Judge Sarokin distinguished himself as a practitioner and citizen of this state and has a distinguished career on the United States District Court for the District of New Jersey.

He has the respect, admiration and affection of the citizens of this state and, particularly, the lawyers of this state, whom he has treated with respect and dignity.

Judge Sarokin, in often difficult circumstances, has found a way to lend dignity and respect to our system of justice.

I am pleased to applaud the decision of Senator Bradley and recommend Judge Sarokin for the Third Circuit Court of Appeals and hope that you will support Judge Sarokin.

If you have any questions, please call me.

Respectfully,

THOMAS R. CURTIN,
President.

APRUZZESE, MCDERMOTT,
MASTRO & MURPHY,
Liberty Corner, NJ.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: My purpose in writing is to strongly endorse the nomination of Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit. As past president of the New Jersey State Bar Association, a former member of the Board of Governors of the American Bar Association, and a member of the American College of Trial Lawyers, in all my experience there are few people with the intellect, integrity, humor, demeanor and sense of fairness who could better grace the bench than Judge Sarokin. He is uniformly praised by lawyers everywhere for his decorum in the courtroom and intellectual ability. I think the legal system is enriched by having people of his caliber willing to serve.

I thoroughly endorse his nomination and solicit your strong support for his nomination.

Respectfully,

VINCENT J. APRUZZESE.

EISENSTAT, GABAGE,
BERMAN & FURMAN,
Vineland, NJ.

Senator JOSEPH R. BIDEN
Russell Senate Office Building,
Washington, DC.

MY DEAR SENATOR BIDEN: I am aware that President William Clinton has submitted the name of the Honorable H. Lee Sarokin to be a Judge of the United States Court of Appeals for the Third Circuit. I have known Judge Sarokin for a number of years and have worked with him as a Past President of the New Jersey State Bar Association. The elevation of Judge Sarokin to the Third Circuit would be of great benefit to the judiciary in this Circuit. Judge Sarokin has demonstrated the highest level of intellectual and legal experience, as well as the compassion necessary to elevate that fine court to one of the preeminent courts in the nation.

If you desire additional information from me with respect to this recommendation, please feel free to contact me.

Very truly yours,

GERALD M. EISENSTAT.

GREENBERG DAUBER & EPSTEIN.
COUNSELLOR AT LAW,
Newark, NJ, May 12, 1994.

Hon. JOSEPH R. BIDEN,
221 Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I am writing to you in support of the nomination of Judge H. Lee Sarokin to the United States Court of Appeals for the Third-Circuit. While I am not acquainted with Judge Sarokin personally, as a practitioner before the United States District Court for the District of New Jersey and as the former Executive Assistant Attorney General for the State of New Jersey, I am familiar with Judge Sarokin's performance on the Bench.

Judge Sarokin is a thoughtful, intelligent jurist of the highest integrity and is someone who is known to address each case with concern and dignity. During his tenure on the District Court, he has had the occasion to deal with cases of the utmost complexity and has handled them in an exemplary fashion.

I have no doubt that Judge Sarokin will be an excellent complement to the fine Judges of the Third Circuit now sitting, and I would hope that the Senate would move speedily to confirm his nomination.

Respectfully yours,

EDWARD J. DAUBER.

ZAZZALI, ZAZZALI, FAGELLA &
NOWAK, ATTORNEYS AT LAW,
Newark, NJ, May 9, 1994.

Senator JOSEPH R. BIDEN,
221 Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I had the privilege of meeting you in New Jersey at Fariborz's Wedding and occasionally on the MetroLiner coming up from Washington.

I take this opportunity to respectfully recommend the nomination of United States District Court Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit.

Rather than the usual cliched recommendation, please allow me to make two observations.

First, without putting too fine a point on it, Judge Sarokin would be more than an outstanding Circuit Court Judge. He would be an extraordinary addition to the Third Circuit. That Court is a fine Circuit Court and, without in any sense diminishing it, Judge Sarokin would bring extraordinary talent, experience and perspective to the Court. Indeed, I believe he would prove to be one of the outstanding Circuit Judges in the nation within a short period of time.

Second, I come to this recommendation with a somewhat unique point of view. A substantial part of my career has been spent in law enforcement in the public sector including service as an Assistant Essex County

Prosecutor; Chairman of the New Jersey State Crime Commission, having been appointed and reappointed to the Commission by Governor Kean; and Attorney General of the State, having been appointed to that position by Brendan Byrne. Further, as an attorney in private practice, I have also been privileged to represent various law enforcement associations. I am confident that Judge Sarokin would be able to give appropriate consideration to the interests of law enforcement, individual interests, and most of all, the public interest, and that he would do so in a balanced and reasoned way.

Very truly yours,

JAMES R. ZAZZALI.

Livingston, NJ, May 6, 1994.

Re Hon. H. Lee Sarokin.

Hon. JOSEPH R. BIDEN,
U.S. Senate,
Washington, DC.

DEAR SENATOR BIDEN: As a member of the bar of New Jersey, I wish to commend for your consideration as a judge of the Court of Appeals for the Third Circuit, Judge H. Lee Sarokin, now a district judge of New Jersey. I have known Judge Sarokin for the last 29 years. My first employment as a practitioner was as a part-time associate in the Newark firm then known as Lasser, Lasser, Sarokin and Hochman. Lee Sarokin was my preceptor, and to this day, I feel enriched by the knowledge which he imparted to me.

Through the years that followed my association with him, he continued as one of New Jersey's most distinguished trial lawyers and later brought those great skills to the bench, where he has justifiably earned the plaudits and genuine admiration not only of the bench and bar communities but also, in my observation, of the public-at-large. I have been an assistant Essex County prosecutor, a member of the New Jersey Division of Criminal Justice and, most recently, a member of the State Commission of Investigation. In those positions as well as in my private practice, I have rarely seen a jurist with greater intellectual capacity or with a stronger sense of humanity as well as humility.

Inevitably, a judge who is responsible to his oath and to his sense of justice may render decisions that will be controversial. I am sure that is true of Judge Sarokin, and it would probably be unfortunate if it were not. But I am convinced that he would be a most worthy member of the Court of Appeals. I am proud to join my voice with those who urge his confirmation. Thank you for your consideration of this letter.

BARRY H. EVENCHICK,
Attorney at Law.

TOMPKINS, MCGUIRE & WACHENFELD, COUNSELORS AT LAW,
Newark, NJ, May 23, 1994.

Hon. JOSEPH R. BIDEN,
U.S. Senator,
Washington, DC.

DEAR SENATOR: It is my understanding that Honorable H. Lee Sarokin is under consideration for appointment to the United States Court of Appeals for the Third Circuit. I have known Judge Sarokin for many years and have always been impressed with his dedication to his duties. I have appeared before Judge Sarokin and have been treated at all times courteously and professionally. He is well-prepared; he treats counsel respectfully and he renders decisions rather expeditiously.

As an attorney primarily involved in defense of civil cases, I have the utmost respect for him. He articulates positions clearly and he gives every consideration to arguments that are presented to him. In my judgment he is a fair-minded jurist who is entitled to every consideration for the position of Judge of the United States Court of Appeals for the Third Circuit. I endorse his candidacy and I trust you will agree with this assessment.

Respectfully submitted,

WILLIAM B. MCGUIRE.

MEDVIN & ELBERG,
ATTORNEYS AT LAW,
Newark, NJ, May 6, 1994.

Re Third Circuit nomination of Hon. H. Lee Sarokin.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: As a Past President of the New Jersey affiliate of The Association of Trial Lawyers of America, it is my distinct honor and privilege to write and enthusiastically support the nomination of the Honorable H. Lee Sarokin to the Third Circuit Court of Appeals. In my opinion, President Clinton could not have nominated a finer judge nor a finer human being to this most important position.

Judge Sarokin has been a District Court judge for nearly twenty-five years. During that time, he has earned a reputation for judicial excellence in every respect. His intelligence, perceptiveness, impartiality, fairness, temperament and respect that he shows to the lawyers and litigants who appear before him are unparalleled.

I have tried two significant cases to conclusion before Judge Sarokin. The first, Rodriguez v. United States of America, was a non-jury trial which lasted approximately four weeks. The second matter, Cervantes v. St. Joseph's Hospital, was a complicated medical malpractice trial which lasted eight days and was tried to a jury. In both of these cases, all parties left after the completion of their cases with the distinct feeling that they had received a fair trial and were treated with the utmost respect by the judge. He was unfailingly courteous to and considerate of the lawyers, litigants and witnesses who appeared before him, listened to arguments on both sides, and rendered decisions that were thoughtful, well reasoned, articulately expressed and, most importantly, eminently fair.

In short, I can think of no federal trial judge more deserving of appointment to the Court of Appeals that H. Lee Sarokin.

Respectfully submitted,

ALAN Y. MEDVIN.

LOWENSTEIN, SANDLER, KOHL, FISHER & BOYLAN, COUNSELLORS AT LAW,
Roseland, NJ, May 19, 1994.

Re nomination of Judge Sarokin to third circuit.

Hon. JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: I am writing this letter in both my capacity as the General Counsel of the New Jersey NAACP and as a litigator in the New Jersey federal courts during the past 17 years. I am a 1976 graduate of the Harvard Law School and the Harvard Business School. Following law school, I served as a law clerk to Judge John J. Gibbons, on the United States Court of Appeals for the Third Circuit. I have participated in numerous cases in the federal courts of New Jersey at both the trial and appellate levels. I am a Fellow of the American College of Trial Lawyers.

I highly recommend the nomination of United States District Court Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit. I have personally appeared before Judge Sarokin on a number of occasions and I have also observed his performance in matters where I had no personal involvement. In my opinion he is one of the best trial judges in the United States: he is smart, he works extraordinarily hard, and he has a judicial demeanor that communicates a sense of fairness. He also clearly loves the law, and his many published opinions are a testament to his ability to grapple with highly difficult issues.

In my experience Judge Sarokin comes to each case with a clean slate and no predisposition beyond the fact that his job is to be fair to the litigants and to apply the law to the facts. Ultimately, what all litigants and lawyers want from judges at both the trial and appellate level is that they have the intelligence to truly understand the issues, the willingness and stamina to work hard, a basic sense of fairness and the ability to communicate both orally and in writing the reasoning behind their opinions. Judge Sarokin has all of these qualities in abundance, and I urge on behalf of the New Jersey NAACP and myself personally that you approve his nomination.

Very truly yours,

THEODORE V. WELLS, Jr.

ROBINSON, ST. JOHN & WAYNE,
ATTORNEYS AT LAW,
Newark, NJ, May 6, 1994.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: I urge your Committee to endorse the nomination of Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit.

Judge Sarokin has been sitting as a District Court Judge in Newark, New Jersey for nearly 15 years. He is highly qualified. My litigation practice is principally in the Federal Courts in New Jersey where I have appeared hundreds of times in the past 35 years before all of our Federal Judges. Judge Sarokin, in my opinion, ranks at the top. His judicial qualities include a keen intellect, an even temper, and fairness to litigants.

Evidence of Judge Sarokin's intellectual ability is that his reversal rate in the Court of Appeals is unusually low; only a few of his appealed decisions have been reversed and many of those decisions have been in the controversial areas of criminal habeas corpus, civil product liability and difficult tax questions. Through all these judicial travails, he has, as I have personally experienced and know by his reputation, never been discourteous to any litigant or lawyer.

The President and Judge Sarokin's sponsoring Senators are to be praised for their choice. I hope your Committee quickly acts so that this important vacancy can be filled without any more delay.

Sincerely,

DONALD A. ROBINSON.

POPLAR & EASTLACK,
ATTORNEYS AT LAW,
Turnersville, NJ.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

Re: The Hon. H. Lee Sarokin.

DEAR SEN. BIDEN: I have for many years been an active practicing attorney in the Federal Court for the District of New Jersey.

I am writing to recommend and encourage the nomination and Senatorial approval of the Hon. H. Lee Sarokin for Judge to the United States Court of Appeals for the Third Circuit.

Judge Sarokin has served with distinction as a Federal District Court Judge presiding over both civil and criminal matters. He is hardworking, scholarly and fair to all who appear before him. Even in difficult cases he unhesitatingly and faithfully relies on and applies applicable precedents and statutes.

The public and the judiciary will be well served by Judge Sarokin's ascension to the Court of Appeals.

I will be available at any time to you or your staff if you have any further questions.

Very truly yours,

CARL D. POPLAR,
Esquire.

STERN & GREENBERG,
COUNSELORS AT LAW,
Roseland, NJ, May 4, 1994.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR BIDEN: I write in support of the nomination of Judge Sarokin. I have known Judge Sarokin for more than twenty years as an adversary, a fellow member of the Bar and a United States District Court Judge.

I remember well when he first went on the bench how excited and happy he was to achieve this position. He has never lost that fervor for the fair and impartial administration of justice.

I would hope that his nomination to the United States Court of Appeals for the Third Circuit is swiftly approved by the United States Senate.

Respectfully submitted,

STEPHEN M. GREENBERG.

LAW PROFESSORS

YALE LAW SCHOOL,
New Haven, CT, June 9, 1994.

Re the Honorable H. Lee Sarokin.
Senator JOSEPH R. BIDEN, Jr.,
Senator ORRIN G. HATCH,
Russell Senate Office Building,
Washington, DC.

DEAR SENATORS BIDEN AND HATCH: I am writing in support of the nomination of H. Lee Sarokin for the Third Circuit Court of Appeals. My support of Judge Sarokin's nomination might be regarded as unusual because my last participation in a Senate confirmation hearing was my appearance before your Committee in 1987 in support of the nomination of Robert H. Bork to the Supreme Court. Moreover, I am a registered Republican, regard myself as a conservative, and believe deeply in what are regarded as conservative ideals. As is well known, the views and approaches to the law of Judge Sarokin and Judge Bork differ very substantially, and Judge Sarokin could not fairly be regarded as conservative.

My support of Judge Sarokin, however, transcends these various political differences which, I believe, in the larger scope of matters are of lesser relevance for the evaluation of the abilities of a judge. I have known and observed Judge Sarokin for many years. Judge Sarokin has attended several academic conferences at Yale Law School (where he was always among the most brilliant of participants, including the academic participants). I have read many of Judge Sarokin's writings (he is clearly among the very few of the federal judiciary to produce articles of truly high distinction. I have attended many of his talks and addresses. I have heard a great deal about him from many of my students who have served as his clerks (as an example of a different form of market evaluation, his clerkships are among the most highly sought after by Yale Law students). In addition, I have worked closely with him over the past five years in my capacity as Special Master in the class action litigation, *McLendon* v. *The Continental Group, Inc.* through these many contacts over many years, I believe that I know Judge Sarokin well.

Despite our different political views, I believe strongly that Judge Sarokin will prove a distinguished addition to the Third Circuit. Judge Sarokin is among the very first rank of federal judges. Judge Sarokin is intellectually and analytically brilliant. I have observed on many occasions his extraordinary ability to see to the heart of a legal issue far better and more thoroughly than the lawyers who after lengthy preparation have presented the issue to him. His most important quality, however, is what I would call a deep judiciousness, consisting of a combination of seriousness, a commitment to making sense of the law, and a devotion above all else to fair treatment of the parties to litigation.

These qualities in a judge are far more important to the country than a judge's political views or inclinations. Qualities of this nature transcend politics in the best tradition of the judiciary because, as implemented in decisionmaking, they provide assurance to all parties that their arguments have been heard, have been carefully considered, and that the resulting outcome is fair to all. Judge Sarokin has heard many important and controversial cases; in some of these cases, his outspokenness is well known. However the press may characterize his opinions, from my own readings of them and from my experience viewing Judge Sarokin in action, I have not the slightest doubt that his judgments uniformly, without exception, are fair and reasonable given the evidence put before him. Judge Sarokin's opinion in the *McLendon* case (on which I have worked) is perhaps the strongest and most outspoken opinion that he has ever written. From my detailed knowledge of the facts of the case, his outspokenness was merited entirely and can easily be defended to conservative and liberal alike as a fair and just evaluation of the evidence.

There are many fine and able members of the Courts of Appeals, many of whom I know well and many of whom are regarded as conservative (including, for example, Judges Buckley, Ginsburg and Williams of the D.C. Circuit, Judge Winter of the Second Circuit, Judge Boggs of the Sixth Circuit, Judges Posner and Easterbrook of the Seventh Circuit, and Judge Kosinsky of the Ninth Circuit, among others). President Clinton has nominated many other able persons to the Courts of Appeal (including my colleague, Dean of the Yale Law School, Guido Calabresi to the Second Circuit). Judge H. Lee Sarokin is the equal of all of these judges, and will prove to be among this country's most distinguished judicial appointments of many decades.

Should you find it helpful, I would be honored to be given the opportunity to expand and defend these views in appearance before your Committee.

Yours sincerely,

GEORGE L. PRIEST.

HARVARD LAW SCHOOL,
Cambridge, MA, June 23, 1994.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I write this letter in support of the nomination of H. Lee Sarokin who currently sits on the Federal District Court of New Jersey, for a position on the United States Court of Appeals for the Third Circuit. Given his outstanding accomplishments over the last four decades, I am confident that Judge Sarokin will be a valuable asset to the Third Circuit and provide many lasting contributions.

I have known Judge Sarokin for over a decade. While many applaud him for his outstanding career as a litigator for twenty-five years, as well as his strikingly comprehensible and comprehensive opinions as a member of the United States District Court for the state of New Jersey, I have seen him in a very different capacity. For most of the past decade, Judge Sarokin has served as a faculty member for the Harvard Law School Trial Advocacy Workshop. The Trial Advocacy Workshop is Harvard Law School's nationally respected trial skills program offered to second and third year law students. I serve as director of the Trial Advocacy Workshop. Twice a year, we invite judges and lawyers from around the country to critique and advise our students on trial skills. No one is compensated for his or her participation in the program. Over the past decade, Judge Sarokin has not only volunteered to critique the students and their performances, but has also willingly served as a presiding judge at some of the hearings, and on a couple of occasions played the role of a lawyer in a cross-examination exercise. He has always been willing to assume any responsibility in the program to ensure that the students get the maximum feedback to prepare them as ethical litigants in the legal field.

Judge Sarokin has impressed me with his extensive level of preparation, his knowledge of the significance of minor details, and his witty ability to use critique as a means of both instructing students to improve their performance, and praising the modest progress they make over time. These are the same qualities of gentle persuasion and clarity of instruction that would make him a true asset to the Third Circuit Court of Appeals.

Many who have read Judge Sarokin's opinions as a district court judge will call him controversial. I consider that an asset rather than a liability. Judge Sarokin is not one to make law, nor is he an ideologue. What he does is insist that the parties are well-prepared and well-represented, and that all the issues that are protected under the constitution are fairly presented and objectively decided. He has great passion and respect for the law and precedent, and yet is willing to re-examine issues that are outdated and contrary to the demands of our constitution. His is a unique intellect with a sense for wit, timing, and incisive analysis, and he will be a true asset to the Appellate Court.

I am sure that there are many outstanding candidates under consideration for the Third Circuit Court of Appeals. However, I am confident that Judge Sarokin has to rank high on that list. I would be happy to answer any questions you may have, and I recommend Judge H. Lee Sarokin to you most enthusiastically.

Sincerely,

CHARLES J. OGLETREE.

YALE LAW SCHOOL,
New Haven, CT, June 10, 1994.

Senator JOSEPH BIDEN,
Senate Judiciary Committee, Russell Senate Office Building, Washington, DC.

Re: H. Lee Sarokin.

DEAR SENATOR BIDEN: The Judiciary Committee will soon hold hearings regarding the confirmation of H. Lee Sarokin. United States District Judge for the District of New Jersey, as a judge on the United States Court of Appeals for the Third Circuit. This letter enumerates why I believe Judge Sarokin to be extraordinarily well-qualified for such elevation.

Judge Sarokin has, during more than fifteen years on the federal bench, established himself as one of the most distinguished and courageous federal trial judges in the country. A native of New Jersey, he has lived virtually his entire life in the state, apart from his education at Dartmouth and Harvard Law School. During his time on the bench, Judge Sarokin has repeatedly demonstrated himself to be energetic, innovative, scrupulously fair, compassionate and scholarly.

From the trial bench, Judge Sarokin has already left his mark on the law in an unusually broad array of areas: products liability, habeas corpus; management of complex litigations; criminal law; drug testing; Freedom of Information, the vagueness doctrine, and affirmative action. As a jurist, he remains fully aware of the constitutional restraints on his power as a member of the unselected judiciary, yet courageous enough to act within the scope of his judicial discretion to further the achievement of substantive and procedural justice. He is a jurist of great intelligence; he writes beautifully and clearly; and his opinions are taut, thoroughly researched and carefully reasoned. He is a charming man of great character and decency, who will build consensus among the judges of the appellate court (most of whom already know and respect him greatly).

Judge Sarokin has been a distinguished district judge in the grand tradition of Charles Wyzanski, Jack Weinstein, and Gehard Gesell. His rulings blend pragmatism with principle, creativity with scholarship, and judiciousness with compassion. Even without sitting on the Court of Appeals, he has created a judicial legacy that is all the more distinctive because he has spoken alone, and all the more remarkable because his has not been the last word. I believe that he will render remarkable service on the Third Circuit, and would be an enormous credit to it. I urge your committee to confirm him swiftly and enthusiastically.

Sincerely,

HAROLD HONGJU KOH,
Gerard C. and Bernice Latrobe Smith Professor of International Law.

SETON HALL UNIVERSITY,
SCHOOL OF LAW,
Newark NJ.

Senator JOSEPH R. BIDEN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR BIDEN: I submit this letter in support of the nomination of United States District Court Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit.

I have known Judge Sarokin for many years. I initially met him as my very able adversary in a complex litigation. Thereafter I had the privilege of appearing before him in Federal Court. I have also had contact with him during the past six years in my capacity as Dean of Seton Hall Law School. In every capacity in which I have known Judge Sarokin, he has always demonstrated the highest integrity, skill and professionalism.

Judge Sarokin possesses the highest intellectual capabilities and at the same time has grant sensitivity to and compassion for his follow human beings. He will bring this balance with him to the Court of Appeals just as he has served with great distinction on the District Court.

I strongly urge that Judge Sarokin be appointed to the Third Circuit Court of Appeals.

Sincerely,

RONALD J. RICCO,
Dean.

YALE LAW SCHOOL,
New Haven, CT, July 22, 1994.

Senator JOSEPH R. BIDEN,
Senator ORRIN G. HATCH,
Russell Senate Office Building, Washington, DC.

DEAR SENATORS: Judge Sarokin has served the nation with great distinction and would be a marvelous addition to the Third Circuit.

Our relationship has been entirely professional. I have read some of Sarokin's opinions and speeches, watched him judge a moot court exercise at Yale, participated with him in academic conferences here, and conferred with him on the selection of law clerks. I have also had the benefit of the views of those students who actually served as his law clerks, all of whom came away from the experience with the greatest respect and admiration for the man.

The judge is a man of great intelligence—as quick and insightful as any of the judges I know on the federal bench. Indeed, on this score I would put him in the same category as Richard Posner, Ralph Winter, Frank Easterbrook, Douglas Ginsburg, Pierre Leval, and Michael Boudin—some of the very best judges. (Posner and Winter were colleagues of mine; Easterbrook and Ginsburg, students; Leval and Boudin, law school classmates.) I have also marveled at the judge's openness. He can be as firm and decisive as the next judge, but until the moment of decision, he stands ready to listen to arguments from both sides.

Judging is more than intelligence and more than openness; it also requires a measure of empathy, a capacity to understand the positions of all litigants—to weigh their concerns and take them upon oneself. This too is one of Judge Sarokin's strengths. No side of a lawsuit is ever forgotten; no interest is ever slighted; and he shoulders this burden of judging with a lightheartedness that is truly remarkable.

Over the years, Judge Sarokin's courtroom has become one of the temples of justice of this nation. My students look to it; I look to it for guidance and inspiration. An appointment to the Court of Appeals will be an appropriate recognition of his contribution to our collective life; even more, it will put him in a position to deepen and broaden that contribution.

Sincerely,

OWEN M. FISS.

SETON HALL UNIVERSITY,
SCHOOL OF LAW,
Newark, NJ, May 20, 1994.

Hon. ORIN G. HATCH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: I am writing to share with you my views as to the nomination of Judge H. Lee Sarokin to the United States Court of Appeals for the Third Circuit. As you know, I had occasion from 1979 until my retirement in January of 1990 to review Judge Sarokin's work as a district court judge. Throughout that period he demonstrated consistently that he was a highly intelligent and thoughtful jurist, always well-prepared, and always even-handed. He is a thoughtful student of the law and an excellent legal craftsman.

I anticipate that you will hear criticism of Judge Sarokin from two quarters. The first is the tobacco industry, since he had the bad luck to preside at the *Cipalone* trial, a product liability action against certain cigarette manufacturers. That industry has pursued a "take no prisoners" approach to product liability litigation. My review of Judge Sarokin's work in connection with the litigation in question has left me convinced, however, that he acted with complete propriety throughout the litigation.

The second source of criticism probably will be with respect to two habeas corpus cases: *Carter* and *Landano*. Both of these were high-visibility cases, one involving boxer "Hurricane" Carter and the other involving an alleged killer of a police officer. In both instances the prisoners were ultimately released by the New Jersey courts; properly so. There is nothing in either case to suggest that Judge Sarokin has been anything but even-handed in his approach to criminal defendants, pre- or post-petition. Indeed, the Court of Appeals has on occasion reversed him for failing to conduct a hearing in habeas corpus cases, and his reputation with respect to the trial of criminal cases is that he is even-handed.

In short, there is no reason whatever for you to be other than an enthusiastic supporter of the confirmation of this very able judge. He is extremely well qualified to make a distinguished contribution to the Court I love.

Sincerely,

JOHN J. GIBBONS.

Mr. BRADLEY. Mr. President, the issue of whether Judge Sarokin is soft on crime, I believe, has not been proven; has not even been seriously argued. He is well within the mainstream and his record demonstrates that.

Now another charge that we have heard today on the floor is that Judge Sarokin does not follow precedent; that he does his own thing.

One charge was made that Judge Sarokin created a new rule for voluntariness, signing a false name, and that was in the U.S. versus Rodriguez case. What are we talking about when we are talking about U.S. v. Rodriguez? We are talking about a suppression motion. They wanted to suppress a statement that Rodriguez made so that it cannot be admitted into evidence in a trial, I suppose. I am not a lawyer, but that is how I think it works.

Well, Judge Sarokin gets about 50 suppression motions per year. He has been there about 15 years. That is about 700 suppression motions. And I think he has granted two or three out of 15 years.

Now, in this one, which he did grant, the suppression of Rodriguez's statement, was consistent with longstanding authority on the subject. Again, this is a fact determination. It is a determination of fact. Judge Sarokin's decision rested primarily on the fact that FBI agents brought Rodriguez in for incommunicado questioning, instead of first presenting him to a magistrate; and also that Rodriguez was presented to a magistrate over 20 hours following his arrest.

Now, the Supreme Court really has not decided the question, but a number of circuits, including the second circuit, the ninth circuit, the D.C. Circuit, have held that an unreasonable prearraignment delay of greater than 6 hours, pursuant to 18 U.S.C. 3501(c), may compel a finding that defendant's Miranda waiver was involuntary. And 18 U.S.C. 3501(c) expressly provides that delay is directly relevant to the question whether a defendant's waiver was voluntary.

This is a man who spoke limited English, low level of education, did not request counsel after being asked if he wanted to. He did, when he was asked by the magistrate, request counsel, when the magistrate, who spoke to him in Spanish, asked him.

Now, the important point here is Judge Sarokin did not create a new rule of voluntariness. Judge Sarokin stated that the use of the alias, the false name that was signed, was only one factor to be considered. It was not the deciding factor. It was one factor to be considered in the totality of circumstances.

Now, even in the hearing before the Judiciary Committee, the distinguished Senator from Colorado, who spoke eloquently on this subject earlier, admitted and said, "I personally would agree that it would not be logical to say"—that it, meaning the defendant's use of an alias —"could never be a factor."

So it was only one among several factors. The larger fact was the 20-hour delay in bringing him before a magistrate.

Then there was the question that he flaunted or he disregarded the third circuit's precedents in United States versus Chapman.

Well, Judge Sarokin did not disregard the third circuit precedent, because Chapman is not controlling on the issue of the use of an alias.

The legal question in Chapman is different from that in Rodriguez. First, it is different because the defendant in Chapman did not use an alias. So how could it be the same?

In Chapman, he did not use an alias, so how can it be controlling? He used his real name, not an alias. Second, unlike Rodriguez, Chapman denied even signing the confession that the prosecution entered in evidence.

In a footnote, the third circuit observed that the jury had rejected Chapman's contention. The circuit court added, in any event, the voluntariness of the confession did not hang on whether or not the prosecution had introduced the wrong piece of paper in evidence. Thus, the issues in the two cases were different.

So why did Judge Sarokin reference Chapman? He referenced it in order to—as a conscientious jurist, the reference to the footnote in Chapman was designed just to be helpful to the bar. It was designed to remind future readers that a different but somewhat related case existed in the third circuit regarding a factor that was different from the factor analyzed in Rodriguez, which is not relevant to the question of whether a defendant's waiver of his Miranda rights was voluntary.

There was another series of points made on Blum versus Whitkey. There it is a very simple set of things, a fee-setting case. There was a confusing Supreme Court ruling. Judge Sarokin ruled; set the fees. The third circuit said, "There is an intervening Supreme Court decision, why do we not remand it, take a look at this again."

Judge Sarokin himself took a look at it again, returned it to the third circuit—they reversed him. But, interestingly, the Supreme Court, a short while later, in City of Burlington versus Dack, vindicated Judge Sarokin's views because the Supreme Court revisited the issue of awarding enhancement fees and determined the case that Judge Sarokin was supposed to look at and, clearly, derive his answer from, was simply unworkable. And who said it? Justice Scalia.

Justice Scalia, speaking for the majority of the court, noted that the approach in the case that Judge Sarokin was supposedly diverting from—Judge Scalia said, "We do not see how it can intelligibly be applied."

Indeed. So, Judge Sarokin participated as an active and constructive participant in the process by which the judiciary seeks to fashion and modify rules which are both principled and workable. He did not ignore the precedent. The Supreme Court said it was impossible to even tell what the precedent meant, what the case meant. So he was not ignoring it, he was applying it as he understood it.

Mr. President, a great deal has been made of the Haines case, and Judge Sarokin himself has said if he had it to do over again he would have used language that was different. I take him at his word. But on the issue of removal I think it is important to make a few points that relate to the fitness of Judge Sarokin to serve on the third circuit.

The third circuit itself in announcing his removal said it was the most agonizing decision, to reassign Judge Sarokin, because, the third circuit stated unequivocally, he "is well known and respected for magnificent abilities and outstanding jurisprudential and judicial temperaments ."

Even a critic of his remarks in the tobacco litigation, Professor Monroe Freedman of Hofstra Law School, has called Judge Sarokin "one of our best judges."

So, even in the decision itself was an acknowledgment of his superior abilities.

What did the court of appeals state? They stated outright that Judge Sarokin could—it was possible—Judge Sarokin indeed could be fair in fact, and that only the appearance of impartiality was implicated by his remarks.

Judge Aldisirt of the third circuit, the judge who sat on the panel that rendered the decision removing Judge Sarokin from the tobacco litigation, has stated the following about his elevation to the third circuit. He has said:

> The addition of Judge Sarokin to the third circuit will bring a high degree of judicial strength because of the respect he has earned among his peers, his warmth and wisdom, and the solid contributions he will make because of his magnificent and profound experience.

Judge Aldisert goes on to say:

> An ideal appellate judge should possess the following qualities: Fairness, justness, impartiality, devotion, decisiveness, clear thought and expression, professional literacy, institutional fidelity, and political responsibility.

And after laying out this criteria he states—and this is the judge who wrote the opinion that removed Judge Sarokin from the tobacco case. He states:

> Judge Sarokin passes these rigorous qualifications with flying colors.

Flying colors.

So, if that was not enough, five of six circuit courts that have considered the question of appearance/fact removal, including the third circuit in Johnson versus Trueblood, had clearly held that:

> The appearance of judicial bias originating from facts developed in a judicial proceeding should not result in removal.

Consistent with these rulings Judge Sarokin's remarks, although perhaps ill-considered, came after years of reviewing evidence in the tobacco litigation. And no one—no one has alleged that his views came from anything but the evidence.

Finally, I ask unanimous consent to have printed in the RECORD the comments of legal commentators that Judge Sarokin should have not been removed from the Seton Hall Law Review: Prof. Paul Gluckow, Seton Hall University Law School; Prof. Jeffrey Stempel, Brooklyn Law School; Prof. Bennett Gershman, Pace University Law School—all of whom in one way or another stated he should not have been removed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Was Sarokin's removal consistent with the law?

Judge Sarokin's remarks, although perhaps ill-considered, came after years of reviewing evidence in the tobacco litigation. No one alleged that his views—whatever they were—came from anything but the evidence. Five of the six Circuit Courts that had considered the question—including the Third Circuit, *see Johnson* v. *Trueblood*, 629 F.2d 287 (1980)—had clearly held that appearances of judicial bias originating in judicial proceedings should not result in removal. These courts recognized that in order to issue rulings, a judge must develop views based upon the weight of the evidence presented.

Most commentators agreed that Judge Sarokin should not have been removed under the prevailing legal standard:

"[T]he *Haines* opinion is troubling because it appears to directly contradict the well-settled Third Circuit position . . .. Judge Sarokin was making a determination regarding whether the crime-fraud exception applied to certain documents. The Third Circuit Court of Appeals did not address how the judge was to make his determination without addressing the issue of whether tobacco companies had engaged in concealment." Comment, Seton Hall law Review (1994).

"[T]he [Third Circuit's] decision . . . ignored both governing statutory authority and the fundamental distinction between judicial and extrajudicial bias . . .. [T]he court's failure even to mention this issue was judicially dishonest . . .. Prof. Paul C. Gluckow, Seton Hall Univ. Law School (Seton Hall Law Review 1993).

"What Sarokin said was . . . intemperate, but I don't think it warranted disqualification under the case law. The distinction between information that is judicially acquired, or not, is an important distinction." Prof. Jeffrey Stempel, Brooklyn Law School (quoted in N.J. Law Journal, 9/14/92).

"I have found no other case where a judge has been disqualified for an appearance of bias for remarks contained in a judicial opinion, based on facts in the record, and relating to the merits of the case." Prof. Bennett L. Gershman, Pace Univ. Law School (N.Y. Law Journal, 9/21/91).

In fact, the United States Supreme Court recognized this distinction earlier this year in its decision in *Litekey* v. *United States*, 114 S.Ct. 1147 (1994). The Court sided with the majority of Circuit Courts who had held that although a judge may often appear biased because of views developed from hearing the evidence in judicial proceedings, removal is required only when the judge "display[s] a deep-seated favoritism or antagonism that would make fair judgement impossible." 114 S. Ct. at 1157. Since the Third Circuit explicitly stated that it did not doubt Judge Sarokin's *actual* ability to adjudicate the case impartially, its decision in *Hanes* v. *Liggett* could not survive the Supreme Court's decision in *Litekey*.

Mr. BRADLEY. Mr. President, finally on the removal question, the U.S. Supreme Court recognized this distinction earlier this year, when the Court sided with the majority of the circuit courts who had held that:

> Although a judge may often appear biased because of views developed from hearing the evidence in judicial proceedings, removal is required only when the judge displays a deep-seated favoritism or antagonism that would make fair judgment impossible.

So, since the third circuit explicitly stated that it did not doubt Judge Sarokin's actual ability to adjudicate the case impartially, its decision in Haines would not likely survive the Supreme Court's recent decision.

So, I think a fair reading of Judge Sarokin's record would refute any proposition that he is soft on crime—far from it. And it would refute any proposition that he has not followed precedent—far from it.

While I do not agree with all of his opinions, what his record does reveal is a jurist who possesses demonstrated judicial temperament to serve on the circuit court. And based on his record as a 15-year veteran of the Federal branch, and the broad level of support he has received from people knowledgeable of his accomplishments, from all the former U.S. attorneys to all the former judges—chief judges of the third circuit, U.S. attorneys in New Jersey, Judge Sarokin is eminently qualified to sit on that court.

I think and I hope many Senators will concur with Professor Priest of Yale that Judge Sarokin's nomination, "will prove to be among this country's most distinguished judicial appointments of many decades."

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the nomination?

The Senator from Utah.

Mr. HATCH. Mr. President, I believe the minority leader would like to speak on this issue and perhaps he will be our next speaker.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. FEINGOLD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, my statement is very brief. I will not take over 5 minutes. Following that statement, as I understand, there will be a vote on this nomination?

Mr. BIDEN. Mr. President, reserving the right to object, quite frankly—

Mr. DOLE. I was not asking for consent.

Mr. BIDEN. I am sorry. I beg your pardon. I thought you were asking for consent.

Mr. DOLE. As I understand, we will be voting fairly soon.

Mr. BIDEN. Mr. President, yes.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, last August, I expressed a number of concerns about Judge Lee Sarokin who had been nominated by President Clinton for the Third Circuit Court of Appeals. These concerns continue to be very troubling and, as a result, I intend to vote against his confirmation.

All this stuff has been gone over a number of times, so I will not repeat it because I have been listening to some of the debate about the statements in the West Virginia Law Review and about pretrial and preconviction detention of those who have been criminally charged violates the "presumption of innocence."

I think there are a number of concerns that if these views were to prevail, vicious criminals, like the World Trade Center bombers, and others, would be free to roam the streets. We passed a crime bill. We talk about being tough on crime and then we continue to confirm judges who apparently have some difficulty being tough on crime.

Of course, in the article, too, he also criticized mandatory sentencing on the theory that it deprives a judge of the right to grant mercy in those instances in which the facts cry out for it.

So I think for all the reasons that have been suggested, it is no wonder that the Fraternal Order of Police in New Jersey, the National Fraternal Order of Police, the Law Enforcement Alliance of America, and others, are opposed to this nomination.

I know it has also been discussed about his bias against the defendants in a tobacco case. He may have been right on the facts. It was so blatant, so well publicized that the Third Circuit Court, the court to which the judge has been nominated, took the extraordinary action of removing him from the case. Even the New York Times applauded the removal stating Sarokin had been "far out of line" and "flunked an important test of credibility."

So, Mr. President, Lee Sarokin may be a decent person. I am certain he is. He is a man of integrity and, needless to say, I fully expect he will be confirmed some time in the next few minutes. I wish him well as he assumes his new position on the third circuit.

Hopefully, today's debate will serve as a wake-up call to him that the criminal-as-a-victim-of-society approach that appears to have dominated his decisionmaking at the district court level just will not cut it on the third circuit. If he learns that simple lesson, then perhaps today's debate will have been a worthwhile effort after all.

I think also that, hopefully, the administration will get the word: No more Rosemary Barketts, no more Lee Sarokins, no more liberal activists and no more judges up here when the President talks about being tough on crime and then sends up these kind of nominees.

We can pass all the crime bills we want, but it will not make any difference if the Federal bench is going to be dominated by judges who seek to expand the rights of criminal defendants and hamstring law enforcement in the process. I think that is the bottom line. If the President wants to be tough on crime, he can begin by nominating judges who view law and order as something more than just a slogan.

Mr. President, last August, I expressed a number of concerns about Judge Lee Sarokin, who has been nominated by President Clinton to the Third Circuit Court of Appeals. These concerns continue to be very troubling, and as a result, I intend to vote against his confirmation.

In an article appearing in the West Virginia Law Review, Judge Sarokin suggests that the pretrial and preconviction detention of those charged with violent crimes violates the "presumption of innocence." I repeat: Judge Sarokin has suggested that the pretrail and preconviction detention of those who have been criminally charged violates the presumption of innocence.

If this view were to prevail, vicious criminals like the World Center bombers, or the killer of 12-year-old Megan Kanka, would be free to roam the streets of our country at any and all times prior to their actual convictions. The impact on public safety would be immeasurable.

In the same West Virginia Law Review article, Judge Sarokin also criticizes mandatory sentencing, insisting that "mandatory and uniform sentencing * * * depriv[es] judges of the right to grant mercy in those instances in which the facts cry out for it." And he argues for an air-tight exclusionary rule, even when the police act in a good faith belief that their search is lawful. The Supreme Court, of course, took a contrary view in the Leon decision, upholding a "good faith" exception.

It is no wonder, then, that the National Fraternal Order of Police, the New Jersey FOP, the Law Enforcement Alliance of America, and other law enforcement organizations are publicly opposed to the Sarokin nomination.

Not only is Judge Sarokin's soft-on-crime judicial philosophy a source of concern, his judicial temperament is an issue as well.

As a Member of the Federal district court in New Jersey, Judge Sarokin presided over a case in which several tobacco companies were the defendants. During the trial, Judge Sarokin's bias against the defendants was apparently so blatant and so well-publicized that the Third Circuit Court of Appeals—The court to which Judge Sarokin has been nominated—took the extraordinary step of actually removing him from the case. Even the New York Times applauded the removal, stating that Sarokin had been "far out of line" and had "flunked an important test of credibility."

So, Mr. President, Lee Sarokin is obviously not my kind of judge. Unfortunately, his views on key criminal justice issues are so far removed from the mainstream, so reflective of his own liberal bias, that I cannot in good conscience support his nomination.

Let me just say, though, that Judge Sarokin appears to be a decent person and a man of integrity. And, needless to say, I fully expect that he will be confirmed sometime this week, perhaps as early as today. Once confirmed, I wish the judge well as he assumes his new position on the third circuit.

Hopefully, today's debate will serve as a wakeup call to him that the "criminal-as-a-victim-of-society" approach that appears to have dominated his decisionmaking at the district court level just will not cut it on the third circuit. If Judge Sarokin learns this simple lesson, then perhaps today's debate will have been worthwhile after all.

Finally, Mr. President, a word of advice and caution to the administration: Please, no more Rosemary Barketts. No more Lee Sarokins. No more liberal activists.

We can pass all the crime bills in the world, but they will not make a bit of difference, if the Federal Bench is dominated by judges who seek to expand the rights of criminal defendants and hamstring law enforcement in the process. quite simply, we don't need judges, like Lee Sarokin, who oppose the pretrial detention of violent offenders. We do not need judges who oppose mandatory sentencing. And we do not need judges who are insensitive to the daily struggles of our professional law enforcement officers.

If President Clinton wants to be tough on crime, then he can begin by nominating judges who view law and order as something more than just a slogan.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am, at least, on this side ready to vote on this. I will make a 30-second comment.

The bottom line is this President has sent up and we have confirmed 72 judges. The Republicans, almost to a person, voted for almost every one of them. He sent up two Supreme Court Justices which received accolades before, after, during and now on the bench.

The President, unlike previous Presidents, has not sent ideologues to us. He has sent seasoned lawyers and seasoned judges who do not come with a brief. we are ready to vote.

Mr. HATCH. Are the yeas and nays ordered?

Mr BIDEN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? If not, the question is, will the Senate advise and consent to the nomination of H. Lee Sarokin, of New Jersey, to be U.S. circuit judge for the third circuit?

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KENNEDY] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 35, as follows:

[Rollcall Vote No. 319 Ex.]

YEAS—63

Akaka
Baucus
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bumpers
Campbell
Chafee
Cohen
Conrad
Danforth
Daschle
DeConcini
Dodd
Dorgan
Durenberger
Exon
Feingold
Feinstein
Glenn
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Simon
Simpson
Specter
Wellstone
Wofford

NAYS—35

Bennett
Bond
Brown
Bryan
Burns
Byrd
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Ford
Gorton
Gramm
Grassley
Hatch
Helms
Hutchison
Kempthorne
Lott
Mack
McCain
McConnell
Nickles
Reid
Roth
Sasser
Shelby
Smith
Thurmond
Wallop
Warner

NOT VOTING—2

Kennedy
Stevens

So the nomination was confirmed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the President will be immediately notified of the confirmation of the nomination.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 6 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee on conference on the disagreeing votes of the two Houses on the amendment of the bill (H.R. 6) to extend for six years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965 and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses

this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 28, 1994.)

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk, and I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany H.R. 6, the Elementary and Secondary Education Bill:

George J. Mitchell, Daniel K. Akaka, Max Baucus, Harris Wofford, Carl Levin, Claiborne Pell, J.J. Exon, Barbara Boxer, Jay Rockefeller, D. Inouye, Byron L. Dorgan, Howell Heflin, Harry Reid, J. Lieberman, Patty Murray, Dianne Feinstein, Russell D. Feingold.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

CONGRATULATIONS TO THE NEW MISS AMERICA

Mr. DOLE. Mr. President, I rise today to recognize the remarkable personal odyssey and achievement of the new Miss America, Heather Whitestone.

Miss Whitestone hails from Alabama. She is very much like the other contestants—smart and talented.

But the new Miss America also uses a hearing aid. She is the first Miss America with a disability.

Miss Whitestone lost most of her hearing when she was 18 months old. Today, she supplements her very limited hearing by reading lips and using sign language.

But her disability has not held her back, because she and her family have not let it. Miss Whitestone spent 6 years in speech therapy just to learn how to say her name.

Echoing Helen Keller, Miss Whitestone has been quoted as saying, "The most handicapped (person) in the world is a negative thinker." As a child, her mother would tell her that the last four letters of "American" spell "I can."

Anyone who saw Miss Whitestone on television Saturday night saw proof of her mother's wisdom. She gave a moving ballet performance, dancing by sensing the vibrations of the music.

Mr. President, for over 25 years this Nation has pursued a national policy based on ability, not disability; on inclusion, rather than exclusion. It is a policy that has not always been well understood or popular. But it is the right thing, and the crowning of the new Miss America shows it works—for people with disabilities and for all Americans. We are better and richer for the contributions of people like Heather Whitestone.

Over the next year, Miss Whitestone plans to reach out to young people, including those with disabilities, to let them know that anything is possible. I know she will bring unique credibility to that message.

Mr. President, every Miss America has a demanding schedule, often traveling 20,000 miles a month to make speeches and for other appearances. It will not be easy for Miss Whitestone. But she has shown she has the right stuff, and we wish her the best of luck and God's speed.

TRIBUTE TO JANEAL CABBAGE

Mr. DOLE. Mr. President, I want to take a moment to recognize Janeal Cabbage of Hutchinson, KS, a dedicated member of my staff who has served her home State and this institution since 1985. Janeal has taken on new responsibilities in New Mexico, and I and my staff wish her the best.

Janeal performed one of the most important jobs in the office: keeping the computers up and running so that the rest of us could do our work. We all know the difficulty involved with that task. Modern Senate offices, packed as they are with the latest electronic wonders, keep the systems administrator on call night and day. Janeal was endlessly patient with her fellow staff members as she taught them to use the computers to their fullest extent. She knew first hand that the computing needs of the staff never cease; that even the best equipment is temperamental; and that staff expectations can outpace the most rapidly advancing technology.

Despite the challenges facing her, Janeal carried out her responsibilities with a good measure of common sense, expertise, and cheer.

Mr. President, we will greatly miss Janeal's assistance, and I extend to her my thanks for a job well done, and wish her success in her new venture.

TRIBUTE TO HARRY NALTCHAYAN

Mr. DOLE. Mr. President, I have spoken often about the late Dr. Hampar Kelikian, the gifted surgeon who became one of my closest friends.

It was through Dr. Kelikian that I was first introduced to Armenian-American community. Over the years, I have been privileged to become acquainted with many outstanding members of this community. One of the most prominent of those was Harry Naltchayan, who passed away on September 16 at the age of 69.

Harry was a true citizen of the world. From Armenian background. Born in Lebanon. He traveled the globe as a prize-winning photographer, first as a free lancer and then for the Washington Post.

During his 35-year career with the Post, Harry photographed every President since Eisenhower, and was a familiar face at the White House, on Capitol Hill, and along Embassy Row.

Gentleman is a word that many regard as a bit old-fashioned in today's modern society. I disagree. And no doubt about it, with his kind and courteous nature, and his civility in a business that is often uncivil, Harry Naltchayan was a true gentleman.

I know that all Members of the Senate join with me in extending our condolences to Harry's wife, Elizabeth, and their four children.

ON THE LIFE OF JOHN H. FILER

Mr. DODD. Mr. President, it is with sadness that I rise to pay tribute to John H. Filer, who passed away on Sunday, September 18, after a long illness. Although he will be sorely missed by family, friends, and colleagues, I know that his distinguished record of service to the State of Connecticut, both as a business leader and a philanthropist, will be remembered far into the future.

As the chairman of Aetna Life & Casualty for 12½ years, John obtained widespread recognition for his commitment to corporate responsibility. Demonstrating a sincere concern for both profits and people, he ardently believed that businesses and communities benefit from each other only when they work together. In an era when the corporation depended on the community for prosperity and the community depended on the corporation for growth, John built a socially conscious and beneficent Aetna.

I ask unanimous consent that a Harford Courant editorial, which I believe best captures the true essence of John Filer, appear in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Hartford Courant Sept. 20, 1994]

JOHN H. FILER, COMMUNITY BUILDER

John H. Filer, chairman of Aetna Life & Casualty Co. for a dozen years and long a dominant presence in Hartford, was one of the great business and civic leaders of his generation. Mr. Filer, who died Sunday at age 70, was called by some the "shadow mayor" and the "archbishop"—suggesting he was first among equals in the city's corporate hierarchy. A quiet, forceful leader, he deserved such accolades.

Mr. Filer was as concerned about Hartford as he was his company's profits. Corporations, he noted, did business "at the sufferance of the community.

His advocacy of corporate social responsibility and philanthropy led to several major projects in Hartford and the leadership of a commission to promote private giving. He also led Aetna's rise to become the nation's largest shareholder-owned insurance organization.

A native of New Haven and former state senator, the tall, soft-spoken Mr. Filer joined the Aetna in 1958 as a counsel and was named CEO 14 years later. During his stewardship, Aetna tripled its assets but saw its operating earnings fall, largely because of diversification.

It was during his tenure that Aetna made several major community commitments, including much of the funding to build the Hartford Civic Center complex and bring the Hartford Whalers to the city. As the leader of a small group of the city's top corporate officials known informally as the bishops, he was able to galvanize others' support.

And although other companies were leaving the city or considering such a move, he expanded Aetna's Hartford base.

Mr. Filer recruited numerous socially and politically concerned younger people to work for the Aetna Foundation and other outreach programs. He backed low- and moderate-income housing projects along with educational, civil rights, legal defense and health programs.

He was active on the state and national scenes as well, heading a commission bearing his name that studied ways to streamline the state bureaucracy and advising and serving presidents.

The recent decline in corporate giving and community involvement troubled Mr. Filer. In a recent interview, he lamented the current focus on short-term profits and competition. Business leaders, he said, "should be part of the enlightened group that calls the different factions and players together and tries to do some intelligent planning and tries to do some intelligent demonstration projects."

To the benefit of Hartford, John Filer lived by those words. Others would do well to remember his legacy of conducting business for corporation and community.

TRIBUTE TO MARIA BOUCHELLE CAMPBELL

Mr. HEFLIN. Mr. President, the professional life of one of my constituents, Ms. Maria Bouchelle Campbell, has recently taken a dramatic turn. Maria was formerly the executive vice president, secretary and general counsel at AmSouth Bank in Birmingham, capacities in which she served with distinction for 20 years. Effective September 1, she became assistant to the rector of the Parish of Trinity Episcopal Church on Wall Street in New York City. In this new position, Maria will bring to bear her knowledge and experience in law and business on the work of a unique Christian institution.

Maria Campbell received her bachelor and law degrees at the University of Georgia. Over the years, she has been a dedicated leader in numerous professional and civic organizations, as well as in the Episcopal Church. She has served on the board of directors of the YWCA; as a commissioner on the Birmingham district housing authority; and as chairman of the lawyers committee of the National Association of Bank Holding Cos. She has also served as the chancellor, as a member of the canonical revision committee, and as treasurer and chairman of the department of finance of the Episcopal Diocese of Alabama.

Among the selected honors that have come Maria's way over the years are her honorable mention as a National Merit Scholar, her selection as executive editor of the Georgia Law Review, and her inclusion on 1989's list of Top Ten Birmingham Women, published by the Birmingham Business Journal. She has been admitted to practice law by the Supreme Courts of Georgia, Florida, and Alabama, as well as the U.S. Courts of Appeals for the 5th and 11th Circuits and the U.S. District Court for the Northern District of Alabama. She has been listed in Who's Who in America, Who's Who of American Women, and Who's Who in American Law.

I regret that she has left Alabama, because she leaves a tremendous void in both the business and legal communities in my State that will be difficult to fill. But Maria's new position with her beloved Episcopal Church will offer new challenges and rewards. I congratulate her and wish her all the best for an exceptionally bright and stimulating future.

STEELMAN IN WING TIPS

Mr. HATCH. Mr. President, the July 4, 1994, issue of Forbes magazine included a profile of one of Utah's distinguished citizens: Joe Cannon, chief executive officer of Geneva Steel Corp.

I want to join Forbes in recognizing the important work done by Joe Cannon. Through ingenuity, integrity, and plain old-fashioned hard work, Joe Cannon, together with his partner Robert Grow, took a troubled company and made it prosper.

Their efforts have helped make Geneva Steel a leader in this tough industry and the employer for 3,000 Utahns. Joe has also been a great community leader, participating in many charitable projects as well as in educational partnerships with the Provo and Orem School Districts. Geneva has been an inspiration for emerging businesses and promising entrepreneurs across the country.

I ask unanimous consent, that the article from Forbes be inserted in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

STEELMEN IN WING TIPS

(By Seth Lubove)

"The fact of the matter is, we didn't know a thing about the steel industry," admits Joseph Cannon, chief executive of Geneva Steel Corp. "We were too stupid to know it was stupid to buy a steel mill." But they weren't too stupid to ask some very basic questions that helped turn a white elephant into a successful company.

Cannon, a cherubic, bespectacled lawyer, has demonstrated how creative entrepreneurship can increase economic value in an ingrown industry. Formerly a division of U.S. Steel, and the only integrated steel mill west of the Mississippi, the sprawling Geneva Steel Works in Vineyard, Utah was a rusting relic of World War II, when it was built as part of the war effort and as a move to decentralize industrial production away from the militarily vulnerable coasts.

In 1986 U.S. Steel faced a choice: Spend $1 billion to modernize Geneva or shut the mill down. For the Pittsburgh-based U.S. Steel management, it wasn't a tough choice. It had just signed a deal to get cheaper raw steel for its finishing mill in California from Korea's Pohang Iron & Steel Co. Good-bye, Geneva. Who needed its high-cost steel that had to be hauled over land to the coast? U.S. Steel decided to shut the mill and lay off its 1,850 workers.

The shuttering would be a blow to Utah. Almost 1% of the total personal income in the state was generated by the mill's payroll. Its belching smokestacks may have been offensive to trendy skiers on their way to actor Robert Redford's Sundance ski resort, but they meant jobs with good benefits that pay a lot more than does scrubbing toilets at Redford's resort.

At the time of the threatened closing, Cannon, a Utah native and a Mormon, was practicing environmental law in San Francisco, after a stint in the Reagan Administration's Environmental Protection Agency. He proposed to Robert Grow, a Salt Lake City lawyer and longtime friend, that they try to save Geneva Steel to help the community. Grow knew as little about steel as Cannon did. He had been practicing real estate and corporate law.

U.S. Steel was happy to sell. It asked $44 million—a tiny fraction of what the mill had cost. Cannon and Grow scratched around for capital, finally borrowing $34 million of the purchase price. They tapped a now failed Texas savings and loan, Union Carbide's pension fund, ITT Financial Corp. and an insurance company. To sweeten the pot, Cannon and Grow gave the lenders 49.6% of the equity in the newly formed company. U.S. Steel agreed to defer payment on the remaining $10 million (which has since been paid off). To get the plant running again, Cannon and Grow and some local law and accounting firms put in $4 million.

The United Steelworkers of America also made concessions, and U.S. Steel agreed to absorb the mill's extensive liabilities for paying retired pensioners. The steel giant also accepted partial liability for previous environmental costs.

But to whom would Geneva sell its steel? With its costs sharply reduced and heavy environmental and pension costs shed, Geneva could produce at a very competitive price. Luck was with it, too. Demand was picking up. Cannon and Grow began selling on the spot market in the South and Midwest through independent distributors. From 1988 onward, the plant was profitable.

It was soon after they took over that Cannon and Grow demonstrated why motivated and shrewd outsiders can sometimes breathe new life into a hidebound business. Cannon had intended to leave management to the steelmen, but when orders began pouring in 12 days after the deal closed in August 1987, he asked the management to restart a second blast furnace. The plant manager balked, arguing that it was financially too risky to bet that heavily on continuing demand. Prove it, Cannon told him. After a cost study to quantify the risk conducted at Cannon's request, the plant manager changed his mind. The furnace was relined and started up again. It has run ever since.

This experience was a kind of epiphany for Cannon. "For a company to modernize and stay competitive takes more than just the technical skills," he says. "Strategic vision is important." To Cannon, that vision was the ability to see the big picture. He adds: "The lesson for me was, hey, we can add value. We're not just a bunch of lawyers here." To bone up on steelmaking, Cannon, 44, read through a pile of Harvard Business School case studies. Grown, also 44, checked out 60 books on steelmaking from the University of Utah library. "Then we talked to people everywhere," Grow says.

There remained the problem of modernization. Now profitable, Geneva could borrow more readily, and borrow it did. So far Geneva has spent $354 million on modernizing the plant, with another $59 million slated for the next two years. Debt has mounted to $325 million and carrying costs are $33 million a year, but the modernization came in at just 41% of the $1 billion U.S. Steel had estimated. For instance, U.S. Steel thought it would cost more than $250 million to replace a set of obsolete open hearth furnaces with more modern basic oxygen furnaces. "We said we can't afford that," says Grow, standing in front of a cracked conference table inherited from U.S. Steel. So Cannon and Grow scrounged around for used basic oxygen furnaces, which they found in a shuttered Republic Steel mill, Total cost: just $80 million. That upgrade cut costs significantly. Economics Associates Inc., a consulting firm, estimates Geneva's production cost for hot-rolled steel at $280 per ton, second only to Nucor's $265 per ton and far lower than Armco's $315 per ton.

The other major part of the modernization, just completed, is a new continuous caster. The caster, made by the same firm that built Nucor Corp.'s innovative casting system, is designed to produce the industry's widest steel slabs, a high-margin product used in railcars, ships and holding tanks.

That will open up Geneva's market enormously. Before, the plant made a lot of flat-rolled steel coils out of ingots. The total market for that product is about 5 million tons, for which Geneva must battle with the big integrated steel mills and some minimills. When the modernization program is completed next year, its costs will have been reduced by $39 a ton since 1992, to $270 a ton. Total capacity will expand to 1.9 million tons from 1.4 million tons.

Geneva's unionized labor force was accustomed to the autocratic management of a big company. "The workers still felt they could check their brains at the gate," Cannon says. He and Grow have encouraged workers to offer their ideas to cut costs. One suggestion: Plant workers argued that they could dispose of the detritus from the mill's scrubbers at a lower cost than the waste company that had the contract. Geneva now has a "supersucker" truck to clean out the scrubber's baghouses. In return for waiving work rules, Cannon and Grow agreed to distribute 10% of pretax profits (after deducting a portion of capital expenses).

In the intensely cyclical steel business, the recent recession took a toll. Sales fell to $465 million last year from $525 million in 1989. After reporting earnings for the four years following the acquisition, Geneva lost $25 million in fiscal 1992 and 1993. It was barely profitable in the first fiscal quarter that ended Dec. 31, and reported a loss for the second quarter due to startup costs of the new caster and the early retirement of debt. But analysts who follow the company expect Geneva will be back in the black by the fourth quarter. In a market that is turning upward, Geneva benefits early since it sells entirely to the spot market, where price increases show first. Piper Jaffray analyst Bob Toomey estimates Geneva's operating profit per ton will increase from just over $10 in 1991 to $83 in 1995.

Cannon and Grow took the company public in March 1990, raising $28 million for 22% of the shares. The original lenders cashed out their nearly 50% interest at that time. Cannon and Grow ended up with 15% of the shares, with a market value of $40 million, but 62% of the voting shares. The company's shares more than doubled in value to 21, before falling back to 18⅞ recently.

"To this day, I still can't make steel," says Cannon. "My added value was in seeing a bigger picture and being extremely future oriented." Inexperience when combined with intense curiosity and entrepreneurial drive can be a virtue in business.

THE CONSUMER REPORTING REFORM ACT OF 1994, S. 783

Mr. BOND. Mr. President, I rise today to stress how critical it is that we reform the Fair Credit Reporting Act [FCRA] before Congress recesses to finally bring relief to American consumers. As many of you know, I have been working for the last 4 years to pass legislation to revamp credit reporting laws.

This bill is one of the most significant pieces of consumer legislation to be considered by the Congress this year. We have victory within our sights. The House has already acted and all that remains is Senate approval before being sent to the President for signature. What we will have accomplished with passage of S. 783 is consumer protections against the devastation of mistaken credit reports.

If we are to be successful in correcting this situation, then S. 783 needs to clear the Senate without ornamentation. Far too often, in the last minute rush that occurs at the end of a Congress when everyone tries to get their own legislation passed, crucial measures get lost. Or worse, are in danger of becoming a Christmas tree. If that happens, there is no hope of final passage by the House this year.

The Fair Credit Reporting Act is ripe for revision. I have heard horror stories from many of my constituents who have tried to fix mistakes on their credit reports. They have encountered the same obstacles as millions of other consumers—months of waiting for credit reports to be fixed, credit grantors who are unresponsive and no one to listen to their complaints. These are not new problems.

While it traditionally takes an inordinate amount of time for credit bureaus to fix credit reports, this bill will speed up the process by requiring action be completed in 30 days. If information in a report cannot be verified by the creditor who submitted it within 30 days, it will be removed from the report. In addition, it cannot be reinserted later unless the consumer is notified. And, if a consumer goes through the reinvestigation process and the errors remain, the consumer now has the right to sue the creditor for not correcting the information it submitted to the credit bureau.

To ensure that consumers can reach someone at the credit bureaus to talk to them, our bill requires that credit bureaus establish toll-free numbers and have people available for consumers to talk to about their reports. In addition, consumers are provided three free reports throughout the reinvestigation process. And, free reports are available for people who are unemployed, on welfare, or have reason to believe that there is inaccurate information in their report due to fraud. All other consumers may get their report once a year for the lesser of cost or $3 each.

Everyone wins by reforming credit reporting laws. The free flow of accurate information will help all sides by promoting good economic decisions in our free market economy. Consumers get increased disclosure and a time limit of 30 days for reinvestigations and the credit industry gets a limited Federal preemption, the ability to share information among affiliates, broader prescreening abilities and the certainty that only comes in law.

Consumers need this legislation and I believe that the only responsible course for this body is to move quickly to passage. I urge my colleagues to put aside any political infighting and act on S. 783 immediately.

Thank you, Mr. President.

APPROPRIATIONS BILLS PASS IN RECORD TIME

Mr. DOLE. Mr. President, with all the talk about gridlock, filibuster, and cloture, no one seems to have noticed that the Congress has passed all 13 appropriations bills before the start of the new fiscal year for only the third time since 1948. In fact, the last time Congress managed this feat was 1988—the year President Ronald Reagan shamed the Democrat Congress into doing its work on time.

There are few pieces of legislation more important to running the Government than appropriations bills. If Congress fails to pass its funding bills by October 1, Government departments shut down, Federal employees don't get paid, retirees don't get their Social Security checks, and—in the case of the

D.C. appropriations bill—the Redskins can't play football at RFK Stadium.

The only way around this problem is to pass a continuing resolution to provide stop-gap funding. Continuing resolutions have ranged in size from a single bill to all 13 appropriations bills. A continuing resolution may keep Amtrak, but it is sure no way to run a railroad or a government.

No doubt about it, achieving a new appropriations speed record doesn't happen without the assistance of the minority. Republicans worked long hours, limited debate, and withheld important amendments to assure timely passage of each one of these bills. Unfortunately, this kind of cooperation doesn't make the headlines.

Senate Republicans are not the agents of gridlock. We have worked, and will continue to work, to expedite passage of good legislation, including NAFTA and these 13 appropriations bills.

I want to congratulate Senator BYRD and Senator HATFIELD, as well as the chairman and ranking member of each appropriation subcommittee, for their dedication to passing each of these funding bills on time. The news media may not have noticed their accomplishments, but the history books certainly will.

BUDGET OFFICE ESTIMATES ON S. 2066 AND S. 2319

Mr. JOHNSTON. Mr. President, on September 26, the Committee on Energy and Natural Resources filed the reports to accompany S. 2066, the Mni Wiconi Act Amendments of 1994, and S. 2319, a bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

At the time these two reports were filed, the Congressional Budget Office had not submitted its budget estimates regarding these measures. The committee has since received these communications for the Congressional Budget Office, and I ask unanimous consent that they be printed in the RECORD in full at this point.

There being no objection, the estimates were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 30, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2066, the Mni Wiconi Act Amendments of 1994.

Enactment of S. 2066 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2066.

2. Bill title: Mni Wiconi Act Amendments of 1994.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on September 26, 1994.

4. Bill purpose: S. 2066 would make a number of changes affecting the construction and maintenance of the Oglala Sioux, Rosebud Sioux, and Lower Brule Sioux water systems projects, and the West River and Lyman-Jones rural water systems projects. The bill would increase the authorization of appropriations to $263 million through 2003 for this purpose. It also would authorize such sums as may be necessary to pay for operating and maintaining the Oglala Sioux, Rosebud Sioux, and Lower Brule Sioux rural water systems and to conduct feasibility studies on wastewater disposal systems.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1995	1996	1997	1998	1999
Estimated authorizations of appropriations	(1)	20	21	21	22
Estimated outlays	(1)	17	21	21	22

[1] Less than $500,000.

The costs of this bill fall within budget function 300.

Basis of estimate: For the purposes of this estimate, CBO assumes that the amounts authorized would be appropriated. The estimated authorization level reflects the increases, relative to current law, in the federal share of the amounts authorized through 2003, adjusted for inflation. Outlays are based on proposed spending by the Bureau of Reclamation (BOR) for these activities.

S. 2066 would amend the Mni Wiconi Project Act of 1988 by increasing from $120 million to $263 million the amounts authorized for planning, designing, and constructing various water supply projects. It also would extend the time for completing the projects through 2003. Cooperative agreements with nonfederal entities require that they share in a portion of these costs. S. 2066 would increase the federal share for construction-related activities from 65 percent to 80 percent. As a result, the federal share of the authorized spending would increase by about $145 million, before any adjustment for inflation. CBO estimates that BOR would spend about $75 million of this amount between 1995 and 1999.

The bill also would authorize such sums as may be necessary to operate and maintain the water supply systems and to conduct feasibility studies on waste water disposal systems. Based on information from the BOR, we estimate that the studies would cost approximately $250,000 in 1995 and that the annual operating costs would total about $1.9 million. S. 2066 would require that nonfederal entities begin to pay a portion of the operating expenses, which would vary each year based on water usage, but are expected to represent about 30 percent of the total annual cost. On this basis, CBO estimates that the federal share of operating and maintenance costs would total about $5 million over the 1995–1999 period.

6. Pay-as-you-go considerations: None.

7. Estimated cost to State and local governments: As part of a cooperative agreement, the state of South Dakota is expected to advance about $18 million over the life of the Mni Wiconi project for constructing and maintaining the West River and Lyman-Jones Rural Water systems. These monies will be paid back to the state over time from fees charged to water users.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Mary Maginniss.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 28, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2319, a bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

Enactment of S. 2319 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2319.

2. Bill title: A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner.

3. Bill status: As reported by the Senate Committee on Energy and Natural Resources on September 26, 1994.

4. Bill purpose: S. 2319 would authorize appropriations of $75 million for the Bureau of Reclamation to develop a new program to reduce salinity in the Colorado River basin from saline springs, leaking wells, irrigation sources, industrial sources, erosion of public and private land, or other sources. This appropriation also could be used to cover costs associated with ongoing salinity control projects. The federal government would be reimbursed over time for 30 percent of this appropriation through the Upper Colorado River Basin Fund (UCRBF) and the Lower Colorado River Basin Development Fund (LCRBDF), which collect surcharges from power users through the Western Area Power Administration.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1994	1995	1996	1997	1998	1999
Authorization of appropriations	0	0	7	7	10	15
Estimated outlays	0	0	6	7	9	15

The costs of this bill fall within budget function 300.

Basis of estimate: Based on information from the Department of the Interior, CBO estimates that the $75 million in appropriations would be used entirely for new salinity control projects. We expect that funding for these new projects would be required beginning in fiscal year 1996 and that outlays would reflect historical spending patterns for similar construction projects. We estimate that outlays for these projects would total $37 million over the 1996–1999 period.

The reimbursement requirements would not affect outlays over the 1994–1999 period. Fifteen percent of the reimbursable portion of the appropriation would be paid from collections to the UCRBF within 50 years after a project becomes operational, and the remaining 85 percent of the reimbursable costs would be paid from collections to the LCRBDF as costs for construction are incurred. To cover the reimbursable costs allocated to the UCRBF, CBO expects that the Federal government would increase its power surcharge rate beginning in fiscal year 2002. We expect that no rate change would be made to cover costs allocated to the LCRBDF.

6. Pay-as-you-go considerations: None.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Susanne S. Mehlman.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

S. 21, THE CALIFORNIA DESERT PROTECTION ACT

Mr. WALLOP. Mr. President, I rise in opposition today to talk about a few of the many problems with the California desert bill. And more important, I rise to speak on the problems it causes to the rest of our outstanding National Park System.

The impact of S. 21 on the integrity of the National Park System is substantial. The bill increases the National Park System by over 4 million acres, but there is no new funding for these additions to the Park System.

Put in simple terms, this legislation adds the equivalent of two new Yellowstone National Parks to the System, and pays for it by taking something away from each of the other 367 units of the National Park System.

Mr. President, no one in this Chamber would advocate reducing the needed funding and the number of ranger personnel from a national park within their State. Yet, that is exactly what will occur should this legislation be enacted.

I know the two Senators from California would wage a battle royal on this floor if there was legislation to reduce the funding and the number of rangers at Yosemite or Point Reyes or at Santa Monica Mountains, yet that is exactly what they are doing.

Mr. President, we all know that there is no new money, there are no new ranger positions. In order to maintain and operate this equivalent of two new Yellowstone's, other parks in the System will be raided to fund and operate these new parks. The alternative is to let California desert lands remain under BLM management where they are currently being protected by a plan created with and negotiated by California environmentalists.

Under President Clinton's plan to reinvent Government, the National Park Service must reduce its work force by 1,350 positions. S. 21 will further reduce the number of park personnel at existing parks. Adding new parks is degrading old parks. Congress must stop.

According to the National Park Service in its 1992 self-appraisal, the Vail Agenda, Park Service employees concluded "there is a wide and discouraging gap between the Service's potential and its current state, and the Service has arrived at a crossroads in its history."

From the Grand Canyon to Acadia and back across the country to the 22 parks in California, infrastructure decay, accelerated by deferred maintenance, is clearly punishing not only the Park System's roads but its trails, septic systems, employee housing, and visitor facilities as well. Americans deserve better.

According to the most recent edition of National Geographic, the Superintendent of Great Smokey Mountains speaks to the park's 800 miles of erodible backcountry trails "* * * we can't keep up with it." The Superintendent at Sleeping Bear Dunes states in the same article, "we have scores of historic 19th century buildings here, and they're all just moldering into the ground."

Mr. President, Great Smokey Mountains and Sleeping Bear Dunes are not unique. The problem is nationwide. According to the General Accounting Office, 60 percent of National Park Service employee housing needs repair at an estimated cost of $500 million. We do not even have the ability to properly house the caretakers. If we can't properly house rangers in existing parks because we don't have the money, how can we stand here and authorize millions of dollars for new parks? It is not right. Our priorities are completely out of order.

According to information supplied to Congress by the National Park Service, the agency currently faces a 37-year backlog in construction funding and a 25-year backlog for land acquisition. No one argues that the cost of existing infrastructure repair is literally in the billions of dollars while the cost of authorized but unacquired land acquisition seems to mimic the national debt.

This bill would add another 700,000 acres of private property to the list the Federal Government must acquire. To add insult to injury, the House added another 6,000 acres of private property when they included the Bodie Bowl provisions in their version of the legislation. Mr. President, many of America's national parks are, and indeed the Park Service itself is, now in trouble. There is no money to repair or replace the broken pieces. there is certainly no money to add new units to the System without further raiding and in the process degrading existing units.

The Congress' appetite for new parks is tremendous and its stomach for appropriations is nonexistent. It is absolutely irresponsible to buy new parks when you cannot fix the existing ones.

To live up to its promises to restore the original vision of the parks, Congress needs to act in a responsible fashion.

We have yet to pay for Santa Monica Mountains National Recreation Area. Members of the California congressional delegation have already introduced legislation referred to as the headwater bill to buy out a private landowner in northern California to the tune of $1.5 billion. They have also introduced legislation which would extend Point Reyes National Seashore to Bodega Bay which will cost $4 billion. These bills were introduced before we have even disposed of this very expensive piece of business. It is not only irresponsible, it is outrageous.

Mr. President, I am extremely disturbed, even angry that we are apparently willing to assist in the destruction of what used to be considered the best park system in the world.

Throughout my Senate career, I have been one of the strongest advocates for the National Park System. There have been times when I have disagreed with certain actions taken by the individuals in the Service, but I have always been supportive of the concept and vision that was created in 1872.

This year I have been instrumental in advancing the Presidio legislation—not because it adds a new park to an overburdened system, but because the legislation as written would reduce the expenditures that would otherwise be required by the National Park Service. Unfortunately this legislation, S. 21, only serves to increase National Park Service expenditures of funds and personnel. It does absolutely nothing to enhance the system.

I am further troubled by the fact that the Secretary of the Interior explained to us during his confirmation hearing that he was going to listen to the professionals in the field. Well, when you ask the professionals in the field privately, they will tell you that the Park Service cannot afford legislation of this magnitude. The Secretary may be listening, but he has ignored the advice of the professionals.

The bill places the National Park Service in a position of managing a multiple-use unit. Given our experience at the Big Cypress Preserve, it is very apparent that the Park Service has more than a difficult time managing such an area. They just cannot philosophically adjust to multiple-use activities. They are not in that business nor should they be. The Secretary knows this, he has heard from the National Park Service professionals but he has chosen to ignore their pleas.

This legislation is unfortunate for the National Park Service, the Bureau of Land Management, and for the people of California who believe that being in a preserve will protect their property rights and their lifestyles. The opposite will be true. The National Park

Service will impose all sorts of limits on multiple-use activities—they always do, and it places the service in constant conflict with its neighbors.

The administration's agenda is clear, and only the users of the public lands will become endangered in this administration's war on the West.

Mr. President, the California desert is about 12 million acres of which 8 million acres will be made into parks and wilderness. Another 3 million acres will be set aside as critical desert tortoise habitat which leaves 1 million acres for multiple-use activities. Unfortunately, the 1 million acres are not contiguous, they are scattered throughout the desert and most are surrounded by wilderness making those parcels of land inaccessible anyway. Also, thousands of miles of roadways have been included in wilderness and will be closed.

The Federal Government currently owns more than half of all the land in the 12 Western States. Unfortunately, recent actions taken by the Clinton administration have made it clear that the Federal Government is managing these lands for the benefit of specific political interest groups with little regard for the legitimate interests of western citizens and businesses.

As a result, citizens of western States have little or no control over vast areas of land that were contemplated as a source of their livelihood at the time of statehood.

In effect, another 12 million acres will be added to the Federal reserve if this legislation is enacted. The people of the Inyo, San Bernadino, Kern, Riverside, and Imperial counties must be thrilled to death. The bill will withdraw over 8 million acres of land from any further mineral exploration and development, affecting jobs and economy in California forever. While the senior Senator eliminated a few of the larger mining companies from getting entrapped in wilderness, hundreds and hundreds of other businesses were not so fortunate.

Golden Quail Resources Ltd. is just one example. According to their prospectus they have proven reserves of approximately 200,000 ounces of gold having a market value of $80 million and have potential for much more. To date they have spent over $3 million on their project including over $200,000 in claim fees to the BLM. They also pay local taxes. All of this will be gone if this bill passes.

The company has some 2,000 American stockholders, 500 of whom are Californians. All of them invested in a project with certain ground rules and now their own Government is looking to change those rules to their detriment. The project will close.

There are many other similar cases in this parade of horribles, but all have the same bottom line, they will be out of business.

In enacting S. 21, we're handing the National Park Service a one-way ticket to mediocrity, and sentencing the thousands of affected private landowners to a generation of injustice. If we continue ill-considered ideas such as this, historians will look back at the demise of our great park system and characterize it as "death by a thousand hugs." Unfortunately everyone loved it, wanted more of it, but they couldn't pay for it. No Senator will admit to doing that, but each Senator who supports this bill is doing just that.

IN HONOR OF JOHN "HOB" GEHRINGER AND THE PEOPLE OF HAMPSHIRE, IL

Ms. MOSELEY-BRAUN. Mr. President, I rise before you to commend John "Hob" Gehringer of Hampshire IL. Mr. Gehringer is a pillar of his community. He is active in the Lion's Club, the Hampshire Catholic Community, and the Snowmobile Club as well as coaching Little League baseball and basketball. It is clear he is well loved by the other members of his community.

Tragically, John Gehringer has recently been diagnosed with leukemia and is in dire need of a bone marrow transplant.

This could be a sad story; however, the people of Hampshire have instead transformed it into a story of hope. Chuck Gehringer had agreed to donate his bone marrow. However, Mr. Gehringer and his family still face the prohibitive cost of the process. Therefore, the community of Hampshire has organized a benefit dance and raffle to raise the money for John Gehringer's operation.

I join in John Gehringer's appreciation of the people of Hampshire and I wish Mr. Gehringer himself good luck

CONSOER TOWNSEND'S 75TH ANNIVERSARY

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to congratulate the company Consoer Townsend and its president Bob Fischer. Consoer Townsend is one of Chicago's largest consulting engineering firms and will celebrate the 75th anniversary of its founding this month.

Consoer Townsends is one of the Nation's leading infrastructure consulting engineering firms, with offices in 15 cities across the Nation. It was founded in 1919 by A.W. Consoer and by 1929 it was the largest municipal engineering firm in Chicago. Since that time, Consoer Townsend has been involved in every major transportation and environmental project in the Chicago area, including the deep tunnel project, O'Hare Intentional Airport, the University of Illinois at Chicago, the Illinois toll highways, Navy Pier, and the new downtown Circulator. Consoer Townsend employs over 500 people, and is completely owned by those employees.

Robert H. Fischer, currently Consoer Townsend's chief executive office, has served in that office for the past 4 years. He has been with the company for the last 22 years, and has helped contribute greatly to the company's success.

As Consoer Townsend celebrates its 75th birthday I would like to congratulate Mr. Fischer and the rest of employee-owners for their many accomplishment up to this date, and wish them many more successful years. I am proud to call them fellow Illinoisans.

ON S. 2475, THE AFRICAN CONFLICT RESOLUTION ACT

Mr. JEFFORDS. Mr. President, I am pleased to join as a cosponsor of S. 2475, the Africa Conflict Resolution Act.

My colleagues may note that this legislation does not break ground with new policy. What it does do, however, is underline the importance of an American partnership with African regional organizations in efforts to strengthened African conflict resolution capabilities. We are already attempting to do much of what is discussed in this legislation, but nowhere is the rationale clearly stated or the focus clearly defined. This legislation does this. It also calls for development of a comprehensive U.S. plan for interaction with the various African organizations that share our approach to conflict mediation. It is high time that such legislation is enacted, and as one who has pushed for it for some time, I am pleased to join my colleagues in supporting its passage today.

The Africa Conflict Resolution Act highlights the important role of regional, subregional and nongovernmental organizations in conflict resolution in Africa. It also acknowledges the urgent need to promote demobilization and reintegration of military and security forces as a key to diffusing tensions and maintaining stability in countries in transition to civil societies.

Past experience has shown that when we fail to invest in efforts to maintain the peace, we pay a much high price to restore the peace. Witness the costs in resources and human suffering which became necessary in Rwanda, Somalia, and Sudan, to name but a few examples.

Earlier in this session, we approved a $170 million supplemental appropriation to the Department of Defense to cover the added costs of its much needed and highly effective humanitarian relief operations in Rwanda and Zaire. Yet much of the tragedy we are witnessing in Rwanda today could have been avoided if there had been effective involvement by the international community, particularly African mediators, early on in the process—and at a fraction of the cost of the subsequent humanitarian relief effort. One can see here the wisdom of the old adage, "An ounce of prevention is worth a pound of cure."

Demobilization of military and security forces has also proved critical to the success of national reconciliation efforts. In Angola, where civil war has raged since the mid 1970's, a promising peace accord failed in 1992, in large measure because of a failure to disarm and reintegrate the combatants into society. In order to avoid such pitfalls in the future, the United States, through the Agency for International Development, is developing a number of projects to aid in the demobilization process in Angola, Mozambique, Ethiopia, Uganda, and elsewhere in Africa. This bill acknowledges the value of such endeavors and encourages expanded projects of this nature, if conditions permit.

The administration, and some Members of Congress—including myself, have called on regional and subregional organization to assume a more active role in conflict resolution in their own backyards. These organizations have expressed their willingness to accept these responsibilities. Yet they lack the expertise, infrastructure and resources to act effectively. Our legislation recognizes the importance of these organizations. Through our joint efforts, we can make progress in preventing, mediating, and resolving conflicts.

The Foreign Relations Subcommittee on African Affairs, on which I sit, heard the testimony of several individuals with long and distinguished careers in Africa conflict resolution. It also solicited the views of a wide variety of organizations on the contents of this proposal, as well as the capacity of the OAU, subregional and nongovernmental organizations to be effective partners in conflict resolution. We appreciate their contribution to this effort and look forward to working with the Departments of State, Defense, and the Agency for International Development in the implementation of this legislation.

I urge my colleagues to lend their support to this valuable and long overdue initiative. I hope that we can become more engaged in the facilitation of peace and therefore less frequently called upon to mitigate the effects of war.

REPUBLICAN DEPUTY STAFF DIRECTOR OF THE BANKING COMMITTEE IRA PAULL LEAVES THE SENATE

Mr. DOMENICI. Mr. President, I would like to recognize the fine contribution Ira Paull has made to the Senate Banking Committee. When I first joined the committee in 1991, I quickly became aware that the committee had a vast and complicated jurisdiction.

To exercise that jurisdiction, the Banking Committee under Chairman RIEGLE has been a hearing-intensive committee. It has not been uncommon for the committee to have three, four or even five hearings in any given week. When I first joined the committee, Ira was the senior counsel who always seemed to be on top of all the issues. From my first day on the Committee I knew I could count on Ira Paull for solid, straight answers. Over the years, I have found Ira to be an exceptionally knowledgeable and helpful professional staff member who can explain any issue quickly and concisely. He can always come up with the appropriate analogy, or phrase that says it all.

Members will recall that the 102d Congress Banking Committee agenda was the ambitious modernization of our financial services laws. Ira took on the difficult but wave-of-the-future assignment of developing appropriate firewalls for banks and securities firms and the repeal of the Glass-Steagall Act. I was new to the committee and was impressed that we produced a fairly comprehensive reform. Unfortunately, the House was not as forward thinking.

During this Congress financial system modernization moved from the top of the agenda and other issues took its place. With a billion dollars a day being invested in mutual funds and with many mutual funds investing in derivatives, these new products captured the committee's attention.

While derivatives are created by mathematicians and physicists, Ira, a lawyer and CPA by training, understands the benefits and risks they pose to our capital markets.

Another issue during the 103d Congress has been the credit crunch. The committee became concerned that banks had more funds invested in Treasury notes than in loans. We explored new ways to make more capital available to small businesses. One promising approach is securitization.

Ira understands the securitization process and I have no doubt countless small businesses and commercial real estate ventures will find credit more available as a result of his work on the securitization legislation that was signed into law last month.

During the 6 years Ira has worked in the Senate he was instrumental in crafting major securities legislation that has been enacted—market reform international securities enforcement and shareholder communications. His accounting expertise was invaluable in crafting thrift capital requirements and independent audit requirements for savings and loans.

Since 1992, Ira has served as Republican staff director.

I want to thank Ira Paull for his 6 years of service to the Senate. Ira is leaving the Senate to work for Freddie Mac. Freddie Mac's gain is the Senate's loss—the phrase that says it all.

SENATOR DANIEL K. INOUYE

Mr. KOHL. Mr. President, last night Senator DAN INOUYE was honored by the Jewish Institute of National Security Affairs with the Henry M. Jackson Distinguished Service Award. In recognition of this achievement, I want to take a moment of the Senate's time to salute our colleague, the senior Senator from Hawaii, for his truly distinguished service to the Senate and to the American people.

Senator DAN INOUYE so richly deserves this honor. Not only has he dedicated his life to public service, but he embodies the values and commitment to justice and our national security that were the hallmark of Senator Henry Jackson's tenure in the Senate.

DAN INOUYE is a true military hero in our midst. He fought with distinction in Europe during World War II and was recognized for his bravery with the Distinguished Service Cross, the Bronze Star, and the Purple Heart among other honors. He returned home unable to pursue his dream of becoming a surgeon because his right arm was shattered by a rifle grenade in combat, so he decided to embark on a career in politics.

In the Senate, where he has served for the last 32 years, he is held in the highest of esteem. He represents a tradition of bipartisan respect for the institution and loyalty to his colleagues which has become all too rare in the partisan gridlock of recent times.

It has been an honor for me to work with this able legislator, most closely on the Appropriations Committee, where his judicious manner and his leadership have earned the respect of his colleagues. He has made his mark as the chairman of the Defense Appropriations Subcommittee with his cautious approach to our declining defense budget. Although he and I have not always agreed on Defense, I respect his sense of history which recognizes the danger of cutting too deep, too fast.

Chairman INOUYE previously chaired the Foreign Operations Appropriations Subcommittee, where he also demonstrated his commitment to our national security, as a staunch supporter of our ally in the Middle East, Israel.

DAN INOUYE has never shied away from championing unpopular causes at the expense of betraying the values he holds dear. I am proud to submit for the RECORD, for our colleagues and others, Senator INOUYE's remarks upon his acceptance of the Henry M. Jackson Distinguished Service Award.

The remarks follow:

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE UNITED STATES AND ISRAEL

I am most honored by this extraordinary award which brings back many memories of the great contributions made by the late Senator Henry Jackson, my friend and my mentor.

I would like to take a moment this evening to discuss with you an important issue which our country will face in the 1990's. It is an issue which I know Scoop Jackson would have recognized as an important national security interest for the United States.

On September 13, 1993 Israeli Prime Minister Yitzak Rabin and PLO Chairman Yasser Arafat shook hands before a beaming President Clinton. The Declaration of Principles—really, a peace agreement—signed that day was a historic document.

The response to that historic handshake was electrifying. The audience—as one—stood in instantaneous applause. I could see many, many eyes filled with tears of joy and, yes, tears of remembered sadness and losses brought by so many years of conflict. And, amid that joy and exuberance, which was so uplifting and inspiring, I began to hear the whispers which have come to trouble me so deeply.

You may have heard them as well—"Perhaps, now Israel will not need so much of our assistance," they said. "Perhaps, now Israel will not object, if we cut the $3 billion in annual assistance we provide to Israel," they said. They said, "Perhaps, now we can set aside the endless quest for peace in the Middle East and turn our attention and our resources elsewhere." The voices said, "With this signing, Israel won't need as much military and economic aid."

On that day—in July—the President of the United States was quoted as saying that aid would not be cut. He was said to have assured the Government of Israel that there would be no changes in the aid package . . . for fiscal year 1995.

Instead of reassurances, I'm afraid he left uncertainty about what could be anticipated for fiscal year 1996, and thereafter.

Let us remember that the events of last September, the signing of a peace agreement became a reality because Israel was militarily strong. Her neighbors were well aware of that, and those who had been threatening her over the years were not about to test the strength and resolve of this small country.

And yet, now, as much as all of us dream about and want to believe that peace has come and that peace will finally prevail in that part of the world, we must remember that this day came about not because of good wishes or intentions, not because of dreams, but because Israel was strong and because the United States commitment had been demonstrated over the years in words, in deeds, and in money—we had demonstrated our commitment to Israel's existence, viability, and strength.

The $3 billion which the United States provides to Israel in support of our partnership has a larger significance than the transfer of resources. It is the transfer of confidence and trust which is vastly more important. The $3 billion—which is a combination of $1.2 billion in economic aid through the economic support fund and $1.8 billion in military aid in the Foreign Military Financing Program—has a significant symbolic value.

This amount was first proposed in 1985 in the Foreign Operations Subcommittee of the U.S. Senate, which I was privileged to chair. Since that time, the total has not changed. The $3 billion became the measure of commitment.

To be sure, with inflation, the real value of that $3 billion has declined, but the measure of commitment—the symbolic value has not changed. It has become symbolic of our commitment and support of democracy and security in Israel and, I would argue, democracy and security in the Middle East. Ask yourself, if it were not for United States involvement in Israel, would Jordan be a free country today or would it have been swallowed by Iraq or Syria?

I am convinced that, if we truly desire the establishment of peace in the Middle East then now is, most assuredly, not the time to weaken the symbol of the ties between the United States and Israel. Were we to do so, it would have an impact of Israel and on Jordan and on Egypt and on Saudi Arabia. I am convinced that evidence of a weakening bond between Israel and the United States would erode the foundation of this peace and most certainly cause it to crumble in ruins.

It is, therefore, in our national interest and in the interest of world peace that we continue our assistance to Israel. You have my pledge and Senator Henry Jackson has my pledge, that I will stand firm in my support for a strong and viable Israel.

IS CONGRESS IRRESPONSIBLE?—YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, as of the close of business on Monday, October 3, the Federal debt stood at $4,686,470,224,029.22, meaning that on a per capita basis, every man, woman and child in America owes $17,975.17 as his or her share of that debt.

THE 75TH ANNIVERSARY OF THE HARVARD UNIVERSITY BAND

Mr. KENNEDY. Mr. President, this fall marks the 75th anniversary of the founding of the Harvard University Band. The band will be joined by the Harvard wind ensemble in a special concert this Friday to celebrate the occasion and to mark its outstanding contributions to America's musical heritage. The program will feature American music, and three past conductors of the band will return to participate in the concert.

Throughout its existence, the band has entertained audiences at sports events and concerts, including performances at such prestigious sites as Symphony Hall in Boston and Carnegie Hall in New York City. The band is among the Nation's premier marching bands, with high musical standards and national renown for its innovative techniques. Their unique scramble marching style has now been adopted by large numbers of other marching bands throughout the country.

The band is well known not only for its musical and marching accomplishments, but also for its commitment to public service and its support for the community. The band has visited many hospitals and participated in numerous other efforts on behalf of charitable organizations, including the multiple sclerosis walkathon and the Red Cross blood drive. The band is also a familiar sight at community events, including performances at Boston's Duckling Parade, opening day for the Red Sox, and the St. Patrick's Day Parade.

A year ago the band played at the dedication of the new museum at the John F. Kennedy Presidential Library. Upon the arrival of President Clinton at the ceremony, the band played "Yale Medley." President Clinton commented that he had "the best of both worlds—the Harvard Band playing the Yale fight song."

This diamond anniversary celebration is an excellent opportunity for all of us who know and admire the band to pay tribute to the remarkable history and contributions of this unique organization. I commend the musicians, past and present, and all the others associated with the band over the years. The band has had a great 75 years, and I am confident that the next 75 years will be just as great.

PRIME MINISTER BHUTTO'S CAIRO SPEECH

Mr. PELL. Mr. President, earlier this month, while in Cairo for the third global conference on population and development, Pakistani Prime Minister Benazir Bhutto gave a highly publicized address to the delegates. In that address, Prime Minister Bhutto tackled some tough, controversial issues, which were at the forefront of the debate during the conference, and which will have a tremendous impact on international development and population growth in the coming decades.

While I cannot say that I agree with everything that Prime Minister Bhutto said in the address, I do think that she made a pivotal contribution to the conference's proceedings. I would therefore ask unanimous consent that the text of her speech be inserted into the RECORD at the conclusion of my remarks.

I would also like to take a moment to express my personal regard for Prime Minister Bhutto. I have known her since the days when the military dictators of Pakistan kept her under house arrest, because she and her family represented a popular, democratic alternative to martial rule. I admired her tenacity and courage as a political prisoner then, much as I admire her ability and sense of purpose as Prime Minister now.

In her address to the conference, Prime Minister Bhutto brings a special perspective to the issues. As she said in her own words, she can speak "as a woman, as a mother, as a wife," but also "as the democratically elected Prime Minister of a great Moslem nation—the Islamic Republic of Pakistan." It is, in my view, significant that Prime Minister Bhutto spoke candidly and directly in a forum that many of her Moslem colleagues avoided. As I suggested a moment ago, I think the Prime Minister played a crucial role in bringing the issues at the conference into sharp focus, and I commend her address to my colleagues.

There being no objection, the speech was ordered to be printed in the Record, as follows:

ADDRESS BY MOHTARMA BENAZIR BHUTTO, PRIME MINISTER OF PAKISTAN

Mr. President, Secretary General, Distinguished Delegates, Ladies and Gentlemen, I come before you as a woman; as a mother; as a wife. I come before you as the democratically elected Prime Minister of a great Muslim nation—the Islamic Republic of Pakistan. I come before you as the leader of the ninth largest population on earth, Ladies and Gentlemen.

We stand at the cross roads of history. The choices that we make today will affect the future of mankind. Out of the debris of the second world war arose the impulse of reconstruct the world. Large communities of people exercised their right of self-determination by establishing nation-states of their own.

The challenge of economic development led, in several instances, to group-formation where states subordinated their individual destiny to collective initiatives. It seemed for a while that these collective efforts would determine the political architecture of the future. The events of the last few years have, however, made us aware of the growing complexity and contradictions of the human situation. The end of the Cold War, should have freed immense resources for development.

Unfortunately, it led to the re-emergence of sub-regional tensions and conflicts. In extreme cases, there was a break-up of nation-states.

Sadly, instead of coming nearer, the objective of a concerted global action to address common problems of mankind, seems lost in the twilight. The problem of population stabilization faced by us today cannot be divorced from our yesterdays. Ironically enough, population has risen fastest in areas which were weakened most by the unfortunate experience of colonial domination. The third world communities have scarce resources spread thinly over a vast stretch of pressing human needs. We are unable to tackle questions of population growth on a scale commensurate with the demographic challenge.

Since demographic pressure, together with migration from disadvantaged areas to affluent states, are urgent problems, transcending national frontiers, it is imperative that in the field of population control, global strategies and national plans work in unison. Perhaps that is a dream. But we all have a right to dream.

Ladies and gentlemen I dream of a Pakistan, of an Asia, of a world where every pregnancy is planned, and every child conceived is nurtured, loved, educated and supported. I dream of a Pakistan, of an Asia, of a world not undermined by ethnic divisions brought upon by population growth, starvation, crime and anarchy. I dream of a Pakistan, of an Asia, of a world, where we can commit our social resources to the development of human life and not to its destruction.

That dream is far from the reality we endure. We are a planet in crisis, a planet out of control, a planet moving towards catastrophe. The question before us at this conference is whether we have the will, the energy, the strength to do something about it. I say we do. We must.

What we need is a global partnership for improving the human condition.

We must concentrate on that which unites us. We should not examine issues that divide us. Our document should seek to promote the objective of planned parenthood of population, of population control. This conference must not be viewed by the teaming masses of the world as a universal social charter seeking to impose adultery, abortion, sex education and other such matters on individuals, societies and religions which have their own social ethos. By convening this conference, the international community is reannouncing its resolve that problems of a global nature will be solved through global efforts.

Governments can do a great deal to improve the quality of life in our society. But there is much that governments cannot do. Governments do not educate our children. Parents educate children. More often mothers educate children. Governments do not teach values to our children. Parents teach values to our children. More often mothers teach values to children. Governments do not socialize youngsters into responsible citizens. Parents are the primary socializing agents in society. In most societies, that job belongs to the mother.

How do we tackle population growth in a country like Pakistan? We tackle it by tackling infant mortality. By providing villages with electrification. By raising an army of women, 33,000 strong, to educate our mothers, sisters and daughters in child welfare and population control. By setting up a bank run by women for women, to help women achieve economic independence. And, with economic independence, have the wherewithal to make independent choices. I am what I am today because of a beloved father who left me independent means, to make independent decisions, free of male prejudice in my society, or even in my family.

As chief executive of one of the nine largest populated countries in the world, I and the Government are faced with the awesome task of providing for homes, schools, hospitals, sewerage, drainage, food, gas, electricity, employment and infrastructure.

In Pakistan, in a period of 30 years—from 1951 to 1981—our population rose by 50 million. At present it is 126 million. By the year 2020, our population may be 213 million. In 1960 one acre of land sustained one person. Today one acre of land sustains 2½ people. Pakistan cannot progress, if it cannot check its rapid population growth.

Check if we must, for it is not the destiny of the people of Pakistan to live in squalor and poverty condemned to a future of hunger and horror. That is why, along with the 33,000 lady health workers and the women's bank, the government has appointed 12,000 community motivaters across the country. To educate and motivate our people to a higher standard of living through planned families, spaced families, families that can be nurtured.

In our first budget, we demonstrated our commitment to human resource development. We increased social sector spending by 33%. And by the year 2000, we intend to take Pakistan's educational expenditure from 2.19% where we found it to 3% of our GNP. This is no easy task for a country with a difficult IMF structural program. With a ban on economic and military assistance from the only super power in the world. With 2.4 million Afghan refugees forgotten by the world. With more Kashmiri refugees coming in needing protection.

But we are determined to do it. For we have a commitment to our people. A commitment based on principles. Such a commitment demands that we take decisions which are right, which are not always popular. Leaders are elected to lead nations. Leaders are not elected to let a vocal narrow-minded minority dictate an agenda of backwardness. We are committed to an agenda for change.

An agenda to take our mothers and our infants into the 21st century with the hope of a better future. A future free from diseases that rack and ruin. A future free from polio, from goiter, from blindness caused by deficiency in vitamin A. These are the battles that we must fight, not only as a nation but as a global community. These are the battles on which history—and our people—will judge us. These are the battles to which the mosque and the church must contribute, along with governments and NGO's and families. Empowerment of women is one part of this battle.

Today women pilots fly planes in Pakistan, women serve as judges in the superior judiciary, women work in police stations, women work in our civil service, our foreign service and our media. Our working women uphold the Islamic principles that all individuals are equal in the eyes of God. By empowering our women, we work for our goal of population stabilization and, with it, promotion of human dignity. But the march of mankind to higher heights is a universal and collective concern.

Regrettably, the conference's document contains serious flaws in striking at the heart of a great many cultural values, in the north and in the south, in the mosque and in the church. In Pakistan our response will doubtless be shaped by our belief in the eternal teachings of Islam. Islam is a dynamic religion committed to human progress. It makes no unfair demands of its followers. The Holy Quran says: "Allah wishes you ease, and wishes not hardship for you." Again the Holy Book says: "He has chosen you, and has not laid on you any hardship in religion."

The followers of Islam have no conceptual difficulty in addressing questions of regulating population in light of available resources. The only constraint is that the process must be consistent with abiding moral principles. Islam lays a great deal of stress on the sanctity of life. The Holy Book tells us: "Kill not your children on a plea of want. We provide sustenance for them and for you."

Islam, therefore, except in exceptional circumstances rejects abortion as a method of population control. There is little compromise on Islam's emphasis on the family unit. The traditional family is the basic unity on which any society rests. It is the anchor on which the individual relies as he embarks upon the Journey of Life.

Islam aims at harmonious lives built upon a bedrock of conjugal fidelity and parental responsibility. Many suspect that the disintegration of the traditional family has contributed to moral decay. Let me state, categorically, Mr. Chairman, that the traditional family is the union sanctified by marriage. Muslims, with their overriding commitment to knowledge, would have no difficulty with dissemination of information about reproductive health, so long as its modalities remain compatible with their religious and spiritual heritage. Lack of an adequate infrastructure of services and not ideology, constitutes our basic problems.

The major objective of the population policy of the newly elected democratic government is a commitment to improve the quality of life of the people through provision of family planning and health services.

Mr. Chairman, we refuse to be daunted by the immensity of the task. But the goals set by this conference would become realistic only with the whole-hearted cooperation amongst the nations of the world. Bosnia, Somalia, Rwanda and Kashmir are but a few examples of nation-states under siege. The rise of so-called fundamentalism in some of our societies, and the emergence of neo-fascism, in some western communities, are symptoms of a deeper malaise. I believe the nation-states might just have failed to meet their people's expectations within their own limited national resources of ideological framework. If so, the malady is probably none other than a retreat from the ideals of the founding fathers of the United Nations.

We can, perhaps, still restore mankind to vibrant health by returning to those ideals of Global Cooperation.

Given the background, I hope that the delegates participating in this conference will act in wisdom, and with vision to promote population stabilization. Pakistan's delegation will work constructively for the finalization of a document enjoying the widest consensus.

Ladies and Gentlemen, our destiny does not lie in our stars. It lies within us. Our destiny beckons us. Let us have the strength to grasp it. Thank you President Mubarak, for hosting this Conference on such an important global concern. And thank you Mr. Secretary General and Dr. Nafis Sadik for making it possible.

CONVENTION ON BIOLOGICAL DIVERSITY

Mr. PELL. Mr. President, I take the floor to express my strong support for Senate advice and consent to ratification of the Convention on Biological Diversity. The convention was ordered reported by the Committee on Foreign Relations on July 11, 1994. Since that time, attempts to bring it to the floor for consideration have been frustrated. I am hopeful nonetheless that the Senate will be able to act on this important convention prior to sine die adjournment.

The convention has three unobjectionable goals; the conservation of biological diversity; the sustainable use of biological diversity; and the fair and equitable sharing of its benefits. It was negotiated over the course of 1½ years and was opened for signature at the Earth Summit in June 1992.

The United States participated in the negotiation of the convention, but the Bush administration ultimately decided not to sign, citing concerns regarding the convention's financial mechanism, treatment of intellectual property rights, and treatment of biosafety issues. I ask unanimous consent that the Department of State's press release announcing the decision to be inserted in the RECORD following my remarks.

Upon taking office, the Clinton administration shared the Bush administration's concerns with the convention, but recognized also that the convention would enter into force with or without the United States as a party. The issue thus became, how best could U.S. interests be served?

The administration decided, correctly in my view, that the most prudent course of action was to explore avenues that would allow the United States to become a party to the convention, but that resolved U.S. concerns. Working in close consultation with the pharmaceutical and biotechnology industry, as well as environmental groups, the administration succeeded in this task.

In transmitting the convention to the Senate, the administration requested that seven understandings be included in the Senate's resolution of advice and consent to ratification. These understandings address each of the concerns first identified by the Bush administration. Mr. President, I ask unanimous consent that the resolution reported by the committee appear immediately following my remarks.

With these understandings in place, the pharmaceutical and biotechnology industries, industries that previously had opposed the convention came out in support of U.S. ratification. I ask unanimous consent that letters in support of ratification from the Biotechnology Industry Organization, the Pharmaceutical Manufacturers Association and Merck & Co, Inc. appear immediately following my remarks in the RECORD.

Mr. President, the convention was ordered reported from the Committee on Foreign Relations on July 11, 1993, by a vote of 16 to 3. It also enjoyed the strong backing of environmental community as well as the pharmaceutical and biotechnology industries. No witness testified against the convention.

Support for the convention is not limited to these industries alone however. The convention has received strong support from other sources as well, including a broad range of agriculture groups. These include: the U.S. Council for International Business, the American Seed Trade Association, Inc., the Archer Daniels Midland Co., and the American Corn Growers Association. I ask unanimous consent that letters from these and other organizations in support of the convention appear immediately following my remarks in the RECORD.

I was surprised therefore when we attempted to bring the convention to the floor for consideration in August and an entirely new set of questions was raised, some of which were truly bizarre. For example, some opponents of the convention argued that the treaty would violate the Constitution by forcing Americans to worship nature. Mr. President, this sort of claim underscores the absurd and wildly unsubstantiated charges that are being raised by some groups or individuals about the convention.

More substantive questions were raised by a number of Members in a letter to the majority leader asking that the Senate delay consideration of the convention until a series of questions that they had could be answered. That letter was sent on August 5. On August 8, the Department of State provided a comprehensive response to those questions. I ask unanimous consent that both the original letter and the administration's response be included following my remarks in the RECORD.

I would note that most of the questions raised in the letter were never identified as issues of concern by the Bush administration, by Members of Congress, or by outside groups during the course of negotiations.

In addition to responding to the questions raised by Members of this body, the administration also met with representatives of the National Cattlemen's Association and the American Farm Bureau Federation to discuss their concerns with the convention. These consultations resulted in a memorandum of record sent by Secretaries Babbitt, Christopher, and Espy to the majority leader on August 16. The memorandum reflects those consultations and explains why ratification of the convention is of fundamental national importance. I ask unanimous consent that these items appear in the RECORD immediately following my remarks.

(See exhibit 1.)

More recently Mr. President, the New York Times and the Washington Post both ran editorials calling for the Senate to act on the convention prior to adjournment. Just yesterday, this full page advertisement appeared in both the Washington Post and the Washington Times calling on the Senate to approve the convention. The ad is sponsored by the World Wildlife Fund and the many business and agricultural organizations concerned with America's interest in conserving biological diversity. I ask unanimous consent that editorials and advertisement also follow my remarks in the RECORD.

Mr. President, throughout the process of trying to bring the convention to the floor, the administration has gone the extra mile, indeed the extra 30 miles, to respond to questions raised about the convention. I want to thank the administration for their efforts.

I also want to thank the majority leader for his leadership in ongoing efforts to try to move the convention. It is a tribute to his commitment to environmental issues that at a time when the Senate has been grappling with up to five cloture petitions, he is willing to devote time and effort to the convention. Supporters of the environment will sorely miss his leadership in the years to come.

Mr. President, it is my hope that the Senate will yet be able to consider the convention. At that time, I will respond in a more substantive fashion to the concerns that have been raised. In the meantime, however, I urge my colleagues to look at the material I have submitted for the RECORD. I believe that a review of those materials will show that the importance of the convention is clear, that the questions about the convention have been answered, that the support for the convention is there, and that it is time for the Senate to act.

Mr. President, I yield the floor.

EXHIBIT 1—Department of State: Office of the Assistant Secretary

CONVENTION ON BIOLOGICAL DIVERSITY

Negotiations on a convention on biological diversity, held under the auspices of the United Nations Environment Program, concluded in Nairobi on May 22.

The United States strongly supports the conservation of biological diversity and was an early proponent of a convention. The United States is disappointed that the negotiations on this convention have produced a text which we believe is seriously flawed in a number of respects. The United States is not willing to sign a convention that does not address U.S. concerns; principal U.S. objections are listed below.

The U.S. record on protecting biodiversity is unparalleled.

The Endangered Species Act requires that threatened and endangered species be identified and given special protection;

The United States has set aside nearly 180 million hectares of public land where the diversity of native plant and animal species is protected;

The United States is a strong proponent of the Convention on the International Trade in Endangered Species.

However, issues of serious concern to the United States were not adequately addressed in the course of the negotiations of the framework convention. The United States is particularly concerned about provisions related to:

Intellectual property rights (IPR): The convention focuses on IPR as a constraint to the transfer of technology rather than as a prerequisite;

Funding: The convention contains unacceptable language on the transfer of funds from developed to developing countries:

The role of the Global Environment Facility (GEF) of the World Bank differs from that agreed to by the Participants in the GEF less than a month ago.

The United States is prepared to help others protect our world's biological resources, but the funding system must be workable.

Biotechnology: The convention does not treat biotechnology and biosafety appropriately.

In every negotiation, no matter how important the subject matter, the actual outcome must always be considered; the United States does not and can not sign an agreement that is fundamentally flawed merely for the sake of having that agreement.

As the record shows, the United States is committed to protecting biological diversity. The United States will continue to take measures domestically and internationally to conserve and protect biological diversity.

BIOTECHNOLOGY INDUSTRY ORGANIZATION,
Washington, DC, March 9, 1994.

Re Convention on biological diversity
Hon. CLAIBORNE PELL,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN PELL: In his letter of November 19, 1993, transmitting the Convention on Biological Diversity to the Senate, President Clinton specifically noted that adequate and effective protection of intellectual property rights is an important economic incentive which not only encourages the development of innovative technologies, but which improves all parties' ability to conserve and sustainably use biological resources. To this we add that the conservation and preservation of biological materials is an important social goal. These resources are necessary to sustain our biosphere and offer tremendous opportunities for the development of new products to address human and animal health, nutrition, and other societal needs for us and future generations.

The biotechnology industry believes that the key element of a fair and balanced Biodiversity Convention is a recognition of the value of the products of nature, as well as the contributions made by persons and institutions who modify those products into useful articles of commerce. The value of biological materials is enhanced when intellectual property rights are created, protected and enforced by all nations. Without adequate and effective intellectual property protection there will be less incentive to make contributions to developing nations whose territory encompasses much of the worlds' biological material.

The Biodiversity Convention as written is an admirable set of policy goals which have at their core the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising out of the utilization of genetic resources. Unfortunately, we feel these enumerated goals may be difficult to reach because the technology transfer provisions of the Treaty are vague and subject to undesirable interpretations. We believe that the submission of an interpretive statement by the United States with the instruments of ratification is an important step towards ensuring that the Treaty is implemented in a manner that furthers the mutual interest of all nations which have become signatory. The additional submission by the Administration of its views on the Treaty to the Senate further clarifies how the United States will implement the Treaty.

From the point of view of the biotechnology industry there are two important questions which remain to be answered by the Senate during the hearing process. We submit that for the United States interpretive statement to have real world significance, it must be accompanied by an expressed willingness to withdraw from the convention in the event the contracting parties reach interpretations on the issues of intellectual property or governance which are counter to the national interests of the United States. While we recognize that the Convention already sets forth in its text the withdraw option, what is missing from the Administration's submission is a set of conditions under which that right would be exercised. Intellectual property is the very life blood of biotechnology and like other intellectual property reliant industries we need to be assured that the United States will withdraw from the convention if:

It is interpreted in a manner fundamentally inconsistent with the minimum level of intellectual property protection contained in the recent GATT round (this means the standards and not the transition rules attached thereto); or

It is used to deprive any United States persons of a recognized legal right to property.

We urge the Senate to obtain a second assurance, i.e., that the United States will not seek, and will in fact oppose, the development of a biosafety protocol under the convention. We believe that creation of any such entity would not result in scientific oversight to further ensure human safety, but rather in promotion of a political agenda serving a purpose other than science. Furthermore we believe the Administration should publicly commit to:

The inclusion of broadly representative industry participation in any and all international negotiations;

Insistence on a factual, science based approach to regulation as the essence of any national regulatory scheme for biotechnology processes and products; and

A clear statement that national laws regulating biotechnology should be based on the products and not merely on the fact that the process of biotechnology was used in their development or creation.

BIO is trade association representing more than 500 companies, academic institutions, state biotechnology centers and other organizations involved in the research and development of health care, agricultural and environmental biotechnology products. We respectfully submit these comments on behalf of our membership and want to indicate our willingness to appear as a witness at any future scheduled hearing.

Very truly yours,

CARL B. FELDBAUM,
President.

MERCK & CO., INC.,
Whitehouse Station, NJ, March 23, 1994.

Senator CLAIBORNE PELL,
Senate Russell Office Building,
Washington, DC.

DEAR SENATOR PELL: I am writing to you as Chairman and Chief Executive Officer of Merck & Co., Inc. to urge your support of a speedy ratification of the Convention on Biological Diversity. Senate approval of the Convention would send a strong message to the world community that the United States views the conservation and sustainable use of the Earth's biological resources as a critical component of future growth and development.

For Merck, the world's largest research-intensive pharmaceutical products company, the loss of biodiversity could literally mean lost opportunities for researching the mechanisms of disease and discovering important new medicines. Plants, insects, microorganisms and marine organisms have yielded some of the greatest pharmaceutical break throughs of this century, including Merck's Ivermectin, an incredibly effective and safe anti-parasitic that prevents the tropical disease Onchocerciasis, or river blindness. The Company's ongoing agreement with the Instituto Nacional de Biodiversidad (INBio) in Costa Rica embodies the principles of resource conservation, sustainable development, technology exchange and protection of strong private property rights for which we believe the Convention would provide an international framework.

As you may know, early on in the discussions over U.S. ratification of the Convention, the pharmaceutical and biotechnology industries raised some serious concerns about the potential for adverse interpretations of certain key Articles that addressed intellectual property rights. Last winter, Merck facilitated the creation of a working group of six representatives of industry, environmental and policy research organizations with interests in biodiversity and biotechnology to address these concerns. The State Department's Letter of Submittal to the Senate incorporates the Interpretative Statement our working group sent to the President and clarifies all ambiguities in a manner that greatly enhances the potential for private sector participation under the Convention.

It is for these reasons that I support ratification of the Biodiversity Convention at the earliest possible date. If you need additional assistance to resolve any outstanding substantive concerns, please contact me directly or call Isabelle Claxton in our Washington office at (202) 638-4170.

Sincerely,

P. ROY VAGELOS.

U.S. COUNCIL FOR
INTERNATIONAL BUSINESS,
New York, NY, April 11, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to convey the views of the United States Council for International Business (USCIB) on the United Nations Framework Convention on Biological Diversity. In this regard we are pleased to endorse recommendations already conveyed to you by the Pharmaceutical Manufacturers Association and BIO, both of which are our members, emphasizing the importance of strong intellectual property right protection and objecting to a priori regulation of biotechnology under the treaty.

The U.S. Council fully supports the goal of protecting the world's biodiversity. Our membership includes companies that have been leaders in studying and preserving biodiversity—most recently through innovative partnerships with appropriate institutions within developing countries. In many developing countries. U.S. companies play a crucial role in furthering technology cooperation related to biodiversity protection and biotechnology. In addition, U.S. companies are a source of foreign investment which in turn brings funds to relieve poverty and lessen pressure on biological resources in those countries.

The U.S. Council was pleased to note both in President Clinton's November 19, 1993 letter of transmittal of the Convention, and in the Department of State's November 16, 1993 letter of submittal of the Convention to the President, strong statements of support for adequate and effective protection of intellectual property rights.

It should be remembered that the interpretive statement of the United States is only necessary because the Convention combines unduly broad, vague and ambiguous provisions which, U.S. industry fears, may be employed by other countries to the detriment of United States interests, e.g. to deny or undercut intellectual property protection or to impose unreasonable technology transfer or financial requirements.

The United States should be a constructive force in advancing its stated positions on the treaty in all appropriate fora. In addition, the United States should continue to strive to build support for its positions among OECD countries and to ensure that the effectiveness of those positions are not compromised by the actions of other countries. In particular, the U.S. Government should be insistent of intellectual property right protection and the development of biotechnology for society's greater benefit.

Hence, as the Senate prepares to provide its advice and consent to ratification of the U.N. Convention on Biological Diversity, we strongly recommend that you and the Committee obtain appropriate commitments from the Administration that it will:

(1) vigorously defend intellectual property rights within the terms of the Convention, and seek ways to build incentives for protection of those rights into future initiatives and instruments developed under the Convention, and in other fora, such as the Global Environmental Facility (GEF);

(2) oppose any process under the U.N. Framework Convention on Biological Diversity which seeks to regulate products of biotechnology based on the assumption that all such products are intrinsically dangerous to human health and the world's biodiversity. There is no need for a biosafety protocol. In any event, biosafety should be regulated on the basis of science, not fear.

The U.S. Council for International Business is the U.S. affiliate of the International Chamber of Commerce (ICC), the Business and Industry Advisory Committee (BIAC) to the OECD, and the International Organisation of Employers (IOE). The Council formulates policy positions on issues affecting the increasingly globally-oriented U.S. business community through committees and other working bodies drawn from its membership of some 300 major multinational corporations, service companies, law firms and business associations. It advocates these positions to the U.S. Government and such international organizations as the OECD, the GATT, ILO, UNEP and other bodies of the U.N. system with which its international affiliates have official consultative status on behalf of world business.

Our Environment Committee is the leader among American business organizations on international environmental policy and has been involved on behalf of American business in every phase of UNCED, including its follow-up within the United Nations Commission on Sustainable Development, and the ongoing negotiations of the United Nations Biodiversity Convention. Our Intellectual Property Committee has played a major role in preparing business positions on this important aspect of the GATT negotiations as well as on other negotiations such as the U.S.-Canadian Free Trade Area and NAFTA.

The U.S. Council is ready to discuss these matters further with you, other members of the Committee, or with appropriate members of your staff.

Sincerely,

ABRAHAM KATZ,
President.

AMERICAN SEED TRADE
ASSOCIATION, INC.,
April 14, 1994.

Hon. CLAIBORNE PELL,
Chairman, Senate Committee on Foreign Relations, Washington, DC.

DEAR SENATOR PELL: I am writing to express the views of the American Seed Trade Association (ASTA) and its members on the United Nations Convention on Biological Diversity. On behalf of the more than 600 members, I am pleased to add our fundamental support for ratification of this important intellectual property rights document, as it has been interpreted by the "interpretation statement" that was added by the United States and signed by President Clinton.

The ASTA, a national trade association representing the American seed industry, supports the basic goal of conservation and sustainable use of biological diversity in the Convention. Further, we acknowledge the importance of biological diversity for the evaluation and maintenance of life systems. For these and other reasons, ASTA member companies are actively engaged in the research necessary to develop new or improved genetic resources in the form of seed varieties. These efforts include the development of improved varieties of wheat, corn, soybeans, alfalfa, and others, all of which benefit American and international agriculture.

ASTA members invest millions of dollars each year in research and development projects that yield improved genetic strain of crop plants with better nutritional aspects and enhanced pest resistance, as well as improved tolerance to varying climatic conditions. These plants and their seeds are sold throughout the United States and the entire world. ASTA members expect to continue to invest heavily in the reserach of new and improved plant varieties, with the modern methods of biotechnology expected to play an increasing role.

Like other associated organizations, the ASTA was pleased to learn of the President's strong statements regarding intellectual property rights. The ASTA remains committed to strong and meaningful statements and policies affecting intellectual property rights and continues to devote a significant amount of time and effort in advancing such causes. In particular, our own efforts to amend the Plant Variety Protection act of 1970 (S. 1406 and H.R. 2927) reinforces this strong pursuit for members of the seed industry and the plant breeding community in general.

ASTA is concerned, however, that careful attention should be focused on potential interpretations of the text.

Therefore, as the United States Senate prepares to discuss the merits of the U.N. Convention on Biological Diversity, the ASTA strongly recommends that you and the Commission secure from the Administration commitments that will:

(1) Continue to unconditionally defend intellectual property rights of the Convention;

(2) Oppose any process under the U.N. Convention on Biological Diversity which would seek to regulate products of biotechnology based on an unfounded assumption that such products are intrinsically dangerous to human health and compromise the world's biodiversity; and

(3) Oppose the creation of a system of liability for perceived past wrongs to the genetic base of a participating party.

The ASTA Biotechnology Committee, comprised of member companies with established biotechnology programs, has reviewed the Convention, and in consultation with our Board of Directors, has determined it is of significant interest to the seed industry. In general, the ASTA views this Convention's impact on intellectual property rights as significant as language found in the GATT and NAFTA.

The ASTA would welcome the opportunity to discuss these matters with you and other committee members if necessary.

Sincerely,

DAVID R. LAMBERT,
Executive Vice President.

BIOTECHNOLOGY INDUSTRY
ORGANIZATION,
Washington, DC, June 21, 1994.

Hon. CLAIBORNE PELL,
Chairman, Senate Foreign Relations Committee, Dirksen Senate Office Building; Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to testify on behalf of BIO, the Biotechnology Industry Organization, at the Senate hearing, April 12, 1994, concerning

U.S. ratification of the Convention on Biological Diversity. As you are aware, BIO, which is the trade association that represents more than 500 companies, academic institutions, state biotechnology centers and other associations involved in the research and development of health care, agricultural and environmental biotechnology products strongly supports speedy Senate ratification of the Convention.

We have received your follow-up question to be submitted for the record in which you ask, "What would be the impact if the U.S. were to decide not to ratify the Convention, or if no decision has been reached before the deadline for countries to participate in the first Conference of Parties?"

Preliminary meetings of signatory parties are already taking place leading up to the first Conference of Parties scheduled for November 28–December 9, 1994 in Geneva, Switzerland. We believe it is essential that the U.S. position on the protection of intellectual property, the rights of parties under existing contracts and the undesirability of creating a formal biosafety protocol be appropriately represented at the Geneva Meeting. The position of our government will be best put forward by having official representatives at the conference table. It would be unconscionable for the U.S. to stand aside while other nations decide matters of importance to our economic future.

We are very appreciative of your willingness to consider these views.

Very truly yours,

RICHARD D. GODOWN,
Senior Vice President.

ARCHER DANIELS MIDLAND CO.,
August 11, 1994.

DEAR SENATOR: Attached is the case for Senate ratification of the Convention on Biological Diversity which will have to occur in the next few days. Failing this, the United States will be excluded from the next international meeting being held on this subject.

Archer Daniels Midland Company considers that it is fundamentally important to American agribusiness, agriculture and other industries that the United States include itself in this Convention. It will be a sad day for us if these meetings have to occur without an participation on our part.

We see no downside risk for our country in ratifying this Convention.

Please consider the contents of this memorandum. We hope that you will be able to support and advocate our participation.

Sincerely,

——— ———.

FACT SHEET

AGRICULTURE AND THE CONVENTION ON BIOLOGICAL DIVERSITY

This Convention deals with issues of interest to U.S. agriculture and agribusiness. U.S. ratification of the Convention benefits U.S. agriculture in three important ways.

I. What the Convention will do:

1. Protect access to plant genetic resources

The U.S. depends on access to foreign germplasm for plant breeding programs of such key crops as corn, wheat, soybeans, potatoes, cotton, and most vegetables.

All of these crops originated in other parts of the world, and the major sources of the variation essential to future improvements, though traditional breeding and biotechnology are located outside U.S. boundaries.

Access to this germplasm is essential to continuing to improve the productivity of U.S. crops. Experts estimate that this use of biodiversity to increase yields has added a value of $3.2 billion to our $11 billion annual soybean production and about $7 billion to our $18 billion annual corn crop.

Access to foreign germplasm also helps efforts to reduce the need for pesticides and chemicals because such germplasm can improve the ability of crops to combat disease and plant pests.

Becoming a party to the Biodiversity Convention will ensure that U.S. companies continue to have access to genetic resources.

Already some U.S. researchers have been excluded from germplasm collections in foreign countries.

The Convention will facilitate access to genetic resources in these and other countries.

As a Party the U.S. will also have improved access to material in national seed banks and the collections of international centers.

2. Encourage conservation of biodiversity in developing countries.

All countries, but especially the U.S., will lose if genetic resources of value to agriculture are lost through inadequate or nonexistent conservation practices.

While the U.S. has an extensive and effective set of conservation laws on the books, this is not the case in most developing countries.

The Convention lays out a general framework relating to conservation of natural resources (eg., parks, zoos, seed banks).

The Convention recognizes that if developing countries can benefit from providing their genetic resources to others they will have incentives to make these resources available for use now and in the future.

The Convention provides for development of voluntary agreements between the providers of such resources and those who wish to use them.

3. Limit regulation of biotechnology.

Ill-conceived regulation of biotechnology can place undue restrictions on U.S. exports of biotechnology products.

One of the many reasons the U.S. biotechnology industry and the Administration believe it essential to promptly ratify the Convention is to ensure that any biosafety protocol, should one be developed under the Convention, is scientifically based and analytically sound, and does not place undue restrictions on U.S. biotechnology products.

As a world leader in biotechnology the U.S. must participate as a member of the Convention to guide these discussions and protect our interests.

II. What the Convention will not do:

1. Affect farmers', ranchers', or foresters' ability to produce food and fiber from their land.

The Convention will not affect U.S. livestock, poultry, sheep, or hog policies.

References to alien species in Article 8(h) are intended to address harmful or nuisance species such as insect pests, noxious weeds, kudzu, and zebra mussels.

Such species have had profound adverse impacts on U.S. agriculture, fisheries, forestry, and livestock.

Livestock are considered domesticated species and do not fall within the scope of Article 8(h).

Impact domestic land-use and environmental policies

The Administration, in presenting the Convention to the Senate, determined that no changes to existing statutes, regulations, or programs are required. Nor is additional implementing legislation required.

The Convention will not place any additional requirements on private land use or otherwise encroach upon constitutionally protected rights.

The Convention will not dictate U.S. environmental policy. Unlike many treaties which set out very specific requirements, the Convention on Biological Diversity is a framework which is general and flexible.

Such flexibility is beneficial to the U.S. As a framework agreement, the U.S. has maximum flexibility in determining for itself how to implement the Convention.

Additionally if, in the future, more specific protocols to the Convention are negotiated, the U.S. will decide at that time, for itself, whether it is in its interest to become a Party to those protocols.

Joining the Convention in no way commits the U.S. to a particular course of action or dictates a particular outcome of the ongoing discussions within the U.S. on these issues, nor is there any international body under the Convention or elsewhere that can determine U.S. policy.

The Convention's conservation provisions require no new action by the U.S.

Reference in Article 8 (d) to promoting the protection of ecosystems does not commit the U.S. to adopting any new policy.

The Administration has made its position clear on this. As stated by the President in his letter of Transmittal to the Senate. "Biological diversity conservation in the United States is addressed through a tightly woven partnership of Federal, State, and private sector programs in management of our lands and waters and their resident and migratory species . . . These existing programs and authorities are considered sufficient . . . under the Convention."

AMERICAN CORN GROWERS ASSOCIATION,
Washington, DC, August 24, 1994.

DEAR SENATOR: There has been much discussion lately about the Convention on Biological Diversity. The American Corn Growers Association believes that ratification of this treaty will be in the best interest of production agriculture.

For U.S. agricultural interests to be addressed, we must first have a seat at the table. Only through ratification by August 30th will the United States be able to partake of the discussion and debate. In addition, by being a party to the Convention, the U.S. will ensure continued access to genetic resources. This is important to agriculture because access to foreign germplasm for plant breeding programs for such crops as corn help advance our ability to provide quality products to our agricultural producers.

Of concern to some was the fear that the Convention could be used in place of current U.S. laws. This is not the case. The Convention's conservation provisions will not require any new environmental laws or regulations. Nor does the convention prohibit our country from enacting or amending current environmental laws.

The American Corn Growers Association supports the Convention on Biological Diversity and request that you support it as well by voting to verify.

Please feel free to contact our office if you have any questions.

Sincerely,

GARY GOLDBERG,
National President.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, August 5, 1994.

Senator GEORGE MITCHELL,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR MITCHELL: We have a number of concerns regarding the Convention on Biological Diversity (Treaty Doc. 103-20). We request that the Senate delay consideration of the Convention until these concerns can be addressed. If a delay is not possible, we will not be able to accept any time agreement limiting debate.

The treaty itself is vague in many areas and some of its provisions are contradictory. It appears that the treaty may have implications for U.S. domestic law and environmental policies. Before committing the United States to this Convention with the Senate's recommendation of ratification, we would like further information in a number of areas, including, but not limited to, the following:

Why does this convention prohibit state parties from making reservations to any of its provisions?

Will the understandings set forth in the resolution of ratification protect the U.S. interpretation in the event of a dispute?

Will the U.S. vote in decisions taken under this convention be commensurate with its financial contribution to the funding mechanism? If not, why not?

Could the eradication of "alien species which threaten ecosystems," called for by Article 8, affect U.S. livestock policies?

Who will interpret "as far as possible and appropriate," a clause which appears in several places in the convention? Will the United States be subject to mandatory dispute settlement?

How can the Senate, in fulfilling its Constitutional responsibilities to advise and consent, review the provisions of the treaty not decided until the meeting of the Conference of Parties?

How will the ratification of this convention influence the Endangered Species Act, the National Environmental Policy Act and other domestic environmental legislation?

Will the provisions regarding access to genetic resources (Article 15) impede United States access to germplasm and other genetic resources contained in international collection centers?

By what means will the Conference of Parties promote the transfer of technology to developing countries (Article 16)?

Is it likely or possible that the Conference of Parties may call for a biological safety protocol that will require a license for the transfer of any biologically modified organism?

These are just some of the issues that should be further clarified before we can responsibly recommend ratification.

We understand that the primary argument for speedy ratification is to ensure that the United States has a vote at the Conference of Parties in November 1994. However, we believe that the United States, as a major contributor to the funding mechanism under this convention, will wield considerable influence at the Conference of Parties even without a formal vote. If anything, the U.S. negotiating position will be strengthened by the continuing scrutiny of the Senate. We note that this is the course successfully followed by the United States in the Law of the Sea Convention process.

Thank you for your consideration.

Sincerely,

———, Malcolm Wallop, Chuck Grassley, Jesse Helms, Conrad Burns, Kit Bond, Lauch Faircloth, Thad Cochran, Dan Coats, Larry Pressler, John W. Warner, Kay Bailey Hutchison, Bob Smith, Robert F. Bennett, Arlen Specter, John C. Danforth, Slade Gorton, Pete V. Domenici, ———, Al Simpson, John McCain, Mitch McConnell, ———, Dirk Kempthorne, Strom Thurmond, ———, Don Nickles, Orrin Hatch, Trent Lott, Larry E. Craig, Phil Gramm, Connie Mack, Hank Brown, Bob Packwood, Ted Stevens.

U.S. DEPARTMENT OF STATE
Washington, DC, August 8, 1994.

GEORGE J. MITCHELL,
The Majority Leader,
U.S. Senate.

DEAR MR. LEADER: The Committee on Foreign Relations, with broad bipartisan support, reported favorably the Convention on Biological Diversity to the full Senate on June 29, 1994. In response to requests for additional information by a number of Senators, I am writing to share with you and your colleagues the Administration's response. I am hopeful that this information will provide the Senate the background it needs to move forward expeditiously in providing advice and consent.

The Clinton Administration has worked with affected industry to address several concerns that existed at the time the Convention was opened for signature. Based on the seven understandings developed through cooperation with industry and set forth in the proposed Resolution of Ratification, the Administration urges the Senate to give its advice and consent to this treaty. The understandings set forth in the Resolution or Ratification clearly address concerns that were previously expressed about the Convention's provisions on technology transfer, finance and biosafety. In response to these efforts, the affected industries, state and local government officials and others now strongly support ratification of the agreement.

We have endeavored to answer all questions about the Convention and U.S. participation. The attached responses to the good questions raised by a number of Senators will further clarify the record and, we believe, provide Senators with the assurances they need to support this agreement. Most importantly, these responses make clear that: 1) no implementing legislation is required—the US meets and surpasses all treaty provisions—and the treaty provides flexibility for future changes to U.S. law; 2) the treaty does not and can not force the United States to undertake any action incongruent with its interests (and preserves the appropriate role of the Congress to provide advice and consent to any significant agreement); and 3) because no changes to existing statutes, regulations or programs are required, the Convention will not have any effect on farmers, ranchers or foresters.

I want to note that the timing of Senate consideration is critical—the Administration and key industries believe that it is essential that the U.S. complete work in time to enable submission of our articles of ratification by August 30, 1994, thus enabling us to participate fully at the first Conference of the Parties so that we can fully protect US interests. Failure to achieve ratification could have significant negative consequences for US interests.

Senate advice and consent would help complete the significant efforts and sound principles undertaken on a bipartisan basis by this and the previous Administration. Having addressed the appropriate and legitimate concerns raised in the past, it is now in the economic interests of the United States to ratify this agreement. We are hopeful that, pursuant to the recommendation of the Foreign Relations Committee, which made a favorable recommendation on a 16-3 vote, the Resolution of Ratification can be deliberated in a timely manner and that the full Senate will give its advice and consent to ratification. The Administration stands ready to provide any information that is necessary to facilitate this action.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary,
Legislative Affairs.

CONVENTION ON BIOLOGICAL DIVERSITY

(The Administration's Responses to Questions Raised in a Letter to the Majority Leader on August 5, 1994)

1. Why does this convention prohibit state parties from making reservations to any of its provisions?

The purpose of the "no reservations" clause is to prevent parties from picking and choosing which provisions they are willing to accept.

2. Will the understandings set forth in the resolution of ratification protect the U.S. interpretation in the event of a dispute?

The United States is protected in the event of any dispute because the Convention does not require the United States to submit to binding dispute resolution.

The understandings are an authoritative statement of the United States' interpretation of the Convention. They will be deposited with the United States instrument of ratification and will be circulated by the United Nations to all parties.

3. Will the U.S. vote in decisions taken under this convention be commensurate with its financial contribution to the funding mechanism?

The United States objective is a rule of procedure relating to the funding mechanism that fully protect its interests as a major donor. The United States has supported a rule in the rules of procedure requiring that all decisions related to the funding mechanism be made by consensus. Only as a party will we be able to block consensus on the rules of procedure; as an observer we would have no such ability.

It should also be noted that the Global Environment Facility (GEF) currently operates the financial mechanism. The GEF is responsible for actual decisions on biodiversity project funding. The instrument restructuring the GEF also gives the United States a vote commensurate with our contribution.

4. Could the eradication of "alien species which threaten ecosystems," called for by Article 8, affect U.S. livestock policies?

No. The Convention will not affect U.S. livestock policies. Cattle (as well as poultry, sheep, and hogs) are considered under the Convention to be "domesticated species"—not alien species—and thus not subject to Article 8(h).

5. Who will interpret "as far as possible and appropriate," a clause which appears in several places in the convention?

This phrase is a common one in international agreements. It is a phrase that protects, not restricts, the interests of parties. In this Convention the phrase was deliberately inserted in order to give each party substantial flexibility in determining how best to implement the Convention. The United States will decide for itself how it will implement the Convention and how it interprets the phrase "as far as possible and appropriate."

6. Will the United States be subject to mandatory dispute settlement?

No. Dispute resolution involving the United States under the Convention is limited to non-binding conciliation. Binding dispute resolution (either through arbitration or submission of the dispute to the International Court of Justice) is optional.

The United States will not opt for binding dispute resolution under the Convention.

7. How can the Senate, in fulfilling its Constitutional responsibilities to advise and consent, review provisions and processes of the treaty that are not included in the treaty, but will be decided at the Conference of Parties?

It is common practice in international agreements to assign certain functions to the Conference of the Parties. Under treaties such as this, the rules of procedure are always decided at the first Conference of the Parties, typically after the Senate has given advice and consent. Examples include the Vienna Convention for the Protection of the Ozone Layer; the Montreal Protocol on Substances that Deplete the Ozone Layer; the UN Framework Convention on Climate Change; the Antarctic Environmental Protocol; the Cartagena Convention (Caribbean); the SPREP Convention (South Pacific); CITES; London (Dumping) Convention; Convention for a North Pacific Marine Science Organization (PICES); Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean; and the Convention for the Conservation of Salmon in the North Atlantic Ocean.

In addition, the Administration stands ready to apprise, and seek the views of, the Senate Foreign Relations Committee and any other interested Members on the status of U.S. participation in the Convention whenever the Committee deems appropriate. This will enable the Senate to remain fully advised of key developments related to the Convention.

8. How will the ratification of this convention influence the Endangered Species Act, the National Environmental Policy Act and other domestic environmental legislation?

The conservation provisions of the Biodiversity Convention are broad, framework provisions. They deliberately leave to individual countries to determine how the Convention should be implemented, as far as possible and as appropriate for each country.

There are many ways that the United States could craft a statute and still remain in compliance with the conservation provisions. Thus, the Convention will not require any change to any U.S. statute, regulation, or program. No additional implementing legislation is required. At the same time, the Convention would not foreclose amendment of domestic environmental legislation.

9. Will the provisions regarding access to genetic resources (Article 15) impede United States access to germplasm and other genetic resources contained in international collection centers?

No. The United States and all other countries will continue to have open access to collections of the International Agricultural Research Centers of the Consultative Group on International Agricultural Research. The Convention should also serve to facilitate access to collections recently closed to us where some countries have been waiting for a mechanism to establish benefit sharing arrangements. Overall, the Convention will enhance access to germplasm.

10. By what means will the Conference of Parties promote the transfer of technology to developing countries (Article 16)?

Following a dialogue with U.S. industry and others, we have developed an interpretation of the Convention and an approach for its implementation that we believe is fully consistent with U.S. public and private interests.

However, the Convention is clear: the Convention does not compel the involuntary transfer of technology to developing countries. The Convention promotes transfer of technology by encouraging voluntary, mutual agreements between the countries of origin of genetic resources and those entities that seek to commercially utilize those genetic resources.

11. Is it likely or possible that the Conference of Parties may call for a biological safety protocol that will require a license for the transfer of any biologically modified organism?

One of the many reasons the U.S. biotechnology industry and the Administration believe it is essential to promptly ratify the Convention is to ensure that any biosafety protocol—whether it includes a licensing requirement or not—is scientifically based, analytically sound, and does not place undue restrictions on U.S. exports of biotechnology products. Industry believes the United States can more effectively represent its interests in this regard as a party, rather than as an observer. Although the United States would not be obligated to become a party to a biosafety protocol with unacceptable provisions, the existence of a protocol among other countries could have significant adverse impacts on U.S. industry.

THE SECRETARY OF STATE,
Washington, August 16, 1994.

Hon. GEORGE J. MITCHELL,
The Majority Leader,
U.S. Senate.

DEAR MR. LEADER: As you are aware, several issues have been raised recently by agricultural organizations regarding the Convention on Biological Diversity, which is now before the full Senate for advice and consent to ratification.

Representatives of the Departments of State, Agriculture and Interior have consulted with several agricultural organizations to answer their questions and address any concerns. The enclosed Memorandum of Record reflects those consultations and explains why ratification is of fundamental national importance. The Memorandum represents the Clinton administration's views as expressed during these consultations.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to this Memorandum of Record.

We hope that this information will help the Senate to complete the ratification process as soon as possible. For the reasons expressed throughout this year, we believe failure to ratify the Convention before adjournment would be detrimental to our interests, most especially those of our important agribusiness and biotechnology industries.

Sincerely,

BRUCE BABBITT,
Secretary of the Interior.
MIKE ESPY,
Secretary of Agriculture.
WARREN CHRISTOPHER,
Secretary of State.

Enclosure.

MEMORANDUM OF RECORD

Pursuant to questions posed to the Administration by several agricultural organizations (Tab A), the Department of State, the Department of Agriculture and the Department of the Interior state the following on the importance of rapid ratification of the Convention on Biological Diversity and further elaborate on the letter and questions and answers submitted to the Senate Majority and Minority Leaders by the Department of State on August 8, 1994 (Tab B).

BENEFITS TO AGRICULTURE

U.S. ratification of the Convention benefits U.S. agriculture by providing leverage to limit the restriction of U.S. exports of biotechnology products, safeguarding U.S. access to agricultural genetic resources, and encouraging conservation of such resources in other countries.

The majority of important U.S. agricultural crops and livestock originated in other parts of the world, and the major sources of the variation essential to future improvements, through traditional breeding and biotechnology, are located outside U.S. boundaries (Tab C).

Access to this germplasm is essential to continued improvement in the productivity of U.S. crops. For example, experts estimate that our use of plant genetic material to improve agronomic traits and increase yields has added a value of $3.2 billion to our $11 billion annual soybean production and about $7 billion to our $18 billion annual corn crop. Access to foreign germplasm also helps efforts to facilitate the development of crops resistant to diseases and plant pests. Bioengineered products are making an ever increasing contribution of major economic value to agricultural advancement.

The U.S. must ratify the Convention by August 30 so that it can participate fully to shape discussions on the regulation of biotechnology that will occur at the first Conference of the Parties in November. There is strong pressure among countries who are already Party to the Convention to push ahead with development of a biosafety protocol on the safe transfer, handling and use of living modified organisms resulting from biotechnology.

Ill-conceived regulation of biotechnology can place undue restrictions on U.S. exports of biotechnology products whether in the agricultural or pharmaceutical areas. One of the many reasons the U.S. biotechnology industry and the Administration believe it essential to promptly ratify the Convention is to ensure that any biosafety protocol, should one be developed under the Convention, is scientifically based and analytically sound, and does not place undue restrictions on U.S. export of biotechnology products.

As the world leader in biotechnology the U.S. must be at the table as a party to the Convention to guide these discussions and protect our interests.

Also likely to be addressed at the first Conference of Parties in November are issues concerning access to genetic resources. The U.S. depends on access to foreign germplasm for plant breeding programs of such key crops as corn, wheat, soybeans, potatoes, cotton, and most vegetables. These crop improvements enhance our ability to provide quality forage for our livestock. In addition, introduction of genetic material from foreign animal breeds into our domestic livestock is crucial for improving livestock productivity, meat and fiber quality and other essential traits.

By becoming a party to the Biodiversity Convention, the U.S. will ensure continued access to genetic resources. Questions of sovereignty over genetic material and concern that holders of such material receive appropriate compensation for providing such material have begun to jeopardize U.S. access to foreign material, particularly in the developing world. Already some U.S. researchers have been excluded from germplasm collections in foreign countries on the basis of such concerns.

The Convention will provide a forum to facilitate access to genetic resources in these and other countries. As a Party to the Convention, the U.S. will be able to work with other countries of the world to develop effective means to safeguard the open exchange of such material, building on the principles of open access and mutual agreement to such exchange. This will ensure and improve our access to important genetic material, whether in private hands, national collections or international centers.

The Convention also encourages conservation of such genetic resources in other countries. All countries, but especially the U.S., will lose if genetic resources of value to agriculture are lost through inadequate or nonexistent conservation practices. The U.S. enforces an extensive and effective set of conservation laws, yet this is not the case in most developing countries. The Convention lays out a general framework relating to conservation of natural resources.

The Convention recognizes that if developing countries can benefit from providing their genetic resources to others they will have incentives to make these resources available for use now and in the future. The Convention provides for development of voluntary agreements between the providers of such resources and those who wish to use them.

PRIVATE SECTOR INVOLVEMENT

As stated in the Report of the Secretary of State transmitted to the Senate by the President, "the participation of the private sector greatly enhances the attainment of economic value from genetic resources." Historically, the private sector in the U.S., including foresters, farmers, and ranchers, has had a vital and critical role in protecting and enhancing biological diversity. In addition, as stated above, agriculture producers need biological diversity to ensure adequate plant and animal genetic resources for improving and protecting domestic production of food and fiber. Access to the world's genetic resources is critical to agricultural production. For these reasons it is imperative that the U.S. agricultural sector participate in future international conferences on implementation of the Convention on Biological Diversity.

We recognize that the private agricultural sector—by harnessing biological and natural resources—has produced enormous benefits for the U.S. and its people. The agricultural industry has similar productive contributions to make during consideration of these issues internationally. In this regard, the Administration will conduct briefings and, consistent with applicable law, solicit views on upcoming issues prior to meetings of the Conference of the Parties and other critical events. The Administration will work to facilitate the participation of representative stakeholder interests, including those from agriculture, as observers at such meetings and, if appropriate and within delegation size constraints, as private sector advisors on the U.S. delegation. In addition the U.S. will use the opportunity of future meetings of the Convention to emphasize the importance of private sector arrangements with regard to the use and conservation of biodiversity.

THE CONVENTION MAY NOT BE USED IN PLACE OF U.S. LAWS

The provisions of Articles 7 and 8 of the Convention provide a broad framework for the conservation of biological diversity. The United States already has some of the world's most comprehensive and advanced programs for protecting public lands and enforcing environmental laws. In fact, the laws and regulations of the U.S. related to public land management and private land practices impose a higher standard than that called for in the Convention. For example, with regard to protected areas, the President cited, in his letter of Transmittal, the "extensive system of Federal and State wildlife refuges, marine sanctuaries, wildlife management areas, recreation areas, parks and forests" that already exists in the U.S.

Concerns have been expressed that the implementation of the Convention's conservation provisions may require new environmental laws or regulations or that the Convention itself could be used as the basis for regulatory action. The Administration has determined that neither is the case.

Implementation of the conservation provisions of the Convention will not require any change to any U.S. statute, regulation, or program. As stated in the report to the Secretary of State transmitted to the Senate by the President, "No additional legislation is required to implement the Convention. The United States can implement the Convention through existing Federal Statutes."

The Convention will not provide new authority for any administrative, civil, or criminal action not permitted under domestic law.

THE CONVENTION DOES NOT PREVENT AMENDMENT OF ENVIRONMENTAL LEGISLATION

Concern has been raised that ratification of the Convention by the U.S. could prevent any amendment of U.S. environmental laws. The conservation provisions of the Biodiversity Convention are broad, framework provisions. They are deliberately flexible enough to allow individual countries to determine how the Convention should be implemented, as far as possible and as appropriate for each country. There are many ways that the United States could craft relevant statutes and still remain consistent with the conservation provisions of the Convention. As noted above, in many respects existing environmental laws and regulations impose a much higher standard than what is required by the Convention. Although some basic environmental statutes are necessary to implement the Convention, we do not anticipate scenario in which the Convention would impede amendment of a domestic environmental statute.

THE CONVENTION DOES NOT PROVIDE FOR A PRIVATE RIGHT OF ACTION

Concerns have been expressed that domestic laws and regulations would be subject to challenge by private persons as not being in compliance with the Convention.

The Convention sets forth rights and obligations among countries. The Convention does not, expressly or by implication, create a private right of action under which a private person or group may challenge domestic laws and regulations as inconsistent with the Convention, or failure to enforce domestic laws or regulations promulgated thereunder.

NO BINDING DISPUTE RESOLUTION

Concerns have been raised that the Convention might allow other governments to force changes in U.S. domestic laws and policies through binding dispute resolution. This is not the case. Dispute resolution involving the United States under the Convention is limited to non-binding conciliation. Moreover, such procedures may be initiated only by a Party to the Convention; they are not available to private persons or groups. Binding dispute resolution (either through arbitration or submission of the dispute to the International Court of Justice) is optional. Accordingly, the Department of State, in reply to a question from Senator Pell for the record, stated that "the United States will not opt for compulsory dispute resolution under the Convention." This is consistent with past practice in environmental agreements in which the U.S. has not accepted binding dispute resolution.

EFFECT OF AMENDMENTS OR PROTOCOLS ON THE UNITED STATES

Concerns have been raised about the possible future impact of protocols to the Convention on U.S. domestic environmental laws. No amendment or protocol is binding on the United States without its express consent. Amendments to the Convention (apart from annexes which are restricted to procedural, scientific, technical, and administrative matters) will be submitted to the Senate for its advice and consent.

With respect to protocols, we would expect that any protocol would be submitted to the Senate for its advice and consent; however, given that a protocol could be adopted on my number of subjects, treatment of any given protocol would depend on its subject matter.

ATTACHMENTS

Tab A—Letter to Majority Leader Mitchell on August 5.

Tab B—State response to Mitchell letter of August 5.

Tab C—Examples of the Value of Biodiversity to U.S. Agriculture.

EXAMPLES OF THE VALUE OF BIODIVERSITY TO U.S. AGRICULTURE

Prior to European settlement, the U.S. was largely void of plant or animal species of current commercial importance. Native plant species were pecan, blueberry, cranberry, tobacco, and sunflower. Animal species included longhorn cattle and buffalo. Americans have been and continue to be dependent upon the rest of the world for plant and animal genetic resources as a germplasm base for commercial agriculture. Based on commercial acreage, over 99 percent of U.S. crops are planted to plant species introduced from other countries. While the U.S. has developed a National Plant Germplasm System and is developing a similar system for animal germplasm, it is estimated that the germplasm repositories in the U.S. now represent only about 50 percent of available world resources.

The Convention on Biological Diversity stresses the sustainable use and management of biological diversity for agricultural, medicinal and industrial purposes. The convention will allow the U.S. to collaborate with countries by working together to preserve biodiversity of interest to all nations. U.S. agriculture has significantly benefitted from conservation of biological diversity in foreign countries and will continue to benefit through U.S. ratification. Numerous examples of agricultural benefits of biodiversity can be cited, but a few are worth mentioning.

In 1970, a severe disease epidemic, later identified as the southern leaf blight fungus, threatened the U.S. corn crop. The salvation of our corn crop was found in diverse varieties resistant to the disease which were maintained by U.S. plant breeders. The genes that provided leaf blight resistance had originally been introduced from Mexico. We do not know where or when the next epidemic will hit important U.S. crops, such as late blight of potato, the disease which caused the Irish potato famine and is now a renewed threat to potato production worldwide. Potatoes are one of the world's leading non-cereal sources of calories. We do not always make the connection between the French fried potatoes we consume and biodiversity, but the connection is very real. At least 13 species of potatoes have been used in developing the varieties currently grown in the U.S. Many more wild potato species are under investigation as sources of disease and insect resistance, stress tolerance and nutritional quality for developing and developed nations. Diversity found in cultivated varieties or wild species of potatoes could be the key to resistance to the new strains of the late blight fungus that have recently caused serious production losses in the U.S. There has also been a recent discovery of resistance to the Colorado Potato Beetle and the source of resistance can be traced to wild potato species in South America. It is the interest of the U.S. that Parties to the Convention assure that these wild genetic resources are adequately protected. Ratification of this treaty will allow the U.S. to sit in the table with other Parties when world conservation priorities are established.

The peanut, a native of South America, is an important cash crop for our Southern states and a favorite food of American consumers. However, due to its susceptibility to a horde of insect and disease pests, the peanut is largely dependent upon germplasm introduced from abroad for its continued productivity and improvement. In a recent breakthrough, three species of wild peanuts found in Bolivia and Paraguay have been successfully hybridized with cultivated peanuts to produce breeding lines with high levels of resistance and even immunity to root knot nematodes and certain leafspot diseases. These are the most virulent pests affecting U.S. peanut production and the use of germplasm not native to the U.S. will greatly reduce the need to use chemical pesticides. The Convention specifically calls for all nations to safeguard their resources and make them available to contracting Parties.

We know that our insurance policy against such epidemics is found in collections of cultivated and wild relatives, such as those maintained by the Department of Agriculture (USDA) and having access to additional germplasm now not available in the U.S. This biological diversity insurance policy includes not only that housed in collections outside the country of origin of the species, but also the genetic resources preserved within the country of origin, such as the perennial relative of corn [*Zea diploperennis*] protected in a Mexican reserve and known to be tolerant or immune to seven of nine tropical corn viruses. Resources such as these and others will be of high priority for Parties to the Convention.

The food industries not only benefit from conservation of crop plants and their wild relatives, but also from countless beneficial microbes. One example is the new, award winning development of a FDA approved food additive, Gellan Gum, by Merck & Co., Inc. This product performs in a variety of ways as a gelling agent and suspending agent and is now used in confections, beverages, bakery goods, and jams worldwide. This product with current estimated annual sales worldwide of $10 million was not developed from a little known Amazonian plant, but from a newly discovered species of bacteria [*Pseudomonas elodea*] growing in a Pennsylvania pond. The value of undiscovered biological resources in our own backyard may be as important as that found in tropical rainforests. This treaty signifies our intent to sustainably use our own biological resources as well as continued reliance on the rest of the world.

The U.S. wheat crop is now under siege from a foreign insect known as the Russian Wheat Aphid. Over 26,000 samples of wheat were examined for possible resistance to this serious new threat. Only four sources of multiple resistance to this pest were discovered, all originating from countries of Southwest Asia and Eastern Europe. These varieties had been maintained by the USDA for 20–35 years before the present value was recognized. We might assure that today's genetic resources still exists for tomorrow's unforeseen need such as that demonstrated by these native varieties from Southwest Asia.

Soybeans are one of the most important agriculture products and exports for the U.S. All the progenitors and relatives of soybeans are native to foreign countries. Together with researchers in Australia, U.S. scientists have recently discovered new species related to the soybean that may provide future sources of disease resistance to U.S. soybean varieties. We are totally dependent on other nations to protect and preserve the ecosystems where these and other significant wild crop relatives occur. This treaty signifies the intent of contracting parties to conserve and manage such resources for the benefit of all humankind.

We need not look far to find examples of domestic biodiversity benefiting agriculture. In California the entire walnut industry, with an annual average value of over $250 million, literally rests on a rare plant species. The entire walnut production depends on using a rare native California walnut [*Juglans hindsii*] as a rootstock on which to graft varieties of the walnut of commerce. Without this native species walnuts would not be as productive in the soils of California.

The contribution of our native wild grape species as rootstocks for grapes worldwide is perhaps the most important contribution of U.S. biodiversity to world agriculture. The grape industry estimates that 95 percent of wine grape production in Europe uses American rootstocks. Our commitment to protecting our own biological resources is as of much concern to foreign countries as our concern for protection of biological diversity in foreign countries, especially that of developing countries.

While foods of animal origin today supply two-thirds of the protein, one-third of the energy, 80 percent of the calcium, 60 percent of the phosphorus and significant quantities of trace elements and "B" vitamins to the average Americans' diet, the ancestors of almost all of the animal germplasm needed to supply these nutrients were imported from other countries. Suitable native breeds of livestock simply were not available. Therefore, the importation of specific breeds, stains and flocks of livestock and poultry was an absolute necessity to the development of U.S. animal industries.

As an example, three beef cattle breeds—Angus, Hereford, and Shorthorn—which were imported from Great Britain between 1830 and 1865 have served as the foundation for the modern beef industry. From the 1960's to present, the additional importation of exotic beef cattle germplasm has greatly facilitated the production of today's lean beef. In the dairy area, today's high producing Holstein cow was developed in North America from European "black and white" ancestors.

The original genetic stock for the major white breeds of swine in the U.S. were imported from Great Britain and northern Europe about 1900. These breeds were used extensively in breeding programs to produce today's lean pig. Approximately 5 years ago, Chinese swine were imported and are not being evaluated for genetic resistance to diseases and increased litter size. The transfer of these traits into our domestic breeds will help improve production efficiency of the U.S. swine industry.

Recent examples of how imported germplasm has assisted the U.S. sheep industry are the importation in the 1960's of the Finnish Landrace breed which produced multiple births, and the importation of the Texel sheep in the 1980's to improve lean lamb production. It is important to U.S. animal industries to continue to have access to animal genetic stocks of the world.

[From the Washington Post, Sept. 26, 1994]

THE BIODIVERSITY TREATY

One of the casualties of the mismanagement of this session of Congress and the current rush to adjourn could be the International Convention of Biological Diversity. It would be a major loss.

The Clinton administration signed the agreement in June of 1993; the Bush administration had declined. The principal goal is to preserve the present array of living species in the world, and diversity within each species. Scientists estimate that 20 percent of currently living plant and animal species could otherwise be lost by the year 2020. Much of the loss would occur through the destruction of forests and other development in the Third World. But the rest of the world would feel the effect. The United States, for example, is heavily dependent on plant strains from abroad to maintain the vitality of basic corps—corn, soybeans, wheat—and their ability to resist disease. The same is true for other food-producing countries.

The convention would seek to preserve not just the species themselves but international access to them. Safety and other standards could also be set for world trade in plant and animal strains produced through biotechnology, a subject of huge importance to U.S. industry. And because there are costs to conservation, richer countries, including the United States, would make contributions to help and induce poorer countries to conform.

The Senate Foreign Relations Committee approved the convention this June by 16 to 3. All Democrats and five Republicans—Richard Lugar, Nancy Kassebaum, Hank Brown, James Jeffords and Judd Gregg—voted aye. Three other Republicans—Jesse Helms, Larry Pressler and Paul Coverdell—voted no. Some agricultural groups then expressed alarm about some aspects of the pact, as have conservative organizations that see it as an environmental wedge and threat to U.S. sovereignty. Bob Dole and 34 other Republicans wrote majority leader George Mitchell asking that floor consideration be delayed until some questions could be answered. The administration provided answers; most of the agricultural groups have since withdrawn or muted their objections, and such influential agribusiness organizations as the Archer Daniels Midland Co. have joined the biotechnology and pharmaceutical industries in support. But a filibuster or possibly even the threat of one could still derail the convention.

The Republicans asked, among other things, whether the convention would preempt and force changes in U.S. law. The administration says U.S. law is already well in advance of what the convention requires. It also says the convention couldn't be used by environmental groups as a basis for domestic litigation, as some critics profess to fear. Nor would there be a lack of control over the U.S. financial contribution to the undertaking.

A first conference of the parties to begin the implementation of the convention is scheduled Nov. 28. The United States will have a delegation there no matter what, but plainly in a stronger posture if the Senate has voted aye. Surely the Senate can find the means to brush aside the remaining weak objections and cast that vote before it goes home.

[From the New York Times, Sept. 26, 1994]

Biodiversity Pact on the Ropes

Chances that the Senate will ratify an international agreement aimed at preserving the world's biological diversity are diminishing as fast as the organisms the pact is designed to protect. Republican opposition and Democratic lethargy are combining to frustrate approval of the biodiversity convention, thus keeping the U.S. out of step with most of the rest of the world in the fight to save a wide range of biological species and habitats.

The convention was one of the major treaties approved at the 1992 world environmental summit meeting in Rio de Janeiro. It sets no firm requirements to save species or habitats but commits the signatories to develop national plans aimed at doing so. The treaty also seeks to promote an equitable sharing of benefits between the developing nations that possess biological resources and the industrialized nations that seek to use them for medical or agricultural purposes.

President Bush positioned the U.S. as an environmental outcast when he refused to sign the treaty because of ambiguous subsidiary clauses that seemed to threaten important American interests. Mr. Bush was right to be worried, and this page largely agreed with his reservations. One clause could be construed as giving poor countries control of the mechanism through which money would be raised and distributed for conservation projects. Other clauses looked as if they might threaten the protection of patents and intellectual property rights or impose undue restrictions, based on bogus safety concerns, on biotechnology exports.

Fortunately, these and other concerns have been addressed through clarifying interpretations issued by the Clinton Administration. President Clinton has signed the treaty and the Senate Foreign Relations Committee has strongly recommended ratification. Even some of the groups originally concerned about the treaty—notably the biotechnology and pharmaceutical industries—are now supporting prompt ratification. So are scientific and environmental organizations.

Even so, ratification has been held up by Republican opposition, triggered initially by Senator Jesse Helms, the ranking Republican on the Foreign Relations Committee, and then swelling to include 35 Senate Republicans, led by Bob Dole, the minority leader. The Republicans argue that the Administration's interpretations are not binding on other signatories and that some clauses could be construed to undermine this nation's ability to strike its own balance domestically between environmental values and competing interests.

The opponents fretted, for example, that clauses requiring nations to promote the protection of habitats and species might be used to push for "absolute" protection of the environment in the U.S., at the expense of commercial or even recreational purposes. That seems a far-fetched leap from a vaguely worded treaty with lots of weasel words, especially since the Clinton Administration insists the treaty neither requires nor prohibits changes in American environmental laws.

The opposition has already delayed ratification beyond the deadline that would have allowed the U.S. to participate as a signatory at a critical organizing meeting in late November. Americans can still participate as observers. Better yet, if the Senate ratifies the convention, they could attend with the added influence of a belated signatory.

Delay is not only pointless; it could be harmful. The U.S. needs to join this effort not only to enhance the global environment, but for its own good as well. Otherwise, American leadership in biotechnology and agriculture may be threatened as other countries deny the U.S. access to their genetic and biological resources.

[From the Washington Post, Oct. 3, 1994]

Biodiversity Is Crucial to Our Future

The Convention on Biological Diversity is the first comprehensive international agreement committing governments to conserve the earth's biological resources and use them in a sustainable manner. By producing clean water, oxygen, and food, biodiversity plays a critical role in maintaining the planet's life support systems.

The agreement is now before the Senate for approval. To date the Convention has been signed by over 160 countries and ratified by over 90, including the entire European Union, Japan, the United Kingdom, Germany, and France. The United States is one of the few industrialized nations yet to ratify the agreement.

Unfortunately, the Biodiversity Convention has stalled in the Senate because of partisan politics. This must stop. Neither a Democratic nor a Republican issue, the Convention is important to our nation as a whole, including U.S. business interests and agriculture.

Though the Convention is currently in limbo, the 103rd Congress is still in session, meaning the Senate still has time to consider the agreement and vote its approval.

The following are examples of the wide support the Convention has received from the environmental, business, and agricultural communities.

Th Biotechnology Industry Organization (BIO), representing over 500 biotechnology companies, university labs, and others, "strongly supports speedy Senate ratification" because the U.S. must be "at the conference table" to protect U.S. interests in "matters of importance to our economic future."

BIO, the Pharmaceutical Manufacturers Association, and the American Seed Trade Association: "As representatives of major U.S. industries which are successfully working to create new medicines, food, and agriculture products, plus a substantial number of jobs for U.S. citizens, we declare our support for the Biodiversity Convention . . . Senate ratification should proceed at the earliest possible time."

Merck & Co., a U.S. pharmaceutical company, one of the largest in the world, urges "support of a speedy ratification of the Convention," noting that biodiversity has generated "some of the greatest pharmaceutical breakthroughs of this century."

New York Biotechnology Association: ". . . ratification of the Convention on Biological Diversity is a matter of prime importance to the further development of the biotechnology industry in the State of New York."

Archer Daniels Midland Company, one of the largest agribusiness companies in the country, states that ". . . it is fundamentally important to American agribusiness, agriculture, and other industries that the United States include itself in this Convention. It will be a sad day for us if these meetings have to occur without any participation on our part. We see no downside for our country in ratifying this Convention."

Farmers Union: "The National Farmers Union (NFU) and its 253,000 family farm members strongly urge you to ratify the Convention on Biological Diversity before you adjourn in October."

The American Corn Growers Association ". . . believes that ratification of this treaty will be in the best interest of production agriculture. For U.S. agricultural interests to be addressed, we must first have a seat at the table. . . . In addition, by being a party to the Convention, the United States will ensure continued access to genetic resources. This is important to agriculture because access to foreign germplasm for plant breeding programs for such crops as corn will advance our ability to provide quality products to our agricultural processors."

American Soybean Association: "[We] hope for expedited consideration of the treaty."

National Cooperative Business Association: "We believe that prompt consideration [or ratification] by the Senate in September is critical if U.S. interests are to be brought to bear on the implementation of the Convention. [We] hope that its approval is not delayed any further."

American Farm Trusts represent thousands of farmers, rural residents, and others concerned with protection of farmland and conservation of natural resources. Ratification of the Biodiversity Convention would be a key step in the establishment of a sustainable national agricultural system, which is essential to the livelihood of the American farmer. Protection of biodiversity will help ensure the protection of strategic farmland—a primary resource for the future of American agriculture.

World Wildlife Fund: "The Biodiversity Convention is the first concerted effort by the world community to conserve the planet's irreplaceable, but vanishing biological wealth. An enlightened self-interest, for the benefit of both present and future generations, should compel prompt ratification by the U.S. Senate."

There's still time for the 103rd Congress to ratify the Biodiversity Convention before the scheduled October 7 recess.

This message is brought to you by World Wildlife Fund and the many business and agricultural organizations concerned with America's interest in conserving biological diversity.

For more information: 1250 24th Street N.W., Washington, DC 20037.

TRIBUTE TO COL. JACOB "JACK" A. TENORE, U.S.A., RETIRED

Mr. WARNER. Mr. President, I rise today to pay tribute to Colonel Jack Tenore, a dedicated soldier who has spent most of his adult life working for the military, its service members, and their families.

Born and raised in Hamilton, OH, Colonel Tenore earned his bachelor's degree from the University of Nebraska and a master's degree in business administration from Syracuse University. As happened to so many young men of Jack's generation, his Nation called, and in 1949, he entered the Army. Little did he realize that this would be the start of a journey that would span 35 years.

Following his commissioning in 1951, Lieutenant Tenore was off to Korea where he served as a forward observer directing artillery fire. His duties would eventually include commanding field artillery batteries and battalions.

In 1964, the Army recognized that Jack had many other talents beyond field artillery. He was assigned to the first of his financial management billets, assignments which eventually would lead him to the Office of the Army Comptroller and, later, to the Office of the Army Chief-of-Staff.

His last two assignments reflect the high value the Army places on Jack's abilities. After leaving the Army Chief-of-Staff's Office, he was named to be the Comptroller and Chief-of-Staff for the Army's Test and Evaluation Command, a position involving the responsibility for literally hundreds of millions of dollars. However, his last assignment was perhaps his most challenging. As Comptroller for the Military Traffic and Management Command, he was responsible for managing the funding of all military materiel worldwide.

In 1979, following 30 years of military service, Jack retired from the Army to establish his own certified public accounting practice. But once again, a call to service interrupted his plans. In 1981, just 2 years after retiring, Colonel Tenore was named comptroller for the Retired Officers Association [TROA]. TROA is dedicated to ensuring that our Nation continues to maintain a strong national security posture as well as to defend and preserve entitlements earned by more than 400,000 active duty, Reserve, Guard, and retired members/officers, their families, and survivors.

During his tenure as comptroller of TROA, Colonel Tenore has fought to maintain the association's fiscal well-being. Thanks to his wise counsel and financial stewardship, the TROA scholarship fund has reached unprecedented levels, providing funding to an ever-growing number of worthy young dependents of all military personnel, officer and enlisted. His dedicated efforts and determined perseverance have ensured that this fund continues to garner more and more donors, and that there will be sufficient funding for years to come. This fund is a monument to his financial vision, insight, and planning.

Mr. President, as a final thought, Colonel Tenore has been a leader in combat and a leader in peacetime but most importantly, he has always been a leader to his fellow officers, whether active or retired. Colonel Tenore is a credit to his country, to the Retired Officers Association, and to our military. I extend every best wish to him in his future endeavors.

Colonel Tenore—your Nation thanks you for a job well done.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask unanimous consent that I might proceed for 10 minutes, as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RETIREMENT OF SENATOR GEORGE J. MITCHELL

Mr. EXON. Mr. President, as the current session of the Senate draws to a close, our Senate will lose its leader. The loss will be demonstrably felt.

The rise of GEORGE MITCHELL in the Senate has been a phenomenal one by any standard. He was appointed to his seat and quickly won election to a full term. During his first full term, GEORGE MITCHELL led the Democrats out of minority status to the oasis of being back into the majority as head of the Democratic Senatorial Campaign Committee. As a true measure of the power and respect of GEORGE MITCHELL the person, the Senate Democrats elected him as their leader immediately after his reelection to just his second full term in the Senate.

Perhaps only the leader himself understands the difficulty of attempting to make this institution move and do the work of the people.

In comparison to the House of Representatives, the U.S. Senate has very few ways in which to force action. It takes an extraordinary man to assume the leadership role here and operate successfully in a place where unanimous consent is necessary in order to do almost anything.

The legislative accomplishments of GEORGE MITCHELL, our leader, have been well documented and will be for many years to come. However, I would like to reflect on GEORGE MITCHELL, the man.

If there ever was a man who was more fair than GEORGE MITCHELL, I have not met him. If there ever was a man who could master the details of the many complex issues we face, it is GEORGE MITCHELL. If there ever was a man who was an impartial arbitrator, it was GEORGE MITCHELL.

I have watched the strain and stress under which GEORGE MITCHELL has had to operate as a leader in an institution where the rules give him few carrots and even fewer sticks in order to move forward. Yet he has always, without fail, carried out his duties in the calm and fair manner which he must have carried out all during his life and which he would have carried out when he was a judge and would have carried out if he had accepted the Supreme Court nomination that was offered to him by the President.

As Governor, I appreciate what judges do. I appointed more judges than any other Governor in my State's history during my tenure as Governor of the State of Nebraska. As a U.S. Senator, I have had similar responsibilities in my role as one who must vote on judicial confirmations. In both cases, one of my principal criteria has been whether or not I would like to have this individual be my judge should I ever stand before the Bench of justice. I not only believe that I would be comfortable with GEORGE MITCHELL as my judge; I also have the similar feeling with GEORGE MITCHELL as my leader.

GEORGE MITCHELL has always, without fail, carried out his difficult duties with grace, fairness to all, and a commanding sense of what is right.

He has been the leader of Senate Democrats. Yet, he has also been the leader of the entire Senate and has been our spokesman to the American people about the work of the people's business here in the Senate.

The Senate, and indeed our country, owes an enormous debt of gratitude to GEORGE MITCHELL for his service and I want to take this opportunity to express my deepest personal thanks and admiration to him as well. Fair winds and following seas to my friend GEORGE MITCHELL, as he embarks on a new phase of his life.

THE RETIREMENT OF SENATOR HARLAN MATHEWS

Mr. EXON. Mr. President, I want to thank and commend the Senate service of our colleague, HARLAN MATHEWS.

Although he has only been with us a short time, HARLAN MATHEWS has certainly made his mark on the U.S. Senate. He has been a forceful advocate for the State of Tennessee and we have all benefited from his thoughtful approach to the many issues we face each day here in the U.S. Senate.

His courtesy, knowledge and helpfulness have been an example to us all.

As a son of Tennessee, he has ably followed in the footsteps of his predecessors, such as AL GORE and Howard Baker. I want to wish him all the best in the future and thank him for his service and friendship.

THE RETIREMENT OF SENATOR HOWARD M. METZENBAUM

Mr. EXON. Mr. President, when the second session of the 103d Congress ends, it will also be the end of an era with the retirement of Senator HOWARD METZENBAUM. And we all know "METZ."

HOWARD METZENBAUM has been one of the most tireless and knowledgeable Senators ever to occupy a seat in this Chamber. If there ever was a fighter in the Senate, HOWARD fit the definition. Working men and women all across America never had a better friend or more forceful advocate than HOWARD METZENBAUM.

When you stand with HOWARD METZENBAUM on an issue, you know you bring a powerful weapon to bear. On those unfortunate occasions when conscience dictates that you must oppose HOWARD, you had better roll up your sleeves and be prepared for a good and hard, but fair, fight.

I want to take this opportunity to wish HOWARD METZENBAUM, my dear friend, the wonderful future he deserves and to tell him how very much—how very, very much—he will be missed.

I have previously described him as "the conscience" of the Senate. History demonstrates that when a pillar of strength departs, the structure is supported by a replacement mainstay. I hope that is true. But finding a fitting replacement for HOWARD METZENBAUM is going to be a formidable task.

THE RETIREMENT OF SENATOR DAVE DURENBERGER

Mr. EXON. Mr. President, as we close this session of the Senate, I want to take this opportunity to salute another dear friend of mine from the other side of the aisle, DAVE DURENBERGER.

Even though we have sat on opposite sides of the political aisle in the Chamber, I have never known partisanship to get in the way of DAVE DURENBERGER pitching in and doing good work on behalf of our country. A more recent example, one of many, was our joint collaboration to break the logjam on Senate passage of campaign finance reform legislation. The Exon-Durenberger compromise was the only reason we were able to gain bipartisan Senate passage of this legislation last year and served as a model for how this important reform could be enacted not only on the Federal level but on the State level, as well. I believe any future such reform effort will have to be based on this concept.

DAVE DURENBERGER has been a field commander in the long, hard fight to reform our health care system. While we have not met with success on that front, without the good work of DAVE DURENBERGER, we never would have even had a chance. We will miss his knowledgeable and conscientious approach to these and many other issues. I want to wish him well on his return to his beloved Minnesota and all the best in the future.

Mr. President, I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I ask I may be allowed to continue as in morning business for a period of time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I ask my friend, the assistant majority leader, to advise me at the time he is ready to close the Senate down.

THE RETIREMENT OF SENATOR DAVID L. BOREN

Mr. EXON. Mr. President, I want to take this opportunity to salute my good friend—and a good, longstanding friend he is—DAVID BOREN, from the State of Oklahoma, as he retires from the U.S. Senate.

DAVID BOREN is one of my closest friends in the Senate. We came here at the same time following our service as Governors of our respective States. DAVID and Molly have been dear friends to Pat and me for many, many years and we will truly miss them here in the U.S. Senate.

DAVID BOREN can truly be described as a sound and sensible law maker. Even more than his tireless efforts to help bring fiscal sanity to our Federal Government, he may very well be even better known for his efforts to rejuvenate the ethics and procedures of this important body.

It was DAVID BOREN who has led the 8-year fight for campaign finance reform. Indeed, I was honored to be one of his foot soldiers in that longstanding effort.

Additionally, DAVID BOREN took on the daunting task of attempting to reorganize the Congress so that it may better serve the people.

DAVID BOREN has also been a leader in the important fight to reduce the perceived power of special interests and help restore the reputation of the U.S. Senate.

The normal types of bills which can be considered routine, although important, come and go. However, the types of issues that DAVID BOREN tackles head-on are the ones which can have even longer lasting and beneficial effects upon our Government.

So, as DAVID BOREN prepares to leave the Senate, I want to thank him for his friendship and all of his important work which we have shared during the past 16 years of our joint service.

Even though I never thought I would say this, I am happy for the University of Oklahoma that he will be assuming the helm and look forward to improved academic standards at Oklahoma and further de-emphasize on football.

Godspeed and the best of luck to my dear friend, DAVID BOREN.

THE RETIREMENT OF DENNIS DECONCINI

Mr. EXON. Mr. President, I want to take this opportunity tonight to talk about another dear and wonderful friend who sits immediately adjacent to me in the U.S. Senate and has for a number of years. He is a departing friend and his name is DENNIS DECONCINI.

We have been seatmates, as I said, for a number of years and close friends and associates. The Senate will truly miss the senior Senator from Arizona when he retires at the end of his term, the end of this session. DENNIS DECONCINI is one of the most conscientious Members of this body. His common sense, knowledge, and persistence have become a hallmark in the U.S. Senate.

DENNIS and I have worked together on many important issues here in the Senate and he is a fighter who I have always been happy to have on my side.

For many years we had neighboring offices in the Hart Senate Office Building and it was also on his personal recommendation that I hired the principal consultant to my last reelection campaign.

The Senate owes a debt of gratitude to the outstanding work and personal contributions of DENNIS DECONCINI. I want to add his leaving is my own personal loss as well as that of the Senate, and wish him all the best in the future.

THE RETIREMENT OF DONALD RIEGLE

Mr. EXON. Mr. President, when this session of the Senate concludes, and we expect it to conclude sometime in the latter part of this week, the Senate will lose one of the most colorful and conscientious Members of our body. He is DON RIEGLE, from Michigan. One of my first legislative fights on the floor of the U.S. Senate was with DON RIEGLE at my side. Even though we were very junior Members at the time, and were trounced in that early vote, I knew that I had made a friend and had found a forceful ally.

If there was a voice for fairness in the U.S. Senate, it was that of DON RIEGLE. If there was ever an advocate for ensuring that our actions here were the right ones for those who depend upon us the most, it was DON RIEGLE.

The Senate will truly miss him, as will I.

I wish him all the best in the future. I recognize and thank him for a quarter century of dedicated leadership in public service, and all of the accomplishments that he was instrumental in making.

I will miss a close friend and associate.

THE RETIREMENT OF SENATOR MALCOLM WALLOP

Mr. EXON. Mr. President, as this congress comes to a close, a forceful and articulate voice in this body will be greatly missed, that of MALCOLM WALLOP.

From my neighboring State of Wyoming, MALCOLM WALLOP quickly earned my respect in this body. He is a man who will stand alone, if necessary, to advocate what he believes is right. He is a patriot and one whose stand on behalf of our national defense is outdone by no one.

Although a political aisle sometimes separated us in the Senate, MALCOLM WALLOP is a man upon whose word you could always count and whom I have always respected.

I want to take this opportunity to thank MALCOLM WALLOP for his friendship and service to our country and wish him all the best in the future.

While he will clearly be missed here, his great State of Wyoming will benefit from his return home full time.

THE RETIREMENT OF SENATOR JOHN C. DANFORTH

Mr. EXON. Mr. President, the Senate will surely be losing one of its most thoughtful Members with the retirement of Senator JACK DANFORTH of Missouri, at the end of this session.

It is not often that someone gets elected to this body who has the breadth of experience of our distinguished colleague from Missouri. From business to the clergy to the law, JACK DANFORTH has been one of the key thinkers and doers on either side of the aisle. As one who has been both with and against JACK DANFORTH on various issues, I can say from experience that he can be a wonderful ally and a formidable foe.

JACK DANFORTH and I have served together for many years on the Senate Commerce Committee where together we have tackled some of the most complicated and vexing problems facing our country. The Senate will truly miss his keen understanding and knowledge in too many areas to mention today.

Additonally, JACK DANFORTH has been a good friend to whom you could always talk, learn something and get a straight answer.

I want to wish SENATOR DANFORTH all the best in his future endeavors. The Senate's loss will be the gain of those in the future who have the privilege of associating with him.

JACK DANFORTH and JIM EXON are both dedicated dyed-in-the-wool St. Louis Cardinal baseball fans. My challenge to him is, to demonstrate that my confidence in him is well placed, by challenging him to now go home and turn around the hapless fortune of the St. Louis Cardinals. If he can do this, I will forgive him even for being a registered Republican.

Mr. President, with that, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar items numbered 977, 978, 979, 980, 981, 982, 1123, 1178, 1191, 1226, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1317, and all nominations placed on the Secretary's desk in the Foreign Service; I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that upon confirmation the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed, en bloc, are as follows:

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

Marilyn Fae Peters, of South Dakota, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Clyde Arlie Wheeler, Jr., of Oklahoma, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

COMMODITY FUTURES TRADING COMMISSION

Sheila C. Bair, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 1995.

Mary L. Schapiro, of the District of Columbia, to be Commissioner of the Commodity Futures Trading Commission for the term expiring April 13, 1999.

Mary L. Schapiro, of the District of Columbia, to be Chairman of the Commodity Futures Trading Commission, vice Wendy Lee Gramm, resigned.

FARM CREDIT ADMINISTRATION

Doyle Cook, of Washington, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for the term expiring May 21, 1998.

CORPORATION FOR PUBLIC BROADCASTING

Alan Sagner, of New Jersey, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring January 31, 1998.

DEPARTMENT OF AGRICULTURE

Roger C. Viadero, of Virginia, to be Inspector General, Department of Agriculture.

DEPARTMENT OF THE TREASURY

Stuart L. Brown, of Maryland, to be an Assistant General Counsel in the Department of the Treasury (Chief Counsel for the Internal Revenue Service).

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Alan A. Diamonstein, of Virginia, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships for the term expiring October 27, 1995.

UNITED STATES INFORMATION AGENCY

Robet B. Fulton, of Pennsylvania, to be an Association Director of the United States Information Agency.

AFRICAN DEVELOPMENT FOUNDATION

Cecil James Banks, of New Jersey, to be a Member of the Board of Directors of the African Development Foundation for a term expiring November 13, 1995.

INTER-AMERICAN FOUNDATION

Patricia Hill Williams, of New York, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring September 20, 2000.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

William Hybl, of Colorado, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 1997. (Reappointment)

DEPARTMENT OF STATE

Vonya B. McCann, of Maryland, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for International Communications and Information Policy.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

Walter R. Roberts, of the District of Columbia, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring April 6, 1997. (Reappointment)

DEPARTMENT OF STATE

Patrick J. Leahy, of Vermont, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Frank H. Murkowski, of Alaska, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of United Nations.

Madeleine Korbel Albright, of the District of Columbia, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Edward William Gnehm, Jr., of Georgia, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

David Elias Birenbaum, of the District of Columbia, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Karl Frederick Inderfurth, of North Carolina, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Victor Marrero, of New York, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

Barbara Blum, of the District of Columbia, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1996.

LaDonna Harris, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for a term expiring May 19, 2000.

Loren Kieve, of New Mexico, to be a Member of the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development for the remainder of the term expiring May 19, 1996.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Harvey G. Ryland, of Florida, to be Deputy Director of the Federal Emergency Management Agency.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Theodore Allegra, and ending Mary Elizabeth Swope, which nominations were received by the Senate and appeared in the Congressional Record of September 22, 1994.

Foreign Service nominations beginning George E. Moose, and ending Edward B. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of September 22, 1994.

Foreign Service nominations beginning Charles E. Costello, and ending Eugene Morris, Jr., which nominations were received by the Senate and appeared in the Congressional Record of September 22, 1994.

Foreign Service nominations beginning Thomas J. Quinn, Jr., and ending Thomas L. Randall, which nominations were received by the Senate and appeared in the Congressional Record of September 22, 1994.

STATEMENT ON THE NOMINATION OF ALAN SAGNER

Mr. HOLLINGS. Mr. President, I am pleased to rise in support of the nomination of Alan Sagner to be a member of the board of the Corporation for Public Broadcasting [CPB]. In his nomination hearing before the Senate Commerce Committee held on May 10, 1994, Mr. Sagner demonstrated that he is qualified to hold this important position.

Mr. Sagner has over 50 years of business experience. He has worked for many years for the States of New Jersey and New York, and has affiliations with numerous professional, civic, and charitable boards and associations.

As a member of the CPB board, Mr. Sagner will be called upon to maintain the commitment to quality and educational programming on public broadcasting, and to ensure that television fulfills its potential as a source of learning for all Americans in this country. In addition, Mr. Sagner will face the difficult challenge of identifying and funding the highest quality broadcast programming, while ensuring that the CPB demonstrates balance and objectivity.

I am a strong supporter of public broadcasting, which has made significant contributions not only to my home State of South Carolina but to all Americans. Public broadcasting has helped to fill the void left by commercial and cable television by providing countless hours of programming for educators, schools and universities, health care providers, and children and adults.

Mr. Sagner merits our support, and I urge the Senate to approve his appointment to the CPB board.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order the Senate will return to legislative session.

YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1146) to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, AZ, and for other purposes.

TITLE I—YAVAPAI-PRESCOTT INDIAN TRIBE WATER RIGHTS SETTLEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Yavapai-Prescott Indian Tribe Water Rights Settlement Act of 1994".

SEC. 102. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) FINDINGS.—The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to the Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 7, 1935, and by actions subsequent thereto, the United States established a reservation for the Yavapai-Prescott Indian Tribe in Arizona adjacent to the city of Prescott;

(5) proceedings to determine the full extent of Yavapai-Prescott Tribe's water rights are currently pending before the Superior Court of the State of Arizona in and for Maricopa County, as part of the general adjudication of the Gila River system and source;

(6) recognizing that final resolution of the general adjudication will take many years and entail great expense to all parties, prolong uncertainty as to the full extent of the Yavapai-Prescott Tribe's entitlement to water and the availability of water supplies to fulfill that entitlement, and impair orderly planning and development by the Tribe and the city of Prescott; the Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have sought to settle all claims to water between and among them;

(7) representatives of the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States have negotiated a Settlement Agreement to resolve all water rights claims between and among them, and to provide the Tribe with long term, reliable water supplies for the orderly development and maintenance of the Tribe's reservation;

(8) pursuant to the Settlement Agreement and the Water Service Agreement, the quantity of water made available to the Yavapai-Prescott Tribe by the city of Prescott and the Chino Valley Irrigation District will be secured, such Agreements will be continued in perpetuity, and the Tribe's continued on-reservation use of water for municipal and industrial, recreational and agricultural purposes will be provided for;

(9) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and assist in firming up the long-term water supplies of the city of Prescott and the Yavapai-Prescott Tribe so as to enable the Tribe to utilize fully its water entitlements in developing a diverse, efficient reservation economy; and

(10) the assignment of the CAP contract of the Yavapai-Prescott Tribe and the CAP subcontract of the city of Prescott is a cost-effective means to ensure reliable, long-term water supplies for the Yavapai-Prescott Tribe and to promote efficient, environmentally sound use of available water supplies in the Verde River basin.

(b) DECLARATION OF PURPOSES.—The Congress declares that the purposes of this title are—

(1) to approve, ratify and confirm the Settlement Agreement among the Yavapai-Prescott Tribe, the city of Prescott, the Chino Valley Irrigation District, the State of Arizona and the United States;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement;

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Yavapai-Prescott Tribe as provided in the Settlement Agreement and this title;

(4) to require that expenditures of funds obtained through the assignment of CAP contract entitlements by the Yavapai-Prescott Tribe and Prescott for the acquisition or development of replacement water supplies in the Verde River basin shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of riparian habitat, flows and biota of the Verde River and its tributaries; and

(5) to repeal section 406(k) of Public Law 101-628 which authorizes $30,000,000 in appropriations for the acquisition of land and water resources in the Verde River basin and for the development thereof as an alternative source of water for the Fort McDowell Indian Community.

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The term "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(2) The term "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract

with the United States, dated December 1, 1988, for the delivery of water and repayment of costs of the Central Arizona Project.

(3) The term "CVID" means the Chino Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(4) The term "Prescott AMA" means the Active Management Area, established pursuant to Arizona law and encompassing the Prescott ground water basin, wherein the primary goal is to achieve balance between annual ground water withdrawals and natural and artificial recharge by the year 2025.

(5) The term "Prescott" means the city of Prescott, an Arizona municipal corporation.

(6) The term "Reservation" means the reservation established by the Act of June 7, 1935 (49 Stat. 332) and the Act of May 18, 1956 (70 Stat. 157) for the Yavapai-Prescott Tribe of Indians.

(7) The term "Secretary" means the Secretary of the United States Department of the Interior.

(8) The term "Settlement Agreement" means that agreement entered into by the city of Prescott, the Chino Valley Irrigation District, the Yavapai-Prescott Indian Tribe, the State of Arizona, and the United States, providing for the settlement of all water claims between and among them.

(9) The term "Tribe" means the Yavapai-Prescott Indian Tribe, a tribe of Yavapai Indians duly recognized by the Secretary.

(10) The term "Water Service Agreement" means that agreement between the Yavapai-Prescott Indian Tribe and the city of Prescott, as approved by the Secretary, providing for water, sewer, and effluent service from the city of Prescott to the Yavapai-Prescott Tribe.

SEC. 104. RATIFICATION OF SETTLEMENT AGREEMENT.

(a) APPROVAL OF SETTLEMENT AGREEMENT.—To the extent the Settlement Agreement does not conflict with the provisions of this title, such Agreement is approved, ratified and confirmed. The Secretary shall execute and perform such Agreement, and shall execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(b) PERPETUITY.—The Settlement Agreement and Water Service Agreement shall include provisions which will ensure that the benefits to the Tribe thereunder shall be secure in perpetuity. Notwithstanding the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81) relating to the term of the Agreement, the Secretary is authorized and directed to approve the Water Service Agreement with a perpetual term.

SEC. 105. ASSIGNMENT OF CAP WATER.

The Secretary is authorized and directed to arrange for the assignment of, or to purchase, the CAP contract of the Tribe and the CAP subcontract of the city of Prescott to provide funds for deposit into the Verde River Basin Water Fund established pursuant to section 106.

SEC. 106. REPLACEMENT WATER FUND; CONTRACTS.

(a) FUND.—The Secretary shall establish a fund to be known as the "Verde River Basin Water Fund" (hereinafter called the "Fund") to provide replacement water for the CAP water relinquished by the Tribe and by Prescott. Moneys in the Fund shall be available without fiscal year limitations.

(b) CONTENT OF FUND.—The Fund shall consist of moneys obtained through the assignment or purchase of the contract and subcontract referenced in section 105, appropriations as authorized in section 109, and any moneys returned to the Fund pursuant to subsection (d) of this section.

(c) PAYMENTS FROM FUND.—The Secretary shall, subsequent to the publication of a statement of findings as provided in section 112(a), promptly cause to be paid from the Fund to the Tribe the amounts deposited to the Fund from the assignment or purchase of the Tribe's CAP contract, and, to the city of Prescott, the amounts deposited to the Fund from the assignment or purchase of the city's CAP subcontract.

(d) CONTRACTS.—The Secretary shall require, as a condition precedent to the payment of any moneys pursuant to subsection (c), that the Tribe and Prescott agree, by contract with the Secretary, to establish trust accounts into which the payments would be deposited and administered, to use such moneys consistent with the purpose and intent of section 107, to provide for audits of such accounts, and for the repayment to the Fund, with interest, any amount determined by the Secretary not to have been used within the purpose and intent of section 107.

SEC. 107. EXPENDITURES OF FUNDS.

(a) BY THE CITY.—All moneys paid to Prescott for relinquishing its CAP subcontract and deposited into a trust account pursuant to section 106(d), shall be used for the purposes of defraying expenses associated with the investigation, acquisition or development of alternative sources of water to replace the CAP water relinquished under this title. Alternative sources shall be understood to include, but not be limited to, retirement of agricultural land and acquisition of associated water rights, development of ground water resources outside the Prescott Active Management Area established pursuant to the laws of the State of Arizona, and artificial recharge; except that none of the moneys paid to Prescott may be used for construction or renovation of the city's existing waterworks or water delivery system.

(b) BY THE TRIBE.—All funds paid to the Tribe for relinquishing its CAP contract and deposited into a trust account pursuant to section 106(d), shall be used to defray its water service costs under the Water Service Agreement or to develop and maintain facilities for on-reservation water or effluent use.

(c) NO PER CAPITA PAYMENTS.—No amount of the Tribe's portion of the Fund may be used to make per capita payments to any member of the Tribe, nor may any amount of any payment made pursuant to section 106(c) be distributed as a dividend or per capita payment to any constituent, member, shareholder, director or employee of Prescott.

(d) DISCLAIMER.—Effective with the payment of funds pursuant to section 106(c), the United States shall not be liable for any claim or cause of action arising from the use of such funds by the Tribe or by Prescott.

SEC. 108. ENVIRONMENTAL COMPLIANCE.

The Secretary, the Tribe and Prescott shall comply with all applicable Federal environmental and State environmental and water laws in developing alternative water sources pursuant to section 107(a). Development of such alternative water sources shall not be inconsistent with the goals of the Prescott Active Management Area, preservation of the riparian habitat, flows and biota of the Verde River and its tributaries.

SEC. 109. APPROPRIATIONS AUTHORIZATION AND REPEAL.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Fund established pursuant to section 106(a):

(1) Such sums as may be necessary, but not to exceed $200,000, to the Secretary for the Tribe's costs associated with judicial confirmation of the settlement.

(2) Such sums as may be necessary to establish, maintain and operate the gauging station required under section 111(e).

(b) STATE CONTRIBUTION.—The State of Arizona shall contribute $200,000 to the trust account established by the Tribe pursuant to the Settlement Agreement and section 106(d) for uses consistent with section 107(b).

(c) REPEAL.—Subsection 406(k) of the Act of November 28, 1990 (Public Law 101-628; 104 Stat. 4487) is repealed.

SEC. 110. SATISFACTION OF CLAIMS.

(a) WAIVER.—The benefits realized by the Tribe or any of its members under the Settlement Agreement and this title shall constitute full and complete satisfaction of all claims by the Tribe and all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water and effluent) from time immemorial to the effective date of this title, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this title. Nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's reservation.

(b) WAIVER AND RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized and required, as a condition to the implementation of this title, to execute a waiver and release, except as provided in subsection (d) and the Settlement Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) WAIVER BY UNITED STATES.—Except as provided in subsection (d) and the Settlement Agreement, the United States, in its own right or on behalf of the Tribe, shall not assert any claim against the State of Arizona or any political subdivision thereof, or against any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona based upon water rights or injuries to water rights of the Tribe and its members or based upon water rights or injuries to water rights held by the United States on behalf of the Tribe and its members.

(d) RIGHTS RETAINED.—In the event the waivers of claims authorized in subsection (b) of this section do not become effective pursuant to section 112(a), the Tribe, and the United States on behalf of the Tribe, shall retain the right to assert past and future water rights claims as to all reservation lands.

(e) JURISDICTION.—The United States District Court for the District of Arizona shall have original jurisdiction of all actions arising under this title, the Settlement Agreement and the Water Service Agreement, including review pursuant to title 9, United States Code, of any arbitration and award under the Water Service Agreement.

(f) CLAIMS.—Nothing in this title shall be deemed to prohibit the Tribe, or the United States on behalf of the Tribe, from asserting or maintaining any claims for the breach or enforcement of the Settlement Agreement or the Water Service Agreement.

(g) DISCLAIMER.—Nothing in this title shall affect the water rights or claims related to any trust allotment located outside the exterior boundaries of the reservation of any member of the Tribe.

(h) FULL SATISFACTION OF CLAIMS.—Payments made to Prescott under this title shall be in full satisfaction for any claim that Prescott might have against the Secretary or the United States related to the allocation, reallocation, relinquishment or delivery of CAP water.

SEC. 111. MISCELLANEOUS PROVISIONS.

(a) JOINING OF PARTIES.—In the event any party to the Settlement Agreement should file a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of the Settlement Agreement or this title, naming the United States of America or the Tribe as parties, authorization is hereby granted to join the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived. In the event Prescott submits a dispute under the Water Service Agreement to arbitration or seeks review by the United States District Court for the District of Arizona of an arbitration award under the Water Service Agreement, any claim by the Tribe to sovereign immunity from such arbitration or review is hereby waived.

(b) NO REIMBURSEMENT.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of the Settlement Agreement or this title against any lands within the Yavapai-Prescott Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) WATER MANAGEMENT.—The Tribe shall establish a ground water management plan for the Reservation which, except to be consistent with the Water Service Agreement, the Settlement Agreement and this title, will be compatible with the ground water management plan in effect for the Prescott Active Management Area and will include an annual information exchange with the Arizona Department of Water Resources. In establishing a ground water management plan pursuant to this section, the Tribe may enter into a Memorandum of Understanding with the Arizona Department of Water Resources for consultation. Notwithstanding any other law, the Tribe may establish a tribal water code, consistent with the above-described water management plan, under which the Tribe will manage, regulate, and control the water resources granted it in the Settlement Act, the Settlement Agreement, and the Water Service Agreement, except that such management, regulation and control shall not authorize any action inconsistent with the trust ownership of the Tribe's water resources.

(d) GAUGING STATION.—The Secretary, acting through the Geological Survey, shall establish, maintain and operate a gauging station at the State Highway 89 bridge across Granite Creek adjacent to the reservation to assist the Tribe and the CVID in allocating the surface flows from Granite Creek as provided in the Settlement Agreement.

SEC. 112. EFFECTIVE DATE.

(a) WAIVERS AND RELEASES.—The waivers and releases required by section 110(b) of this title shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1)(A) the Secretary has determined that an acceptable party, or parties, have executed contracts for the assignments of the Tribe's CAP contract and the city of Prescott's CAP subcontract, and the proceeds from the assignments have been deposited into the Fund as provided in section 106(d); or,

(B) the Secretary has executed contracts for the acquisition of the Tribe's CAP contract and the city of Prescott's CAP subcontract as provided in section 106(d);

(2) the stipulation which is attached to the Settlement Agreement as exhibit 9.5, has been approved in substantially the form of such exhibit no later than December 31, 1994;

(3) the Settlement Agreement has been modified to the extent it is in conflict with this title and has been executed by the Secretary; and

(4) the State of Arizona has appropriated and deposited into the Tribe's trust account $200,000 as required by the Settlement Agreement.

(b) DEADLINE.—If the actions described in paragraphs (1), (2), (3), and (4) of subsection (a) have not occurred by December 31, 1995, any contract between Prescott and the United States entered into pursuant to section 106(d) shall not thereafter be effective, and any funds appropriated by the State of Arizona pursuant to the Settlement Agreement shall be returned by the Tribe to the State of Arizona.

SEC. 113. OTHER CLAIMS.

(a) OTHER TRIBES.—Nothing in the Settlement Agreement or this title shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Tribe.

(b) FEDERAL AGENCIES.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal agency, other than the Bureau of Indian Affairs on behalf of the Tribe.

TITLE II—AUBURN INDIAN RESTORATION

SEC. 201. SHORT TITLE.

This title may be cited as the "Auburn Indian Restoration Act".

SEC. 202. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any other provision of law, Federal recognition is hereby extended to the Tribe. Except as otherwise provided in this title, all laws and regulations of general application to Indians or nations, tribes, or bands of Indians that are not inconsistent with any specific provision of this title shall be applicable to the Tribe and its members.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the Tribe and its members under any Federal treaty, Executive order, agreement, or statute, or under any other authority which were diminished or lost under the Act of August 18, 1958 (Public Law 85-671), are hereby restored and the provisions of such Act shall be inapplicable to the Tribe and its members after the date of enactment of this title.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law and without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this title, for all Federal services and benefits furnished to federally recognized Indian tribes or their members. In the case of Federal services available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the Tribe's service area shall be deemed to be residing on a reservation.

(d) HUNTING, FISHING, TRAPPING, AND WATER RIGHTS.—Nothing in this title shall expand, reduce, or affect in any manner any hunting, fishing, trapping, gathering, or water right of the Tribe and its members.

(e) INDIAN REORGANIZATION ACT APPLICABILITY.—The Act of June 18, 1934 (25 U.S.C. 461 et seq.), shall be applicable to the Tribe and its members.

(f) CERTAIN RIGHTS NOT ALTERED.—Except as specifically provided in this title, nothing in this title shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 203. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1) enter into negotiations with the governing body of the Tribe with respect to establishing a plan for economic development for the Tribe;

(2) in accordance with this section and not later than 2 years after the adoption of a tribal constitution as provided in section 107, develop such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe, submit such plan to the Congress.

(b) RESTRICTIONS.—Any proposed transfer of real property contained in the plan developed by the Secretary under subsection (a) shall be consistent with the requirements of section 104.

SEC. 204. TRANSFER OF LAND TO BE HELD IN TRUST.

(a) LANDS TO BE TAKEN IN TRUST.—The Secretary shall accept any real property located in Placer County, California, for the benefit of the Tribe if conveyed or otherwise transferred to the Secretary if, at the time of such conveyance or transfer, there are no adverse legal claims on such property, including outstanding liens, mortgages, or taxes owed. The Secretary may accept any additional acreage in the Tribe's service area pursuant to the authority of the Secretary under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(b) FORMER TRUST LANDS OF THE AUBURN RANCHERIA.—Subject to the conditions specified in this section, real property eligible for trust status under this section shall include fee land held by the White Oak Ridge Association, Indian owned fee land held communally pursuant to the distribution plan prepared and approved by the Bureau of Indian Affairs on August 13, 1959, and Indian owned fee land held by persons listed as distributees or dependent members in such distribution plan or such distributees' or dependent members' Indian heirs or successors in interest.

(c) LANDS TO BE PART OF THE RESERVATION.—Subject to the conditions imposed by this section, any real property conveyed or transferred under this section shall be taken in the name of the United States in trust for the Tribe or, as applicable, an individual member of the Tribe, and shall be part of the Tribe's reservation.

SEC. 205. MEMBERSHIP ROLLS.

(a) COMPILATION OF TRIBAL MEMBERSHIP ROLL.—Within 1 year after the date of the enactment of this title, the Secretary shall, after consultation with the Tribe, compile a membership roll of the Tribe.

(b) CRITERIA FOR ENROLLMENTS.—(1) Until a tribal constitution is adopted pursuant to section 207, an individual shall be placed on the membership roll if the individual is living, is not an enrolled member of another federally recognized Indian tribe, is of United Auburn Indian Community ancestry, possesses at least one-eighth or more of Indian blood quantum, and if—

(A) the individual's name was listed on the Auburn Indian Rancheria distribution roll compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85-671;

(B) the individual was not listed on, but met the requirements that had to be met to be listed on, the Auburn Indian Rancheria distribution list compiled and approved by the Bureau of Indian Affairs on August 13, 1959, pursuant to Public Law 85-671; or

(C) the individual is a lineal descendant of an individual, living or dead, identified in subparagraph (A) or (B).

(2) After adoption of a tribal constitution pursuant to section 207, such tribal constitution shall govern membership in the Tribe, except that in addition to meeting any other criteria imposed in such tribal constitution, any person added to the membership roll shall be of United Auburn Indian Community ancestry and shall not be an enrolled member of another federally recognized Indian tribe.

(c) CONCLUSIVE PROOF OF UNITED AUBURN INDIAN COMMUNITY ANCESTRY.—For the purpose of subsection (b), the Secretary shall accept any available evidence establishing United Auburn Indian Community ancestry. The Secretary shall accept as conclusive evidence of United Auburn Indian Community ancestry information contained in the Auburn Indian Rancheria distribution list compiled by the Bureau of Indian Affairs on August 13, 1959.

SEC. 206. INTERIM GOVERNMENT.

Until a new tribal constitution and bylaws are adopted and become effective under section 207, the Tribe's governing body shall be an Interim Council. The initial membership of the Interim Council shall consist of the members of the Executive Council of the Tribe on the date of the enactment of this title, and the Interim Council shall continue to operate in the manner prescribed for the Executive Council under the tribal constitution adopted July 20, 1991, as long as such constitution is not contrary to Federal law. Any new members filling vacancies on the Interim council shall meet the enrollment criteria set forth in section 205(b) and be elected in the same manner as are Executive Council members under the tribal constitution adopted July 20, 1991.

SEC. 207. TRIBAL CONSTITUTION.

(a) ELECTION; TIME AND PROCEDURE.—Upon the completion of the tribal membership roll under section 205(a) and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election for the purpose of adopting a constitution and bylaws for the Tribe. The election shall be held according to section 16 of the Act of June 18, 1934 (25 U.S.C. 476), except that absentee balloting shall be permitted regardless of voter residence.

(b) ELECTION OF TRIBAL OFFICIALS; PROCEDURES.—Not later than 120 days after the Tribe adopts a constitution and bylaws under subsection (a), the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in such tribal constitution. Such election shall be conducted according to the procedures specified in subsection (a) except to the extent that such procedures conflict with the tribal constitution.

SEC. 208. DEFINITIONS.

For purposes of this title:

(1) The term "Tribe" means the United Auburn Indian Community of the Auburn Rancheria of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Interim Council" means the governing body of the Tribe specified in section 206.

(4) The term "member" means those persons meeting the enrollment criteria under section 205(b).

(5) The term "State" means the State of California.

(6) The term "reservation" means those lands acquired and held in trust by the Secretary for the benefit of the Tribe pursuant to section 204.

(7) The term "service area" means the counties of Placer, Nevada, Yuba, Sutter, El Dorado, and Sacramento, in the State of California.

SEC. 209. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this title.

TITLE III—CENTRAL UTAH PROJECT

SEC. 301. APPLICATION OF THE WARREN ACT.

(a) AUTHORITY.—The Secretary of the Interior may—

(1) enter into contracts with private entities pursuant to the Act of February 21, 1911 (commonly known as the "Warren Act") (36 Stat. 925 et seq., chapter 141; 43 U.S.C. 523 et seq.), for the impounding, storage, and carriage of nonproject water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes, using any facilities associated with the Central Utah Project, Utah; and

(2) enter into agreements, under terms and conditions authorized for contracts under such Act, with appropriate officials of other Federal agencies, municipalities, public water districts and agencies, and States for impounding, storage, and carriage of nonproject water for purposes described in paragraph (1) using facilities referred to in such paragraph.

(b) NONPROJECT WATER DEFINED.—In subsection (a), the term "nonproject water" means water that is not from a Federal Reclamation project.

SEC. 302. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

Section 301(d) of Public Law 102-575 (106 Stat. 4626) is amended by adding the following new paragraph at the end:

"(8) Any employee of the District or member of the Board of Directors of the District may serve as a member of the Commission.".

TITLE IV—MOUNTAIN PARK PROJECT

SEC. 401. SHORT TITLE.

This title may be cited as the "Mountain Park Project Act of 1994".

SEC. 402. MODIFICATION OF MOUNTAIN PARK PROJECT.

(a) IN GENERAL.—The first section of the Act entitled "An Act to authorize the Secretary of the Interior to construct, operate, and maintain the Mountain Park reclamation project, Oklahoma, and for other purposes" (Public Law 90-503; 82 Stat. 853) is amended by striking out "and controlling floods." and inserting in lieu thereof "controlling floods, and environmental quality activities. As used in this Act, the term 'environmental quality activity' means any activity that primarily benefits the quality of natural environmental resources.".

(b) REALLOCATION OF PROJECT COSTS.—Such Act is further amended by adding at the end the following new section:

"SEC. 7. (a)(1) Not later than 180 days after the date of enactment of the Mountain Park Project Act of 1994, the Secretary of the Interior (referred to in this section as the 'Secretary') shall—

"(A) conduct appropriate investigations to determine environmental quality activities that could be carried out for the Mountain Park project; and

"(B) on the basis of the determination made under subparagraph (A), make an appropriate reallocation of the costs of the project under sections 2 and 3 (referred to in this section as 'project costs') to accommodate the environmental quality activities that the Secretary authorizes pursuant to this subsection.

"(2) In conducting investigations under this subsection, the Secretary shall examine the benefits to natural environmental resources achievable from an environmental quality activity that requires reallocating water or using facilities or land of the Mountain Park project, including any of the following activities:

"(A) Developing in-stream flows.

"(B) Developing wetland habitat.

"(C) Any other environmental quality activity that the Secretary determines to be appropriate to benefit the overall quality of the environment.

"(b)(1) Upon completion of the investigations under subsection (a)(2), the Secretary shall carry out the following:

"(A) The preparation of a proposed reallocation of project costs in conformance with subsection (a)(1)(B).

"(B) Negotiations with the Mountain Park Master Conservancy District (referred to in this section as the 'District') to amend the contract executed by the District pursuant to this Act to adjust the obligation of the District to repay project costs, as described in section 2, to reflect the reallocation of nonreimbursable project costs.

"(2) For the purposes of paragraph (1), project costs associated with an environmental quality activity specified by the Secretary pursuant to subsection (a)(2) shall be nonreimbursable project costs.

"(c)(1) Notwithstanding any other provision of this Act, the Secretary is authorized to accept prepayment of the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city of Altus, Oklahoma, the city of Frederick, Oklahoma, or the city of Snyder, Oklahoma (or any combination thereof), and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs, and any security held therefor, shall be released by the Secretary.

"(2) Any prepayment made pursuant to subsection (c)(1) shall realize to the United States an amount calculated by discounting the remaining repayment obligation by the interest rate determined in accordance with subsection (d).

"(d)(1) The Secretary of the Treasury shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget and the Department of Treasury Financial Manual. In determining the interest rate, the Secretary shall consider the price of the District's obligation if it were to be sold on the open market to a third party.

"(2) If the District uses tax-exempt financing to finance a prepayment under subsection (c)(1), then the interest rate by which the Secretary discounts the remaining payments due on the District's obligation shall be adjusted by an amount that compensates the United States for the direct or indirect loss of future tax revenues.

"(e) Notwithstanding any payment made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.".

(c) REPEAL.—Section 3101 of the Reclamation Projects Authorization and Adjustment Act of 1992 (Public Law 102–575; 106 Stat. 4698) is repealed.

TITLE V—SAN ANGELO FEDERAL RECLAMATION PROJECT

SEC. 501. INCREASE IN IRRIGABLE ACREAGE.

(a) IN GENERAL.—The first section of the Act entitled "An Act to provide for the construction by the Secretary of the Interior of the San Angelo Federal reclamation project, Texas, and for other purposes", approved August 16, 1957 (71 Stat. 372), is amended by striking "ten thousand acres" and inserting "fifteen thousand acres".

(b) AMENDMENT TO CONTRACT.—The Secretary of the Interior is authorized to amend contract numbered 14–06–500–369 to reflect the amendment made by subsection (a), except that such amendment shall not be construed to require a change in the proportionate amount of all remaining payments due and payable to the United States by Tom Green County Water Control Improvement District No. 1.

TITLE VI—SHOSHONE FEDERAL RECLAMATION PROJECT

SEC. 601. CONVEYANCE TO THE BIG HORN COUNTY SCHOOL DISTRICT.

The Secretary of the Interior shall convey, by quit claim deed, to the Big Horn County School District, Wyoming, all right, title, and interest of the United States in and to the following described lands in Big Horn County, Wyoming: Lot 18 of Block 22, Lots 1–6 of Block 25, all of Block 21, and all within the town of Frannie, Wyoming, in the S½NW¼NW¼ and N½SW¼NW¼ of T. 58N., R. 97 W., Big Horn County.

TITLE VII—LAKE POWELL

SEC. 701. ELIMINATION OF 24-HOUR RESTRICTION.

The second sentence of section 104(c) of the Reclamation Development Act of 1974 (Public Law 93–493; 88 Stat. 1488) is amended by striking "or three million gallons of water in any twenty-four-hour period,".

TITLE VIII—MNI WICONI RURAL WATER SUPPLY PROJECT

SEC. 801. SHORT TITLE.

This title may be cited as the "Mni Wiconi Act Amendments of 1994".

SEC. 802. REFERENCE.

Whenever in this title a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Mni Wiconi Project Act of 1988 (102 Stat. 2566).

SEC. 803. FINDINGS AND PURPOSES.

(a) FINDINGS.—Subsection (a) of section 2 (102 Stat. 2566) is amended—

(1) in paragraph (1), by striking "Reservation" and inserting "Reservation, Rosebud Indian Reservation, and Lower Brule Indian Reservation";

(2) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) the lack of water supplies on the Rosebud Reservation and Lower Brule Reservation restrict efforts to promote economic development on those reservations;";

(3) in paragraph (5), as redesignated by paragraph (2) of this subsection, by striking "Reservation;" and inserting "Reservation, Rosebud Indian Reservation, and Lower Brule Indian Reservation;"; and

(4) in paragraph (6), as redesignated by paragraph (2) of this subsection, by inserting "Rosebud Indian Reservation and Lower Brule Indian Reservation," after "Reservation,".

(b) PURPOSE.—Subsection (b) of section 2 (102 Stat. 2566) is amended by inserting ", Rosebud Indian Reservation, and Lower Brule Indian Reservation" after "Reservation" each place it appears.

SEC. 804. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—Subsection (a) of section 3 (102 Stat. 2567) is amended—

(1) in the matter preceding paragraph (1), by striking "1988." and inserting "1988, and as more specifically described in the Final Engineering Report dated May, 1993."; and

(2) by amending paragraph (3) to read as follows:

"(3) facilities to allow for interconnections with the West River Rural Water System, Lyman-Jones Rural Water System, Rosebud Sioux Rural Water System, and Lower Brule Sioux Rural Water System;".

(b) CONSTRUCTION REQUIREMENTS.—Subsection (d) of such section (102 Stat. 2568) is amended—

(1) by striking "West River Rural Water System, and the Lyman-Jones Rural Water System,"; and by inserting "West River Rural Water System, the Lyman-Jones Rural Water System, the Rosebud Sioux Rural Water System, and the Lower Brule Sioux Rural Water System,"; and

(2) by striking "three systems" and inserting "five systems authorized under this Act".

(c) TITLE TO SYSTEM.—Subsection (e) of such section (102 Stat. 2568) is amended by inserting "or encumbered" after "transferred".

SEC. 805. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

Section 4(a) of the Act is amended—

(1) in paragraph (2), by striking out "65 per centum" and inserting in lieu thereof "80 percent"; and

(2) in paragraph (3), by striking out "35 per centum" and inserting in lieu thereof "20 percent".

SEC. 806. ROSEBUD SIOUX RURAL WATER SYSTEM AND LOWER BRULE SIOUX RURAL WATER SYSTEM.

The Act is amended by inserting after section 3 the following:

"SEC. 3A. ROSEBUD SIOUX RURAL WATER SYSTEM.

"(a) AUTHORIZATION.—The Secretary is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Rosebud Sioux Rural Water System, as generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May, 1993. The Rosebud Sioux Rural Water system shall consist of—

"(1) necessary pumping and treatment facilities;

"(2) pipelines extending from the points of interconnections with the Oglala Sioux Rural Water System to the Rosebud Indian Reservation;

"(3) facilities to allow for interconnections with the Lyman-Jones Rural Water Supply System;

"(4) distribution and treatment facilities to serve the needs of the Rosebud Indian Reservation, and other areas described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, including (but not limited to) the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents of the Rosebud Indian Reservation;

"(5) appurtenant buildings and property rights;

"(6) necessary property and property rights;

"(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

"(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary and appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Rosebud Sioux Tribe and reservation villages, towns, and municipalities.

"(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN THE ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM.—

"(1) In carrying out subsection (a), the Secretary, with the concurrence of the Rosebud Sioux Tribal Council, shall enter into cooperative agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Rosebud Sioux Rural Water System.

"(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

"(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

"(B) the procedures and requirements for approval and acceptance of such design and construction; and

"(C) the rights, responsibilities, and liabilities of each party to the agreement.

"(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Rosebud Indian Reservation.

"(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Rosebud Sioux Tribe.

"(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10(a) for the Rosebud Sioux Rural Water System.

"(c) SERVICE AREA.—The service area of the Rosebud Sioux Rural Water System shall extend to all of Todd County, South Dakota, and to all other territory and lands generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993 and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May 1993.

"(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Rosebud Sioux Rural Water System shall be planned and constructed to a size sufficient to meet the municipal, rural and industrial water supply requirements of the Rosebud Sioux Tribe and the Lyman-Jones Rural Water System, as generally described in the Rosebud Sioux Tribe Municipal, Rural and Industrial Water Needs Assessment, dated July 1993, and the Final Engineering Report for the Mni Wiconi Rural Water Supply Project dated May, 1993, taking into account the effects of the conservation plans described in section 5. The Rosebud Rural Water System and Lyman-Jones Rural Water System may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Rosebud Sioux Rural Water System.

"(e) TITLE TO SYSTEM.—Title to the Rosebud Sioux Rural Water System shall be held in trust for the Rosebud Sioux Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

"(f) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Rosebud Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Rosebud Sioux Rural Water System, including (but not limited to) operation and management training.

"(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, and operation of the Rosebud Sioux Rural Water System shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638, 25 U.S.C. 450).

"SEC. 3B. LOWER BRULE SIOUX RURAL WATER SYSTEM.

"(a) AUTHORIZATION.—The Secretary is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Lower Brule Sioux Rural Water System, as generally described in the Final Engineering Report for the Mni Wiconi Rural Water Supply Project, dated May 1993. The Lower Brule Sioux Rural Water System shall consist of—

"(1) necessary pumping and treatment facilities;

"(2) pipelines extending from the points of interconnections with the Oglala Sioux Rural Water Supply System to the Lower Brule Indian Reservation;

"(3) facilities to allow for interconnections with the Lyman-Jones Rural Water Supply System;

"(4) distribution and treatment facilities to serve the needs of the Lower Brule Indian Reservation, including (but not limited to) the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents of the Lower Brule Indian Reservation;

"(5) appurtenant buildings and property rights;

"(6) necessary property and property rights;

"(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

"(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary and appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Lower Brule Sioux Tribe and reservation villages, towns and municipalities.

"(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, DESIGN, CONSTRUCT, OPERATE AND MAINTAIN THE LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM.—

"(1) In carrying out subsection (a), the Secretary, with the concurrence of the Lower Brule Sioux Tribal Council, shall enter into cooperative agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Lower Brule Sioux Rural Water System.

"(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

"(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design, construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

"(B) the procedures and requirements for approval and acceptance of such design and construction; and

"(C) the rights, responsibilities, and liabilities of each party to the agreement.

"(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including systems owned by individual tribal members and other residents located on the Lower Brule Indian Reservation.

"(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Lower Brule Sioux Tribe.

"(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10(a) for the Lower Brule Sioux Rural Water System.

"(c) SERVICE AREA.—The service area of the Lower Brule Sioux Rural Water System shall be the boundaries of the Lower Brule Indian Reservation.

"(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Lower Brule Sioux Rural Water System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Lower Brule Sioux Tribe and the Lyman-Jones Rural Water System, as generally described in the Final Engineering Report of the Mni Wiconi Rural Water Supply Project, dated May 1993, taking into account the effects of the conservation plans described in section 5. The Lower Brule Sioux Rural Water System and Lyman-Jones Rural Water System may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Lower Brule Sioux Rural Water System.

"(e) TITLE TO SYSTEM.—Title to the Lower Brule Sioux Rural Water System shall be held in trust for the Lower Brule Sioux Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

"(f) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Lower Brule Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Lower Brule Sioux Rural Water System, including (but not limited to) operation and management training.

"(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Planning, design, construction, and operation of the Lower Brule Sioux Rural Water System shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638, 25 U.S.C. 450).".

SEC. 807. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) SERVICE AREA.—Subsection (d) of section 4 (102 Stat. 2569) is amended by striking the period at the end thereof and inserting ", and Final Engineering Report dated May 1993.".

(b) INTERCONNECTION OF FACILITIES AND WAIVER OF CHARGES.—Section 4 of the Act (102 Stat. 2568) is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) INTERCONNECTION OF FACILITIES AND WAIVER OF CHARGES.—The Secretary is authorized to interconnect the Lyman-Jones Rural Water System, and the West River Rural Water System, with each of the other systems authorized under this Act, and to provide for the delivery of water to the West River Rural Water System, and Lyman-Jones Rural Water System, without charge or cost, from the Missouri River and through common facilities of the Oglala Sioux Rural Water Supply System, Rosebud Rural Water System and Lower Brule Rural Water System.".

SEC. 808. WATER CONSERVATION.

Section 5 of the Act (102 Stat. 2570) is amended by striking "The non-Federal parties (including the Oglala Sioux Tribe)" and inserting "Each non-Federal party (including the Oglala Sioux Tribe, Rosebud Sioux Tribe, and Lower Brule Sioux Tribe)".

SEC. 809. MITIGATION OF FISH AND WILDLIFE LOSSES.

Section 6 of the Act (102 Stat. 2570) is amended—

(1) in subsection (a)—

(A) by inserting ", ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM, LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM," after "SUPPLY SYSTEM"; and

(B) by inserting "Rosebud Sioux Rural Water Supply System, Lower Brule Sioux Rural Water Supply System," after "Supply System,"; and

(2) in subsection (b)—

(A) by inserting ", all Indian tribes residing on reservations within the State of South Dakota," after "South Dakota";

(B) by inserting "and terrestrial" after "wildlife";

(C) by striking "Such plans" and inserting "Such recommendations"; and

(D) by adding at the end the following:

"The Indian tribes shall be afforded an opportunity to review and concur within any recommendations affecting their reservations before they are submitted to Congress.".

SEC. 810. PROHIBITION OF USE OF FUNDS FOR IRRIGATION PURPOSES.

Section 7 of the Act (102 Stat. 2570) is amended by striking "Supply System," and inserting "Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Rural Water Supply System,".

SEC. 811. RULE OF CONSTRUCTION.

Section 8 of the Act (102 Stat. 2570) is amended—

(1) by inserting ", Rosebud Sioux Tribe, and Lower Brule Sioux Tribe" after "Tribe"; and

(2) by striking "or construct" and inserting "construct, maintain, or replace".

SEC. 812. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—Subsection (a) of section 9 (102 Stat. 2570) is amended by striking "sections 3" and inserting "sections 3, 3A, 3B,".

(b) DEFINITIONS.—Subsection (e)(1) of section 9 (102 Stat. 2571) is amended by striking "Supply System," and inserting "Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Sioux Rural Water Supply System,".

SEC. 813. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act (102 Stat. 2571) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $263,241,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the Rosebud Sioux Rural Water Supply System, the Lower Brule Sioux Rural Water Supply System, the West River Rural Water Supply System, and the Lyman-Jones Rural Water Supply System described in sections 3, 3A, 3B, and 4. Such funds are authorized to be appropriated only through the end of the year 2003. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the Systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after October 1, 1992, as indicated by engineering costs indices applicable for the type of construction involved.

"(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM, ROSEBUD SIOUX RURAL WATER SUPPLY SYSTEM AND LOWER BRULE SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System, Rosebud Sioux Rural Water Supply System and Lower Brule Sioux Rural Water Supply System. The operation and maintenance expenses associated with water deliveries to the West River and Lyman-Jones Rural Water Systems are a non-Federal responsibility and for such deliveries the Secretary shall enter into a contract with the West River and Lyman-Jones Systems for the payment of an annual operation and maintenance fee. Such fee shall be based on the incremental operation and maintenance costs for water actually delivered each year to the West River and Lyman-Jones Rural Water Systems. Such operation and maintenance payments shall be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations as indicated by indices applicable to comparable regional rural water supply systems for the type of operation and maintenance involved.

"(c) WASTE WATER DISPOSAL SYSTEMS FEASIBILITY STUDIES.—There is authorized to be appropriated such sums as may be necessary to complete the feasibility studies authorized by section 15(c).".

SEC. 814. WATER RIGHTS.

Paragraph (5) of section 11 (102 Stat. 2571) is amended—

(1) by inserting "rights, benefits, privileges or claims, including" after "affect any";

(2) by inserting "Rosebud Sioux Tribe and Lower Brule Sioux Tribe," after "Tribe," the first place it appears;

(3) by striking "the Pine Ridge Indian Reservation" and inserting "their respective reservations"; and

(4) by striking "Tribe," the second place it appears and inserting "Tribe, Rosebud Sioux Tribe, Lower Brule Sioux Tribe,".

SEC. 815. FEASIBILITY STUDIES.

(a) ALTERNATE USES.—Section 3 of Public Law 97-273, as amended by section 12(b) of Public Law 100-516 (102 Stat. 2572), is amended by striking "Dakota," and inserting "Dakota and all Indian tribes residing on reservations within the State of South Dakota,".

(b) WASTE WATER DISPOSAL SYSTEMS.—Section 12 of the Act (102 Stat. 2572) is amended by adding at the end the following:

"(c) WASTE WATER DISPOSAL SYSTEMS.—(1) The Secretary is authorized and directed, in consultation with the Oglala Sioux Tribe, Rosebud Sioux Tribe and Lower Brule Sioux Tribe, to conduct feasibility studies on the need to develop waste water disposal facilities and systems, and rehabilitate existing waste water disposal facilities and systems, on the Pine Ridge Indian Reservation, Rosebud Indian Reservation and Lower Brule Indian Reservation, and to report to the Congress the findings of such studies along with his recommendations.

"(2) The feasibility studies authorized under this subsection shall be completed and presented to Congress within one year after the date that funds are first made available by the Secretary to complete the studies.".

TITLE IX—BELLE FOURCHE IRRIGATION PROJECT

SEC. 901. EXPANSION OF BELLE FOURCHE IRRIGATION PROJECT.

(a) AUTHORIZATION OF ADDITIONAL ACTIVITIES.—The Act entitled "An Act to authorize rehabilitation of the Belle Fourche irrigation project, and for other purposes." (Public Law 98-157, 97 Stat. 989) is amended in the first section—

(1) by striking "That the general" and inserting in lieu thereof, so as to appear immediately after and below the enacting clause, the following:

"SECTION 1. (a) The general plan for"; and

(2) by adding at the end the following:

"(b)(1) In addition to the activities authorized under subsection (a), the general plan for the Belle Fourche project is modified to include the following:

"(A) Rehabilitation of the following major water control structures:

"(i) The Whitewood Siphon.

"(ii) 2 Belle Fourche dam outlets.

"(B) Lining at South Canal and rehabilitation of Johnson Lateral for water conservation.

"(C) Replacement or rehabilitation of deteriorated canal bridges.

"(D) Provision of minor lateral rehabilitation and contract support work by the Belle Fourche irrigation district.

"(E) Conduct of a detailed study of project-wide water use management and implementation of improved management practices for the purpose of achieving optimal conservation of water supplies.

"(2) The Federal share of the cost of activities under this subsection may not exceed $10,500,000. The State share of those costs may not exceed $4,000,000, and shall be paid concurrently with Federal expenditures for activities under this subsection.".

(b) EXTENSION OF REPAYMENT PERIOD.—Section 2(b) of that Act is amended by striking "the year in which such amendatory repayment contract is executed" and inserting "July 1, 1995".

(c) APPLICABLE RATES OF CHARGE AND ASSESSABLE ACREAGE.—Section 2(c) of that Act is amended to read as follows:

"(c)(1) Before July 1, 1995, the rates of charge to land class in the unit shall continue to be as established in the November 29, 1949, repayment contract with the district, as subsequently amended and supplemented. On and after July 1, 1995, such rates of charge and assessable acreage shall, subject to subsection (d), be in accordance with the amortization capacity and classification of unit lands as then determined by the Secretary.

"(2) After final completion of the rehabilitation and betterment program authorized by this Act, and at intervals agreed to by the Secretary and the Belle Fourche irrigation district, the rates of charge and assessable acreage may be amended as determined necessary by the Secretary.".

(d) AUTHORIZATION OF APPROPRIATION.—Section 7 of that Act is amended—

(1) by inserting "(a)" after "SEC. 7."; and

(2) by adding at the end the following:

"(b) In addition to amounts authorized under subsection (a), for activities under section 1(b) there are authorized to be appropriated $10,500,000, plus or minus such amounts (if any) as may be justified by reason of ordinary fluctuations in construction cost indexes applicable to types of construction conducted under that section.".

(e) AMENDMENT OF CONTRACT.—The Secretary of the Interior and the Belle Fourche irrigation district shall amend the contract numbered 5-07-60-WR170 to reflect the amendments made by this section.

TITLE X—UPPER YAMPA WATER CONSERVANCY PROJECT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Stagecoach Reservoir Project Act of 1994".

SEC. 1002. SALE OF THE STAGECOACH RESERVOIR PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the Upper Yampa Water Conservancy District in Colorado (referred to in this title as the "District") for the Stagecoach Reservoir Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7-07-40-R0480 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined pursuant to subsection (c).

(c) INTEREST RATE.—

(1) IN GENERAL.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A-129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(2) DETERMINATION.—In determining the interest rate, the Secretary—

(A) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party; and

(B) shall, in following the guidelines set forth in Circular A-129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(3) ADJUSTMENT.—If the borrower or purchaser of the loan has access to tax-exempt financing, including tax-exempt bonds, tax-

exempt cash reserves, and cash and loans of any kind from any tax-exempt entity, to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(4) LIMITATION.—Notwithstanding any other provision of law, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(5) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 1003. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 1002(b)—

(1) the obligation of the District under the loan contract described in section 1002(a)(2) shall terminate;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Stagecoach Reservoir Project to the District; and

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Stagecoach Reservoir Project.

SEC. 1004. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority granted by this title to sell loans shall terminate 2 years after the date of enactment of this Act.

(b) TIME TO RESPOND TO OFFER.—The borrower shall have not less than 60 days to respond to any prepayment offer made by the Secretary.

TITLE XI—MANCOS PROJECT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Mancos Project Private Power Development Authorization Act of 1994".

SEC. 1102. FINDINGS.

Congress finds that—

(a) development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, and revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District—

(1) will be without cost to the United States;

(2) will not impair the efficiency of the project for irrigation purposes;

(3) will not alter the volume, timing or temperatures of flows from the reservoir; and

(4) is not likely to cause any new or increased adverse impacts to any federally listed or candidate species;

(b) That the Mancos Water Conservancy District is currently operating and maintaining facilities at the Mancos Project and that the development of hydroelectric power at the Mancos Project consistent with the Feasibility Report and Engineering and Construction Report for the Jackson Gulch Reservoir Hydroelectric Project dated April 19, 1991, revised on May 13, 1992, and February 10, 1993, by the Mancos Water Conservancy District will not increase operation and maintenance costs of the Federal Government; and

(c) That any lease of power privileges issued by the Secretary pursuant to this title does not constitute a "contract" under section 202(1) of Public Law 97-293 (96 Stat. 1261; 43 U.S.C. section 390bb) and that nothing in this title is intended to make applicable any section of Public Law 97-293 (96 Stat. 1261; 43 U.S.C. section 390aa et. seq.) that would not previously apply.

SEC. 1103. AUTHORIZATION TO LEASE POWER PRIVILEGES.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y–590z–11) or any relevant provision of the repayment contract Ilr-384, dated July 20, 1942, as amended December 22, 1947, the Secretary is authorized to enter into a lease of power privileges at the Mancos Project, Colorado, with the Mancos Water Conservancy District.

SEC. 1104. LEASE CONDITIONS.

Any such lease of power privileges issued pursuant to section 1103 of this title shall not exceed a period of forty years and shall be consistent with rates charged by the Federal Energy Regulatory Commission for comparable sized projects. Moneys derived from such lease shall be covered into the reclamation fund in accordance with relevant parts of Federal reclamation law, the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

SEC. 1105. REVENUES DERIVED FROM POWER DEVELOPMENT.

Notwithstanding the provisions of the Water Conservation and Utilization Act (16 U.S.C. sections 590y–590z–11) or any relevant provision of the repayment contract Ilr-384, dated July 20, 1942, as amended December 22, 1947, the Mancos Water Conservancy District may receive revenues from the sale of the power generated pursuant to such lease of power privilege.

TITLE XII—YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

SEC. 1201. PURPOSES.

The purposes of this title are—

(1) to protect, mitigate, and enhance fish and wildlife through improved water management; improved instream flows; improved water quality; protection, creation and enhancement of wetlands; and by other appropriate means of habitat improvement;

(2) to improve the reliability of water supply for irrigation;

(3) to authorize a Yakima River basin water conservation program that will improve the efficiency of water delivery and use; enhance basin water supplies; improve water quality; protect, create and enhance wetlands; and determine the amount of basin water needs that can be met by water conservation measures;

(4) to realize sufficient water savings from the Yakima River Basin Water Conservation Program so that not less than 40,000 acre-feet of water savings per year are achieved by the end of the fourth year of the Basin Conservation Program, and not less than 110,000 acre-feet of water savings per year are achieved by the end of the eighth year of the program, to protect and enhance fish and wildlife resources; and not less than 55,000 acre feet of water savings per year are achieved by the end of the eighth year of the program for availability for irrigation;

(5) to encourage voluntary transactions among public and private entities which result in the implementation of water conservation measures, practices, and facilities; and

(6) to provide for the implementation by the Yakama Indian Nation at its sole discretion of (A) an irrigation demonstration project on the Yakama Indian Reservation using water savings from system improvements to the Wapato Irrigation Project, and (B) a Toppenish Creek corridor enhancement project integrating agricultural, fish, wildlife, and cultural resources.

SEC. 1202. DEFINITIONS.

As used in this title:

(1) The term "Basin Conservation Plan" means a plan for implementing water conservation measures found in the various water conservation plans developed under the Basin Conservation Program.

(2) The term "Basin Conservation Program" means the Yakima River Basin Water Conservation Program established under section 1203(a).

(3) The term "comprehensive basin operating plan" means a plan that will provide guidance to the Yakima Project Superintendent for operation of the existing Yakima Project as modified by actions taken pursuant to this title.

(4) The term "Conservation Advisory Group" means the Yakima River Basin Conservation Advisory Group established under section 1203(c).

(5) The term "conserved water" means water saved and attributable to the program established under the Basin Conservation Program.

(6) The term "Irrigation Demonstration Project" means the Yakama Indian Reservation Irrigation Demonstration Project authorized in section 1204(b).

(7) The term "nonproratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is not subject to proration in times of water shortage.

(8) The term "on-district storage" means small water storage facilities located within the boundaries of an irrigation entity, including reregulating reservoirs, holding ponds, or other new storage methods which allow for efficient water use.

(9) The term "proratable water" means that portion of the total water supply available under provisions of sections 18 and 19 of Civil Action No. 21 (Federal District Court Judgment of January 31, 1945) that is subject to proration in times of water shortage.

(10) The term "Secretary" means the Secretary of the Interior.

(11) The term "System Operations Advisory Committee" means a group of fishery biologists—

(A) created by the Yakima Project Superintendent in response to the supplemental instructions entitled "Supplementary Instructions to the Water Master", and dated November 28, 1980, in the case of Kittitass Reclamation District, et al. vs. the Sunnyside Valley Irrigation District, et al. (E.D. Wash., Civil No. 21.);

(B) who advise the Yakima Project Superintendent on operations of the Yakima Project for fish and wildlife purposes; and

(C) who, together with others, were identified for consultation on November 29, 1990, in the amended partial summary judgment entered in the basin adjudication (Yakima County Superior Court No. 77–2–01484–5).

(12) The term "Toppenish Enhancement Project" means the Toppenish Creek corridor enhancement project authorized by section 1204(c).

(13) The term "Yakama Indian Nation" means the Confederated Tribes and Bands of the Yakama Indian Nation as redesignated under section 1204(g).

(14) The term "Yakima Project Superintendent" means the individual designated by the Regional Director, Pacific Northwest Region, Bureau of Reclamation, to be responsible for the operation and management of the Yakima Federal Reclamation Project, Washington.

SEC. 1203. YAKIMA RIVER BASIN WATER CONSERVATION PROGRAM.

(a) ESTABLISHMENT.—(1) The Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested parties, shall establish and administer a Yakima River Basin Water Conservation Program for the purpose of evaluating and implementing measures to improve the availability of water supplies for irrigation and the protection and enhancement of fish and wildlife resources, including wetlands, while improving the quality of water in the Yakima Basin. The Secretary may make grants to eligible entities for the purposes of carrying out this title under such terms and conditions as the Secretary may require. Such terms and conditions shall include a requirement that all water districts, irrigation districts, individuals, or other entities eligible to participate in the Basin Conservation Program must equip all surface water delivery systems within their boundaries with volumetric water meters or equally effective water measuring methods within 5 years of the date of enactment of this Act.

(2) Conserved water resulting in whole or in part from the expenditure of Federal funds shall not be used to expand irrigation in the Yakima Basin, except as specifically provided in section 1204(a)(3) on the Yakama Indian Reservation.

(3) The provisions of this section shall not apply to the Yakama Indian Nation except as to any funds specifically applied for from the Basin Conservation Program.

(b) FOUR PHASES OF PROGRAM.—The Basin Conservation Program shall encourage and provide funding assistance for four phases of water conservation, which shall consist of the following:

(1) The development of water conservation plans, consistent with applicable water conservation guidelines of the Secretary, by irrigation districts, conservation districts, water purveyors, other areawide entities, and individuals not included within an areawide entity.

(2) The investigation of the feasibility of specific potential water conservation measures identified in conservation plans.

(3) The implementation of measures that have been identified in conservation plans and have been determined to be feasible.

(4) Post implementation monitoring and evaluation of implemented measures.

(c) CONSERVATION ADVISORY GROUP.—(1) Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the State of Washington, the Yakama Indian Nation, Yakima River basin irrigators, and other interested and related parties, shall establish the Yakima River Basin Conservation Advisory Group.

(2) Members of the Conservation Advisory Group shall be appointed by the Secretary and shall be comprised of—

(A) one representative of the Yakima River basin nonproratable irrigators,

(B) one representative of the Yakima River basin proratable irrigators,

(C) one representative of the Yakama Indian Nation,

(D) one representative of environmental interests,

(E) one representative of the Washington State University Agricultural Extension Service,

(F) one representative of the Department of Wildlife of the State of Washington, and

(G) one individual who shall serve as the facilitator.

(3) The Conservation Advisory Group shall—

(A) provide recommendations to the Secretary and to the State of Washington regarding the structure and implementation of the Basin Conservation Program,

(B) provide recommendations to the Secretary and to the State of Washington regarding the establishment of a permanent program for the measurement and reporting of all natural flow and contract diversions within the basin.

(C) structure a process to prepare a basin conservation plan as specified in subsection (f),

(D) provide annual review of the implementation of the applicable water conservation guidelines of the Secretary, and

(E) provide recommendations consistent with statutes of the State of Washington on rules, regulations, and administration of a process to facilitate the voluntary sale or lease of water.

(4) The facilitator shall arrange for meetings of the Conservation Advisory Group, provide logistical support, and serve as moderator for the meetings.

(5) The Conservation Advisory Group shall consult an irrigation district when considering actions specifically affecting that district. For the purposes of this paragraph, an irrigation district includes the Yakima Reservation Irrigation District.

(6) The Conservation Advisory Group shall be nonvoting, seeking consensus whenever possible. If disagreement occurs, any member may submit independent comments to the Secretary. The Conservation Advisory Group shall terminate 5 years after the date of its establishment unless extended by the Secretary.

(d) COST SHARING.—(1) Except as otherwise provided by this title, costs incurred in the four phases of the Basin Conservation Program shall be shared as follows:

Program Phase	Non-Federal		Federal Grant
	State Grant	Local	
1. Development of water conservation plans	50% but not more than $200,000 per recipient	(Residual amount if any)	50%
2. Investigation of specific water conservation measures	50% but sum of 1 and 2 not greater than $200,000 per recipient	20% after deducting State funds for Item 2	Residual amount after deducting State and local funds for Item 2
3 and 4. Implementation and post implementation monitoring and evaluation	17.5%	17.5%	65.0%

(2) The Yakima River Basin Water Enhancement Project is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Yakima River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1989 (94 Stat. 2697) and independent water-related improvements of the State of Washington and other public and private entities to improve irrigation water use, water supply, and water quality, shall be treated as non-Federal cost share expenditures and shall be consolidated in any final calculation of required cost sharing. Within one year of the date of enactment of this Act, the Secretary shall enter into a binding cost sharing agreement with the State of Washington. The agreement shall describe the terms and conditions of specific contributions and other activities that may, subject to approval by the Secretary, qualify as non-Federal cost share expenditures.

(3) Costs of the Basin Conservation Program related to projects on the Yakama Indian Reservation are a Federal responsibility and shall be nonreimbursable and not subject to the cost-sharing provisions of this subsection.

(e) ENTITY WATER CONSERVATION PLANS.—To participate in the Conservation Basin Program an entity must submit a proposed water conservation plan to the Secretary. The Secretary shall approve a water conservation plan submitted under this subsection if the Secretary determines that the plan meets the applicable water conservation guidelines of the Secretary.

(f) BASIN CONSERVATION PLAN.—The Conservation Advisory Group shall, within 2½ years after the date of enactment of this Act, submit a draft basin conservation plan to the Secretary.

(g) PUBLIC COMMENT.—The Secretary shall distribute the draft basin conservation plan and the entity water conservation plans submitted under subsections (e) and (f), respectively, for public comment for a 60-day period.

(h) PUBLICATION OF BASIN CONSERVATION PLAN.—Within 60 days after the close of the comment period under subsection (g), the Secretary shall publish the Basin Conservation Plan which plan will provide the basis—

(1) for prioritizing and allocating funds to implement conservation measures under this title; and

(2) for preparing an interim comprehensive basin operating plan under section 1210 of this title as provided for in Public Law 96–162 (93 Stat. 1241).

(i) CONSERVATION MEASURES.—(1) Measures considered for implementation in the Basin Conservation Program may include, among others, conveyance and distribution system monitoring, automation of water conveyance systems, water measuring or metering devices and equipment, lining and piping of water conveyance and distribution systems, on-district storage, electrification of hydraulic turbines, tail-water recycling, consolidation of irrigation systems, irrigation scheduling, and improvement of on-farm water application systems. Basin Conservation Program funds may also be used throughout all four phases of the Basin Conservation Program to mitigate for adverse impacts of program measures.

(2) In addition to implementing existing technologies, the Secretary shall encourage the testing of innovative water conservation

measures. The Secretary shall, to the maximum extent possible under applicable Federal, State, and tribal law, cooperate with the State of Washington to facilitate water and water right transfers, water banking, dry year options, the sale and leasing of water, and other innovative allocation tools used to maximize the utility of existing Yakima River basin water supplies.

(3) The Secretary may, consistent with applicable law, use funds appropriated to carry out this section for the purchase or lease of land, water, or water rights from any entity or individual willing to limit or forego water use on a temporary or permanent basis. Funds used for purchase or lease under this paragraph are not subject to the cost sharing provisions of subsection (d). Efforts to acquire water should be made immediately upon availability of funds to meet the three-year goal specified in section 1205(a)(4) to provide water to be used by the Yakima Project Superintendent under the advisement of the System Operations Advisory Committee for instream flow purposes. The use of Basin Conservation Program funds under this paragraph are in addition to those specifically authorized to be appropriated by subsection (j)(4).

(4) On-farm water management improvements shall be coordinated with programs administered by the Secretary of Agriculture and State conservation districts.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary, at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, the following amounts for the Basin Conservation Program:

(1) $1,000,000 for the development of water conservation plans.

(2) $4,000,000 for investigation of specific potential water conservation measures identified in conservation plans for consideration for implementing through the Basin Conservation Program.

(3) Up to $67,500,000 for design, implementation, post-implementation monitoring and evaluation of measures, and addressing environmental impacts.

(4) Up to $10,000,000 for the initial acquisition of water from willing sellers or lessors specifically to provide instream flows for interim periods to facilitate the outward migration of anadromous fish flushing flows. Such funds shall not be subject to the cost sharing provisions of subsection (d).

(5) $100,000 annually for the establishment and support of the Conservation Advisory Group during its duration. Such funds shall be available for travel and per diem, rental of meeting rooms, typing, printing and mailing, and associated administrative needs. The Secretary and the State of Washington shall provide appropriate staff support to the Conservation Advisory Group.

SEC. 1204. YAKAMA INDIAN NATION.

(a) WAPATO IRRIGATION PROJECT IMPROVEMENTS AND APPROPRIATIONS.—(1) The Yakama Indian Nation's proposed system improvements to the Wapato Irrigation Project, as well as the design, construction, operation, and maintenance of the Irrigation Demonstration Project and the Toppenish Creek corridor enhancement project, pursuant to this title shall be coordinated with the Bureau of Indian Affairs.

(2) There is authorized to be appropriated to the Secretary not more than $23,000,000 for the preparation of plans, investigation of measures, and following the Secretary's certification that such measures are consistent with the water conservation objectives of this title, the implementation of system improvements to the Wapato Irrigation Project. Funding for further improvements within the Wapato Irrigation Project may be acquired under the Basin Conservation Program or other sources identified by the Yakama Indian Nation.

(3) Water savings resulting from irrigation system improvements shall be available for the use of the Yakama Indian Nation for irrigation and other purposes on the reservation and for protection and enhancement of fish and wildlife within the Yakima River basin. The conveyance of such water through irrigation facilities other than the Wapato Irrigation Project shall be on a voluntary basis and shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(b) IRRIGATION DEMONSTRATION PROJECT APPROPRIATIONS.—(1)(A) There is hereby authorized to be appropriated to the Secretary—

(i) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of applicable cost indexes, $8,500,000 for the design and construction of the Yakama Indian Reservation Irrigation Demonstration Project; and

(ii) such sums as may be necessary for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies for the period specified by the Secretary, which sums are in addition to operation and maintenance funds for wildlife and cultural purposes appropriated to the Secretary under other authorization.

(B) Funds may not be made available under this subsection until the Yakama Indian Nation obtains the concurrence of the Secretary in the construction, management, and administrative aspects of the Irrigation Demonstration Project.

(C) After the end of the period specified under subparagraph (A)(ii), costs for the operation and maintenance of the Irrigation Demonstration Project, including funds for administration, training, equipment, materials, and supplies referred to in that subparagraph, shall be borne exclusively by the lands directly benefitting from the Irrigation Demonstration Project.

(2) The Irrigation Demonstration Project shall provide for the construction of distribution and on-farm irrigation facilities to use all or a portion of the water savings, as determined by the Yakama Indian Nation, resulting from the Wapato Irrigation Project system improvements for—

(A) demonstrating cost-effective state of the art irrigation water management and conservation,

(B) the training of tribal members in irrigation methods, operation, and management, and

(C) upgrading existing hydroelectric facilities and construction of additional hydroelectric facilities on the reservation to meet irrigation pumping power needs.

(c) TOPPENISH CREEK CORRIDOR ENHANCEMENT PROJECT APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary $1,500,000 for the further investigation by the Yakama Indian Nation of measures to develop a Toppenish Creek corridor enhancement project to demonstrate integration of management of agricultural, fish, wildlife, and cultural resources to meet tribal objectives and such amount as the Secretary subsequently determines is necessary for implementation. There is also authorized to be appropriated to the Secretary such sums as may be necessary for the operation and maintenance of the Toppenish Enhancement Project.

(d) REPORT.—Within 5 years of the implementation of the Irrigation Demonstration Project and the Toppenish Enhancement Project, the Secretary, in consultation with the Yakama Indian Nation, shall report to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington on the effectiveness of the conservation, training, mitigation, and other measures implemented.

(e) STATUS OF IMPROVEMENTS AND FACILITIES.—The Wapato Irrigation Project system improvements and any specific irrigation facility of the Irrigation Demonstration Project (excluding on-farm irrigation facilities) and the Toppenish Enhancement Project shall become features of the Wapato Irrigation Project.

(f) TREATMENT OF CERTAIN COSTS.—Costs related to Wapato Irrigation Project improvements, the Irrigation Demonstration Project, and the Toppenish Enhancement Project shall be a Federal responsibility and are nonreimbursable and nonreturnable.

(g) REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION.—

(1) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 1205. OPERATION OF YAKIMA BASIN PROJECTS.

(a) WATER SAVINGS FROM BASIN CONSERVATION PROGRAM.—(1) The Basin Conservation Program is intended to result in reductions in water diversions allowing for changes in the present operation of the Yakima Project to improve stream flow conditions in the Yakima River basin. Except as provided by paragraph (5) of this subsection and section 1209, commencing with the enactment of this title, and notwithstanding that anticipated water savings are yet to be realized, the Secretary, upon the enactment of this title and acting through the Yakima Project Superintendent, shall (A) continue to estimate the water supply which is anticipated to be available to meet water entitlements; and (B) provide instream flows in accordance with the following criteria:

	Water Supply Estimate for Period (million acre feet):				Target Flow from Date of Estimate thru October Downstream of (cubic feet per second):	
	April thru September	May thru September	June thru September	July thru September	Sunnyside Diversion Dam	Prosser Diversion Dam
(1)	3.2	2.9	2.4	1.9	600	600
(2)	2.9	2.65	2.2	1.7	500	500
(3)	2.65	2.4	2.0	1.5	400	400
	Less than line 3 water supply				300	300

(2) The initial target flows represent target flows at the respective points. Reasonable fluctuations from these target flows are anticipated in the operation of the Yakima Project, except that for any period exceeding 24 hours—

(A) actual flows at the Sunnyside Diversion Dam may not decrease to less than 65 percent of the target flow at the Sunnyside Diversion Dam; and

(B) actual flows at the Prosser Diversion Dam may not decrease by more than 50 cubic feet per second from the target flow.

(3) The instream flows shall be increased for interim periods during any month of April through October to facilitate when necessary the outward migration of anadromous fish. Increased instream flows for such interim periods shall be obtained through voluntary sale and leasing of water or water rights or from conservation measures taken under this title.

(4)(A)(i) Within the three-year period beginning when appropriations are first provided to carry out the Basin Conservation Program, the instream flow goal in the Yakima River is as follows: to secure water which is to be used for instream flows to facilitate meeting recommendations of the System Operations Advisory Committee for flushing flows or other instream uses.

(ii) In addition to any other authority of the Secretary to provide water for flushing flows, the water required to meet the goal specified in clause (i) shall be acquired through the voluntary purchase or lease of land, water, or water rights and from the development of additional storage capability at Lake Cle Elum provided for in section 1206(a).

(iii) In addition to water required to meet the instream flow goal specified in clause (i), the System Operations Advisory Committee may recommend additional water to meet instream flow goals pursuant to judicial actions.

(B) After the period referred to in subparagraph (A), such instream flow goal is modified as follows:

(i) The goal increases so that the instream target flows specified in the table in paragraph (1) increase by 50 cubic feet per second for each 27,000 acre-feet of reduced annual water diversions achieved through implementation of measures under the Basin Conservation Program. Such increases do not apply to actions taken pursuant to section 1204. Such increases shall not further diminish the amount of water that otherwise would have been delivered by an entity to its water users in years of water proration.

(ii) The goal changes directly with the availability of water resulting from Federal expenditures under this title for purchase or lease of water under this title.

(C) The Yakima Project Superintendent shall maintain an account of funded and completed conservation measures taken under the Basin Conservation Program.

(D) No later than March 31 of each calendar year, the Yakima Project Superintendent shall meet with the State of Washington, Yakama Indian Nation, and Yakima River basin irrigators to mutually determine total diversion reductions and respective adjustments to the target flows referred to in this subsection. The Yakima Project Superintendent shall announce such adjustments with the announcements of Total Water Supply Available. For the purposes of this subparagraph, conserved water will be considered available for adjusting target flows in the first year following completion of a measure or following a result from the post implementation monitoring and evaluation program, as the case may be.

(5) Operational procedures and processes in the Yakima River basin which have or may be implemented through judicial actions shall not be impacted by this title.

(6)(A) Within three years after the date of enactment of this Act, the Secretary shall conduct a study and submit a report with recommendations to the appropriate committees of the Congress on whether the water supply available for irrigation is adequate to sustain the agricultural economy of the Yakima River basin.

(B) The target flows provided for under this subsection shall be evaluated within three years after the date of enactment of this Act by the Systems Operations Advisory Committee for the purpose of making a report with recommendations to the Secretary and the Congress evaluating what is necessary to have biologically-based target flows.

(C) The recommendations and reports under subparagraphs (A) and (B) shall provide a basis for the third phase of the Yakima River Basin Water Enhancement Project.

(b) WATER FROM LAKE CLE ELUM.—Water accruing from the development of additional storage capacity at Lake Cle Elum, made available pursuant to the modifications authorized in section 1206(a), shall not be part of the Yakima River basin's water supply as provided in subsection (a)(1). Water obtained from such development is exclusively dedicated to instream flows for use by the Yakima Project Superintendent as flushing flows or as otherwise advised by the System Operations Advisory Committee. Water may be carried over from year-to-year in the additional capacity to the extent that there is space available. Releases may be made from other Yakima Project storage facilities to most effectively utilize this additional water, except that water deliveries to holders of existing water rights shall not be impaired.

(c) STATUS OF BASIN CONSERVATION PROGRAM FACILITIES.—Measures of the Basin Conservation Program which are implemented on facilities currently under the administrative jurisdiction of the Secretary, except as provided in section 1204, shall be considered features of the Yakima River Basin Water Enhancement Project, and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. The responsibility for operation and maintenance and the related costs shall remain with the current operating entity. As appropriate, the Secretary shall incorporate the operation and maintenance of such facilities into existing agreements. The Secretary shall assure that such facilities are operated in a manner consistent with Federal and State law and in accordance with water rights recognized pursuant to State and Federal law.

(d) WATER ACQUIRED BY PURCHASE AND LEASE.—Water acquired from voluntary sellers and lessors shall be administered as a block of water separate from the Total Water Supply Available, in accordance with applicable Federal and State law.

(e) YAKIMA PROJECT PURPOSE.—(1) An additional purpose of the Yakima Project shall be for fish, wildlife, and recreation.

(2) The existing storage rights of the Yakima Project shall include storage for the purposes of fish, wildlife, and recreation.

(3) The purposes specified in paragraphs (1) and (2) shall not impair the operation of the Yakima Project to provide water for irrigation purposes nor impact existing contracts.

SEC. 1206. LAKE CLE ELUM AUTHORIZATION OF APPROPRIATIONS.

(a) MODIFICATIONS AND IMPROVEMENTS.—There is hereby authorized to be appropriated to the Secretary—

(1) at September 1990 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuation of applicable indexes, $2,934,000 to—

(A) modify the radial gates at Cle Elum Dam to provide an additional 14,600 acre-feet of storage capacity in Lake Cle Elum,

(B) provide for shoreline protection of Lake Cle Elum, and

(C) construct juvenile fish passage facilities at Cle Elum Dam, plus

(2) such additional amounts as may be necessary which may be required for environmental mitigation.

(b) OPERATION AND MAINTENANCE APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary such sums as may be necessary for that portion of the operation and maintenance of Cle Elum Dam determined by the Secretary to be a Federal responsibility.

SEC. 1207. ENHANCEMENT OF WATER SUPPLIES FOR YAKIMA BASIN TRIBUTARIES.

(a) GENERAL PROVISIONS.—The following shall be applicable to the investigation and implementation of measures to enhance water supplies for fish and wildlife and irrigation purposes on tributaries of the Yakima River basin:

(1) An enhancement program authorized by this section undertaken in any tributary shall be contingent upon the agreement of appropriate water right owners to participate.

(2) The enhancement program authorized by this section shall not be construed to affect (A) the water rights of any water right owners in the tributary or other water delivering entities; (B) the capability of tributary water users to divert, convey, and apply water; and (C) existing water and land uses within the tributary area.

(3) The water supply for tributary enhancement shall be administered in accordance with applicable State and Federal laws.

(4) Any enhancement program authorized by this section shall be predicated upon the availability of a dependable water supply.

(b) STUDY.—(1) The Secretary, following consultation with the State of Washington, the tributary water right owners, and the Yakama Indian Nation, and agreement of appropriate water right owners to participate, shall conduct a study concerning the measures that can be implemented to enhance water supplies for fish and wildlife and irrigation purposes on Taneum Creek, including (but not limited to)—

(A) water use efficiency improvements;

(B) the conveyance of water from the Yakima Project through the facilities of any irrigation entity willing to contract with the Secretary without adverse impact to water users;

(C) the construction, operation, and maintenance of ground water withdrawal facilities;

(D) contracting with any entity that is willing to voluntarily limit or forego present water use through lease or sale of water or water rights on a temporary or permanent basis;

(E) purchase of water rights from willing sellers; and

(F) other measures compatible with the purposes of this title, including restoration of stream habitats.

(2) In conducting the Taneum Creek study, the Secretary shall consider—

(A) the hydrologic and environmental characteristics;

(B) the engineering and economic factors relating to each measure; and

(C) the potential impacts upon the operations of present water users in the tributary and measures to alleviate such impacts.

(3) The Secretary shall make available to the public for a 45-day comment period a draft report describing in detail the findings, conclusions, and recommendations of the study. The Secretary shall consider and include any comment made in developing a final report. The Secretary's final report shall be submitted to the Committee on Energy and Natural Resources of the Senate, the Committee on Natural Resources of the House of Representatives, and the Governor of the State of Washington, and made available to the public.

(c) IMPLEMENTATION OF NONSTORAGE MEASURES.—After securing the necessary permits the Secretary may, in cooperation with the Department of Ecology of the State of Washington and in accordance with the laws of the State of Washington, implement nonstorage measures identified in the final report under subsection (b) upon fulfillment of the following conditions:

(1) The Secretary shall enter into an agreement with the appropriate water right owners who are willing to participate, the State of Washington, and the Yakama Indian Nation, for the use and management of the water supply to be provided by proposed tributary measures pursuant to this section.

(2) The Secretary and the State of Washington find that the implementation of the proposed tributary measures will not impair the water rights of any person or entity in the affected tributary.

(d) OTHER YAKIMA RIVER BASIN TRIBUTARIES.—Enhancement programs similar to the enhancement program authorized by this section may be investigated and implemented by the Secretary in other tributaries contingent upon the agreement of the appropriate tributary water right owners to participate. The provisions set forth in this section shall be applicable to such programs.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is hereby authorized to be appropriated to the Secretary $500,000 for the study of the Taneum Creek Project and such amount as the Secretary subsequently determines is necessary for implementation of tributary measures pursuant to this section.

(2) There is also authorized to be appropriated to the Secretary such funds as are necessary for the investigation of enhancement programs similar to the enhancement program authorized by this section in other Yakima River basin tributaries contingent upon the agreement of the appropriate water right owners to participate. Funds for the implementation of any such similar enhancement program may not be appropriated until after the Secretary submits an investigation report to the appropriate congressional committees.

SEC. 1208. CHANDLER PUMPING PLANT AND POWERPLANT-OPERATIONS AT PROSSER DIVERSION DAM.

(a) AUTHORIZATION OF APPROPRIATIONS FOR ELECTRIFICATION.—In order to provide for electrification to enhance instream flows by eliminating the need to divert water to operate the hydraulic turbines which pump water to the Kennewick Irrigation District, there is authorized to be appropriated—

(1) $50,000 to conduct an assessment of opportunities for alternative pumping plant locations;

(2) $4,000,000 for construction; and

(3) such sums as may be necessary for the prorata share of the operation and maintenance allocated to fish and wildlife as determined by the Secretary.

(b) POWER FOR PROJECT PUMPING.—(1) The Administrator of the Bonneville Power Administration shall provide for project power needed to effect the electrification as provided in subsection (a).

(2)(A) There is authorized to be appropriated for the Bureau of Reclamation for each fiscal year in which the Administrator provides power under this subsection an amount equal to the cost to the Bonneville Power Administration of providing power under this subsection during such fiscal year. The rate to be utilized by the Administrator in determining the cost of power under this paragraph in a fiscal year shall be the rate for priority firm power charged by the Bonneville Power Administration in that fiscal year under section 7(b) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839e(b)).

(B) The Bureau of Reclamation shall, using funds appropriated pursuant to the authorization of appropriations in subparagraph (A), reimburse the Bonneville Power Administration for the costs of the project power provided under this subsection. Such funds shall be available for such purpose without fiscal year limitation.

(c) SUBORDINATION.—Any diversions for hydropower generation at the Chandler Powerplant shall be subordinated to meet the flow targets determined under subsection (f).

(d) WATER SUPPLY FOR KENNEWICK IRRIGATION DISTRICT.—The Secretary shall ensure that the irrigation water supply for the Kennewick Irrigation District shall not be affected by conservation, electrification, or subordination pursuant to this title and any reduction in its irrigation water supply resulting from conservation measures adopted or implemented by other entities pursuant to this title shall be replaced by water developed through subordination, electrification, or a combination of the two.

(e) TREATMENT OF CERTAIN FUNDS.—Funds appropriated and project power provided pursuant to this section shall be nonreimbursable since such funds are used for fish and wildlife purposes and such funds are not subject to cost share under section 1203(d).

(f) TARGET FLOWS.—Target flows measured at appropriate biological and hydrological location or locations shall be determined by the Yakima Project Superintendent in consultation with the System Operations Advisory Committee.

SEC. 1209. AUGMENTATION OF KACHESS RESERVOIR STORED WATER.

(a) AUTHORIZATION OF APPROPRIATIONS.—In order to augment Kachess Reservoir stored water supplies from flows of Cabin Creek and Silver Creek which are excess to system demands, there is authorized to be appropriated—

(1) such sums as may be necessary to carry out a feasibility study, including the benefits, costs, and environmental aspects, of the facility described in paragraph (2);

(2) for the construction of facilities to convey such flows to Kachess Reservoir, $20,000,000; and

(3) such sums as may be necessary for the pro rata share of the operation and maintenance allocated to fish and wildlife determined by the Secretary.

(b) LIMITATION.—Construction of the facilities described in subsection (a)(1) is contingent on the completion of the feasibility study referred to in subsection (a)(2).

(c) USE OF ADDITIONAL WATER.—The stored water supply resulting from the construction of facilities under this section shall be used by the Secretary to—

(1) enhance the water supply available to the Kittitas Reclamation District and the Roza Irrigation District in years of proration; and

(2) facilitate reservoir operations in the Easton Dam to Keechelus Dam reach of the Yakima River for the propagation of anadromous fish.

(d) TREATMENT OF COSTS.—The construction and operation and maintenance costs of the facilities under this section shall be allocated to irrigation and fishery enhancement, as follows:

(1) The portion of such costs allocated to irrigation is reimbursable, with the construction costs to be paid prior to initiation of construction by the Kittitas Reclamation District and the Roza Irrigation District.

(2) The portion of such costs allocated to fishery enhancement is nonreimbursable.

(e) KACHESS DAM MODIFICATIONS.—There is authorized to be appropriated $2,000,000 for the modification of the discharge facilities of Kachess Dam to improve reservoir operations for anadromous fish enhancement. Amounts appropriated under this subsection are nonreimbursable.

SEC. 1210. INTERIM COMPREHENSIVE BASIN OPERATING PLAN.

(a) DEVELOPMENT.—The Secretary shall, in consultation with the State of Washington, Yakama Indian Nation, Yakima River Basin irrigation districts, Bonneville Power Administration, and other entities as determined by the Secretary, develop an interim comprehensive operating plan for providing a general framework within which the Yakima Project Superintendent operates the Yakima Project, including measures implemented under the Yakima River Basin Water Enhancement Project, including (but not limited to)—

(1) operating capability and constraints of the system;

(2) information on water supply calculations an water needs;

(3) system operations and stream flow objectives; and

(4) the System Operations Advisory Committee activities.

(b) PROCESS REQUIREMENTS.—A draft of the interim comprehensive basin operating plan shall be completed within 18 months after the completion of the Basin Conservation Plan under section 1203(f) and, upon completion, published for a 90-day public review period. The Secretary shall complete and publish the final interim comprehensive operating plan within 90 days after the close of the public review period. The Secretary shall update the plan as needed to respond to decisions from water adjudications relating to the Yakima River basin.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $100,000 to carry out this section.

SEC. 1211. ENVIRONMENTAL COMPLIANCE.

There are hereby authorized to be appropriated to the Secretary $2,000,000 for environmental compliance activities including the conduct, in cooperation with the State of Washington, of an inventory of wildlife and wetland resources in the Yakima River basin and an investigation of measures, including "wetland banking", which could be implemented to address potential impacts which could result from the activities taken under this title.

SEC. 1212. SAVINGS AND CONTINGENCIES.

(a) IN GENERAL.—Nothing in this title shall be construed to—

(1) affect or modify any treaty or other right of the Yakama Indian Nation;

(2) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakama Indian Nation, or any other entity or individual;

(3) impair the rights or jurisdictions of the United States, the States, the Yakama Indian Nation, or other entities over waters of any river or stream or over any ground water resource;

(4) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(5) alter, establish, or impair the respective rights of States, the United States, the Yakama Indian Nation, or any other entity or individual with respect to any water or water-related right;

(6) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakama Indian Nation, or other entity, public or private;

(7) affect or modify the rights of the Yakama Indian Nation or its successors in interest to, and management and regulation of, those water resources arising or used, within the external boundaries of the Yakama Indian Reservation;

(8) affect or modify the settlement agreement between the United States and the State of Washington filed in Yakima County Superior Court with regard to Federal reserved water rights other than those rights reserved by the United States for the benefit of the Yakama Indian Nation and its members;

(9) affect or modify the rights of any Federal, State, or local agency, the Yakama Indian Nation, or any other entity, public or private with respect to any unresolved and unsettled claims in any water right adjudications, or court decisions, including State against Acquavella, or constitute evidence in any such proceeding in which any water or water related right is adjudicated; or

(10) preclude other planning studies and projects to accomplish the purposes of this title by other means: funded publicly, privately, or by a combination of public and private funding.

(b) CONTINGENCY BASED ON APPROPRIATIONS.—The performance of any activity under this title which requires accomplishment within a specified period that may require appropriation of money by Congress or the allotment of funds shall be contingent upon such appropriation or allotment being made.

Mr. FORD. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AMENDMENTS

Mr. FORD. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of S. 340, a bill regarding alternate uses of new animal drugs and new drugs intended for human use; and that the Senate proceed its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 340) to amend the Federal Food, Drug, and Cosmetic Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. FORD. Mr. President, I send a substitute amendment to the desk on behalf of Senator HEFLIN, and I ask that the amendment be agreed to, that the bill be read a third time and passed; the motion to reconsider be laid on the table and that any statements thereon appear at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2612

Mr. FORD offered an amendment No. 2612 for Mr. HEFLIN.

The amendment is as follows:

Strike all after the enacting clause, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Medicinal Drug Use Clarification Act of 1994".

SEC. 2. UNAPPROVED USES.

(a) GENERAL RULE.—Section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a)) is amended by adding the following new paragraphs at the end:

"(4)(A) Except as provided in subparagraph (B), if an approval of an application filed under subsection (b) is in effect with respect to a particular use or intended use of a new animal drug, the drug shall not be deemed unsafe for the purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a different use or intended use of the drug, other than a use in or on animal feed, if such use or intended use—

"(i) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(ii) is in compliance with regulations promulgated by the Secretary that establish the conditions for such different use or intended use.

The regulations promulgated by the Secretary under clause (ii) may prohibit particular uses of an animal drug and shall not permit such different use of an animal drug if the labeling of another animal drug that contains the same active ingredient and which is in the same dosage form and concentration provides for such different use.

"(B) If the Secretary finds that there is a reasonable probability that a use of an animal drug authorized under subparagraph (A) may present a risk to the public health, the Secretary may—

"(i) establish a safe level for a residue of an animal drug when it is used for such different use authorized by subparagraph (A); and

"(ii) require the development of a practical, analytical method for the detection of residues of such drug above the safe level established under clause (i).

The use of an animal drug that results in residues exceeding a safe level established under clause (i) shall be considered an unsafe use of such drug under paragraph (1). Safe levels may be established under clause (i) either by regulation or order.

"(C) The Secretary may by general regulation provide access to the records of veterinarians to ascertain any use or intended use authorized under subparagraph (A) that the Secretary has determined may present a risk to the public health.

"(D) If the Secretary finds, after affording an opportunity for public comment, that a use of an animal drug authorized under subparagraph (A) presents a risk to the public health or that an analytical method required under subparagraph (B) has not been developed and submitted to the Secretary, the Secretary may, by order, prohibit any such use.

"(5) If the approval of an application filed under section 505 is in effect, the drug under such application shall not be deemed unsafe for purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a use or intended use of the drug in animals if such use or intended use—

"(A) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(B) is in compliance with regulations promulgated by the Secretary that establish the conditions for the use or intended use of the drug in animals.".

(b) OTHER AMENDMENTS.—

(1) SECTION 301.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) in paragraph (e), by striking "507(d) or (g)," and inserting "507(d) or (g), 512(a)(4)(C),"; and

(B) by adding at the end the following:

"(u) The failure to comply with any requirements of the provisions of, or any regulations or orders of the Secretary, under section 512(a)(4)(A), 512(a)(4)(D), 512(a)(5).".

(2) SECTION 512(e).—Section 512(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(A)) is amended by inserting before the semicolon the following: "or the condition of use authorized under subsection (a)(4)(A)".

(3) SECTION 512(l).—Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)(1)) is amended by striking "relating to experience" and inserting "relating to experience, including experience with uses authorized under subsection (a)(4)(A),".

(c) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement paragraphs (4)(A) and (5) of section 512(a) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the adoption of the final regulations under subsection (c).

SEC. 3. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup that is of the type required by section 401 and 403(g),";

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(c) and that is applicable to maple syrup,"; and

(3) in paragraph (3) by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(h)(1) and that is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

Mr. HEFLIN. Mr. President, I rise today in support of S. 340, legislation In introduced last year with Senators SHELBY and PRESSLER, which will decriminalize the every day practice of veterinary medicine. No other licensed professions are forced to repeatedly break the law in order to responsibly carry out their professional duties. Due to an unintended consequence of legislation passed nearly 30 years ago, whenever a veterinarian uses an approved animal drug other than in strict accordance with its label, he or she is breaking the law. S. 340 permits the extra-label use of approved animal drugs under a veterinarian's prescription, within the context of a valid veterinarian-client-patient relationship and in accordance with FDA's regulation. S. 340 frees veterinarians from their criminal burden and permits them to legally practice in the most responsible and humane manner, while protecting consumers and their pets.

Extra-label drug use is an important issue for farmers and ranchers, veterinarians, pet owners, and consumers. For many years, FDA has recognized that the current Food, Drug and Cosmetic Act places veterinarians in an untenable position. On the one hand, the Veterinarian's Oath pledges the veterinarian to use "scientific knowledge and skills for the benefit of society through the protection of animal health, the relief of animal suffering, the conservation of livestock resources, the promotion of public health, and the advancement of medical knowledge." On the other hand, the use of many effective drugs is illegal because they are not specifically labeled for the use intended by the veterinary medical practitioners.

Unfortunately, it is not cost-effective for a pharmaceutical company to seek an approved label for all species and for which a drug is beneficial and safe. This bill gives veterinarians the ability to prevent pain, suffering, and death in their animal patients. Clearly, a drug like insulin, which was tested in dogs prior to its use in human beings, can be an effective therapy for diabetes in dogs, even though the product has never been formally approved for that use. Other medications, such as analgesics or anesthetics, may not be approved in cattle or goats, but are invaluable in relieving pain and making surgical procedures bearable. Can you imagine that in the United Kingdom it is illegal to dehorn a goat without an anesthetic—and that in the United States it is currently illegal to use one? By authorizing judicious extra-label use, this bill will rectify that situation.

At the same time, S. 340 gives FDA full access to the tools necessary to assure the continue safety of the food supply and to keep unwanted and illegal residues of animal drugs from contaminating our food. The bill grants FDA the authority it needs to restrict any use of animal drugs that pose a risk to public health.

This bill authorizes FDA to incorporate in its initial regulations the list of prohibited extra-label uses of drugs specifically listed by the name in the current compliance policy guide. Any new restrictions would have to go through the procedures established in this law prior to being prohibited.

As the law is laid out, if the Secretary of Health and Human Services finds that there is reasonable probability that the use of an animal drug may present a risk to the public health, the Secretary may establish safe levels for residues of that animal drug and require development of an analytical method that will enable diction of any residues above the safe level. Residues that exceed the safe level will be considered unsafe and enforcement action may be taken against the parties responsible for those residues. If appropriate safe levels cannot be scientifically established, or if the analytical method is not developed, the Secretary may, after affording an opportunity for public comment, prohibit the specific unapproved use of that drug that is of public health concern. All uses that are not of public health concern. All uses that are not of public health concern would still be permitted under these conditions.

The Secretary is also empowered to provide access to the prescribing records of veterinarians related to a specific unapproved use of an animal drug, once the Secretary has determined that specific use may present a risk to the public health.

The bill also prohibits the unapproved use of an animal drug when another drug is labeled for that use and that species, but only in cases where the product approved for that use contains the same active ingredient and is in the same dosage form and concentration as the other drug. This preserves the veterinarian's latitude for scientific judgment in cases where slight differences in the drugs' composition may be significant, while at the same time rewards the pharmaceutical manufacturers who have been the investment in securing a specific approval for their product. This restriction applies only to approved animal drugs.

S. 340 permits the extra-label use of human drugs in animals, subject to a valid veterinarian-client-patient relationship and a veterinarian's prescription, in accordance with FDA's regulations. Human drugs are used most extensively in companion animals, and in enacting S. 340, Congress intends to assist consumers and their pets by retaining access to the most medically effective, lowest cost products available.

Mr. President, this bill is cosponsored by 70 Members of this body and 290 Members of the House. Animal owners, farmers and ranchers, veterinarian, humane groups and manufacturers of animal health products have joined together to support this important legislation.

EXTRA-LABEL USE OF ANIMAL DRUGS

Mr. PRESSLER. Mr. President, today's action culminates 3 years of hard work with my colleagues Senators HEFLIN and SHELBY. I have worked closely with them and the veterinary industry to pass this legislation clarifying Food and Drug Administration [FDA] procedures regarding extra-label use of animal drugs.

I was first approached by veterinarians in South Dakota about the need for this legislation. Dr. Robert D. Snyder, a veterinarian from Groton, SD made a compelling argument regarding the need for this legislation in 1992. I worked closely with Dr. Snyder, and with leaders of the South Dakota Veterinary Association, including Dr. James Bailey and Dr. Fred Hubbard, on behalf of all veterinarians in South Dakota, to get this legislation passed.

They are to be commended for their hard work and diligence in achieving this goal.

The tireless efforts of the American Veterinary Association were also key in getting this legislation passed. I also want to thank my colleagues for supporting this bill, including the 69 Senators who cosponsored this measure.

The bill is a straightforward approach to resolving the current conflict between modern veterinary medicine and the law.

Current law prohibits the use of an animal drug for purposes other than those listed on the drug's label. It is not economically feasible under the present animal drug approval process to seek an approved label for all species and uses for which a drug is beneficial and safe. If a veterinarian is working to save the life of a cow or calf and the only effective treatment is a drug labeled only for horses, the letter of the law says a veterinarian cannot use the drug to save the cow or calf. This bill rectifies that situation and would allow the veterinarian to save the life of the animal without being in conflict with the law.

This is an important issue for South Dakota's 34,000 farmers and ranchers and my State's veterinarians and consumers. After visiting with several veterinarians and discussing their daily routines and practices, I became convinced that extra-label drug use is necessary. Currently approved therapies are insufficient to treat the conditions veterinarians routinely face in practice. All too often, veterinarians face situations in which an animal's health is immediately threatened and suffering or death would result from failure to provide prompt and effective treatment.

Mr. President, the FDA recognizes that a veterinarian, on occasion, will find it necessary to use an approved drug for a use not listed on the drug's label. In fact, the FDA has stated it will not institute regulatory action against licensed veterinarians for using or prescribing any drugs legally obtained. Thus, this bill codifies existing FDA practice.

This Nation's veterinarians use drugs in an extra-label manner to save animals' lives, and to prevent suffering. This bill provides the FDA and veterinarians with a clear, easily enforceable statute. The bill permits the FDA to develop practical and constructive regulations to define violations of the Food, Drug and Cosmetic Act. Most important to many of my constituents, it will resolve existing conflicts between modern veterinary medicine and the law.

Mr. President, I will continue to work for enactment of this bill this year.

So the bill was deemed read a third time, and passed, as follows:

S. 340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Medicinal Drug Use Clarification Act of 1994".

SEC. 2. UNAPPROVED USES.

(a) GENERAL RULE.—Section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a)) is amended by adding the following new paragraphs at the end:

"(4)(A) Except as provided in subparagraph (B), if an approval of an application filed under subsection (b) is in effect with respect to a particular use or intended use of a new animal drug, the drug shall not be deemed unsafe for the purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a different use or intended use of the drug, other than a use in or on animal feed, if such use or intended use—

"(i) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(ii) is in compliance with regulations promulgated by the Secretary that establish the conditions for such different use or intended use.

The regulations promulgated by the Secretary under clause (ii) may prohibit particular uses of an animal drug and shall not permit such different use of an animal drug if the labeling of another animal drug that contains the same active ingredient and which is in the same dosage form and concentration provides for such different use.

"(B) If the Secretary finds that there is a reasonable probability that a use of an animal drug authorized under subparagraph (A) may present a risk to the public health, the Secretary may—

"(i) establish a safe level for a residue of an animal drug when it is used for such different use authorized by subparagraph (A); and

"(ii) require the development of a practical, analytical method for the detection of residues of such drug above the safe level established under clause (i).

The use of an animal drug that results in residues exceeding a safe level established under clause (i) shall be considered an unsafe use of such drug under paragraph (1). Safe levels may be established under clause (i) either by regulation or order.

"(C) The Secretary may by general regulation provide access to the records of veterinarians to ascertain any use or intended use authorized under subparagraph (A) that the Secretary has determined may present a risk to the public health.

"(D) If the Secretary finds, after affording an opportunity for public comment, that a use of an animal drug authorized under subparagraph (A) presents a risk to the public health or that an analytical method required under subparagraph (B) has not been developed and submitted to the Secretary, the Secretary may, by order, prohibit any such use.

"(5) If the approval of an application filed under section 505 is in effect, the drug under such application shall not be deemed unsafe for purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a use or intended use of the drug in animals if such use or intended use—

"(A) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(B) is in compliance with regulations promulgated by the Secretary that establish the conditions for the use or intended use of the drug in animals.".

(b) OTHER AMENDMENTS.—

(1) SECTION 301.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) in paragraph (e), by striking "507(d) or (g)," and inserting "507(d) or (g), 512(a)(4)(C),"; and

(B) by adding at the end the following:

"(u) The failure to comply with any requirements of the provisions of, or any regulations or orders of the Secretary, under section 512(a)(4)(A), 512(a)(4)(D), or 512(a)(5).".

(2) SECTION 512(e).—Section 512(e)(1)(A) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360b(e)(1)(A)) is amended by inserting before the semicolon the following: "or the condition of use authorized under subsection (a)(4)(A)".

(3) SECTION 512(l).—Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)(1)) is amended by striking "relating to experience" and inserting "relating to experience, including experience with uses authorized under subsection (a)(4)(A),".

(c) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement paragraphs (4)(A) and (5) of section 512(a) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the adoption of the final regulations under subsection (c).

SEC. 3. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup that is of the type required by sections 401 and 403(g),";

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(c) and that is applicable to maple syrup,"; and

(3) in paragraph (3) by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(h)(1) and that is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

COMMEMORATION OF THE 75TH ANNIVERSARY OF THE GRAND CANYON

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 273, a resolution to commemorate the 75th anniversary of the Grand Canyon, submitted earlier today by Senators MCCAIN and DECONCINI; that the resolution be adopted; the motion to reconsider be laid upon the table; that the preamble be agreed to and any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 273) was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 273

Whereas the Grand Canyon of the Colorado River is a feature of enormous scientific interest and significance, whose unique geological, biological and cultural resources represent a natural laboratory of unparalleled diversity;

Whereas Grand Canyon National Park represents an integral part of the greater Colorado Plateau Ecosystem whose significance to the health of the natural systems of the American West increases with time;

Whereas the Grand Canyon of the Colorado River is one of the most spectacular examples of arid-land erosion anywhere in the world and reveals a geologic record whose significance is unparalleled;

Whereas Grand Canyon is a world Heritage Site and a natural feature of international significance whose aesthetic beauty reflects the aspirations of a free and independent people;

Whereas Grand Canyon National Park has received over 100 million visitors since its establishment in 1919 and continues to serve the people of the United States and the world in their need for a place of outstanding natural beauty and refuge;

Whereas Grand Canyon National Park was established by Act of Congress on February 26, 1919;

Be it resolved, That the Senate of the United States of America on this date salutes Grand Canyon National Park and its custodians, the employees of the National Park Service, in honor of the park's 75th anniversary year.

NATIONAL CHILDREN'S DAY

PARENTS' DAY

IRISH-AMERICAN HERITAGE MONTH

NATIONAL PENNY CHARITY WEEK

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of House Joint Resolution 389, House Joint Resolution 398, House Joint Resolution 401, and House Joint Resolution 415, just received from the House; that the joint resolutions each be read a third time and passed; that the preambles be agreed to, en bloc; that the motions to reconsider be laid upon the table, en bloc; and that any statements appear at the appropriate place in the RECORD, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolutions were deemed read a third time.

The joint resolutions (H.J. Res. 389, H.J. Res. 398, H.J. Res. 401, and H.J. Res. 415) were passed.

The preambles were agreed to.

THE PATENT REEXAMINATION REFORM ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 682, S. 2341, relating to third party participation in patent and trademark cases, that the committee substitute be agreed to; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table, and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is to ordered.

There being no objection, the Senate proceeded to consider the bill (S. 2341) to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the U.S. Patent and Trademark Office, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Reexamination Reform Act of 1994".

SEC. 2. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

SEC. 3. REEXAMINATION PROCEDURES.

(a) REQUEST FOR REEXAMINATION.—Section 302 of title 35, United States Code, is amended to read as follows:

"§302. Request for reexamination

"Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title except for the best mode requirement. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Commissioner of Patents and Trademarks pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title. Unless the requesting person is the owner of the patent, the Commissioner promptly will send a copy of the request to the owner of record of the patent.".

(b) DETERMINATION OF ISSUE BY COMMISSIONER.—Section 303 of title 35, United States Code, is amended to read as follows:

"§303. Determination of issue by Commissioner

"(a) Within three months following the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On his own initiative, and at any time, the Commissioner may determine whether a substantial new question of patentability is raised by patent or printed publications or by the failure of the patent specification or claims to comply with the requirements of section 112 of this title except for the best mode requirement.

"(b) A record of the Commissioner's determination under subsection (a) of this section will be placed in the official file of the patent, and a copy promptly will be given or mailed to the owner of record of the patent and to the third-party requester, if any.

"(c) A determination by the Commissioner pursuant to subsection (a) of this section will be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Commissioner may refund a portion of the reexamination fee required under section 302 of this title.".

(c) REEXAMINATION ORDER BY COMMISSIONER.—Section 304 of title 35, United States Code, is amended to read as follows:

"§304. Reexamination order by Commissioner

"If, in a determination made under the provisions of section 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting any claim of a patent is raised, the determination will include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial Office action on the merits of the reexamination conducted in accordance with section 305 of this title.".

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

"§305. Conduct of reexamination proceedings

"(a) Subject to subsection (b) of this section, reexamination will be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner will be permitted to propose any amendment to the patent and a new claim or claims thereto. No proposed amended or new claim enlarging the scope of the claims of the patent will be permitted in a reexamination proceeding under this chapter.

"(b)(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a third-party reexamination request.

"(2) Any document (other than the reexamination request) filed in a reexamination proceeding by either the patent owner or the third-party requester shall be served on any other party.

"(3)(A) If the patent owner files a response to any Office action on the merits, the third-party requester may once file written comments within a reasonable period. At a minimum, such comments may be filed within 1 month after the date of service of the patent owner's response.

"(B) Comments filed under this paragraph shall be limited to issues covered by the Office action or the patent owner's response.

"(c) Unless otherwise provided by the Commissioner for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, will be conducted with special dispatch within the Office.".

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

"§306. Appeal

"(a) The patent owner involved in a reexamination proceeding under this chapter may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by a third-party requester under subsection (b) of this section.

"(b) A third-party requester may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by the patent owner, subject to subsection (c) of this section.

"(c) A third-party requester who files a notice of appeal or who participates as a party to an appeal by the patent owner under the provisions of sections 141 through 144 of this title is estopped from later asserting, in any forum, the invalidity of any claim determined to be patentable on appeal on any ground which the third-party requester raised or could have raised during the reexamination proceedings. A third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, within twenty days after the patent owner has filed notice of appeal, the third-party requester files notice with the Commissioner electing to participate.".

(f) REEXAMINATION PROHIBITED.—(1) Chapter 30 of title 35, United States Code, is amended by adding the following section at the end thereof:

"§308. Reexamination prohibited

"(a) Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for reexamination of the patent until a reexamination certificate is issued and published under section 307 of this title, unless authorized by the Commissioner.

"(b) Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action, and a reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any provision of this chapter.".

(2) The table of sections for chapter 30 of title 35, United States Code, is amended by adding the following at the end thereof:

"308. Reexamination prohibited.".

SEC. 4. CONFORMING AMENDMENTS.

(a) BOARD OF PATENT APPEALS AND INTERFERENCES.—The first sentence of section 7(b) of title 35, United States Code, is amended to read as follows: "The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, or a patent owner or a third-party requester in a reexamination proceeding, review adverse decisions of examiners upon applications for patents and decisions of examiners in reexamination proceedings, and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title.".

(b) PATENT FEES; PATENT AND TRADEMARK SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended by inserting "or for an unintentionally delayed response by the patent owner in a reexamination proceeding," after "issuing each patent,".

(c) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§134. Appeal to the Board of Patent Appeals and Interferences

"(a) An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal.".

(f) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting "(a)" after "section 134".

SEC. 5. EFFECTIVE DATES.

This Act shall take effect six months after the date of enactment of this Act and shall apply to all reexamination requests filed on or after such date.

So the bill (S. 2341) was deemed read the third time, and passed.

S. 2341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent Reexamination Reform Act of 1994".

SEC. 2. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.".

SEC. 3. REEXAMINATION PROCEDURES.

(a) REQUEST FOR REEXAMINATION.—Section 302 of title 35, United States Code, is amended to read as follows:

"§302. Request for reexamination

"Any person at any time may file a request for reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title except for the best mode requirement. The request must be in writing and must be accompanied by payment of a reexamination fee established by the Commissioner of Patents and Trademarks pursuant to the provisions of section 41 of this title. The request must set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested or the manner in which the patent specification or claims fail to comply with the requirements of section 112 of this title. Unless the requesting person is the owner of the patent, the Commissioner promptly will send a copy of the request to the owner of record of the patent.".

(b) DETERMINATION OF ISSUE BY COMMISSIONER.—Section 303 of title 35, United States Code, is amended to read as follows:

"§303. Determination of issue by Commissioner

"(a) Within three months following the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner will determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On his own initiative, and at any time, the Commissioner may determine whether a substantial new question of patentability is raised by patent or printed publications or by the failure of the patent specification or claims to comply with the requirements of section 112 of this title except for the best mode requirement.

"(b) A record of the Commissioner's determination under subsection (a) of this section will be placed in the official file of the patent, and a copy promptly will be given or mailed to the owner of record of the patent and to the third-party requester, if any.

"(c) A determination by the Commissioner pursuant to subsection (a) of this section will be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Commissioner may refund a portion of the reexamination fee required under section 302 of this title.".

(c) REEXAMINATION ORDER BY COMMISSIONER.—Section 304 of title 35, United States Code, is amended to read as follows:

"§304. Reexamination order by Commissioner

"If, in a determination made under the provisions of section 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting any claim of a patent is raised, the determination will include an order for reexamination of the patent for resolution of the question. The order may be accompanied by the initial Office action on the merits of the reexamination conducted in accordance with section 305 of this title.".

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

"§305. Conduct of reexamination proceedings

"(a) Subject to subsection (b) of this section, reexamination will be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner will be permitted to propose any amendment to the patent and a new claim or claims thereto. No proposed amended or new claim enlarging the scope of the claims of the patent will be permitted in a reexamination proceeding under this chapter.

"(b)(1) This subsection shall apply to any reexamination proceeding in which the order for reexamination is based upon a third-party reexamination request.

"(2) Any document (other than the reexamination request) filed in a reexamination proceeding by either the patent owner or the third-party requester shall be served on any other party.

"(3)(A) If the patent owner files a response to any Office action on the merits, the third-party requester may once file written comments within a reasonable period. At a minimum, such comments may be filed within 1 month after the date of service of the patent owner's response.

"(B) Comments filed under this paragraph shall be limited to issues covered by the Office action or the patent owner's response.

"(c) Unless otherwise provided by the Commissioner for good cause, all reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, will be conducted with special dispatch within the Office.".

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

"§ 306. Appeal

"(a) The patent owner involved in a reexamination proceeding under this chapter may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by a third-party requester under subsection (b) of this section.

"(b) A third-party requester may—

"(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

"(2) be a party to any appeal taken by the patent owner, subject to subsection (c) of this section.

"(c) A third-party requester who files a notice of appeal or who participates as a party to an appeal by the patent owner under the provisions of sections 141 through 144 of this title is estopped from later asserting, in any forum, the invalidity of any claim determined to be patentable on appeal on any ground which the third-party requester raised or could have raised during the reexamination proceedings. A third-party requester is deemed not to have participated as a party to an appeal by the patent owner unless, within twenty days after the patent owner has filed notice of appeal, the third-party requester files notice with the Commissioner electing to participate.".

(f) REEXAMINATION PROHIBITED.—(1) Chapter 30 of title 35, United States Code, is amended by adding the following section at the end thereof:

"§ 308. Reexamination prohibited

"(a) Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 304 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for reexamination of the patent until a reexamination certificate is issued and published under section 307 of this title, unless authorized by the Commissioner.

"(b) Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit, then neither that party nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action, and a reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any provision of this chapter.".

(2) The table of sections for chapter 30 of title 35, United States Code, is amended by adding the following at the end thereof:

"308. Reexamination prohibited.".

SEC. 4. CONFORMING AMENDMENTS.

(a) BOARD OF PATENT APPEALS AND INTERFERENCES.—The first sentence of section 7(b) of title 35, United States Code, is amended to read as follows: "The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, or a patent owner or a third-party requester in a reexamination proceeding, review adverse decisions of examiners upon applications for patents and decisions of examiners in reexamination proceedings, and shall determine priority and patentability of invention in interferences declared under section 135(a) of this title.".

(b) PATENT FEES; PATENT AND TRADEMARK SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended by inserting "or for an unintentionally delayed response by the patent owner in a reexamination proceeding," after "issuing each patent,".

(c) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences

"(a) An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.".

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by amending the first sentence to read as follows: "An applicant, a patent owner or a third-party requester, dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 of this title, may appeal the decision to the United States Court of Appeals for the Federal Circuit.".

(e) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: "In ex parte and reexamination cases, the Commissioner shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal.".

(f) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting "(a)" after "section 134".

SEC. 5. EFFECTIVE DATES.

This Act shall take effect six months after the date of enactment of this Act and shall apply to all reexamination requests filed on or after such date.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the immediate consideration of Calendars Nos. 679, 685, 686, 687, 688 and 690; that the committee substitutes and committee amendments, where appropriate, be agreed to; that the bills each be deemed read the third time, passed; that the resolutions be agreed to, the motions to reconsider be laid upon the table, en bloc, that the title amendments and preambles, where appropriate, be agreed to, en bloc; that the consideration of these items appear individually in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills and resolutions (S. 927, S. 2475, Senate Resolution 136, Senate Resolution 223, Senate Resolution 258, and H.R. 810) were deemed read the third time, and passed, or agreed to, as follows:

THE WADE BOMAR PRIVATE RELIEF ACT

The Senate proceeded to consider the bill (S. 927) for the relief of Wade Bomar, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. RELIEF OF WADE BOMAR.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $100,000 to Mr. Wade Bomar in full settlement of a claim for injuries sustained by Mr. Bomar in the line of duty on August 6, 1989, while fighting the Pryor Gap fire, permanently depriving him of the use of his limbs.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Wade Bomar, and for other purposes."

RELIEF OF BENCHMARK RAIL GROUP

The bill (S. 2457) for the relief of Benchmark Rail Group, Inc., was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that Benchmark Rail Group, Inc., of St. Louis, Missouri, satisfactorily performed emergency work after the Northridge earthquake, but has not been reimbursed as a result of a technicality under California State law.

(b) PURPOSE.—The purpose of this Act is to fairly compensate Benchmark Rail Group, Inc., for the work for which, except for the technicality under California State law, it would otherwise have been paid under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

SEC. 2. PAYMENT.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the director of the Federal Emergency Management Agency shall pay to Benchmark Rail Group, Inc., of St. Louis, Missouri, an amount equal to the total amount owed to Benchmark Rail Group, Inc., by the Federal Emergency Management Agency and the State of California to compensate Benchmark Rail Group, Inc., for the emergency work and services performed at the request of the Southern California Regional Rail Authority, to the extent that such work and services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act. The payment shall be made from funds appropriated to implement such Act.

(b) DEOBLIGATION OF FUNDS.—The Federal Emergency Management Agency shall deobligate an equal amount to that obligated previously for payment to the State of California to cover the costs of work performed for the Southern California Regional Rail Authority by Benchmark Rail Group, Inc., after the Northridge earthquake which would have been eligible for reimbursement under such Act.

Mr. DANFORTH. Mr. President, S. 2457 provides relief to the Benchmark Rail Group, Inc., a company in St. Louis that performed emergency work following the Northridge earthquake and, because of a technicality in California State law, has not been reimbursed for that work.

Immediately following the Northridge earthquake, the Southern California Regional Rail Authority [SCRRA] approached Benchmark about assisting in emergency repair work on rail lines in the Los Angeles area. Five days later, Benchmark was performing the work. Several weeks into the work, Benchmark learned of a provision of California State law which states that State agencies can only hire contractors licensed to do work in the State of California. While SCRRA and the State of California were satisfied with Benchmark's work, this provision of State law disqualified Benchmark from receiving payment.

Section 406(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, amended by P.L. 100-707) authorizes the Federal Emergency Management Agency [FEMA] to contribute at least 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement of public facilities. In the case of the Northridge earthquake, FEMA is contributing 90 percent of such repairs. Routinely, State or local governments or other public entities hire contractors to perform emergency repair work on specific projects. Following approval by FEMA of a project, funds are obligated to the State—the grantee—for dispersal to other public entities—subgrantees—or directly to contractors. The funds may not be drawn down by the State for disbursement to a subgrantee or contractor until the work is completed and documentation supporting the associated costs has been submitted to FEMA.

In the case of the Northridge earthquake, on August 23, 1994, funds in the aggregate amount of $27,517,779 were obligated by FEMA through two damage survey reports for various eligible repair/restoration projects undertaken by Metropolitan Transit Authority-related [MTA] transit districts, including SCRRA. Benchmark is owed approximately $500,000. The 90-percent Federal share of the work performed by Benchmark is included in this obligation. However, because of the provision of California State law, those funds cannot be awarded to Benchmark by the State of California or SCRRA.

FEMA is very sympathetic to Benchmark's quandary. In an August 25, 1994, letter to Gov. Pete Wilson, Richard W. Krimm, Associate Director of FEMA for Response and Recovery Directorate, wrote that "it is our understanding that this company, Benchmark Rail Group of St. Louis, Missouri, traveled halfway across the country at the invitation of the Southern California Regional Rail Authority [SCRRA] to help people in dire need of assistance. This action was clearly an example of the concept of people-helping-people at work. The State should take whatever action is appropriate to facilitate reimbursement to Benchmark for these efforts, based upon dollars already obligated by the Federal Emergency Management Agency [FEMA].

According to the letter, "FEMA is precluded from directly paying Benchmark or otherwise effectuating or facilitating payment to Benchmark because of limitations imposed by both State and Federal law." It cannot pay Benchmark for two reasons. First, because "the Federal Government, in the performance of its duties and responsibilities, cannot ignore or abrogate State law. Since the failure to have a particular California license is the obstacle to payment by the State, FEMA is not legally in a position to do what the State of California, the Metropolitan Transit Authority and SCRRA cannot do." Second, the Stafford Act and applicable regulations authorize reimbursement by FEMA only to the grantee of the Federal share of disaster assistance funds, which, according to section 406 (a) of the act, must be either "a State or local government." In this case, the State is the grantee. Benchmark, a private company, "is not an eligible grantee."

Like FEMA, the State of California recognizes the problem. This summer, Gov. Pete Wilson worked closely with the California State legislature in an attempt to amend California law to authorize payment to Benchmark. However, the effort got underway late in the legislative session and failed. On September 8, 1994, Governor Wilson wrote to FEMA that "we are hopeful that this problem can be resolved if FEMA obtains the administrative flexibility to make the Stafford Act payment directly to Benchmark."

The legislation that I introduced would do just that. It directs FEMA to pay directly to Benchmark all that Benchmark is owed for its work in Southern California that is eligible for reimbursement. This includes the 90-percent share that FEMA would ordinarily reimburse to the State through the public assistance program, and the 10-percent share that the non-Federal entity would ordinarily contribute for reimbursement. The clause in the bill "to the extent that such work and services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act" is intended to mean that FEMA reimburses Benchmark for all work which is eligible for reimbursement under the Stafford Act, including both the 90-percent share that FEMA would ordinarily pay and the 10-percent share that the nonFederal entity would pay.

I have required FEMA to reimburse all 100 percent because Benchmark is in trouble and my goal is to make the company whole. Until the payment issue is resolved, Benchmark has ceased operations. I have no idea when and whether the California State legislature will amend State law to permit Benchmark to be reimbursed.

I believe that local and State governments should contribute a match for disaster assistance. Under ordinary circumstances, I would want FEMA to contribute 90 percent of the reimbursement and California (or the local rail authority) to contribute 10 percent. Under this legislation, FEMA must pay 100 percent. However, I think it is fair, and makes very good sense, for FEMA to recover the 10 percent share from the State or from the local rail authority after it reimburses Benchmark the full 100 percent.

It is very unfortunate that in exchange for Benchmark's responsibility in responding to this emergency, it has had to endure a disaster of its own. This legislation will finally permit Benchmark to receive that which it is owed. I believe that we have a responsibility to make this happen, and I urge passage of this bill.

I ask unanimous consent that the two letters I referred to be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FEDERAL EMERGENCY
MANAGEMENT AGENCY,
Washington, DC, August 25, 1994.

Hon. PETE WILSON,
Governor of California, State Capital, Sacramento, CA.

DEAR GOVERNOR WILSON: I am writing to encourage you to take the appropriate actions to ensure that an out-of-state company that performed emergency work in California without required State licensing, following the Northridge earthquake, can be compensated for the eligible work that was performed.

It is our understanding that this company, Benchmark Rail Group of St. Louis, Missouri, travelled halfway across the country at the invitation of the Southern California Regional Rail Authority (SCRRA) to help people in dire need of assistance. This action was clearly an example of the concept of people-helping-people at work. The State should take whatever action is appropriate to facilitate reimbursement to Benchmark for these efforts, based upon dollars already obligated by the Federal Emergency Management Agency (FEMA).

The Benchmark Rail Group performed repair and restoration work at the request of SCRRA soon after the Northridge Earthquake. However, due to complications arising from the fact that they did not have the required California license, they have been unable to obtain reimbursement for their work.

FEMA is precluded from directly paying Benchmark or otherwise effectuating or facilitating payment to Benchmark because of limitations imposed by both State and Federal law. First and foremost, payment to Benchmark is prevented because of the State's licensing requirement. Further restrictions come into play by way of applicable grant administration regulations.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act—the enabling legislation for our disaster assistance program) and applicable grant administration regulations authorize the provision by FEMA to the *grantee* of the Federal share of disaster assistance funds for eligible subgrantee projects and costs. The State, as grant administrator, then disburses these funds to the subgrantee based on documented costs of eligible work. The subgrantee then pays its contractors. In this case, the subgrantee is the Metropolitan Transit Authority (MTA), an umbrella organization for several transit districts, including SCRRA.

The provisions of the Stafford Act and the above-mentioned regulations provide that funds will be obligated (i.e., made available to the State) upon approval of a project by FEMA. These funds may not, however, be drawn down by the State for disbursement to the subgrantee until the work is completed and documentation supporting the associated costs has been submitted by the subgrantee. Accordingly, the State, as grant administrator, may not disburse grant funds to the subgrantee for work for which it has not incurred any costs, as would be the case if Benchmark is not paid by the MTA.

In addition, the provisions of the Stafford Act would prohibit us from providing such funds directly to Benchmark, since the company is not an eligible grantee. Beyond these strict considerations of enabling legislation, the Federal government, in the performance of its duties and responsibilities, cannot ignore or abrogate State law. Since the failure to have a particular California license is the obstacle to payment by the State, FEMA is not legally in a position to do what the State of California, MTA and SCRRA cannot do.

On August 23, 1994, funds in the aggregate amount of $27,517,779 were obligated by FEMA through two Damage Survey Reports (DSRs) for various eligible repair/restoration projects undertaken by the MTA-related transit districts, including SCRRA. This means that funds are now reserved and available to the State (and represent the 90 percent Federal share of eligible costs for the project) for reimbursement of the subgrantee's eligible costs, subject to the scope of work parameters set forth in the DSR and within the parameters of State law. It is our understanding that work performed by Benchmark is included within the scope of work recognized as eligible in the Damage Survey Reports.

We hope that this information is helpful in resolving issues concerning the payment of the Benchmark Rail Group. This is a unique situation that we have not encountered before in response to this disaster. We support your efforts to work with SCRRA, the Benchmark Rail Group and others to resolve this unfortunate situation. We would appreciate it if you would notify us when you reach a final resolution of this matter. If I may be of further assistance, please feel free to contact me.

Sincerely,

RICHARD W. KRIMM,
Associate Director,
Response and Recovery Directorate.

GOVERNOR PETE WILSON,
Sacramento, CA, September 9, 1994.

Mr. RICHARD W. KRIMM,
Associate Director, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC.

DEAR. MR. KRIMM: I received your letter regarding compensation to Benchmark Rail Group for emergency repair and restoration work done after the Northridge Earthquake.

As you know, Southern California Regional Rail Authority has taken the position that State law precludes it from paying Benchmark since it did not have the required license. Although an attempt was made to amend legislation late in the legislative session to authorize payment to certain unlicensed contractors who performed work in response to the Northridge earthquake, no action was taken by the Legislature.

My office has been in contact with Senator Danforth regarding this situation. We are hopeful that this problem can be resolved if FEMA obtains the administrative flexibility to make the Stafford Act payment directly to Benchmark.

Thank you for your assistance.

Sincerely,

PETE WILSON.

THE HORACE MARTIN ACT OF 1994

The Senate proceeded to consider the resolution (S. Res. 136) to refer S. 1325 entitled "A bill for the relief of Horace Martin," to the chief judge of the U.S. Claims Court for a report thereon, which had been reported from the Committee on the Judiciary, with an amendment.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The resolution, as amended, and the title, as amended, are as follows:

S. RES. 136

Resolved, That the bill (S. 1325) entitled "A bill for the relief of Horace Martin", now pending in the Senate, together with all accompanying papers, is referred to the Chief Judge of the United States Court of Federal Claims. The Chief Judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, giving such finding of fact and conclusions that are sufficient to inform Congress of the amount, if any, legally or equitably due from the United States to the claimant.

Amend the title so as to read: "To refer S. 1325 entitled 'A bill for the relief of Horace Martin', to the Chief Judge of the United States Court of Federal Claims for a report thereon.".

REFERRAL OF S. 2188 TO THE U.S. COURT OF FEDERAL CLAIMS

The resolution (S. Res. 223) to refer S. 2188 entitled "A bill for the relief of the Pottawatomi Nation in Canada for the proportionate share of tribal funds and annuities under treaties between the Pottawatomi Nation and the United States, and for other purposes", to the Chief Judge of the U.S. Court of Federal Claims for a report on the bill was considered and agreed to; as follows:

S. RES. 223

Resolved, That S. 2188 entitled "A bill for the relief of the Pottawatomi Nation in Canada for the proportionate share of tribal funds and annuities under treaties between the Pottawatomi Nation and the United States, and for other purposes", now pending in the Senate, together with all accompanying papers, is referred to the Chief Judge of the United States Court of Federal Claims. The Chief Judge shall proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code, and report back to the Senate, at the earliest practicable date, providing such findings of fact and conclusions that are sufficient to inform the Congress of—

(1) whether the claims against the United States of the Pottawatomi Nation in Canada that would have been compensable under the Indian Claims Commission Act (25 U.S.C. 70 et seq.) but for the residence of the Pottawatomi Nation in Canada and outside of the territorial limits of the United States are legal or equitable in nature;

(2) the amount of damages (if any) that the Pottawatomi Nation in Canada would have been entitled to receive under such Act but for the residence of the Pottawatomi Nation in Canada and outside of the territorial limits of the United States that is payable to the Pottawatomi Nation in Canada in accordance with section 1(1) of S. 2188; and

(3) the amount of interest that is payable on the amount referred to in paragraph (2) in accordance with section 1(2) of S. 2188, calculated at a rate of 5 percent per year.

REFERRAL OF S. 974 TO THE U.S. COURT OF FEDERAL CLAIMS

The resolution (S. Res. 258) resolution to refer S. 974 entitled "A bill for the relief of Richard Kanehl of Mobile, Alabama." to the chief judge of the U.S. Court of Federal Claims for a report thereon was considered, and agreed to; as follows:

S. RES. 258

Resolved, That, as a supplement to S. Res. 108 of the 103d Congress, the bill S. 974 entitled "A bill for the relief of Richard Kanehl of Mobile, Alabama." now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims. The chief judge shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, notwithstanding the bar of any statute of limitations, laches, res judicata, collateral estoppel, or bar of sovereign immunity, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due to the claimants from the United States. In complying with this resolution, the Court of Federal Claims is requested to consider the records of any previous trial of the issues in this case, including the records of Merchants National Bank v. United States (7 Cl. Ct. 1; 1984).

RELIEF OF ELIZABETH M. HILL

The bill (H.R. 810) for the relief of Elizabeth M. Hill was considered, ordered to a third reading, read the third time, and passed.

UNANIMOUS-CONSENT AGREEMENT—S. 2467

Mr. FORD. Mr. President, I ask unanimous consent that during the consideration of S. 2467, the GATT implementation legislation, or its House companion; that the vote on any motion to waive the Budget Act not occur until all time on the legislation has been used or yielded back, and that the previous consent agreement governing committee consideration apply to both S. 2467 and the House companion.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON CALENDAR—H.R. 4944

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 4944 Water Desalination Act of 1994, just received from the House, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFRICAN CONFLICT RESOLUTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 694, S. 2475, a bill to promote the peaceful resolution of conflicts in Africa; that the bill be deemed read the third time, passed the motion to reconsider laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2475) was deemed read the third time, and passed, as follows:

S. 2475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Excessive military expenditures threaten political and economic stability in Africa while diverting scarce resources from development needs. Demobilization and other measures to reduce the size of African armies, and civilian control of the military under the rule of law are in the interest of international security and economic development.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The effectiveness of U.S. support for conflict resolution programs requires coordination and collaboration with multilateral institutions and other bilateral donors.

(11) African institutions are playing an active role in conflict resolution and mediation utilizing the experience of elder statesmen. Groups such as the All African Council of Churches have assisted in defusing conflicts. The Economic Community of West African States (ECOWAS) has sought to address the conflict in Liberia by deploying an African peacekeeping force. The Southern African states have been working to prevent a crisis in Lesotho. The Intergovernmental Authority on Desertification and Drought (IGADD) has been engaged in attempting to resolve the conflict in Sudan.

(12) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

SEC. 3. IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability, including providing technical assistance.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, not less than $1,500,000 for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

SEC. 4. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such organizations for use in supporting their conflict resolution capability, including providing technical assistance.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such organizations.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 5. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF NON-GOVERNMENTAL ORGANIZATIONS.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 6. AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

(a) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to—

(1) provide assistance for the encampment and related activities for the purpose of demobilization of such forces; and

(2) provide assistance for the reintegration of demobilized military personnel into civilian society through activities such as retraining for civilian occupations, creation of income-generating opportunities, their reintegration into agricultural activities, and

the transportation to the home areas of such personnel.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

(c) CIVILIAN INVOLVEMENT.—The President is also authorized to promote civilian involvement in the planning and organization of demobilization and reintegration activities.

SEC. 7. TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

(a) AUTHORIZATION.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Of the funds made available under chapter 5 of part II of the Foreign Assistance Act of 1961, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used for the purposes of subsection (a).

SEC. 8. PLAN FOR UNITED STATES SUPPORT FOR CONFLICT RESOLUTION AND DEMOBILIZATION IN SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Pursuant to the provisions of sections 3 through 7, the President should develop an integrated long-term plan, which incorporates local perspectives, to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa.

(b) CONTENTS OF PLAN.—Such plan should include:

(1) The type, purpose, amount, and duration of assistance that is planned to be provided to conflict resolution units in sub-Saharan Africa.

(2) The type and amount of assistance that is planned to be provided for the demobilization of military personnel of countries of sub-Saharan Africa, including—

(A) a list of which countries will receive such assistance and an explanation of why such countries were chosen for such assistance; and

(B) a list of other countries and international organizations that are providing assistance for such demobilization.

(3) The type and amount of assistance that is planned to be provided to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(4) A description of proposed training programs for Africans in conflict resolution and peacekeeping under section 7, including a list of prospective participants and plans to expand such programs.

(5) The mechanisms to be used to coordinate interagency efforts to administer the plan.

(6) Efforts to seek the participation of other countries and international organizations to achieve the objectives of the plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing a description of the plan developed under this section.

SEC. 9. REPORTING REQUIREMENT.

(a) REQUIREMENT.—The President shall submit to the appropriate congressional committees a report describing the efforts and progress made in carrying out the provisions of this Act.

(b) DATE OF SUBMISSION.—The first report submitted under subsection (a) shall be submitted no later than 180 days after the date of the enactment of this Act, and shall be submitted annually thereafter.

SEC. 10. CONSULTATION REQUIREMENT.

The President shall consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

For purposes of this Act, the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

UNITED STATES POSITION ON DISINSECTION OF AIRCRAFT

Mr. FORD. Proceed to the immediate consideration of Senate Concurrent Resolution 77, a concurrent resolution regarding United States position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization, submitted earlier today by Senator LEAHY, and others; that the concurrent resolution and preamble be agreed to, en bloc; that the motion to reconsider be laid upon the table, and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 77) was considered, and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, was agreed to as follows:

S. CON. RES. 77

Whereas the United States has a responsibility to protect the health and safety of United States air travelers in the United States and abroad;

Whereas the United States ended the practice of aircraft cabin disinsection 15 years ago after determining that the process was ineffective and posed a possible health risk to aircraft passengers;

Whereas 27 countries require disinsection of aircraft cabins by the spraying of an insecticide while passengers are on board the aircraft or by a residual pesticide treatment which is not registered for use in the United States;

Whereas nearly 10,000,000 people fly every year from the United States to countries that require disinsection of aircraft;

Whereas United States pilots and flight attendants on flights to such countries are repeatedly exposed to the chemicals used in disinsection of aircraft;

Whereas approximately 53,000,000 Americans, more than 20 percent of the population, suffer chronic respiratory problems that put them at special risk to aircraft cabin disinsection procedures;

Whereas no tests have been conducted to determine whether insecticides used for aircraft cabin disinsection are safe for use in unventilated aircraft cabins or for people with chemical sensitivities or breathing conditions;

Whereas there has been a decrease in the number of insecticides registered for aircraft cabin disinsection by the Environmental Protection Agency be reason of the health concerns raised with respect to such insecticides, and there is no indication that insecticides produced in foreign countries which might serve to replace such insecticides present any less threat to health;

Whereas Annex 9 to the Convention on International Civil Aviation, done at Chicago, December 7, 1944, states that "Contracting States shall ensure that their procedures for disinsecting or any other remedial measure are not injurious to the health of passengers and crew and cause the minimum of discomfort to them";

Whereas the Facilitation Division of the International Civil Aviation Organization is scheduled to meet in the Spring of 1995 to discuss changes to the standards set forth in Annex 9 to the Convention; and

Whereas the United States will be a participant at that meeting: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States delegation to the Spring 1995 meeting of the Facilitation Division of the International Civil Aviation Organization—

(1) seek to amend the Convention on International Civil Aviation, done at Chicago, December 7, 1944, to end aircraft disinsection practices that threaten the health of aircraft passengers and crew; and

(2) make every effort to gain the support and cosponsorship of other member nations of the organization in that amendment.

NORTH AMERICAN WETLANDS CONSERVATION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 615, H.R. 4308, the North American Wetlands Conservation Act authorization; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table; that any statements appear in the RECORD as if read; provided further, that upon disposition of H.R. 4308, Calendar No. 543, the Senate companion, S. 1857 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4308) was deemed read the third time, and passed.

FEDERAL PAYMENT REAUTHORIZATION ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2902, Federal Payment Reauthorization Act of 1994, just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider be laid upon the table; that any statements relating to this matter be placed in the RECORD at appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2902) was deemed read the third time, and passed.

Mr. ROTH. Mr. President, the legislation now before us, the Federal Payment Reauthorization Act of 1994, is much more than a simple 1-year reauthorization of the Federal payment to the District of Columbia. Its most important features are its amendments to the District's Home Rule Act, which strengthen the city's accountability to the Congress for its fiscal and programmatic management.

In recent years Congress has sought to improve these forms of accountability within the Federal Government itself. In 1990, it aimed at financial accountability, with enactment of the Chief Financial Officers Act. Then last year it enacted my legislation, the Government Performance and Results Act, which aims at accountability for program performance. Now Congress is addressing those concerns within D.C. government.

Under the Constitution, Congress has exclusive legislative jurisdiction over the District of Columbia. With the Home Rule Act 20 years ago, Congress delegated primary responsibility for the affairs of the District to the D.C. government. But under the constitutional scheme, the District government must remain accountable to Congress, as well as to its own citizens, for its stewardship of that responsibility.

Unfortunately, the D.C. government is widely recognized to have fallen far short in the effectiveness of its fiscal and programmatic management. H.R. 2902 represent a bipartisan acknowledgement in the Congress of this fact. As such, it is an effort to help the District help itself, by requiring systematic goal-setting, measurement, and reporting of program performance and financial management.

I would like to address in particular the requirement for program performance accountability, as this provision was inspired by the Federal Government reform I authored—the Government Performance and Results Act. Each year from now on, the Mayor of the District is required to submit a performance accountability plan for all significant activities of all departments, agencies, and programs of D.C. government. Each plan will include performance goals that are measurable and objective, for both the quantity and quality of the activities, and will include measures of program outcomes and results. And very important, the manager most directly responsible for achieving each goal, and that person's immediate supervisor, will be identified.

The idea is to instill something that many people believe has been missing from District government—personal accountability for the effectiveness of program management. To measure that effectiveness, each significant activity will have two goals: one for an acceptable level of performance, and one for a superior level. It is my hope that the District will now take it upon itself to tie achievement of those goals into a meaningful pay-for-performance and promotion system, so that Congress won't feel the need to do so.

With respect to the actual activities that will be covered by goals, it should be emphasized that the legislation envisions a large number of such measurements. We are not talking about a mere handful. The report on this legislation by the House Committee on the District of Columbia points out that this type of goal-based performance measurement has its roots in the city of Sunnyvale, CA.

In that city, which has a much narrower range of responsibilities than does the District, the annual budget shows over 300 different service level objectives. I might add, Sunnyvale's budget also identifies the name and title the responsible manager for each such goal, and their pay can go down as well as up, depending on how well they meet or exceed their goals.

There are a wide variety of ways the performance of government programs can be measured. There are measures for response time, error rates, percentage of reduction in the incidence of a problem, processing time, participation rates, and the cost-per-unit of activity, to name just a few. The most important measures are of program efficiency and effectiveness—not just how much was done, but how well. And perhaps the single most important measure of all is the citizen satisfaction survey. Every program dealing with the public ought to ask its customers how they rate the experience.

Mr. President, I sincerely believe that with today's legislation, we are not just requiring useful information for the Congress. Perhaps even more important, the mandated program performance and financial management information will be available tools for the District itself as it seeks to strengthen the effectiveness of home rule, and for the citizens of the District as they seek to hold their own government accountable for their tax dollars.

CROW BOUNDARY SETTLEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that title amendment to S. 1216, the Crow Boundary Settlement Act, the bill previously passed, be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The title was amended so as to read:

"A bill to resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States.".

The text of the bill (S. 1216) to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian tribe, and the United States and various other issues pertaining to the Crow Indian Reservation, as passed by the Senate on October 3, 1994, is as follows:

S. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crow Boundary Settlement Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Under the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649), the eastern boundary of the Crow Indian Reservation was established as the 107th meridian for approximately 90 miles from the Yellowstone River to the boundary between Montana and Wyoming.

(2) Under Executive orders issued in 1884 and 1900, the western boundary of the Northern Cheyenne Reservation was established as the 107th meridian. The 107th meridian was intended to be the common boundary between the Crow Reservation and Northern Cheyenne Reservation for approximately 25 miles.

(3) From 1889 through 1891, a survey was conducted of the eastern boundary of the Crow Reservation. The 1891 survey line strayed to the west, and resulted in the exclusion from the Crow Indian Reservation of a strip of land of approximately 36,164 acres. Approximately 12,964 acres of such strip of land were included in the Northern Cheyenne Reservation. Deposits of low sulphur coal underlie the land excluded from the Crow Indian Reservation, including the land included in the Northern Cheyenne Indian Reservation.

(4)(A) The erroneous nature of the survey was not discovered for several decades. Meanwhile, the areas along the 107th meridian to the north and south of the Northern Cheyenne Indian Reservation were opened to settlement in the late nineteenth century and early part of the twentieth century. Patents were issued to non-Indian persons and to the State of Montana for most of the surface land and a significant portion of the minerals in these areas between the 107th meridian and the 1891 survey line.

(B) The 12,964 acres included in the Northern Cheyenne Reservation have been treated as part of the Northern Cheyenne Reservation and occupied by the Northern Cheyenne Tribe and the Northern Cheyenne allottees, and their successors in interest.

(5) Legislation to resolve the 107th meridian boundary dispute was introduced in Congress in the 1960's and 1970's, and again in 1992, but no such legislation was enacted into law.

(b) PURPOSE.—The purpose of this Act is to settle the 107th meridian boundary dispute created by the erroneous survey of the eastern boundary of the Crow Indian Reservation made by the Federal Government described in subsection (a)(3).

SEC. 3. DEFINITIONS.

As used in this Act:

(1) CROW TRIBE.—The term "Crow Tribe" means the Crow Tribe of Indians, the duly recognized governing body of the Crow Indian Reservation.

(2) DISPUTED AREA.—The term "disputed area" means the approximately 36,164 acres of land, including the minerals, located between the 107th meridian on the east and the 1891 survey line on the west from the Yellowstone River on the north to the boundary between the State of Wyoming and the State of Montana on the south.

(3) 1891 SURVEY.—The term "1891 survey" means the survey of the eastern boundary of the Crow Reservation conducted by the United States Government from 1889 through 1891.

(4) 1891 SURVEY LINE.—The term "1891 survey line" means the erroneous boundary line resulting from the survey of the 107th meridian which was completed in 1891.

(5) NORTHERN CHEYENNE TRIBE.—The term "Northern Cheyenne Tribe" means the Northern Cheyenne Tribe of Indians, with the Northern Cheyenne Tribal Council as the duly recognized governing body of the Northern Cheyenne Indian Reservation.

(6) 107TH MERIDIAN BOUNDARY DISPUTE.—The term "107th meridian boundary dispute" means the dispute resulting from the disparity between the location of the 107th meridian and the location of the 1891 survey line.

(7) 107TH MERIDIAN ESCROW FUND.—The term "107th meridian escrow fund" means the revenues that arise from, or are derived from, parcel number 2, including all accrued interest on such revenues, which are held by the Bureau of Indian Affairs in an escrow account as of the date of enactment of this Act.

(8) PARCEL NUMBER 1.—The term "parcel number 1" means the area, encompassing approximately 11,317 acres, bounded on the south by the Montana-Wyoming border, on the east by the 107th meridian, on the north by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(9) PARCEL NUMBER 2.—The term "parcel number 2" means the area, encompassing approximately 12,964 acres, bounded on the south by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(10) PARCEL NUMBER 3.—The term "parcel number 3" means the area, encompassing approximately 2,469 acres, bounded on the south by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the northern boundary of the Crow Indian Reservation, and on the west by the 1891 survey line.

(11) PARCEL NUMBER 4.—The term "parcel number 4" means the area, encompassing approximately 9,415 acres, bounded on the south by the northern boundary of the Crow Indian Reservation, on the east by the 107th meridian, on the north by the midpoint of the Yellowstone River, and on the west by the 1891 survey line.

(12) PUBLIC LANDS.—The term "public lands" means any land or interest in land owned by the United States (without regard to the means by which the United States acquired ownership of the land or interest in land) and administered by the Secretary through the Bureau of Land Management.

(13) ROYALTIES RECEIVED AND RETAINED BY THE UNITED STATES.—The term "royalties received and retained by the United States" means the royalties derived from minerals owned by the United States that the United States retains after all payments from the royalties have been made to the State of Montana or any unit of local government of the State of Montana.

(14) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(15) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement between the Secretary, on behalf of the United States and the Crow Tribe, that provides for the resolution of all claims held by the Crow Tribe arising from the 107th meridian boundary dispute.

(16) UNDISPOSED OF COAL.—The term "undisposed of coal" means coal that has not been conveyed to private parties or to the State of Montana by the United States.

(17) UNDISPOSED OF SURFACE LANDS.—The term "undisposed of surface lands" means surface land that has not been conveyed to private parties or to the State of Montana by the United States.

(18) UNDISPOSED OF OIL, GAS, COAL METHANE, OR OTHER MINERALS.—The term "undisposed of oil, gas, coal methane, or other minerals" means oil, gas, coal methane, or other minerals (excluding coal) that have not been conveyed to private parties or to the State of Montana by the United States.

SEC. 4. SETTLEMENT AGREEMENT.

(a) EXECUTION OF THE SETTLEMENT AGREEMENT.—Subject to the terms and conditions of this Act, the Secretary shall enter into the Settlement Agreement with the Crow Tribe.

(b) RATIFICATION OF THE SETTLEMENT AGREEMENT.—Subject to the conditions set forth in section 9(a), the United States hereby approves, ratifies, and confirms the Settlement Agreement, to the extent that such Settlement Agreement does not conflict with this Act.

(c) MODIFICATION OF THE SETTLEMENT AGREEMENT.—The terms and conditions of the Settlement Agreement may be modified by mutual agreement of the Crow Tribe and the Secretary if such modification—

(1) is not inconsistent with this Act; and

(2) does not diminish or impair any right or benefit secured to the Northern Cheyenne Tribe, the Northern Cheyenne allottees, or their successors in interest by or pursuant to any provision of this Act.

(d) ENFORCEMENT OF THE SETTLEMENT AGREEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Settlement Agreement shall be subject to the enforcement provisions under chapter 7 of title 5, United States Code.

(2) ADDITIONAL ENFORCEMENT.—If, with respect to the enforcement of the Settlement Agreement, the remedies available under the provisions referred to in paragraph (1) do not provide adequate or complete relief, the Settlement Agreement shall be subject to the enforcement provisions under section 1505 of title 28, United States Code.

SEC. 5. SETTLEMENT TERMS AND CONDITIONS AND EXTINGUISHMENT OF CLAIMS.

(a) PROPERTY WITHIN PARCEL NUMBER 1.—

(1) IN GENERAL.—With respect to the property within parcel number 1, the following provisions shall apply:

(A) The boundary of the Crow Indian Reservation shall be the 107th meridian.

(B) Title to the undisposed of coal of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(C) Title to the undisposed of surface lands of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(D) Title to the undisposed of oil, gas, coal methane, or other minerals of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) PROHIBITION.—Nothing in this Act or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, oil, gas, coal methane, or mineral within parcel number 1 that is based on the 1891 survey line, except for the specific rights that are vested in the United States for the sole use and benefit of the Crow Tribe pursuant to subparagraphs (B) through (D) of paragraph (1).

(3) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, title, claim, or interest in all the land and minerals within parcel number 1, except for the rights, titles, and interests recognized as beneficially owned by the Crow Tribe and as part of the Crow Indian Reservation in subparagraphs (B) through (D) of paragraph (1).

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 1.

(b) PROPERTY WITHIN PARCEL NUMBER 2.—

(1) IN GENERAL.—With respect to the property within parcel number 2, the following provisions shall apply:

(A) The boundary between the Crow and Northern Cheyenne Indian Reservations shall be the 1891 survey line.

(B) All surface lands and minerals of such parcel shall constitute part of the Northern Cheyenne Reservation.

(C) All surface lands, including all rights appurtenant to the surface lands, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe, except that surface lands that have been allotted shall be recognized as held in trust for, or owned in fee by (as the case may be), the Northern Cheyenne allottees or their successors in interest.

(D) The oil, gas, coal, coal methane, and other minerals, including all rights appurtenant to such minerals, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe.

(2) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals within parcel number 2, including all rights appurtenant to such land and minerals.

(B) A release by the Crow Tribe of all persons and entities, including the United States, the Northern Cheyenne Tribe, the Northern Cheyenne allottees and their successors in interest, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 2.

(3) ENFORCEMENT.—The provisions of subsection (b) may be enforced, in law or in equity, by the Northern Cheyenne Tribe, Northern Cheyenne allottees, and their successors in interest, in accordance with their respective interests.

(c) PROPERTY WITHIN PARCEL NUMBER 3 AND PARCEL NUMBER 4.—

(1) IN GENERAL.—With respect to the property within parcel number 3 and parcel number 4, the boundary of the Crow Indian Reservation shall be the 1891 survey line.

(2) PROHIBITION.—Nothing in this Act or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any

right, title, or interest of any person or entity in any land, coal, or mineral within parcel number 3 or parcel number 4 that is based on the 1891 survey line.

(3) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals situated within parcel number 3 and parcel number 4.

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 3 and parcel number 4.

(d) EXCHANGE OF PUBLIC LANDS.—With respect to the land exchanges with the State of Montana and private landowners made under this Act the following provisions shall apply:

(1) IN GENERAL.—(A) The Secretary shall negotiate with the State of Montana for the purpose of exchanging public lands within the State of Montana for State trust lands within the Crow Reservation having a total value substantially equal to the value of the surface estate of the approximately 46,625 acres of State trust lands obtained by the State of Montana pursuant to the Act of February 22, 1889 (commonly known as the "Montana Enabling Act"; 25 Stat. 676, chapter 180), and the Act entitled "An Act to provide for the allotment of lands of the Crow Tribe for the distribution of tribal funds and for other purposes" approved June 4, 1920 (commonly known as the "Crow Allotment Act"; 41 Stat. 751, chapter 224) within the Crow Indian Reservation and the disputed area.

(B) The exchange described in subparagraph (A) shall be in accordance with the exchange procedures set forth in section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(C) In determining the fair market value of the lands described in subparagraph (A), the parties to the exchange shall give due consideration to the value of improvements on the lands.

(D) The Secretary shall ensure that lands exchanged pursuant to this paragraph as part of the settlement of the 107th Meridian boundary dispute made pursuant to this Act shall be selected in such manner that the financial impact on local governments, if any, will be minimized.

(E) The Secretary shall provide such financial or other assistance to the State of Montana and to the Crow Tribe as may be necessary to obtain the appraisals, and to satisfy administrative requirements, necessary to accomplish the exchanges made pursuant to subparagraph (A).

(F) Upon approving an exchange made pursuant to this paragraph, the Secretary shall—

(i) receive title to the State trust lands involved in the exchange on behalf of the United States; and

(ii) transfer title to the public lands disposed of pursuant to the exchanges with the State of Montana by such means of conveyance as the Secretary considers appropriate.

(G) Title to the State trust lands acquired pursuant to the exchanges made with the State of Montana pursuant to this paragraph shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) REQUIREMENT FOR EXCHANGES.—(A) In carrying out the exchanges with the State of Montana pursuant to paragraph (1), the Secretary shall, during a period of at least 5 years beginning on the date on which the Settlement Agreement becomes effective, give first priority to the exchange of public lands within the State of Montana for State trust lands owned by the State of Montana as of the date of the enactment of this Act.

(B) Subject to subparagraph (C), if, for any reason, after the expiration of the period specified in subparagraph (A), the exchanges of the State trust lands identified in paragraph (1) have not provided the Crow Tribe with a total of 46,625 acres of surface lands within the boundaries of the existing Crow Indian Reservation (including parcel number 1), the Secretary shall, at the request of, and in cooperation with, the Crow Tribe, develop and implement a program to provide the Crow Tribe with additional land within the Crow Indian Reservation (including parcel number 1) through land exchanges with private landowners.

(C) The total value of—

(i) the value of the lands exchanged and acquired for the Crow Tribe pursuant to paragraph (1), and

(ii) the value of the lands exchanged and acquired for the Crow Tribe pursuant to this paragraph,

shall not exceed the value of the surface estate of the 46,625 acres of land identified in paragraph (1)(A).

(D) In carrying out a program developed pursuant to this paragraph, the Secretary may exchange public lands within the State of Montana for private lands of substantially equal value within the boundaries of the existing Crow Indian Reservation in accordance with section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716).

(E) In determining the fair market value of the lands described in subparagraph (D), the parties to an exchange made pursuant to subparagraph (D) shall give due consideration to the value of improvements on the lands.

(F) If the Secretary obtains private lands pursuant to subparagraph (D), the Secretary shall transfer title to such lands to the Crow Tribe.

(G) Title to any private or public lands transferred to the Crow Tribe pursuant to this paragraph shall—

(i) be vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(ii) be recognized as part of the Crow Indian Reservation, if such lands are located within the boundaries of the Crow Indian Reservation.

(H) The Crow Tribe shall assist in obtaining prospective willing parties to exchange private lands within the Crow Indian Reservation for public lands within the State of Montana pursuant to this paragraph.

(e) CROW TRIBAL TRUST FUND.—The Settlement Agreement shall include provisions governing the distribution of interest income to the Crow Tribe from the Crow Tribal Trust Fund pursuant to the terms and conditions described in section 6.

SEC. 6. ESTABLISHMENT AND ADMINISTRATION OF CROW TRIBAL TRUST FUND.

(a) ESTABLISHMENT OF CROW TRIBAL TRUST FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a trust fund to be known as the "Crow Tribal Trust Fund".

(2) AVAILABILITY OF AMOUNTS IN THE CROW TRIBAL TRUST FUND.—Amounts in the Crow Tribal Trust Fund shall be available, without fiscal year limitation, to the Secretary for distribution to the Crow Tribe in accordance with subsection (d).

(b) CONTRIBUTIONS TO CROW TRIBAL TRUST FUND.—

(1) IN GENERAL.—Subject to paragraph (2) and the requirements of section 10—

(A) on or before November 30, 1994, the Secretary of the Treasury shall deposit into the Crow Tribal Trust Fund an amount equal to the amounts of royalties received and retained by the United States during fiscal year 1994 from the East Decker, West Decker, and Spring Creek coal mines; and

(B) commencing with fiscal year 1995 and for such period thereafter as may be necessary, the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into the Crow Tribal Trust Fund of the royalties received and retained by the United States for the immediately preceding month from the East Decker, West Decker, and Spring Creek coal mines in the State of Montana for the life of such mines, including any extensions of the existing leases for such mines and any expansions of such mines to nearby and adjacent federally owned coal deposits, as specified in the Settlement Agreement.

(2) AMOUNT OF ROYALTIES.—The total amount of royalties described in paragraph (1) that are paid, transferred, or deposited into the Crow Tribal Trust Fund shall not exceed, in the aggregate, $85,000,000, excluding—

(A) any interest earned on moneys in the Crow Tribal Trust Fund; and

(B) the funds transferred to the Suspension Accounts pursuant to section 10.

(3) PAYMENTS OF ROYALTIES RECEIVED AND RETAINED BY THE UNITED STATES.—Subject to paragraph (2) and the requirements of section 10, the royalties received and retained by the United States from the East Decker, West Decker, and Spring Creek coal mines shall be paid, transferred or deposited into the Crow Tribal Trust Fund not later than 30 days after the date on which the royalties are due and paid.

(4) ADDITIONAL PAYMENTS.—The Federal Government shall make payments, in addition to the payments referred to in paragraph (3), from the royalties received and retained by the United States from other coal mines within the State of Montana into the Crow Tribal Trust Fund in an amount equal to any lost interest income (as determined by the Secretary), if any portion of the sums described in paragraph (3) are not paid, transferred or deposited into the Crow Tribal Trust Fund within the 30-day period prescribed in paragraph (3).

(c) INVESTMENT.—The Secretary and Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in interest-bearing deposits and securities in accordance with the Act of February 12, 1929 (45 Stat. 1164, chapter 178; 25 U.S.C. 161a) or the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

(d) DISTRIBUTION OF INTEREST.—

(1) IN GENERAL.—Only the interest received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe for use for education, land acquisition, economic development, youth and elderly programs or other tribal purposes in accordance with plans and budgets developed and approved by the Crow Tribe and approved by the Secretary.

(2) REQUIREMENTS FOR DISTRIBUTION OF INTEREST.—Commencing with fiscal year 1996

and for each fiscal year thereafter, without fiscal year limitation, the interest received on monies in the Crow Tribal Trust Fund shall be available for distribution under this subsection only if—

(A) the United States and the Crow Tribe enter into the Settlement Agreement; and

(B) the requirements of section 9 relating to the approval and execution of the Settlement Agreement are satisfied.

(3) PROHIBITION.—No portion of the Crow Tribal Trust Fund or the interest earned on the Crow Tribal Trust Fund may be distributed to members of the Crow Tribe on a per capita basis.

(e) USE OF INTEREST FOR ECONOMIC DEVELOPMENT.—Notwithstanding any other provision of law, the Crow Tribe may, subject to approval by the Secretary, assign the right of the Crow Tribe to the interest earned on monies in the Crow Tribal Trust Fund to a third party in connection with loans made for economic development projects on or near the Crow Indian Reservation.

(f) LIMITATION.—Notwithstanding any other provision of law, no portion of the principal of the Crow Tribal Trust Fund shall be available for withdrawal or disbursement or used for any purpose other than the purposes specified in this section and section 10.

SEC. 7. ELIGIBILITY FOR OTHER FEDERAL SERVICES; TAX EXEMPTION.

No payments made or benefits conferred pursuant to this Act shall—

(1) result in the reduction or denial of any Federal services or programs to any tribe or to any member of a tribe to which the tribe or member of the tribe is entitled or eligible because of the status of the tribe as a federally recognized Indian tribe or the status of a member of such tribe as a member; or

(2) be subject to any Federal or State income tax.

SEC. 8. EXCHANGES OF LAND OR MINERALS.

(a) IN GENERAL.—(1) Subject to approval by the Secretary, the Crow Tribe may exchange any land or minerals to which its title is recognized in or obtained pursuant to this Act for other land or minerals of substantially equivalent value within the Crow Indian Reservation (including parcel number 1).

(2) Lands or minerals received by the Crow Tribe in any exchange made pursuant to paragraph (1) shall be—

(A) vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(B) recognized as part of the Crow Indian Reservation.

(b) OWNERSHIP BY NON-INDIANS.—Any land or minerals received by a person who is not an Indian in an exchange referred to in subsection (a) shall be owned in fee.

SEC. 9. APPLICABILITY.

(a) IN GENERAL.—The Act shall take effect upon the occurrence of the following conditions:

(1) The Settlement Agreement is approved and executed by the Secretary.

(2) The Settlement Agreement is approved and executed by the Crow Tribe.

(3) The Settlement Agreement and the releases and waivers required by section 5 are approved and duly executed by the Crow Tribe in accordance with the requirements and procedures set forth in the constitution of the Crow Tribe.

(4) The Settlement Agreement becomes effective in accordance with the terms and conditions specified in the Settlement Agreement.

(b) APPROVAL OF RELEASES AND WAIVERS.—The United States hereby approves and confirms the releases and waivers required by section 5.

SEC. 10. ESCROW FUNDS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall make distributions from the 107th meridian escrow fund as follows:

(1) One-half of the fund shall be distributed to the Crow Tribe.

(2) One-half of the fund shall be distributed to the Northern Cheyenne Tribe.

(3) The receipt and acceptance by a tribe of funds distributed under this section shall be deemed to be—

(A) a disclaimer, relinquishment and waiver by such tribe of all right, claim or interest in the 107th meridian escrow fund; and

(B) a release by such tribe of all persons and entities, including the United States, from any liability arising from, or related to, the establishment and administration of the 107th meridian escrow fund.

(b) ESTABLISHMENT OF SUSPENSION ACCOUNTS.—As soon as practicable after the Settlement Agreement is executed and approved pursuant to this Act, the Secretary of the Treasury shall establish in the Treasury of the United States two interest bearing accounts to be known respectively as the "Crow Tribal Suspension Account" and the "Northern Cheyenne Tribal Suspension Account" (collectively referred to in this subsection as the "Suspension Accounts"), consisting of—

(1) such amounts as are transferred to the Suspension Accounts under subsection (c); and

(2) any interest earned on investments of amounts in the Suspension Accounts under subsection (e).

(c) CONTRIBUTIONS TO THE SUSPENSION ACCOUNTS.—

(1) IN GENERAL.—Beginning with fiscal year 1995, and ending on the date on which the total amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d)), the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into each of the Suspension Accounts of an amount equal to one-half of the royalties received and retained by the United States for the immediately preceding month, as determined in accordance with section 6(b)(1), by the date specified under section 6(b)(3).

(2) SUBSEQUENT DEPOSITS.—At such time as the amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d)), in accordance with section 6(b)(1), the Secretary and the Secretary of the Treasury shall thereafter deposit any remaining amounts determined under section 6(b)(1) in the Crow Tribal Trust Fund established under section 6(a).

(d) LIMITATION.—The Secretary and the Secretary of the Treasury shall not transfer more than a total amount equal to $200,000 to each of the Suspension Accounts from the amounts determined under section 6(b)(1).

(e) INVESTMENT.—All sums deposited in, accruing to and remaining in the Suspension Accounts shall be invested by the Secretary and the Secretary of the Treasury in interest bearing deposits and securities in accordance with the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

(f) WITHDRAWALS AND TERMINATION.—

(1) IN GENERAL.—(A) Beginning on the date that is 5 years after the date of enactment of this Act, the Crow Tribe and the Northern Cheyenne Tribe may each submit a duly authorized request to the Secretary for the withdrawal of all of the funds from the Suspension Account of the tribe established under subsection (b).

(B) Not later than 60 days after receiving a request for the distribution of funds from a Suspension Account made by a tribe under subparagraph (A)—

(i) the Secretary shall, in cooperation with the Secretary of the Treasury, withdraw and distribute such funds in accordance with such request; and

(ii) the Secretary of the Treasury shall terminate the Suspension Account.

(2) OTHER MEANS OF TERMINATION.—With respect to a Suspension Account established under subsection (b) that is not terminated pursuant to paragraph (1), at such time as the corpus and the accrued interest of the Suspension Account of the Crow Tribe or the Northern Cheyenne Tribe is approximately equal to the amount specified in paragraph (1) or (2) of subsection (a), the Secretary of the Treasury shall terminate the Suspension Account and the Secretary of the Interior shall distribute the funds from the Suspension Account to the tribe.

SEC. 11. FORT LARAMIE TREATY OF 1868.

Except for the adjustment to the eastern boundary of the Crow Indian Reservation, nothing in this Act or in the Settlement Agreement shall affect or modify the terms and conditions of the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649).

SEC. 12. SATISFACTION OF CLAIMS.

The benefits available to the Crow Tribe under the terms and conditions of this Act and the Settlement Agreement shall constitute full and complete satisfaction of all claims by the Crow Tribe and the members of the Crow Tribe arising from or related to the erroneous survey of the 107th meridian described in section 2(a)(3).

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this Act.

FEDERAL CROP INSURANCE REFORM ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 4217) to reform the Federal crop insrance program, and for other purposes.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL CROP INSURANCE REFORM

Sec. 101. Short title; references.
Sec. 102. Definitions.
Sec. 103. Members of Board of Directors of Corporation.
Sec. 104. General powers.
Sec. 105. Personnel.
Sec. 106. Crop insurance.
Sec. 107. Crop insurance yield coverage.

Sec. 108. Preemption.
Sec. 109. Advisory Committee.
Sec. 110. Funding.
Sec. 111. Noninsured crop disaster assistance.
Sec. 112. Payment and income limitations.
Sec. 113. Producer eligibility.
Sec. 114. Ineligibility for catastrophic risk and noninsured assistance payments.
Sec. 115. Elimination of gender references.
Sec. 116. Prevented planting.
Sec. 117. Report on improving dissemination of crop insurance information.
Sec. 118. Crop insurance provider evaluation.
Sec. 119. Conforming amendments.
Sec. 120. Effective date.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

Sec. 201. Short title.
Sec. 202. Purpose.
Sec. 203. Definitions.

Subtitle A—General Reorganization Authorities

Sec. 211. Transfer of Department functions to Secretary of Agriculture.
Sec. 212. Authority of Secretary to delegate transferred functions.
Sec. 213. Reductions in number of department personnel.
Sec. 214. Consolidation of headquarters offices.
Sec. 215. Combination of field offices.
Sec. 216. Improvement of information sharing.
Sec. 217. Reports by the Secretary.
Sec. 218. Assistant Secretaries of Agriculture.
Sec. 219. Pay increases prohibited.

Subtitle B—Farm and Foreign Agricultural Services

Sec. 225. Under Secretary of Agriculture for Farm and Foreign Agricultural Services.
Sec. 226. Consolidated Farm Service Agency.
Sec. 227. State, county, and area committees.

Subtitle C—Rural Economic and Community Development

Sec. 231. Under Secretary of Agriculture for Rural Economic and Community Development.
Sec. 232. Rural Utilities Service.
Sec. 233. Rural Housing and Community Development Service.
Sec. 234. Rural Business and Cooperative Development Service.
Sec. 235. Conforming amendments regarding Rural Electrification Administration.

Subtitle D—Food, Nutrition, and Consumer Services

Sec. 241. Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

Subtitle E—Natural Resources and Environment

Sec. 245. Under Secretary of Agriculture for Natural Resources and Environment.
Sec. 246. Natural Resources Conservation Service.
Sec. 247. Reorganization of Forest Service.

Subtitle F—Research, Education, and Economics

Sec. 251. Under Secretary of Agriculture for Research, Education, and Economics.
Sec. 252. Program staff.

Subtitle G—Food Safety

Sec. 261. Under Secretary of Agriculture for Food Safety.
Sec. 262. Conditions for implementation of alterations in the level of additives allowed in animal diets.

Subtitle H—National Appeals Division

Sec. 271. Definitions.
Sec. 272. National Appeals Division and Director.
Sec. 273. Transfer of functions.
Sec. 274. Notice and opportunity for hearing.
Sec. 275. Informal hearings.
Sec. 276. Right of participants to Division hearing.
Sec. 277. Division hearings.
Sec. 278. Director review of determinations of hearing officers.
Sec. 279. Judicial review.
Sec. 280. Implementation of final determinations of Division.
Sec. 281. Conforming amendments relating to National Appeals Division.
Sec. 282. Expansion of issues covered by State mediation programs.
Sec. 283. Authorization of appropriations.

Subtitle I—Miscellaneous Reorganization Provisions

Sec. 291. Successorship provisions relating to bargaining units and exclusive representatives.
Sec. 292. Purchase of American-made equipment and products.
Sec. 293. Miscellaneous conforming amendments.
Sec. 294. Removal of obsolete administrative provisions.
Sec. 295. Proposed conforming amendments.
Sec. 296. Termination of authority.

TITLE III—MISCELLANEOUS

Sec. 301. Poultry labeling.
Sec. 302. First Amendment rights of employees of the United States Department of Agriculture.
Sec. 303. Adjusted cost of thrifty food plan.
Sec. 304. Office of Risk Assessment and Cost-Benefit Analysis.
Sec. 305. Fair and equitable treatment of socially disadvantaged producers.
Sec. 306. Aviation inspections.

TITLE I—FEDERAL CROP INSURANCE REFORM

SEC. 101. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "Federal Crop Insurance Reform Act of 1994".

(b) REFERENCES TO FEDERAL CROP INSURANCE ACT.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 502 (7 U.S.C. 1502) is amended—

(1) by striking the section heading and "SEC. 502." and inserting the following:

"SEC. 502. PURPOSE AND DEFINITIONS.

"(a) PURPOSE.—"; and

(2) by adding at the end the following new subsection:

"(b) DEFINITIONS.—As used in this title:

"(1) ADDITIONAL COVERAGE.—The term 'additional coverage' means a plan of crop insurance coverage providing a level of coverage greater than the level available under catastrophic risk protection.

"(2) APPROVED INSURANCE PROVIDER.—The term 'approved insurance provider' means a private insurance provider that has been approved by the Corporation to provide insurance coverage to producers participating in the Federal crop insurance program established under this title.

"(3) BOARD.—The term 'Board' means the Board of Directors of the Corporation established under section 505(a).

"(4) CORPORATION.—The term 'Corporation' means the Federal Crop Insurance Corporation established under section 503.

"(5) DEPARTMENT.—The term 'Department' means the United States Department of Agriculture.

"(6) LOSS RATIO.—The term 'loss ratio' means the ratio of all sums paid by the Corporation as indemnities under any eligible crop insurance policy to that portion of the premium designated for anticipated losses and a reasonable reserve, other than that portion of the premium designated for operating and administrative expenses.

"(7) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(8) TRANSITIONAL YIELD.—The term 'transitional yield' means the maximum average production per acre or equivalent measure that is assigned to acreage for a crop year by the Corporation in accordance with the regulations of the Corporation whenever the producer fails—

"(A) to certify that acceptable documentation of production and acreage for the crop year is in the possession of the producer; or

"(B) to present the acceptable documentation on the demand of the Corporation or an insurance company reinsured by the Corporation.".

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 503 (7 U.S.C. 1503) is amended by striking "(herein called the Corporation)".

(2) Section 504 (7 U.S.C. 1504) is amended—

(A) in subsection (a), by striking "Board of Directors of the Corporation" and inserting "Board"; and

(B) in subsection (d), by striking "Federal Crop Insurance Corporation" and inserting "Corporation".

(3) The first sentence of section 505(a) (7 U.S.C. 1505(a)) is amended by striking "(hereinafter called the 'Board')".

(4) Except in section 502, the Act is amended—

(A) by striking "Board of Directors" each place it appears and inserting "Board";

(B) by striking "Department of Agriculture" each place it appears and inserting "Department"; and

(C) by striking "Secretary of Agriculture" each place it appears and inserting "Secretary".

SEC. 103. MEMBERS OF BOARD OF DIRECTORS OF CORPORATION.

The second sentence of section 505(a) (7 U.S.C. 1505(a)) is amended—

(1) by striking "or Assistant Secretary" the first place it appears; and

(2) by striking "the Under Secretary or Assistant Secretary of Agriculture responsible for the farm credit programs of the Department of Agriculture" and inserting "one additional Under Secretary of Agriculture (as designated by the Secretary of Agriculture)".

SEC. 104. GENERAL POWERS.

Section 506 (7 U.S.C. 1506) is amended—

(1) by redesignating subsections (j) through (n) as subsections (k) through (o), respectively;

(2) by inserting after subsection (i) the following new subsection:

"(j) SETTLING CLAIMS.—The Corporation shall have the authority to make final and conclusive settlement and adjustment of any claim by or against the Corporation or a fiscal officer of the Corporation.";

(3) in subsection (l) (as so redesignated)—

(A) in the first sentence, by inserting ", and issue regulations," after "agreements"; and

(B) in the second sentence, by striking "contracts or agreements" each place it appears and inserting "contracts, agreements, or regulations";

(4) in subsection (n)(1) (as so redesignated), by striking subparagraph (B) and inserting the following new subparagraph:

"(B) disqualify the person from purchasing catastrophic risk protection or receiving noninsured assistance for a period of not to exceed 2 years, or from receiving any other benefit under this title for a period of not to exceed 10 years.";

(5) in subsection (o) (as so redesignated)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D) and aligning the margins of each subparagraph with the margins of subparagraph (A) of subsection (n)(1) (as redesignated by paragraph (1));

(B) by striking "(o) ACTUARIAL SOUNDNESS.—The Corporation" and inserting the following:

"(o) ACTUARIAL SOUNDNESS.—

"(1) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1995.—The Corporation";

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by striking "from obtaining adequate Federal crop insurance, as determined by the Corporation" and inserting "(as defined by the Secretary) from obtaining Federal crop insurance";

(D) in subparagraph (C) (as so redesignated)—

(i) by inserting ", agents, and loss adjusters" after "participating producers"; and

(ii) by inserting ", agents, and loss adjusters" after "identify insured producers"; and

(E) by adding at the end the following new paragraphs:

"(2) PROJECTED LOSS RATIO AS OF OCTOBER 1, 1998.—The Corporation shall take such actions, including the establishment of adequate premiums, as are necessary to improve the actuarial soundness of Federal multiperil crop insurance made available under this title to achieve, on and after October 1, 1998, an overall projected loss ratio of not greater than 1.075.

"(3) NONSTANDARD CLASSIFICATION SYSTEM.—To the extent that the Corporation uses the nonstandard classification system, the Corporation shall apply the system to all insured producers in a fair and consistent manner."; and

(6) by adding at the end the following new subsections:

"(p) REGULATIONS.—The Secretary and the Corporation are each authorized to issue such regulations as are necessary to carry out this title.

"(q) PROGRAM COMPLIANCE.—

"(1) TIMELINESS.—The Corporation shall work actively with approved insurance providers to address program compliance and integrity issues as the issues develop.

"(2) NOTIFICATION OF COMPLIANCE PROBLEMS.—The Corporation shall notify in writing any approved insurance provider with whom the Corporation has an agreement under this title of any error, omission, or failure to follow Corporation regulations or procedures for which the approved insurance provider may be responsible and which may result in a debt owed the Corporation. The notice shall be given within 3 years of the end of the insurance period during which the error, omission, or failure is alleged to have occurred, except that this time limit shall not apply with respect to errors, omissions, or procedural violations that are willful or intentional. The failure to timely provide the notice required under this subsection shall relieve the approved insurance provider from the debt owed the Corporation.

"(r) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

"(1) SENSE OF CONGRESS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Corporation using funds made available to the Corporation should be American-made.

"(2) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity for the purchase of equipment and products to carry out this title, the Corporation, to the greatest extent practicable, shall provide to the entity a notice describing the statement made in paragraph (1).".

SEC. 105. PERSONNEL.

Section 507 (7 U.S.C. 1507) is amended—

(1) in subsection (a), by striking ", and county crop insurance committeemen";

(2) in subsection (d), by striking "of this Act," and all that follows through "agency"; and

(3) by adding at the end the following new subsection:

"(g)(1) The Corporation shall establish a management-level position to be known as the Specialty Crops Coordinator.

"(2) The Specialty Crops Coordinator shall have primary responsibility for addressing the needs of specialty crop producers, and for providing information and advice, in connection with the activities of the Corporation to improve and expand the insurance program for specialty crops. In carrying out this paragraph, the Specialty Crops Coordinator shall act as the liaison of the Corporation with representatives of specialty crop producers and assist the Corporation with the knowledge, expertise, and familiarity of the producers with risk management and production issues pertaining to specialty crops.

"(3) The Specialty Crops Coordinator shall use information collected from Corporation field office directors in States in which specialty crops have a significant economic effect and from other sources, including the extension service and colleges and universities.".

SEC. 106. CROP INSURANCE.

Section 508 (7 U.S.C. 1508) is amended to read as follows:

"SEC. 508. CROP INSURANCE.

"(a) AUTHORITY TO OFFER INSURANCE.—

"(1) IN GENERAL.—If sufficient actuarial data are available (as determined by the Corporation), the Corporation may insure, or provide reinsurance for insurers of, producers of agricultural commodities grown in the United States under 1 or more plans of insurance determined by the Corporation to be adapted to the agricultural commodity concerned. To qualify for coverage under a plan of insurance, the losses of the insured commodity must be due to drought, flood, or other natural disaster (as determined by the Secretary).

"(2) PERIOD.—Except in the cases of tobacco and potatoes, insurance shall not extend beyond the period during which the insured commodity is in the field. As used in the preceding sentence, in the case of an aquacultural species, the term 'field' means the environment in which the commodity is produced.

"(3) EXCLUSIONS.—Insurance provided under this subsection shall not cover losses due to—

"(A) the neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in such areas and under such circumstances as it is customary to reseed; or

"(C) the failure of the producer to follow good farming practices (as determined by the Secretary).

"(4) EXPANSION TO OTHER AREAS OR SINGLE PRODUCERS.—

"(A) AREA EXPANSION.—The Corporation may offer plans of insurance or reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau in the same manner as provided in this section for production of agricultural commodities in the United States.

"(B) PRODUCER EXPANSION.—In an area in the United States or specified in subparagraph (A) where crop insurance is not available for a particular agricultural commodity, the Corporation may offer to enter into a written agreement with an individual producer operating in the area for insurance coverage under this title if the producer has actuarially sound data relating to the production by the producer of the commodity and the data is acceptable to the Corporation.

"(5) DISSEMINATION OF CROP INSURANCE INFORMATION.—The Corporation shall make available to producers through local offices of the Department—

"(A) current and complete information on all aspects of Federal crop insurance; and

"(B) a listing of insurance agents and companies offering to sell crop insurance in the area of the producers.

"(6) ADDITION OF NEW AND SPECIALTY CROPS.—

"(A) DATA COLLECTION.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines for publication in the Federal Register for data collection to assist the Corporation in formulating crop insurance policies for new and specialty crops.

"(B) ADDITION OF NEW CROPS.—Not later than 1 year after the date of enactment of this paragraph, and annually thereafter, the Corporation shall report to Congress on the progress and expected timetable for expanding crop insurance coverage under this title to new and specialty crops.

"(C) ADDITION OF DIRECT SALE PERISHABLE CROPS.—Not later than 1 year after the date of enactment of this paragraph, the Corporation shall report to Congress on the feasibility of offering a crop insurance program designed to meet the needs of specialized producers of vegetables and other perishable crops who market through direct marketing channels.

"(b) CATASTROPHIC RISK PROTECTION.—

"(1) IN GENERAL.—The Corporation shall offer a catastrophic risk protection plan to indemnify producers for crop loss due to loss of yield or prevented planting, if provided by the Corporation, when the producer is unable, because of drought, flood, or other natural disaster (as determined by the Secretary), to plant other crops for harvest on the acreage for the crop year.

"(2) AMOUNT OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B)—

"(i) in the case of each of the 1995 through 1998 crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 60 percent of the expected market price, or a comparable coverage (as determined by the Corporation); and

"(ii) in the case of each of the 1999 and subsequent crop years, catastrophic risk protection shall offer a producer coverage for a 50 percent loss in yield, on an individual yield or area yield basis, indemnified at 55 percent of the expected market price, or a comparable coverage (as determined by the Corporation).

"(B) REDUCTION IN ACTUAL PAYMENT.—The amount paid to a producer on a claim under catastrophic risk protection may reflect a reduction that is proportional to the out-of-pocket expenses that are not incurred by the producer as a result of not planting, growing, or harvesting the crop for which the claim is made, as determined by the Corporation.

"(3) YIELD AND LOSS BASIS.—A producer shall have the option of basing the catastrophic coverage of the producer on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

"(4) SALE OF CATASTROPHIC RISK COVERAGE.—

"(A) IN GENERAL.—Catastrophic risk coverage may be offered by—

"(i) approved insurance providers, if available in an area; and

"(ii) at the option of the Secretary that is based on considerations of need, local offices of the Department.

"(B) NEED.—For purposes of considering need under subparagraph (A)(ii), the Secretary may take into account the most efficient and cost-effective use of resources, the availability of personnel, fairness to local producers, the needs and convenience of local producers, and the availability of private insurance carriers.

"(5) ADMINISTRATIVE FEE.—

"(A) FEE REQUIRED.—Producers shall pay an administrative fee for catastrophic risk protection. The administrative fee for each producer shall be $50 per crop per county, but not to exceed $200 per producer per county up to a maximum of $600 per producer for all counties in which a producer has insured crops. The administrative fee shall be paid by the producer at the time the producer applies for catastrophic risk protection.

"(B) USE OF FEES.—

"(i) FEES UP TO $100.—

"(I) FEES COLLECTED BY USDA OFFICES.—Not more than $100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an office of the Department shall be credited to the appropriations account providing funds for the payment of operating and administrative expenses incurred for the delivery of catastrophic risk protection under this section. The fees shall be collected in accordance with appropriation Acts and shall be available until expended without fiscal year limitation for the payment of the expenses.

"(II) FEES COLLECTED BY APPROVED INSURANCE PROVIDERS.—Not more than $100 of the administrative fees paid by a producer for catastrophic risk coverage that are collected by an approved insurance provider shall be retained by the provider as payment for operating and administrative expenses incurred for the delivery of catastrophic risk protection.

"(ii) FEES IN EXCESS OF $100.—Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, all fees collected under this subsection in excess of $100 per producer per county shall be deposited in the crop insurance fund established under section 516(c), to be available for the programs and activities of the Corporation.

"(C) WAIVER OF FEE.—The Corporation shall waive the administrative fee for limited resource farmers, as defined by the Corporation.

"(6) PARTICIPATION REQUIREMENT.—A producer may obtain catastrophic risk coverage for a crop of the producer on land in the county only if the producer obtains the coverage for the crop on all insurable land of the producer in the county.

"(7) ELIGIBILITY FOR DEPARTMENT PROGRAMS.—

"(A) IN GENERAL.—To be eligible for any price support or production adjustment program, the conservation reserve program, or any benefit described in section 371 of the Consolidated Farm and Rural Development Act, the producer must obtain at least the catastrophic level of insurance for each crop of economic significance grown on each farm in the county in which the producer has an interest, if insurance is available in the county for the crop.

"(B) DEFINITION OF CROP OF ECONOMIC SIGNIFICANCE.—As used in this paragraph, the term 'crop of economic significance' means a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the producer.

"(8) LIMITATION DUE TO RISK.—The Corporation may limit catastrophic risk coverage in any county or area, or on any farm, on the basis of the insurance risk concerned.

"(9) TRANSITIONAL COVERAGE FOR 1995 CROPS.—Effective only for a 1995 crop planted or for which insurance attached prior to January 1, 1995, the Corporation shall allow producers of the crops until not later than the end of the 180-day period beginning on the date of enactment of the Federal Crop Insurance Reform Act of 1994 to obtain catastrophic risk protection for the crop. On enactment of such Act, a producer who made timely purchases of a crop insurance policy before the date of enactment of such Act, under the provisions of this title then in effect, shall be eligible for the same benefits to which a producer would be entitled under comparable additional coverage under subsection (c).

"(10) SIMPLIFICATION.—

"(A) CATASTROPHIC RISK PROTECTION PLANS.—In developing and carrying out the policies and procedures for a catastrophic risk protection plan under this title, the Corporation shall, to the maximum extent practicable, minimize the paperwork required and the complexity and costs of procedures governing applications for, processing, and servicing of the plan for all parties involved.

"(B) OTHER PLANS.—To the extent that the policies and procedures developed under subparagraph (A) may be applied to other plans of insurance offered under this title without jeopardizing the actuarial soundness or integrity of the crop insurance program, the Corporation shall apply the policies and procedures to the other plans of insurance within a reasonable period of time (as determined by the Corporation) after the effective date of this paragraph.

"(c) GENERAL COVERAGE LEVELS.—

"(1) ADDITIONAL COVERAGE GENERALLY.—

"(A) IN GENERAL.—The Corporation shall offer to producers of agricultural commodities grown in the United States plans of crop insurance that provide additional coverage.

"(B) PURCHASE.—To be eligible for additional coverage, a producer must apply to an approved insurance provider for purchase of additional coverage if the coverage is available from an approved insurance provider. If additional coverage is unavailable privately, the Corporation may offer additional coverage plans of insurance directly to producers.

"(2) TRANSFER OF RELEVANT INFORMATION.—If a producer has already applied for catastrophic risk protection at the local office of the Department and elects to purchase additional coverage, the relevant information for the crop of the producer shall be transferred to the approved insurance provider servicing the additional coverage crop policy.

"(3) YIELD AND LOSS BASIS.—A producer shall have the option of purchasing additional coverage based on an individual yield and loss basis or on an area yield and loss basis, if both options are offered by the Corporation.

"(4) LEVEL OF COVERAGE.—The level of coverage shall be dollar denominated and may be purchased at any level not to exceed 85 percent of the individual yield or 95 percent of the area yield (as determined by the Corporation). Not later than the beginning of the 1996 crop year, the Corporation shall provide producers with information on catastrophic risk and additional coverage in terms of dollar coverage (within the allowable limits of coverage provided in this paragraph).

"(5) PRICE LEVEL.—The Corporation shall establish a price level for each commodity on which insurance is offered that—

"(A) shall not be less than the projected market price for the commodity (as determined by the Corporation); or

"(B) at the discretion of the Corporation, may be based on the actual market price at the time of harvest (as determined by the Corporation).

"(6) PRICE ELECTIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), insurance coverage shall be made available to a producer on the basis of any price election that equals or is less than the price election established by the Corporation. The coverage shall be quoted in terms of dollars per acre.

"(B) MINIMUM PRICE ELECTIONS.—The Corporation may establish minimum price elections below which levels of insurance shall not be offered.

"(C) WHEAT CLASSES AND MALTING BARLEY.—The Corporation shall, as the Corporation determines practicable, offer producers different price elections for classes of wheat and malting barley (including contract prices in the case of malting barley), in addition to the standard price election, that reflect different market prices, as determined by the Corporation. The Corporation shall, as the Corporation determines practicable, offer additional coverage for each class determined under this subparagraph and charge a premium for each class that is actuarially sound.

"(7) FIRE AND HAIL COVERAGE.—For levels of additional coverage equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, a producer may elect to delete from the additional coverage any coverage against damage caused by fire and hail if the producer obtains an equivalent or greater dollar amount of coverage for damage caused by fire and hail from an approved insurance provider. On written notice of the election to the company issuing the policy providing additional coverage and submission of evidence of substitute coverage on the commodity insured, the premium of the producer shall be reduced by an amount determined by the Corporation to be actuarially appropriate, taking into account the actuarial value of the remaining coverage provided by the Corporation. In no event shall the producer be given credit for an amount of premium determined to be greater than the actuarial value of the protection against losses caused by fire and hail that is included in the additional coverage for the crop.

"(8) STATE PREMIUM SUBSIDIES.—The Corporation may enter into an agreement with any State or agency of a State under which the State or agency may pay to the approved insurance provider an additional premium subsidy to further reduce the portion of the premium paid by producers in the State.

"(9) LIMITATIONS ON ADDITIONAL COVERAGE.—The Board may limit the availability of additional coverage under this subsection in any county or area, or on any farm, on the basis of the insurance risk involved. The Board shall not offer additional coverage equal to less than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage.

"(10) ADMINISTRATIVE FEE.—

"(A) FEE REQUIRED.—Except as otherwise provided in this paragraph, if a producer elects to purchase additional coverage for a crop at a level that is less than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall pay an administrative fee for the additional coverage. Subsection (b)(5) shall apply in determining the amount and use of the administrative fee or in determining whether to waive the administrative fee.

"(B) EXCEPTION.—If a producer elects to purchase additional coverage for a crop equal to 65 percent or more of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the producer shall not be subject to the administrative fee required by this paragraph or subsection (b)(5). If the producer has already paid the administrative fee for a lower level of coverage for the crop, the administrative fee shall be refunded to the producer unless the refund would reduce to less than $200 the total amount of the administrative fees paid by the producer for 2 or more crops in the same county for which a lower level of coverage is obtained.

"(C) ADDITIONAL FEE.—If a producer elects to purchase additional coverage for a crop equal to or exceeding 65 percent of the recorded or appraised average yield and 100 percent of the expected market price or an equivalent coverage, the producer shall pay an administrative fee of $10 for the coverage. If a producer has already paid an administrative fee for lesser coverage for the crop, the fee for lesser coverage shall be refunded to the producer unless the producer has paid the maximum fee for lesser coverage and refund of the fee will not reduce the amount to be paid below the maximum amount.

"(D) DEPOSIT OF FEES.—Notwithstanding the authority granted to the Secretary under the Federal Crop Insurance Corporation account provisions of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995, administrative fees collected under subparagraph (B) in excess of $100 per producer per county and under subparagraph (C) shall be deposited in the insurance fund established under section 516(c) to be available for the programs and activities of the Corporation.

"(d) PREMIUMS.—

"(1) PREMIUMS REQUIRED.—The Corporation shall fix adequate premiums for all the plans of insurance of the Corporation at such rates as the Board determines are actuarially sufficient to attain an expected loss ratio of not greater than 1.1 through September 30, 1998, and not greater than 1.075 after October 1, 1998.

"(2) PREMIUM AMOUNTS.—The premium amounts for catastrophic risk protection under subsection (b) and additional coverage under subsection (c) shall be fixed as follows:

"(A) In the case of catastrophic risk protection, the amount of the premium shall be sufficient to cover anticipated losses and a reasonable reserve.

"(B) In the case of additional coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation.

"(C) In the case of additional coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount of the premium shall—

"(i) be sufficient to cover anticipated losses and a reasonable reserve; and

"(ii) include an amount for operating and administrative expenses, as determined by the Corporation, on an industry-wide basis as a percentage of the amount of the premium used to define loss ratio.

"(e) PAYMENT OF PORTION OF PREMIUM BY CORPORATION.—

"(1) IN GENERAL.—For the purpose of encouraging the broadest possible participation of producers in the catastrophic risk protection provided under subsection (b) and the additional coverage provided under subsection (c), the Corporation shall pay a part of the premium in the amounts provided in accordance with this subsection.

"(2) AMOUNT OF PAYMENT.—The amount of the premium to be paid by the Corporation shall be as follows:

"(A) In the case of catastrophic risk protection, the amount shall be equivalent to the premium established for catastrophic risk protection under subsection (d)(2)(A).

"(B) In the case of coverage below 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, but greater than 50 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, the amount shall be equivalent to the amount of premium established for catastrophic risk protection coverage and the amount of operating and administrative expenses established under subsection (d)(2)(B).

"(C) In the case of coverage equal to or greater than 65 percent of the recorded or appraised average yield indemnified at 100 percent of the expected market price, or an equivalent coverage, on an individual or area basis, the amount shall be equivalent to an amount equal to the premium established for 50 percent loss in yield indemnified at 75 percent of the expected market price and the amount of operating and administrative expenses established under subsection (d)(2)(C).

"(3) PREMIUM REDUCTION.—If an approved insurance provider determines that the provider may provide insurance more efficiently than the expense reimbursement amount established by the Corporation, the approved insurance provider may reduce, subject to the approval of the Corporation, the premium charged the insured by an amount corresponding to the efficiency. The approved insurance provider shall apply to the Corporation for authority to reduce the premium before making such a reduction, and the reduction shall be subject to the rules, limitations, and procedures established by the Corporation.

"(4) INDIVIDUAL AND AREA CROP INSURANCE COVERAGE.—The Corporation shall allow approved insurance providers to offer a plan of insurance to producers that combines both individual yield coverage and area yield coverage at a premium rate determined by the provider under the following conditions:

"(A) The individual yield coverage shall be equal to or greater than catastrophic risk protection as described in subsection (b).

"(B) The combined policy shall include area yield coverage that is offered by the Corporation or similar area coverage, as determined by the Corporation.

"(C) The Corporation shall provide reinsurance on the area yield portion of the combined policy at the request of the provider, except that the provider shall agree to pay to the producer any portion of the area yield and loss indemnity payment received from the Corporation or a commercial reinsurer that exceeds the individual indemnity payment made by the provider to the producer.

"(D) The Corporation shall pay a part of the premium equivalent to—

"(i) the amount authorized under paragraph (2) (except provisions regarding operating and administrative expenses); and

"(ii) the amount of operating and administrative expenses authorized by the Corporation for the area yield coverage portion of the combined policy.

"(E) The provider shall provide all underwriting services for the combined policy, including the determination of individual yield coverage premium rates, the terms and conditions of the policy, and the acceptance and classification of applicants into risk categories, subject to subparagraph (F).

"(F) The Corporation shall approve the combined policy unless the Corporation determines that the policy is not actuarially sound or that the interests of producers are not adequately protected.

"(f) ELIGIBILITY.—

"(1) IN GENERAL.—To participate in catastrophic risk protection coverage under this section, a producer shall submit an application at the local office of the Department or to an approved insurance provider.

"(2) SALES CLOSING DATE.—For coverage under this title, each producer shall purchase crop insurance on or before the sales closing date for the crop by providing the required information and executing the required documents. Subject to the goal of ensuring actuarial soundness for the crop insurance program, the sales closing date shall be established by the Corporation to maximize convenience to producers in obtaining benefits under price and production adjustment programs of the Department. Beginning with the 1995 crop year, the Corporation shall establish, for an insurance policy for each insurable crop that is planted in the spring, a sales closing date that is 30 days earlier than the corresponding sales closing date that was established for the 1994 crop year.

"(3) Records and Reporting.—To obtain catastrophic risk protection under subsection (b) or additional coverage under subsection (c), a producer shall—

"(A) provide, to the extent required by the Corporation, records acceptable to the Corporation of historical acreage and production of the crops for which the insurance is sought or accept a yield determined by the Corporation; and

"(B) report acreage planted and prevented from planting by the designated acreage reporting date for the crop and location as established by the Corporation.

"(g) Yield Determinations.—

"(1) In general.—Subject to paragraph (2), the Corporation shall establish crop insurance underwriting rules that ensure that yield coverage, as specified in this subsection, is provided to eligible producers obtaining catastrophic risk protection under subsection (b) or additional coverage under subsection (c).

"(2) Yield coverage plans.—

"(A) Actual production history.—Subject to subparagraph (B), the yield for a crop shall be based on the actual production history for the crop, if the crop was produced on the farm without penalty during each of the 4 crop years immediately preceding the crop year for which actual production history is being established, building up to a production data base for each of the 10 consecutive crop years preceding the crop year for which actual production history is being established.

"(B) Assigned yield.—If the producer does not provide satisfactory evidence of the yield of a commodity under subparagraph (A), the producer shall be assigned a yield that is not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

"(C) Area yield.—The Corporation may offer a crop insurance plan based on an area yield that allows an insured producer to qualify for an indemnity if a loss has occurred in an area (as specified by the Corporation) in which the farm of the producer is located. Under an area yield plan, an insured producer shall be allowed to select the level of area production at which an indemnity will be paid consistent with such terms and conditions as are established by the Corporation.

"(D) Commodity-by-commodity basis.—A producer may choose between individual yield or area yield coverage or combined coverage (as provided in subsection (e)(4)), if available, on a commodity-by-commodity basis.

"(3) Transitional yields for producers of feed or forage.—

"(A) In general.—If a producer does not provide satisfactory evidence of a yield under paragraph (2)(A), the producer shall be assigned a yield that is at least 80 percent of the transitional yield established by the Corporation (adjusted to reflect the actual production history of the producer) if the Secretary determines that—

"(i) the producer grows feed or forage primarily for on-farm use in a livestock, dairy, or poultry operation; and

"(ii) over 50 percent of the net farm income of the producer is derived from the operation.

"(B) Yield calculation.—The Corporation shall—

"(i) for the first year of participation of a producer, provide the assigned yield under this paragraph to the producer of feed or forage; and

"(ii) for the second year of participation of the producer, apply the actual production history or assigned yield requirement, as provided in this subsection.

"(C) Termination of authority.—The authority provided by this paragraph shall terminate on the date that is 3 years after the effective date of this paragraph.

"(h) Submission of Policies and Materials to Board.—

"(1) In general.—In addition to any standard forms or policies that the Board may require be made available to producers under subsection (c), a person may prepare for submission or propose to the Board—

"(A) other crop insurance policies and provisions of policies; and

"(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn, and any other crops determined by the Secretary.

"(2) Submission of policies.—A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this title, including the requirements concerning the levels of coverage and rates and the requirement that a price level for each commodity insured must equal the expected market price for the commodity as established by the Board. In the case of such a policy, the payment by the Corporation of a portion of the premium of the policy may not exceed the amount that would otherwise be authorized under subsection (e).

"(3) Review and approval by the board.—A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions. The Corporation may enter into more than 1 reinsurance agreement with the approved insurance provider simultaneously to facilitate the offering of the new policies.

"(4) Guidelines for submission and review.—The Corporation shall issue regulations to establish guidelines for the submission, and Board review, of policies or other material submitted to the Board under this subsection. At a minimum, the guidelines shall ensure the following:

"(A) A proposal submitted to the Board under this subsection shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title 5, United States Code, until approved by the Board. A proposal disapproved by the Board shall remain confidential commercial or financial information.

"(B) The Board shall provide an applicant with the opportunity to present the proposal to the Board in person if the applicant so desires.

"(C) The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to making the disapproval. An applicant that receives the notification may modify the application of the applicant. Any modification shall be considered an original application for purposes of this paragraph.

"(D) Specific guidelines shall prescribe the timing of submission of proposals under this subsection and timely consideration by the Board so that any approved proposal may be made available to all persons reinsured by the Corporation in a manner permitting the persons to participate, if the persons so desire, in offering such a proposal in the first crop year in which the proposal is approved by the Board for reinsurance, premium subsidy, or other support offered by this title.

"(5) Required publication.—Any policy, provision of a policy, or rate approved under this subsection shall be published as a notice in the Federal Register and made available to all persons contracting with or reinsured by the Corporation under the terms and conditions of the contract between the Corporation and the person originally submitting the policy or other material.

"(6) Pilot cost of production risk protection plan.—

"(A) In general.—The Corporation shall offer, to the extent practicable, a cost of production risk protection plan of insurance that indemnifies producers (including new producers) for insurable losses as provided in this paragraph.

"(B) Pilot basis.—The cost of production risk protection plan shall—

"(i) be established as a pilot project for each of the 1996 and 1997 crop years; and

"(ii) be carried out in a number of counties that is determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among producers for the plan.

"(C) Insurable loss.—An insurable loss shall be incurred by a producer if the gross income of the producer (as determined by the Corporation) is less than an amount determined by the Corporation, as a result of a reduction in yield or price resulting from an insured cause.

"(D) Definition of new producer.—As used in this paragraph, the term 'new producer' means a person that has not been actively engaged in farming for a share of the production of the insured crop for more than 2 crop years, as determined by the Secretary.

"(7) Additional prevented planting policy coverage.—

"(A) In general.—Beginning with the 1995 crop year, the Corporation shall offer to producers additional prevented planting coverage that insures producers against losses in accordance with this paragraph.

"(B) Approved insurance providers.—Additional prevented planting coverage shall be offered by the Corporation through approved insurance providers.

"(C) Timing of loss.—A crop loss shall be covered by the additional prevented planting coverage if—

"(i) crop insurance policies were obtained for—

"(I) the crop year the loss was experienced; and

"(II) the crop year immediately preceding the year of the prevented planting loss; and

"(ii) the cause of the loss occurred—

"(I) after the sales closing date for the crop in the crop year immediately preceding the loss; and

"(II) before the sales closing date for the crop in the year in which the loss is experienced.

"(8) Pilot program of assigned yields for new producers.—

"(A) Program required.—For each of the 1995 and 1996 crop years, the Corporation shall carry out a pilot program to assign to eligible new producers higher assigned yields than would otherwise be assigned to the producers under subsection (g). The Corporation shall include in the pilot program 30 counties that are determined by the Corporation to be adequate to provide a comprehensive evaluation of the feasibility, effectiveness, and demand among new producers for increased assigned yields.

"(B) INCREASED ASSIGNED YIELDS.—In the case of an eligible new producer participating in the pilot program, the Corporation shall assign to the new producer a yield that is equal to not less than 110 percent of the transitional yield otherwise established by the Corporation.

"(C) ELIGIBLE NEW PRODUCER.—The Secretary shall establish a definition of new producer for purposes of determining eligibility to participate in the pilot program.

"(i) ADOPTION OF RATES AND COVERAGES.—The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year.

"(j) CLAIMS FOR LOSSES.—

"(1) IN GENERAL.—Under rules prescribed by the Corporation, the Corporation may provide for adjustment and payment of claims for losses. The rules prescribed by the Corporation shall establish standards to ensure that all claims for losses are adjusted, to the extent practicable, in a uniform and timely manner.

"(2) DENIAL OF CLAIMS.—

"(A) IN GENERAL.—Subject to subparagraph (B), if a claim for indemnity is denied by the Corporation or an approved provider, an action on the claim may be brought against the Corporation or Secretary only in the United States district court for the district in which the insured farm is located.

"(B) STATUTE OF LIMITATIONS.—A suit on the claim may be brought not later than 1 year after the date on which final notice of denial of the claim is provided to the claimant.

"(3) INDEMNIFICATION.—The Corporation shall provide approved insurance providers with indemnification, including costs and reasonable attorney fees incurred by the approved insurance provider, due to errors or omissions on the part of the Corporation.

"(k) REINSURANCE.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the Corporation shall, to the maximum extent practicable, provide reinsurance to insurers approved by the Corporation that insure producers of any agricultural commodity under 1 or more plans acceptable to the Corporation.

"(2) TERMS AND CONDITIONS.—The reinsurance shall be provided on such terms and conditions as the Board may determine to be consistent with subsections (b) and (c) and sound reinsurance principles.

"(3) SHARE OF RISK.—The reinsurance agreements of the Corporation with the reinsured companies shall require the reinsured companies to bear a sufficient share of any potential loss under the agreement so as to ensure that the reinsured company will sell and service policies of insurance in a sound and prudent manner, taking into consideration the financial condition of the reinsured companies and the availability of private reinsurance.

"(4) RATE.—The rate established by the Board to reimburse approved insurance providers and agents for the administrative and operating costs of the providers and agents shall not exceed—

"(A) for the 1997 reinsurance year, 29 percent of the premium used to define loss ratio;

"(B) for the 1998 reinsurance year, 28 percent of the premium used to define loss ratio; and

"(C) for the 1999 reinsurance year, 27.5 percent of the premium used to define loss ratio.

"(5) COST AND REGULATORY REDUCTION.—Consistent with section 118 of the Federal Crop Insurance Reform Act of 1994, and consistent with maintenance of program integrity, prevention of fraud and abuse, the need for program expansion, and improvement of quality of service to customers, the Board shall alter program procedures and administrative requirements in order to reduce the administrative and operating costs of approved insurance providers and agents in an amount that corresponds to any reduction in the reimbursement rate required under paragraph (4) during the 5-year period beginning on the date of enactment of this paragraph.

"(6) AGENCY DISCRETION.—The determination of whether the Corporation is achieving, or has achieved, corresponding administrative cost savings shall not be subject to administrative review, and is wholly committed to agency discretion within the meaning of section 701(a)(2) of title 5, United States Code.

"(7) PLAN.—The Corporation shall submit to Congress a plan outlining the measures that will be used to achieve the reduction required under paragraph (5). If the Corporation can identify additional cost reduction measures, the Corporation shall describe the measures in the plan.

"(l) OPTIONAL COVERAGES.—The Corporation may offer specific risk protection programs, including protection against prevented planting, wildlife depredation, tree damage and disease, and insect infestation, under such terms and conditions as the Board may determine, except that no program may be undertaken if insurance for the specific risk involved is generally available from private companies.

"(m) RESEARCH.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Corporation may conduct research, surveys, pilot programs, and investigations relating to crop insurance and agriculture-related risks and losses including insurance on losses involving reduced forage on rangeland caused by drought and by insect infestation, livestock poisoning and disease, destruction of bees due to the use of pesticides, and other unique special risks related to fruits, nuts, vegetables, aquacultural species, forest industry needs (including appreciation), and other agricultural products as determined by the Board.

"(2) EXCEPTION.—No action may be undertaken with respect to a risk under paragraph (1) if insurance protection against the risk is generally available from private companies.

"(3) EVALUATION.—After the completion of any pilot program under this subsection, the Corporation shall evaluate the pilot program and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report of the operations of the pilot program, including the evaluation by the Corporation of the pilot program and the recommendations of the Corporation with respect to implementing the program on a national basis.".

SEC. 107. CROP INSURANCE YIELD COVERAGE.

Section 508A (7 U.S.C. 1508a) is repealed.

SEC. 108. PREEMPTION.

Section 511 (7 U.S.C. 1511) is amended by adding at the end the following sentence: "A contract of insurance of the Corporation, and a contract of insurance reinsured by the Corporation, shall be exempt from taxation imposed by any State, municipality, or local taxing authority.".

SEC. 109. ADVISORY COMMITTEE.

The Act is amended by inserting after section 514 (7 U.S.C. 1514) the following new section:

"SEC. 515. ADVISORY COMMITTEE FOR FEDERAL CROP INSURANCE.

"(a) ESTABLISHMENT.—The Secretary may establish within the Department an advisory committee to be known as the 'Advisory Committee for Federal Crop Insurance'.

"(b) PRIMARY RESPONSIBILITY.—The primary responsibility of the Advisory Committee shall be to advise the Secretary on the implementation of this title and on other issues related to crop insurance, as determined by the Manager of the Corporation.

"(c) MEMBERSHIP.—The Advisory Committee shall be composed of the Manager of the Corporation, the Secretary (or a designee of the Secretary), and not fewer than 12 members representing organizations and agencies involved in the provision of crop insurance under this title. Not fewer than 3 of the members of the Advisory Committee shall be representatives of the specialty crops industry. The organizations or agencies represented by members on the Advisory Committee may include insurance companies, insurance agents, farm producer organizations, experts on agronomic practices, and banking and lending institutions.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) TERMS.—Members of the Advisory Committee (other than the Manager of the Corporation and the Secretary) shall be appointed by the Secretary for a term of up to 2 years from nominations made by the organizations and agencies specified in subsection (c). The terms of the members (other than the Manager of the Corporation and the Secretary) shall be staggered.

"(2) CHAIRPERSON.—The Advisory Committee shall be chaired by the Manager of the Corporation.

"(3) MEETINGS.—The Advisory Committee shall meet at least annually. The meetings of the Advisory Committee shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Advisory Committee shall be kept and made available to the public on request.

"(e) REPORTS.—Not later than June 30 of each year, the Advisory Committee shall submit to the Secretary a report specifying the conclusions and recommendations of the Advisory Committee regarding—

"(1) the progress toward implementation of this title;

"(2) the actuarial soundness of the Federal crop insurance program;

"(3) the rate of producer participation in both catastrophic risk protection under section 508(b) and additional coverage under section 508(c); and

"(4) the progress toward improved crop insurance coverage for new and specialty crops.

"(f) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 1998.".

SEC. 110. FUNDING.

Section 516 (7 U.S.C. 1516) is amended to read as follows:

"SEC. 516. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) DISCRETIONARY EXPENSES.—There are authorized to be appropriated for each of fiscal years 1995 through 2001 such sums as are necessary to cover—

"(A) the salaries and expenses of the Corporation; and

"(B) the administrative and operating expenses of the Corporation for the sales commissions of agents.

"(2) MANDATORY EXPENSES.—There are authorized to be appropriated such sums as are necessary to cover—

"(A) in the case of each of the 1995 through 1997 reinsurance years, the administrative and operating expenses of the Corporation for the sales commissions of agents, consistent with subsection (b)(1);

"(B) premium subsidies, including the administrative and operating expenses of an approved insurance provider for the delivery of policies with additional coverage; and

"(C) payments for noninsured assistance losses under section 519.

"(b) PAYMENT OF EXPENSES.—

"(1) ADMINISTRATIVE AND OPERATING EXPENSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of each of the 1995 through 1997 reinsurance years, the Corporation is authorized to pay from the insurance fund established under subsection (c), the administrative and operating expenses of an approved insurance provider, including expenses covered by subsection (a)(1)(B).

"(B) SALES COMMISSIONS FOR 1997 REINSURANCE YEAR.—In the case of the 1997 reinsurance year, the amount of the payments from the insurance fund established under subsection (c) for the expenses of the Corporation for the sales commissions of agents may not exceed 8.5 percent of the total amount of premiums paid for additional coverage for the 1997 reinsurance year.

"(2) OTHER EXPENSES.—The Corporation is authorized to pay from the insurance fund established under subsection (c)—

"(A) all other expenses of the Corporation (other than expenses covered by subsection (a)(1)), including all premium subsidies, noninsured assistance benefits, and indemnities;

"(B) subject to paragraph (1)(B), in the case of each of the 1995 through 1997 reinsurance years, all administrative and expense reimbursements due under a reinsurance agreement with an approved insurance provider; and

"(C) to the extent necessary, expenses incurred by the Corporation to carry out research and development.

"(c) INSURANCE FUND.—

"(1) IN GENERAL.—There is established an insurance fund, for the deposit of premium income and amounts made available under subsection (a)(2), to be available without fiscal year limitation.

"(2) COMMODITY CREDIT CORPORATION FUNDS.—If at any time the amounts in the insurance fund are insufficient to enable the Corporation to carry out subsection (b), to the extent the funds of the Commodity Credit Corporation are available—

"(A) the Corporation may request the Secretary to use the funds of the Commodity Credit Corporation to carry out subsection (b); and

"(B) the Secretary may use the funds of the Commodity Credit Corporation to carry out subsection (b).".

SEC. 111. NONINSURED CROP DISASTER ASSISTANCE.

Section 519 (7 U.S.C. 1519) is amended to read as follows:

"SEC. 519. NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) ESTABLISHMENT.—In the case of an eligible crop described in paragraph (2), the Corporation shall establish a noninsured crop disaster assistance program to provide coverage equivalent to the catastrophic risk protection otherwise available under section 508(b).

"(2) ELIGIBLE CROPS.—

"(A) IN GENERAL.—As used in this section, the term 'eligible crop' means each commercial crop or other agricultural commodity (except livestock)—

"(i) for which catastrophic risk protection under section 508(b) is not available; and

"(ii) that is produced for food or fiber.

"(B) CROPS SPECIFICALLY INCLUDED.—The term 'eligible crop' shall include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, and industrial crops.

"(3) CAUSE OF LOSS.—To qualify for assistance under this section, the losses of the noninsured commodity shall be due to drought, flood, or other natural disaster, as determined by the Secretary.

"(b) APPLICATION FOR NONINSURED CROP DISASTER ASSISTANCE.—

"(1) TIMELY APPLICATION.—To be eligible for assistance under this section, a producer shall submit an application for noninsured crop disaster assistance at a local office of the Department. The application shall be in such form, contain such information, and be submitted at such time as the Corporation may require.

"(2) RECORDS.—A producer shall annually provide records, as required by the Corporation, of previous crop acreage, acreage yields, and production, or the producer shall accept a yield under subsection (e)(3) determined by the Corporation.

"(3) ACREAGE REPORTS.—A producer shall provide reports on acreage planted or prevented from being planted, as required by the Corporation, by the designated acreage reporting date for the crop and location as established by the Corporation.

"(c) LOSS REQUIREMENTS.—

"(1) REQUIRED AREA LOSS.—A producer of an eligible crop shall not receive noninsured crop disaster assistance unless the average yield for that crop, or an equivalent measure in the event yield data are not available, in an area falls below 65 percent of the expected area yield, as established by the Corporation.

"(2) PREVENTED PLANTING.—Subject to paragraph (1), the Corporation shall make a prevented planting noninsured crop disaster assistance payment if the producer is prevented from planting more than 35 percent of the acreage intended for the eligible crop because of drought, flood, or other natural disaster, as determined by the Secretary.

"(3) REDUCED YIELDS.—Subject to paragraph (1), the Corporation shall make a reduced yield noninsured crop disaster assistance payment to a producer if the total quantity of the eligible crop that the producer is able to harvest on any farm is, because of drought, flood, or other natural disaster as determined by the Secretary, less than 50 percent of the expected individual yield for the crop, as determined by the Corporation, factored for the interest of the producer for the crop.

"(d) PAYMENT.—The Corporation shall make available to a producer eligible for noninsured assistance under this section a payment computed by multiplying—

"(1) the quantity that is less than 50 percent of the established yield for the crop; by

"(2)(A) in the case of each of the 1995 through 1998 crop years, 60 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); or

"(B) in the case of each of the 1999 and subsequent crop years, 55 percent of the average market price for the crop (or any comparable coverage determined by the Corporation); by

"(3) a payment rate for the type of crop (as determined by the Corporation) that—

"(A) in the case of a crop that is produced with a significant and variable harvesting expense, reflects the decreasing cost incurred in the production cycle for the crop that is—

"(i) harvested;

"(ii) planted but not harvested; and

"(iii) prevented from being planted because of drought, flood, or other natural disaster (as determined by the Secretary); and

"(B) in the case of a crop that is not produced with a significant and variable harvesting expense, is determined by the Corporation.

"(e) YIELD DETERMINATIONS.—

"(1) ESTABLISHMENT.—The Corporation shall establish farm yields for purposes of providing noninsured crop disaster assistance under this section.

"(2) ACTUAL PRODUCTION HISTORY.—The Corporation shall determine yield coverage using the actual production history of the producer over a period of not less than the 4 previous consecutive crop years and not more than 10 consecutive crop years. Subject to paragraph (3), the yield for the year in which noninsured crop disaster assistance is sought shall be equal to the average of the actual production history of the producer during the period considered.

"(3) ASSIGNMENT OF YIELD.—If a producer does not submit adequate documentation of production history to determine a crop yield under paragraph (2), the Corporation shall assign to the producer a yield equal to not less than 65 percent of the transitional yield of the producer (adjusted to reflect actual production reflected in the records acceptable to the Corporation for continuous years), as specified in regulations issued by the Corporation based on production history requirements.

"(4) PROHIBITION ON ASSIGNED YIELDS IN CERTAIN COUNTIES.—

"(A) IN GENERAL.—

"(i) DOCUMENTATION.—If sufficient data are available to demonstrate that the acreage of a crop in a county for the crop year has increased by more than 100 percent over any year in the preceding 7 crop years or, if data are not available, if the acreage of the crop in the county has increased significantly from the previous crop years, a producer must provide such detailed documentation of production costs, acres planted, and yield for the crop year for which benefits are being claimed as is required by the Corporation. If the Corporation determines that the documentation provided is not sufficient, the Corporation may require documenting proof that the crop, had the crop been harvested, could have been marketed at a reasonable price.

"(ii) PROHIBITION.—Except as provided in subparagraph (B), a producer who produces a crop on a farm located in a county described in clause (i) may not obtain an assigned yield.

"(B) EXCEPTION.—A crop or a producer shall not be subject to this subsection if—

"(i) the planted acreage of the producer for the crop has been inspected by a third party acceptable to the Secretary; or

"(ii)(I) the County Executive Director and the State Executive Director recommend an exemption from the requirement to the Deputy Administrator for State and County Operations of the Agricultural Stabilization and Conservation Service; and

"(II) the Deputy Administrator approves the recommendation.

"(5) LIMITATION ON RECEIPT OF SUBSEQUENT ASSIGNED YIELD.—A producer who receives an assigned yield for the current year of a natural disaster because required production records were not submitted to the local office of the Department shall not be eligible for an assigned yield for the year of the next natural disaster unless the required production records of the previous 1 or more years (as applicable) are provided to the local office.

"(6) YIELD VARIATIONS DUE TO DIFFERENT FARMING PRACTICES.—The Corporation shall ensure that noninsured crop disaster assistance accurately reflects significant yield variations due to different farming practices, such as between irrigated and nonirrigated acreage.

"(f) CONTRACT PAYMENTS.—A producer who has received a guaranteed payment for production, as opposed to delivery, of a crop pursuant to a contract shall have the production of the producer adjusted upward by the amount of the production equal to the amount of the contract payment received.

"(g) PAYMENT OF LOSSES.—Payments for noninsured crop disaster assistance losses under this section shall be made from the insurance fund established under section 516. The losses shall not be included in calculating the premiums charged to producers for insurance under section 508.".

"(h) EXCLUSIONS.—Noninsured crop disaster assistance under this section shall not cover losses due to—

"(A) the neglect or malfeasance of the producer;

"(B) the failure of the producer to reseed to the same crop in those areas and under such circumstances where it is customary to reseed; or

"(C) the failure of the producer to follow good farming practices, as determined by the Corporation.".

SEC. 112. PAYMENT AND INCOME LIMITATIONS.

Section 519 (7 U.S.C. 1519) (as amended by section 111) is further amended by adding at the end the following new subsection:

"(h) PAYMENT AND INCOME LIMITATIONS.—

"(1) DEFINITIONS.—As used in this subsection:

"(A) PERSON.—The term 'person' has the meaning provided the term in regulations issued by the Secretary. The regulations shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

"(B) QUALIFYING GROSS REVENUES.—The term 'qualifying gross revenues' means—

"(i) if a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue from the farming, ranching, and forestry operations of the person; and

"(ii) if less than a majority of the gross revenue of the person is received from farming, ranching, and forestry operations, the gross revenue of the person from all sources.

"(2) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive annually under this title may not exceed $100,000.

"(3) LIMITATION ON MULTIPLE BENEFITS FOR SAME LOSS.—If a producer who is eligible to receive benefits under catastrophic risk protection under section 508(b) or noninsured crop disaster assistance under this section is also eligible to receive assistance for the same loss under any other program administered by the Secretary, the producer shall be required to elect whether to receive benefits under this title or under the other program, but not both. A producer who purchases additional coverage under section 508(c) may also receive assistance for the same loss under other programs administered by the Secretary, except that the amount received for the loss under the additional coverage together with the amount received under the other programs may not exceed the amount of the actual loss of the producer.

"(4) INCOME LIMITATION.—A person who has qualifying gross revenues in excess of the amount specified in section 2266(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) (as in effect on November 28, 1990) during the taxable year (as determined by the Secretary) shall not be eligible to receive any noninsured assistance payment under this section.

"(5) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and equitable application of section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), the general payment limitation regulations of the Secretary, and the limitations established under this subsection.".

SEC. 113. PRODUCER ELIGIBILITY.

Section 520 (7 U.S.C. 1520) is amended to read as follows:

"SEC. 520. PRODUCER ELIGIBILITY.

"Except as otherwise provided in this title, a producer shall not be denied insurance under this title if—

"(1) for purposes of catastrophic risk protection coverage, the producer is a 'person' (as defined by the Secretary); and

"(2) for purposes of any other plan of insurance, the producer is 18 years of age and has a bona fide insurable interest in a crop as an owner-operator, landlord, tenant, or sharecropper.".

SEC. 114. INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

The Act (7 U.S.C. 1501 et seq.) is amended by adding at the end the following new section:

"SEC. 521. INELIGIBILITY FOR CATASTROPHIC RISK AND NONINSURED ASSISTANCE PAYMENTS.

"If the Secretary determines that a person has knowingly adopted a material scheme or device to obtain catastrophic risk, additional coverage, or noninsured assistance benefits under this title to which the person is not entitled, has evaded this title, or has acted with the purposes of evading this title, the person shall be ineligible to receive all benefits applicable to the crop year for which the scheme or device was adopted. The authority provided by this section shall be in addition to, and shall not supplant, the authority provided by section 506(n).".

SEC. 115. ELIMINATION OF GENDER REFERENCES.

(a) MANAGEMENT OF CORPORATION.—Section 505 (7 U.S.C. 1505) is amended—

(1) in subsection (a), by striking the third sentence and inserting "The Board shall be appointed by, and hold office at the pleasure of, the Secretary. The Secretary shall not be a member of the Board."; and

(2) in subsection (d)—

(A) by striking "upon him"; and

(B) by striking "He shall be appointed by," and inserting "The manager shall be appointed by,".

(b) PERSONNEL.—Section 507 (7 U.S.C. 1507) is amended—

(1) in subsection (a), by striking "as he may determine: *Provided*, That" and inserting "as the Secretary may determine appropriate. However,"; and

(2) in subsection (d), by striking "as he may request" and inserting "that the Secretary requests".

(c) INDEMNITIES EXEMPT FROM LEVY.—Section 509 (7 U.S.C. 1509) is amended by striking "or his estate" and inserting "or the estate of the insured".

SEC. 116. PREVENTED PLANTING.

(a) IN GENERAL.—Effective for the 1994 crop year, a producer described in subsection (b) shall receive compensation under the prevented planting coverage policy provision described in subsection (b)(1) by—

(1) obtaining from the Secretary of Agriculture the applicable amount that is payable under the conserving use program described in subsection (b)(4); and

(2) obtaining from the Federal Crop Insurance Corporation the amount that is equal to the difference between—

(A) the amount that is payable under the conserving use program; and

(B) the amount that is payable under the prevented planting coverage policy.

(b) ELIGIBLE PRODUCERS.—Subsection (a) shall apply to a producer who—

(1) purchased a prevented planting policy for the 1994 crop year from the Federal Crop Insurance Corporation prior to the spring sales closing date for the 1994 crop year;

(2) is unable to plant a crop due to major, widespread flooding in the Midwest, or excessive ground moisture, that occurred prior to the spring sales closing date for the 1994 crop year;

(3) had a reasonable expectation of planting a crop on the prevented planting acreage for the 1994 crop year; and

(4) participates in a conserving use program established for the 1994 crop of wheat, feed grains, upland cotton, or rice established under section 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), or 101B(c)(1)(D), respectively, of the Agricultural Act of 1949 (7 U.S.C. 1445b–3a(c)(1)(E), 1444f(c)(1)(E), 1444–2(c)(1)(D), or 1441–2(c)(1)(D)).

(c) OILSEED PREVENTED PLANTING PAYMENTS.—

(1) IN GENERAL.—Effective for the 1994 crop year, a producer of a crop of oilseeds (as defined in section 205(a) of the Agricultural Act of 1949 (7 U.S.C. 1446f(a))) shall receive a prevented planting payment for the crop if the requirements of paragraphs (1), (2), and (3) of subsection (b) are satisfied.

(2) SOURCE OF PAYMENT.—The total amount of payments required under this subsection shall be made by the Federal Crop Insurance Corporation.

(d) PAYMENT.—A payment under this section may not be made before October 1, 1994.

SEC. 117. REPORT ON IMPROVING DISSEMINATION OF CROP INSURANCE INFORMATION.

Not later than 180 days after the date of enactment of this Act and at the end of each of the 2 1-year periods thereafter, the Federal Crop Insurance Corporation shall submit a report to Congress containing a plan to implement a sound program for producer education regarding the crop insurance program and for the dissemination of crop insurance information to producers, as required by section 508(a)(5) of the Federal Crop Insurance Act (as amended by section 106).

SEC. 118. CROP INSURANCE PROVIDER EVALUATION.

(a) IN GENERAL.—The Comptroller General of the United States and the Federal Crop Insurance Corporation (referred to in this section as the "Corporation") shall jointly evaluate the financial arrangement between the Corporation and approved insurance providers to determine the quality, costs, and efficiencies of providing the benefits of multiple peril crop insurance to producers of agricultural commodities covered under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(b) Collection of Information and Proposals.—The Corporation shall require private insurance providers and agents to supply, and the private insurance providers and agents shall supply, records and information necessary to make the determinations and evaluations required under this section. The Corporation shall solicit from the approved insurance providers and agents proposals for modifying or altering the requirements, regulations, procedures, and processes related to implementing the Federal Crop Insurance Act to reduce the operating and administrative costs of the providers and agents.

(c) Initial Report.—Not later than 180 days after receipt of information and cost-reduction proposals under subsection (b), the Corporation shall evaluate the information and proposals obtained and report the results of the evaluation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) Final Report.—Not later than 2 years after the date of enactment of this Act, the Comptroller General and the Corporation shall submit a final report that provides the evaluation required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In making the evaluation, the Comptroller General and the Corporation shall—

(1) consider the changes made by the Corporation in response to increased program participation resulting from the enactment of this Act;

(2) include an evaluation and opinion of the accuracy and reasonableness of—

(A) the average actual costs for approved insurance providers to deliver multiple peril crop insurance;

(B) the cost per policy of complying with the requirements, regulations, procedures, and processes of the Federal Crop Insurance Act;

(C) the cost differences for various provider firm sizes and any business delivered by the Federal Government;

(D) the adequacy of the standard reimbursement for potential new providers; and

(E) the identification of any new costs related to the enactment of this Act not previously identified in the information reported by the providers;

(3) compare delivery costs of multiple peril crop insurance to other insurance coverages that the provider may sell and determine the extent if any, to which any funds provided to carry out the Federal Crop Insurance Act are being used to fund any other business enterprise operated by the provider;

(4)(A) assess alternative methods for reimbursing providers for reasonable and necessary expenses associated with delivery of multiple peril crop insurance;

(B) recommend changes under this paragraph that reasonably demonstrate the need to achieve the greatest operating efficiencies on the part of the provider and the Corporation has been recognized; and

(C) identify areas for improved operating efficiencies, if any, in the requirements made by the Corporation for compliance and program integrity;

(5) assess the potential for alternative forms of reinsurance arrangements for providers of different firm sizes, taking into consideration—

(A) the need to achieve a reasonable return on the capital of the provider compared to other lines of insurance;

(B) the relative risk borne by the provider for the different lines of insurance;

(C) the availability and price of commercial reinsurance; and

(D) any additional costs that may be incurred by the Federal Government in carrying out the Federal Crop Insurance Act; and

(6) include an analysis of the effect of the current or proposed reinsurance arrangements on providers having different business levels.

(e) Information.—

(1) Privacy.—In conducting the evaluation required by this section, the Comptroller General and the Corporation shall maintain the privacy of proprietary information.

(2) Subpoenas.—The Comptroller General shall have the power to subpoena information relevant to the evaluation required by this section from any private insurance provider. The Comptroller General shall allow the Corporation access to the information subpoenaed taking into consideration the necessity of preserving the privacy of proprietary information.

SEC. 119. CONFORMING AMENDMENTS.

(a) Price Support Programs.—

(1) In general.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

"SEC. 427. CROP INSURANCE REQUIREMENT.

"As a condition of receiving any benefit (including payments) under title I or II for each of the 1995 and subsequent crops of tobacco, rice, extra long staple cotton, upland cotton, feed grains, wheat, peanuts, oilseeds, and sugar, a producer must obtain at least catastrophic risk protection insurance coverage under section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.".

(2) Rice.—Section 101B(c) of such Act (7 U.S.C. 1441–2(c)) is amended—

(A) in paragraph (1), by striking subparagraph (F); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(3) Upland cotton.—Section 103B(c) of such Act (7 U.S.C. 1444–2(c)) is amended—

(A) in paragraph (1), by striking subparagraph (F); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(4) Feed grains.—Section 105B(c) of such Act (7 U.S.C. 1444f(c)) is amended—

(A) in paragraph (1), by striking subparagraph (G); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(5) Wheat.—Section 107B(c) of such Act (7 U.S.C. 1445b–3a(c)) is amended—

(A) in paragraph (1), by striking subparagraph (G); and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) Crop insurance requirement.—A producer shall obtain catastrophic risk protection insurance coverage in accordance with section 427.".

(6) Disaster payments.—Section 208 of such Act (7 U.S.C. 1446l) is repealed.

(b) Farmers Home Administration Programs.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following new section:

"SEC. 371. CROP INSURANCE REQUIREMENT.

"(a) In General.—As a condition of obtaining any benefit (including a direct loan, loan guarantee, or payment) described in subsection (b), a borrower must obtain at least catastrophic risk protection insurance coverage under section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) for the crop and crop year for which the benefit is sought, if the coverage is offered by the Corporation.

"(b) Applicable Benefits.—Subsection (a) shall apply to—

"(1) a farm ownership loan (FO) under section 303;

"(2) an operating loan (OL) under section 312; and

"(3) an emergency loan (EM) under section 321.".

(c) Disaster Assistance.—Subtitle B of title XXII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1421 note) is amended by striking chapter 3.

(d) Emergency Appropriations.—

(1) In general.—Effective January 1, 1995, section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(D)(i)) is amended by adding at the end the following new sentence: "This subparagraph shall not apply to appropriations to cover agricultural crop disaster assistance.".

(2) Emergency legislation.—Effective January 1, 1995, section 252(e) of such Act (2 U.S.C. 902(e)) is amended by adding at the end the following new sentence: "This subsection shall not apply to direct spending provisions to cover agricultural crop disaster assistance.".

(e) False Statements.—Section 1014 of title 18, United States Code, is amended by inserting "or a company the Corporation reinsures" after "Federal Crop Insurance Corporation".

(f) Technical Amendments.—

(1) The first sentence of section 506(d) (7 U.S.C. 1506(d)) is amended by striking "508(f)" and inserting "508(j)".

(2) The last sentence of section 507(c) (7 U.S.C. 1507(c)) is amended by striking "508(b)" and inserting "508(h)".

(3) Section 518 (7 U.S.C. 1518) is amended by striking "(k)" and inserting "(m)".

SEC. 120. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall become effective on the date of enactment of this Act and shall apply to the provision of crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) beginning with the 1995 crop year. With respect to the 1994 crop year, the Federal Crop Insurance Act (as in effect on the day before the date of enactment of this Act) shall continue to apply.

TITLE II—DEPARTMENT OF AGRICULTURE REORGANIZATION

SEC. 201. SHORT TITLE.

(a) Short Title.—This title may be cited as the "Department of Agriculture Reorganization Act of 1994".

SEC. 202. PURPOSE.

The purpose of this title is to provide the Secretary of Agriculture with the necessary authority to streamline and reorganize the Department of Agriculture to achieve greater efficiency, effectiveness, and economies in the organization and management of the programs and activities carried out by the Department.

SEC. 203. DEFINITIONS.

Except where the context requires otherwise, for purposes of this title:

(1) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(2) NATIONAL APPEALS DIVISION.—The term "National Appeals Division" means the National Appeals Division of the Department established under section 272.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(4) FUNCTION.—The term "function" means an administrative, financial, or regulatory activity of an agency, office, officer, or employee of the Department.

Subtitle A—General Reorganization Authorities

SEC. 211. TRANSFER OF DEPARTMENT FUNCTIONS TO SECRETARY OF AGRICULTURE.

(a) TRANSFER OF FUNCTIONS.—Except as provided in subsection (b), there are transferred to the Secretary of Agriculture all functions of all agencies, offices, officers, and employees of the Department that are not already vested in the Secretary on the date of the enactment of this Act.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the following functions:

(1) Functions vested by subchapter II of chapter 5 of title 5, United States Code, in administrative law judges employed by the Department.

(2) Functions vested by the Inspector General Act of 1978 (5 U.S.C. App.) in the Inspector General of the Department.

(3) Functions vested by chapter 9 of title 31, United States Code, in the Chief Financial Officer of the Department.

(4) Functions vested in the corporations of the Department or the boards of directors and officers of such corporations.

(5) Functions vested in the Alternative Agricultural Research and Commercialization Board by the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901 et seq.).

SEC. 212. AUTHORITY OF SECRETARY TO DELEGATE TRANSFERRED FUNCTIONS.

(a) DELEGATION OF AUTHORITY.—

(1) DELEGATION AUTHORIZED.—Subject to paragraph (2), the Secretary may delegate to any agency, office, officer, or employee of the Department the authority to perform any function transferred to the Secretary under section 211(a) or any other function vested in the Secretary as of the date of the enactment of this Act. The authority provided in the preceding sentence includes the authority to establish, consolidate, alter, or discontinue any agency, office, or other administrative unit of the Department.

(2) CONDITION ON AUTHORITY.—The delegation authority provided by paragraph (1) shall be subject to—

(A) sections 232, 251(d), 273, and 304 and subsections (a) and (b)(1) of section 261;

(B) sections 502 and 503 of the Agricultural Trade Act of 1978 (7 U.S.C. 5692 and 5693); and

(C) section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(b) COST-BENEFIT ANALYSIS REQUIRED FOR NAME CHANGE.—

(1) ANALYSIS REQUIRED.—Except as provided in paragraph (2), the Secretary shall conduct a cost-benefit analysis before changing the name of any agency, office, division, or other unit of the Department to ensure that the benefits to be derived from changing the name of the agency, office, division, or other unit outweigh the expense of executing the name change.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to any name change required or authorized by this title.

(c) PUBLIC COMMENT ON PROPOSED REORGANIZATION.—To the extent that the implementation of the authority provided to the Secretary by this title to reorganize the Department involves the creation of new agencies or offices within the Department or the delegation of major functions or major groups of functions to any agency or office of the Department (or the officers or employees of such agency or office), the Secretary shall, to the extent considered practicable by the Secretary—

(1) give appropriate advance public notice of the proposed reorganization action or delegation; and

(2) afford appropriate opportunity for interested parties to comment on the proposed reorganization action or delegation.

(d) INTERAGENCY TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS.—

(1) RELATED TRANSFERS.—Subject to paragraph (2), as part of the transfer or delegation of a function of the Department made or authorized by this title, the Secretary may transfer within the Department—

(A) any of the records, property, or personnel affected by the transfer or delegation of the function; and

(B) unexpended balances (available or to be made available for use in connection with the transferred or delegated function) of appropriations, allocations, or other funds of the Department.

(2) APPLICABLE LAW RELATING TO FUNDS TRANSFER.—Section 1531 of title 31, United States Code, shall apply to any transfer of funds under paragraph (1).

(e) EXHAUSTION OF ADMINISTRATIVE APPEALS.—Notwithstanding any other provision of law, a person shall exhaust all administrative appeal procedures established by the Secretary or required by law before the person may bring an action in a court of competent jurisdiction against—

(1) the Secretary;

(2) the Department; or

(3) an agency, office, officer, or employee of the Department.

SEC. 213. REDUCTIONS IN NUMBER OF DEPARTMENT PERSONNEL.

(a) DEFINITIONS.—For purposes of this section:

(1) HEADQUARTERS OFFICES.—The term "headquarters offices", with respect to agencies, offices, or other administrative units of the Department, means the offices, functions, and employee positions that are located or performed—

(A) in Washington, District of Columbia; or

(B) in such other locations as are identified by the Secretary for purposes of this section.

(2) FIELD STRUCTURE.—The term "field structure" means the offices, functions, and employee positions of all agencies, offices, or other administrative units of the Department, other than the headquarters offices, except that the term does not include State, county, or area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). The term includes the physical and geographic locations of such agencies, offices, or other administrative units.

(b) NUMBER OF REDUCTIONS REQUIRED.—The Secretary shall achieve Federal employee reductions of at least 7,500 staff years within the Department by the end of fiscal year 1999. Reductions in the number of full-time equivalent positions within the Department achieved under section 5 of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) shall be counted toward the employee reductions required under this section.

(c) EMPHASIS ON HEADQUARTERS OFFICES REDUCTIONS.—In achieving the employee reductions required by subsection (b), the Secretary shall pursue a goal so that the percentage of the total number of employee staff years reduced in headquarters offices is at least twice the percentage of the total number of employee staff years reduced in the field structure.

(d) SCHEDULE.—The personnel reductions in headquarters offices and in the field structure should be accomplished concurrently in a manner determined by the Secretary.

SEC. 214. CONSOLIDATION OF HEADQUARTERS OFFICES.

Subject to the availability of appropriated funds for this purpose, the Secretary shall develop and carry out a plan to consolidate offices located in Washington, District of Columbia, of agencies, offices, and other administrative units of the Department.

SEC. 215. COMBINATION OF FIELD OFFICES.

(a) COMBINATION OF OFFICES REQUIRED.—Where practicable and to the extent consistent with efficient, effective, and improved service, the Secretary shall combine field offices of agencies within the Department to reduce personnel and duplicative overhead expenses.

(b) JOINT USE OF RESOURCES AND OFFICES REQUIRED.—When two or more agencies of the Department share a common field office, the Secretary shall require the agencies to jointly use office space, equipment, office supplies, administrative personnel, and clerical personnel associated with that field office.

SEC. 216. IMPROVEMENT OF INFORMATION SHARING.

Whenever the Secretary procures or uses computer systems, as may be provided for in advance in appropriations Acts, the Secretary shall do so in a manner that enhances efficiency, productivity, and client services and is consistent with the goal of promoting computer information sharing among agencies of the Department.

SEC. 217. REPORTS BY THE SECRETARY.

(a) IN GENERAL.—Subject to subsection (b), notwithstanding any other provision of law, the Secretary may, but shall not be required to, prepare and submit any report solely to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(b) LIMITATION.—For each fiscal year, the Secretary may not prepare and submit more than 30 reports referred to in subsection (a).

(c) SELECTION OF REPORTS.—In consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary shall determine which reports, if any, the Secretary will prepare and submit in accordance with subsection (b).

SEC. 218. ASSISTANT SECRETARIES OF AGRICULTURE.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the positions of—

(1) Assistant Secretary of Agriculture for Congressional Relations;

(2) Assistant Secretary of Agriculture for Administration; and

(3) Assistant Secretary of Agriculture for Marketing and Regulatory Programs.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes any position of Assistant Secretary authorized under subsection (a), the Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for

Administration or Assistant Secretary of Agriculture for Congressional Relations on the date of the enactment of this Act and who was appointed as such Assistant Secretary by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(d) Executive Schedule.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Agriculture (7)." and inserting "Assistant Secretaries of Agriculture (3).".

(e) Repeal of Superseded Provisions Regarding Assistant Secretaries.—The following provisions of law are repealed:

(1) Section 2 of Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note).

(2) Section 2 of the Act entitled "An Act to enlarge the powers and duties of the Department of Agriculture and to create an Executive Department to be known as the Department of Agriculture.", approved February 9, 1889 (7 U.S.C. 2212).

(3) The first paragraph designated "Office of the Secretary:" under the heading "DEPARTMENT OF AGRICULTURE" of the Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and seven.", approved June 30, 1906 (34 Stat. 670; 7 U.S.C. 2212).

(4) Section 604(a) of the Rural Development Act of 1972 (7 U.S.C. 2212a).

(5) Section 2 of Public Law 94-561 (7 U.S.C. 2212b).

(6) Section 8(a) of Public Law 97-325 (7 U.S.C. 2212c).

(7) Section 1413(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3128(d)).

SEC. 219. PAY INCREASES PROHIBITED.

The compensation of any officer or employee of the Department on the date of the enactment of this Act shall not be increased as a result of the enactment of this title.

Subtitle B—Farm and Foreign Agricultural Services

SEC. 225. UNDER SECRETARY OF AGRICULTURE FOR FARM AND FOREIGN AGRICULTURAL SERVICES.

(a) Authorization.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services.

(b) Confirmation Required.—If the Secretary establishes the position of Under Secretary of Agriculture for Farm and Foreign Agricultural Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary.—

(1) Principal functions.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services those functions under the jurisdiction of the Department that are related to farm and foreign agricultural services.

(2) Additional functions.—The Under Secretary of Agriculture for Farm and Foreign Agricultural Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) Succession.—Any official who is serving as Under Secretary of Agriculture for International Affairs and Commodity Programs on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) Conforming Amendments.—

(1) Existing position.—Section 501 of the Agricultural Trade Act of 1978 (7 U.S.C. 5691), relating to the Under Secretary of Agriculture for International Affairs and Commodity Programs, is repealed.

(2) Executive schedule.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for International Affairs and Commodity Programs." and inserting "Under Secretary of Agriculture for Farm and Foreign Agricultural Services.".

SEC. 226. CONSOLIDATED FARM SERVICE AGENCY.

(a) Establishment.—The Secretary is authorized to establish and maintain in the Department a Consolidated Farm Service Agency.

(b) Functions of Consolidated Farm Service Agency.—If the Secretary establishes the Consolidated Farm Service Agency under subsection (a), the Secretary is authorized to assign to the Agency jurisdiction over the following functions:

(1) Agricultural price and income support programs, production adjustment programs, and related programs.

(2) General supervision of the Federal Crop Insurance Corporation.

(3) Agricultural credit programs assigned before the date of the enactment of this Act by law to the Farmers Home Administration (including farm ownership and operating, emergency, and disaster loan programs) and other lending programs for agricultural producers and others engaged in the production of agricultural commodities.

(4) Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3836) and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.).

(5) Such other functions as the Secretary considers appropriate, except for those programs assigned by the Secretary to the Natural Resources Conservation Service or another agency of the Department under section 246(b).

(c) Special Concurrence Requirements for Certain Functions.—In carrying out the programs specified in subsection (b)(4), the Secretary shall—

(1) acting on the recommendations of the Consolidated Farm Service Agency, with the concurrence of the Natural Resources Conservation Service, issue regulations to carry out such programs;

(2) ensure that the Consolidated Farm Service Agency, in establishing policies, priorities, and guidelines for such programs, does so with the concurrence of the Natural Resources Conservation Service at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) Jurisdiction Over Conservation Program Appeals.—

(1) In general.—Until such time as an adverse decision described in this paragraph is referred to the National Appeals Division for consideration, the Consolidated Farm Service Agency shall have initial jurisdiction over any administrative appeal resulting from an adverse decision made under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), including an adverse decision involving technical determinations made by the Natural Resources Conservation Service.

(2) Treatment of technical determination.—With respect to administrative appeals involving a technical determination made by the Natural Resources Conservation Service, the Consolidated Farm Service Agency, by rule with the concurrence of the Natural Resources Conservation Service, shall establish procedures for obtaining review by the Natural Resources Conservation Service of the technical determinations involved. Such rules shall ensure that technical criteria established by the Natural Resources Conservation Service shall be used by the Consolidated Farm Service Agency as the basis for any decisions regarding technical determinations. If no review is requested, the technical determination of the Natural Resources Conservation Service shall be the technical basis for any decision rendered by a county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)). If the committee requests a review by the Natural Resources Conservation Service of a wetlands determination of the Service, the Consolidated Farm Service Agency shall consult with other Federal agencies whenever required by law or under a memorandum of agreement in existence on the date of the enactment of this Act.

(3) Reinstatement of program benefits.—Rules issued to carry out this subsection shall provide for the prompt reinstatement of benefits to a producer who is determined in an administrative appeal to meet the requirements of title XII of the Food Security Act of 1985 applicable to the producer.

(e) Use of Federal and Non-Federal Employees.—

(1) Use authorized.—In the implementation of programs and activities assigned to the Consolidated Farm Service Agency, the Secretary may use interchangeably in local offices of the Agency both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) Exception.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(f) Collocation.—To the maximum extent practicable, the Secretary shall collocate county offices of the Consolidated Farm Service Agency with county offices of the Natural Resources Conservation Service in order to—

(1) maximize savings from shared equipment, office space, and administrative support;

(2) simplify paperwork and regulatory requirements;

(3) provide improved services to agricultural producers and landowners affected by programs administered by the Agency and the Service; and

(4) achieve computer compatibility between the Agency and the Service to maximize efficiency and savings.

(g) SAVINGS PROVISION.—For purposes of subsections (c) through (f) of this section:

(1) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under this section.

(2) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b).

(h) CONFORMING AMENDMENT.—Section 331(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(a)) is amended by striking "assets to the Farmers Home Administration" and all that follows through the period at the end of the subsection and inserting "assets to such officers or agencies of the Department of Agriculture as the Secretary considers appropriate.".

SEC. 227. STATE, COUNTY, AND AREA COMMITTEES.

(a) COMMITTEES UNDER THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT.—Section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by designating the second through eighth undesignated paragraphs as paragraphs (2) through (8), respectively; and

(3) by striking paragraph (5) (as so designated) and inserting the following new paragraph:

"(5) STATE, COUNTY, AND AREA COMMITTEES.—

"(A) APPOINTMENT OF STATE COMMITTEES.—The Secretary shall appoint in each State a State committee composed of not fewer than 3 nor more than 5 members who are fairly representative of the farmers in the State. The members of a State committee shall serve at the pleasure of the Secretary for such term as the Secretary may establish.

"(B) ESTABLISHMENT OF COUNTY, AREA, OR LOCAL COMMITTEES.—(i) In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

"(ii) Any such committee shall consist of not fewer than 3 nor more than 5 members who are fairly representative of the agricultural producers in the county or area and who shall be elected by the agricultural producers in such county or area under such procedures as the Secretary may prescribe.

"(iii) The Secretary may designate local administrative areas within the county or larger area covered by a committee established under clause (i). Only agricultural producers within a local administrative area who participate or cooperate in programs administered within their area shall be eligible for nomination and election to the local committee for that area, under such regulations as the Secretary may prescribe.

"(iv) The Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1)).

"(v) Members of each county, area, or local committee shall serve for terms not to exceed 3 years.

"(C) TERMINATION OR COMBINATION OF COMMITTEES.—The Secretary may not terminate a county or area committee or combine or consolidate two or more county or area committees unless—

"(i) the Secretary first notifies the committee or committees involved of the proposed action; and

"(ii) the State committee of the State in which the affected counties are located approves of such action in a vote taken after the end of the 60-day period beginning on the date the notification is received.

"(D) USE OF COMMITTEES.—The Secretary shall use the services of such committees in carrying out programs under this section and the agricultural credit programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) and in considering administrative appeals as provided by section 226(d) of the Department of Agriculture Reorganization Act of 1994. The Secretary may use the services of such committees in carrying out programs under other authorities administered by the Secretary .

"(E) REGULATIONS.—The Secretary shall issue such regulations as the Secretary considers necessary relating to the selection and exercise of the functions of the respective committees, and to the administration through such committees of the programs described in subparagraph (D). Pursuant to such regulations, each county and area committee shall select an executive director for the area or county. Such selection shall be made in the same manner as provided for the selection of the county executive director under section 7.21(b)(2) of title 7, Code of Federal Regulations, as in effect on January 1, 1994. Regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, whenever practicable, they shall be classified on the following two bases:

"(i) Soil-depleting practices.

"(ii) Soil-building practices.

"(F) MANDATORY DUTIES OF SECRETARY.—In carrying out this section, the Secretary shall—

"(i) insofar as practicable, protect the interests of tenants and sharecroppers;

"(ii) accord such encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in Federal laws and as will tend to promote efficient methods of marketing and distribution;

"(iii) in every practicable manner, protect the interests of small producers; and

"(iv) in every practical way, encourage and provide for soil-conserving and soil-rebuilding practices.

"(G) DISCRETIONARY AUTHORITIES OF SECRETARY.—In carrying out this section, the Secretary may use other approved agencies.

"(H) LIMITATIONS.—In carrying out this section, the Secretary shall not have the authority to acquire any land or any right or interest in land.".

(b) ELIMINATION OF FMHA COUNTY COMMITTEES.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by striking section 332 (7 U.S.C. 1982); and

(2) in section 333 (7 U.S.C. 1983)—

(A) by striking paragraph (2); and

(B) redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

Subtitle C—Rural Economic and Community Development

SEC. 231. UNDER SECRETARY OF AGRICULTURE FOR RURAL ECONOMIC AND COMMUNITY DEVELOPMENT.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Rural Economic and Community Development.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Rural Economic and Community Development authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Rural Economic and Community Development those functions under the jurisdiction of the Department that are related to rural economic and community development.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Rural Economic and Community Development shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Under Secretary of Agriculture for Small Community and Rural Development on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) LOAN APPROVAL AUTHORITY.—Approval authority for loans and loan guarantees in connection with the electric and telephone loan and loan guarantee programs authorized by the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) shall not be transferred to, or conditioned on review of, a State director or other employee whose primary duty is not the review and approval of such loans or the provision of assistance to such borrowers.

(f) CONFORMING AMENDMENTS.—

(1) EXISTING POSITION.—Section 3 of the Rural Development Policy Act of 1980 (7 U.S.C. 2211b) is amended by striking subsection (a).

(2) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by striking "Under Secretary of Agriculture for Small Community and Rural Development." and inserting "Under Secretary of Agriculture for Rural Economic and Community Development.".

(3) REPEAL OF RURAL DEVELOPMENT ADMINISTRATION.—Section 364 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006f) is repealed.

SEC. 232. RURAL UTILITIES SERVICE.

(a) ESTABLISHMENT REQUIRED.—The Secretary shall establish and maintain within the Department the Rural Utilities Service and assign to the Service such functions as the Secretary considers appropriate.

(b) ADMINISTRATOR.—

(1) APPOINTMENT.—The Rural Utilities Service shall be headed by an Administrator who shall be appointed by the President, by

and with the advice and consent of the Senate.

(2) Succession.—Any official who is serving as Administrator of the Rural Electrification Administration on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate—

(A) may be considered to be serving in the successor position established under paragraph (1); and

(B) shall not be required to be reappointed to that position by reason of the enactment of this Act.

(3) Executive schedule.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Rural Utilities Service, Department of Agriculture.".

(c) Functions.—The Secretary shall carry out through the Rural Utilities Service the following functions that are under the jurisdiction of the Department:

(1) Electric and telephone loan programs and water and waste facility activities authorized by law, including—

(A) the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.); and

(B) section 2322 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1); and

(2) Water and waste facility programs and activities authorized by law, including—

(A) sections 306, 306A, 306B, and 306C, the provisions of sections 309 and 309A relating to assets, terms, and conditions of water and sewer programs, section 310B(b)(2), and the amendment made by section 342 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926, 1926a, 1926b, 1926c, 1929, 1929a, 1932(b)(2), and 1013a); and

(B) section 2324 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926 note).

SEC. 233. RURAL HOUSING AND COMMUNITY DEVELOPMENT SERVICE.

(a) Establishment Authorized.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Housing and Community Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) Functions.—If the Secretary establishes the Rural Housing and Community Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Programs and activities under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) Programs and activities authorized under section 310B(i) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(i)) and related provisions of law.

(3) Programs and activities that relate to rural community lending programs, including programs authorized by sections 365 through 369 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008–2008d).

SEC. 234. RURAL BUSINESS AND COOPERATIVE DEVELOPMENT SERVICE.

(a) Establishment Authorized.—Notwithstanding any other provision of law, the Secretary is authorized to establish and maintain within the Department the Rural Business and Cooperative Development Service and to assign to the Service such functions as the Secretary considers appropriate.

(b) Functions.—If the Secretary establishes the Rural Business and Cooperative Development Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) Section 313 and title V of the Rural Electrification Act of 1936 (7 U.S.C. 940c and 950aa et seq.).

(2) subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.).

(3) Sections 306(a)(1) and 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1) and 1932).

(4) Section 1323 of the Food Security Act of 1985 (Public Law 99–198; 7 U.S.C. 1932 note).

(5) The Act of July 2, 1926 (44 Stat. 802, chapter 725; 7 U.S.C. 451 et seq.).

SEC. 235. CONFORMING AMENDMENTS REGARDING RURAL ELECTRIFICATION ADMINISTRATION.

(a) Amendments to Rural Electrification Act of 1936.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended—

(1) by striking the first section (7 U.S.C. 901) and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Rural Electrification Act of 1936'.";

(2) in section 2(a) (7 U.S.C. 902(a)), by striking "Administrator" and inserting "Secretary of Agriculture";

(3) in section 3(a) (7 U.S.C. 903(a))—

(A) by striking "Administrator, upon the request and approval of the Secretary of Agriculture," and inserting "Secretary"; and

(B) by striking "Administrator appointed pursuant to the provisions of this Act or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037" and inserting "Secretary";

(4) in section 8 (7 U.S.C. 908)—

(A) by striking "Administrator authorized to be appointed by this Act" and inserting "Secretary"; and

(B) by striking "Rural Electrification Administration created by this Act" and inserting "Secretary";

(5) by striking section 11A (7 U.S.C. 911a);

(6) in section 13 (7 U.S.C. 913), by inserting before the period at the end the following: "; and the term 'Secretary' shall be deemed to mean the Secretary of Agriculture";

(7) in sections 206(b)(2), 306A(b), 311, and 405(b)(1)(A) (7 U.S.C. 927(b)(2), 936a(b), 940a, and 945(b)(1)(A)), by striking "Rural Electrification Administration" each place it appears and inserting "Secretary";

(8) in sections 305(c)(2)(C)(ii)(II) and 306E(d) (7 U.S.C. 935(c)(2)(C)(ii)(II) and 936e(d)), by striking "ADMINISTRATOR" and inserting "SECRETARY";

(9) in section 403(b) (7 U.S.C. 943(b)), by striking "Rural Electrification Administration or of any other agency of the Department of Agriculture," and inserting "Secretary,";

(10) in section 404 (7 U.S.C. 944), by striking "the Administrator of the Rural Electrification Administration" and inserting "the Secretary shall designate an official of the Department of Agriculture who";

(11) in sections 406(c) and 410 (7 U.S.C. 946(c) and 950), by striking "Administrator of the Rural Electrification Administration" each place it appears and inserting "Secretary";

(12) in the heading of section 501 (7 U.S.C. 950aa), by striking "**of rea administrator**"; and

(13) except as otherwise provided in this subsection, by striking "Administrator" each place it appears in such Act and inserting "Secretary".

(b) Miscellaneous Amendments.—(1) Section 236(a) of the Disaster Relief Act of 1970 (7 U.S.C. 912a) is amended by striking "Rural Electrification Administration" and inserting "Secretary under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.)".

(2) Section 505 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 915) is amended—

(A) by striking "Rural Electrification Administration" and inserting "Secretary of Agriculture"; and

(B) by striking "its" and inserting "the Secretary's".

(3) Section 401 of the Rural Electrification Act of 1938 (7 U.S.C. 903 note) is amended in the second paragraph by striking "Administrator of the Rural Electrification Administration" and inserting "Secretary of Agriculture".

(4) Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), relating to Distance Learning and Medical Link Programs, is amended—

(A) in section 2333—

(i) by striking paragraph (1); and

(ii) by redesignating paragraphs (2) through (11) as paragraphs (1) through (10), respectively;

(B) in section 2334(h)(2), by striking "section 2333(3)(F)" and inserting "section 2333(2)(F)"; and

(C) by striking "Administrator" each place it appears and inserting "Secretary".

(5) Section 306(a)(15) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(15)) is amended—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraph (D) as subparagraph (C).

(6) Section 2322(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1926–1(d)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

Subtitle D—Food, Nutrition, and Consumer Services

SEC. 241. UNDER SECRETARY OF AGRICULTURE FOR FOOD, NUTRITION, AND CONSUMER SERVICES.

(a) Authorization.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.

(b) Confirmation Required.—If the Secretary establishes the position of Under Secretary of Agriculture for Food, Nutrition, and Consumer Services authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) Functions of Under Secretary.—

(1) Principal functions.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services those functions under the jurisdiction of the Department that are related to food, nutrition, and consumer services (except as provided in section 261(b)(1)).

(2) Additional functions.—The Under Secretary of Agriculture for Food, Nutrition, and Consumer Services shall perform such other functions as may be required by law or prescribed by the Secretary.

(d) Succession.—Any official who is serving as Assistant Secretary of Agriculture for Food and Consumer Services on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Farm and Foreign Agricultural Services (as added by section 225(e)(2)) the following:

"Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.".

Subtitle E—Natural Resources and Environment

SEC. 245. UNDER SECRETARY OF AGRICULTURE FOR NATURAL RESOURCES AND ENVIRONMENT.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Natural Resources and Environment.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Natural Resources and Environment authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Natural Resources and Environment those functions under the jurisdiction of the Department that are related to natural resources and environment (except to the extent those functions are delegated under section 226).

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Natural Resources and Environment shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) SUCCESSION.—Any official who is serving as Assistant Secretary of Agriculture for Natural Resources and Environment on the date of the enactment of this Act and who was appointed by the President, by and with the advice and consent of the Senate, shall not be required to be reappointed under subsection (b) to the successor position authorized under subsection (a) if the Secretary establishes the position, and the official occupies the new position, within 180 days after the date of the enactment of this Act (or such later date set by the Secretary if litigation delays rapid succession).

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Food, Nutrition, and Consumer Services (as added by section 241(e)) the following:

"Under Secretary of Agriculture for Natural Resources and Environment.".

SEC. 246. NATURAL RESOURCES CONSERVATION SERVICE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish and maintain within the Department a Natural Resources Conservation Service.

(b) FUNCTIONS.—If the Secretary establishes the Natural Resources Conservation Service under subsection (a), the Secretary is authorized to assign to the Service jurisdiction over the following:

(1) The rural environmental conservation program under title X of the Agricultural Act of 1970 (16 U.S.C. 1501 et seq.).

(2) The Great Plains Conservation Program under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)).

(3) The Water Bank Act (16 U.S.C. 1301 et seq.);

(4) The forestry incentive program under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

(5) Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), except subchapter B of chapter 1 of subtitle D of such title.

(6) Salinity control program under section 202(c) of the Colorado River Basin Salinity Control Act (43 U.S.C. 1592(c)).

(7) The Farms for the Future Act of 1990 (7 U.S.C. 4201 note).

(8) Such other functions as the Secretary considers appropriate, except functions under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831-3836) and the agricultural conservation program under the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g et seq.).

(c) SPECIAL CONCURRENCE REQUIREMENTS FOR CERTAIN FUNCTIONS.—In carrying out the programs specified in paragraphs (2), (3), (4), and (6) of subsection (b) and the program under subchapter C of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3837-3837f), the Secretary shall—

(1) acting on the recommendations of the Natural Resources Conservation Service, with the concurrence of the Consolidated Farm Service Agency, issue regulations to carry out such programs;

(2) ensure that the Natural Resources Conservation Service, in establishing policies, priorities, and guidelines for each such program, does so with the concurrence of the Consolidated Farm Service Agency at national, State, and local levels;

(3) ensure that, in reaching such concurrence at the local level, the Natural Resources Conservation Service works in cooperation with Soil and Water Conservation Districts or similar organizations established under State law;

(4) ensure that officials of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) meet annually with officials of such Districts or similar organizations to consider local conservation priorities and guidelines; and

(5) take steps to ensure that the concurrence process does not interfere with the effective delivery of such programs.

(d) USE OF FEDERAL AND NON-FEDERAL EMPLOYEES.—

(1) USE AUTHORIZED.—In the implementation of functions assigned to the Natural Resources Conservation Service, the Secretary may use interchangeably in local offices of the Service both Federal employees of the Department and non-Federal employees of county and area committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(2) EXCEPTION.—Notwithstanding paragraph (1), no personnel action (as defined in section 2302(a)(2)(A) of title 5, United States Code) may be taken with respect to a Federal employee unless such action is taken by another Federal employee.

(e) SAVINGS PROVISION.—For purposes of subsections (c) and (d) of this section:

(1) A reference to the "Natural Resources Conservation Service" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under this section.

(2) A reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(f) CONFORMING AMENDMENTS.—

(1) SOIL CONSERVATION SERVICE.—Section 5 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590e) is repealed.

(2) SOIL AND WATER RESOURCES CONSERVATION.—The Soil and Water Resources Conservation Act of 1977 (16 U.S.C. 2001) is amended—

(A) in section 2(2) (16 U.S.C. 2001(2))—

(i) by striking "created the Soil Conservation Service"; and

(ii) by striking "Department of Agriculture which" and inserting ", has ensured that the Department of Agriculture";

(B) in section 3(2) (16 U.S.C. 2002(2)), by striking "through the Soil Conservation Service"; and

(C) in section 6(a) (16 U.S.C. 2005(a)), by striking "Soil Conservation Service" and inserting "Secretary".

(3) STATE TECHNICAL COMMITTEES.—Section 1262 of the Food Security Act of 1985 (16 U.S.C. 3862) is amended by adding at the end the following new subsection:

"(e) FACA REQUIREMENTS.—The committees established under section 1261 shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 247. REORGANIZATION OF FOREST SERVICE.

(a) REQUIRED ELEMENTS OF REORGANIZATION PROPOSALS.—Reorganization proposals that are developed by the Secretary to carry out the designation by the President of the Forest Service as a Reinvention Lab pursuant to the National Performance Review, dated September 1993, shall include proposals for—

(1) reorganizing the Service in a manner that is consistent with the principles of interdisciplinary planning;

(2) redefining and consolidating the mission and roles of, and research conducted by, employees of the Service in connection with the National Forest System and State and private forestry to facilitate interdisciplinary planning and to eliminate functionalism;

(3) reforming the budget structure of the Service to support interdisciplinary planning, including reducing the number of budget line items;

(4) defining new measures of accountability so that Congress may meet the constitutional obligation of Congress to oversee the Service;

(5) achieving structural and organizational consolidations;

(6) to the extent practicable, sharing office space, equipment, vehicles, and electronic systems with other administrative units of the Department and other Federal field offices, including proposals for using an on-line system by all administrative units of the Department to maximize administrative efficiency; and

(7) reorganizing the Service in a manner that will result in a larger percentage of employees of the Service being retained at organizational levels below regional offices, research stations, and the area office of the Service.

(b) REPORT.—Not later than March 31, 1995, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes actions taken to carry out subsection (a), identifies any disparities in regional funding patterns, and contains the rationale behind the disparities.

Subtitle F—Research, Education, and Economics

SEC. 251. UNDER SECRETARY OF AGRICULTURE FOR RESEARCH, EDUCATION, AND ECONOMICS.

(a) AUTHORIZATION.—The Secretary is authorized to establish in the Department the position of Under Secretary of Agriculture for Research, Education, and Economics.

(b) CONFIRMATION REQUIRED.—If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics authorized under subsection (a), the Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

(c) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—Upon establishment, the Secretary shall delegate to the Under Secretary of Agriculture for Research, Education, and Economics those functions and duties under the jurisdiction of the Department that are related to research, education, and economics.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Research, Education, and Economics shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(d) COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE.—

(1) ESTABLISHMENT.—There is established in the Department a Cooperative State Research, Education, and Extension Service.

(2) FUNCTIONS.—The Secretary shall delegate to the Cooperative State Research, Education, and Extension Service functions related to cooperative State research programs and cooperative extension and education programs that are under the jurisdiction of the Department.

(3) OFFICER-IN-CHARGE.—If the Secretary establishes the position of Under Secretary of Agriculture for Research, Education, and Economics, the officer in charge of the Cooperative State Research, Education, and Extension Service shall report directly to the Under Secretary.

(e) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Natural Resources and Environment (as added by section 245(e)) the following:

"Under Secretary of Agriculture for Research, Education, and Economics.".

SEC. 252. PROGRAM STAFF.

In making the personnel reductions required under section 213, the Secretary shall reduce the number of Federal research and education personnel of the Department by a percentage equal to at least the percentage of overall Department personnel reductions. The Secretary shall achieve such reduction in research and education personnel in a manner that minimizes duplication and maximizes coordination between Federal and State research and extension activities.

Subtitle G—Food Safety

SEC. 261. UNDER SECRETARY OF AGRICULTURE FOR FOOD SAFETY.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the position of Under Secretary of Agriculture for Food Safety. The Under Secretary shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals with specialized training or significant experience in food safety or public health programs.

(b) FUNCTIONS OF UNDER SECRETARY.—

(1) PRINCIPAL FUNCTIONS.—The Secretary shall delegate to the Under Secretary of Agriculture for Food Safety those functions and duties under the jurisdiction of the Department that are primarily related to food safety.

(2) ADDITIONAL FUNCTIONS.—The Under Secretary of Agriculture for Food Safety shall perform such other functions and duties as may be required by law or prescribed by the Secretary.

(c) EXECUTIVE SCHEDULE.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Under Secretary of Agriculture for Research, Education, and Economics (as added by section 251(e)) the following:

"Under Secretary of Agriculture for Food Safety.".

(d) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary, acting through the Under Secretary for Research, Education, and Economics, may, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates—

(1) establish such technical and scientific review groups as are needed to carry out the functions of the Department; and

(2) appoint and pay the members of the groups, except that officers and employees of the United States shall not receive additional compensation for service as a member of a group.

SEC. 262. CONDITIONS FOR IMPLEMENTATION OF ALTERATIONS IN THE LEVEL OF ADDITIVES ALLOWED IN ANIMAL DIETS.

(a) CONDITIONS.—The Food and Drug Administration shall not implement or enforce the final rule described in subsection (b) to alter the level of selenium allowed to be used as a supplement in animal diets unless the Commissioner of the Food and Drug Administration makes a determination that—

(1) selenium additives are not essential, at levels authorized in the absence of such final rule, to maintain animal nutrition and protect animal health;

(2) selenium at such levels is not safe to the animals consuming the additive;

(3) selenium at such levels is not safe to individuals consuming edible portions of animals that receive the additive;

(4) selenium at such levels does not achieve its intended effect of promoting normal growth and reproduction of livestock and poultry; and

(5) the manufacture and use of selenium at such levels cannot reasonably be controlled by adherence to current good manufacturing practice requirements.

(b) FINAL RULE DESCRIBED.—The final rule referred to in subsection (a) is the final rule issued by the Food and Drug Administration and published in the Federal Register on September 13, 1993 (58 Fed. Reg. 47962), in which the Administration stayed 1987 amendments to the selenium food additive regulations, and any modification of such rule issued after the date of the enactment of this Act.

Subtitle H—National Appeals Division

SEC. 271. DEFINITIONS.

For purposes of this subtitle:

(1) ADVERSE DECISION.—The term "adverse decision" means an administrative decision made by an officer, employee, or committee of an agency that is adverse to a participant. The term includes a denial of equitable relief by an agency or the failure of an agency to issue a decision or otherwise act on the request or right of the participant. The term does not include a decision over which the Board of Contract Appeals has jurisdiction.

(2) AGENCY.—The term "agency" means any agency of the Department designated by the Secretary or a successor agency of the Department, except that the term shall include the following (and any successor to the following):

(A) The Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226).

(B) The Commodity Credit Corporation, with respect to domestic programs.

(C) The Farmers Home Administration.

(D) The Federal Crop Insurance Corporation.

(E) The Rural Development Administration.

(F) The Natural Resources Conservation Service (or other office, agency, or administrative unit of the Department assigned the functions authorized for the Natural Resources Conservation Service under section 246(b)).

(G) A State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)).

(3) APPELLANT.—The term "appellant" means a participant who appeals an adverse decision in accordance with this subtitle.

(4) CASE RECORD.—The term "case record" means all the materials maintained by the Secretary related to an adverse decision.

(5) DIRECTOR.—The term "Director" means the Director of the Division.

(6) DIVISION.—The term "Division" means the National Appeals Division established by this title.

(7) HEARING OFFICER.—The term "hearing officer" means an individual employed by the Division who hears and determines appeals of adverse decisions by any agency.

(8) IMPLEMENT.—The term "implement" refers to those actions necessary to effectuate fully and promptly a final determination of the Division not later than 30 calendar days after the effective date of the final determination.

(9) PARTICIPANT.—The term "participant" shall have the meaning given that term by the Secretary by regulation.

SEC. 272. NATIONAL APPEALS DIVISION AND DIRECTOR.

(a) ESTABLISHMENT OF DIVISION.—The Secretary shall establish and maintain an independent National Appeals Division within the Department to carry out this subtitle.

(b) DIRECTOR.—

(1) APPOINTMENT.—The Division shall be headed by a Director, appointed by the Secretary from among persons who have substantial experience in practicing administrative law. In considering applicants for the position of Director, the Secretary shall consider persons currently employed outside Government as well as Government employees.

(2) TERM AND REMOVAL.—The Director shall serve for a 6-year term of office, and shall be eligible for reappointment. The Director shall not be subject to removal during the term of office, except for cause established in accordance with law.

(3) POSITION CLASSIFICATION.—The position of the Director may not be a position in the excepted service or filled by a noncareer appointee.

(c) DIRECTION, CONTROL, AND SUPPORT.—The Director shall be free from the direction and control of any person other than the Secretary. The Division shall not receive administrative support (except on a reimbursable basis) from any agency other than the Office of the Secretary. The Secretary may not delegate to any other officer or employee of the Department, other than the Director, the authority of the Secretary with respect to the Division.

(d) DETERMINATION OF APPEALABILITY OF AGENCY DECISIONS.—If an officer, employee, or committee of an agency determines that a decision is not appealable and a participant appeals the decision to the Director, the Director shall determine whether the decision is adverse to the individual participant and thus appealable or is a matter of general applicability and thus not subject to appeal. The determination of the Director as to whether a decision is appealable shall be administratively final.

(e) DIVISION PERSONNEL.—The Director shall appoint such hearing officers and other employees as are necessary for the administration of the Division. A hearing officer or other employee of the Division shall have no duties other than those that are necessary to carry out this subtitle.

SEC. 273. TRANSFER OF FUNCTIONS.

There are transferred to the Division all functions exercised and all administrative appeals pending before the effective date of this subtitle (including all related functions of any officer or employee) of or relating to—

(1) the National Appeals Division established by section 426(c) of the Agricultural Act of 1949 (7 U.S.C. 1433e(c)) (as in effect on the day before the date of the enactment of this Act);

(2) the National Appeals Division established by subsections (d) through (g) of section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) (as in effect on the day before the date of the enactment of this Act);

(3) appeals of decisions made by the Federal Crop Insurance Corporation; and

(4) appeals of decisions made by the Soil Conservation Service (as in effect on the day before the date of the enactment of this Act).

SEC. 274. NOTICE AND OPPORTUNITY FOR HEARING.

Not later than 10 working days after an adverse decision is made that affects the participant, the Secretary shall provide the participant with written notice of such adverse decision and the rights available to the participant under this subtitle or other law for the review of such adverse decision.

SEC. 275. INFORMAL HEARINGS.

If an officer, employee, or committee of an agency makes an adverse decision, the agency shall hold, at the request of the participant, an informal hearing on the decision. With respect to programs carried out through the Consolidated Farm Service Agency (or other office, agency, or administrative unit of the Department assigned to carry out the programs authorized for the Consolidated Farm Service Agency under section 226), the Secretary shall maintain the informal appeals process applicable to such programs, as in effect on the date of the enactment of the subtitle. If a mediation program is available under title V of the Agricultural Credit Act of 1987 (7 U.S.C. 5101 et seq.) as a part of the informal hearing process, the participant shall be offered the right to choose such mediation.

SEC. 276. RIGHT OF PARTICIPANTS TO DIVISION HEARING.

(a) APPEAL TO DIVISION FOR HEARING.—Subject to subsection (b), a participant shall have the right to appeal an adverse decision to the Division for an evidentiary hearing by a hearing officer consistent with section 277.

(b) TIME FOR APPEAL.—To be entitled to a hearing under section 277, a participant shall request the hearing not later than 30 days after the date on which the participant first received notice of the adverse decision.

SEC. 277. DIVISION HEARINGS.

(a) GENERAL POWERS OF DIRECTOR AND HEARING OFFICERS.—

(1) ACCESS TO CASE RECORD.—The Director and hearing officer shall have access to the case record of any adverse decision appealed to the Division for a hearing.

(2) ADMINISTRATIVE PROCEDURES.—The Director and hearing officer shall have the authority to require the attendance of witnesses, and the production of evidence, by subpoena and to administer oaths and affirmations. Except to the extent required for the disposition of ex parte matters as authorized by law—

(A) an interested person outside the Division shall not make or knowingly cause to be made to the Director or a hearing officer who is or may reasonably be expected to be involved in the evidentiary hearing or review of an adverse decision, an ex parte communication (as defined in section 551(14) of title 5, United States Code) relevant to the merits of the proceeding;

(B) the Director and such hearing officer shall not make or knowingly cause to be made to any interested person outside the Division an ex parte communication relevant to the merits of the proceeding.

(b) TIME FOR HEARING.—Upon a timely request for a hearing under section 276(b), an appellant shall have the right to have a hearing by the Division on the adverse decision within 45 days after the date of the receipt of the request for the hearing.

(c) LOCATION AND ELEMENTS OF HEARING.—

(1) LOCATION.—A hearing on an adverse decision shall be held in the State of residence of the appellant or at a location that is otherwise convenient to the appellant and the Division.

(2) EVIDENTIARY HEARING.—The evidentiary hearing before a hearing officer shall be in person, unless the appellant agrees to a hearing by telephone or by a review of the case record. The hearing officer shall not be bound by previous findings of fact by the agency in making a determination.

(3) INFORMATION AT HEARING.—The hearing officer shall consider information presented at the hearing without regard to whether the evidence was known to the agency officer, employee, or committee making the adverse decision at the time the adverse decision was made. The hearing officer shall leave the record open after the hearing for a reasonable period of time to allow the submission of information by the appellant or the agency after the hearing to the extent necessary to respond to new facts, information, arguments, or evidence presented or raised by the agency or appellant.

(4) BURDEN OF PROOF.—The appellant shall bear the burden of proving that the adverse decision of the agency was erroneous.

(d) DETERMINATION NOTICE.—The hearing officer shall issue a notice of the determination on the appeal not later than 30 days after a hearing or after receipt of the request of the appellant to waive a hearing, except that the Director may establish an earlier or later deadline. If the determination is not appealed to the Director for review under section 278, the notice provided by the hearing officer shall be considered to be a notice of an administratively final determination.

(e) EFFECTIVE DATE.—The final determination shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 278. DIRECTOR REVIEW OF DETERMINATIONS OF HEARING OFFICERS.

(a) REQUESTS FOR DIRECTOR REVIEW.—

(1) TIME FOR REQUEST BY APPELLANT.—Not later than 30 days after the date on which an appellant receives the determination of a hearing officer under section 277, the appellant shall submit a written request to the Director for review of the determination in order to be entitled to a review by the Director of the determination.

(2) TIME FOR REQUEST BY AGENCY HEAD.—Not later than 15 business days after the date on which an agency receives the determination of a hearing officer under section 277, the head of the agency may make a written request that the Director review the determination.

(b) DETERMINATION OF DIRECTOR.—The Director shall conduct a review of the determination of the hearing officer using the case record, the record from the evidentiary hearing under section 277, the request for review, and such other arguments or information as may be accepted by the Director. Based on such review, the Director shall issue a final determination notice that upholds, reverses, or modifies the determination of the hearing officer. However, if the Director determines that the hearing record is inadequate, the Director may remand all or a portion of the determination for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing. The Director shall complete the review and either issue a final determination or remand the determination not later than—

(1) 10 business days after receipt of the request for review, in the case of a request by the head of an agency for review; or

(2) 30 business days after receipt of the request for review, in the case of a request by an appellant for review.

(c) BASIS FOR DETERMINATION.—The determination of the hearing officer and the Director shall be based on information from the case record, laws applicable to the matter at issue, and applicable regulations published in the Federal Register and in effect on the date of the adverse decision or the date on which the acts that gave rise to the adverse decision occurred, whichever date is appropriate.

(d) EQUITABLE RELIEF.—Subject to regulations issued by the Secretary, the Director shall have the authority to grant equitable relief under this section in the same manner and to the same extent as such authority is provided to the Secretary under section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) and other laws. Notwithstanding the administrative finality of a final determination of an appeal by the Division, the Secretary shall have the authority to grant equitable or other types of relief to the appellant after an administratively final determination is issued by the Division.

(e) EFFECTIVE DATE.—A final determination issued by the Director shall be effective as of the date of filing of an application, the date of the transaction or event in question, or the date of the original adverse decision, whichever is applicable.

SEC. 279. JUDICIAL REVIEW.

A final determination of the Division shall be reviewable and enforceable by any United States district court of competent jurisdiction in accordance with chapter 7 of title 5, United States Code.

SEC. 280. IMPLEMENTATION OF FINAL DETERMINATIONS OF DIVISION.

On the return of a case to an agency pursuant to the final determination of the Division, the head of the agency shall implement the final determination not later than 30 days after the effective date of the notice of the final determination.

SEC. 281. CONFORMING AMENDMENTS RELATING TO NATIONAL APPEALS DIVISION.

(a) DECISIONS OF STATE, COUNTY, AND AREA COMMITTEES.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only with respect to functions of the Consolidated Farm Service Agency or the Commodity Credit Corporation that are under the jurisdiction of a State, county, or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of such a committee.

(2) FINALITY.—Each decision of a State, county, or area committee (or an employee of such a committee) covered by paragraph (1) that is made in good faith in the absence of misrepresentation, false statement, fraud, or willful misconduct shall be final not later than 90 days after the date of filing of the application for benefits, unless the decision is—

(A) appealed under this subtitle; or

(B) modified by the Administrator of the Consolidated Farm Service Agency or the Executive Vice President of the Commodity Credit Corporation.

(3) RECOVERY OF AMOUNTS.—If the decision of the State, county, or area committee has become final under paragraph (2), no action may be taken by the Consolidated Farm Service Agency, the Commodity Credit Corporation, or a State, county, or area committee to recover amounts found to have been disbursed as a result of a decision in error unless the participant had reason to believe that the decision was erroneous.

(4) SAVINGS PROVISION.—For purposes of this subsection, a reference to the "Consolidated Farm Service Agency" includes any other office, agency, or administrative unit of the Department assigned the functions authorized for the Consolidated Farm Service Agency under section 226.

(b) AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE.—Section 426 of the Agricultural Act of 1949 (7 U.S.C. 1433e) is repealed.

(c) FARMERS HOME ADMINISTRATION.—Section 333B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983b) is repealed.

SEC. 282. EXPANSION OF ISSUES COVERED BY STATE MEDIATION PROGRAMS.

(a) EXPANSION OF MEDIATION PROGRAMS.—Section 501 of the Agricultural Credit Act of 1987 (7 U.S.C. 5101) is amended—

(1) in subsection (a), by striking "an agricultural loan mediation program" and inserting "a mediation program";

(2) in subsection (b), by striking "agricultural loan"; and

(3) by striking subsection (c) and inserting the following new subsection:

"(c) REQUIREMENTS OF STATE MEDIATION PROGRAMS.—

"(1) ISSUES COVERED.—To be certified as a qualifying State, the mediation program of the State must provide mediation services for the persons described in paragraph (2) who are involved in agricultural loans or agricultural loans and one or more of the following issues under the jurisdiction of the Department of Agriculture:

"(A) Wetlands determinations.

"(B) Compliance with farm programs, including conservation programs.

"(C) Agricultural credit.

"(D) Rural water loan programs.

"(E) Grazing on National Forest System lands.

"(F) Pesticides.

"(G) Such other issues as the Secretary considers appropriate.

"(2) PERSONS ELIGIBLE FOR MEDIATION.—The persons referred to in paragraph (1) are producers, their creditors (if applicable), and other persons directly affected by actions of the Department of Agriculture.

"(3) CERTIFICATION CONDITIONS.—The Secretary shall certify a State as a qualifying State with respect to the issues proposed to be covered by the mediation program of the State if the mediation program—

"(A) provides for mediation services that, if decisions are reached, result in mediated, mutually agreeable decisions between the parties to the mediation;

"(B) is authorized or administered by an agency of the State government or by the Governor of the State;

"(C) provides for the training of mediators;

"(D) provides that the mediation sessions shall be confidential;

"(E) ensures, in the case of agricultural loans, that all lenders and borrowers of agricultural loans receive adequate notification of the mediation program; and

"(F) ensures, in the case of other issues covered by the mediation program, that persons directly affected by actions of the Department of Agriculture receive adequate notification of the mediation program.".

(b) PARTICIPATION OF DEPARTMENT.—Section 503 of such Act (7 U.S.C. 5103) is amended—

(1) by striking "agricultural loan" each place it appears;

(2) in the matter preceding subparagraph (A) of subsection (a)(1)—

(A) by inserting "or agency" after "program"; and

(B) by striking "that makes, guarantees, or insures agricultural loans";

(3) in subsection (a)(1)(A)—

(A) by inserting "or agency" after "such program"; and

(B) by inserting "certified under section 501" after "mediation program";

(4) in subsection (a)(1)(B)—

(A) by striking ", effective beginning on the date of the enactment of this Act,"; and

(B) by inserting "certified under section 501" after "mediation programs"; and

(5) in subsection (a)(1)(C)—

(A) in clause (i), by striking "described in" and inserting "certified under"; and

(B) in clause (ii), by inserting "if applicable," before "present".

(c) REGULATIONS.—Section 504 of such Act (7 U.S.C. 5104) is amended—

(1) by striking "Within 150 days after the date of the enactment of this Act, the" and inserting "The"; and

(2) by adding at the end the following new sentence: "The regulations prescribed by the Secretary shall require qualifying States to adequately train mediators to address all of the issues covered by the mediation program of the State.".

(d) REPORT.—Section 505 of such Act (7 U.S.C. 5105) is amended by striking "1990" and inserting "1998".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 506 of such Act (7 U.S.C. 5106) is amended by striking "1995" and inserting "2000".

(f) CONFORMING AMENDMENTS.—

(1) REFERENCES TO AGRICULTURAL LOANS.—Subtitle A of title V of such Act is amended—

(A) in sections 502 and 505(1) (7 U.S.C. 5102, 5105(1)), by striking "agricultural loan" each place it appears; and

(B) in section 505(3) (7 U.S.C. 5105(3)), by striking "an agricultural loan mediation" and inserting "a mediation".

(2) WAIVER OF FARM CREDIT SYSTEM MEDIATION RIGHTS BY BORROWERS.—Section 4.14E of the Farm Credit Act of 1971 (12 U.S.C. 2202e) is amended by striking "agricultural loan".

(3) WAIVER OF FMHA MEDIATION RIGHTS BY BORROWERS.—Section 358 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006) is amended by striking "agricultural loan".

SEC. 283. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Division.

Subtitle I—Miscellaneous Reorganization Provisions

SEC. 291. SUCCESSORSHIP PROVISIONS RELATING TO BARGAINING UNITS AND EXCLUSIVE REPRESENTATIVES.

(a) VOLUNTARY AGREEMENT.—

(1) IN GENERAL.—If the exercise of the Secretary's authority under this title results in changes to an existing bargaining unit that has been certified under chapter 71 of title 5, United States Code, the affected parties shall attempt to reach a voluntary agreement on a new bargaining unit and an exclusive representative for such unit.

(2) CRITERIA.—In carrying out the requirements of this subsection, the affected parties shall use criteria set forth in—

(A) sections 7103(a)(4), 7111(e), 7111(f)(1), and 7120 of title 5, United States Code, relating to determining an exclusive representative; and

(B) section 7112 of title 5, United States Code (disregarding subsections (b)(5) and (d) thereof), relating to determining appropriate units.

(b) EFFECT OF AN AGREEMENT.—

(1) IN GENERAL.—If the affected parties reach agreement on the appropriate unit and the exclusive representative for such unit under subsection (a), the Federal Labor Relations Authority shall certify the terms of such agreement, subject to paragraph (2)(A). Nothing in this subsection shall be considered to require the holding of any hearing or election as a condition for certification.

(2) RESTRICTIONS.—

(A) CONDITIONS REQUIRING NONCERTIFICATION.—The Federal Labor Relations Authority may not certify the terms of an agreement under paragraph (1) if—

(i) it determines that any of the criteria referred to in subsection (a)(2) (disregarding section 7112(a) of title 5, United States Code) have not been met; or

(ii) after the Secretary's exercise of authority and before certification under this section, a valid election under section 7111(b) of title 5, United States Code, is held covering any employees who would be included in the unit proposed for certification.

(B) TEMPORARY WAIVER OF PROVISION THAT WOULD BAR AN ELECTION AFTER A COLLECTIVE BARGAINING AGREEMENT IS REACHED.—Nothing in section 7111(f)(3) of title 5, United States Code, shall prevent the holding of an election under section 7111(b) of such title that covers employees within a unit certified under paragraph (1), or giving effect to the results of such an election (including a decision not to be represented by any labor organization), if the election is held before the end of the 12-month period beginning on the date such unit is so certified.

(C) CLARIFICATION.—The certification of a unit under paragraph (1) shall not, for purposes of the last sentence of section 7111(b) of title 5, United States Code, or section 7111(f)(4) of such title, be treated as if it had occurred pursuant to an election.

(3) DELEGATION.—

(A) IN GENERAL.—The Federal Labor Relations Authority may delegate to any regional director (as referred to in section

7105(e) of title 5, United States Code) its authority under the preceding provisions of this subsection.

(B) REVIEW.—Any action taken by a regional director under subparagraph (A) shall be subject to review under the provisions of section 7105(f) of title 5, United States Code, in the same manner as if such action had been taken under section 7105(e) of such title, except that in the case of a decision not to certify, such review shall be required if application therefor is filed by an affected party within the time specified in such provisions.

(c) DEFINITION.—For purposes of this section, the term "affected party" means—

(1) with respect to an exercise of authority by the Secretary under this title, any labor organization affected thereby; and

(2) the Department of Agriculture.

SEC. 292. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased using funds made available pursuant to this title should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available pursuant to this title, the Secretary, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 293. MISCELLANEOUS CONFORMING AMENDMENTS.

(a) UNITED STATES GRAIN STANDARDS ACT.—The United States Grain Standards Act (7 U.S.C. 71 et seq.) is amended—

(1) in section 3 (7 U.S.C. 75)—

(A) by inserting "and" at the end of subsection (y);

(B) by striking subsections (z) and (aa); and

(C) by redesignating subsection (bb) as subsection (z);

(2) by striking section 3A (7 U.S.C. 75a);

(3) in section 5(b) (7 U.S.C. 77(b)), by striking "Service employees" and inserting "employees of the Secretary";

(4) in sections 7(j)(2) and 7A(*l*)(2) (7 U.S.C. 79(j)(2) and 79a(*l*)(2)), by striking "supervision by Service personnel of its field office personnel" in the first sentence of both sections and inserting "supervision by the Secretary of the Secretary's field office personnel";

(5) in section 12(c) (7 U.S.C. 87a(c)), by striking "or Administrator";

(6) in section 12(d) (7 U.S.C. 87a(d)), by striking "or the Administrator";

(7) except as otherwise provided in this subsection, by striking "Administrator" each place it appears and inserting "Secretary"; and

(8) except as otherwise provided in this subsection, by striking "Service" each place it appears and inserting "Secretary".

(b) PACKERS AND STOCKYARDS ACT, 1921.—Section 407 of the Packers and Stockyards Act, 1921 (7 U.S.C. 228), is amended—

(1) by striking subsection (b);

(2) by redesignating subsections (c), (d), (e), and (f), as subsections (b), (c), (d), and (e), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 294. REMOVAL OF OBSOLETE ADMINISTRATIVE PROVISIONS.

Section 5316 of title 5, United States Code, is amended—

(1) by striking "Administrator, Agricultural Marketing Service, Department of Agriculture.";

(2) by striking "Administrator, Agricultural Research Service, Department of Agriculture.";

(3) by striking "Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.";

(4) by striking "Administrator, Farmers Home Administration.";

(5) by striking "Administrator, Foreign Agricultural Service, Department of Agriculture.";

(6) by striking "Administrator, Rural Electrification Administration, Department of Agriculture.";

(7) by striking "Administrator, Soil Conservation Service, Department of Agriculture.";

(8) by striking "Chief Forester of the Forest Service, Department of Agriculture.";

(9) by striking "Director of Science and Education, Department of Agriculture.";

(10) by striking "Administrator, Animal and Plant Health Inspection Service, Department of Agriculture."; and

(11) by striking "Administrator, Federal Grain Inspection Service, Department of Agriculture.".

SEC. 295. PROPOSED CONFORMING AMENDMENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress recommended legislation containing additional technical and conforming amendments to Federal laws that are required as a result of the enactment of this title.

SEC. 296. TERMINATION OF AUTHORITY.

(a) IN GENERAL.—Subject to subsection (b), the authority delegated to the Secretary by this title to reorganize the Department shall terminate on the date that is 2 years after the date of enactment of this Act.

(b) FUNCTIONS.—Subsection (a) shall not affect—

(1) the authority of the Secretary to continue to carry out a function that the Secretary performs on the date that is 2 years after the date of enactment of this Act;

(2) the authority delegated to the Secretary under Reorganization Plan No. 2 of 1953 (5 U.S.C. App; 7 U.S.C. 2201 note); or

(3) the authority of an agency, office, officer, or employee of the Department to continue to perform all functions delegated or assigned to the entity or person as of that termination date.

TITLE III—MISCELLANEOUS

SEC. 301. POULTRY LABELING.

It is the sense of Congress that—

(1) the United States Department of Agriculture should—

(A) carry out the plans of the Department to hold public hearings for the purpose of receiving public input on issues related to the conditions under which poultry sold in the United States may be labeled "fresh"; and

(B) finalize and publish a decision on the issues as expeditiously as possible after holding the hearings; and

(2) no person serving on the expert advisory committee established to advise the Secretary of Agriculture on the issues should stand to profit, or represent any interest that would stand to profit, from the decision of the Department on the issues.

SEC. 302. FIRST AMENDMENT RIGHTS OF EMPLOYEES OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.

Notwithstanding any other provision of law, no employee of the United States Department of Agriculture shall be peremptorily removed, on or after February 15, 1994, from the position of the employee without an opportunity for a public or nonpublic hearing, at the option of the employee, because of remarks made during personal time in opposition to policies, or proposed policies, of the Department, including policies or proposed policies regarding homosexuals. Any employee removed on or after February 15, 1994, without the opportunity for such a hearing shall be reinstated to the position of the employee pending such a hearing.

SEC. 303. ADJUSTED COST OF THRIFTY FOOD PLAN.

(a) IN GENERAL.—Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting "and (in the case of households residing in Alaska) on October 1, 1994," after "1992,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on September 30, 1994.

SEC. 304. OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.

(a) OFFICE OF RISK ASSESSMENT AND COST-BENEFIT ANALYSIS.—The Secretary of Agriculture shall establish in the Department of Agriculture an Office of Risk Assessment and Cost-Benefit Analysis, which shall be under the direction of a Director appointed by the Secretary.

(b) FUNCTIONS.—The Director shall ensure that any regulatory analysis that is conducted under this section includes a risk assessment and cost-benefit analysis that is performed consistently and uses reasonably obtainable and sound scientific, technical, economic, and other data.

(1) IN GENERAL.—Effective six months after the date of enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register, for each proposed major regulation the primary purpose of which is to regulate issues of human health, human safety, or the environment that is promulgated by the Department after the enactment of this Act, an analysis with as much specificity as practicable, of—

(A) the risk, including the effect of the risk, to human health, human safety, or the environment, and any combination thereof, addressed by the regulation, including, where applicable and practicable, the health and safety risks to persons who are disproportionately exposed or particularly sensitive;

(B) the costs associated with the implementation of, and compliance with, the regulation;

(C) where appropriate and meaningful, a comparison of that risk relative to other similar risks regulated by the Department or other Federal Agency, resulting from comparable activities and exposure pathways (such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks); and

(D) the quantitative and qualitative benefits of the regulation, including the reduction or prevention of risk expected from the regulation.

Where such a regulatory analysis is not practicable because of compelling circumstances, the Director shall provide an explanation in lieu of conducting an analysis under this section.

(2) EVALUATION.—The regulatory analysis referred to in paragraph (1) should also contain a statement that the Secretary of Agriculture evaluated—

(A) whether the regulation will advance the purpose of protecting against the risk referred to in paragraph (1)(A); and

(B) whether the regulation will produce benefits and reduce risks to human health, human safety, or the environment, and any combination thereof, in a cost-effective manner as a result of the implementation of and compliance with the regulation, by local, State, and Federal Government and other public and private entities, as estimated in paragraph (1)(B).

(3) This section shall not be construed to amend, modify, or alter any statute and shall not be subject to judicial review. This section shall not be construed to grant a cause of action to any person. The Secretary of Agriculture shall perform the analyses required in this section in such a manner that does not delay the promulgation or implementation of regulations mandated by statute or judicial order.

(c) Definition.—As used in this section, the term "major regulation" means any regulation that the Secretary of Agriculture estimates is likely to have an annual impact on the economy of the United States of $100,000,000 in 1994 dollars.

SEC. 305. FAIR AND EQUITABLE TREATMENT OF SOCIALLY DISADVANTAGED PRODUCERS.

(a) Fair Crop Acreage Bases and Farm Program Payment Yields.—If the Secretary of Agriculture determines that crop acreage bases or farm program payment yields established for farms owned or operated by socially disadvantaged producers are not established in accordance with title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the Secretary shall adjust the bases and yields to conform to the requirements of such title and make available any appropriate commodity program benefits.

(b) Fair Application of Consolidated Farm and Rural Development Act.—If the Secretary of Agriculture determines that application of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) with respect to socially disadvantaged producers is not consistent with the requirements of such Act, the Secretary shall make such changes in the administration of such Act as the Secretary considers necessary to provide for the fair and equitable treatment of socially disadvantaged producers under such Act.

(c) Report on Treatment of Socially Disadvantaged Producers.—

(1) Report required.—The Comptroller General of the United States shall prepare a report to determine—

(A) whether socially disadvantaged producers are underrepresented on State, county, area, or local committees established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or local review committees established under section 363 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1363) because of racial, ethnic, or gender prejudice; and

(B) if such underrepresentation exists, whether it inhibits or interferes with the participation of socially disadvantaged producers in programs of the Department of Agriculture.

(2) Submission of report.—Not later than February 1, 1995, the Comptroller General shall submit the report required by this subsection to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) Definition.—For purposes of this section, the term "socially disadvantaged producer" means a producer who is a member of a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities.

SEC. 306. AVIATION INSPECTIONS.

(a) Study of Aircraft Inspections.—

(1) Intent of study.—The intent of the study required by this subsection is to examine the cost efficiencies of conducting inspections of aircraft and pilots by one Federal agency without reducing aircraft, passenger, or pilot safety standards or lowering mission preparedness.

(2) Study required.—The Secretary of Agriculture and the Secretary of Transportation shall jointly conduct a study of the inspection specifications and procedures by which aircraft and pilots contracted by the Department are certified to determine the cost efficiencies of eliminating duplicative Department inspection requirements and transferring some or all inspection requirements to the Federal Aviation Administration, while ensuring that neither aircraft, passenger, nor pilot safety is reduced and that mission preparedness is maintained.

(3) Special considerations.—In conducting the study, the Secretaries shall evaluate current inspection specifications and procedures mandated by the Department and the Forest Service, taking into consideration the unique requirements and risks of particular Department and Forest Service missions that may require special inspection specifications and procedures to ensure the safety of Department and Forest Service personnel and their contractees.

(4) Maintenance of standards and preparedness.—In making recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures, the Secretaries shall ensure that the implementation of any such recommendations does not lower aircraft or pilot standards or preparedness for Department or Forest Service missions.

(5) Submission of results.—Not later than 180 days after the date of the enactment of this Act, the Secretaries shall submit to Congress the results of the study, including any recommendations to transfer inspection authority or otherwise change Department inspection specifications and procedures and a cost-benefit analysis of such recommendations.

(b) Review of Recently Adopted Aircraft Policy.—

(1) Review required.—The Secretaries shall review the policy initiated by the Secretary of Agriculture on July 1, 1994, to accept Federal Aviation Administration inspections on aircraft and pilots that provide "airport to airport" service for the Forest Service. The policy is currently being cooperatively developed by the Department and the Federal Aviation Administration and is intended to reduce duplicative inspections and to reduce Government costs, while maintaining aircraft, passenger, and pilot safety standards, specifications and procedures currently required by the Department and the Forest Service.

(2) Expansion of policy.—As part of the review, the Secretary of Agriculture shall examine the feasibility and desirability of applying this policy on a Government-wide basis.

(3) Submission of results.—Not later than one year after the date of the implementation of the policy, the Secretary of Agriculture shall submit to Congress the results of the review, including any recommendations that the Secretary considers appropriate.

Mr. DOLE. First, I want to congratulate the work of the Chairman and ranking member for their diligence in putting together a crop insurance reform package. I have said for years that most farmers would prefer workable crop insurance over disaster payments if the Government could provide coverage at a reasonable price. The Agriculture committee has worked very hard to meet that goal, and I commend those efforts.

Mr. President, we are faced with a dilemma. For too long, farmers have faced the uncertainty of disaster payments. Although the Government has provided disaster assistance eight out of the last nine years, farmers could not be sure that assistance would be available until the last minute. In addition, there have been increased efforts to put disaster bills on budget. While the Government must have the ability to respond in an emergency, we have a fiscal responsibility to pay for these losses. This juggling act convinces me that the future of additional disaster bills is uncertain at best.

The bill before us today is an effort to respond to the years of frustration farmers have faced with crop insurance. Too little coverage for too much money is a theme I have heard time and again from farmers. Crop insurance is an important risk management tool for farmers, and we must make every effort to provide producers with a workable plan which lowers premiums and increases coverage.

It is also important to note that through this legislation, we are saying no more disaster bills. Instead, this bill requires every producer participating in farm programs to take out catastrophic coverage. This coverage level is not as good as that provided in disaster bills, but it is close.

Mr. President, in spite of our efforts, I remain skeptical. This reform bill is based on projections and is at the mercy of the weather. If this reform package does not work and in fact this plan is business as usual, I believe Congress should revisit this issue. I will watch closely as FCIC works to implement this legislation.

Mr. DOMENICI. Mr. President, I am supportive of the overall objectives of the crop insurance reform bill but skeptical if the reform will work.

I agree that we should reform crop insurance and agree with the overall policy objectives.

We should remove the uncertainty associated with ad hoc disaster bills and replace it with a program that will adequately protect farmers in a disaster, remove the demand for ad hoc disaster bills, and must be financially sound.

I am happy to see that the conferees adopted an amendment which I cosponsored with the chairman of the Budget Committee, Mr. SASSER, which would create a hurdle for Congress to provide emergency disaster assistance.

As I stated this is only a hurdle and does not prevent Congress from providing disaster assistance in the future.

The amendment would not allow the emergency designation for both discretionary and mandatory agriculture disaster spending.

This means that all future agriculture disaster spending would fall under the pay as you go system. If the disaster spending does not include an offset it would require 60 votes to waive the Budget Act.

Eliminating the emergency designation for both mandatory and discretionary spending is necessary if this new crop insurance program is supposed to replace ad hoc agriculture disaster bills.

The conference agreement will also reduce outlays by $154 million in fiscal year 1995 and $151 million over the 5-year period based on the CBO preliminary assessment.

This estimate is relative to the fiscal year 1995 budget resolution which assumed new mandatory spending for future spending of $1 billion per year.

This bill will actually cost $5 billion over 5 years relative to the CBO Commodity Credit Corporation 1994 March baseline.

This bill will also have scoring implications for the GATT implementing bill.

The implementing bill includes language which would use pay-go savings from crop insurance to pay for export programs.

Since the crop insurance bill will be enacted first, the savings associated with it will be scored against the implementing language when enacted.

I urge the adoption of the bill.

Mr. LEAHY. Mr. President, I am proud to present a comprehensive USDA reform package to the Senate. I have worked for 15 years to reach this day. For the past 2 years from day to day, hearing to markup, floor action to final passage I have worked to reform USDA as a whole, and its vital disaster and crop insurance programs in particular.

First, this bill mandates the first comprehensive reorganization of the Department of Agriculture since the 1930's.

It is a $2 billion downpayment on reinventing Government—it is a real victory for the American taxpayers. I doubt that there is anyone in this body who hasn't heard from his or her constituents about cutting the Federal deficit. This bill is a chance to demonstrate our commitment to cutting back the Federal Government.

But this bill is not just about saving money—it will also improve USDA's ability to serve its diverse clientele. The world is changing, and the Department of Agriculture must change with it.

The Department of Agriculture has a proud past, but we need a USDA that is looking to the future. By streamlining USDA's operations and eliminating levels of bureaucracy, this bill will result in a USDA that is more focused on the critical challenges facing American agriculture, and that is better able to respond to a changing world.

The new USDA created by the bill is organized around six basic missions. With this bill, we have given the Secretary of Agriculture the tools needed to bring USDA into the 21st century.

This is landmark legislation that: Saves an estimated $2 billion in the next 3 years by streamlining Federal employment and departmental administration; cuts the size of the USDA bureaucracy by reducing the number of Federal employees by 7,500; streamlines USDA operations, reducing the number of independent agencies by one-third—from 43 to 30; cuts the bureaucracy in Washington by requiring a higher percentage cut in USDA headquarters than in the field and by requiring consolidation of USDA's Washington, DC offices; creates a new consolidated Farm Services Agency which will bring together all farm programs and makes way for an entirely new field structure based on field service centers—this will lead to closing and consolidating over 1,100 county offices; authorizes a Natural Resources Conservation Service which will combine all modern farm conservation programs, except the Conservation Reserve Program. This new conservation service will bring a clearer focus to USDA efforts to help farmers address their conservation and environmental needs; places a greater emphasis on food safety by establishing an Under Secretary for Food Safety who will oversee all of USDA's food safety programs; establishes a consolidated Cooperative State Research, Education and Economics Service and provides for coordination of all USDA research and extension programs.

Reinventing Government means more than just changing outdated bureaucratic structures. It also means redesigning Government programs to eliminate duplication and provide better Government services at lower costs to the taxpayer.

Oversight hearings conducted by the Senate Committee on Agriculture, Nutrition, and Forestry found that millions of dollars have been wasted in annual, ad hoc disaster programs as a result of insufficient production records, inappropriate payment rates, and mismanagement. Eliminating ad hoc disaster programs and improving the Federal crop insurance program will provide major benefits to both farmers and taxpayers. This bill stops that fraud and abuse.

Farmers will benefit because the reformed crop insurance program will provide needed predictability and better risk management options. Ad hoc disaster bills are inherently unpredictable, and as a result, farmers do not know what type of help they can expect in times of need.

Rather than relying on the uncertain benefits of annual ad hoc disaster bills, farmers will be able to obtain catastrophic crop insurance coverage for a nominal processing fee. In addition, the bill provides targeted incentives for farmers to purchase higher levels of coverage.

Taxpayers will benefit because the reform bill eliminates the senseless duplication of operating separate crop insurance and disaster assistance programs that cover the same losses on the same crops. In addition, a number of new safeguards will help guard against some of the abuses that have plagued the disaster and crop insurance programs in the past.

The crop insurance reform bill: Will save $151 million over the next 5 years; require increased reporting requirements for all producers who have received payments, but who have been allowed in the past to provide inadequate documentation to support their claims; mandates that payment rates be reduced for producers who do not incur production costs because they either did not hire farm labor to harvest a crop, did not harvest the crop, or were prevented from planting the crop; requires that the payment be adjusted to reflect yield variations due to differing farming practices; requires that the payment to a producer who receives a guaranteed payment for production reflect the amount of the guaranteed production; requires detailed documentation of production costs, acres planted, and yields in areas where reported acreage has increased dramatically in recent years, unless the acreage is inspected or exempted by officials of the USDA; and, establishes credible penalties for farmers who misrepresent essential information to USDA.

CBO may underestimate the true savings likely to be achieved by this bill. For one thing, CBO's estimates compare the expected costs of the reformed program to a baseline where ad hoc disaster programs cost just $1 billion per year. In reality, disaster program spending has averaged more than $1.5 billion per year over the last 6 years. The bill's savings would be even larger against a more realistic baseline.

I would like to thank Secretary Espy for his leadership in developing the reform proposal that served as our starting point, the budget conferees for their help in eliminating procedural roadblocks, and Senator LUGAR and other members of the Agriculture Committee for all their help in putting together a solid, bipartisan reform package.

This reform package is good for taxpayers, good for farmers and good for the Department of Agriculture. Passage of this bill will prove to the American people that we can cut costs and improve services at the same time. In doing so, we will save over $2 billion and set the standard for the rest of the Federal Government to follow.

I also ask unanimous consent that a joint statement by myself and Senator

LUGAR, the ranking member, which provides a legislative history of this bill be inserted in the RECORD. I also ask that other related information be included in the RECORD following my statement.

Finally, I must mention how much I appreciate the committee's ranking member leadership on the matter. If it had been a partisan battle, it never would have happened. His leadership on this bill has been outstanding.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT STATEMENT BY SENATOR PATRICK J. LEAHY AND SENATOR RICHARD G. LUGAR REGARDING H.R. 4217

The Committee on Agriculture, Nutrition, and Forestry is proud to bring to the floor for final passage H.R. 4217, the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994.

The bill before the Senate today is similar in most respects to the bill that passed the Senate in August. It provides authority to reduce the size and increase the efficiency of the Department of Agriculture. It also eliminates the need for annual ad hoc crop disaster programs by expanding and improving the federal crop insurance program.

The following comments are intended to clarify provisions in the bill.

ADMINISTRATIVE AND OPERATING COSTS

Section 508(k)(5)-(7) of the Federal Crop Insurance Act, as amended, requires the FCIC to alter program procedures and administrative requirements to reduce administrative and operating costs of participating reinsured companies and agents commensurate with reductions in administrative expense reimbursements over the next five years to the extent consistent with consideration of program integrity, prevention of fraud or abuse, the need for program expansion, or the maintenance of quality of service to customers.

New regulatory or paperwork requirements stemming from this Act or from expansion or improvement of the crop insurance of noninsured assistance programs, whether statutory, administrative, or otherwise, and which occur after the date of enactment of this Act, shall be instituted in accordance with the spirit of this section but shall not be included in any determination of the reduction of such requirements under this provision. While being mindful of the need to minimize administrative burden, this provision does not create new formal requirements of the FCIC to address paperwork or regulatory considerations in its adoption of individual rules, regulations, or administrative policies.

Judgements as to the FCIC's achievement of this requirement will be made by Congress and its oversight Committees, not the Federal courts or any administrative forum. For this reason, determinations by the FCIC as to whether it is achieving or has achieved the cost reduction goals of the subsection are exempted from judicial review or from administrative appeals processes.

RESEARCH AND DEVELOPMENT

Payments from the insurance fund for research and development under section 516(b)(2)(C) of the Federal Crop Insurance Act, as amended, may cover, among other things, program-related research and development, start-up costs for implementing this legislation such as studies. Pilot projects, data processing improvements, public outreach, and related tasks and functions. The Committee encourages the Corporation to research and develop programs to provide risk management tools for producers making the transition to the new farm practices that better protect natural resources and the environment.

PROGRAM INTEGRITY

In implementing section 508(e)(3) of the Federal Corp Insurance Act, as amended, the Committee expects the Corporation to ensure that those companies and agents who pass on savings in expense reimbursements do not obtain those savings by reducing the services for which the Corporation has contracted. The Corporation is directed to conduct such financial and program audits to ensure that "savings" do not come at the expense of program integrity.

AQUACULTURE

The term "aquaculture" as the term is used in section 11, noninsured crop disaster assistance, is intended to mean production from a commercial operation conducted on private land or private waters. The word "food" as used in the section on non-insured assistance includes fish raised as feed for fish that are consumed as food.

DEFINITION OF LIMITED RESOURCES FARMER

Section 508(b)(5(C) of the Federal Corp Insurance Act, as amended, allows the administrative fee for catastrophic risk coverage to be waived for limited resource farmers who, because of economic hardship, are unable to afford the cost of the administrative fee. A limited income from the farm operation (as defined by the Corporation). As applied to this definition, a farm with less than 25 acres aggregated for all corps from which a majority of the producer's income is earned may be considered to a be a "small or family farm."

APPEALS

The Committee expects the Corporation to allow producers to appeal any adverse decision which may deny benefits or program eligibility for the crop insurance program or the noninsured assistance program. The process should be consistent with existing appeals procedures for programs administered by the Department of Agriculture.

PRIVATE SECTOR CROP INSURANCE ALTERNATIVE

Historically, many farmers have not purchased federal crop insurance because they consider premiums for FCIC insurance to be too high for the level of coverage offered. These "low risk" farmers usually have a large crop loss only when their local area does. Section 508(e)(4) of the Federal Crop Insurance Reform Act is designed to foster the growth of private sector insurance alternatives by allowing companies to sell their own individual insurance policies backed by FCIC area policies. Such "combined policies" can potentially raise crop insurance purchases by reducing premiums faced by low risk producers. The Committee urges the Corporation to encourage the growth of these private policies by approving their use and by improving the contract design and actuarial soundness of Corporation area policies over time.

DISSEMINATION OF INFORMATION

In order to insure that all producers are fully aware of the availability of the crop insurance program and the noninsured assistance program, the Corporation is expected to make every practical effort to contact all eligible producers. The Corporation is responsible for providing adequate information as to the availability and requirements for these programs. The Corporation should use direct mail or any other practical means of communication to notify all eligible producers.

PRODUCER APPLICATIONS

To avoid a potential hardship on producers, the Committee expects the Corporation to allow all producers to apply for the catastrophic crop insurance program and the noninsured assistance program by mail to the appropriate county or area office. The Committee also strongly encourages the Corporation to give all producers the option to submit any required records or reports by mail.

CONSOLIDATING UNDERUSED FARM SERVICE FIELD OFFICES

H.R. 4217 includes all the authority needed by the Secretary of Agriculture to reorganize the Department of Agriculture's Washington, D.C. headquarters. Upon enactment of this bill, the Committee strongly urges the Secretary to proceed not only with headquarters reorganization but with the shutdown and consolidation of at least 1,100 underused USDA field offices.

CONSERVATION PROGRAMS

The authorization of the office of the Under Secretary of Agriculture for Natural Resources and Environment is intended as confirmation that the conservation of natural resources is one of the six fundamental missions of the U.S. Department of Agriculture. We expect the creation of the Natural Resources Conservation Service to result in a strong, independent natural resource management agency in the Department that can assist farmers in meeting the increasingly complex challenge of protecting soil, water, and related resources while sustaining the profitable production of food and fiber.

Implementation of the special concurrence requirements in Section 246(c) are intended to result in coordination, consultation, and cooperation between the Natural Resources Conservation Service and the Consolidated Farm Services Agency at the national, State, and local levels. We expect the special concurrence requirements to result in integrated and coordinated resource management priorities and program direction at all levels of program implementation. The fundamental goal of the special concurrence requirements is to produce natural resource management policies and programs that address the most important resource problems in ways that make sense for farmers.

We expect the implementation of special concurrence requirements to simplify the process of developing conservation plans and applying for technical and financial assistance. Concurrence should reduce the number of steps the farmer must take and the number of approvals the farmer must secure to participate in conservation programs. We expect the Department to make every effort to insure that the implementation of the special concurrence requirements increases the effectiveness and efficiency of conservation programs.

Concurrence and coordination at the local level is critically important. We expect the county Agricultural Service Committees and the Soil and Water conservation Districts to meet annually to develop joint priorities and direction for conservation programs in the county, whether those programs are administered by the Consolidated Farm Services Agency or the Natural Resources Conservation Service. We expect concurrence at the local level to recognize the critical role played by Soil and Water Conservation Districts in achieving the mission of the Natural Resources Conservation Service.

The consolidation of conservation programs within the Natural Resources Conservation Service coupled with the special concurrence requirement are an important first step toward integration of conservation programs in a single agency that provides farmers the tools to address the increasingly complex resource management agenda that agriculture faces.

RESEARCH AND EDUCATION

Section 251 gives the Secretary broad authority to reorganize and streamline the Department's research and education programs.

In recognition of the important role that State research and Extension programs play, Section 251(d) establishes a new Cooperative State Research, Education and Extension Service to consolidate and better coordinate management of State research and Extension programs.

Section 252 allows the Secretary to downsize the Department's research program staff, so as to reduce unnecessary duplication and ensure consistent policies in all of the Department's research, education and Extension programs.

Mr. LEAHY. I ask unanimous consent that the USDA reorganization summary of key elements be printed in the RECORD.

There being no objection, this material was ordered to be printed in the RECORD, as follows:

USDA REORGANIZATION—SUMMARY OF KEY ELEMENTS

Budget Savings: Streamlining federal employment and departmental administration will save over $2 billion through 1998.

Streamlining Employment: Requires a reduction in federal employees of at least 7,500; requires a higher percentage cut in USDA headquarters than in the field.

Streamlining Management: Reduces the number of independent agencies by one third.

Streamlining Headquarters Offices: Requires a consolidation of USDA's Washington, D.C. offices.

Consolidated Farm Services Agencies: Merges all farm related programs into a single consolidated Farm Service Agency; makes way for an entirely new field structure based on field service centers; and will lead to closing and consolidating over 1,100 county offices.

Conservation Programs: Authorizes a consolidated Natural Resources Conservation Service; combines all modern farm conservation programs (except CRP) in the NRCS, in order to focus USDA's efforts to help farmers address their conservation and environmental needs.

Food Safety: Ensures an enhanced emphasis on food safety by establishing a new Under Secretary for Food Safety to oversee all USDA food safety and inspection programs.

Research and Education: Establishes a consolidated Cooperative State Research, Education and Economics Service and provides for coordination of all USDA research and extension programs.

H.R. 4217, FEDERAL CROP INSURANCE REFORM ACT OF 1994—SUMMARY OF KEY ELEMENTS

Effective Date: H.R. 4217 will become effective with the 1995 crop year.

Repeal of Ad Hoc Disaster Authority: Current legal authorities for ad hoc crop loss disaster relief are repealed. In the future, the reformed crop insurance program is expected to eliminate the need for crop disaster bills; the Congressional Budget Act is amended to make it very unlikely that Congress will be able to pass ad hoc disaster bills on an budget emergency basis in the future. In other words, Congress is disciplining itself to actually pay for disaster legislation in the future.

Catastrophic Crop Insurance Coverage: The Federal crop insurance program is supplemented with a new catastrophic coverage level available to farmers for a nominal processing fee of $50 per crop per county, up to $200 per farmer per county. The catastrophic protection will cover individual farm losses larger than 50 percent of normal yield at a payment rate of 60 percent of the expected market price (50/60) until 1999 and subsequent years, when the coverage will be (50/55).

Linkage to Farm Programs: To ensure wide participation, crop insurance coverage at the catastrophic level or above is linked to participation in Federal commodity programs, Farmers Home Administration loan programs, and the Conservation Reserve Program. This step is expected to result in crop insurance participation rising from 33 percent to about 80 percent of insurable acres.

Increased Premium Subsidies for Buy-Up Coverage: The bill authorizes the Federal Crop Insurance Corporation to offer individual yield coverage up to 85 percent of normal yield, an increase from the current 75 percent. Federal premium subsidies for buy-up coverage are permanently increased to reduce premiums farmers must pay; FCIC estimates that the cost to a farmer of coverage such as a typical 65 percent yield with 100 percent price will fall by 17 percent. Farmer premiums for coverage of 75/100 or higher will fall by 8 percent.

Combining Individual and Area Coverage: The bill authorizes insurance companies to offer individual coverage to farmers with reinsurance through FCIC area policies. These combined policies will receive a premium subsidy comparable to traditional FCIC individual policies.

Delivery: Farmers will be able to choose catastrophic coverage from a private reinsured company or from a local USDA office at the option of the Secretary of Agriculture. Buy-up coverage will be available only through private insurers.

Noninsurable Crops: A standing disaster program will exist for crops not covered by crop insurance. Commercial crops produced for food or fiber, floricultural, ornamental nursery, Christmas tree crops, turfgrass sod, and industrial crops will be eligible for noninsured assistance. Payments for individual farm losses will be triggered when the area average yield for a crop falls below 65 percent of the expected area yield. In that event, disaster payments for that crop will be available to producers for individual farm losses at levels similar to those under the catastrophic insurance plan.

Fiscal Soundness: The loss ratio target—projected indemnity payments divided by total premiums—is reduced from the current 1.1 to 1.075 beginning October 1, 1998. Also, effective for the 1995 crops, the bill requires that the sales closing date for spring-planted crops be 30 days earlier than the corresponding 1994 sales closing date.

Expense Reimbursements to Insurance Companies: The bill provides full funding for insurance companies expense reimbursements for fiscal year 1995. As a result, enactment of this bill will ensure that federal crop insurance will be available for the 1995 and future crops. The reimbursement rate for fiscal years 1997–1999 will be 29%, 28%, and 27.5%, respectively. After 1997, the bill pays for company expense reimbursements other than agent sales commissions, when agent sales commissions will continue to be subject to funding available from future Agriculture Appropriations bills.

Budget Impact: The Congressional Budget Office estimates that H.R. 4217 will reduce outlays by $151 million over the 1995–1999 fiscal year period. CBO's cost estimate is relative to the FY 1995 budget resolution baseline, which assumes future spending of $1.0 billion per year associated with future ad hoc farm disaster assistance payments.

Mr. FORD. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SATELLITE HOME VIEWER ACT—MESSAGE FROM THE HOUSE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 2406) to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2406) entitled "An Act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Satellite Home Viewer Act of 1994".

SEC. 2. STATUTORY LICENSE FOR SATELLITE CARRIERS.

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a)(2)(C) is amended—

(A) by striking "90 days after the effective date of the Satellite Home Viewer Act of 1988, or";

(B) by striking "whichever is later,";

(C) by inserting "name and" after "identifying (by" each place it appears; and

(D) by striking ", on or after the effective date of the Satellite Home Viewer Act of 1988,".

(2) Subsection (a)(5) is amended by adding at the end the following:

"(D) BURDEN OF PROOF.—In any action brought under this paragraph, the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a network station is for private home viewing to an unserved household.".

(3) Subsection (b)(1)(B) is amended—

(A) in clause (i) by striking "12 cents" and inserting "17.5 cents per subscriber in the case of

superstations not subject to syndicated exclusivity under the regulations of the Federal Communications Commission, and 14 cents per subscriber in the case of superstations subject to such syndicated exclusivity"; and

(B) in clause (ii) by striking "3" and inserting "6".

(4) Subsection (c) is amended—

(A) in paragraph (1) by striking "December 31, 1992,";

(B) in paragraph (2)—

(i) in subparagraph (A) by striking "July 1, 1991" and inserting "July 1, 1996"; and

(ii) in subparagraph (D) by striking "December 31, 1994" and inserting "December 31, 1999, or in accordance with the terms of the agreement, whichever is later"; and

(C) in paragraph (3)—

(i) in subparagraph (A) by striking "December 31, 1991" and inserting "January 1, 1997";

(ii) by amending subparagraph (D) to read as follows:

"(D) ESTABLISHMENT OF ROYALTY FEES.—In determining royalty fees under this paragraph, the Copyright Arbitration Panel shall establish fees for the retransmission of network stations and superstations that most clearly represent the fair market value of secondary transmissions. In determining the fair market value, the Panel shall base its decision on economic, competitive, and programming information presented by the parties, including—

"(i) the competitive environment in which such programming is distributed, the cost for similar signals in similar private and compulsory license marketplaces, and any special features and conditions of the retransmission marketplace;

"(ii) the economic impact of such fees on copyright owners and satellite carriers; and

"(iii) the impact on the continued availability of secondary transmissions to the public.";

(iii) in subparagraph (E) by striking "60" and inserting "180"; and

(iv) in subparagraph (G)—

(I) by striking ", or until December 31, 1994"; and

(II) by inserting "or July 1, 1997, whichever is later" after "section 802(g)".

(5) Subsection (a) is amended—

(A) in paragraph (5)(C) by striking "the Satellite Home Viewer Act of 1988" and inserting "this section"; and

(B) by adding at the end the following:

"(8) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—

"(A) IN GENERAL.—Subject to subparagraph (C), upon a challenge by a network station regarding whether a subscriber is an unserved household within the predicted Grade B Contour of the station, the satellite carrier shall, within 60 days after the receipt of the challenge—

"(i) terminate service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household after giving reasonable notice to the network station of the satellite carrier's intent to conduct the measurement.

"(B) EFFECT OF MEASUREMENT.—If the satellite carrier conducts a signal intensity measurement under subparagraph (A) and the measurement indicates that—

"(i) the household is not an unserved household, the satellite carrier shall, within 60 days after the measurement is conducted, terminate the service to that household of the signal that is the subject of the challenge, and within 30 days thereafter notify the network station that made the challenge that service to that household has been terminated; or

"(ii) the household is an unserved household, the station challenging the service shall reimburse the satellite carrier for the costs of the signal measurement within 60 days after receipt of the measurement results and a statement of the costs of the measurement.

"(C) LIMITATION ON MEASUREMENTS.—(i) Notwithstanding subparagraph (A), a satellite carrier may not be required to conduct signal intensity measurements during any calendar year in excess of 5 percent of the number of subscribers within the network station's local market that have subscribed to the service as of the effective date of the Satellite Home Viewer Act of 1994.

"(ii) If a network station challenges whether a subscriber is an unserved household in excess of 5 percent of the subscribers within the network's station local market within a calendar year, subparagraph (A) shall not apply to challenges in excess of such 5 percent, but the station may conduct its own signal intensity measurement of the subscriber's household after giving reasonable notice to the satellite carrier of the network station's intent to conduct the measurement. If such measurement indicates that the household is not an unserved household, the carrier shall, within 60 days after receipt of the measurement, terminate service to the household of the signal that is the subject of the challenge and within 30 days thereafter notify the network station that made the challenge that service has been terminated. The carrier shall also, within 60 days after receipt of the measurement and a statement of the costs of the measurement, reimburse the network station for the cost it incurred in conducting the measurement.

"(D) OUTSIDE THE PREDICTED GRADE B CONTOUR.—(i) If a network station challenges whether a subscriber is an unserved household outside the predicted Grade B Contour of the station, the station may conduct a measurement of the signal intensity of the subscriber's household to determine whether the household is an unserved household after giving reasonable notice to the satellite carrier of the network station's intent to conduct the measurement.

"(ii) If the network station conducts a signal intensity measurement under clause (i) and the measurement indicates that—

"(I) the household is not an unserved household, the station shall forward the results to the satellite carrier who shall, within 60 days after receipt of the measurement, terminate the service to the household of the signal that is the subject of the challenge, and shall reimburse the station for the costs of the measurement within 60 days after receipt of the measurement results and a statement of such costs; or

"(II) the household is an unserved household, the station shall pay the costs of the measurement.

"(9) LOSER PAYS FOR SIGNAL INTENSITY MEASUREMENT; RECOVERY OF MEASUREMENT COSTS IN A CIVIL ACTION.—In any civil action filed relating to the eligibility of subscribing households as unserved households—

"(A) a network station challenging such eligibility shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the satellite carrier for any signal intensity measurement that is conducted by that carrier in response to a challenge by the network station and that establishes the household is an unserved household; and

"(B) a satellite carrier shall, within 60 days after receipt of the measurement results and a statement of such costs, reimburse the network station challenging such eligibility for any signal intensity measurement that is conducted by that station and that establishes the household is not an unserved household.

"(10) INABILITY TO CONDUCT MEASUREMENT.—If a network station makes a reasonable attempt to conduct a site measurement of its signal at a subscriber's household and is denied access for the purpose of conducting the measurement, and is otherwise unable to conduct a measurement, the satellite carrier shall within 60 days notice thereof, terminate service of the station's network to that household.".

(6) Subsection (d) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) NETWORK STATION.—The term 'network station' means—

"(A) a television broadcast station, including any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station, that is owned or operated by, or affiliated with, one or more of the television networks in the United States which offer an interconnected program service on a regular basis for 15 or more hours per week to at least 25 of its affiliated television licensees in 10 or more States; or

"(B) a noncommercial educational broadcast station (as defined in section 397 of the Communications Act of 1934).";

(B) in paragraph (6) by inserting "and operates in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of the Code of Federal Regulations" after "Commission"; and

(C) by adding at the end the following:

"(11) LOCAL MARKET.—The term 'local market' means the area encompassed within a network station's predicted Grade B contour as that contour is defined by the Federal Communications Commission.".

SEC. 3. DEFINITIONS.

(a) CABLE SYSTEM.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "cable system" by inserting "microwave," after "wires, cables,".

(b) LOCAL SERVICE AREA.—Section 111(f) of title 17, United States Code, is amended in the paragraph relating to the definition of "local service area of a primary transmitter" by inserting after "April 15, 1976," the following: "or such station's television market as defined in section 76.55(e) of title 47, Code of Federal Regulations (as in effect on September 18, 1993), or any modifications to such television market made, on or after September 18, 1993, pursuant to section 76.55(e) or 76.59 of title 47 of the Code of Federal Regulations,".

SEC. 4. TERMINATION.

(a) EXPIRATION OF AMENDMENTS.—Section 119 of title 17, United States Code, as amended by section 2 of this Act, ceases to be effective on December 31, 1999.

(b) CONFORMING AMENDMENT.—Section 207 of the Satellite Home Viewer Act of 1988 (17 U.S.C. 119 note) is repealed.

SEC. 5. LIMITATION.

The amendments made by this section apply only to section 119 of title 17, United States Code.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (d), this Act and the amendments made by this Act take effect on the date of the enactment of this Act.

(b) BURDEN OF PROOF PROVISIONS.—The provisions of section 119(a)(5)(D) of title 17, United States Code (as added by section 2(2) of this Act) relating to the burden of proof of satellite carriers, shall take effect on January 1, 1997, with respect to civil actions relating to the eligibility of subscribers who subscribed to service as an unserved household before the date of the enactment of this Act.

(c) TRANSITIONAL SIGNAL INTENSITY MEASUREMENT PROCEDURES.—The provisions of section 119(a)(8) of title 17, United States Code (as added by section 2(5) of this Act), relating to transitional signal intensity measurements, shall cease to be effective on December 31, 1996.

(d) LOCAL SERVICE AREA OF A PRIMARY TRANSMITTER.—The amendment made by section 3(b), relating to the definition of the local service area of a primary transmitter, shall take effect on July 1, 1994.

Mr. LEAHY. Mr. President, when I spoke on March 3, 1994, I announced my cosponsorship of the Satellite Home Viewer Act extension legislation and urged timely action on this important legislation. I have returned to the floor since then to mark the progress of this bill and upon Senate passage in May, to urge our House colleagues to take prompt action, as well.

After some delay and difficult negotiations, I am delighted that today we can take the last step on the legislative road to enactment of the provisions needed to continue home viewer access to satellite reception of television. Thousands of families in Vermont and millions of households nationwide can now rest assured that their home satellite dishes are not about to go dark.

Mountains and long distances can interfere with over-the-air reception of television broadcast and cable television is not a viable alternative in many settings. Fortunately, satellite technology has helped extend access to information and entertainment to those living in rural areas. I am proud to have played a role in developing and passing the Satellite Home Viewer Act in 1988 that made possible the emergence of home satellite viewing.

The extension of the Satellite Home Viewer Act is necessary because there still exists no effective method to clear rights and reach agreements between satellite carriers and copyright holders. I encourage the relevant industries to proceed without delay to develop rights clearance mechanisms.

By means of the bill we pass into law today, we are extending the statutory copyright license for home satellite viewers without interruption and without an increase in copyright royalty rates for 2½ years. By means of this legislation we also make possible the accelerated development of microwave and other technologies. It is my purpose to encourage increased accessibility for viewers, greater variety of programming for them, continuing development of alternative technologies, and to create competitive situations, such as between cable and satellite, to better serve the public.

As we begin our journey to an information superhighway, we should be careful to extend to those in unserved and underserved areas, in remote locations and rural communities, the greatest possible opportunity to participate in the harvest of new services and features that are now nurturing.

I thank my friend, the senior Senator from Arizona [Mr. DECONCINI], for the diligence and persistence he demonstrated in working to ensure that this legislation would be enacted timely and commend all those in the satellite industry and competing concerns who worked so assiduously and constructively to reconcile their positions. In this way we allow satellite home viewing to continue without interruption of service and avoid congressional gridlock being responsible for pulling the plug on home satellite viewers.

Mr. BROWN. Mr. President, I rise today in support of S. 2406 as amended. This important piece of legislation will guarantee satellite dish owners who cannot receive network signals from a local station the ability to continue to receive them through satellite delivery.

I also want to take this opportunity to commend my colleagues in the House on their amendment limiting the mandatory arbitration law, as amended by the fair market value language of this bill, to section 119 of title 17, the Statutory License for Satellite Carriers. By limiting this mandatory arbitration/fair market value language to the satellite industry, this limitation amendment recognizes the ability broadcasters already have to negotiate for fair market value compensation under other provisions of Federal law with the cable industry. Broadcasters now have the opportunity to negotiate with the satellite industry for fair market value as defined in this section of law and to also negotiate with the cable industry for retransmission consent as defined in other statutory law.

This bill resolves the issues surrounding compensation for broadcasters in the cable and satellite marketplaces and creates balance. I want to thank the Chairman of the subcommittee, Senator DECONCINI, and the ranking member, Senator HATCH, for their hard work on this bill. I urge my colleagues to support this measure.

Mr. DECONCINI. Mr. President, I rise today in support of S. 2406. S. 2406 contains a compromise between the House and Senate on the Satellite Home Viewer Act of 1994, S. 1485 and H.R. 1103. I introduced S. 1485 on September 22, 1993 along with my colleague Senator HATCH. S. 1485 was cosponsored by Senators LEAHY, HEFLIN, JEFFORDS, GREGG, MOSELEY-BRAUN, THURMOND, CRAIG, PRESSLER, KERREY, and BURNS.

This legislation extends the compulsory copyright license under section 119 of the copyright until December 31, 1999. I am pleased that because of the compromise reached on this bill, satellite carriers may continue to serve their viewers with no disruption of service.

In passing S. 1485, the Senate rejected the inclusion of "fair market value" as the goal to be met, by the arbitrators, with respect to rate making for the satellite carriers. The fact that the Senate agrees with the House on this compromise legislation is due to the criteria that defines fair market value in the bill. I have long opposed the imposition of royalty fees based simply on the mechanical application of some conceptual fair market value formula.

I am delighted that the House and Senate have agreed to clarify the concept of fair market value so that the arbitration panel will consider the cost of similar signals in similar private and compulsory marketplaces, for example, the cable market. Copyright license parity with cable is the central feature of the fair market standard articulated in this legislation. The inclusion of specific guidance to the arbitration panel to take into consideration the competitive environment in which satellite programming is distributed is essential to ensure that satellite carriers are not required to pay higher royalty fees than cable operators.

Satellite carriers today already are required to pay royalty fees that are in excess of the fees that cable operators are required to pay for the same signals.

Therefore, it is appropriate that when the arbitration panel considers the fair market value of the fees, it will take into account the impact of those fees on satellite carriers and on the continued availability of secondary transmissions to the public. Satellite carries must be afforded the opportunity to continue delivering diverse, affordable video programming to satellite consumers.

The compulsory license mechanism has facilitated the clearance of thousands of copyrights related to the distribution of television programming by the cable and satellite broadcasting industries. This approach has enabled consumers to obtain broad access to programming they otherwise may be unable to receive.

I am confident that the arbitration panel will take steps to ensure that the royalty fees paid by satellite carriers are on par with those paid by cable operators. The guiding criteria for the arbitration panel to establish fair market value in this legislation will accomplish that objective.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate concur in the House amendment and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the Senate concurred in the House amendment.

SHEEP PROMOTION, RESEARCH AND INFORMATION ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S.

2500, the Sheep Promotion, Research and Information Act of 1994, introduced earlier today by Senators LEAHY, WALLOP, CRAIG and others; that the bill be deemed read three times, passed and the motion to reconsider be laid upon the table; and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2500) was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

THE SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994

Mr. LEAHY. Mr. President, I rise today to introduce and ask for passage of the Sheep Promotion, Research, and Information Act of 1994. This legislation will provide a much needed market development and promotion program for the sheep producers, and the sheep products industry in the United States.

This bill will create an industry funded market development and promotion program that will be administered by a board made up of producers, feeders and importers. This legislation is critical to the sheep industry which, as a result of the elimination of the National Wool Act last year, will soon lose its current promotion program.

This bill is a product of a cooperative effort of all elements of the sheep, sheep product and textile industry.

Mr. President, I support the sheep industry's efforts to establish this self-help measure and I urge quick passage of this legislation.

Mr. FEINGOLD. I first want to express my appreciation to Senator LEAHY and his staff for working with me to address some of the issues that arise each time the Congress creates a generic commodity promotion board. We have resolved a number of concerns which I had with respect to the establishment of the Sheep Promotion, Research and Information Act. The chairman and the sponsors of this bill have graciously agreed to a number of amendments I have proposed to ensure the integrity of the board's activities as well as to provide for the utmost representation of all segments of the sheep industry on the board.

There were several amendments which I wished to include but have withdrawn in the interest of seeing this legislation proceed through the legislative process. Those amendments addressed issues relating to the contracting ability of the board and the resulting impact on the prohibition in this bill that the board's funds not ultimately be used to influence government activity or public policy. Specifically, I am concerned about the growing practice of commodity boards entering into contractual relationships with the related trade association representing the lobbying arm of the industry. This raises the issue of the fungibility of checkoff dollars as well as the question of whether checkoff dollars ultimately subsidize the lobbying association. Additionally, I had an interest in more specifically defining the prohibition on influencing legislation or government action or policy in order to provide more guidance to the board with respect to allowable activities.

These issues have been of growing concern to a number of producers in my State as well as national farm organizations such as the National Farmers Union. Unless we can assure the integrity of the promotion programs, they will continue to be subject to criticism. These programs are extremely important to farmers and I believe we must do our utmost to ensure that the programs are meeting their original intent as established by Congress. However, because this is a matter which is not exclusive to the sheep board, but rather is an issue that needs to be examined in the context of all of the existing 16 commodity promotion and research boards we have created, I have withdrawn the amendments addressing these concerns. It would be my hope, however, that the Senate Agriculture Committee be able to pursue these broader issues relating to all the promotion boards during consideration of the upcoming 1995 farm bill.

Mr. LEAHY. I thank the Senator for his interest in this area and agree that many of the issues of interest to him are also of great interest to the Agriculture Committee and to the farmers paying for the promotion programs. I would like to work with him to pursue these matters, in particular the issues relating to the prohibition on use of the checkoff funds and fungibility of checkoff dollars, as part of the Agriculture Committee hearings on the 1995 farm bill next year. That process will allow us to determine what types of reforms might be necessary for the various promotion boards in the 1995 farm bill.

Mr. FEINGOLD. I thank Senator LEAHY. I look forward to working with him to address these very important issues next year and appreciate his willingness to examine this area of concern.

Mr. SIMPSON. Mr. President, I rise in support of the Sheep Promotion, Research, and Information Act of 1994. This most important piece of legislation offers the sheep industry the same opportunity afforded to all other commodity groups—the ability to promote their industry to the consumer.

When the National Wool Act was so swiftly eliminated last year, the authority for the sheep industry's 40-year-old self-help program for lamb and wool promotion was also unintentionally terminated. With the elimination of the Wool Act still so very fresh in the minds of Members of Congress and based on the erroneous belief that the program was an antiquated World War II program, Congress, at a minimum, should be agreeable to helping the sheep industry compete with foreign producers and "leveling the playing field" with a program that costs the Federal Government nothing. The check-off program is paid for entirely by the lamb and wool industries.

That said, I must point out that the industry must prepare for some major changes. I believe all of American agriculture would benefit greatly by throwing away its "government crutches" of subsidies and tariffs on foreign products. I know that it will be hard to even fathom that possibility.

But, without reasonable alternatives to the old programs and phase-down periods that are fair and equitable, American agriculture will continue to crusade for farm programs that are not market driven—programs that have coddled them into an unhealthy reliance on government support. The sheep industry wants the authority to compete with foreign producers—they are not asking for a handout.

We can all agree that this industry must promote itself! That message was clear last year when at the rap of the gavel only 36 Members supported the National Wool Act. Almost $1 billion is currently spent annually on advertisements and research efforts to expand or at least maintain the demand for U.S. agricultural commodities. Through mandatory assessments on producers—or check-offs—promotion activities are devised to provide consumers with specific information about the product.

Most studies indicate positive rates of return for check-off programs. Check-off programs are a benefical self-help marketing tool that the Senate should support. I urge my colleagues to support this important legislation, and I am very pleased to be a cosponsor.

Mr. BURNS. Mr. President, I rise today in support of the Sheep Promotion, Research, and Information Act of 1994, and the future of the American sheep and wool industry.

A year ago, the majority of Congress voted to abolish the wool support system for our Nation's wool producers during the next 2 years. However, I did not vote in favor of that particular provision, as I knew the impact this action would have on the producers of the wool on ranches in Montana. Congress left our wool ranchers high and dry when it comes to funding to promote their commodity.

After much discussion between Members of the Senate and the American Sheep and Wool Industry, an accord has finally been reached, one that addresses the concerns of all the parties involved. An accord that through a referendum vote will now allow the producers in the industry to decide for themselves on the future of this program. This measure will allow these producers a means to collect funds from their own pockets to promote the sheep and wool industry. This act will provide a small, but meaningful step towards leveling the playing field that our American producers must compete on.

In Montana, we have 2,900 farms and ranches that are in the sheep and wool producing business. These are hard-working men and women, people who fight the elements, predators and ultimately the world market. They provide the American public with some of the safest and finest products in the world, yet due to their inability to compete evenly with the rest of the world many are second guessing their decision to raise sheep. Sheep producers are not asking us to provide them with anything other than a chance to compete.

I stand here before you today and ask for your support for these families, and for the opportunity for them to provide and develop a future for their children. Let these Americans compete on the world market by providing them the tools, establishing this fund as a means to market and promote their product. The sheep industry in Montana joins with me in thanking you all for your support.

THE INDIAN LEGISLATION TECHNICAL CORRECTIONS ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 711, H.R. 4709, an Indian affairs technical amendments bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4709) to make certain technical corrections, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. LEASING AUTHORITY OF THE INDIAN PUEBLO FEDERAL DEVELOPMENT CORPORATION.

Notwithstanding the provisions of section 17 of the Act of June 18, 1934 (48 Stat. 988, chapter 576; 25 U.S.C. 477), the Indian Pueblo Federal Development Corporation, whose charter was issued pursuant to such section by the Secretary of the Interior on January 15, 1993, shall have the authority to lease or sublease trust or restricted Indian lands for up to 50 years.

SEC. 2. GRAND RONDE RESERVATION ACT.

(a) LANDS DESCRIBED.—Section 1 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended—

(1) in subsection (c)—

(A) by striking "9,879.65" and inserting "10,120.68"; and

(B) by striking all after

"6	*8*	*1*	*SW¼SW¼,W½SE¼SW¼*	*53.78"*

and inserting the following:

"6	*8*	*1*	*S½E½SE¼SW¼*	*10.03*
6	*7*	*8*	*Tax lot 800*	*5.55*
4	*7*	*30*	*Lots 3, 4, SW¼NE¼, SE¼NW¼,E½SW¼*	*240*
			Total	*120.68.";*

and

(2) by adding at the end the following new subsection:

"(d) CLAIMS EXTINGUISHED; LIABILITY.—

"(1) CLAIMS EXTINGUISHED.—All claims to lands within the State of Oregon based upon recognized title to the Grand Ronde Indian Reservation established by the Executive order of June 30, 1857, pursuant to treaties with the Kalapuya, Molalla, and other tribes, or any part thereof by the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor in interest, are hereby extinguished, and any transfers pursuant to the Act of April 28, 1904 (Chap. 1820; 33 Stat. 567) or other statute of the United States, by, from, or on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor interest, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including, but not limited to, the Act of July 22, 1790, commonly known as the 'Trade and Intercourse Act of 1790' (1 Stat. 137, chapter 33, section 4)).

"(2) LIABILITY.—The Tribe shall assume responsibility for lost revenues, if any, to any county because of the transfer of revested Oregon and California Railroad grant lands in section 30, Township 4 South, Range 7 West.".

(b) CIVIL AND CRIMINAL JURISDICTION.—Section 3 of such Act (102 Stat. 1595) is amended by adding at the end the following: "Such exercise shall not affect the Tribe's concurrent jurisdiction over such matters.".

SEC. 3. CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON.

Section 2 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon, approved September 4, 1980 (Public Law 96–340; 94 Stat. 1072) is amended—

(1) by inserting "(a)" after "SEC. 2."; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Interior, acting at the request of the Confederated Tribes of the Siletz Indians of Oregon, shall accept (subject to all valid rights-of-way and easements existing on the date of such request) any appropriate warranty deed conveying to the United States in trust for the Confederated Tribes of the Siletz Indians of Oregon, contingent upon payment of all accrued and unpaid taxes, the following parcels of land located in Lincoln County, State of Oregon:

"(A) In Township 10 South, Range 8 West, Willamette Meridian—

"(i) a tract of land in the northwest and the northeast quarters of section 7 consisting of 208.50 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990; and

"(ii) 3 tracts of land in section 7 consisting of 18.07 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990.

"(B) In Township 10 South, Range 10 West, Willamette Meridian—

"(i) a tract of land in section 4, including a portion of United States Government Lot 31 lying west and south of the Siletz River, consisting of 15.29 acres, more or less, conveyed to the Tribe by warranty deed from Patrick J. Collson and Patricia Ann Collson on February 27, 1991;

"(ii) a tract of land in section 9, located in Tract 60, consisting of 4.00 acres, more or less, conveyed to the Tribe by contract of sale from Gladys M. Faulkner on December 9, 1987;

"(iii) a tract of land in section 9, including portions of the north one-half of United States Government Lot 15, consisting of 7.34 acres, more or less, conveyed to the Tribe by contract of sale from Clayton E. Hursh and Anna L. Hursh on December 9, 1987;

"(iv) a tract of land in section 9, including a portion of the north one-half of United States Government Lot 16, consisting of 5.62 acres, more or less, conveyed to the Tribe by warranty deed from Steve Jebert and Elizabeth Jebert on December 1, 1987;

"(v) a tract of land in the southwest quarter of the northwest quarter of section 9, consisting of 3.45 acres, more or less, conveyed to the Tribe by warranty deed from Eugenie Nashif on July 11, 1988; and

"(vi) a tract of land in section 10, including United States Government Lot 8 and portions of United States Government Lot 7, consisting of 29.93 acres, more or less, conveyed to the Tribe by warranty deed from Doyle Grooms on August 6, 1992.

"(C) In the northwest quarter of section 2 and the northeast quarter of section 3, Township 7 South, Range 11 West, Willamette Meridian, a tract of land comprising United States Government Lots 58, 59, 63, and 64, Lincoln Shore Star Resort, Lincoln City, Oregon.

"(2) The parcels of land described in paragraph (1), together with the following tracts of lands which have been conveyed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon—

"(A) a tract of land in section 3, Township 10 South, Range 10 West, Willamette Meridian, including portions of United States Government Lots 25, 26, 27, and 28, consisting of 49.35 acres, more or less, conveyed by the Siletz Tribe to the United States in trust for the Tribe on March 15, 1986; and

"(B) a tract of land in section 9, Township 10 South, Range 10 West, Willamette Meridian, including United States Government Lot 33, consisting of 2.27 acres, more or less, conveyed by warranty deed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon from Harold D. Alldridge and Sylvia C. Alldridge on June 30, 1981;

shall be subject to the limitations and provisions of sections 3, 4, and 5 of this Act and shall be deemed to be a restoration of land pursuant to section 7 of the Siletz Indian Tribe Restoration Act (25 U.S.C. 711(e)).

"(3) Notwithstanding any other provision of law, the United States should not incur any liability for conditions on any parcels of land taken into trust under this section.

"(4) As soon as practicable after the transfer of the parcels provided in paragraphs (1) and (2), the Secretary of the Interior shall convey such parcels and publish a description of such lands in the Federal Register.".

SEC. 4. TRANSFER OF PARCEL BY YSLETA DEL SUR PUEBLO.

(a) RATIFICATION.—The transfer of the land described in subsection (b), together with fixtures thereon, on July 12, 1991, by the Ysleta Del Sur Pueblo is hereby ratified and shall be deemed to have been made in accordance with

the Constitution and all laws of the United States that are specifically applicable to transfers of land from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including section 2116 of the Revised Statutes (25 U.S.C. 177)) as if Congress had given its consent prior to the transfer.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are more particularly described as follows:

Tract 1–B–1 (1.9251 acres) and Tract 1–B–2–A (0.0748 acres), Block 2 San Elizario, El Paso County, Texas.

SEC. 5. AUTHORIZATION FOR 99-YEAR LEASES.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415(a)) is amended by inserting "the Viejas Indian Reservation," after "Soboba Indian Reservation,".

SEC. 6. WIND RIVER INDIAN IRRIGATION PROJECT.

Funds appropriated for construction of the Wind River Indian Irrigation Project for fiscal year 1990 (pursuant to Public Law 101–121), fiscal year 1991 (pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512)), and fiscal year 1992 (pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154)) shall be made available on a nonreimbursable basis.

SEC. 7. REIMBURSEMENT OF COSTS INCURRED BY GILA RIVER INDIAN COMMUNITY FOR CERTAIN RECLAMATION CONSTRUCTION.

The Secretary of the Interior is authorized to pay $1,842,205 to the Gila River Indian Community as reimbursement for the costs incurred by the Gila River Indian Community for construction allocated to irrigation on the Sacaton Ranch that would have been nonreimbursable if such construction had been performed by the Bureau of Reclamation under section 402 of the Colorado River Basin Project Act (43 U.S.C. 1542).

SEC. 8. RECOGNITION OF INDIAN COMMUNITY.

Section 10 of the Indian Law Technical Amendments of 1987 (Public Law 100–153) is amended—

(1) by striking "The Frank's" and inserting "(a) Subject to subsection (b), the Frank's";

(2) by striking "recognized as eligible" and inserting the following:

"recognized—

"(1) as eligible";

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) as a self-governing dependent Indian community that is not subject to the jurisdiction of any federally recognized tribe.

"(b)(1) Nothing in this section may be construed to alter or affect the jurisdiction of the State of Washington under section 1162 of title 18, United States Code.

"(2) Notwithstanding any other provision of law, the Frank's Landing Indian Community shall not engage in any class III gaming activity (as defined in section 3(8) of the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2703(8)).".

SEC. 9. RECONVEYANCE OF CERTAIN EXCESS LANDS.

(a) IN GENERAL.—The Congress finds that the Sac and Fox Nation of Oklahoma has determined the lands described in subsection (b) to be excess to their needs and should be returned to the original Indian grantors or their heirs. The Secretary of the Interior is authorized to accept transfer of title from the Sac and Fox Nation of Oklahoma of its interest in the lands described in subsection (b).

(b) PERSONS AND LANDS.—The lands and individuals referred to in subsection (a) are as follows:

(1) To the United States of America in trust for Sadie Davis, now Tyner, or her heirs or devisees, the Surface and Surface Rights only in and to the SE¼SE¼SE¼SE¼ of section 28, Township 17 North, Range 6 East of the Indian Meridian, Lincoln County, Oklahoma, containing 2.50 acres, more or less.

(2) To the United States of America in trust for Mabel Wakole, or her heirs or devisees, the Surface and Surface Rights only in and to the NE¼NE¼ of Lot 6 of NW¼ of section 14, Township 11 North, Range 4 East of the Indian Meridian, Pottawatomie County, Oklahoma, containing 2.50 acres, more or less.

SEC. 10. TITLE I OF PUBLIC LAW 97–459, PERTAINING TO THE DEVILS LAKE SIOUX TRIBE.

Paragraph (1) of section 108(a) of title I of Public Law 97–459 (96 Stat. 2515) is amended by striking out "of the date of death of the decedent" and inserting in lieu thereof "after the date on which the Secretary's determination of the heirs of the decedent becomes final".

SEC. 11. NORTHERN CHEYENNE LAND TRANSFER.

(a) IN GENERAL.—Notwithstanding any contrary provision of law, the Secretary of the Interior or an authorized representative of the Secretary (referred to in this section as the "Secretary") is hereby authorized and directed to transfer by deed to Lame Deer High School District No. 6, Rosebud County, Montana (referred to in this section as the "School District"), all right, title, and interest of the United States and the Northern Cheyenne Tribe (referred to in this section as the "Tribe") in and to the lands described in this subsection (referred to in this section as "Subject Lands"), to be held and used by the School District for the exclusive purpose of constructing and operating thereon a public high school and related facilities. The Subject Lands consist of a tract of approximately 40 acres within the Northern Cheyenne Indian Reservation, more particularly described as follows:

A tract of land located in the W½ SE¼ and the E½ SW¼ of section 10, Township 3 South, Range 41 East, M.P.M., described as follows: Beginning at the south ¼ corner of said section 10, thence south 89 degrees 56 minutes west 393.31 feet on and along the south line of said section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500.0 feet on and along said section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east 2382.26 feet, thence south 23 degrees 44 minutes 21 seconds east 622.56 feet, thence south 51 degrees 14 minutes 40 seconds west 2177.19 feet to the true point of beginning, containing in all 40.0 acres, more or less.

(b) DEED AND LEASE.—

(1) IN GENERAL.—The deed issued under this section shall provide that—

(A) title to all coal and other minerals, including oil, gas, and other natural deposits, within the Subject Lands shall remain in the Secretary in trust for the Tribe, as provided in Public Law 90–424 (82 Stat. 424);

(B) the Subject Lands may be used for the purpose of constructing and operating a public high school and related facilities thereon, and for no other purpose;

(C) title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe, and the deed shall be of no further force or effect, if, within 8 years after the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such 8-year period, but the facility subsequently permanently ceases operating as a public high school; and

(D) at any time after the conclusion of the current litigation (commenced before the date of enactment of this Act and including all trial and, if any, appellate proceedings) challenging the November 9, 1993, decision of the Superintendent of Public Instruction for the State of Montana granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction (referred to in this section as the "Superintendent's Approval"), the Tribe shall have the right to replace the deed with a lease covering the Subject Lands issued under section 1(a) of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415(a)) having a term of 25 years, with a right to renew for an additional 25 years.

(2) CONDITIONS OF LEASE.—Under the lease referred to in paragraph (1)(D), the Subject Lands shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities thereon. The lease shall terminate if, within 8 years after the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such 8-year period, but the facility subsequently permanently ceases operating as a public high school. In the event the Tribe seeks and obtains the Superintendent's Approval, the Tribe may tender a lease, signed by the Tribe and approved by the Secretary, which complies with the provisions of this subsection. Upon such tender, the deed shall be of no further force or effect, and, subject to the leasehold interest offered to the School District, title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe. The Tribe may at any time irrevocably relinquish the right provided to it under this subsection by resolution of the Northern Cheyenne Tribal Council explicitly so providing.

(c) EFFECT OF ACCEPTANCE OF DEED.—Upon the School District's acceptance of a deed delivered under this section, the School District, and any party who may subsequently acquire any right, title, or interest of any kind whatsoever in or to the Subject Lands by or through the School District, shall be subject to, be bound by, and comply with all terms and conditions set forth in subparagraphs (A) through (D) of subsection (b)(1).

SEC. 12. INDIAN AGRICULTURE AMENDMENT.

(a) LEASING OF INDIAN AGRICULTURAL LANDS.—Section 105 of the American Indian Agriculture Resource Management Act (25 U.S.C. 3715) is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body."; and

(2) in subsection (c), amending paragraph (1) to read as follows:

"(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.".

(b) TRIBAL IMMUNITY.—The American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 306. TRIBAL IMMUNITY.

"Nothing in this Act shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.".

SEC. 13. SAN CARLOS APACHE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of title XXXVII of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking "December 31, 1994" and inserting "December 31, 1995".

SEC. 14. RELATIONSHIP BETWEEN BUY INDIAN ACT AND MENTOR-PROTEGE PROGRAM.

Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47; commonly referred to as the "Buy Indian Act"), is amended by adding at the end the following: "Participation in the Mentor-Protege Program established under section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) or receipt of assistance pursuant to any developmental assistance agreement authorized under such program shall not render Indian labor or Indian industry ineligible to receive any assistance authorized under this section. For the purposes of this section—

"(1) no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f) of section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note); and

"(2) the terms 'protege firm' and 'mentor firm' have the meaning given such terms in subsection (c) of such section 831.".

SEC. 15. ACQUISITION OF LANDS ON WIND RIVER RESERVATION.

(a) AUTHORITY TO HOLD LANDS IN TRUST FOR THE INDIVIDUAL TRIBE.—The Secretary of the Interior is hereby authorized to acquire individually in the name of the United States in trust for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation or the Northern Arapaho Tribe of the Wind River Reservation, as appropriate, lands or other rights when the individual assets of only one of the tribes is used to acquire such lands or other rights.

(b) LANDS REMAIN PART OF JOINT RESERVATION SUBJECT TO EXCLUSIVE TRIBAL CONTROL.—Any lands acquired under subsection (a) within the exterior boundaries of the Wind River Reservation shall remain a part of the Reservation and subject to the joint tribal laws of the Reservation, except that the lands so acquired shall be subject to the exclusive use and control of the tribe for which such lands were acquired.

(c) INCOME.—The income from lands acquired under subsection (a) shall be credited to the tribe for which such lands were acquired.

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prevent the joint acquisition of lands for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation and the Northern Arapaho Tribe of the Wind River Reservation.

SEC. 16. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Indian Health Care Improvement Act (25 U.S.C. 1616d) is amended—

(1) in subsection (a)—

(A) by striking "who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time"; and

(B) by adding at the end the following new sentence: "In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications."; and

(2) in subsection (b), by inserting after "Indian health program" the following: "(as defined in section 108(a)(2))".

(d) NURSING RESIDENCY PROGRAM.—Section 118(b) of such Act (25 U.S.C. 1616k(b)) is amended by inserting before the period the following: "or a Master's degree".

SEC. 17. REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION.

(a) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(b) REFERENCES.—Any reference in a law (including any regulation), map, document, paper, or other record of the United States to Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 18. EXPENDITURE OF JUDGMENT FUNDS.

Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with the letter of Charles Dawes, the Chief of the Ottowa Tribe of Oklahoma, to the Bureau of Indian Affairs, Muskogee Area Office, dated September 21, 1993, and the accompanying Resolution that was approved by the Business Committee of the Ottawa Tribe of Oklahoma August 19, 1993, the specific changes in the Secretarial Plan that became effective on June 14, 1983, for the use of funds that were awarded in satisfaction of judgments in final awards by the Indian Claims Commission for claims with the following docket numbers: 133–A, 133–B, 133–C, 302, and 338.

SEC. 19. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The activities of the Department of the Interior associated with the Department's consultation with Indian organizations related to the management by the United States for Indian tribes shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 20. POKAGON POTAWATOMI MEMBERSHIP LIST.

The Act entitled "An Act to restore Federal services to the Pokagon Band of Potawatomi Indians", approved September 21, 1994 (Public Law 103–323) is amended—

(1) by redesignating section 9 as section 10; and

(2) by inserting after section 8 the following new section:

"SEC. 9. MEMBERSHIP LIST.

"(a) LIST OF MEMBERS AS OF SEPTEMBER 1994.—Not later than 120 days after the date of enactment of this Act, the Bands shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the respective Bands.

"(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Bands shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Bands. Each such Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

"(2) PUBLICATION OF NOTICE.—At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls.

"(3) MAINTENANCE OF ROLLS.—The Bands shall ensure that the rolls are maintained and kept current.".

SEC. 21. ODAWA AND OTTAWA MEMBERSHIP LISTS.

The Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (Public Law 103–324) is amended by adding at the end the following new section:

"SEC. 9. MEMBERSHIP LIST.

"(a) LIST OF PRESENT MEMBERSHIP.—Not later than 120 days after the date of enactment of this Act, the Band shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the Band.

"(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band. The Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

"(2) PUBLICATION OF NOTICE.—At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls.

"(3) MAINTENANCE OF ROLLS.—The Band shall ensure that the rolls are maintained and kept current.".

SEC. 22. INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) IN GENERAL.—The Indian Self-Determination Act is amended—

(1) in section 107(b)(2) (25 U.S.C. 450k(b)(2)), by striking "Committee on Interior and Insular Affairs" and inserting "Committee on Natural Resources";

(2) in section 301 (25 U.S.C. 450f note), by striking "eight" and inserting "18"; and

(3) in section 302(a) (25 U.S.C. 450f note), by striking "The Secretaries" and inserting "For each fiscal year, the Secretaries".

(b) ADVISORY COMMITTEES.—The Indian Self-Determination and Education Assistance Act Amendments of 1990 (title II of Public Law 101–644) is amended by adding at the end the following new section:

"SEC. 204. TRIBAL AND FEDERAL ADVISORY COMMITTEES.

"Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund advisory committees or other advisory bodies composed of members of Indian tribes or members of Indian tribes and representatives of the Federal Government to ensure tribal participation in the implementation of the Indian Self-Determination and Education Assistance Act (Public Law 93–638).".

SEC. 23. CROW BOUNDARY SETTLEMENT.

Section 6(c) of the Crow Boundary Settlement Act of 1994 is amended to read as follows:

"(c) INVESTMENT.—At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with the first section of the Act of February 12, 1929 (45 Stat. 1164, chapter 178, 25 U.S.C. 161a).".

AMENDMENT NO. 2613

(Purpose: To make a technical correction)

AMENDMENT NO. 2614

(Purpose: To clarify statutory construction)

Mr. FORD. Mr. President, on behalf of Senator INOUYE, I send two technical amendments to the desk en bloc and ask for their immediate consideration en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD] for Mr. INOUYE proposes amendments en bloc numbered 2613 and 2614.

The PRESIDING OFFICER. If there is no objection to the amendments, the amendments are agreed to.

So the amendments (No. 2613 and No. 2614) were agreed to, as follows:

AMENDMENT NO. 2613

In section 19—

(1) by inserting "tribes and" after "Department's consultation with Indian"; and

(2) by inserting "of funds held in trust" after "related to the management".

AMENDMENT NO. 2614

On page 26, between lines 3 and 4, insert the following new paragraph:

"(2) Nothing in this section may be construed to constitute the recognition by the United States that the Frank's Landing Indian Community is a federally recognized Indian tribe.

On page 26, line 4, strike "(2)" and insert "(3)".

The PRESIDING OFFICER. Are there further amendments to be made from the floor?

If not, the committee amendment is agreed to.

So the committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The bill is deemed read three times and passed.

So the bill (H.R. 4709), as amended, was deemed read three times and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:00 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker, has signed the following enrolled bills:

H.R. 3694. An act to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees' Retirement System, if necessary to satisfy a judgment against an annuitant for physically, sexually, or emotionally abusing a child.

H.R. 4299. An act to authorize appropriations for fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community management account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 4543. An act to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse".

The enrolled bills were subsequently signed by the President pro tempore (Mr. BYRD).

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H.Con.Res. 304. Concurrent resolution directing the Secretary of the Senate to make corrections in the enrollment of the bill S. 1312.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1146. An act to provide for the settlement of the water rights claims of the Yavapai-Prescott Indian Tribe in Yavapai County, Arizona, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 656. An act to provide for indoor air pollution abatement, including indoor radon abatement, and for other purposes.

The message further announced that the House has passed the following bills, each without amendment:

S. 316. An act to expand the boundaries of the Saguaro National Monument in the State of Arizona, and for other purposes.

S. 1233. An act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes.

S. 1312. An act to amend the Employee Retirement Income Security Act of 1974 in order to provide for the availability of remedies for certain former pension plan participants and beneficiaries.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2129. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce in order to carry out provisions of certain international conventions, and for other purposes.

H.R. 2970. An act to reauthorize the Office of Special Counsel, and for other purposes.

H.R. 3612. An act to amend the Alaska Native Claims Settlement Act, and for other purposes.

H.R. 3613. An act entitled "The Kenai Natives Association Equity Act."

H.R. 4462. An act to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes.

H.R. 4746. An act to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes.

H.R. 4757. An act to provide for the settlement of the claims of the Confederated Tribes of the Colville Reservation concerning their contribution to the production of hydropower by the Grand Coulee Dam, and for other purposes.

H.R. 4777. An act to make technical improvements in the United States Code by amending provisions to reflect the current names of congressional committees.

H.R. 4814. An act to grant the consent of the Congress to amendments to the Central Midwest Interstate Low-Level Radioactive Waste Compact.

H.R. 4833. An act to reform the management of Indian Trust Funds, and for other purposes.

H.R. 4896. An act to grant the consent of the Congress to the Kansas and Missouri Metropolitan Culture District Compact.

H.R. 4944. An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes.

H.R. 5084. An act to amend title 13, United States Code, to improve the accuracy of census address lists, and for other purposes.

H.R. 5103. An act to amend title 31, United States Code, to provide for an Executive Director of the General Accounting Office Personnel Appeals Board, and for other purposes.

H.R. 5148. An act to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 7:32 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 734. An act to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.".

S.J. Res. 157. Joint resolution to designate 1994 as "The Year of Gospel Music."

S.J. Res. 185. Joint resolution to designate October 1994 as "National breast Cancer Awareness Month."

S.J. Res. 198. Joint resolution designating 1995 as the "Year of the Grandparent."

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the House:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendments, and modifications committed to conference: Mr. HAMILTON, Mr. GEJDENSON, Mr. OBERSTAR, Mr. GILMAN, and Mr. ROTH.

As additional conferees from the Committee on Energy and Commerce, for consideration of title IV of the House bill, and modifications committed to conference: Mr. DINGELL, Mrs. COLLINS of Illinois, and Mr. MOORHEAD.

The message further announced that the House insists upon its amendments to the bill (S. 21) to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following Members as the managers of the conference on the part of the Houses:

From the Committee on Natural Resources, for consideration of the Senate bill and the House amendments, and modifications committed to conference: Mr. MILLER of California, Mr. VENTO, Mr. LEHMAN, Mr. RICHARDSON, Mr. FARR, Mr. RAHALL, Mr. YOUNG of Alaska, Mr. DOOLITTLE, Mr. CALVERT, and Mr. POMBO.

As additional conferees from the Committee on Armed Services, for consideration of title VIII of the Senate bill, and title VIII of the House amendment, and modifications committed to conference: Mr. DELLUMS, Mr. MCCURDY, and Mr. HUNTER.

As additional conferees from the Committee on Education and Labor, for consideration of section 901-904, 906, and 907 of the Senate bill, and modifications committed to conference: Mr. FORD of Michigan, Mr. CLAY, and Mr. MCKEON.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title II, sections 103(e), 103(f), and 805(a)(2)(B) of the Senate bill, and sections 111, 113 and 804(a)(2)(B) of the House amendment, and modifications committed to conference: Mr. STUDDS, Ms. SCHENK and Mr. FIELDS of Texas.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 901, 905, and 906 of the Senate bill, and modifications committed to conference: Mr. MINETA, Mr. WISE, and Mr. SHUSTER.

MEASURES REFERRED

The following bills, previously received from the House, were referred as indicated:

H.R. 4460. An act to provide for conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4683. An act to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and ordered placed on the Calendar:

H.R. 4944. An act to authorize the Secretary of the Interior to conduct studies regarding the desalination of water and water reuse, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on October 4, 1994 she had presented to the President of the United States, the following enrolled bill:

S. 1587. An act to revise and streamline the acquisition laws of the Federal Government, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

H.R. 4598. A bill to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System (Rept. No. 103-398).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 4709. A bill to make certain technical corrections, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Lori Esposito Murray, of Connecticut, to be an Assistant Director of the U.S. Arms Control and Disarmament Agency.

Thomas E. McNamara, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Marsha P. Martin, of Texas, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for the term expiring October 13, 2000.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. COCHRAN:

S. 2496. A bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 2497. A bill to extend the deadlines under the Federal Power Act applicable to a hydroelectric project in Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 2498. A bill to award a congressional gold medal to Rabbi Menachem Mendal Schneerson; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. PELL:

S. 2499. A bill to amend the National Labor Relations Act to permit the establishment of labor-management organizations to carry out certain activities with respect to labor and management relations, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. SIMPSON, Mr. WALLOP, Mr. CRAIG, Mr. KEMPTHORNE, Mr. CAMPBELL, Mr. BURNS, Mr. BAUCUS, Mr. BINGAMAN, Mr. CONRAD, Mr. DASCHLE, Mr. DOMENICI, Mr. DORGAN, Mrs. HUTCHISON, Mr. KERREY, Mr. PRESSLER, Mr. WOFFORD, and Mr. HATCH):

S. 2500. A bill to enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself and Mr. DECONCINI):

S. Res. 273. A resolution to express the sense of the Senate in commemoration of the 75th anniversary of Grand Canyon National Park; considered and agreed to.

By Mr. LEAHY (for himself, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. JEFFORDS, Mr. BOREN, Mr. INOUYE, Mr. DASCHLE, Mr. AKAKA, Mr. HARKIN, and Mr. PELL):

S. Con. Res. 77. A concurrent resolution expressing the sense of the Congress regarding the United States position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COCHRAN:

S. 2496. A bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes; to the Committee on Energy and Natural Resources.

THE 4-COUNTY ELECTRIC POWER ASSOCIATION ACT OF 1994

• Mr. COCHRAN. Mr. President at the request of an electric power association in my State, I am introducing a bill which amends the Federal Power Act to modify an exemption that currently exists within the act.

The board of directors of the 4-County Electric Power Association of Mississippi recently passed a resolution urging Congress to amend the Federal Power Act so that an exemption that currently exists within the act would apply to it. The reason this exemption is necessary is very simple: 4-County Power would like to purchase its power from a source other than the Tennessee Valley Authority [TVA].

4-County Power currently has a contract with TVA to purchase power from it. The contract allows 4-County Power to cancel the contract and purchase power from a producer other than TVA, provided that TVA is given 10 years notice of termination. 4-County Power gave this notice in December of 1993, but is eager to purchase power from a source other than TVA sooner than the year 2003.

4-County Power is not going to harm TVA; indeed, TVA has done much to help my region. Rather, 4-County Power is acting because it believes it can purchase power from other producers for less money than it is paying TVA, and for less money than it will likely have to pay TVA in the future. By seeking to provide residents of Mississippi with the least expensive power available, the board of directors of 4-County Power is acting with the best of intentions. This legislation should not be taken as criticism of TVA; instead, it should be viewed as a way to provide people with lower electric bills every month.

The area served by 4-County Power is small, and its absence will not be felt by TVA or noticed when formulating the rate base. But the effect of switching to a less expensive source of power will be great in my State—people will have more to spend, save, and invest, and cheaper power will make it easier to attract new businesses to the region.

I ask unanimous consent that the bill and the resolution of the board of the 4-County Electric Power Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF EXEMPTION.

Section 212(j) of the Federal Power Act (16 U.S.C. 824k(j)) is amended by striking out "October 1, 1991" and inserting in lieu thereof "December 31, 1993".

RESOLUTION OF BOARD OF DIRECTORS OF 4-COUNTY ELECTRIC POWER ASSOCIATION

Whereas, on October 24, 1992, the Congress of the United States of America enacted the "Energy Policy Act of 1992" amending, in part, the "Federal Power Act"; and,

Whereas, the Tennessee Valley Authority, under the provisions of the Energy Policy Act of 1992, is not required to provide open transmission access to any of TVA's 160 wholesale distribution customers, with the exception of Bristol, Virginia; and,

Whereas, Bristol, Virginia, enjoys this unique position by having notified TVA prior to October 1, 1991, of termination under its Power Supply Contract and by prevailing on Congress to include the following specific language in §722 of the Energy Policy Act of 1992, amending §212(j) of the Federal Power Act:

"*Provided, however,* That the foregoing provision shall not apply to any area served at retail by electric transmission system which was such a distributor on the date of enactment of this subsection and which before October 1, 1991, gave its notice of termination under its Power Supply Contract with such electric utility."

and,

Whereas, 4-County Electric Power Association gave its notice of termination under its Power Supply Contract with TVA on December 6, 1993, and is the only TVA distributor, other than Bristol, Virginia, having given TVA notice of termination of its Power Supply Contract; and,

Whereas, 4-County Electric Power Association, desires Congress to amend the Energy Policy Act of 1992, amending the Federal Power Act, to change the date as recited above to December 31, 1993;

Now, therefore, be it resolved: That Congress is urged to amend §722 of the Energy Policy Act of 1992, so as to amend the last sentence of Subsection 212(j) of the Federal Power Act (16 U.P.S.C. §824K(j)) as added by §722 of the Energy Policy Act of 1992 (P.L. 102–486, 106 Stat. 2916) to read as follows:

"*Provided, however,* That the foregoing provision shall not apply to any area served at retail by electric transmission system which was such a distributor on the date of enactment of this subsection and which before December 31, 1993, gave its notice of termination under its Power Supply Contract with such electric utility."•

By Mr. SPECTER:

S. 2497. A bill to extend the deadlines under the Federal Power Act applicable to a hydroelectric project in Pennsylvania, and for other purposes; to the Committee on Energy and Natural Resources.

THE ALLEGHENY RIVER HYDROELECTRIC POWER PROJECT ACT

• Mr. SPECTER. Mr. President, I am pleased to introduce this legislation, which would extend the deadline for construction of a hydroelectric power project on the Allegheny River. This extension is necessary because the Allegheny North Council of Governments and the Borough of Cheswick received a license from the Federal Energy Regulatory Commission and must commence construction prior to April 15, 1995 or face the loss of their license under the Federal Power Act. On many occasions, Congress has granted similar noncontroversial extensions to licensees for projects in other States.

The licensees in this case have been negotiating on power sales agreements, but have not yet been able to finalize these arrangements. This legislation would provide additional time for the municipal licensees to conclude their negotiations with potential power purchasers. If Congress fails to enact this legislation, the hydroelectric potential of the Allegheny River will remain not fully developed.

The Allegheny project is one of several projects licensed for development along the Upper Ohio River Basin. Construction of this licensed power plant would permit Pennsylvania to use previously untapped hydroelectric energy, creating substantial environmental benefits and jobs for local residents.

I urge my colleagues to support this legislation.•

By Mr. D'AMATO:

S. 2498. A bill to award a congressional gold medal to Rabbi Menachem Mendel Schneerson; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDAL LEGISLATION

Mr. D'AMATO. Mr. President, I introduce a bill to award a Congressional Gold Medal to Lubavitcher Grand Rebbe Menachem Schneerson.

The Grand Rebbe for over 40 years, made generous and lasting contributions to the cause of peace and understanding in the United States and in the world, through his selfless acts of kindness and education. His dedication to enriching the lives of our youth is an enduring part of his legacy.

His generosity, his kindness, and his care for his fellow human beings was what made him such a revered leader. As such, the awarding of a Congressional Gold Medal, would be a just honor to the memory of his good deeds and his good works. I can think of no other man more deserving of such an award. I encourage my colleagues to support this legislation and award the memory of the Rebbe with a Congressional Gold Medal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2498

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress hereby finds the following:

(1) Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement for 40 years, has made outstanding and lasting contributions toward improvements in world education, morality, and acts of charity.

(2) Rabbi Menachem Mendel Schneerson, as a refugee first from Stalinist Russia and then from Nazi Germany, has made the headquarters of the Chabad-Lubavitch movement in New York City a center of over 2,000 educational, social, and rehabilitative institutions touching millions of people from all walks of life in every corner of the globe.

(3) Rabbi Menachem Mendel Schneerson, throughout his 92 years of life, has exemplified the highest ideals of scholarship, teaching, ethics, and charity.

(4) Rabbi Menachem Mendel Schneerson has interpreted with keen insight the miraculous events of our time and has inspired people to a renewal of individual value of spirituality, cooperation, and love of learning.

(5) Rabbi Menachem Mendel Schneerson's extraordinary life and work have long been recognized by the Congress through the enactment of joint resolutions designating his birthday in each of the last 16 years as "Education and Sharing Day, U.S.A.".

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to the Lubavitcher rebbe, Rabbi Menachem Mendel Schneerson, a gold medal of appropriate design, in recognition of his outstanding and enduring contributions toward world education, morality, and acts of charity.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions reflecting the theme of education to be determined by the Secretary.

(c) GIFTS OR DONATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall accept, use, and disburse gifts or donations of property or money to carry out this section.

(2) NO APPROPRIATION AUTHORIZED.—No amount is authorized to be appropriated to carry out this section.

SEC. 3. DUPLICATE MEDALS

The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

By Mr. PELL:

S. 2499. A bill to amend the National Labor Relations Act to permit the establishment of labor-management organizations to carry out certain activities with respect to labor and management relations, and for other purposes; to the Committee on Labor and Human Resources.

THE WORKER-MANAGEMENT RELATIONS FOR THE 21ST CENTURY ACT OF 1994

• Mr. PELL. Mr. President, in 1935, Congress created the National Labor Relations Board [NLRB] as part of the National Labor Relations Act. The goal of this legislation was to amend failed labor legislation passed only a few years earlier. Legislative efforts, enacted in 1933, to provide workers with certain bargaining rights had since been co-opted by management with the creation of Employee Representation Plan [ERP's], or, works council's which claimed to offer collective bargaining rights to workers. In practice, however, these employer-dominated committees offered workers very little protection and very few rights. These management-run committees rarely met and generally served as rubber stamps for employer demands.

In response to this situation, what is now known as section 8(a)(2) of the National Labor Relations Act was precisely drafted to provide collective bargaining rights to employees while shielding them from the management-controlled organizations prevalent in years past.

The creation of such an uncompromising wall between labor and management with very explicit avenues of dialog between the two worked very well for a long time.

It is, however, no longer the best method. As a nation, we now find ourselves involved in a global economy competing with other countries, not other companies. In addition, much of our trade is very high technology in nature. We no longer live in a time when, all day, every day, a worker inserts tab A into slot B. Today, workers must be well trained in high-technology skills. It is no longer good enough to produce in quantity, now we must also produce with quality.

In order to meet these new demands, employers and employees must work together. The men and women on the line know, through experience, how to produce better, smarter, faster, and cheaper, vital information for any enlightened, competition-minded manager.

There is plenty of anecdotal evidence that when employers, and employees begin to work together, everyone benefits. Management realizes good news at the bottom of the balance sheet and increased production of better manufactured products. Employees have a greater role in their work and they feel empowered; they're part of the team.

Unfortunately, Federal labor law makes this cooperation difficult at the least and impossible at best. How we change our labor law to allow what works in the shade to flourish in the sunlight is a very important question that must be honestly debated. Before considering this question, however, everyone concerned, labor and management. Democrats and Republicans, must agree to come to the debate with open minds.

By its very nature, worker-management cooperation means a certain loss of control and power. Management and labor must, together, break down the walls, both real and imagined, that have dominated their working relationship for the past 60 years. Management will need to deal with employees as partners and consider its workers as assets to be treasured and conserved.

At the same time, labor will need to reconsider how it views management. They must no longer see them as the enemy to be fought.

The creation of this new mutually beneficial relationship must address some legitimate concerns. For the past 60 years, collective bargaining has been successful only because of the tension created by the collective bargaining process. Labor and management have held a certain amount of power over the other, including labor's right to strike. With the creation of new partnerships, new roles must be determined.

This new relationship of partners will require employers to look on their employees in a different light. Far too often, employees have been viewed by companies as less than an asset. During tough business periods, employees are discharged in an effort to balance the books. That must change. If good labor-management relationships are to succeed, employees must be seen as being important to the company. A good, well-trained employee is as much an asset to a company as is a high technology lathe or an 18-wheel truck; neither of which can work without a good, well-trained employee.

This change in attitude will be long and sometimes difficult. While it will take some time to institutionalize labor-management cooperation, in the short run, we should help those employers and employees who have already agreed to join together. Unfortunately, current law makes such efforts difficult.

In that regard, I am introducing the Worker-Management Relations for the 21st Century Act of 1994 as a first step in this long process. This bill amends the National Labor Relations Act to allow employers and employees to form joint committees for the purposes of discussing workplace related issues. It is important for me to point out that a critical aspect of this bill is that both, let me repeat, both the employer and the employees must agree to form these committees. Anything less would catapult labor relations backward, not move it forward.

As I said, this bill is a first step. Later this year, the Commission on the Future of Worker-Management Relations—which was formed at the request of President Clinton, and was charged by the Secretary of Labor and the Secretary of Commerce to "investigate the current state of worker-management relations in the United States"—will release its final report. Included in that report will be legislative suggestions to address the state of employee-employer relations.

It is my hope my bill will help to clear the way for the Commission's report.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Worker-Management Relations for the 21st Century Act of 1994".

SEC. 2. FINDINGS.

Congress finds that—

(1) ever increasing foreign competition, rapidly changing technology, and shifting consumer demand are radically transforming the way American businesses compete in global markets;

(2) old style mass production and centralized management are increasingly being replaced by individual and flexible methods of doing business;

(3) the new business environment places more demands on the talents, ingenuity, and dedication of American workers;

(4) today, the best managed organizations give real responsibility to production line employees, give workers a real stake in the success of the organization, make training and education a high priority, and offer a safe and stable work environment;

(5) past joint employee-management efforts have been rewarding for both employees and employers; and

(6) current labor relations laws make employee-employer cooperation difficult.

SEC. 3. PURPOSES.

It is the purpose of this Act to—

(1) preserve existing labor protections in current labor relations laws;

(2) provide an avenue for workers and management to join together to create a more productive work environment; and

(3) offer an alternative to employees and employers who wish to join together to discuss various issues of concern and interest.

SEC. 4. LABOR-MANAGEMENT WORKPLACE COMMITTEES.

(a) IN GENERAL.—Section 8(a)(2) of the National Labor Relations Act (29 U.S.C. 158(a)(2)) is amended by inserting before the semicolon at the end thereof the following: "*Providing further*, That it shall not constitute or be evidence of an unfair labor practice under this paragraph for an employer and the employees of such employer, or the labor organizations representing the employees of such employer, to jointly establish a committee, in which such employer and such employees participate to discuss matters of interest and concern (including but not limited to issues of quality, productivity, improve labor-management relations, job security, organizational efficiency and enhanced economic development);"

(b) COMPOSITION.—Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended by adding at the end the following new flush sentence:

"A committee described in paragraph (2) shall be composed of an equal number of employees (who shall be selected by the employees through an election by popular vote) and management officials. An employer or an employee of such employer may propose the establishment of a committee described in paragraph (2), but such committee may only be established upon the agreement of both the employer and a majority of employees. Such committee shall be subject to an agenda and rules approved by the committee upon establishment, and all decisions of the committee shall become final only upon a vote of the majority of the members of the committee.".●

ADDITIONAL COSPONSORS

S. 993

At the request of Mr. KEMPTHORNE, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1063

At the request of Mr. HATCH, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1063, a bill to amend the Employee Retirement Income Security Act of 1974 to clarify the treatment of a qualified football coaches plan.

S. 1677

At the request of Mr. HATFIELD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1677, a bill to prohibit United States military assistance and arms transfers to foreign governments that are undemocratic, do not adequately protect human rights, are engaged in acts of armed aggression, or are not fully participating in the United Nations Register of Conventional Arms.

S. 1770

At the request of Mr. BROWN, his name was withdrawn as a cosponsor of S. 1770, a bill to provide comprehensive reform of the health care system of the United States, and for other purposes.

S. 1772

At the request of Mr. GRAMM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1772, a bill to reduce federal employment to the levels proposed in the Vice President's Report of the National Performance Review.

S. 1889

At the request of Mr. CHAFEE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1889, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2183

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 2183, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the signing of the World War II peace accords on September 2, 1945.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2411

At the request of Mr. DOLE, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 2489

At the request of Mr. KENNEDY, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Texas [Mrs. HUTCHISON], the Senator from Georgia [Mr. NUNN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Oklahoma [Mr. BOREN], the Senator from Virginia [Mr. WARNER], the Senator from North Dakota [Mr. DORGAN], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 2489, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

SENATE JOINT RESOLUTION 177

At the request of Mr. SIMON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of Senate Joint Resolution 177, a joint resolution to designate the period of October 2, 1994, through October 8, 1994, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 182

At the request of Mr. JOHNSTON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 182, a joint resolution to designate the year 1995 as "Jazz Centennial Year."

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Joint Resolution 186, a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 210

At the request of Mr. INOUYE, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Vermont [Mr. JEFFORDS], the Senator from Ohio [Mr. GLENN], the Senator from New York [Mr. D'AMATO], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Joint Resolution 210, a joint resolution to designate the month of November 1994 as "National Native American Heritage Month."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from

California [Mrs. BOXER], the Senator from Nebraska [Mr. EXON], the Senator from Nevada [Mr. REID], the Senator from Tennessee [Mr. MATHEWS], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Idaho [Mr. CRAIG], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 219, a joint resolution to commend the United States rice industry, and for other purposes.

SENATE JOINT RESOLUTION 225

At the request of Mr. REID, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 225, a joint resolution to designate February 5, 1995, through February 11, 1995, and February 4, 1996, through February 10, 1996, as "National Burn Awareness Week."

SENATE RESOLUTION 257

At the request of Mrs. KASSEBAUM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Resolution 257, a resolution to express the sense of the Senate regarding the appropriate portrayal of men and women of the Armed Forces in the upcoming National Air and Space Museum's exhibit on the *Enola Gay*.

SENATE CONCURRENT RESOLUTION 77—RELATING TO THE DISINSECTION OF AIRCRAFT

Mr. LEAHY (for himself, Mr. KERRY, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. JEFFORDS, Mr. BOREN, Mr. INOUYE, Mr. DASCHLE, Mr. AKAKA, Mr. HARKIN, and Mr. PELL) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 77

Whereas the United States has a responsibility to protect the health and safety of United States air travelers in the United States and abroad;

Whereas the United States ended the practice of aircraft cabin disinsection 15 years ago after determining that the process was ineffective and posed a possible health risk to aircraft passengers;

Whereas the 27 countries require disinfection of aircraft cabins by the spraying of an insecticide while passengers are on board the aircraft or by a residual pesticide treatment which is not registered for use in the United States;

Whereas nearly 10,000,000 people fly every year from the United States to countries that require disinsection of aircraft;

Whereas United States pilots and flight attendants on flights to such countries are repeatedly exposed to the chemicals used in disinsection of aircraft;

Whereas approximately 53,000,000 Americans, more than 20 percent of the population, suffer chronic respiratory problems that put them at special risk to aircraft cabin disinsection procedures;

Whereas no tests have been conducted to determine whether insecticides used for aircraft cabin disinsection are safe for use in unventilated aircraft cabins or for people with chemical sensitivities or breathing conditions;

Whereas there has been a decrease in the number of insecticides registered for aircraft cabin disinsection by the Environmental Protection Agency by reason of the health concerns raised with respect to such insecticides, and there is no indication that insecticides produced in foreign countries which might serve to replace such insecticides present any less threat to health;

Whereas Annex 9 to the Convention on International Civil Aviation, done at Chicago, December 7, 1944, states that "Contracting States shall ensure that their procedures for disinsection or any other remedial measure are not injurious to the health of passengers and crew and cause the minimum of discomfort to them";

Whereas the Facilitation Division of the International Civil Aviation Organization is scheduled to meet in the Spring of 1995 to discuss changes to the standards set forth in Annex 9 to the Convention; and

Whereas the United States will be a participant at that meeting: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States delegation to the Spring 1995 meeting of the Facilitation Division of the International Civil Aviation Organization—

(1) seek to amend the Convention on International Civil Aviation, done at Chicago, December 7, 1944, to end aircraft disinsection practices that threaten the health of aircraft passengers and crew; and

(2) make every effort to gain the support and cosponsorship of other member nations of the organization in that amendment.

SENATE RESOLUTION 273—RELATING TO THE 75TH ANNIVERSARY OF THE GRAND CANYON

Mr. McCAIN (for himself and Mr. DECONCINI) submitted the following resolution; which was considered and agreed to:

S. RES. 273

Whereas the Grand Canyon of the Colorado River is a feature of enormous scientific interest and significance, whose unique geological, biological and cultural resources represent a natural laboratory of unparalleled diversity;

Whereas Grand Canyon National Park represents an integral part of the greater Colorado Plateau Ecosystem whose significance to the health of the natural systems of the American West increases with time;

Whereas the Grand Canyon of the Colorado River is one of the most spectacular examples of arid-land erosion anywhere in the world and reveals a geologic record whose significance is unparalleled;

Whereas Grand Canyon is a world Heritage Site and a natural feature of international significance whose aesthetic beauty reflects the aspirations of a free and independent people;

Whereas Grand Canyon National Park has received over 100 million visitors since its establishment in 1919 and continues to serve the people of the United States and the world in their need for a place of outstanding natural beauty and refuge;

Whereas Grand Canyon National Park was established by Act of Congress on February 26, 1919;

Be it resolved that the Senate of the United States of America on this date salutes Grand Canyon National Park and its custodians, the employees of the National Park Service, in honor of the park's 75th anniversary year.

AMENDMENTS SUBMITTED

FEDERAL FOOD, DRUG, AND COSMETIC ACT AMENDMENTS

HEFLIN AMENDMENT NO. 2612

Mr. FORD (for Mr. HEFLIN) proposed an amendment to the bill (S. 340) to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes; as follows:

Strike all after the enacting clause, and insert in lieu there of the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Medicinal Drug Use Clarification Act of 1994".

SEC. 2. UNAPPROVED USES.

(a) GENERAL RULE.—Section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a)) is amended by adding the following new paragraphs at the end:

"(4)(A) Except as provided in subparagraph (B), if an approval of an application filed under subsection (b) is in effect with respect to a particular use or intended use of a new animal drug, the drug shall not be deemed unsafe for the purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a different use or intended use of the drug, other than a use in or on animal feed, if such use or intended use—

"(i) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(ii) is in compliance with regulations promulgated by the Secretary that establish the conditions for such different use or intended use.

The regulations promulgated by the Secretary under clause (ii) may prohibit particular uses of an animal drug and shall not permit such different use of an animal drug if the labeling of another animal drug that contains the same active ingredient and which is in the same dosage form and concentration provides for such different use.

"(B) If the Secretary finds that there is a reasonable probability that a use of an animal drug authorized under subparagraph (A) may present a risk to the public health, the Secretary may—

"(i) establish a safe level for a residue of an animal drug when it is used for such different use authorized by subparagraph (A); and

"(ii) require the development of a practical, analytical method for the detection of residues of such drug above the safe level established under clause (i).

The use of an animal drug that results in residues exceeding a safe level established under clause (i) shall be considered an unsafe use of such drug under paragraph (1). Safe levels may be established under clause (i) either by regulation or order.

"(C) The Secretary may by general regulation provide access to the records of veterinarians to ascertain any use or intended use authorized under subparagraph (A) that the

Secretary has determined may present a risk to the public health.

"(D) If the Secretary finds, after affording an opportunity for public comment, that a use of an animal drug authorized under subparagraph (A) presents a risk to the public health or that an analytical method required under subparagraph (B) has not been developed and submitted to the Secretary, the Secretary may, by order, prohibit any such use.

"(5) If the approval of an application filed under section 505 is in effect, the drug under such application shall not be deemed unsafe for purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a use or intended use of the drug in animals if such use or intended use—

"(A) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(B) is in compliance with regulations promulgated by the Secretary that establish the conditions for the use or intended use of the drug in animals.".

(b) OTHER AMENDMENTS—

(1) SECTION 301.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) in paragraph (e), by striking "507(d) or (g)," and inserting "507(d) or (g), 512(a)(4)(C),"; and

(B) by adding at the end the following:

"(u) The failure to comply with any requirements of the provisions of, or any regulations or orders of the Secretary, under section 512(a)(4)(A), 512(a)(4)(D), or 512(a)(5).".

(2) SECTION 512(e).—Section 512(e)(1)(A) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 360b(e)(1)(A)) is amended by inserting before the semicolon the following: "or the condition of use authorized under subsection (a)(4)(A)".

(3) SECTION 512(l).—Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)(1)) is amended by striking "relating to experience" and inserting "relating to experience, including experience with uses authorized under subsection (a)(4)(A),".

(c) REGULATIONS.—Not later than 2 years after the date of the enactment of this act, the Secretary of Health and Human Services shall promulgate regulations to implement paragraphs (4)(A) and (5) of section 512(a) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the adoption of the final regulations under subsection (c).

SEC. 3. MAPLE SYRUP.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup that is of the type required by sections 401 and 403(g),";

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(c) and that is applicable to maple syrup,"; and

(3) in paragraph (3) by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(h)(1) and that is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

INDIAN LEGISLATION TECHNICAL CORRECTIONS ACT

INOUYE AMENDMENTS NOS. 2613 AND 2614

Mr. FORD (for Mr. INOUYE) proposed two amendments to the bill (H.R. 4709) to make certain technical corrections, and for other purposes, as follows:

AMENDMENT NO. 2613

In section 19—

(1) by inserting "tribes and" after "Department's consultation with Indian"; and

(2) by inserting "of funds held in trust" after "related to the management".

AMENDMENT NO. 2614

On page 26, between lines 3 and 4, insert the following new paragraph:

"(2) Nothing in this section may be construed to constitute the recognition by the United States that the Frank's Landing Indian Community is a federally recognized Indian tribe.

On page 26, line 4, strike "(2)" and insert "(3)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, October 4, 1994 at 2:30 p.m., in SR-332, to markup S. 2467, the Uruguay Round Agreements Act and to also vote on Marsha P. Martin, to be a member of the Farm Credit Administration Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, October 4, 1994, at 9:30 a.m. in open session, to consider the nominations of Dr. Bernard D. Rostker, to be Assistant Secretary of the Navy for Manpower and Reserve Affairs, and Mr. Gil Coronado, to be Director of Selective Service.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 4, 1994, at 10:00 a.m. on S. 2467—Gatt Implementing Legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, October 4, 1994, at 9:30 a.m. to hold a hearing entitled Status Report on U.S. Assistance to the Newly Independent States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, October 4, 1994, at 11:30 a.m. to hold a business meeting to vote on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. Ford. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, October 4, 1994, at 9:30 a.m. on the nomination of Martha F. Riche, to be Director, Bureau of the Census.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, October 4, 1994, at 10:30 a.m. on the nominations of James Atkins and Scott Lukins, to be members of the Federal Retirement Thrift Investment Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Tuesday, October 4, 1994, at 2:45 p.m on the nominations of George J. Opfer, Inspector General, Federal Emergency Management Administration and Vanessa Ruiz, Associate Judge, District of Columbia Court of Appeals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, October 4, 1994, at 4:30 p.m., in room 226 Senate Dirksen Office Building to consider the nominations of Diana E. Murphy to be U.S. Circuit Judge for the Eighth Circuit, Elaine F. Bucklo to be United States District Judge for the Northern District of Illinois, Robert W. Gettleman to be U.S. District Judge for the Northern District of Illinois, Sven E. Holmes to be U.S. District Judge for the Northern District of Oklahoma, Vicki Miles-LaGrange to be U.S. District Judge for the Western District of Oklahoma and William H. Walls to be U.S. District Judge for the District of New Jersey.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, October 4, 1994 at 4 p.m. to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

REGARDING THE DEPARTURE OF REPRESENTATIVE DING AND THE ARRIVAL OF REPRESENTATIVE LU

• Mr. CHAFEE. Mr. President, this week as Chinese people around the world celebrate the anniversary of the founding of the Chinese republic under Dr. Sun Yat-sen, it is also an appropriate moment to note the departure of Ambassador Ding Mou-shis, the Representative of Taiwan in Washington. Ambassador Ding Mou-shis has served with distinction during an important period in United States-Taiwan relations. In the course of his tenure, Taiwan has completed some of the most fundamental political changes achieved by any society in East Asia, including the democratization of its political processes, culminating in changes in law requiring the popular election of every major officeholder in the country. The diversity and vigor of the print media also attests to the health of the democratic process which is now established there.

Mr. Ding is succeeded by Mr. Benjamin C. Lu who is known to several members of this body from his days as the head of the economic section in the representative office here in Washington. Mr. Lu comes to the Capital from his previous post as the representative of Taiwan to the European Community, an assignment with many of the difficulties and complexities that have prepared him for the responsibilities he now takes up in the United States. Over the last two decades, Mr. Lu has served with distinction in a succession of posts: His first assignment in the United States was as auditor at the Foreign Exchange and Trade Commission of the United Nations from 1964 to 1966; he became a consultant to the Economic Commission for Asia and the Far East, also at the United Nations, until 1969; thereafter he was appointed deputy director at the board of foreign trade of the Ministry of Economic Affairs in Taipei in which post he served until 1977, becoming deputy director general of the board until 1982; that year he was selected to be the director of the economic division at the Coordination Council for North American Affairs here in Washington where he served for 6 years; in 1988 he assumed the office of Director of Taiwan's office in London and Belgium, where he was responsible for economic relations; in 1991 he became the representative of the Taipei Economic and Cultural Office in Belgium until his assignment to Washington this fall.

We welcome Representative Lu with the hope that relations between the United States and Taiwan will continue to strengthen.•

HOMICIDES BY GUNSHOT IN NEW YORK CITY

• Mr. MOYNIHAN. Mr. President, this will be my last statement in the 103d Congress on the gruesome toll taken by gun violence in New York City. Over the past week, there were 16 homicides involving the use of firearms, bringing the city's total to 744 so far this year.

This number is lower than it was at the same time last year. This is encouraging news and an illustration of the progress we are making in the fight against gun violence. But the number is still shocking, and the battle against this public health epidemic is far from won.

Mr. President, too often we think that gun violence occurs only on city streets. Unfortunately, far too many homicides take place right in the home. Yet opponents of gun control continue to assert that the presence of firearms in the home offers the owner greater protection against intrusions and reduces the risk that a death will result in an attempted burglary or assault. This is simply not the case.

According to a recent article by a group of physicians and scholars in the September 21, 1994 issue of the Journal of the American Medical Association, the mere presence of a gun in the home increases the risk that a homicide will result by 1.6 times. According to the same article, between 1988 and 1990, 46.7 percent of the 66,578 homicides in the United States occurred in the home. This averages out to 5.8 homicides in the home each day.

Despite these grim statistics, many still contend that violence in the home bears no relation to the presence of firearms. People without access to guns, the logic goes, would simply find other weapons to achieve their violent ends. Again, this is just not true. According to the findings published in the JAMA article, there is absolutely no evidence to suggest that any increases in homicides involving other weapons in the home result when firearms are not available. Immediate access to firearms simply facilitates spontaneous violence that otherwise might not occur.

Mr. President, we must take steps now to reduce the risk of gun violence in the home. Only by undertaking prudent gun control measures, and by banning or taxing certain rounds of ammunition, can we begin to reduce the threat posed by firearms in the home.•

INTRODUCTION OF S. 2471

• Mr. COHEN. Mr. President, as ranking member of the Subcommittee on Juvenile Justice, I supported the provision in the Senate-passed version of the crime bill authorizing grants for juvenile detention facilities. I was very disappointed when this grant program was eliminated by the conferees and therefore am pleased to join Senator KOHL in introducing the Juvenile Corrections Act of 1994.

This bill will make $772 million available over 5 years for grants to State and local governments to build and operate secure facilities for violent and chronic juvenile offenders. These funds are sorely needed. Unfortunately, violent crime by juveniles is increasing rapidly. In just 7 years, the number of youths arrested for homicide has almost doubled. Some States and municipalities, however, are often ill-equipped to deal with this explosion in violent juvenile crime.

The juvenile justice system was developed, just after the turn of the century, based on the premise that delinquent youths should be treated differently from adults because, due to their age, they were less able to comprehend the gravity of their criminal actions and were more amenable to treatment and rehabilitation than adult criminals. Consequently, the majority of juvenile crimes were not punished severely. Juveniles who committed more serious crimes were placed in residential, or nonsecure detention facilities.

The system in place today is no longer appropriate for the problems we currently see on the streets. We now have 13-, 14-, and 15-year-olds committing cold-blooded murder. The September 28 edition of U.S.A. Today reports the case of Craig Price who by age 15 was convicted of brutally killing 4 people, including an 8- and a 10-year-old. Robert "Yummy" Sandifer, the 11-year-old who gained notoriety a couple of weeks ago after killing a young girl and then being executed by fellow gang members, had a rap sheet with 28 entries at the time of his death.

Our juvenile justice system is not properly equipped to handle the increasing number of individuals such as these, who have become violent criminals at a young age and must be removed from their communities for an extended period of time. This bill seeks to address this shortcoming.

Not only are secure facilities for violent juvenile offenders necessary to protect communities from these dangerous individuals, but they also serve the important function of separating violent youth from others in the juvenile justice system. One of the primary aims of the Juvenile Justice and Delinquency Prevention Act of 1974 was to segregate juvenile offenders from adult criminals so the youth would not be negatively influenced by adults convicted of, or awaiting trial on, serious criminal charges. It is also important to separate youth that have committed minor crimes from violent juvenile offenders so that the time spent in the juvenile justice system is dedicated to rehabilitation and treatment rather than learning more about crime. As a Justice Department official has stated, "we are creating monsters" in some of our juvenile detention facilities. The purpose of this bill is to address this problem by helping States to create separate facilities for violent youth offenders.

Our approach to juvenile justice cannot focus on detention alone. Efforts must be made to provide the counseling and services necessary so, upon release, those who entered a juvenile facility will not present a threat to their communities and will become productive citizens. Consequently, the bill requires each facility funded by a Federal grant to provide educational, vocational, and lifeskills training, substance abuse treatment, and intensive post-release supervision and services.

Although this bill concentrates on detention, we must not forget that delinquency prevention and early, meaningful intervention in the lives of troubled youth is the most effective, and least costly method of combating juvenile crime. Experts estimate that less than 10 percent of youthful offenders are responsible for the most serious juvenile crimes. The juvenile justice system must be able to respond effectively to the needs of the remaining 90 percent of this country's delinquent youth and other at-risk children. This involves successfully preventing at-risk children from becoming tomorrow's generation of career felons by intervening early in their lives. Services such as counseling, vocational training and drug treatment must be made available in all parts of the juvenile justice system. A child should not have to become a violent or chronic criminal before society takes action.

The grants to States and localities provided by this bill would be funded by setting aside 10 percent of the money authorized for prison construction in the recently enacted Violent Crime Prevention and Law Enforcement Act. Given the rapid escalation of juvenile crime, and the difficulties the juvenile justice system faces in dealing with violent youthful offenders, use of these funds to support the construction and staffing of secure facilities for juveniles will make a substantial contribution to the battle against crime.

I commend Senator KOHL for introducing this legislation. The Senator realizes, as do I, that serious juvenile crime has become a significant component of this country's overall crime problem and must be addressed. I urge my colleagues to join us in supporting this legislation.●

GAMBLING IS BAD BET FOR CITY

● Mr. SIMON. Mr. President, a friend of mine from Decatur, IL, Howard Buffett, who at one time chaired the Douglas County Board of Commissioners in Nebraska, has written an article for the Decatur Herald and Review about gambling in Decatur.

I am concerned that the message is going out to Indian reservations, cities, States, and other governmental entities that the only possible way you can balance your budget is move into the area of gambling.

Historically, in our country we have had more than our fair share of abuse in gambling.

I believe we should move carefully in this area and not do harm to the Nation.

I ask to insert the Howard Buffett item from the Decatur Herald and Review into the RECORD at this point.

The article follows:

GAMBLING IS BAD BET FOR CITY

(By Howard G. Buffett)

The last thing Decatur needs is casino gambling. It is a mistake to pursue gambling as part of public policy, and it is a sad day when our government seeks to exploit the weaknesses of its citizens rather than to encourage their strengths.

The claim made by promoters that gambling will support and develop downtown business is a hollow promise. David Hall, Director of Marketing of Hollywood Casino operating in Aurora, was quoted recently as saying, "I don't know if we're really here to increase the business of anyone else."

A professor of economics at the University of Minnesota noted that people spend money on gambling rather than on products or services in the local marketplace. The jobs which are created amount to a management staff for the casino, hardly making up for this loss.

It is the local retailers who lose the day-to-day revenue. Like a vacuum cleaner, the gambling syndicates wire the money out of the community on a daily basis and such communities dry. Take a statement from an Aurora businessman: "The casino is killing the small business in this area, and they claimed it would help us."

The profits from these operations, regardless of the promises made, are not reinvested in the host community. And think about it—riverboat casinos pocket hundreds of millions of dollars. What provides these profits—your savings, your paycheck, your Christmas money? They end up with your cash; you don't.

On top of this lost revenue, the tax incentives, and expenditures of tax money to finance infrastructure needs (such as relocating entire streets) make gambling a bad bet. The extra demand put on other public services is anything but small. Research conducted by former New York Attorney General Robert Abrams revealed that in Atlantic City, the demand for police services rose over 2,000 percent because of the increased crime following legalization of casino gambling.

Gambling also creates the transfer of large sums of cash which can fuel illegal activity. Legal gambling begets illegal gambling; and when gambling debts pile up, so do the problems.

The deck is stacked against Decatur. According to the book, "The Odds on Virtually Anything," the probability of watching a pitcher pitch a perfect game is 260,000 to 1. And the odds against being struck by lightning are 60,944 to 1. But the odds of winning a million dollar jackpot range from 7 million to 14 million to 1. Do you really believe Decatur can win with these odds?

And the idea that gambling is acceptable because those participating are consenting adults is an easy way to deny the responsibility of dealing with the consequences. Consenting adults don't always exercise good judgment. Americans spent more on gambling in 1989 than on shoes, dental care, appliances, travel and health insurance. In addition, gambling is extremely regressive; it is not based on one's ability to pay. The shoes that can't be purchased, the dental care that is put off until another day, and the health insurance which goes unpaid comes from families who sacrifice their basic necessities for an outsider's gain.

Gambling is not just a casual occurrence. A Delaware study reported that as many as 80 percent of compulsive gamblers commit felonies. The American Insurance Institute estimates that as much as 40 percent of the nation's white collar crime is committed by compulsive gamblers. At least seven states that have initiated gambling activities were forced to begin operating treatment programs for compulsive gamblers—funded by gambling proceeds. This is the ultimate hypocrisy.

I've heard that Decatur should pursue a riverboat casino because everyone else is doing it. Apply this same philosophy to raising your children, and take a minute to be honest with yourself. If this argument were presented by your children as justification for involvement in drugs, alcohol, or sex, you know exactly what your reaction would be—"that doesn't make it OK." This decision, because of the negative economic impact and the negative social impact, must be taken as seriously as when you consider your response to your children. They will live with this decision longer than you will.

Finally, don't confuse a gambling establishment with a mall. Unrelated past decisions are irrelevant to this process.

Whether it is keno, lotteries, or riverboat casinos, gambling is gambling; and there is no right way to do what is wrong for this community.●

THE LOBBYING DISCLOSURE ACT, S. 349—CONFERENCE REPORT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report on S. 349, the Lobbying Disclosure Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany S. 349, an act to provide for disclosure of lobbying activities.

The Senate resumed the consideration of the conference report.

CLOTURE MOTION

Mr. FORD. Mr. President, on behalf of the majority leader I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 349, the Lobbying Disclosure Act:

Carl Levin, Daniel K. Akaka, D. Inouye, Byron L. Dorgan, Harry Reid, J. Lieberman, Patty Murray, Dianne Feinstein, Frank R. Lautenberg, Russell D. Feingold, Tom Harkin, Paul Simon, Paul Wellstone, Howard Metzenbaum, Claiborne Pell, Chris Dodd, Herb Kohl.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m., Wednesday, October 5, that following the Prayer, the Journal of proceedings be deemed approved to date and the time for the 2 leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 9:45 a.m., with Senators permitted to speak therein for up to 5 minutes each; with the time until 9:30 a.m., under the control of Senator REID or his designee; and the time from 9:30 a.m. to 9:45 a.m., under the control of Senator WALLOP; that at 9:45 a.m., the Senate resume consideration of the conference report accompanying H.R. 6, that there be 1 hour for debate on the motion to invoke cloture on the conference report accompanying H.R. 6, the elementary and secondary education bill; with the time equally divided and controlled between Senators KENNEDY and COATS or their designees; that at 10:45 a.m., without intervening action, the Senate vote on the motion to invoke cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL WEDNESDAY, OCTOBER 5, 1994, AT 9 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:21 p.m., recessed until Wednesday, October 5, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 4, 1994:

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ALAN J. DIXON, OF ILLINOIS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS, VICE JAMES A. COURTER, TERM EXPIRED.

ALAN J. DIXON, OF ILLINOIS, TO BE CHAIRMAN OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION, VICE JAMES A. COURTER.

NATIONAL MEDIATION BOARD

KENNETH BYRON HIPP, OF HAWAII, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 1997, VICE PATRICK J. CLEARY, RESIGNED.

NUCLEAR REGULATORY COMMISSION

SHIRLEY ANN JACKSON, OF NEW JERSEY, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM OF 5 YEARS EXPIRING JUNE 30, 1999, VICE FORREST J. REMICK, TERM EXPIRED.

SMALL BUSINESS ADMINISTRATION

PHILIP LADER, OF SOUTH CAROLINA, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION, VICE ERSKINE B. BOWLES.

STATE JUSTICE INSTITUTE

WILLIAM M. PAPARIAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995, VICE KEITH MCNAMARA, TERM EXPIRED.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. RONALD V. HITE [redacted]

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM H. FORSTER [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

To be major

AARON DANIEL G., [redacted]
*ABRAMS, ROBERT M., [redacted]
ADAMS, JOSEPH F., [redacted]
ADAMS, LYLE N., [redacted]
ADAMS, PHILLIP G., [redacted]
*ADAMSON, WILLIAM G., [redacted]
*ADDISON, ROBERT L., [redacted]
AGEE, EDWARD E., [redacted]
AGENA, CRAIG J., [redacted]
*AKARD, BRUCE E., [redacted]
AKE, LESA M., [redacted]
AKE, ROBERT Q., [redacted]
AKIN, GEORGE G., [redacted]
*ALABRE, DANIEL A., [redacted]
*ALBANEZE, MICHAEL A., [redacted]
ALBERTSON, SIBYLLA, [redacted]
*ALLEN, GEORGE A., [redacted]
ALLGROVE, DONALD C., [redacted]
ALONSO, VINCENT E., [redacted]
*ALVARADO, ANNA E., [redacted]
ALVAREZ, JOSEPH H., [redacted]
AMMON, JOSEPH C., [redacted]
AMOS, VINCENT A., [redacted]
ANDERSEN, WILLIAM R., [redacted]
ANDERSON, AMANDA L., [redacted]
*ANDERSON, BRIAN H., [redacted]
*ANDERSON, DEREK L., [redacted]
*ANDERSON, DONALD E., [redacted]
ANDERSON, JOHN P., [redacted]
*ANDERSON, LONNY A., [redacted]
*ANDERSON, MARK A., [redacted]
*ANDERSON, THOMAS R., [redacted]
*ANDERSON, TOLANO D., [redacted]
ANDUJAR, ROBERTO C., [redacted]
*ANGLES, WALTER K., [redacted]
*ANNINOS, DIONYSIOS, [redacted]
ANTHONY, HODGES JR., [redacted]
*ARCHER, JOHN M., [redacted]
ARCURI, ANTHONY P., [redacted]
ARIAIL, THOMAS W., [redacted]
ARMITSTEAD, ALAN J., [redacted]
*ARMSTRONG, JOEL R., [redacted]
*ARMSTRONG, NATALIA, [redacted]
*ARNOLD, RANDALL T., [redacted]
ARTERBURN, DAVID R., [redacted]
ARTMAN, SPENCER Q., [redacted]
ASHCRAFT, DANIEL L., [redacted]
ASHWORTH, JAMES S., [redacted]
ATKINSON, GEORGE W., [redacted]
AUSTIN, WAYNE D., [redacted]
*AVANTS, JAMES N., [redacted]
*AVEN, KEVIN D., [redacted]
*AYER, RICK E., [redacted]
*BAGNATI, DAVID P., [redacted]
*BAHAM, RONALD E., [redacted]
BAILEY, CHRISTOPHER, [redacted]
BAINES, ANTONIO R., [redacted]
BAKER, BRIAN L., [redacted]
*BAKER, CHARLES G., [redacted]
BAKER, DAVID D., [redacted]
*BAKER, MICHAEL J., [redacted]
*BAKER, VERONICA L., [redacted]
BALL, DANIEL L., [redacted]
*BARBER, WILLIAM B., [redacted]
BARLOW, DAVID A., [redacted]
BARNABY, DAVID S., [redacted]
BARR, MATTHEW J., [redacted]
BARRACK, GREGORY V., [redacted]
BARRETTE, DANA P., [redacted]
BARRIAGE, WILLIAM P., [redacted]
*BARROWMAN, RICHARD, [redacted]
*BARRY, KERRY M., [redacted]
*BARTHOLF, GORDON H., [redacted]
BASSANI, JOSEPH A., [redacted]
*BATCHELOR, PAUL D., [redacted]
*BATEMAN, DENNIS L., [redacted]
*BATTLE, JEFFREY C., [redacted]
BATTLE, OSCAR C., [redacted]
*BAX, KEITH G., [redacted]
*BAYER, CRAIG S., [redacted]
BAYHA, JAMES M., [redacted]
*BEACH, SCOTT N., [redacted]
BEAM, MARY J., [redacted]
*BEARD, JOANNE L., [redacted]
*BECK, JAMES R., [redacted]
BECKER, JOHN A., [redacted]
BECKINGER, RICHARD, [redacted]
*BECKMANN, RANDALL G., [redacted]
*BEERMAN, KEVIN R., [redacted]
BELL, ANTHONY E., [redacted]
BELL, CRAIG A., [redacted]
BELLI, BRIAN R., [redacted]
*BELLIZAN, JOHN L., [redacted]
BELVA, DAVID G., [redacted]
*BENDER, ALBERT A., [redacted]
BENEVIDES, RUI C., [redacted]
*BENOIT, PETER B., [redacted]
BENTLEY, DOUGLAS L., [redacted]
*BENTON, WILLIAM L., [redacted]
*BENYA, CHRISTOPHER, [redacted]
BEQUETTE, BRYAN W., [redacted]
*BERDINE, DANIEL M., [redacted]
*BERRIER, SCOTT D., [redacted]
BERTOCCI, JEFFREY D., [redacted]
BESCH, ERIC C., [redacted]
BETHEA, MEAREN C., [redacted]
BETHEL, ANTOINE B., [redacted]
*BICKELL, SCOTT E., [redacted]
BIEVER, JACOB D., [redacted]
BIGELOW, MICHAEL E., [redacted]
BINFORD, RANDOLPH R., [redacted]
BIRD, JOHN J., [redacted]
BIRDWELL, BRIAN D., [redacted]
*BIRKETT, WILLIAM M., [redacted]
BISHOP, DONALD L., [redacted]
BISHOP, KEVIN R., [redacted]
BLACKBURN, JOSEPH W., [redacted]
*BLACKMAN, JOERLE B., [redacted]
*BLACKWELL, RICHARD, [redacted]
BLAIN, DAVID L., [redacted]
*BLANCHARD, GREGORY, [redacted]
BLAND, DEAN F., [redacted]
BLAND, RANDALL W., [redacted]
BLAS, BENJAMIN A., [redacted]
BLECKLEY, DENNIS R., [redacted]
*BLEEKER, SHAWN C., [redacted]
*BLOOM, DANIEL L., JR., [redacted]
BLOSE, DAVID L., [redacted]
*BLUGIS, ADAM A., [redacted]
BOARMAN, JOSEPH C., [redacted]
BOBECK, MICHAEL E., [redacted]
*BOISSEAU, GREGORY P., [redacted]
*BOLICK, STEVE C., [redacted]
BOLINGER, MICHELE P., [redacted]
BOLLER, MICHAEL L., [redacted]
BONANO, JAIME L., [redacted]

BONE, THOMAS R. [redacted]
*BONNER, CONRAD H. [redacted]
BOOTH, EDWIN R. [redacted]
*BOSWORTH, ROBERT O. [redacted]
BOWES, ANDREW W. [redacted]
*BOXLEY, LLOYD L. [redacted]
BOYD, CURTIS D. [redacted]
BOYD, PETER B. [redacted]
BOYDSTON, STEVE C. [redacted]
BOYKIN, DENNIS B. [redacted]
BOYLAN, STEVEN A. [redacted]
*BRACKETT, JOHN C. [redacted]
BRADDOCK, DAVID M. [redacted]
BRADIN, JAMES W. [redacted]
BRADIN, STUART W. [redacted]
BRADY, CHERYL D. [redacted]
*BRANNOCK, ROBERT H. [redacted]
BRASSEUR, BARRY A. [redacted]
*BRAUN, LARS E. [redacted]
BREIDENSTINE, JOHN [redacted]
BRENDLER, JOSEPH A. [redacted]
BRETTMANN, MICHAEL [redacted]
BREW, THOMAS R. [redacted]
*BREWER, CHRISTOPHER [redacted]
BREWER, ERWIN D. [redacted]
BRICKER, PAUL W. [redacted]
BRIMMER, DOUGLAS L. [redacted]
*BRINDLE, SAMUEL [redacted]
*BRINKLEY, WILLIAM D. [redacted]
*BROCK, EDWARD J. [redacted]
*BROKKE, MERVIN E. [redacted]
*BROOKE, DARREN G. [redacted]
BROOKS, WILLIAM T. [redacted]
*BROUGHTON, DEBORAH [redacted]
BROWN, BOBBY B. [redacted]
BROWN, CATHLEEN M. [redacted]
*BROWN, DAVID A. [redacted]
BROWN, DAVID A. [redacted]
*BROWN, DAVID K. [redacted]
BROWN, DEBORAH L. [redacted]
BROWN, JAY P. [redacted]
BROWN, JEFFERY D. [redacted]
BROWN, JEFFREY D. [redacted]
*BROWN, JOEL P. [redacted]
BROWN, JOHN W. [redacted]
BROWN, KENNETH [redacted]
*BROWN, KEVIN S. [redacted]
BROWN, MARK E. [redacted]
BROWN, REGINALD [redacted]
BROWN, RICHARD L. [redacted]
*BROWN, STANLEY M. [redacted]
BROWN, STEVEN K. [redacted]
BRUCH, STEPHEN E. [redacted]
*BRUCKER, DUANE E. [redacted]
*BRUNDAGE, JAMES E. [redacted]
BRUNK, ROBERT E. [redacted]
BUBNICK, WAYNE E. [redacted]
*BUCCIARELLI, SHARON [redacted]
*BUCHALSKI, THOMAS J. [redacted]
BUCHE, CYNTHIA J. [redacted]
BUCHE, JOSEPH P. [redacted]
BUCHHOLZ, HARALD C. [redacted]
*BUCKNER, EDWARD D. [redacted]
*BUDZYNA, THOMAS E. [redacted]
*BUHMANN, SCOTT H. [redacted]
*BULKEN, WENDY S. [redacted]
BULLIMORE, STEVEN L. [redacted]
BURCALOW, JAMES M. [redacted]
*BURCH, MARCUS D. [redacted]
BURDEN, CHARLES E. [redacted]
BURGESS, DESIREE [redacted]
*BURKE, GWYNNE T. [redacted]
BURKE, KYLE T. [redacted]
*BURKE, RODERICK [redacted]
BURKE, THIMOTHY A. [redacted]
BURNS, ROBERT A. [redacted]
BURT, BARBARA L. [redacted]
BUTERA, VICTOR R. [redacted]
BUTLER, BRIAN A. [redacted]
BUTLER, PAMELA L. [redacted]
BYNUM, MARKUS S. [redacted]
*CAHIR, JOHN A. [redacted]
CALHOUN, CARL R. [redacted]
CALLAHAN, SEAN M. [redacted]
CALVERT, MARK E. [redacted]
CAMPBELL, JAMES M. [redacted]
CAMPBELL, JOHN S. [redacted]
CAMPBELL, JON W. [redacted]
CAMPBELL, KELLY N. [redacted]
CAMPBELL, LARRY W. [redacted]
*CAMPBELL, ROBERT J. [redacted]
*CAMPBELL, ROBERT S. [redacted]
*CAMPS, DAVID C. [redacted]
CANTRELL, ROY R. [redacted]
CANTWELL, DENNIS M. [redacted]
CANTWELL, GREGORY L. [redacted]
CAPALBO, STEVEN M. [redacted]
*CAPELO, TRINIDAD F. [redacted]
CARACCILO, DOMINIC [redacted]
*CARANIKAS, JAMES C. [redacted]
CARDWELL, JOHN E. [redacted]
*CAREY, MARK G. [redacted]
*CARINO, ROLAND P. [redacted]
CARL, ROBERT K. [redacted]
*CARLISLE, MATTHEW B. [redacted]
*CARLO, ELIEZER B. [redacted]
*CARLSON, SCOTT M. [redacted]
CARPENTER, ROBERT C. [redacted]
CARRINGTON, JOHN C. [redacted]
CARROLL, EDWARD L. [redacted]
*CARSON, CRAIG H. [redacted]
*CARTE, JENNINGS C. [redacted]
CARTER, DONALD K. [redacted]
*CARTER, MARLENE R. [redacted]
*CARTER, VICTOR T. [redacted]
CASCIARO, MICHAEL A. [redacted]
CASMUS, SAMUEL W. [redacted]
CASSIDY, DANIEL L. [redacted]
*CASTLEBERRY, ALAN W. [redacted]
CELESTAN, GREGORY J. [redacted]
CHAMBERLAIN, SCOTT [redacted]
*CHANDLER, GEORGE F. [redacted]
CHAPMAN, THOMAS C. [redacted]
CHAR, CHESTER A. [redacted]
CHARLTON, JOHN W. [redacted]
*CHASE, STEVEN M. [redacted]
*CHASE, VANCE A. [redacted]
CHASTAIN, JERRY S. [redacted]
*CHAVIS, DARYL A. [redacted]
CHEATHAM, ANTOINE [redacted]
CHENEY, DAVID C. [redacted]
CHESNEY, J.K. [redacted]
*CHESS, BARTON D. [redacted]
*CHESTANG, CARLEN J. [redacted]
CHILDERS, WILLIAM A. [redacted]
*CHOPPA, RICHARD C. [redacted]
CHRISTENSEN, JONATH [redacted]
CHRISTIAN, MICHAEL [redacted]
*CHRISTIAN, PATRICK [redacted]
CHRISTIAN, STEPHEN [redacted]
CHRISTIE, KEVIN A. [redacted]
CHRISTINO, ANTHONY [redacted]
CHRISTOPHER, SCOTT [redacted]
CHUBB, DEBORAH M. [redacted]
CIAMPINI, JOSEPH [redacted]
*CINTRON, NORBERTO R. [redacted]
CIVILS, TIMOTHY H. [redacted]
*CLANTON, JOHN C. [redacted]
CLARK, HARVEY E. [redacted]
CLARK, MICHAEL J. [redacted]
CLARKE, RICHARD D. [redacted]
CLARY, FERALD A. [redacted]
CLAY, TROY A. [redacted]
*CLEAR, SAMUEL [redacted]
*CLEAVER, MARK K. [redacted]
*CLEAVER, TRACY A. [redacted]
CLEAVES, JON S. [redacted]
CLEGG, JOSEPH F. [redacted]
CLEGHORN, JEFFERY M. [redacted]
*CLOUM, STEPHEN L. [redacted]
COHEN, HARRY L. [redacted]
*COLE, NATALIE M. [redacted]
*COLE, RICHARD J. [redacted]
*COLE, ROBERT D. [redacted]
*COLEMAN, ANTONIO S. [redacted]
COLEMAN, BRIAN F. [redacted]
*COLES, RICHARD S. [redacted]
COLES, STEVEN A. [redacted]
COLLAR, STEPHEN C. [redacted]
*COLLINS, DAVID G. [redacted]
COLLINS, ETHAN [redacted]
COMBS, BARTON G. [redacted]
*COMBS, BRADFORD M. [redacted]
*COMER, CHARLES K. [redacted]
CONCEPCION, JORGE R. [redacted]
CONEY, JACKLYN [redacted]
*CONLON, WILLIAM R. [redacted]
CONNER, CHRISTOPHER [redacted]
CONNORS, LYNN S. [redacted]
CONNORS, THOMAS H. [redacted]
*CONOVER, JEFFREY O. [redacted]
COONEN, STEPHEN J. [redacted]
COOPER, WILLIAMS B. [redacted]
COPLEN, LORELEI E. [redacted]
CORD, REA D. [redacted]
*CORNELL, THOMAS F. [redacted]
COSBY, WILLIAM N. [redacted]
COSTA, CHRISTOPHER [redacted]
COSTELLO, MARK A. [redacted]
*COUGHLIN, ARTHUR C. [redacted]
*COVINGTON, THOMAS R. [redacted]
*COWAN, MICHAEL A. [redacted]
*COWAN, THOMAS M. [redacted]
*COX, JOHN A. [redacted]
COZZENS, DEIRDRE P. [redacted]
*CRAWLEY, GREGORY W. [redacted]
CREWS, FLETCHER A. [redacted]
*CRINER, ERIC R. [redacted]
CROTTS, DERIK W. [redacted]
CROUCH, THOMAS W. [redacted]
CROUSE, NANCY L. [redacted]
CROWE, STEVEN L. [redacted]
CUELLO, VENTURA A. [redacted]
CUERINGTON, ANDRE M. [redacted]
CULBRETH, WILLIAM M. [redacted]
*CUMMINGS, JACKIE D. [redacted]
CUNNANE, LAUREL D. [redacted]
*CUNNINGHAM, ELLIOUT [redacted]
CUNNINGHAM, LOU A. [redacted]
*CURRAN, JOHN P. [redacted]
*CURTIS, ADRIAN B. [redacted]
*CUSACK, KENT T. [redacted]
CUTLER, CHARLES T. [redacted]
CYR, MICHAEL P. [redacted]
*DALLESASSE, SCOTT A. [redacted]
*DALPONTE, JAMES S. [redacted]
DAMBROSIO, JOHN [redacted]
DAMON, STEVEN P. [redacted]
DAMPIER, DAVID A. [redacted]
*DANIELSEN, SUSAN C. [redacted]
DANSBURY, MATTHEW J. [redacted]
*DAOUST, DANIEL C. [redacted]
*DARBY, HARRY B. [redacted]
DARDEN, CHARLES R. [redacted]
DARROW, KEITH R. [redacted]
*DARVILLE, RODNEY T. [redacted]
DAUM, RICHARD S. [redacted]
DAVIE, GERALD S. [redacted]
DAVIS, ALEXANDER D. [redacted]
DAVIS, FORREST L. [redacted]
DAVIS, JOHN H. [redacted]
*DAVIS, JON M. [redacted]
*DAVIS, MICHAEL M. [redacted]
DAVIS, PAUL T. [redacted]
DAVIS, REX A. [redacted]
*DAVIS, ROBERT T. [redacted]
*DEAL, ANTHONY P. [redacted]
DEAL, CHARLES M. [redacted]
DEAS, THEOPIA A. [redacted]
*DEBRULER, DALE E. [redacted]
DECKER, JEFFERY F. [redacted]
DEGROAT, ARTHUR S. [redacted]
*DEJONG, RONALD J. [redacted]
DELUCA, RALPH C. [redacted]
DEMYANOVICH, JAMES [redacted]
*DENEAL, SUZANNE M. [redacted]
DENNEY, DANNY S. [redacted]
DEOLIVEIRA, MARCUS [redacted]
DESROSIER, THOMAS J. [redacted]
DEWEY, JOHN K. [redacted]
*DEYESO, ROBERT L. [redacted]
*DIAS, SCOTT J. [redacted]
DICK, BRADLEY C. [redacted]
DICKENS, CHAILENDRE [redacted]
DICKENS, MARK A. [redacted]
DICKEY, CLIFTON L. [redacted]
*DICKINSON, KELLY J. [redacted]
*DIETZ, JAMES E. [redacted]
*DILLON, JAMES R. [redacted]
DILLOW, DANIEL J. [redacted]
*DINGLE, GWENDOLYN O. [redacted]
DIRIGO, STEPHEN E. [redacted]
DOANE, DAVID B. [redacted]
DODGE, GREGORY D. [redacted]
DODGE, WILLIAM H. [redacted]
DOLAN, TERRANCE J. [redacted]
DOLAN, WILLIAM T. [redacted]
DOLGOFF, SCOTT J. [redacted]
*DOMINIC, CARL [redacted]
DONNELLY, THOMAS G. [redacted]
DONOVAN, KARLA M. [redacted]
DONOVAN, MICHAEL T. [redacted]
*DORMAN, JOHN P. [redacted]
DOUGHERTY, JOHN M. [redacted]
DOUGLAS, JAMES L. [redacted]
DOUVILLE, JEFFREY M. [redacted]
DOWD, JOHN F. [redacted]
*DOWDY, BRUCE P. [redacted]
*DOWDY, JAMES D. [redacted]
DOWDY, MICHAEL P. [redacted]
DRAIN, DEBORAH R. [redacted]
*DREISBACH, GREG W. [redacted]
*DRUMHELLER, MICHAEL [redacted]
*DUARTE, JEFFERY J. [redacted]
DUDDLESTON, WILLIAM [redacted]
DUFF, MURRAY J. [redacted]
DUNAWAY, JOE D. [redacted]
DUNAWAY, ROBERT L. [redacted]
DUNCAN, FRANKLIN D. [redacted]
*DUNNAWAY, RICKY [redacted]
DURTSCHI, MICHAEL S. [redacted]
*DUVAL, CURTIS P. [redacted]
DWORAK, DAVID D. [redacted]
*DYE, ROBERT E. [redacted]
DYEKMAN, GREGORY J. [redacted]
DYER, CHARLES B. [redacted]
DYESS, JACKIE L. [redacted]
EARL, ARTHUR J. [redacted]
EBEY, KURT A. [redacted]
EDGREN, MARK G. [redacted]
EDMONDS, SHARON R. [redacted]
*EDWARDS, DWAYNE A. [redacted]
EDWARDS, KEITH R. [redacted]
EDWARDS, MARK H. [redacted]
*EGGERS, MICHAEL T. [redacted]
*EIDSON, EDWARD H. [redacted]
EISEMANN, ANDREW R. [redacted]
EISIMINGER, THOMAS [redacted]
*ELLINGTON, MARC B. [redacted]
ELLINGTON, MARK T. [redacted]
*ELLIOTT, KENT M. [redacted]
ELLIOTT, KEVIN F. [redacted]
ELLIOTT, ROBERT H. [redacted]
ELLIS, CARL M. [redacted]
ENOCH, DANIEL M. [redacted]
*ENRIGHT, KEVIN W. [redacted]
*ENSOR, JOHN E. [redacted]
ERCKENBRACK, ADRIAN [redacted]
ERICKSON, IAN P. [redacted]
*ERNYEI, MARK A. [redacted]
ERRICKSON, JON A. [redacted]
*EVANS, EARNEST L. [redacted]
EVANS, RICHARD A. [redacted]
EVANS, SAMUEL S. [redacted]
EVANS, THOMAS H. [redacted]
EVARO, VICTORE J. [redacted]
EVERSON, BENJAMIN A. [redacted]
FAGUNDES, DANIEL J. [redacted]
*FAIN, JAMES F. [redacted]
*FAIR, EDWARD L. [redacted]
*FALKENSTEIN, ROBERT [redacted]
FANCHER, DANIEL M. [redacted]
*FARQUHAR, BARRY K. [redacted]
*FARRAR, MARK A. [redacted]
FARRINGTON, JESSIE [redacted]
FASS, THOMAS H. [redacted]

FAULKNER, DAVID J. [redacted]
FAULKNER, JAMES R. [redacted]
*FEARING, JEFFREY A. [redacted]
*FEARING, MICHAEL D. [redacted]
FEDORS, KURT W. [redacted]
*FENZEL, JOHN, III [redacted]
FERM, MITCHELL R. [redacted]
FERRELL, TERRY R. [redacted]
FESSENDEN, ALAN D. [redacted]
FETTERMAN, PATRICK [redacted]
*FIACCO, MICHAEL M. [redacted]
FIELDS, GREGORY M. [redacted]
*FINKELSTEIN, MICHAE [redacted]
*FINLEY, ALFONSO J. [redacted]
FINLEY, CRAIG A. [redacted]
FIRLIE, MICHAEL E. [redacted]
*FISCHER, CATHERINE [redacted]
*FISCHER, LINDA A. [redacted]
FISHER, ANTHONY P. [redacted]
*FISHER, WEBSTER M. [redacted]
*FITZGERALD, HERMAN [redacted]
FLANIGAN, WILLIAM S. [redacted]
FLEISCHER, JOHN A. [redacted]
FLEISCHNER, JON E. [redacted]
FLEMING, DEBORAH A. [redacted]
FLEMING, GREGORY R. [redacted]
*FLEMING, JIMMY L. [redacted]
FLETCHER, ANDRE Q. [redacted]
*FLORENCE, LISHA T. [redacted]
*FLORESCA, MICHAEL B. [redacted]
*FLORO, BRETT T. [redacted]
FLOYD, JAMES L. [redacted]
FLOYD, RANDY [redacted]
FLYNN, MICHAEL J. [redacted]
FORBES, GARY L. [redacted]
*FORD, FRANKLIN D. [redacted]
FORD, GREGORY S. [redacted]
*FORD, JON A. [redacted]
*FORD, SAMUEL J. [redacted]
*FORD, WILLIAM M. [redacted]
FOREMAN, BRUCE C. [redacted]
*FORREST, MICHAEL P. [redacted]
FORSHEE, CHARLES E. [redacted]
*FORTI, LARRY F. [redacted]
FORTIER, NORBERT H. [redacted]
FOSTER, ANTONIO W. [redacted]
*FOSTER, GERI L. [redacted]
*FOSTER, PATRICK W. [redacted]
FOUNTAIN, DARRELL D. [redacted]
*FOX, JOSEPH B. [redacted]
FOX, MARK D. [redacted]
FOX, ROBERT W. [redacted]
FOX, WALTER L. [redacted]
FRALEY, MICHELLE M. [redacted]
FRANCHY, JOHN W. [redacted]
FRANKLIN, LARRY [redacted]
*FRANKS, BARRY K. [redacted]
FREDENBERG, JOHN E. [redacted]
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TERRY, CRAIG E., [redacted]
*TEWKSBURY, DENNIS D., [redacted]
THOMAS, BRYAN K., [redacted]
THOMAS, JEROME E., [redacted]
*THOMAS, KEN A., [redacted]
*THOMAS, SCOTT D., [redacted]
*THOMPSON, BURDETT K., [redacted]
*THOMPSON, DENNIS M., [redacted]
*THOMPSON, HERBERT D., [redacted]
*THOMPSON, KRISTIAN, [redacted]
THOMPSON, LEONHARD, [redacted]
*THOMPSON, MARK A., [redacted]
*THOMPSON, RONALD D., [redacted]
TIBBETTS, JEANNIE L. [redacted]
TIERNEY, JOHN R., [redacted]
TIGER, BLAIR A., [redacted]
TIMPANY, ROBERT G., [redacted]
TIPTON, FRANKLIN J., [redacted]
TKACS, DANE S., [redacted]
TOBIN, VINCENT M., [redacted]
*TODD, JAMES F., [redacted]
TOLLISON, BILLY G., [redacted]
*TOLSON, WILLIAMS E., [redacted]
TONE, CHRISTOPHER, J., [redacted]
*TORO, JUAN E., [redacted]
TORRENCE, CURTIS L., [redacted]
TORRENS, JOSE, [redacted]
TORTORA, ANIELLO L., [redacted]
TRACY, JAMES M., [redacted]
*TRACY, THOMAS B., [redacted]
*TREESE, DAVID W., [redacted]
*TRELEAVEN, DAVID L. [redacted]
*TRIPPON, JOHN M., [redacted]
TUBELL, WALLACE J., [redacted]
TUNNELL, HARRY D., [redacted]
*TURNER, CLARENCE D., [redacted]
*TURNER, MARK A., [redacted]
TURNER, MARK P., [redacted]
TURNER, MICHAEL W., [redacted]
TWITCHELL, RANDALL, [redacted]
TWITTY, STEPHEN M., [redacted]
TYRA, THOMAS E., [redacted]
ULSES, ROBERT J., [redacted]
UNDERHILL, JEFFERY [redacted]
UNERWOOD, STEWART, [redacted]
*UTNIK, CATHERINE F., [redacted]
VAGLIA, JAMES A., [redacted]
*VALENTIN, AUGUSTO C., [redacted]
VALLANDINGHAM, KEVI, [redacted]
VANALSTYNE, TOMAS, [redacted]
*VANBEBBER, CHARLES, [redacted]
*VANDENBERG, BARRY S., [redacted]
*VANDEVEIRE, STEPHAN, [redacted]
*VANNUYS, WILLIAM L., [redacted]
VANRASSEN, MICHAEL, [redacted]
*VANVLIET, ERIC N., [redacted]
*VARGO BRUCE E., [redacted]
*VAUGHAN, DAVID E., [redacted]
VAUGHT, BRIAN K., [redacted]
VEILLEUX, PAUL C., [redacted]
VERGARA, MIGUEL, III, [redacted]
VERNON, JOHN D., [redacted]
VERPOORTEN, DENNIS, [redacted]
VILLANUEVA, FRANCIS, [redacted]
VINES, BRIAN R., [redacted]
*VINSON, LEE R., [redacted]
VISSER, VANCE P., [redacted]
VLAHOS, KRISTIN B., [redacted]
VOLESKY, GARY J., [redacted]
VOLLMECKE, KIRK F., [redacted]
VTIPIL, DONALD P., [redacted]
WADE, BRIAN D., [redacted]
WAGENER, GREGORY W., [redacted]
*WALDEN, RODNEY F., [redacted]
WALKER, STEPHEN E., [redacted]
WALLA, MICHELLE L., [redacted]
WALLER, KEVIN L., [redacted]
*WALLER, PRISCILLA C., [redacted]
*WALLEY, KEITH W., [redacted]
*WALSH, DAMON T., [redacted]
WALSH, PATRICK J., [redacted]
WALSH, SHAWN P., [redacted]
WALTERS, CRAIG S., [redacted]
WALTZ, ALAN M., [redacted]
*WANDELL, ROBERT A., [redacted]
WARBURG, ROBERT ., [redacted]
*WARD, CLEMMIE L., [redacted]
WARD, WARD D., [redacted]
*WARE, STEVEN A., [redacted]
WARREN, MATTHEW, [redacted]
WARREN, MICHAEL C., [redacted]
WASHINGTON, HODGES, [redacted]
WASHINGTON, PAUL C., [redacted]
*WASHINGTON, TANIA M., [redacted]
WEAVER, MICHAEL S., [redacted]
WEBB, CELIA, [redacted]
WEBB, GRANT A., [redacted]
WEBB, THOMAS D., [redacted]
WEIGLE, BRETT D., [redacted]
WEISSMAN, VANESSA M., [redacted]
WELCH, MARK A., [redacted]
WELCH, ROBERT P., [redacted]
WEPKING, BRIAN C., [redacted]
WERTHMAN, ROBERT W., [redacted]
WEST, ALLEN B., [redacted]
*WEST, BRIAN F., [redacted]
WESTLEY, SCOTT A. [redacted]
WESTON, DAVID C., [redacted]
WHALEY, JAMES E., [redacted]
WHALING, DAVID B., [redacted]
WHEATLEY, KEVIN L, [redacted]
*WHITE, CHRISTOPHER, [redacted]
WHITE, DANIEL J., [redacted]
WHITE, RANDALL S., [redacted]
WHITE, RICHARD B., [redacted]
WHITE, RONALD O., [redacted]
WHITE, SAMUEL R., [redacted]
*WHITEFIELD, JOHN B., [redacted]
*WICHERSKI, TERRENCE, [redacted]
WICKENHEISER, STEVE, [redacted]
*WIERSEMA, RICHARD E., [redacted]
*WIGGINS, JAMES T., [redacted]
*WILD, DAVID J., [redacted]
WILD, DOUGLAS A., [redacted]
*WILEY, MELIA A., [redacted]
WILFONG, TERRY L., [redacted]
*WILK, CARL A., [redacted]
*WILK, DAVID L., [redacted]
*WILKERSON, DARRYL A., [redacted]
*WILLIAMS, ANTHONY R., [redacted]
*WILLIAMS, BENNIE, JR., [redacted]
WILLIAMS, DAVID E., [redacted]
WILLIAMS, DWAYNE T., [redacted]
*WILLIAMS, JEFFERY [redacted]
WILLIAMS, JOHN C., [redacted]
*WILLIAMS, JOHN D., [redacted]
*WILLIAMS, LISBON J., [redacted]
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WILLIAMS, MICHAEL C., [redacted]
WILLIAMS, MICHAEL S., [redacted]
*WILLIAMS, OLIVIA R., [redacted]
*WILLIAMS, TIMOTHY R., [redacted]
WILLIFORD, WILLIAM, [redacted]
WILLS, MICHAEL D., [redacted]
WILSON, DAVID S., [redacted]
WILSON, EMMA C., [redacted]
*WILSON, KEITH A., [redacted]
WILSON, MARK L., [redacted]
WILSON, NEIL F., [redacted]
*WILSON, ROGER A., [redacted]
WINK, RICHARD C., [redacted]
WINNIE, CHRISTOPHER, [redacted]
WINTERS, BRIAN C., [redacted]
*WIRICK, JOHN C., [redacted]
WISE, GEORGE R., [redacted]
WISE, GREGORY A., [redacted]
WISE, JAMES H., [redacted]
WISECARVER, DAVID A., [redacted]
WISEMAN, WILLIAM T., [redacted]
WISNIEWSKI, SHARON, [redacted]
WITT, JEFFREY S. [redacted]
WOFFORD, JOEL, [redacted]
*WOJTALEWICZ, CLIFFO, [redacted]
*WOLF, FREDERICK S., [redacted]
WOOD, JAMES T., [redacted]
WOOD, JEFFREY G., [redacted]
*WOOD, WARD W., [redacted]
*WOOD, WILLIAM W., [redacted]
*WOODARD, GEORGE E., [redacted]
WOODS, KEVIN M., [redacted]
WOODS, STEVEN J., [redacted]
WOODS, TIMOTHY C., [redacted]
*WOOLWINE, STEPHEN M., [redacted]
*WORLEY, KENNETH E., [redacted]
WRIGHT, CHRISTOPHER, [redacted]
WRIGHT, MILLICENT J., [redacted]
*WRIGHT, OLIVER C., [redacted]
WRIGHT, VENESSA J., [redacted]
*WRIGHTEN, LYNDON F., [redacted]
*WRONKO, DALE L., [redacted]
*WUERZ, RANDY F., [redacted]
WUESTNER, SCOTT G., [redacted]
YANTIS, TIMOTHY R., [redacted]
YODER, KEITH R., [redacted]
YORK, MICHAEL J., [redacted]
*YOUMANS, JAMIE L., [redacted]
YOUNG, JEFFREY K., [redacted]
*YOUNG, KENNETH A., [redacted]
YOUNG, MARK A., [redacted]
ZEHNDER, DANIEL J., [redacted]
*ZELTNER, STEPHEN R., [redacted]
ZEMBRZUSKI, MICHAEL, [redacted]
*ZENDT, CHRISTOPHER, [redacted]
ZICCARELLO, KELLY A., [redacted]
ZIMMER, DARREN B., [redacted]
ZIMMERMAN, MATTHEW, [redacted]
*ZIZIK, JOHN W., [redacted]
*ZOOK, AARON M., [redacted]
*ZUBA, JAMES M., [redacted]
ZUNDE, AIDIS L., [redacted]
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CONFIRMATIONS

Executive nominations confirmed by the Senate October 4, 1994:

FEDERAL DEPOSIT INSURANCE CORPORATION

RICKI RHODARMER TIGERT, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF 6 YEARS.

RICKI RHODARMER TIGERT, OF TENNESSEE, TO BE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF 5 YEARS.

ANDREW C. HOVE, JR., OF NEBRASKA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF 6 YEARS.

ANDREW C. HOVE, JR., OF NEBRASKA, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

CORPORATION FOR PUBLIC BROADCASTING

ALAN SAGNER, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 31, 1998.

FEDERAL AGRICULTURAL MORTGAGE CORPORATION

MARILYN FAE PETERS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

CLYDE ARLIE WHEELER, JR., OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

COMMODITY FUTURES TRADING COMMISSION

SHEILA C. BAIR, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 1995.

MARY L. SCHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1999.

MARY L. SCHAPIRO, OF THE DISTRICT OF COLUMBIA, TO BE CHAIRMAN OF THE COMMODITY FUTURES TRADING COMMISSION.

FARM CREDIT ADMINISTRATION

DOYLE COOK, OF WASHINGTON, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR THE TERM EXPIRING MAY 21, 1998.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

ALAN A. DIAMONSTEIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS FOR THE TERM EXPIRING OCTOBER 27, 1995.

DEPARTMENT OF THE TREASURY

STUART L. BROWN, OF MARYLAND, TO BE AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY (CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE).

UNITED STATES INFORMATION AGENCY

ROBERT B. FULTON, OF PENNSYLVANIA, TO BE AN ASSOCIATE DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.

DEPARTMENT OF AGRICULTURE

ROGER C. VIADERO, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF AGRICULTURE.

DEPARTMENT OF STATE

DAVID GEORGE NEWTON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF YEMEN.

ROBERT EDWARD SERVICE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PARAGUAY.

PETER JON DE VOS, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COSTA RICA.

GABRIEL GUERRA-MONDRAGON, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

JEROME GARY COOPER, OF ALABAMA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAMAICA.

GERALDINE A. FERRARO, OF NEW YORK, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE HUMAN RIGHTS COMMISSION OF THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

VONYA B. MCCANN, OF MARYLAND, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY.

MADELEINE KORBEL ALBRIGHT, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

EDWARD WILLIAM GNEHM, JR., OF GEORGIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

DAVID ELIAS BIRENBAUM, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

KARL FREDERICK INDERFURTH, OF NORTH CAROLINA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

VICTOR MARRERO, OF NEW YORK, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

PATRICK J. LEAHY, OF VERMONT, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

FRANK H. MURKOWSKI, OF ALASKA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-NINTH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

AFRICAN DEVELOPMENT FOUNDATION

CECIL JAMES BANKS, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING NOVEMBER 13, 1995.

INTER-AMERICAN FOUNDATION

PATRICIA HILL WILLIAMS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2000.

UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY

WILLIAM HYBL, OF COLORADO, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 1997. (REAPPOINTMENT.)

WALTER R. ROBERTS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING APRIL 6, 1997.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

H. LEE SAROKIN, OF NEW JERSEY, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT.

FEDERAL EMERGENCY MANAGEMENT AGENCY

HARVEY G. RYLAND, OF FLORIDA, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

BARBARA BLUM, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR THE REMAINDER OF THE TERM EXPIRING MAY 19, 1996.

LA DONNA HARRIS, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2000.

LOREN KIEVE, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR THE REMAINDER OF THE TERM EXPIRING MAY 19, 1996.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING THEODORE ALLEGRA, AND ENDING MARY ELIZABETH SWOPE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 22, 1994.

FOREIGN SERVICE NOMINATIONS BEGINNING GEORGE E. MOOSE, AND ENDING EDWARD B. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 22, 1994.

FOREIGN SERVICE NOMINATIONS BEGINNING CHARLES E. COSTELLO, AND ENDING EUGENE MORRIS, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 22, 1994.

FOREIGN SERVICE NOMINATIONS BEGINNING THOMAS J. QUINN, JR., AND ENDING THOMAS L. RANDALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 22, 1994.

HOUSE OF REPRESENTATIVES—*Tuesday, October 4, 1994*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore, Mr. PETE GEREN of Texas.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 4, 1994.

I hereby designate the Honorable PETE GEREN to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

HAITI

Mr. GOSS. Mr. Speaker, yesterday marked 1 year since the United States mission in Somalia went tragically wrong and 18 American soldiers died. Seventy-nine more were wounded. I doubt that Americans will ever be able to forget the graphic pictures of our men in uniform being dragged through the streets of Mogadishu. As the Rules Committee meets today to consider a rule for the long-awaited Haiti resolution, that incident is likely to be in the minds of many Members who are wondering: Are we headed down the same road in Haiti? With each day that passes it seems more likely. On Sunday, officials confirmed that the mission that once was to contain fewer than 15,000 American troops has swelled to 20,931. And, while the administration hailed the arrival of 262 Caribbean troops yesterday, it is abundantly clear that this is an American mission implemented with American tax dollars and American soldiers and, in the eyes of many of our allies, at the expense of American credibility. In the weeks before United States forces landed in Haiti, Americans were assured by the administration that our men and women in uniform would not be drawn into the middle of Haitian-on-Haitian violence; that they wouldn't become the policemen in a 200-year-old Haitian civil war. Today, it seems clear that that promise—like many others from this administration—is no longer operative. Saturday's headlines read "The Decision Not To Be Police Backfires" and "Pressure on U.S. To Disarm Haiti's Paramilitary Groups" and "At Least Five Killed in Clashes as GIs Stand Off." By the next morning the administration appeared to have responded to the pressure and the headlines were "U.S. Forces To Widen Role in Curbing Haiti Violence" by Monday morning: "In Haiti, U.S. Raid Finds Dancers Instead of Gunmen" or, from my district "Armed-to-the-Teeth Americans Raid Harmless Garden" and "U.S. Raids Haiti Firms for Weapons." Today we read: "GIs Arrest Members of Notorious Haitian Militia." They just as easily could have read "U.S. Troops Drawn Further Into Haiti Quagmire." Yesterday, American troops raided a stronghold of the armed political group FRAPH in search of weapons and then had to turn around and protect the members of that organization from the mobs outside. All of this points to what this morning's Wall Street Journal called the "Schizophrenic Nature" of United States relations with the different segments of Haitian society. The United States says it won't take over responsibility for policing Haiti. However, our troops are told they may intervene in the event that FRAPH and/or the police mistreat Haitian civilians. Or, they may intervene to save the police and members of FRAPH if the mobs turn against them. No wonder many American soldiers are as confused and frustrated as one young man quoted in the weekend paper: "Ask anyone down here what we're doing and they'll say 'I don't know this is a joke." When the House adjourns this week, we will do so for the better part of 4 months. In that length of time, the United States mission in Haiti could evolve into almost anything. I don't support the Hamilton-Torricelli resolution that we will consider today in Rules because it seems to be a backhanded endorsement of a backward and dangerously undefined operation in Haiti. I do support the deliberative process and believe that we cannot leave here on Friday without having given careful and thorough attention to the more than 20,000 American troops in the middle of an explosive situation in Haiti.

I have just been advised on my way over this morning to speak here that the Committee on Rules that was supposed to take up the resolution today on how we will deal with Haiti has had that item withdrawn from its agenda. That means we will not be getting into this debate later in the week. The fact that we have been able not to have a debate in this body, the House of Representatives of the people of the United States of America, on a subject where we have now more than 20,000 troops committed in a dangerous situation is extraordinarily remarkable. I hope Members will not tolerate the idea of us delaying the debate longer and not allow us to go home until we have resolved this issue to get our troops back now.

NAFTA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Illinois [Mr. LIPINSKI] is recognized during morning business for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, last year, when I cast my vote against the North American free-trade Agreement, I did so knowing full well the devastating impact such an agreement would have on U.S. jobs and workers. Now, 9 months after its implementation, simplistic reports touting NAFTA's so-called benefits have started to permeate the media. While the administration may have you believe all's right with NAFTA, there are some disturbing trends which NAFTA supporters have conveniently ignored.

Since NAFTA went into effect, imports from Mexico have been increasing at a rate faster than United States imports. This is an important fact because in order to create jobs, U.S. exports must be expanding faster than imports. This is not happening.

To date, over 8,000 American workers have lost their jobs because of NAFTA.

Moreover, NAFTA's Trade Adjustment Assistance Program—the program designed to help these individuals—has been riddled with problems. Outreach on the program has been inadequate and eligibility for benefits, strictly limited. This program has not made up for NAFTA's adverse effect on workers.

Another disturbing development concerns labor abuses in Mexico. The Teamsters and the United Electrical Workers have filed unfair labor practice complaints against Honeywell and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

General Electric companies in Mexico. United States human rights groups filed similar complaints against the Sony Corp. in Mexico.

At a September 12 National Administrative Office [NAO] hearing in Washington, workers testified of being threatened, intimidated, and ultimately fired because of their efforts to organize unions. One young woman testified that she was fired after refusing to give Honeywell officials names of other workers who supported the union organizing drive. She also spoke of poor worker protection against toxic chemicals at the plant.

Unfortunately, the NAO has no real authority to rectify these abuses—another indication that NAFTA's labor side agreement is woefully inadequate.

And, to add insult to injury, the NAO demonstrated a blatant disregard for Mexican workers by refusing to hold the hearing in Mexico—a concern expressed by unions and many Members of Congress.

Mr. Speaker, this is exactly the kind of scenario I feared. Behind all the perceived benefits of NAFTA, there lies some very real problems—problems that do not necessarily make front page news.

Unfortunately, in passing NAFTA, a number of my colleagues failed to see NAFTA for what it really was—a continuation of policies that have undermined the hard-won benefits of our Nation's labor movement.

□ 1040

FOREIGN COUNTRIES TO ACCESS U.S. BUSINESS RECORDS

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized during morning business for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, the end of the legislative session approaches, and, as usual, Congress has begun shoving through scores of bills and suspensions.

The Suspension Calendar supposedly is reserved for noncontroversial bills such as commemoratives, because no hearings have ever been held on them.

This was the practice when I first came to Congress 10 years ago—but times have changed, and bills with true substance now are on the Suspension Calendar. Yesterday, one such measure—H.R. 4781—was rolled through.

This bill authorizes the Attorney General to exchange information with foreign governments which are conducting antitrust investigations against both American and foreign companies in their respective countries.

I imagine this bill is traveling in tandem with the enabling legislation for GATT—presently scheduled to be voted on later this week.

On its surface, this bill makes find sense and would allow the United States the ability to secure information about foreign companies that violate our antitrust laws.

What concerns me is that foreigners—who allege violations of their laws—will have access to U.S. Government information on American companies.

While this appears to be reciprocal—I must caution my colleagues that for years the United States has not been aggressive in responding to unfair trade practices carried on by or allies.

Nothing in this bill assures me that U.S. weak-kneed negotiating will change.

Instead, this bill grants the Attorney General the authority to enter into memoranda of understanding with foreign governments.

These memoranda are nothing more than agency-to-agency treaties without the advice and consent of the Senate. Further, these memoranda are not reviewable by U.S. courts.

What is the United States doing to itself?

Again and again, recent trade bills divest the U.S. courts of jurisdiction.

In the GATT, the World Trade Organization [WTO] will be able to challenge the laws passed by this Congress.

Now, I realize many of my colleagues are upset about the excess regulations that impact negatively on U.S. business. But Congress should not hide behind the WTO and similar artifices. And free traders in Congress should not allow a foreign run organization do what Congress is afraid to do—strike down the politically correct laws that strangle U.S. business.

And Congress should not permit the Attorney General to negotiate agency treaties that will have the effect of turning over American business information to foreign enterprises.

If this is the price to strike down regulation—the price is too high.

The U.S. Constitution provides for three equal branches of Government. The United States does not have a king or an emperor. And Congress should not create one in the name of freer markets.

INTRODUCTION OF THE DOMESTIC VIOLENCE COMMUNITY INITIATIVES ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized during morning business for 2 minutes.

Ms. FURSE. Mr. Speaker, across, the country women and children are facing violence in their homes, and we have not provided them adequate protection.

It is tragedy that in Oregon, 80 percent of women seeking shelter from abuse are turned away due to lack of space. This situation led me to introduce the Domestic Violence Community Initiatives Act. My bill assists communities in developing strategies for dealing with domestic violence by bringing together police, shelters, nonprofits and families to work together to solve the problem.

I am proud this legislation passed with passage of the crime bill.

We in Congress should be proud of the passage of the Violence Against Women Act as part of the crime bill. We should be proud because we took action on this issue long before Nicole Brown Simpson's murder made the headlines. However, let us not be complacent in thinking that we have addressed the problem and can move on to other issues. There is still much work to be done.

For the health and safety of our families, we must send the message that violence against women will not be tolerated. Let us carry that message and continue working to make progress in preventing violence in the home and supporting organizations that assist people seeking safety for themselves and their children. It is an investment worth making. Healthy, peaceful homes produce healthy, productive citizens.

IN EXPLANATION OF OPPOSITION TO H.R. 6, IMPROVING AMERICA'S SCHOOLS ACT OF 1994

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Pennsylvania [Mr WELDON] is recognized during morning business for 5 minutes.

Mr. WELDON. Mr. Speaker, I take great pride in being one of only 24 classroom teachers in the institution of the House of Representatives, and take great pride in working for those issues that are important to the well-being of our children.

What bothers me is the fact that when the H.R. 6 came up for consideration, the education reauthorization bill, that I had to cast my vote in opposition to this legislation. As someone who spent 7 years in the public schools of Pennsylvania, both as a classroom teacher, as a head teacher, and then as an administrator of a Chapter 1 program for 3 years, working with children with special problems, it really bothers me that I had to vote "no" on this piece of what I think could be very important legislation.

I want to explain today why I vote "no" and some of the problems that I eventually found out with the bill. When the bill worked its way through the House committees and up to the House floor, we debated the bill under an open rule and allowed full amendments by Members of both parties. I supported the bill in that process when it passed out of the House.

However, as you know, Mr. Speaker, it then goes to a conference, a closed conference controlled by the majority party. When the bill came out of the conference to come back to the House floor, it was totally and completely changed.

My point is, what is the use of having an open rule if you are going to eventually craft the final legislation behind closed doors and make it totally different from what it was when it left the House originally?

As one who spent his career in education, I find it particularly offensive. The bill that came out of the conference authorized 20 new programs for a total of 60, many of which had not been in the House bill. In fact, the conferees added almost $1 billion of additional spending of taxpayers' money.

The intent of the legislation was to streamline the funding process, consolidate the programs, and cut Federal strings that currently mandate how schools use their funds. Instead, the conferees produced a bill with more programs, more strings, and more Washington dictates in terms of how our local schools should set their priorities.

In fact, there were special interest programs also out in the bill to benefit certain States or certain geographical entities. Then on top of that there was a provision to have what has been known as school finance equalization to begin to shift funding.

Here we are increasing the taxes of the American people, many of them my constituents in suburban Philadelphia, PA. Then I had a chance to analyze on the day of the vote, actually about 10 minutes before the vote was actually taken, because the figures were not provided to us in advance of that, a district-by-district summary of the anticipated chapter 1 funds that would be coming into my school districts.

Mr. Speaker, in every school district that I represent, from the poorer communities along the waterfront of Delaware county, districts like Chester Upland and William Penn and Penn Delco school districts to the more affluent districts along the Main Line, every one of my school districts loses money under this education bill, in some cases a very significant amount of money.

The point is that these same taxpayers are having their taxes increased, and yet the amount of funding coming back for Chapter 1 Programs is being decreased.

☐ 1050

In fact, as I have now found out, the bulk of the money is shifted to our inner city areas. I am not one who wants to turn our back on the inner cities. I will help them, as I am doing as cochairman of the empowerment caucus, try to find ways to turn around their inner city neighborhoods. But we should not be doing that at the expense of programs that work very successfully in our suburban schools.

The 3 years that I spent working with a Chapter 1 Program in Delaware County were very rewarding because the purpose of the program was to help those children who have special problems with reading and math, who may have problems at home that transcend into the school classroom, and that extra counseling that we provided to them during the summer and on Saturdays was a very important part of their success during the school year.

But there is no justification that I can see for taking money from districts like the kind that I represent and saying, "You have to do without. Even though you're paying more taxes, we're going to shift this money into other areas." Really most outrageously, "We're going to shift it into special interest programs that only benefit certain States or certain geographical entities."

For all of these reasons, Mr. Speaker, I voted against H.R. 6. I am upset that I had to do that, but I had no choice.

Mr. Speaker, I insert at this point in the RECORD a complete listing of each of the school districts that I represent, the amount of funding they get now for Chapter 1, and the amount of funding they will get under the new H.R. 6 legislation, as follows:

SEVENTH DISTRICT (PA) ESTIMATED TITLE I GRANTS FOR FISCAL YEAR 1999

[Prepared by the Congressional Research Service]

	Current law	Conference version
Chester Upland	$4,185,400	$4,163,800
Chichester	484,400	448,000
Conestoga	630,400	583,000
Downingtown [1]	0	0
Gamet Valley	75,200	60,400
Great Valley	254,400	235,300
Haverford	204,600	164,400
Interboro	327,400	302,800
Kennett Consolidated	246,600	228,100
Lower Merion	250,000	200,900
Marple Newtown	299,700	277,200
Penncrest	1,050,200	971,500
Penn-Delco [1]	0	0
Phoenixville	161,500	129,800
Ridley	483,300	$447,000
Rose Tree	256,600	206,200
Springford	129,400	104,000
Springfield	150,400	120,900
Tredyffrin Eastown [1]	0	0
Unionville-Chadds Ford [1]	0	0
Upper Darby	1,489,800	1,429,500
Upper Merion	229,000	211,700
Wallingford Swarthmore	113,900	91,500

[1] Denotes schools which receive Chapter I funds but estimates were not available at this time.

DOMESTIC VIOLENCE AWARENESS MONTH

The SPEAKER pro tempore (Mr. PETE GEREN of Texas). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Washington [Mr. KREIDLER] is recognized during morning business for 5 minutes.

Mr. KREIDLER. Mr. Speaker, domestic violence is one of the most serious health issues facing women today.

As a health professional, I know how important it is that the public health community recognize and respond to victims of violence.

And they are in a unique position to do so, since women often seek help in the emergency room or other clinics for their injuries. In fact, up to a third of emergency room admissions for women are due to battering.

Pregnant women are at special risk of battering—one in six are abused during pregnancy. Battering can lead to miscarriage, stillbirth, and low birthweight babies.

Like any disease that goes untreated, domestic violence tends to escalate over time, and too often ends in murder. Fortunately, this congress finally passed the Violence Against Women Act, and I hope my colleagues will be just as serious in funding the desperately needed programs for battered women's shelters, police and prosecutors, and victim's services.

It is time every American understood, as the Family Violence Prevention Fund says, that "There's No Excuse" for domestic violence.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 53 minutes a.m.), the House stood in recess until 12 noon.

☐ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Reverend Dr. Jr. Philip Wogaman, senior minister, Foundry United Methodist Church, Washington, DC, offered the following prayer:

O God, we pray for all those who will be affected in this land and around the world by what is done here today. Let the tone of national life and the sense of global community be enhanced by words spoken and actions taken. Let the people's mutual caring, love of truth, and commitment to the common good be enhanced. Bless each member of this House. Grant to each a commitment to purposes transcending the holding of public office. Grant also that no one in this House need feel lonely and bereft of support in the pursuit of human good and social justice, as it is given to each to see and understand. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. BUYER] please come forward and lead the House in the Pledge of Allegiance.

Mr. BUYER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974; and

H.R. 4653. An act to settle Indian land claims within the State of Connecticut, and for other purposes.

The message also announced that Mr. RIEGLE, Mr. SARBANES, and Mr. D'AMATO, be appointed conferees, on the part of the Senate, on the bill (H.R. 4950) "An Act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes," solely for the matters contained in titles III and IV.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 622. An act to authorize appropriations for the United States Office of Special Counsel, the Merit Systems Protection Board, and for other purposes; and

S. 2251. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 21) "An Act to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes," requests a conference with the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. BUMPERS, and Mr. WALLOP, to be the conferees on the part of the Senate.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

MARK A. POTTS, JUNG JA GOLDEN, AND FANIE PHILY MATEO ANGELES

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the several bills, H.R. 3718, for the relief of Mark A. Potts, H.R. 1184, for the relief of Jung Ja Golden, and H.R. 2084, for the relief of Fanie Phily Mateo Angeles, be passed over without prejudice en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

DOMESTIC VIOLENCE AWARENESS MONTH

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise today to join with my colleagues in remembering the victims of domestic abuse. The month of October is domestic violence awareness month, and today is a day to remember the victims.

In March 1993, a neighbor of mine in south Boston was fatally stabbed by her estranged husband. The woman, a 21-year-old college senior, had previously contacted authorities and obtained a restraining order to protect herself and her infant child against her husband's temper. Yet, tragically, a restraining order was not enough to keep him from taking her life.

Domestic violence has become a major problem as well as a disturbing trend in American society today. An estimated 4 million women are battered by their husbands or boyfriends each year. Not only are violent crimes against women increasing rapidly, they also send a harsh message to our youth. Recent studies show that violent adolescents are four times as likely to come from homes in which their fathers beat their mothers than nonviolent youth. This trend needs to be stopped.

In my home State of Massachusetts, the number of women killed by their husbands or boyfriends has increased at an alarming rate. In 1993, 29 women were murdered at an average of every 12 days. I rise today to remember the victims and call attention to the severity of the problem. Domestic violence is not a spat or a lover's quarrel, it is a crime.

It is crucial that we make the prevention of domestic violence a top legislative priority. We need to recognize the destructive pattern of violence against women and take measures to halt domestic abuse. It is our responsibility to protect women who are in the same situation as my neighbor was in south Boston, and not let another battered woman's cry of help go unanswered.

DEMOCRATS ACCUSED OF "THE BIG LIE" ON BALANCING THE BUDGET

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, the White House and Clinton Democrats here in Congress have made an interesting admission lately—they have thrown in the towel on deficit spending, and now make it clear that they intend to rack up deficits from here to eternity.

They are not attacking the balanced budget amendment in our Republican contract with America. They are attacking the very notion of balancing the budget, which proves the point that we must have a balanced budget amendment to impose fiscal discipline.

This graph shows the effect of a balanced budget amendment. Note that spending would continue to rise over 5 years, but at a rate of 3 percent instead of 5 percent. That is what bothers the Democrats—that we would increase spending by about $800 billion in 5 years, instead of $1.5 trillion.

But rather than deal with the fact that Americans want a balanced budget and other things in our contract like welfare reform, family tax cuts and a vote on term limits, Democrats, scared about losing their 40-year control of the House, are now trying to scare senior citizens into voting for them.

For shame.

Mr. Speaker, here me clearly—we can balance the budget by cutting 4 cents on the Federal dollar without cutting 1 red penny from Social Security. America's seniors should not be scared by the big lie from Bill Clinton and Clinton clones in Congress.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, there is no excuse for domestic violence. I join my colleagues to acknowledge October as National Domestic Violence Awareness Month and to call for heightened public consciousness and more effective action against this devastating crime.

Domestic violence is a national public health crisis, and is the leading clause of injury for women between the ages of 15 and 44. Approximately one-half of all female homicide victims are killed by a husband or boyfriend. Despite the overwhelming incidence of family violence, we do little to prevent its occurrence or to help its victims. In my home State of California, there are more shelters for abused animals than shelters for abused women. By working together to bring the light of public attention to this crime we can transform this dark scenario into a brighter one for America's families.

Together, we must build upon the positive momentum initiated by Congress with the passage of the historic

Violence Against Women Act, through effective educational programs and a legislative agenda to protect victims and to prevent this abuse from scarring future generations.

□ 1210

REMEMBERING THE PAST IN HAITI

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, it is arrogant for the Administration to think we can quickly overturn the centuries old culture of another country. And it is foolish to try.

We have been in Haiti before—for 19 years. And I refer you to the Forbes Commission which, in 1930, reported on our earlier escapade there.

The report discusses Haiti's poverty, Haiti's bandit gangs, and Haiti's tiny political and economic elite—factors which all reasserted themselves after 19 years of American rule.

And this report from 1930 states:

> The failure of the Occupation to understand the social problems of Haiti, its brusque attempt to plant democrac * * *, its determination to set up a middle class—however wise and necessary it may seem to Americans—all these explain why, in part, the high hopes of our good works in this land have NOT been realized.

For those who wish to know more, I have placed the entire Forbes Commission report in the September 30 CONGRESSIONAL RECORD on page E2017.

Our current administration won't have 19 years, but I am afraid it will fail as dramatically, and at an unacceptable cost in American lives and treasure.

As George Santayana put it, "Those who cannot remember the past are condemned to repeat it."

Mr. President, Haiti is not our problem. Bring our troops home.

DOMESTIC VIOLENCE

(Mrs. CLAYTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Speaker, as we begin the month of October, we are reminded that this is Domestic Violence Awareness Month. I am wearing a purple ribbon to show my support for the effort to eliminate domestic violence. This is an issue which was once considered a family matter—when in fact, it is a crime. It is the worst crime against women because in most cases the abuser is someone the woman is familiar with—and many times someone she loves. Statistics indicate that every 15 seconds a woman is battered in the United States. In 1 year more than 4,000 women have been killed by their husband or partner. These statistics are despicable.

As we complete this session of Congress—and I complete my first term as a U.S. Congrsswoman—I have been reflecting on the accomplishments of this body. One of the accomplishments I am most proud of is the passing of the Violence Against Women Act. This is a bill which says to women everywhere that we care and that we take this matter very seriously. It is no longer a family matter, it is a situation deserving of national attention and action.

I want women to feel safer because of our work here. I want them to know that their elected officials are making necessary changes to ensure their safety on the streets and especially in their homes. I want them to know that the law is on their side and they do not have to sit back and take abuse.

Let us salute the survivors of domestic violence—and let us take action to remind abusers that this type of crime will no longer be tolerated.

DEMOCRAT NAYSAYERS CHALLENGED ON REPUBLICAN CONTRACT WITH AMERICA

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, for the past week, President Clinton and the Democrat leadership have attacked the House Republican Contract with America that Republican Members of Congress and challengers have signed.

I have a challenge for these negative naysayers: Tell the American people specifically which part of the Republican contract you don't want to vote on.

Is it the term limits on professional politicians the Democrats don't like? Do they not support the tax cut for middle-class American families? Maybe the Democrats don't like requiring that all American combat troops stay under American command instead of U.N. command. Most Americans already know its the Bill Clinton Democrats who are opposing our balanced budget amendment, line item veto and plan to cut the huge number of congressional committees and staffs.

All of these commonsense ideas and more are in our contract. And all are supported by a majority of the American people.

IS ARISTIDE ANOTHER DRUG LORD?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Drug Enforcement Administration says that informants deemed to be reliable tell them that Jean-Bertrand Aristide of Haiti took bushels of cash from Pablo Escobar, now assassinated drug cartel king, in exchange for providing a pipeline for cocaine directly to our streets in America.

Aristide and Escobar. Escobar and Aristide.

Are 20,000 troops in Haiti establishing democracy or are they helping to finance another drug cartel that rapes the streets of America? I do not know the truth, but No. 1, I say there should be a thorough investigation of these crimes on Aristide before we waste one life.

By the way, a top Haitian leader fled the country and bought a home in Dominican Republic for half a million dollars. Now where did free enterprise hit Haiti that fast? Think about it.

TAX-AND-SPEND PARTY MISSES THE MARK ON REAGAN ERA

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, last week when Republicans unveiled their contract with America, Democrats went scurrying to the nearest camera to deride it. Their biggest complaint: Adoption of the GOP package might bring us back to the bad old days of President Ronald Reagan.

You remember those days. Those were the days when we witnessed the longest period of sustained economic growth in our Nation's history. Those were the days when we reversed the dangerous course charted by the Carter administration—a tax-and-spend program which gave us double-digit inflation, double-digit interest rates, and double-digit unemployment.

Democrats like to talk about the Reagan deficits. What they don't tell you is that the Democrats controlled this House then, as they do now. They controlled the purse strings then, as they do now. Never, in his 8 years in office, did President Reagan get the spending cuts he asked for. Never did the Democrats give him the budget he submitted to Congress.

It's always amusing to see Democrat leaders rise up in righteous indignation and pontificate about the Reagan budget deficits—the deficits they created and refused to cut.

Mr. Speaker, if the tax-and-spend party wants to criticize Republicans for offering the American people a real reform package, they're going to have to do a little better than that.

NATIONAL DAY OF REMEMBRANCE FOR VICTIMS OF DOMESTIC ABUSE

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of North Carolina. Mr. Speaker, I rise today in recognition of National Domestic Violence Awareness Month and in honor of this National

Day of Remembrance for victims of domestic abuse and their families. Domestic violence is the largest single cause of injury to women in the United States, forcing more than 1.5 million women to seek medical treatment each year. Spouse abuse accounts for more visits to hospital emergency rooms than car crashes, muggings, and rape combined, and the annual costs for medical care amount to an incredible $44 million.

Unfortunately, North Carolina has not escaped this dreadful epidemic. In one month alone, the Orange-Durham Coalition for Battered Women received 155 calls from battered women in the two counties, and Annette Sheppard, the director of Advocacy and Community Education at the Coalition, has testified that in 1993, "on an average night, 400 women and children sought refuge at a battered women's shelter somewhere in our State." No community is immune, and none of us can afford to stand by idly as violence engulfs our communities.

Americans are awakening to the threat of crime and violence and forcing responses at all government levels. Fortunately, the Federal government is now doing more to support the foot soldiers in this battle. The Violence Against Women Act, which is included in the anti-crime bill signed by the President, will provide support to local governments to encourage aggressive enforcement and prosecution in domestic violence cases and will make stalking and interstate domestic violence Federal crimes. The bill provides support for rape prevention programs and creates a National Task Force on Violence Against Women. Overall, the bill authorizes $1.6 billion over 6 years to fight violence against women.

As a member of the Appropriations Subcommittee on the Departments of Commerce, Justice and State, I am pleased that we have appropriated for fiscal year 1995 the full $26 million for violence-against-women grants authorized by the crime bill—quite an achievement in light of our current budget constraints.

Awareness alone won't solve the problem. We must provide real help for organizations like the Orange-Durham Coalition, and Federal grants that enable groups to provide training and other services are a real help.

Let me conclude by saying that there are no single or simple solutions. And the strategies we invoke must not be merely or even mainly governmental. Much of the problem is rooted in the erosion of personal responsibility, the breakdown of families, and the deterioration of community life. Each of us can contribute to the task of renewal. That is why lawmakers' insistence on sound policies that protect and assist victims, law enforcers' steadfastness in punishing perpetrators, advocates' commitment to providing counsel and much needed services, and health professionals' willingness to broaden their sphere of responsibility are so heartening. Together, we can undertake the varied efforts required to turn this threat around.

□ 1220

REPUBLICANS SEEK CONTROL, PROMISE TO GIVE CONGRESS A GOOD NAME

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, many Americans understandably believe that after the Reagan landslides of 1980 and 1984, Republicans controlled the U.S. House of Representatives. Ronald Reagan forced the Democrats to begin to talk about cutting spending. But, the Democrats still controlled all House committees, the Democrats still wrote all the spending bills, the Democrats still voted for the deficits they now decry.

Since August 20, 1954, not a single Republican has chaired even one of the standing committees in the House of Representatives. No Republican has served as Speaker of the House, one of the most powerful positions in the U.S. Government.

The last time Republicans controlled the House of Representatives, most Americans had never heard of Elvis or Vietnam, or the Beatles. Sputnik was still 3 years away, and the American going to the Moon was Alice Kramden.

Mr. Speaker, if we are going to look with a fresh eye at solving America's problems, we need to change the party controlling the House of Representatives. Let us let the Democrat majority go the way of those other relics of the fifties like the hula hoop, the poodle skirt, and the Edsel. With Republicans in charge, we will begin to give Congress a good name.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

(Mrs. MINK of Hawaii asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK of Hawaii. Mr. Speaker, today we celebrate a great victory. As we observe Domestic Violence Awareness Month 1994, we finally have a law on the books that will help protect women and children from violence in their own homes.

The Violence Against Women Act is a monumental step forward in domestic violence prevention, in assistance to women who have been battered, and assurances that domestic violence will be taken as seriously as any other type of assault or similar crime.

We celebrate our victory, but as we remember the women who have been the victims of domestic violence, many of whom lost their lives, we must also recognize that we still have a long way to go.

For many women and children the most dangerous place for them to be is still in their own homes.

It is estimated that 3 to 4 million women are battered each year by their husbands or partners.

According to the American Medical Association, domestic violence results in almost 100,000 days of hospitalization, about 30,000 emergency room visits, and almost 40,000 visits to physicians.

I urge my colleagues and the American people to join in efforts toward full implementation of the Violence Against Women Act as well as other efforts to eradicate domestic violence from our society.

DOMESTIC VIOLENCE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, domestic violence knows no socio-economic, ethnic, or racial bounds. In this country, every 5 minutes a woman is raped and every 15 seconds a woman is beaten by her husband. This year, 2.5 million women will have sustained violent acts of physical, sexual, and emotional abuse committed against them by someone in their family. Of these, 25 to 30 percent of the atrocities will have been due to repeated abuses to the woman. Battery is still the single major cause of injury and domestic terrorism, to women, more prevalent than rape, mugging, or auto accidents, one in every four women in America will be assaulted by a domestic partner in her lifetime.

In my State of Maryland, 16,834 spousal assaults were reported to law enforcement agencies in 1992, for which the last formal report was written. This figure is thought to be less than 10 percent of the actual assaults that occurred within Maryland. Last year, according to the Maryland Network Against Domestic Violence, a woman was battered to death by a domestic partner every 5 days in Maryland.

Women are not the only ones affected by domestic violence. Nearly half of all incidencies of child abuse occur in the context of battering. Men who are abusing women are often abusing children as well.

In addition, domestic violence is a major health issue for women. Our health care system provides a critical juncture between the opportunity to both prevent domestic violence and the intervention to end physical and emotional trauma. The violence Against Women Act declares crimes motivated by a victim's gender as a bias crime and allows a woman to bring suit against her attacker. The legislation also provides funding for shelters and the direct services of counseling and prevention training to the victims of domestic violence.

Domestic violence does not limit itself to the physical and emotional trauma of its victims. It has a powerful impact on our country's economic health:

The United States spent $5.4 billion on violence-related health care last year alone; As the incidence of domestic violence increases, the demand on, and cost to, our health care system will also rise; today 1 out of every 4 health care dollars goes to pay for preventable, socially learned behaviors.

With the enactment of the Violence Against Women Act, we have begun to make progress in providing our law enforcement community and health care providers with the skills needed to identify, treat, and to intervene on behalf of battered women. As we work toward ending the terrible scourge of domestic violence, it is critical that private industry and the media join our fight in increasing the public's awareness of domestic violence.

CAMPAIGN REFORM MUST START WITH ENFORCEMENT

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, it looks like partisan politics has once again undermined the campaign finance reform bill.

That's a shame, because we are never going to rebuild public confidence in our system of government until we find a way to limit the costs of campaigns and curtail the influence of special interest groups.

But it is not just a matter of passing new laws to change the system. We must first do a better job of enforcing the laws which are already on the books.

For example, I filed a formal complaint with the Federal Election Commission some 2 years ago, after I observed my opponent's supporters in his presence distributing campaign materials which did not identify who authorized and paid for them. One of these fliers was a poster with my face superimposed over that of Adolf Hitler. Of course, nobody knew where they came from.

I have the FEC copies of these campaign materials and notarized statements from myself and others who observed their distribution. I also submitted newspaper articles in which the National Rifle Association admitted that they produced some of these materials.

The FEC should have ruled on my complaint prior to the 1992 election, so that the NRA and my opponent would have been held accountable for their actions, but they didn't. In fact, it has been more than 2 years now and the FEC still hasn't issued a ruling on this case. That's ridiculous.

It makes me wonder why we even have a review process if the FEC can't process complaints in a timely manner.

What's more, the violations are continuing to occur. Just last month, the State of New Jersey levied its largest fine in history against the NRA, for failing to disclose some $200,000 in financial activity during the last election.

Ironically, my opponent from 1992 was once again the beneficiary of the NRA's activities.

There's no sense having an enforcement system which allows violations to occur over and over again, without holding the candidates themselves responsible for the activities of their own campaigns.

WHY WE SIGNED A CONTRACT WITH THE PEOPLE

(Mr. HORN asked and was given permission to address the House for 1 minutes and to revise and extend his remarks.)

Mr. HORN. Mr. Speaker, the Republican contract with America is a demonstration of political responsibility. Our message for Americans is simply this: Congress will not change until the party that controls it is changed.

The Democrats have controlled the House of Representatives for 40 straight years. It is clear that by this time they are out of any good ideas.

The Republican contract with America promises decisive votes on 10 proposals that have the overwhelming support of the American people. Sixty to seventy percent support the balanced budget, line-item veto, term limits. But what has happened? They have either been bottled up or such a watered-down version comes before us that their own author would not know it.

We have to face up to serving the needs of the people. We need to get our country back on the track. We need to restore trust between the American people and this Chamber, and we need to end the divisiveness we have seen in this last session of Congress.

Fellow Americans, let us put an end to gridlocked government. Let us keep our promises. That is why we signed a contract with the people.

DOMESTIC VIOLENCE

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, I rise today to call attention to the growing problem of domestic abuse.

At the Federal level, we have taken many important steps to reduce domestic violence, including passage of the Violence Against Women Act, but we must also commit ourselves to increasing public awareness of this problem at the community level. In my home State, the New Jersey Coalition for Battered Women has worked diligently over the last 15 years providing support services to abuse victims and their children. Although the coalition runs 22 shelters, tragically it is not enough. In the last year, there has been a 44-percent increase in the number of women and children who had to be turned away from shelters because there was no room for them.

Physical and mental abuse in the home has shattered the lives of thousands of women and left many children victims as well.

On this national day of remembrance for victims of domestic abuse, we renew our commitment to ending domestic violence and look forward to the day when our shelters stand empty.

DOMESTIC VIOLENCE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, this month is an important occasion to recognize that domestic violence is a serious and growing problem throughout the United States. In my home State of Nebraska, we think we have a high degree of civility and a strong base of religious and family values. But yet, in 1990, 14 people in Nebraska were killed as a result of domestic violence; last year 36 victims of abuse died—this is a 160-percent increase over 3 years. Fortunately, there are many people working day and night to help victims leave their abusive situation and start a new life.

The Friendship Home of Lincoln is one example of the many excellent shelters for victims of domestic violence in the First Congressional District of Nebraska. This year the Friendship Home will provide food, shelter, and a variety of critical support services to more than 1,200 women and children. Its caring and safe environment helps women build a new life free from abuse.

There are many success stories at Friendship Home, yet many women and children remain on their waiting list. The need for this type of service is growing, and even though there are many organizations providing assistance, more organizations and resources are needed.

Mr. Speaker, the Friendship Home and other shelters are to be commended for the fine work they do. The hard work and devotion of the shelter staff and volunteers make a difference in the life of each woman and child seeking assistance.

Mr. Speaker, in conclusion, this Member is pleased to take this time to recognize the important work being done by the Friendship Home and other organizations that provide assistance and shelter to victims of domestic violence.

□ 1230

THE CRIME BILL IS ONLY A START ON CURBING DOMESTIC VIOLENCE

(Mr. MEEHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MEEHAN. Mr. Speaker, I rise because October is Domestic Abuse Awareness Month. Before I got elected to this Congress, I was a prosecutor in Middlesex County and I had the experience of walking into a home during the middle of the night and seeing a woman who had been murdered with her child in that home. Another victim of domestic violence.

Domestic violence is permeating American society. We have taken the first step as part of the crime bill, including the Violence Against Women Act, the domestic violence part of that crime bill.

But we have to do more. In courthouses across America, women who are victims of violence are walking into courtrooms without a victims' advocate to help them through the process, with a prosecutor who has too many cases to give that woman the type of assistance that she needs. Domestic violence continues without people being held accountable in courts, without the educational programs we need in America to deal with this problem. Every level of government—the Federal level, the State level, and the local level—have to step up to the plate to do something to stem this tide, and we had better start now. That is why we are giving recognition in October to begin to put pressure on every level of government to fight this abuse; we must do more.

GATT: NOT FAST TRACK, BUT GREASE TRACK

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I voted for NAFTA, I voted for the fast track for GATT, and today I stand here and tell you I feel totally betrayed at the way this administration has handled GATT. The fast track was supposed to give us 45 to 90 days to look at this important change in our trade laws. Instead it has been submitted to Congress with 10 days left before the end of the session.

We are being told pass it now or the world trading system will collapse. That is what we are being told. That is not fast track, that is grease track.

Why are they so frantic to have the GATT implementation treaty passed so quickly that we will not even have a chance to read it? Something that is so important to the economic well-being of our countrymen for years and decades to come.

The reason they want to get it done fast is because hidden in GATT are special favors to special interests, ripoffs of the American people to the tune of billions of dollars.

I say as a free trader, I say as someone who believes in democracy, the GATT implementation legislation should be turned down; take the ripoffs, like the patent ripoff, out of the GATT implementation legislation.

NATIONAL DOMESTIC VIOLENCE MONTH

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, October is National Domestic Violence Month. Unlike other months that commemorate and celebrate different cultures and causes, National Domestic Violence Month gives the American people no reason to celebrate. It's purpose is to open America's eyes to a problem that has plagued millions of women throughout the years, a problem that not only affects poor and minority women, but women and families in all walks of life.

With the passage of the Violence Against Women Act this summer, Congress sent a clear message to batterers. Your abuses would no longer be tolerated. Millions of women now know that there is an escape from the nightmare. That with this bill they can seek shelter and counseling, and most importantly that their abusers will be prosecuted to the full extent of the law.

This is only a small step in the fight against domestic violence. Many more still need to be taken. The patterns of violence that plague the women of our country must be broken, and together, we can all bring an end to the vicious cycle of abuse.

ACTIONS SPEAK LOUDER THAN WORDS

(Ms. PRYCE of Ohio asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PRYCE of Ohio. Mr. Speaker, last Tuesday, the American people were presented with something they've never seen before—over 300 Members and candidates gathered on the Capitol steps to sign a contract with the voters—Republicans signed a contract for real change and real reform in Congress.

Over 180 Republican candidates came to Washington with a message from the people of our country, who helped develop a platform of solid legislative issues that will bring hope to the people, hope for the future, and hope for bringing back the integrity of Congress.

The Republicans signed their names to this contract because a campaign promise is one thing—we have all heard enough of them—but a signed contract is another. A signed contract means change will happen. A signed contract means we will perform. A signed contract will restore the bonds of trust between the people and their elected representatives.

NEVADA'S JUDICIARY SYSTEM ENLISTED IN CAMPAIGN AGAINST DOMESTIC VIOLENCE

(Mr. BILBRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILBRAY. Mr. Speaker, our judiciary system is a significant part of the complex set of dynamics that can stop violence in the home; it cannot solve every problem, and education is a necessary start. I am proud to say that Nevada was the first, but sadly, the only State in the country which, by order of the Nevada Supreme Court, mandated the attendance of all State judges at a State judiciary family violence conference. Our recognition began in large part in 1988 when the problem of domestic violence was raised by the Nevada Supreme Court Gender Bias Task Force. The group reported that battered women were being dealt with inadequately in the legal system. It became increasingly clear that the judicial system did not understand the underlying factors that contributed to the relationship between the batterer and his victim.

After investigating many aspects of family violence, the Clark County Domestic Violence Task Force prompted the Nevada Supreme Court to require all judges to attend a seminar focusing on family violence, its roots, and solutions. What came out of this was extremely important. This day signified an acknowledgment of a problem, a breaking of stereotypes, a desire for change, and hope for a better life for Nevada's families.

My wish is that the other States will follow in Nevada's footsteps toward a recognition of the realities of violence in the home, and take constructive steps to break this vicious cycle.

DEMOCRATS WANT VOTERS TO FORGET THEIR CONTRACT

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the Democratic majority has reacted to the Republican contract with America like a bunch of nervous pins trying to gang up on a bowling ball.

How do we explain their frenzy to criticize us for simply making a commitment in writing to a set of commonsense reforms?

Our Democrat critics only speak in vague generalities, Mr. Speaker. They rarely say which specific part of our contract that they don't like. That's because every single item on our agenda is supported by a solid majority of American voters.

Even so, Democrats have attempted to turn a flamethrower on our contract with America, trying desperately to turn attention away from these disastrous 2 years that their party has controlled the White House and both Houses of Congress.

The Democrats are so anxious to attack our contract because they want Americans to forget their contract with America, the one that's been in effect for almost 40 years now.

Fortunately, Mr. Speaker, the American people aren't buying all the phony and desperate mudslinging.

Finally, every voter should be asking their Democrat Congressperson how they feel on each of the 10 items in the Republican contract. Their responses should be very enlightening.

DOMESTIC VIOLENCE AWARENESS MONTH

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I am pleased to join my colleagues today in observing Domestic Violence Awareness Month. Passage of the crime bill, which contained the Violence Against Women Act, has helped to make America more aware of the pervasive problem of domestic violence. The news is full of examples. From high profile celebrities to those in our own neighborhoods, we hear more about domestic violence every day. But we need to better understand its causes and its consequences. This month provides us with an opportunity to provide more complete information on the sad, startling reality of domestic violence and the devastating, far-reaching toll it is taking.

People need to know that in 1993, 4 million American women reported being beaten by their husbands or boyfriends, and in 1990, 6 out of 10 women who were victims of homicide were murdered by someone they knew.

In my own home State of Connecticut, approximately 250,000 to 300,000 women are victims of domestic violence every year. These statistics represent the real stories behind today's headlines. Domestic violence is a national tragedy. And once we as a Nation better understand it, we will be able to capitalize upon the efforts we began with the crime bill and do all that we can to prevent it.

DEMOCRATS USE SCARE TACTICS

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, I rise today because I am tired of hearing the scare tactics on the other side of the aisle that are designed to frighten our elderly citizens. I am specifically talking about those tactics which have been used recently to frighten citizens into thinking our Republican contract with America would cut their social security or their Medicare.

What I would like to do this morning is, I would like to point out that, in fact, the 103d Congress did cut Social Security benefits, and the 103d Congress did cut Medicare. It is right here in the Omnibus Budget Reconciliation Act of 1993.

The exact amounts are that we cut Medicare $55.8 billion, we cut Social Security $24.6 billion. Not one single Republican voted for that, every single Republican in this House voted against it.

□ 1240

The Democrats cut Social Security; the Democrats cut Medicare. Let us set the record straight.

STOPPING DOMESTIC VIOLENCE IN NORTHERN MICHIGAN

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, I am pleased to join with my colleagues in observing Domestic Violence Awareness Month. Having been a police officer for 12 years, I have seen way too much domestic violence, domestic violence that knows no boundaries, domestic violence that happens to poor women, it happens to rich women, it happens to women in the city, it happens to women in the country. Domestic violence is the leading cause of injury to women, causing more injuries than muggings, stranger rapes, and car accidents combined. For too long this country pretended that there was nothing we could do to stop the violence. But there is something we can all do.

In my district, Mr. Speaker, there are many shelters that help out women, but I would like to mention two shelters: the Women's Resource Shelters in Traverse City, MI, and Marquette, MI. They have shelters to protect women fleeing abusive relationships. But they also provide crisis intervention and counseling services. In addition, they offer a men's program to help the men who batter, to help them to curtail their violent behavior at the time when they need some counseling. Violence prevention is another key aspect that must be stopped in domestic violence. The Women's Resource Centers teaches violence prevention programs in junior high schools in northern Michigan.

Mr. Speaker, we can all stop this national tragedy.

NATIONAL SECURITY AND OUR CONTRACT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, yesterday was the tragic anniversary of the massacre of 18 young American lives in Somalia. As we enter the third week of the United States-led occupation of Haiti, upwards of 20,000 young American lives are being gambled by this administration. Their mission has changed no less than three times, and the rules of engagement are vague and arbitrary.

A week ago I stood on the Capitol steps and signed the Republican contract with America, and one of its key provisions is the National Security Restoration Act which would ensure that our troops are fully funded and only deployed in direct support of our vital strategic interests. More than 300 Republicans understood this, and they signed our contract. We cannot continue to abandon our soldiers on foreign shores. They need our moral, as well as material, support.

The translation here is: Are we slowly, but surely, headed toward another Somalia-like massacre in Haiti? The only questions are how soon and how many lives?

DOMESTIC VIOLENCE

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, in the city of San Bernardino, CA, located in my district, police tell me that 1,814 cases of domestic violence were reported in 1993. That is an average of over five cases of domestic violence in one city of my district in just 1 day. In the city of Fontana, there were 1,157 reported incidences of domestic violence last year. In this city where 16 homicides occurred within that period, 2 of them were a result of domestic violence. Police in the neighboring city of Rancho Cucamonga report 295 such crimes; Colton reports 433.

Something is wrong.

The national statistics of domestic violence are astounding and appalling to me. But when I hear these numbers from my own district, the impact is ten-fold. Even more disturbing is to realize that these are just reported cases—the majority of women, men, and children opt to suffer silently, afraid or ashamed to come forward. Unfortunately, a tragic generational cycle is perpetuated as children grow up in homes where they are abused and become abusers themselves.

In addition to the physical and emotional devastation experienced by victims of domestic violence, another grave facet of this epidemic is its burden on the criminal justice system. The cost in terms of resources and manhours is immense. Police in my district tell me domestic violence calls are particularly unstable and dangerous because of the intensity of such situations. Many involve cases of alcohol or drug abuse and use of weapons such as guns, knives, and clubs. A large majority of the perpetrators are booked, but most return to their families and are repeat offenders.

We must take action. We need to create policies and provide resources that facilitate the working together of health care and social workers, law enforcement officers, the courts and governments to overcome domestic violence. The violence against women provisions included in the crime bill will begin to do this. But it is not enough—it is just a start. We need to offer alternative means of support for victims so that a life without their abusers is possible. We need tougher laws that effectively punish and reform abusers and protect victims of abuse when they seek help and justice.

WHAT DEMOCRATS ARE SAYING ABOUT A REPUBLICAN ATTACK ON SOCIAL SECURITY IS UTTER NONSENSE

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, Democrats in the White House and on the House floor have contended that the Republican contract with America jeopardizes Social Security. What complete utter and irresponsible nonsense.

Mr. Speaker, the contract with America contains the 10-percent debt buydown concept. Debt buydown is an implementation strategy for a balanced budget, and it works. According to the Congressional Budget Office, Mr. Speaker, under optimal circumstances, using taxpayer designation of their tax money to a special debt buydown fund, and then applying those savings to spending cuts, balances the budget in 6 years.

Here is the important point:

Debt buydown works without touching Social Security. In fact Social Security is specifically and totally exempt from debt buydown spending cuts.

So, Mr. Speaker, the Congressional Budget Office has certified a balanced budget implementation strategy that exempts Social Security and works. That makes everything that the Democrats are saying about a Republican attack on Social Security so much political nonsense.

THE NEW SOUTH AFRICA

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, during the 20th century there have been two major nonviolent revolutions; one occurred in our country, the other in South Africa. Ours was a civil rights revolution; South Africa's was the overthrow of apartheid. The sporadic violence that attended both cannot detract from the ultimate triumph of human rights over war and fratricide.

We are in good company today as President Nelson Mandela comes to Washington. South Africa now needs to solidify its revolution. This requires continuing U.S. aid and especially investment from U.S. companies. Ten years ago I did not expect to be an advocate of aid and trade with South Africa. In 1984, along with three others, Mr. Speaker, we entered the South African Embassy and helped light the spark that led to sanctions. Today the call for divestment has been turned on its head with a market economy and a nonracial economy. South Africa is marching forward.

Mr. Speaker, we must join the new South Africa as it now moves on to an economic revolution.

THOUGHTFUL DEBATE ON ENTITLEMENT REFORM FOUND WANTING

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, later this week, we will take up what is likely to be the final piece of the A-to-Z buyoff package. While Democrat deficit chicken hawks are left holding the bag on this incomplete package by their leadership, Americans will note that not one so-called budget reform measure from the A-to-Z buyoff has been enacted.

House Concurrent Resolution 301 is a suitable finale for such a dismal performance: It is a cynical measure that will allow Members to say "I voted to reform entitlements," while doing absolutely nothing to change the status quo. We already know that the problem exists—the bipartisan commission on entitlement reform voted 30-1 on findings that conclusively demonstrate the long-term growth of mandatory spending threatens Government solvency. We do not need another do-nothing resolution: We need thoughtful and thorough debate on reasonable solutions. Anything else is just a waste of time and last-minute look-good policies by Democrats.

THE GATT VOTE

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, this House should not be forced to vote on GATT in the closing hours of this session. As I am speaking, a bipartisan letter bearing signatures of over 100 Members of this House is being delivered to the Speaker. In fairness to both proponents and opponents of this agreement, Mr. Speaker, the bill should either be put over until the next Congress or at least not force this House to vote on the agreement without having the opportunity for the other body to be debating it simultaneously.

Let me just mention that on page A7 of the Washington Post today is another reason not to vote to bring this agreement up now. It talks about a special deal included in the bill for the Washington Post and its affiliate, the American Personnel Communications, a company that will get a deeply discounted license for any wireless services as a result of language buried in GATT, and very interestingly the ad is paid for by one of the companies that did not get benefited, Pacific Telesis Group.

□ 1250

There is a lot in this legislation that should not be there, and we have a right to know what it is to have enough time to study what is in GATT. Let us take the time to deliberate.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. CUNNINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, the 10-point contract with America, I would like to appeal to my colleagues, because I think this is things that both sides can agree on in how to pay for national security.

First of all, BRAC 1993 is not funded, and the military is having to take it out of hide. BRAC 1995 is to look at the true environmental cleanup cost and the cost before we close the base. If there is no savings, then that will add to national security. Social spending in the crime bill is nothing compared to that in the defense bill. That will help.

Stop taking peacekeeping dollars out of a needed defense budget. Procure equipment on economy of scale: 28 aircraft that we bought this year has astronomical unit costs; stay out of the battles like Somalia, Bosnia, and Haiti, all billions of dollars. We gave Russia aid, five typhoon class submarines and three very deep submarines procured at $12 billion each, MIG 35's, and we give Russia billions of dollars.

I could go on, Mr. Speaker. I think these are items that Republicans and Democrats can support and increase our national defense.

DOMESTIC VIOLENCE

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, this year, we do not need domestic violence awareness month to convince the Congress that domestic violence is a serious problem. This year, domestic violence victims across the country can find hope in the fact that after years of effort, the Federal Government has finally responded to the problem of domestic violence by enacting the Violence Against Women Act as part of the crime bill.

For too long, people have tolerated the belief that beating your wife is somehow more acceptable than beating up a total stranger.

But, finally, the Congress and the President have acted to stem the violence by passing the Violence Against Women Act. The act authorizes funding for a national, toll-free hotline to provide information and assistance to victims of domestic violence; it creates a Federal remedy for interstate stalking and abuse; it requires that each State honor the protective orders issued by other States; it encourages comprehensive reform in arrest, prosecution and judicial policies directed toward domestic violence; it provides substantial funding for battered women's shelters; and it permits immigrant spouses of United States citizens to escape from their abusive spouses without risking deportation.

But legislation can only do so much. The key is changing attitudes. All Americans need to understand that domestic violence is a serious crime, that battered women and crime victims, and that men who batter are criminals.

WHAT KILLED HEALTH CARE REFORM?

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, this past week the Democrat leaders of the U.S. Congress blamed the failure of health care reform on Republicans and special interests.

I take offense at that comment and consider it an insult to me and also to the American people.

What killed health care reform?

Could it be proposals crafted behind closed doors?

Could it be a Clinton plan that created 59 new Federal agencies and expanded the authority of 20 others?

Could it be that the Clinton-Gephardt and Clinton-Mitchell plans were job killers and tax raisers?

Could it be that the more the American people knew about these plans the less they liked?

Could it be that senior citizens did not want their benefits cut and their costs increased?

Maybe as the Democrat leadership leaves Congress they should find time to do two things:

First, take a math course to learn that 178 Republicans does not equal half of 435, and

Second, spend more time with the American people who will tell him why three-fourths of them did not like Clinton-style health care reform proposals.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair would remind Members, not citing the Member in the well, not to refer to Members of the other body in a critical manner.

ON GATT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, my colleagues and others have seen a full page ad in the Washington papers today outlining what was said to be a "corrupt deal" involving pioneer preference. The hard facts of the matter are that the proposal in the GATT treaty legislation is legislation which in fact is going to cost the Washington Post and others more. And it is going to make it assured rather than doubtful that they will be paying a significant amount of money, perhaps amounting to billions of dollars, to the Federal Government in exchange for these pioneer preferences.

As the matter originally came forth from the Federal Communications Commission, these licenses were going to be given for nothing. Because of the efforts of the Committee on Energy and Commerce and because of the cooperation of the FCC, an attempt has been made to administratively raise this to 90 percent of the cost.

In point of fact, this raises some question because of the doubtful authority of the commission to do so. Now we are having to do this matter by legislation.

Do not listen to this kind of falsehood. I will advise further to my colleagues by a letter which I will be communicating to them and a letter to the editor on this matter.

MORE ON THE REPUBLICAN CONTRACT

(Mr. BOEHNER asked and was given permission to address the house for 1 minute.)

Mr. BOEHNER. Mr. Speaker, last week Republicans gathered from around the country here on the Capitol steps to sign a contract with America. It was an effort put together by candidates and incumbents to let the American people know that if they put us in charge of this House, for the first time in 40 years, here is what we would do on the opening day and what we would do in the first 100 days.

I guess I have to say, I have been somewhat surprised at my colleagues on the other side of the aisle who trashed our efforts. Their liberal allies down at the White House, the liberal media, they have begun to attack this in a very vicious way. It really is somewhat surprising that they would have even stooped to the depths of bringing to the American people scare tactics about what this program would do.

I can understand that they do not agree with out contract and do not agree that we ought to balance the budget, do not agree that we ought to have a line-item veto and other things. But Republicans in this House have stood up. We have told the American people what we are for and what we would do if we were in charge. Where is their plan?

DOMESTIC VIOLENCE

(Mr. BARCA of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARCA of Wisconsin. Mr. Speaker, I rise today to bring attention to one of our Nation's most serious problems, domestic violence. I would like to thank my distinguished colleague, the gentlewoman from California [Ms. ROYBAL-ALLARD] for arranging today's important discussion.

In my congressional district alone, hundreds of women and their families seek protection from abusive spouses. In the last year, there has been far too many incidents of abuse and at least one domestic homicide in Wisconsin's First Congressional District.

We have made solid progress in addressing this problem with the passage of the Violent Crime and Law Enforcement Act. Provisions of this legislation include requiring interstate enforcement of protection orders and strengthening services for victims of domestic and gender-based violence. Fortunately for the people of Wisconsin, we have a solid cluster of centers that provide quality services for their victims. The people in my congressional district are taking steps to address this serious problem. On October 14, a speakout and candlelight vigil will be held to end domestic and sexual violence at the Kenosha County Courthouse in Kenosha, WI. Additionally, the YWCA alternatives to domestic violence in Janesville, WI, and Walworth County, has been working for many years to combat domestic violence in our society. The Women's Resource Center in Racine, WI, and Women's Horizons in Kenosha, WI, also provide assistance to victims of abuse. I applaud the people in Wisconsin's First Congressional District and across the nation for their commitment to end domestic violence in our society.

MORE ON THE REPUBLICAN CONTRACT WITH AMERICA

(Mr. EHLERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EHLERS. Mr. Speaker, 1 week ago, over 300 Republicans stood on the steps of the Capitol and signed a contract with America. I thought this was a noble endeavor, an unusual action during the campaign year, to actually say what we were going to do after the election and sign a statement to that effect.

I am relatively new here. I have had some surprises, but the biggest surprise has been the reaction to the contract of the majority party and some of the members of the press.

One reaction is, "We cannot afford it." Or, "How are we going to pay for it?" As an outsider, I find those questions incomprehensible. How can we not afford to save money? I think it is great if we can save money. I think it is great if we can reduce the budget here. What a strange attitude for the majority to display.

Now I am beginning to understand what is meant by the "inside the beltway" mentality.

I come from the State of Michigan, which cut their budget by $1.8 billion a few years ago. The net result is a budget surplus this year. The net result is that for the first time in 20 years the State of Michigan has an unemployment level that is lower than the Nation as a whole.

We can afford the contract and we can pay for it. I urge that we adopt it.

□ 1300

DOMESTIC VIOLENCE MUST BE STOPPED—NOW

(Mr. FILNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, domestic violence is the No. 1 cause of injury to women ages 15 to 45 in the United States. Every 15 seconds a woman is battered in a domestic dispute. But these are not just statistics—these are human beings who live every day in fear.

Women like Marta—who live in my district. After 17 years and more than 70 severe beatings, she fled her home when her husband nearly killed her. With the help of a battered woman's shelter, she is putting her life back together—for herself and her two young sons.

This is America's hidden crime. Many victims of domestic violence remain in the shadows. All too often our police and other law enforcement officials cannot help until the woman is seriously injured or killed because the victims are silenced by fear.

What can we do as a Congress to stop the violence? First of all, we can raise awareness and let women know that help is available. Second, we can break the cycle of abuse, by teaching our children that the use of violence is not justifiable. Lastly, let us not forget—that the victim is the abused, not the abuser.

The point is that we should act—and act now. During the brief time that I have been speaking, four women have been battered. This is four too many.

ESSENTIAL GATT DEBATE HELD UP BY SENATE DEMOCRAT

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, I am convinced that an overwhelming majority of Republicans strongly support the idea of reducing tariff barriers and expanding export opportunities for U.S. goods and services. Seven years ago Ronald Reagan launched the Uruguay Round of the General Agreement on Tariffs and Trade.

I believe that a majority of Republicans want to be able to support the Uruguay round, but it is very unfortunate that one Member of the other body of the President's own party has chosen to block consideration of it at this time, and has delayed until the first of December a vote which will take place on that.

Mr. Speaker, while I am a strong supporter of the GATT, I cannot look any Member of this House in the eye and say that, "You should not have the same amount of time to consider your concerns over this legislation as that Member of the other body who has raised this delay." It seems to me that we have a responsibility to recognize that this issue is being held up by a member of the President's own party.

VIOLENCE AGAINST WOMEN ACT—JUST THE BEGINNING

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, at this time last year, 43 people in the State of Colorado died in domestic violence related incidents since January 1993. Here in D.C., and around the country, children are reacting to the slightest provocation with violence. Often children are in danger in their schools. They see violence on television, and in the movies. But nothing is more real than the violence in their homes.

Almost one-fifth of all aggravated assaults reported to the police are aggravated assaults in the home. Violence will occur at least once in two-thirds of all marriages. We can only crack the culture of violence children grow up in if we address the violence in their homes. Domestic violence is a crime that has been ignored by police and prosecutors, and disregarded by judges. Between 22 and 35 percent of women who visit the emergency rooms are there because of symptoms related to on-going abuse. Violent homes are a breeding ground for abused children and later, if they receive no help, violent adults.

The crime bill, which was signed into law last month, included the Violence Against Women Act, legislation designed to address domestic violence. A lot of us think of home as the safest of places, but for victims of domestic violence and their children, home is the most dangerous place of all. With the passage of the Violence Against Women Act, cities, judges, communities, and advocates now have the tools necessary to begin to change that.

PRESIDENT'S POLLS

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, the President's poll numbers are terrible. According to the latest Newsweek poll, only 36 percent of Americans support the job the President is doing.

What is amazing is how little he is doing to improve his standing. Last night he went to Virginia, where he attacked Republican's contract with America.

The contract embodies what the American people support: less government, less spending, and fewer taxes for a Washington that delivers less and less.

Instead, the President continues to ask for more of what the contract will curb. His administration has increased Social Security taxes, gas taxes, business taxes, and income taxes, and has increased spending $100 billion.

By opposing the Republicans' contract, the President opposes the desires of the American people. It is not surprising that they then oppose him.

URGING CONTINUED EFFORTS TO PREVENT VIOLENCE AGAINST WOMEN AND CHILDREN

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, I rise today to mourn the women and children who have lost their lives to domestic violence, celebrate the survivors, and thank those in Congress and across the Nation who have struggled to bring about real change.

While the statistics vary, it is clear that domestic violence has reached horrific proportions. It results in many if not most of the serious injuries and murders of women in this Nation. And the tragedy doesn't end there. Children in abusive households all too often grow up to become abusers themselves, perpetuating this vicious cycle of violence.

Despite these grim realities, our Nation's battered women's shelters have long been dangerously underfunded. Just a few years ago, they were forced to turn away nearly 4 in 10 of the women waiting in fear for the doors to open. Without increased help, these women would have little choice but to remain in homes filled with violence and terror.

I am very pleased that the Federal Government is increasing its investment in domestic violence prevention and treatment through the Violence Against Women Act. We must also put more emphasis on getting to the roots of violence prevention—a greater priority on education and early childhood education.

A CONTRACT ON AMERICA, NOT A CONTRACT WITH AMERICA

(Mr. BECERRA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BECERRA. Mr. Speaker, I think all of us are pleased to finally find out some of the things that the Republicans want to do, and not just find out about what the party does not want to do. However, I must tell the Members that in this contract with America we have nothing but questions to ask.

They talk about reducing taxes, they talk about increasing defense spending, and with all that, they are going to balance the budget. That was something that was tried during the 1980's under Reagan economics and America got enough of that. All we got was debt.

In fact, we got so much debt that in the 12 years under Presidents Reagan and Bush we tripled the size of the national debt. Two Presidents did in 12 years what 200 years of Presidents could not do before them: That was triple the national debt to $4 trillion.

So how are the Republicans this year planning to pay for their contract on America? They must tell us. They must also tell us why they are pushing for term limits when, if they were really serious about it, not one member of the Republican leadership would still be in this House, because they have all served much longer than those term limits would allow.

The Republicans should tell us how they will do those things. This is not a contract with America, I think it is more a contract on America.

VIETNAM, SOMALIA, PORT-AU-PRINCE—WHAT IS THE DIFFERENCE?

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I have just come from Arlington cemetery and a ceremony for the last known POW of the Vietnam war, Col. Charles Shelton. He disappeared after 5, 6, 7 years of captivity in the mists of history, somewhere in Laos, held in caves with my best friend, David Hrdlicka, who suffered the same fate.

The ceremony today was at the grave of my friend, Marian Shelton, who died 4 years ago today after a 25-year crusade to implore her government to find out the fate of our missing in action in Southeast Asia. Today is the 1-year anniversary of the most pathetic and loathsome film Americans have ever had to watch of their fighting men, Tommy Fields, Gary Gordon, Randy Shugart, Ray Frank, and David Cleveland, their bodies dragged through the streets of Mogadishu, stark naked, poles and bayonets and rifle barrels stuck into their bodies, and then those burned remains dumped over the next 2 weeks, one at a time, on the steps of the U.N. compound that is today the headquarters of Aideed, the warlord and killer.

Why are we going through this again in Haiti? Vietnam, Somalia, Port-au-Prince—what is the difference?

NATIONAL DAY OF REMEMBRANCE FOR VICTIMS OF DOMESTIC VIOLENCE AND THEIR FAMILIES

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I rise today to commemorate the National Day of Remembrance for Victims of Domestic Violence and Their Families. I thank my colleague from California, Ms. ROYBAL-ALLARD, for organizing these statements against the epidemic of domestic violence in our country, and more importantly, for her leadership on this grave issue.

I am encouraged by the progress made with the recent passage of the Violence Against Women Act, incorporated into the crime bill. This legislation was needed, since three deaths a day on average are recorded as a result of domestic violence in our country.

Local communities are trying to fight back. The Family Violence Prevention Fund, a national domestic violence service organization based in San Francisco, is now working in coalition with the San Francisco Police department to promote awareness of the Violence Against Women Act provisions and increase the sensitivity of law enforcement response to domestic abuse complaints.

We must listen to the victims. As we remember and mourn the victims today, let us pledge that we as legislators will join with our communities to do everything in our power, our considerable power, to end domestic violence.

□ 1310

NO ONE ELSE TO BLAME

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, three speeches ago, the gentleman from California [Mr. BECERRA] blamed the national debt increase on President Reagan. He ought to know better than that. Unless the Constitution was amended while nobody was looking, the Congress holds the power of the purse, and all appropriation bills must originate in the House of Representatives. Furthermore, because of the impoundment Control Act of 1974, passed when Democrats controlled both Houses of the Congress, the President has to spend every dime that is appropriated by Congress and that law makes it an impeachable offense for any President of the United States to withhold appropriations that have been made by the Congress of the United States.

Rather than blame the President of the United States, Republican or Democrat, Ronald Reagan or Bill Clinton, for the increases in the national debt, the Congress has nobody to blame but itself, and this House has been controlled by the Democrats for 40 years.

Mr. Speaker, is it not time for a change which would really put the brakes on the national debt increase?

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

Mr. MILLER of California. Mr. Speaker, pursuant to clause 1, rule XX, and by the direction of the Committee on Natural Resources, I move to take from the Speaker's table the Senate bill (S. 21) to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks and the Mojave National Monument, and for other purposes with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that the time for debate be equally divided between the majority and the minority.

POINT OF ORDER

Mr. POMBO. Mr. Speaker, I have a point or order.

The SPEAKER pro tempore (Mr. HUGHES). The gentleman will state his point of order.

Mr. POMBO. Mr. Speaker, I make a point or order that the Committee on Merchant Marine and Fisheries to which the bill S. 21 was referred, has not authorized the pending motion in violation of clause 1 of rule XX.

The SPEAKER pro tempore. The gentleman makes a point of order that the motion is out of order.

Does the gentleman from California desire to be heard on the point of order?

Mr. MILLER of California. Mr. Speaker, to make the point of order that the primary committee of jurisdiction was authorized to ask to go to conference.

The SPEAKER pro tempore. The chair is prepared to rule.

Mr. POMBO. Mr. Speaker, may I be heard on that before the Chair responds?

The SPEAKER pro tempore. The gentleman is recognized to be heard further on the point of order.

Mr. POMBO. Mr. Speaker, I serve on both the Committee on Natural Resources and the Committee on Merchant Marine and Fisheries, to which S. 21 was also referred. Unfortunately, the referral to Merchant Marine and Fisheries was very short and that committee did not file a report on the bill. The net result is that my Merchant Marine and Fisheries colleagues did not have an opportunity to debate this bill in committee. Now it appears that the Committee on Merchant Marine and Fisheries will not have a role in making the recommendation to the House with regard to insisting or receding from the Senate amendments to S. 21.

Mr. Speaker, it is my understanding that, under rule XX and the precedents of the House, a privileged motion to go to conference must be authorized by both committees to which a bill has been jointly referred. I have been told that this precedent was decided prior to the time when sequential referrals were used in the House. I believe that the interests of the House would be best served if this interpretation were extended to sequential as well as joint referrals to ensure that all committees of jurisdiction on a bill will be treated as equal partners in the process.

I do not believe that the Speaker has yet ruled on this precise issue and insist on my point of order to clarify the matter.

The SPEAKER pro tempore. Does the gentleman from California [Mr. MILLER] desire to be further heard on the point of order?

Mr. MILLER of California. Yes, Mr. Speaker. The Committee on Natural Resources is the primary committee of jurisdiction here. There was a referral to the Committee on Merchant Marine and Fisheries. They could have exercised whatever actions they decided to. They did not decide to do that. By reason of the fact that we remain the primary committee, we have been instructed by our committee to go to conference on this matter.

The SPEAKER pro tempore (Mr. HUGHES). The Chair is prepared to rule.

The gentleman from California makes the point of order that, to be privileged under clause 1 of rule XX, the motion must be authorized not only by the Committee on Natural Resources but also by the Committee on Merchant Marine and Fisheries.

Under clause 1 of rule XX, a motion to send a bill to conference is always in order if the Speaker, in his discretion, recognizes for that purpose and if the motion is made at the direction of all reporting committees having original jurisdiction over the bill. The Chair is guided by the precedent of September 26, 1978, standing for the proposition that the motion must be authorized by each committee of joint referral that has reported the measure to the House.

In the instant case, the Committee on Merchant Marine and Fisheries was a committee of sequential referral of the House bill and did not report thereon to the House. The instant motion is, therefore, offered at the direction of the only committee of original referral of the House bill, and the only committee that reported thereon to the House—the Committee on Natural Resources. Accordingly, the motion is privileged under clause 1 of rule XX.

The point of order is overruled.

Mr. DOOLITTLE. Mr. Speaker, pursuant to rule XVI, I ask that the question of consideration be put.

Mr. MILLER of California. Mr. Speaker, I move to table the motion.

The SPEAKER pro tempore. The motion to table is not in order at this point.

The question is, Will the House consider the motion offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOOLITTLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 148, not voting 18, as follows:

[Roll No. 463]

YEAS—268

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—148

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Sarpalius
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—18

Andrews (TX)
Ballenger
Burton
Dellums
Gallo
Gingrich
Johnston
McCloskey
Pelosi
Rostenkowski
Slattery
Stokes
Studds
Sundquist
Torres
Tucker
Washington
Whitten

□ 1338

So the House agreed to consider the motion offered by the gentleman from California [Mr. MILLER].

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HUGHES). Without objection, a motion to reconsider is laid on the table.

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. MILLER of California. Mr. Speaker, I move to reconsider the vote on the question of consideration.

Mr. RICHARDSON. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico [Mr. RICHARDSON] to lay on the table the motion to reconsider offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 150, not voting 13, as follows:

[Roll No. 464]

AYES—271

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—150

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Sarpalius
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Dellums
Gallo
Johnston
McCloskey
Sharp
Slattery
Slaughter
Studds
Sundquist
Torres
Tucker
Whitten
Wolf

□ 1356

Ms. LAMBERT changed her vote from "no" to "aye."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote No. 464. Had I been present, I would have voted in favor of the motion.

Mr. MILLER of California. Mr. Speaker, pursuant to rule XX, I have been directed by the Committee on Natural Resources to insist on the House amendment to S. 21, the California Desert Protection Act, and agree to a conference. The California Desert Protection Act upgrades Death Valley and Joshua Tree National Monument, and in addition the legislation designates approximately 3.9 million acres of wilderness.

Mr. Speaker, I ask unanimous consent that the time allotted be equally divided between the majority and the minority, which, I believe, entitles the minority to 30 minutes and the majority to 30 minutes.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

☐ 1400

Mr. MILLER of California. What is under consideration is not the California Desert Act. Mr. Speaker, I want to say to my colleagues who have persevered through the last couple of votes, what is before us is a question of whether or not the House will go to conference with the Senate on this bill that the House has spent a great deal of time on.

We spent 7 days and some 26 hours in discussion on the California desert. We sent the bill to the Senate a little over 2 months ago, and since that time it has been hung up on the inability of the Senate to go to conference because one Senator or another did not like this legislation or sought to use this legislation for leverage on some other piece of legislation, or sought to gain political advantage over the author of this legislation in the Senate, Senator FEINSTEIN, have delayed our ability to go to conference in the Senate.

Agreement has now been reached on both sides of the aisle in the Senate to allow us to go to conference. The motions have been made and carried out, and the Senate awaits the House in the conference committee.

The question is whether or not we will be able to go forward in the legislative process under the regular order for the consideration of this legislation in the conference committee. I would hope when the time comes to vote on that motion to go to conference, that the House would support the efforts to go to conference. I would say to my colleagues I understand there will probably be a motion to instruct, which will be debated, and we will have the vote on the motion to instruct, and then we could get on with the consideration of a landmark piece of legislation that will have tremendous impact and benefit, certainly to the area of the California desert, but also to the citizens of our State, California, and to the citizens of this Nation, by protecting one of the outstanding and unique assets before us.

Before we can get to there, we must dance the dance of legislation, and I would hope that all of my colleagues would understand and give us a little bit of what tolerance they have left in this session of the Congress, and then we could get on with this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from California [Mr. MILLER], also on the Committee on Merchant Marine and Fisheries, said the Committee on Merchant Marine and Fisheries took no action.

This is one of the back-door, closed-door politic procedures that no Member on the Republican side had any authority or ability to change, or was even notified that we would not take any action. That includes the gentleman from Texas [Mr. FIELDS], who is the ranking member.

This is what the American people are dead set against, closed deals behind closed doors to ramrod a piece of legislation through that bypasses one of the committees of jurisdiction, which is Merchant Marine and Fisheries.

We have seen in the past what conference reports do. For example, the gentlewoman from Washington [Ms. DUNN] and the gentleman from Georgia [Mr. DEAL], on sexual predator language in the crime bill, had a 417-to-13 vote to include the sexual predator language in the crime bill. The liberals took it out of the crime bill in conference, against the bill of the House. That is what they are going to do in this bill.

The property rights actions that we fought for, where you can get fair market value for your property and you can build on it until the Government pays you, because they are $3 billion in arrears, all of those things will go away in this conference, because the conference is loaded, and the Republicans are being shut out. That is why in the 10-point contract with American, that Cyborg Internet will let every American know exactly what is in every one of these bills, not smokescreens, not clods, not taking out minority Members, which I feel that the other side of the aisle will be next year. Remember that.

Mr. HANSEN. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is especially important that we take a few moments at this time for the House to recall precisely why we were so involved with the Desert Protection Act when we had it before us a couple of months ago.

There are five Members of the California delegation who have significant portions of their district as a part of the California desert. Those five Members have very serious concerns about the direction of the House committee as it relates to the Desert Protection Act.

Mr. Speaker, I remind the House that those Members came to the floor with no small level of outrage about the way they were treated by the committee relative to their concerns about their own districts.

Mr. Speaker, it was not a matter of their not having an opportunity to discuss the question on the floor. It was a matter of having the committee arbitrarily roll over those Members and not even consult them regarding the direction of the committee as it relates to desert protection.

Indeed, the Members came to the well of the House reflecting that concern. Much to my surprise, as those Members expressed their concern, the House was willing to listen.

There is little doubt in my mind that the Members said to themselves, if the committee would be this arbitrary with those five Members relative to their districts, what would this same committee do to us? And they sensed our outrage might very well affect their districts sometime if they did not join us.

As a result of that, there were a dozen very important amendments that were passed on the House floor.

For example, Mr. Speaker, the LaRocco amendment, which is supported by the Sportsman Caucus and a myriad of leading conservation groups, creates a national preserve in the East Mojave Desert which allows for active management of wildlife areas. That debate took a great deal of time. We will not be taking that time here today. But I want the Members to know that those provisions would not have been in this bill if the membership had not reacted as they did.

That amendment was followed by an amendment presented by my colleague, the gentleman from Louisiana [Mr. TAUZIN]. The Tauzin amendment related to personal property rights, which the House passed by a vote of 281 to 148, a very strong expression of bipartisan concern regarding property rights.

There was major support of that measure, Democrats and Republicans alike, coming together and saying we are concerned about property rights, even if the committee is not concerned about property rights. The gentleman's amendment says the private lands acquired as a result of this act must be appraised, without regard to the presence of threatened or endangered species.

The gentlewoman from California, Senator FEINSTEIN, the Senate sponsor of the desert bill, has already openly stated she opposes the Tauzin amendment. I think it is very, very important that the Members remember their concern about the way the committee treated those Members who represent the desert. Indeed, it is our concern that the committee will just roll right over us one more time.

Mr. Speaker, it appears to me that the gentlewoman from California, Senator FEINSTEIN, hopes to eliminate that proposal simply because she really does not care about the average property owner. It is clear that she has already cut a few deals with the big property owners and the big mining companies. But it is very clear the Senator from California could care less about the property rights of average people.

Mr. Speaker and Members, the House also adopted two amendments dealing with access, very important amendments that I hope some of my other colleagues will address as well.

One of those amendments allows law enforcement personnel the ability to access all of the wilderness areas in this bill, either by motorized vehicle or by aircraft. This amendment is important because many of these wilderness areas are used as safe havens for drug smugglers and illegal aliens.

The second amendment in this subject area the House passed is similar with respect to the management and construction of wildlife guzzlers, otherwise known as man-made water sources.

□ 1410

Without the ability to access these rural and very, very distant areas, many of the animal species in the desert could indeed perish as a result of a lack of access. There are a number of items that it is very important the House focus on because we spent more than 20 hours expressing the House will on this issue. I want to make sure that the House remembers that debate, but also that the public remembers that debate. For there were very, very important questions of public policy that overrode the arbitrary action of this committee as they dealt with the Members who represent the desert.

Mr. HANSEN. Mr. Speaker, I yield 7 minutes and 30 seconds to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I want to talk specifically about two amendments that we passed in the full House and maybe have a colloquy with the chairman of the committee on these amendments, because I know we are going to be moving into a motion to instruct conferees to stick with the House position. There were two things that I think were of particular importance to those of us in California who are concerned about fish and wildlife and also about law enforcement.

We offered an amendment that passed overwhelmingly, in fact, I think it was close to unanimous, to allow our law enforcement personnel to have access to all the border areas which abut the nation of Mexico.

Specifically, when we look at the proposed wilderness areas in the California desert bill, these areas come right down and hit the international border and a couple of them are in major smuggling corridors. If we go over the coastal hills from San Diego into the California desert that is to the east of San Diego and joins the Mexican-California border, we will see that in the last couple of years, the narcotics interdiction rate has gone up almost fourfold to almost $600 million in narcotics seized last year, cocaine and marijuana.

As the squeeze is being put on in so-called Operation Gatekeeper in San Diego, more and more of that traffic is being circumvented and is trying to flank the law enforcement operation in San Diego County and come through in the El Centro sector, near Calexico and Mexicali.

We passed an amendment, and I think the gentleman from Minnesota [Mr. VENTO] spoke highly of this amendment and urged its passage, we passed an amendment that said that law enforcement, including the border patrol, including our drug enforcement agencies, could have access, motorized access to the desert areas that abut that international border.

The idea being that obviously smugglers from Mexico, whether they are smuggling illegal aliens or smuggling narcotics, are not going to abide by a prohibition in the desert bill that says that nobody can take a motorized vehicle through these hills. We are going to have smugglers moving through the hills and, because of that, we need to give the right and the power to our law enforcement agents to pursue them with motorized vehicles. Otherwise we are not going to be able to apprehend them and we are going to create basically safe havens for smuggling that goes right up against the border.

I just wanted to ask the chairman of the committee, the gentleman from California [Mr. MILLER], if it is his intention to support that, the law enforcement amendments that we passed in the House with respect to that access.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. MILLER of California. That is our intent.

Mr. HUNTER. I thank the gentleman.

Let me talk about another area that I think is important to us, that will was expressed by the full House after a rather extraordinary debate which the gentleman from California [Mr. CUNNINGHAM], the gentleman from California [Mr. LEWIS], the gentleman from California [Mr. McCANDLESS], the gentleman from California [Mr. THOMAS], and a number of Members from the other side of the aisle participated. That is with respect to the fish and wildlife in the desert.

Particulary we have two species of big game animals, that is the desert bighorn sheep, which is an endangered species, and the desert mule deer, which is enjoying a comeback in population numbers in the California desert.

The reason they are enjoying a comeback is because a lot of private citizens, along with the fish and wildlife department of the State of California, have developed a science for building watering holes that does not require wells, that do not require engines, that do not require windmills, but they have a technology that is based on runoff, and they have built tanks, watering holes, in the desert in this area where we only get about an inch of rainfall a year. They have built, and I am speaking of Desert Wildlife Unlimited, in cooperation with the State of California fish and wildlife, we have built over 59 watering holes in the desert that are frequented and utilized by desert bighorn sheep, desert mule deer, quail, coyotes, and dozens of other species of animals that inhabit the desert.

By building these watering holes far away from the canal system, who have eliminated the magnet comprised by the All American canal and the Coachella canal, these big irrigation canals that are death traps for wildlife. If we look at these canals, they have a very steep slope, and they are paved with concrete.

Desert bighorn sheep will come and slide down these giant canals to get to the water because they are thirsty and then they literally wear their hooves out trying to paw back up the canals to get out. In essence the canals are death traps, and we have lost large populations of bighorn sheep and deer in those irrigation canals.

So by building watering holes in the desert, Desert Wildlife Unlimited and the Department of Fish and Game have eliminated the magnet effect of these deadly irrigation canals where our bighorn sheep and our desert mule deer drown.

So they now stay out in the desert in a scattered condition where they are less susceptible to predators. As a result of that, we have brought back the bighorn sheep population in fairly good numbers.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. LEWIS of California. I believe the point that the gentleman is making is that over a number of decades, many of the major species out in that region were literally beginning to disappear because of lack of availability of water, a lot of other activities that involve caring for animals that are currently being handled on a coordinated basis between private efforts as well as the department of fish and game in California. They were disappearing, and they now have come back.

Mr. HUNTER. Mr. Speaker, the gentleman is absolutely right. One thing that is important to do in this country, which is right on target with the desert bill, is listen to folks who have a particular expertise in a particular area. It is important that we listen to experts from our own areas because whether someone comes from the east, comes from the district of the gentleman from Minnesota [Mr. VENTO] comes from the district of the gentleman from California [Mr. MILLER comes from my district in the desert of California, there are certain aspects of their district that people in our districts, whether they are fish and game managers or law enforcement personnel, there are certain aspects that they understand better than people in other parts of the country.

To my friend, the gentleman from California [Mr. LEWIS] who helped us on this amendment, we have brought back the fish and wildlife by having Desert Wildlife Unlimited and the department of fish and game build these watering holes throughout the desert.

Here is the crux. According to fish and wildlife and Desert Wildlife Unlimited, the volunteer group, we have to be able to drive a vehicle in to service these watering holes. In the one area where we cut off vehicularized access, we lost our watering holes an we had a die off of our wildlife species like desert bighorn sheep and deer.

I just wanted to ask the gentleman if it will be his intention to uphold our desert wildlife amendment? I ask our esteemed chairman of the committee, the gentleman from California [Mr. MILLER] if it is his intent to uphold the amendment that the full House passed to allow vehicularized access to maintain watering hole or fish and game.

Mr. MILLER of California. Mr. Speaker, if the gentleman will continue to yield, that would be our intent.

Mr. HUNTER. I thank the gentleman.

☐ 1420

Mr. HANSEN. Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman from Utah for yielding time to me.

Mr. Speaker, my concern here will not be to cover what has already been talked about in terms of the amendments which we were successful in getting during the debate on the floor of the House. My concern is an area in which the public is going to lose, and not to the detriment of anything in the way of conservation.

As I have told the Members on many occasions, sand and grit are in both of my shoes from the Colorado Desert, south into Imperial County. Those have been my roots. My grandfather homesteaded in a place called Borrego Springs back in 1900, so this is not a new thing to me, the desert, and the fauna and flora that make up this beautiful part of California.

The concern that I have is that we have many hundreds of responsible people in four-wheel drive clubs that use this as a recreational outlet for their family, because they do not have the resources to do other things. The El Jamel four-wheel drive club of Indio, the Hemet four-wheel drivers, and I could go on and on; these people are responsible people. They have in many cases purchased property in various locations of the desert over a period of years, where they then camp after four-wheeling around for a certain period of time.

In two instances these clubs will no longer have access to the properties that they have owned, in one case for three generations. I think that is wrong. That is where I am taking exception to this bill and the draft that is going to conference.

On other occasions, these same people will go out and undo what those who are not particularly responsible do when they are in the desert, by picking up trash, cleaning up, and bringing the desert back to its original state.

Mr. Speaker, what do we have here when we talk about the word recreation? We talk about re-create. I do not intend to demean an occupation, but let us say that you are some type of a punch press operator, or you are involved in some type of manufacturing that is not necessarily something that challenges you each day. You work your work week, you do your job well, and you look forward to the weekend and recreating so you can go back and do what you have chosen to do in life the next week, the next week and the next week.

We have over 10 million people on the coastal plain of Los Angeles who utilize all aspects of the inland desert for recreational activities, and 99 out of 100 are responsible people, and people who have done this for years and years. Now we are going to shut these people out of many of these areas, for no other reason than we have declared them wilderness; but there are roads that go through it, there are huts, there are camps, there are small constructed dwellings, but it has still been designated a wilderness area.

When I spoke the last time I pointed out a wilderness area on the map where I and the Bureau of Land Management regional manager flew over in a helicopter. He said "Al, here is a wilderness area." I said, "How can it be a wilderness area, when a road leads into it, there are two cars, a camp, and a cabin?" He said that is what has been designated a wilderness area. Those people will no longer be able to, under this bill, the way it is drafted, get into those kinds of areas.

I am not here as a guy who is saying, "I did not get what I wanted, therefore I am going to use all the means possible to prevent it from happening." I am saying this bill is unfair to a lot of the people who have utilized the desert over the years, and have done so responsibly. As I have explained, they recreate in the desert. This is my main concern.

Mr. LEWIS of California. Will the gentleman yield?

Mr. MCCANDLESS. I am happy to yield to the gentleman from California.

Mr. LEWIS of California. I thank my colleague for yielding.

Mr. Speaker, I think my colleagues know our friend, the gentleman from California [Mr. MCCANDLESS] is retiring this year. Indeed, there is not a Member in this House or either body who begins to have the understanding that the gentleman from California, AL MCCANDLESS, has for the wondrous area that involves our desert.

My concern is, and I would like to have the gentleman's comments about this, is that S. 21, which would be considered in this conference, creates a park in the east Mojave of some 1.5 million acres. There are desert lands in that region that you can put four Eastern States in pretty easily. It is a huge territory. Without appropriate management in a park setting, average citizens, senior citizens, and otherwise, who want to go to see the center of that park will have no way of getting there, is that correct, outside of horseback, perhaps?

Mr. MCCANDLESS. Mr. Speaker, let me conclude by saying there are two famous trails across an area going from east to west: the Bradshaw Trail through most of Riverside County, from the Colorado River into the Coachella Valley, and up through the Coachella Valley, spanning Beaumont and on into the Inland Empire and on out to the coast.

The Bradshaw Trail has been used since the 1840's for people to come to California, not in limousines but in horses and buggies and wagons and however else they can get there. Now a portion of that Bradshaw Trail is now wilderness. Can the Members imagine, an area of the desert that has been used since before the Civil War is now wilderness?

These are the kinds of things I am concerned about. These are the things that got the burr under my saddle. Mr. Speaker, that is why I have the concerns that I do. I would hope, I would hope that when we go to conference that we will maximize what it is that we have been able to get in the way of alterations in this bill in the form of amendments on the floor of the House. I thank the gentleman for yielding to me.

Mr. MILLER of California. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO], the subcommittee chairman.

Mr. VENTO. Mr. Speaker, I rise in support of the motion of the chairman of the committee, with the intention to go to conference, and sincerely hope that we can bring to conclusion this major conservation initiative, the California desert bill. This would be a real achievement for the Congress.

Frankly, this is a matter that has been before us for 6 years. This bill has been the subject of activities and hearings before both Senate and House committees over that period of time. For some, they find it inadequate, that 6 years, an inadequate time for them to express their views or to have the type of deliberation that they think is required.

Frankly, Mr. Speaker, I think what has occurred this year has been efforts to deter, to delay the consideration of this, first in the House, and most recently in the Senate. I want to commend the major advocates of this particular proposal, the chairman of the committee, the gentleman from California [Mr. MILLER], the gentleman from California [Mr. LEHMAN], and others, the Senators that have been involved in this achievement. It is a major undertaking, a major conservation measure.

Unfortunately, when we begin to deal with the land classification systems, 25 million acres in this particular instance, it invariably does come up in controversy, because I think there are some differences in perception. There are some differences in the policy paths which are sought in terms of the use of these lands, these very special lands in California.

This area, this 25 million acres, is used for innumerable types of functions; for instance, for military training activities. It has, of course, long been the subject and recognized to have conservation and environmental qualities which are unique to the world, not just to our Nation. That is why the two monuments which were established here, both Death Valley and Joshua Tree, are presently designated in this area.

Mr. Speaker, the legislation before us, I need not remind my colleagues, expands those, and also designates a new Mojave Desert national preserve or park in this legislation, a considerable move forward, to add to the inventory of parks one of the major desert types which is not now represented, the Mojave Desert type, in the National Park System, and expanding and designating wilderness in these parks.

Beyond that, of course, there is a considerable designation and recognition of the natural qualities, the cultural resources in this California desert area, Mr. Speaker. In California there are almost 8 million acres which are in fact recognized as wilderness in this measure before the House.

I might say that there are conflicts, obviously. It does mean disciplining ourselves in terms of where we can take our four-wheelers. Roads will remain open. There are some 8,000 miles of road that remain open, I might say, in these rural and ranching areas of southern, California, a considerable amount of road.

The fact is, though, it means disciplining ourselves so some of the legacy of this Nation, some of the legacy of California in terms of its natural lands, of its cultural, and tremendous resources, some of that legacy, the inheritance of future generations, will remain intact and preserved.

It is a fact that we cannot continue to assume on a de facto basis, with a population of 32 million in California and 25 million Americans who are very close to this California desert area, that if everyone continues to perform or continues to act out in the way they have in the use of this land, it would be completely despoiled. It would not have some of the natural qualities maintained that we revere today when we look at southern California.

□ 1430

This motion is to go to conference. With the understanding that there is going to be consideration and retention of many of the provisions that were added in the House, additional compromises with the Senate obviously are going to be necessary.

In the end I hope, Mr. Speaker, that we can carry this to conclusion after 6 years and achieve what I believe something that the American people are very interested in protecting. Not just the people of California but the American people. And that is the designation and protection of this important and sensitive California desert area legislation. Forget about the politics. Let us go on with some good policy, the good policy that is in honest in this measure.

I have served, Mr. Speaker, in this body for some years. This session has been very contentious with regard to public policy with regards to lands and parks. We have not done as much as many of us had hoped. In fact, it has been very difficult. I hope that we can end on a positive note, conclude this and pass this important California desert bill which has been, as I said, waiting for some time.

It is landmark legislation. It is in the interest of future generations a legacy from today for tommorow.

Mr. McCANDLESS. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from California.

Mr. McCANDLESS. I thank the gentleman for yielding.

Mr. Speaker, one of the successes of any program, irrespective of the author or the content, is the ability to enforce what it is that Congress has deemed its will.

The SPEAKER, pro tempore (Mr. HUGHES). The time of the gentleman from Minnesota [Mr. VENTO] has expired.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman's observation. I think we have the capability and the resources to manage this land now and in the future under these new policy guidelines.

Mr. HANSEN. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Speaker, I would like to agree with the previous speaker on one point and that is that we ought to put aside the politics and talk about the policy. I think that this is terrible policy for the U.S. Congress and the U.S. Government to pass.

Mr. Speaker, we are proceeding to set aside 8 million acres of California land and take it away from the people and take away the access from the people. Even the 4 million acres that currently owned by the Federal Government that is included in the Desert Protection Act and is currently being used by people for recreation is going to be taken away and it is severely limited as to how people can use this particular area.

On the other side, we have 4 million acres of private property which is now going to become Federal property, or public property. I think that is a terrible mistake and a terrible policy decision to make. The Federal Government currently owns one-third of this country. They currently own 48 percent of California. If we add in what the State and local governments own, 56 percent of California is owned by the government. This continuing path of more and more public ownership of land and the destruction of private property in this country will lead to the downfall of this country. I believe that very strongly. If is a terrible policy decision to make. That is why I oppose this bill and oppose the further extension of this effort with this particular bill.

I think it is a big mistake to continue to take away the private property rights and the very existence of private property in this country. This bill is just a continuation of that.

Mr. Speaker, when we look at the access to the desert, one of the things that this bill is trying to be sold to the American public and in particular the California public on is that somehow it will increase recreation. I challenge anyone, and especially the people of California, to look at the bill and try to somehow pull from the language in this bill that there is going to be increased recreation by limiting access to the desert and all the rock hounds, campers and off-road vehicle enthusiasts throughout California in limiting their ability for recreation in the desert is somehow going to increase recreation. All this is going to do is take it away from the people of California.

Mr. HANSEN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MCKEON].

Mr. MCKEON. Mr. Speaker, I thank my friend, the gentleman from Utah, for yielding me the time.

Mr. Speaker, I am new to this body, I am a freshman. The other night I was watching a television show and the panelists were discussing how the people of this country become cynical. I think this bill is an example of how we achieve that. I think that we have had a lot of debate about the desert bill. I have no arguments with that at this time. There has been a lot of debate. We have had a chance to say our say, and then there was a vote. But now we are being asked to go to conference on this bill, and I want to point out to my colleagues something that has happened on the other side in the other House. They have added a new section to the bill that was added by one of the Senators, one of the Members of the other body, that has nothing to do with protecting the California desert. Title IX contains initiatives concerning the lower Mississippi delta region which have not been considered through the normal legislative process. Even though I was elected to Congress only 2 years ago, I know that provisions often get added to bills which are not germane to the legislation in question. In this case, however, I am referring to 9 separate sections in the bill which do little more than create pork projects in one region of the country. For example, section 904 of the Senate bill creates a new office on elementary, secondary, and postsecondary education within the Department of Interior. As a member of the Committee on Education and Labor, I object to this provision since it duplicates an office which already exists in the Department of Education.

Section 904 also creates a minority college and university scholarship initiative which also presently exists in the Department of Education. Finally this section of the bill requires the Secretary of Interior to establish 3 centers for aquaculture in specific cities in Louisiana, Arkansas, and Mississippi.

Mr. Speaker, you do not have to be a scientist to figure out that establishing aquaculture programs in the south central United States has little relation to the California desert.

The bill also directs the Federal Government to study the establishment of cultural centers, heritage centers, structural surveys, and a music heritage program in the Mississippi Delta region.

Mr. Speaker, residents of the desert do not want the desert bill and residents of the United States should not have to accept an 11th-hour pork provision that would in all likelihood not withstand the scrutiny of being considered in a separate bill.

This is how we make the people of our Nation cynical. We have been told that in the last days of the last session things such as this would be added. That is why this bill is being rushed through at this time with a pork project for the Mississippi Delta region that camouflages as a California desert bill.

Mr. HANSEN. Mr. Speaker, I yield the balance of our time to the gentleman from California [Mr. LEWIS].

The SPEAKER pro tempore. The gentleman from California is recognized for 3½ minutes.

Mr. LEWIS of California. Mr. Speaker, there are a couple of points that have been made by previous speakers that I think are very, very important for us to focus upon.

We are very close to final consideration of this measure at a time in our country when, to say the least, we find ourselves pressed against the wall in terms of scarce dollars throughout our existing park systems. There is a clear understanding on the part of most families who tried to vacation in the existing parks during this past summer. Many of those park facilities are in disrepair. They are understaffed. We have serious difficulty providing the services that need to take place there. We find a circumstance where our park employees in some instances are living essentially in trailers. In one instance, trailers exist in the Death Valley National Monument where the temperature gets up to 120 degrees for weeks at a time.

We cannot build adequate housing for those people. Yet in this measure, S. 21, that is proposed to go to conference, there would be the creation of not one, not two, but under the Senate measure, three national parks, one of them including 1.5 million acres, the vast percentage of which has absolutely no parklike qualities. Nobody can tell us where the money is going to come from for that new park unit. They just say, "Well, somewhere out of the wind it will arrive. It may have to come out of the other parks in the country."

□ 1440

It is very important that the public know that this is a matter of excess. There is little doubt that there are people who want to have public ownership of land for the sake of ownership of land. In this instance we are way beyond what is reasonable in terms of the taxpayer dollars.

Mr. PACKARD. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I am happy to yield to the gentleman from California.

Mr. PACKARD. Mr. Speaker, it is interesting, along the point the gentleman just made, where they will take the money out of other park budgets. I am on the appropriations subcommittee of Interior that deals with funding of parks, and in our subcommittee it was Bruce Babbitt himself, the Secretary of the Interior who said if we have to close down the Washington Monument for a day a week to pay for it, it would be worth it. That is what they are thinking in terms of actually extracting those budget amounts out of other parks which are already strapped for budget money in order to pay for the operation of an additional park. It is ludicrous that we would add to the system rather dubious parklands and then take the money out of existing park budgets to fund them.

Mr. LEWIS of California. I appreciate very much my colleague's comment.

During our recent recess I had the opportunity to spend a good deal of time in one of our beautiful national parks, Yosemite, on a horseback trip up into the high country. During that 4-hour ride we went further into the park than probably 99 percent of the people ever get to.

One of the most fundamental concerns expressed time and time again during that ride by Park Service people is that the parks are in horrid condition. Because of drought and otherwise in the West, Yosemite, for example, is essentially awaiting a tinder fire, and the number of personnel that we need to protect the parks from those kinds of conditions is just not available.

There is little doubt that there is a need for evaluating the way we are protecting the desert. I have been on the cutting edge of legislation to protect our desert for most of my life in public affairs. I represent most of that desert, and I would suggest that those who live in it and understand it know better the public policy direction we ought to be taking.

Mr. Speaker, we appreciate the patience of the Members with this very important measure.

The SPEAKER pro tempore (Mr. HUGHES). All time of the gentleman from Utah [Mr. HANSEN] has expired.

Mr. MILLER of California. Mr. Speaker, I yield back the balance of my time and I move the previous question.

MOTION TO TABLE OFFERED BY MR. LEWIS OF CALIFORNIA

Mr. LEWIS of California. Mr. Speaker, I move to table the previous question.

The SPEAKER pro tempore. Does the gentleman from California move to lay on the table the original motion to go to conference.

Mr. LEWIS of California. The previous question, Mr. Speaker.

The SPEAKER pro tempore. The Chair will advise the gentleman from California he cannot lay on the table the motion for the previous question.

Mr. LEWIS of California. Mr. Speaker, I move that the pending motion be laid on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. LEWIS] to table the motion offered by the gentleman from California [Mr. MILLER] to go to conference.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LEWIS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 144, nays 259, not voting 31, as follows:

[Roll No. 465]

YEAS—144

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—259

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clyburn
Coleman
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hamburg
Hamilton
Harman
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Meyers
Miller (CA)
Mineta
Minge
Mink
Moakley
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—31

Blackwell
Brown (FL)
Clay
Collins (IL)
Collins (MI)
Edwards (TX)
Flake
Ford (MI)
Gallo
Hall (OH)
Hastings
Hilliard
Jefferson
Johnson, E. B.
Lantos
Lloyd
McMillan
Meek
Mfume
Mollohan
Owens
Payne (NJ)
Rangel
Rush
Scott
Slattery
Solomon
Stokes
Sundquist
Tucker
Whitten

□ 1505

Mr. ANDREWS of Maine, Mrs. ROUKEMA, Mr. STUPAK, Ms. LONG, and Mr. SWIFT changed their vote from "yea" to "nay."

Mr. LEWIS of Florida changed his vote from "nay" to "yea."

So the motion to table the motion to go to conference was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. DOOLITTLE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DOOLITTLE. Mr. Speaker, was the motion to reconsider laid on the table?

The SPEAKER pro tempore. No.

Mr. DOOLITTLE. I ask unanimous consent to lay it on the table, in that event.

The SPEAKER pro tempore. Without objection, a motion to reconsider the motion to lay on the table the motion to go to conference is laid on the table.

The question is on ordering the previous question on the motion to go to conference.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McKEON. Mr. Speaker, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 265, noes 144, not voting 25, as follows:

[Roll No. 466]

AYES—265

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (CA)
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Meyers
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella

Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Roukema
Rowland
Roybal-Allard
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—144

Allard
Archer
Armey
Bachus (AL)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quinn
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—25

Brooks
Brown (FL)
Collins (IL)
Collins (MI)
Edwards (TX)
Gallo
Johnson, E. B.
Lantos
Lloyd
McMillan
Meek
Mfume
Owens
Payne (NJ)
Rangel
Rostenkowski
Rush
Sharp
Slattery
Stokes
Sundquist
Tucker
Washington
Whitten
Williams

☐ 1526

Mr. ZELIFF and Mr. HALL of Texas changed their vote from "aye" to "no."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, during rollcall vote Nos. 465 and 466 on S. 21, I was unavoidably detained. Had I been present I would have voted "no" on rollcall No. 465 and "yes" on rollcall No. 466.

Mr. BAKER of California. Mr. Speaker, I move to reconsider the vote by which the House agreed to ordering the previous question.

Mr. MILLER of California. Mr. Speaker, I move to table the motion offered by the gentleman from California [Mr. BAKER].

The SPEAKER pro tempore (Mr. HUGHES). The question is on the motion offered by the gentleman from California [Mr. MILLER] to table the motion offered by the gentleman from California [Mr. BAKER] to reconsider the vote on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BAKER of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 273, noes 143, not voting 18, as follows:

[Roll No. 467]

AYES—273

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Gordon
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Weldon
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—143

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quinn
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence

Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—18

Bateman
Gallo
Green
Johnston
Lancaster
Lantos
Mfume
Murphy
Owens
Sisisky
Slattery
Stokes
Sundquist
Tucker
Valentine
Waxman
Whitten
Williams

☐ 1544

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

MOTION TO COMMIT

Mr. CUNNINGHAM. Mr. Speaker, pursuant to rule XVII, clause 1, I move to commit the motion to go to conference to the Committee on Merchant Marine and Fisheries.

The SPEAKER pro tempore (Mr. HUGHES). The question is on the motion offered by the gentleman from California [Mr. CUNNINGHAM] to commit the motion to go to conference to the Committee on Merchant Marine and Fisheries.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CUNNINGHAM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 141, noes 277, not voting 16, as follows:

[Roll No. 468]

AYES—141

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Pelosi
Penny
Petri
Pombo
Portman
Pryce (OH)
Quinn
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—277

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Weldon
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—16

Applegate
Bateman
Fazio
Gallo
Gingrich
Lantos
Matsui
Sanders
Slattery
Strickland
Sundquist
Tucker
Valentine
Waxman
Whitten
Williams

☐ 1603

Mr. MFUME changed his vote from "aye" to "nay."

So the motion to commit the motion to go to conference was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, on rollcall vote No. 468, I am recorded as an "aye." It was my intention to vote "no."

MOTION TO RECONSIDER THE VOTE ON MOTION TO COMMIT

Mr. McKEON. Mr. Speaker, I move to reconsider the vote by which the House did not agree to the motion to commit.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. McKEON] who voted on the prevailing side to reconsider the vote by which the House did not agree to the motion to commit.

MOTION TO TABLE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I move to lay on the table the motion to reconsider the vote offered by the gentleman from California [Mr. McKEON].

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] to lay on the table the motion to reconsider the vote offered by the gentleman from California [Mr. McKEON].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McKEON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 280, noes 141, not voting 13, as follows:

[Roll No. 469]

AYES—280

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal

DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—141

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Applegate
Bateman
Clay
Fazio
Fish
Gallo
Lancaster
Lantos
Slattery
Sundquist
Tucker
Whitten
Williams

□ 1622

So the motion to lay on the table the motion to reconsider the vote on the motion to commit the motion to agree to a conference was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HUGHES). The question is on the motion offered by the gentleman from California [Mr. MILLER] to insist on the House amendments and agree to a conference on S. 21.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 283, noes 140, not voting 11, as follows:

[Roll No. 470]

AYES—283

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Doolittle
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—140

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe

Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Petri
Pombo
Pryce (OH)
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—11

Bateman
Boucher
Carr
Fazio
Gallo
Lantos
Rangel
Slattery
Sundquist
Tucker
Whitten

□ 1642

Mr. WHEAT changed his vote from "no" to "aye."

So the motion to go conference on S. 21 was agreed to.

The result of the vote was announced as above recorded.

Mr. DOOLITTLE. Mr. Speaker, I move to reconsider the vote by which the House has agreed to the motion to agree to go to conference on S. 21.

Mr. MILLER of California. Mr. Speaker, I move to lay on the table the motion to reconsider offered by the gentleman from California [Mr. DOOLITTLE]

The SPEAKER pro tempore. (Mr. BROWN of California.) The question is on the motion to lay on the table the motion to reconsider.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOOLITTLE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 282, noes 140, not voting 12, as follows:

[Roll No. 471]

AYES—282

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—140

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Pryce (OH)
Quinn
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Barrett (WI)
Bilbray
Boucher
Gallo
Lantos
Murphy
Owens
Rangel
Sharp
Slattery
Sundquist
Tucker

□ 1700

Mr. JACOBS changed his vote from "no" to "aye."

So the motion to lay on the table the motion to reconsider was adopted.

The result of the vote was announced as above recorded.

MOTION TO ADJOURN

Mr. CRANE. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore (Mr. HUGHES). The Clerk will report the privileged motion.

The Clerk read as follows:

Mr. CRANE moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. CRANE]. The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. CRANE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 87, nays 330, not voting 17, as follows:

[Roll No. 472]

YEAS—87

Allard
Archer
Armey
Baker (CA)
Ballenger
Bartlett
Bilirakis
Bonilla
Burton
Buyer
Calvert
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
DeLay
Dickey
Dornan
Dreier
Duncan
Emerson
Fields (TX)
Ford (TN)
Franks (CT)
Gillmor
Goodling
Goss
Grandy
Hall (OH)
Hancock
Hansen
Hefley
Herger
Hobson
Hoekstra
Hoke
Hunter
Inglis
Inhofe
Johnson, Sam
Kim
Kingston
Klug
Linder
Lucas
Manzullo
McKeon
McMillan
Mica
Miller (FL)
Molinari
Moorhead

Murphy
Myers
Orton
Oxley
Packard
Paxon
Roberts
Rohrabacher
Royce
Santorum
Saxton
Schaefer
Sensenbrenner
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Visclosky
Vucanovich
Walsh
Wheat
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—330

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Baker (LA)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Callahan
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Doolittle
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Gordon
Grams
Green
Greenwood
Gunderson
Gutierrez
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Hyde
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (MI)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Velazquez
Vento
Volkmer
Walker
Washington
Waters
Watt
Waxman
Weldon
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—17

Applegate
Bachus (AL)
Blackwell
Dunn
Gallo
Johnston
Lantos
Lewis (FL)
Livingston
Owens
Rangel
Sanders
Sharp
Slattery
Sundquist
Tucker
Valentine

□ 1720

Mr. DOOLITTLE and Mr. BLILEY changed their vote from "yea" to "nay."

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

MOTION TO INSTRUCT CONFEREES ON S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

Mr. LEWIS of California. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. LEWIS of California moves to instruct the House conferees on the Senate bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, to insist on the following amendments of the House:

Section 102(1)—Argus Range Wilderness (Bill Thomas Amendment).

Section 112—Law Enforcement Access.

Section 113—Fish and Wildlife Management.

Section 208—Death Valley National Park Advisory Commission.

Section 308—Joshua Tree National Park Advisory Commission.

Title IV—Mojave National Preserve.

Section 416—Mojave National Preserve Advisory Commission.

Section 417—No Adverse Affect on Land Until Acquired.

Section 606—Native American Uses—Timbisha Shoshone Land Study.

Section 702—Authorization of Appropriations.

Section 703—Land Appraisal—Endangered Species Amendment.

Section 901—Buy American Act.

Mr. LEWIS of California (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentleman from California?

Mr. MILLER of California. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk completed the reading of the motion.

Mr. BROWN of California. Mr. Speaker, I rise today to oppose this motion to instruct conferees on the California Desert Protection Act. There has already been extensive debate over this bill on the floor of the House and the Senate in this Congress and in previous ones. This latest attempt to deprive the citizens of California and the rest of the country of this important environmental legislation should be rejected.

I once again offer my support for the creation of a unique and beautiful national park to be enjoyed by present and future generations of Americans. I hope that my colleagues will join me in opposing this motion and moving this important legislation forward.

MOTION TO TABLE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I move to lay on the table the motion to instruct offered by the gentleman from California [Mr. LEWIS].

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] moves to table the motion to instruct.

Mr. LEWIS of California. Mr. Speaker, is it in writing?

The SPEAKER pro tempore. The Chair would advise the gentleman from California [Mr. LEWIS] that the motion to table is a preferential motion.

Mr. LEWIS of California. Mr. Speaker, is the motion in writing?

The SPEAKER pro tempore. The motion is in writing.

The Clerk will report the motion.

The Clerk read as follows:

Mr. MILLER of California moves to lay the motion to instruct on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. MILLER] to lay on the table the motion to instruct offered by the gentleman from California [Mr. LEWIS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEWIS of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 274, noes 147, not voting 13, as follows:

[Roll No. 473]

AYES—274

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert

Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Ravenel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Washington
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—147

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Regula
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Schaefer
Schiff
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Whitten
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Applegate
Carr
Gallo
Lantos
McCurdy
McMillan
Murtha
Rangel
Ridge
Sharp
Slattery
Sundquist
Tucker

☐ 1742

Mr. REGULA changed his vote from "aye" to "no."

So the motion to lay on the table the motion to instruct conferees was agreed to.

The result of the vote was announced as above recorded.

Mr. MILLER of California. Mr. Speaker, I move to reconsider the motion to table the motion to instruct.

Mr. VENTO. Mr. Speaker, I move to lay on the table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] to lay on the table the motion to reconsider.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CUNNINGHAM. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 271, noes 142, not voting 21, as follows:

[Roll No. 474]

AYES—271

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dunn
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Leach
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—142

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert

Camp
Canady
Clinger
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
Kyl
Lazio
Levy
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Portman
Pryce (OH)
Quillen
Quinn
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Skeen
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Talent
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Walsh
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—21

Andrews (TX)
Applegate
Brown (CA)
Carr
Collins (MI)
Durbin
Edwards (TX)
Gallo
Inhofe
Jacobs
Lantos
Lehman
Lewis (FL)
McCurdy
McMillan
Penny
Sharp
Slattery
Sundquist
Tucker
Washington

□ 1801

Mr. MONTGOMERY, Mrs. MEYERS of Kansas, and Mr. ROWLAND changed their vote from "no" to "aye."

So the motion to lay on the table the motion to reconsider was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Natural Resources, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. MILLER of California, VENTO, LEHMAN, RICHARDSON, FARR of California, RAHALL, YOUNG of Alaska, DOOLITTLE, CALVERT, and POMBO.

As additional conferees from the Committee on Armed Services, for consideration of title VIII of the Senate bill, and title VIII of the House amendment, and modifications committed to conference: Messrs. DELLUMS, MCCURDY, and HUNTER.

As additional conferees from the Committee on Education and Labor, for consideration of sections 901–04, 906, and 907 of the Senate bill, and modifications committed to conference: Messrs. FORD of Michigan, CLAY, and MCKEON.

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title II, sections 103(e), 103(f), and 805(a)(2)(B) of the Senate bill, and sections 111, 113 and 804(a)(2)(B) of the House amendment, and modifications committed to conference: Mr. STUDDS, Ms. SCHENK, and Mr. FIELDS of Texas.

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 901, 905 and 906 of the Senate bill, and modifications committed to conference: Messrs. MINETA, WISE, and SHUSTER.

APPOINTMENT OF CONFEREES ON H.R. 4950, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1994

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the desk the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. ROTH. Mr. Speaker, reserving the right to object, let me advise the House that this motion to go to conference on the Jobs Through Expansion Act, which passed the House several weeks ago, this motion will allow us to complete action on this bill and bring it back to the conference with the agreement, so that every Member can support this bill, which creates jobs for American workers.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding.

Mr. Speaker, I wish to ask a question relative to the gentleman's conference proposal, simply because I am confused about the way I believe conferences are handled. For I have in my hand an AP story from today at 2 o'clock, and I understand there is a UP story that is similar, that says that House and Senate conferees reached tentative agreement today on a compromise bill to set aside so many millions of acres of California desert land. The Senator from California, who had made the California desert issue her top legislative priority, said there is a package already together.

The conferees have not met yet, and I presume we normally wait for the conferees to be appointed, as they just were. This was at 2 o'clock, and the conferees on the Senate side were not appointed until 2:15, but they apparently have made the settlement already.

Mr. Speaker, I would ask the gentleman, does that happen in your conference?

Mr. ROTH. Mr. Speaker, I am not familiar with that particular scenario. I would say in this conference, this conference does not operate according to those rules.

Mr. LEWIS of California. I hope that is the case. I caution both gentlemen to be very careful about the way things are happening around here.

Mr. ROTH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

Messrs. HAMILTON, GEJDENSON, OBERSTAR, GILMAN, and ROTH.

As additional conferees from the Committee on Energy and Commerce, for consideration of title IV of the House bill, and modifications committed to conference:

Mr. DINGELL, Mrs. COLLINS of Illinois, and Mr. MOORHEAD.

NOTICE OF INTENTION TO OFFER PRIVILEGED RESOLUTION REGARDING UNITED STATES MILITARY INVOLVEMENT IN HAITI

Mr. COX. Mr. Speaker, I rise to announce my intention to offer a privileged resolution under rule IX.

The SPEAKER. The gentleman will state the form of the resolution.

Mr. COX. Mr. Speaker, the form of the resolution is as follows:

A House resolution calling for Congressional debate and authorization for the United States occupation of Haiti.

Whereas for months prior to the September 19, 1994, occupation of Haiti by United States military forces, President Clinton and members of his administration publicly and repeatedly threatened a military occupation of Haiti; and

Whereas the Speaker's continued refusal to schedule floor debate on the impending occupation of Haiti led to the occupation of Haiti without congressional consideration or authorization; and

Whereas even now, long after the occupation of Haiti, without congressional authorization, the Speaker has refused to schedule debate and votes; and

Whereas the need for immediate congressional consideration of Haiti policy is clear, inasmuch as the thousands of United States troops in Haiti without congressional authorization could be required to defend themselves at any moment, without notice, thus initiating hostilities; and

Whereas immediate congressional consideration of Haiti policy is further required by the impending October 15 deadline for the departure of the Haitian military leaders, inasmuch as noncompliance would in all likelihood prompt the thousands of United States troops now in Haiti to immediately commence offensive military operations; and

Whereas the continued refusal of the Speaker to schedule floor debate to consider the scope of, and authorization for, United States military operations in Haiti deprives the house collectively of its prerogatives under article I of the Constitution; and

Whereas the continued refusal of the Speaker to schedule floor debate to consider the scope of, and authorization for, United States military operations in Haiti deprives the House collectively of its authority to speak on such important questions of policy; and

Whereas the refusal of the Speaker to consider the scope of, and authorization for, United States military operations in Haiti effectively requires each Member of this body to abdicate his or her responsibility to debate and vote upon such important questions of policy, and therefore has brought scorn and ridicule on the House collectively; and

Whereas there are no exigencies of secrecy or surprise that would prevent the House from considering these issues; and

Whereas the House is scheduled to adjourn in a matter of days, and failure of the Speaker to schedule floor debate to consider the scope of, and authorization for, the United States military occupation of Haiti will effectively commit our Nation to occupy Haiti for 9 months or more without congressional authorization; and

Whereas in colloquy on the House floor on September 28, the majority leader, Mr. GEPHARDT, undertook in behalf of the Speaker to schedule a Haiti debate and vote today or tomorrow, which would encompass: First, legislating objective criteria for the Haiti mission; second, the wisdom of occupation as a policy; and third, authorization of funding for the Haiti mission, and identification of sources of that funding; and

Whereas the extraordinary and heroic commitment of United States servicemen and women in the current military operation requires from the United States Congress a high level of responsibility and attentiveness in policymaking towards Haiti; and

Whereas rule IX of the House of Representatives provides that a privileged motion shall be in order to protect the rights and dignity of the House collectively and of Members individually,

Resolved, That the Speaker shall immediately schedule a debate and vote upon the scope of, and authorization for, the United States military occupation of Haiti, including,

One, the wisdom of a policy of occupation;

Two, specific objectives for the Haiti occupation, if it is approved in concept, so that success or failure can be measured objectively;

Three, the cost of the Haiti occupation, and authorization of funding therefor;

Four, identification of specific sources of occupation funding, if funding is approved;

Five, the cost of foreign aid incident to the Haiti occupation, and authorization of funding therefor;

□ 1810

Seven, if an extended occupation is not approved, alternatively a procedure or date or other provision for the withdrawal of United States troops from Haiti.

Eight, the enactment of procedures for reports to congressional leadership on the military situation in Haiti while Congress is adjourned sine die.

Nine, enactment of procedures to reconvene the Congress for further consideration of Haiti policy in the event of an outbreak of minor hostilities.

PARLIAMENTARY INQUIRY

Mr. COX. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. SKAGGS). The gentleman will state it.

Mr. COX. Mr. Speaker, my understanding, under rule IX, is that I will be able to call up this resolution for consideration no later than Thursday. It would be my intention not to do so if, as I have discussed with the majority leader recently on the floor today, the Haiti debate in the manner that I have described actually commences tomorrow.

The SPEAKER pro tempore. The Speaker has the prerogative as to when to schedule the matter within the 2-day limit.

(Mr. SOLOMON asked and was given permission to proceed out of order for 1 minute.)

DEBATE ON HAITI

Mr. SOLOMON. Mr. Speaker, to clarify the recent statement by the Speaker, the Committee on Rules has not met on the Haiti issue. And as I understand it, there is a meeting scheduled for 1 o'clock tomorrow afternoon.

That being the case, there would be no opportunity for this measure to be debated on the floor tomorrow.

I think I heard the gentleman say that he had been assured that there would be a debate tomorrow on the floor on Haiti.

Mr. COX. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from California.

Mr. COX. Mr. Speaker, I did receive that assurance.

Mr. SOLOMON. I would just suggest to the Speaker that perhaps he and the majority leader could get together and clarify this, because I understand that Members will be off the floor tomorrow for a considerable time tomorrow because of a death of one of the members. We ought to be enlightened as to when this debate might take place. I do not believe it can take place on Wednesday, tomorrow, in view of the fact that the Committee on Rules will not even meet on it until late tomorrow.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 301, SENSE OF CONGRESS REGARDING ENTITLEMENT SPENDING

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–828) on the resolution (H. Res. 563) providing for consideration of the concurrent resolution (H. Con. Res. 301) expressing the sense of Congress regarding entitlements, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5110, TRADE AGREEMENTS CONCLUDED IN THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–829) on the resolution (H. Res. 546) providing for consideration of the bill (H.R. 5110) to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 455, PAYMENTS IN LIEU OF TAXES ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–830) on the resolution (H. Res. 565) providing for consideration of the Senate bill (S. 455) to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Mr. SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, October 3, 1994, in the order in which those motions were entertained.

Votes will be taken in the following order:

H.R. 967, de novo;

S. 2170, de novo;

H.R. 4704, de novo;

H.R. 4939, de novo;

H.R. 4910, de novo;

H.R. 4967, de novo;

H.R. 4495, de novo;

H. Res. 558, de novo;

H.R. 1520, by the yeas and nays;

H.R. 5108, by the yeas and nays;

H. Con. Res. 279, by the yeas and nays;

H. Con. Res. 286, by the yeas and nays;

S. 1225, by the yeas and nays;

S. 1919, by the yeas and nays;

H.R. 4533, by the yeas and nays; and

S. 986, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series. The Chair intends to adhere to a strict 5 minutes.

PARLIAMENTARY INQUIRY

Mr. COLEMAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. COLEMAN. Mr. Speaker, when would it be appropriate to ask for unanimous consent to reduce to 3 minutes the amount of time we might have for each of the votes following the first vote on the first suspension?

The SPEAKER pro tempore. The gentleman stated a hypothetical which the Chair would not entertain at this time and suggests that he consult with the leadership about that.

MINOR CROP PROTECTION ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 967, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 967, as amended.

The question was taken.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 80, not voting 21, as follows:

[Roll No. 475]

YEAS—334

Abercrombie
Allard
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Boucher
Brewster
Brooks
Browder
Brown (FL)
Bryant
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cantwell
Carr
Castle
Chapman
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLay
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
English
Everett
Ewing
Farr
Fazio
Fields (LA)
Fields (TX)
Fingerhut
Fish
Flake
Foley
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Manton
Manzullo
Margolies-Mezvinsky
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Regula
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Royce
Rush
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Sensenbrenner
Sharp
Shaw
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Traficant
Unsoeld
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Watt
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—80

Ackerman
Andrews (ME)
Barrett (WI)
Becerra
Beilenson
Berman
Blackwell
Bonior
Borski
Brown (CA)
Brown (OH)
Byrne
Cardin
Clay
Conyers
Coyne
DeLauro
Dellums
Dixon
Engel
Eshoo
Evans
Fawell
Filner
Foglietta
Gejdenson
Gutierrez
Harman
Hinchey
Hochbrueckner
Jacobs
Johnson, E. B.
Kennedy
Kennelly
Kildee
Levin
Lowey
Maloney
Mann
Markey
Martinez
McDermott
Meehan
Meek
Mfume
Mineta
Moakley
Murphy
Nadler
Neal (MA)
Pallone
Payne (NJ)
Pelosi
Porter
Rangel
Reed
Reynolds
Richardson
Roybal-Allard
Sabo
Sanders
Schenk
Schroeder
Schumer
Scott
Serrano
Shays
Shepherd
Skaggs
Stark
Studds
Synar
Torres
Torricelli
Towns
Velazquez
Vento
Waters
Waxman
Woolsey

NOT VOTING—21

Applegate
Edwards (CA)
Ford (MI)
Franks (NJ)
Furse
Gallo
Hughes
Istook
Klein
Lantos
Lewis (GA)
McCurdy
McMillan
Ravenel
Roukema
Slattery
Stokes
Sundquist
Tucker
Valentine
Washington

□ 1836

Messrs. BARRETT of Wisconsin, BLACKWELL and DIXON changed their vote from "yea" to "no."

Messrs. HASTINGS, GILLMORE, WHEAT and PACKARD changed their vote from "no" to "yea."

So, (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. FURSE. Mr. Speaker, I was unavoidably delayed, and I missed the vote on H.R. 967. Had I been here, I would have voted "aye," and I would ask that the RECORD reflect that fact.

□ 1840

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SKAGGS). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

GOVERNMENT MANAGEMENT REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 2170.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma [Mr. SYNAR] that the House suspend the rules and pass the Senate bill, S. 2170.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

HOPEWELL TOWNSHIP INVESTMENT ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4704, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4704, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FREDERICK S. GREEN UNITED STATES COURTHOUSE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4939.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4939.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THURGOOD MARSHALL UNITED STATES COURTHOUSE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4910.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4910.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

THEODORE LEVIN FEDERAL BUILDING AND UNITED STATES COURTHOUSE

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4967, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and pass the bill, H.R. 4967, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States courthouse located at 231 West Lafayette Street in Detroit, Michigan, as the 'Theodore Levin United States Courthouse' and to designate the postal facility located at 1401 West Fort Street in Detroit, Michigan, as the 'George W. Young Post Office'."

A motion to reconsider was laid on the table.

AIRLINER CABIN AIR QUALITY ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4495, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and pass the bill, H.R. 4495, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONCURRING IN HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 2240, INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 558.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. OBERSTAR] that the House suspend the rules and agree to the resolution, House Resolution 558.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

PETROLEUM MARKETING PRACTICES ACT AMENDMENTS OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 1520, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. SHARP] that the House suspend the rules and pass the bill, H.R. 1520, as amended, on which the yeas and nays are ordered.

The Chair will remind Members this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 21, as follows:

[Roll No. 476]

YEAS—413

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings

Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Applegate
Baesler
Browder
Ford (MI)
Furse
Gallo
Huffington
Istook
Johnson (GA)
Johnson (SD)
Lantos
Lewis (GA)
Mann
McCurdy
McMillan
Miller (CA)
Pelosi
Slattery
Sundquist
Tucker
Washington

□ 1854

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPORT ADMINISTRATION ACT EXTENSION

The SPEAKER pro tempore (Mr. SKAGGS). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5108.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and pass the bill, H.R. 5108, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 4, not voting 23, as follows:

[Roll No. 477]

YEAS—407

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NAYS—4

Abercrombie
DeFazio
Lewis (CA)
Young (AK)

NOT VOTING—23

Andrews (TX)
Applegate
Fish
Ford (MI)
Gallo
Huffington
Inhofe
Istook
Johnson (CT)
Johnston
Lantos
Lewis (GA)
McCurdy
McMillan
Mfume
Mineta
Penny
Roukema
Slattery
Strickland
Sundquist
Tucker
Washington

□ 1900

Mr. CONYERS and Mr. SOLOMON changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONDEMNING SINKING OF TUGBOAT "13TH OF MARCH" BY CUBA

The SPEAKER pro tempore (Mr. SKAGGS). The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 279, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 279, as amended, on which the nays and yeas are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 21, as follows:

[Roll No. 478]

YEAS—413

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Andrews (TX)
Applegate
Dingell
Dunn
Ford (MI)
Gallo
Huffington
Inhofe
Johnston
Lantos
Lewis (GA)
Manton
McCurdy
McMillan
Mfume
Rose
Sharp
Slattery
Sundquist
Tucker
Washington

□ 1909

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRIES

Mr. LEWIS of California. Mr. Speaker, is it appropriate to have a parliamentary inquiry at this moment?

The SPEAKER pro tempore (Mr. SKAGGS) The gentleman will state his parliamentary inquiry.

Mr. LEWIS of California. Mr. Speaker, I presume it is appropriate to make an inquiry about our procedure as it relates to conference reports.

The SPEAKER pro tempore. The Chair is not able to hear the gentleman.

Mr. LEWIS of California. Mr. Speaker, I presume it is appropriate to ask information of the Chair as to the procedure as it relates to conference meetings, conferences of the House.

The SPEAKER pro tempore. The gentleman must state a parliamentary inquiry, and it should relate to the pending business.

Mr. LEWIS of California. My parliamentary inquiry, Mr. Speaker, is do Members of the House in majority forum have to be present for a conference to take place?

□ 1910

The SPEAKER pro tempore (Mr. SKAGGS). The Chair would advise the gentleman from California [Mr. LEWIS] that there is no quorum requirement for meeting of the conference beyond the requirement for a majority of signatures.

Mr. LEWIS of California. They do have to meet; is that correct?

The SPEAKER pro tempore. There needs to be a public meeting of the conference.

Mr. LEWIS of California. A public meeting of the conference, and I presume that the conferees at least should have an opportunity to be there. Is that correct?

The SPEAKER pro tempore. The Chair has responded to the gentleman's inquiry.

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, is it appropriate to hold conference committee meetings during 5-minute votes of the House?

The SPEAKER pro tempore. The Chair would advise the gentleman from

Pennsylvania [Mr. WALKER] that there is no rule prohibiting a meeting of a conference during 5-minute votes of the House.

Mr. LEWIS of California. I have a parliamentary inquiry, Mr. Speaker:

Is it appropriate to hope to begin a conference where Members are in the middle of votes and there are no Republican Members present?

The SPEAKER pro tempore. The Chair does not believe the gentleman has stated a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. LEWIS of California. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LEWIS of California. Mr. Speaker, is it appropriate under the rules that when the conference is held in a fashion excluding the participants, for us then to call votes for the rest of the night regarding such a procedure?

The SPEAKER pro tempore. The Chair has stated the general rules that apply and cannot be giving advisory opinions on hypothetical situations pertaining to that particular conference.

RECOGNIZING CONTRIBUTION OF PRESIDENT ALFREDO CRISTIANI TO ACHIEVE PEACE IN EL SALVADOR

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 286.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. MENENDEZ] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 286, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 414, nays 0, answered "present" 4, not voting 16, as follows:

[Roll No. 479]

YEAS—414

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—4

Becerra
DeFazio
Hamburg
Martinez

NOT VOTING—16

Andrews (TX)
Applegate
Gallo
Huffington
Johnston
Lantos
Lewis (GA)
Manton
McCurdy
McMillan
Mfume
Slattery
Studds
Sundquist
Tucker
Washington

☐ 1917

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was unavoidably detained earlier this evening by preparations for the State dinner to honor President Nelson Mandela of the Republic of South Africa.

Specifically, I missed the votes on suspending the rules and passing H.R. 5108, the Export Administration Act Temporary Extension; House Congressional Resolution 279, condemning the sinking of a tugboat by Cuba; and House Congressional Resolution 286, commending President Cristiani's peace efforts.

Had I been here I would have voted "aye" on all three.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

The SPEAKER pro tempore (Mr. SKAGGS). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1225.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN], that the House suspend the rules and pass the Senate bill, S. 1225, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 246, nays 169, not voting 19, as follows:

[Roll No. 480]

YEAS—246

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Baesler
Barcia
Barlow
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bishop
Blackwell
Bliley
Blute
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Hunter
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Laughlin
Leach
Lehman
Levin
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rangel
Reed
Reynolds
Richardson
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (TX)
Snowe
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Swift
Synar
Tauzin
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Unsoeld
Valentine
Velazquez
Vento
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—169

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Barrett (WI)
Bartlett
Bentley
Bilirakis
Boehlert
Boehner
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clement
Clinger
Coble
Collins (GA)
Cooper
Costello
Cox
Crane
Crapo
Cunningham
DeLay
Doolittle
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fingerhut
Fish
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gingrich
Gonzalez
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Houghton
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
LaRocco
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Manzullo
Margolies-Mezvinsky
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McNulty
Meyers
Mica
Michel
Miller (FL)
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Penny
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Regula
Ridge
Roberts
Roemer
Rohrabacher
Roukema
Santorum
Saxton
Schaefer
Sensenbrenner
Shaw
Shuster
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Solomon
Spence
Stearns
Stump
Swett
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (WY)
Traficant
Upton
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Andrews (TX)
Applegate
Bilbray
Gallo
Huffington
Johnston
Lantos
Lewis (GA)
Manton
McCurdy
McMillan
Moakley
Slattery
Studds
Sundquist
Tucker
Visclosky
Washington
Waters

☐ 1927

Messrs. KLEIN, BOEHLERT, and LaROCCO, Mrs. ROUKEMA, Ms. MARGOLIES-MEZVINSKY, and Mr. GRAMS changed their vote from "yea" to "nay."

Mr. POSHARD and Ms. LAMBERT changed their vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

RIO PUERCO WATERSHED ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate Bill, S. 1919, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate Bill, S. 1919, as amended, on which the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 233, nays 180, not voting 21, as follows:

[Roll No. 481]

YEAS—233

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Byrne
Cantwell
Cardin
Carr
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
DeFazio
DeLauro
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Horn
Hoyer
Hughes
Inslee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kolbe
Kopetski
Kreidler
LaFalce
Lancaster
LaRocco
Lehman
Levin
Lewis (KY)
Linder
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Ridge
Roemer
Rogers
Ros-Lehtinen
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Stupak
Swift
Synar
Tauzin
Tejeda
Thomas (WY)
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NAYS—180

Allard
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Brewster
Burton
Buyer
Callahan
Calvert
Camp

Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Cramer
Crane
Crapo
Cunningham
Deal
DeLay
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Frost
Gallegly
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hoekstra
Hoke
Holden
Houghton
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Johnson (GA)
Johnson, Sam
Kanjorski
Kasich
Kim
King
Kingston
Klink
Klug
Knollenberg
Kyl
Lambert
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lucas
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Murphy
Myers
Nussle
Orton
Oxley
Packard
Parker
Paxon
Penny
Petri
Pickett
Pombo
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Roberts
Rohrabacher
Rose
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Schaefer
Sensenbrenner
Shaw
Sisisky
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—21

Andrews (TX)
Applegate
Browder
Dellums
Gallo
Huffington
Johnston
Lantos
Lewis (GA)
Manton
McCurdy
McMillan
Moakley
Saxton
Slattery
Studds
Sundquist
Tucker
Visclosky
Washington
Waters

□ 1934

Mr. RIDGE changed his vote from "nay" to "yea."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

NATIONAL PARK SERVICE ENTREPRENEURIAL MANAGEMENT REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4533, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4533, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 238, nays 174, not voting 22, as follows:

[Roll No. 482]

YEAS—238

Abercrombie
Ackerman
Andrews (ME)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Boucher
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Carr
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Darden
DeLauro
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Glickman
Gonzalez
Goodlatte
Goss
Grams
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Horn
Houghton
Hoyer
Hughes
Hyde
Inslee
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klein
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lancaster
LaRocco
Levin
Long
Lowey
Machtley
Maloney
Mann
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Portman
Price (NC)
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slaughter
Smith (OR)
Smith (TX)
Snowe
Spratt
Stearns
Stokes
Strickland
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thomas (WY)
Thompson
Torkildsen
Torres
Torricelli
Traficant
Unsoeld
Upton
Valentine
Vento
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zimmer

NAYS—174

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Bevill
Bilirakis
Bliley
Boehner
Bonilla
Borski
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chapman
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Edwards (TX)
Ehlers
Emerson
Everett
Ewing
Fields (TX)
Fish
Foglietta
Franks (CT)
Gallegly
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodling
Gordon
Grandy
Gunderson
Hall (TX)
Hancock
Hastert
Hefley
Herger
Hoekstra
Holden
Hunter
Hutchinson
Hutto
Inglis
Inhofe
Istook
Jacobs
Johnson, Sam
Kim
King
Kingston
Klink
Klug
Knollenberg
Lambert
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Lloyd
Lucas
Manzullo
McCandless
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
Mica
Michel
Miller (FL)
Mink
Molinari
Moorhead
Myers
Nadler
Nussle
Oxley
Packard
Pallone
Paxon
Peterson (MN)
Petri
Pombo
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Ridge
Rogers
Rohrabacher
Roth
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Solomon
Spence
Stark
Stenholm
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Thurman
Towns
Velazquez
Volkmer
Vucanovich
Walker
Walsh
Weldon
Young (FL)
Zeliff

NOT VOTING—22

Andrews (TX)
Applegate
Browder
Dellums
Gallo
Huffington
Johnston
Lantos
Lewis (GA)
Linder
Manton
McCurdy
McMillan
McNulty
Moakley
Slattery
Studds
Sundquist
Tucker
Visclosky
Washington
Waters

□ 1942

Mr. PALLONE and Mr. HUTTO changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LINDER. Mr. Speaker, on the evening of October 4, 1994, I was unavoidably absent and therefore missed rollcall vote No. 482, a vote on passage of H.R. 4533 under suspension of the rules. Had I been present, I would have voted "nay" on rollcall vote No. 482.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, we expect no other votes tonight. Mr. Speaker, we will be asking for reconsideration of three suspension bills that were not able to be passed this evening. There will be a filing of the report in the California Desert conference, but we will not be going to the Committee on Rules tonight on it. We are putting off the vote on the last suspension bill, the Mississippi battlefield bill, until tomorrow. We will be debating more suspensions tonight, but no more votes.

POSTPONEMENT OF VOTE ON S. 986, CORINTH, MISSISSIPPI BATTLEFIELD ACT OF 1994

The SPEAKER pro tempore (Mr. SKAGGS). The Chair will redesignate for vote on tomorrow, October 5, the pending business on the Senate bill, S. 986, as amended.

CONFERENCE REPORT ON S. 2060, SMALL BUSINESS ADMINISTRATION REAUTHORIZATION AND AMENDMENT ACT OF 1994

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the Senate bill (S. 2060), to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes, and ask that it be considered as read.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

(For conference report and statement on the Senate bill, see Proceedings of the House of Monday, October 3, 1994, at page 27428.)

The SPEAKER pro tempore. The gentleman from New York [Mr. LAFALCE] will be recognized for 30 minutes, and the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on S. 2060, the 1994 Small Business Authorization and Amendment Act.

Mr. Speaker, this bill incorporates significant expansions of key SBA loan, investment and management assistance programs. Over the next 3 years, this legislation will potentially channel $48 billion in loan guarantees and almost $3 billion in venture capital to the Nation's small businesses. These funds will catalyze additional billions of dollars in private sector lending and investment in small businesses nationwide.

Specifically, the key provisions of the Small Business Reauthorization and Amendment Act of 1994 are as follows:

First, it increases authorization levels for critical SBA programs: For 1995, $130 million in direct loans, $13 billion in loan and debenture guarantees, and $1.8 billion in surety bond guarantees; for 1996, $191 million in direct loans, $15.6 billion in loan and debenture guarantees, and $1.9 billion in surety bond guarantees; for 1997, $250 million in direct loans, $19 billion in loan and debenture guarantees, and $2 billion in surety bond guarantees. The program levels and authorizations for each of the next 3 fiscal years are shown on the attached chart, which I have appended to my statement.

While I am pleased with the funding levels provided for in the reauthorization bill, I want to emphasize this is no Government giveaway. Much of the funding represents, in percentage terms, a relatively small Government contribution which acts as a catalyst for billions of dollars in private sector investment in small business. The funding levels of the guarantee programs authorized in this bill will, in fact, make additional private funds available to small businesses far in excess of the funds authorized by Congress. For example, over the next 3 years, the bill authorizes $48 billion in guarantees of loans and debentures. As a result, another $20 billion in funds will be made available from private financial institutions, thus making a total of some $68 billion available to qualified small business borrowers.

Second, the reauthorization bill includes a number of initiatives to enhance the development and growth of women-owned businesses, a key source of economic growth and new jobs. The legislation creates an Interagency Committee on Women's Business Enterprise, which would report on its activities to the President and Congress at least annually. Further, the bill restructures the current National Women's Business Council, ensuring broader representation and greater diversity among council participants in its role as an advisory body to the Interagency Committee, the President, the Congress. Finally, the legislation establishes by statute the Office of Women's Business Ownership at SBA, which currently exists under the authority of a 1974 Executive order.

As the author of the legislation which originally created the council, I have come to the conclusion that the Women's Business Council must have greater prominence, higher visibility, and more substantial input into the policymaking process if it is to achieve its goals. I believe the structure contained in this bill will ensure that prominence and visibility, maximize the use of existing resources, save valuable dollars, and create the true public-private partnership that is necessary if we are to make women's entrepreneurship—and the economic growth it can stimulate—a top policy priority.

I have, in working closely with the administration, women's groups, and several other members of the House and Senate committees on a bipartisan basis, crafted this restructured council to continue the vital work it was doing to promote the development of women owned and run small businesses in a more efficient and cost effective manner.

Third, the reauthorization bill provides relief to participants in three programs—the 503 development company program, the small business investment company program and the specialized small business investment company program—who are paying interest rates well above market rates. The high interest rates, as high as 15 percent, resulted from the interest rates in effect when the financing originated.

Due to exorbitant prepayment penalties, these program participants are currently precluded from prepaying these loans now held by the Government, even though refinancing is something the participants could readily do in a private sector transaction. The bill authorizes $30 million for 1995—dollars which have already been appropriated by Congress—plus the proceeds collected from a graduated prepayment penalty, to reduce the interest rates of any interested program participants.

I had successfully proposed prepayment legislation which was passed in previous years, but the opposition of previous administrations blocked enactment. This year, the Clinton administration has endorsed prepayment relief.

Fourth, the legislation creates a new program which will increase the private sector role in the Certified Development Company [CDC] program and expedite the processing of loan applications. In recognition of the contribution and great success of the CDC program, this bill creates a more meaningful role for the CDC's by certifying qualified CDC's as premier certified lenders, and permitting them to expedite the processing of loan applications under this program. CDC's with outstanding credit histories at SBA would be selected to approve SBA guarantees without prior approval from the SBA. This program will reduce government redtape by allowing qualified low-risk borrowers to have their loans approved earlier.

This new initiative will provide for greater efficiency and more private sector control and participation in the section 504 or development company loan program. This job creation and economic development program which I authored in 1980 has grown dramatically, presented negligible risk to the Government, and served communities and developing businesses well.

The success of the CDC program has been phenomenal. As of October 17, 1990, CDC's collectively reached the $1 billion mark in debenture approvals. Less than 3 years later, on May 13, 1993, the CDC program reached $2 billion. Currently, CDC's are approving over $1 billion per year. The CDC program has been responsible for hundreds of thousands of jobs, and the losses to date have been negligible, about one-half of 1 percent. The premier certified lenders program will permit the rapid success, progress, and growth of the CDC program to continue, while minimizing both the administrative and program costs to the Agency.

Fifth, the legislation substantially expands the microloan program, which has been so successful in providing small businesses with the very small loans which are too often unavailable from banks and other traditional lenders. The bill deletes the current limitations on the number of intermediaries, lenders per State and increase the lending limitation on an intermediary to $2.5 million, from $1,250,000.

The SBA and all of its programs provide critical support to America's small businesses as they startup, expand, and create more jobs for more Americans. I look forward to working closely with both Philip Lader, who will be named as SBA's new administrator, and President Clinton in continuing to work to make the Agency and its programs more effective and efficient. The changes made by the reauthorization bill are a vital part of that effort.

Before concluding, I want to thank all of my colleagues on the Small Business Committee for their contributions and cooperation, particularly my ranking minority member, Mrs. MEYERS of Kansas.

Mr. Speaker, this conference report was developed on a bipartisan basis. It is a bill deserving the support of every Member of this body and I urge its adoption.

Mr. Speaker, I include for the RECORD the following table.

CONFERENCE AGREEMENT—MAJOR SBA REAUTHORIZATION FUNDING LEVELS

Program	Fiscal year—		
	1995	1996	1997
Handicapped direct loans.	10 million	11 million	12 million
Microloans (direct)	120 million	180 million	250 million
Microloans (technical assistance).	45 million	65 million	98 million
7(a) loan guarantees	9.15 billion	10.5 billion	13.1 billion
Defense conversion loan guarantees.	2 billion	2.5 billion	3 billion
Microloan guarantees pilot.	20 million	30 million	40 million
504/502 development companies.	2.25 billion	2.65 billion	3.25 billion
SBIC debenture guarantees.	200 million	210 million	220 million
SBIC participating securities.	400 million	650 million	900 million
SSBIC preferred stock.	23 million	24 million	25 million
SSBIC debenture guarantees.	44 million	46 million	48 million
Surety bond guarantees	1.8 billion	1.9 billion	2 billion

Mrs. MEYERS of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on H.R. 4801, the Small Business Administration Reauthorization and Amendments Act of 1994. The conference managers have done an excellent job in a brief period of time of reporting out a fair, reasonable, and responsible bill. I appreciate the efforts of my colleagues in the House—Chairman LAFALCE, Mr. SMITH, Mr. WYDEN and Mr. BAKER, and our counterparts in the Senate in working to this swift and amicable resolution.

I appreciate the chairman's excellent description of the bill and I will try not to duplicate his remarks except to highlight a few points I feel are exceptionally important. First, I am pleased that the conference report reflects the reduced authorization levels for the small business venture capital programs, as provided in the House bill by inclusion of the LaFalce-Meyers amendment. These lower levels reflect our desire to be cautious concerning future increases in the programs. Slowing the rate of growth in the Small Business Investment Co. [SBIC] and specialized SBIC programs will give the recent legislative changes Congress made time to take root. In addition, it will give initiatives taken by the administrator to correct program shortcomings the opportunity to work. These programs need to walk before they can run.

The conference report also reflects an agreement regarding the establishment of an advisory council for the Specialized Small Business Investment Co. program. In response to language in the House bill directing the SBA to create an advisory council, the SBA has began forming a council similar to the blue ribbon panel formed in 1991 for study of the SBIC program. A letter to conferees from SBA deputy administrator, Cassandra Pulley, outlined issues for review by the advisory council and informed the conferees that the council would be named and operational by November 30, 1994. Given the fact that establishment of the advisory council is already underway, the conferees agreed that statutory language creating an advisory council was not necessary. However, the SBA should take note that conferees direct the advisory council to issue its report and recommendations to the Committees on Small Business no later than May 31, 1995.

In addition, the report retains an innovative new program to aid very small businesses, an amendment originally offered in committee by Mr. BAKER. This program will target SBA procurement assistance to those businesses with 15 or fewer employees and revenues of less than one million dollars.

The conference has also adopted an amendment offered by Mr. KNOLLENBERG to increase the authorization for the guarantee pilot in the microloan program. This provision will hopefully spur the banking community to offer SBA guaranteed loans to our microloan intermediaries, thereby reducing the overall cost of the program.

Finally, the conference report contains language that I offered in our committee markup which I believe addresses one of the most pressing issues facing small business—government regulation. Section 613 requires the SBA's Office of Advocacy to give Congress a comprehensive report on the Federal regulations, paperwork, and taxes affecting small business and their cumulative impact.

Mr. Speaker, this is vital information. Too often we speak about the costs and burdens of overregulation, but I don't believe any of us really understand the enormity of the problem. This report will make it clear that our legislative work is not done in a vacuum, and will help identify some specific regulations, paperwork requirements, or taxes that work undue hardship on small business.

Mr. Speaker, I urge my colleagues to support this conference report. It is a clean bill with no extraneous provisions and it represents an excellent bipartisan effort to help the Nation's small business community.

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Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAFALCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the conference report on the Senate bill, S. 2060, which was just agreed to.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from New York?

There was no objection.

CLAUDE HARRIS, JR. BUILDING

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4948) to designate Building Number 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, AL, as the "Claude Harris, Jr. Building," and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the committee, for an explanation.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we are very proud that this bill will name a building at the VA Medical Center in Tuscaloosa, AL, the "Claude Harris, Jr. Building."

Mr. Speaker, Claude Harris was a Member of this body for a relatively short period of time. But his service to the residents of the 7th District of Alabama, and the impression he left on Members who came to know him, was quite remarkable. I can still hear his voice arguing in favor of veterans' legislation being considered by the House.

"Judge" Harris was a gentleman who was interested in the problems facing all Americans, but he has a special understanding and regard for the problems of working-class Americans. His voice was their voice, and his heart was filled with their desires for greater justice and a better life.

On the Veterans' Affairs Committee, he, MARCY KAPTUR, and GEORGE SANGMEISTER guided through the Congress legislation that is now law providing that National Guardsmen and Reservists who served over 6 years in the Reserves would be eligible for veterans home loan programs, and with his leadership, National Guardsmen and Reservists with 20 years of Reserve duty can now be buried in one of our national cemeteries.

Mr. Speaker, he was a good friend, a strong believer in honoring veterans. He left this body of his own accord, knowing that he had faithfully represented his constituents. On behalf of the Veterans' Affairs Committee, I want to extend our condolences and deep sorrow to his wife, Barbara, his sons, Jeffrey and Claude, and the rest of his family. The House of Representatives was made better by Claude Harris' service, and it is only fitting that we honor him by naming this building, which he fought so hard to ensure would be built, in his honor.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, 2 years ago this week, I stood on the floor to lead a special order praising the dedicated work of my friend and colleague, Congressman Claude Harris, of Tuscaloosa.

As many will recall, Claude was retiring at the end of the 102d Congress after a brief, yet most distinguished tenure here on Capitol Hill.

Like most of my colleagues, I wanted to pay tribute to Claude and add my name to the list of men and women who recognized his uncommon goodness and decency, as well as wish him well in the future.

As we all know, Mr. Speaker, a lot can happen in 2 years.

For Claude, he went on to become an outstanding U.S. attorney for Alabama. He became a grandfather. And unfortunately, he fought a painfully difficult battle against lung cancer.

We recognized the many contributions of Claude Harris back on October 1, 1992, and today, we gather for a moment to pay our last respects to him.

Mr. Speaker, there were so many things about Claude Harris that made him unique.

His unwavering commitment to public service.

His unimpeachable personal integrity.

His faithfulness to his constituents.

And his love and loyalty to his family.

To be certain, this institution has had many honorable men and women come here and serve. Most who are remembered for their good deeds and noble actions spent the better part of a lifetime here.

But while Claude Harris' time in Congress was brief, it was not without its purpose nor its legacy.

Claude will go down in history not just for being a good man who did great things for his State and Nation. No, Claude Harris will be best remembered for being a great man who did many good things.

During our 6 years up here together, Claude and I became close friends and traveling partners. Most weeks, we would meet in Nashville for the flight up to Washington, as well as the return flight home to Alabama.

During those trips, Clause loved to tell stories about his district, and about the people he represented and for whom he cared so very much.

He also liked to tell the story that few young boys from Shannon, AL, his hometown, ever dreamed of being elected to Congress.

Today, we can give thanks that one young man from Shannon, AL, did just that and our country, I can honestly say, is better for it. It is indeed appropriate to rename a building at the Tuscaloosa Veterans Medical Center the Claude Harris, Jr. Building.

Our hearts and prayers go out to Barbara and their two children, as well as to the other members of Claude's family, and his friends and loyal staff.

We are going to miss Claude Harris. He was our friend.

Mr. Speaker, I know my colleagues will give their unanimous support to this legislation.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Alabama [Mr. BACHUS], the chief sponsor of the bill.

Mr. BACHUS of Alabama. Mr. Speaker, on August 12, I filed this bill in the House, not knowing that when it came up today as it was scheduled that Congressman Harris would not be with us.

This bill is a tremendous and fitting tribute to a dedicated public servant. I will be very brief. I want to thank the members of the Alabama delegation: Mr. BEVILL who is going to speak in a minute Mr. BROWDER, Mr. CALLAHAN, Mr. CRAMER, Mr. EVERETT, and Mr. HILLIARD.

I also want to commend the gentleman from Florida [Mr. HUTTO], one of Mr. Harris' very good friends who is on the floor; the gentleman from Georgia [Mr. ROWLAND]; the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of our committee, and others who may wish to speak.

Mr. Speaker, I simply want to read two excerpts. Claude Harris' adopted city was Tuscaloosa, AL. From this morning's Tuscaloosa News, I am only going to read a brief remark that that newspaper said about Claude Harris:

> Given a choice of one word to sum up Claude Harris' public career, we'd choose this one: integrity.
>
> Harris, H.R. attorney for the Northern District at the time of his death on Sunday, had also served this community and state as a congressman, as a circuit court judge and as a prosecutor. In each of these roles and during a course of three decades as a public servant, Harris demonstrated a quiet but unyielding determination to know the truth and to speak the truth, to work to the best of his ability and to represent well those who put him into office."
>
> For his sense of integrity, Harris will be honored. But for his other traits—fair-mindedness, an unfailing courtesy to all people, an ever-present warmth and kindness—Harris will be genuinely missed.

Then from the hometown paper where he was born and raised, the Birmingham Post Herald said this:

> People who take a dim view of all politicians could not have known U.S. Attorney Claude Harris, who died of lung cancer Sunday at the too young age of 54.
>
> Harris was the model of what a public official should be: honest, hardworking and never forgetting that his job was to serve the public, not himself.

Also, Mr. Speaker, he was President Bill Clinton's first judicial appointment in Alabama.

I will close the way the Birmingham Post Herald closed.

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It said, "Claude Harris will be sorely missed." I agree.

Mr. Speaker, I include for the RECORD the entire editorial from the Tuscaloosa News on Claude Harris, as follows:

[From the Tuscaloosa News, Oct. 4, 1994]

CLAUDE HARRIS, RIP

Given a choice of one word to sum up Claude Harris' public career, we'd choose this one: integrity.

Harris, U.S. attorney for the Northern District at the time of his death on Sunday, had also served this community and state as a congressman, as a circuit court judge and as a prosecutor. In each of those roles and during a course of three decades as a public servant. Harris demonstrated a quiet but unyielding determination to know the truth and to speak the truth, to work to the best of his ability and to represent well those who put him into office.

"Claude had a good reputation from the time I first met him," said Joe Colquitt, retired circuit court judge and a former colleague and friend of Harris. "I've never heard anyone say anything but that Claude was a person of great integrity, honest and true to his word."

For his sense of integrity, Harris will be honored. But for his other traits—fair-mindedness, an unfailing courtesy to all people, an ever-present warmth and kindness—Harris will be genuinely missed.

Those characteristics were made evident to people no matter where Harris served: in the Tuscaloosa County Courthouse, in our nation's capital or in his U.S. Attorney's office in Birmingham.

Voters appreciated Harris for those endearing qualities. He was a huge local favorite as a judge; and as congressman, his landslide vote totals swelled with each of his three successive election wins.

Only the redistricting issue could defeat him. That came in 1992, when Harris' congressional district was reshaped and his home base was cut in half; facing a campaign that might have been divisive to Democrats, he retired. Later, he was the first judicial appointment in Alabama by the Clinton administration.

Of many things that we remember from his congressional career, these come to mind immediately: that Harris took much care to ensure that his voting record would reflect the conservative nature of his constituents; that his name was not among those congressmen (which included most of the House) who had overdrafts in the House banking scandal, and that upon his decision to retire, Harris and his wife took the extraordinary step of returning personal checks to those who had contributed to his campaign.

"I've never known a politician to give a contribution back, not even if you asked for it," said one astonished Dallas County politician. But there was only one Claude Harris.

"I took seriously the notion that a public office is a public trust," Harris told one civic group shortly before leaving Congress, "and when I was elected to Congress, I resolved to hold myself and my staff to this same standard."

He met that standard at every career step. We at this newspaper, knew Claude Harris well for three decades. It was an honor and a pleasure.

Mr. STUMP. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Florida [Mr. HUTTO].

Mr. HUTTO. Mr. Speaker, I appreciate very much the gentleman yielding. I rise in strong support of this bill. I think it is altogether appropriate that the building at the VA Medical Center in Tuscaloosa, AL, be named the Claude Harris, Jr., Building.

Claude indeed during his time in this body was a friend to all of us. He was low key in many ways, but very sincere, up front, and a very good Congressman. Though I represent a district in Florida, I was born and raised in Alabama and have kept in touch with my relatives and with what goes on in Alabama. I know that Claude is so well respected by people throughout the State of Alabama.

He has served in many positions, as a judge as well as other positions, and of course here in Congress he made his mark. He was very strong for the military. As a longtime member of the Guard, he supported the Guard and Reserve in many ways. So he will be sorely missed by the people of Alabama and particularly the area of Alabama that he served in Congress, and he will be missed by the people in this body. But we will have good memories, and it is particularly appropriate that he will be remembered in Alabama with the naming of this building the "Claude Harris, Jr., Building" at the VA Center in Tuscaloosa.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding and I rise in support of this legislation, unfortunately in a sad way because we have just lost our dear colleague, Judge Claude Harris. He served on our committee and was a major contributor to many of the laws that were enacted while he was a member of our committee.

His great love for the Guard and the military was always noted, and he was a very kind and gentle person who cared much for his family, for his State and for his country.

I might add just one little personal note, that before he left here we had visited, and I had observed that I had seen a sweater with some geese on it, embroidered on the sweater and I forgot about it. After he had been gone for about 6 months from here, a package came with the sweater. This is the kind of individual that he was.

This building will have indeed a great American for its name, and I join all of my other colleagues and associate myself with their remarks, and extend our condolences to his family, his friends on the terrible loss to the State of Alabama and our country. But we are glad he came this way and we had the opportunity to serve briefly with him, and indeed to know him as we knew him.

Mr. STUMP. Mr. Speaker, continuing my reservation of objection, I am pleased to yield to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding. I want to commend the committee, the distinguished chairman and members for having brought this legislation to the floor.

Like most of us who are here at this moment, I served with Claude Harris. He was a distinguished and valuable member of our Committee on Energy and Commerce. He was well identified by his good humor, his cheerfulness, by his wisdom, his thoughtful and careful approach to legislation, his honesty, and his integrity.

He was a man of great intelligence, and he was very careful in his service in the public interest. His enthusiasm for his home State and for the district which he served so well knew no bounds.

It was with a great sense of personal loss to me when he retired from the Congress. I have found it a still greater sense of loss that now we have lost him to lung cancer. The country is poorer, his district is poorer, the Congress is poorer, and all of his friends are the poorer for his departure.

I believe this bill is a fitting one, and I commend the committee and the distinguished gentleman for making my comments possible, and for honoring a really great American.

Mr. STUMP. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I rise in support of H.R. 4948, naming the Veterans' Medical Center in Tuscaloosa, AL, in honor of our friend Claude Harris.

Alabama lost a U.S. attorney when Claude Harris passed away this weekend and America lost a public servant in the true old-time sense of the term.

Claude Harris served as a prosecutor and judge before coming to the U.S. Congress. The Alabama delegation counted on him for direction on a lot of issues but especially those affecting crime and the judicial process. His wisdom was usually delivered in a low-key but direct manner often illustrated with a humorous anecdote or colloquialism. He brought that same wisdom to true public service throughout his career.

Claude Harris was a straight arrow. He was the same person whether you talked to him here on the floor of the U.S. Congress or at a fish fry back home in Alabama. He never acquired the pretensions of a man who attained his high stature in life.

Claude is a part of our life forever; and his wife, Barbara, and his family are in our prayers.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Georgia [Mr. ROWLAND] who is another Member we are going to miss this coming session.

Mr. ROWLAND. Mr. Speaker, I thank the gentleman for yielding. Claude Harris not being with us anymore is certainly a great loss to this institution, to his State, and the country.

I knew Claude and his wife, Barbara, on very many occasions having visited in their home in Alabama, and I came to know them and their family very well. Claude is going to be missed greatly by the people in his home county, and his home State; and the country is going to be worse off for having lost this truly great American.

I want to commend the gentleman from Arizona [Mr. STUMP], and the gentleman from Mississippi [Mr. MONTGOMERY], for this resolution naming this building for a wonderful man from Alabama, Claude Harris, Jr.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, further reserving the right to object, I am pleased to yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding. I want to join my colleagues in their comments and tributes to Claude Harris, who was an outstanding member of this body, a man of great humor and great ethics and great principles, who I also had the pleasure of enjoying when work was done here and at dinner and social events. And a truly outstanding and wonderful person that we clearly are all going to miss. I want to thank the gentleman again for this tribute and the naming of this building after our former colleague.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I thank my good friend and colleague for yielding. I rise in support of this particular piece of legislation.

I also want to add to the many comments about our good friend and colleague, Claude Harris. I came to the Congress the same session that Claude did. I knew him as most of our colleagues did as someone who was concerned about agricultural issues, concerned about a strong military and a strong defense, but also had a common sense about him in terms of government in general.

There was one particular project that I had the honor of working with Claude on, an issue very dear to me, and we have talked about Claude's concern for the armed services. But it was Claude Harris who on the agricultural bill last session introduced the Rural Fire Protection Act which was the first time in this country that we authorized a program specifically to help those rural fire departments, especially those who have a terrible problem in gaining the equipment and materials. I see the chairman shaking his head. I think he remembers Claude's work on this issue. Claude Harris traveled the country to speak to groups on this concern. I had the opportunity to travel with Claude twice to Alabama to speak to his fire service leaders. Claude was a hero in that State and nationally for what he had done.

Claude Harris is probably the example of what a Member of Congress should be, and all of us on both sides of the aisle have looked up to him, and we send our condolences and sympathy to the family. I think it certainly is appropriate that we take this step and honor him in this way by naming this building after him.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his statement.

Mr. Speaker, I rise in strong support of H.R. 4948, to name a building at the Tuscaloosa Veterans' Medical Center in honor of our late and distinguished former colleague, Claude Harris, Jr.

"Judge Harris," as he was known to us, commanded wide respect on both sides of the aisle. His views on veterans matters while a member of the Veterans' Affairs Committee carried great weight. He tirelessly advocated an adequate budget and better access to health care for veterans.

Even though he was not here long enough to attain formal leadership positions, he was a leader because of the man he was. A county prosecutor who became a judge in Tuscaloosa, AL, Judge Harris served three terms in this body and was then appointed U.S. attorney for the Northern District of Alabama. He was also a member of the Alabama National Guard. In all of these ways, his was a life of exemplary public service and accomplishment.

Mr. Speaker, I want to commend our Veterans' Affairs Committee colleague from Alabama, [Mr. BACHUS], for introducing this bill, and our chairman, Mr. MONTGOMERY, for bringing it to the floor so expeditiously.

We will miss Judge Harris. He was, as many of my colleagues have observed, a champion for veterans and the common man. This would be a fitting way to honor him, and I wish he could have still been on this earth to see it happen, which was our intent.

Mr. HILLIARD. Mr. Speaker, I rise today to ask the support of my colleagues for H.R. 4948, which designates a building at the Tuscaloosa Veteran's Medical Center in Tuscaloosa, AL, as the Claude Harris, Jr. Building. This bill is of the utmost importance to me, as well as to the family, friends, and colleagues of the late, Honorable Claude Harris, Jr.

Congressman Harris was my predecessor as U.S. Representative of the Seventh Congressional District of Alabama. All who knew him would agree that he was a man of great honor and virtue. He was selfless and untiring in his quest to serve others. He was a dedicated husband, father, and friend. He was especially committed and unrelenting in his service as a Member of this esteemed body. The strength he exhibited throughout his personal battle with cancer over the past 6 months, is inspirational to all of us whose lives he touched.

It is most fitting that this particular project should bear his name. The funds for the completion of this facility were secured in large part by the tremendous efforts of Judge Harris during his tenure on the House Committee on Veteran's Affairs. His dedication to the needs of our Nation's veterans was typical of his commitment to all of the people he served.

I am honored now to follow in his distinguished footsteps, representing the Alabamians who prospered from his years as a U.S. Congressman. It is my hope and pleasure that this building would stand as a tribute to Claude Harris, Jr., a rarity among men. Finally, without any objections, I would like to submit the following House Resolution, which honors the memory of Mr. Harris, into the RECORD.

Mr. BEVILL. Mr. Speaker, I rise today in strong support of legislation introduced by my friend and colleague from Alabama, SPENCER BACHUS, to honor the late Claude Harris, Jr.

This bill would designate a building at the Tuscaloosa Veterans' Medical Center as the "Claude Harris, Jr. Building."

This is a very fitting memorial to our friend and former colleague, Claude Harris, who died Sunday.

While serving in Congress, Claude took a very special interest in veterans and as a colonel in the Alabama Army National Guard, he was very experienced in military matters. He was a champion for better health care and treatment for veterans. Naming this building for him at the Tuscaloosa Veterans' Medical Center will be a lasting tribute to a very fine public servant.

Claude certainly deserves to be honored for his many contributions while serving our State and our Nation. I only regret that he did not live to see this legislation passed.

I urge my colleagues to support this bill to pay tribute to one of the finest people who ever served here. Claude Harris deserves our respect and our remembrance.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 4948.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

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Mr. STUMP. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SKAGGS). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

Building Number 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, Alabama, shall be known and designated as the "Claude Harris, Jr. Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Claude Harris, Jr. Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TECHNICAL CORRECTION TO THE FOOD STAMP ACT OF 1977

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 5156), technical correction to the Food Stamp Act of 1977, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Texas?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I will not object, and I yield to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee.

Mr. DE LA GARZA. Mr. Speaker, the purpose of this legislation is to make a technical correction in order that we might implement the provisions in OBRA, 1933, as Congress intended. The bill was reportedly favorably from the committee unanimously.

Mr. Speaker, H.R. 5156 provides for technical correction to the Food Stamp Act.

Section 13961(2) of the Omnibus Budget Reconciliation Act of 1993 amended the Food Stamp Act to change the reimbursement rate for State costs involved in planning and development of automatic data processing and information retrieval systems for the program. However, this section contained a drafting error that H.R. 5156 will correct.

This bill is limited only to the technical correction necessary to implement this provision in OBRA–93 as Congress intended. The bill was ordered reported favorably by the Committee on Agriculture and the Department of Agriculture supports its passage. I urge the passage of H.R. 5156.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I rise in support the bill, H.R. 5156, introduced by the chairman of the Committee on Agriculture to make technical corrections to the Food Stamp Act. The 1993 Budget Reconciliation Act contained the Mickey Leland Childhood Hunger Relief Act, which in turn contained changes to the Food Stamp Program.

One of the provisions in that act reduced, effective April 1, 1994, the amount of Federal reimbursement to States for the planning, design, development, or installation of computer systems from 63 percent to 50 percent. A technical mistake was made because the amendment did not strike the hyphen or remove the indentation in the law being amended.

The chairman's bill corrects this technical problem and USAD supports this change.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION RELATING TO UNIFORM REIMBURSEMENT RATES UNDER FOOD STAMP PROGRAM.

(a) IN GENERAL.—Section 16(g) of the Food Stamp Act of 1977 (7 U.S.C. 2025(g) is amended by striking "an amount" and all that follows through "October 1, 1991, of" and inserting "the amount provided under subsection (a)(6) for".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in section 13961 of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103–66; 107 Stat. 679).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF AGRICULTURE TO CONVEY LANDS TO CITY OF ROLLA, MO

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the bill (H.R. 3426) to authorize the Secretary of Agriculture to convey lands to the city of Rolla, MO, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I do so to yield to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the committee.

Mr. DE LA GARZA. Mr. Speaker, this legislation was introduced by our colleagues, the gentleman from Missouri [Mr. EMERSON]. It is land deeded for city purposes in the city of Rolla, MO.

We recommend its passage.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, I rise today in strong support of this measure, H.R. 3426, which is vital to the rural economic development efforts of southern Missouri. This legislation will authorize the U.S. Department of Agriculture to convey land within the Mark Twain National Forest to the city and citizens of Rolla, MO.

The city of Rolla has been diligent in its plan to utilize the U.S. Forest Service's district ranger office site in the development and construction of a regional tourist center. I feel its important to note that tourism is the second largest industry in Missouri and this tourist center has already attracted great interest along with needed dollars to the regional Rolla economy.

Clearly, this project is a prime example of a local community exercising its own rural development plan for local expansion and job creation. In these times of reduced Federal support for rural community-based economic enterprises, the city of Rolla is a shining example and model of both involvement and initiative that other communities around the country can clearly emulate.

For nearly a year now, the city of Rolla has been collecting a 3 percent tax on local hotels in the attempt to finance this project independent of any assistance from the Federal Government. Indeed, this land transfer arrangement is a very unique partnership for the both Rolla and the Mark Twain National Forest.

Several of Missouri's proud historical landmarks, which are an important element of this site, will be maintained and preserved for current and future generations through the efforts of the city of Rolla—at a reduced burden to local taxpayers. This is particularly important to bear in mind since this facility would have no further commercial viability without the direct involvement of the city of Rolla. So now, two worthy goals can be achieved—economic development and historical preservation.

Mr. Speaker, I commend the leadership efforts of the Mark Twain National Forest and the city of Rolla and I urge the expeditious approval of this measure in order that the citizens of Rolla can get on with the business of economic development and job creation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

(The text of the bill H.R. 3426, as introduced, will be printed in a subsequent issue of the RECORD.)

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DE LA GARZA:

Strike all after the enacting clause and insert:

SECTION 1. LAND CONVEYANCE, ROLLA RANGER DISTRICT ADMINISTRATIVE SITE, ROLLA, MISSOURI.

(a) CONVEYANCE AUTHORIZED.—Subject to the terms and conditions specified in this section, the Secretary of Agriculture may sell to the City of Rolla, Missouri (in this section referred to as the "City), all right, title, and interest of the United States in and to the following:

The property identified as the Rolla Ranger District Administrative Site of the Forest Service located in Rolla, Phelps County, Missouri, encompassing 10 acres more or less, the conveyance of which by C. D. and Oma A. Hazlewood to the United States was recorded on May 6, 1936, in book 104, page 286 of the Record of Deeds of Phelps County, Missouri.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the Secretary an amount equal to the fair market value of the property, as determined by an appraisal (acceptable to the Secretary) prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, as published by the Department of Justice. Payment shall be due in full within 6 months after the date the conveyance is made or, at the option of the City, in 20 equal annual installments commencing on January 1 of the first year following the conveyance and annually thereafter until the total amount due has been paid.

(c) DEPOSIT OF FUNDS RECEIVED.—Funds received by the Secretary under subsection (b) as consideration for the conveyance shall be deposited into the special fund in the Treasury authorized by the Act of December 4, 1967 (16 U.S.C. 484a, commonly known as the Sisk Act). Such funds shall be available, subject to appropriation, until expended by the Secretary.

(d) RELEASE.—Subject to compliance with all Federal environmental laws prior to transfer, the City, upon conveyance of the property under subsection (a), shall agree in writing to hold the United States harmless from any and all claims relating to the property, including all claims resulting from hazardous materials on the conveyed lands.

(e) REVERSION.—The conveyance under subsection (a) shall be made by quitclaim deed in fee simple subject to reversion to the United States and right of re-entry upon such conditions as may be prescribed by the Secretary in the deed of conveyance or in the event the City fails to comply with the compensation requirements specified in subsection (b).

(f) CONSERVATION OF HISTORIC RESOURCES.—In consultation with the State Historic Preservation Office of the State of Missouri, the Secretary shall ensure that the historic resources on the property to be conveyed are conserved by requiring, at the closing on the conveyance of the property, that the City convey an historic preservation easement to the State of Missouri assuring the right of the State to enter the property for historic preservation purposes. The historic preservation easement shall be negotiated between the State of Missouri and the City, and the conveyance of the easement shall be a condition to the conveyance authorized under subsection (a). The protection of the historic resources on the conveyed property shall be the responsibility of the State of Missouri and the City, and not the Secretary.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment is the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

A motion to reconsider was laid on the table.

WATER BANK EXTENSION ACT OF 1994

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill (H.R. 5053) to expand eligibility for the wetlands reserve program to lands covered by expiring agreements under the Water Bank Act, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I yield to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the committee.

Mr. DE LA GARZA. Mr. Speaker, H.R. 5053, as amended, will provide the Secretary of Agriculture with special authority to extend for 1 year water bank agreements that are due to expire on December 31, 1994.

Mr. Speaker, H.R. 5053, as amended, will provide the Secretary of Agriculture with special authority to extend, for 1 year, Water Bank Act agreements that are due to expire on December 31, 1994.

The purpose of the 24-year old Water Bank Program is similar to that of the Wetlands Reserve Program established under the 1990 farm bill. The Water Bank program provides 10-year agreements for farmers to preserve and restore wetlands that are a vital part of our Nation's surface water resources and provide critical habitat for migratory wildlife.

Given funding constraints on the agriculture budget, many believe the time has come for the Federal government to give funding priority to protecting wetlands on a longer term or permanent basis.

A 1-year extension of the Water Bank agreements due to expire in December of this year will allow the Congress an opportunity to thoroughly review and set priorities for all USDA wetland protection and resource conservation programs in the context of the 1995 farm bill.

This legislation, which was originally introduced by Mr. POMEROY of North Dakota, will provide an opportunity to continue protecting the approximately 60,000 acres enrolled in the Water Bank Program until this necessary review and debate occurs.

The funding for the special authority provided by H.R. 5053, as amended, will come through the fiscal year 1995 appropriations provided for the Wetlands Reserve Program. We anticipate that the 1-year extension of current Water Bank agreements will require approximately $900,000 out of the $93.2 million.

In other words, for $900,000, we will be able to protect 60,000 acres of critical wetlands habitat. And we will still be able to enroll nearly 120,000 acres of new wetland areas under the Wetlands Reserve Program's permanent easements. Mr. Speaker, I urge passage of the Water Bank Extension Act.

Mr. Speaker, I am placing at this point in the RECORD correspondence between the Committee on Agriculture and the Committee on Merchant Marine and Fisheries, as follows:

HOUSE OF REPRESENTATIVES, COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, DC, October 4, 1994.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that H.R. 5053 will be considered under suspension of the rules today.

H.R. 5053 proposes changes to the Water Bank Program. The Water Bank Program was designed to protect wetlands as a means to preserve and improve habitat for migratory waterfowl and other wildlife resources. To be selected for inclusion in the Water Bank Program, wetlands must be located in important migratory waterfowl nesting and breeding areas. The U.S. Fish and Wildlife Service (USFWS) plays an important role in selecting lands for the Water Bank Program.

The Merchant Marine and Fisheries Committee has jurisdiction over fish and wildlife conservation and habitat, including wetlands and migratory birds. We also oversee the activities of the USFWS in carrying out duties relating to fish and wildlife conservation.

I do not intend to delay consideration of this bill and, without prejudice to the jurisdiction of my Committee, will not seek a sequential referral of H.R. 5053. I would appreciate a letter acknowledging my Committee's interest and request that our correspondence be inserted in the RECORD during House consideration.

Thank you for your consideration and I look forward to working with you on this bill.

With kind regards.

Sincerely,

GERRY E. STUDDS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
Washington, DC, October 4, 1994.

Hon. GERRY E. STUDDS,
Chairman, Merchant Marine and Fisheries, Cannon House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 5053. This legislation is not intended to affect in any way the jurisdiction of your committee in regard to the Water Bank Program.

I appreciate your help in expediting the consideration of this legislation and look forward to working with you in the future.

With best wishes, I am.

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

Mr. EMERSON. Mr. Speaker, further reserving the right to object, H.R. 5053 provides for the extension of agreements between several hundred landowners and the U.S. Department of Agriculture concerning wetlands that currently are enrolled in the Water Bank Program. Nearly 550 such agreements covering 63,000 acres will expire at the end of this calendar year.

The fiscal year 1995 agricultural appropriations act provides no funds for the Water Bank Program. The bill will extend this program for 1 year using appropriated funds of the Wetlands Reserve Program. This special authority can be used only to the extent that the amount available for obligation under the Wetlands Reserve Program, and the amount used for the 1-year extension of Water Bank agreements, does not exceed the 1995 appropriations. That extension will give Congress time to decide the future of this and other environmental programs, such as the Conservation Reserve Program, next year.

The Water Bank Program, which received an $8 million appropriation last year, covers slightly more than 750,000 acres in 14 States that generally are in the Central North Americans flyway of the Mississippi River valley, and Montana California, and Maine. Of the total acres, about half are true wetlands with the remainder classified as adjacent lands.

Mr. EMERSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

(The text of H.R. 5053, as introduced, will be printed in a subsequent issue of the RECORD.)

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the Nature of a Substitute.

The Clerk read as follows:

Amendment in the Nature of a substitute offered by Mr. DE LA GARZA:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Water Bank Extension Act of 1994".

SEC. 2. SPECIAL AUTHORITY TO EXTEND WATER BANK ACT AGREEMENTS.

(a) Subject to subsection (b), any agreement entered into under the Water Bank Act (16 U.S.C. 1301 et seq.) and due to expire on December 31, 1994, may be extended for 1 year under section 6 of the Water Bank Act (16 U.S.C. 1305).

(b) The authority to extend Water Bank Act agreements under this Act may only be exercised to the extent that the amount available for obligation under the Wetlands Reserve Program (16 U.S.C. 1637 et seq.), and the amount used for the extension of Water Bank Act agreements under subsection (a), does not exceed $93,200,000 as provided for the Wetlands Reserve Program under the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1995.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time and passed.

TITLE AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. DE LA GARZA: Amend the title to read as follows: "A bill to authorize the Secretary of Agriculture to extend for one year Water Bank Act agreements that are due to expire on December 31, 1994.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the three bills just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the years and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, October 5, 1994.

CODIFYING RECENT LAWS RELATED TO TRANSPORTATION

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4778) to codify without substantive change recent laws related to transportation and to improve the United States Code, as amended.

The Clerk read as follows:

H.R. 4778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE 11. UNITED STATES CODE.

Section 365 of title 11, United States Code, is amended as follows:

(1) In subsection (d)(6)(C), strike "section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301)" and substitute "section 40102(a) of title 49".

(2) In subsection (p), strike "section 101(3) of the Federal Aviation Act of 1958" and substitute "section 40102(a) of title 49".

SEC. 2. TITLE 18 UNITED STATES CODE.

Title 18, United States Code, is amended as follows:

(1) In section 2333(b), strike "section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r))" and substitute "section 46314, 46502, 46505, or 46506 of title 49".

(2) In section 2340(3), strike "section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38))" and substitute "section 46501(2) of title 49".

SEC. 3. TITLE 23, UNITED STATES CODE.

Title 23, United States Code, is amended as follows:

(1) In section 103(i)(3), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(2) In section 108(d)(2)(F), strike "section 4(f) of the Department of Transportation Act" and substitute "section 303 of title 49".

(3) In section 127(d)(2)(A), strike "sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316)" and substitute "sections 31111–31114 of title 49".

(4) In section 133(b)(2), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(5) Section 134 is amended as follows:

(A) In subsections (h)(5) and (i)(3) and (4), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(B) In subsection (i)(5), strike "section 9 of the Federal Transit Act" wherever it appears and "section 8(o) of the Federal Transit Act" and substitute "section 5336 of title 49" and "section 5306(a) of title 49", respectively.

(C) In subsections (k)—(m), strike "the Federal Transit Act" wherever it appears" and substitute "chapter 53 of title 49".

(D) In subsection (k), strike "Federal Transit Act funds" and substitute "chapter 53 funds".

(6) Section 135 is amended as follows:

(A) In subsection (f)(2), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(B) In subsection (h), strike "section 8 of the Federal Transit Act, United States Code" and "section 8 of such Act" and substitute "sections 5303–5306 and 5323(k) of title 49" and "sections 5303–5306 and 5323(k)", respectively.

(7) In section 141(b), strike "section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j))" and substitute "section 31112 of title 49".

(8) In section 303(c), strike "the Federal Transit Act" and substitute "chapter 53 of title 49".

(9) In section 303(d), strike "the Federal Transit Act" and "such Act" and substitute "chapter 53 of title 49" and "chapter 53", respectively.

(10) In section 307(e)(13), strike "section 26(a)(1) of the Federal Transit Act" and substitute "section 5313(a) of title 49".

SEC. 4. TITLE 26, UNITED STATES CODE.

Section 9503(e)(3)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(e)(3)(A)) is amended by striking "paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act" and substituting "section 5338(a)(1) or (b)(1) of title 49".

SEC. 5 TITLE 39, UNITED STATES CODE.

Section 5402(g)(1)(A) of title 39, United States Code, is amended by striking "section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371)" and substituting "section 41102(a) of title 49".

SEC. 6. TITLE 49, UNITED STATES CODE.

Title 49, United States Code, is amended as follows:

(1) In section 112(e), strike "the date of the enactment of this section" and substitute "October 24, 1992".

(2) In section 321, strike ", respectively".

(3) Section 5103(b)(2) is amended as follows:

(A) Strike "include" and substitute "be conducted under section 553 of title 5, including".

(B) Strike "presentations" and substitute "presentation".

(4) In section 5104(a)(1), insert "applicable" after "each".

(5) In section 5115(b)(1)(C), strike "126" and substitute "126(g)".

(6) In section 5125(a) and (b)(1), insert "and unless authorized by another law of the United States" after "section".

(7) Section 5307(d) is amended as follows:

(A) In clause (1)(D), strike "chapter" and substitute "section".

(B) In clause (1)(E)(iii), strike "Buy-American" and substitute "Buy America".

(8) In section 5318(e), insert "Uniform" before "Relocation".

(9) In section 5320(g)(2), strike "paragraph (1)(C) of this section" and substitute "paragraph (1)(C) of this subsection".

(10) Section 5323 is amended as follows:

(A) In the catchline for subsection (j), strike "AMERICAN" and substitute "AMERICA".

(B) Add at the end of the section the following:

"(l) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary of Transportation shall prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient.".

(11) In section 5326(a)(3), strike "regulations" and substitute "guidelines".

(12) In section 5327(c)(1), strike "of that Act" and substitute "or that Act".

(13) In section 5331(a)(3), strike "subchapter III of chapter 201 or section 31306" and substitute "section 20140 or 31306".

(14) In section 5337(a)(4), strike "section 5336(B)(2)(A)" and substitute "section 5336(b)(2)(A) of this title".

(15) In the catchline of section 5565, insert "certain" after "converting".

(16) In section 11301(b)(1), strike "subchapter I of chapter 2A, chapter 2B, and subchapter I of chapter 2D of title 15" and substitute "the Securities Act of 1933 (15 U.S.C. 77a et seq.), the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), and the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.)".

(17) In section 11348(a), strike "(l)(1)" and substitute "(m)(1)".

(18) In section 11706(d), strike "that limitation periods" and substitute "those limitation periods".

(19) In section 20136(2), strike "subsection" and substitute "section".

(20) In section 22108(a)(3), insert "under this subsection" after "appropriated".

(21) Section 24501 is amended as follows:

(A) In subsection (f), strike "(f) EXEMPTION FROM ADDITIONAL TAXES.—(1)" through the end of paragraph (1) and substitute the following:

"(f) EXEMPTION FROM ADDITIONAL TAXES.—(1) In this subsection—

"(A) 'additional tax' means a tax or fee—

"(i) on the acquisition, improvement, ownership, or operation of personal property by Amtrak Commuter; and

"(ii) on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak Commuter.

"(B) 'Amtrak Commuter' includes a rail carrier subsidiary of Amtrak Commuter and a lessor or lessee of Amtrak Commuter or one of its rail carrier subsidiaries.".

(b) In subsection (f)(2), insert ", even if that use is indirect" after "transportation".

(22) In section 24904(a)(2), insert ", condemnation or otherwise," after "acquire".

(23) Sections 30141(c)(4)(A) and 30165(a) are amended as follows:

(A) Strike "section 30112" and substitute "any of sections 30112".

(B) Insert "any of" before "those sections" each place it appears.

(24) In section 30166(h), strike "the judicial" and "substitute "any judicial".

(25) In section 30308(b), strike "appropriated" and substitute "authorized".

(26) In section 31501(l), strike "section 203(f)" and substitute "section 3(f)".

(27) In section 32101, the matter before clause (1) is amended to read as follows:

"In this part (except as provided in section 33101)—".

(28) Item 32309 in the analysis of chapter 323 is amended to read as follows:

"32309. Civil penalty for labeling violations.".

(29) Section 32304(a)(11) is amended to read as follows:

"(11) 'passenger motor vehicle' has the same meaning given that term in section 32101(10) of this title, except that it includes any multi-purpose vehicle or light duty truck when that vehicle or truck is rated at not more than 8,500 pounds gross vehicle weight.".

(30) Section 32304(a)(14) is amended as follows:

(A) Insert "the Northern Mariana Islands," after "Puerto Rico,".

(B) Strike "the Canal Zone,".

(31) In the catchline of section 32309, strike "Criminal" and substitute "Civil".

(32) In section 32505(b)(3), strike "the judicial" and "was conducted" and substitute "any judicial" and "is conducted", respectively.

(33) In section 32703(3), strike "public".

(34) Section 327054(c)(2)(A) is amended to read as follows:

"(A) the lessee's mileage disclosure requirements under paragraph (1) of this subsection; and".

(35) In section 32706(e)(3), strike "the judicial" and "was conducted" and substitute "any judicial" and "is conducted", respectively.

(36) Section 32904(b) is amended as follows:

(A) Redesignate paragraphs (3)–(6) as paragraphs (5)–(8), respectively.

(B) Strike "(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1)" through the end of paragraph (2) and substitute the following:

"(b) SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.—(1)(A) Except as provided in paragraphs (6) and (7) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

"(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (5) of this subsection; and

"(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (5) of this subsection).

"(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.

"(2) In this subsection (except as provided in paragraph (3)), a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year.

"(3)(A) In this subsection, a passenger automobile is deemed to be manufactured domestically in a model year, as provided in subparagraph (B) of this paragraph, if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is imported into the United States more than 30 days after the end of the model year.

"(B) Subparagraph (A) of this paragraph applies to automobiles manufactured by a manufacturer and sold in the United States, regardless of the place of assembly, as follows:

"(i) A manufacturer that began assembling automobiles in Mexico before model year 1992 may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election.

"(ii) For a manufacturer that began assembling automobiles in Mexico after model year 1991, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994, or the model year beginning after the date the manufacturer begins assembling automobiles in Mexico, whichever is later.

"(iii) A manufacturer not described in clause (i) or (ii) of this subparagraph that assembles automobiles in the United States or Canada, but not in Mexico, may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election. However, if the manufacturer begins assembling automobiles in Mexico before making an election under this subparagraph, this clause does not apply, and the manufacturer is subject to clause (ii) of this subparagraph.

"(iv) For a manufacturer that does not assemble automobiles in the United States, Canada, or Mexico, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994.

"(v) For a manufacturer described in clause (i) or (iii) of this subparagraph that does not make an election within the specified period, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 2004.

"(C) The Secretary of Transportation shall prescribe reasonable procedures for elections under subparagraph (B) of this paragraph.

"(4) In this subsection, the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically."

(C) In paragraph (5)(B), as redesignated by subparagraph (A) of this paragraph, strike "paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii)" and substitute "paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii)".

(D) In paragraph (6)(A), as redesignated by subparagraph (A) of this paragraph, strike "paragraph (2)(A)" and substitute "paragraph (1)(A)".

(37) In section 32908(b)(1), insert "on the automobile" after "maintain the label".

(38) In section 32909(a)(1), strike "section 32901–32904" and substitute "any of sections 32901–32904".

(39) In section 32910(b), strike "the judicial" and "was conducted" and substitute "any judicial" and "is conducted", respectively.

(40) In section 32911(a), strike ", and 32917(b)" and substitute ", 32917(b), and 32918".

(41) Section 32913(b)(1) is amended as follows:

(A) In the catchline, strike "PENALTY REDUCTION" and substitute "CERTIFICATION".

(B) Strike "the penalty should be reduced" and substitute "a reduction in the penalty is necessary".

(42) Section 32916(b) is amended as follows:

(A) In paragraph (1), in the matter before clause (A), strike "section 32904(b)(4)" each place it appears and substitute "section 32904(b)(6)".

(B) In paragraph (1)(E), strike "section 32904(b)(1)(A)" and substitute "section 32904(b)(2)".

(C) In paragraph (2), strike "section 32904(b)(4)" and substitute "section 32904(b)(6)".

(43)(A) Section 32918 is redesignated as section 32919.

(B) Insert after section 32917 the following:

"§ 32918. Retrofit devices

"(a) DEFINITION.—In this section, the term 'retrofit device' means any component, equipment, or other device—

"(1) that is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

"(2) that any manufacturer, dealer, or distributor of the device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

"as determined under regulations of the Administrator of the Environmental Protection Agency. The term also includes a fuel additive for use in an automobile.

"(b) EXAMINATION OF FUEL ECONOMY REPRESENTATIONS.—The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any representation may be inaccurate, the Commission shall request the Administrator to evaluate, in accordance with subsection (c) of this section, the retrofit device with respect to which the representation was made.

"(c) EVALUATION OF RETROFIT DEVICES.—(1) On application of any manufacturer of a retrofit device (or prototype of a retrofit device), on request of the Commission under subsection (b) of this section, or on the motion of the Administrator, the Administrator shall evaluate, in accordance with regulations prescribed under subsection (e) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations, if any, made with respect to the retrofit device are accurate.

"(2) If under paragraph (1) of this subsection, the Administrator tests, or causes to be tested, any retrofit device on the application of a manufacturer of the device, the manufacturer shall supply, at the manufacturer's expense, one or more samples of the device to the Administrator and shall be liable for the costs of testing incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of the device.

"(d) RESULTS OF TESTS AND PUBLICATION IN FEDERAL REGISTER.—(1) The Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the Administrator's conclusions as to—

"(A) the effect of any retrofit device on fuel economy;

"(B) the effect of the device on emissions of air pollutants; and

"(C) any other information the Administrator determines to be relevant in evaluating the device.

"(2) The summary and conclusions shall also be submitted to the Secretary of Transportation and the Commission.

"(e) REGULATIONS ESTABLISHING TESTS AND PROCEDURES FOR EVALUATION OF RETROFIT DEVICES.—The Administrator shall prescribe regulations establishing—

"(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants; and

"(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.".

"(C) In the analysis of chapter 329, strike item 32918 and substitute—

"32918. Retrofit devices.
"32919. Preemption.".

(44) Section 33101(2) is amended as follows:

(A) Strike "sections 33102(c)(1) and" and substitute "section".

(B) Add at the end "of this title".

(45) In section 33106(b)(3), strike "subparagraph (2)(B) or (C) of this paragraph" and substitute "paragraph (2)(B) or (C) of this subsection".

(46) In section 40102(a)(30), strike "subparts I and III" and substitute "this subpart and subpart III".

(47) Section 40104 is amended as follows:

(A) Insert at the beginning of the text of the section the following:

"(a) DEVELOPING CIVIL AERONAUTICS AND AIR COMMERCE.—".

(B) Strike "section" and substitute "subsection".

(C) Add at the end the following:

"(b) DEVELOPING AND CONSTRUCTING CIVIL SUPERSONIC AIRCRAFT.—The Secretary of Transportation may develop and construct a civil supersonic aircraft.".

(48) Section 40110(a) is amended as follows:

(A) In the matter before clause (1), strike "may".

(B) In clause (1)—

(i) strike "acquire,"; and

(ii) strike "services or" and substitute "may acquire services or, by condemnation or otherwise,".

(C) In clause (2), insert "may" before "dispose".

(D) In clause (3), insert "may" before "construct".

(49) In section 41103(a), strike "all-property" and substitute "all-cargo".

(50) Section 41110(e) is amended to read as follows:

"(e) CONTINUING REQUIREMENTS.—(1) To hold a certificate issued under section 41102 of this title, an air carrier must continue to be fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary.

"(2) After notice and an opportunity for a hearing, the Secretary shall amend, modify, suspend, or revoke any part of a certificate issued under section 41102 of this title if the Secretary finds that the air carrier—

"(A) is not fit, willing, and able to provide the transportation authorized by the certificate and to comply with this part and regulations of the Secretary; or

"(B) does not file reports necessary for the Secretary to decide if the carrier is complying with the requirements of clause (A) of this paragraph.".

"(51)(A) Chapter 413 is amended by adding immediately after section 41311 the following:

"§ 41312. Ending or suspending foreign air transportation

"(a) GENERAL.—An air carrier holding a certificate issued under section 41102 of this title to provide foreign air transportation—

"(1) may end or suspend the transportation to a place under the certificate only when the carrier gives at least 90 days notice of its intention to end or suspend the transportation to the Secretary, any community affected by that decision, and the State authority of the State in which a community is located; and

"(2) if it is the only air carrier holding a certificate to provide nonstop or single-plane foreign air transportation between 2 places, may end or suspend the transportation between those places only when the carrier gives at least 60 days notice of its intention to end or suspend the transportation to the Secretary and each community directly affected by that decision.

"(b) TEMPORARY SUSPENSION.—The Secretary may authorize the temporary suspension of foreign air transportation under subsection (a) of this section when the Secretary finds the suspension is in the public interest.".

"(B) The analysis of chapter 413 is amended by adding immediately after item 41311 the following:

"41312. Ending or suspending foreign air transportation.".

(52) The chapter heading for chapter 417 is amended to read as follows:

"CHAPTER 417—OPERATIONS OF CARRIERS".

(53) In section 41715(d)(1), strike "41731(a)(3)" and substitute "41731 (a)(4)".

(54) In section 44502(b), insert "Government" before "money may be expended".

(55) In section 44701(d) and (e), strike "section 44702–44716" and substitute "any of sections 44702–44716".

(56) In sections 44711(a)(2)(B), (5), and (7) and 46310(b), insert "any of sections" before "44702–44716".

(57) In section 44937, strike "44906(a)(1) or (b)" and substitute "44906".

(58) In section 45105(a), strike "section 45102(a)(1)(A)" and substitute "section 45102(a)(1)".

(59) Section 45302 is amended by adding at the end the following:

"(e) EFFECTIVE DATE.—A fee may not be imposed under this section before the date on which the regulations prescribed under sections 44111(d), 44703(f)(2), and 44713(d)(2) of this title take effect.".

(60) In section 46301—

(A) in subsection (a)(1)(A), strike "section 41301–41306" and "section 44701(a)" and substitute "any of sections 41301–41306" and "any of sections 44701(a)", respectively;

(B) in subsections (a)(2)(A), (d)(2), and (f)(1)(A)(i), strike "section 44701(a)" and substitute "any of sections 44701(a)"; and

(C) in subsection (c)(1)(A), strike "section 41301–41306" and substitute "any of sections 41301–41306".

(61) In section 46502(a)(2)(B) and (b)(1)(B), insert "notwithstanding section 3559(b) of title 18," before "if the death".

(62) In section 47101(a)(12), strike "Act" and substitute "subchapter".

(63) Section 47104(c) is amended to read as follows:

"(c) EXPIRATION OF AUTHORITY.—After September 30, 1996, the Secretary may not incur obligations under subsection (b) of this section, except for obligations of amounts—

"(1) remaining available after that date under section 47117(b) of this title; or

"(2) recovered by the United States Government from grants made under this chapter if the amounts are obligated only for increases under section 47108(b)(2) and (3) of this title in the maximum amount of obligations of the Government for any other grant made under this title.".

(64) Section 47110(b)(2) is amended to read as follows:

"(2)(A) if the cost is incurred after the grant agreement is executed and if for airport development or airport planning carried out after the grant agreement is executed;

"(B) if the cost is incurred after June 1, 1989, by the airport operator (regardless of when the grant agreement is executed) as part of a Government-approved noise compatability program (including project formulation costs) and is consistent with all applicable statutory and administrative requirements; or

"(C) if the Government's share is paid only with amounts apportioned under section 47114(c)(1)(A) and (2) of this title and if the cost is incurred—

"(i) during the fiscal year ending September 30, 1994;

"(ii) before a grant agreement is executed for the project but according to an airport layout plan the Secretary approves before the cost is incurred and all applicable statutory and administrative requirements that would apply to the project if the agreement had been executed; and

"(iii) for work related to a project for which a grant agreement previously was executed during the fiscal year ending September 30, 1994;".

(65) In section 47113(a)(2), strike "section 8(c) of the Act (15 U.S.C. 637(c))" and "under section 8(c)" and substitute "section 8(d) of the Act (15 U.S.C. 637(d))" and "under section 8(d)", respectively.

(66) Section 47114(c) is amended as follows:

(A) In paragraph (1)(B), strike $400,000" and substitute "$500,000".

(B) In paragraph (3)—

(i) insert "(A)" after "(3)";

(ii) strike "The" and substitute "Except as provided in subparagraph (B) of this paragraph, the";

(iii) strike "44" each place it appears and substitute "49.5";

(iv) strike "paragraph" and substitute "subparagraph"; and

(v) insert after subparagraph (A) the following new subparagraph:

"(B) If a law limits the amount subject to apportionment to less than $1,900,000,000 for a fiscal year, the total of all amounts apportioned under paragraphs (1) and (2) of this subsection may not be more than 44 percent of the amount subject to apportionment for that fiscal year. If this subparagraph requires reduction of an amount that otherwise would be apportioned under this subsection, the Secretary shall reduce proportionately the amount apportioned to each sponsor of an airport under paragraphs (1) and (2) until the 44 percent limit is achieved.".

(67) Section 47115 is amended by adding at the end the following:

"(f) MINIMUM AMOUNT TO BE CREDITED.—(1) in a fiscal year, at least $325,000,000 of the amount made available under section 48103 of this title shall be credited to the fund. The amount credited is exclusive of amounts that have been apportioned in a prior fiscal year under section 47114 of this title and that remain available for obligation.

"(2) In a fiscal year in which the amount credited under subsection (a) of this section is less than $325,000,000, the total amount calculated under paragraph (3) of this subsection shall be reduced by an amount that, when credited to the fund, together with the amount credited under subsection (a), equals $325,000,000.

"(3) For a fiscal year, the total amount available to reduce to carry out paragraph (2) of this subsection is the total of the amounts determined under sections 47114(c)(1)(A) and (2) and (d) and 47117(e) of this title. Each amount shall be reduced by an equal percentage to achieve the reduction.".

(68) Section 47117(e) is amended as follows:

(A) In paragraph (1)(A), strike "10" and substitute "5".

(B) In paragraph (1)(C), strike "2.5" and substitute "1.5".

(C) In paragraph (1)(D), strike ".5" and substitute ".75".

(D) In paragraph (2), strike "2.5" and substitute "1.5".

(69) Section 47119(b) is amended as follows:

(A) Redesignate clause (3) as clause (4).

(B) Strike clause (2) and substitute the following:

"(2) on approval of the Secretary, not more than $200,000 of the amount that may be distributed for the fiscal year from the discretionary fund established under section 47115 of this title—

"(A) to a sponsor of a nonprimary commercial service airport to pay project costs allowable under section 47110(d) of this title; and

"(B) to a sponsor of a reliever airport for the types of project costs allowable under section 47110(d), including project costs allowable for a commercial service airport that each year does not have more than .05 percent of the total boardings in the United States;

"(3) for use by a primary airport that each year does not have more than .05 percent of the total boardings in the United States, any part of amounts that may be distributed for the fiscal year from the discretionary fund and small airport fund to pay project costs allowable under section 47110(d) of this title; or".

(70) In section 47128(c), strike "subsection (b)(2) or (3)" and substitute "subsection (b)(1)(B) or (C)".

(71) Section 47504(c) is amended as follows:

(A) In paragraph (1)(A), add "and" after the semicolon.

(B) In paragraph (1)(B), strike the semicolon and substitute a period.

(C) Redesignate paragraph (1)(C) and (D) as paragraph (2)(C) and (D).

(D) In paragraph (2)(A)(iii), strike "and".

(E) In paragraph (2)(B)(iii), strike the period and substitute a semicolon.

(F) In paragraph (2)(C) and (D), as redesignated, strike "an airport operator or unit of local government referred to in clause (A) or (B) of this paragraph" and substitute "to an airport operator and unit of local government referred to in paragraph (1)(A) or (1)(B) of this subsection".

(72) (A) Chapter 475 is amended by inserting after section 47509 the following:

"§ 47510. Tradeoff allowance

"Notwithstanding another law or a regulation prescribed or order issued under that law, the tradeoff provisions contained in appendix C of part 36 of title 14, Code of Federal Regulations, apply in deciding whether an aircraft complies with subpart I of part 91 of title 14.".

(B) The analysis of chapter 475 is amended by inserting immediately after item 47509 the following:

"47510. Tradeoff allowance.".

(73) Section 47531 is amended as follows:

(A) Strike "sections 47528" and substitute "section 47528".

(B) Insert "any of" before "those".

(C) Insert "any of sections" before "44702-44716".

(74) In section 47532, insert "any of" before "sections".

(75) In section 60109(a)(2), strike "60102(c)" and substitute "60102(e)".

(76) In section 60112(d), add ", including suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other appropriate action" after "action".

(77) Section 60117(i) is amended as follows:

(A) Insert "(1)" before "After".

(B) Add at the end the following:

"(2) In consultation with the Occupational Safety and Health Administration, the Secretary shall establish procedures to notify the Administration of any pipeline accident in which an excavator that has caused damage to a pipeline may have violated a regulation of the Administration.".

(78) The chapter heading for chapter 701 is amended to read as follows:

"CHAPTER 701—COMMERCIAL SPACE LAUNCH ACTIVITIES".

(79) The chapter heading for chapter 801 is amended to read as follows:

"CHAPTER 801—BILLS OF LADING".

(80) In section 40110(b)(2)A), insert "notwithstanding section 1341(a)(1) of title 31," before "lease".

(81) Section 41734(g)(2) is amended to read as follows:

"(2) the authority to be transferred is being used to provide air service to another eligible place.".

SEC. 7. TECHNICAL CHANGES TO OTHER LAWS.

(a) Effective July 5, 1994—

(1) Section 708 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210, 90 Stat. 31) is repealed.

(2) Section 232A of the Act of October 12, 1984 (Public Law 98–473, 98 Stat. 2031), is repealed.

(3) Section 4 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1360), is amended as follows:

(A) In subsection (f)(1)(H), insert "of the 2d sentence" after "end".

(B) Subsection (f)(1)(N) is repealed.

(C) Subsection (j)(5)(B) is amended to read as follows:

"(B) In the analysis of chapter I, strike the 2 items 110 and 111 and substitute—

"110. Saint Lawrence Seaway Development Corporation.

"111. Bureau of Transportation Statistics.".

(D) Subsection (k)(3) is amended to read as follows:

"(3) In section 41902(b)—

"(A) strike clause (2);

"(B) redesignate clauses (3) and (4) as clauses (2) and (3), respectively; and

"(C) in clause (2), as redesignated, strike 'clauses (1) and (2)' and substitute 'clause (1)'.".

(E) Subsection (r)(1) is amended by striking "the Urban Mass Transportation Act of 1964," and substituting "the Federal Transit Act,".

(4) Section 5 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1374), is amended as follows:

(A) In subsection (e)(11), strike "'section' and substitute "'section 1679a(c)(2)' and".

(B) In subsection (f)(1), strike "the Urban Mass Transportation Act of 1964" wherever it appears and substitute "the Federal Transit Act".

(C) In subsection (f)(2), strike "the Urban Mass Transportation Act of 1964," wherever it appears and substitute "the Federal Transit Act,".

(D) In subsection (m)(25)(A), strike "the Urban Mass Transportation Act of 1964" and substitute "the Federal Transit Act".

(5) The schedule of laws repealed contained in section 7(b) of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1395), related to the Act of December 22, 1987 (Public Law 100–202), is amended by striking out—

(A) ", 106" in the Section column;

(B) ", 1329–433" in the Statutes at Large Page column; and

(C) ", 2311" in the U.S. Code Section column.

Except with respect to the provisions of law restated as section 31111 of title 49, United States Code, as enacted by the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 993), the provisions of law within the purview of section 106 of the Act of December 22, 1987 (Public Law 100–202, 101 Stat. 1329–433), shall be effective as if Public Law 103–272 had not been enacted.

(b) Effective August 23, 1994, section 101 of the Airport Improvement Program Temporary Extension Act of 1994 (Public Law 103–260, 108 Stat. 689) is repealed.

(c) Effective August 26, 1994, section 119(d)(2) and (3) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311, 108 Stat. 1680) is amended to read as follows:

"(2) Section 5116(i)(1) is amended by striking 'and section 5107(e) of this title'.

"(3) Section 5116(i)(3) is amended by striking '5107(e), 5108(g)(2),' and substituting '5108(g)(2)'.".

(d) Section 9001(1)(D) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)(D)) is amended to read as follows:

"(D) pipeline facility (including gathering lines)—

"(i) which is regulated under chapter 601 of title 49, United States Code, or

"(ii) which is an intrastate pipeline facility regulated under State laws as provided in chapter 601 of title 49, United States Code,

"and which is determined by the Secretary to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline,".

(e) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended as follows:

(1) In section 101(26), strike "pipeline" and substitute "a hazardous liquid pipeline facility".

(2) In section 107(c)(1)(C), strike "pipeline" and substitute "hazardous liquid pipeline facility".

SEC. 8. REPEAL OF OTHER LAWS.

(1) The last proviso of the 1st paragraph and the words after the last semicolon in the 2d paragraph under the heading "Civil Aeronautics Administration" in section 301 of the Act of June 3, 1948 (ch. 400, 62 Stat. 323, 324), are repealed.

(2) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration" in section 301 of the Act of July 20, 1949 (ch. 354, 63 Stat. 464), are repealed.

(3) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration", and the proviso of the paragraph under the heading "Civil Aeronautics Board", in section 301 of the Act of September 6, 1950 (ch. 896, 64 Stat. 621, 622, 624), are repealed.

(4) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration", and the proviso of the paragraph under the heading "Civil Aeronautics Board", in section 301 of the Act of Oct. 22, 1951 (ch. 533, 65 Stat. 587, 588, 589), are repealed.

(5) The 1st paragraph related to the transfer of aircraft and equipment and the last proviso of the 2d paragraph under the heading "Civil Aeronautics Administration", in section 301 of the Act of July 10, 1952 (ch. 651, 66 Stat. 562), are repealed.

(6) Sections 404(f), 814, 815, and 901 of the Rail Passenger Service Act (Public Law 91–518, 84 Stat. 1327, 1341) are repealed.

(7) Section 7(c) of the Noise Control Act of 1972 (Public Law 92–574, 86 Stat. 1241) is repealed.

(8) Section 46 of the Airline Deregulation Act of 1978 (Public Law 95–504, 92 Stat. 1754) is repealed.

(9) Section 316 of the Surface Transportation Assistance Act of 1978 (Public Law 95–599, 92 Stat. 2751) is repealed.

(10) Sections 207 and 210 of the National Driver Register Act of 1982 (Public Law 97–364, 96 Stat. 1745, 1747) are repealed.

(11) Section 144 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424, 96 Stat. 2129) is repealed.

(12) Section 8 of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98–443, 98 Stat. 1706) is repealed.

(13) The Act of October 11, 1984 (Public Law 98–466, 98 Stat. 1825), is repealed.

(14) Sections 108(c) and 307 of the Pipeline Safety Reauthorization Act of 1988 (Public Law 100–561, 102 Stat. 2809, 2817) are repealed.

(15) Sections 1 and 15(a), (c), (e), (f), and (g)(2) of the Sanitary Food Transportation Act of 1990 (Public Law 101–500, 104 Stat. 1213, 1218, 1219, 1220, 1221) are repealed.

(16) Sections 1, 8, and 10 of the Independent Safety Board Act Amendments of 1990 (Public Law 101–641, 104 Stat. 4654, 4657, 4658) are repealed.

(17) Sections 11 and 13 of the Amtrak Authorization and Development Act (Public Law 102–533, 106 Stat. 3520, 3522) are repealed.

(18) Section 319 of the Department of Transportation and Related Agencies Appropriations Act, 1994 (Public Law 103–122, 107 Stat. 1222), is repealed.

SEC. 9. EFFECTIVE DAY.

The amendments made by sections 6(2)–(15), (19)–(35), (37)–(39), (41), (44)–(52), (54)–(62), (65), (66)(B), (70), (73)–(76), and (78)–(81) of this Act shall take effect on July 5, 1994.

SEC. 10. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) NO SUBSTANTIVE CHANGE.—This Act restates, without substantive change, laws enacted before September 26, 1994, that were replaced by this Act. This Act may not be construed as making a substantive change in the laws replaced. Laws enacted after September 25, 1994, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(f) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 11. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were begun before the date of enactment of this Act:

SCHEDULE OF LAWS REPEALED

[Statutes at large]

Date	Chapter or public law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
1972						
Oct. 20	92–513	503, 511			15	2003, 2011
1975						
Dec. 22	94–163	301 "Sec. 511"	89	915	15	2011
1980						
Feb. 18	96–193	305	94	57	49 App.	2125
1982						
Sept. 3	97–248	505, 507, 508, 513	96	677, 679, 682, 689	49 App.	2204, 2206, 2207, 2212
1992						
Oct. 24	102–508	304(c)	106	3308	49	1682 (note)
1993						
Dec. 8	103–182	371	107	2127	15	2003
1994						
May 26	103–260	102–107, 109	108	698, 700	49 App.	2204, 2204 (note), 2206, 2206 (note), 2207, 2212

SCHEDULE OF LAWS REPEALED—Continued

[Statutes at large]

Date	Chapter or public law	Section	Statutes at Large		U.S. Code	
			Volume	Page	Title	Section
July 5	103–272	4(c)	108	1361		

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4778, as amended, restates without substantive change recent laws related to transportation and makes other technical improvements in the United States Code. The bill was prepared for the House Judiciary Committee by the Office of the Law Revision Counsel under its authority under section 285b of title 2, United States Code.

H.R. 4778, as amended, incorporates laws related to transportation that were not included in the restatement of title 49. The Law Revision Counsel assures me that H.R. 4778, as amended, makes no change in existing law. Therefore, no additional cost to the Government would be incurred as a result of enactment of H.R. 4778, as amended. Enactment of H.R. 4778, as amended, would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply.

I urge my colleagues to support H.R. 4778, as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill will incorporate into title 49 of the United States Code, which has been recently enacted into positive law, the provisions of several more recently enacted bills related to transportation. As in other codification bills enacting titles of the United States Code into positive law, this bill makes no substantive change in the law. As is customary, it was prepared and submitted to the Judiciary Committee by the Office of the Law Revision Counsel.

Concern has sometimes been expressed that mere changes in terminology and style, such as uniform use of the present tense and the active voice so far as possible, will result in changes in substance or impair the precedental value of earlier judicial decisions and other interpretations.

This fear might have some merit if this were the usual kind of amendatory legislation in which it can be inferred that a change of language is intended to change substance. In a codification law, however, the courts uphold the contrary presumption, that the law is intended to remain substantively unchanged. I might note that the committee report on this legislation contains over a dozen citations to U.S. Supreme Court decisions and other authorities affirming this principle.

I ask for a "yea" vote on H.R. 4778.

□ 2020

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4778, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BANKRUPTCY REFORM ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5116) to amend title II of the United States Code, as amended.

The Clerk read as follows:

H.R. 5116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Bankruptcy Reform Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

Sec. 101. Expedited hearing on automatic stay.
Sec. 102. Jurisdiction to review interlocutory orders increasing or reducing certain time periods for filing plan.
Sec. 103. Expedited procedure for reaffirmation of debts.
Sec. 104. Powers of bankruptcy courts.
Sec. 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.
Sec. 106. Definition relating to eligibility to serve on chapter 11 committees.
Sec. 107. Increased incentive compensation for trustees.
Sec. 108. Dollar adjustments.
Sec. 109. Premerger notification.
Sec. 110. Allowance of creditor committee expenses.
Sec. 111. Supplemental injunctions.
Sec. 112. Authority of bankruptcy judges to conduct jury trials in civil proceedings.
Sec. 113. Sovereign immunity.
Sec. 114. Service of process in bankruptcy proceedings on an insured depository institution.
Sec. 115. Meetings of creditors and equity security holders.
Sec. 116. Tax assessment.
Sec. 117. Additional trustee compensation.

TITLE II—COMMERCIAL BANKRUPTCY ISSUES

Sec. 201. Aircraft equipment and vessels; rolling stock equipment.
Sec. 202. Limitation on liability of non-insider transferee for avoided transfer.
Sec. 203. Perfection of purchase-money security interest.
Sec. 204. Continued perfection.
Sec. 205. Rejection of unexpired leases of real property or timeshare interests.
Sec. 206. Contents of plan.
Sec. 207. Priority for independent sales representatives.
Sec. 208. Exclusion from the estate of interests in liquid and gaseous hydrocarbons transferred by the debtor pursuant to production payment agreements.
Sec. 209. Seller's right to reclaim goods.
Sec. 210. Investment of money of the estate.
Sec. 211. Election of trustee under chapter 11.
Sec. 212. Rights of partnership trustee against general partners.
Sec. 213. Impairment of claims and interests.
Sec. 214. Protection of security interest in post-petition rents and lodging payments.
Sec. 215. Amendment to definition of swap agreement.
Sec. 216. Limitation on avoiding powers.
Sec. 217. Small businesses.
Sec. 218. Single asset real estate.
Sec. 219. Leases of personal property.
Sec. 220. Exemption for small business investment companies.
Sec. 221. Payment of taxes with borrowed funds.
Sec. 222. Return of goods.
Sec. 223. Proceeds of money order agreements.
Sec. 224. Trustee duties; professional fees.
Sec. 225. Notices to creditors.

TITLE III—CONSUMER BANKRUPTCY ISSUES

Sec. 301. Period for curing default relating to principal residence.
Sec. 302. Nondischargeability of fine under chapter 13.
Sec. 303. Impairment of exemptions.
Sec. 304. Protection of child support and alimony.
Sec. 305. Interest on interest.
Sec. 306. Exception to discharge.
Sec. 307. Payments under chapter 13.
Sec. 308. Bankruptcy petition preparers.
Sec. 309. Fairness to condominium and cooperative owners.
Sec. 310. Nonavoidability of fixing of lien on tools and implements of trade, animals, and crops.
Sec. 311. Conversion of case under chapter 13.
Sec. 312. Bankruptcy fraud.
Sec. 313. Protection against discriminatory treatment of applications for student loans.

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

Sec. 401. Exception from automatic stay for post-petition property taxes.
Sec. 402. Municipal bankruptcy.

TITLE V—TECHNICAL CORRECTIONS

Sec. 501. Amendments to bankruptcy definitions, necessitated by enactment of Public Law 101-647.
Sec. 502. Title 28 of the United States Code.

TITLE VI—BANKRUPTCY REVIEW COMMISSION

Sec. 601. Short title.
Sec. 602. Establishment.
Sec. 603. Duties of the commission.
Sec. 604. Membership.
Sec. 605. Compensation of the commission.
Sec. 606. Staff of commission; experts and consultants.
Sec. 607. Powers of the commission.
Sec. 608. Report.
Sec. 609. Termination.
Sec. 610. Authorization of appropriations.

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

Sec. 701. Severability.
Sec. 702. Effective date; application of amendments.

TITLE I—IMPROVED BANKRUPTCY ADMINISTRATION

SEC. 101. EXPEDITED HEARING ON AUTOMATIC STAY.

The last sentence of section 362(e) of title 11, United States Code, is amended—

(1) by striking "commenced" and inserting "concluded", and

(2) by inserting before the period at the end the following:

", unless the 30-day period is extended with the consent of the parties in interest or for a specific time which the court finds is required by compelling circumstances".

SEC. 102. JURISDICTION TO REVIEW INTERLOCUTORY ORDERS INCREASING OR REDUCING CERTAIN TIME PERIODS FOR FILING PLAN.

Section 158(a) of title 28, United States Code, is amended by striking "from" the first place it appears and all that follows through "decrees,", and inserting the following:

"(1) from final judgments, orders, and decrees;

"(2) from interlocutory orders and decrees issued under section 1121(d) of title 11 increasing or reducing the time periods referred to in section 1121 of such title; and

"(3) with leave of the court, from other interlocutory orders and decrees;".

SEC. 103. EXPEDITED PROCEDURE FOR REAFFIRMATION OF DEBTS.

(a) REAFFIRMATION.—Section 524(c) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)",

(B) by adding "and" at the end, and

(C) by inserting after subparagraph (A), as so designated, the following:

"(B) such agreement contains a clear and conspicuous statement which advises the debtor that such agreement is not required under this title, under nonbankruptcy law, or under any agreement not in accordance with the provisions of this subsection;", and

(2) in paragraph (3)—

(A) in the matter preceding subparagraph (A) by striking "such agreement" the last place it appears,

(B) in subparagraph (A)—

(i) by inserting "such agreement" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B)—

(i) by inserting "such agreement" after "(B)", and

(ii) by adding "and" at the end, and

(3) by adding at the end the following:

"(C) the attorney fully advised the debtor of the legal effect and consequences of—

"(i) an agreement of the kind specified in this subsection; and

"(ii) any default under such an agreement;".

(b) EFFECT OF DISCHARGE.—The third sentence of section 524(d) of title 11, United States Code, is amended in the matter preceding paragraph (1) by inserting "and was not represented by an attorney during the course of negotiating such agreement" after "this section".

SEC. 104. POWERS OF BANKRUPTCY COURTS.

(a) STATUS CONFERENCES.—Section 105 of title 11, United States Code, is amended by adding at the end the following:

"(d) The court, on its own motion or on the request of a party in interest, may—

"(1) hold a status conference regarding any case or proceeding under this title after notice to the parties in interest; and

"(2) unless inconsistent with another provision of this title or with applicable Federal Rules of Bankruptcy Procedure, issue an order at any such conference prescribing such limitations and conditions as the court deems appropriate to ensure that the case is handled expeditiously and economically, including an order that—

"(A) sets the date by which the trustee must assume or reject an executory contract or unexpired lease; or

"(B) in a case under chapter 11 of this title—

"(i) sets a date by which the debtor, or trustee if one has been appointed, shall file a disclosure statement and plan;

"(ii) sets a date by which the debtor, or trustee if one has been appointed, shall solicit acceptances of a plan;

"(iii) sets the date by which a party in interest other than a debtor may file a plan;

"(iv) sets a date by which a proponent of a plan, other than the debtor, shall solicit acceptances of such plan;

"(v) fixes the scope and format of the notice to be provided regarding the hearing on approval of the disclosure statement; or

"(vi) provides that the hearing on approval of the disclosure statement may be combined with the hearing on confirmation of the plan.".

(b) ABSTENTION.—Section 1334 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e), and

(2) in the second sentence of subsection (c)(2)—

(A) by inserting "(other than a decision not to abstain in a proceeding described in subsection (c)(2))" after "subsection", and

(B) by striking "Any" and inserting the following:

"(d) Any".

(c) ESTABLISHMENT, OPERATION, AND TERMINATION OF BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158(b) of title 28, United States Code, is amended—

(1) by striking paragraphs (3) and (4),

(2) by redesignating paragraph (2) as paragraph (4),

(3) by striking paragraph (1) and inserting the following:

"(1) The judicial council of a circuit shall establish a bankruptcy appellate panel service composed of bankruptcy judges of the districts in the circuit who are appointed by the judicial council in accordance with paragraph (3), to hear and determine, with the consent of all the parties, appeals under subsection (a) unless the judicial council finds that—

"(A) there are insufficient judicial resources available in the circuit; or

"(B) establishment of such service would result in undue delay or increased cost to parties in cases under title 11.

Not later than 90 days after making the finding, the judicial council shall submit to the Judicial Conference of the United States a report containing the factual basis of such finding.

"(2)(A) A judicial council may reconsider, at any time, the finding described in paragraph (1).

"(B) On the request of a majority of the district judges in a circuit for which a bankruptcy appellate panel service is established under paragraph (1), made after the expiration of the 1-year period beginning on the date such service is established, the judicial council of the circuit shall determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

"(C) On its own motion, after the expiration of the 3-year period beginning on the date a bankruptcy appellate panel service is established under paragraph (1), the judicial council of the circuit may determine whether a circumstance specified in subparagraph (A) or (B) of such paragraph exists.

"(D) If the judicial council finds that either of such circumstances exists, the judicial council may provide for the completion of the appeals then pending before such service and the orderly termination of such service.

"(3) Bankruptcy judges appointed under paragraph (1) shall be appointed and may be reappointed under such paragraph.", and

(4) by inserting after paragraph (4), as so redesignated, the following:

"(5) An appeal to be heard under this subsection shall be heard by a panel of 3 members of the bankruptcy appellate panel service, except that a member of such service may not hear an appeal originating in the district for which such member is appointed or designated under section 152 of this title.

"(6) Appeals may not be heard under this subsection by a panel of the bankruptcy appellate panel service unless the district judges for the district in which the appeals occur, by majority vote, have authorized such service to hear and determine appeals originating in such district.".

(d) APPEALS TO BE HEARD BY BANKRUPTCY APPELLATE PANEL SERVICE.—Section 158 of title 28, United States Code, is amended—

(1) in subsection (c) by striking "(c)" and inserting "(2)", and

(2) by inserting after subsection (b) the following:

"(c)(1) Subject to subsection (b), each appeal under subsection (a) shall be heard by a 3-judge panel of the bankruptcy appellate panel service established under subsection (b)(1) unless—

"(A) the appellant elects at the time of filing the appeal; or

"(B) any other party elects, not later than 30 days after service of notice of the appeal;

to have such appeal heard by the district court.".

(e) RULES OF PROCEDURE AND EVIDENCE; METHOD OF PRESCRIBING.—Section 2073 of title 28, United States Code, is amended—

(1) in subsection (a)(2) by striking "section 2072" and inserting "sections 2072 and 2075", and

(2) in subsections (d) and (e) by inserting "or 2075" after "2072" each place it appears.

(f) EFFECTIVE DATE OF BANKRUPTCY RULES.—The third undesignated paragraph of section 2075 of title 28, United States Code, is amended to read as follows:

"The Supreme Court shall transmit to Congress not later than May 1 of the year in which a rule prescribed under this section is to become effective a copy of the proposed rule. The rule shall take effect no earlier than December 1 of the year in which it is transmitted to Congress unless otherwise provided by law.".

SEC. 105. PARTICIPATION BY BANKRUPTCY ADMINISTRATOR AT MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

(a) PRESIDING OFFICER.—A bankruptcy administrator appointed under section 302(d)(3)(I) *of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99–554; 100 Stat. 3123), as amended by section 317(a) of the Federal Courts Study Committee Implementation Act of 1990 (Public Law 101–650; 104 Stat. 5115), or the bankruptcy administrator's designee may preside at the meeting of creditors convened under section 341(a) of title 11, United States Code. The bankruptcy administrator or the bankruptcy administrator's designee may preside at any meeting of equity security holders convened under section 341(b) of title 11, United States Code.*

(b) EXAMINATION OF THE DEBTOR.—The bankruptcy administrator or the bankruptcy administrator's designee may examine the debtor at the meeting of creditors and may administer the oath required under section 343 of title 11, United States Code.

SEC. 106. DEFINITION RELATING TO ELIGIBILITY TO SERVE ON CHAPTER 11 COMMITTEES.

Section 101(41) of title 11, United States Code, is amended to read as follows:

"(41) 'person' includes individual, partnership, and corporation, but does not include governmental unit, except that a governmental unit that—

"(A) acquires an asset from a person—

"(i) as a result of the operation of a loan guarantee agreement; or

"(ii) as receiver or liquidating agent of a person;

"(B) is a guarantor of a pension benefit payable by or on behalf of the debtor or an affiliate of the debtor; or

"(C) is the legal or beneficial owner of an asset of—

"(i) an employee pension benefit plan that is a governmental plan, as defined in section 414(d) of the Internal Revenue Code of 1986; or

"(ii) an eligible deferred compensation plan, as defined in section 457(b) of the Internal Revenue Code of 1986;

shall be considered, for purposes of section 1102 of this title, to be a person with respect to such asset or such benefit;".

SEC. 107. INCREASED INCENTIVE COMPENSATION FOR TRUSTEES.

Section 326(a) of title 11, United States Code, is amended by striking "fifteen" and all that follows through "$3,000" the last place it appears, and inserting the following:

"25 percent on the first $5,000 or less, 10 percent on any amount in excess of $5,000 but not in excess of $50,000, 5 percent on any amount in excess of $50,000 but not in excess of $1,000,000, and reasonable compensation not to exceed 3 percent of such moneys in excess of $1,000,000".

SEC. 108. DOLLAR ADJUSTMENTS.

(a) WHO MAY BE A DEBTOR UNDER CHAPTER 13.—Section 109(e) of title 11, United States Code, is amended—

(1) by striking "$100,000" each place it appears and inserting "$250,000", and

(2) by striking "$350,000" each place it appears and inserting "$750,000".

(b) INVOLUNTARY CASES.—Section 303(b) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$5,000" and inserting "$10,000", and

(2) in paragraph (2) by striking "$5,000" and inserting "$10,000".

(c) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (4)(B)(i) by striking "$2,000" and inserting "$4,000",

(2) in paragraph (5) by striking "$2,000" and inserting "$4,000", and

(3) in paragraph (6) by striking "$900" and inserting "$1,800".

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "$7,500" and inserting "$15,000",

(2) in paragraph (2) by striking "$1,200" and inserting "$2,400",

(3) in paragraph (3)—

(A) by striking "$200" and inserting "$400", and

(B) by striking "$4,000" and inserting "$8,000",

(4) in paragraph (4) by striking "$500" and inserting "$1,000",

(5) in paragraph (5)—

(A) by striking "$400" and inserting "$800", and

(B) by striking "$3,750" and inserting "$7,500",

(6) in paragraph (6) by striking "$750" and inserting "$1,500",

(7) in paragraph (8) by striking "$4,000" and inserting "$8,000", and

(8) in paragraph (11)(D) by striking "$7,500" and inserting "$15,000".

(e) FUTURE ADJUSTMENTS.—Section 104 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "The", and

(2) by adding at the end the following:

"(b)(1) On April 1, 1998, and at each 3-year interval ending on April 1 thereafter, each dollar amount in effect under sections 109(e), 303(b), 507(a), 522(d), and 523(a)(2)(C) immediately before such April 1 shall be adjusted—

"(A) to reflect the change in the Consumer Price Index for All Urban Consumers, published by the Department of Labor, for the most recent 3-year period ending immediately before January 1 preceding such April 1, and

"(B) to round to the nearest $25 the dollar amount that represents such change.

"(2) Not later than March 1, 1998, and at each 3-year interval ending on March 1 thereafter, the Judicial Conference of the United States shall publish in the Federal Register the dollar amounts that will become effective on such April 1 under sections 109(e), 303(b), 507(a), 522(d), and 523(a)(2)(C) of this title.

"(3) Adjustments made in accordance with paragraph (1) shall not apply with respect to cases commenced before the date of such adjustments.".

SEC. 109. PREMERGER NOTIFICATION.

Subparagraphs (A) and (B) of section 363(b)(2) of title 11, United States Code, are amended to read as follows:

"(A) notwithstanding subsection (a) of such section, the notification required by such subsection to be given by the debtor shall be given by the trustee; and

"(B) notwithstanding subsection (b) of such section, the required waiting period shall end on the 15th day after the date of the receipt, by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, of the notification required under such subsection (a), unless such waiting period is extended—

"(i) pursuant to subsection (e)(2) of such section, in the same manner as such subsection (e)(2) applies to a cash tender offer;

"(ii) pursuant to subsection (g)(2) of such section; or

"(iii) by the court after notice and a hearing.".

SEC. 110. ALLOWANCE OF CREDITOR COMMITTEE EXPENSES.

Section 503(b)(3) of title 11, United States Code, is amended—

(1) in subparagraph (D) by striking "or" at the end,

(2) in subparagraph (E) by inserting "or" at the end, and

(3) by adding at the end the following:

"(F) a member of a committee appointed under section 1102 of this title, if such expenses are incurred in the performance of the duties of such committee;".

SEC. 111. SUPPLEMENTAL INJUNCTIONS.

(a) SUPPLEMENTAL INJUNCTIONS.—Section 524 of title 11, United States Code, is amended by adding at the end the following:

"(g)(1)(A) After notice and hearing, a court that enters an order confirming a plan of reorganization under chapter 11 may issue, in connection with such order, an injunction in accordance with this subsection to supplement the injunctive effect of a discharge under this section.

"(B) An injunction may be issued under subparagraph (A) to enjoin entities from taking legal action for the purpose of directly or indirectly collecting, recovering, or receiving payment or recovery with respect to any claim or demand that, under a plan of reorganization, is to be paid in whole or in part by a trust described in paragraph (2)(B)(i), except such legal actions as are expressly allowed by the injunction, the confirmation order, or the plan of reorganization.

"(2)(A) Subject to subsection (h), if the requirements of subparagraph (B) are met at the time an injunction described in paragraph (1) is entered, then after entry of such injunction, any proceeding that involves the validity, application, construction, or modification of such injunction, or of this subsection with respect to such injunction, may be commenced only in the district court in which such injunction was entered, and such court shall have exclusive jurisdiction over any such proceeding without regard to the amount in controversy.

"(B) The requirements of this subparagraph are that—

"(i) the injunction is to be implemented in connection with a trust that, pursuant to the plan of reorganization—

"(I) is to assume the liabilities of a debtor which at the time of entry of the order for relief has been named as a defendant in personal injury, wrongful death, or property-damage actions seeking recovery for damages allegedly caused by the presence of, or exposure to, asbestos or asbestos-containing products;

"(II) is to be funded in whole or in part by the securities of 1 or more debtors involved in such plan and by the obligation of such debtor or debtors to make future payments, including dividends;

"(III) is to own, or by the exercise of rights granted under such plan would be entitled to own if specified contingencies occur, a majority of the voting shares of—

"(aa) each such debtor;

"(bb) the parent corporation of each such debtor; or

"(cc) a subsidiary of each such debtor that is also a debtor; and

"(IV) is to use its assets or income to pay claims and demands; and

"(ii) subject to subsection (h), the court determines that—

"(I) the debtor is likely to be subject to substantial future demands for payment arising out of the same or similar conduct or events that gave rise to the claims that are addressed by the injunction;

"(II) the actual amounts, numbers, and timing of such future demands cannot be determined;

"(III) pursuit of such demands outside the procedures prescribed by such plan is likely to threaten the plan's purpose to deal equitably with claims and future demands;

"(IV) as part of the process of seeking confirmation of such plan—

"(aa) the terms of the injunction proposed to be issued under paragraph (1)(A), including any provisions barring actions against third parties pursuant to paragraph (4)(A), are set out in such plan and in any disclosure statement supporting the plan; and

"(bb) a separate class or classes of the claimants whose claims are to be addressed by a trust described in clause (i) is established and votes, by at least 75 percent of those voting, in favor of the plan; and

"(V) subject to subsection (h), pursuant to court orders or otherwise, the trust will operate through mechanisms such as structured, periodic, or supplemental payments, pro rata distributions, matrices, or periodic review of estimates of the numbers and values of present claims and future demands, or other comparable mechanisms, that provide reasonable assurance that the trust will value, and be in a financial position to pay, present claims and future demands that involve similar claims in substantially the same manner.

"(3)(A) If the requirements of paragraph (2)(B) are met and the order confirming the plan of reorganization was issued or affirmed by the district court that has jurisdiction over the reorganization case, then after the time for appeal of the order that issues or affirms the plan—

"(i) the injunction shall be valid and enforceable and may not be revoked or modified by any court except through appeal in accordance with paragraph (6);

"(ii) no entity that pursuant to such plan or thereafter becomes a direct or indirect transferee of, or successor to any assets of, a debtor or trust that is the subject of the injunction shall be liable with respect to any claim or demand made against such entity by reason of its becoming such a transferee or successor; and

"(iii) no entity that pursuant to such plan or thereafter makes a loan to such a debtor or trust or to such a successor or transferee shall, by reason of making the loan, be liable with respect to any claim or demand made against such entity, nor shall any pledge of assets made in connection with such a loan be upset or impaired for that reason;

"(B) Subparagraph (A) shall not be construed to—

"(i) imply that an entity described in subparagraph (A) (ii) or (iii) would, if this paragraph were not applicable, necessarily be liable to any entity by reason of any of the acts described in subparagraph (A);

"(ii) relieve any such entity of the duty to comply with, or of liability under, any Federal or State law regarding the making of a fraudulent conveyance in a transaction described in subparagraph (A) (ii) or (iii); or

"(iii) relieve a debtor of the debtor's obligation to comply with the terms of the plan of reorganization, or affect the power of the court to exercise its authority under sections 1141 and 1142 to compel the debtor to do so.

"(4)(A)(i) Subject to subparagraph (B), an injunction described in paragraph (1) shall be valid and enforceable against all entities that it addresses.

"(ii) Notwithstanding the provisions of section 524(e), such an injunction may bar any action directed against a third party who is identifiable from the terms of such injunction (by name or as part of an identifiable group) and is alleged to be directly or indirectly liable for the conduct of, claims against, or demands on the debtor to the extent such alleged liability of such third party arises by reason of—

"(I) the third party's ownership of a financial interest in the debtor, a past or present affiliate of the debtor, or a predecessor in interest of the debtor;

"(II) the third party's involvement in the management of the debtor or a predecessor in interest of the debtor, or service as an officer, director or employee of the debtor or a related party;

"(III) the third party's provision of insurance to the debtor or a related party; or

"(IV) the third party's involvement in a transaction changing the corporate structure, or in a loan or other financial transaction affecting the financial condition, of the debtor or a related party, including but not limited to—

"(aa) involvement in providing financing (debt or equity), or advice to an entity involved in such a transaction; or

"(bb) acquiring or selling a financial interest in an entity as part of such a transaction.

"(iii) As used in this subparagraph, the term 'related party' means—

"(I) a past or present affiliate of the debtor;

"(II) a predecessor in interest of the debtor; or

"(III) any entity that owned a financial interest in—

"(aa) the debtor;

"(bb) a past or present affiliate of the debtor; or

"(cc) a predecessor in interest of the debtor.

"(B) Subject to subsection (h), if, under a plan of reorganization, a kind of demand described in such plan is to be paid in whole or in part by a trust described in paragraph (2)(B)(i) in connection with which an injunction described in paragraph (1) is to be implemented, then such injunction shall be valid and enforceable with respect to a demand of such kind made, after such plan is confirmed, against the debtor or debtors involved, or against a third party described in subparagraph (A)(ii), if—

"(i) as part of the proceedings leading to issuance of such injunction, the court appoints a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands of such kind, and

"(ii) the court determines, before entering the order confirming such plan, that identifying such debtor or debtors, or such third party (by name or as part of an identifiable group), in such injunction with respect to such demands for purposes of this subparagraph is fair and equitable with respect to the persons that might subsequently assert such demands, in light of the benefits provided, or to be provided, to such trust on behalf of such debtor or debtors or such third party.

"(5) In this subsection, the term 'demand' means a demand for payment, present or future, that—

"(A) was not a claim during the proceedings leading to the confirmation of a plan of reorganization;

"(B) arises out of the same or similar conduct or events that gave rise to the claims addressed by the injunction issued under paragraph (1); and

"(C) pursuant to the plan, is to be paid by a trust described in paragraph (2)(B)(i).

"(6) Paragraph (3)(A)(i) does not bar an action taken by or at the direction of an appellate court on appeal of an injunction issued under paragraph (1) or of the order of confirmation that relates to the injunction.

"(7) This subsection does not affect the operation of section 1144 or the power of the district court to refer a proceeding under section 157 of title 28 or any reference of a proceeding made prior to the date of the enactment of this subsection.

"(h) APPLICATION TO EXISTING INJUNCTIONS.—For purposes of subsection (g)—

"(1) subject to paragraph (2), if an injunction of the kind described in subsection (g)(1)(B) was issued before the date of the enactment of this Act, as part of a plan of reorganization confirmed by an order entered before such date, then the injunction shall be considered to meet the requirements of subsection (g)(2)(B) for purposes of subsection (g)(2)(A), and to satisfy subsection (g)(4)(A)(ii), if—

"(A) the court determined at the time the plan was confirmed that the plan was fair and equitable in accordance with the requirements of section 1129(b);

"(B) as part of the proceedings leading to issuance of such injunction and confirmation of such plan, the court had appointed a legal representative for the purpose of protecting the rights of persons that might subsequently assert demands described in subsection (g)(4)(B) with respect to such plan; and

"(C) such legal representative did not object to confirmation of such plan or issuance of such injunction; and

"(2) for purposes of paragraph (1), if a trust described in subsection (g)(2)(B)(i) is subject to a court order on the date of the enactment of this Act staying such trust from settling or paying further claims—

"(A) the requirements of subsection (g)(2)(B)(ii)(V) shall not apply with respect to such trust until such stay is lifted or dissolved; and

"(B) if such trust meets such requirements on the date such stay is lifted or dissolved, such trust shall be considered to have met such requirements continuously from the date of the enactment of this Act.".

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a), or in the amendments made by subsection (a), shall be construed to modify, impair, or supersede any other authority the court has to issue injunctions in connection with an order confirming a plan of reorganization.

SEC. 112. AUTHORITY OF BANKRUPTCY JUDGES TO CONDUCT JURY TRIALS IN CIVIL PROCEEDINGS.

Section 157 of title 28, United States Code, is amended by adding at the end the following:

"(e) If the right to a jury trial applies in a proceeding that may be heard under this section by a bankruptcy judge, the bankruptcy judge may conduct the jury trial if specially designated to exercise such jurisdiction by the district court and with the express consent of all the parties.".

SEC. 113. SOVEREIGN IMMUNITY.

Section 106 of title 11, United States Code, is amended to read as follows:

"§106. Waiver of sovereign immunity

"(a) Notwithstanding an assertion of sovereign immunity, sovereign immunity is abrogated as to a governmental unit to the extent set forth in this section with respect to the following:

"(1) Sections 105, 106, 107, 108, 303, 346, 362, 363, 364, 365, 366, 502, 503, 505, 506, 510, 522, 523, 524, 525, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 722, 724, 726, 728, 744, 749, 764, 901, 922, 926, 928, 929, 944, 1107, 1141, 1142, 1143, 1146, 1201, 1203, 1205, 1206, 1227, 1231, 1301, 1303, 1305, and 1327 of this title.

"(2) The court may hear and determine any issue arising with respect to the application of such sections to governmental units.

"(3) The court may issue against a governmental unit an order, process, or judgment under such sections or the Federal Rules of Bankruptcy Procedure, including an order or judgment awarding a money recovery, but not including an award of punitive damages. Such order or judgment for costs or fees under this title or the Federal Rules of Bankruptcy Procedure against any governmental unit shall be consistent with the provisions and limitations of section 2412(d)(2)(A) of title 28.

"(4) The enforcement of any such order, process, or judgment against any governmental unit shall be consistent with appropriate nonbankruptcy law applicable to such governmental unit and, in the case of a money judgment against the United States, shall be paid as if it is a judgment rendered by a district court of the United States.

"(5) Nothing in this section shall create any substantive claim for relief or cause of action not otherwise existing under this title, the Federal Rules of Bankruptcy Procedure, or nonbankruptcy law.

"(b) A governmental unit that has filed a proof of claim in the case is deemed to have

waived sovereign immunity with respect to a claim against such governmental unit that is property of the estate and that arose out of the same transaction or occurrence out of which the claim of such governmental unit arose.

"(c) Notwithstanding any assertion of sovereign immunity by a governmental unit, there shall be offset against a claim or interest of a governmental unit any claim against such governmental unit that is property of the estate.".

SEC. 114. SERVICE OF PROCESS IN BANKRUPTCY PROCEEDINGS ON AN INSURED DEPOSITORY INSTITUTION.

Rule 7004 of the Federal Rules of Bankruptcy Procedure is amended—

(1) in subdivision (b) by striking "In addition" and inserting "Except as provided in subdivision (h), in addition", and

(2) by adding at the end the following:

"(h) SERVICE OF PROCESS ON AN INSURED DEPOSITORY INSTITUTION.—Service on an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) in a contested matter or adversary proceeding shall be made by certified mail addressed to an officer of the institution unless—

"(1) the institution has appeared by its attorney, in which case the attorney shall be served by first class mail;

"(2) the court orders otherwise after service upon the institution by certified mail of notice of an application to permit service on the institution by first class mail sent to an officer of the institution designated by the institution; or

"(3) the institution has waived in writing its entitlement to service by certified mail by designating an officer to receive service.".

SEC. 115. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

Section 341 of title 11, United States Code, is amended by adding at the end the following:

"(d) Prior to the conclusion of the meeting of creditors or equity security holders, the trustee shall orally examine the debtor to ensure that the debtor in a case under chapter 7 of this title is aware of—

"(1) the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

"(2) the debtor's ability to file a petition under a different chapter of this title;

"(3) the effect of receiving a discharge of debts under this title; and

"(4) the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d) of this title.".

SEC. 116. TAX ASSESSMENT.

Section 362(b)(9) of title 11, United States Code, is amended to read as follows:

"(9) under subsection (a), of—

"(A) an audit by a governmental unit to determine tax liability;

"(B) the issuance to the debtor by a governmental unit of a notice of tax deficiency;

"(C) a demand for tax returns; or

"(D) the making of an assessment for any tax and issuance of a notice and demand for payment of such an assessment (but any tax lien that would otherwise attach to property of the estate by reason of such an assessment shall not take effect unless such tax is a debt of the debtor that will not be discharged in the case and such property or its proceeds are transferred out of the estate to, or otherwise revested in, the debtor).".

SEC. 117. ADDITIONAL TRUSTEE COMPENSATION.

Section 330(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end thereof the following:

"(2) The Judicial Conference of the United States—

"(A) shall prescribe additional fees of the same kind as prescribed under section 1914(b) of title 28; and

"(B) may prescribe notice of appearance fees and fees charged against distributions in cases under this title;

to pay $15 to trustees serving in cases after such trustees' services are rendered. Beginning 1 year after the date of the enactment of the Bankruptcy Reform Act of 1994, such $15 shall be paid in addition to the amount paid under paragraph (1).".

TITLE II—COMMERCIAL BANKRUPTCY ISSUES

SEC. 201. AIRCRAFT EQUIPMENT AND VESSELS; ROLLING STOCK EQUIPMENT.

(a) AMENDMENT OF SECTION 1110.—Section 1110 of title 11, United States Code, is amended to read as follows:

"§1110. Aircraft equipment and vessels

"(a)(1) The right of a secured party with a security interest in equipment described in paragraph (2) or of a lessor or conditional vendor of such equipment to take possession of such equipment in compliance with a security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession unless—

"(A) before the date that is 60 days after the date of the order for relief under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of the order under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind specified in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of the order is cured before the expiration of such 60-day period; and

"(ii) that occurs after the date of the order is cured before the later of—

"(I) the date that is 30 days after the date of the default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is—

"(A) an aircraft, aircraft engine, propeller, appliance, or spare part (as defined in section 40102 of title 49) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a citizen of the United States (as defined in 40102 of title 49) holding an air carrier operating certificate issued by the Secretary of Transportation pursuant to chapter 447 of title 49 for aircraft capable of carrying 10 or more individuals or 6,000 pounds or more of cargo; or

"(B) a documented vessel (as defined in section 30101(1) of title 46) that is subject to a security interest granted by, leased to, or conditionally sold to a debtor that is a water carrier that holds a certificate of public convenience and necessity or permit issued by the Interstate Commerce Commission.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.".

(b) AMENDMENT OF SECTION 1168.—Section 1168 of title 11, United States Code, is amended to read as follows:

"§1168. Rolling stock equipment

"(a)(1) The right of a secured party with a security interest in or of a lessor or conditional vendor of equipment described in paragraph (2) to take possession of such equipment in compliance with an equipment security agreement, lease, or conditional sale contract is not affected by section 362, 363, or 1129 or by any power of the court to enjoin the taking of possession, unless—

"(A) before the date that is 60 days after the date of commencement of a case under this chapter, the trustee, subject to the court's approval, agrees to perform all obligations of the debtor that become due on or after the date of commencement of the case under such security agreement, lease, or conditional sale contract; and

"(B) any default, other than a default of a kind described in section 365(b)(2), under such security agreement, lease, or conditional sale contract—

"(i) that occurs before the date of commencement of the case and is an event of default therewith is cured before the expiration of such 60-day period; and

"(ii) that occurs or becomes an event of default after the date of commencement of the case is cured before the later of—

"(I) the date that is 30 days after the date of the default or event of default; or

"(II) the expiration of such 60-day period.

"(2) Equipment is described in this paragraph if it is rolling stock equipment or accessories used on such equipment, including superstructures and racks, that is subject to a security interest granted by, leased to, or conditionally sold to the debtor.

"(3) Paragraph (1) applies to a secured party, lessor, or conditional vendor acting in its own behalf or acting as trustee or otherwise in behalf of another party.

"(b) The trustee and the secured party, lessor, or conditional vendor whose right to take possession is protected under subsection (a) may agree, subject to the court's approval, to extend the 60-day period specified in subsection (a)(1).

"(c) With respect to equipment first placed in service on or prior to the date of enactment of this subsection, for purposes of this section—

"(1) the term 'lease' includes any written agreement with respect to which the lessor and the debtor, as lessee, have expressed in the agreement or in a substantially contemporaneous writing that the agreement is to be treated as a lease for Federal income tax purposes; and

"(2) the term 'security interest' means a purchase-money equipment security interest.

"(d) With respect to equipment first placed in service after the date of enactment of this subsection, for purposes of this section, the term 'rolling stock equipment' includes rolling stock equipment that is substantially rebuilt and accessories used on such equipment.".

SEC. 202. LIMITATION ON LIABILITY OF NON-INSIDER TRANSFEREE FOR AVOIDED TRANSFER.

Section 550 of title 11, United States Code, is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(2) by inserting after subsection (b) the following:

"(c) If a transfer made between 90 days and one year before the filing of the petition—

"(1) is avoided under section 547(b) of this title; and

"(2) was made for the benefit of a creditor that at the time of such transfer was an insider;

the trustee may not recover under subsection (a) from a transferee that is not an insider.''.

SEC. 203. PERFECTION OF PURCHASE-MONEY SECURITY INTEREST.

Section 547 of title 11, United States Code, is amended—

(1) in subsection (c)(3)(B) by striking ''10'' and inserting ''20'', and

(2) in subsection (e)(2)(A) by inserting '', except as provided in subsection (c)(3)(B)'' before the semicolon at the end.

SEC. 204. CONTINUED PERFECTION.

(a) AUTOMATIC STAY.—Section 362(b)(3) of title 11, United States Code, is amended by inserting '', or to maintain or continue the perfection of,'' after ''to perfect''.

(b) LIMITATIONS ON AVOIDING POWERS.—Section 546(b) of title 11, United States Code, is amended to read as follows:

''(b)(1) The rights and powers of a trustee under sections 544, 545, and 549 of this title are subject to any generally applicable law that—

''(A) permits perfection of an interest in property to be effective against an entity that acquires rights in such property before the date of perfection; or

''(B) provides for the maintenance or continuation of perfection of an interest in property to be effective against an entity that acquires rights in such property before the date on which action is taken to effect such maintenance or continuation.

''(2) If—

''(A) a law described in paragraph (1) requires seizure of such property or commencement of an action to accomplish such perfection, or maintenance or continuation of perfection of an interest in property; and

''(B) such property has not been seized or such an action has not been commenced before the date of the filing of the petition;

such interest in such property shall be perfected, or perfection of such interest shall be maintained or continued, by giving notice within the time fixed by such law for such seizure or such commencement.''.

SEC. 205. REJECTION OF UNEXPIRED LEASES OF REAL PROPERTY OR TIMESHARE INTERESTS.

(a) AMENDMENT TO SECTION 365.—Section 365(h) of title 11, United States Code, is amended to read as follows:

''(h)(1)(A) If the trustee rejects an unexpired lease of real property under which the debtor is the lessor and—

''(i) if the rejection by the trustee amounts to such a breach as would entitle the lessee to treat such lease as terminated by virtue of its terms, applicable nonbankruptcy law, or any agreement made by the lessee, then the lessee under such lease may treat such lease as terminated by the rejection; or

''(ii) if the term of such lease has commenced, the lessee may retain its rights under such lease (including rights such as those relating to the amount and timing of payment of rent and other amounts payable by the lessee and any right of use, possession, quiet enjoyment, subletting, assignment, or hypothecation) that are in or appurtenant to the real property for the balance of the term of such lease and for any renewal or extension of such rights to the extent that such rights are enforceable under applicable nonbankruptcy law.

''(B) If the lessee retains its rights under subparagraph (A)(ii), the lessee may offset against the rent reserved under such lease for the balance of the term after the date of the rejection of such lease and for the term of any renewal or extension of such lease, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such lease, but the lessee shall not have any other right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.

''(C) The rejection of a lease of real property in a shopping center with respect to which the lessee elects to retain its rights under subparagraph (A)(ii) does not affect the enforceability under applicable nonbankruptcy law of any provision in the lease pertaining to radius, location, use, exclusivity, or tenant mix or balance.

''(D) In this paragraph, 'lessee' includes any successor, assign, or mortgagee permitted under the terms of such lease.

''(2)(A) If the trustee rejects a timeshare interest under a timeshare plan under which the debtor is the timeshare interest seller and—

''(i) if the rejection amounts to such a breach as would entitle the timeshare interest purchaser to treat the timeshare plan as terminated under its terms, applicable nonbankruptcy law, or any agreement made by timeshare interest purchaser, the timeshare interest purchaser under the timeshare plan may treat the timeshare plan as terminated by such rejection; or

''(ii) if the term of such timeshare interest has commenced, then the timeshare interest purchaser may retain its rights in such timeshare interest for the balance of such term and for any term of renewal or extension of such timeshare interest to the extent that such rights are enforceable under applicable nonbankruptcy law.

''(B) If the timeshare interest purchaser retains its rights under subparagraph (A), such timeshare interest purchaser may offset against the moneys due for such timeshare interest for the balance of the term after the date of the rejection of such timeshare interest, and the term of any renewal or extension of such timeshare interest, the value of any damage caused by the nonperformance after the date of such rejection, of any obligation of the debtor under such timeshare plan, but the timeshare interest purchaser shall not have any right against the estate or the debtor on account of any damage occurring after such date caused by such nonperformance.''.

(b) TECHNICAL AMENDMENT.—Section 553(b)(1) of title 11, United States Code, is amended by striking ''365(h)(2)'' and inserting ''365(h)''.

SEC. 206. CONTENTS OF PLAN.

Section 1123(b) of title 11, United States Code, is amended—

(1) in paragraph (4) by striking ''and'' at the end,

(2) by redesignating paragraph (5) as paragraph (6), and

(3) by inserting after paragraph (4) the following:

''(5) modify the rights of holders of secured claims, other than a claim secured only by a security interest in real property that is the debtor's principal residence, or of holders of unsecured claims, or leave unaffected the rights of holders of any class of claims; and''.

SEC. 207. PRIORITY FOR INDEPENDENT SALES REPRESENTATIVES.

Section 507(a)(3) of title 11, United States Code, is amended to read as follows:

''(3) Third, allowed unsecured claims, but only to the extent of $4,000 for each individual or corporation, as the case may be, earned within 90 days before the date of the filing of the petition or the date of the cessation of the debtor's business, whichever occurs first, for—

''(A) wages, salaries, or commissions, including vacation, severance, and sick leave pay earned by an individual; or

''(B) sales commissions earned by an individual or by a corporation with only 1 employee, acting as an independent contractor in the sale of goods or services for the debtor in the ordinary course of the debtor's business if, and only if, during the 12 months preceding that date, at least 75 percent of the amount that the individual or corporation earned by acting as an independent contractor in the sale of goods or services was earned from the debtor;''.

SEC. 208. EXCLUSION FROM THE ESTATE OF INTERESTS IN LIQUID AND GASEOUS HYDROCARBONS TRANSFERRED BY THE DEBTOR PURSUANT TO PRODUCTION PAYMENT AGREEMENTS.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (42) the following:

''(42A) 'production payment' means a term overriding royalty satisfiable in cash or in kind—

''(A) contingent on the production of a liquid or gaseous hydrocarbon from particular real property; and

''(B) from a specified volume, or a specified value, from the liquid or gaseous hydrocarbon produced from such property, and determined without regard to production costs;'', and

(2) by inserting after the first paragraph (56) the following:

''(56A) 'term overriding royalty' means an interest in liquid or gaseous hydrocarbons in place or to be produced from particular real property that entitles the owner thereof to a share of production, or the value thereof, for a term limited by time, quantity, or value realized;''.

(b) PROPERTY OF THE ESTATE.—Section 541(b)(4) of title 11, United States Code, is amended—

(1) in subparagraph (A) by striking ''(A)'' and inserting ''(A)(i)'',

(2) in subparagraph (B)—

(A) by striking ''(B)'' and inserting ''(ii),

(B) by striking ''such interest'' and inserting ''the interest referred to in clause (i)'', and

(C) by striking the period at the end and inserting ''; or'', and

(3) by adding at the end the following:

''(B)(i) the debtor has transferred such interest pursuant to a written conveyance of a production payment to an entity that does not participate in the operation of the property from which such production payment is transferred; and

''(ii) but for the operation of this paragraph, the estate could include the interest referred to in clause (i) only by virtue of section 542 of this title;''.

SEC. 209. SELLER'S RIGHT TO RECLAIM GOODS.

Section 546(c)(1) of title 11, United States Code, is amended to read as follows:

''(1) such a seller may not reclaim any such goods unless such seller demands in writing reclamation of such goods—

''(A) before 10 days after receipt of such goods by the debtor; or

''(B) if such 10-day period expires after the commencement of the case, before 20 days after receipt of such goods by the debtor; and''.

SEC. 210. INVESTMENT OF MONEY OF THE ESTATE.

Section 345(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking the period at the end and inserting a semicolon, and

(2) by adding at the end the following:

''unless the court for cause orders otherwise.''.

SEC. 211. ELECTION OF TRUSTEE UNDER CHAPTER 11.

(a) ELECTION AUTHORIZED.—Section 1104 of title 11 of the United States Code is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

''(b) Except as provided in section 1163 of this title, on the request of a party in interest made not later than 30 days after the court orders the appointment of a trustee under subsection (a),

the United States trustee shall convene a meeting of creditors for the purpose of electing one disinterested person to serve as trustee in the case. The election of a trustee shall be conducted in the manner provided in subsections (a), (b), and (c) of section 702 of this title.".

(b) Conforming Amendment.—Section 1106(b) of title 11, United States Code, is amended by striking "1104(c)" and inserting "1104(d)".

SEC. 212. RIGHTS OF PARTNERSHIP TRUSTEE AGAINST GENERAL PARTNERS.

Section 723(a) of title 11, United States Code, is amended by striking "for the full amount of the deficiency" and inserting "to the extent that under applicable nonbankruptcy law such general partner is personally liable for such deficiency".

SEC. 213. IMPAIRMENT OF CLAIMS AND INTERESTS.

(a) Objection to Claims Filed Untimely.—Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (7) by striking "or" at the end,

(2) in paragraph (8) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(9) proof of such claim is not timely filed, except to the extent tardily filed as permitted under paragraph (1), (2), or (3) of section 726(a) of this title or under the Federal Rules of Bankruptcy Procedure, except that a claim of a governmental unit shall be timely filed if it is filed before 180 days after the date of the order for relief or such later time as the Federal Rules of Bankruptcy Procedure may provide.".

(b) Tardily Filed Priority Claims.—Section 726(a)(1) of title 11, United States Code, is amended by adding before the semicolon the following: ", proof of which is timely filed under section 501 of this title or tardily filed before the date on which the trustee commences distribution under this section".

(c) Filing of Request for Administrative Expenses.—Section 503(a) of title 11, United States Code, is amended—

(1) by inserting "timely" after "may", and

(2) by inserting ", or may tardily file such request if permitted by the court for cause" before the period at the end.

(d) Impairment of Claims or Interests.—Section 1124 of title 11, United States Code, is amended—

(1) in paragraph (1) by inserting "or" at the end,

(2) in paragraph (2) by striking "; or" at the end and inserting a period, and

(3) by striking paragraph (3).

SEC. 214. PROTECTION OF SECURITY INTEREST IN POST-PETITION RENTS AND LODGING PAYMENTS.

(a) Postpetition Effect of Security Interest.—Section 552(b) of title 11, United States Code, is amended—

(1) by inserting "(1)" after "(b)",

(2) by striking "rents," each place it appears, and

(3) by adding at the end the following:

"(2) Except as provided in sections 363, 506(c), 522, 544, 545, 547, and 548 of this title, and notwithstanding section 546(b) of this title, if the debtor and an entity entered into a security agreement before the commencement of the case and if the security interest created by such security agreement extends to property of the debtor acquired before the commencement of the case and to amounts paid as rents of such property or the fees, charges, accounts, or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties, then such security interest extends to such rents and such fees, charges, accounts, or other payments acquired by the estate after the commencement of the case to the extent provided in such security agreement, except to any extent that the court, after notice and a hearing and based on the equities of the case, orders otherwise.".

(b) Use Sale, or Lease of Property.—Section 363(a) of title 11, United States Code, is amended by inserting: "and the fees, charges, accounts or other payments for the use or occupancy of rooms and other public facilities in hotels, motels, or other lodging properties" after "property".

SEC. 215. AMENDMENT TO DEFINITION OF SWAP AGREEMENT.

Subparagraph (A) of the first paragraph (55) of section 101 of title 11, United States Code, is amended by inserting "spot foreign exchange agreement," after "forward foreign exchange agreement,".

SEC. 216. LIMITATION ON AVOIDING POWERS.

Section 546(a)(1) of title 11, United States Code, is amended to read as follows:

"(1) the later of—

"(A) 2 years after the entry of the order for relief; or

"(B) 1 year after the appointment or election of the first trustee under section 702, 1104, 1163, 1202, or 1302 of this title if such appointment or such election occurs before the expiration of the period specified in subparagraph (A); or".

SEC. 217. SMALL BUSINESSES.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (51) the following:

"(51C) 'small business' means a person engaged in commercial or business activities (but does not include a person whose primary activity is the business of owning or operating real property and activities incidental thereto) whose aggregate noncontingent liquidated secured and unsecured debts as of the date of the petition do not exceed $2,000,000;".

(b) Creditors' Committees.—Section 1102(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "As" and inserting "Except as provided in paragraph (3), as"; and

(2) by adding at the end the following:

"(3) On request of a party in interest in a case in which the debtor is a small business and for cause, the court may order that a committee of creditors not be appointed.".

(c) Conversion or Dismissal.—Section 1112(b) of title 11, United States Code, is amended by inserting "or bankruptcy administrator" after "United States trustee".

(d) Who May File a Plan.—Section 1121 of title 11, United States Code, is amended by adding at the end the following:

"(e) In a case in which the debtor is a small business and elects to be considered a small business—

"(1) only the debtor may file a plan until after 100 days after the date of the order for relief under this chapter;

"(2) all plans shall be filed within 160 days after the date of the order for relief; and

"(3) on request of a party in interest made within the respective periods specified in paragraphs (1) and (2) and after notice and a hearing, the court may—

"(A) reduce the 100-day period or the 160-day period specified in paragraph (1) or (2) for cause; and

"(B) increase the 100-day period specified in paragraph (1) if the debtor shows that the need for an increase is caused by circumstances for which the debtor should not be held accountable.".

(e) Postpetition Disclosure.—Section 1125 of title 11, United States Code, is amended by adding at the end the following:

"(f) Notwithstanding subsection (b), in a case in which the debtor has elected under section 1121(e) to be considered a small business—

"(1) the court may conditionally approve a disclosure statement subject to final approval after notice and a hearing;

"(2) acceptances and rejections of a plan may be solicited based on a conditionally approved disclosure statement as long as the debtor provides adequate information to each holder of a claim or interest that is solicited, but a conditionally approved disclosure statement shall be mailed at least 10 days prior to the date of the hearing on confirmation of the plan; and

"(3) a hearing on the disclosure statement may be combined with a hearing on confirmation of a plan.".

SEC. 218. SINGLE ASSET REAL ESTATE.

(a) Definition.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (51) the following:

"(51B) 'single asset real estate' means real property constituting a single property or project, other than residential real property with fewer than 4 residential units, which generates substantially all of the gross income of a debtor and on which no substantial business is being conducted by a debtor other than the business of operating the real property and activities incidental thereto having aggregate noncontingent, liquidated secured debts in an amount no more than $4,000,000;".

(b) Automatic Stay.—Section 362(d) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) with respect to a stay of an act against single asset real estate under subsection (a), by a creditor whose claim is secured by an interest in such real estate, unless, not later than the date that is 90 days after the entry of the order for relief (or such later date as the court may determine for cause by order entered within that 90-day period)—

"(A) the debtor has filed a plan of reorganization that has a reasonable possibility of being confirmed within a reasonable time; or

"(B) the debtor has commenced monthly payments to each creditor whose claim is secured by such real estate (other than a claim secured by a judgment lien or by an unmatured statutory lien), which payments are in an amount equal to interest at a current fair market rate on the value of the creditor's interest in the real estate.".

SEC. 219. LEASES OF PERSONAL PROPERTY.

(a) Assumption.—Section 365(b)(2) of title 11, United States Code is amended—

(1) in subparagraph (B) by striking "or" at the end,

(2) in subparagraph (C) by striking the period and inserting "; or",

(3) by adding at the end the following:

"(D) the satisfaction of any penalty rate or provision relating to a default arising from any failure by the debtor to perform nonmonetary obligations under the executory contract or unexpired lease.".

(b) Performance.—Section 365(d) of title 11, United States Code is amended by adding at the end the following:

"(10) The trustee shall timely perform all of the obligations of the debtor, except those specified in section 365(b)(2), first arising from or after 60 days after the order for relief in a case under chapter 11 of this title under an unexpired lease of personal property (other than personal property leased to an individual primarily for personal, family, or household purposes), until such lease is assumed or rejected notwithstanding section 503(b)(1) of this title, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise with respect to the obligations or timely

performance thereof. This subsection shall not be deemed to affect the trustee's obligations under the provisions of subsection (b) or (f). Acceptance of any such performance does not constitute waiver or relinquishment of the lessor's rights under such lease or under this title.''.

(c) LIMITATION.—Section 363(e) of title 11, United States Code is amended by adding at the end the following:

''This subsection also applies to property that is subject to any unexpired lease of personal property (to the exclusion of such property being subject to an order to grant relief from the stay under section 362).''.

SEC. 220. EXEMPTION FOR SMALL BUSINESS INVESTMENT COMPANIES.

Section 109(b)(2) of title 11, United States Code, is amended by inserting after ''homestead association,'' the following: ''a small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 301 of the Small Business Investment Act of 1958,''.

SEC. 221. PAYMENT OF TAXES WITH BORROWED FUNDS.

Section 523(a) of title 11, United States Code is amended—

(1) in paragraph (13) by striking the period at the end and inserting a semicolon, and

(2) by adding at the end the following:

''(14) incurred to pay a tax to the United States that would be nondischargeable pursuant to paragraph (1);''.

SEC. 222. RETURN OF GOODS.

(a) LIMITATION ON AVOIDING POWERS.—Section 546 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding the rights and powers of a trustee under sections 544(a), 545, 547, 549, and 553, if the court determines on a motion by the trustee made not later than 120 days after the date of the order for relief in a case under chapter 11 of this title and after notice and a hearing, that a return is in the best interests of the estate, the debtor, with the consent of a creditor, may return goods shipped to the debtor by the creditor before the commencement of the case, and the creditor may offset the purchase price of such goods against any claim of the creditor against the debtor that arose before the commencement of the case.''.

(b) SETOFF.—Section 553(b)(1) is amended by inserting ''546(h),'' after ''365(h),''.

SEC. 223. PROCEEDS OF MONEY ORDER AGREEMENTS.

Section 541(b) of title 11, United States Code is amended—

(1) in paragraph (3) by striking ''or'' at the end and inserting a semicolon,

(2) in paragraph (4) by striking the period at the end and inserting ''; or'', and

(3) by inserting after paragraph (4) the following:

''(5) any interest in cash or cash equivalents that constitute proceeds of a sale by the debtor of a money order that is made—

''(A) on or after the date that is 14 days prior to the date on which the petition is filed; and

''(B) under an agreement with a money order issuer that prohibits the commingling of such proceeds with property of the debtor (notwithstanding that, contrary to the agreement, the proceeds may have been commingled with property of the debtor),

unless the money order issuer had not taken action, prior to the filing of the petition, to require compliance with the prohibition.''.

SEC. 224. TRUSTEE DUTIES; PROFESSIONAL FEES.

(a) TRUSTEE'S DUTIES.—Section 586(a)(3)(A) of title 28, United States Code, is amended to read as follows:

''(A)(i) reviewing, in accordance with procedural guidelines adopted by the Executive Office of the United States Trustee (which guidelines shall be applied uniformly by the United States trustee except when circumstances warrant different treatment), applications filed for compensation and reimbursement under section 330 of title 11; and

''(ii) filing with the court comments with respect to such application and, if the United States Trustee considers it to be appropriate, objections to such application.''.

(b) PROFESSIONAL FEES.—Section 330(a) of title 11, United States Code, is amended to read as follows:

''(a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under section 327 or 1103—

''(A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and

''(B) reimbursement for actual, necessary expenses.

''(2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.

''(3)(A) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—

''(A) the time spent on such services;

''(B) the rates charged for such services;

''(C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;

''(D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

''(E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.

''(4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for—

''(i) unnecessary duplication of services; or

''(ii) services that were not—

''(I) reasonably likely to benefit the debtor's estate; or

''(II) necessary to the administration of the case.

''(B) In a chapter 12 or chapter 13 case in which the debtor is an individual, the court may allow reasonable compensation to the debtor's attorney for representing the interests of the debtor in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the debtor and the other factors set forth in this section.

''(5) The court shall reduce the amount of compensation awarded under this section by the amount of any interim compensation awarded under section 331, and, if the amount of such interim compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.

''(6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.''.

SEC. 225. NOTICES TO CREDITORS.

Section 342 of title 11, United States Code, is amended by adding at the end the following:

''(c) If notice is required to be given by the debtor to a creditor under this title, any rule, any applicable law, or any order of the court, such notice shall contain the name, address, and taxpayer identification number of the debtor, but the failure of such notice to contain such information shall not invalidate the legal effect of such notice.''.

TITLE III—CONSUMER BANKRUPTCY ISSUES

SEC. 301. PERIOD FOR CURING DEFAULT RELATING TO PRINCIPAL RESIDENCE.

Section 1322 of title 11, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following:

''(c) Notwithstanding subsection (b)(2) and applicable nonbankruptcy law—

''(1) a default with respect to, or that gave rise to, a lien on the debtor's principal residence may be cured under paragraph (3) or (5) of subsection (b) until such residence is sold at a foreclosure sale that is conducted in accordance with applicable nonbankruptcy law; and

''(2) in a case in which the last payment on the original payment schedule for a claim secured only by a security interest in real property that is the debtor's principal residence is due before the date on which the final payment under the plan is due, the plan may provide for the payment of the claim as modified pursuant to section 1325(a)(5) of this title.''.

SEC. 302. NONDISCHARGEABILITY OF FINE UNDER CHAPTER 13.

Section 1328(a)(3) of title 11, United States Code, is amended by inserting '', or a criminal fine,'' after ''restitution''.

SEC. 303. IMPAIRMENT OF EXEMPTIONS.

Section 522(f) of title 11, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and

(B) by striking ''(2)'' and inserting ''(B),

(2) by redesignating paragraph (1) as subparagraph (A),

(3) by inserting ''(1)'' before ''Notwithstanding'', and

(4) by adding at the end the following:

''(2)(A) For the purposes of this subsection, a lien shall be considered to impair an exemption to the extent that the sum of—

''(i) the lien,

''(ii) all other liens on the property; and

''(iii) the amount of the exemption that the debtor could claim if there were no liens on the property;

exceeds the value that the debtor's interest in the property would have in the absence of any liens.

''(B) In the case of a property subject to more than 1 lien, a lien that has been avoided shall not be considered in making the calculation under subparagraph (A) with respect to other liens.

''(C) This paragraph shall not apply with respect to a judgment arising out of a mortgage foreclosure.''.

SEC. 304. PROTECTION OF CHILD SUPPORT AND ALIMONY.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (12) the following:

''(12A) 'debt for child support' means a debt of a kind specified in section 523(a)(5) of this title for maintenance or support of a child of the debtor;''.

(b) RELIEF FROM AUTOMATIC STAY.—Section 362(b)(2) of title 11, United States Code, is amended to read as follows:

''(2) under subsection (a) of this section—

''(A) of the commencement or continuation of an action or proceeding for—

"(i) the establishment of paternity; or

"(ii) the establishment or modification of an order for alimony, maintenance, or support; or

"(B) of the collection of alimony, maintenance, or support from property that is not property of the estate;".

(c) PRIORITY OF CLAIMS.—Section 507(a) of title 11, United States Code, is amended—

(1) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth",

(2) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth", and

(3) by inserting after paragraph (6) the following:

"(7) Seventh, allowed claims for debts to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(d) PROTECTION OF LIENS.—Section 522(f)(1)(A) of title 11, United States Code, as amended by section 303, is amended by inserting after "lien" the following:

", other than a judicial lien that secures a debt—

"(i) to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement; and

"(ii) to the extent that such debt—

"(I) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(II) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support.".

(e) EXCEPTION TO DISCHARGE.—Section 523 of title 11, United States Code, as amended by section 221, is amended by adding at the end the following:

"(15) not of the kind described in paragraph (5) that is incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, a determination made in accordance with State or territorial law by a governmental unit unless—

"(A) the debtor does not have the ability to pay such debt from income or property of the debtor not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor and, if the debtor is engaged in a business, for the payment of expenditures necessary for the continuation, preservation, and operation of such business; or

"(B) discharging such debt would result in a benefit to the debtor that outweighs the detrimental consequences to a spouse, former spouse, or child of the debtor;", and

(2) in subsection (c)(1) by striking "or (6)" each place it appears and inserting "(6), or (15)".

(f) PROTECTION AGAINST TRUSTEE AVOIDANCE.—Section 547(c) of title 11, United States Code, is amended—

(1) in paragraph (6) by striking "or" at the end,

(2) by redesignating paragraph (7) as paragraph (8), and

(3) by inserting after paragraph (6) the following:

"(7) to the extent such transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor, for alimony to, maintenance for, or support of such spouse or child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as alimony, maintenance, or support, unless such liability is actually in the nature of alimony, maintenance or support; or".

(g) APPEARANCE BEFORE COURT.—Child support creditors or their representatives shall be permitted to appear and intervene without charge, and without meeting any special local court rule requirement for attorney appearances, in any bankruptcy case or proceeding in any bankruptcy court or district court of the United States if such creditors or representatives file a form in such court that contains information detailing the child support debt, its status, and other characteristics.

(h) CONFORMING AMENDMENTS—Title 11 of the United States Code is amended—

(1) in section 502(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(2) in section 503(b)(1)(B)(i) by striking "507(a)(7)" and inserting "507(a)(8)",

(3) in section 523(a)(1)(A) by striking "507(a)(7)" and inserting "507(a)(8)",

(4) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)",

(5) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)",

(6) in section 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)",

(7) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)", and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

SEC. 305. INTEREST ON INTEREST.

(a) CHAPTER 11.—Section 1123 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding subsection (a) of this section and sections 506(b), 1129(a)(7), and 1129(b) of this title, if it is proposed in a plan to cure a default the amount necessary to cure the default shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(b) CHAPTER 12.—Section 1222 of title 11, United States Code, is amended by adding at the end the following:

"(d) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1225(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

(c) CHAPTER 13.—Section 1322 of title 11, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding subsection (b)(2) of this section and sections 506(b) and 1325(a)(5) of this title, if it is proposed in a plan to cure a default, the amount necessary to cure the default, shall be determined in accordance with the underlying agreement and applicable nonbankruptcy law.".

SEC. 306. EXCEPTION TO DISCHARGE.

Section 523(a)(2)(C) of title 11, United States Code, is amended—

(1) by striking "$500" and inserting "$1,000",

(2) by striking "forty" and inserting "60", and

(3) by striking "twenty" and inserting "60".

SEC. 307. PAYMENTS UNDER CHAPTER 13.

Section 1326(a)(2) of title 11, United States Code, is amended in the second sentence by striking the period and inserting "as soon as practicable.".

SEC. 308. BANKRUPTCY PETITION PREPARERS.

(a) AMENDMENT OF CHAPTER 1.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

"§110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions

"(a) In this section—

"(1) 'bankruptcy petition preparer' means a person, other than an attorney or an employee of an attorney, who prepares for compensation a document for filing; and

"(2) 'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b)(1) A bankruptcy petition preparer who prepares a document for filing shall sign the document and print on the document the preparer's name and address.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(c)(1) A bankruptcy petition preparer who prepares a document for filing shall place on the document, after the preparer's signature, an identifying number that identifies individuals who prepared the document.

"(2) For purposes of this section, the identifying number of a bankruptcy petition preparer shall be the Social Security account number of each individual who prepared the document or assisted in its preparation.

"(3) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(d)(1) A bankruptcy petition preparer shall, not later than the time at which a document for filing is presented for the debtor's signature, furnish to the debtor a copy of the document.

"(2) A bankruptcy petition preparer who fails to comply with paragraph (1) may be fined not more than $500 for each such failure unless the failure is due to reasonable cause.

"(e)(1) A bankruptcy petition preparer shall not execute any document on behalf of a debtor.

"(2) A bankruptcy petition preparer may be fined not more than $500 for each document executed in violation of paragraph (1).

"(f)(1) A bankruptcy petition preparer shall not use the word 'legal' or any similar term in any advertisements, or advertise under any category that includes the word 'legal' or any similar term.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(g)(1) A bankruptcy petition preparer shall not collect or receive any payment from the debtor or on behalf of the debtor for the court fees in connection with filing the petition.

"(2) A bankruptcy petition preparer shall be fined not more than $500 for each violation of paragraph (1).

"(h)(1) Within 10 days after the date of the filing of a petition, a bankruptcy petition preparer shall file a declaration under penalty of perjury disclosing any fee received from or on behalf of the debtor within 12 months immediately prior to the filing of the case, and any unpaid fee charged to the debtor.

"(2) The court shall disallow and order the immediate turnover to the bankruptcy trustee of any fee referred to in paragraph (1) found to be in excess of the value of services rendered for *the documents prepared. An individual debtor may exempt any funds so recovered under section 522(b).*

"(3) The debtor, the trustee, a creditor, or the United States trustee may file a motion for an order under paragraph (2).

"(4) A bankruptcy petition preparer shall be fined not more than $500 for each failure to comply with a court order to turn over funds within 30 days of service of such order.

"(i)(1) If a bankruptcy case or related proceeding is dismissed because of the failure to file bankruptcy papers, including papers specified in section 521(1) of this title, the negligence or intentional disregard of this title or the Federal Rules of Bankruptcy Procedure by a bankruptcy petition preparer, or if a bankruptcy petition preparer violates this section or commits any fraudulent, unfair, or deceptive act, the bankruptcy court shall certify that fact to the district court, and the district court, on motion of the debtor, the trustee, or a creditor and after a hearing, shall order the bankruptcy petition preparer to pay to the debtor—

"(A) the debtor's actual damages;

"(B) the greater of—

"(i) $2,000; or

"(ii) twice the amount paid by the debtor to the bankruptcy petition preparer for the preparer's services; and

"(C) reasonable attorneys' fees and costs in moving for damages under this subsection.

"(2) If the trustee or creditor moves for damages on behalf of the debtor under this subsection, the bankruptcy petition preparer shall be ordered to pay the movant the additional amount of $1,000 plus reasonable attorneys' fees and costs incurred.

"(j)(1) A debtor for whom a bankruptcy petition preparer has prepared a document for filing, the trustee, a creditor, or the United States trustee in the district in which the bankruptcy petition preparer resides, has conducted business, or the United States trustee in any other district in which the debtor resides may bring a civil action to enjoin a bankruptcy petition preparer from engaging in any conduct in violation of this section or from further acting as a bankruptcy petition preparer.

"(2)(A) In an action under paragraph (1), if the court finds that—

"(i) a bankruptcy petition preparer has—

"(I) engaged in conduct in violation of this section or of any provision of this title a violation of which subjects a person to criminal penalty;

"(II) misrepresented the preparer's experience or education as a bankruptcy petition preparer; or

"(III) engaged in any other fraudulent, unfair, or deceptive conduct; and

"(ii) injunctive relief is appropriate to prevent the recurrence of such conduct,

the court may enjoin the bankruptcy petition preparer from engaging in such conduct.

"(B) If the court finds that a bankruptcy petition preparer has continually engaged in conduct described in subclause (I), (II), or (III) of clause (i) and that an injunction prohibiting such conduct would not be sufficient to prevent such person's interference with the proper administration of this title, or has not paid a penalty imposed under this section, the court may enjoin the person from acting as a bankruptcy petition preparer.

"(3) The court shall award to a debtor, trustee, or creditor that brings a successful action under this subsection reasonable attorney's fees and costs of the action, to be paid by the bankruptcy petition preparer.

"(k) Nothing in this section shall be construed to permit activities that are otherwise prohibited by law, including rules and laws that prohibit the unauthorized practice of law.".

(b) The chapter analysis for chapter 1 of title 11, United States Code, is amended by adding at the end the following new item:

"110. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.".

SEC. 309. FAIRNESS TO CONDOMINIUM AND COOPERATIVE OWNERS.

Section 523(a) of title 11, United States Code, as amended by sections 221 and 304, is amended by adding at the end the following:

"(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a dwelling unit that has condominium ownership or in a share of a cooperative housing corporation, but only if such fee or assessment is payable for a period during which—

"(A) the debtor physically occupied a dwelling unit in the condominium or cooperative project; or

"(B) the debtor rented the dwelling unit to a tenant and received payments from the tenant for such period,

but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case.".

SEC. 310. NONAVOIDABILITY OF FIXING OF LIEN ON TOOLS AND IMPLEMENTS OF TRADE, ANIMALS, AND CROPS.

Section 522(f) of title 11, United States Code, as amended by sections 303 and 304, is amended—

(1) in paragraph (1) by inserting "but subject to paragraph (3)" after "waiver of exemptions", and

(2) by adding at the end the following:

"(3) In a case in which State law that is applicable to the debtor—

"(A) permits a person to voluntarily waive a right to claim exemptions under subsection (d) or prohibits a debtor from claiming exemptions under subsection (d); and

"(B) either permits the debtor to claim exemptions under State law without limitation in amount, except to the extent that the debtor has permitted the fixing of a consensual lien on any property or prohibits avoidance of a consensual lien on property otherwise eligible to be claimed as exempt property;

the debtor may not avoid the fixing of a lien on an interest of the debtor or a dependent of the debtor in property if the lien is a nonpossessory, nonpurchase-money security interest in implements, professional books, or tools of the trade of the debtor or a dependent of the debtor or farm animals or crops of the debtor or a dependent of the debtor to the extent the value of such implements, professional books, tools of the trade, animals, and crops exceeds $5,000.".

SEC. 311. CONVERSION OF CASE UNDER CHAPTER 13.

Section 348 of title 11, United States Code, is amended by adding at the end the following:

"(f)(1) Except as provided in paragraph (2), when a case under chapter 13 of this title is converted to a case under another chapter under this title—

"(A) property of the estate in the converted case shall consist of property of the estate, as of the date of filing of the petition, that remains in the possession of or is under the control of the debtor on the date of conversion; and

"(B) valuations of property and of allowed secured claims in the chapter 13 case shall apply in the converted case, with allowed secured claims reduced to the extent that they have been paid in accordance with the chapter 13 plan.

"(2) If the debtor converts a case under chapter 13 of this title to a case under another chapter under this title in bad faith, the property in the converted case shall consist of the property of the estate as of the date of conversion.".

SEC. 312. BANKRUPTCY FRAUD.

(a) IN GENERAL.—

(1) OFFENSES.—Chapter 9 of title 18, United States Code, is amended—

(A) by amending sections 152, 153, and 154 to read as follows:

"§152. Concealment of assets; false oaths and claims; bribery

"A person who—

"(1) knowingly and fraudulently conceals from a custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or, in connection with a case under title 11, from creditors or the United States Trustee, any property belonging to the estate of a debtor;

"(2) knowingly and fraudulently makes a false oath or account in or in relation to any case under title 11;

"(3) knowingly and fraudulently makes a false declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, in or in relation to any case under title 11;

"(4) knowingly and fraudulently presents any false claim for proof against the estate of a debtor, or uses any such claim in any case under title 11, in a personal capacity or as or through an agent, proxy, or attorney;

"(5) knowingly and fraudulently receives any material amount of property from a debtor after the filing of a case under title 11, with intent to defeat the provisions of title 11;

"(6) knowingly and fraudulently gives, offers, receives, or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof for acting or forbearing to act in any case under title 11;

"(7) in a personal capacity or as an agent or officer of any person or corporation, in contemplation of a case under title 11 by or against the person or any other person or corporation, or with intent to defeat the provisions of title 11, knowingly and fraudulently transfers or conceals any of his property or the property of such other person or corporation;

"(8) after the filing of a case under title 11 or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor; or

"(9) after the filing of a case under title 11, knowingly and fraudulently withholds from a custodian, trustee, marshal, or other officer of the court or a United States Trustee entitled to its possession, any recorded information (including books, documents, records, and papers) relating to the property or financial affairs of a debtor,

shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"§153. Embezzlement against estate

"(a) OFFENSE.—A person described in subsection (b) who knowingly and fraudulently appropriates to the person's own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a debtor shall be fined not more than $5,000, imprisoned not more than 5 years, or both.

"(b) PERSON TO WHOM SECTION APPLIES.—A person described in this subsection is one who has access to property or documents belonging to an estate by virtue of the person's participation in the administration of the estate as a trustee, custodian, marshal, attorney, or other officer of the court or as an agent, employee, or other person engaged by such an officer to perform a service with respect to the estate.

"§154. Adverse interest and conduct of officers

"A person who, being a custodian, trustee, marshal, or other officer of the court—

"(1) knowingly purchases, directly or indirectly, any property of the estate of which the person is such an officer in a case under title 11;

"(2) knowingly refuses to permit a reasonable opportunity for the inspection by parties in interest of the documents and accounts relating to the affairs of estates in the person's charge by parties when directed by the court to do so; or

"(3) knowingly refuses to permit a reasonable opportunity for the inspection by the United States Trustee of the documents and accounts relating to the affairs of an estate in the person's charge,

shall be fined not more than $5,000 and shall forfeit the person's office, which shall thereupon become vacant."; and

(B) by adding at the end the following:

"§156. Knowing disregard of bankruptcy law or rule

"(a) DEFINITIONS.—In this section—

"'bankruptcy petition preparer' means a person, other than the debtor's attorney or an employee of such an attorney, who prepares for compensation a document for filing.

"'document for filing' means a petition or any other document prepared for filing by a debtor in a United States bankruptcy court or a United States district court in connection with a case under this title.

"(b) OFFENSE.—If a bankruptcy case or related proceeding is dismissed because of a knowing attempt by a bankruptcy petition preparer in any manner to disregard the requirements of title 11, United States Code, or the Federal Rules of Bankruptcy Procedure, the bankruptcy petition preparer shall be fined under this title, imprisoned not more than 1 year, or both.

"§157. Bankruptcy fraud

"A person who, having devised or intending to devise a scheme or artifice to defraud and for the purpose of executing or concealing such a scheme or artifice or attempting to do so—

"(1) files a petition under title 11;

"(2) files a document in a proceeding under title 11; or

"(3) makes a false or fraudulent representation, claim, or promise concerning or in relation to a proceeding under title 11, at any time before or after the filing of the petition, or in relation to a proceeding falsely asserted to be pending under such title,

shall be fined under this title, imprisoned not more than 5 years, or both.".

(2) TECHNICAL AMENDMENTS.—The chapter analysis for chapter 9 of title 18, United States Code, is amended—

(A) by amending the item relating to section 153 to read as follows:

"Sec. 153. Embezzlement against estate.";

and

(B) by adding at the end the following new items:

"Sec. 156. Knowing disregard of bankruptcy law or rule.

"Sec. 157. Bankruptcy fraud.".

(b) RICO.—Section 1961(1)(D) of title 18, United States Code, is amended by inserting "(except a case under section 157 of that title)" after "title 11".

SEC. 313. PROTECTION AGAINST DISCRIMINATORY TREATMENT OF APPLICATIONS FOR STUDENT LOANS.

Section 525 of title 11, United States Code, is amended by adding at the end the following:

"(c)(1) A governmental unit that operates a student grant or loan program and a person engaged in a business that includes the making of loans guaranteed or insured under a student loan program may not deny a grant, loan, loan guarantee, or loan insurance to a person that is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, or another person with whom the debtor or bankrupt has been associated, because the debtor or bankrupt is or has been a debtor under this title or a bankrupt or debtor under the Bankruptcy Act, has been insolvent before the commencement of a case under this title or during the pendency of the case but before the debtor is granted or denied a discharge, or has not paid a debt that is dischargeable in the case under this title or that was discharged under the Bankruptcy Act.

"(2) In this section, 'student loan program' means the program operated under part B, D, or E of title IV of the Higher Education Act of 1965 or a similar program operated under State or local law.".

TITLE IV—GOVERNMENTAL BANKRUPTCY ISSUES

SEC. 401. EXCEPTION FROM AUTOMATIC STAY FOR POST-PETITION PROPERTY TAXES.

Section 362(b) of title 11, United States Code, is amended by inserting after paragraph (16) the following:

"(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax imposed by the District of Columbia, or a political subdivision of a State, if such tax comes due after the filing of the petition.".

SEC. 402. MUNICIPAL BANKRUPTCY.

Section 109(c)(2) of title 11, United States Code, is amended by striking "generally authorized" and inserting "specifically authorized, in its capacity as a municipality or by name,".

TITLE V—TECHNICAL CORRECTIONS

SEC. 501. AMENDMENTS TO BANKRUPTCY DEFINITIONS, NECESSITATED BY ENACTMENT OF PUBLIC LAW 101–647.

(a) ALPHABETIZING AND REDESIGNATING DEFINITIONS.—Section 101 of title 11 of the United States Code, as amended by sections 208, 217, 218, and 304, is amended—

(1) by redesignating paragraph (3) as paragraph (21B) and transferring such paragraph so as to insert it after paragraph (21A),

(2) by redesignating paragraph (39) as paragraph (51A) and transferring such paragraph so as to insert it after paragraph (51),

(3) by redesignating paragraphs (54) through (57), as so redesignated by section 2522(e) of Public Law 101–647, as paragraphs (53A) through (53D), respectively,

(4) by redesignating paragraph (56) as in effect immediately before the enactment of Public Law 101–647, as paragraph (35A) and transferring such paragraph so as to insert it after paragraph (35), and

(5) by redesignating paragraph (57), as in effect immediately before the enactment of Public Law 101–647, as paragraph (39) and transferring such paragraph so as to insert it after paragraph (38).

(b) CONFORMING AND RELATED AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE, BASED ON REDESIGNATED DEFINITIONS.—(1) Section 101 of title 11 of the United States Code, as amended by subsection (a), is amended—

(A) in paragraph (6) by striking "section 761(9)" and inserting "section 761",

(B) in paragraph (22) by striking "section 741(7)" and inserting "section 741",

(C) in paragraph (35)(B) by striking "paragraphs (3)" and inserting "paragraphs (21B)",

(D) in paragraph (49)(B)(ii) by striking "section 761(13)" and inserting "section 761", and

(E) in paragraph (53A)(A), as so redesignated, by striking "section 741(2)" and inserting "section 741".

(2) Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6)—

(i) by striking "section 761(4)" and inserting "section 761",

(ii) by striking "section 741(7)" and inserting "section 741",

(iii) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(iv) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in paragraph (7)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(3) Section 507(a)(5) of title 11, United States Code, is amended—

(A) by striking "section 557(b)(1)" and inserting "section 557(b)", and

(B) by striking "section 557(b)(2)" and inserting "section 557(b)".

(4) Section 546 of title 11, United States Code, is amended—

(A) in subsection (e)—

(i) by striking "section 101(34), 741(5), or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subsection (f)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(5) Section 548(d)(2) of title 11, United States Code, is amended—

(A) in subparagraph (B)—

(i) by striking "section 101(34), 741(5) or 761(15)" and inserting "section 101, 741, or 761", and

(ii) by striking "section 101(35) or 741(8)" and inserting "section 101 or 741", and

(B) in subparagraph (C)—

(i) by striking "section 741(5) or 761(15)" and inserting "section 741 or 761", and

(ii) by striking "section 741(8)" and inserting "section 741".

(6) Section 555 of title 11, United States Code, is amended by striking "section 741(7)" and inserting "section 741 of this title".

(7) Section 556 of title 11, United States Code, is amended by striking "section 761(4)" and inserting "section 761 of this title".

(c) CONFORMING AMENDMENTS TO OTHER LAWS BASED ON REDESIGNATED DEFINITIONS.—(1) Section 207(c)(8)(D) of the Federal Credit Union Act (12 U.S.C. 1787(c)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 101(24)" and inserting "section 101",

(C) in clause (iv)(I) by striking "section 101(41)" and inserting "section 101", and

(D) in clause (v) by striking "section 101(50)" and inserting "section 101".

(2) Section 11(e)(8)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)(D)) is amended—

(A) in clause (ii)(I) by striking "section 741(7)" and inserting "section 741",

(B) in clause (iii) by striking "section 761(4)" and inserting "section 761",

(C) in clause (iv) by striking "section 101(24)" and inserting "section 101",

(D) in clause (v)(I) by striking "section 101(41)" and inserting "section 101", and

(E) in clause (viii) by striking "section 101(50)" and inserting "section 101".

(d) OTHER TECHNICAL AMENDMENTS.—Title 11 of the United States Code is amended—

(1) in section 101—

(A) in paragraph (33)—

(i) in subparagraph (A) by striking "(12 U.S.C. 1813(u))", and

(ii) in subparagraph (B) by striking "(12 U.S.C. 1786(r))",

(B) in paragraph (34) by striking "(12 U.S.C. 1752(7))",

(C) in paragraph (35)(A) by striking "(12 U.S.C. 1813(c)(2))",

(D) in paragraph (48)—

(i) by striking "(15 U.S.C. 78q-1)", and

(ii) by striking "(15 U.S.C. 78c(12))",

(E) in paragraph (49)—

(i) in subparagraph (A)(xii)—

(I) by striking "(15 U.S.C. 77a et seq.)", and

(II) by striking "(15 U.S.C. 77c(b))", and

(ii) in subparagraph (B)(vi) by striking "(15 U.S.C. 77c(b))", and

(F) in paragraph (53D), as so redesignated by subsection (a), by striking the period at the end and inserting a semicolon,

(2) in section 109(b)(2) by striking "(12 U.S.C. 1813(h))",

(3) in section 322(a) by striking "1302, or 1202" and inserting "1202, or 1302",

(4) in section 346—

(A) in subsection (a) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986", and

(B) in subsection (g)(1)(C) by striking "Internal Revenue Code of 1954 (26 U.S.C. 371)" and inserting "Internal Revenue Code of 1986",

(5) in section 348—

(A) in subsection (b) by striking "1301(a), 1305(a), 1201(a), 1221, and 1228(a)" and inserting "1201(a), 1221, 1228(a), 1301(a), and 1305(a)", and

(B) in subsections (b), (c), (d), and (e) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(6) in section 349(a) by striking "109(f)" and inserting "109(g)",

(7) in section 362—

(A) in subsection (a) by striking "(15 U.S.C. 78eee(a)(3))", and

(B) in subsection (b)—

(i) by striking "(15 U.S.C. 78eee(a)(3))",

(ii) in paragraph (10) by striking "or" at the end,

(iii) in paragraph (12)—

(I) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" and inserting "section 31325 of title 46", and

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)",

(iv) in paragraph (13)—

(I) by striking "the Ship Mortgage Act, 1920 (46 App. U.S.C. 911 et seq.)" each place it appears and inserting "section 31325 of title 46",

(II) by striking "(46 App. U.S.C. 1117 and 1271 et seq., respectively)", and

(III) by striking "or" at the end,

(v) in paragraph (15), as added by Public Law 101–508, by striking "or" at the end,

(vi) in paragraph (16), as added by Public Law 101–508—

(I) by striking "(20 U.S.C. 1001 et seq.)", and

(II) by striking the period at the end and inserting a semicolon, and

(vii) in paragraph (14), as added by Public Law 101–311—

(I) by striking the period at the end and inserting "; or",

(II) by redesignating such paragraph as paragraph (17), and

(III) by transferring such paragraph so as to insert such paragraph after paragraph (16),

(8) in section 363—

(A) in subsection (b)(2) by striking "(15 U.S.C. 18a)", and

(B) in subsection (c)(1) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304",

(9) in section 364—

(A) in subsection (a) by striking "1304, 1203, or 1204" and inserting "1203, 1204, or 1304", and

(B) in subsection (f)—

(i) by striking "(15 U.S.C. 77e)", and

(ii) by striking "(15 U.S.C. 77aaa et seq.)",

(10) in section 365—

(A) in subsection (d)(6)(C) by striking "the Federal Aviation Act of 1958 (49 U.S.C. 1301)" and inserting "section 40102 of title 49",

(B) in subparagraphs (A) and (B) of subsection (g)(2) by striking "1307, or 1208" each place it appears and inserting "1208, or 1307",

(C) in subsection (n)(1)(B) by striking "to to" and inserting "to",

(D) in subsection (o) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(E) by striking subsection (p),

(11) in section 507, as amended by section 304—

(A) in subsection (a)(9) by striking "the Federal" the first place it appears and all that follows through "successors,", and inserting "a Federal depository institutions regulatory agency (or predecessor to such agency)", and

(B) in subsection (d) by striking "or (a)(6)" and inserting "(a)(6), (a)(7), (a)(8), or (a)(9)",

(12) in section 522—

(A) in subsection (b) by striking "Bankruptcy Rules" and inserting "Federal Rules of Bankruptcy Procedure", and

(B) in subsection (d)(10)(E)(iii)—

(i) by striking "408, or 409" the first place it appears and inserting "or 408", and

(ii) by striking "Internal Revenue Code of 1954 (26 U.S.C. 401(a), 403(a), 403(b), 408, or 409)" and inserting "Internal Revenue Code of 1986",

(13) in section 523—

(A) in subsection (a)—

(i) by striking "1141,," and inserting "1141,", and

(ii) in paragraph (2)(C) by striking "(15 U.S.C. 1601 et seq.)",

(B) in subsection (b)—

(i) by striking "(20 U.S.C. 1087-3)", and

(ii) by striking "(42 U.S.C. 294f)", and

(C) in subsection (e) by striking "depository institution or insured credit union" and inserting "insured depository institution",

(14) in section 524—

(A) in subsection (a)(3) by striking "1328(c)(1)" and inserting "1328(a)(1)",

(B) in subsection (c)(4) by striking "recission" and inserting "rescission", and

(C) in subsection (d)(1)(B)(ii) by adding "and" at the end,

(15) in section 525(a)—

(A) by striking "(7 U.S.C. 499a-499s)",

(B) by striking "(7 U.S.C. 181-229)", and

(C) by striking "(57 Stat. 422; 7 U.S.C. 204)",

(16) in section 542(e) by striking "to to" and inserting "to",

(17) in section 543(d)(1) by striking "section," and inserting "section",

(18) in section 549(b) inserting "the trustee may not avoid under subsection (a) of this section" after "involuntary case,",

(19) in section 553—

(A) in subsection (a)(1) by striking "other than under section 502(b)(3) of this title", and

(B) in subsection (b)(1) by striking "362(b)(14).," and inserting "362(b)(14),",

(20) in section 555 by striking "(15 U.S.C. 78aaa et seq.)",

(21) in section 559 by striking "(15 U.S.C. 78aaa et seq.)",

(22) in section 706(a) by striking "1307, or 1208" and inserting "1208, or 1307",

(23) in section 724(d) by striking "Internal Revenue Code of 1954 (26 U.S.C. 6323)" and inserting "Internal Revenue Code of 1986",

(24) in section 726(b)—

(A) inserting a comma after "section 1112", and

(B) by inserting "1009," after "chapter under section",

(25) in section 741(4)(A)(iii) by striking "(15 U.S.C. 78a et seq.)",

(26) in section 742 by striking "(15 U.S.C. 78aaa et seq.)",

(27) in section 743 by striking "342(a)" and inserting "342",

(28) in section 745(c) by striking "Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)" and inserting "Internal Revenue Code of 1986",

(29) in section 761—

(A) in paragraph (1) by striking "(7 U.S.C. 1 et seq.)",

(B) in paragraph (5) by striking "(7 U.S.C. 6c(b))", and

(C) in paragraph (13) by striking "(7 U.S.C. 23)",

(30) in section 1104(d), as redesignated by section 211, inserting a comma after "interest",

(31) in section 1123(a)(1) inserting a comma after "title" the last place it appears,

(32) in section 1129—

(A) in subsection (a)—

(i) in paragraph (4) by striking the semicolon at the end and inserting a period, and

(ii) in paragraph (12) inserting "of title 28" after "section 1930", and

(B) in subsection (d) by striking "(15 U.S.C. 77e)",

(33) in section 1145—

(A) in subsection (a)—

(i) by striking "does" and inserting "do",

(ii) by striking "(15 U.S.C. 77e)", and

(iii) in paragraph (3)(B)(i) by striking "(15 U.S.C. 78m or 78o(d))",

(B) in subsection (b)(1) by striking "(15 U.S.C. 77b(11))", and

(C) in subsection (d) by striking "(15 U.S.C. 77aaa et seq.)",

(34) in section 1166(2) by striking "(45 U.S.C. 791(b))",

(35) in section 1167—

(A) by striking "(45 U.S.C. 151 et seq.)", and

(B) by striking "(45 U.S.C. 156)",

(36) in section 1226(b)(2)—

(A) by striking "1202(d)" and inserting "1202(c)", and

(B) by striking "1202(e)" and inserting "1202(d)",

(37) in section 1302(b)(3) by striking "and" at the end, and

(38) in section 1328(a)—

(A) in paragraph (2) by striking "(5) or (8)" and inserting "(5), (8), or (9)", and

(B) by striking the last paragraph (3), and

(39) in the table of chapters by striking the item relating to chapter 15.

SEC. 502. TITLE 28 OF THE UNITED STATES CODE.

Section 586(a)(3) of title 28, United States Code, is amended in the matter preceding subparagraph (A) by inserting "12," after "11,".

TITLE VI—BANKRUPTCY REVIEW COMMISSION

SEC. 601. SHORT TITLE.

This title may be cited as the "National Bankruptcy Review Commission Act".

SEC. 602. ESTABLISHMENT.

There is established the National Bankruptcy Review Commission (referred to as the "Commission").

SEC. 603. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to investigate and study issues and problems relating to title 11, United States Code (commonly known as the "Bankruptcy Code");

(2) to evaluate the advisability of proposals and current arrangements with respect to such issues and problems;

(3) to prepare and submit to the Congress, the Chief Justice, and the President a report in accordance with section 608; and

(4) to solicit divergent views of all parties concerned with the operation of the bankruptcy system.

SEC. 604. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members as follows:

(1) Three members appointed by the President, 1 of whom shall be designated as chairman by the President.

(2) One member shall be appointed by the President pro tempore of the Senate.

(3) One member shall be appointed by the Minority Leader of the Senate.

(4) One member shall be appointed by the Speaker of the House of Representatives.

(5) One member shall be appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Chief Justice.

Members of Congress, and officers and employees of the executive branch, shall be ineligible for appointment to the Commission.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Five members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of enactment of this Act.

(e) FIRST MEETING.—The first meeting of the Commission shall be called by the chairman and shall be held within 210 days after the date of enactment of this Act.

(f) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(g) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as an officer or employee of a government leaves that office, or if any member of the Commission who was not appointed in such a capacity becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

(h) CONSULTATION PRIOR TO APPOINTMENT.—Prior to the appointment of members of the Commission, the President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chief Justice shall consult with each other to ensure fair and equitable representation of various points of view in the Commission and its staff.

SEC. 605. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) GOVERNMENT EMPLOYEES.—A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—Members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 606. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—

(1) APPOINTMENT.—The chairman of the Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other personnel as are necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter II of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 607. POWERS OF THE COMMISSION.

(a) HEARINGS AND MEETINGS.—The Commission or, on authorization of the Commission, a member of the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OFFICIAL DATA.—The Commission may secure directly from any Federal department, agency, or court information necessary to enable it to carry out this title. Upon request of the chairman of the Commission, the head of a Federal department or agency or chief judge of a Federal court shall furnish such information, consistent with law, to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of a Federal department or agency may make any of the facilities or services of the agency available to the Commission to assist the Commission in carrying out its duties under this title.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 608. REPORT.

The Commission shall submit to the Congress, the Chief Justice, and the President a report not later than 2 years after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 609. TERMINATION.

The Commission shall cease to exist on the date that is 30 days after the date on which it submits its report under section 608.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,500,000 to carry out this title.

TITLE VII—SEVERABILITY; EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

SEC. 701. SEVERABILITY.

If any provision of this Act or amendment made by this Act or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remaining provisions of and amendments made by this Act and the application of such other provisions and amendments to any person or circumstance shall not be affected thereby.

SEC. 702. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

(2)(A) Paragraph (1) shall not apply with respect to the amendment made by section 111.

(B) The amendments made by sections 113 and 117 shall apply with respect to cases commenced under title 11 of the United States Code before, on, and after the date of the enactment of this Act.

(C) Section 1110 of title 11, United States Code, as amended by section 201 of this Act, shall apply with respect to any lease, as defined in such section 1110(c) as so amended, entered into in connection with a settlement of any proceeding in any case pending under title 11 of the United States Code on the date of the enactment of this Act.

(D) The amendments made by section 305 shall apply only to agreements entered into after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Bankruptcy Reform Act of 1994 will improve the administration of bankruptcy cases, as well as provide greater fairness and certainty for individuals, corporations, and governmental entities. It will help address problem areas, which have contributed to slow and inefficient case administration in the courts. The recent surge in the number of bankruptcy filings has only highlighted the need for a targeted legislative response.

This bill is clearly a consensus product. It includes most issues addressed in H.R. 6020—the bill Congressman FISH and I introduced in the 103d Congress—as well as a select number of issues addressed by Congressman SYNAR—a leader in the field—Congresswoman SCHROEDER and many others in their bankruptcy proposals.

I don't believe it is an overstatement to say that this legislation may be one of the most significant pieces of economic legislation to be considered by the House in this Congress. Without bankruptcy reform, companies, creditors, and debtors alike will continue to be placed on endless hold until their rights and obligations are adjudicated under the present system—and that slows down new ventures, new extensions of credit, and new investments.

We have been very careful in striking a balance between creditors and debtors in the legislation. The excellent work of so many of the committee members on both sides of the aisle has produced a bill that deserves the wholehearted support of this body.

But time is short. For that reason, we have been in close contact with our counterparts in the other body concerning the contours and general direction of the House bill. It is my hope that we can pass this bill today; that it can be sent to the other body and then forwarded post-haste to the President's desk to be signed into law.

Mr. Speaker, I insert in the RECORD a section-by-section analysis of the provisions of the Bankruptcy Reform Act of 1994.

I urge a favorable vote on this important legislation.

BANKRUPTCY REFORM ACT OF 1994—SECTION-BY-SECTION DESCRIPTION

TITLE I. IMPROVED BANKRUPTCY ADMINISTRATION

Section 101. Expedited hearing on automatic stay

Section 362(e) of the Bankruptcy Code provides that a preliminary hearing on a motion to lift the automatic stay must conclude within 30 days, with the final hearing to commence within 30 days thereafter. Under many court interpretations, there is no specific limitation on when the final hearing on the motion to lift the stay must conclude. See, e.g., *In re ML Barge Pool*, 98 B.R. 957 (Bankr. E.D. Mo. 1989); *In re Bogosian*, 112 B.R. 2 (Bankr. D.R.I. 1990).

This section provides that the final hearing must conclude within 30 days of the preliminary hearing, unless extended by consent of the parties or for a specific time which the court finds is required by compelling circumstances. Under this standard, for example, an extension should not be available where the debtor was merely seeking to delay the bankruptcy process or had neglected to consummate a pending contract. Compelling circumstances that might justify an extension might include, for example, the bona fide illness of any party or the judge or the occurrence of an event beyond the parties' control. Such a finding must be balanced with the legitimate property rights at stake in each particular case. The Committee believes speedy conclusion of hearings on the automatic stay will reduce the time and cost of bankruptcy proceedings by preventing unjustified or unwarranted postponements of final action.

Section 102. Expedited filing of plans under chapter 11

Section 1121 of the Code, currently in effect, grants a debtor the exclusive right to file a plan during the initial 120 days after an order for relief under chapter 11. This exclusive period expires either at the end of the 120 day period if the debtor has not filed a plan, or, if the debtor has filed a plan and the plan has not been accepted by creditors, within 180 days after the order for relief. Thereafter, any party-in-interest may file a plan. The bankruptcy court may extend or shorten the exclusive period at the request of the debtor or any other party-in-interest upon a showing of "cause." Exclusivity is intended to promote an environment in which the debtor's business may be rehabilitated and a consensual plan may be negotiated. However, undue extension can result in excessively, prolonged and costly delay, to the detriment of the creditors. *See. e.g.*, *"When Firms Go Bust." The Economist, August 1, 1992.*

Under current law, an order extending the debtor's exclusive period to file a plan is an interlocutory order. 28 U.S.C. §158(a) provides that appeals from interlocutory orders of a bankruptcy judge may be made to the district court only upon leave of the district court, and not as a matter of right. Section 102 of the bill would amend 28 U.S.C. §158 so as to provide for an immediate appeal as of right to the district court from a bankruptcy court's order extending or reducing that debtor's exclusive period in which to file a plan. This will permit those parties who feel they were harmed by an extension, or a failure to extend, to obtain possible recourse in the district court. The Committee intends that the district court carefully consider the circumstances of each case so appealed with a view to encouraging a fair and reasonable resolution of the bankruptcy.

Section 103. Expedited procedure for reaffirmation of debts

Some uncertainty exists under current law regarding whether a separate hearing is required for a debtor to reaffirm a debt, even when the debtor is represented by an attorney who files an affidavit stating that the reaffirmation was voluntary and that is would not impose an undue hardship on the debtor. See *In re Richardson*, 102 B.R. 254 (Bankr. M.D. Fla. 1989); *In re Churchill*, B.R. 878 (Bankr. D. Colo. 1988); *In re James*, B.R. 582 (Bankr. W.D. Okla. 1990) (cases holding reaffirmation hearing is required); *In re Carey*, 51 B.R. 294 (Bankr. D.D.C. 1985); *In re Reidenbach*, 59 B.R. 248 (Bankr. N.D. Ohio 1986); *In re Pendlebury*, 94 B.R. 120 (Bankr. E.D. Tenn. 1988) (cases holding reaffirmation hearing is not required).

This section clarifies that a separate hearing is not mandatory in order to reaffirm a debt where the debtor is adequately represented by counsel. In addition, the section supplements existing safeguards by requiring that the reaffirmation agreement advise the debtor that reaffirmation is not required, and by mandating that the attorney's affidavit indicate that the debtor has been fully advised of the ramifications of the reaffirmation agreement and any default thereunder. The Committee intends that such understandings be appropriately highlighted in the agreement to ensure adequate notice to the debtor. In each of the above circumstances, the Committee intends that before the debtor agrees to a reaffirmation, that the debtor be made fully aware of his or her rights under the Bankruptcy Code to discharge the debt and of the effect of a reaffirmation to continue the debt obligation as though a bankruptcy petition had not been filed.

Section 104. Powers of bankruptcy courts

This section makes a number of changes to clarify the powers of bankruptcy courts in managing bankruptcy cases. Several of these changes are based on the recommendations of the Federal Courts Study Commission. Subsection (a) authorizes bankruptcy court judges to hold status conferences in bankruptcy cases and thereby manage their dockets in a more efficient and expenditious manner. Notwithstanding the adoption of Bankruptcy Rule 7016 (relating to pretrial conferences), some judges have appeared reluctant to do so without clear and explicit statutory authorization. This provision clarifies that such authority exists in the Bankruptcy Code in adversary and nonadversary proceedings. Subsection (b) allows the full appeal of certain bankruptcy court refusals to abstain in State law legal proceedings. As with most other portions of this Act, subsection (b) operates prospectively and applies only to cases filed on or after the effective date of the Act. Accordingly, it does not make any existing orders appealable. Any future decisions not to abstain, if made in cases filed before the effective date of the Act, would also be governed by current law and thus would not be appealable to the Circuit Court of Appeals. Subsection (c) provides for the establishment in each judicial circuit of bankruptcy appellate panels, composed of sitting bankruptcy judges, to serve in place of the district court in reviewing bankruptcy court decisions. Under this subsection, the judicial council of each circuit would be required to establish a bankruptcy appellate panel service for this purpose, unless the council finds there are insufficient judicial resources available in the circuit or that establishment would result in undue delay or increased cost to the parties. Subsection (d) provides that all appeals from bankruptcy courts shall be heard by a bankruptcy appellate panel, if established and in operation as provided in 28 U.S.C. 158(b), unless a party makes a timely election to have an appeal heard by a district court. Subsections (e) and (f) conform the rulemaking procedure for bankruptcy courts to the existing procedure for other Federal courts.

Section 105. Participation by bankruptcy administrator at meetings of creditors and equity security holders.

This section clarifies that for the States in which the bankruptcy system is administered by a Bankruptcy Administrator instead of U.S. Trustee, the Bankruptcy Administrator would have the same power as a U.S. Trustee to preside at creditor's meetings and conduct examinations of the debtor.

Section 106. Definition relating to eligibility to serve on chapter 11 committees

This section amends the Bankruptcy Code to include pension benefit grantors and certain pension plans within the definition of a "person" for purposes of section 1102 of the Code. This section is intended to clarify that the Pension Benefit Guaranty Corporation and State employee pension funds are authorized to serve on chapter 11 committees.

Section 107. Increased incentive compensation for trustees

Private trustees are responsible for supervising chapter 7 cases, and, in some instances, chapter 11 cases, as well as for distributing funds to creditors. This section provides for an increase in the court-approved compensation payable to private trustees. Under current law, the private bankruptcy trustees may receive 15 percent of the first $1,000 disbursed in the case; 6 percent of the next $2,000 disbursed; and 3 percent of any additional monies disbursed. The section increases the maximum compensation to 25 percent of the first $5,000 in disbursements to creditors; 10 percent of additional amounts up to $50,000; 5 percent of additional amounts up to $1 million; and 3 percent of any amounts in excess of $1 million. This increased compensation is not borne by the Federal Treasury, but it to be paid by those involved in the bankruptcy system. The American Bankruptcy Institute has issued a report recommending increased trustee compensation. See Am. Bankr. Inst., American Bankruptcy Institute National Report on Professional Compensation in Bankruptcy Cases (G.R. Warner rept. 1991).

Section 108. Dollar adjustment

Subsection (a) revises the current debt limits applicable to a chapter 13 filing from a maximum of $100,000 of unsecured debt and $350,000 of secured debt to $250,000 of unsecured debt and $750,000 of secured debt. These changes should help encourage individual debtors to elect chapter 13 repayment over chapter 7 liquidation. Creditors generally benefit when a debtor elects chapter 13. Notwithstanding the dollar eligibility increases in chapter 13 cases, the Committee does not intend for debtors to be able to utilize chapter 13 as an office solely to obtain discharge from certain liabilities. For example, it is not contemplated that an individual who committed to heinous crime would be able in good faith to use chapter 13 solely as a means of discharging a civil obligation owing to a harmed party. Among other things, the remaining subsections increase the current dollar limitations applicable to involuntary filings, bankruptcy priorities, and bankruptcy exemptions based on recommendations received from the Judicial Conference. This provision also provides for automatic increases in response to future inflation every 3 years.

Section 109. Premerger notification

This section conforms section 363(b)(2) of the Bankruptcy Code more closely to the requirements for antitrust review of transactions under section 7A of the Clayton Act (15 U.S.C. 18(a)). Section 7A requires parties to a merger or acquisition to notify the Department of Justice and the Federal Trade Commission and wait a specified period of time before completing the transaction, to allow for review of its competitive implications. Generally, the waiting period terminates 30 days after the filing requirement is met, but the period can be extended by a request from the Department or the FTC for additional information.

Under section 363(b)(2) of the Code, however, the section 7A waiting period for mergers and acquisitions involving assets in bankruptcy is shortened by 10 days, and could be shortened even further by order of the bankruptcy court. See, e.g., *CNBC/FNN matter*, FTC File No. 911–0067.

Section 109 of the bill extends the initial waiting period for transactions in bankruptcy to 15 days after the Department of Justice and the FTC receive the notification required under section 7A(a). The provision also clarifies that this waiting period can never be shortened, but only extended. Finally, the provision specifies three ways in which the 15-day waiting period can be extended: pursuant to section 7(e)(2), if the Justice Department or the FTC makes a "second request"; pursuant to section 7A(g)(2), if the parties fail to comply; and by the court, for bankruptcy related or other reasons. The provision also makes a number of other minor clarifying changes to section 363(b)(2) of the Code.

Section 110. Allowance of creditor committee expenses

The current Bankruptcy Code is silent regarding whether members of official committees appointed in chapter 11 cases are entitled to reimbursement of their out-of-pocket expenses (such as travel and lodging), and the courts have split on the question of allowing reimbursement. See, e.g., *In re Lyons Machinery Co.*, 28 B.R. 600 (Bankr. E.D. Ark. 1983); *In re Mason's Nursing Center, Inc.*, 73 B.R. 360 (Bankr. S.D. Fla. 1987) (cases prohibiting reimbursement); *In re J.E. Jennings, Inc.*, 96 B.R. 500 (Bankr. E.D. Pa. 1989); *In re Aviation Technical Support, Inc.*, 72 B.R. 32 (Bankr. W.D. Tex. 1987) (cases permitting reimbursement).

This section of the bill amends section 503(b) of the Bankruptcy Code to specifically permit members of chapter 11 committees to receive court-approved reimbursement of their actual and necessary out-of-pocket expenses. The new provision would not allow the payment of compensation for services rendered by or to the committee members.

Section 111. Bankruptcy code injunctions

This section adds a new subsection (g) to section 524 of the Code, establishing a procedure for dealing in a chapter 11 reorganization case with future personal injury claims against the debtor based on exposure to asbestos-containing products. The procedure involves the establishment of a trust to pay the future claims, coupled with an injunction to prevent future claimants from suing the debtor.

The procedure is modeled on the trust/injunction in the Johns-Manville case, which pioneered the approach a decade ago in response to the flood of asbestos lawsuits it was facing. Asbestos-related disease has a long latency period—up to 30 years or more—and many of the exposures from the 1940's, when asbestos was in widespread use as an insulating material, had become the personal injury lawsuits of the 1970's and 1980's. In 1982, when Johns-Manville filed for bankruptcy, it had been named in 12,500 lawsuits, and epidemiologists estimated that 50,000 to 100,000 more could be expected, with a potential liability totalling $2 billion. *Kane* v. *Johns-Manville Corp.*, 843 F.2d 636, 639 (2d Cir. 1988).

From the beginning, a central element of the case was how to deal with future claimants—those who were not yet before the court, because their disease had not yet manifested itself. The parties in the Manville case devised a creative solution to help protect the future asbestos claimants, in the form of a trust into which would be placed stock of the emerging debtor company and a portion of future profits, along with contributions from Johns-Manville's insurers. Present, as well as future, asbestos personal injury claimants would bring their actions against the trust. In connection with the trust, an injunction would be issued barring new asbestos claims against the emerging debtor company. Asbestos claimants would have a stake in Johns-Manville's successful reorganization, because the company's success would increase both the value of the stock held by the trust and the company profits set aside for it.

The bankruptcy court appointed a special representative for the future claimants; this special representative was centrally involved in formulating the plan and negotiating support for it among the other creditors. The Johns-Manville plan was confirmed and upheld on appeal. *Kane* v. *Johns-Manville Corp.*, 68 B.R. 618 (Bankr. S.D.N.Y. 1986), *aff'd in part, rev'd in part*, 78 B.R. 407 (S.D.N.Y. 1987), *aff'd*, 843 F.2d 636 (2d Cir. 1988). Nevertheless, lingering uncertainty in the financial community as to whether the injunction can withstand all challenges has apparently made it more difficult for the company to meet its needs for capital and has depressed the value of its stock. This has undermined the "fresh start" objectives of bankruptcy and the goals of the trust arrangement.

Meanwhile, following Johns-Manville's lead, another asbestos manufacturer, UNR, has resolved its chapter 11 reorganization with a similar trust/injunction arrangement. And other asbestos manufacturers are reportedly considering the same approach.

The Committee remains concerned that full consideration be accorded to the interests of future claimants, who, by definition, do not have their own voice. Nevertheless, the Committee also recognizes that the interests of future claimants are ill-served if Johns-Manville and other asbestos companies are forced into liquidation and lose their ability to generate stock value and profits that can be used to satisfy claims. Thus, the tension present in the trust/injunction mechanism is not unlike the tension present in bankruptcy generally.

The Committee has approved section 111 of the bill in order to strengthen the Manville and UNR trust/injunction mechanisms and to offer similar certitude to other asbestos trust/injunction mechanisms that meet the same kind of high standards with respect to regard for the rights of claimants, present and future, as displayed in the two pioneering cases. The Committee believes Johns-Manville and UNR were aided in meeting these high standards, in part at least, by the perceived legal uncertainty surrounding this mechanism, which created strong incentives to take exceptional precautions at every stage of the proceeding. The Committee has concluded, therefore, that creating greater certitude regarding the validity of the trust/injunction mechanism must be accompanied by explicit requirements simulating those met in the Manville case.

Section 111 requires, in order for present claimants to be bound by a trust/injunction, that the trust have the capability of owning a majority of the shares of the debtor or its parent or of a subsidiary; that the debtor prove that it is likely to be subject to substantial future asbestos claims, the number of which cannot be easily predicted, and that the trust is needed in order to deal equitably with present and future claims; and that a separate creditor class be established for those with present claims, which must vote by a 75 percent margin to approve the plan.

In order for future claimants to be bound by a trust/injunction, section 111 requires that the trust operate in a structure and manner necessary to give reasonable assurance that the trust will value, and be able to pay, similar present and future claims in substantially the same manner.

The asbestos trust/injunction mechanism established in the bill is available for use by any asbestos company facing a similarly overwhelming liability. It is written, however, so that Johns-Manville and UNR, both of which have met and surpassed the standards imposed in this section, will be able to take advantage of the certainty it provides without having to reopen their cases.

Section 111 contains a rule of construction to make clear that the special rule being devised for the asbestos claim trust/injunction mechanism is not intended to alter any authority bankruptcy courts may already have to issue injunctions in connection with a plan of reorganization. Indeed, Johns-Manville and UNR firmly believe that the court in their cases had full authority to approve the trust/injunction mechanism. And other debtors in other industries are reportedly beginning to experiment with similar mechanisms. The Committee expresses no opinion as to how much authority a bankruptcy court may generally have under its traditional equitable powers to issue an enforceable injunction of this kind. The Committee has decided to provide explicit authority in the asbestos area because of the singular cumulative magnitude of the claims involved. How the new statutory mechanism works in the asbestos area may help the Committee judge whether the concept should be extended into other areas.

Section 112. Authority of bankruptcy judges to conduct jury trials in civil proceedings

This section would amend title 28 of the United States Code to clarify that bankruptcy judges may conduct jury trials and enter appropriate orders consistent with those trials if designated by the district court and with the express consent of all parties to the bankruptcy proceeding.

This amendment world clarify a recent Supreme Court decision and resolve conflicting opinions among the different circuits regarding this issue. The Supreme Court in conflicting opinions among the different circuits regarding this issue. The Supreme Court in *Granfinanciera, S.A.* v. *Nordberg*, 492 U.S. 33 (1989), held that in bankruptcy core proceedings, there is a constitutional right to a trial by jury.

The *Granfinanciera* court had no finding on whether bankruptcy judges could conduct civil trials, and the circuits have reached contrary opinions regarding this issue. Five circuits have held that, in the absence of enabling legislation, bankruptcy judges could not hold jury trials. See *Official Committee of Unsecured Creditors* v. *Schwartzman (In re Stansbury Poplar Place, Inc.)*, 13 F.3d 122 (4th Cir. 1993); *In re Grabill Corp.*, 967 F.2d 1152 (7th Cir. 1992); *Raforth* v. *National Union Fire Insurance Co. (In re Baker & Getty Financial Services Inc.)*, 954 F.2d 1169 (6th Cir. 1992); *Kaiser Steel Corp* v. *Frates (In re Kaiser Steel Corp.)*, 911 F.2d 380 (10th Cir. 1990); *In re United Missouri Bank*, 901 F.2d 1449 (8th Cir. 1990). The Second Circuit has been the lone circuit to hold that bankruptcy judges have implicit authority to conduct jury trials. See *In re Ben Cooper, Inc.*, 896 F.2d 1394 (2d Cir. 1990).

Section 113. Sovereign immunity

This section would effectively overrule two Supreme Court cases that have held that the States and Federal Government are not deemed to have waived their sovereign immunity by virtue of enacting section 106(c) of the Bankruptcy Code. In enacting section 106(c), Congress intended to make provisions of title 11 that encompassed the words "creditor," "entity," or "governmental unit" applicable to the States. Congress also intended to make the States subject to a money judgment. But the Supreme Court in *Hoffman* v. *Connecticut Department of Income Maintenance*, 492 U.S. 96 (1989), held that even if the State did not file a claim, the trustee in bankruptcy may not recover a money judgment from the State notwithstanding section 106(c). This holding had the effect of providing that preferences could not be recovered from the States. In using such a narrow construction, the Court held that use of the "trigger words" would only bind the States, and not make them subject to a money judgment. The Court did not find in the text of the statute an "unmistakenly clear" intent of Congress to waive sovereign immunity in accordance with the language promulgated in *Atascadero State Hospital* v. *Scanlon*, 473 U.S. 234, 242 (1985).

The Court applied this reasoning in *United States* v. *Nordic Village, Inc.*, 112 S. Ct. 1011 (1992), in not allowing a trustee to recover a postpetition payment by a chapter 11 debtor to the Internal Revenue Service. The Court found that there was no such waiver expressly provided within the text of the statute.

This amendment expressly provides for abrogation of sovereign immunity by governmental units with respect to monetary recoveries as well as declaratory and injunctive relief. It is the Committee's intent to make section 106 conform to the Congressional intent of the Bankruptcy Reform Act of 1978 waiving the sovereign immunity of the States and the Federal Government in this regard. Of course the entire Bankruptcy Code is applicable to governmental units where sovereign immunity is not or cannot be asserted. As suggested by the Supreme Court, section 106(a)(1) specifically lists those sections of title 11 with respect to which sovereign immunity is abrogated. This allows the assertion of bankruptcy causes of action, but specifically excludes causes of action belonging to the debtor that become property of the estate under section 541. The bankruptcy and appellate courts will have jurisdiction to apply the specified sections to any kind of governmental unit as provided in section 106(a)(2). The bankruptcy court may issue any kind of legal or equitable order, process, or judgment against a governmental unit authorized by these sections or the rules, but may not enter an award for punitive damages. Furthermore, in awarding fees or costs under the Bankruptcy Code or under the Bankruptcy Rules, the award is subject to the hourly rate limitations contained in section 2412(d)(2)(a), title 28, United States Code, and these limitations are applicable to all governmental units, not just the Federal Government. Section 106(a)(4) permits an order, process, or judgment to be enforced against a governmental unit in accordance with appropriate nonbankruptcy law. Thus, an order against a governmental unit will not be enforceable by attachment or seizure of government assets, but will be subject to collection in the same manner and subject to the same nonbankruptcy law procedures as other judgments that are enforceable against governmental units. Of course, the court retains ample authority to enforce nonmonetary orders and judgments. Nothing in this section is intended to create substantive claims for relief or causes of action not otherwise existing under title 11, the Bankruptcy Rules, or nonbankruptcy law.

Section 106(b) is clarified by allowing a compulsory counterclaim to be asserted against a governmental unit only where such unit has actually filed a proof of claim in the bankruptcy case. This has the effect of overruling contrary case law, such as *Sullivan* v. *Town & Country Nursing Home Services, Inc.*, 963 F.2d 1146 (9th Cir. 1992); *In re Gribben*, 158 B.R. 920 (S.D.N.Y. 1993); and *In re the Craftsman, Inc.*, 163 B.R. 88 (Bankr. W.D. Tex. 1994), that interpreted section 106(a) of current law.

Section 114. Service of process in bankruptcy proceedings on an insured depository institution

This section operates to amend Bankruptcy Rule 7004 to require that service of process to an insured depository institution be accomplished by certified mail in a contested matter or adversary proceeding. The rule that is presently in operation only requires that service be achieved by first class mail.

Section 115. Meetings of creditors and equity security holders

This section, applicable only in chapter 7 cases, requires the trustee to orally examine the debtor to ensure that he or she is informed about the effects of bankruptcy, both positive and negative. Its purpose is solely informational; it is not intended to be an interrogation to which the debtor must give any specific answers or which could be used against the debtor in some later proceeding. No separate record need be kept of the examination since it will be preserved along with the remainder of the record of the meeting, which normally is recorded on tape.

The trustee conducting the meeting of creditors is directed to orally inquire whether the debtor is aware of the consequences of bankruptcy, including protections such as those provided by the discharge and the automatic stay, as well as the fact that the bankruptcy filing will appear on the debtor's credit history. Since different creditors treat bankruptcy debtors differently, the trustee is not expected to predict whether the bankruptcy filing will make it more or less difficult for the debtor to obtain credit; some creditors may treat the debtor more favorably after bankruptcy has removed all other debts, and many creditors consider a bankruptcy filing a barrier to new credit only if it occurred in the 2 or 3 years prior to the credit application. For the same reasons, it is not expected that the trustee would predict whether a dismissal or conversion of the bankruptcy which has already been filed would improve the debtor's chances of obtaining credit.

The trustee must also verify that the debtor has knowingly signed the section of the bankruptcy petition stating the debtor's awareness of the right to file under other chapters of the Code.

Finally, the trustee must make sure the debtor is aware of the effect of reaffirming a debt. Since section 103 of the bill eliminates for most debtors the warnings and explanations concerning reaffirmation previously given by the court at the discharge hearing, it is important that trustees explain not only the procedures for reaffirmation, but also the potential risks of reaffirmation and the fact that the debtor may voluntarily choose to repay any debt to a creditor without reaffirming the debt, as provided in Bankruptcy Code section 524(f).

In view of the amount of information involved and the limits on the time available for meetings of creditors, trustees or courts may provide written information on these topics at or in advance of the meeting and the trustee may then ask questions to ensure that the debtor is aware of the information.

Section 116. Tax assessment

This section expands the tax exception to the automatic stay that is contained in 11 U.S.C. §362(b)(9). This section will lift the automatic stay as it applies to a tax audit, a demand for tax returns, assessment of an uncontested tax liability, or the making of certain assessments of tax and issuance of a notice and demand for payment for such assessment. The language of this provision is only intended to apply to sales or transfers to the debtor. It has no application to sales or transfers to third parties, such as in sales free and clear of tax liens under section 363(f).

Section 117. Additional trustee compensation

This section provides an additional $15 compensation for the services of a trustee in a chapter 7 case in addition to the $45 already provided for in Bankruptcy code section 330(n). To obtain the funds to pay the additional fees, the Judicial Conference of the United States is required to prescribe additional fees payable by parties as provided in section 1914(b) of title 29; the Judicial Conference of the United States is also authorized to prescribe fees for notices of appearances filed by parties-in-interest after a bankruptcy case is filed and fees to be charged against distributions to creditors. The latter fees would be deducted, by trustees or other entities making distributions, from the monies payable to creditors, constituting user fees charged to those who participate in bankruptcy cases by receiving distributions. Since the fees are payable by the creditors from funds to be distributed to them, such deductions would not affect the application of the best interests of creditors test or other tests for confirmation in chapters 11, 12 or 13. No higher payment from the debtor would be necessary to meet these tests due to the deduction. It is the Committee's intention that the funds for this increase not be borne by the Federal Treasury or by debtors in chapter 7 or 13 cases.

TITLE II. COMMERCIAL BANKRUPTCY ISSUES

Section 201. Aircraft equipment and vessels; rolling stock equipment

Section 201 would effectuate a number of changes. It would amend both sections 1110 and 1168 to delete the phrase "purchase-money equipment" in order to clarify that these sections protect all lease financing agreements and all debt financings that involve a security interest, not only security interests obtained at the time the equipment is acquired. This change would be phased in so that only new equipment first placed in service after enactment of the amendment would be affected. Once this rule is fully phased in, the distinction between leases and loans would no longer be relevant for the purposes of these sections.

During the time before this rule is phased in, a safe harbor definition of the term "lease" for equipment first placed in service prior to the date of enactment would apply. Under the safe harbor, a lease would receive section 1110 or section 1168 protection if the lessor and the debtor, as lessee, have expressed in the lease agreement, or a substantially contemporaneous writing, that such agreement is to be treated as a lease for Federal income tax purposes. This section also clarifies that the rights of a section 1110 or section 1168 creditor would not be affected by section 1129 "cram-down."

Section 202. Limitation on liability of non-insider transferee for avoided transfer

Section 547 of the Bankruptcy Code authorizes trustees to recapture preferential payments made to creditors within 90 days prior to a bankruptcy filing. Because of the concern that corporate insiders (such as officers and directors) who are creditors of their own corporation have an unfair advantage over outside creditors, secton 547 of the Bankruptcy Code further authorizes trustees to recapture preferential payments made to such insiders in their capacity as creditors a full year prior to a bankruptcy filing. Several recent court decisions have allowed trustees to recapture payments made to non-insider creditors a full year prior to the bankruptcy filing, if an insider benefits from the transfer in some way. See *Levit v. Ingersoll Rand Financial Corp. (In re V.N. DePrizio Construction Co.)*, 874 F.2d 1186 (7th Cir. 1989); *Ray v. City Bank & Trust Co. (In re C&L Cartage Co.)*, 899 F.2d 1490 (6th Cir. 1990); *Manufacturers Hanover Leasing Corp. v. Lowrey (In re Robinson Brothers Drilling)*, 892 F.2d 850 (10th Cir. 1989). Although the creditor is not an insider in these cases, the courts have reasoned that because the repayment benefitted a corporate insider (namely the officer who signed the guarantee) the non-insider transferee should be liable for returning the transfer to the bankrupt estate as if it were an insider as well. This section overrules the *DePrizio* line of cases and clarifies that non-insider transferees should not be subject to the preference provisions of the Bankruptcy Code beyond the 90-day statutory period.

Section 203. Perfection of purchase-money security interest

Section 547(c)(3) of the Bankruptcy Code provides that a trustee may not avoid the perfection of purchase-money security interest as a preference if it occurs within 10 days of the debtor receiving possession of the property. This section conforms bankruptcy law practices to some States' practice by granting purchase-money security lenders a 20-day period in which to perfect their security interest.

Section 204. Continued perfection

This section sets forth an amendment to sections 362 and 546 of the Bankruptcy Code to confirm that certain actions taken during bankruptcy cases pursuant to the Uniform Commercial Code to maintain a secured creditor's position as it was at the commencement of the case do not violate the automatic stay. Such actions could include the filing of a continuation statement and the filing of a financing statement. The steps taken by a secured creditor to ensure continued perfection merely maintain the status quo and do not improve the position of the secured creditor.

Section 205. Impact of lease rejection on leases

This section clarifies section 365 of the Bankruptcy Code to mandate that lessees cannot have their rights stripped away if a debtor rejects its obligations as a lessor in bankruptcy. This section expressly provides guidance in the interpretation of the term "possession" in the context of the statute. The term has been interpreted by some courts in recent cases to be only a right of possession. See *In re Carlton Restaurant, Inc.*, 151 B.R. 353 (Bankr. E.D. Pa. 1993) (preventing a tenant from assigning the lease); *Home Express, Inc. v. Arden Associates, Ltd. (In re Arden and Howe Associates, Ltd.)*, 152 B.R. 971 (Bankr. E.D. Cal. 1993) (preventing a tenant from enforcing restrictive covenants in the least); *In re Harborview Development 1986 Ltd. Partnership*, 152 B.R. 897 (D.S.C. 1993) (holding that "possession" contemplated by the Code was physical possession of the premises denying a holder of a ground lease protection under the Code). This section will enable the lessee to retain its rights that are appurtenant to its leasehold. These rights include the amount and timing of payment of rent or other amounts payable by the lessee, the right to use, possess, quiet enjoyment, sublet, or assign.

Section 206. Contents of plan

This amendment conforms the treatment of residential mortgages in chapter 11 to that in chapter 13, preventing the modification of the rights of a holder of a claim secured only by a security interest in the debtor's principal residence. Since it is intended to apply only to home mortgages, it applies only when the debtor is an individual. It does not apply to a commercial property, or to any transaction in which the creditor acquired a lien on property other than real property used as the debtor's residence. *See In re Hammond*, 276 F.3d 52 (3d Cir. 1994); *In re Rameriz*, 62 B.R. 668 (Bankr. S.D. Cal. 1986).

Section 207. Priority for independent sales representatives

This section clarifies that independent sales representatives of a bankrupt debtor are entitled to the same priority as the employees of the debtor codifying *In re Wang Laboratories, Inc.*, 164 B.R. 404 (Bankr. D. Mass. 1994). This section modifies section 507 of title 11 to include such representatives in the section's third priority as employees for the purposes of claims of a debtor. The section specifies that in order to be treated as an employee for the purposes of priority, at least 75 percent of the income of the independent sales representative must have been earned as an independent contracting entity from the debtor.

Section 208. Production payments

A production payment is an interest in the product of an oil or gas producer that lasts for a limited period of time and that is not affected by production costs. The owner has no other interest in the property or business of the producer other than the interest in the product that is produced. These payments, often transferred by way of oil and gas leases, represent a means by which capital-strapped oil producers may generate income from their property without giving up operating control of their business. Although a number of states use the ownership theory by treating production payments as conveying interests in real property (*See In re Simasko Production Co.*, 74 B.R. 947 (D. Colo. 1987) (production payment treated as separate property interest)), it is not clear that this treatment will necessarily apply in all States in case of bankruptcy. As a result, this section modifies section 541 of the Bankruptcy Code to exclude production payments sold by the debtor prior to a bankruptcy filing from the debtor's estate in bankruptcy.

Section 209. Seller's rights to reclaim goods

Section 209 addresses the concerns of trade creditors who assert they often have insufficient notice to exercise their reclamation rights. Section 209 amends section 546(c)(1) of the Bankruptcy Code to give trade creditors up to 10 extra days to utilize reclamation rights after the commencement of a bankruptcy case.

Section 210. Investment of money of the estate

Section 345 of the Code governs investments of the funds of bankrupt estates. The purpose is to make sure that the funds of a bankrupt are invested prudently and safely with the eventual goal of being able to satisfy all claims against the bankrupt estate. Under current law, all investments are required to be FDIC insured, collateralized or bonded. While this requirement is wise in the case of a smaller debtor with limited funds that cannot afford a risky investment to be lost, it can work to needlessly handcuff larger, more sophisticated debtors. This section would amend the Code to allow the courts to approve investments other than those permitted by section 345(b) for just cause, thereby overruling *In re Columbia Gas Systems, Inc.*, 33 F.3d 294 (3d Cir. 1994).

Section 211. Selection of private trustees in chapter 11 cases

This section will conform selection of private trustees in chapter 11 cases to the selection process in chapter 7 cases, thereby allowing creditors in a chapter 11 case to elect their own trustee under section 1104 of chapter 11.

Section 212. Limited liability partnerships

Section 723 of the Bankruptcy Code addresses the personal liability of general partners for the debts of the partnership. Section 723 grants the trustee a claim against "any general partner" for the full partnership deficiency owing to creditors to the extent the partner would be personally liable for claims against the partnership. It is unclear how this provision would be construed to apply with regard to registered limited liability partnerships which have been authorized by a number of States since the advent of the 1978 Bankruptcy Code. This section clarifies that a partner of a registered limited liability partnership would only be liable in bankruptcy to the extent a partner would be personally liable for a deficiency according to the registered limited liability statute under which the partnership was formed.

Section 213. Impairment of Claims and Interests

The principal change in this section is set forth in subsection (d) and relates to the award of postpetition interest. In a recent

Bankruptcy Court decision *In re New Valley Corp.*, 168 B.R. 73 (Bankr. D.N.J. 1994), unsecured creditors were denied the right to receive postpetition interest on their allowed claims even though the debtor was liquidation and reorganization solvent. The *New Valley* decision applied section 1124(3) of the Bankruptcy Code literally by asserting, in a decision granting a declaratory judgment, that a class that is paid the allowed amount of its claims in cash on the effective date of a plan is unimpaired under section 1124(3), therefore is not entitled to vote, and is not entitled to receive postpetition interest. The Court left open whether the good faith plan proposal requirement of section 1129(a)(3) would require the payment of or provision for postpetition interest. In order to preclude this unfair result in the future, the Committee finds it appropriate to delete section 1124(3) from the Bankruptcy Code.

As a result of this change, if a plan proposed to pay a class of claims in cash in the full allowed amount of the claims, the class would be impaired entitling creditors to vote for or against the plan of reorganization. If creditors vote on the plan of reorganization, it can be confirmed over the vote of a dissenting class of creditors only if it complies with the "fair and equitable" test under section 1129(b)(2) of the Bankruptcy code and it can be confirmed over the vote of dissenting individual creditors only if it complies with the "best interests of creditors" test under section 1129(a)(7) of the Bankruptcy Code.

The words "fair and equitable" are terms of art that have a well established meaning under the case law of the Bankruptcy Act as well as under the Bankruptcy Code. Specifically, courts have held that where an estate is solvent, in order for a plan to be fair and equitable, unsecured and undersecured creditors' claims must be paid in full, including postpetition interest, before equity holders may participate in any recovery. See, e.g., *Consolidated Rock Prods. Co.* v. *DuBois*, 312 U.S. 510, 527, 61 S.Ct. 675, 685 (1941); *Dentureholders Protective Comm. of Continental Inv. Corp.*, 679 F.2d 264 (1st Cir.), *cert. denied*, 459 U.S. 894 (1982) and cases cited therein.

With respect to section 1124(1) and (2), subsection (d) would not change the beneficial 1984 amendment to section 1129(a)(7) of the Bankruptcy code, which excluded from application of the best interests of creditors test classes that are unimpaired under section 1124.

The other subsections deal with the issue of late-filed claims. The amendment to section 502(b) is designed to overrule *In re Hausladen*, 146 B.R. 557 (Bankr. D. Minn. 1992), and its progeny by disallowing claims that are not timely filed. The amendment also specifies rules relating to the filing of certain governmental claims. These changes are not intended to detract from the ability of the court to extend the bar date for claims when authorized to do so under the Federal Rules of Bankruptcy Procedure. The amendments to section 726(a) of the Code, governing the distribution of property of the estate in a chapter 7 liquidation, conform to the amendments to section 1129(b) and 502(b). The amendments to paragraphs (2) and (3) of section 726(a) assure that the disallowance of late-filed claims under new section 502(b)(9) does not affect their treatment under section 726(a).

Section 214. Protection of security interest in postpetition rents

Under current section 552 of the Bankruptcy Code, real estate lenders are deemed to have a security interest in postpetition rents only to the extent their security interest has been "perfected" under applicable State law procedures, *Butner* v. *United States*, 440 U.S. 48 (1979). Inclusion under section 552, in turn, allows such proceeds to be treated as "cash collateral" under section 363(a) of the Bankruptcy Code, which prohibits a trustee or debtor-in-possession from using such proceeds without the consent of the lender or authorization by the court. In a number of States, however, it is not feasible for real estate lenders to perfect their security interest prior to a bankruptcy filing; and, as a result, courts have denied lenders having interests in postpetition rents the protection offered under sections 552 and 363 of the Bankruptcy Code. See, e.g., *In re Multi-Group III Ltd. Partnership*, 99 B.R. 5 (Bankr. D. Ariz. 1989); *In re Association Center Ltd. Partnership*, 87 B.R. 142 (Bankr. W.D. Wash. 1988); *In re TM Carlton House Partners, Ltd.*, 91 B.R. 349 (Bankr. E.D. Pa. 1988); *In re Metro Square*, 93 B.R. 990 (Bankr. D. Minn. 1988). Section 214 provides that lenders may have valid security interests in postpetition rents for bankruptcy purposes notwithstanding their failure to have fully perfected their security interest under applicable State law. This is accomplished by adding a new provision to section 552 of the Bankruptcy Code, applicable to lenders having a valid security interest which extends to the underlying property and the postpetition rents.

Section 214 also clarifies the bankruptcy treatment of hotel revenues which have been used to secure loans to hotels and other lodging accommodations. These revenue streams, while critical to a hotel's continued operations, are also the most liquid and most valuable collateral the hotel can provide to its financiers. When the hotel experiences financial distress, the interests of the hotel operations, including employment for clerks, maids, and other workers can collide with the interests of persons to whom the revenues are pledged. Section 214 recognizes the importance of this revenue stream for the two competing interests and attempts to strike a fair balance between them. Thus, subsection (a) expressly includes hotel revenues in the category of collateral in which postpetition revenues are subject to prepetition security interests, and subsection (b) includes such revenues in "cash collateral" as defined in section 363.

These clarifications of the rights of hotel financiers are, however, circumscribed. A critical limit is the "equities of the case" provision in subsection (a) which is designed, among other things, to prevent windfalls for secured creditors and to give the courts broad discretion to balance the protection of secured creditors, on the one hand, against the strong public policies favoring continuation of jobs, preservation of going concern values and rehabilitation of distressed debtors generally. Further circumscription is supplied by the list of exceptions at the beginning of subsection (a). Thus, among other things, the reference to section 363 permits use of pledged revenues if adequate protection is provided; the reference to section 506(c) permits broad categories of operating expenses—such as the cost of cleaning and repair services, utilities, employee payroll and the like—to be charged against pledged revenues; the reference to section 522 protects individual debtors' rights; and the reference to sections 544, 545, 547 and 548 protect the debtor's right to use all its avoiding powers against the lienholder. These rights, preserved by the list of sections, would not be waivable by the debtor, either pre- or postpetition.

Section 215. Netting of swap agreements

Parties active in the foreign exchange market generally document spot and forward foreign exchange transactions under a netting agreement. The Bankruptcy Code's definition of "swap agreement" refers only to foreign exchange contracts, but is silent as to whether spot transactions fall within the definition. This section confirms the market understanding that spot foreign exchange contracts are included in the term "swap agreement." It is expected that contracts that mature in a period of time equalling 2 days or less will fall under the umbrella of "swap agreements."

Section 216. Limitation of avoiding powers

This section clarifies section 546(a)(1) of the Bankruptcy Code which imposes a 2-year statute of limitations within which an appointed trustee must bring an avoidance action. The purpose of a statute of limitations is to define the period of time that a party is at risk of suit. This section defines the applicable statute of limitations as 2 years from the entry of an order of relief or 1 year after the appointment of the first trustee if such appointment occurs before the expiration of the original 2-year period. The section is not intended to affect the validity of any tolling agreement or to have any bearing on the equitable tolling doctrine where there has been fraud determined to have occurred. The time limits are not intended to be jurisdictional and can be extended by stipulation between the necessary parties to the action or proceeding.

Section 217. Small business

This section amends title 11 to expedite the process by which small businesses may reorganize under chapter 11. For the purposes of this section, a small business is defined as one whose aggregate noncontingent liquidated secured and unsecured debts are less than $2,000,000 as of the date of the bankruptcy filing. A qualified small business debtor who elects coverage under this provision would be permitted to dispense with creditor committees; would have an exclusivity period for filing a plan of 100 days; and would be subject to more liberal provisions for disclosure and solicitation of acceptances for a proposed reorganization plan under Code section 1125. The debtor and parties other than the debtor would have to file a plan within 160 days after the order for relief. This section permits an extension with respect to the debtor's original filing time if the debtor shows there were circumstances beyond its control.

Section 218. Single asset real estate

This section adds a new definition to the Code for "single asset real estate," meaning real property that constitutes a single property or project (other than residential property with fewer than four units) which generates substantially all of the gross income of the debtor and has aggregate noncontingent, liquidated secured debts in an amount up to $4 million. It amends the automatic stay provision of section 362 to provide special circumstances under which creditors of a single asset real estate debtor may have the stay lifted if the debtor has not filed a "feasible" reorganization plan within 90 days of filing, or has not commenced monthly payments to secured creditors.

Section 219. Leases of personal property

Under current law, when a debtor files for bankruptcy, it has an unspecified period of time to determine whether to assume or reject a lease of personal property. Pending a decision to assume or reject, lessors are permitted to petition the court to require the lessee to make lease payments to the extent use of the property actually benefits the estate. Section 219 responds to concerns that this procedure may be unduly burdensome on lessors of personal property, while safeguarding the debtors ability to make orderly decisions regarding assumption or rejection. The section amends section 365(d) to specify that 60 days after the order for relief the debtor must perform all future obligations under an equipment lease, unless the court, after notice and a hearing and based on the equities of the case, orders otherwise. This will shift to the debtor the burden of bringing a motion while allowing the debtor sufficient breathing room after the bankruptcy petition to make an informed decision. Section 363(e) is also amended to clarify that the lessor's interest is subject to "adequate protection." Such remedy is to the exclusion of the lessor's being able to seek to lift the automatic stay under section 362. Finally, section 365(b) is clarified to provide that when sought by a debtor, a lease can be cured at a nondefault rate (e.g., it would not need to pay penalty rates or satisfy penalty provisions).

Section 220. Exemption for small business investment companies

This section specifies that small business investment companies are ineligible to file for bankruptcy protection. This will prevent such filings from being utilized to subordinate the interests of the Small Business Administration to other creditors.

Section 221. Payment of taxes with borrowed funds

This section makes loans that are used to pay Federal taxes nondischargeable under section 523. This will facilitate individuals' ability to use their credit cards to pay their Federal taxes.

Section 222. Return of goods

This section clarifies section 546 of the Bankruptcy Code by adding a subsection (b) permitting a bankruptcy court to hold a hearing and allow a buyer to return to the seller goods shipped before the commencement of the case if it is in the best interests of the estate. This will allow debtors to return unsold goods in order to offset their debts. The notion may only be made by the trustee and must be made within 120 days after the order for relief.

Section 223. Proceeds of money order agreements

This section excludes from the debtor's estate proceeds from money orders sold within 14 days of the filing of the bankruptcy pursuant to an agreement prohibiting the commingling of such sale proceeds with property of the debtor. To benefit from this section, the money order issuer must have acted, prior to the petition, to require compliance with the commingling prohibition.

Section 224. Trustee duties; professional fees

Subsection (a) requires the United States Trustee to invoke procedural guidelines regarding fees in bankruptcy cases and file comments with fee applications. The section also clarifies the standards for court award of professional fees in bankruptcy cases. These changes should help foster greater uniformity in the application for and processing and approval of fee applications.

Section 225. Notice of creditors

This section amends section 342 of the Bankruptcy Code to require that notices to creditors set forth the debtor's name, address, and taxpayer identification (or social security) number. The failure of a notice to contain such information will not invalidate its legal effect; for example, such failure could not result in a debtor failing to obtain a discharge with respect to a particular creditor.

The Committee anticipates that the Official Bankruptcy Forms will be amended to provide that the information required by this section will become a part of the caption on every notice given in a bankruptcy case. As with other similar requirements, the court retains the authority to waive this requirement in compelling circumstances, such as those of a domestic violence victim who must conceal her residence for her own safety.

TITLE III. CONSUMER BANKRUPTCY ISSUES

Section 301. Period for curing default relating to principal residence

Section 1322(b)(3) and (5) of the Bankruptcy Code permit a debtor to cure defaults in connection with a chapter 13 plan, including defaults on a home mortgage loan. Until the Third Circuit's decision in *In re Roach*, 824 F.2d 1370 (3d Cir. 1987), all of the Federal Circuit Courts of Appeals had held that such right continues at least up until the time of the foreclosure sale. See *In re Glenn*, 760 F.2d 1428 (6th Cir.), *cert, denied*, 474 U.S. 849 (1985); *In re Clark*, 738 F.2d 869 (7th Cir. 1984), *cert, denied*, 474 U.S. 849 (1985). The *Roach* case, however, held that the debtor's right to cure was extinguished at the time of the foreclosure judgment, which occurs in advance of the foreclosure sale. This decision is in conflict with the fundamental bankruptcy principle allowing the debtor a fresh start through bankruptcy.

This section of the bill safeguards a debtor's rights in a chapter 13 case by allowing the debtor to cure home mortgage defaults at least through completion of a foreclosure sale under applicable nonbankruptcy law. However, if the State provides the debtor more extensive "cure" rights (through, for example, some later redemption period), the debtor would continue to enjoy such rights in bankruptcy. The changes made by this section, in conjunction with those made in section 305 of this bill, would also overrule the result in *First National Fidelity Corp.* v. *Perry*, 945 F.2d 61 (3d Cir. 1391) with respect to mortgages on which the last payment on the original payment schedule is due before the date on which the final payment under the plan is due. In that case, the Third Circuit held that subsequent to foreclosure judgment, a chapter 13 debtor cannot provide for a mortgage debt by paying the full amount of the allowed secured claim in accordance with Bankruptcy Code section 1325(a)(5), because doing so would constitute an impermissible modification of the mortgage holder's right to immediate payment under section 1322(b)(2) of the Bankruptcy Code.

Section 302. Nondischargeability of fine under chapter 13

This section adds criminal fines to the list of obligations which may not be discharged pursuant to a chapter 13 case.

Section 303. Impairment of exemptions

Because the Bankruptcy Code does not currently define the meaning of the words "impair an exemption" in section 522(f), several court decisions have, in recent years, reached results that were not intended by Congress when it drafted the Code. This amendment would provide a simple arithmetic test to determine whether a lien impairs an exemption, based upon a decision, *In re Brantz*, 106 B.R. 62 (Bankr. E.D. Pa. 1989), that was favorably cited by the Supreme Court in *Owen* v. *Owen*, 111 S.Ct. 1833, 1838, n.5 (1991).

The decisions that would be overruled involve several scenarios. The first is where the debtor has no equity in a property over and above a lien senior to the judicial lien the debtor is attempting to avoid, as in the case, for example, of a debtor with a home worth $40,000 and a $40,000 mortgage. Most courts and commentators had understood that in that situation the debtor is entitled to exempt his or her residual interests, such as a possessory interest in the property, and avoid a judicial lien or other lien of a type subject to avoidance, in any amount, that attaches to that interest. Otherwise, the creditor would retain the lien after bankruptcy and could threaten to deprive the debtor of the exemption Congress meant to protect, by executing on the lien. Unfortunately, a minority of court decisions, such as *In re Gonzales*, 149 B.R. 9 (Bankr. D. Mass. 1993), have interpreted section 522(f) as not permitting avoidance of liens in this situation. The formula in the section would make clear that the liens are avoidable.

The second situation is where the judicial lien the debtor seeks to avoid is partially secured. Again, in an example where the debtor has a $10,000 homestead exemption, a $50,000 house and a $40,000 first mortgage, most commentators and courts would have said that a judicial lien of $20,000 could be avoided in its entirety. Otherwise, the creditor would retain all or part of the lien and be able to threaten postbankruptcy execution against the debtor's interest which, at the time of the bankruptcy is totally exempt. However, a few courts, including the Ninth Circuit in *In re Chabot*, 992 F.2d 891 (9th Cir. 1992), held that the debtor could only avoid $10,000 of the judicial lien in this situation, leaving the creditor after bankruptcy with a $10,000 lien attached to the debtor's exempt interest in property. This in turn will result, at a minimum, in any equity created by mortgage payments from the debtor's postpetition income—income which the fresh start is supposed to protect—going to the benefit of the lienholder. It may also prevent the debtor from selling his or her home after bankruptcy without paying the lienholder, even if that payment must come from the debtor's $10,000 exempt interest. The formula in this section would not permit this result.

The third situation is in the Sixth Circuit, where the Court of Appeals, in *In re Dixon*, 885 F.2d 327 (6th Cir. 1989), ruled that the Ohio homestead exemption only applies in execution sale situations. Thus, the court ruled that the debtor's exemption was never impaired in a bankruptcy case and could never be avoided, totally eliminating the right to avoid liens. This leaves the debtor in the situation where, if he or she wishes to sell the house after bankruptcy, that can be done only by paying the lienholder out of equity that should have been protected as exempt property. By focusing on the dollar amount of the exemption and defining "impaired," the amendment will correct this problem. By defining "impairment," the amendment also clarifies that a judicial lien on a property can impair an exemption even if the lien cannot be enforced through an execution sale, thereby supporting the result in *In re Henderson*, 18 F.3d 1305 (5th Cir. 1994), which permitted a debtor to avoid a lien that impaired tne homestead exemption even though the lien could not be enforced through a judicial sale.

The amendment also overrules *In re Simonson*, 758 F.2d 103 (3d Cir. 1985), in which the Third Circuit Court of Appeals held that a judicial lien could not be avoided in a case in which it was senior to a nonavoidable mortgage and the mortgages on the property exceeded the value of the property. The position of the dissent in that case is adopted.

Section 304. Protection of child support and alimony

This section is intended to provide greater protection for alimony, maintenance, and support obligations owing to a spouse, former spouse or child of a debtor in bankruptcy. The Committee believes that a debtor should not use the protection of a bankruptcy filing in order to avoid legitimate marital and child support obligations.

The section modifies several provisions of the Bankruptcy Code. Subsection (b) specifies that the automatic stay does not apply to a proceeding that seeks only the establishment of paternity or the establishment or modification of an order for alimony, maintenance, and support. Subsection (c) provides a new bankruptcy priority relating to debts for alimony, maintenance or support obligations. Subsection (d) provides that section 522(f)(1) of the Bankruptcy Code may not be used to avoid judicial liens securing alimony, maintenance, or support obligations. (This subsection is intended to supplement the reach of *Farrey* v. *Sanderfoot*, 111 S. Ct. 1825 (1991), which held that a former husband could not avoid a judicial lien on a house previously owned with his wife.)

Subsection (e) adds a new exception to discharge for some debts arising out of a divorce decree or separation agreement that are not in the nature of alimony, maintenance or support. In some instances, divorcing spouses have agreed to make payments of marital debts, holding the other spouse harmless from those debts, in exchange for a reduction in alimony payments. In other cases, spouses have agreed to reduce alimony based on a larger property settlement. If such "hold harmless" and property settlement obligations are not found to be in the nature of alimony, maintenance, or support, they are dischargeable under current law. The nondebtor spouse may be saddled with substantial debt and little or no alimony or support. This subsection will make such obligations nondischargeable in cases where the debtor has the ability to pay them and the detriment to the nondebtor spouse from their nonpayment outweighs the benefit to the debtor of discharging such debts. In other words, the debt will remain dischargeable if paying the debt would reduce the debtor's income below that necessary for the support of the debtor and the debtor's dependents. The Committee believes that payment of support needs must take precedence over property settlement debts. The debt will also be discharged if the benefit to the debtor of discharging it outweighs the harm to the obligee. For example, if a nondebtor spouse would suffer little detriment from the debtor's nonpayment of an obligation required to be paid under a hold harmless agreement (perhaps because it could not be collected from the nondebtor spouse or because the nondebtor spouse could easily pay it) the obligation would be discharged. The benefits of the debtor's discharge should be sacrificed only if there would be substantial detriment to the nondebtor spouse that outweighs the debtor's need for a fresh start.

The new exception to discharge, like the exceptions under Bankruptcy Code section 523(a) (2), (4), and (6) must be raised in an adversary proceeding during the bankruptcy case within the time permitted by the Federal Rules of Bankruptcy Procedure. Otherwise the debt in question is discharged. The exception applies only to debts incurred in a divorce or separation that are owed to a spouse or former spouse, and can be asserted only by the other party to the divorce or separation. If the debtor agrees to pay marital debts that were owed to third parties, those third parties do not have standing to assert this exception, since the obligations to them were incurred prior to the divorce or separation agreement. It is only the obligation owed to the spouse or former spouse—an obligation to hold the spouse or former spouse harmless—which is within the scope of this section. See *In re MacDonald*, 69 B.R. 259, 278 (Bankr. D.N.J. 1986).

Subsection (f) specifies that bona fide alimony, maintenance or support payments are not subject to avoidance under section 547 of the Bankruptcy Code. Subsection (g) provides that child support creditors or their representatives are permitted to appear at bankruptcy court proceedings.

Section 305. Interest on interest

This section will have the effect of overruling the decision of the Supreme Court in *Rake* v. *Wade*, 113 S. Ct. 2187 (1993). In that case, the Court held that the Bankruptcy Code required that interest be paid on mortgage arrearages paid by debtors curing defaults on their mortgages. Notwithstanding State law, this case has had the effect of providing a windfall to secured creditors at the expense of unsecured creditors by forcing debtors to pay the bulk of their income to satisfy the secured creditors' claims. This had the effect of giving secured creditors interest on interest payments, and interest on the late charges and other fees, even where applicable law prohibits such interest and even when it was something that was not contemplated by either party in the original transaction. This provision will be applicable prospectively only, i.e., it will be applicable to all future contracts, including transactions that refinance existing contracts. It will limit the secured creditor to the benefit of the initial bargain with no court contrived windfall. It is the Committee's intention that a cure pursuant to a plan should operate to put the debtor in the same position as if the default had never occurred.

Section 306. Exception to discharge

This section extends from 40 to 60 days the period in which a consumer debt to acquire "luxury goods or services" may be presumed nondischargeable in a proceeding under section 523(a)(2) of the Bankruptcy Code. The section also increases from 20 to 60 days the period in which cash advances under an open end credit plan may be presumed nondischargeable in such a proceeding. In addition, the dollar amount necessary to trigger such a presumption in the case of luxury goods is increased from $500 to $1,000.

Section 307. Payments under chapter 13

Currently, the practice of making payouts under a chapter 13 plan varies from one court to another. This section clarifies Congressional intent that the trustee should commence making the payments "as soon as practicable" after the confirmation of the chapter 13 plan. Such payments should be made even prior to the bar date for filing claims, but only if the trustee can provide adequate protection against any prejudice to later filing claimants caused by distributions prior to the bar date.

Section 308. Bankruptcy petition preparers

This section adds a new section to chapter 1 of title 11 United States Code to create standards and penalties pertaining to bankruptcy petition preparers. Bankruptcy petition preparers not employed or supervised by any attorney have proliferated across the country. While it is permissible for a petition preparer to provide services solely limited to typing, far too many of them also attempt to provide legal advice and legal services to debtors. These preparers often lack the necessary legal training and ethics regulation to provide such services in an adequate and appropriate manner. These services may take unfair advantage of persons who are ignorant of their rights both inside and outside the bankruptcy system. This section requires all bankruptcy preparation services to provide their relevant personal identifying information on the bankruptcy filing. It requires copies of all bankruptcy documents to be given to the debtor and signed by the debtor. The section also provides that if the petition is dismissed as the result of fraud or incompetence on the preparer's account, or if the preparer commits an inappropriate or deceptive act, the debtor is entitled to receive actual damages, plus statutory damages of $2,000 or twice the amount paid to the preparer, whichever is greater, plus reasonable attorney's fees and costs of seeking such relief. The bankruptcy preparer is also subject to injunctive action preventing the preparer from further work in the bankruptcy preparation business.

Section 309. Fairness to condominium and cooperative owners

This section amends section 523(a) of the Bankruptcy Code to except from discharge those fees that become due to condominiums, cooperatives, or similar membership associations after the filing of a petition, but only to the extent that the fee is payable for time during which the debtor either lived in or received rent for the condominium or cooperative unit. Except to the extent that the debt is nondischargeable under this section, obligations to pay such fees will be dischargeable. *See In re Rosteck*, 899 F.2d 694 (7th Cir. 1990).

Section 310. Nonavoidability of security interests on tools and implements of trade, animals, and crops

This section adds a limited exception to the debtor's ability to avoid nonpossessory nonpurchase-money security interests in implements, professional books, or tools of trade of the debtor or a dependent of the debtor, or farm animals or crops of the debtor or a dependent of the debtor. It applies only in cases in which the debtor has voluntarily chosen the State exemptions rather than the Federal bankruptcy exemptions or has been required to utilize State exemptions because a State has opted out of the Federal exemptions. In such case, if the State allows unlimited exemption of categories of property or prohibits avoidance of a consensual lien on property that could otherwise be claimed as exempt, the debtor may not avoid a security interest on the types of property specified above under Bankruptcy Code section 522(f)(2) to the extent the value of such property is in excess of $5,000. This section has no applicability if the debtor chooses the Federal bankruptcy exemptions, which cannot be waived. Like other exemption provisions, the new provision applies separately to each debtor in a joint case.

Section 311. Conversion of case under chapter 13

This amendment would clarify the Code to resolve a split in the case of law about what property is in the bankruptcy estate when a debtor converts from chapter 13 to chapter 7. The problem arises because in chapter 13 (and chapter 12), any property acquired after the petition becomes property of the estate, at least until confirmation of a plan. Some courts have held that if the case is converted, all of this after-acquired property becomes part of the estate in the converted chapter 7 case, even though the statutory provisions making it property of the estate does not apply to chapter 7. Other courts have held that the property of the estate in a converted case is the property the debtor had when the original chapter 13 petition was filed.

These latter courts have noted that to hold otherwise would create a serious disincentive to chapter 13 filings. For example, a debtor who had $10,000 equity in a home at the beginning of the case, in a State with a $10,000 homestead exemption, would have to be counseled concerning the risk that after he or she paid off a $10,000 second mortgage in the chapter 13 case, creating $10,000 in equity, there would be a risk that the home could be lost if the case were converted to chapter 7 (which can occur involuntarily). If all of the debtor's property at the time of conversion is property of the chapter 7 estate, the trustee would sell the home, to realize the $10,000 in equity for the unsecured creditors and the debtor would lose the home.

This amendment overrules the holding in cases such as *Matter of Lybrook*, 951 F.2d 136 (7th Cir. 1991) and adopts the reasoning of *In re Bobroff*, 766 F.2d 797 (3d Cir. 1985). However, it also gives the court discretion, in a case in which the debtor has abused the right to convert and converted in bad faith, to order that all property held at the time of conversion shall constitute property of the estate in the converted case.

Section 312. Bankruptcy fraud

This section sets out criminal penalties for any person who knowingly, fraudulently, and with specific intent to defraud uses the filing of a bankruptcy petition or document, or makes a false representation, for the purpose of carrying out a fraudulent scheme. An essential element of the new fraud action, as with other fraud actions, is requirement of proof beyond a reasonable doubt of a specific intent to defraud. Under no circumstance is this section to be operative if the defendant is adjudicated as having committed the act alleged to constitute fraud for a lawful purpose.

The section would not apply to a person who makes a misrepresentation on a financial statement, and then subsequently files a bankruptcy case, so long as the debtor had not at the time of the misrepresentation planned the bankruptcy filing as part of a scheme in connection with this misrepresentation. This would be the case, for example, where the misrepresentation occurred a considerable period of time before the bankruptcy filing, and the primary motivation for the bankruptcy filing was not related to the misrepresentation or fraud. It would also not be a crime under this section for a person to make a false statement or promise concerning a proceeding under title 11, as long as the false statement or promise was not made as part of a scheme to defraud involving the bankruptcy proceeding. Similarly, a person who conveys incorrect information about the pendency of a bankruptcy or the planned filing of a bankruptcy case would not be within the scope of this section unless that information was conveyed fraudulently and to further a fraudulent scheme.

The provision could, however, apply to creditors as well as debtors. For example, if a creditor, as part of a scheme to defraud a debtor or debtors, knowingly made false statements to a debtor concerning the debtor's rights in connection with a bankruptcy case, that creditor could be subject to this section.

Section 313. Protection against discriminatory treatment of applications for student loans

This section clarifies the antidiscrimination provisions of the Bankruptcy Code to ensure that applicants for student loans or grants are not denied those benefits due to a prior bankruptcy. The section overrules *In re Goldrich, 771 F.2d 28* (2d Cir. 1985), which gave an unduly narrow interpretation to Code section 525. Like section 525 itself, this section is not meant to limit in any way other situations in which discrimination should be prohibited. Under this section, as under section 525 generally, a debtor should not be treated differently based solely on the fact that the debtor once owed a student loan which was not paid because it was discharged; the debtor should be treated the same as if the prior student loan had never existed.

TITLE IV. GOVERNMENT BANKRUPTCY ISSUES

Section 401. Exception from automatic stay for postpetition property taxes

Local governments rely on real property taxes to constitute one of their principal sources of revenue. These taxes are, in turn, typically secured by statutory liens. Both the property owner and any mortgage holder recognize that their interest in real property is subject to the local government's right to collect such property taxes. However, several circuit courts have held that the automatic stay prevents local governments from attaching a statutory lien to property taxes accruing subsequent to a bankruptcy filing. See, e.g., *In re Parr Meadows*, 880 F.2d 1540 (2d Cir. 1989), *cert. denied*, 110 S. Ct. 869 (1990); *Makaroff* v. *City of Lockport*, 916 F.2d 890 (3d Cir. 1990). These decisions create a windfall for secured lenders, who would otherwise be subordinated to such tax liens, and significantly impair the revenue collecting capability of local governments. This section overrules these cases and allow local governments to perfect their statutory property tax liens in order to secure the payment of property taxes.

Section 402. Municipal bankruptcy

Under section 901 of the Bankruptcy Code, a municipality may file for bankruptcy if, among other things, it is "generally authorized" to do so under State law. The courts have split regarding whether this provision requires express statutory authorization by State law in order for a municipality to file for bankruptcy. See *In re Pleasant View Utility District*, 24 B.R. 632 (Bankr. M.D. Tenn. 1982); *In re City of Wellston*, 43 B.R. 348 (Bankr. E.D. Mo. 1984); *In re Greene County Hospital*, 59 B.R. 388 (Bankr. S.D. Miss. 1986); *In re City of Bridgeport*, 128 B.R. 688 (Bankr. D. Conn. 1991) (cases not requiring express authorization); but see *In re Carroll Township Authority*, 119 B.R. 61 (Bankr. W.D. Pa. 1990); *In re North and South Shenango Joint Municipal Authority*, 80 B.R. 57 (Bankr. W.D. Pa 1982) (cases requiring express authorization). This section clarifies the eligibility requirements applicable to municipal bankruptcy filings by requiring that municipalities be specifically authorized by the State in order to be eligible to file for bankruptcy.

TITLE V. TECHNICAL CORRECTIONS

This title makes a number of technical corrections to the Bankruptcy Code.

TITLE VI. BANKRUPTCY REVIEW COMMISSION

This title establishes a National Bankruptcy Review Commission. The Commission is empowered to review the Bankruptcy Code and to prepare a report based upon its findings and opinions. Although no exclusive list is set forth, the Commission should be aware that Congress is generally satisfied with the basic framework established in the current Bankruptcy Code. Therefore, the work of the Commission should be based upon reviewing, improving, and updating the Code in ways which do not disturb the fundamental tenets and balance of current law.

The title mandates a nine-member Commission, Congress appointing four members, the President appointing three members, and the Chief Justice of the U.S. Supreme Court appointing two members. The members of the Commission should be knowledgeable in bankruptcy law, with diversity of background and opinion considered in their selection. The first meeting of the Commission shall be held 210 days after the date of enactment. No Member of Congress or officer or employee of the executive branch may be appointed to serve on the Commission.

TITLE VII. SEVERABILITY; EFFECTIVE DATE

Section 701 provides that if any provision of the Act is held to be unconstitutional, the remaining provisions shall not be affected thereby. Section 702 provides that the amendments made by the Act shall only apply prospectively, except as otherwise and specifically noted therein.

Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma, [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I thank the chairman of the committee for yielding this time to me.

Mr. Speaker, our bankruptcy laws have developed since the early 1800's to embody two key principles which are respected in H.R. 5116, today's bankruptcy reform bill.

First, our bankruptcy laws must continue to encourage economic expansion by offering creditors the privately enforced protection they need to feel secure in lending the capital that fuels economic growth. The reforms we offer today will continue the bankruptcy code's tradition of keeping private losses private. My colleagues should remember that there is no taxpayer backup in bankruptcy; no FDIC to make up losses if a company or an individual becomes insolvent. Instead, the code provides a system which allows debtors and creditors to resolve the differences in their ledgers with Government intrusion or involvement.

And second, we must ensure that our bankruptcy laws protect debtors as well as creditors. We must truly give debtors a fresh start because our Nation is a nation of failures and has been since its earliest days. Capitalism demands that for every winner there are losers and the economic liberty that has brought generations of immigrants to our Nation has always embodied the freedom to fail as well as the chance to succeed.

H.R. 5116 embodies both of these principles and deserves our support today. The bill helps individual debtors by raising the Chapter 13 debt limits to a new total of $1 million, by establishing new civil penalties bankruptcy petition preparers who negligently or fraudulently prepare bankruptcy petitions and by allowing Chapter 13 debtors to cure foreclosure judgments at least through the time of foreclosure on the property.

Creditors also benefit from today's bill. Specifically, provisions designed to curtail bankruptcy fraud and abuse and reduce the unnecessary costs and delays of the bankruptcy process will benefit all those who rely on the bankruptcy code for settling accounts. Commercial creditors should also find comfort in a number of reforms contained in the legislation with regard to bankruptcy trustees and new rights for creditors in certain bankruptcy situations.

Finally, I would like to extend my warm and heartfelt thanks to Chairman BROOKS for his consideration of this legislation and to the entire Economic and Commercial Law Subcommittee staff for their long hours of work on this legislation. Their dedication to commonsense reform of the code follows a fine tradition on the committee and they are to be commended for their efforts.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to speak in support of H.R. 5116, the Bankruptcy Reform Act of 1994, legislation I have joined with the gentleman from Texas [Mr. BROOKS]—the chairman of the Committee on the Judiciary—and the gentleman from Oklahoma [Mr. SYNAR] in sponsoring. The bill comes to the floor in a form that reflects the outcome of informal discussions between the two bodies. A number of features of S. 540, an omnibus bankruptcy bill that passed the Senate by unanimous vote in April of this year, are incorporated in the legislation we consider today.

In the 102d Congress, the House and Senate Committees on the Judiciary compiled hearing records that documented the need for legislation to address a range of problems confronting participants in the bankruptcy process. The last comprehensive rewrite of U.S. bankruptcy law had been completed in 1978. By the early 1990's, substantial updating was needed in response to burgeoning bankruptcy filings including megacases, greater complexity characterizing financial transactions, and unanticipated economic consequences of Bankruptcy Code provisions.

The priorities we recognized were to expedite bankruptcy procedures, stimulate greater recoveries, and mitigate adverse impacts of financial distress. Although each body passed a major bankruptcy bill, the 102d Congress adjourned before the process of reconciling House and Senate bills could be completed. For that reason, we have returned—although later in the 103d Congress than I would have hoped—to this important unfinished business.

Bankruptcy case filings declined last year after eight consecutive years of significant increases, but the 1993 total nevertheless exceeded 875,000—more than double the 1985 figure. In view of these statistics—and the reality that some business bankruptcies in recent years have involved literally billions of dollars and many thousands of jobs—the profound economic consequences of bankruptcy cannot be overlooked. We must meet the challenge of reducing bankruptcy delays, discouraging abuses of the bankruptcy process, and resolving bankruptcy law problems that needlessly burden American businesses.

This legislation includes many important provisions. The following are some of the highlights:

We obviate the necessity of bankruptcy judges holding superfluous hearings when debtors, with the benefit of representation by counsel, seek to reaffirm obligations.

We seek to facilitate more expeditious resolutions of requests for relief from the automatic stay—and we seek to discourage long postponements for filing proposed reorganization plans.

We encourage greater reliance on Chapter 13 of the Bankruptcy Code—an alternative to liquidation—by making a broader range of debtors eligible to file under that chapter and contribute income under a repayment plan.

We provide explicit statutory authorization for bankruptcy judges to conduct jury trials with the consent of the parties when so designated by the district court—thus saving judicial resources in certain situations where the right to trial by jury is guaranteed.

We give expression to the inappropriateness of penalizing lenders for obtaining loan guarantees—penalties that eventually can constrict credit and increase interest rates—and for that reason effectively overrule the DePrizio case.

We clarify that important Bankruptcy Code protections for entities that finance or lease aircraft, vessels, and railroad equipment cover a broad range of transactions.

We modify the automatic stay in response to abuses involving some single asset real estate entities that file under Chapter 11 solely for purposes of delay without any expectation of reorganizing successfully.

We provide additional safeguards for equipment lessors in recognition of problems they often face during the bankruptcy process.

We clarify judicial authority to issue injunctions in certain circumstances where trusts are created to pay asbestos related claims—because we recognize that by removing uncertainty over the validity of such injunctions, the value of trust assets available to fund recoveries by victims can increase.

We safeguard a seller's important right to reclaim goods by extending the reclamation period in limited circumstances.

We remove the unjustifiable bar to the Pension Benefit Guaranty Corporation and State pensions funds serving on creditors' committees.

H.R. 5116 encourages greater utilization of backruptcy appellate panels to hear appeals—with the consent of the parties—in bankruptcy cases. We recognize, however, that bankruptcy appellate panels may not improve the administration of justice in some circuits and therefore provide judicial councils with flexibility in broadly specified circumstances.

The provisions of this bill necessarily are diverse because the bankruptcy process affects a wide range of activity in our complex economy. When Bankruptcy Code uncertainties make economic transactions cumbersome, the resulting higher costs affect everyone. Bankruptcy law reform is very important to the American public because we are all consumers.

The bill before us makes important improvements in existing law. I urge my colleagues to support it.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California, [Mr. HOWARD BERMAN] an outstanding member of the committee who has worked long and hard on this issue.

Mr. BERMAN. Mr. Speaker, I rise in strong support of H.R. 5116, the Bankruptcy Reform Act. I want to congratulate our chairman, the gentleman from Texas, for the careful balance he has struck in this legislation, and for the expert assistance provided by this excellent staff.

I would like to speak in particular to three sections of the bill.

First, I am very pleased by the inclusion of Section 113 in the bill, effectively overruling the decisions of the Supreme Court in U.S. versus Nordic Village and Hoffman versus Connecticut Department of Income Maintenance, and clarifying the original intent of Congress in enacting Section 106 of the Bankruptcy Code with regard to sovereign immunity.

I would particularly note the import of Section 113 with regard to the rights of taxpayers. Section 113 establishes that the Federal and State governments cannot seize the property of taxpayers who have filed for bankruptcy. This provision establishes that the government cannot assert sovereign immunity as a shield to defend its actions in violating the automatic stay and discharge provisions of the Code, but instead must abide by the regular processes of the bankruptcy court applicable to all claimants.

I would also like to comment on two provisions in the bill which will help respond to bankruptcy typing mills which have proliferated in the central district of California. The Justice Department reports that typing mills were responsible for 30 percent of all bankruptcy filings in the central district, many by individuals who were unfairly preyed upon because they do not speak English or understand the bankruptcy system. Section 308 of the bill creates a new set of civil standards and penalties pertaining to these typing services. Under this section, if a bankruptcy petition is dismissed as a result of fraud or incompetence by the preparer, the debtor will be entitled to actual as well as statutory damages.

Section 312 of the bill, setting forth new criminal penalties for bankruptcy fraud, should also help limit abuses by typing mills. While many legitimate bankruptcy professionals have expressed concern regarding the scope of section 312, it is my understanding that because of existing case law precedent relative to mail fraud, section 312 would only apply in cases where there existed proof beyond a reasonable doubt of a specific intent to defraud. In this regard, I attach an excerpt from a memorandum prepared by the Department of Justice acknowledging the very heavy burden they would face in bringing a fraud action under section 312.

INTENT TO DEFRAUD MUST BE PROVED BEYOND A REASONABLE DOUBT

Proposed §157(a), patterned after the mail and wire fraud statutes (18 U.S.C. §1341, 1343), would require proof of devising or intending to devise a "scheme or artifice to defraud." Like the mail fraud statute, an essential element of the proposed statute requires *proof beyond a reasonable doubt of a specific intent to defraud*. This is one of the highest *mens rea* standards in the criminal law. Because of this high burden of proof, courses of action permitted under the Bankruptcy Code and allowed by the bankruptcy courts are unlikely to be prosecutable under this new law or any fraud statute. Where a statute or case supports the action taken and the person can show that he or she relied on such law, it would not be possible to show the intent to defraud required by the statute proposed.

Knowledge and intent are elements in any fraud prosecution. *See, e.g., U.S.* v. *White*, 879 F.2d 1509, *cert. den.*, 494 U.S. 1027 (1990) (wife who had no knowledge of concealed business property could not be prosecuted for signing false statements that omitted such property); *U.S.* v. *Tashjian*, 660 F.2d 829, *cert. den.*, 454 U.S. 1102 (1982); *U.S.* v. *Martin*, 408 F.2d 949, *cert. den.*, 396 U.S. 824 (1970); *U.S.* v. *Goodstein*, 883 F.2d 1362 (7th Cir.), *cert. den.*, 494 U.S. 1007 (1990). Similarly, the requirement that any fraud be "material" (while not in any statutory language, "materiality" is an element of bankruptcy fraud as well) would contemplate and include a concept that the fraud would target and interfere with the bankruptcy process.

Because of this high burden of proof, most courses of action allowed by the bankruptcy courts are unlikely to be prosecutable under this new law or any fraud statute. Where a statute or case supports the action taken and the person can show that he or she relied on such law, it would be extremely difficult to show an intent to defraud. Good faith has long been recognized as a complete defense to any fraud prosecution. *See e.g., United States* v. *Williams*, 728 F.2d 1402 (11th Cir. 1984) (good faith is a complete defense to the element of intent to defraud). Advice of counsel is also a defense that will counter a fraud prosecution where a debtor took certain action based on an attorney's good faith interpretation of the bankruptcy laws.

The proposed statute is no broader than the mail fraud statute, and in many respects is narrower because of the body of bankruptcy law potential defendants could point to in justifying their actions. The courts have the ability to ensure that this proposed law is not abused, just as they have monitored the application of the criminal laws in other areas. For example, in prosecutions under the income tax laws, the courts have allowed good faith but mistaken and misguided reliance on civil laws to be raised as a defense to a criminal prosecution. *See e.g., United States* v. *Cheek*, —— U.S. ——, 111 S. Ct. 604 (1991).

Ms. SLAUGHTER. Mr. Speaker, I rise in strong support of H.R. 5116, the Bankruptcy Reform Act of 1994.

H.R. 5116 contains a number of improvements to the Bankruptcy Code, including expedited court procedure, increased protection against bankruptcy fraud, and the establishment of a National Bankruptcy Commission to pay close attention to key issues in bankruptcy procedure.

One section of H.R. 5116 which I feel is vitally important is similar to the text of my own bill, H.R. 4711, the Spousal Equity in Bankruptcy Amendments. Here, H.R. 5116 gives added protection to child support and alimony payments in the event of a bankruptcy filing. Under the current Bankruptcy Code, child support and alimony are given no priority when a debtor's assets are distributed. It is incomprehensible that while many creditors can collect their fees, dependent spouses and children have to wait, and may never be included. H.R. 5116 elevates child support from its current status as a general, unsecured debt to a formally prioritized debt. This import change will help ensure that a custodial parent will not have to wait years to receive payment due.

H.R. 5116 also closes a loophole which can be devastating for single-parent families. During a divorce agreement, it is not uncommon for the custodial parent to accept a lower level of child support in exchange for the other parent assuming the couple's marital debts. If the non-custodial parent declares bankruptcy, however, the marital debts than fall to the single parent. Think of what the custodial parent then faces: little or no child support payments, the heavy responsibilities of all the marital debts, and the expenses that come with rearing children alone.

The Bankruptcy Reform Act would obligate the non-custodial spouse, who agreed to pay the couple's marital debts, to continue responsibility for these debts. I think it is outrageous that wives and dependent children must answer to creditors for debts the husband first agreed to pay. This relatively small—but vital—change in the Bankruptcy Code would prevent this situation, and ensure a more equitable treatment of all parties in the event of bankruptcy.

Mr. Speaker, I have heard heartbreaking stories from single parents who want nothing but the best for their children, but find themselves forced to fight for their rightful level of child support. With no other recourse, these families often turn to welfare to provide the child support the absent parent ought to be responsible for. H.R. 5116 takes an important first step in breaking this tragic cycle by strengthening current bankruptcy law and enforcing tougher measures for child support and alimony collection.

Finally, Mr. Speaker, I would like to commend the distinguished Chairman of the Judiciary Committee, JACK BROOKS, and ranking member HAMILTON FISH, for their diligent efforts and hard work in moving omnibus bankruptcy reform before Congressional adjournment. I encourage my colleagues to join me in supporting the Bankruptcy Reform Act. Thank you, Mr. Speaker, and I yield back the balance of my time.

Mr. SCHUMER. Mr. Speaker, had there been a recorded vote on H.R. 5116, the Bankruptcy Reform Act, I would have voted no on this measure. While I support the goals of this legislation, I have grave concerns about section 218 of the bill.

Section 218, which covers single asset real estate, is meant to address bankruptcies for enterprises like shopping centers, malls, and office buildings. This language, whether advertently or inadvertently, poses a grave hazard to financially troubled cooperative housing.

Mr. Speaker, I do not believe that this bill was intended to put co-op unit owners in financially troubled co-ops out on the street. I will be seeking clarifying report language from the Judiciary Committee to that effect. In addition, if co-ops were inadvertently burdened by this legislation, a technical corrections bill to amend this legislation is warranted.

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Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5116, as amended.

The question was taken.

Mr. GEKAS. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

HOUR OF MEETING ON TOMORROW

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 9:30 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT AND SUNDRY AMENDMENTS TO THE CODE AND THE COMMUNICATIONS ACT OF 1934

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 4922) to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, as amended.

The Clerk read as follows:

H.R. 4922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INTERCEPTION OF DIGITAL AND OTHER COMMUNICATIONS

SEC. 101. SHORT TITLE.

This title may be cited as the "Communications Assistance for Law Enforcement Act".

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) The terms defined in section 2510 of title 18, United States Code, have, respectively, the meanings stated in that section.

(2) The term "call-identifying information" means dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber by means of any equipment, facility, or service of a telecommunications carrier.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "electronic messaging services" means software-based services that enable the sharing of data, images, sound, writing, or other information among computing devices controlled by the senders or recipients of the messages.

(5) The term "government" means the government of the United States and any agency or instrumentality thereof, the District of Columbia, any commonwealth, territory, or possession of the United States, and any State or political subdivision thereof authorized by law to conduct electronic surveillance.

(6) The term "information services"—

(A) means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications; and

(B) includes—

(i) a service that permits a customer to retrieve stored information from, or file information for storage in, information storage facilities;

(ii) electronic publishing; and

(iii) electronic messaging services; but

(C) does not include any capability for a telecommunications carrier's internal management, control, or operation of its telecommunications network.

(7) The term "telecommunications support services" means a product, software, or service used by a telecommunications carrier for the internal signaling or switching functions of its telecommunications network.

(8) The term "telecommunications carrier"—

(A) means a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire; and

(B) includes—

(i) a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

(ii) a person or entity engaged in providing wire or electronic communication switching or transmission service to the extent that the Commission finds that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of this title; but

(C) does not include—

(i) persons or entities insofar as they are engaged in providing information services; and

(ii) any class or category of telecommunications carriers that the Commission exempts by rule after consultation with the Attorney General.

SEC. 103. ASSISTANCE CAPABILITY REQUIREMENTS.

(a) CAPABILITY REQUIREMENTS.—Except as provided in subsections (b), (c), and (d) of this section and sections 108(a) and 109(b) and (d), a telecommunications carrier shall ensure that its equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

(1) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's equipment, facility, or service, or at such later time as may be acceptable to the government;

(2) expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to access call-identifying information that is reasonably available to the carrier—

(A) before, during, or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the government); and

(B) in a manner that allows it to be associated with the communication to which it pertains,

except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127 of title 18, United States Code), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

(3) delivering intercepted communications and call-identifying information to the government, pursuant to a court order or other lawful authorization, in a format such that they may be transmitted by means of equipment, facilities, or services procured by the government to a location other than the premises of the carrier; and

(4) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

(B) information regarding the government's interception of communications and access to call-identifying information.

(b) LIMITATIONS.—

(1) DESIGN OF FEATURES AND SYSTEMS CONFIGURATIONS.—This title does not authorize any law enforcement agency or officer—

(A) to require any specific design of equipment, facilities, services, features, or system configurations to be adopted by any provider of a wire or electronic communication service, any manufacturer of telecommunications equipment, or any provider of telecommunications support services; or

(B) to prohibit the adoption of any equipment, facility, service, or feature by any provider of a wire or electronic communication service, any manufacturer of telecommunications equipment, or any provider of telecommunications support services.

(2) INFORMATION SERVICES; PRIVATE NETWORKS AND INTERCONNECTION SERVICES AND FACILITIES.—The requirements of subsection (a) do not apply to—

(A) information services; or

(B) equipment, facilities, or services that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

(3) ENCRYPTION.—A telecommunications carrier shall not be responsible for decrypting, or ensuring the government's ability to decrypt, any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information necessary to decrypt the communication.

(c) EMERGENCY OR EXIGENT CIRCUMSTANCES.—In emergency or exigent circumstances (including those described in sections 2518 (7) or (11)(b) and 3125 of title 18, United States Code, and section 1805(e) of title 50 of such Code), a carrier at its discretion may comply with subsection (a)(3) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

(d) MOBILE SERVICE ASSISTANCE REQUIREMENTS.—A telecommunications carrier that is a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934) offering a feature or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of wire or electronic communication service that has acquired access to the communications.

SEC. 104. NOTICES OF CAPACITY REQUIREMENTS.

(a) NOTICES OF MAXIMUM AND ACTUAL CAPACITY REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title, after consulting with State and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment, and after notice and comment, the Attorney General shall publish in the Federal Register and provide to appropriate telecommunications industry associations and standard-setting organizations—

(A) notice of the actual number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity set forth under subparagraph (B), that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously by the date that is 4 years after the date of enactment of this title; and

(B) notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of this title.

(2) BASIS OF NOTICES.—The notices issued under paragraph (1)—

(A) may be based upon the type of equipment, type of service, number of subscribers, type or size or carrier, nature of service area, or any other measure; and

(B) shall identify, to the maximum extent practicable, the capacity required at specific geographic locations.

(b) COMPLIANCE WITH CAPACITY NOTICES.—

(1) INITIAL CAPACITY.—Within 3 years after the publication by the Attorney General of a notice of capacity requirements or within 4 years after the date of enactment of this title, whichever is longer, a telecommunications carrier shall, subject to subsection (e), ensure that its systems are capable of—

(A) accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under subsection (a)(1)(A); and

(B) expanding to the maximum capacity set forth in the notice under subsection (a)(1)(B).

(2) EXPANSION TO MAXIMUM CAPACITY.—After the date described in paragraph (1), a telecommunications carrier shall, subject to subsection (e), ensure that it can accommodate expeditiously any increase in the actual number of communication interceptions, pen registers, and trap and trace devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (a)(1)(B).

(c) NOTICES OF INCREASED MAXIMUM CAPACITY REQUIREMENTS.—

(1) NOTICE.—The Attorney General shall periodically publish in the Federal Register, after notice and comment, notice of any necessary increases in the maximum capacity requirement set forth in the notice under subsection (a)(1)(B).

(2) COMPLIANCE.—Within 3 years after notice of increased maximum capacity requirements is published under paragraph (1), or within such longer time period as the Attorney General may specify, a telecommunications carrier shall, subject to subsection (e), ensure that its systems are capable of expanding to the increased maximum capacity set forth in the notice.

(d) CARRIER STATEMENT.—Within 180 days after the publication by the Attorney General of a notice of capacity requirements pursuant to subsection (a) or (c), a telecommunications carrier shall submit to the Attorney General a statement identifying any of its systems or services that do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under such subsection.

(e) REIMBURSEMENT REQUIRED FOR COMPLIANCE.—The Attorney General shall review the statements submitted under subsection (d) and may, subject to the availability of appropriations, agree to reimburse a telecommunications carrier for costs directly associated with modifications to attain such capacity requirement that are determined to be reasonable in accordance with section 109(e). Until the Attorney General agrees to reimburse such carrier for such modification, such carrier shall be considered to be in compliance with the capacity notices under subsection (a) or (c).

SEC. 105. SYSTEMS SECURITY AND INTEGRITY.

A telecommunications carrier shall ensure that any interception of communications or access to call-identifying information effected within its switching premises can be activated only in accordance with a court order or other lawful authorization and with the affirmative intervention of an individual officer or employee of the carrier acting in accordance with regulations prescribed by the Commission.

SEC. 106. COOPERATION OF EQUIPMENT MANUFACTURERS AND PROVIDERS OF TELECOMMUNICATIONS SUPPORT SERVICES.

(a) CONSULTATION.—A telecommunications carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of ensuring that current and planned equipment, facilities, and services comply with the capability requirements of section 103 and the capacity requirements identified by the Attorney General under section 104.

(b) COOPERATION.—Subject to sections 104(e), 108(a), and 109(b) and (d), a manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support services shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment, facilities, or services such features or modifications as are necessary to permit such carriers to comply with the capability requirements of section 103 and the capacity requirements identified by the Attorney General under section 104.

SEC. 107. TECHNICAL REQUIREMENTS AND STANDARDS; EXTENSION OF COMPLIANCE DATE.

(a) SAFE HARBOR.—

(1) CONSULTATION.—To ensure the efficient and industry-wide implementation of the assistance capability requirements under section 103, the Attorney General, in coordination with other Federal, State, and local law enforcement agencies, shall consult with appropriate associations and standard-setting organizations of the telecommunications industry, with representatives of users of telecommunications equipment, facilities, and services, and with State utility commissions.

(2) COMPLIANCE UNDER ACCEPTED STANDARDS.—A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 103, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 106, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization, or by the Commission under subsection (b), to meet the requirements of section 103.

(3) ABSENCE OF STANDARDS.—The absence of technical requirements or standards for implementing the assistance capability requirements of section 103 shall not—

(A) preclude a telecommunications carrier, manufacturer, or telecommunications support services provider from deploying a technology or service; or

(B) relieve a carrier, manufacturer, or telecommunications support services provider of the obligations imposed by section 103 or 106, as applicable.

(b) COMMISSION AUTHORITY.—If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a government agency or any other person believes that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by rule, technical requirements or standards that—

(1) meet the assistance capability requirements of section 103 by cost-effective methods;

(2) protect the privacy and security of communications not authorized to be intercepted;

(3) minimize the cost of such compliance on residential ratepayers;

(4) serve the policy of the United States to encourage the provision of new technologies and services to the public; and

(5) provide a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 103 during any transition period.

(c) EXTENSION OF COMPLIANCE DATE FOR EQUIPMENT, FACILITIES, AND SERVICES.—

(1) PETITION.—A telecommunications carrier proposing to install or deploy, or having installed or deployed, any equipment, facility, or service prior to the effective date of section 103 may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 103.

(2) GROUNDS FOR EXTENSION.—The Commission may, after consultation with the Attorney General, grant an extension under this subsection, if the Commission determines that compliance with the assistance capability requirements under section 103 is not reasonably achievable through application of technology available within the compliance period.

(3) LENGTH OF EXTENSION.—An extension under this subsection shall extend for no longer than the earlier of—

(A) the date determined by the Commission as necessary for the carrier to comply with the assistance capability requirements under section 103; or

(B) the date that is 2 years after the date on which the extension is granted.

(4) APPLICABILITY OF EXTENSION.—An extension under this subsection shall apply to only that part of the carrier's business on which the new equipment, facility, or service is used.

SEC. 108. ENFORCEMENT ORDERS.

(a) GROUNDS FOR ISSUANCE.—A court shall issue an order enforcing this title under section 2522 of title 18, United States Code, only if the court finds that—

(1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and

(2) compliance with the requirements of this title is reasonably achievable through the application of available technology to the equipment, facility, or service at issue or would have been reasonably achievable if timely action had been taken.

(b) TIME FOR COMPLIANCE.—Upon issuing an order enforcing this title, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufacturer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

(c) LIMITATIONS.—An order enforcing this title may not—

(1) require a telecommunications carrier to meet the government's demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which the Attorney General has agreed to reimburse such carrier;

(2) require any telecommunications carrier to comply with assistance capability requirement of section 103 if the Commission has determined (pursuant to section 109(b)(1)) that compliance is not reasonably achievable, unless the Attorney General has agreed (pursuant to section 109(b)(2)) to pay the costs described in section 109(b)(2)(A); or

(3) require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 103, any equipment, facility, or service deployed on or before January 1, 1995, unless—

(A) the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, facility, or service into compliance with those requirements; or

(B) the equipment, facility, or service has been replaced or significantly upgraded or otherwise undergoes major modification.

SEC. 109. PAYMENT OF COSTS OF TELECOMMUNICATIONS CARRIERS TO COMPLY WITH CAPABILITY REQUIREMENTS.

(a) EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED ON OR BEFORE JANUARY 1, 1995.—The Attorney General may, subject to the availability of appropriations, agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103.

(b) EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED AFTER JANUARY 1, 1995.—

(1) DETERMINATIONS OF REASONABLY ACHIEVABLE.—The Commission, on petition from a telecommunications carrier or any other interested person, and after notice to the Attorney General, shall determine whether compliance with the assistance capability requirements of section 103 is reasonably achievable with respect to any equipment, facility, or service installed or deployed after January 1, 1995. The Commission shall make such determination within 1 year after the date such petition is filed. In making such determination, the Commission shall determine whether compliance would impose significant difficulty or expense on the carrier or on the users of the carrier's systems and shall consider the following factors:

(A) The effect on public safety and national security.

(B) The effect on rates for basic residential telephone service.

(C) The need to protect the privacy and security of communications not authorized to be intercepted.

(D) The need to achieve the capability assistance requirements of section 103 by cost-effective methods.

(E) The effect on the nature and cost of the equipment, facility, or service at issue.

(F) The effect on the operation of the equipment, facility, or service at issue.

(G) The policy of the United States to encourage the provision of new technologies and services to the public.

(H) The financial resources of the telecommunications carrier.

(I) The effect on competition in the provision of telecommunications services.

(J) The extent to which the design and development of the equipment, facility, or service was initiated before January 1, 1995.

(K) Such other factors as the Commission determines are appropriate.

(2) COMPENSATION.—If compliance with the assistance capability requirements of section 103 is not reasonably achievable with respect to equipment, facilities, or services deployed after January 1, 1995—

(A) the Attorney General, on application of a telecommunications carrier, may agree, subject to the availability of appropriations, to pay the telecommunications carrier for the additional reasonable costs of making compliance with such assistance capability requirements reasonably achievable; and

(B) if the Attorney General does not agree to pay such costs, the telecommunications carrier shall be deemed to be in compliance with such capability requirements.

(c) ALLOCATION OF FUNDS FOR PAYMENT.—The Attorney General shall allocate funds appropriated to carry out this title in accordance with law enforcement priorities determined by the Attorney General.

(d) FAILURE TO MAKE PAYMENT WITH RESPECT TO EQUIPMENT, FACILITIES, AND SERVICES DEPLOYED ON OR BEFORE JANUARY 1, 1995.—If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 103, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 103 until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modification.

(e) COST CONTROL REGULATIONS.—

(1) IN GENERAL.—The Attorney General shall, after notice and comment, establish regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers under this title, under chapters 119 and 121 of title 18, United States Code, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(2) CONTENTS OF REGULATIONS.—The Attorney General, after consultation with the Commission, shall prescribe regulations for purposes of determining reasonable costs under this title. Such regulations shall seek to minimize the cost to the Federal Government and shall—

(A) permit recovery from the Federal Government of—

(i) the direct costs of developing the modifications described in subsection (a), of providing the capabilities requested under subsection (b)(2), or of providing the capacities requested under section 104(e), but only to the extent that such costs have not been recovered from any other governmental or nongovernmental entity;

(ii) the costs of training personnel in the use of such capabilities or capacities; and

(iii) the direct costs of deploying or installing such capabilities or capacities;

(B) in the case of any modification that may be used for any purpose other than lawfully authorized electronic surveillance by a law enforcement agency of a government, permit recovery of only the incremental cost of making the modification suitable for such law enforcement purposes; and

(C) maintain the confidentiality of trade secrets.

(3) SUBMISSION OF CLAIMS.—Such regulations shall require any telecommunications carrier that the Attorney General has agreed to pay for modifications pursuant to this section and that has installed or deployed such modification to submit to the Attorney General a claim for payment that contains or is accompanied by such information as the Attorney General may require.

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title a total of $500,000,000 for fiscal years 1995, 1996, 1997, and 1998. Such sums are authorized to remain available until expended.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title shall take effect on the date of enactment of this Act.

(b) ASSISTANCE CAPABILITY AND SYSTEMS SECURITY AND INTEGRITY REQUIREMENTS.—Sections 103 and 105 of this title shall take effect on the date that is 4 years after the date of enactment of this Act.

SEC. 112. REPORTS.

(a) REPORTS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—On or before November 30, 1995, and on or before November 30 of each year thereafter, the Attorney General shall submit to Congress and make available to the public a report on the amounts paid during the preceding fiscal year to telecommunications carriers under sections 104(e) and 109.

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a detailed accounting of the amounts paid to each carrier and the equipment, facility, or service for which the amounts were paid; and

(B) projections of the amounts expected to be paid in the current fiscal year, the carriers to which payment is expected to be made, and the equipment, facilities, or services for which payment is expected to be made.

(b) REPORTS BY THE COMPTROLLER GENERAL.—

(1) PAYMENTS FOR MODIFICATIONS.—On or before April 1, 1996, and every 2 years thereafter, the Comptroller General of the United States, after consultation with the Attorney General and the telecommunications industry, shall submit to the Congress a report—

(A) describing the type of equipment, facilities, and services that have been brought into compliance under this title; and

(B) reflecting its analysis of the reasonableness and cost-effectiveness of the payments made by the Attorney General to telecommunications carriers for modifications necessary to ensure compliance with this title.

(2) COMPLIANCE COST ESTIMATES.—A report under paragraph (1) shall include the findings and conclusions of the Comptroller General on the costs to be incurred by telecommunications carriers to comply with the assistance capability requirements of section 103 after the effective date of such section 103, including projections of the amounts expected to be incurred and a description of the equipment, facilities, or services for which they are expected to be incurred.

TITLE II—AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 201. COURT ENFORCEMENT OF COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT.

(a) Court Orders Under Chapter 119.—Chapter 119 of title 18, United States Code, is amended by inserting after section 2521 the following new section:

"§ 2522. Enforcement of the Communications Assistance for Law Enforcement Act.

"(a) Enforcement by Court Issuing Surveillance Order.—If a court authorizing an interception under this chapter, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements of the Communications Assistance for Law Enforcement Act, the court may, in accordance with section 108 of such Act, direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

"(b) Enforcement Upon Application by Attorney General.—The Attorney General may, in a civil action in the appropriate United States district court, obtain an order, in accordance with section 108 of the Communications Assistance for Law Enforcement Act, directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with such Act.

"(c) Civil Penalty.—

"(1) In general.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

"(2) Considerations.—In determining whether to impose a civil penalty and in determining its amount, the court shall take into account—

"(A) the nature, circumstances, and extent of the violation;

"(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

"(C) such other matters as justice may require.

"(d) Definitions.—As used in this section, the terms defined in section 102 of the Communications Assistance for Law Enforcement Act have the meanings provided, respectively, in such section.".

(b) Conforming Amendments.—

(1) Section 2518(4) of title 18, United States Code, is amended by adding at the end the following new sentence: "Pursuant to section 2522 of this chapter, an order may also be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.".

(2) Section 3124 of such title is amended by adding at the end the following new subsection:

"(f) Communications Assistance Enforcement Orders.—Pursuant to section 2522, an order may be issued to enforce the assistance capability and capacity requirements under the Communications Assistance for Law Enforcement Act.".

(3) The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by inserting after the item pertaining to section 2521 the following new item:

"2522. Enforcement of the Communications Assistance for Law Enforcement Act.".

SEC. 202. CORDLESS TELEPHONES.

(a) Definitions.—Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking ", but such term does not include" and all that follows through "base unit"; and

(2) in paragraph (12), by striking subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(b) Penalty.—Section 2511 of title 18, United States Code, is amended—

(1) in subsection (4)(b)(i) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,"; and

(2) in subsection (4)(b)(ii) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,".

SEC. 203. RADIO-BASED DATA COMMUNICATIONS.

Section 2510(16) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by inserting "or" at the end of subparagraph (E); and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an electronic communication;"

SEC. 204. PENALTIES FOR MONITORING RADIO COMMUNICATIONS THAT ARE TRANSMITTED USING MODULATION TECHNIQUES WITH NONPUBLIC PARAMETERS.

Section 2511(4)(b) of title 18, United States Code, is amended by striking "or encrypted, then" and inserting ", encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication, then".

SEC. 205. TECHNICAL CORRECTION.

Section 2511(2)(a)(i) of title 18, United States Code, is amended by striking "used in the transmission of a wire communication" and inserting "used in the transmission of a wire or electronic communication".

SEC. 206. FRAUDULENT ALTERATION OF COMMERCIAL MOBILE RADIO INSTRUMENTS.

(a) Offense.—Section 1029(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3); and

(2) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services; or

"(6) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

"(A) a scanning receiver; or

"(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services,".

(b) Penalty.—Section 1029(c)(2) of title 18, United States Code, is amended by striking "(a)(1) or (a)(4)" and inserting "(a) (1), (4), (5), or (6)".

(c) Definitions.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier," after "account number,";

(2) by striking "and" at the end of paragraph (5);

(3) by striking the period at the end of paragraph (6) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) the term 'scanning receiver' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119.".

SEC. 207. TRANSACTIONAL DATA.

(a) Disclosure of Records.—Section 2703 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(B) by adding at the end the following new subparagraph:

"(C) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the name, address, telephone toll billing records, telephone number or other subscriber number or identity, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under subparagraph (B)."; and

(2) by amending the first sentence of subsection (d) to read as follows: "A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction described in section 3126(2)(A) and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.".

(b) Pen Registers and Trap and Trace Devices.—Section 3121 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) Limitation.—A government agency authorized to install and use a pen register under this chapter or under State law shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signaling information utilized in call processing.".

SEC. 208. AUTHORIZATION FOR ACTING DEPUTY ATTORNEYS GENERAL IN THE CRIMINAL DIVISION TO APPROVE CERTAIN COURT APPLICATIONS.

Section 2516(1) of title 18, United States Code, is amended by inserting "or acting Deputy Assistant Attorney General" after "Deputy Assistant Attorney General".

TITLE III—AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934

SEC. 301. COMPLIANCE COST RECOVERY.

Title II of the Communications Act of 1934 is amended by inserting after section 228 (47 U.S.C. 228) the following new section:

"SEC. 229. COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT COMPLIANCE.

"(a) IN GENERAL.—The Commission shall prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act.

"(b) SYSTEMS SECURITY AND INTEGRITY.—The rules prescribed pursuant to subsection (a) shall include rules to implement section 105 of the Communications Assistance for Law Enforcement Act that require common carriers—

"(1) to establish appropriate policies and procedures for the supervision and control of its officers and employees—

"(A) to require appropriate authorization to activate interception of communications or access to call-identifying information; and

"(B) to prevent any such interception or access without such authorization;

"(2) to maintain secure and accurate records of any interception or access with or without such authorization; and

"(3) to submit to the Commission the policies and procedures adopted to comply with the requirements established under paragraphs (1) and (2).

"(c) COMMISSION REVIEW OF COMPLIANCE.—The Commission shall review the policies and procedures submitted under subsection (b)(3) and shall order a common carrier to modify any such policy or procedure that the Commission determines does not comply with Commission regulations. The Commission shall conduct such investigations as may be necessary to insure compliance by common carriers with the requirements of the regulations prescribed under this section.

"(d) PENALTIES.—For purposes of this Act, a violation by an officer or employee of any policy or procedure adopted by a common carrier pursuant to subsection (b), or of a rule prescribed by the Commission pursuant to subsection (a), shall be considered to be a violation by the carrier of a rule prescribed by the Commission pursuant to this Act.

"(e) COST RECOVERY FOR COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT COMPLIANCE.—

"(1) PETITIONS AUTHORIZED.—A common carrier may petition the Commission to adjust charges, practices, classifications, and regulations to recover costs expended for making modifications to equipment, facilities, or services pursuant to the requirements of section 103 of the Communications Assistance for Law Enforcement Act.

"(2) COMMISSION AUTHORITY.—The Commission may grant, with or without modification, a petition under paragraph (1) if the Commission determines that such costs are reasonable and that permitting recovery is consistent with the public interest. The Commission may, consistent with maintaining just and reasonable charges, practices, classifications, and regulations in connection with the provision of interstate or foreign communication by wire or radio by a common carrier, allow carriers to adjust such charges, practices, classifications, and regulations in order to carry out the purposes of this Act.

"(3) JOINT BOARD.—The Commission shall convene a Federal-State joint board to recommend appropriate changes to part 36 of the Commission's rules with respect to recovery of costs pursuant to charges, practices, classifications, and regulations under the jurisdiction of the Commission.".

SEC. 302. RECOVERY OF COST OF COMMISSION PROCEEDINGS.

The schedule of application fees in section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by inserting under item 1 of the matter pertaining to common carrier services the following additional subitem:

"d. Proceeding under section 109(b) of the Communications Assistance for Law Enforcement Act .... 5,000".

SEC. 303. CLERICAL AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 4(f)(3), by striking "overtime exceeds beyond" and inserting "overtime extends beyond";

(2) in section 5, by redesignating subsection (f) as subsection (e);

(3) in section 8(d)(2), by striking "payment of a" and inserting "payment of an";

(4) in the schedule contained in section 8(g), in item 7.f. under the heading "EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO" by striking "Additional Charge" and inserting "Additional Application Fee";

(5) in section 9(f)(1), by inserting before the second sentence the following:

"(2) INSTALLMENT PAYMENTS.—";

(6) in the schedule contained in section 9(g), in the item pertaining to interactive video data services under the private radio bureau, insert "95" after "47 C.F.R. Part";

(7) in section 220(a)—

(A) by inserting "(1)" after "(a); and

(B) by adding at the end the following new paragraph:

"(2) The Commission shall, by rule, prescribe a uniform system of accounts for use by telephone companies. Such uniform system shall require that each common carrier shall maintain a system of accounting methods, procedures, and techniques (including accounts and supporting records and memoranda) which shall ensure a proper allocation of all costs to and among telecommunications services, facilities, and products (and to and among classes of such services, facilities, and products) which are developed, manufactured, or offered by such common carrier.";

(8) in section 220(b), by striking "clasess" and inserting "classes";

(9) in section 223(b)(3), by striking "defendant restrict access" and inserting "defendant restricted access";

(10) in section 226(d), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(11) in section 227(b)(2)(C), by striking "paragraphs" and inserting "paragraph";

(12) in section 227(e)(2), by striking "national datebase" and inserting "national database";

(13) in section 228(c), by redesignating the second paragraph (2) and paragraphs (3) through (6) as paragraphs (3) through (7), respectively;

(14) in section 228(c)(6)(D), by striking "conservation" and inserting "conversation";

(15) in section 308(c), by striking "May 24, 1921" and inserting "May 27, 1921";

(16) in section 309(c)(2)(F), by striking "section 325(b)" and inserting "section 325(c)";

(17) in section 309(i)(4)(A), by striking "Communications Technical Amendments Act of 1982" and inserting "Communications Amendments Act of 1982";

(18) in section 331, by amending the heading of such section to read as follows:

"VERY HIGH FREQUENCY STATIONS AND AM RADIO STATIONS";

(19) in section 358, by striking "(a)";

(20) in part III of title III—

(A) by inserting before section 381 the following heading:

"VESSELS TRANSPORTING MORE THAN SIX PASSENGERS FOR HIRE REQUIRED TO BE EQUIPPED WITH RADIO TELEPHONE";

(B) by inserting before section 382 the following heading:

"VESSELS EXCEPTED FROM RADIO TELEPHONE REQUIREMENT";

(C) by inserting before section 383 the following heading:

"EXEMPTIONS BY COMMISSION";

(D) by inserting before section 384 the following heading:

"AUTHORITY OF COMMISSION; OPERATIONS, INSTALLATIONS, AND ADDITIONAL EQUIPMENT";

(E) by inserting before section 385 the following heading:

"INSPECTIONS"; and

(F) by inserting before section 386 the following heading:

"FORFEITURES";

(21) in section 410(c), by striking ", as referred to in sections 202(b) and 205(f) of the Interstate Commerce Act,";

(22) in section 613(b)(2), by inserting a comma after "pole" and after "line";

(23) in section 624(d)(2)(A), by inserting "of" after "viewing";

(24) in section 634(h)(1), by striking "section 602(6)(A)" and inserting "section 602(7)(A)";

(25) in section 705(d)(6), by striking "subsection (d)" and inserting "subsection (e)";

(26) in section 705(e)(3)(A), by striking "paragraph (4) of subsection (d)" and inserting "paragraph (4) of this subsection";

(27) in section 705, by redesignating subsections (f) and (g) (as added by Public Law 100-667) as subsections (g) and (h); and

(28) in section 705(h) (as so redesignated), by striking "subsection (f)" and inserting "subsection (g)".

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 303(a)—

(A) by striking "section 27(d)" and inserting "section 327(d)";

(B) by striking "sec. 29-911(d)" and inserting "sec. 29-327(d)";

(C) by striking "section 36" and inserting "section 336"; and

(D) by striking "sec. 29-916d" and inserting "section 29-336(d)";

(2) in section 304(d), by striking "paragraphs (1), (2), (3), (4), and (5) of section 310(a)" and inserting "subsection (a) and paragraphs (1) through (4) of subsection (b) of section 310"; and

(3) in section 304(e)—

(A) by striking "section 45(b)" and inserting "section 345(b)"; and

(B) by striking "sec. 29-920(b)" and inserting "sec. 29-345(b)"; and

(4) in sections 502(b) and 503(a)(1), by striking "the Communications Satellite Corporation" and inserting "the communications satellite corporation established pursuant to title III of this Act".

(c) AMENDMENT TO THE CHILDREN'S TELEVISION ACT OF 1990.—Section 103(a) of the Children's Television Act of 1990 (47 U.S.C.

303b(a)) is amended by striking "noncommerical" and inserting "noncommercial".

(d) AMENDMENTS TO THE TELECOMMUNICATIONS AUTHORIZATION ACT OF 1992.—Section 205(1) of the Telecommunications Authorization Act of 1992 is amended—

(1) by inserting an open parenthesis before "other than"; and

(2) by inserting a comma after "stations)".

(e) CONFORMING AMENDMENT.—Section 1253 of the Omnibus Budget Reconciliation Act of 1981 is repealed.

(f) STYLISTIC CONSISTENCY.—The Communications Act of 1934 and the Communications Satellite Act of 1962 are amended so that the section designation and section heading of each section of such Acts shall be in the form and typeface of the section designation and heading of this section.

SEC. 304. ELIMINATION OF EXPIRED AND OUTDATED PROVISIONS.

(a) AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.—The Communications Act of 1934 is amended—

(1) in section 7(b), by striking "or twelve months after the date of the enactment of this section, if later" both places it appears;

(2) in section 212, by striking "After sixty days from the enactment of this Act it shall" and inserting "It shall";

(3) in section 213, by striking subsection (g) and redesignating subsection (h) as subsection (g);

(4) in section 214, by striking "section 221 or 222" and inserting "section 221";

(5) in section 220(b), by striking ", as soon as practicable,";

(6) by striking section 222;

(7) in section 224(b)(2), by striking "Within 180 days from the date of enactment of this section the Commission" and inserting "The Commission";

(8) in 226(e), by striking "within 9 months after the date of enactment of this section,";

(9) in section 309(i)(4)(A), by striking "The commission, not later than 180 days after the date of the enactment of the Communications Technical Amendments Act of 1982, shall," and inserting "The Commission shall,";

(10) by striking section 328;

(11) in section 413, by striking ", within sixty days after the taking effect of this Act,";

(12) in section 624(d)(2)(B)—

(A) by striking out "(A)";

(B) by inserting "of" after "restrict the viewing"; and

(C) by striking subparagraph (B);

(13) by striking sections 702 and 703;

(14) in section 704—

(A) by striking subsections (b) and (d); and

(B) by redesignating subsection (c) as subsection (b);

(15) in section 705(g) (as redesignated by section 304(25)), by striking "within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission" and inserting "The Commission";

(16) in section 710(f)—

(A) by striking the first and second sentences; and

(B) in the third sentence, by striking "Thereafter, the Commission" and inserting "The Commission";

(17) in section 712(a), by striking ", within 120 days after the effective date of the Satellite Home Viewer Act of 1988,"; and

(18) by striking section 713.

(b) AMENDMENTS TO THE COMMUNICATIONS SATELLITE ACT OF 1962.—The Communications Satellite Act of 1962 is amended—

(1) in section 201(a)(1), by striking "as expeditiously as possible,";

(2) by striking sections 301 and 302 and inserting the following:

"SEC. 301. CREATION OF CORPORATION.

"There is authorized to be created a communications satellite corporation for profit which will not be an agency or establishment of the United States Government.

"SEC. 302. APPLICABLE LAWS.

"The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the District of Columbia Business Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved.";

(3) in section 304(a), by striking "at a price not in excess of $100 for each share and";

(4) in section 404—

(A) by striking subsections (a) and (c); and

(B) by redesignating subsection (b) as section 404;

(5) in section 503—

(A) by striking paragraph (2) of subsection (a); and

(B) by redesignating paragraph (3) of subsection (a) as paragraph (2) of such subsection;

(C) by striking subsection (b);

(D) in subsection (g)—

(i) by striking "subsection (c)(3)" and inserting "subsection (b)(3)"; and

(ii) by striking the last sentence; and

(E) by redesignating subsections (c) through (h) as subsections (b) through (g), respectively;

(5) by striking sections 505, 506, and 507; and

(6) by redesignating section 508 as section 505.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. HYDE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4922 specifies a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes. It is the result of extensive negotiations among law enforcement, Congress, industry and the privacy community. I applaud DON EDWARDS, the chairman of the Subcommittee on Civil and Constitutional Rights, ranking Member HENRY HYDE and JOHN DINGELL, chairman of the Committee on Energy and Commerce, for helping to craft a bill that these diverse interests can live with. It is essential that we support the very real law enforcement objectives at the heart of the legislation without minimizing industry's legitimate concerns regarding both privacy protections and costs resulting from installing new technology to this end, the bill laudably protects public safety by requiring telecommunications carriers to be able to fulfill court authorized requests for interceptions without overreaching into protected privacy areas. At the same time, it requires law enforcement to pay retrofitting costs necessary to start up this legislation—up to $500 million over the next 4 years. Beyond that, carriers will only be required to incur reasonable costs to comply with the bill.

I want to be very clear on one point: While there is no way Government can pay the costs of new technology associated with law enforcement wiretapping needs in perpetuity, I also believe that industry must receive fair reimbursement for some of their research, development, and start-up costs. Beyond that period of time, an equitable arrangement between Government and private industry must be reached. The proposal before the House is a tremendous improvement over prior treatment of this issue.

Finally, it is also worth noting that this bill does not expand law enforcement authority to conduct these interceptions. In fact, the bill includes several provisions to improve the privacy and security in the telecommunications network.

This is a good balance, and a good bill. I urge my colleagues to pass this important legislation.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 4, 1994.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with respect to H.R. 4922, which was ordered reported by the Committee on the Judiciary on September 29. As you know, I have written to the Speaker protesting the initial referral solely to the Committee on the Judiciary, and asking that the Committee on Energy and Commerce receive an extended sequential referral once the Committee on the Judiciary has filed its report. Enclosed please find a copy of that letter for your reference.

Since that time, the Committee staff (both majority and minority) have been working with your staff to attempt to resolve the problems articulated in the letter. They have succeeded in crafting a compromise which addresses our jurisdictional concerns, while preserving the essential elements of H.R. 4922 as it was ordered reported by your Committee.

Specifically, the legislation has been redrafted and reorganized to separate provisions that fall within the jurisdiction of both of our committees from those which fall exclusively within the jurisdiction of one or the other. Title I of the text creates a freestanding statute that is not codified, which governs the interception of digital and other communications transmitted by telecommunications carriers. This Title imposes new regulations on communications carriers, a subject which is expressly part of our Committee's Rule X jurisdiction. In my view, it ought to be codified in Title 47 of the U.S. Code, which is where other matters of this sort are codified.

However, this Title also implicates the law enforcement jurisdiction of the Committee on the Judiciary. In recognition of your legitimate claim for jurisdiction, in my view jurisdiction over this Title should be shared by our two committees.

Title II amends Title 18 and falls exclusively within the jurisdiction of the Committee on the Judiciary.

Title III amends the Communications Act of 1934 and falls exclusively within the jurisdictions of the Committee on Energy and Commerce.

Our Committee intends to insist on its request for sequential referral. However, in light of the agreement that has been reached by our two committees, and subject to it being offered during the House consideration of the bill, the Committee on Energy and Commerce will not object to the consideration of H.R. 4922 by the full House later today. I do ask, however, that you insert a copy of this letter, together with your response, into the Record during floor consideration.

Sincerely,

JOHN D. DINGELL, *Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, October 4, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR JOHN: I am writing in response to your correspondence dated October 4, 1994, regarding H.R. 4992, legislation to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes.

As you know, our Committees have worked closely on this legislation to address areas of common concern. I very much appreciate your strong leadership and the efforts of other Members of the Committee on Energy and Commerce in working to craft a mutually agreeable legislative product that serves to maximize the protection of various law enforcement, privacy and commercial interests.

I acknowledge that the bill, as ordered reported by the Committee on the Judiciary, contains some subject matter within the Rule X jurisdiction of your Committee that would render an appropriate referral of the legislation at this time. I very much appreciate your willingness to allow the House later today to consider H.R. 4922, as modified pursuant to the discussions between our Committees. I further concur with the comments in your letter regarding the division of jurisdiction in the three titles of the legislation to be considered today.

Meanwhile, with best wishes.

Sincerely,

JACK BROOKS, *Chairman.*

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, which represents a joint effort by the Committee on the Judiciary and the Committee on Energy and Commerce, is needed to ensure that technological advances in the telecommunications industry do not foreclose the ability of law enforcement to conduct court—authorized electronic surveillance. I am pleased to have been an original cosponsor of this legislation with the chairman of the Subcommittee on Civil on Constitutional Rights, Mr. EDWARDS.

H.R. 4922, as amended seeks to carefully balance the needs of law enforcement, the interests of the telecommunications industry and the privacy rights of the American public in order to insure that law enforcement can continue to conduct court-authorized wiretaps.

Earlier this year, the Subcommittee on Civil and Constitutional Rights held two joint hearings with the Senate Subcommittee on Technology and the Law. Our hearings revealed that obstacles to court-authorized interceptions are already being encountered. An informal survey conducted by the FBI of Federal, State, and local law enforcement agencies in April of this year revealed 183 technology-based problems encountered in attempts to conduct court-authorized electronic surveillance.

The bill makes it clear that all telecommunications carriers will cooperate and assist in the interception of communications for law enforcement purposes. the definition of "telecommunications carrier" includes such service providers as local exchange carriers, interexchange carriers, competitive access providers [CAPs], cellular carriers, providers of personal communications services (PCS), satellite-based service providers, cable operators, and electric and other utilities that provide telecommunications services for hire to the public, and any other wireline or wireless service for hire to the public.

The bill authorizes an appropriation of $500 million for fiscal years 1995 through 1998, and for subsequent years, such sums as are necessary for telecommunications carriers to retrofit existing facilities to bring them into compliance with law enforcement requirements.

Those covered by the bill have expressed concern that $500 million will not cover the cost of retrofitting existing facilities. Because we do not yet know the exact nature of the technologies that will be needed to satisfy the capability requirements, we cannot know, with certainty, exactly how much money will be needed to retrofit existing services and facilities. According to the GAO, "until capability solutions and capacity requirements are better defined, it is virtually impossible to project a precise estimate of the reimbursement costs of this bill."

If the $500 million authorized in the bill is not appropriated, or if it not sufficient to cover retrofit costs, any equipment or services that the government cannot pay to retrofit are "grandfathered," and do not have to be brought into compliance until they are replaced or upgraded in the ordinary course of business.

After the 4 year transition period, which may be extended up to two additional years by order of the FCC, industry will pay to insure that new equipment and services meet the legislative requirements as defined by industry standards and specifications to the extent such compliance is reasonably achievable. In the event that compliance is not reasonably achievable, a telecommunications carrier may petition the FCC to determine whether costs of compliance would impose significant difficulty or expense based on 10 enumerated factors including public safety and national security, the impact on rates for basic residential telephone service and the like. If compliance is not reasonably achievable, and the Attorney General does not agree to reimburse, the carrier will not be required to pay to bring its services or features into compliance.

In addition, to the extent that telecommunications carriers must install additional capacity to meet law enforcement needs, the bill requires the Government to pay for the increased capacity requirements.

Court authorized electronic surveillance is one of law enforcement's most important and effective investigative tools. It is often the only means of preventing or solving serious crimes. Failure to pass this legislation will have dire consequences for law enforcement, public safety and our national security.

This legislation is strongly supported by FBI Director Freeh and State and local law enforcement officials. I urge my colleagues to do so as well.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 4922, which makes certain that law enforcement's needs for wiretaps are met as we march forward into the future.

This bill seeks to balance the growth of the communications industry and its advances in technology, something my Subcommittee has taken pains to promote, with the legitimate needs of law enforcement for wiretap capabilities.

The issue of wiretapping telephone lines has dogged constitutional, privacy, and telecommunications advocates for decades. In fact, wiretap law reflects a 65-year history between Congress and the courts. In 1928, the Supreme Court first confronted the issue in Olmstead v. United States. In this famous case, the Court held that tapping a telephone line does not constitute a "search" or "seizure" and therefore does not violate the Fourth Amendment. This case is most famous, however, for the dissent by Justice Brandeis, who argued that the Constitution protected citizens against wiretaps. In that great Justice's most memorable phrase, he wrote that:

> The Fourth Amendment protected against wiretaps because it protected the right of privacy, which he defined as "the right to be let alone—the most comprehensive of rights and the right most valued by civilized men."

Congress responded to the Court's decision in Olmstead, and the force of Justice Brandeis' dissent, just 6 years later. In passing the Communications Act of 1934, Congress included a provision in section 705, that states "no person not being authorized by the sender shall intercept any communication and divulge or publish [its] existence, contents * * * or meaning." However, courts quickly construed section 705 to permit Federal and State law enforcement to use a wiretap for investigation purposes, so long as they did not divulge any content by testifying about it in open court.

Then, in 1967, the Supreme Court finally adopted Justice Brandeis' dissenting view, overruled Olmstead, and held that an eavesdropping does amount to a "search or seizure" and thus was protected by the Constitution. Just 1 year later, Congress again responded, by passing the 1968 Wiretap Act. This law makes wiretaps lawful by setting up a judicial process that law enforcement must go through to get a court-ordered wiretap.

But the story does not end there. Congress again responded to changes in computer and communications technology by passing the Electronic Communications Privacy Act of 1986. This law, which was sponsored by Senator LEAHY and Congressman EDWARDS, amended the 1968 Wiretap Act by protecting a new class of electronic communications, defined broadly to include everything from e-mail to databases. That legislation reflected an ongoing effort to update and clarify Federal wiretap laws, as the Senate Committee put it, "in light of dramatic changes in new computer and telecommunications technologies."

Well today, we are back at the task of updating and clarifying our wiretap law again. This time, the changes in computer and telecommunications technology are not just dramatic, they are overwhelming. The growth of digital communications over the past 8 years, the spread of fiber deeper into the local phone network, the spread and growth of wireless services—all of these developments converge to compel us to address legislatively the needs of law enforcement in the information age. The Federal Bureau of Investigation argues that as these advanced technologies get deployed, that the technology should not, in essence, repeal or modify the 1968 Wiretap Act. Instead, the Bureau argues, we must update and clarify our laws so that their ability to conduct wiretaps is maintained—not expanded and not diminished—just maintained.

In working with the Judiciary Committee to resolve this matter, I have sought to come up with a policy that 1) protects the privacy interests of our citizens, 2) is mindful of the limited financial resources of taxpayers or ratepayers, 3) meets the legitimate needs of law enforcement, and 4) does not unduly interfere with our telecommunications industry, which is racing to the future with advances in communications technology.

The bill before the House today, carefully crafted in consultation between our two committees, represents a balanced and workable approach to resolving each of those issues. I urge the House to approve this bill.

In addition, I want to comment in detail on several provisions in the bill. The term "information services" encompasses both electronic publishing, which has meaning under the MFJ and FCC and court interpretations, and electronic messaging services, which is a term broadly defined to encompass electronic mail, electronic forms transfer, electronic document interchange, and electronic data interchange. The term "telecommunications carrier" is not a defined term in the Communications Act of 1934, but the term is defined broadly to include common carriers, which means, at minimum both a "common carrier," as defined in section 3(h), and a provider of "telephone exchange service," as such term is defined in section 3(r). Consequently, all local exchange carriers and long distance companies operating as common carriers will be covered. In addition, the provision in (4)(B)(ii) applies to persons or entities that offer a service that represents a substantial substitute for a common carrier service. This provision, coupled with the language in (4)(A), is designed to sweep broadly. However, in recognition that not all common carriers need to be covered by this Act, and in recognition that law enforcement does not need capability assistance from all carriers, the legislation also directs the Commission, in paragraph (8)(C)(ii), to exclude certain carriers.

Section 104 requires the Attorney General to publish in the Federal Register notice of the actual capacity and maximum capacity that law enforcement will need from telecommunications carriers. Section 104(a)(2) requires the Attorney General to identify capacity required at specific locations, and to base the notice on the type of equipment or service involved, or the kind or type of carrier. The purpose behind this provision is two-fold. One, to ensure that carriers receive adequate and specific notice from the Attorney General about the needs of law enforcement with respect to a particular carrier in a particular area. This notice is essential to enable a carrier to meet its obligations under section 104(d). Second, this provision encourages the Attorney General to recognize differences among telecommunications carriers, and to take those differences into account when issuing a notice.

Section 105 represents a significant expansion of privacy protection for citizens everywhere. It ensures that wiretapping technology does not become so easy as to obviate the need for telephone company participation, which serves as a check against an end-run of the judicial system. The Energy and Commerce Committee found this interest so compelling, that in title III of the bill we direct the Federal Communications Commission to adopt special rules to enforce this requirement, and to have companies submit their procedures for safeguarding those rules with the Commission so that this preventive measure is subject to public notice and not diluted.

Section 109 establishes the principle that for equipment or facilities or services deployed on or before the date of enactment, that the Attorney General, subject to the availability of appropriations, may agree to compensate carriers for all reasonable cost directly associated with necessary modifications to bring equipment, facilities, or services into compliance with the capabilities requirements set forth in section 103. Section 109(b) sets forth the rule for equipment, facilities, or services deployed after the date of enactment. The Commission is directed to determine, upon a petition from a carrier or a manufacturer or any other interested party, whether compliance with section 103 is reasonably achievable for equipment deployed after the date of enactment. The legislation, in turn, elaborates on reasonably achievable as meaning whether compliance would impose significant difficulty or expense.

Section 109(b)(1) lists several factors the Commission should consider in determining whether compliance is reasonably achievable. Those factors direct the Commission's attention to, inter alia, the impact on rates for basic residential telephone service, the need to protect privacy interests, the need to meet law enforcement's needs in a cost-effective manner, the policy of the United States to encourage development and deployment of new technologies and services, and the competitive impact that compliance will have on the offering of the equipment, facilities, or services. These factors are designed to give the Commission direction so that the following goals are realized: (1) Costs to consumers are kept low, so that "gold-plating" by the industry is kept in check; (2) the legitimate needs of law enforcement are met, but that law enforcement does not engage in "gold-plating" of its demands; (3) privacy interests of all Americans are protected; (4) the goal of encouraging competition in all forms of telecommunications is not undermined, and the fact of wiretap compliance is not used as either a sword or a shield in realization of that goal.

Section 109(e) also directs the Attorney General to promulgate regulations designed to minimize the costs to the Federal Government. These regulations serve the purpose of enabling the Attorney General to assess fairly the expenses incurred by carriers, and to reimburse them accordingly.

In administering the rulemaking duties under this Act, the Commission, and the Attorney General, must be careful to protect the genuine proprietary concerns of manufacturers and carriers. (By genuine I mean information that the agency beliefs would present a harm to the competitive position of a company if released.) The proceedings required by this Act may necessitate carriers and manufacturers to file proprietary information which, if disclosed, could affect adversely the competitive position of the company or service at issue. The Commission has procedures in place, under 47 CFR 0.459, .461, to honor requests for confidentiality and to grant review of confidential documents on a limited and protected basis. The Commission should make use of these procedures so that all parties, including public interest and privacy advocates, can have access to the information, but that such information is handled pursuant to strict guidelines. The practice at the U.S. Trade Representative to handle dumping cases is generally acknowledged as workable and well administered. The Commission, and the Attorney General, should seek to establish similar rules to handle genuine proprietary information.

Title III amends the Communications Act of 1934 by requiring the Commission to promulgate rules enforcing the Communications Assistance for Law Enforcement Act in accordance with its Communications Act, title II, regulations. This provision in new section 229(a), coupled with the systems security and integrity provisions in subsections (b) and (c), and the penalties and enforcement provisions in subsection (d), ensures that the Commission will be able to enforce the security, privacy, and cost-effective rules mandated by this Act.

Finally, title III contains a long list of technical corrections and clerical amendments. These amendments are the definition of technical amendments—spelling errors and bad references—but are a necessary step from time to time.

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Mr. Speaker, I congratulate the gentleman from Texas, Chairman BROOKS, the gentleman from Michigan, [Mr. DINGELL], especially the gentleman from California, [Mr. EDWARDS], and Senator LEAHY, who have made today's legislation possible.

Mr. HYDE. Mr. Speaker, I yield three minutes to the distinguished gentleman from Texas, [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of H.R. 4922, a bill to amend title 18, U.S. Code, regarding the interception of communications for law enforcement purposes. This bill represents the hard work of many Energy and Commerce and Judiciary Committee members over the past several months. I want to command Mr. EDWARDS, in particular, for his leadership role on this issue.

This legislation is necessary because advancements in technology that have modernized our national telecommunications network at a pace that has outstripped the ability of law enforcement to carry out its law enforcement obligations under Federal wiretap laws. Specifically, new features such as call forwarding, three-way conferencing, and voice recognition calling have made it impossible for wiretaps to be conducted.

I should note that I have never witnessed Federal, State, and local law enforcement officials so united on the need for passage of a legislative proposal. I have heard from officials at all three levels and I specifically want to commend FBI Director Freeh for his hard work on this legislation and Sheriff Klevenhagers of Houston. I also want to complement the telephone industry and the privacy community for their important contributions to this legislation.

This bill will compensate telephone companies for retrofitting their networks to allow law enforcement to conduct authorized wiretaps in light of currently available telephone features and services. In the future, as new technologies come on line, the telephone industry will be responsible for making sure that wiretaps may be conducted. The bill asks the FCC to determine whether the costs are reasonably achievable, and if they are not, we will need to seek Federal funding to pay for the network changes necessary.

I again want to commend the sponsor, Mr. EDWARDS, and Messrs. DINGELL, MOORHEAD, BROOKS, FISH, HYDE, MARKEY, BOUCHER, and OXLEY for their hard work on this matter.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from California, [Mr. EDWARDS] chairman of the subcommittee who has done so much to craft this legislation and who is going to be retiring this year, and who we will not be able to replace. We will get a new Member, but he will never replace DON EDWARDS.

Mr. EDWARDS of California. Mr. Speaker, I thank my chairman for those gracious remarks.

Mr. Speaker, my colleagues have explained this bill correctly and in detail, and I will not repeat it, but I do want to thank my chairman, the gentleman from Texas [Mr. BROOKS], the gentleman from Michigan [Mr. DINGELL], the gentleman from Massachusetts [Mr. MARKEY] and, of course, our ranking minority member, the gentleman from Illinois [Mr. HYDE], who has been of such enormous help in this difficult bill. It was a difficult bill to write, because it dealt with a subject that makes us all uneasy, which is a constitutional issue having to do with the fourth amendment.

We were determined when we started that we preserve the principle that we established in 1968 in the Omnibus Control and Safe Streets Act, that there must be a warrant by a court before there is any kind of listening in. In addition, we wanted to make sure that all privacy considerations and civil liberties be protected, and that is what we did. We drew the bill very narrowly, and in important instances we tightened existing controls over the police and the FBI. So the result is tougher standards for the FBI and the police in going through any kind of wiretapping.

So I think we did a good job. I guarantee that we protected to the best of our ability the civil liberties of Americans.

The FBI came to us several years ago and said that new technologies were giving them increasing problems carrying out wiretaps.

We said, you have to prove there is a problem before we legislate.

Well, they did their homework, and they proved there is a problem. They have submitted 183 cases, from all over the country, involving many of the new technologies and services.

The industry also has admitted there are technological problems.

So we worked with industry, the FBI, and privacy advocates to develop a bill. Original administration proposals had no privacy provisions and would have given the FBI control over the phone system.

There was a great deal of compromise, and the result is before the House today.

The bill requires common carriers to meet basic functional requirements allowing law enforcement to continue to carry out wiretaps.

The bill allows industry to develop the standards for meeting those requirements.

It provides $500 million over 4 years to pay the costs of modifying existing equipment to comply.

The question of costs was very difficult. The bill before you takes a reasonable middle course. Industry will be required to bear only the reasonable costs of compliance after 4 years. The FCC will determine what is reasonable based on factors specified in the bill.

We dealt with the scope issue very carefully. We cover common carriers, including competitive access providers and companies such as teleport.

We have worked with the gentleman from Virginia, [Mr. BOUCHER] on the question of cost, and he has substantially improved the bill. The contributions made by the Energy and Commerce Committee have been tremendously helpful.

The bill improves privacy protection. We raise the standard for access to transactional records, and require a court order. We improve the protections for cordless phones and cellular phones. We place limits on the ability of law enforcement to use portable phones as tracking devices.

In summary, Mr. Speaker, I urge approval of this bill.

Mr. HYDE. Mr. Speaker, before I yield to the gentleman from Ohio, I want to again congratulate the gentleman from California [Mr. EDWARDS] the distinguished chairman of the Subcommittee on Civil and Constitutional Rights. No one is more sensitive to the fragility of civil liberties and civil rights than he. This bill would not have passed without his attention and care and concern, and I think the country owes him a debt of gratitude for his work in this and so many other things.

Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise in strong support of the Digital Telephony Act of 1994. As mentioned, the purpose of this bill is to safeguard the ability of law enforcement agencies to carry out court-ordered wiretaps.

As a former FBI special agent, I know that the court-authorized interception of communications is one of our most important tools in the investigation of criminal conduct. By necessity, wiretaps are relied upon in the investigation of drug kingpins, terrorists, and others who would use telecommunications networks to further their criminal ends.

Currently, the telecommunications industry is undertaking revolutionary changes in its technology, changes that could make it impossible for police agencies to execute lawful court orders. In some instances, cellular technology and new digital features have already frustrated court-ordered wiretaps.

I want to emphasize that this measure would not expand the authority of law enforcement in any way. It would merely ensure that it remains technically feasible to access communications. Those who suggest that this legislation gives Government new power to pry into people's lives are simply mistaken.

One area of controversy that arose during consideration of the bill concerned the issue of cost—specifically, how great the expense of implementation will be and who should bear it. I want to state my satisfaction with the compromise that has been reached, but also express my willingness to revisit the issue if necessary. In the meantime, I have asked the Office of Technology Assessment to provide an analysis of the cost of implementing the bill.

I wish to take this opportunity to commend FBI Director Freeh, his able staff, and the Committee on the Judiciary for their work on this legislation. I also would like to thank Chairman DINGELL, Chairman MARKEY, Congressman MOORHEAD and Congressman FIELDS for their contributions, along with the gentleman from California [Mr. EDWARDS] and the gentleman from Texas [Mr. BROOKS].

□ 2050

Mr. Speaker, I specifically want to point out how hard the new FBI Director Freeh worked on this particular legislation. Had it not been for him, we would not be here tonight on the suspension calendar.

Mr. Speaker, the need for legislative action is clear. Without it, U.S. authorities will be unequipped to protect the Nation from organized crime, terrorism, drug trafficking, espionage, and other threats.

Mr. Speaker, I urge all Members to support this vital legislation.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, Oct. 4, 1994.

Hon. MICHAEL G. OXLEY,
U.S. House of Representatives
Washington, DC.

DEAR CONGRESSMAN OXLEY: I am writing to request your support for enactment of the "Communications Assistance for Law Enforcement Act," H.R. 4922. It is scheduled to be voted upon today under suspension of the rules.

This legislation is of extreme importance to all federal, state, and local law enforcement agencies. The bill has the full support of every major law enforcement organization in the country as well as the entire intelligence community.

If enacted, this legislation will prevent new telecommunications technologies from continuing to impede law enforcement agencies' lawful conduct of court-ordered electronic surveillance, without in any way diminishing the privacy of our citizens or hampering the deployment of new telecommunications technology. Indeed, the legislation contains numerous new privacy-enhancing provisions. Passage of this legislation is extremely critical, since without it effective law enforcement, the public safety, and national security will be put at unacceptable risk. Failure to enact it will rob law enforcement officers of a critical tool they use to fight terrorism, drug-trafficking cartels, organized and violent crime, and other life-threatening felonies.

This legislation is the product of an intense and diligent effort by the Senate and House Judiciary Committees, as well as the House Energy and Commerce Committee, to achieve a delicate balance of law enforcement, privacy, and telephone industry interests and concerns. It is sponsored on the House side by Congressmen Edwards and Hyde. This legislation is a remarkable achievement because of its balanced, fair, and equitable treatment of all affected parties, both with regard to responsibilities and cost allocation.

Every day that passes without this essential legislation means that law enforcement will be increasingly stripped of a great weapon against crime and a vital shield to protect the public. Just last week a wiretap in a terrorism investigation was stymied because of digital technology. Similarly, every day that passes means that the cost of solving the problem will grow ever greater. I can't emphasize too strongly that enactment of this legislation cannot wait.

I trust that you will appreciate both the extreme significance of this problem, as well as the extreme importance of this well-crafted legislative solution to correct it. On behalf of the entire law enforcement and intelligence communities, I urgently request your help to ensure that we in law enforcement can continue to do our job of effectively protecting the American public against the violent gangsters and terrorists who prey on society through your support for passage of H.R. 4922.

Sincerely yours,

LOUIS J. FREEH,
Director.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4922, as amended.

The question was taken.

Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AMENDING ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1457) to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II, as amended.

The Clerk read as follows:

S. 1457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATIONS.

(a) IN GENERAL.—Section 205(d)(4) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–4(d)(4)) is amended by striking "$1,400,000" and inserting "$4,700,000".

(b) FUND.—If the Fund referred to in section 205(a) of the Aleutian and Pribilof Islands Restitution Act (50 U.S.C. App. 1989c–4(a)) has been terminated pursuant to section 203(d) of such Act (50 U.S.C. App. 1939c–2(d)), upon the appropriation of additional funds pursuant to this Act, the Fund shall be reestablished.

(c) USE OF FUNDS.—The funds appropriated pursuant to this Act shall be used solely for the renovation, replacement, and restoration of Church property lost, damaged, or destroyed during World War II.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1457, to amend the existing Aleutian and Pribilof Islands Restitution Act to increase—from $1.4 million to $4.7 million—the authorization of appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II.

The increase is based on the 1993 report by the Department of Interior—which was required by the act—providing an estimate for repair and restoration of the property.

I'm pleased that both the Aleutian Church Restoration Society and the Aleutian/Pribilof Islands Association have provided letters that state: "Any increase in authorization under this bill will be spent solely for the restoration/renovation of Orthodox church property lost, damaged or destroyed during the war.

I urge an aye vote for S. 1457.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

I, too, strongly support the passage of this legislation. Many Americans are too quick to forget that while we all were disgraced by the internment of the Japanese during World War II, that the Aleutian Indians as well were victims of that grand injustice perpetrated during that time.

If I wanted to speak more eloquently on the question, I would have to turn to the walking encyclopedia of matters Alaskan, to the resident expert, the gentleman from Alaska [Mr. YOUNG].

Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GEKAS] for yielding time to me. I want to thank the gentleman from Texas [Mr. BROOKS] for bring this legislation to the floor.

The Congress has in the past acted on legislation introduced by myself and other Members of this body to give restitution to the members that remain for the internment which occurred. This is one of the better pieces of legislation which we passed, and I suggest respectfully that this is just a follow-up.

Again, the bill amends the Aleutian-Pribilof Restitution Act by increasing the authorization for appropriations to compensate Aleut villages in Alaska for church property damaged and destroyed during World War II. Some of the churches were destroyed in military operations as part of U.S. efforts to recapture Attu and Kiska. Other churches were looted and burned. Keep in mind, Alaska was the only State that was invaded during World War II.

The Aleutian people themselves are the ones that suffered the most during this activity. This bill amends the existing authorization to allow full compensation of the Aleut people for the destruction of their churches. This also is the legislation of my senior Senator, Senator TED STEVENS. I suggest respectfully this is a sort of a tribute to his effort and interest in my constituents and his own constituents.

I urge my colleagues to support the bill.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1457, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS ACT

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 922) to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

The Clerk read as follows:

S. 922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Full Faith and Credit for Child Support Orders Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

(2) the laws by which the courts of different jurisdictions determine their authority to establish child support orders are not uniform;

(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels that are based solely on the noncustodial parent's choice of residence;

(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

(4) among the results of the conditions described in this subsection are—

(A) the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States;

(B) the deprivation of rights of liberty and property without due process of law;

(C) burdens on commerce among the States; and

(D) harm to the welfare of children and their parents and other custodians.

(b) STATEMENT OF POLICY.—In view of the findings made in subsection (a), it is necessary to establish national standards under which the courts of the various States shall determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

(c) PURPOSES.—The purposes of this Act are—

(1) to facilitate the enforcement of child support orders among the States;

(2) to discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

(3) to avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.

SEC. 3. FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following new section:

"§ 1738B. Full faith and credit for child support orders

"(a) GENERAL RULE.—The appropriate authorities of each State—

"(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

"(2) shall not seek or make a modification of such an order except in accordance with subsection (e).

"(b) DEFINITIONS.—In this section:

"'child' means—

"(A) a person under 18 years of age; and

"(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

"'child's State' means the State in which a child resides.

"'child support' means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

"'child support order'—

"(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

"(B) includes—

"(i) a permanent or temporary order; and

"(ii) an initial order or a modification of an order.

"'contestant' means—

"(A) a person (including a parent) who—

"(i) claims a right to receive child support;

"(ii) is a party to a proceeding that may result in the issuance of a child support order; or

"(iii) is under a child support order; and

"(B) a State or political subdivision of a State to which the right to obtain child support has been assigned.

"'court' means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

"'modification' means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

"'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

"(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made is made consistently with this section if—

"(1) a court that makes the order, pursuant to the laws of the State in which the court is located—

"(A) has subject matter jurisdiction to hear the matter and enter such an order; and

"(B) has personal jurisdiction over the contestants; and

"(2) reasonable notice and opportunity to be heard is given to the contestants.

"(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child's State or the residence of any contestant unless the court of another State, acting in accordance with subsection (e), has made a modification of the order.

"(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may make a modification of a child support order with respect to a child that is made by a court of another State if—

"(1) the court has jurisdiction to make such a child support order; and

"(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child's State or the residence of any contestant; or

"(B) each contestant has filed written consent to that court's making the modification and assuming continuing, exclusive jurisdiction over the order.

"(f) ENFORCEMENT OF PRIOR ORDERS.—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsection (e).

"(g) CHOICE OF LAW.—

"(1) IN GENERAL.—In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

"(2) LAW OF STATE OF ISSUANCE OF ORDER.—In interpreting a child support order, a court shall apply the law of the State of the court that issued the order.

"(3) PERIOD OF LIMITATION.—In an action to enforce a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738A the following new item:

"1738B. Full faith and credit for child support orders.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 922, the Full Faith and Credit for Child Support Orders Act.

S. 922 is a slightly modified version of H.R. 454 which passed the House of Representatives on suspension last year. S. 922 requires the authorities of each State to enforce—without modification—the child support orders of sister States, except in limited circumstances such as where none of the parties nor the child reside any longer in the State that issued the original order.

This bill helps to address the serious problem of parents who move to other States and then try to get out of their child support obligations through the use of the courts of their new State. The statistics in interstate child support cases are telling—indeed, they are tragic—with only $1 collected out of every $10 owed to the children and their custodial parents.

I compliment the gentleman from Massachusetts [Mr. FRANK], who introduced the House companion bill, and the gentleman from Texas [Mr. BRYANT] who shepherded the original bill through the House.

S. 922 is an important piece of legislation for children and for families. I urge the Members to vote aye and send this legislation on to the President for enactment into law.

□ 2100

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with what the gentleman from Texas [Mr. BROOKS], the chairman of the committee, has outlined are the main elements of this piece of legislation. I must say there was a time when we who were involved in support orders and the support court system throughout the Nation were satisfied that we had the uniform reciprocal support mechanism already in place, but now we have come full circle, because that left some undesired results. This piece of legislation plugs up that loophole with the full faith and credit portion of our national system, and it will yield good results, as it already seems to be leading to do.

Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the chairman of the committee has very graciously helped us get this bill to this point. I appreciate the guidance he has given us in getting this done.

Mr. Speaker, I just want to tell briefly the story of how this bill came about, because I think it is a very important antidote to some of the cynicism that, unfortunately, plagues us.

Mr. Speaker, I got a call from a constituent, who lives in Freetown, MA, Susan Riley, and she complained to me that the child support she had been ordered to receive by a court in Massachusetts had been reduced by a court in another State when she had brought an enforcement action against her former husband, who had simply stopped paying. He in return had apparently been able to use the courts of the other State, when challenged to pay up, to reduce the payment that had been ordered by the court in Massachusetts. It was virtually an ex parte proceeding, a one-sided proceeding, because she was in Massachusetts with no way to get to the other State.

Mr. Speaker, I must say, when she explained this to me, quite confidently I pointed out to her that she was wrong and it could not happen. I was very logical and very calm, and wrong, because it had happened. While I was sure that it could not have happened, she was sure that it had, and had it been—couldn't have. I had to acknowledge she was right.

Mr. Speaker, I then worked with the guidance of the staff of the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary, with the minority, under the guidance of our chairman, and we have come up with a very simple bill that says:

> If you have brought a child into this world and there is a support order against you, you cannot evade it or reduce it, other than by going back to the place where the child is or by mutual consent.

It is a one step that I think will help enforce that sense of responsibility.

Mr. Speaker, I want to acknowledge the courage of Susan Riley in bringing this to my attention, and helping us get this through. I am very grateful to the chairman and to the others for letting us take one small step towards more equity for children.

Mr. HYDE. Mr. Speaker, I congratulate the gentleman from Massachusetts for bringing this much needed legislation to the floor. There is a need to protect the rights of children who have been awarded support funds by a court of competent jurisdiction, from the arbitrary actions of another court in another jurisdiction which amends or diminishes the support awarded by the original court.

Children who have been virtually abandoned need the protection of the court and another court should not have the authority to amend the original order to the detriment of the minor dependent.

I wholeheartedly support this excellent legislation.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 922.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore (Mr. POSHARD) Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Member may have 5 legislative days in which to revise and extend their remarks on the bills just considered and passed.

The SPEAKER pro tempore (Mr. POSHARD). Is there objection to the request of the gentleman from Texas?

There was no objection.

CHILD SUPPORT ENFORCEMENT FOR MEMBERS OF THE ARMED FORCES

Mr. SKELTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5140) to provide for improved procedures for the enforcement of child support obligations of members of the Armed Forces.

The Clerk read as follows:

H.R. 5140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS OF MEMBERS OF THE ARMED FORCES.

(a) AVAILABILITY OF LOCATOR INFORMATION.—

(1) MAINTENANCE OF ADDRESS INFORMATION.—The Secretary of Defense shall establish a centralized personnel locator service that includes the address of each member of the Armed Forces under the jurisdiction of the Secretary. Upon request of the Secretary of Transportation, addresses for members of the Coast Guard shall be included in the centralized personnel locator service.

(2) TYPE OF ADDRESS.—

(A) RESIDENTIAL ADDRESS.—Except as provided in subparagraph (B), the address for a member of the Armed Forces shown in the locator service shall be the residential address of that member.

(B) DUTY ADDRESS.—The address for a member of the Armed Forces shown in the locator service shall be the duty address of that member in the case of a member—

(i) who is permanently assigned overseas, to a vessel, or to a routinely deployable unit; or

(ii) with respect to whom the Secretary concerned makes a determination that the member's residential address should not be disclosed due to national security or safety concerns.

(3) UPDATING OF LOCATOR INFORMATION.—Within 30 days after a member listed in the locator service establishes a new residential address (or a new duty address, in the case of a member covered by paragraph (2)(B)), the Secretary concerned shall update the locator service to indicate the new address of the member.

(4) AVAILABILITY OF INFORMATION.—The Secretary of Defense shall make information regarding the address of a member of the Armed Forces listed in the locator service available, on request, to the Federal Parent Locator Service.

(b) FACILITATING GRANTING OF LEAVE FOR ATTENDANCE AT HEARINGS.—

(1) REGULATIONS.—The Secretary of each military department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to facilitate the granting of leave to a member of the Armed Forces under the jurisdiction of that Secretary in a case in which—

(A) the leave is needed for the member to attend a court hearing described in paragraph (2);

(B) the member is not serving in or with a unit deployed in a contingency operation (as defined in section 101 of title 10, United States Code); and

(C) the exigencies of military service (as determined by the Secretary concerned) do not otherwise require that such leave not be granted.

(2) COVERED COURT HEARINGS.—Paragraph (1) applies to a court hearing that is conducted in connection with a civil action—

(A) to determine whether a member of the Armed Forces is a natural parent of a child; or

(B) to determine an obligation of a member of the Armed Forces to provide child support.

(3) DEFINITIONS.—for purposes of this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "Child support" has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(c) PAYMENT OF MILITARY RETIRED PAY IN COMPLIANCE WITH COURT ORDERS.—

(1) DATE OF CERTIFICATION OF COURT ORDER.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection (i):

"(i) CERTIFICATION DATE.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt by the Secretary.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—Subsection (d)(1) of such section is amended by inserting after the first sentence the following: "In the case of a spouse or former spouse who, pursuant to section 402(a)(26) of the Social Security Act (42 U.S.C. 602(26)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with that assignment of rights.".

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Section 1408(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(6) In the case of a court order for which effective service is made on the Secretary concerned on or after the date of the enactment of this paragraph and which provides for payments from the disposable retired pay of a member to satisfy the amount of child support set forth in the court order, the authority provided in paragraph (1) to make payments from the disposal retired pay of a member to satisfy the amount of child support set forth in a court order shall apply to payment of any amount of child support arrearages set forth in that court order as well as to amounts of child support that currently become due.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. SKELTON] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. SKELTON].

GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation represents the Department of Defense portion of H.R. 4570, the Child Support Responsibility Act of 1994, as was reported out of the Military Forces and Personnel Subcommittee by unanimous voice vote on September 29, 1994. H.R. 5140 would require the Secretary of Defense to establish and maintain a centralized personnel locator containing the residential addresses of each member of the Armed Forces and provide that information, upon request, to the Federal Parent Locator Service. This legislation would also require the service Secretaries to issue regulations to facilitate the granting of leave for military members to attend court proceedings pertaining to child support or the establishment of paternity. Finally, this legislation would expedite and simplify the process for establishing automatic payments of court-ordered child support and arranges in child support out of military retired pay.

This legislation has strong bipartisan support and takes much-needed positive steps in strengthening the child support enforcement mechanisms for members of our Armed Forces. Therefore, I urge my colleagues to vote in favor of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a natural follow-up to the legislation we just finished, this one having the unique effect of affecting children in the military.

Mr. Speaker, I have here an assertion that the Republican members, the minority members of the Committee on Armed Services, favor passage of this legislation.

Mrs. SCHROEDER. Mr. Speaker, I thank the Chairman for allowing this child support enforcement provision to be brought before us in such a timely manner. I would like to clarify a few things for the record.

In June, the Congressional Caucus for Women's Issues introduced the Child Support Responsibility Act, which is based on the 1992 recommendations of the U.S. Commission on Interstate Child Support. The caucus had hoped that the issue of child support enforcement could be dealt with in this Congress. Our legislation is about making certain that the Federal Government does everything in its power for the millions of children financially neglected by absent parents. If we commit the needed resources to tackle this problem, we may save close to $34 billion dollars annually. We were able to gain the support of the House leadership and the various committee chairs to move a bill separate from welfare reform, time has simply run out to do a comprehensive child support bill.

We appreciate the work of the Armed Services Committee and moving their child support enforcement provisions to the floor. The caucus child support bill is so comprehensive that it was referred to seven committees and Armed Services is the first to bring provisions to the floor.

The Chairman has explained what the bill does, however, I would like to note once again one very significant provision, the central locator service. Many of us know that locating absent parents is one of the biggest obstacles in collecting the billions of child supports dollars. This bill requires the Secretary of Defense to establish a central personnel locator which would contain the residential address of military personnel. This would make it easier for the Federal parent locator service to work with the Department of Defense in locating absent parents. Once the parent has been located, the Department of Defense has a policy of cooperating as fully as possible in child support procedures.

This Armed Services measure is a vital step towards addressing a national problem which is becoming a national disgrace. It is only one of the recommendations made to Congress almost 3 years ago. At the beginning of the next Congress, we will ask that child support legislation be one of the first issues brought up for consideration. We must take action on the remaining recommendations pertaining to paternity establishment, enforcement mechanisms, and providing Federal leadership in this area.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 5140, legislation designed to provide for improved procedures for the enforcement of child support obligations of members of the Armed Forces. H.R. 5140 passed out of the Armed Services Subcommittee on Military Forces and Personnel with unanimous support and is supported by the Defense Department.

Unfortunately, the statistics on child support establishment and collection within our Armed Forces are not encouraging. A 1993 Health and Human Services inspector general report identified 42,000 military personnel who are in arrears on their child support payments. These payments totaled over $176 million.

The report also found that States do not collect child support payments in more than half of the sample cases investigated by the Office of Audit Services. Projected national savings to the AFDC and Medicaid programs, if court orders for child support were established and/or enforced in these cases, totaled $54.1 million.

The national picture of child support enforcement, as well as the picture in Arizona specifically, is just as discouraging as what the military statistics suggest. It is apparent at this late date that the Congress will not pass comprehensive welfare and child support reform legislation during the 103d Congress. This should be a priority for the Congress when it returns for the 104th Congress.

Today, however, we can make a difference in child support collection in the military by passing H.R. 5140. H.R. 5140 will make a difference for those children who need and deserve the financial support of a noncustodial parent but are not getting it. And, H.R. 5140 will make a difference for the parents out there who are trying to get the financial support they need from a spouse or former spouse in order to take care of a child.

H.R. 5140 is modeled for the most part after recommendations made by the U.S. Commission on Interstate Child Support. That commission was established in 1988 to make recommendations on improvements in the establishment and enforcement of child support awards.

The first provision of the bill requires the secretary of Defense to establish a centralized personnel locator containing the residential address of each member of the Armed Forces, and upon request, provide those addresses to the Federal Parent Locator Service. Duty addresses can be maintained in the locator in those cases where members are assigned overseas. Records will be updated every 30 days.

Currently, each service only keeps records of the duty addresses of those who owe child support and each service keeps them separately. The establishment of a centralized locator system will expedite the process of finding a member of the Armed Forces in order to either establish or collect child support. Including the names of military personnel stationed overseas in the locator will improve the particularly high hurdles that the Commission on Child Support has indicated parents must overcome in order to collect child support from non-custodial parents who are living overseas.

The next provision requires service secretaries to issue regulations to facilitate the granting of leave to members of the Armed Services when it is necessary for the member to attend civil court proceedings connected with the establishment or enforcement of child support. The issuance of these leave regulations is one of the Child Support Commission's specific policy recommendations.

The last provision of this bill amends title 10 to make it easier to collect court ordered child support from retired military pay. It clarifies that child support should be paid out of military retired pay for as long as an already-established court order is still valid. The bill also clarifies that when a spouse of former spouse of a military retiree receives State assistance such as Aid to Families with Dependent Children, a service secretary should make court-ordered payments out of the retiree's military retired pay to the state.

Mr. Speaker, I know this bill is one small step. However, if it represents even one small link in an overall effort by the Congress, States, and individuals to foster a sense of responsibility among parents, and particularly noncustodial parents—mostly fathers—to own up to their responsibilities, I am glad to be a part of the effort.

I urge my colleagues to support H.R. 5140.

Ms. HARMAN. Mr. Speaker, as a member of the House Armed Services Committee, I commend Military Forces and Personnel Subcommittee Chairman SKELTON for marking up the Child Support Responsibility Act and introducing it as separate legislation, taking an important first step in passing comprehensive support legislation.

The failure of a parent to pay child support hinders families of every class, race and ethnicity in the Nation. We must put an end to deadbeats that force families into poverty and deprive families of the resources they need to raise their children. Although child support is an important component of welfare reform, there has never been any reason to hold child support legislation hostage waiting for welfare reform.

Starting with members of our Armed Forces is important. Unique difficulties remain in ensuing child support collection from service members, and this legislation will provide additional remedies to address these problems. Like all parents, service members have an obligation to make child support payments. This bill requires the Defense Department to establish a centralized personnel locator service containing the address of each member of the armed services, and, upon request, provide those addresses to the Federal Parent Locator Service. It also facilitates the granting of leave to members of the armed services to attend hearings to establish paternity or determine child support obligations, and facilitates the court-ordered payment of child support from military retired pay.

I commend my colleagues on the Armed Service Committee for being the first committee to bring this legislation to a vote. My hope is that this piece of legislation will serve as a catalyst, and all of the House committees to which the legislation was referred will follow our lead to bring comprehensive child support legislation to the House floor. I am pleased to be an original cosponsor of this important piece of legislation.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

Mr. SKELTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr.

SKELTON] that the House suspend the rules and pass the bill, H.R. 5140.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL MARITIME HERITAGE ACT OF 1994

Mrs. UNSOELD. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3059) to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage, as amended.

The Clerk read as follows:

H.R. 3059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Maritime Heritage Act of 1994".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The United States is a nation with a rich maritime history, and it is desirable to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture.

(2) The maritime historical and cultural foundations of the Nation should be preserved as a part of our community life and development.

(3) National, State, and local groups have been working independently to preserve the maritime heritage of the United States.

(4) Historic resources significant to the Nation's maritime heritage are being lost or substantially altered, often inadvertently, with increasing frequency.

(5) The preservation of this irreplaceable maritime heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, and economic benefits will be maintained and enriched for future generations of Americans.

(6) The current governmental and nongovernmental historic preservation programs and activities are inadequate to ensure future generations a genuine opportunity to appreciate and enjoy the rich maritime heritage of our Nation.

(7) A coordinated national program is needed immediately to redress the adverse consequences of a period of indifference during which the maritime heritage of the United States has become endangered and to ensure the future preservation of the Nation's maritime heritage.

(8) A national maritime heritage policy would greatly increase public awareness of, and participation in, the preservation of the Nation's maritime heritage.

SEC. 3. NATIONAL MARITIME HERITAGE POLICY.

It shall be the policy of the Federal Government, in partnership with the States and local governments and private organizations and individuals, to—

(1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our historic maritime resources can exist in productive harmony;

(2) provide leadership in the preservation of the historic maritime resources of the United States;

(3) contribute to the preservation of historic maritime resources and give maximum encouragement to organizations and individuals undertaking preservation by private means; and

(4) assist State and local governments to expand their maritime historic preservation programs and activities.

SEC. 4. NATIONAL MARITIME HERITAGE GRANTS PROGRAM.

(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior the National Maritime Heritage Grants Program, to foster in the American public a greater awareness and appreciation of the role of maritime endeavors in our Nation's history and culture. The Program shall consist of—

(1) annual grants to the National Trust for Historic Preservation for subgrants administered by the National Trust for maritime heritage education projects under subsection (b);

(2) grants to State Historic Preservation Officers for maritime heritage preservation projects carried out or administered by those Officers under subsection (c); and

(3) grants for interim projects under subsection (j).

(b) GRANTS FOR MARITIME HERITAGE EDUCATION PROJECTS.—

(1) GRANTS TO NATIONAL TRUST FOR HISTORIC PRESERVATION.—The Secretary, subject to paragraphs (2), (3), and (4), and the availability of amounts for that purpose under section 6(b)(1)(A), shall make an annual grant to the National Trust for maritime heritage education projects.

(2) USE OF GRANTS.—Amounts received by the National Trust as an annual grant under this subsection shall be used to make subgrants to State and local governments and private nonprofit organizations to carry out education projects which have been approved by the Secretary under subsection (f) and which consist of—

(A) assistance to any maritime museum or historical society for—

(i) existing and new educational programs, exhibits, educational activities, conservation, and interpretation of artifacts and collections;

(ii) minor improvements to educational and museum facilities; and

(iii) other similar activities;

(B) activities designed to encourage the preservation of traditional maritime skills, including—

(i) building and operation of vessels of all sizes and types for educational purposes;

(ii) special skills such as wood carving, sail making, and rigging;

(iii) traditional maritime art forms; and

(iv) sail training;

(C) other educational activities relating to historic maritime resources, including—

(i) maritime educational waterborne-experience programs in historic vessels or vessel reproductions;

(ii) maritime archaeological field schools; and

(iii) educational programs on other aspects of maritime history;

(D) heritage programs focusing on maritime historic resources, including maritime heritage trails and corridors; or

(E) the construction and use of reproductions of historic maritime resources for educational purposes, if a historic maritime resource no longer exists or would be damaged or consumed through direct use.

(c) GRANTS FOR MARITIME HERITAGE PRESERVATION PROJECTS.—

(1) GRANTS TO STATE HISTORIC PRESERVATION OFFICES.—The Secretary, acting through the National Maritime Initiative of the National Park Service and subject to paragraphs (2) and (3), and the availability of amounts for that purpose under section 6(b)(1)(B), shall make grants to State Historic Preservation Officers for maritime heritage preservation projects.

(2) USE OF GRANTS.—Amounts received by a State Historic Preservation Officer as a grant under this subsection shall be used by the Officer to carry out or to make subgrants to local governments and private nonprofit organizations to carry out, projects which have been approved by the Secretary under subsection (f) for the preservation of historic maritime resources through—

(A) identification of historic maritime resources, including underwater archaeological sites;

(B) acquisition of historic maritime resources for the purposes of preservation;

(C) repair, restoration, stabilization, maintenance, or other capital improvements to historic maritime resources, in accordance with standards prescribed by the Secretary; and

(D) research, recording (through drawings, photographs, or otherwise), planning (through feasibility studies, architectural and engineering services, or otherwise), and other services carried out as part of a preservation program for historic maritime resources.

(d) CRITERIA FOR DIRECT GRANT AND SUBGRANT ELIGIBILITY.—To qualify for a subgrant from the National Trust under subsection (b), or a direct grant to or a subgrant from a State Historic Preservation Officer under subsection (c), a person must—

(1) demonstrate that the project for which the direct grant or subgrant will be used has the potential for reaching a broad audience with an effective educational program based on American maritime history, technology, or the role of maritime endeavors in American culture;

(2) match the amount of the direct grant or subgrant, on a 1-to-1 basis, with non-Federal assets from non-Federal sources, which may include cash or donated services fairly valued as determined by the Secretary;

(3) maintain records as may be reasonably necessary to fully disclose—

(A) the amount and the disposition of the proceeds of the direct grant or subgrant;

(B) the total cost of the project for which the direct grant or subgrant is made; and

(C) other records as may be required by the Secretary, including such records as will facilitate an effective accounting for project funds;

(4) provide access to the Secretary for the purposes of any required audit and examination of any books, documents, papers, and records of the person; and

(5) be a unit of State or local government, or a private nonprofit organization.

(e) PROCEDURES, TERMS, AND CONDITIONS.—

(1) APPLICATION PROCEDURES.—An application for a subgrant under subsection (b), or a direct grant or subgrant under subsection (c), shall be submitted under procedures prescribed by the Secretary.

(2) Terms and conditions.—A person may not receive a subgrant under subsection (b), or a direct grant or subgrant under subsection (c), unless the person has agreed to assume, after completion of the project for which the direct grant or subgrant is awarded, the total cost of the continued maintenance, repair, and administration of any property for which the subgrant will be used in a manner satisfactory to the Secretary.

(f) Review of Proposals.—

(1) Committee recommendations.—The National Maritime Heritage Grants Committee shall review applications for subgrants under subsection (b), and direct grants or subgrants under subsection (c), and submit recommendations to the Secretary regarding projects which should receive funding under those direct grants and subgrants.

(2) Allocation of grant funding.—To the extent feasible, the Secretary shall ensure that the amount made available under subsection (b) for maritime heritage education projects is equal to the amount made available under subsection (c) for maritime heritage preservation projects.

(3) Limitation.—The amount provided by the Secretary in a fiscal year as grants under this section for projects relating to historic maritime resources owned or operated by the Federal Government shall not exceed 40 percent of the total amount available for the fiscal year for grants under this section.

(g) Direct Grants and Subgrants Process.—

(1) Direct grants and subgrants solicitation.—The Secretary shall publish annually in the Federal Register and otherwise as the Secretary considers appropriate—

(A) a solicitation of applications for direct grants and subgrants under this section;

(B) a list of priorities for the making of those direct grants and subgrants;

(C) a single deadline for the submission of applications for those direct grants and subgrants; and

(D) other relevant information.

(2) Receipt and approval or disapproval of direct grant and subgrant applications.—Within 60 days after the submission of recommendations by the Committee to the Secretary under subsection (h)(6), the Secretary shall review and approve or disapprove a direct grant or subgrant for each project recommended by the Committee and provide to the Committee and the applicant the reasons for that approval or disapproval.

(h) Direct Grant and Subgrant Administration.—The National Trust shall be responsible for administering subgrants for maritime heritage education projects under subsection (b), the Secretary shall be responsible for administering direct grants for maritime heritage preservation projects under subsection (c), and the various State Historic Preservation Officers shall be responsible for administering subgrants for maritime heritage preservation projects under subsection (c), by—

(1) publicizing the Program to prospective grantees, subgrantees, and to the public at large, in cooperation with the National Park Service, the Maritime Administration, and other appropriate government agencies and private institutions;

(2) answering inquiries from the public, including providing information on the Program as requested;

(3) distributing direct grant and subgrant applications;

(4) receiving direct grant and subgrant applications and ensuring their completeness;

(5) forwarding the applications to the Committee for review and recommendation;

(6) submitting to the Secretary applications that the Committee recommends should be approved by the Secretary;

(7) keeping records of all direct grant and subgrant awards and expenditures of funds;

(8) monitoring progress of projects carried out with direct grants and subgrants; and

(9) providing to the Secretary such progress reports as may be required by the Secretary.

(i) Assistance of Maritime Preservation Organizations.—The Secretary, the National Trust, and the State Historic Preservation Officers may, individually or jointly, enter into cooperative agreements with any private nonprofit organization with appropriate expertise in maritime preservation issues, or other qualified maritime preservation organizations, to assist in the administration of the Program.

(j) Grants for Interim Projects.—

(1) Grants authority.—The Secretary, subject to paragraph (3), may use amounts available under section 6(b)(2) to make one or more grants described in paragraph (2).

(2) Grants described.—The grants referred to in paragraph (1) are the following:

(A) A grant to the National Museum Association (a nonprofit organization located in San Francisco, California) for payment of expenses directly related to the preservation and restoration of the historic fleet of the San Francisco Maritime National Historical Park, located in San Francisco, California.

(B) A grant to the Virginia V Foundation (a nonprofit organization) for use in restoration and preservation of the historic steamship VIRGINIA V.

(C) A grant to any nonprofit organization which operates and maintains a former hospital ship to be converted to engage in public health activities, for use in refurbishing and maintaining the ship for those activities.

(D) A grant to the Mariners' Museum (a not-for-profit educational institution located in Newport News, Virginia, for use for expenses directly related to the computerization of the library and archives of that museum, including for the purpose of providing to the public enhanced national access to those materials.

(E) A grant for each of fiscal years 1996, 1997, 1998, 1999, and 2000 to the Center for Maritime and Underwater Resource Management at Michigan State University, for a pilot project to plan, design, implement, and evaluate innovative approaches to management and development of maritime and underwater cultural resources at the following sites: Thunder Bay, the Manitou Passage, Isle Royale National Park, Keweenaw Peninsula, Marquette County, Alger County, Whitefish Point, the Straits of Mackinac, the Thumb Area, and Sanilac Shores.

(3) Grant conditions.—The Secretary may not make a grant under this subsection unless the grantee complies with the requirements set forth in paragraphs (1) through (5) of section 4(d).

(k) Report to Congress.—The Secretary shall submit to the Congress, after review by the Committee, an annual report on the Program, including—

(1) a description of each project funded under the Program in the period covered by the report;

(2) the results or accomplishments of each such project; and

(3) recommended priorities for achieving the policy set forth in section 3.

SEC. 5. NATIONAL MARITIME HERITAGE GRANTS ADVISORY COMMITTEE.

(a) Establishment.—There is hereby established a National Maritime Heritage Grants Advisory Committee.

(b) Membership.—

(1) In general.—The Committee shall consist of 13 members appointed by the Secretary from among individual members of the public who—

(A) are representatives of various sectors of the maritime community who are knowledgeable and experienced in maritime heritage and preservation;

(B) to the extent practicable, are selected in a manner that ensures regional geographic balance;

(C) to the extent practicable, include a representative of each of the fields of—

(i) small craft preservation;

(ii) large vessel preservation;

(iii) sail training;

(iv) preservation architecture;

(v) underwater archaeology;

(vi) lighthouse preservation;

(vii) maritime education;

(viii) military naval history;

(ix) maritime museums or historical societies;

(x) maritime arts and crafts;

(xi) maritime heritage tourism; and

(xii) maritime recreational resources management; and

(D) include a member of the general public.

(2) Ex officio members.—In addition to the members appointed under paragraph (1), the President of the National Trust and the President of the National Conference of State Historic Preservation Officers (or their respective designees) shall be ex officio voting members of the Committee.

(3) Term.—The term of a member of the Committee appointed under paragraph (1) shall be 3 years, except that of the members first appointed 4 shall be appointed for an initial term of 1 year and 4 shall be appointed for an initial term of 2 years, as specified by the Secretary at the time of appointment

(4) Completion of appointments.—The Secretary shall complete appointment of the members of the Committee under paragraph (1) by not later than 120 days after the date of enactment of this Act.

(5) Vacancies.—In the case of a vacancy in the membership of the Committee appointed under paragraph (1), the Secretary shall appoint an individual to serve the remainder of the term that is vacant by not later than 60 days after the vacancy occurs.

(c) Federal Government Ex Officio Members.—There shall be ex officio Federal Government members of the Committee as follows:

(1) At least 1 individual designated by each of—

(A) the Director of the National Park Service;

(B) the Administrator of the Maritime Administration;

(C) the Commandant of the Coast Guard;

(D) the Secretary of the Navy;

(E) the Administrator of the National Oceanic and Atmospheric Administration; and

(F) the Advisory Council on Historic Preservation.

(2) Other representatives designated by the heads of such other interested Federal Government agencies as the Secretary considers appropriate.

(d) Duties of the Committee.—The duties of the Committee include—

(1) reviewing direct grant and subgrant proposals and making funding recommendations to the Secretary;

(2) identifying and advising the Secretary regarding priorities for achieving the policy set forth in section 3;

(3) reviewing the Secretary's annual report to the Congress under section 4(k); and

(4) performing any other duties the Secretary considers appropriate.

(e) QUORUM.—Nine members of the Committee shall constitute a quorum for making recommendations on subgrant applications.

(f) APPOINTMENTS PROCESS.—The Secretary shall—

(1) publicize annually, in the Federal Register and through publications of preservation and maritime organizations, a request for submission of nominations for appointments to the Committee under subsection (b)(1); and

(2) designate from among the members of the Committee—

(A) a Chairman; and

(B) a Vice Chairman who may act in place of the Chairman during the absence or disability of the Chairman or when the office of Chairman is vacant.

(g) COMPENSATION AND TRAVEL EXPENSES.—An individual shall not receive any pay by reason of membership on the Committee. While away from home or regular place of business in the performance of service for the Committee, a member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed expenses under section 5703 of title 5, United States Code.

(h) STAFF OF FEDERAL AGENCIES.—Upon request of the Committee, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of the Interior to the Committee to assist it in carrying out its duties under this Act.

(i) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Committee, the National Trust shall provide to the Committee the support services necessary for the Committee to carry out its duties under this Act.

(j) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee, except that meetings of the Committee may be closed to the public by majority vote and section 14(b) of that Act does not apply to the Committee.

(k) TERMINATION.—The Committee shall terminate on September 30, 2000.

SEC. 6. FUNDING.

(a) AVAILABILITY OF FUNDS FROM SALE AND SCRAPPING OF OBSOLETE VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the amount of funds credited in a fiscal year to the Vessel Operations Revolving Fund established by the Act of June 2, 1951 (46 App. U.S.C. 1241a), that is attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that are scrapped or sold under section 508 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158) shall be available until expended as follows:

(A) 50 percent shall be available to the Administrator of the Maritime Administration for such acquisition, maintenance, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet as is authorized under other Federal law.

(B) 25 percent shall be available to the Administrator of the Maritime Administration for the payment or reimbursement of expenses incurred by or on behalf of State maritime academies or the United States Merchant Marine Academy for facility and training ship maintenance, repair, and modernization, and for the purchase of simulators and fuel.

(C) The remainder shall be available to the Secretary to carry out the Program, as provided in subsection (b).

(2) APPLICATION.—Paragraph (1) does not apply to amounts credited to the Vessel Operations Revolving Fund before July 1, 1994.

(b) USE OF AMOUNTS FOR PROGRAM.—

(1) IN GENERAL.—Except as provided in paragraph (2), of amounts available each fiscal year for the Program under subsection (a)(1)(C)—

(A) ½ shall be used for grants under section 4(b); and

(B) ½ shall be used for grants under section 4(c).

(2) USE FOR INTERIM PROJECTS.—Amounts available for the Program under subsection (a)(1)(C) that are the proceeds of any of the first 6 obsolete vessels in the National Defense Reserve Fleet that are sold or scrapped after July 1, 1994, under section 508 of the Merchant Marine Act, 1936 (46 U.S.C. 1158) are available to the Secretary for grants for interim projects approved under section 4(j) of this Act.

(3) ADMINISTRATIVE EXPENSES.—

(A) IN GENERAL.—Not more than 15 percent or $500,000, whichever is less, of the amount available for the Program under subsection (a)(1)(C) for a fiscal year may be used for expenses of administering the Program.

(B) ALLOCATION.—Of the amount available under subparagraph (A) for a fiscal year—

(i) ½ shall be allocated to the National Trust for expenses incurred in administering grants under section 4(b); and

(ii) ½ shall be allocated as appropriate by the Secretary to the National Park Service and participating State Historic Preservation Officers.

(c) DISPOSALS OF VESSELS.—

(1) REQUIREMENT.—The Secretary of Transportation shall dispose of all vessels described in paragraph (2)—

(A) by September 30, 1999;

(B) in a manner that maximizes the return on the vessels to the United States; and

(C) in accordance with the plan of the Department of Transportation for disposal of those vessels and requirements under sections 508 and 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158, 1160(i)).

(2) VESSELS DESCRIBED.—The vessels referred to in paragraph (1) are the vessels in the National Defense Reserve Fleet after July 1, 1994, that—

(A) are not assigned to the Ready Reserve Force component of that fleet; and

(B) are not specifically authorized or required by statute to be used for a particular purpose.

(d) TREATMENT OF AMOUNTS AVAILABLE.—Amounts available under this section shall not be considered in any determination of the amounts available to the Department of the Interior.

SEC. 7. DEFINITIONS.

In this Act:

(1) COMMITTEE.—The term "Committee" means the Maritime Heritage Grants Advisory Committee established under section 5.

(2) NATIONAL TRUST.—The term "National Trust" means the National Trust for Historic Preservation created by section 1 of the Act of October 26, 1949 (16 U.S.C. 468).

(3) PRIVATE NONPROFIT ORGANIZATION.—The term "private nonprofit organization" means any person that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)) and described in section 501(c)(3) of that Code (26 U.S.C. 501(c)(3)).

(4) PROGRAM.—The term "Program" means the National Maritime Heritage Grants Program established by section 4(a).

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE HISTORIC PRESERVATION OFFICER.—The term "State Historic Preservation Officer" means a State Historic Preservation Officer appointed pursuant to paragraph (1)(A) of section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)(1)(A)) by the Governor of a State having a State Historic Preservation Program approved by the Secretary under that section.

SEC. 8. REGULATIONS.

The Secretary, after consultation with the National Trust, the National Conference of State Historic Preservation Officers, and appropriate members of the maritime heritage community, shall promulgate appropriate guidelines, procedures, and regulations within 1 year after the date of enactment of this Act to carry out the Act, including regulations establishing terms of office for the initial membership of the Committee, direct grant and subgrant priorities, the method of solicitation and review of direct grant and subgrant proposals, criteria for review of direct grant and subgrant proposals, administrative requirements, reporting and recordkeeping requirements, and any other requirements the Secretary considers appropriate.

SEC. 9. SAVINGS PROVISION.

The authorities contained in this Act shall be in addition to, and shall not be construed to supercede or modify those contained in the National Historic Preservation Act (16 U.S.C. 470–470x-6).

SEC. 10. AUTHORITY TO CONVEY VESSEL TO THE BATTLE OF THE ATLANTIC HISTORICAL SOCIETY.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel S/S AMERICAN VICTORY (Victory Ship VC2–S–AP3; United States official number 248005), or a vessel of a comparable size and class, to the Battle of the Atlantic Historical Society (in this section referred to as "the recipient"), if—

(1) the recipient agrees to use the vessel for the purposes of a Merchant Marine memorial, historical preservation, and educational activities;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government if the Secretary of Transportation requires use of the vessel by the Government for war or a national emergency;

(4) the recipient agrees that when the recipient no longer requires the vessel for use for the purposes described in paragraph (1)—

(A) the recipient will, at the discretion of the Secretary of Transportation, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the recipient has decided to dissolve according to the laws of the State of New York, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that is described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and that is exempt from taxation under section 501(a) of that Code (26 U.S.C. 501(a)), or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4);

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000; and

(7) the recipient is described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and is exempt from taxation under section 501(a) of that Code (26 U.S.C. 501(a)).

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary of Transportation shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary of Transportation may convey to the recipient any unneeded equipment from other vessels in the National Defense Reserve Fleet for use to restore the S/S AMERICAN VICTORY, or a vessel of a comparable size and class, to museum quality.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary of Transportation under this section to convey a vessel to the Battle of the Atlantic Historical Society shall expire 2 years after the date of enactment of this Act.

(e) REVERSIONARY INTEREST OF THE UNITED STATES.—All right, title, and interest in and to a vessel that is conveyed under subsection (a) to and held by the recipient shall revert to the United States at any time that it is finally determined that the recipient is not exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. 501(a)).

SEC. 11. AUTHORITY TO CONVEY VESSEL TO WARSAW, KENTUCKY.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other provision of law, the Secretary of Transportation may, subject to subsection (c), convey to the City of Warsaw, Kentucky, without consideration, for use by the City for the promotion of economic development and tourism, all right, title, and interest of the United States in a vessel, including related spare parts and vessel equipment, which—

(1) is in the National Defense Reserve Fleet on the date of enactment of this Act;

(2) has no usefulness to the United States Government; and

(3) is scheduled to be scrapped.

(b) DELIVERY.—At the request of the City of Warsaw, Kentucky, the Secretary of Transportation is authorized to deliver the vessel referred to in subsection (a)—

(1) at the place where the vessel is located on the date of the approval of the conveyance;

(2) in its condition on that date; and

(3) without cost to the United States Government.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Secretary of Transportation shall require that the City—

(1) raise, before the date of the conveyance, at least $100,000 from non-Federal sources to support the intended use of the vessel;

(2) agree to indemnify the United States for any liability arising from or caused by the vessel after the date of the conveyance of the vessel, including liability—

(A) for personal injury or damage to property;

(B) related to the delivery of the vessel to the City; and

(C) related to asbestos; and

(3) comply with any other conditions the Secretary considers appropriate.

(d) UNITED STATES NOT LIABLE.—Notwithstanding any other provision of law, the Government of the United States shall not be liable to any person for any liability described in subsection (c)(2).

(e) TERMINATION OF AUTHORITY.—The authority of the Secretary of Transportation under this section to convey a vessel to the City of Warsaw, Kentucky, shall expire 2 years after the date of enactment of this Act.

SEC. 12. AUTHORITY TO CONVEY VESSEL TO ASSISTANCE INTERNATIONAL, INC.

(a) CONVEYANCE.—Notwithstanding any other law, the Secretary of Transportation may convey, without compensation and by not later than September 30, 1996, all right, title, and interest of the United States Government in and to the vessels L.S.T. TIOGA COUNTY, R.V. LYNCH, and L.S.T. LORRAINE COUNTY, including related spare parts and vessel equipment, to the nonprofit corporation Assistance International, Inc. (hereinafter in this section referred to as the "recipient"), for use in emergencies, vocational training, and economic development programs.

(b) CONDITIONS.—As a condition of any vessel conveyance under this section the Secretary of Transportation shall require the recipient to—

(1) agree to use the vessel solely for nonprofit activities;

(2) agree to not use the vessel for commercial transportation purposes in competition with any United States-flag vessel;

(3) agree to make the vessel available to the Government whenever use of the vessel is required by the Government;

(4) agree that, whenever the recipient no longer requires the use of the vessel for its nonprofit activities, the recipient shall—

(A) at the discretion of the Secretary of Transportation, reconvey the vessel to the Government in as good a condition as when it was received from the Government, except for ordinary wear and tear; and

(B) deliver the vessel to the Government at the place where the vessel was delivered to the recipient;

(5) agree to hold the Government harmless for any claim arising after conveyance of the vessel, except for claims against the Government arising during the use of the vessel by the Government under paragraph (3) or (4);

(6) have available at least $100,000 from non-Federal sources to support the intended uses of the vessels; and

(7) agree to any other conditions the Secretary of Transportation considers appropriate.

(c) DELIVERY.—The Secretary of Transportation shall deliver each vessel conveyed under this section to the recipient—

(1) at the place where the vessel is located on the date of enactment of this Act;

(2) in its condition on July 25, 1991, except for ordinary wear and tear occurring after that date; and

(3) without cost to the Government.

(d) TERMINATION OF AUTHORITY.—The Authority of the Secretary of Transportation under this section to convey vessels to Assistance International, Inc., shall expire 2 years after the date of enactment of this Act.

SEC. 13. AUTHORITY TO CONVEY VESSEL TO THE RIO GRANDE MILITARY MUSEUM.

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS SPHINX (ARL-24), to the Rio Grande Military Museum (a not-for-profit corporation, hereinafter in this section referred to as the "recipient") for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary of Transportation requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will at the discretion of the Secretary of Transportation, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Directors of the recipient has decided to dissolve the recipient according to the laws of the State of Texas, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(b) DELIVERY OF VESSEL.—If a conveyance is made under this section, the Secretary of Transportation shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, without cost to the Government.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary of Transportation may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS SPHINX (ARL-24) to museum quality.

(d) TERMINATION OF AUTHORITY.—The authority of the Secretary of Transportation under this section to convey a vessel to the Rio Grande Military Museum shall expire 2 years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Washington [Mrs. UNSOELD] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3059 is a long overdue effort to provide Federal support for maritime preservation and education projects. The history of our Nation is integrally connected to the development of our seashores, waterways, and lakes, but we are in danger of losing this part of our heritage. This bill is a step in the right direction. I commend the gentleman from Maine [Mr. ANDREWS] for his hard work and advocacy.

The bill sets up a maritime heritage grants program to which states, local governments, and non-profit organizations can apply for Federal funding. These funds, and local matching contributions, are to be used to preserve our maritime lore and to educate the public on the importance of our maritime history.

Funding for the program will come from scrapping National Defense Reserve Fleet [NDRF] vessels, most of which served the United States valiantly in World War II but are not obsolete. The bill apportions part of these scrapping revenues to maritime heritage projects, with the remainder divided between the Maritime Administration to maintain and upgrade useful NDRF vessels and state maritime academies for training and educational purposes.

This bill will help stop the loss of valuable maritime historical resources—resources that can never be replaced—by providing dedicated funding for maritime heritage projects. This is a good bill, enjoyed bipartisan support in our Committee, and I urge the Member's support.

At this point in the RECORD, I would like to insert an exchange of letters between the chairmen of the Merchant Marine and Fisheries Committee and the Natural Resources Committee regarding a jurisdictional matter with respect to this legislation.

The documents referred to are as follows:

HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC, October 4, 1994.
Hon. GERRY STUDDS,
Chairman, Subcommittee on Environment and Natural Resources, Washington, DC.

DEAR CHAIRMAN STUDDS: H.R. 3059, the "National Maritime Heritage Act of 1994" contains matters within the jurisdiction of the Committee on Natural Resources. These matters involve changes and additions to the duties and responsibilities of the Secretary of the Interior, the National Park Service, and the National Trust for Historic Preservation with respect to historic preservation activities and programs; specifically as they relate to maritime resources. Such programs and activities as they relate to maritime resources are currently administered pursuant to such laws, within the jurisdiction of the Committee on Natural Resources, as the National Historic Preservation Act, the Historic Sites Act, and the Archeological Resources Protection Act. The precedents of the House are well established on the Committee on Natural Resources' jurisdiction over historic preservation in general and the National Park Service and the National Trust for Historic Preservation in particular. As such, the Committee on Natural Resources would be entitled to a referral of H.R. 3059 to our Committee.

I understand the Committee on Merchant Marine and Fisheries is seeking to place H.R. 3059 on the Suspension Calendar for today and has sought our assistance in expediting consideration of the bill. I also understand that staff of our Committees have met several times to discuss the bill. I appreciate the cooperation your staff has displayed and understand that changes to the bill have been worked out to address potential concerns the Committee on Natural Resources may have with the legislation.

With the understanding that you will acknowledge the Committee on Natural Resources' jurisdiction over H.R. 3059, I will thus not seek a sequential referral of the bill to our Committee. I would ask that you include our exchange of correspondence on this matter in the CONGRESSIONAL RECORD during debate on the bill.

Thank you for your cooperation in this matter.

Sincerely,
GEORGE MILLER,
Chairman.

COMMITTEE ON MERCHANT
MARINE AND FISHERIES,
Washington, DC, October 4, 1994.
Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 4, 1994, in which you state that the Committee on Natural Resources has no objection to consideration of H.R. 3059, the National Maritime Heritage Act of 1994, as ordered reported by the Committee on Merchant Marine and Fisheries, on the Suspension Calendar, and will not seek a sequential referral of the bill under Rule X of the Standing Rules of the House of Representatives. We acknowledge your Committee's jurisdiction over the subject matter of the bill.

Again, thank you for your cooperation in this matter. I look forward to working with you in the near future, and will gladly insert our exchange of letters in the Congressional Record during debate on the bill.

With kind regards.

Sincerely,
GERRY E. STUDDS,
Chairman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Maine [Mr. ANDREWS], and I commend him for his hard work and great advocacy.

Mr. ANDREWS of Maine. Mr. Speaker, this piece of legislation has two very important objectives: No. 1, it changes the way some of the business in this institution is conducted. No. 2, it helps preserve maritime history for future generations of Americans.

First, Mr. Speaker, how it changes the way some of our business is conducted. What this bill seeks to do Mr. Speaker, is to change the way some of the decisions that are made in this body are made, change those that are made based upon what you are and who you know, to making decisions based upon merit in an open and fair competitive process. Specifically, it changes the way that money generated from the scrapping of obsolete National Defense Reserve Fleet Vessels is allocated.

Up to now, Mr. Speaker, decisions on how to spend this money were too often, in my opinion, based upon Members of Congress lining up before a certain committee and asking for the favor of sending some Federal dollars to their particular congressional district.

□ 2110

The problem I had was that more times than not, decisions were being made less on the basis of merit and more on the basis of the ability of this or that member of Congress to push their particular pet project forward. I felt this was wrong because I felt that there were good projects that had tremendous merit but did not have the right political connections in this body and because they did not have the right political connections, they were falling through the proverbial cracks and were being lost.

This bill, Mr. Speaker, changes all of that. In a nutshell, it will fund the Maritime Heritage grants program and create a decision-making process based upon a fair and open competition. A grants committee will review competing applications and based on careful guidelines outlined in this legislation will make recommendations to the Secretary of the Interior who in turn will approve or reject the final grants. That grant money will then be administered by one of two organizations. Educational programs will be administered by the National Trust for Historic Preservation, and preservation programs will be administered through the State Historic Preservation Offices. This bill also sets up a cooperative network between the Federal Government, State and local governments, private organizations and individuals.

The legislation, Mr. Speaker, pays for itself while at the same time funding productive uses for the money raised from outdated military equipment. Under this legislation, all National Defense Reserve Fleet vessels not useful to our government will be scrapped and the proceeds will be used to fund this program and its grants. Fifty percent of these funds will be used for our Ready Reserve Force, 25 percent will be set aside for our State Maritime Academies, and 25 percent will be transferred to this particular grant program.

Finally, Mr. Speaker, it establishes a carefully outlined set of criteria for applicants to receive grants. This will ensure that funds are distributed on a fair and competitive basis.

Mr. Speaker, may I also say that this legislation is going to preserve maritime history for future generations of Americans. It addresses a very serious problem, and, that is, our maritime heritage is disappearing. During the 1930's, the United States commissioned the documentary drawings, Mr. Speaker, of 426 of the most important historic vessels in existence in America. Today none of those vessels exist. They are gone forever.

Mr. Speaker, we are a maritime nation. Our Nation and our economic strength was built upon maritime trade. Our future is linked to the vitality of our maritime industries. But because we have been losing touch with our history, with our heritage, with this important foundation, we have failed too often to recognize the enormous potential of this industry for our future. It is why, Mr. Speaker, that we have lost over 120,000 good-paying shipbuilding jobs in just the past 10 years. It is why many, many more jobs in this vital maritime industry hang in the balance. In short, we have lost sight of our maritime industry's future because, Mr. Speaker, we have lost touch with a vital part of our past.

Our committee, the Committee on Merchant Marine and Fisheries, has taken important steps to revitalize our maritime industry and the future that it can provide to thousands of hard-working families across this country. This piece of legislation, Mr. Speaker, complements these steps by linking us to our heritage and to our identity.

I want to thank each and every one of the people who were involved in helping to make this possible:

The gentleman from Massachusetts [Mr. STUDDS], the chairman; to members of his staff, Lee Crocket and Carl Bentzel; to the gentleman from Illinois [Mr. LIPINSKI], chairman of the Subcommittee on Merchant Marine and his subcommittee staff, David Honness; and also to the gentleman from Minnesota [Mr. VENTO], chairman, for his support as well. Without their support, Mr. Speaker, this would not be possible.

Mrs. UNSOELD. Mr. Speaker, I reserve the balance of my time.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3059, the National Maritime Heritage Act of 1994.

The preservation of our Nation's maritime heritage is extremely important to enable our citizens to appreciate the history of our merchant marine and associated maritime industries.

H.R. 3059 was carefully considered by the Committee on Merchant Marine and Fisheries and, after extensive hearings and discussion, the bill has been modified to reflect a realistic assessment of the funding needs to support various preservation projects.

I want to congratulate the gentlewoman from Maine, OLYMPIA SNOWE, for her leadership and support of this measure. Her tireless efforts to work to improve this legislation, and to encourage the Members of our Committee to support a workable proposal, contributed in large measure to the successful conclusion of our Committee's work.

I also want to thank the Chairman of our Committee, GERRY STUDDS, and the Chairman of the Merchant Marine Subcommittee, WILLIAM LIPINSKI, for their efforts in crafting a good piece of legislation.

I particularly want to express my appreciation for the efforts of the Ranking Member of the Merchant Marine Subcommittee, HERBERT BATEMAN, for his participation in drafting this legislation. Our colleague from Virginia was responsible for the inclusion in this legislation of several specific provisions that will encourage immediate action to support a number of preservation projects and activities that will highlight the role that the maritime industry has played in the economic development of our country.

Mr. Speaker, the legislation that our Committee brings to the House Floor today represents a good compromise between the needs to preserve historic maritime facilities and, at the same time, continue to provide an appropriate level of funding for important programs administered by the Maritime Administration [MARAD] of the Department of Transportation. These MARAD programs assure continued support for maritime education and training activities and, most importantly, the maintenance of vessels held by the agency in the National Defense Reserve Fleet and the Ready Reserve Force [RRF]. As the Members know, vessels from the RRF were used in both the Persian Gulf War as well as in support of the recent military activity in Haiti by providing the necessary sealift capability to transport military equipment and supplies.

I urge the Members of the House to support this legislation.

Ms. SNOWE. Mr. Speaker, I rise in strong support of H.R. 3059, the National Maritime Heritage Act. Congressman ANDREWS, Congressman OBERSTAR and I introduced this bill last year in a bipartisan effort to help preserve our national maritime heritage.

The United States is a maritime nation with a strong maritime heritage. Maritime trade is, and always has been, the very foundation of our national economic wealth. Our future prosperity is directly linked to our seaborne-commerce and our maritime industries.

My home State of Maine also possesses a rich maritime heritage. From the shipbuilders of Bath to the many fishing communities all along the Maine coast, the passage of this bill will help preserve my home State's maritime heritage for future generations to appreciate.

Yet, despite the richness of this Nation's maritime heritage, there is a crying need to help preserve that heritage. The passage of H.R. 3059 would assist in the preservation of our historic ships, lighthouses, and maritime skills. It would impact virtually every State in the country that has utilized the sea, its rivers, and its lakes in support of the American economy. H.R. 3059 would establish a National Maritime Heritage Program to coordinate local, State, and Federal efforts to preserve our maritime heritage.

I wish to thank Chairman STUDDS and Congressman FIELDS, the ranking Republican on the Merchant Marine Committee, for their support in bringing this bill to the floor. I urge all of my colleagues to support this bill.

Ms. PELOSI. Mr. Speaker, I rise to offer my thanks to Chairman STUDDS, Representative ANDREWS, and the many others who worked for the passage of H.R. 3059, the National Maritime Heritage Act of 1994. This bill represents a long-overdue effort to provide much-needed support for maritime historical preservation projects all over the country.

From Seattle to Newport News to San Francisco to the Rio Grande Military Museum, this legislation will perpetuate our maritime history by allowing States, local governments, and nonprofit organizations to apply for maritime heritage grants which will be used for educational purposes. I am proud to have the world's largest fleet of historic ships located in my district at the San Francisco Maritime Park. This important grants program will fund much-needed and long-delayed repairs on these ships.

Mr. Speaker, the National Maritime Heritage Act is also a fiscally responsible measure. Funding for the program will be derived from scrapping obsolete National Defense Reserve Fleet [NDRF] vessels. These funds will then be apportioned between maritime heritage projects, the maritime administration, and State maritime academies for training and educational purposes.

Mr. Speaker, in the last 60 years, over 400 of the most important historical vessels in this country have been lost because of erratic Federal support for maritime preservation. This bill attempts to reverse that course and I am grateful that my colleagues have given it their support.

Mr. FIELDS of Texas. Mr. Speaker, I yield back the balance of my time.

Mrs. UNSOELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentlewoman from Washington [Mrs. UNSOELD] that the House suspend the rules and pass the bill, H.R. 3059, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the grounds that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mrs. UNSOELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3059, as amended, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

REEMPLOYMENT OF IMPROPERLY SEPARATED POSTAL SERVICE EMPLOYEES

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5139) to amend title 39, United States Code, to provide for procedures under which persons involuntarily separated by the United States Postal Service as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges may seek reemployment.

The Clerk read as follows:

H.R. 5139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROCEDURES.

(a) IN GENERAL.—Chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"§414. Provisions relating to certain improperly arrested individuals

"(a) Not later than 90 days after the date of the enactment of this section, the Judicial Officer shall by regulation establish procedures under which any individual described in subsection (b)(1)(A) may seek reemployment under this section.

"(b) The regulations shall include provisions under which—

"(1) a petition for reemployment may be brought—

"(A) by any individual involuntarily separated from a position in the Postal Service as a result of having been arrested by the Postal Inspection Service—

"(i) after December 31, 1983;

"(ii) pursuant to any investigation in which one or more paid confidential informants were used;

"(iii) for violating any law of the United States, or of any State, prohibiting the use, sale, or possession of a controlled substance; but only if such individual—

"(I) is not convicted, pursuant to such arrest, of a violation of any law described in clause (iii); and

"(II) has not been reemployed by the Postal Service; and

"(B) after all administrative procedures otherwise available to petitioner for seeking reemployment have been exhausted, but not later than 2 years after the date as of which—

"(i) the exhaustion requirement is met; or

"(ii) if later, any such petition may first be held under this section;

"(2) a petition for reemployment under this section shall be considered by a panel of 3 administrative law judges who shall be—

"(A) qualified by virtue of their background, objectivity, and experience; and

"(B) individuals detailed to the Postal Service, for purposes of this section, on a reimbursable basis;

"(3) the provisions of section 556 and 557 of title 5 shall apply to any proceeding conducted by a panel under this section;

"(4) a panel may require the Postal Service to reemploy the petitioner if, in the panel's judgment, the petitioner was improperly arrested due to the actions of the Inspection Service or its paid confidential informants;

"(5)(A) paragraph (4) shall not be considered satisfied unless—

"(i) the position in which the petitioner is reemployed is reasonably similar to the position from which the petitioner was separated; and

"(ii) the rate of pay for the position in which petitioner is reemployed is not less than the rate which would have been payable to petitioner, as of the date of reemployment, had the petitioner remained continuously employed in the position from which separated; and

"(B) the provisions of section 5596(b) (1) and (2) of title 5 shall (for purposes of this section) apply with respect to any separation referred to in paragraph (1)(A) of this subsection, except that the total amount of back pay (including interest) which may be awarded under such provisions by any panel (described in paragraph (2)) may not, in connection with any particular separation, exceed $100,000;

"(6) the Postal Service shall be required to contribute to the Civil Service Retirement and Disability Fund for the benefit of petitioner an amount equal to that required (under regulations which the Office of Personnel Management shall prescribe) in order that, with respect to the period beginning on the date of involuntary separation and ending on the date of reemployment, petitioner shall, for retirement purposes, be treated as if such separation had not occurred; and

"(7) any payments required under this section shall be payable out of the Postal Service Fund.

"(c) A determination under this section shall not be subject to any administrative or judicial review.

"(d) For purposes of this section—

"(1) the term 'Judicial Officer' means the Judicial Officer appointed under section 204;

"(2) the term 'controlled substance' has the meaning given such term by section 102(6) of the Controlled Drug Abuse Prevention and Control Act of 1970;

"(3) the term 'administrative law judge' means an administrative law judge appointed under section 3105 of title 5; and

"(4) a confidential informant shall be considered to be 'paid' if such informant receives, or is to receive, a monetary or nonmonetary benefit (including any forbearance from a civil or criminal action) for the services involved.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

"414. Provisions relating to certain improperly arrested individuals.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5139 is important and necessary legislation. Since at least 1985 the Inspection Service of the U.S. Postal Service has been hiring convicted felons as paid confidential informants in its narcotics trafficking enforcement operations. Those felons were placed in postal positions in postal facilities and given the responsibility of handling our mail. Postal inspectors did not supervise their informants properly. The informants began running the drug enforcement operations. They implicated innocent postal employees who were falsely arrested by inspectors who blindly accepted the information furnished by their paid informants. The more arrests an inspector made, the higher his or her performance rating—an operation known as Collars for Dollars. There was no incentive to scrutinize a paid informant who was targeting innocent postal employees.

Proper police procedures were not followed by the Postal Inspection Service. Inspectors were given only 2 days' training on the use of paid confidential informants in drug enforcement operations. This lack of training and expertise showed. Informants made drug buys out of the view of inspectors. Innocent employees were arrested during Postal Service staged media events during which these innocent employees were handcuffed, paraded in front of TV cameras and taken to jail. In Los Angeles in 1986, both the judge and jury in one case made statements in court that a case against a postal employee should not have been brought because the investigation was so poorly conducted. But the inspection service continued to hire more felons as paid informants throughout the country and continued the same errors. This resulted in a 1992 operation in Cleveland in which 19 innocent postal employees and one private citizen were falsely arrested. Some were erroneously convicted. There were no drug buys in Cleveland. The informants pocketed the buy money and provided the inspectors with baking soda. In all, over $300,000 of Government funds were wasted and lost, and the lives of innocent workers were ruined. They lost income, jobs, reputation and self-esteem. Their families shared in that suffering.

The Committee on Post Office and Civil Service conducted its own extensive investigation into Inspection Service drug enforcement operations after it learned about the disastrous Cleveland drug sting from press reports. The committee found that the Cleveland operation was not an isolated case. Innocent employees were falsely "fingered" by the Inspection Service's paid felons in Los Angeles, West Palm Beach, Indianapolis, Boston, Toledo, and Minneapolis. Most of these employees were never convicted because of improper actions by the inspectors and their paid felons.

The committee held three separate hearings at which the issues were thoroughly aired. We heard from the innocent victims, from attorneys, from the Inspection Service and from inspectors. In fact, in West Palm Beach, a postal inspector testified that he warned his superiors that the paid informant was entrapping postal employees. That inspector was reprimanded for his efforts.

Because the Postal Service did not control its paid felons and made no effort to do so, innocent people suffered. These people and their families may never recover from the injuries they suffered.

The Postal Service has compounded their suffering. After removing them from their source of income, it fought providing them unemployment compensation. It has fought rehiring many of these victims. It has forced those it rehired to pay for health insurance during the time they were unemployed and did not have health insurance. It has failed to help any family members who suffered from its negligent actions.

The Postal Service's actions have been deplorable. The Postal Service must at least reemploy those it wrongly harmed and must cease its disregard for the rights of its employees. The House has already passed one important piece of legislation, H.R. 4400 creating an independent IG for the Postal Service, to help prevent a repeat of these deplorable actions. Never again should the Postal Service employ paid felons and set them loose on the workroom floor. H.R. 5139 provides a mechanism to reemploy these innocent victims. Any individual who was arrested after 1983 by the postal inspectors for violating a controlled substance law as the result of an investigation in which a paid confidential informant was used, and was not convicted of violating a controlled substance law, may petition a panel of three administrative law judges for reemployment and back pay up to $100,000. The panel must determine that the petitioner had been improperly arrested due to the actions of postal inspectors or their paid informants. The petitioner must have exhausted all administrative procedures and not have been reemployed by the Postal Service. The Postal Service, not the U.S. Treasury, shall fund the costs of the procedures and all payments. Moreover, the costs of H.R. 5139 to the Postal Service will be limited. Postal Service records to date indicate that since 1988 a maximum of 141 individuals are eligible to petition this panel. Those individuals still must convince the panel that they were improperly arrested due to the actions of the inspection service or their paid informants. If all these victims were successful and received the maximum back pay award, which is doubtful, the impact on a first-class letter would be less than one one-hundredth—1/100—of a cent. There will be no future financial impact of H.R. 5139 since the Postal Service is no longer hiring paid informants for its drug enforcement operations.

In closing, the employees who may petition for reemployment under this bill are innocent. They are fired by the Postal Service for narcotic activities of which they were innocent. Regardless of their innocence the Postal Service has refused to rehire them. Innocent people should not be so punished. The Postal Service is turning the phrase, "innocent until proven guilty," into the phrase, "guilty even if proven innocent." This bill provides justice, fairness, and equity for innocent postal workers. These victims are innocent and should have their livelihood returned.

I urge my colleagues to support H.R. 5139.

□ 2120

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take this opportunity to say that I share the concerns of many of my colleagues that H.R. 5139 deserved more specific consideration in our committee than it received. However, we did have several hearings on the issue of these postal employees who were fraudulently charged with a crime they did not commit and were subsequently fired from the Postal Service based on those charges, which were later in many cases dropped and still, several years later, have not been re-employed.

Mr. Speaker, this bill does not guarantee these employees their jobs back. It simply guarantees that they will receive an impartial hearing on the facts of their dismissal before a three-member panel of administrative law judges. Should they prevail, they will receive only what is due them: their job, their pay, their retirement, their attorney fees, and their self-respect.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, the gentleman from Missouri mentioned that this would cost 1/100th of a cent on first-class postage. We sell a lot of first-class postage in this country. Can we get a little firmer figure as to what the cost might be?

Mr. YOUNG of Alaska. The gentleman said 1/100th of a cent on first-class mail. I will yield to the chairman to answer the question and get a firmer figure. If my figure is correct, I believe it is 141 individuals who were involved in this. If they got everything, which is questionable, it would be that cost in dollars.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Missouri.

Mr. CLAY. Mr. Speaker, I would tell the gentleman that it is negligible. But the fact is these are innocent people, most of them.

Let me explain to the gentleman what happened. They were forced to go before the Merit Protection Board before they went to the court, and the Merit Protection Board found them guilty based on the tainted information of the paid informants. Then they went to court and were exonerated. Now the Postal Service is saying we cannot hire them back because the Merit Protection Board found them guilty.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am trying to get some idea of what kind of money we are talking about. One 100th of a penny on a stamp sounds like just a little bit of money. We sell a lot of first-class stamps, so that could add up to a lot of money. I would like to know what the figure is we are dealing with here. That was the complaint as I understand of a lot of members of the committee, that there were not adequate hearings so that a lot these monies were established.

Mr. CLAY. If the gentleman from Alaska will yield further, we have put a limit on the total amount they can be reimbursed of $100,000. If all 141 of them were eligible for the entire $100,000, the most we could spend would be $14 million. We are talking about a Postal Service budget of $52 billion.

Mr. WALKER. If the gentleman from Alaska will yield further, so that cost of the bill is potentially $14 million?

Mr. CLAY. If the gentleman will yield, I would answer it this way: The Postal Service should not have fired these people and, therefore, they did not pay out the $14 million that we are discussing.

Mr. YOUNG of Alaska. If I may say in the defense of the legislation, we have to keep in mind that if an individual has been fired unjustly, regardless of the cost of this body or to the taxpayer, then he should be reimbursed. It is a panel of law judges that will have the decision under this legislation. Even if it costs $14 million, if in fact those people have been fired falsely, that is a minimal amount of money. And I will defend the right of any individual that has been falsely fired by a Merit Protection Board or anyone else.

It is up to that individual to go before the three-man panel and to make his case, and I will be very honest. I doubt if 141 of them make their full case. But regardless of the cost, we have to keep in mind there is an obligation to fulfill to the justice system of this country. Right now they are precluded from doing that. They are precluded from going and getting their justice and their reimbursement that they should receive if they had not been fired.

So we can talk about the amount of moneys, but I respectfully suggest this is a minimal amount of money, and if there was a wrong done, if it is $150 million or $150 billion, that wrong should be turned right.

☐ 2130

Because this body or any body that does injustice, of what occurred here in many cases, should not, in fact, be condoned just because of the cost factor.

Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Speaker, I rise in strong support of H.R. 5139, regarding the reemployment of improperly separated postal employees. This measure provides a mechanism for reemployment of postal employees who where wrongfully terminated as a result of having been improperly arrested by the postal inspection service during narcotics investigations. As an original cosponsor of H.R. 5139, I want to take this opportunity to commend my distinguished colleague, the gentleman from Missouri, Chairman CLAY, for his leadership in crafting this intelligent and thoughtful legislation, and expeditiously bringing it before the House for consideration.

Mr. Speaker, many innocent and good employees of the Postal Service who were victimized by the Postal Service will be able to begin to piece their lives back together because of this legislation. I especially want to thank Chairman CLAY and the committee for coming to Cleveland to investigate the sting operation which took place in our city.

Mr. Speaker, this committee travelled across the Nation to gather the facts and held long hours of hearings around the Nation and here in Washington. This bill before us tonight will repair many human lives and I urge my colleagues to support it.

Mr. Speaker, I would like to take a moment to share how my office became involved in this issue initially. Last year my office was approached individually by several postal employees who wanted me to inquire into their discharge from the Postal Service. In each case, these individuals had been removed for alleged misconduct relating to illegal drug activity.

After talking amongst themselves, and realizing they all had the same problem and all had the same information used against them provided by the same U.S. Government paid informant, a group of these same individuals came to my office wanting to file a class action suit and seeking my advice on the matter. Upon my direction, my staff began to collect statements from each of these individuals. Upon receipt of these statements, I forwarded these documents to our colleague and chairman of the Post Office and Civil Service Committee, Mr. CLAY, who has congressional oversight on such matters. What we learned, as the sordid details of the illegal sting operation have come out, has the distasteful makings of some script that one might expect to see used in a television show or a movie: The Postal Inspectors hire informants to solicit supposed drug trafficking suspects, the informants run a scam on the Post Inspectors by implicating innocent employees and the Government pays huge sums of money for bogus information.

It is a sad commentary that this matter is not only a real life situation, but that it involves the U.S. Post Office—a Federal Government entity and an institution supported by the American taxpayers. Moreover, the entire operation was conducted with the complete knowledge and control of the top Post Office officials. In fact, as more and more information emerged, it became clear that this was not the first instance in which such an ill-conceived operation was carried out.

Mr. Speaker, I was also disturbed to discover that this case has some serious racial implications. It became clear that all of the affected postal employees whose rights had been compromised were African American. Furthermore, had it not been for the persistence of many of the Post Office and Civil Service Committee, I am almost afraid to guess how long it would have been—if at all—before these activities were uncovered. I was also shocked to discover that even after the involvement of my office and the Post Office and Civil Service Committee, there was still a lack of cooperation and willingness by the Postal Inspection Service to provide complete and accurate facts. Illegal and racially motivated sting operations conducted by Federal agencies cannot be tolerated.

In addition, Mr. Speaker, the real travesty of this entire case is that this illegal and ill-advised operation has damaged the characters and reputations of many innocent individuals. For many of these persons, jobs were lost. That is why this legislation is so important. H.R. 5139 establishes a fair and just mechanism for postal employees, who lost jobs because of the outrageous and illegal drug stings, to seek re-employment with the Postal Service. This measure provides for a panel of three administrative law judges to consider each case individually so that a determination of re-employment can be made. Considering the widespread nature of the illegal activity, and the unfair impact of these illegal drug sting operations by the Postal Inspection Service, justice demands that we pass this legislation.

Mr. Speaker, in closing, I want to recognize all of those individuals who had the courage to approach me in the first place and those countless other innocent people who have also been persecuted unfairly and lost gainful employment. H.R. 5139 is a fair and just bill which will help right a great wrong. I strongly urge all my colleagues to take a stand, and vote for passage of H.R. 5139.

Mr. CLAY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Speaker, I would like to thank the distinguished chairman, the gentleman from Missouri [Mr. CLAY] for holding these hearings.

I rise today in support of H.R. 5139. To answer the gentleman from Pennsylvania, what is sought is not so much cost or remuneration, rather, it is the restoration of the self-respect and the dignity of the individuals who are aggrieved.

When the chairman brought his field hearings to West Palm Beach, we were given a litany of horrors that individuals who appeared before us experienced for themselves and their families. One gentleman even talked of committing suicide because of being wrongfully arrested and paraded on television before his community and his family. His wife is a schoolteacher and had to support the family for the entire period of time until such time as he could gain some other kind of employment.

It is clear that in these cases the confidential informants were on missions to get people in order that they may feather their own purses and to gain relief from their own criminal charges.

This bill correctly allows redress for persons who were improperly arrested for narcotics violations.

The bill establishes an appropriate forum and a procedure for reemployment or reimbursement. It is fair, it is just, and it goes a long way toward restoring the self-respect and the dignity of the individuals who were aggrieved.

I commend the Chair for his studious and artful work in bringing this legislation to the floor and strongly support it.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Let me tell you about the folly of what happened in these raids and these false arrests and using as an example what happened in Cleveland.

The paid felons, the ex-convicts, stole from the Postal Service inspection Service $300,000 that they made no accounting for, and they had no contact whatsoever with these 19 individual postal employees.

What happened was that the leader of the scam, the convicted felon, had taken most of the money and palmed it. In fact, he got married in Las Vegas and honeymooned in Mexico City on the taxpayers' money, or the Postal Service's money, $300,000.

This was duplicated across this country. The Postal Service would not give us complete information. Whenever we got some information in the newspaper or on television, somebody from another city would call and say, "The same thing happened to us." We know about these six or seven cities because the people volunteered the information to us. We never got a complete reporting.

So we do not know how many millions of dollars were stolen under this procedure.

Mr. Speaker, I think it is a grave injustice to the 140 or so people who were falsely arrested and who lost their jobs, their homes, their credit, their names, their reputations, some have lost their families, their wives, their children.

I am saying to you that the only fair and just thing we can do is to make it possible for those who were innocent to present their case, to have their day in court, and I recommend that, and I urge this body to pass this legislation.

Mr. SAWYER. Mr. Speaker, H.R. 5139, introduced by my good friend and colleague, BILL CLAY, would amend title 39, United States Code, to provide a mechanism for postal employees who were involuntarily separated as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges, to seek reemployment with the U.S. Postal Service.

This measure is the product of the Committee on Post Office and Civil Service's extensive investigation into the Postal Inspection Service's drug enforcement operations.

Since 1984, the Inspection service spent a considerable amount of time and money in its effort to eliminate substance abuse in the postal workplace. No one quarrels with that goal.

However, the operation, known as "collars for dollars," was a disaster of execution from its inception. Postal Inspectors relied heavily on information provided by paid confidential informants, many of whom had questionable reputations.

The committee has been assured that this practice has ended. Unfortunately, that doesn't help the many innocent postal employees whose lives were disrupted when they were wrongfully arrested by postal inspectors, based on fraudulent information supplied by their informants.

H.R. 5139 seeks to correct that injustice. These people were wrongfully arrested. Their lives were disrupted. Their reputations were tarnished. Their families suffered.

A year ago, I participated in a committee hearing in Cleveland, and listened to the innocent victims of these drug stings tell their stories. The testimony was compelling, and put this unfortunate incident in human terms.

For example, one employee testified that his wife left him, that he lost his home, and that his daughter had to quit college because he couldn't afford to make the tuition payments. Another employee told us that because of the stigma associated with her arrest, even though the charges were ultimately dismissed, she had to relocate her family.

The cost of H.R. 5139 to the Postal Service will be limited. The cost of the improper drug stings to the victims is immeasurable. The least we can do is try to restore them to where they were in their postal careers before the Postal Inspection Service stepped in.

Thank you, Mr. Speaker, I urge my colleagues to support H.R. 5139.

Mr. PETRI. Mr. Speaker, I rise in opposition to H.R. 5139. While I sympathize with the sponsor's desire to assist those postal employees who've been unable to get their jobs back following improper arrests by the Postal Inspection Service, this bill bypassed both the subcommittee and full committee markup process.

This procedure sets an unusual and dangerous precedent, particularly since the measure amounts to a private relief bill for a specific group of unknown size. In addition, no hearings were ever held on the bill, and we have no estimates of its cost to the Postal Service Fund or its potential impact on postage rates. Postal employees who would regain their jobs under this bill would receive both backpay and retirement benefits plus interest.

Mr. Speaker, this bill warrants far closer consideration than it has been given thus far. I urge my colleagues to oppose it.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 5139.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT OF 1994

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2135) to provide for a national Native American Veterans' Memorial, as amended.

The Clerk read as follows:

H.R. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Veterans' Memorial Establishment Act of 1994".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Native Americans across the Nation—Indians, Native Alaskans, and Native Hawaiians—have a long, proud and distinguished tradition of service in the Armed Forces of the United States.

(2) Native Americans have historically served in the Armed Forces of the United States in numbers which far exceed their representation in the population of the United States.

(3) Native American veterans count among themselves a number of Medal of Honor recipients. Their numbers are also conspicuous in the ranks of those who have received other decorations for valor and distinguished service.

(4) Native Americans have lost their lives in the service of their Nation and in the cause of peace.

(5) The National Museum of the American Indian was established as a living memorial to Native Americans. Its mission is to advance knowledge and understanding of native American cultures, including art, history, language, and the contributions Native Americans have made to our society.

(6) The National Museum of the American Indian is an extraordinary site and an ideal location to establish a National Native American Veterans' Memorial.

(7) A National Native American Veterans' Memorial would further the purposes of the National Museum of the American Indian by giving all Americans the opportunity to learn of the proud and courageous tradition of service of Native Americans in the Armed Forces of the United States.

SEC. 3. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The National Museum of the American Indian (established by the National Museum of the American Indian Act (20 U.S. 80q et seq.)), in close consultation with the National Congress of American Indians and other Native American groups, is authorized to construct and maintain a National Native American Veterans' Memorial (hereafter in this Act referred to as the "memorial").

(b) LOCATION.—The memorial shall be located at a site determined to be suitable by the Museum within the interior structure of the facility provided for by section 7(a) of such Act (20 U.S.C. 80q-5(a)) (relating to housing the portion of the Museum to be located in the District of Columbia).

(c) DESIGN AND PLANS.—(1) The National Congress of American Indians, in consultation with the Museum, is authorized to hold a competition to select the design of the Memorial. Any design so selected shall be compatible with both the purpose of the Museum, as set forth in section 3(b) of the National Museum of the American Indian Act (20 U.S.C. 80q-1), and with any existing design plans for the Museum's structure and its surroundings.

(2) Any design so selected shall be subject to the approval of the Board of Regents of the Smithsonian Institution.

SEC. 4. PAYMENT OF EXPENSES AND USE OF NAME.

(a) RESPONSIBILITY OF NATIONAL CONGRESS OF AMERICAN INDIANS.—The National Congress of American Indians shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

(b) USE OF NAME.—Use of the name of the Smithsonian Institution or the National Museum of the American Indian in any material regarding the memorial produced by the National Congress of American Indians, other than in a manner simply describing the location of the memorial, shall be subject to consultation with, and the approval of, the Board of Regents of the Smithsonian Institution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri [Mr. CLAY] will be recognized for 20 minutes, and the gentleman from Nebraska [Mr. BARRETT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2135, a bill to provide for a native American veterans' memorial.

H.R. 2135 will pay tribute to a group of veterans whose leadership, bravery, and contributions to our armed services should rightfully and respectfully be acknowledged with a monument.

This memorial will serve as a symbol of respect and gratitude to the many native Americans across this Nation who have served their country. The memorial will be located on the grounds of the soon-to-be built national museum of the American Indian on the Mall. The National Congress of American Indians will spearhead fundraising for this memorial, and no federal funds will be used for the construction of this monument.

Mr. Speaker, I urge my colleagues to support the passage of this legislation and honor our native American veterans.

Mr. Speaker, I reserve the balance of my time.

Mr. BARRETT of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is time we paid tribute to the many native Americans who fought valiantly, and those who sacrificed their lives in battle for our country. In the past, native Americans have often had a higher percentage of representation in our military, than their representation in the entire population of the United States.

It is terribly disappointing to know that while native Americans have had many accomplishments and achievements in our military's history, they are usually forgotten or minimized when they return from the service.

One contribution that comes to mind, is the story of the Navaho Code Talkers. During World War II, the United States and its enemies were trying to devise unbreakable codes for the purpose of communicating classified military messages.

While most, if not all, codes that were conceived were being routinely deciphered, there was one code that withstood the test of even the sharpest military minds, on both the United States and Japanese sides.

The language used by the Navaho Indians was slightly modified to incorporate particular military terms, and their language proved to be an unbreakable code.

Initially, the code appeared too simple to trust. Reluctance on the part of the top military officials to use it under actual battle conditions finally was overcome, when it was proven that the Navaho code was better than a code devised by a machine. It performed brilliantly and was never deciphered by the Japanese during the war.

To protect its secrecy, all Navaho involvement with the code was kept classified until 1968. They were unable to communicate to their families what they were doing, and the rest of the Nation was unaware of their contribution.

Native American veteran contributions have not been as readily recognized or commemorated as many of our other veterans. It is for that reason I urge my colleagues to support H.R. 2135, which would authorize a much deserved Native American Veterans' Memorial. This memorial will not use any taxpayer dollars.

I would also like to commend my colleague, Mr. THOMAS of Wyoming, for his diligent work in drumming up the support necessary to bring this legislation to the floor.

□ 2140

Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I thank the gentleman for yielding this time to me, and I thank the chairman of the committee for giving consideration to this bill and his leadership in bringing it along to the floor, along with the gentleman from Nebraska [Mr. BARRETT].

Mr. Speaker, I rise in strong support of H.R. 2135, the Native American Veterans Memorial bill, which I introduced last session.

From the Revolutionary War through our peace-keeping efforts in Somalia, native Americans have proudly served in all branches of the Armed Forces in defense of their country and to uphold the freedoms we all cherish. Many tribes supported the fledgling United States in their fight for independence from the British. For example, members of the Iroquois Confederacy brought corn and other supplies to Washington's starving army at Valley Forge.

In World War I, native Americans served gallantly in all major battles, many making the ultimate sacrifice. Members of the Choctaw Nation serving in the 142d Infantry devised the only code used during that war that the enemy was unable to break. Of the 4.7 million Americans serving in the American Expeditionary Forces during WWI, more than 8,000 were native Americans.

During World War II, native Americans again displayed uncommon valor, fighting in numbers far exceeding their representation in the general population of the United States: almost one-third of all native American men joined up. Like the Choctaw Code Talkers before them, more than 3,600 members of the Navajo Nation—the Dine—served as communication teams on every beach from Guadalcanal to Okinawa. By sending messages over the air in Navajo, they could deliver and receive communications in a manner that the Axis could not decipher, and do so without any of the loss of time involved in the usual processes of encoding and decoding. Across the Potomac River in Arlington National Cemetery, Ira Hayes—a member of the Akimel O'odham—stands immortalized in the Iwo Jima Memorial, planting the American flag atop Mt. Suribachi.

Native Americans continued to serve and die for their country in every conflict after that date in which Americans fought. The names of at least 235 Indians grace the Viet Nam Veterans Memorial, including Eddie C. Begaye, Prentice LeClaire, and Richard Youngbear. Most recently, Eric Bentzlen of the Sisseton-Wahpeton Sioux Nation and Michael Noline of the San Carlos Apache Tribe gave their lives in Operation Desert Storm protecting the ideals for which this country stands.

Native American veterans count among themselves a number of Medal of Honor recipients, like Lt. Ernest Childers of the Oklahoma Creeks and Lt. Jack C. Montgomery of the Cherokee. Their numbers are also conspicuous in the ranks of those who have received other decorations for valor and distinguished service.

Sadly, though we may acknowledge their military prowess and their great contributions, we have not always acknowledged our debts to them. After the conflicts in which they fought have ended, they have returned home to poverty-stricken reservations only to be rewarded with second-class citizenship. While Indians honorably discharged after WWI were rewarded with U.S. citizenship, Indians in general were not accorded that right until 1924.

Similarly, Navajo coming home from the Pacific Theater returned to States where their voting rights were severely restricted and continued to be until 1948 in Arizona, 1953 in New Mexico, and 1957 in Utah.

On reservations and in native American communities throughout Indian Country one of the most prominent and deeply-felt observances in Veterans Day. On the Wind River Reservation in my State, home to the Northern Arapaho and Eastern Shoshone Tribes, these observances are led by two very active veterans groups: the Arapahoe American Legion Post 84 and the Richard Pogue American Legion Post 81. As these native Americans honor those of their brethren who have served their country, so too should we.

H.R. 2135 provides a small step towards this Nation honoring the service and sacrifice of our native American citizens. It would provide for the establishment of a native American Veterans Memorial in the soon-to-be-built National Museum of the American Indian located on the Mall. The museum was established by Congress to advance knowledge and understanding of native American cultures and the contributions those cultures have made to our society. The memorial would further the purposes of the museum by giving all Americans the opportunity to learn of the proud and courageous tradition of service of native Americans in the

Armed Forces of the United States. The memorial would be financed entirely by private funds.

In closing, Mr. Speaker, I would like to bring to my colleagues' attention a related project in my State of Wyoming which is equally deserving of our recognition and support. Designed by sculptor Lynn Burnette, the Native American War Dead Memorial will honor those who died for their country. Mr. Burnette envisions a bronze warrior, dressed in fatigues, laying aside a buffalo robe which represents his traditional way of life. The warrior stands at the middle of a medicine wheel of tribal war shields that will carry the names of each tribe's war dead. These two memorials are separate, with separate goals; but together, they will add to our overall understanding of native American veterans and the vital role they have played in our history.

Mr. Speaker, I would like to thank the chairman of the Subcommittee on Libraries and Memorials, Mr. CLAY, for bringing this measure to the floor today. I would also like to thank the bill's 100 cosponsors for their support. I hope that all our colleagues will join us in honoring our native American veterans by passing this legislation.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in strong support of H.R. 2135, a bill to establish a Native American Veterans' Memorial, a bill which is long overdue.

Mr. Speaker, by now we are all aware of the miserable treatment the U.S. Government has given the American Indians throughout our country's history. It is only in recent decades that the United States has begun addressing this wrong. While not satisfactory in my view, we now provide considerable support to American Indians in the areas of education, health, and infrastructure.

Throughout our history, regardless of how poorly we treated the American Indians, these members of the various tribes have supported our country in its armed conflicts. From the Revolutionary War to Somalia last year, American Indians have fought and given their lives for our country. Despite heroic efforts on their parts, American Indian veterans of our military services were discharged only to find out when they returned home that they were not even recognized as citizens by our Government. That wrong was not corrected until 1924.

Mr. Speaker, I see this bill as another step in our attempt to right our previous wrongs. While the creation of a memorial to American Indian veterans is only a symbolic step, it recognizes the dedication many American Indians have shown to the United States over the past 200 years.

I want to thank Congressman THOMAS for his work on this legislation, as well as Chairman GEORGE MILLER and BILL RICHARDSON for their efforts in bringing this bill to the floor today.

Mr. BARRETT of Nebraska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 2135, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on grounds a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2135, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994

Mr. GEJDENSON. Mr. Speaker, I move the House suspend the rules and pass the Senate bill (S. 720) to clean up open dumps on Indian lands, and for other purposes, as amended.

The Clerk read as follows:

S. 720

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Lands Open Dump Cleanup Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are at least 600 open dumps on Indian and Alaska Native lands;

(2) these dumps threaten the health and safety of residents of Indian and Alaska Native lands and contiguous areas;

(3) many of these dumps were established or are used by Federal agencies such as the Bureau of Indian Affairs and the Indian Health Service;

(4) these dumps threaten the environment;

(5) the United States holds most Indian lands in trust for the benefit of Indian tribes and Indian individuals; and

(6) most Indian tribal governments and Alaska Native entities lack the financial and technical resources necessary to close and maintain these dumps in compliance with applicable Federal laws.

(b) PURPOSES.—The purposes of this Act are to—

(1) identify the location of open dumps on Indian lands and Alaska Native lands;

(2) assess the relative health and environmental hazards posed by such dumps; and

(3) provide financial and technical assistance to Indian tribal governments and Alaska Native entities, either directly or by contract, to close such dumps in compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) CLOSURE OR CLOSE.—The term "closure or close" means the termination of operations at open dumps on Indian land or Alaska Native land and bringing such dumps into compliance with applicable Federal standards and regulations, or standards promulgated by an Indian tribal government or Alaska Native entity, if such standards are more stringent than the Federal standards and regulations.

(2) DIRECTOR.—The term "Director" means the Director of the Indian Health Service.

(3) INDIAN LAND.—The term "Indian land" means—

(A) land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

(B) dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and

(C) Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.

(4) ALASKA NATIVE LAND.—The term "Alaska Native land" means (A) land conveyed or to be conveyed pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.), including any land reconveyed under section 14(c)(3) of that Act (43 U.S.C. 1613(c)(3)), and (B) land conveyed pursuant to the Act of November 2, 1966 (16 U.S.C. 1151 et seq.; commonly known as the "Fur Seal Act of 1966").

(5) INDIAN TRIBAL GOVERNMENT.—The term "Indian tribal government" means the governing body of any Indian tribe, band, nation, pueblo, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) ALASKA NATIVE ENTITY.—The term "Alaska Native entity" includes native corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1600 et seq.) and any Alaska Native village or municipal entity which owns Alaska Native land.

(7) OPEN DUMP.—The term "open dump" means any facility or site where solid waste is disposed of which is not a sanitary landfill which meets the criteria promulgated under section 6944 of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) and which is not a facility for disposal of hazardous waste.

(8) POSTCLOSURE MAINTENANCE.—The term "postclosure maintenance" means any activity undertaken at a closed solid waste management facility on Indian land or on Alaska Native land to maintain the integrity of containment features, monitor compliance with applicable performance standards, or remedy any situation or occurrence that violates regulations promulgated pursuant to subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.).

(9) SERVICE.—The term "Service" means the Indian Health Service.

(10) SOLID WASTE.—The term "solid waste" has the meaning provided that term by section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903) and any regulations promulgated thereunder.

SEC. 4. INVENTORY OF OPEN DUMPS.

(a) STUDY AND INVENTORY.—Not later than 12 months after the date of enactment of this

Act, the Director shall conduct a study and inventory of open dumps on Indian lands and Alaska Native lands. The inventory shall list the geographic location of all open dumps, an evaluation of the contents of each dump, and an assessment of the relative severity of the threat to public health and the environment posed by each dump. Such assessment shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made by any such assessment.

(b) ANNUAL REPORTS.—Upon completion of the study and inventory under subsection (a), the Director shall report to the Congress, and update such report annually—

(1) the current priority of Indian and Alaska Native solid waste deficiencies,

(2) the methodology of determining the priority listing,

(3) the level of funding needed to effectively close or bring into compliance all open dumps on Indian lands or Alaska Native lands, and

(4) the progress made in addressing Indian and Alaska Native solid waste deficiencies.

(c) 10-YEAR PLAN.—The Director shall develop and begin implementation of a 10-year plan to address solid waste disposal needs on Indian lands and Alaska Native lands. This 10-year plan shall identify—

(1) the level of funding needed to effectively close or bring into compliance with applicable Federal standards any open dumps located on Indian lands and Alaska Native lands; and

(2) the level of funding needed to develop comprehensive solid waste management plans for every Indian tribal government and Alaska Native entity.

SEC. 5. AUTHORITY OF THE DIRECTOR OF THE INDIAN HEALTH SERVICE.

(a) RESERVATION INVENTORY.—(1) Upon request by an Indian tribal government or Alaska Native entity, the Director shall—

(A) conduct an inventory and evaluation of the contents of open dumps on the Indian lands or Alaska Native lands which are subject to the authority of the Indian tribal government or Alaska Native entity;

(B) determine the relative severity of the threat to public health and the environment posed by each dump based on information available to the Director and the Indian tribal government or Alaska Native entity unless the Director, in consultation with the Indian tribal government or Alaska Native entity, determines that additional actions such as soil testing or water monitoring would be appropriate in the circumstances; and

(C) develop cost estimates for the closure and postclosure maintenance of such dumps.

(2) The inventory and evaluation authorized under paragraph (1)(A) shall be carried out cooperatively with the Administrator of the Environmental Protection Agency. The Director shall obtain the concurrence of the Administrator in the determination of relative severity made under paragraph (1)(B).

(b) ASSISTANCE.—Upon completion of the activities required to be performed pursuant to subsection (a), the Director shall, subject to subsection (c), provide financial and technical assistance to the Indian tribal government or Alaska Native entity to carry out the activities necessary to—

(1) close such dumps; and

(2) provide for postclosure maintenance of such dumps.

(c) CONDITIONS.—All assistance provided pursuant to subsection (b) shall be made available on a site-specific basis in accordance with priorities developed by the Director. Priorities on a specific Indian lands or Alaska Native lands shall be developed in consultation with the Indian tribal government or Alaska Native entity. The priorities shall take into account the relative severity of the threat to public health and the environment posed by each open dump and the availability of funds necessary for closure and postclosure maintenance.

SEC. 6. CONTRACT AUTHORITY.

(a) AUTHORITY OF DIRECTOR.—To the maximum extent feasible, the Director shall carry out duties under this Act through contracts, compacts, or memoranda of agreement with Indian tribal governments or Alaska Native entities pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), or section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632).

(b) COOPERATIVE AGREEMENTS.—The Director is authorized, for purposes of carrying out the duties of the Director under this Act, to contract with or enter into such cooperative agreements with such other Federal agencies as is considered necessary to provide cost-sharing for closure and postclosure activities, to obtain necessary technical and financial assistance and expertise, and for such other purposes as the Director considers necessary.

SEC. 7. TRIBAL DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Director may establish and carry out a program providing for demonstration projects involving open dumps on Indian land or Alaska Native land. It shall be the purpose of such projects to determine if there are unique cost factors involved in the cleanup and maintenance of open dumps on such land, and the extent to which advanced closure planning is necessary. Under the program, the Director is authorized to select no less than three Indian tribal governments or Alaska Native entities to participate in such demonstration projects.

(b) CRITERIA.—Criteria established by the Director for the selection and participation of an Indian tribal government or Alaska Native entity in the demonstration project shall provide that in order to be eligible to participate, an Indian tribal government or Alaska Native entity must—

(1) have one or more existing open dumps on Indian lands or Alaska Native lands which are under its authority;

(2) have developed a comprehensive solid waste management plan for such lands; and

(3) have developed a closure and postclosure maintenance plan for each dump located on such lands.

(c) DURATION OF FUNDING FOR A PROJECT.—No demonstration project shall be funded for more than three fiscal years.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) COORDINATION.—The activities required to be performed by the Director under this Act shall be coordinated with activities related to solid waste and sanitation facilities funded pursuant to other authorizations.

SEC. 9. DISCLAIMERS.

(a) AUTHORITY OF DIRECTOR.—Nothing in this Act shall be construed to alter, diminish, repeal, or supersede any authority conferred on the Director pursuant to section 302 of the Indian Health Care Improvement Act (25 U.S.C. 1632), and section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

(b) EXEMPTED LANDS AND FACILITIES.—This Act shall not apply to open dump sites on Indian lands or Alaska Native lands—

(1) that comprise an area of one-half acre or less and that are used by individual families on lands to which they hold legal or beneficial title;

(2) of any size that have been or are being operated for a profit; or

(3) where solid waste from an industrial process is being or has been routinely disposed of at a privately owned facility in compliance with applicable Federal laws.

(c) RULES OF CONSTRUCTION.—(1) Nothing in this Act shall be construed to amend or modify the authority or responsibility of the Administrator of the Environmental Protection Agency under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(2) Nothing in this Act is intended to amend, repeal, or supercede any provision of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill presently being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to commend the gentleman from Wyoming [Mr. THOMAS] both for his efforts on this bill and the one to follow, and particularly on the previous bill where he played such a critical role. That is clearly an area that America has not recognized its native Americans and their contributions to our war efforts throughout the years.

The bill before us is a very critical bill. It deals with over 600 dumps that are located on Indian and native Alaskan lands. At this date there is no information that accurately counts either the number of dumps or the environmental risks they pose. Many of these dumps originally were constructed and operated by the Federal Government and then abandoned. The bill provides the Indian Health Service to conduct an inventory and to take appropriate actions. The bill also authorizes the Indian Health Service to provide technical and financial assistance to close dumps. The Indian Health Service is required to keep the Congress apprised of Indian and Alaska native solid waste deficiencies. IHS is also required to develop and implement a 10-year plan to address the solid waste disposal needs on Indian and Alaskan native lands. This legislation does not apply to commercial dumps, individual family dumps, nor does it change or alter application for Federal landfill requirements on Indian lands.

Mr. Speaker, this legislation is an important first step to addressing the growing solid waste problem in Indian country.

I would again like to thank the gentleman from Wyoming [Mr. THOMAS], the gentleman from California [Chairman MILLER] and the gentleman from Alaska [Mr. YOUNG] for their efforts on this bill, and particularly Chairman RICHARDSON, who led this effort.

I submit two letters for the RECORD at this time:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 4, 1994.
Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my understanding regarding S. 720, the Indian Lands Open Dump Cleanup Act of 1994. I recognize that S. 720 includes matters within the jurisdiction of the Committee on Energy and Commerce, as it has jurisdiction over "public health and quarantine" pursuant to Rule X of the Rules of the House of Representatives.

It is also my understanding that an agreement was reached between our Committees to include several provisions which clarify the relationship between the EPA Administrator's responsibilities under the Solid Waste Disposal Act and the responsibilities of the Director of the Indian Health Service. The Committee on Natural Resources is in agreement with these amendments to S. 720, the Indian Lands Open Dump Cleanup Act of 1994.

I appreciate your assistance in providing for the expeditious consideration of this important legislation by the House of Representatives.

Sincerely,
GEORGE MILLER,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, October 3, 1994.
Hon. GEORGE MILLER,
Chairman, Committee on Natural Resources, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Natural Resources has ordered reported S. 720, the Indian Lands Open Dump Cleanup Act of 1994 which requires the Director of Indian Health Service to carry out certain activities. It is my understanding that you plan to request that this bill be scheduled for Floor consideration quickly.

As you know, the Committee on Energy and Commerce, pursuant to Rule X of the Rules of the House of Representatives, has jurisdiction over "public health and quarantine" which includes the Indian Health Service.

As a result of discussions between our two Committees, an understanding was reached to include several provisions in the bill to clarify the relationship between the Environmental Protection Agency (EPA) Administrator's responsibilities under the Solid Waste Disposal Act and the duties assigned to the Director of the Indian Health Service. Therefore I am agreeing not to seek a sequential referral of S. 720 in this instance so that the bill can be considered expeditiously by the House.

I would appreciate your including this letter as part of the record during consideration of this bill by the House.

With every good wish, I am
Sincerely,
JOHN D. DINGELL,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 720, a bill to provide for the clean-up of open dumps on Indian lands.

Many solid waste facilities on Indian lands present serious environmental problems for Indian tribes, and these problems are among the most serious threats to public health and the environment. As the members of the subcommittee will recall, they saw one of these dumps when the subcommittee toured the Wind River Reservation in Wyoming. No more than an open pit gouged into a hill side, it contained garbage, appliances, toxic and chemical waste, and even the carcasses of dead livestock, all left by residents and nonresidents of the Reservation. Pits like these exist on reservations across the country. Yet tribes lack the financial and technical resources to deal with the problem. Instead, all they have are unfunded mandates from Congress requiring them to clean up the problem or face civil and criminal penalties.

For example, the EPA has promulgated regulations requiring tribes to undergo expensive clean-up operations, but provides no mechanism by which the tribes can finance those operations. Of course, this is nothing new—the Federal government is continually imposing similar unfunded mandates on cities and States all over the country. However, these mandates are particularly onerous on the tribes, which are significantly poorer than, and have few of the revenue raising capabilities of, most municipalities or county or State governments.

I hope that S. 720 will help solve this problem. I urge my colleagues to support it.

Mr. RICHARDSON. Mr. Speaker, the problems associated with solid waste disposal on Indian lands are among the most serious threats to public health and the environment facing Indian tribes. There are over 600 open dump sites located on Indian and Alaska Native lands which will cost over $144 million to cleanup. Yet, we do not have the data to determine accurately the number of open dumps in Indian country, the scope of the health and environmental risks posed by these dumps, and the overall need for comprehensive solid waste management on Indian lands.

Many of these dumps were originally constructed and operated by the Federal government and yet there has been little Federal assistance to cleanup these sites. There is a continuing obligation on the part of the Federal government to ensure that these landfills meet current Federal standards. This Federal responsibility was recognized by the courts and must be recognized and reaffirmed by the Congress.

Mr. Speaker, S. 720 authorizes the Indian Health Service to conduct an inventory of open dumps on Indian and Alaska Native lands and to determine the threats posed to public health and the environment by the dumps. The bill also authorizes the Indian Health Service to provide technical and financial assistance to close such dumps or provide for postclosure maintenance of such dumps.

The IHS is required to annually report to the Congress the priority of Indian and Alaska Native solid waste deficiencies. IHS is also required to develop and implement a 10 year plan to address solid waste disposal needs on Indian and Alaska Native lands. This legislation does not apply to commercial dumps or individual family dumps nor does it change or alter the application of Federal landfill requirements to Indian lands.

This legislation is an important first step in addressing the growing solid waste problem in Indian country.

I would like to thank the Gentleman from Wyoming, the Chairman and the Ranking Member of the Full committee for their hard work on this legislation and for ensuring that the solid waste problems of Indian and Alaska Native people are addressed and I urge my colleagues to support this legislation.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the Senate bill, S. 720, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

CONCURRING IN SENATE AMENDMENT TO H.R. 4653, MOHEGAN NATION OF CONNECTICUT LAND CLAIMS SETTLEMENT ACT OF 1944

Mr. GEJDENSON. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4653) to settle Indian land claims within the State of Connecticut, and for other purposes.

The Clerk read as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mohegan Nation of Connecticut Land Claims Settlement Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Mohegan Tribe of Indians of Connecticut received recognition by the United States pursuant to the administrative process under part 83 of title 25 of the Code of Federal Regulations.

(2) The Mohegan Tribe of Indians of Connecticut is the successor in interest to the aboriginal entity known as the Mohegan Indian Tribe.

(3) The Mohegan Tribe has existed in the geographic area that is currently the State of Connecticut for a long period preceding the colonial period of the history of the United States.

(4) Certain lands were sequestered as tribal lands by the Colony of Connecticut and subsequently by the State of Connecticut.

(5) The Mohegan Tribe of Indians of Connecticut v. State of Connecticut, et al. (Civil Action No. H–77–434, pending before the United States District Court for the Southern District of Connecticut) relates to the ownership of certain lands within the State of Connecticut.

(6) Such action will likely result in economic hardships for residents of the State of Connecticut, including residents of the town of Montville, Connecticut, by encumbering the title to lands in the State, including lands that are not currently the subject of the action.

(7) The State of Connecticut and the Mohegan Tribe have executed agreements for the purposes of resolving all disputes between the State of Connecticut and the Mohegan Tribe and providing a settlement for the action referred to in paragraph (5).

(8) In order to implement the agreements referred to in paragraphs (5) and (6) of section 3 that address matters of jurisdiction with respect to certain offenses committed by and against members of the Mohegan Tribe and other Indians in Indian country and matters of gaming-related development, it is necessary for the Congress to enact legislation.

(9) The town of Montville, Connecticut, will—

(A) be affected by the loss of a tax base from, and jurisdiction over, lands that will be held in trust by the United States on behalf of the Mohegan Tribe; and

(B) serve as the host community for the gaming operations of the Mohegan Tribe.

(10) The town of Montville and the Mohegan Tribe have entered into an agreement to resolve issues extant between them and to establish the basis for a cooperative government-to-government relationship.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To facilitate the settlement of claims against the State of Connecticut by the Mohegan Tribe.

(2) To facilitate the removal of any encumbrance to any title to land in the State of Connecticut that would have resulted from the action referred to in subsection (a).

SEC. 3. DEFINITIONS.

As used in this Act:

(1) LANDS OR NATURAL RESOURCES.—The term "lands or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including any right or interest in minerals, timber, or water, and any hunting or fishing rights.

(2) MOHEGAN TRIBE.—The term "Mohegan Tribe" means the Mohegan Tribe of Indians of Connecticut, a tribe of American Indians recognized by the United States pursuant to part 83 of title 25, Code of Federal Regulations, and the State of Connecticut pursuant to section 47–59a(b) of the Connecticut General Statutes.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Connecticut.

(5) STATE AGREEMENT.—The term "State Agreement" means the Agreement between the Mohegan Tribe and the State of Connecticut, executed on May 17, 1994, by the Governor of the State of Connecticut and the Chief of the Mohegan Tribe, that was filed with the Secretary of State of the State of Connecticut.

(6) TOWN AGREEMENT.—The term "Town Agreement" means the agreement executed on June 16, 1994, by the Mayor of the town of Montville and the Chief of the Mohegan Tribe.

(7) TRANSFER.—The term "transfer" includes any sale, grant, lease, allotment, partition, or conveyance, any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or any event that results in a change of possession or control of land or natural resources.

SEC. 4. ACTION BY SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to carry out the duties specified in subsection (b) at such time as the Secretary makes a determination that—

(1) in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.), the State of Connecticut has entered into a binding compact with the Mohegan Tribe providing for class III tribal gaming operations (as defined in section 4(8) of such Act (25 U.S.C. 2703(8)));

(2) the compact has been approved by the Secretary pursuant to section 11(d)(8) of such Act (25 U.S.C. 2710(d)(8)); and

(3) pursuant to transfers carried out pursuant to the State Agreement, the United States holds title to lands described in exhibit B of the State Agreement in trust for the Mohegan Tribe to be used as the initial Indian reservation of the Mohegan Tribe.

(b) PUBLICATION BY SECRETARY.—If the Secretary makes a determination under subsection (a) that the conditions specified in paragraphs (1) through (3) of that subsection have been met, the Secretary shall publish the determination, together with the State Agreement, in the Federal Register.

(c) EFFECT OF PUBLICATION.—

(1) IN GENERAL.—Upon the publication of the determination and the State Agreement in the Federal Register pursuant to subsection (b), a transfer, waiver, release, relinquishment, or other commitment made by the Mohegan Tribe in accordance with the terms and conditions of the State Agreement shall be in full force and effect.

(2) APPROVAL BY THE UNITED STATES.—(A) The United States hereby approves any transfer, waiver, release, relinquishment, or other commitment carried out pursuant to paragraph (1).

(B) A transfer made pursuant to paragraph (1) shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)). The approval of the United States made pursuant to subparagraph (A) shall apply to the transfer beginning on the date of the transfer.

(d) EXTINGUISHMENT OF CLAIMS.—

(1) IN GENERAL.—Subject to subsections (f)(2) and (g), the following claims are hereby extinguished:

(A) Any claim to land within the State of Connecticut based upon aboriginal title by the Mohegan Tribe.

(B) Any other claim that the Mohegan Tribe may have with respect to any public or private lands or natural resources in Connecticut, including any claim or right based on recognized title, including—

(i) any claim that the Mohegan Tribe may have to the tribal sequestered lands bounded out to the Tribe in 1684, consisting of some 20,480 acres lying between the Thames River, New London bounds, Norwich bounds, and Colchester bounds;

(ii) any claim that the Mohegan Tribe may have based on a survey conducted under the authority of the Connecticut General Assembly in 1736 of lands reserved and sequestered by the General Assembly for the sole use and improvement of the Mohegan Indian Tribe; and

(iii) any claim that the Mohegan Tribe may have based on any action by the State carried out in 1860 or 1861 or otherwise made by the State to allot, reallot, or confirm any lands of the Mohegan Tribe to individual Indians or other persons.

(2) APPROVAL BY THE UNITED STATES.—An extinguishment made pursuant to this subsection shall be deemed to have been made in accordance with all provisions of Federal law that specifically apply to transfers of lands or natural resources from, by, or on behalf of an Indian, Indian nation, or tribe of Indians (including the Act popularly known as the "Trade and Intercourse Act of 1790"; section 4 of the Act of July 22, 1790 (1 Stat. 137, chapter 33)).

(e) TRANSFERS.—Subject to subsection (g), any transfer of lands or natural resources located within the State of Connecticut, including any such transfer made pursuant to any applicable Federal or State law (including any applicable treaty), made by, from, or on behalf of the Mohegan Tribe or any predecessor or successor in interest of the Mohegan Tribe shall be deemed to be in full force and effect, as provided in subsection (c)(1).

(f) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subject to subsection (g), by virtue of the approval by the United States under this section of a transfer of land or the extinguishment of aboriginal title, any claim by the Mohegan Tribe against the United States, any State or political subdivision of a State, or any other person or entity, by the Mohegan Tribe, that—

(A) arises after the transfer or extinguishment is carried out; and

(B) is based on any interest in or right involving any claim to lands or natural resources described in this section, including claims for trespass damages or claims for use and occupancy, shall, beginning on the date of the transfer of land or the extinguishment of aboriginal title, be considered an extinguished claim.

(2) EXCEPTION.—The limitation under paragraph (1) shall not apply to any interest in lands or natural resources that is lawfully acquired by the Mohegan Tribe or a member of the Mohegan Tribe after the applicable date specified in paragraph (1).

(g) STATUTORY CONSTRUCTION.—

(1) ABORIGINAL INTERESTS.—Nothing in this section may be construed to extinguish any aboriginal right, title, interest, or claim to lands or natural resources, to the extent that such right, title, interest, or claim is an excepted interest, as defined under section 1(a) of the State Agreement.

(2) PERSONAL CLAIMS.—Nothing in this section may be construed to offset or eliminate the personal claim of any individual Indian if the individual Indian pursues such claim under any law of general applicability.

SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES TO BE HELD IN TRUST FOR THE MOHEGAN TRIBE.

(a) IN GENERAL.—Subject to the environmental requirements that apply to land acquisitions covered under part 151 of title 25, Code of Federal Regulations (or any subsequent similar regulation), the Secretary shall take such action as may be necessary to facilitate the conveyance to the United States of title to lands described in exhibits A and B of the State Agreement. Such lands shall be held by the United States in trust for the use and benefit of the Mohegan Tribe as *the initial Indian reservation of the Mohegan Tribe.*

(b) CONSULTATION.—

(1) IN GENERAL.—The Secretary shall consult with the appropriate official of the town of Montville concerning any tract of land subject to exhibit B of the State Agreement but not specifically identified in such exhibit with respect to the impact on the town resulting from—

(A) the removal of the land from taxation by the town;

(B) problems concerning the determination of jurisdiction; and

(C) potential land use conflicts.

(2) STATUTORY CONSTRUCTION.—Nothing in this Act may affect the right of the town of Montville to participate, under any applicable law, in decisionmaking processes concerning the acquisition of any lands by the Federal Government to be held in trust for the Mohegan Tribe.

SEC. 6. CONSENT OF UNITED STATES TO STATE ASSUMPTION OF CRIMINAL JURISDICTION.

(a) IN GENERAL.—Subject to subsection (b), the consent of the United States is hereby given to the assumption of jurisdiction by the State of Connecticut over criminal offenses committed by or against Indians on the reservation of the Mohegan Tribe. The State shall have such jurisdiction to the same extent as the State has jurisdiction over such offenses committed elsewhere within the State. The criminal laws of the State shall have the same force within such reservation and Indian country as such laws have elsewhere within the State.

(b) STATUTORY CONSTRUCTION.—

(1) EFFECT ON CONCURRENT JURISDICTION OF THE MOHEGAN TRIBE.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not affect the concurrent jurisdiction of the Mohegan Tribe over matters concerning such criminal offenses.

(2) STATUTORY CONSTRUCTION.—The assumption of criminal jurisdiction by the State pursuant to subsection (a) shall not be construed as a waiver of the jurisdiction of the United States under section 1153 of title 18, United States Code.

SEC. 7. RATIFICATION OF TOWN AGREEMENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the consent of the United States is hereby given to the Town Agreement and the Town Agreement shall be in full force and effect.

(b) APPROVAL OF TOWN AGREEMENT.—The Secretary shall approve any subsequent amendments made to the Town Agreement after the date of enactment of this Act that are—

(1) mutually agreed on by the parties to the Town Agreement; and

(2) consistent with applicable law.

SEC. 8. GENERAL DISCHARGE AND RELEASE OF OBLIGATIONS OF STATE OF CONNECTICUT.

Except as expressly provided in this Act, the State Agreement, or the Town Agreement, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and the political subdivisions, agencies, departments, officers, or employees of the State of Connecticut arising from any treaty or agreement with, or on behalf of, the Mohegan Tribe or the United States as trustee for the Mohegan Tribe.

SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.

(a) IN GENERAL.—If, during the 15-year period beginning on the date on which the Secretary publishes a determination pursuant to section 4(b), the State Agreement is invalidated by a court of competent jurisdiction, or if the gaming compact described in section 4(a)(1) or any agreement between the State of Connecticut and the Mohegan Tribe to implement the compact is invalidated by a court of competent jurisdiction—

(1) the transfers, waivers, releases, relinquishments, and other commitments made by the Mohegan Tribe under section 1(a) of the State Agreement shall cease to be of any force or effect;

(2) section 4 of this Act shall not apply to the lands or interests in lands or natural resources of the Mohegan Tribe or any of its members, and the title to the lands or interests in lands or natural resources shall be determined as if such section were never enacted; and

(3) the approval by the United States of prior transfers and the extinguishment of claims and aboriginal title of the Mohegan Tribe otherwise made under section 4 shall be void.

(b) RIGHT OF MOHEGAN TRIBE TO REINSTATE CLAIM.—

(1) IN GENERAL.—If a State Agreement or compact or agreement described in subsection (a) is invalidated by a court of competent jurisdiction, the Mohegan Tribe or its members shall have the right to reinstate a claim to lands or interests in lands or natural resources to which the Tribe or members are entitled as a result of the invalidation, within a reasonable time, but not later than the later of—

(A) 180 days after the Mohegan Tribe receives written notice of such determination of an invalidation described in subsection (a); or

(B) if the determination of the invalidation is subject to an appeal, 180 days after the court of last resort enters a judgment.

(2) DEFENSES.—Notwithstanding any other provision of law, if a party to an action described in paragraph (1) reinstates the action during the period described in paragraph (1)(B)—

(A) no defense, such as laches, statute of limitations, law of the case, res judicata, or prior disposition may be asserted based on the withdrawal of the action and reinstatement of the action; and

(B) the substance of any discussions leading to the State Agreement may not be admissible in any subsequent litigation, except that, if any such action is reinstated, any defense that would have been available to the State of Connecticut at the time the action was withdrawn—

(i) may be asserted; and

(ii) is not waived by anything in the State Agreement or by subsequent events occurring between the withdrawal action and commencement of the reinstated action.

SEC. 10. JUDICIAL REVIEW.

(a) JURISDICTION.—Notwithstanding any other provision of law, during the period beginning on the date of enactment of this Act and ending on the date that is 180 days after such date, the United States District Court for the Southern District of Connecticut shall have exclusive jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act.

(b) DEADLINE FOR FILING.—Effective with the termination of the period specified in subsection (a), no court shall have jurisdiction over any action to contest the constitutionality of this Act or the validity of any agreement entered into under the authority of this Act or approved by this Act, unless such action was filed prior to the date of termination of the period specified in subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON]

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like simply at this time to thank again the gentleman from Wyoming [Mr. THOMAS] for his support on this legislation and the critical work done by his staff, which is particularly familiar with this tribe and their family's heritage which comes form the Montville area.

Mr. Speaker, this bill is identical to the House bill that passed in August. It is a lands claim settlement bill. It does not provide for Federal recognition and authorizes no Federal funds. The Mohegan Tribe, town of Montville, State of Connecticut strongly support this legislation. The bill is the product of compromise and accommodation.

I urge all my colleagues to support it. It is an excellent example of how tribes and their neighboring communities ought to resolve their problems.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of the bill. This has been passed. It is a question of fairness and equity for a number of players here, including the community, including the tribe. I urge the House to pass it again.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GEJDENSON. I yield myself such time as I may consume.

Mr. Speaker, I just again would like to thank the gentlemen from Wyoming, [Mr. THOMAS] and point out that the original chief of this tribe whom I knew as a young child, Chief Tantiquichon, was a World War I hero and brave soldier in this country's Army. It is an appropriate day today for Mr. THOMAS's legislation on native Americans and their heroism on behalf of this country and having this bill for the Mohegan Tribe on the same day.

Mr. RICHARDSON. Mr. Speaker, H.R. 4653 was passed by the House on August 8, 1994. This bill would settle the pending land claims of the Mohegan Indian Nation to lands within the State of Connecticut. The bill would ratify the agreements between the Mohegan Indian Nation, the State of Connecticut, and the Town of Montville. It extinguishes the aboriginal land claims of the Mohegan Indian Nation to any public or private lands in the State of Connecticut. The bill validates any prior land transfers or conveyances whether or not they were made in accordance with the Indian Tribe and Intercourse Act.

H.R. 4653 authorizes the Secretary to accept land in trust for the benefit of the Mohegan Indian Nation. It extends State criminal jurisdiction over the Mohegan Indian Reservation. It addition, the bill discharges the State of Connecticut from all obligations and duties arising from any treaty or agreement with the Mohegan Indian Nation. Lastly, the bill provides that the Mohegan Indian Nation shall have the right to reinstate their land claim if any of the agreements between the tribe and the State are invalidated by a court of competent jurisdiction within 15 years from the date of the Secretarial notice.

Finally, I support the changes made by the other body and would like to congratulate the parties to this important settlement on resolving some very difficult issues and reaching this historic agreement. I would also like to commend my colleague from Connecticut, Mr. GEJDENSON for all his hard work on this legislation and his fine work in the subcommittee on behalf of Native Americans.

Mr. Speaker, this bill is supported by the Mohegan Indian tribe, the State of Connecticut, and the administration. It also enjoys bipartisan support. I urge my colleagues to support it.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 2150

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and concur in the Senate amendment to H.R. 4653.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

NATIONAL PARK SERVICE ENTREPRENEURIAL MANAGEMENT REFORM ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4533) to promote entrepreneurial management of the National Park Service, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park Service Entrepreneurial Management Reform Act of 1994".

SEC. 2. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended as follows:

(1) In the first sentence of paragraph (1)(A)(i), by striking "$25" and inserting "$40".

(2) By amending the second sentence of paragraph (1)(A)(i) to read as follows: "The permittee and the accompanying spouse, children, and parents of the permittee shall be entitled to general admission into any area designated pursuant to this section.".

(3) By modifying the margin of clause (ii) of paragraph (1)(A) to align with the margin of clause (i).

(4) By inserting at the end of clause (ii) of paragraph (1)(A) the following: "Such receipts shall be made available, subject to appropriation, for authorized resource protection, rehabilitation, and conservation projects as provided for by subsection (i), including projects to be carried out by the Public Land Corps or any other conservation corps pursuant to the Youth Conservation Corps Act of 1970 (16 U.S.C. 1701 and following), or other related programs or authorities, on lands administered by the Secretary of the Interior and the Secretary of Agriculture.".

(5) In paragraph (1)(B), by striking "$15" and inserting "$25" and by adding at the end the following new sentence: "Any amount by which the fee for such an annual permit exceeds $15 shall be credited to the appropriation account of the unit of the National Park System that collected the fee, shall be available to the unit without further appropriation, and shall remain available until expended.".

(6) In paragraph (2), by inserting "(A)" after "(2)", by striking the fifth and sixth sentences, by amending the fourth sentence to read as follows:"The fee for a single-visit permit at any designated area shall be not more than $6 per person for persons entering by any means, except that the fee shall not exceed $20 for all persons entering a designated area in a single noncommercial vehicle.", and by adding at the end the following new subparagraph:

"(B) The Secretary shall establish a pilot project at Yosemite National Park that utilizes incentives, including waiving or reducing admission fees, to encourage use of public transit which serves the purpose of reducing vehicular traffic within Yosemite National Park.".

(7) In paragraph (3), by striking the last sentence.

(8) In paragraph (4), by striking "No other free permits shall be issued to any person" and inserting "No other free permits shall be issued to any person, except as otherwise provided by this subsection".

(9) In paragraph (4), by amending the second sentence to read as follows: "Such permit shall be nontransferable, shall be issued for a one-time charge of $10, and shall entitle the permittee and the accompanying spouse of the permitee to general admission into any area designated pursuant to this subsection.".

(10) In paragraph (6) by striking "on Interior and Insular Affairs" and inserting "on Natural Resources".

(11) In paragraph (9), by striking "San Juan National Historic Site, and Canaveral National Seashore" and inserting "and San Juan National Historic Site" and by adding the following at the end thereof: "The Secretary of the Interior shall submit a report to the Congress within 6 months after the enactment of this sentence respecting the areas at which the Secretary determines admission fees would be appropriate but at which such fees are prohibited by law and respecting each area at which such fees are authorized but not being collected (including an explanation of the reasons that such fees are not being collected).".

(12) By amending paragraph (11) to read as follows:

"(11) In the case of Yellowstone and Grand Teton National Parks, a single-visit fee collected at one unit shall also admit the person who paid such fee for a single visit to the other unit.".

(b) PENALTY.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended by striking "$100" and inserting "$1,000".

(c) TECHNICAL AMENDMENTS.—(1) Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended by striking "on Interior and Insular Affairs of the United States House of Representatives and United States Senate" and inserting "on Natural Resources of the United States House of Representatives and on Energy and Natural Resources of the United States Senate", by striking "Bureau of Outdoor Recreation" and inserting "National Park Service", and by striking "Bureau" and inserting "National Park Service".

(2) Section 4(g) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended by striking "or charges for commercial or other activities not related to recreation".

(d) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended as follows:

(1) By inserting "USE OF FEES.—" after "(i)".

(2) In the first sentence of paragraph (1)(B), by striking "fee collection costs for that fiscal year" and inserting "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting "section in such immediately preceding fiscal year".

(3) In the second sentence of paragraph (1)(B), by striking "in that fiscal year".

(4) In paragraph (1), by adding at the end the following new subparagraph:

"(C) Notwithstanding subparagraph (A) and notwithstanding any other provision of law, for fiscal years after fiscal year 1995, the amount by which the entrance fee receipts collected pursuant to this section by the National Park Service (except for the portion of fee receipts withheld as provided in subparagraph (B) for fee collection costs) exceeds the entrance fee receipts collected pursuant to this section by the National Park Service in fiscal year 1993 shall be covered into a special fund established in the Treasury of the United States to be known as the 'National Park Renewal Fund'. Amounts in such fund shall be available to the Secretary of the Interior, without further appropriation, for resource protection, research, interpretation, and maintenance activities related to resource protection and visitor enjoyment in areas managed by the National Park Service and shall be allocated among national park system units in accordance with subsection (j). Such amounts shall remain available until expended. The Secretary shall develop procedures for the use of amounts in the fund that ensure accountability and demonstrated results consistent with the purposes of this Act. Beginning after the first full fiscal year following enactment of this subparagraph, the Secretary shall submit an annual report to Congress, on a unit-by-unit basis, detailing the fees receipts collected pursuant to this section and the expenditures of such receipts.".

(e) TIME OF REIMBURSEMENT.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended by striking the last sentence.

(f) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following) is amended by adding the following new subsection at the end:

"(o) FEES FOR SPECIAL USES.—The Secretary of the Interior shall establish reasonable fees for

nonrecreational uses of national park system units that require special arrangements, including permits. The fees shall be set at such level as the Secretary deems necessary to insure that the United States will receive fair market value for the use of the area concerned and shall, at a minimum, cover all costs of providing necessary services associated with such special uses, except that the Secretary may, in his discretion, waive or reduce such fees in the case of any nonprofit organization or any organization using an area within the national park system for educational or park-related purposes. Notwithstanding any other provision of law, the Secretary shall retain so much of the revenue from such fees as is equal to fee collection costs and the costs of providing the necessary services associated with such special uses. Such retained amounts shall be credited to the appropriation account for the national park system unit concerned and shall remain available until expended, beginning in the fiscal year in which the amounts are so credited.".

SEC. 3. CHALLENGE COST-SHARE AGREEMENTS.

(a) AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators. For purposes of this section—

(1) The term "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out any authorized functions and responsibilities of the Secretary with respect to any unit of the national park system (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1b-1c)), any affiliated area, or any designated national scenic or historic trail.

(2) The term "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(b) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary is authorized, subject to appropriation, to provide the Federal funding share from any funds available to the National Park Service.

SEC. 4. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

Notwithstanding any other provision of law, any funds payable to the United States as restitution on account of damage to national park resources or property shall be paid to the Secretary of the Interior. Any such funds, and any other funds received as a result of forfeiture, compromise, or settlement on account of damage to national park resources or property shall be credited to the appropriation account for the national park system unit concerned and shall be available, without further appropriation, for expenditure by the Secretary, without regard to fiscal year limitation, to improve, protect, or rehabilitate any park resources or property which have been damaged by the action of a permittee or any unauthorized person.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an important bill and initiative of the administration, one that has been sought for some time by Members of Congress. It provides for raising the entrance fees, changing the basis on which parks charge entrance fees. It will provide a more equitable basis to in fact treat the visitors to our national parks. A hundred percent of the money that is raised, the new income raised from this particular bill, will remain in the parks that raise it.

It has other provisions in the bill other than the fee increases. It lifts the provisions dealing with those areas that multiple entrances, some urban areas. It does deal with the Golden Eagle Pass, raises the cost of that from $25 to $40. It does increase the annual park pass from $15 to $25. It maintains, Mr. Speaker, that children under 16 will continue to have free admission to our national park. It does provide, the law provides now, and this bill maintains, that the Golden Age Pass will remain in place for senior citizens, but it does clarify that that entitles the pass holder and spouse for entrance.

Furthermore, Mr. Speaker, it deals with adjusting to fair market value nonrecreational part uses such as commercial filming, weddings, and staging events that often do occur in our parks. It further authorizes, Mr. Speaker, the substitute also includes, two or three, includes two of the three, entrepreneurial management reforms proposed in the administration's bill. These are the increased flexibility for the challenged cost share program in allowing the National Park Service to cover costs for damage to park resources. Furthermore, Mr. Speaker, this clarifies a provision that will provide for funding for the public land corps. That is to say that the private sector in the reconciliation bill last year was provided the opportunity to sell the Golden Eagles. Unfortunately, because of some technical problems in the rules of the Senate, that change could not be fully accomplished. This bill will do that, providing for the private sale of the Golden Eagle. That means there would be private promotion of that Golden Eagle Pass, and the revenue from that, from those private sales, will be used for the Youth Conservation Corps. It is a good purpose.

This is a good bill. It will add substantial revenues that will go to our parks in the next 5 years. It is estimated this bill will raise $200 million. It is a bill in which that money, those of us that care about the parks, that are interested in seeing the operation and maintenance of them, go forward, recognize that these types of changes and policy will add qualitatively to those park experiences, and I urge the Members to support the bill in its next go-around, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of this measure to increase entrance fees at parks. Mr. Speaker, I support the concept of park users paying their fair share of park costs, and I support this bill which provides that increases in entrance fees will be available to support these parks.

I appreciate the bipartisan effort to develop this bill and commend it to my colleagues.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4533, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RIO PUERCO WATERSHED ACT OF 1994

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1919) to improve water quality within the Rio Puerco watershed and to help restore the ecological health of the Rio Grande through the cooperative identification and implementation of best management practices which are consistent with the ecological, geological, cultural, sociological, and economic conditions in the region as amended.

The Clerk read as follows:

S. 1919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Puerco Watershed Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) over time, extensive ecological changes have occurred in the *watershed of the Rio Puerco River, in New Mexico*, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentation;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the *Rio Puerco* watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of existing communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem *in the Rio Puerco watershed* is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has damaged the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which have disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, State, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the Bureau of Land Management, in consultation with the entities listed in paragraph (8), and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco watershed; and

(10) accelerating the pace of improvement in Rio Puerco watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SEC. 3. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Bureau of Land Management and in consultation with the Rio Puerco Management Committee established pursuant to section 4, shall—

(1) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994, as described in the attached map, including—

(A) current and historical natural resource conditions; and

(B) data concerning the extent and causes of watershed impairment;

(2) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project as depicted on the map entitled "The Rio Puerco Watershed" dated June 1994; and

(3) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT *REPORT*.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Rio Puerco Management Committee, shall prepare a report of appropriate alternatives for the improvement of watershed conditions in the Rio Puerco Drainage Basin. The alternatives shall—

(1) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(2) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(3) recommend voluntary implementation of appropriate best management practices on both public and private lands;

(4) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on both public and private lands;

(5) provide for the development of public participation and community outreach programs that would include proposals for—

(A) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(B) involving private citizens in restoring the watershed;

(6) provide for the development of proposals for voluntary cooperative programs among the Rio Puerco Management Committee membership to implement best management practices in a coordinated, consistent, and cost-effective manner;

(7) provide for the encouragement and support implementation of best management practices on private lands; and

(8) provide for the development of proposals for a monitoring system that—

(A) builds upon existing data available from private, Federal, and State sources;

(B) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(C) will provide information to—

(i) assess existing resource and socioeconomic conditions;

(ii) identify priority implementation actions; and

(iii) assess the effectiveness of actions taken.

SEC. 4. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the "Committee").

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management, and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Soil Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department and the State Engineer;

(11) affected local Soil and Water Conservation Districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee established by this subsection shall terminate on the date 10 years after the date of enactment of this Act.

SEC. 5. REPORT.

Two years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives a report containing—

(1) a summary of accomplishments as outlined in section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SEC. 6. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior *shall, in cooperation with appropriate State agencies, conduct a study of the Rio Grande from Caballo Lake at least to* Sunland Park, New Mexico. The study shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and restoration of habitat through reintroduction or establishment of appropriate native plant species.

(b) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall transmit the study authorized by this section to the Committee on Energy and Natural Resources of the Senate and to the Committee on Natural Resources of the House of Representatives.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds not exceeding $7,500,000 as may be necessary to implement sections 1 through 5 of this Act during the first 10 full fiscal years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Clerk's reading obviously describes this bill. Let me just say that this is the bill of the gentleman from New Mexico [Mr. RICHARDSON]. It is a noncontroversial bill. We have a myriad of Federal land management agencies and responsibilities that have jurisdiction over this 7,000 square mile watershed that makes up the Rio Puerco watershed, and I will not go through them. The major one is the BLM; others: Fish and Wildlife Service, Corps of Engineers and so forth, and the purpose of this is to try to coordinate and to collaborate, provide collaboration, between the various entities that make that up so they can deal with the Rio Puerco watershed area.

Mr. Speaker, about 10 percent of the water that goes into the Rio Grande River comes from this watershed, but it does deliver 50 percent of the sediment that is in the Rio Grande, and the purpose here is to try to alleviate that. They have an ongoing program. This enhances it. This gives it the congressional stamp of approval. It does limit the amount of appropriation over the 10-year period. It does set up an advisory committee.

Mr. Speaker, we made numerous amendments to the Senate bill, so I believe it is satisfactory to most Members that are concerned about it, and I would ask the positive consideration of the House on this particular matter before we leave.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise to be recognized on S. 1919, a bill to authorize further study of the Rio Puerco. The gentleman from Minnesota has explained the details of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1919, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 2200

HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Mr. KILDEE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such acts through fiscal year 1998, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy Meals for Healthy Americans Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Sense of Congress.

TITLE I—AMENDMENTS TO NATIONAL SCHOOL LUNCH ACT

Sec. 101. Purchase of fresh fruits and vegetables.
Sec. 102. Delivery of commodities.
Sec. 103. Requirement of minimum percentage of commodity assistance.
Sec. 104. Combined Federal and State commodity purchases.
Sec. 105. Technical assistance to ensure compliance with nutritional requirements.
Sec. 106. Nutritional and other program requirements.
Sec. 107. Nutritional requirements relating to provision of milk.
Sec. 108. Use of free and reduced price meal eligibility information.
Sec. 109. Automatic eligibility of Head Start participants.
Sec. 110. Use of nutrition education and training program resources.
Sec. 111. Special assistance for schools electing to serve all children free lunches or breakfasts.
Sec. 112. Miscellaneous provisions and definitions.
Sec. 113. Food and nutrition projects.
Sec. 114. Summer food service program for children.
Sec. 115. Commodity distribution program.
Sec. 116. Child and adult care food program.
Sec. 117. Homeless children nutrition program.
Sec. 118. Pilot projects.
Sec. 119. Reduction of paperwork.
Sec. 120. Food service management institute.
Sec. 121. Compliance and accountability.
Sec. 122. Duties of the Secretary of Agriculture relating to nonprocurement debarment under certain child nutrition programs.
Sec. 123. Information clearinghouse.
Sec. 124. Guidance and grants for accommodating special dietary needs of children with disabilities.
Sec. 125. Study of adulteration of juice products sold to school meal programs.

TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

Sec. 201. School breakfast program.
Sec. 202. State administrative expenses.
Sec. 203. Competitive foods of minimal nutritional value.
Sec. 204. Special supplemental nutrition program.
Sec. 205. Nutrition education and training program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Consolidation of school lunch program and school breakfast program into comprehensive meal program.
Sec. 302. Study and report relating to use of private food establishments and caterers under school lunch program and school breakfast program.
Sec. 303. Amendment to Commodity Distribution Reform Act and WIC Amendments of 1987.
Sec. 304. Study of the effect of combining federally donated and federally inspected meat or poultry.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

SEC. 2. FINDINGS.

Congress finds that—

(1) undernutrition can permanently retard physical growth, brain development, and cognitive functioning of children;

(2) the longer a child's nutritional, emotional, and educational needs go unmet, the greater the likelihood of cognitive impairment;

(3) low-income children who attend school hungry score significantly lower on standardized tests than non-hungry low-income children; and

(4) supplemental nutrition programs under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) funds should be made available for child nutrition programs to remove barriers to the participation of needy children in the school lunch program, school breakfast program, summer food service program for children, and the child and adult care food program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(2) the Secretary of Agriculture should take actions to further strengthen the efficiency of child nutrition programs by streamlining administrative requirements to reduce the administrative burden on participating schools and other meal providers; and

(3) as a part of efforts to continue to serve nutritious meals to youths in the United States and to educate the general public regarding health and nutrition issues, the Secretary of Agriculture should take actions to coordinate the nutrition education efforts of all nutrition programs.

TITLE I—AMENDMENTS TO NATIONAL SCHOOL LUNCH ACT

SEC. 101. PURCHASE OF FRESH FRUITS AND VEGETABLES.

Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended—

(1) in the second sentence, by striking "Any school" and inserting "Except as provided in the next 2 sentences, any school"; and

(2) by inserting after the second sentence the following new sentences: "Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence.".

SEC. 102. DELIVERY OF COMMODITIES.

Subsection (b) of section 6 of the National School Lunch Act (42 U.S.C. 1755(b)) is amended to read as follows:

"(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.".

SEC. 103. REQUIREMENT OF MINIMUM PERCENTAGE OF COMMODITY ASSISTANCE.

Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 4, this section, and section 11 shall be in the form of commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section.

"(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirement for the school year.".

SEC. 104. COMBINED FEDERAL AND STATE COMMODITY PURCHASES.

Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by the school food service authority in meals served under the school lunch program under this Act.".

SEC. 105. TECHNICAL ASSISTANCE TO ENSURE COMPLIANCE WITH NUTRITIONAL REQUIREMENTS.

(a) SCHOOL LUNCH PROGRAM.—Section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(f) of such Act (42 U.S.C. 1761(f)) is amended—

(1) by inserting after the first sentence the following new sentences: "The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection. The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements."; and

(2) in the fourth sentence (after the amendment made by paragraph (1)), by striking "Such meals" and inserting "Meals described in the first sentence".

(c) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17(g)(1) of such Act (42 U.S.C. 1766(g)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance to those institutions participating in the program under this section to assist the institutions and family or group day care home sponsoring organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A). The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements.".

SEC. 106. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) MINIMUM NUTRITIONAL REQUIREMENTS BASED ON WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL LUNCHES.—Section 9(a)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(a)(1)(A)) (as amended by section 105(a)) is further amended—

(1) by striking "; except that such minimum nutritional requirements shall not" and inserting ", except that the minimum nutritional requirements—

"(i) shall not";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.".

(b) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than the first day of the 1996-97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than the first day of the 1996-97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary—

"(i) shall—

"(I) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(II) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

"(ii) may provide to schools information regarding other approaches, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph. In the case of schools that elect to use food-based menu systems to meet the requirements of this paragraph, the Secretary may not require the schools to conduct or use nutrient analysis.".

(c) PRODUCTION RECORDS.—Section 9 of such Act (42 U.S.C. 1758) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(g) Not later than 1 year after the date of enactment of this subsection, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.".

SEC. 107. NUTRITIONAL REQUIREMENTS RELATING TO PROVISION OF MILK.

Section 9(a)(2) of the National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended to read as follows:

"(2)(A) Lunches served by schools participating in the school lunch program under this Act—

"(i) shall offer students fluid milk; and

"(ii) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.

"(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

"(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

"(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.".

SEC. 108. USE OF FREE AND REDUCED PRICE MEAL ELIGIBILITY INFORMATION.

Section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)) is amended by striking clause (iii) and inserting the following new clauses:

"(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

"(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

"(II) a person directly connected with the administration or enforcement of—

"(aa) a Federal education program;

"(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or

"(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; and

"(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

"(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

"(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

"(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.".

SEC. 109. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

(a) IN GENERAL.—Section 9(b)(6) of the National School Lunch Act (42 U.S.C. 1758(b)(6)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "a member of";

(B) in clause (i)—

(i) by inserting "a member of" after "(i)"; and

(ii) by striking "or" at the end;

(C) in clause (ii)—

(i) by inserting "a member of" after "(ii)"; and

(ii) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).''; and

(2) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),".

(b) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17(c) of such Act (42 U.S.C. 1766(c)) is amended by adding at the end the following new paragraph:

"(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on September 25, 1995.

SEC. 110. USE OF NUTRITION EDUCATION AND TRAINING PROGRAM RESOURCES.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) (as amended by section 106(c)) is further amended by adding at the end the following new subsection:

"(h) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.".

SEC. 111. SPECIAL ASSISTANCE FOR SCHOOLS ELECTING TO SERVE ALL CHILDREN FREE LUNCHES OR BREAKFASTS.

Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the second sentence, by striking "In the case of" and inserting the following:

"(B) Except as provided in subparagraph (C), (D), or (E), in the case of"; and

(3) by striking the third and fourth sentences and inserting the following new subparagraphs:

"(C)(i) Except as provided in subparagraph (D), in the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

"(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

"(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school-year period.

"(D)(i) In the case of any school that, on the date of enactment of this subparagraph, is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

"(ii) A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period. The school may reapply to the State at the end of the 5-school-year period, and at the end of each 5-school-year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school-year period.

"(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 5-school-year period for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

"(iv) For the purpose of updating information and reimbursement levels, a school described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

"(E)(i) In the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

"(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).

"(iii) Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall evaluate the effects of this subparagraph and notify the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the results of the evaluation.".

SEC. 112. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) Technical Amendment to Definition of School.—

(1) In general.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(A) in the first sentence—

(i) in clause (A), by inserting "and" at the end;

(ii) in clause (B), by striking ", and" and inserting a period; and

(iii) by striking clause (C); and

(B) in the second sentence, by striking "of clauses (A) and (B)".

(2) Effective date.—The amendments made by paragraph (1) shall become effective on October 1, 1995.

(b) Reimbursement for Meals, Supplements, and Milk Under Certain Programs Contingent on Timely Submission of Claims and Final Program Operations Report.—Section 12 of such Act (42 U.S.C. 1760) is amended by adding at the end the following new subsection:

"(j)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

"(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

"(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

"(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.".

(c) Expedited Rulemaking.—Section 12 of such Act (42 U.S.C. 1760) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(k)(1) Prior to the publication of final regulations that implement changes that are intended to bring the meal pattern requirements of the school lunch and breakfast programs into conformance with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), the Secretary shall issue proposed regulations permitting the use of food-based menu systems.

"(2) Notwithstanding chapter 5 of title 5, United States Code, not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register of, and hold, a public meeting with—

"(A) representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers; and

"(B) organizations representing affected parties, such as public interest antihunger organizations, doctors specializing in pediatric nutrition, health and consumer groups, commodity groups, food manufacturers and vendors, and nutritionists involved with the implementation and operation of programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

to discuss and obtain public comments on the proposed rule.

"(3) Not later than June 1, 1995, the Secretary shall issue final regulations to conform the nutritional requirements of the school lunch and breakfast programs with the Guidelines. The final regulations shall include—

"(A) rules permitting the use of food-based menu systems; and

"(B) adjustments to the rule on nutrition objectives for school meals published in the Federal Register on June 10, 1994 (59 Fed. Reg. 30218).

"(4) No school food service authority shall be required to implement final regulations issued pursuant to this subsection until the regulations have been final for at least 1 year.

"(5) The final regulations shall reflect comments made at each phase of the proposed rulemaking process, including the public meeting required under paragraph (2).".

(d) Authority of Secretary to Waive Statutory and Regulatory Requirements.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for a State or eligible service provider that requests a waiver if—

"(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

"(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

"(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

"(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

"(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

"(i) identifies the statutory or regulatory requirements that are requested to be waived;

"(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

"(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted;

"(iv) includes a description of the impediments to the efficient operation and administration of the program;

"(v) describes the management goals to be achieved, such as fewer hours devoted to, or fewer number of personnel involved in, the administration of the program;

"(vi) provides a timetable for implementing the waiver; and

"(vii) describes the process the State or eligible service provider will use to monitor the progress in implementing the waiver, including the process for monitoring the cost implications of the waiver to the Federal Government.

"(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

"(3)(A) The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

"(B) If the Secretary grants a waiver request, the Secretary shall state in writing the expected outcome of granting the waiver.

"(C) The result of the decision of the Secretary shall be disseminated by the State or eligible service provider through normal means of communication.

"(D)(i) Except as provided in clause (ii), a waiver granted by the Secretary under this subsection shall be for a period not to exceed 3 years.

"(ii) The Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State or eligible service provider to carry out the purposes of the program.

"(4) The Secretary may not grant a waiver under this subsection of any requirement relating to—

"(A) the nutritional content of meals served;

"(B) Federal reimbursement rates;

"(C) the provision of free and reduced price meals;

"(D) offer versus serve provisions;

"(E) limits on the price charged for a reduced price meal;

"(F) maintenance of effort;

"(G) equitable participation of children in private schools;

"(H) distribution of funds to State and local school food service authorities and service institutions participating in a program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

"(I) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

"(J) prohibiting the operation of a profit producing program;

"(K) the sale of competitive foods;

"(L) the commodity distribution program under section 14;

"(M) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(N) enforcement of any constitutional or statutory right of an individual, including any right under—

"(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

"(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

"(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

"(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

"(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

"(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

"(6)(A)(i) An eligible service provider that receives a waiver under this subsection shall annually submit to the State a report that—

"(I) describes the use of the waiver by the eligible service provider; and

"(II) evaluates how the waiver contributed to improved services to children served by the program for which the waiver was requested.

"(ii) The State shall annually submit to the Secretary a report that summarizes all reports received by the State from eligible service providers.

"(B) The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

"(i) summarizing the use of waivers by the State and eligible service providers;

"(ii) describing whether the waivers resulted in improved services to children;

"(iii) describing the impact of the waivers on providing nutritional meals to participants; and

"(iv) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

"(7) As used in this subsection, the term 'eligible service provider' means—

"(A) a local school food service authority;

"(B) a service institution or private nonprofit organization described in section 13; or

"(C) a family or group day care home sponsoring organization described in section 17.".

SEC. 113. FOOD AND NUTRITION PROJECTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 112(d)) is further amended by adding at the end the following new subsection:

"(m)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

"(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

"(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

"(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

"(C) create community service learning opportunities or educational programs;

"(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

"(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

"(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

"(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

"(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

"(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.".

SEC. 114. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) Priority Requirements for Determining Participation of Certain Eligible Service Institutions.—Section 13(a)(4) of the National School Lunch Act (42 U.S.C. 1761(a)(4)) is amended by striking subparagraphs (A) through (F) and inserting the following new subparagraphs:

"(A) Local schools.

"(B) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

"(C) New public institutions.

"(D) New private nonprofit organizations eligible under paragraph (7).".

(b) Elimination of 1-Year Waiting Period With Respect to Participation of Private Nonprofit Organizations in Certain Areas Under the Program.—Section 13(a)(7) of such Act (42 U.S.C. 1761(a)(7)) is amended by striking subparagraph (C).

(c) Non-School Sites.—Section 13(c)(1) of such Act (42 U.S.C. 1761(c)(1)) is amended by inserting before the period at the end the following: "or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause".

(d) Registered Food Service Management Company Reports.—Section 13(l)(3) of such Act (42 U.S.C. 1761(*l*)(3)) is amended by striking "and their program record" and inserting "that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies,".

(e) Management and Administration Plan.—Section 13(n) of such Act (42 U.S.C. 1761(n)) is amended—

(1) by striking paragraphs (5), (6), (8), and (10); and

(2) by redesignating paragraphs (7), (9), and (11) as paragraphs (5), (6), and (7), respectively;

(3) by inserting "and" after the semicolon at the end of paragraph (6) (as so redesignated); and

(4) by striking "; and (12)" and all that follows through "reimbursement".

(f) Elimination of Warning in Private Nonprofit Organization Application Relating to Criminal Provisions and Related Matters.—Section 13(q) of such Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(3) in paragraph (3) (as so redesignated), by striking "paragraphs (1) and (3)" and inserting "paragraphs (1) and (2)".

(g) Extension of Program.—Section 13(r) of such Act (42 U.S.C. 1761(r)) is amended by striking "1994" and inserting "1998".

(h) All-Day Activities.—The Secretary of Agriculture shall—

(1) not later than 180 days after the date of enactment of this Act, in consultation with the heads of other Federal agencies, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

SEC. 115. COMMODITY DISTRIBUTION PROGRAM.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) in subsection (a), by striking "1994" and inserting "1998"; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

"(3) The Secretary shall—

"(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

"(B) otherwise provide nutritional content information regarding the commodities provided to the schools.".

SEC. 116. CHILD AND ADULT CARE FOOD PROGRAM.

(a) Automatic Eligibility of Certain Even Start Participants.—Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) (as amended by section 109(b)) is further amended by adding at the end the following new paragraph:

"(6)(A) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

"(B) Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997.".

(b) Reapplication for Assistance at 3-Year Intervals.—Section 17(d)(2)(A) of such Act (42 U.S.C. 1766(d)(2)(A)) is amended by striking "2-year intervals" and inserting "3-year intervals".

(c) Use of Administrative Funds to Conduct Outreach and Recruitment to Unlicensed Day Care Homes.—Section 17(f)(3)(C) of such Act (42 U.S.C. 1766(f)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following new clause:

"(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.".

(d) Information and Training Concerning Child Health and Development.—Section 17(k) of such Act (42 U.S.C. 1766(k)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall instruct States to provide, through sponsoring organizations, information and training concerning child health and development to family or group day care homes participating in the program.".

(e) Extension of Statewide Demonstration Projects.—Section 17(p) of such Act (42 U.S.C. 1766(p)) is amended—

(1) in paragraph (1)(A), by striking "25 percent of the children served by such organization" and inserting "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,";

(2) in paragraph (4)(B), by striking "1992" and inserting "1998"; and

(3) in paragraph (5), by striking "1994" and inserting "1998".

(f) WIC Information.—Section 17 of such Act (42 U.S.C. 1766) is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(2) The State agency shall—

"(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

"(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

"(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

"(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

"(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

"(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

"(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

"(ii) information on the maximum income limits, according to family size, applicable to the program; and

"(iii) information on where parents may apply to participate in the program.".

SEC. 117. HOMELESS CHILDREN NUTRITION PROGRAM.

(a) Homeless Children Nutrition Program.—

(1) In general.—The National School Lunch Act is amended by inserting after section 17A (42 U.S.C. 1766a) the following new section:

"SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.

"(a) In General.—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

"(b) Agreements To Participate in Projects.—

"(1) In general.—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

"(2) Eligibility requirements.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section. The requirements shall include the following:

"(A) Each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

"(B) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

"(c) Project Requirements.—

"(1) In general.—A project conducted under this section shall—

"(A) use the same meal patterns and receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements; and

"(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project.

"(2) Modification.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

"(3) Homeless children eligible for free meals without application.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

"(d) Funding Priorities.—From the amount described in subsection (g), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the 'current fiscal year') in the following order of priority, to the maximum extent practicable:

"(1) The Secretary shall first provide the funding to entities and organizations, each of which—

"(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

"(B) is eligible to receive funding under this section to carry out the project for the current fiscal year;

to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

"(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

"(e) Notice.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

"(f) Plan To Allow Participation in the Child and Adult Care Food Program.—Not later than September 30, 1996, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan describing—

"(1) how emergency shelters and homeless children who have not attained the age of 6 and who are served by the shelters under the program might participate in the child and adult care food program authorized under section 17 by September 30, 1998; and

"(2) the advantages and disadvantages of the action described in paragraph (1).

"(g) Funding.—

"(1) In general.—In addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) and any amounts that are otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection $1,700,000 for fiscal year 1995, $2,400,000 for fiscal year 1996, $2,900,000 for fiscal year 1997, $3,300,000 for fiscal year 1998, and $3,700,000 for fiscal year 1999 and each succeeding fiscal year. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(2) Insufficient number of applicants.—The Secretary may expend less than the amount described in paragraph (1) for a fiscal year if there is an insufficient number of suitable applicants to carry out projects under this section for the fiscal year. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

"(h) Definition of emergency shelter.—As used in this section, the term 'emergency shelter' has the meaning provided the term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).".

(2) Conforming amendments.—

(A) National school lunch act.—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (c).

(B) Child nutrition act of 1966.—Section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) is amended—

(i) by striking "projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c))" and inserting "projects under section 17B of the National School Lunch Act"; and

(ii) by striking "each of fiscal years 1993 and 1994" each place it appears and inserting "fiscal year 1995 and each subsequent fiscal year".

(b) Demonstration Program for the Prevention of Boarder Babies.—Section 18 of the National School Lunch Act (42 U.S.C. 1769(c)) (as amended by subsection (a)(2)(A)) is further amended by inserting after subsection (b) the following new subsection:

"(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

"(A) homeless pregnant women; and

"(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

"(2) To be eligible to obtain funds under this subsection, a homeless shelter, a transitional housing organization, or another entity that provides or will provide temporary housing for individuals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

"(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(B) receive the approval of the Secretary for the proposal;

"(C) be located in an urban area that has—

"(i) a significant population of boarder babies;

"(ii) a very high rate of mortality for children under 1 year of age; or

"(iii) a significant population of homeless pregnant women and homeless women with infants;

as determined by the Secretary; and

"(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

"(3) Food and nutrition services funded under this subsection—

"(A) may include—

"(i) meals, supplements, and other food;

"(ii) nutrition education;

"(iii) nutrition assessments;

"(iv) referrals to—

"(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

"(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(III) the food stamp program established under section 4 of the Food Stamp Act of 1977 (7 U.S.C. 2013); and

"(IV) other public or private programs and services;

"(v) activities related to the services described in any of clauses (i) through (iv); and

"(vi) administrative activities related to the services described in any of clauses (i) through (v); and

"(B) may not include the construction, purchase, or rental of real property.

"(4)(A) A participating entity shall—

"(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 17 for free meals and supplements;

"(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

"(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women, homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

"(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

"(5) The Secretary shall impose such auditing and recordkeeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

"(6) The Secretary shall notify the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on projects carried out under this subsection.

"(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 17B.

"(8) As used in this subsection:

"(A) The term 'boarder baby' means an abandoned infant described in section 103(1) of the Abandoned Infants Assistance Act of 1988 (Public Law 100-505; 42 U.S.C. 670 note).

"(B) The term 'nutrition education' has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).".

SEC. 118. PILOT PROJECTS.

(a) COMMODITY LETTER OF CREDIT (CLOC) PROGRAMS.—The first sentence of section 18(b)(1) of the National School Lunch Act (42 U.S.C. 1769(b)(1)) is amended by striking ", and ending September 30, 1994".

(b) DEMONSTRATION PROGRAM TO PROVIDE MEALS AND SUPPLEMENTS OUTSIDE OF SCHOOL HOURS.—Section 18 of such Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1)(A) The Secretary shall establish a demonstration program to provide grants to eligible institutions or schools to provide meals or supplements to adolescents participating in educational, recreational, or other programs and activities provided outside of school hours..

"(B) The amount of a grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 17.

"(2) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school submits to the Secretary an application containing such information as the Secretary may reasonably require.

"(3) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school agrees that the institution or school will—

"(A) use amounts from the grant to provide meals or supplements under educational, recreational, or other programs and activities for adolescents outside of school hours, and the programs and activities are carried out in geographic areas in which there are high rates of poverty, violence, or drug and alcohol abuse among school-aged youths; and

"(B) use the same meal patterns as meal patterns required under the child and adult care food program under section 17.

"(4) Determinations with regard to eligibility for free and reduced price meals and supplements provided under programs and activities under this subsection shall be made in accordance with the income eligibility guidelines for free and reduced price lunches under section 9.

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 17, $325,000 for fiscal year 1995, $375,000 for each of fiscal years 1996 and 1997, and $425,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

"(6) As used in this subsection:

"(A) The term 'adolescent' means a child who has attained the age of 13 but has not attained the age of 19.

"(B) The term 'eligible institution or school' means—

"(i) an institution, as the term is defined in section 17; or

"(ii) an elementary or secondary school participating in the school lunch program under this Act.

"(C) The term 'outside of school hours' means after-school hours, weekends, or holidays during the regular school year.".

(c) FORTIFIED FLUID MILK.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(f)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

"(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

"(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

"(A) all whole milk in final package form for beverage use shall contain not less than—

"(i) 3.25 percent milk fat; and

"(ii) 8.7 percent milk solids not fat;

"(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

"(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

"(5) Not later than 2 years after the establishment of the first pilot project under this subsection, the Secretary shall report to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

"(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

"(B) the impact of offering the milk on milk consumption;

"(C) the views of the school food service authorities on the pilot projects; and

"(D) any increases or reductions in costs attributed to the pilot projects.

"(6) The Secretary shall—

"(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

"(B) on request, make available to State agencies and the public—

"(i) the information obtained under subparagraph (A); and

"(ii) information about where to obtain milk described in paragraph (3).

"(7)(A) Each pilot project established under this subsection shall terminate on the last day of the third year after the establishment of the pilot project.

"(B) The Secretary shall advise representatives of each district participating in a pilot project that the district may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.".

(d) INCREASED CHOICES OF FRUITS, VEGETABLES, LEGUMES, CEREALS, AND GRAIN-BASED PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

"(A) the extent to which participating children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of requiring that—

"(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(e) INCREASED CHOICES OF LOWFAT DAIRY PRODUCTS AND LEAN MEAT AND POULTRY PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (d)) is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products (including lactose-free dairy products) and lean meat and poultry products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

"(A) the extent to which participating children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of requiring that—

"(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of the school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(f) REDUCED PAPERWORK AND APPLICATION REQUIREMENTS AND INCREASED PARTICIPATION PILOTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (e)) is further amended by adding at the end the following new subsection:

"(i)(1) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to a limited number of schools to conduct pilot projects in 2 or more States approved by the Secretary to—

"(A) reduce paperwork;

"(B) reduce application and meal counting requirements; and

"(C) make changes that will increase participation in the school lunch and school breakfast programs.

"(2)(A) Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

"(B) The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

"(C) No child otherwise eligible for free or reduced price meals under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall be required to pay more under a program carried out under this subsection for such a meal than the child would otherwise pay under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively.

"(3) To be eligible to receive a grant to conduct a pilot project under this subsection, a school shall—

"(A) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including, at a minimum, information—

"(i) demonstrating that the program carried out under the project differs from programs carried out under subparagraph (C), (D), or (E) of section 11(a)(1);

"(ii) demonstrating that at least 40 percent of the students participating in the school lunch program at the school are eligible for free or reduced price meals;

"(iii) demonstrating that the school operates both a school lunch program and a school breakfast program;

"(iv) describing the funding, if any, that the school will receive from non-Federal sources to carry out the pilot project;

"(v) describing and justifying the additional amount, over the most recent prior year reimbursement amount received under the school lunch program and the school breakfast program (adjusted for inflation and fluctuations in enrollment), that the school needs from the Federal government to conduct the pilot; and

"(vi) describing the policy of the school on a la carte and competitive foods;

"(B) not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

"(C) meet any other requirement that the Secretary may reasonably require.

"(4) To the extent practicable, the Secretary shall select schools to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of schools:

"(A) Urban and rural schools.

"(B) Elementary, middle, and high schools.

"(C) Schools of varying income levels.

"(5)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive commodities in an amount equal to the amount the school received in the prior year under the school lunch program under this Act and under the school breakfast program under section 4 of the Child Nutrition Act of 1966, adjusted for inflation and fluctuations in enrollment.

"(B) Commodities required for the pilot project in excess of the amount of commodities received by the school in the prior year under the school lunch program and the school breakfast program may be funded from amounts appropriated to carry out this section.

"(6)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school lunch program and school breakfast program in an amount equal to the total Federal reimbursement for the school in the prior year under each such program (adjusted for inflation and fluctuations in enrollment).

"(B) Funds required for the pilot project in excess of the level of reimbursement received by the school in the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts appropriated to carry out this subsection. If no appropriations are made for the pilot projects, schools may not conduct the pilot projects.

"(7)(A) The Secretary shall require each school conducting a pilot project under this subsection to submit to the Secretary documentation sufficient for the Secretary, to the extent practicable, to—

"(i) determine the effect that participation by schools in the pilot projects has on the rate of student participation in the school lunch program and the school breakfast program, in total and by various income groups;

"(ii) compare the quality of meals served under the pilot project to the quality of meals served under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

"(iii) summarize the views of students, parents, and administrators with respect to the pilot project;

"(iv) compare the amount of administrative costs under the pilot project to the amount of administrative costs under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

"(v) determine the reduction in paperwork under the pilot project from the amount of paperwork under the school lunch and school breakfast programs at the school; and

"(vi) determine the effect of participation in the pilot project on sales of, and school policy regarding, a la carte and competitive foods.

"(B) Not later than January 31, 1998, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

"(i) a description of the pilot projects approved by the Secretary under this subsection;

"(ii) a compilation of the information received by the Secretary under paragraph (1) as of this date from each school conducting a pilot project under this subsection; and

"(iii) an evaluation of the program by the Secretary.

"(8) There are authorized to be appropriated to carry out this subsection $9,000,000 for each fiscal year during the period beginning October 1, 1995, and ending July 31, 1998.".

SEC. 119. REDUCTION OF PAPERWORK.

Section 19(a) of the National School Lunch Act (42 U.S.C. 1769a(a)) is amended—

(1) by striking "and other agencies" and inserting "other agencies"; and

(2) by inserting ", and families of children participating in the programs," after "assisted under such Acts".

SEC. 120. FOOD SERVICE MANAGEMENT INSTITUTE.

(a) REQUIRED ACTIVITIES.—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b-1(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "and" at the end of clause (viii);

(B) by redesignating clause (ix) as clause (x); and

(C) by inserting after clause (viii) the following new clause:

"(ix) culinary skills; and";

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(F) training food service personnel to comply with the nutrition guidance and objectives of section 24 through a national network of instructors or other means;

"(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

"(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 24.".

(b) USE OF FOOD SERVICE MANAGEMENT INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—Section 21(d) of such Act (42 U.S.C. 1769b-1(d)) is amended—

(1) by striking "(d) COORDINATION.—The" and inserting the following:

"(d) COORDINATION.—

"(1) IN GENERAL.—The"; and

(2) by adding at the end the following new paragraph:

"(2) USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 21 of such Act (42 U.S.C. 1769b-1) is amended—

(1) in subsection (a)(1), by striking "from" and inserting "subject to the availability of, and from,"; and

(2) by striking subsection (e) and inserting the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated to carry out subsection (a)(1) $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 1998.

"(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

"(A) FUNDING.—In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $147,000 for fiscal year 1995, $1,900,000 for fiscal year 1996, $1,950,000 for fiscal years 1997 and 1998, and $2,000,000 for fiscal year 1999 and each subsequent fiscal year, to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) ADDITIONAL FUNDING.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

"(C) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

SEC. 121. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking "1990, 1991, 1992, 1993, and 1994" and inserting "1994 through 1996".

SEC. 122. DUTIES OF THE SECRETARY OF AGRICULTURE RELATING TO NON-PROCUREMENT DEBARMENT UNDER CERTAIN CHILD NUTRITION PROGRAMS.

(a) IN GENERAL.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

"(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

"(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

"(2) providing training, technical advice, and guidance in identifying and preventing the activities.

"(b) DEFINITIONS.—As used in this section:

"(1) CHILD NUTRITION PROGRAM.—The term 'child nutrition program' means—

"(A) the school lunch program established under this Act;

"(B) the summer food service program for children established under section 13;

"(C) the child and adult care food program established under section 17;

"(D) the homeless children nutrition program established under section 17B;

"(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

"(F) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

"(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

"(2) CONTRACTOR.—The term 'contractor' means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

"(3) LOCAL AGENCY.—The term 'local agency' means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

"(4) NONPROCUREMENT DEBARMENT.—The term 'nonprocurement debarment' means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

"(5) PERSON.—The term 'person' means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

"(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

"(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

"(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(d) NONPROCUREMENT DEBARMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

"(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

"(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

"(B) fraud, bribery, theft, forgery, or embezzlement;

"(C) knowingly receiving stolen property;

"(D) making a false claim or statement; or

"(E) any other obstruction of justice.

"(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

"(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

"(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

"(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

"(i) reverse a debarment decision;

"(ii) reduce the period or scope of a debarment;

"(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

"(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

"(5) INFORMATION.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

"(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

"(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

"(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2)), unless the action—

"(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

"(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

"(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not involved in the improper activity that would otherwise result in the debarment;

"(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

"(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

"(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

"(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

"(1) exhaust all administrative procedures prescribed by the Secretary; and

"(2) receive notice of the final determination of the Secretary.

"(g) INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.".

(b) APPLICABILITY.—Section 25 of the National School Lunch Act (as added by subsection (a)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act.

(c) NO REDUCTION IN AUTHORITY TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS.—The authority of the Secretary of Agriculture that exists on the day before the date of enactment of this Act to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by subsection (a) or the amendment made by subsection (a).

SEC. 123. INFORMATION CLEARINGHOUSE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 122) is further amended by adding at the end the following new section:

"SEC. 26. INFORMATION CLEARINGHOUSE.

"(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

"(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

"(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

"(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

"(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

"(4) be sponsored by an organization, or be an organization, that—

"(A) has helped combat hunger for at least 10 years;

"(B) is committed to reinvesting in the United States; and

"(C) is knowledgeable regarding Federal nutrition programs;

"(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

"(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

"(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

"(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $150,000 for each of fiscal years 1995, 1996, and 1997, and $75,000 for fiscal year 1998. The Secretary shall be entitled to receive the funds and shall accept the funds.".

SEC. 124. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

"SEC. 27. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section:

"(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' means individuals, each of whom is—

"(A) a participant in a covered program; and

"(B) an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) COVERED PROGRAM.—The term 'covered program' means—

"(A) the school lunch program established under this Act;

"(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

"(C) any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

"(3) ELIGIBLE ENTITY.—The term 'eligible entity' means a school food service authority, or an institution or organization, that participates in a covered program.

"(b) GUIDANCE.—

"(1) DEVELOPMENT.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidance for accommodating the medical and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) TIMING.—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 150 days after the date of enactment of this section.

"(3) DISTRIBUTION.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

"(4) REVISION OF GUIDANCE.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidances to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

"(c) GRANTS.—

"(1) IN GENERAL.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) ADDITIONAL ASSISTANCE.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

"(3) ALLOCATION BY SECRETARY.—

"(A) PREFERENCE.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

"(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

"(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

"(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

"(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

"(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 21.

"(B) REALLOCATION.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

"(C) APPLICATIONS.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

"(4) ALLOCATION BY STATE EDUCATIONAL AGENCIES.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

"(5) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 1998 to carry out this subsection.".

SEC. 125. STUDY OF ADULTERATION OF JUICE PRODUCTS SOLD TO SCHOOL MEAL PROGRAMS

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the costs and problems associated with the sale of adulterated fruit juice and juice products to the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including a study of—

(1) the nature and extent to which juice products have been and are currently being adulterated;

(2) the adequacy of current requirements and standards to preclude manufacturers from processing adulterated products for school meal programs;

(3) the availability and effectiveness of various detection methods and testing procedures used to identify adulterated juice products;

(4) the adequacy of existing enforcement mechanisms and efforts to detect and prosecute manufacturers of adulterated juice products;

(5) the economic effect of the sale of adulterated juice products on the school meal

program and on manufacturers of the products; and

(6) the effect alternative mandatory inspection methods would have on program costs and various purchasing options.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the study conducted under subsection (a) (including any related recommendations) to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

SEC. 201. SCHOOL BREAKFAST PROGRAM.

(a) MINIMUM NUTRITIONAL REQUIREMENTS MEASURED BY WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL BREAKFASTS.—The first sentence of section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended by inserting before the period at the end the following: ", except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts".

(b) TECHNICAL ASSISTANCE FOR SCHOOL BREAKFAST PROGRAM.—Section 4(e)(1) of such Act (42 U.S.C. 1773(e)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(c) PROMOTION OF PROGRAM.—Section 4(f)(1) of such Act (42 U.S.C. 1773(f)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraphs:

"(B) In cooperation with State educational agencies, the Secretary shall promote the school breakfast program by—

"(i) marketing the program in a manner that expands participation in the program by schools and students; and

"(ii) improving public education and outreach efforts in language appropriate materials that enhance the public image of the program.

"(C) As used in this paragraph, the term 'language appropriate materials' means materials using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.".

(d) STARTUP AND EXPANSION OF SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Subsection (g) of section 4 of such Act (42 U.S.C. 1773(g)) is amended to read as follows:

"STARTUP AND EXPANSION COSTS

"(g)(1) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $5,000,000 for each of fiscal years 1991 through 1997, $6,000,000 for fiscal year 1998, and $7,000,000 for fiscal year 1999 and each subsequent fiscal year to make payments under this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds. The Secretary shall use the funds to make payments on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(9) Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

"(10) As used in this subsection:

"(A) The term 'eligible school' means a school—

"(i) attended by children a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

"(C) The term 'summer food service program for children' means a program authorized by section 13 of such Act (42 U.S.C. 1761).".

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) WITHHOLDING.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended by adding at the end the following new paragraph:

"(9)(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the National School Lunch Act (42 U.S.C. 1751 et seq.), or compliance with a regulation issued pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

"(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.".

(b) EXTENSION OF AUTHORITY TO PROVIDE FUNDS FOR STATE ADMINISTRATIVE EXPENSES.—Section 7(h) of such Act (42 U.S.C.

1776(h)) is amended by striking "1994" and inserting "1998".

(c) Prohibition of Funding Unless State Agrees To Participate in Certain Studies or Surveys.—Section 7 of such Act (42 U.S.C. 1776) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in any study or survey of programs authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) and conducted by the Secretary.".

SEC. 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (c), respectively;

(2) by indenting the margins of subsections (b) and (c) so as to align with the margins of subsection (b) of section 11 of such Act (42 U.S.C. 1780); and

(3) in subsection (b) (as designated by paragraph (1))—

(A) by striking "Such regulations" and inserting "(1) The regulations"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall develop and provide to State agencies, for distribution to private elementary schools and to public elementary schools through local educational agencies, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

"(3) The Secretary shall provide to State agencies, for distribution to private secondary schools and to public secondary schools through local educational agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

"(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.".

SEC. 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) Definition of Nutritional Risk.—Section 17(b)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by inserting after "health," at the end of subparagraph (C) the following new subparagraph: "(D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse,"; and

(3) in subparagraph (E) (as redesignated by paragraph (1)), by striking "alcoholism and drug addiction, homelessness, and" and inserting "homelessness and".

(b) Promotion of Program.—Section 17(c) of such Act (42 U.S.C. 1786(c)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall promote the special supplemental nutrition program by producing and distributing materials, including television and radio public service announcements in English and other appropriate languages, that inform potentially eligible individuals of the benefits and services under the program.".

(c) Eligibility for Certain Pregnant Women.—Section 17(d) of such Act (42 U.S.C. 1786(d)) is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) In the case of a pregnant woman who is otherwise ineligible for participation in the program because the family of the woman is of insufficient size to meet the income eligibility standards of the program, the pregnant woman shall be considered to have satisfied the income eligibility standards if, by increasing the number of individuals in the family of the woman by 1 individual, the income eligibility standards would be met."; and

(2) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) A State may consider pregnant women who meet the income eligibility standards to be presumptively eligible to participate in the program and may certify the women for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of such a woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.".

(d) Technical Corrections.—Section 17(e) of such Act (42 U.S.C. 1786(e)) is amended by redesignating paragraph (3) (as added by section 123(a)(3)(D) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101–147; 103 Stat. 895)) and paragraphs (4) and (5) as paragraphs (4), (5), and (6), respectively.

(e) Coordination of WIC and Medicaid Programs Using Coordinated Care Providers.—Section 17(f)(1)(C)(iii) of such Act (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by inserting before the semicolon at the end the following: ", including medicaid programs that use coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)".

(f) Priority Consideration for Certain Migrant Populations.—The first sentence of section 17(f)(3) of such Act (42 U.S.C. 1786(f)(3)) is amended by inserting before the period at the end the following: "and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time".

(g) Income Eligibility Guidelines.—Paragraph (18) of section 17(f) of such Act (42 U.S.C. 1786(f)(18)) is amended to read as follows:

"(18) Notwithstanding subsection (d)(2)(A)(i), not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).".

(h) Use of Recovered Program Funds in Year Collected.—Section 17(f) of such Act (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.".

(i) Coordination Initiative for WIC and Medicaid Programs.—Section 17(f) of such Act (42 U.S.C. 1786(f)) (as amended by subsection (h)) is further amended by adding at the end the following new paragraph:

"(24) The Secretary and the Secretary of Health and Human Services shall carry out an initiative to assure that, in a case in which a State medicaid program uses coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C 1396b(m) or 1396n(b)), coordination between the program authorized by this section and the medicaid program is continued, including—

"(A) the referral of potentially eligible women, infants, and children between the 2 programs; and

"(B) the timely provision of medical information related to the program authorized by this section to agencies carrying out the program.".

(j) Extension of Program.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in the first sentence of subsection (g)(1), by striking "1991, 1992, 1993, and 1994" and inserting "1995 through 1998"; and

(2) in the first sentence of subsection (h)(2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1995 through 1998".

(k) Use of Funds for Technical Assistance and Research Evaluation Projects.—Section 17(g)(5) of such Act (42 U.S.C. 1786(g)(5)) is amended—

(1) by striking "and administration of pilot projects" and inserting "administration of pilot projects"; and

(2) by inserting before the period at the end the following:", and carrying out technical assistance and research evaluation projects of the programs under this section".

(l) Breastfeeding Promotion and Support Activities.—Section 17(h)(3) of such Act (42 U.S.C. 1786(h)(3)) is amended—

(1) in subparagraph (A)(i)(II)—

(A) by striking "an amount" and inserting "except as otherwise provided in subparagraphs (F) and (G), an amount"; and

(B) by striking "$8,000,000," and inserting "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E),"; and

(2) by adding at the end the following new subparagraphs:

"(E) In the case of fiscal year 1996 (except as provided in subparagraph (G)) and each subsequent fiscal year, the national minimum breastfeeding promotion expenditure means an amount that is—

"(i) equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program nationwide, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data; and

"(ii) adjusted for inflation on October 1, 1996, and each October 1 thereafter, in accordance with paragraph (1)(B)(ii).

"(F) In the case of fiscal year 1995, a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

"(i) an amount that is more than the expenditure of the State for fiscal year 1994 on the activities described in subparagraph (A)(i); or

"(ii) an amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.

"(G)(i) If the Secretary determines that a State agency is unable, for reasons the Secretary considers to be appropriate, to make the expenditure required under subparagraph (A)(i)(II) for fiscal year 1996, the Secretary may permit the State to make the required level of expenditure not later than October 1, 1996.

"(ii) In the case of fiscal year 1996, if the Secretary makes a determination described in clause (i), a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

"(I) an amount that is more than the expenditure of the State for fiscal year 1995 on the activities described in subparagraph (A)(i); and

"(II) an amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.".

(m) DEVELOPMENT OF STANDARDS FOR THE COLLECTION OF BREASTFEEDING DATA.—Section 17(h)(4) of such Act (42 U.S.C. 1786(h)(4)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program and, on development of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4).".

(n) SUBMISSION OF INFORMATION TO CONGRESS ON WAIVERS WITH RESPECT TO PROCUREMENT OF INFANT FORMULA.—Section 17(h)(8)(D)(iii) of such Act (42 U.S.C. 1786(h)(8)(D)(iii)) is amended by striking "at 6-month intervals" and inserting "on a timely basis".

(o) COST CONTAINMENT.—

(1) IN GENERAL.—Section 17(h)(8)(G) of such Act (42 U.S.C. 1786(h)(8)(G)) is amended by adding at the end the following new clause:

"(ix) Not later than September 30, 1996, the Secretary shall offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal manufacturers and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. The Secretary may carry out this clause without issuing regulations.".

(2) REPEAL OF TERMINATION OF AUTHORITY.—Section 209 of the WIC Infant Formula Procurement Act of 1992 (Public Law 102-512; 42 U.S.C. 1786 note) is repealed.

(p) PROHIBITION ON INTEREST LIABILITY TO FEDERAL GOVERNMENT ON REBATE FUNDS.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) is amended by adding at the end the following new subparagraph:

"(L) A State shall not incur any interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used for program purposes.".

(q) USE OF UNIVERSAL PRODUCT CODES.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (p)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects in at least 1 State, with the consent of the State, to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) The Secretary shall provide a notification to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the system is feasible, is cost-effective, reduces the incidence of incorrect redemptions described in clause (i), and results in any additional costs to States.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

(r) USE OF UNSPENT NUTRITION SERVICES AND ADMINISTRATION FUNDS.—Section 17(h) of such Act (42 U.S.C. 1786(h)) is amended by adding at the end the following new paragraph:

"(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use for the purposes specified in subparagraph (B), $10,000,000 or the amount of nutrition services and administration funds for the prior fiscal year that has not been obligated, whichever is less.

"(B) Funds under subparagraph (A) shall be used for—

"(i) development of infrastructure for the program under this section, including management information systems;

"(ii) special State projects of regional or national significance to improve the services of the program under this section; and

"(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.".

(s) SPENDBACK FUNDS.—Section 17(i)(3) of such Act (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)(i), by inserting "(except as provided in subparagraph (H))" after "1 percent"; and

(2) by adding at the end the following new subparagraph:

"(H) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in infant formula cost containment savings provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.".

(t) ELIMINATION OF DUPLICATIVE MIGRANT REPORTS.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in subsection (d)(4), by inserting after "Congress" the following: "and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k)"; and

(2) by striking subsection (j).

(u) INITIATIVE TO PROVIDE PROGRAM SERVICES AT COMMUNITY AND MIGRANT HEALTH CENTERS.—Section 17 of such Act (42 U.S.C. 1786) (as amended by subsection (t)(2)) is further amended by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the 'Secretaries') shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers.

"(2) The initiative shall also include—

"(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

"(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

"(3) The initiative may include—

"(A) outreach and technical assistance for State and local agencies and the facilities described in paragraph (2)(A) and the health centers and facilities described in paragraph (2)(B);

"(B) demonstration projects in selected State or local areas; and

"(C) such other activities as the Secretaries find are appropriate.

"(4)(A) Not later than April 1, 1995, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries intend to take to carry out the initiative.

"(B) Not later than July 1, 1996, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries are taking under the initiative or actions the Secretaries intend to take under the initiative as a result of their experience in implementing the initiative.

"(C) On completion of the initiative, the Secretaries shall provide to Congress a notification concerning an evaluation of the initiative by the Secretaries and a plan of the Secretaries to further the goals of the initiative.

"(5) As used in this subsection:

"(A) The term 'community health center' has the meaning given the term in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

"(B) The term 'migrant health center' has the meaning given the term in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).".

(v) EXPANSION OF FARMERS' MARKET NUTRITION PROGRAM.—

(1) MATCHING REQUIREMENT FOR INDIAN STATE AGENCIES.—Section 17(m)(3) of such

Act (42 U.S.C. 1786(m)(3)) is amended by adding at the end the following new sentence: "The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.".

(2) EXPANSION.—Section 17(m)(5)(F) of such Act (42 U.S.C. 1786(m)(5)(F)) is amended—

(A) in clause (i), by striking "15 percent" and inserting "17 percent";

(B) by striking clause (ii) and inserting the following new clause:

"(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use not more than 2 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables."; and

(C) in clause (iii), strike "for the administration of the program".

(3) CONTINUED FUNDING FOR CERTAIN STATES UNDER FARMERS' MARKET NUTRITION PROGRAM.—Subparagraph (A) of section 17(m)(6) of such Act (42 U.S.C. 1786(m)(6)(A)) is amended to read as follows:

"(A) The Secretary shall give the same preference for funding under this subsection to eligible States that participated in the program under this subsection in a prior fiscal year as to States that participated in the program in the most recent fiscal year. The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.".

(4) FUNDING REDUCTION FLOOR.—Section 17(m)(6)(B)(ii) of such Act (42 U.S.C. 1786(m)(6)(B)(ii)) is amended by striking "$50,000" each place it appears and inserting "$75,000".

(5) STATE PLAN SUBMISSION DATE.—Section 17(m)(6)(D)(i) of such Act (42 U.S.C. 1786(m)(6)(D)(i)) is amended by striking "at such time and in such manner as the Secretary may reasonably require" and inserting "by November 15 of each year".

(6) PERCENTAGE OF ANNUAL APPROPRIATIONS AVAILABLE TO STATES UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(6)(G) of such Act (42 U.S.C. 1786(m)(6)(G)) is amended—

(A) in the first sentence of clause (i), by striking "45 to 55 percent" and inserting "75 percent"; and

(B) in the first sentence of clause (ii), by striking "45 to 55 percent" and inserting "25 percent".

(7) DATA COLLECTION REQUIREMENTS.—Section 17(m)(8) of such Act (42 U.S.C. 1786(m)(8)) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraphs:

"(D) the change in consumption of fresh fruits and vegetables by recipients, if the information is available;

"(E) the effects of the program on farmers' markets, if the information is available; and".

(8) EXTENSION OF COUPON PROGRAM.—Section 17(m)(10)(A) of such Act (42 U.S.C. 1786(m)(10)(A))) is amended—

(A) by striking "$3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and"; and

(B) by inserting before the period at the end ", $10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998".

(9) ELIMINATION OF FUNDING CARRYOVER PROVISION UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(10)(B)(i) of such Act (42 U.S.C. 1786(m)(10)(B)(i)) is amended—

(A) in subclause (I), by striking "Except as provided in subclause (II), each" and inserting "Each"; and

(B) in subclause (II), by striking "or may be retained" and all that follows and inserting a period.

(10) ELIMINATION OF REALLOCATION OF UNEXPENDED FUNDS WITH RESPECT TO DEMONSTRATION PROJECTS UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(10)(B)(ii) of such Act (42 U.S.C. 1786(m)(10)(B)(ii)) is amended by striking the second sentence.

(11) DEFINITION.—Section 17(m)(11)(D) of such Act (42 U.S.C. 1786(m)(11)(D)) is amended by inserting before the period at the end the following: "and any other agency approved by the chief executive officer of the State".

(12) PROMOTION BY THE SECRETARY.—The Secretary of Agriculture shall promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary.

(w) CHANGE IN NAME OF PROGRAM.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN";

(B) in the first sentence of subsection (c)(1), by striking "special supplemental food program" and inserting "special supplemental nutrition program";

(C) in the second sentence of subsection (k)(1), by striking "special supplemental food program" each place it appears and inserting "special supplemental nutrition program"; and

(D) in subsection (o)(1)(B), by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(B) Section 685(b)(8) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a(b)(8)) is amended by striking "Special Supplemental Food Program for Women, Infants and Children" and inserting "special supplemental nutrition program for women, infants, and children".

(C) Section 3803(c)(2)(C)(x) of title 31, United States Code, is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(D) Section 399(b)(6) of the Public Health Service Act (42 U.S.C. 280c–6(b)(6)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(E) Paragraphs (11)(C) and (53)(A) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) are each amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(F) Section 202(b) of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(3) REFERENCES.—Any reference to the special supplemental food program established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) in any provision of law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under such section.

SEC. 205. NUTRITION EDUCATION AND TRAINING PROGRAM.

(a) NAME OF PROGRAM.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking "information and education" each place it appears in subsections (b), (c), (d)(1), (f)(1)(G), and (j)(1) and inserting "education and training".

(b) NUTRITION EDUCATION PROGRAMS.—The second sentence of section 19(c) of such Act (42 U.S.C. 1788(c)) is amended—

(1) in subparagraph (B), by striking "school food service" and inserting "child nutrition program";

(2) by striking "and" at the end of subparagraph (C); and

(3) by inserting before the period at the end the following: "; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health".

(c) NUTRITION EDUCATION AND TRAINING.—Section 19(d) of such Act (42 U.S.C. 1788(d)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and the provision of nutrition education to parents and caregivers";

(2) in the first sentence of paragraph (4), by striking "educational and school food service personnel" and inserting "educational, school food service, child care, and summer food service personnel"; and

(3) in the first sentence of paragraph (5), by inserting after "schools" the following: ", and in child care institutions and summer food service institutions,".

(d) USE OF FUNDS.—Section 19(f)(1) of such Act (42 U.S.C. 1788(f)(1)) is amended—

(1) by striking "(f)(1) The funds" and inserting "(f)(1)(A) The funds";

(2) by striking "for (A) employing" and inserting "for—

"(i) employing";

(3) by redesignating subparagraphs (B) through (I) as clauses (ii) through (ix), respectively;

(4) by indenting the margins of each of clauses (ii) through (ix) (as redesignated by paragraph (3)) so as to align with the margins of clause (i) (as amended by paragraph (2));

(5) by striking "and" at the end of clause (viii);

(6) by redesignating clause (ix) as clause (xx);

(7) by inserting after clause (viii) the following new clauses:

"(ix) providing funding for a nutrition component that can be offered in consumer and homemaking education programs as well as in the health education curriculum offered to children in kindergarten through grade 12;

"(x) instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children from a variety of linguistic and cultural backgrounds to practice sound eating habits;

"(xi) developing means of providing nutrition education in language appropriate materials to children and families of children through after-school programs;

"(xii) training in relation to healthy and nutritious meals;

"(xiii) creating instructional programming, including language appropriate materials and programming, for teachers, school food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

"(xiv) funding aspects of the Strategic Plan for Nutrition and Education issued by the Secretary;

"(xv) encouraging public service advertisements, including language appropriate materials and advertisements, to promote healthy eating habits for children;

"(xvi) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, child nutrition programs);

"(xvii) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

"(xviii) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;

"(xix) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766); and"; and

(8) by adding at the end the following new subparagraph:

"(B) As used in this paragraph, the term 'language appropriate' used with respect to materials, programming, or advertisements means materials, programming, or advertisements, respectively, using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.".

(e) ADMINISTRATIVE PURPOSES.—Section 19(f) of such Act (42 U.S.C. 1788(f)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.".

(f) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of such Act (42 U.S.C. 1788(h)) is amended—

(1) in the first sentence of paragraph (2), by inserting "and training" after "education"; and

(2) in the third sentence of paragraph (3)—

(A) by striking "and" at the end of subparagraph (D); and

(B) by inserting before the period at the end the following: "; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i)(2)(A) of such Act (42 U.S.C. 1788(i)(2)(A)) is amended to read as follows:

"(A) Out of any moneys in the Treasury not otherwise appropriated, and in addition to any amounts otherwise made available for fiscal year 1995, the Secretary of the Treasury shall provide to the Secretary $1,000 for fiscal year 1995 and $10,000,000 for fiscal year 1996 and each succeeding fiscal year for making grants under this section to each State for the conduct of nutrition education and training programs. The Secretary shall be entitled to receive the funds and shall accept the funds.".

(h) AVAILABILITY OF FUNDS.—Section 19(i) of such Act (42 U.S.C. 1788(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CONSOLIDATION OF SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE MEAL PROGRAM.

(a) IN GENERAL.—Notwithstanding any provision of National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as otherwise provided in this section, the Secretary of Agriculture shall, not later than 18 months after the date of enactment of this Act, develop and implement regulations to consolidate the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) into a comprehensive meal program.

(b) REQUIREMENTS.—In establishing the comprehensive meal program under subsection (a), the Secretary shall meet the following requirements:

(1) The Secretary shall ensure that the program continues to serve children who are eligible for free and reduced price meals. The meals shall meet the nutritional requirements of section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) and section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

(2) The Secretary shall continue to make breakfast assistance payments in accordance with section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and food assistance payments in accordance with the National School Lunch Act (42 U.S.C. 1751 et seq.).

(3) The Secretary may not consolidate any aspect of the school lunch program or the school breakfast program with respect to any matter described in any of subparagraphs (A) through (N) of section 12(k)(4) of the National School Lunch Act (42 U.S.C. 1760(k)(4)).

(c) PLAN AND RECOMMENDATIONS.—

(1) PLAN FOR CONSOLIDATION AND SIMPLIFICATION.—Not later than 180 days prior to implementing the regulations described in subsection (a), the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan for the consolidation and simplification of the school lunch program and the school breakfast program.

(2) RECOMMENDATIONS WITH RESPECT TO CHANGE IN PAYMENT AMOUNTS.—If the Secretary proposes to change the amount of the breakfast assistance payment or the food assistance payment under the comprehensive meal program, the Secretary shall not include the change in the consolidation and shall prepare and submit to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate recommendations for legislation to effect the change.

SEC. 302. STUDY AND REPORT RELATING TO USE OF PRIVATE FOOD ESTABLISHMENTS AND CATERERS UNDER SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM.

(a) STUDY.—The Comptroller General of the United States, in conjunction with the Director of the Office of Technology Assessment, shall conduct a study on the use of private food establishments and caterers by schools that participate in the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773). In conducting the study, the Comptroller General of the United States shall—

(1) examine the extent to which, manner in which, and terms under which the private food establishments and caterers supply meals and food to students and schools that participate in the school lunch program or the school breakfast program;

(2) determine the nutritional profile of all foods provided to students during school hours;

(3) evaluate the impact that the services provided by the establishments and caterers have on local child nutrition programs and the ability of the establishments and caterers to utilize the commodities under section 14 of the National School Lunch Act (42 U.S.C. 1762a); and

(4) examine the impact that private food establishments and caterers have on—

(A) student participation in the national school lunch program;

(B) school food service employment;

(C) generation of revenues through school lunch sales and a la carte sales of food in schools; and

(D) the number of students leaving schools during lunch periods.

(b) REPORT.—Not later than September 1, 1996, the Comptroller General of the United States shall submit to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains the findings, determinations, and evaluations of the study conducted pursuant to subsection (a).

SEC. 303. AMENDMENT TO COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS OF 1987.

Section 3(h)(3) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended—

(1) by striking "Hawaii,"; and

(2) by adding at the end the following new sentence: "The requirement established in paragraph (1) shall apply to recipient agencies in Hawaii only with respect to the purchase of pineapples.".

SEC. 304. STUDY OF THE EFFECT OF COMBINING FEDERALLY DONATED AND FEDERALLY INSPECTED MEAT OR POULTRY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the incidence and the effect of States restricting or prohibiting a legally contracted commercial entity from physically combining federally donated and inspected meat or poultry from another State.

(b) REPORT.—Not later than September 1, 1996, the Comptroller General of the United

States shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the findings, determinations, and evaluations of the study conducted pursuant to subsection (a).

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on October 1, 1994.

The SPEAKER pro tempore [Mr. POSHARD]. Pursuant to the rule, the gentleman from Michigan [Mr. KILDEE] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. KILDEE].

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1614, the Healthy Meals for Healthy Americans Act of 1994, provides for the reauthorization of expiring programs authorized by the National School Lunch Act and the Child Nutrition Act of 1966.

S. 1614 represents a strong bipartisan effort, and the cooperation of the House Education and Labor Committee, the Senate Agriculture Committee, and the House Agriculture Committee, to more effectively provide nutritious meals to America's youth.

I am very pleased with the results we have achieved and believe that the changes proposed in this bill reflect what we all know to be true—that if we are to attain this country's educational, economic, and social goals—we must feed our children.

To help ensure that our children are well fed, this bill:

Reauthorizes the Special Supplemental Food Program for Women, Infants, and Children [WIC], one of the most cost-effective Federal programs in operation, for 4 additional years;

Extends the Summer Food Service Program;

Permanently authorizes the Homeless Preschoolers Nutrition Program, the Breakfast Start-Up Program, and the Nutrition Education and Training Program;

Provides the Secretary broad waiver authority to improve program administration;

Authorizes pilots designed to examine more effective ways of feeding children;

Provides for strong debarment requirements in the case of fraud; and

Makes Head Start children automatically eligible for participation in the Child and Adult Care Food Program.

The bill also includes provisions designed to reduce paperwork, encourage continued improvement of the nutritional quality of the meals, and provide local flexibility.

Mr. Speaker, at this time I would like to insert this document in the RECORD that reflects the special concerns and clarifications of the committees involved in drafting the child nutrition reauthorization bill.

STATEMENT FOR THE RECORD: CHILD NUTRITION REAUTHORIZATION

TITLE I

Section 101. Purchase of Fresh Fruits and Vegetables.

The Committees expect that this provision will address current problems with the provision of fresh fruits and vegetables through the Commodity Distribution system, so as to reduce spoilage and waste by improving the quality of products received by schools, ensuring more timely delivery of fresh fruits and vegetables, and providing fresh fruits and vegetables in appropriate and usable quantities.

Section 103. Requirement of Minimum Percentage of Commodity Assistance.

The commodities purchased under section 104 of the bill (concerning combined Federal and State commodity purchases), and the costs of procuring commodities under section 104, are not to be considered when calculating the 12% commodity assistance under section 103.

Section 105. Technical Assistance to Ensure Compliance with Nutritional Requirements.

The Secretary shall encourage the coordination of technical assistance and training activities under this provision with activities already underway in States and schools to develop nutrition education curricula and with related Extension home economics programs in local communities. The Secretary shall encourage identification of these teaching and Extension professionals within the local schools and communities to assist in the implementation of these activities.

The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor support the Department's proposal to use a significant portion of funds appropriated for technical assistance to meet the dietary guidelines for funding through States to train food service staff, help school districts implement new menu systems and provide nutrition training for classroom and food service staff. The Committees encourage the Secretary to follow through on providing this funding through States.

Section 106. Nutritional and Other Program Requirements.

Regarding the requirement that the Secretary, State educational agencies and school food service authorities inform students, parents and guardians of the nutritional content of school meals, the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor do not expect that such information will be provided in other than the usual mailings and methods.

Regarding waivers to implementing the Guidelines, the Committees wish to clarify that individual schools do not necessarily need to apply for waivers—States have authority to determine the waiver guidelines, and may choose to require individual applications from schools for waivers or may choose to waive the requirement for categories of schools or even all schools in the State.

The Committees also want to make clear that while all schools will need to serve meals that meet the Dietary Guidelines, there should be flexibility in how they do so. In particular, schools should not be required to do nutrient analysis in cases where a food-based menu system is used. However, nutrient analysis may be used by schools, State agencies or the Secretary as part of audit and compliance activities.

The Committees also suggest that the Secretary may look to the Food Pyramid as a basis for developing a food-based menu system.

Furthermore, the committees instruct the Secretary to develop regulations taking into account that meals should be comprised of a variety of conventional foods, as recommended in the dietary guidelines, rather than depending on highly fortified foods to meet nutritional standards. Preferred sources of adequate nutrition are meals and snacks which provide a variety of conventional foods rather than formulated, fortified foods. Moreover, foods that are fortified may not supply other essential micronutrients which conventional foods supply.

Section 107. Elimination of Whole Milk Requirement.

The Senate Committee on Agriculture, Nutrition and Forestry, the House Committee on Education and labor and the House Committee on Agriculture note that a significant number of children participating in the school lunch and breakfast program have an intolerance to lactose in milk. Schools are encouraged to provide lactose-reduced or lactose-free milk so those students demonstrating such an intolerance can receive the nutritional benefits of milk without experiencing the digestive complications they normally associate with the digestion of lactose.

Section 112. Miscellaneous Provisions and Definitions.

This section concerns regulations on nutritional requirements for school meals. The Senate Committee on Agriculture. Nutrition and Forestry and the House Committee on Education and Labor want to emphasize their commitment to ensuring that meals served by schools meet the Dietary Guidelines. This provision is intended to ensure that the regulations facilitate this goal, without delaying compliance with the Guidelines.

Section 113. Food and Nutrition Projects.

The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor encourage projects funded under this section to, to the maximum extent practicable, coordinate their activities with activities under the Nutrition Education and Training program, and other related activities already underway in schools.

Section 116. Child and Adult Care Food Program.

The bill as passed does not include a provision from the House reported bill (H.R. 8) regarding automatic eligibility for Even Start participants due to budget constraints. However, automatic eligibility for Even Start participants is a worthy goal and the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor hope to be able to accomplish it in the future.

Section 117. Homeless Children Nutrition Program.

The pilot project for the prevention of boarder babies established under this section includes, as a requirement for receiving funding, coordination of the projects with other programs that may assist recipients. The Senate Committee on Agriculture, Nutrition and Forestry, the House Committee on Education and Labor and the House Committee on Agriculture also want to emphasize that referrals to the Food Stamp program should be a part of these activities.

The intended benefits of these projects were discussed in the Senate Committee Report on S. 1614 (S. Rpt. 103-300). It is hoped that the Department of Agriculture will work to distribute these funds as soon as practicable.

Section 118. Pilot Projects.

This section authorizes pilots for increased choices of fruits, vegetables, legumes, cereals and grain-based products, as well as pilots for increased choices of lowfat dairy products and lean meat and poultry products. The Senate Committee on Agriculture, Nutrition and Forestry, the House Committee on Education and Labor and the House Committee on Agriculture note that some ways the Secretary may implement these provisions are by giving incentive awards to schools that agree to increase the choices of these products, or by distributing to schools qualified products.

This section also authorizes pilot programs on reduced paperwork and application requirements and increased participation. The goals of these pilots are three-fold: (1) to aid schools in the reduction of paperwork in their breakfast and lunch programs by providing waiver authority; (2) to relieve schools of the requirement to collect applications by allowing Federal reimbursement for meals to be based on prior year data adjusted for changes in enrollment and inflation; and (3) to increase participation in the pilot schools' breakfast and lunch programs. Schools are encouraged to be innovative in their approach, and to reduce paperwork and increase participation to the greatest extent possible.

In approving applications for participation in the pilot, the Secretary is encouraged to choose programs that eliminate varying rates of payment for students.

Hunger is a significant barrier to learning. This program builds upon efforts to make school meals more nutritious; the success of increasing the nutritional quality of school meals in inherently dependent on the students eating those meals.

TITLE II

Section 201. School Breakfast Program.

In making permanent the school breakfast start-up grant program and expanding it to include start-up and expansion of school breakfast and summer food programs, this section established priority levels for the funding of projects. The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor want to emphasize that the Secretary should approve worthy and needy projects in each of the four priority categories established. In addition, special consideration should be given to funding expansion of school breakfast.

Section 203. Competitive foods of minimal nutritional value.

In preparing the letters and other materials required by this provision, the Secretary and State agencies shall follow the wording and directions specified in the Senate Agriculture Committee Report on S. 1614 (S. Rpt. 103-300).

Section 204. Special supplemental nutrition program.

Regarding the provision concerning presumptive eligibility for pregnant women, the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor expect that, in States adopting this option, the timetable for conducting nutritional risk assessment shall be no shorter under presumptive eligibility than is otherwise the case.

States electing to implement presumptive eligibility should inform their WIC providers of the importance of performing dietary risk assessments before—or as soon as possible after—the presumptively eligible pregnant woman begins receiving WIC benefits. The Committees are concerned that under presumptive eligibility, states might take longer to conduct the dietary assessment, since it would not delay receipt of benefits by the woman. However, the longer it takes to do the assessment, the more likely it is that a woman who would not have been eligible for WIC due to inadequate diet will not be eligible because dietary inadequacies were eliminated through the woman's participation in the WIC program. The Committees do not intend for any woman who would have been able to receive benefits without presumptive eligibility to be taken off the program because the benefits of WIC eliminated the nutritional risk of the woman before her assessment was complete.

Regarding the pilot projects required under this section to test the use of universal product codes in the WIC program, the Committees believe that pilots in one State would be sufficient to carry out this provision.

Regarding the use of unspent administrative funds, the Secretary, in implementing the provision, shall not delay allocating funds until the total amount of unspent nutrition services and administration funds from the prior fiscal year is determined, if the Secretary estimates that more than $10,000,000 will be available.

Regarding the elimination of migrant reports, the purpose of this provision is to eliminate a duplicative report. The remaining report shall continue to address the issue of migrants to the same extent as previously addressed in the separate migrant report.

Regarding Indian State agencies, the Committees expect that in negotiating lower matches with those agencies, the Secretary shall consider their ability to pay. Decisions regarding whether to fund such programs shall be based on the agency's capacity to operate a program.

The Committees expect the Secretary to provide technical assistance to Indian Tribal Organizations in meeting the application requirements for the Farmers' Market Nutrition Program. Such technical assistance may include sharing approved State plans which have been submitted by Indian Tribal Organizations in prior years, providing information of sources of funding which could be used to meet the required match, facilitating the development of farmers' markets, and lending additional assistance as necessary.

Regarding the use of funds for market development, the Committees want to clarify that the goals of such development should be to increase access among WIC participants to farmers' markets and to encourage the use of farmers' markets by WIC participants.

Regarding the funding reduction floor for the farmers' market nutrition program, the Committee is concerned that the Department of Agriculture has interpreted language pertaining to pro rata reductions to apply to requests for new or expanded funding by States. This was not the intent of the law. The threshold of $75,000 is not meant to serve as a minimum grant level for first-year requests from States, nor is it intended to be a factor for evaluating expansion requests from States which participated in the program in the prior fiscal year. This provision is intended to apply only to the situation in which the Secretary is unable to provide a continued level of funding to States which participated in the program in the prior fiscal year due to a reduction, or an insufficient increase, in the annual appropriation for the program.

In making grants to States already participating in the farmers' market nutrition program, the Secretary should take into account the difference between the number of WIC recipients in a State and the number participating in the program. The Committees are concerned that the Department of Agriculture has been distributing additional funds to States which participated in the program in the prior fiscal year on the basis of the size of the State's grant in the prior fiscal year. As a result, each State is awarded a pro-rata share of additional funds based upon the percentage of the annual appropriation which it received in the prior fiscal year. Thus, if a State's program started out on a small scale, its growth would be permanently limited to a very slow rate of expansion.

In addition, the Committees instruct the Secretary to examine additional methods to reduce the cost of infant formula for the WIC program and provide information to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor on effective means to reduce formula costs to the program. One of the methods that the Secretary shall review is the effectiveness of purchasing infant formula at lower costs by soliciting bids for rebates or discounts for milk-based and soy-based infant formula separately.

Section 205. Nutrition Education and Training Program.

Developing means of providing nutrition education in language appropriate materials to children and families of children through after-school programs, could be offered collaboratively among consumer and homemaking teachers in schools and non-school-district professionals in the community who are qualified to teach nutrition, such as Cooperative Extension home economists.

This document is intended to address the issues usually found in a conference report.

I urge my colleagues to join me in supporting the Healthy Meals for Healthy Americans Act of 1994.

Mr. Speaker, I would like to at this point indicate that we have had in effect a conference committee, Susan Wilhelm, Lynn Selmser, Jack Jennings, Vic Klatt, and Jay Eagen doing tremendous work back and forth between the House and the Senate. They have been tireless, they have been expert, and have done a very fine job.

Mr. Speaker, I urge my colleagues to join me in supporting the Healthy Meals for Americans Act of 1994.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the package of amendments to S. 1614, the Healthy Meals for Healthy Americans Act. The agreement reflects the results of negotiations to work out the differences between H.R. 8, the Healthy Meals for Healthy Americans Act, and S. 1614, the Better Nutrition and Health for Children Act of 1994.

Mr. Speaker, I would like, first of all, to begin by thanking the gentleman from Michigan, Chairman FORD, and the gentleman from Michigan [Mr. KILDEE] chairman of the subcommittee, and their staffs for working with us to retain many of the provisions contained in the bipartisan agreement which passed the House on July 19, 1994.

I would particularly like to thank John "Jack" Jennings for his many years of work to help ensure all children have access to the nutrition they require to do well in school. He began his long service at the feet of the pappy from Kentucky, who we also referred to as the father of school lunch an child nutrition, former Congressman Perkins.

Many of the ideas set forth by Republican members of the Committee on Education and Labor have been retained. In addition, the compromise stays within the spending limits established in the 1995 budget.

Let me begin by pointing out some of the major provisions of the bill. I am particularly pleased that S. 1614 includes language making permanent the current cash/CLOC demonstration sites. The gentleman from Michigan, Chairman FORD, and I have worked I guess for 15 years trying to bring this about, and I think it is very fitting during his last session in the Congress of the United States that we have finally been successful.

Mr. Speaker, there has been a lot of discussion about reducing fat and sodium in the child nutrition programs. In fact, I think we are running overboard. One recess and they burn off all those kinds of things. For those of us who are older, this is important, but for these kids it is really not. But, nevertheless, since we hear a lot about reducing fat and sodium in the child nutrition programs and increasing the number of fresh fruits and vegetables consumed by students, I am happy to say that we have worked all of that out.

This legislation contains a provision which allows schools to refuse to accept fresh fruits and vegetables which are spoiled or unusable by the school and to receive substitute fresh fruits and vegetables.

I am extremely pleased that we were able to extend automatic eligibility for the Child and Adult Care Food Program to children participating in the Even Start Program.

One issue of concern to Members of Congress was the implementation of the dietary guidelines, and I think we went far, far, far to far. We did not, the administration did. I do not think there is one Member who believes that school luncheon and breakfast programs should not meet dietary guidelines for Americans. However, I do have serious concern about their implementation. In my view, it is not at all clear schools have the financial resources necessary to adapt their menus to meet the dietary guidelines, particularly using nutrient-based menu plan and nutrient analysis. Put that on my head cooks back home and see what you get out of that, and still produce meals which are appealing to students.

A compromise language allows the implementation of the guidelines in 1996. However, we also allow schools which believe they cannot meet the deadline to obtain a waiver with respect to the implementation date, provided that all schools meet them by 1998.

Finally, the compromise allows schools to use food-based menu systems instead of nutrient analysis, as long as such meals continue to meet the requirements set forth in the dietary guidelines.

I am also very pleased that this particular legislation includes the main provisions of my bill dealing with the problem of fraud, bid rigging, and other anticompetitive practices in the procurement program.

This bill also reauthorizes the WIC Program. In addition, we have made improvements to the WIC Farmers's Market Program, which benefits both WIC participants and the agriculture community. It has been shown that individuals who receive coupons through the WIC Program to use at farmers' markets increase their overall purchase of fruits and vegetables and return to acquire additional items with their own dollars.

Again, Mr. Speaker, I am happy to stand and support this conference report, and yield back the balance of my time.

Mr. KILDEE. Mr. Speaker, I first of all want to commend the gentleman from Pennsylvania [Mr. GOODLING]. It was a pleasure working with him on this bill. I think he certainly illustrates that hunger in America is a bipartisan concern. There is much of the gentleman in this bill, and he is to be commended for it.

Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the bill, and commend the chairman of the subcommittee, the gentleman from Michigan [Mr. KILDEE] and the ranking member of the Committee on Education and Labor, the gentleman from Pennsylvania [Mr. GOODLING] for bringing this bill to the floor.

Mr. Speaker, I rise in support of S. 1614, the "Healthy Meals for Healthy Americans Act of 1994".

This legislation reauthorizes and improves programs in both the National School Lunch Act and the Child Nutrition Act. These programs include: the Special Supplemental Nutrition Program for Women, Infants, and Children [WIC]; the Summer Food Service Program, the Nutrition Education and Training [NET] Program, the School Breakfast Start-up Grant Program; the authorization of funding for the Food Service Management Institute, and the Nutrition Education and Training Program [NET].

The Special Supplemental Nutrition Program for Women, Infants, and Children [WIC] provides nutritious supplemental food to pregnant and postpartum women, infants and children through age 4. In current law, eligible recipients must be at nutritional risk because of inadequate nutrition and inadequate income. This legislation improves upon the current program by permitting a pregnant women to participate in the program immediately if she meets the income eligibility standards instead of having to wait on a nutritional risk evaluation. A nutritional risk evaluation has to be completed no later than 60 days however.

The Summer Food Service Program for children provides food for children in low-income areas during the summer months. In effect, it is an extension of the School Lunch Program for poor children during the time that school is out of session. The Committee is concerned that the program is under utilized. Over 12 million low-income children receive free and reduced price lunches every day during the school year. In 1992, only 1.9 million children ate a meal at a summer food service site. This legislation will eliminate the 1-year waiting period for private nonprofit organizations that want to operate programs so that more children can be fed during the summer months.

The Nutrition Education and Training Program [NET] provides grants to instruct students on the nutritional value of food and to train school food personnel in improving their management of these programs. Considering the current emphasis on nutritional requirements and complying with the dietary guidelines, extending this program will help students and school food service personnel better understand the value of certain foods.

This legislation makes permanent the School Breakfast Start-up Grant Program. Congress approved a new School Breakfast Start-up Program in 1989. The success of the Breakfast Start-up Program has convinced the committee that it is an important tool in meeting the committee's goal of providing breakfast to children by increasing the number of schools participating in the breakfast program. One of the findings in the recent Child Nutrition Committee print reports that the School Breakfast program is important for children because breakfast consumption is related to improved academic performance of children.

The Food Service Management Institute is also reauthorized. The Institute was established by Congress to conduct activities to help improve the quality and operation of child nutrition programs. The Food Service Management Institute has been in the forefront in conducting research, education, and training, and provides much needed technical assistance to school food service authorities. Programs and activities developed by the Institute have been accessible to all States.

Each of these programs has been successful in achieving its objectives. For example, the WIC Program has been deemed by experts to be "one of the most cost-effective Federal programs in existence." Numerous studies show that the WIC Program is a sound investment of Federal funds that saves billions of dollars in health expenditures through preventive intervention.

Included in this legislation is also the authority of the Secretary to waive statutory and regulatory requirements. The committee believes that Federal assistance for child nutrition programs should be provided in a way which eliminates unnecessary administrative burdens, paperwork, overly prescriptive regulations, and permits flexibility in the implementation of these programs.

Mr. Speaker, there is nothing more urgent and crucial in the development and forward movement of our country than to make sure that our young are provided with proper nutrition. We can play a major role in resolving the issue of hungry and malnourished children in our schools. I believe that we must move promptly to ensure that not one of our young people is obstructed or impeded because he or she is hungry.

I urge my colleagues to join me in voting for S. 1614.

Mr. KILDEE. Mr. Speaker, I yield such time as he may consume to my good friend, the gentleman from Michigan [Mr. FORD], chairman of the committee.

Mr. FORD of Michigan. Mr. Speaker, I wanted to join this discussion, because the gentleman from Pennsylvania [Mr. GOODLING], and the gentleman from Michigan [Mr. KILDEE], have no idea how happy it makes me feel as I am leaving this chairmanship to see the two of them working so well together, because I am leaving you behind.

This will be the last major legislation out of the committee that I now have the honor to chair. We have another piece of legislation on a suspension that will be disposed of this week, but this will be the last major effort that takes the amount of work that you have put in on this.

I want to thank the gentleman from Pennsylvania [Mr. GOODLING], for his comments. It really has been about 15 years since we tried to get the local school districts the privilege of buying at the best price available, the best quality food available to give to their children.

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We thought that we had proven years ago that it was wise to trust local people to do simple things like buying groceries for the kids, and we have run into well-organized special interests over the years.

The gentleman from Pennsylvania [Mr. GOODLING], has been steadfast and unswervable in his determination that the experiments we were able to put into law would stay as an example, because it is still my conviction, along with the gentleman from Pennsylvania [Mr. GOODLING], that eventually we will come to our senses and let the school people utilize their money and their resources as efficiently as possible, thereby saving an awful lot of money to the taxpayers and assuring a better quality of food going to our children.

I want to thank him for sticking with it. I have been very busy this year with a lot of things. He has carried my share of the load all during this Congress on this issue. I will remember him very fondly for having done that and for being gracious enough to give me credit for his hard work.

The gentleman from Michigan [Mr. KILDEE], I must say, I leave the chairmanship with full confidence that this and the other children's programs that will be under his jurisdiction in the subcommittee are going to be in the best hands ever since I have been on the committee. It reconfirms my belief that I finally reached in a very difficult process earlier this year, when I announced that I would not run for reelection, that the world will go on. I am very pleased to see that it is going to go on with the Members that will carry it on.

The gentleman from Missouri [Mr. CLAY], he is going to have an easy time on issues like this with these two gentlemen. It is pretty hard to get an argument started between them, when they get to feeding children and programs like Even Start.

The gentleman from Missouri [Mr. CLAY], who is going to have the glorious experience of trying to lead these gentlemen in the next Congress, I am sure will have their cooperation as I have had it and as Gus Hawkins and Carl Perkins had it before.

Mr. Speaker, I rise in support of S. 1614, the "Healthy Meals for Healthy Americans Act of 1994".

S. 1614 contains the reauthorization of programs and projects included in the National School Lunch Act and the Child Nutrition Act of 1966.

The legislation reauthorizes several child nutrition programs or projects which will expire at the end of Fiscal Year 1994. These expiring programs include the summer food service program, the commodity distribution program, nutrition education and training, State administrative expenses, the school breakfast start-up grant program; the Special Supplemental Nutrition Program for Women, Infants, and Children [WIC]; the authority for the continuation of alternative cash/CLOC commodities, and the authorization of funding for the Food Service Management Institute. The school lunch, school breakfast, child and adult care food, and special milk programs are permanently authorized.

In addition to the expiring programs, included in this legislation are: First, "waivers" provisions to provide Federal assistance in a way which eliminates unnecessary administrative burdens, paperwork, and overly prescriptive regulations; second, participatory involvement in the proposed rulemaking process; and third, special assistance provided to schools electing to serve all children free lunches or breakfasts.

S. 1614 gives the Secretary of Agriculture authority to waive statutory and regulatory requirements under the National School Lunch Act and the Child Nutrition Act. Waivers may be granted if the Secretary determines that the waiver, among other things, would facilitate the ability of the State or service provider to carry out the purpose of the programs and would not increase the overall cost of the program to the Federal Government.

The legislation also contains a provision which will permit greater participation in the rulemaking process of individuals who have responsibility for the implementation of the program. Not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register and hold a meeting to discuss and obtain public comments on the proposed rule. Included in the process must be representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers and other organizations representing affected parties. The purpose of this provision is to permit individuals who have the responsibility for the implementation of the program to have input prior to the issuance of the final rule.

Included in the legislation is also a provision which provides special assistance to schools that make an effort to serve all children free lunches or breakfasts. The committee believes that such an effort will help fight childhood hunger, help schools reallocate resources from paperwork to implementing the dietary guidelines, and provide an incentive for students to stay in school by eliminating the stigma based on income identification for poor students who participate in the child feeding programs.

S. 1614 also makes permanent several Cash/CLOC pilot projects. For the past several years, school districts throughout the Nation have participated in a demonstration of an alternative to the existing commodity donation component of the National School Lunch Program. Under the Cash/CLOC program, school districts are authorized through letters of credit to make their own purchases of specified foods in place of receiving donated commodities purchased by the U.S. Department of Agriculture. The commodity letters of credit [CLOC's] are used to purchase foods from local commercial sources.

Mr. Speaker, the programs and projects contained in this legislation are all vital programs for there is no place in our Nation for hunger. It is particularly debilitating when hunger affects us, and even more so when it affects our children. As a means of providing some much needed relief, S. 1614 does the job.

I urge my colleagues to support this legislation.

Mr. DE LA GARZA. Mr. Speaker, I support S. 1614, the Healthy Meals for Healthy Americans Act of 1994, which was referred to the Committee on Agriculture.

I am pleased that the Committee on Education and Labor, the Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry were able to compromise on the provisions of this legislation without a formal House-Senate conference.

Because there will be no conference report, Subcommittee Chairman DALE KILDEE is submitting for the record a statement which addresses several issues on which the three committees have agreed.

Mr. Speaker, there is a provision in S. 1614 which is of concern to the Committee on Agriculture. Section 123 amends the National School Lunch Act to require that the Secretary of Agriculture enter into a contract with a nongovernmental organization to establish and maintain a clearinghouse to provide information to low-income groups to combat hunger and poverty. Because the Committee on Agriculture has clear jurisdiction over food assistance and hunger issues, this is an issue which the committee feels should be explored in the food and nutrition assistance hearings the committee is conducting in the context of the 1995 farm bill.

While I have serious questions about this provision and the fact that it is included in this bill, I do not wish to hold up House action on the legislation and, therefore, will not object to consideration of the bill. There are other provisions which I strongly support.

I wish to thank Subcommittee Chairman KILDEE and other members of the Education and Labor Committee for their cooperation in working with the Committee on Agriculture on this legislation.

Mr. CUNNINGHAM. Mr. Speaker, as a cosponsor of H.R. 8, I would like to rise in support of the conference report to Healthy Meals for Healthy Americans Act.

The reauthorization of H.R. 8 in the Education and Labor Committee, made great strides in improving flexibility, increasing program access, and recognizing the importance of healthy children.

These programs are vital to our children, if we want and expect children to perform better in school then we must make sure children have the capacity to fully benefit from their education by being well nourished.

Proper nutrition of our children is key to raising student achievement.

In H.R. 8, I am particularly please to see increased flexibility in provision 3, allowing schools the option to provide school lunches to all students while working within their previous year's reimbursement.

This reduction of paperwork will be very beneficial to high poverty schools because it will allow them to put more focus and resources towards serving the nutritional needs of these children.

Four schools that have participated in paperwork reduction pilots under the National School Lunch Act have experienced a high rate of success in reducing stigma, serving nutritious meals to more children while reducing the paperwork associated with the School Lunch Program.

One of these pilot programs is in the National School District in San Diego, CA. I invited Helen Kerrian, director of child nutrition to testify before the committee on her program. The National School District is one of the poorest in the Nation. Approximately 75 percent of the students are eligible for free or reduced priced meals.

Through this program students receive nutrition education and it is made sure that no child goes hungry. For schools with high poverty rates this type of program is vital to addressing the needs of these children.

These programs have made great achievements and I am pleased that after conversations with USDA we have been assured of the continuation of these pilot programs.

Also included in this legislation is the reauthorization of the Women, Infants and Children Program [WIC]. This nutritional program is targeted to low-income pregnant women, infants, and children under the age of 5 who are at nutritional risk.

Numerous studies have demonstrated that WIC is cost beneficial. The GAO reports that up to $3.50 in medicaid funds are saved for each $1.00 spent on WIC due to reduced infant care and associated costs.

Programs like WIC are essential in helping prevent health problems and improving the health of program participants during the critical time of growth and development.

The nutritional programs contained in H.R. 8, will help us to reach the goal of our children coming to school "ready to learn."

This investment is essential in insuring the hope that all children will grow up to be vital members of our society.

I ask my colleagues on both sides of the aisle to support H.R. 8. Put an economic model to this bill and, its positive. Put children's and family values forward and vote for the bill.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the Senate bill, S. 1614, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all members may have five legislative days in which to revise and extend their remarks and include extraneous matter on S. 1614, the Senate bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

Mr. DINGELL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1225) to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

The Clerk read as follows:

S. 1225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Mexico Border Health Commission Act".

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission—

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through—

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate—

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT OF UNITED STATES SECTION.—The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) COMMISSIONER.—The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) COMPENSATION.—Members of the United States section of the Commission who are not employees of the United States or any State—

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with—

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term "Commission" means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM.—The term "health problem" means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA.—The term "United States-Mexico Border Area" means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a piece of legislation that came out of the Committee on Energy and Commerce by overwhelming vote. It sets up a commission to inquire into health problems along the border between the United States and Mexico. It will inquire, among other things, into the question of how a country may look to the other country to pay its proper share of the health care of its nationals residing in the other country.

It is overall a good piece of legislation which will be extremely helpful to people living on both sides of the border. It will be particularly beneficial to the United States in seeing to it that our dear friends in Mexico are contributing to the care and welfare of their nationals instead of having the matter addressed by the governments of the States along the borders of the United States and Mexico.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. COLEMAN], author of the legislation, and I commend him for his hard work on the matter.

Mr. COLEMAN. Mr. Speaker, I thank the gentleman for yielding time to me and for those kind words. I would say at the outset that I am very appreciative of both the ranking minority member as well as the chairman of the committee and the subcommittee, the gentleman from Virginia [Mr. BLILEY], the gentleman from California [Mr. WAXMAN], the gentleman from California [Mr. MOORHEAD], as well as the gentleman from Michigan [Mr. DINGELL] in their efforts in passing this legislation through the committee.

I would only say that it was correctly cited as the United States-Mexico Border Health Commission Act.

The purpose of the bill is for the President to be authorized by this legislation and encouraged to conduct an agreement with Mexico to establish a binational Commission to be known as the United States-Mexico Border Health Commission. The duty of the Commission is to conduct a comprehensive needs assessment in the United States-Mexico border area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of that area, to implement the actions recommended by the needs assessment through assisting units of local government and public health care officials.

This legislation has been endorsed by the American Medical Association, by the Texas Medical Association, by the New Mexico Medical Association, by the Arizona Medical Association, by the California Medical Association, and public health officials in every one of those States.

Let me also say that the concern that was expressed by some Members, I think, earlier on this legislation was well founded, if, in fact, the legislation had done what they feared. It does not.

In fact, this legislation will permit the compensation to each other's country for the caring of those citizens of that country within our country or within their country.

Let me say that in a more simple way. Perhaps, it would make better sense. For example, if we are taking uncompensated care and paying for it for a Mexican citizen in a United States hospital, this Commission would be able to negotiate for a payment from Mexico to the United States for that care. Likewise, American citizens who find themselves in a Mexican hospital and if Mexico is uncompensated for that care for some reason, and oftentimes it occurs that some American citizens do not have the funds necessary to pay for that care, then the United States would also be negotiating with Mexico and this Commission to pay for that care.

We are not certain that Mexico will agree to the creation of the commission from their side. But we think this is a good first step and a good beginning to try to resolve the problems that many States have been suing the Federal Government about for uncompensated care that we are providing to foreign nationals.

I think it is a good piece of legislation. I would urge its acceptance and its passage.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Committee on Energy and Commerce is a committee that works well together. We are bipartisan in nature.

Tonight I have been in conversation with our ranking minority member, the gentleman from California [Mr. MOORHEAD]. I have been in conversation with our ranking minority member of the Subcommittee on Health, the gentleman from Virginia [Mr. BLILEY]. I have been in consultation with my good friend, the gentleman from El Paso, TX [Mr. COLEMAN], the chairman of our committee, the gentleman from Michigan [Mr. DINGELL], and Senator HUTCHISON from Texas, and we urge support of the legislation and ask our colleagues to support the legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DINGELL. Mr. Speaker, for purposes of complimenting the gentleman from Texas [Mr. COLEMAN] for his hard work on behalf of this bill but also to express my great affection and regard for the distinguished gentleman from Texas [Mr. FIELDS], who is an enormously valuable member of our committee. I thank him for his work on the legislation and for many other fine things that he has done on our committee.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL] that the House suspend the rules and pass the Senate bill, S. 1225.

The question was taken.

Mr. FIELDS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

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AUTHORIZING THE TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5155) to authorize the transfer of naval vessels to certain foreign countries.

The Clerk read as follows:

H.R. 5155

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) ARGENTINA.—The Secretary of the Navy is authorized to transfer to the Government of Argentina the "NEWPORT" class tank landing ship SCHENECTADY (LST 1185). Such transfer shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(b) CHILE.—The Secretary of the Navy is authorized to transfer to the Government of Chile the "NEWPORT" class tank landing ships NEWPORT (LST 1179) and SAN BERNARDINO (LST 1189). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(c) MALAYSIA.—The Secretary of the Navy is authorized to transfer to the Government of Malaysia the "NEWPORT" class tank leading ship SPARTANBURG COUNTY (LST 1197). Such transfer shall be on a sales basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761; relating to the foreign military sales program).

(d) SPAIN.—The Secretary of the Navy is authorized to transfer to the Government of Spain the "NEWPORT" class tank landing ship HARLAN COUNTY (LST 1196). Such transfer shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(e) TAIWAN.—The Secretary of the Navy is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the "NEWPORT" class tank landing ships MANITOWOC (LST 1180) and SUMTER (LST 1181). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

(f) VENEZUELA.—The Secretary of the Navy is authorized to transfer to the Government of Venezuela the "NEWPORT" class tank landing ships PEORIA (LST 1183) and BARBOUR COUNTY (LST 1195). Such transfers shall be on a lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following).

SEC. 2. WAIVER OF REQUIREMENTS FOR NOTIFICATION TO CONGRESS.

The following provisions do not apply with respect to the transfers authorized by this Act:

(1) In the case of a sale under section 21 of the Arms Export Control Act, section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1994 (Public Law 103-87) and any similar, successor provision.

(2) In the case of a lease under section 61 of the Arms Export Control Act, section 62 of that Act (except that section 62 of that Act shall apply to any renewal of the lease).

SEC. 3. COSTS OF TRANSFERS.

Any expense of the United States in connection with a transfer authorized by this Act shall be charged to the recipient.

SEC. 4. EXPIRATION OF AUTHORITY.

The authority granted by section 1 of this Act shall expire at the end of the 2-year period beginning on the date of the enactment of this Act, except that leases entered into during that period under section 1 may be renewed.

SEC. 5. REPAIR AND REFURBISHMENT OF VESSELS IN THE UNITED STATES.

It is the sense of the Congress that the Secretary of the Navy should request that each country to which a naval vessel is transferred under this Act have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at shipyards located in the United States, including United States navy shipyards.

SEC. 6. CONDITION FOR TRANSFER.

No vessel may be transferred under this Act until the Secretary of Defense certifies in writing to Congress that, after the transfer—

(1) the amphibious lift capacity remaining available in the Navy is sufficient in all lift categories to transport 2½ Marine Corps expeditionary brigades simultaneously; and

(2) the amphibious lift capacity planned to be available in the Navy under the future-years defense program will be sufficient in all lift categories, throughout the period covered by the future-years defense program, to transport 2½ Marine Corps expeditionary brigades simultaneously.

The SPEAKER pro tempore (Mr. POSHARD). Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, pursuant to the appropriate provisions of the Arms Export Control Act, this bill authorizes the transfer of nine naval vessels; one through sale to Malaysia and 8 through leases to Chile, Taiwan, Venezuela, Argentina and Spain.

The bill is in the national security interests of the United States because it will:

Help improve ties between the U.S. navy and the navies of friendly and allied governments;

Help improve the naval capabilities of friendly and allied governments;

Save the U.S. government $9.9 million in first year initial deactivation and storage costs;

Generate $22.2 million in Government sales and lease revenues for the U.S. Treasury; and

Generate a minimum "best estimate" of $73 million in revenues for U.S. Government and private shipyards in preparing these naval vessels for transfer.

The House has the opportunity to have clear and positive impact on both the budget and our national security interests through passage of the legislation we have before us today.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

All of the remaining eight ships, the United States intends to transfer pursuant to chapter 6 of the AECA. During their lease periods, these eight ships will be retained on the U.S. Naval Vessel Register while under the operational command and control of the designated foreign recipients. Under the lease terms, the United States may terminate the leases and have the vessels returned to U.S. custody should the need arise.

Three of the nine ships remain in active service and would be transferred directly to the foreign countries once they are decommissioned. The remaining six ships are currently in inactive status and would require refurbishment and reactivation work before the recipient nation could take possession.

The United States would incur no costs for the transfer of these naval vessels. Any expenses incurred in connection with the transfers would be charged to the recipient nation including maintenance, repair and reactivation costs, and training.

The U.S. Government will receive a total of $22.2 million in sales and lease revenues as a result of this legislation. Further, by transferring these ships, the United States will avoid nearly $10 million in deactivation and storage costs. In addition, it is anticipated that the recipient countries will pay U.S. shipyards a total of at least $73 million for repair and refurbishment work on the ships.

Accordingly, Mr. Speaker, I urge my colleagues to support this measure. It advances the valuable, cooperative relationships the United States has established with each of these nations' navies and manages to save U.S. taxpayers a significant amount of money at the same time.

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from New Jersey [Mr. ANDREWS] for his excellent work in bringing this measure to the floor.

Mr. Speaker, the purpose of this legislation is to authorize the transfer of nine ships to six countries—Argentina, Chile, Malaysia, Spain, Taiwan, and Venezuela. The proposed transfers involve Newsport class Tank Landing Ships.

Of the nine ships, the United States intends to sell one of the vessels pursuant to chapter 21 of the Arms Export Control Act. This ship will not remain on the U.S. Naval Vessel Register.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from New York [Mr. GILMAN] for his work and for the cooperation of the minority in this legislation, and to reemphasize the point that the gentleman made very well a minute ago, that this legislation will create U.S. jobs in U.S. shipyards for U.S. workers as a result of the legislation being passed.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and pass the bill, H.R. 5155.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PROMOTING POLITICAL STABILITY IN TAJIKISTAN

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 302) urging the President to promote political stability in Tajikistan through efforts to encourage political resolution of the conflict and respect for human rights and through the provision of humanitarian assistance and, subject to certain conditions, economic assistance.

The Clerk read as follows:

H. CON. RES. 302

Whereas the conflict in Tajikistan between the government and opposition forces has caused the death of tens of thousands of persons and has displaced 500,000 persons, one-tenth of the country's 5,400,000 people;

Whereas the conflict has been characterized on all sides by gross human rights violations, abuses, and brutalities, including the murders of children, pregnant women, and babies, widespread use of torture, and summary executions;

Whereas the current violence has the potential to cause conflict along ethnic lines between Tajiks and Uzbeks throughout the region;

Whereas the United Nations Security Council has called upon all parties to reach a political solution and seek national reconciliation;

Whereas the Conference on Security and Cooperation in Europe has established a mission in Tajikistan to seek ways to resolve the conflict;

Whereas through the efforts of the Special Envoy of the Secretary General of the United Nations to Tajikistan, negotiations are now being conducted;

Whereas elections have been scheduled by the Government of Tajikistan for November 6, 1994;

Whereas the success of a truly representative government will assist with the development of a peaceful and stable Central Asia and beyond;

Whereas the United States has successfully responded to urgent needs for food and other humanitarian assistance in the past;

Whereas food access rather than availability will be a critical problem facing Tajikistan for the foreseeable future;

Whereas there remain significant shortages of necessary building materials, wheat, cooking oil, soap, and shoes;

Whereas lack of fuel nationwide will delay food shipments to Gorno Badakshan, creating severe food shortages in that region, and has the potential to cripple the economy;

Whereas economic assistance can sometimes be given through nongovernmental organizations, in the form of microdevelopment projects, thus supporting the economy from the bottom up;

Whereas continued support for the present of the United Nations and other international organizations and for microdevelopment projects could encourage the peaceful return and reintegration of refugees and displaced Tajiks; and

Whereas any unconditional economic assistance for the central government in Dushanbe, by any party, amounts to a failure to take advantage of political leverage to support national reconciliation and human rights: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

(a) That it is the sense of the Congress that—

(1) while the Congress welcomes steps taken by the Government of Tajikistan toward the holding of open elections, it expresses its concerns that nomination, registration, and voting procedures are inadequate to ensure that such elections will be free and fair; and

(2) any peacekeeping activities in Tajikistan should be conducted in full conformity with United Nations and international peacekeeping norms and practices.

(b) That it is the further sense of the Congress that the President—

(1) should support existing efforts at national reconciliation in Tajikistan, including—

(A) those of the Conference on Security and Cooperation in Europe, and

(B) the current diplomatic initiatives, through the office of the Special Envoy of the Secretary General of the United Nations to Tajikistan;

(2) should seek, through his good offices, to obtain full respect by the Government of Tajikistan for basic freedoms and internationally recognized human rights, including full implementation of Conference on Security and Cooperation in Europe commitments;

(3) should maintain support for humanitarian assistance to the people of Tajikistan, including assistance for refugees, internally displaced persons, and returnees, with an eye for encouraging self-sufficiency in as many sectors as possible;

(4) should urge the international community to make similar commitments;

(5) should seek to ensure that a substantial portion of assistance provided to Tajikistan is channeled through nongovernmental organizations; and

(6) should seek to ensure that economic assistance is provided directly to the Government of Tajikistan only if it is making significant progress in—

(A) protecting and facilitating the activities of human rights groups, including their monitoring of human rights abuses by or upon any party and the training of local human rights organizations;

(B) promoting democratic development, including free and fair elections;

(C) participating in and otherwise facilitating conflict resolution efforts;

(D) terminating interference in the nonviolent activities of the political opposition;

(E) allowing the International Committee of the Red Cross to visit prisoners in accordance with its mandate, which includes private interviews with prisoners;

(F) participating in and otherwise facilitating the compilation of a list of all those who have been extrajudicially executed or have disappeared; and

(G) facilitating the protection and reintegration of returnees.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, sometimes large principles are found in small and remote places. Tajikistan is such a place. It is a country that perhaps some of our colleagues have not even heard of, and I am certain most Americans have not even heard of.

It is a small country. It is perhaps one of the smallest areas of what used to be the Soviet Union, but it has recently been a place of immense human suffering, a place where half a million people tonight are removed and displaced from what they used to call home, a place where elements who used to run the Soviet KGB we believe are running what calls itself the Government of Tajikistan, a government which shows very little indication of being a legitimate, law-abiding government.

Mr. Speaker, this resolution says that the United States, within the appropriate limits of international law, and without extending ourselves in ways that we should not extend ourselves, should take sides with respect to what has gone on in Tajikistan with respect to our principles.

It calls upon our President to very carefully monitor the elections that have been called in November in Tajikistan, and we certainly believe that every indication is that those elections will not be legitimate. There is not free and equal access to the ballot. There is not a free press.

Mr. Speaker, we want our President and our State Department to let the world and the people of Tajikistan and the Government of Tajikistan know that we are watching. The resolution calls for us to facilitate, through the United Nations and other instrumentalities of peace, a reconciliation negotiation process, so all sides in that country can be brought together to create a truly law-based constitution and a truly legitimate and representative government.

Finally, Mr. Speaker, and most importantly, this resolution calls upon the United States to condition future aid to Tajikistan upon dramatic improvement in its human rights records, upon the implementation of real democratic standards, and upon the implementation of a true and legitimate government.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 302, which calls on the President to seek ways to promote political stability in Tajikistan.

It also states the sense of this Congress regarding elections and any peacekeeping missions in that country.

Mr. Speaker, I want to thank my colleague from New Jersey [Mr. ANDREWS], a member of our Subcommittee on Europe and the Middle East and the Subcommittee on International Operations of the Committee on Foreign Affairs, for his work in bringing this measure to the floor.

As a member of the Foreign Affairs Committee, Mr. ANDREWS has made the situation in Tajikistan a focus of his efforts at a time when much of the attention of the committee and of this House has been drawn to more pressing issues and conflicts around the world.

In introducing this resolution, Mr. ANDREWS has sought to point out the importance of recent developments in Tajikistan for the peace and stability of the Central Asian region and beyond.

Frankly, if a political settlement is not found that will end the very violent conflict that has afflicted Tajikistan, it is possible that Central Asia could erupt into a regional conflict that would easily exceed the conflict in Bosnia in its violence and suffering.

This resolution calls on the President to support current efforts by the United Nations and the Conference on Security and Cooperation in Europe to arrange a negotiated settlement to the conflict.

It also calls on the President to continue to provide humanitarian aid to the victims of the conflict, but to provide economic aid to the Government of Tajikistan only if it is seeking a resolution of the conflict, working to develop a democratic political system, and promoting basic freedoms and human rights for its citizens.

Finally, the resolution expresses the sense of the Congress that it welcomes steps taken by the Government of Tajikistan towards the holding of open elections, but that it is concerned that certain pre-election procedures will not ensure that such elections are free and fair.

It also states the sense of the Congress that any peacekeeping mission in Tajikistan should be conducted in full conformity with UN and international norms and practices.

I agree with Mr. ANDREWS that it is important that the so-called peacekeeping mission now underway in Tajikistan by the Russian-dominated "Commonwealth of Independent States" organization be brought under some kind of binding supervision by the United Nations.

It is likely that only that can ensure its impartiality and commitment to the democratic development of Tajikistan.

Frankly, the Russian military units involved in that so-called peacekeeping mission to date have clearly favored the Russian-supported regime.

If Russia wants to mount a peacekeeping mission in Tajikistan, it needs to be impartial.

Mr. Speaker, I welcome Mr. ANDREWS' resolution.

Given his willingness to seek bipartisan input on his resolution, I have joined him as a sponsor of the measure.

Mr. Speaker, I urge passage of House Concurrent Resolution 302.

□ 2230

Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. ROHRABACHER], another member of the Committee on Foreign Affairs.

Mr. ROHRABACHER. Mr. Speaker, nowhere is the example of what has happened in the Soviet Union more clear than Tajikistan. In the years before the changeover in the Soviet Union, repression was the order of the day in Tajikistan just like all over the rest of the Soviet Union. The democratic aspirations of people were totally repressed as were their religious convictions. Then a few years ago when the central power of the Soviet Union broke down and the hand of tyranny loosened, a coalition of Democrats and Muslims—in that part of the world the predominant religious faith is the Muslim faith—and after 70 years of Communist rule, 70 years of repression of democracy, 70 years of atheist oppression of religious convictions, a coalition of Muslims and Democrats emerged in that country. Unfortunately, in Tajikistan as in other parts of the world, in other parts of the former Soviet Union, the Democrats and the people who then took power were not as accustomed to the niceties of democracy and the compromises and the type of strategizing that needs to go on. In fact, what happened was that the old-guard communists with the old KGB rulers of Tajikistan retook power violently and a civil war then followed in this far-off country.

What we are finding and what the people found in the old-guard Communist movement that seized power from the Democrats and Muslims who had the coalition is that freedom and stability go hand in hand and that without Moscow there to repress those people, the people of Tajikistan were not about to see their freedom totally destroyed and there has been an ongoing conflict.

Mr. Speaker, both sides now are seeking a way to end the instability and bloodshed that has happened since the old-guard communists reseized power in Tajikistan. They have come up with the idea of an election.

I would like to thank my colleagues tonight for the attention that they have paid to this far-off country, because we are sending a message. An election is not simply the casting of ballots. It is also a recognition of the freedom of speech and assembly and it is permitting people who oppose your ideas to have a say and giving people without fear the right to move forward and express their opinions and to try to determine the future of their country.

Today we are sending a message to the people of Tajikistan. "You are not alone. We are watching." The United States is on the side not of any faction but on the side of those people who would seek freedom and liberty for their people. In that, we hope that the people of Tajikistan will have an honest election and that freedom and democracy will indeed reign in that country.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California [Mr. ROHRABACHER] for his poignant remarks and for his support of the resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New York [Mr. GILMAN] and the gentleman from California [Mr. ROHRABACHER], my Republican friends, for their support and associate myself with their comments and reiterate to the Government of Tajikistan, we say tonight that your abuses of human rights have not gone unnoticed and your access to the public treasury of the United States will not go unchallenged until you mend your ways and fall in line with the march toward democracy.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 302.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

SENSE OF HOUSE WITH RESPECT TO PROSPECTS FOR PEACE IN NORTHERN IRELAND

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 561), expressing the sense of the House of Representatives with respect to the prospects for peace in Northern Ireland.

The Clerk read as follows:

H. RES. 561

Whereas Northern Ireland has for many years been riven by violence;

Whereas this cycle of violence and death has embittered and further separated the people of both great traditions on the island of Ireland, so that reconciliation between them has been made more difficult;

Whereas the Irish and British Governments have made joint efforts pursuant to the Anglo Irish Agreement of 1985 and 3-stranded talks between and among the constitutional parties of the north and the 2 governments to find political solutions to this situation that would win the support of the majority of the people of Ireland, North and South;

Whereas the 2 governments have made further efforts in the Downing Street Declaration of 1993 to establish principles under which such a political settlement could be negotiated among all the parties in Northern Ireland that renounce the use of violence;

Whereas, after a period of internal debate and consideration, the Irish Republican Army announced on August 31, 1994, a complete cessation of military operations and declared its willingness to participate in political talks with other parties in Northern Ireland and the 2 governments;

Whereas the Irish Republican Army has kept its pledge to end military operations since that time;

Whereas other loyalist and nationalist paramilitary organizations have not declared their intention to end the use of military operations and have in fact continued attacks;

Whereas the policy of the United States has consistently supported the end of military operations and provided strong diplomatic and material support for peace and reconciliation throughout the island of Ireland, and particularly through annual appropriations to the International Fund for Ireland;

Whereas the Congress of the United States has played a role of support for this Fund and for the efforts of the 2 governments and of courageous leaders of nonviolence from both traditions in Northern Ireland such as John Hume, whose inspiration and dogged determination helped convince the Irish Republican Army to lay down its arms;

Whereas the announcement of the Irish Republican Army ceasefire and the determination of the 2 governments to offer a framework for comprehensive political dialogue between all the political parties in Northern Ireland now offer an historic climate for genuine peace and reconciliation in all of Ireland; and

Whereas the International Fund for Ireland and the Overseas Private Investment Corporation at this critical moment can play a key role in building a public-private partnership in support of the peace process in Northern Ireland, such as through an Overseas Private Investment Corporation equity fund for the Republic of Ireland and Northern Ireland: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the British and Irish Governments for the steps they have taken and are taking to encourage and facilitate all-party talks leading to a lasting political settlement acceptable to, and ratified by, the people of Ireland, north and south;

(2) urges the 2 governments to include all parties that renounce violence into such talks as soon as possible;

(3) hails the complete and permanent cessation of Irish Republican Army military operations as an essential step to such a settlement;

(4) calls upon all other paramilitary organizations in Northern Ireland similarly to cease the employment of violence;

(5) expresses strong support for United States economic development programs such as the International Fund for Ireland and the Overseas Private Investment Corporation that can contribute to a climate of economic development in which peace, reconciliation, and justice become achievable goals for all in Northern Ireland; and

(6) urges the President to take appropriate steps to support the peace process in Northern Ireland through such programs.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, first I want to commend the gentleman from Massachusetts [Mr. NEAL], who is the sponsor of this resolution, who has brought this issue to the attention of the Committee on Foreign Affairs and to the attention of the United States Congress.

Northern Ireland is a place where suffering has become all too common, where news accounts of terrorist activity and great suffering have become commonplace. There has been a great breakthrough in recent weeks and months, which this resolution commends.

The resolution really does 3 things:

First it acknowledges the role of all parties to the present discussions and negotiations in taking a bold and courageous step forward for peace and to end the suffering. It commends all of those involved.

Second, it calls upon our President and our administration to facilitate this negotiation to the extent that that is within our control. It calls for our Government to be a positive and constructive force in bringing together these sides who have fought each other for so long in such a bloody and violent way.

Finally, it calls attention to and commends the work of institutions, such as the Fund for Ireland, and encourages the administration to use these tools most effectively and expeditiously so that economic growth can replace ethnic and religious rivalry and so that prosperity can replace violence as quickly as possible in Northern Ireland, so that we may celebrate in future resolutions a permanent and lasting resolution of this very bloody and painful conflict.

With that, I would urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. I yield myself such time as I may consume.

Mr. Speaker, I want to compliment our distinguished chairman, Mr. HAMILTON, for arranging to bring this timely and important resolution to the House floor on the current peace process in the North of Ireland.

Our colleague, the distinguished gentleman from Massachusetts [Mr. NEAL], is to be complimented for his leadership and concern for peace and justice in Northern Ireland. I am pleased to be an original cosponsor of this measure before us, that reflects those deeply held concerns.

The recent developments on possible lasting peace and justice in that long troubled region, are very encouraging. The resolution before us recognizes that new reality. It contains several excellent recommendations on what more needs to be done.

One of the key ingredients helping create this new climate for peace has been the expanding political dialogue among the parties.

Representatives of the interested parties of both traditions have recently been visiting the United States and meeting with Members of Congress and the administration. The visits are testament to the critical role all sides see the United States playing in the peace process.

It is clear that the British Government must permit the IRA, in light of their declared and honored cease-fire of more than a month, an appropriate place at the peace table now. It once dealt with the IRA, even before there was no cessation of violence, surely it can do so now, under the present favorable circumstances.

This resolution recognizes the value of such productive political dialogue. All the parties must renounce the use of violence and be permitted at the peace table, once they do so, without delay. Without inclusive dialogue, the fragile peace process can all to easily become derailed.

The resolution also urges expanded United States economic assistance for Ireland. Along with the International Fund for Ireland, the resolution recognizes that the Overseas Private Investment Corporation [OPIC] can play a key role in helping to foster long-term peace.

OPIC can help create the climate for shared and equally distributed economic development that can foster lasting peace. Economic development in the north is badly needed to build future and shared wealth and prosperity at this critical moment in Irish history.

The House has already created the necessary authorization for the OPIC process needed to open the door and create an Irish equity fund of up to $60 million in fiscal year 1995.

This resolution urges administration support for that OPIC equity fund initiative now.

We have heard much about the high priority that the White House puts on the peace process for Northern Ireland. Yet to date, only the Congress, on its own initiative, has acted on any economic assistance proposal before we adjourn.

We have yet to see any administration economic assistance initiative. The administration has not seized the current momentum, nor taken advantage of the great public interest, at this crucial time to build support here in the United States for increased economic assistance. A valuable opportunity may have been lost.

Let us hope this strong and timely resolution serves to keep the Irish question on the administration's foreign policy priority action list.

I urge my colleagues to join me in adopting this resolution and putting the House on record for promoting progress on peace in the North of Ireland.

□ 2240

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDREWS of New Jersey. Mr. Speaker, I am pleased on behalf of the committee majority to extend our appreciation to the gentleman from New York [Mr. GILMAN], and the minority for their cooperation on this resolution. As the grandson of a grandfather born and raised in Belfast, Northern Ireland, it is a special privilege to be able to present this resolution to the House this evening.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of the resolution before us today, H. Res. 561, which urges the Clinton administration to take deliberate steps to bolster the peace process underway in Northern Ireland.

H. Res. 561, Mr. Speaker, calls attention to the rapid and significant strides that have been made in most recent months towards peace in Northern Ireland. Despite years of civil strife and human rights abuses in the region, the British and Irish governments, as well as the ardently opposed political factions within Northern Ireland, have demonstrated an unquestioned desire and commitment to lasting peace.

The dialogue and accords such as the Downing Street Declaration, have been promising and productive. Still, the most foretelling indication that lasting peace may possibly be achieved was the Irish Republican Army's unilateral cease fire which has been honored assiduously since its declaration over a month ago. The realization of a cease fire is a momentous turning point which cannot be overstated and should not be overlooked.

Through the cease fire, Sinn Fein and the Irish Republican Army have signaled a willingness to put down their guns and to negotiate a political settlement. This olive branch, Mr. Speaker, must be accepted by other paramilitary groups in the region and should help the IRA win an official seat at the negotiating table with the British and Irish governments. For our part, Mr. Speaker, the United States must vocally support candid and inclusive dialogue in which all factions participate. As the leader of the free world, the United States has played a critical role in helping to achieve peace in numerous regions around the globe. Northern Ireland should be no different.

To this end, Mr. Speaker, H. Res. 561 is a clear, unequivocal statement of our support for the peace process as well as our suggestions for what else should be done. Through H. Res. 561, the House of Representatives marks this historic journey towards peace and commends the permanent cessation of the IRA military operation as an essential step to a peaceful settlement. Similarly, we commend the Irish and British governments for their efforts to date and urge them to permit and invite the IRA into future talks designed to foster the peace. We urge other paramilitary organizations to seek a role in the talks by renouncing the use of violence themselves as well. Our resolution makes it clear that all parties, who put down their guns, can contribute to a final accord.

Beyond this, Mr. Speaker, today's resolution, urges the Clinton administration to recognize the limited time frame which exists and the need to make the peace effort in Northern Ireland a priority. To facilitate the peace, we call on the President to use his diplomatic resources to nurture talks that include all parties so that new bonds of trust can be established. Equally important, we call on President Clinton to expand U.S. financial support for Northern Ireland through the International Fund for Ireland and through the Overseas Private Investment Corporation [OPIC]. He has the authority to do so. Already this year, the House has provided for the creation of an Irish equity fund of up to $60 million in guaranteed loans through OPIC. The loans would help spur economic growth and alleviate unemployment on a equally distributed basis. As you know, the unequal distribution of unemployment between Protestants and Catholics in the region has been a continued source of unrest of strife.

Mr. Speaker, in his meeting yesterday with the Ad Hoc Committee for Irish Affairs—of which I am a member—Sinn Fein President Gerry Adams agreed that two of the most important contributions the U.S. can make is to use our diplomatic relationships to cultivate the dialogue between all parties and to help with the economic strife in the region. H. Res. 561 offers President Clinton vehicles to achieve these goals. It is my profound hope that he will use them.

Mr. ANDREWS of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the resolution, H. Res. 561.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONCERNING UNITED STATES SUPPORT FOR THE NEW SOUTH AFRICA

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 560) concerning United States support for the new South Africa.

The Clerk read as follows:

H. RES. 560

Whereas the first ever nonracial democratic elections were held in South Africa in April 1994, resulting in a broad-based Government of National Unity led by President Nelson Mandela, thereby ending 350 years of racial segregation known as apartheid;

Whereas Nelson Mandela will be received by President Clinton on the occasion of his historic state visit to the United States as the first head of state representing the newly democratic Republic of South Africa;

Whereas South Africa, rich in natural and human resources, is already one of the most important countries on the African continent and, with the end of apartheid, has the potential to become a major world leader;

Whereas South Africa has a critical role to play within the Southern Africa region as well as throughout the continent as a stable model of democracy and economic development;

Whereas if South Africa were to fail in its efforts to create a stable nonracial democracy, the ripple effect on the rest of the continent would be costly in terms of lives and emergency assistance;

Whereas the early stages of the transition in South Africa have proven to be an exceptional example of political reconciliation and compromise critical to nation-building;

Whereas Nelson Mandela's exemplary leadership has further enhanced South Africa's opportunities in the area of reconstruction and development;

Whereas President Nelson Mandela has asked the international community for substantial support as South Africa struggles to meet the needs of its 41,000,000 people;

Whereas the United States has stated that one of its major foreign policy objectives is to support the enlargement of democracy throughout the world;

Whereas the transition to a nonracial democratic society in South Africa is very much in the interest of the United States;

Whereas opposition to apartheid in South Africa has been a longstanding theme of the foreign policies of both Republican and Democratic Administrations;

Whereas the Congress of the United States, in both the Comprehensive Anti-Apartheid Act of 1986 and the South Africa Democratic Transition Support Act of 1993, has taken particular interest in the transition to a democratic nonracial society in South Africa;

Whereas United States support contributed significantly to the holding of free and fair elections in South Africa;

Whereas the United States has pledged its continuing commitment to long-term development for South Africa in the post-apartheid era; and

Whereas President Clinton announced a post-election initiative for South Africa that will provide support for the new Government of South Africa and assistance to communities there at the grassroots level: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) President Nelson Mandela, the first head of state of a nonracial democratic South Africa, deserves the congratulations and support of the United States;

(2) the United States shall remain engaged in the political and economic development of South Africa;

(3) assistance to South Africa should continue to focus on such issues as job creation, housing, enterprise development, education, democracy, and health; and

(4) steps should be taken to increase trade, investment, and development in South Africa.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by commending the principal author of this resolution, my friend and colleague, the gentleman from New Jersey, Mr. DONALD PAYNE, a member of our committee, for his work on this resolution. I want to reflect on the fact that our counterparts who serve in the legislative branch of the South African Government, some of them 5 years ago could not legally travel throughout their country unless they held a pass card. Some of them did not have in any way, shape or form the effective right to vote. Some of them were limited as to what schools they could attend, where they could live, what businesses they could start and the extent to which they could participate in the judicial system.

Those limitations on our legislative colleagues from South Africa were based solely on the color of their skin. This anachronism in a world that has left behind such incidences of discrimination was shocking to the rest of the world, and it ignited in the United States expressions of outrage and expressions of policy which I believe helped force the change which has occurred in South Africa.

The months dramatic manifestation we can imagine about this change in South Africa is that on the day that I was sworn in as a Member of this body in November of 1990, Nelson Mandela was in prison in South Africa. Today he is the President of South Africa, the product of a democratic election in April of 1994, a man who sat in a prison cell on the day that many of us were sworn into this institution and who will stand at that podium on Thursday and address a special joint meeting of the Congress. This is dramatic progress. This is a powerful educational tool for the rest of the world as to how people of color can put aside their differences with other people. It is a dramatic illustration and manifestation of how bitter centuries-old hatreds can be put aside without violence, without civil war, and without bloodshed to achieve great human progress.

The committee enthusiastically puts forward this resolution commending President Nelson Mandela and all of those involved in his government in South Africa and wish them great success in our cooperation in their great new democratic experiment.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I thank the gentleman from New Jersey [Mr. PAYNE] for introducing this resolution on the eve of the visit of South African President Nelson Mandela to Washington.

I had the distinct honor of attending President Mandela's inauguration in May, and have always taken great interest in South Africa's progress. We look forward to greeting and listening to President Mandela in a Joint Session of the Congress later this week.

The historic transition underway in South Africa is progressing impressively due to the tremendous sense of good will and common purpose of men and women of all races and backgrounds.

President Nelson Mandela has received substantial United States support as he takes on the difficult task of leading a diverse nation toward the dual objectives of national reconciliation and improvement of the quality of life of all South Africans.

As part of this strategy, President Mandela has continued market-oriented policies aimed at sustaining economic growth and development in which all South Africans can share. He apparently recognizes, as we must, that no amount of foreign assistance can do more for South Africa than sound economic policies that allow South Africans to make the most of their country's natural bounty. It is fitting that we commend and encourage his progress in this resolution.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

□ 2250

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again want to thank the gentleman from New York [Mr. GILMAN] for his cooperation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the resolution, H. Res. 560.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of Rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

EXPRESSING THE SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD VIETNAM

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 278) expressing the sense of the Congress regarding United States policy toward Vietnam.

The Clerk read as follows:

H. CON. RES. 278

Whereas the President has lifted the 30-year-old trade embargo against Vietnam in the belief that doing so is the "best way" to ensure progress in resolving the fate of Americans missing since the conflict in Vietnam;

Whereas the period of the Vietnam conflict and its aftermath was one of the most distressing and painful periods in our Nation's history;

Whereas questions remain about the fate of several hundred Americans missing in action;

Whereas, on July 2, 1993, President Clinton stated that further steps in United States-Vietnam relations would be based on "tangible progress" towards the fullest possible accounting of those missing in action;

Whereas such "tangible progress" depends on further efforts by the Government of Vietnam in the 4 key areas outlined by the President, including the recovery and repatriation of American remains, continued resolution of discrepancy cases, further assistance in implementing trilateral investigations with Laos, and accelerated efforts to provide all POW/MIA-related documents;

Whereas the Congress deeply empathizes with the families and friends of the missing American servicemen;

Whereas we owe nothing less than the "fullest possible accounting" to these men and their families;

Whereas Vietnam's criminal law is used to punish nonviolent advocates of political pluralism, through charges such as "attempting to overthrow the people's government" or "antisocialist propaganda";

Whereas the end of the Cold War provides an unprecedented opportunity for democratic reform and improvements in human rights throughout the world;

Whereas recent economic reforms and initiatives undertaken by the Government of Vietnam can best be encouraged and built upon through political liberalization;

Whereas the interests of the United States and the people of Vietnam, and the international community would best be served by having a friendly and democratic government in Vietnam; and

Whereas greater respect for internationally recognized human rights and a peaceful transition to democracy in Vietnam would greatly reduce the threat of instability in Southeast Asia and enable the creation of a free-market economy in Vietnam: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) progress towards the "fullest possible accounting" for the Americans missing and unaccounted for remains central to our Nation's foreign policy toward Vietnam;

(2) the "fullest possible accounting" of our missing must remain the index by which further progress in relations must be judged;

(3) the primary functions of the United States Government liaison office in Vietnam should be—

(A) to facilitate efforts to achieve the "fullest possible accounting", and

(B) to establish a section within that office to assist families and friends of those missing American servicemen in their efforts to ascertain the status of their loved ones;

(4) the United States should support the process of nonviolent democratic reform in Vietnam including the goal of free and fair elections; and

(5) the United States should increase its support for Voice of America programming in Vietnam.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution is brought before the House tonight under the leadership of the gentleman from New York [Mr. ACKERMAN] who is the chairman of the Subcommittee on Asia and the Pacific, and we commend him for his foresight and leadership in doing so.

Mr. Speaker, many of us know that there is a hole in the heart of America tonight, and it is a hole that is there because of the absence of POW's and MIA's from every conflict in which our country has been involved. Perhaps the most acutely felt pain of many people in our country pertains to the POW's and MIA's which remain fro the Vietnam-era conflict.

Earlier this year there was a controversial decision by the administration to lift the 30-year-old trade embargo with Vietnam. There were those who disagreed with that decision and those who agreed with it. Not speaking for the committee but speaking for myself, as a Member, I disagreed with that decision. Regardless of our point of view on the wisdom or lack of wisdom of lifting the embargo, this resolution focuses our attention to the measuring stick for future improvement or lack of improvement by Vietnam.

The gentleman from New York [Mr. ACKERMAN] I believe, has very wisely put forth that measurement stick as how well or how poorly Vietnam cooperates with respect to questions on the POW–MIA issue.

This resolution speaks with specifically about the POW–MIA issue. It talks about cooperation in searches. It talks about the turning over of documentation. It talks about free visitation for those who wish to gain more information on this issue.

I know that my friend and colleague, the gentleman from New York [Mr. GILMAN] to this day wears a bracelet on his arm commemorating, I would assume, one of the POW's from the Vietnam-era conflict. The symbol that he wears is a symbol that many of us carry with us, and many of our constituents carry with them every day.

Regardless of our position on the propriety of lifting the trade embargo, I believe we should join together and say that our evaluation of Vietnam's conduct in the future will be squarely tied to Vietnam's cooperation with the location and disposition of cases involving American POW's and MIA's.

I would urge Members, therefore, to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the chairman of our Foreign Affairs Committee, LEE HAMILTON, and the chairman of the Asia and Pacific Subcommittee, Mr. ACKERMAN, and the ranking republican member of the subcommittee, Mr. LEACH, for bringing House Concurrent Resolution 278, a resolution expressing the sense of the Congress regarding United States policy towards Vietnam, to the floor today.

I am pleased that House Concurrent Resolution 278 recognizes that "the primary functions of the United States Government liaison office in Vietnam should be to facilitate efforts to achieve the fullest possible accounting of American POW/MIA's, and to establish a section within that office to assist families and friends of those missing American servicemen in their efforts to ascertain the status of their loved ones."

Regrettably, the administration has informed us that there won't even be one full time staff person in the liaison office to work with the military's Joint Task Force on POW's and MIA's operating in Vietnam. I find this difficult to understand because the President, on February 3, when he announced the end of the trade embargo on Vietnam stated that:

> Our relationship with Vietnam should be guided by one factor and one factor only: gaining the fullest possible accounting for our prisoners of war and our missing in action. We owe that to all who served in Vietnam and to the families of those whose fate remains unknown.

In addition, on April 4 of this year, in a letter from Richard Moose, Under Secretary of State for Management, Chairman HAMILTON was informed that "the Liaison Office will strengthen cooperation in resolving remaining POW/MIA issues * * *"

Moreover on August 26 of this year, I received a letter from Assistant Secretary for Legislative Affairs, Ms. Sherman, stating:

> The actions we have taken to date to open a liaison office and the proposed staffing of the office have been consistent with the commitment made in the President's February 3 announcement to support the central focus of our relations with Vietnam on the fullest possible accounting for our POW/MIA's.

How can the administration fulfill its promises and commitments if it does not even assign one full time staff person to the POW/MIA issue in Vietnam?

In addition, I find it curious that many of those supporting this resolution opposed Representative SNOWE's motion to recommit the State Department authorization bill to remove sense of the Senate language on Vietnam. As opposed to this resolution, the Senate language praised Vietnam for its cooperation on POW/MIA accounting. It even went so far as to claim the process of human rights improvements was underway in Vietnam. Accordingly, I support House Concurrent Resolution 278 in the hope that the administration supports its words with deeds and tackles the POW/MIA issue with serious resolve.

Mr. Speaker, I yield 8 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I would like to go on record tonight to suggest that after spending years examining this issue, I find it difficult to believe that all of our POW's were returned in 1973 and that since I have been in Congress and personally participated in this issue, the Communist regime in Vietnam has not, as portrayed by this administration, been totally cooperative in our efforts to achieve a full accounting of the MIA's-POW's of the Vietnam war.

Just from my vantage point, I have seen numerous examples of noncooperation, even though this obstructionism has been kept from the American people; our own population has been told the Vietnamese regime has been totally cooperative. I have seen a number of examples of what I consider to be obstructionism.

Number 1, one of our own colleagues, the gentleman from Florida [Mr. PETERSON] was a POW for 6 years.

When I went to Vietnam with the gentleman from Florida [Mr. PETERSON] about, I guess it was a year and a half ago now, part of a Presidential mission, I was talking to the gentleman from Florida [Mr. PETERSON] on the airplane. He told me that during the first 3 years of his captivity, he was not a POW. He was an MIA. His family did not know that he was a POW. They did not know he had been captured. No one in the world outside of the Vietnamese regime knew that he was in the captivity of the Vietnamese.

I asked him in prison, while he was incarcerated, if he was in with the other American prisoners. The answer was no.

So at any time during those first 3 years, he could have been sent somewhere or kept and no one would have known the difference. It was only 3 years later that the gentleman from Florida [Mr. PETERSON] became a POW. At that time he was placed in with other American prisoners. That tells me there was a purpose, there was a goal in mind in keeping some of our prisoners separate from the other prisoners.

At any moment, as I say, during those first 3 years, he could have been kept, and we would have never known that he was ever a POW.

When we got to Vietnam and negotiated with the Vietnamese, I asked for the records from the prison in which the gentleman from Florida [Mr. PETERSON] was kept. That is what I would like to see, because obviously, if there was one PETE PETERSON, there might have been a dozen PETE PETERSON's there.

□ 2300

In fact, Vietnam, in the prisons where our POWs were kept, maybe there were a dozen Petersons, maybe there were 50, maybe there were 100 Pete Petersons. We will never know because the Vietnamese's answer to my request was, "I am sorry, but all of those records have been destroyed." Now this is from a regime that meticulously—communists are known for keeping meticulous records, yet all the records were destroyed. to me that is obstructionism.

Only last year two Vietnamese majors came to our MIA/POW tasks force headquarters at Phnom Penh the Vietnamese majors suggesting that they had information of American POWs still being held in Vietnam. I personally followed up on this case, going to Cambodia to personally talk to the sergeant who received that report. Because I forced the issue, there was some followup.

Until I forced the issue, there was no followup on this report. Finally, our MIA/POW team decided they should meet these two majors. I begged and pleaded that they not request these majors by name because, after all, what Vietnamese military personnel will ever step forward again now that we have requested to see these people, made this request of the Vietnamese regime? Well, our MIA/POW team made that request anyway.

What did we get for that request? When the sergeant who took the report went to Hanoi to supposedly meet with these majors again and identify them, something that could very easily have been done, when this sergeant went to Hanoi to meet with these Vietnamese majors in order to identify them, he was not permitted to meet with them, something the Vietnamese regime could have done in a snap.

Now, is this the full cooperation we have been hearing about?

When I was in Vietnam the last time with our MIA/POW task force, our men were searching through the jungle in a horrendous effort to find a hospital that had been on the border of the Cambodian/Vietnamese border during the war. It was the hardest job. These men and women, the POW/MIA task force are doing a terrific job individually. It is their leadership that I question. The fact is for weeks they were in the jungle searching for a hospital that the Vietnamese had thousands of their own people who had gone through this hospital and POW camp, I might add. They could have identified that location in a snap. Instead, our people were slogging around and wasting their time.

Is this cooperation?

It appears to me the communist regime in Vietnam is doing its best to cover up a crime. The crime I am talking about is the murder of U.S. Servicemen who were left behind by our own government during our retreat from the Vietnamese conflict.

For us to believe all prisoners were returned, we would have to believe, for example, that no men and women were ever interrogated by Russian military intelligence during the Vietnam war, because none of our airmen who were returned came back saying they had been interrogated by the Russians. That is hard to believe.

We would also have to believe they released all of these prisoners, giving up all of their leverage at the time that the war was still going on in South Vietnam and still going on in Cambodia and still going on in Laos. In fact, of the hundreds of men shot down in Laos, only one or two were ever returned. That is unbelievable.

No, they kept our men.

Our Government left those men behind, let us add. Which one of these things is worse I do not know. But it is time to close this sorry chapter in the history of the United States of America and our relations with Southeast Asia. We do need to close the chapter. We do need to have a full accounting, and this legislation sets that as a goal.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his supporting words. The gentleman has been a longtime supporter of the issue of MIAs and POWs.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that the minority and the majority can join together in this resolution and say to our Administration, push the Vietnamese to collaborate on the POW/MIA issue. We say to the Vietnamese, we are watching and paying attention, and you will be measured on this issue. And we say to the families of the American POW/MIAs, you are not forgotten.

Mr. SKAGGS. Mr. Speaker, as a Vietnam veteran and an original cosponsor of H. Con. Res. 278, I strongly support this bipartisan resolution to express the sense of Congress that the President should continue to make human rights and democracy a central part of U.S. policy toward Vietnam. We should use the President's decision to lift the trade embargo as a backdrop against which to make it clear that further normalization will depend on progress on political reforms and adherence to international human rights standards.

Vietnam is pressing ahead with economic reforms and is working more cooperatively with the United States on POW/MIA cases. This is certainly encouraging news. Its very distressing, however, that the Vietnamese government continues to persecute its citizens for seeking freedoms that are recognized throughout the world.

After the conclusion of the second round of formal human rights discussions between U.S. and Vietnamese officials in August, the response of Vietnam to cases and concerns raised by the United States has been disappointing. Vietnamese officials have provided only limited information on the location and physical health of known political opponents of the regime who have been consigned to prison camps.

Although economic liberalization and international cooperation are welcome steps, they don't bring us to the end of the line. Political reform is also needed, and the United States has an opportunity to play an influential role in that regard.

The United States should take the lead in encouraging Vietnam to take the next steps on the road to international acceptance: free and fair elections, and legal recognition of the fundamental rights of its citizens. As the U.S. Government moves toward establishing normal relations with Vietnam—a process I support—Vietnam's actions with regard to human rights and democracy can't be left out of the normalization process.

H. Con. Res. 278 will help close a gap in U.S. policy. It expresses the sense of Congress that the United States should support democratic reform in Vietnam, including the holding of free elections and the promotion of fundamental freedoms and the rule of law. By supporting this resolution, Congress will let Vietnam know that economic liberalization must be accompanied by democratic reform and adherence to international human rights standards By supporting non-violent democratic reform in Vietnam, we can serve the interests of the Vietnamese people, remain true to our own ideals, and contribute to regional stability in southeast Asia.

I urge my colleagues to vote in favor of H. Con. Res. 278 to express Congress' support for democracy and human rights in Vietnam.

Mr. ACKERMAN. Mr. Speaker, I rise today in strong support of House Concurrent Resolution 278, a resolution expressing the sense of Congress regarding United States policy toward Vietnam.

House Concurrent Resolution 278 expresses the sense of Congress that progress toward the fullest possible accounting for American POW's and MIA's should remain central to our policy toward Vietnam; that the fullest possible accounting remain the index by which progress on future relations be judged; and that the United States Government liaison office in Vietnam should facilitate efforts to achieve the fullest possible accounting as well as assist families and friends of those missing to ascertain the status of their loved ones. The resolution also states that the United States should support the process of nonviolent democratic reform in Vietnam and that the United States should increase its support for Voice of America programming in Vietnam.

When the President lifted the embargo on Vietnam last February, I urged the administration to move immediately to ensure that Hanoi did not interpret that action to mean it was off the hook on providing a full accounting of our missing Vietnam war heroes.

I continue to press the administration in the strongest possible terms to remind the Vietnamese at every opportunity that we expect a full accounting of our POW's and MIA's. Indeed, we will be satisfied with nothing less.

Let me also reassure the families and friends of those who are missing that they should not for one moment think that the Congress has written them off or forgotten about them or their loved ones. To the contrary, we must use our expanded presence in Vietnam to pursue this issue with renewed vigor.

That is why, Mr. Speaker, I was dismayed to learn that the administration does not intend to dedicate a section of the future U.S. Government liaison office to assisting POW-MIA families and friends. I continue to believe that staff from this office should be dedicated to assisting the friends and families of POW's and MIA's and I urge the administration to reconsider their decision.

Mr. Speaker, we must have continued progress on the POW/MIA issue before we move to normalization, we must firmly express our human rights concerns to the Vietnamese, and we must support nonviolent democratic reforms. I believe House Concurrent Resolution 278 sends this message to the Vietnamese and I ask my colleagues to support the resolution.

Mr. ANDREWS of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 278.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order of no quorum is considered withdrawn.

EXPRESSING THE SENSE OF CONGRESS REGARDING HUMAN RIGHTS IN VIETNAM

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 216) expressing the sense of the Congress regarding human rights in Vietnam, as amended.

The Clerk read as follows:

H. CON. RES. 216

Whereas President Clinton on October 19, 1992, promised to the American/Vietnam community "it is my firm belief that the issue of human rights should be a part of the discussion when addressing the issue of normalization with Vietnam";

Whereas the "road map" established between the United States Government and the Government of Vietnam did not mention provisions for human rights or democracy as a precondition for lifting the embargo and normalizing relations with Vietnam;

Whereas Vietnam remains one of the last communist countries in the world and maintains one of the most repressive political and social systems and the Vietnamese people are deprived of their basic human rights;

Whereas Vietnam has released from labor camps large numbers of persons suspected of disloyalty or having ties to the South Vietnamese government, and yet has rearrested and incarcerated some of these former prisoners and many other individuals for nonviolent political and religious advocacy;

Whereas one of the most repressed people in Vietnam are the ethnic minorities known as the Montagnards whose traditions, culture, and religious beliefs continue to be eradicated through policies such as the destruction of tribal villages comprised of ethnic Vietnamese migrants for the purposes of forced assimilation;

Whereas free expression is denied in Vietnam (for example, independent radio and television stations, newspapers, performing artists, book publishers, writers, artists, and journalists are forced to conform to government approval or censorship);

Whereas the poet Nguyen Chi Thien, a recognized Amnesty International Prisoner of Conscience in northern Vietnam for the past 27 years, is still denied the right of expression and remains under close government surveillance;

Whereas most South Vietnamese writers and poets have been denied the right to publish or compose since 1975;

Whereas the 1992 Vietnamese Constitution still designates the Communist Party as the "force leading the state and society";

Whereas Vietnam's criminal law is used to punish nonviolent advocates of political pluralism, through charges such as "attempting to overthrow the people's government" or "antisocialist propaganda";

Whereas participants in independent democratic parties and movements have been subjected to harsh repression (for example, Dr. Nguyen Dan Que, the leader of the Non-Violent Movement for Human Rights in Vietnam; Professor Doan Viet Hoat of the Freedom Forum; and Nguyen Dinh Huy of the Movement to Unite the People and Build Democracy);

Whereas even nonviolent political movements for democracy consisting of former National Liberation Front members such as the League of Former Revolutionaries have been repressed and its leaders, Nguyen Ho and Ta Ba Tong, remain under house arrest;

Whereas prominent leaders from the Buddhist, Catholic, Cao Dai, Hoa Hao, and Protestant faiths are in prison or under house arrest for expressing their religious beliefs;

Whereas 4 monks of the Unified Buddhist Church were tried and convicted on charges of instigating public disorder on November 15, 1993, in relation to a massive demonstration in Hue protesting police detention and harassment of major church leaders;

Whereas Venerable Thich Huyen Quang, head of the United Buddhist Church, is under house arrest and under strict surveillance by security police; and

Whereas Catholic and Protestant clerics and lay people are imprisoned for conducting unauthorized religious activities, including religious education classes and social programs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Department of State, in its formal human rights dialogue with Vietnam (which was announced by the United States and Vietnam on January 10, 1994), should place a high priority on seeking—

(A) the release of all nonviolent political prisoners, and

(B) reforms in Vietnam's legal procedures and practices to bring them into conformity with international human rights standards;

(2) the Secretary of State should submit a progress report on this dialogue to the Congress within 6 months of the date on which this resolution is adopted by the Congress;

(3) the United States should actively support resolutions at the United Nations Commission

on Human Rights expressing concern about the imprisonment of nonviolent political and religious dissidents in Vietnam;

(4) the United States should urge the Government of Vietnam to invite international humanitarian organizations to provide their confidential humanitarian services to prisoners in Vietnam, as a step towards improving their treatment and the poor condition of imprisonment;

(5) the United States should consult with its allies, including Japan, Australia, Canada, and the European Community, to coordinate international public and private appeals for improvement in human rights in Vietnam, drawing attention to the statement issued by the World Bank-convened donors' conference in Paris on November 10, 1993, that notes that economic and social development in Vietnam require "more attention to democratization and the promotion of human rights" by the Government of Vietnam; and

(6) in U.S. bilateral relations with the Socialist Republic of Vietnam, the President should place a high priority on the following concerns, and should assess the progress that has occurred on them before taking steps to complete the full normalization of relations with Vietnam:

(a) whether article 4 of the Vietnamese constitution and any other articles concerning "democratic centralism" and "the leading role of the Communist party" (guaranteeing the permanent rule of the Communist Party of Vietnam) are repealed;

(b) whether article 69 of the Vietnamese constitution which strictly controls all religious activity including each individual's right to worship, teach and publish religious materials is repealed, and all Vietnamese regulations, codes, and constitutional provisions prohibiting free expression, or denying the freedoms of association or religious worship, are eliminated; and

(c) whether the Vietnamese Government and the Communist Party of Vietnam make formal commitments to permit free and fair elections, so that the citizens of the country may determine the future leadership and orientation of their government.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the distinguished ranking member from New York [Mr. GILMAN] who is with us tonight, for being the moving force behind this resolution. I am sure he will explain it very well and in great detail.

I simply want to say in support of Mr. GILMAN's resolution: Very often the Government of Vietnam will protest that those of us in America and the West are exaggerating the degree of abuse of human rights that takes place. We are given documentation and speeches and arguments about how we are exaggerating this.

Mr. Speaker, this resolution makes a number of very powerful points, but its most powerful point is this: That it says to the leaders of Vietnam:

> If you are claiming that we in America and those in the West are exaggerating your abuses of human rights, then open your prisons. Let international observers come in and see firsthand the way that political and other prisoners are treated in Vietnamese prisons. If you are unafraid to do so, then perhaps we will begin to believe you are more cognizant of human rights concerns, as you say.

I believe this is a resolution that is powerful and important. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the distinguished Chairman of our Foreign Affairs Committee, the gentleman from Indiana, Mr. HAMILTON for bringing H. Con. Res. 216, legislation expressing the sense of the Congress regarding human rights in Vietnam, to the floor today for consideration. In addition, I want to thank the distinguished subcommittee Chairman, the gentleman from New York, Mr. ACKERMAN and Ranking Republican Member, the gentleman from Iowa, Mr. LEACH of the Asia and Pacific Subcommittee for favorably reporting H. Con. Res. 216. I especially want to thank our good friend and colleague, the gentleman from California, Mr. ROHRABACHER, for his input and expertise on the methods and means by which to effect change in Hanoi.

Recently, in a guest editorial for the National Review, Dan Rather spoke of his anger when a Vietnamese Government official told him earlier this year that the United States would lift the trade embargo because "money moves America." Many of us have on occasion reacted the same way when confronted by similar statements made by officials of a foreign government.

After all, ours is the Nation that liberated Europe, and just this summer we marked the fiftieth anniversary of the Normandy invasion, a campaign in which thousands of young Americans gave their lives to defeat fascism.

No doubt our struggle against the Axis powers was also motivated by the belief that if we did not fight them in Europe then we would have had to contend with them on our shores. But there was no doubt in anyone's mind back then that we were there to liberate Europe. And liberate it we did.

Similarly, our effort in Vietnam was not only motivated by the struggle by the South Vietnamese against the communist North and an indigenous insurgency funded by foreign forces, we were also concerned that we needed to contain Soviet and Chinese communism. We believed that our freedom could not be secure while those two growing totalitarian powers continued to attempt to expand their influence.

We could have stayed at home safely protected behind our nuclear umbrella but in our hearts we believed we should, as President Kennedy said, "bear any burden" to bring freedom to all people who struggled against tyranny.

There are good reasons to debate America's involvement in Vietnam. But the motivation that led us to sacrifice 58,000 young American lives is something that bears out our Nation's determination and the determination of those courageous men and women—and the veterans of that war.

If we do not continue our struggle for human rights and political and religious freedom in Vietnam then those men and women died in vain. And, worst of all, it would give substance to the dictators in Hanoi when they say "money moves America."

Meanwhile, the State Department has been moving full speed ahead with its plans to open a Liaison Office that looks more and more like an Embassy as official relations between our nation and the Socialist Republic of Vietnam becomes a foregone conclusion.

Accordingly, while I have strongly disagreed with the administration's lifting of the trade embargo, it is my sincere hope that the President's action eventually pays some dividends. If next year, Amnesty International, Asia Watch, the National League of Families, the American Legion and the National Alliance of Families had some cause to commend the government in Hanoi, we would all be grateful.

Accordingly, I urge my colleagues to support H. Con. Res. 216.

□ 2310

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. ROHRBACHER], a member of our Committee on Foreign Affairs.

Mr. ROHRABACHER. Mr. Speaker, before this administration ended our economic embargo on Communist Vietnam, I handed a list of 538 political prisoners in Vietnam to the head of the Communist Party of Vietnam. I handed that very same list of 538 political prisoners now being held in Vietnam, I handed that same list to President Clinton and told him what I have done. I told him that all he needed to do was make one simple phone call, and some of these people, these heroes of freedom, languishing in prison, some of them would probably be released simply as a sign of good faith. Well, I entered that same list of 538 political prisoners into the CONGRESSIONAL RECORD.

How much more can I do? How much more can a Member of Congress do to say to the Vietnamese, "Please give us a sign that indeed you're going to make some movement on human rights"?

I even asked the President of the United States to give that some consideration, and I say to my colleagues that not one of those prisoners has been released as far as I know. They can still release those prisoners. Tonight I call on the government of North and South Vietnam to release at least some of those 538 political prisoners as a sign of good faith to us if they want to have any more and any better relations with the United States of America. But there has been no movement in that direction.

Mr. Speaker, Buddhists are still being jailed and tortured in Vietnam today, and they have been over the last 6 months. There has been no liberalization in the arena of political rights. We should move no further down the path of normalization until we see some movement on their part towards democracy in Vietnam, until we see some sign of at least an inkling of respect for human rights.

Finally, Mr. Speaker, about this argument that economic development is going to bring democracy: I believe that this is being used, this argument, as was used in China and is being used today about Vietnam. It is nothing more than a cover for the crassest types of profiteering off human misery. We are talking about American companies that are willing to do business with the devil in order to make a dollar. I would suggest that the Hitler regime in Nazi Germany represented a very developed country, and in fact they had held elections before Hitler came to power. The fact is dealing with Adolph Hitler economically, treating him in the same way that we did democratic governments, would have been a mistake and was a mistake to the degree that we did it before World War II.

I believe in free trade. I believe in free trade between free people. America must stand for more than just profiteering. We must stand for liberty and justice for all.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California [Mr. ROHRABACHER] for his supporting remarks.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDREWS of New Jersey. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 216, as amended.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

CONCURRING IN SENATE AMENDMENT TO H.R. 2826, PROVIDING FOR INVESTIGATION OF WHEREABOUTS OF UNITED STATES CITIZENS AND OTHERS MISSING FROM CYPRUS

Mr. ANDREWS of New Jersey. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2826) to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

The Clerk read as follows:

SENATE AMENDMENT:

Strike out all after the enacting clause and insert:

SECTION 1. UNITED STATES CITIZENS MISSING FROM CYPRUS.

(a) INVESTIGATION.—As soon as is practicable, the President shall undertake, in cooperation with appropriate international organizations or nongovernmental organizations, a thorough investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974. Any information on others missing from Cyprus that is learned or discovered during this investigation shall be reported to the appropriate international or nongovernmental organizations. The investigation shall focus on the counties and communities which were combatants in Cyprus in 1974, all of which currently receive United States foreign assistance.

(b) REPORT TO THE FAMILIES.—The President shall report the findings of this investigation of the missing Americans to the family of each of the United States citizens. Such reports shall include the whereabouts of the missing.

(c) REPORT TO THE CONGRESS.—The information learned or discovered during this investigation shall be reported to the Congress.

(d) RETURNING THE MISSING.—The President, in cooperation with appropriate international organizations or nongovernmental organizations, shall do everything possible to return to their families, as soon as is practicable, the United States citizens who have been missing from Cyprus since 1974, and others who have been missing, including returning the remains of those who are no longer alive.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ANDREWS] will be recognized for 20 minutes, and the gentleman from New York [Mr. GILMAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on August 1, 1994, under the leadership of the gentleman from New York [Mr. ENGEL] the House of Representatives passed by voice vote a resolution which called for investigation and reporting with respect to individuals missing from Cyprus since the events of 1974. The other body has added amendments to that resolution which Mr. ENGEL and our committee are in favor of and are prepared to accept. These amendments improve this legislation and essentially maintain the quality of the legislation to do three things:

First, it calls for the administration to do a thorough investigation as to the whereabouts of those individuals who have been missing since the events in Cyprus of 1974.

Second, it calls for reporting of the results of that investigation to the families of those affected by the events of 1974, and to the Congress and people of the United States.

Third, it calls for action. It calls for the President and the administration to do everything within their collective power to try to bring the missing back to their families and resolve these questions which have lingered unjustly for the last 20 years.

On behalf of the majority of the committee, Mr. Speaker, we welcome and accept these amendments and would urge our colleagues to vote favorably in favor of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. ANDREWS] for his supporting remarks with regard to this resolution, and I commend the gentleman from New York [Mr. ENGEL] as the original sponsor of the measure.

Mr. Speaker, the House initially passed H.R. 2826 in which I was an original cosponsor which provided for an investigation into the whereabouts of our U.S. citizens and others missing from Cyprus since 1974, early last August. However, in its consideration of this measure, the other body, because of the objections of a few of its Members, has seen fit to amend the House-passed version of this bill. It now falls upon us to adopt this measure, as amended by the other body.

Although I feel that H.R. 2826, as originally introduced, was superior to the legislation now before us, which limits the scope of the investigation of the missing from Cyprus to the five American citizens whom we know are among the 1,619 persons missing since the brutal invasion by Turkey in 1974, it is important that we send forward a measure which would bring about some form of investigation by the Government of the United States.

The United Nations has been looking into this issue for well over 10 years now and hasn't been able to resolve a single case. Therefore, I urge all my colleagues to join in adopting H.R. 2826, as amended, and send forward a strong message from the Congress that we demand answers about the fates of those missing from Cyprus for more than 20 years.

Mr. ENGEL. Mr. Speaker, I rise to express my strong support for H.R. 2826, legislation directing the President to investigate the fate of five Americans missing on Cyprus since 1974.

This summer, we recalled the 20th anniversary of the Turkish invasion of Cyprus. Of the many tragic aspects accompanying that act of aggression was the large dispersement of the Cypriot population and the disappearance of more than 2,000 people. In the wake of the invasion, 5 Americans, 1,600 Greek Cypriots, and several hundred Turkish Cypriots disappeared. Their whereabouts are unknown, even today.

For nearly two decades, the families of missing Americans have relentlessly, but unsuccessfully, attempted to learn the fate of their loved ones. In the years since his disappearance, the parents of Andrew Kassapis have yet to understand how the invaders could take their son away—while he waved his American passport at his captors.

I firmly believe that the time has come to shed light upon this tragic aspect of the Cyprus conflict. By introducing this legislation, I hope to obtain for suffering families the answers for which they have longed. H.R. 2826, as amended in the Senate, directs the President to conduct "a thorough investigation of the whereabouts of the United States citizens who have been missing from Cyprus since 1974." The bill also requires the President to report to Congress on the fate of other missing Cypriots learned or discovered during this investigation. If any missing Americans or others are found, they or their remains are to be returned to family members.

I would like to thank the original cosponsor of this legislation, Representative PORTER, for his hard work and assistance in shepherding H.R. 2826 through the House. I would also like to express my gratitude to Senators D'AMATO and SIMON for helping steer this bill through the other body.

By passing this legislation, we take an important step toward ending the pain still suffered by families of the missing. Their questions must not remain unanswered. We owe them a complete and truthful accounting of what happened to their loved ones. I, therefore, urge my colleagues to support H.R. 2826 and once again encourage the House to pass this important bill. After 20 years, we must finally expose this dark chapter in the history of Cyprus and bring to light the fate of the missing Americans.

☐ 2320

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANDREWS of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. POSHARD). The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and concur in the Senate amendment to H.R. 2826.

The question was taken.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

GENERAL LEAVE

Mr. ANDREWS of New Jersey. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 5155, H. Con. Res. 302, H. Con. Res. 278, H. Con. Res. 216, H. Res. 560, H. Res. 561, and H.R. 2826.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONCURRING IN SENATE AMENDMENTS TO H.R. 3485, EARTHQUAKE HAZARDS REDUCTION ACT AUTHORIZATION FOR FISCAL YEARS 1994, 1995, AND 1996

Mr. BROWN of California. Mr. Speaker, I move to suspend the rules and concur in the Senate amendments to the bill (H.R. 3485) to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1994, 1995, and 1996.

The Clerk read as follows:

Senate amendments:

Strike out all after the enacting clause and insert:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—

(1) in subsection (a)(7)—

(A) by inserting "of the Agency" after "to the Director";

(B) by striking "and" after "September 30, 1992,"; and

(C) by inserting ", $25,000,000 for the fiscal year ending September 30, 1995, and $25,750,000 for the fiscal year ending September 30, 1996" after "September 30, 1993";

(2) in subsection (b)—

(A) by striking "and" after "September 30, 1992;"; and

(B) by inserting "; $49,200,000 for the fiscal year ending September 30, 1995; and $50,676,000 for the fiscal year ending September 30, 1996" after "September 30, 1993";

(3) by adding at the end of subsection (c) the following new sentence: "There are authorized to be appropriated, out of funds otherwise authorized to be appropriated to the National Science Foundation: (1) $16,200,000 for engineering research and $10,900,000 for geosciences research for the fiscal year ending September 30, 1995, and (2) $16,686,000 for engineering research and $11,227,000 for geosciences research for the fiscal year ending September 30, 1996."; and

(4) by adding at the end of subsection (d) the following new sentence: "There are authorized to be appropriated, out of funds otherwise authorized to be appropriated to the National Institute of Standards and Technology, $1,900,000 for the fiscal year ending September 30, 1995, and $1,957,000 for the fiscal year ending September 30, 1996.".

SEC. 2. EARTHQUAKE ENGINEERING ASSESSMENT.

(a) ASSESSMENT.—The President shall conduct an assessment of earthquake engineering research and testing capabilities in the United States. This assessment shall include—

(1) the need for shake tables and other earthquake engineering research and testing facilities in the United States;

(2) options to cooperate with other countries that have developed complementary earthquake engineering research and testing programs and facilities;

(3) projected costs for construction, maintenance, and operation of new earthquake engineering research and testing facilities in the United States; and

(4) options and recommendations to provide funding for the construction and operation of new earthquake engineering and testing facilities, including the feasibility and advisability of developing a comprehensive earthquake engineering research and testing program within the scope of the Earthquake Hazards Reduction Act of 1977.

(b) DEADLINE.—The assessment required by subsection (a) shall be transmitted to Congress within nine months after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. BROWN] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. WALKER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased that the House is considering today the Senate amendments to H.R. 3485, the reauthorization of the National Earthquake Hazards Reduction Program [NEHRP].

The Senate amendments conform the authorization levels in this 2-year authorization bill to the President's budget request for fiscal year 1995, and direct the President to conduct an assessment of earthquake engineering research and testing capabilities in the United States. This assessment will address the growing concern that the ability to test U.S. building designs and construction methods cannot keep pace with the demand to test such structures and ensure public safety during earthquakes.

While the NEHRP Program is modest in scope, its longterm goals are lofty. NEHRP seeks a better understanding of the seismic risk throughout America, a means to improve designs for building and transportation structures to withstand earthquakes, and ways to reduce fatalities and injuries during earthquakes. NEHRP also provides the Nation maps and data that form the foundation of seismic building codes in every country and locality in the United States.

For more than 15 years, this program has proven its worth with improved performance of structures and protection of life during earthquakes. The most recent Northridge earthquake is a case in point. During this earthquake, which was centered under a populated area, retrofitted highway columns held; buildings that incorporated advanced earthquake-resistance technologies performed extremely well; and the loss of life was much less than expected.

However, the Northridge earthquake also showed that there are still challenges ahead. Seismologists are now convinced that the earthquake pattern in California is unprecedented. Earthquake engineers question the response of steel-framed structure to earthquake motions. And the collapse of the Northridge Meadows apartments uncovered problems in building codes for small, one- to three-story structures.

Thirty-nine States are at significant risk for a damaging earthquake. The residents of those States have NEHRP working for them; and their houses and roads are safer because of the work initiated and advanced by this program.

I urge my colleagues to support H.R. 3485.

Mr. Speaker, I want to pay particular tribute to the work of the gentleman from Pennsylvania [Mr. WALKER] for his cooperation in this exercise. These are times in which it is sometimes difficult to get agreement on legislation, and the gentleman from Pennsylvania [Mr. WALKER], for the minority side, has cooperated to the fullest extent on this matter. I wish to express my personal appreciation to him.

Mr. Speaker, I would also like to indicate that other members of our committee, the gentleman from Virginia [Mr. BOUCHER], the chairman of the appropriate subcommittee, and others, have also worked very hard to get this bill to its present situation, and I very much hope that it will be passed with the minimum amount of difficulty. Mr. Speaker, I thank the gentlemen very much.

Mr. Speaker, I reserve the balance of my time.

Mr. WALKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3485, the Earthquake Hazard Reduction Act. This is a 2-year authorization bill that is fiscally sound and responsible. Earthquakes are not just a regional problem in places like California. As with much of the seismic activity in the eastern United States, earthquakes happen along fault lines that are unmapped and have no surface expression.

I am very concerned about the potential of earthquakes in my own district. Our committee has asked the President to review the NEHRP Program, and we will continue to focus on efforts to protect lives and property.

I want to thank our chairman, the gentleman from California [Mr. BROWN] and the subcommittee chairman, the gentleman from Virginia [Mr. BOUCHER] and our ranking Republican Member of the subcommittee, the gentleman from New York [Mr. BOEHLERT] for their leadership on this issue. I think we have crafted a good bill.

I am disappointed that in this bill we have had to drop out a provision that was important to some on our side; namely, a provision that allowed these programs to sunset as a way of ensuring continued fiscal responsibility. That is a disappointment. But all told, this is a very good bill, and I would urge my colleagues to support it.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. BOEHLERT], who played such a big role in getting this bill together.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. BOEHLERT. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I apologize for not mentioning the gentleman's name. He has been a stalwart in progressing this legislation. At this late hour I did not observe him over there or I would have mentioned him previously.

Mr. BOEHLERT. Mr. Speaker, I thank the chairman. I always respect your wisdom and good judgment.

Mr. Speaker, I rise in support of H.R. 3485, which reauthorizes the National Earthquake Hazards Reduction Program [NEHRP]. The bill originated in the Subcommittee on Science, of which I am ranking Republican. Amendments added in the Senate strengthen the legislation by directing the President to assess U.S. earthquake engineering research and testing capabilities.

In urging support for this vital initiative, I'd like to remind my colleagues that all of us have much to lose from earthquakes and much to gain from earthquake research and hazard prevention. As events of the past 5 years have so vividly reminded us, California is the most likely location for a major earthquake. But scientists tell us that all or parts of 38 States and three territories are at major or moderate risk. Quakes east of the Mississippi may be infrequent, but the results potentially no less devastating.

After each severe earthquake, awareness of the importance of protective measures runs high. But memories fade. Demands for increased mitigation efforts compete with other pressing concerns.

The reauthorization maintains a long-term sustained focus on research and applications to minimize earthquake damage. This modest program—$210 million over 2 years—can pay significant dividends, returning the public's investment many times over.

The most recent example comes from the Northridge earthquake last January. Most buildings and bridges withstood the violent ground shaking during the quake. Without the improved building codes supported by the NEHRP, that wouldn't have happened. The damage would have been much more severe—close to the magnitude of the 1971 Silmar earthquake—centered in nearly the same area with far more tragic consequences.

Continued improvement in seismic codes and in the understanding of seismic risks have saved lives and property. We have a duty and obligation to move forward with this program. I ask you all to support H.R. 3485.

Mr. WALKER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. BROWN of California. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. BROWN] that the House suspend the rules and concur in the Senate amendments to H.R. 3485.

The question was taken.

Mr. GOODLING. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

□ 2330

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. POSHARD). The Chair reminds Members that special orders may not continue beyond midnight.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Indiana [Mr. BURTON] is recognized for 30 minutes as the designee of the minority leader.

TRIBUTE TO THE HONORABLE WILLIAM D. FORD

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Michigan [Mr. DINGELL] is recognized for 60 minutes as the designee of the Majority Leader.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, I rise to a high but sad privilege and honor, and that is to pay my respects to a great friend, a distinguished Member of this body and a colleague for over 30 years.

I will conclude my remarks after we have heard from others who are here tonight to pay their tributes to our good friend, the gentleman from Michigan, the Hon. WILLIAM D. FORD, chairman of the Committee on Education and Labor, previously chairman of the Committee on Post Office and Civil Service.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. GOODLING], my dear friend with whose father I had the honor of serving here and who was a very distinguished Member of this body, as is his son.

Mr. GOODLING. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, tonight we are honoring a gentleman who likes to think he is a crusty, tough man. But actually, he really is a cream-filled bonbon. His bark is much greater than his bite.

I am here really to say thank you for a lot of young people in this country. First of all, I am here to say thank you for the college students, for all of the work that Chairman FORD has done on their behalf. I am here to say thank you for the colleges and universities who certainly owe a great debt of gratitude to Chairman FORD.

I am here to say thank you for the legitimate proprietary schools, because there were many who wanted to wipe them off the records, and he would not let that happen.

I am here to say thank you from the school children because of his efforts on school lunch and child nutrition. And I am here to say thank you for the most neglected, probably, in this country, and those are migrant children and the parents of those migrant children for he has carried their banner mostly alone for a long time.

I am also here to say thank you from the educationally-disadvantaged children for the programs that he has carried forth to help those who are educationally disadvantaged. And I am here to thank the chairman for the people with disabilities for whose cause he also championed.

The list goes on and on, and I will stop at that point because I know that there are many others who want to extend it. But I do want to thank Chairman FORD for his service on behalf of all of these people and, again, even though he barked quite often, he never bit. I never had any serious problems in negotiating what was best, as far as children are concerned and young adults are concerned, in this country.

We say thank you. We will miss you. And I guess we envy you also.

Mr. DINGELL. Mr. Speaker, I thank the gentleman. I yield to the distinguished majority whip, the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR. Mr. Speaker, I thank my dean for yielding to me.

Mr. Speaker, I am proud to join my colleagues tonight in paying tribute to one of the straightest shooting, plainest speaking, hardest working, and effective voices Michigan has ever had in the U.S. Congress.

If you ask me, it seems only right that we should honor BILL FORD here this evening. Because he has honored the working people of America with his hard work, his leadership, and his service for more than 30 years.

Whenever I think about BILL, I am reminded of an old story people used to tell about Hubert Humphrey.

As legend has it, on the day Senator Humphrey celebrated his 60th birthday, he was playing with one of his grandchildren.

They were having a good time, and at one point his grandson looked at Humphrey and said, "Grandpa * * * how long have you been a Democrat?"

Humphrey thought for a moment and said, "I've been a Democrat for 65 years."

His grandson said, "Grandpa * * * how can you have been a Democrat for 65 years if you're only 60 years old?"

"Easy," Humphrey answered, "I put in a lot of overtime."

Well, BILL FORD has put in a lot of overtime for working families over the years—for their jobs and their standards of living—and we're all going to miss him.

There's been a lot of talk tonight about the fact that BILL FORD is leaving Congress.

But if you ask me, Congress would not be the most important thing BILL will be leaving behind this year.

The most important thing he is leaving behind is a legacy that will continue to strengthen and nourish our Nation for generations to come.

Today, millions of kids from working families are in college, or saving lives as doctors, or educating children as teachers, thanks to the college loan programs BILL FORD championed.

Millions of Americans today work in safer shops and offices thanks to the safety laws he wrote.

Millions of children are growing up healthier thanks to the early intervention programs he fought for.

As we have heard over and over again tonight, over the past 30 years, nearly every law passed by Congress that has improved schools or worksites has had BILL FORD's fingerprints all over them.

They are big laws with big names: The Higher Education Act; the Head Start Program; plant closing notification; OSHA; Hatch Act reform; Pell grants; and national service—and thousands of other laws with names too long to pronounce and impacts too great to measure.

All of them guided by BILL FORD. All of them passed in large part due to the work of BILL FORD—a record matched by few other legislators the past 200 years.

And to be honest, I'm still not sure what we're going to do without him. I'm still not sure what we're going to do without those speeches and those stories and that grab-them-by-the-throat-until-they-cry-uncle style that we all know so well.

Mr. Speaker, people will give you a lot of reasons why BILL FORD has been so successful.

They'll give you a lot of reasons why he's been able to accomplish so much.

But those of us from Michigan who are here tonight know his real secret.

His real secret is simply this: BILL FORD may have been in Congress for 30 years. But the truth is, he never really left the community, and the factories, and the working people he grew up with.

He never left his roots.

He never left the people back home.

They have always been with him.

They have always been the source of his strength and his commitment.

They have been the source of his passion and his drive. And they always will be.

To those who wonder what we're going to do without him here, my hope is this: That we're going to continue to be inspired by his example, heartened by his commitment, and continue to stand up for the ideals for which he still fights night and day.

Mr. Speaker, of all the great tributes we've heard to BILL FORD, there's one tribute that sums up BILL FORD better than any I've ever heard.

One that says more about who he is than any other.

A few years ago, BILL FORD attended a community college commencement in Dearborn.

And before the diplomas were handed out, the President of the college stood at the podium and asked which students could not have made it to graduation without student aid.

Which students could not have made it without some Federal help. He asked those students to stand.

Slowly, one by one, graduate after graduate stood up, until nearly every single one of them was standing.

And then the President slowly turned and pointed his finger at BILL FORD, who was sitting on stage.

And he said to the students, "Before you go, make sure you stop by this stage and thank this man. Because he's the one who made it all possible."

Mr. Speaker, BILL FORD may be leaving Congress. But the things that he has fought for, and the legacy he leaves behind, will live on for generations to come.

BILL, you've shown us the way for 30 years. You've been an inspiration to all of us. And you've certainly earned this retirement.

But I think I speak for all of us when I say we're sure going to miss you.

□ 2340

Mr. DINGELL. I am happy to yield to my good friend, the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Speaker, I rise tonight also in tribute to a man of his convictions. The Michigan delegation traditionally has worked very closely, and we are always there to help our State, regardless of the party affiliation. BILL FORD has served his constituency very well for over 30 years.

Those of us on this side of the aisle, the Republican side, recognize him as a darned good adversary. I know my good friend, BILL GOODLING, the gentleman from Pennsylvania, talked about bark, no bite. I might suggest there may be a few broken ankles, bitten ankles, or a few broken arms on this side.

However, I will tell you that as chairman of the Committee on Education and Labor, he has over the years been able to leave his fingerprints on landmark legislation impacting every American, bills like Head Start, minimum wage, plant closing notification, parental leave, Pell grants, national service, Hatch Act reform, motor voter.

He has always stood for the working man and woman in every sense of the word. He has been a tenacious fighter in all of his days.

Mr. Speaker, I must say that I have appreciated the relationship that we have had the last number of years. Yes, we have disagreed on a number of issues, but we have agreed on a number of them as well. I learned early that when I was on the other side, he usually had the votes to roll my side, but when we were on the same side, it was an awful lot of fun to win together.

Mr. Speaker, there are a number of ways that a congressional career can end: redistricting, defeat, death, moving to the lower body, the Senate, and, of course, the one of voluntary retirement. BILL FORD has chosen the latter course.

BILL, you can hold your head high. You have changed the way of life for many Americans, all Americans, and I know that you are proud of every moment that you have served in this Chamber. All of us in the Michigan delegation, Republican and Democrat, wish you well in the months and years ahead. Thank you for your distinguished career here.

Mr. DINGELL. Mr. Speaker, I want to just express my thanks to the gentleman from Michigan [Mr. UPTON]. Whenever our delegation has something of concern, we can always count on the gentleman being there. He is an extremely valuable and worthwhile and participating member of the delegation, and has the affection and respect of us all.

I am now happy to yield to my very special friend, the gentleman from Missouri [Mr. CLAY], chairman of the Committee on Post Office and Civil Service.

Mr. CLAY. Mr. Speaker, from time to time we are privileged to pause, if only for a few moments, to express our thanks to individuals who have devoted enormous time, energy, and talent to stem the tide and change the course of this ever-moving blip in space that we call Earth.

WILLIAM B. FORD is such a person. No one in the last 30 years in this Congress has tried harder, spoken more eloquently, fought more diligently to make this Nation truly a land of opportunity for all of its citizens, than BILL FORD. For over three decades he has been in the vanguard of the struggle for human decency and equal justice.

BILL FORD has served on the Committee on Education and Labor for 30 years, and for the last 4 years has chaired the committee, bringing to this task a deep reservoir of intelligence, dedication, and compassion which guided him as well as he tackled some of the most crucial issues facing this Nation. He worked with, and was influenced by, some of the legislative giants who preceded him as chairman of the Committee on Education and Labor: Adam Clayton Powell, Carl Perkins, and Gus Hawkins. BILL FORD fellowshipped with these incredibly able and outstanding public servants, while developing his own philosophy and style of leadership which enabled him to become one of the truly great chairman of the Committee on Education and Labor.

The significance of a person's life, Mr. Speaker, is not measured by the positions which he has held, but by the quality and the performance of those whose lives he has touched. If this be so, Mr. Speaker, then BILL FORD's contributions to the education of the people of this Nation shall live on, for as they hope and dream, aspire and create, the seeds of his efforts shall continue to bear fruit.

Mr. Speaker, in support of workers and union members, his record is envious. Other speakers tonight have mentioned those programs. BILL, as you move to the plains of retirement, your indomitable spirit, illustrious character, and countless deeds of goodness will maintain you on a course which is both steady and rewarding.

As you look back on this sterling career of service to humankind, you may take unusual pride in the knowledge that you did it your way. Mr. Speaker, I guess the greatest tribute anyone can pay to Chairman FORD in summing up his important, impressive, and productive career is by quoting from that popular song which says "Yes, there were times, I'm sure you knew, when I bit off more than I can chew, but through it all when there was doubt, I ate it up and spit it out. I faced it all and I stood it all and did it my way." Mr. Speaker, the record shows that "I took the blows and did it my way."

Finally, Mr. Speaker, I will say that BILL FORD and I have been friends since the first day we met 26 years ago. Not only do I love this man, but I like him, and Mr. Speaker, there is a difference.

Mr. DINGELL. I want to thank my friend for his kind comments. He and Chairman FORD have been very close and dear friends, as we all know, for a long period of time.

Mr. Speaker, I am delighted to yield now to my good friend and colleague from the Michigan delegation, Mr. KILDEE, who served a long time with our friend, WILLIAM D. FORD.

Mr. KILDEE. Mr. Speaker, I thank the dean of the delegation for yielding. Mr. Speaker, in my life in politics I have had certain heroes whom I have tried to emulate. Among those are some whose names you would not even recognize: Bill Ryan of the Michigan House of Representatives; Neal Stabler, congressman-at-large, and these are people who guided me; Phil Hart, Senator Phil Hart; to mention a Republican, Governor Bill Milliken of Michigan, and BILL FORD. They have really helped me form my political philosophy and my life of service to the people of my district, and BILL FORD has been one of the great ones in that group.

Mr. Speaker, when I first met BILL FORD formerly, he was well known in Michigan for having served on the constitutional convention and in the Senate, but I met him down here in my first year in the Michigan House of Representatives, and I believe it was BILL's first year here in the Congress of the United States. I had become chairman of what was called the Federal Relations Committee, an old committee in the Michigan legislature which dated back to the Civil War.

□ 2350

Speaker Kowalski sent me down here, it was during the heyday of Lyndon Johnson, to see what we could do to improve education in the State of Michigan. I thought if I could get maybe 5 or 10 minutes with BILL FORD, that would be great. I was ushered into BILL's office and we spent an hour and a half, and he really informed me as to the role of the Federal Government in education. I will remember to my dying day that meeting, because it really helped form my philosophy, that education is a local function, a State responsibility, but a very, very important Federal concern. He has certainly translated that Federal concern to touch the lives of people in this country. The working men and women of this country are certainly indebted to BILL FORD. Their lives are better because of BILL FORD. They have a safer workplace in which to live because of BILL FORD. The minimum wage has been increased because of BILL FORD. The quality of their lives and their families are better.

And then the students. I have traveled through many a college campus in this country and have seen students' lives touched by that attitude, that education in this country is not an expenditure, it is a real investment. He knew that it was a real investment because he saw what the GI BIll of Rights did. The GI Bill of Rights moved people 2 generations ahead in this country. In my part of town, the east side of Flint, no one went to college until the GI Bill of Rights came along. BILL FORD knew that. He knew that was an investment in this country. The students of this country have really benefited. I was so happy the other day in conference committee when Senator KENNEDY moved that the direct loan program for which BILL FORD has worked so long be named after him just as the Pell grants are named for Senator PELL, now these direct loans will be called the William D. Ford loans.

On a personal note, I want to say that I am a more informed person, I am a more informed Congressman, I am a better person, I am a better Congressman, but above all, Mr. Speaker, I am a more courageous person and a more courageous Congressman because of BILL FORD. BILL FORD taught me that one had to be courageous if one is to serve in congress.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. GENE GREEN].

Mr. GENE GREEN of Texas. Mr. Speaker, I rise tonight with many of my colleagues to pay tribute to the career and accomplishment of Chairman BILL FORD. During his 30 years in Washington, BILL FORD has championed the issue of education and has been one of the foremost leaders in the area of labor standards.

Chairman FORD realized early in his career that the future of our Nation depends on our ability to educate our children. He was instrumental in the crafting of the Elementary and Secondary Education Act in 1965 and has been involved in every Federal education bill during his terms in Congress.

He was involved in the creation of the Head Start Program, the Bilingual Education Act, and the Handicapped Children's Education Act.

As the chairman of the Education and Labor Committee, BILL FORD has set himself apart as a true leader and a distinguished negotiator. Most recently, FORD triumphed in his negotiations with the Senate on H.R. 6 and was able to produce a bill that improved our current education laws while maintaining broad support for the chapter 1 program.

Chairman FORD also realizes that our ability to compete as a nation is based on our ability to maintain a highly skilled work force. He has been a steadfast leader on issues relating to worker training and especially to the rights of the working people of this nation. He has fought constantly for bills such as the Family and Medical Leave Act, National Health Care, and the rights of workers to withhold their skills without fear of being replaced. Chairman FORD has also crafted one of the most comprehensive OHSA reform bills ever presented to Congress.

Chairman FORD will be remembered as a gentleman, a statesman, and an staunch advocate for children and working people all across the nation. He will be sorely missed by this House and by those of us who have had the privilege of serving with him on the Education and Labor Committee.

Mr. Speaker, as a new Member, I recognize the statesmanship that he provided, but also because coming from Texas, he had the honor this last week of receiving a dozen yellow roses from the original yellow rose, I guess, in our Governor of Texas, Ann Richards, because in Texas we recognize a statesman, even if they do come from Michigan, and the work that they do not only for people from Michigan but also for people from Texas.

BILL FORD, I will miss you, the Congress of the United States will miss you, but I think the people, not only the children of the country but the workers in our country will miss you.

Mr. DINGELL. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I am pleased to join my colleagues in this tribute to my chairman, BILL FORD. I do not have the long history with BILL FORD that many of my colleagues have described this evening, but I do have the perspective of a new Member who has gained invaluable knowledge during the short two years I have served with BILL FORD on the Education and Labor Committee.

When I ran for Congress I told the people of Marin and Sonoma Counties in California that education would be my top priority. No one has done more to help me fulfill this promise than BILL FORD.

No other committee has had a more impressive legislative record in the 103d Congress than BILL FORD's Education and Labor Committee. Under Chairman FORD's Leadership, 32 committee bills have been passed by the House and 17 signed into law.

Chairman FORD should be particularly proud of the work he did to ensure passage of the Family and Medical Leave Act; the National and Community Service Act; the School-to-Work Opportunities Act; the William Ford student Loan act; and goals 2000. Students, families, schools, and communities all across America have been strengthened by these important laws.

I must confess, however, that at no time has my admiration for BILL FORD been greater than when the committee was considering two bills that, so far, have not become law.

The chairman held marathon sessions to make the Education and Labor Committee the first full committee to report out a comprehensive health care reform plan. His commitment to health care for all Americans will serve as a model when we consider health care reform again in the 104th Congress.

And I do not think anyone can truly appreciate BILL FORD's legislative talents until they have seen him lead, coax, even bully an entire House-Senate conference committee into approving a conference report like he did with the reauthorization of the Elementary and Secondary Education Act—A reauthorization bill that makes great strides for our Nation's schools, and our children.

Under chairman FORD's leadership, I was able to keep my pledge to the people I represent and make education my No. 1 priority. I will miss the benefit of BILL FORD's professional judgment; his institutional knowledge, and his personal support.

I hope my colleagues will join me in carrying on the impressive legacy of chairman BILL FORD. We owe it to him and to America's children, their families, schools, and communities.

Mr. DINGELL. I want to thank the gentlewoman from California [Ms. WOOLSEY] for those very kind words for our mutual dear friend.

I now yield to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I am very honored to take part in this special order tonight.

In my true occupation before I decided to run for Congress, I was a journalist, and I sat down and attempted to write, which is what we in journalism do, the comments that I would want to make about the gentleman from Michigan [Mr. FORD]. It was very hard to think about what I would want to say and to put it down on paper, because I really wanted it to come from my heart, because when you decide to run for the Congress of the United States, it is such an honor, first of all to be able to take that run and be taken seriously by the American people, and even more so when you are elected. I think that most of us who arrive here, arrive here with high expectations that we are going to be able to make a difference.

There is something that happened in our lives that we want to be able to contribute. In my instance it was the fact that living in the rust belt area, similar to that that Chairman FORD lives in, Chairman DINGELL lives in and the distinguished whip, Mr. BONIOR, lives in, having watched people lose their jobs, having watched people struggle to get retrained for new jobs, having seen businesses that were unable to hire people right out of school because they came out of schools without the skills they needed to enter the workplace, having watched all of that pain that takes place as America is struggling to find out how our economy is going to be fueled in the years to come, that is the motivation to come here and to change the way our country does business as we relate to our labor force, as we relate to our educational system.

When I got here I was lucky enough to get on the Committee on Education and Labor and to work with Chairman BILL FORD. Here I found in this diminutive package that it was packed full of dynamite, and fortunately by a man of very large views, a man who was concerned not only about the fact that people would be able to have good jobs, and would be able to have employment, but that their workplace would be as safe as it can be. I think in the history of our Nation no one has ever cared more about the safety in the workplace and the future of working men and women than BILL FORD. I have seen that in just the too brief a time, but the 2 brief years that we have been able to work together on the issue of education, again, reaching back across the aisle time and time again, working in a bipartisan fashion with our Republican friends and able to strike a chord where agreement can be made. I am just very glad that in the past 2 years I have known the chairman that I have never had to sit across the poker table from him because I am sure I would have nothing but holes in my pockets, because he knows how to read people better than anyone I have ever seen. And indeed, Mr. Chairman, I will say that we have disagreed on some issues. He has educated me greatly. But something I feel badly about is the fact that I do not feel that my education is complete yet. I wish I had more time to serve with him and more time to learn from him. It has been a good procedure.

The chairman was so kind to this new Member coming from Pennsylvania when I first arrived here. I do not know if he remembers this discussion we had or not, but we were sitting in the Cloakroom, and he mentioned when he first got here that he remembered a great member named John Dent who had been very kind to him from my area. I am very sure, Chairman FORD, that if John Dent were alive today he could not be more proud of the chairman that you became, of the public servant that you have been to this Nation and to all of us. John Dent would be very proud, and if someday I can look back and say with equal pride that BILL FORD was as proud of the accomplishments that RON KLINK has made in this Congress as John Dent would be of you, I would know that I have been a success, and I will know I have served my country.

God bless you. Vaya con dios.

Mr. DINGELL. I thank my friend from Pennsylvania for those kind words.

Mr. Speaker, I am delighted to yield to my dear friend, the gentlewoman from the State of Washington, [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I thank the gentleman for yielding. I will enter something in the RECORD that probably says it a little better, but what I want to say comes from the heart tonight because, Mr. Chairman, you have been for me and for the committee my guide. You have often been an interpreter. You have the most marvelous fund of history that one sometimes regrets when we punch the button and it all starts to come out. But it is marvelous, and we treasure it.

Sometimes you are a prod and often a conscience. But through it all you are a friend, and we will miss you and we love you.

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentlewoman from Washington for those kind words.

Mr. Speaker, the hour is late. I wish I had more time to speak of the long friendship that I have shared with the gentleman from Michigan, [Mr. FORD].

Suffice it to say, we went through the same kind of life, we grew up in the industrial community, we became a part of what is called the Down Rivers, a very special name with very special meaning to those of us who live there. I have known him since I was a justice of the peace and he was a young prosecutor. It was our boast that we had eradicated crime in the southeast corner of the State of Michigan, and indeed we worked at it.

One of the great things about BILL FORD is his fundamental strong belief in the decency and the goodness of mankind, and also his fundamental belief that government is good, and that it exists to be the tool of men and women working together to make this country better.

His accomplishments as a Member of the House, chairman of the Committee on Post Office and Civil Service, chairman of the Committee on Education and Labor, are too great to bear repeating here simply because of time. He is one who is looked up to and loved by everyone in the Down River area. We have changed parts of the district for years, have worked together with each other in campaigns serving our constituencies. Our two districts have been almost viewed by those who work and live there as a part of a common district. And we have both been looked at as the Congressmen of that district, and we have worked together as a team, as partners, as close friends.

When my dad passed on and I was called down here to Washington, it was a day I was trying cases before Chairman FORD. Our friendship is one which has brought me great comfort, strength and happiness. Not only have we hunted and fished together and worked and politicked together, but we have been social friends and political allies for more years than most men have the privilege of doing. My life and being has been enriched by being a friend of WILLIAM D. FORD. I have learned much from him, and I have never made an important political judgment without chatting with my friend, BILLY FORD, to find out what it is he would have done or what he would have suggested.

BILL, you are fortunate to have many friends here tonight at this late hour, and you are certainly fortunate to have the great number of friends you have back home. But those friends are even more fortunate to have you as a friend, you who have been a great public servant, a wonderful human being and, indeed, a leader not only for education but in many other deserving causes.

This country owes you a great debt, the Congress owes you a great debt. We will never be able to fully pay or satisfy what it is we owe you for the leadership, for the effort and for the guidance that you have given us, and for the great accomplishments which you have made here to make this world and this country a better place for your friends and the people of this Nation.

Mr. Speaker, I yield to my very dear friend, WILLIAM D. FORD. BILLY.

Mr. FORD of Michigan. Mr. Speaker, it is very difficult to respond to all of that except to use the sometimes overused phrase that if my mother and father were alive today they would believe all of the nice things that have been said, and I would be pleased to have them believe it.

Now you see why, for those of you who have asked the question: How could you stand this place for 30 years? You could stand this place for 30 years because of the people.

I told some friends last night who asked me the question that I get over and over ever since I announced last January that I intended to devote full time to the committee this year and not seek reelection so that I would do a half a job at each of them that the most common question I get is: Are you sorry you are leaving, or are you glad you are leaving? It is put one of the two ways. And once before I had an experience like this in leaving government service.

At the end of World War II the way we were let out so that we did not all 11 million come home at one time and flood everything was by a point system, and points were awarded to you by your service. And once you knew that you were getting close to your points, you knew you were on your way home, and the closer you got to the points, the more exciting it got, because you knew you were going to get out. You were going to be doing something different. You were going to be doing something with the rest of your life.

But there was always a sadness that went with that, because as you got closer to the day of discharge, you thought more and more about what is going to happen to the friends I leave behind.

Oh, how nice it would be to stay with them, and I have that same sort of feeling 50 years later as I leave Federal service for the second time in my life that I will miss the friends that I have made and the friends who have left before me, many of them now deceased.

But a person who comes to this place, no matter what is said about it by anyone else, is blessed not only by the opportunity to serve and the opportunity to do things and to form a little part of our country the way you would like it to be formed, but more than that, you are blessed with an opportunity to work with the finest people with whom you are ever going to come in contact in any occupation. Now that may not mean much to my friend Bill, the schoolteacher because I am a lawyer and, compared to associating with lawyers, I am sure he feels that almost anything would be an improvement, but I intend now to go back to being a lawyer again and associate with a lawyer. I will leave what I am told is the most despised two professions, a lawyer and a Congressman, to be despised as only one of them, as a lawyer.

I kind of resent it when I hear people speaking disparagingly of the Congress, and I believe I will until the day I die, because serving here has been, in my mind, the highest calling that the son of two Scottish immigrant kids who came to this country looking for their future could ever possibly have. This country was good to me and to my family, and my Government has been good to me. I would a long time ago have been a retired autoworker if the plant had stayed open, but for the GI bill that took me off the assembly line when came back from the service and put me in college, and after putting me in college, raised my sights to the point where I actually had Uncle Sam's help to become a lawyer.

That may not seem like much, but I grew up without ever having talked to a lawyer or being introduced to a lawyer or, in fact, seeing one anyplace except the movies. The only college-educated people that I knew as a child growing up, none in my family, but the college-educated people I came in contact with are the people to whom I probably owe the most of all of the people I have come in contact with, and that was my schoolteachers, starting right out in the first grade and going all the way through. The people that I can remember that have made the most difference to me are teachers, and I get my greatest satisfaction anytime that I can encourage a young person to consider education as a way to devote their life.

This country will never have too many good teachers, no matter what we pay or what we promise, and this country will never be able to reach its pinnacle of greatness without an adequate supply of good teachers.

I leave, as I said earlier this evening, with great confidence that people like the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Michigan [Mr. KILDEE] and particularly the new chairman, I expect, the gentleman from Missouri [Mr. CLAY] will be taking good care of the things and the people that I care most about.

I do not, and have not, since I made my announcement last January, really been worried there was going to be any kind of a gap when I leave, because I find in the people I have had the privilege of working with every kind of motivation that I have felt myself, and I think that these things will happen with or without BILL FORD. I am happy that I had a chance to go along for part of the ride.

We live in the greatest country in the world with the greatest system of government ever conceived. I consider the people who willy-nilly in the media and elsewhere criticize this institution without specificity as to what it is that this institution is failing in to be un-American in their approach to this country, and the real Americans are the people who take the kind of abuse that my colleagues are expected to take these days and continue smiling and continue fighting. If they did not have the courage to do that, they would not be here, and they would not stay very long.

I have thought that this institution will be here long after its critics are forgotten, and I hope to be remembered after I leave as one who tried to make it better while I was here.

JOHN, we became friends, as you said, when we were both young whippersnappers and new veterans at the end of the war, and were going to solve all the problems a long time ago. I do not know what happened that it has taken us so long and we can still identify so many problems.

I once had an opponent running against me who said, "FORD has been in Congress too long, and he has lost touch with the people. When he went to Congress, you did not have to lock your door, and we did not have dope in the schools." I waited for my opportunity, for a newspaper reporter to come along and ask me about that. I said, "That is right, before I went to Congress, JOHN DINGELL and I made it so safe in southeastern Michigan nobody had to lock their door and, indeed, there were no drugs in our schools." We got busy down here doing other things, and we did not forget what was going on back there, but we may have fallen for the idea that we could cure those problems back there from here, and it cannot be done. The problems have to be cured where they exist, by the people who have the problems, and I expect to be doing what I can for the rest of the productive days left to me in helping them to do just that.

Thank you, every one of you, for your kind words, but thank you more, America, for giving me an opportunity to be your servant in this great and wonderful body.

Mr. DINGELL. Mr. Speaker, we wish God's blessings on our dear friend, the gentleman from Michigan [Mr. FORD], and on his wonderful wife, Mary. We pray that the Lord will be good to him, give him long and happy life in retirement, and let us see him from time to time to enjoy his company, to recall friendships that are due to us and great events here in this body.

I consider it an honor to be here tonight to pay my respects to a man who has been my good friend and colleague for over 30 years. I affectionately call BILLY "my small Hillbilly friend." In mutual affection and respect he refers to me as his "big Polack friend." Many of our friends back home call us the "Gold Dust Twins," because of our long and close friendship.

BILLY and I go back many years—back to the days before he was a Member of Congress and was the Taylor Township Justice of the Peace and at a time when I was an Assistant Wayne County Prosecutor. I respected BILLY back then for his tenacity, fortitude and integrity as a servant of the people. And Billy hasn't changed a bit.

BILL FORD was born in Detroit in 1927. He attended Henry Ford Trade School in Dearborn and graduated from Melvindale High School. From 1944 to 1946, he served in the U.S. Navy and served as an officer in the U.S. Air Force Ready Reserve from 1950 to 1957. He attended Wayne State University and Nebraska Teachers' College and received his B.S. and his law degree from the University of Denver.

After his service in World War II, BILLY served as a legal advisor to several local school boards and municipalities. Before he was elected to the Michigan State Senate in 1962, he was the Taylor Township Justice of the Peace from 1955 to 1957. He was the Melvindale City Attorney from 1957 to 1959 and the Taylor Township Attorney from 1957 to 1964.

BILL FORD was elected to Congress in 1964 by a decisive victory of 71 percent. BILLY and I have always had adjacent congressional districts with constituents who appreciate and admire his qualities: As our mutual friend Lucien Nedzi once said, "It was clear right from the start that he was a man of deep substance and keen political insight." Another friend of BILL FORD's, William Coleman former president of the Michigan AFL–CIO, hit the nail on head when he said, "He does his homework and he never forgets his friends."

BILL FORD quickly earned his reputation as a leader in the field of education. We call him, "Mr. Education." During his first year on the Education and Labor Committee, BILLY enacted several education initiatives of Lyndon Johnson's Great Society. These included Head Start, the Elementary and Secondary Education Act, and the Higher Education Act.

He has chaired the House Education and Labor Committee for the past 4 years. In the 103d Congress alone, BILLY has been the guiding hand in the enactment of the National and Community Service Trust Act, the Goals 2000: Educate America Act and the Education for All Handicapped Children's Act. He has also made major improvements in student financial aid programs with the Middle Income Student Assistance Act.

BILL FORD has distinguished himself in the House in other ways too. From his very first day in Congress, BILLY FORD has defended the rights of American workers. He strengthened the National Labor Relations Act to include over five million uncovered health industry workers. He helped enact ERISA and common situs picketing legislation and secured protection for coal miners afflicted with black lung disease.

BILL FORD has also been a leader in job training and was a major force behind the Job Training Partnership Act.

One of BILL FORD's most difficult and hard won victories took 14 years: The enactment of legislation mandating plant closing notification. Most recently, he was a moving force in the House passage of the Striker Replacement Bill.

BILL FORD's legacy has reached into virtually every household in America. BILL FORD served as chairman of the Post Office and Civil Service Committee from 1981 until 1990. During his tenure, he drove scoundrels and thieves from the Postal Service, strengthened the legal rights of Federal employees and helped develop a new pension system for Federal retirees. BILLY handled that committee with grace and dignity: He was tough, he was smart and he was fair.

One thing is certain: BILL FORD's constituents will sorely miss him. His constituent service is superb and he cares not only about his constituents, but those throughout southeastern Michigan. For over 25 years, BILL and I held yearly municipal officials' and educators' conferences between our two congressional districts.

He has been a steadfast partner in obtaining $300 million for the Rouge River in Michigan which runs through five congressional districts in Michigan. He has been instrumental in helping build southeastern Michigan's infrastructure: Detroit Metropolitan Airport, countless roads and bridges, post offices, and educational and social services. BILL FORD has been there for his people, and he has been reliable.

There is no doubt, BILL, that many of your friends in the House can spend hours telling BILLY FORD stories: Speaking well of your integrity, your lasting friendship, your tenacity and sometimes your unending stubbornness until the job gets done.

I can tell you that you will always be my friend and you will always be welcome to return to this institution and share your stories with us.

Mr. CONYERS. Mr. Speaker, I rise today to make several remarks about BILL FORD, who is retiring this year. BILL FORD has been a longtime friend and colleague, and will be sorely missed. No one was more surprised than I when I heard of his retirement announcement.

BILL FORD and I both come from families with deeply rooted labor backgrounds and both got our start in the auto industry. We came to Congress together in 1965, entering the historic 89th Congress, and helped implement the legislative proposals of President Johnson's Great Society. So I feel a close tie to BILL and his career, and am sorry to see him leave the Congress.

BILL is leaving behind a remarkable career in the House of Representatives. He has played an integral role in the implementation of dozens of progressive initiatives; initiatives whose sole purpose is to make life better for working Americans. From his decade-long work on the passage of the plant closing bill which protects workers from arbitrary management decisions, to the passage of the family medical leave act, a landmark bill affording working families the basic right to take care of their loved ones, BILL FORD has committed his career to the advancement of the American worker and the protection of the underprivileged. His vision and leadership as chairman of the Education and Labor Committee have been respected and admired by a wide spectrum of political observers. He will certainly be missed by the Michigan delegation, his committee, and the U.S. Congress.

But what Michigan and this Congress will miss most from the retirement of BILL FORD is the presence of a distinguished, honest representative, who never forgot the people who sent him to Washington, or the reasons they sent him. America is losing an effective legislator who committed a career to progressive social movements, helping our children and families. I will miss BILL FORD next year as a friend and as a colleague. Godspeed in all his future endeavors.

Mr. MATSUI. Mr. Speaker, I rise today to join those of us who want to commend and recognize our colleague and friend BILL FORD on his retirement from the 103d Congress.

The 13th district of the State of Michigan and the United States have for 30 years felt the presence of BILL FORD's vision. Since the 89th Congress, as chairman of the Committee on Education and Labor, BILL FORD has overseen the enactment of some of the most sociologically sweeping legislation of our time. The sea change brought about by such legislation as the Head Start Program, the Elementary and Secondary Education Act, and the Higher Education Act, and most recently the Goals 2000: Educate American Act, will no doubt shape generations of Americans to come. Moreover, BILL FORD has crafted masterful legislative victories for America's working families such as the Occupational Safety and Health Act, ERISA, and the Family and Medical Leave Act.

Education and its inherent connection to the success of working men and women cannot be denied, and BILL FORD realizes the profound responsibility of his position. He succinctly focused the attention of Congress and marshaled support to serve as one of our greatest legislators.

I am saddened to see BILL retire, as a colleague and as a fellow Democrat, however I'm encouraged by the legacy he has bequeathed us. I wish BILL and his family continued success in their endeavors and best of luck in the future.

Mr. DELLUMS. Mr. Speaker, I would like to add my voice to those of my colleagues, who today pay tribute to the distinguished chairman of the Education and Labor Committee, BILL FORD.

BILL FORD has left his indelible mark on the way this Government regards and funds education, having had a hand in crafting every piece of education legislation for the 30 years he has been a Member of Congress. Having benefited from Government-supported education programs himself, namely the GI Bill, he has fought throughout his career to insure that others might have the same opportunities at education and the doors which a quality education opens. In 1992, his leadership was essential in passing the Higher Education Act through Congress, lowering the barriers to higher education or job training for students from working and middle-income families. In the 103d Congress, he has guided through the National and Community Service Trust Act, the School-to-Work Opportunities Act, Goals 2000: Educate America Act, and the most-contentious Elementary and Secondary Reauthorization Act, through to final passage, to highlight just a few of his committee's achievements.

BILL FORD has also fought hard for the interests of the other portion of his committee's jurisdiction—labor. On coming to Congress, he immediately involved himself in calling attention to the Nation's labor disputes. Throughout his career, he has involved himself in the long, arduous fight for the rights and protection of migrant workers. He fought for 14 years until his plant closing notification became law despite President Reagan's veto. He authored the Family and Medical Leave Act which eliminated the difficult decision that many workers faced between family and keeping their jobs by ensuring unpaid leave for workers in medical emergencies for themselves and their immediate families. He has protected the interests of American workers time and time again, and his retirement will leave a tremendous void in this institution.

BILL FORD has never forgotten the people who quietly make this country work day in and day out without receiving accolades. He has touched the lives of nearly all Americans and has left this Nation with better educated children with more access to financial aid, safer work places and improved worker's rights. He will be sorely missed. Thank you, my colleague, for your incredible work. You have accomplished much in your remarkable career. I only hope that those that will remain and succeed you in this chamber rise to the task that still remains as you have. Best wishes to you and your family in your retirement.

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to thank you for giving me the opportunity to make a special tribute to a true leader and someone who will be sadly missed by many of his colleagues in the House of Representatives. I would also like to thank my colleagues, Congressman DINGELL and Congressman UPTON for calling this special order this evening.

I think this tribute is a day for us all to say goodbye and thank you to Chairman BILL FORD, but also, to reflect on his life and the contributions he has made in his 30-year career with the House of Representatives.

From the very beginning, BILL FORD has proven to be a true leader. He was first elected to Congress in 1965. In the first year of his service on the Education and Labor Committee, he helped to move through legislation that was initiated by Lyndon Johnson's Great Society. Some of these programs included the Head Start Program, the elementary and Secondary Education Act, and the Higher Education Act—all programs that are still in existence today.

As chairman of the Education and Labor Committee, and my colleague on that committee, I have watched him guide through major initiatives since my election to congress in 1988. Just in the 103d Congress alone, Chairman FORD has guided the passage of National and community Service Trust Act, the Goals 2000: Educate America Act, the School-to-Work Opportunities Act and the Head Start Reauthorization.

For the past several weeks, Chairman FORD has spent endless hours on the reauthorization of the elementary and Secondary Education Act. This difficult task is one that the chairman seemingly handled with ease and successfully guided it through the House last Friday.

Chairman FORD has also involved himself in calling the Nation's attention to the rights of workers involved in labor disputes. Some of his legislative accomplishments in the area of labor law include: amending the National Labor Relations Act to include over 5 million uncovered health industry workers, passing ERISA legislation, securing protection for coal miners suffering from black lung disease and implementing OSHA.

Chairman WILLIAM FORD'S distinguished career has earned him a legacy in the House of Representatives that we shall never forget. Due to his efforts we have a country with better educated children, a safer work environment, and increased rights for workers.

Mrs. MEEK of Florida. Mr. Speaker, I am pleased to join my colleagues in honoring my friend BILL FORD. I first had the opportunity to know the chairman over a decade ago when we served on the advisory committee on migrant education. I quickly learned that the gentleman from Michigan had a deep interest in assisting some of the most powerless members of American society—migrant farmworkers and their families.

I wondered why a Member from the industrial area of Michigan was so interested and caring about migrants. In the 1960's the chairman of the Committee of Education and Labor, the late Carl D. Perkins, appointed BILL FORD as Chairman of a special task force on migrant labor and education. Bill dug into the matter and held hearings all over the country. The outgrowth of that task force is the existing legislation on migrant labor and education. Although the task force was terminated years ago and jurisdiction was distributed to the various subcommittees of the committee, BILL FORD kept in close touch with the operation of the legislation. Those who follow these matters know that no change to migrant labor or education laws was ever reported from the Committee on Education and Labor without the support and approval of BILL FORD.

I doubt if there was any political mileage on this in his District, but millions of migrant farmworkers and their families have led better lives because BILL FORD cared.

BILL FORD is the son of Scottish immigrants, their first child born in America on August 6, 1927. They called him their little Yankee. In the 1960's when he told the late Tip O'Neil of his parents nickname, a misunderstanding resulted. Mr. O'Neil thought he was calling himself a "Yankee" such as those who discriminated against the Irish in Boston. It was a while before BILL FORD realized the source of the coldness and when he explained the origin of the nickname, a life long friendship flowered.

BILL FORD has never "gone Washington". He has never forgotten those with whom he was raised. His is the primary author of the student assistance programs as they now exist. He immediately understood the harm the Reagan program would do to those he represented and with whom he was raised. In 1981 he stood up against the storm and tried to explain the danger. Although events proved him right, he takes no pleasure in the fact because millions have suffered.

Chairman BILL FORD, you have served your people and your Nation well. I wish you and Mary the best upon your retirement.

Mrs. LOWEY. Mr. Speaker, I rise today to commend Chairman BILL FORD for his remarkable leadership during the 30 years he has worked for the American people in the U.S. Congress.

As we all know, it is Chairman FORD who ushered through major education legislation, designed to help all children succeed in our society and economy. Chairman FORD'S work touches many children's lives, from the first days in Head Start to graduation from a college and graduate school. We all appreciate Chairman FORD'S devotion to the future, his hard work, and his unfailing leadership.

During my first two terms in the House of Representatives, Mr. FORD was my chairman. As a member of the Education and Labor Committee, I worked closely with Chairman FORD on child care legislation and post-secondary education issues. During those years, he was always an example of how to persevere in the fight to improve the education and support for all of America's children.

This man has shown time and again that his eye is on the future. Whether he is fighting to broaden access to student aid or standing up for the rights of hard-working Americans, BILL FORD had only one agenda: a society committed to justice and opportunity for all Americans. We can all be grateful for what he has accomplished. His legacy has made ours a better Nation.

Thank you, Chairman FORD, for your years of service to the American people, the people of Michigan's 13th Congressional District, and to this institution.

Miss COLLINS of Michigan. Mr. Speaker, it is not only an honor but a privilege to say a few words in tribute to one of the most important politicians of our time, U.S. Representative WILLIAM FORD from the great State of Michigan, a man who has done so much for so many during his tenure in Congress.

Congressman BILL FORD's decision to retire marks the end of one of the greatest eras in Michigan's political history. His departure will cost Michigan residents a skillful and courageous leader, and a senior legislator who has elevated himself to the Chairmanship of the Post Office and Civil Service Committee and now the Committee on Education and Labor.

His mark will be engraved in history and his shoes impossible to fill. Representative FORD's exemplary service to Michigan has truly made him a legend in his own time.

Congressman FORD has served in this body with distinction and courage, lending his voice to the cause of poor and working class Americans who might otherwise have been forgotten. Mr. FORD has not forgotten his roots—he himself is a product of parents who worked in the auto industry and has authored legislation to protect the American worker. One of his monumental accomplishments included the 1988 override of President Reagan's veto of his plant closing legislation. Today I, along with many others commend you for carrying the torch for the American worker.

Congressman Ford, I am happy to have served with you in the halls of Congress and I thank you for your leadership. Through your leadership, many have come to the realization that human hopes and desires are behind every piece of legislation that comes before this body. Without the knowledge that people count our work is useless. Again, I thank you for holding true to what you believe and providing excellent leadership.

You have shown us that "Government should never stand as master but always as a servant."

Mrs. MINK of Hawaii. Mr. Speaker, it is with great pride and some sadness that I join my colleagues today to pay tribute to one of this body's most distinguished legislators, WILLIAM D. FORD.

In his 30 years of service to the Congress representing the 13th district of Michigan, BILLY FORD, has left a truly remarkable legacy—a legacy that will live on through the lives of millions of children, college students, workers and their families, residents of Michigan, and others all around the country who have benefited from his great work in Congress.

There is no one who has had more impact on increasing educational opportunities, worker protections, and economic stability of families in the last three decades than BILL FORD. It is often said that BILL has had a hand in every major piece of education and labor legislation to come out of the Congress since 1965. What also needs to be said is that every major piece of education and labor legislation is better because BILL FORD has had a hand in it.

Throughout his career whether it was student loans, Head Start, OSHA, plant closing notification, or family and medical leave, his work originated from a heartfelt, genuine desire to make a difference for working families in America.

BILL and I came to the Congress at the same time in 1965. We were part of a large class of new Members, dubbed a reformer class. We both sat on the Education and Labor Committee, eager, ready to take the Congress by storm, we quickly became allies on many issues.

I remember those times quite fondly, as young legislators trying to make our mark on the many landmark bills that passed through our committee—Head Start, Elementary and Secondary Education Act, the Higher Education Act—laws that are still on the books today and that have proven their success over the years.

When I decided to make another bid for the Congress in 1990, I was encouraged by the thought that many, like BILL FORD, were still around, though a bit older, certainly wiser and more experienced. The thought of serving with such accomplished members who I could still call old friends was an added incentive to make it back to the U.S. House of Representatives.

There has been no greater pleasure for me in returning to the Congress than to have BILL FORD serve as the chair of the Education and Labor Committee. Being in the trenches once again churning out legislation this time under his leadership, being able to reminisce about the good old days, some days it was just seeing a friendly face—that's what made serving with BILL FORD a real pleasure.

At the helm of the Education and Labor Committee bill has made recent years the most productive for this committee since those first years we worked together during the Johnson administration.

Higher Education Act reauthorization, Family and Medical Leave, National Service, Goals 2000, Elementary and Secondary Education Act reauthorization, Head Start reauthorization, Child Nutrition reauthorization, OSHA reform, Davis Bacon reform, Striker Replacement legislation, and two major health reform legislation, are a few examples of the major accomplishments under BILL FORD.

He is persistent and tenacious, with a keen political sense that has served to steer many difficult bills through the legislative process. Although not all of them have made it into law, BILL FORD proved time and time again that he will fight for what is right and never give up.

He is my colleague and leader, collaborator on many issues, and my friend, I am very sorry to see him leave. This distinguished body and the American people have been graced by one of the greatest legislators and political strategists of our time, and we are better off for it. BILL, thank you for your productive and dedicated years of service. I wish you the best of luck and great happiness in whatever it is you choose to do. I know you will do it well.

Mr. DE LUGO. Mr. Speaker, in my 20 years as Member of this body, I have been privileged to work with many distinguished members on both sides of the aisle, but I can say with absolute sincerity that none has been a better friend to me personally or a better friend to the people I represent than Chairman BILL FORD.

BILL FORD is from the old school. He believes intensely in party loyalty and supporting his President.

Without question, his word is his bond.

He believes in giving a helping hand to the little guy.

He believes in fairness.

And he believes that America can always do better.

And America has done better, in many, many ways, because of the commitment and the vision of this hard working gentleman.

I have been honored to serve on 2 committees with BILL FORD as chairman—Post Office and Civil Service, and Education and Labor.

Both as chairman and as a senior member of this House, BILL FORD has consistently shown his real skill for proven leadership.

It was not surprising that when the President submitted his health care reform package, it was the Education and Labor Committee that passed it out first and passed it out almost intact, something no other House committee was able to do.

During that consideration, and without exception, at every meeting and hearing I have ever attended with him, BILL FORD has conducted the business of the committee he chairs with adroit professionalism and seriousness of purpose.

Yet, few have as quick or as penetrating a sense of humor, one that not only inspires his colleagues but also serves to disarm his opponents.

Back in the 1980's when I served with Chairman FORD on the Post Office and Civil Service Committee, I received his full support for an important vitally needed multiyear strategy to improve postal operations in my district.

As far away as the Virgin Islands are, as difficult as the logistics of mail delivery can be, and as removed as they are from the attention of decisionmakers here in Washington, BILL FORD made sure the Postal Service took notice of our needs and did something about them.

Under his leadership, we oversaw a long overdue investment in facilities and equipment and put in place much-needed changes in delivery methods. At long last, the Virgin Islands got the attention it deserved.

BILL FORD didn't do it because he would reap political gain. The Virgin Islands is far, far away from Michigan.

He did it because he knew that the people in my district, a distant U.S. territory, needed a helping hand.

He knew that quality postal service is a vital link with the rest of the Nation and the world.

He knew that if he and I didn't work to improve postal services, no one else would.

When Chairman FORD took over leadership of the Education and Labor Committee, I was honored to be asked to join him, even though I was already serving on two other committees.

BILL FORD has a commitment to education and a commitment to our children's future.

As Chairman, BILL FORD made sure that my initiatives, from getting the Virgin Islands included in the Evenstart Program for the first time, to re-authorizing special assistance to education for the children of the Virgin Islands, were just as important as any other state or jurisdiction.

BILL FORD has not only been a friend of the Virgin Islands, he has been a frequent visitor.

He's an ardent sailor who has taken well deserved respites aboard boats that charter some of the most beautiful waters in the world.

In fact, shortly after he announced his retirement at the end of this session, he acknowledged that at long last he could admit publicly his love for the Virgin Islands and his many visits there.

Mr. Speaker, the people of the 13th District of Michigan will miss BILL FORD, this House will miss him, and this Nation will miss him. I know that I will miss him and so will the people of the Virgin Islands.

No finer Member ever served in this House.

I wish him all the best that life can offer as he undertakes with his wife Mary a well deserved retirement from the House of Representatives.

Thanks, Mr. Chairman. And good luck.

Mr. ROEMER. Mr. Speaker, in the final days of the 103d Congress, I am pleased to join Members of the House of Representatives in bidding farewell to WILLIAM D. FORD, a tireless champion of education in America.

I have known BILL FORD for 4 years and during that time he has chaired the Committee on Education and Labor. Those 4 years provide only a snapshot of BILL FORD's long history of public service, but what an important and creative snapshot that is.

Under the leadership of Chairman FORD, the committee has passed landmark legislation that has made a difference in the lives of all of those who aspire to learn in America: The Higher Education Act amendments, making college more affordable for working Americans; the Family and Medical Leave Act, providing working families an opportunity to take time away from work to care for a new child or sick family member; the School-to-Work Opportunities Act, giving high school students a means to a better job; Improving America's Schools Act, providing educators with Federal help to improve student achievement; Head Start Reauthorization, making more poor children able to participate in Head Start; and the National Community Service Trust Act, creating the first Federal national service program in this country. And the list goes on and on.

Education gives power—power to determine one's fate. Let it suffice to say that chairman FORD's work has given power to children, to students, to workers, to the disabled and the dispossessed people of this country. He may not be here next year, but his legacy will live on.

Mr. STUPAK. Mr. Speaker, as a freshman in the 103d Congress, I consider myself lucky for a number of reasons. Not the least of which is the fact that coming to serve in this distinguished body has afforded me the opportunity to serve with some of this country's best and brightest individuals. The Michigan delegation has been fortunate to have its share. But there are those in this body who eclipse best and brightest; whose years of service elevate them to the elite. Mr. Speaker, WILLIAM D. FORD, the representative of Michigan's 13th Congressional District is this type of man.

Since 1965 BILL has represented the residents of Washtenaw and Wayne County in southeastern Michigan. His accomplishments for his district and this country are far too numerous to name, but I would like to take this opportunity to call some of his deeds and success to the Chair and the American people.

First and foremost, BILL FORD's fingerprints are on, without exception, every piece of education and labor legislation that has been approved by this body in the 15 terms since his first election. He is known as Mr. Education to many in the education community and his hard work and dedication toward fairness in the workplace have made him organized labor's best friend in Congress. BILL has authored or assisted in passing every higher education reauthorization, the Elementary and Secondary Education Act, and, this year, restructured the way the Federal Government will deal with student loans. He has rewritten OSHA to ensure reform and passed, in this body, striker replacement legislation to ensure that the right to strike is maintained.

Another person who is happy that BILL FORD is in town, is the other BILL, President Bill Clinton. President Clinton owes much of the success in his agenda to the chairman of the Education and Labor Committee. This Congress, BILL FORD passed H.R. 1, the Family and Medical Leave Act. He also passed H.R. 20, Hatch Act reform. Around these two accomplishments, one must note his hard work on the Job Corps, Health Care Reform, the Reemployment Act, and many others. It has obviously been a very busy and effective Congress for the Committee on Education and Labor under Chairman FORD's watch. That committee will not know stronger leadership.

I also need to take a moment to speak to BILL FORD's character. A man who grew out of modest means, BILL was the first of his family to get a college education. He went to school on the newly implemented G.I. bill and never forgot the chance that Uncle Sam gave him. His father was tragically killed in a plant accident when BILL was a young adult, and he never forgot that workplace safety is not only one of the things that make this country great but that it is a fundamental right of every American. These events that had such an impact on young BILL FORD have been with him his entire life and form the basis for his years of tireless public service.

Perhaps the best way to speak to BILL FORD's character, however, is to watch him on the campaign trail. He knows his constituents, his constituents know him. He is one of them and it shows. BILL FORD is a man who has campaigned for and won 15 elections to the House without ever so much as mentioning his opponent's name. He has never engaged in a negative campaign.

Mr. Speaker, after 30 years of service to this body and the people of Michigan's 13th Congressional District, BILL FORD will retire a statesman—a leader in education and labor issues and a model for serving and incoming Members alike. We will all miss him dearly and wish him the best in his private life.

Mr. ROMERO-BARCELO. Mr. Speaker, I am pleased to join our colleagues today in giving well-deserved recognition to Chairman BILL FORD who is completing his congressional service.

With the end of the 103d Congress, BILL FORD will complete 30 years service in the House of Representatives. During this time, he has left his mark on every major education bill considered by this institution. His commitment to providing the best possible educational opportunities for the youth of our Nation is unparalleled.

Chairman FORD is a true champion of the working man. Much important labor legislation is the result of his tenacity in gaining passage of such measures.

I have been proud to serve on the Education and Labor Committee under the chairmanship of BILL FORD. His willingness to listen and to involve all the members of the committee in its proceedings is certainly praise-worthy and commendable.

With the retirement of BILL FORD, this body loses a great institutional memory and a master of legislative details. His constituents in the 13th District of Michigan will lose a tireless advocate for their interests.

Mr. Chairman, we will miss you. I am truly grateful for all the assistance you have been kind enough to extend to a new member and I wish you only the best in your retirement.

Mrs. MORELLA. I rise to pay tribute today to one of the most influential and energetic members of this body, Chairman BILL FORD of Michigan, who is retiring at the end of this session.

First elected in 1964, BILL FORD has played a major role in the development of education and labor legislation, in addition to shaping legislation affecting Federal employees. These issues have been of personal interest for the Michigan Democrat, but his role has been increased greatly in recent years as he gained the chairmanship of first the Post Office and Civil Service and then the Education and Labor Committee. I served with him on the Post Office and Civil Service Committee and found his leadership to be most responsive to our federal employees.

One of his achievements in this Congress has been passage of the Family and Medical Leave Act; his other recent victories also include approval of the Hatch Act Reform Bill.

On Education, college aid has been an abiding concern of BILL FORD'S for decades—going back to the 1965 establishment of the Higher Education Act. He has been deeply involved in a number of reauthorizations of the Act since then.

Chairman FORD, whose district includes Ann Arbor and the University of Michigan, began his career as a justice of the peace, then assumed positions as city and township attorney and finally served in the Michigan Senate before his election to Congress. He served in the Navy from 1944–46 and in the Air Force Reserve from 1950–58.

I salute BILL FORD for his many achievements in this body—and for the nation—and wish him continued success in his retirement.

Mr. UNDERWOOD. Mr. Speaker: Today the United States House of Representatives honors a brilliant chairman, a model public servant, and a bold man. Chairman WILLIAM D. FORD has served in this body and worked to improve education in America since the 89th Congress. Chairman FORD has worked tirelessly for innovation and reform at the elementary and secondary levels as well as institutions of higher education. Most recently, he championed the Direct Student Loan program which is now making it easier for thousands of students to get money for college. Senator KENNEDY, in the final moments of the conference committee on the Elementary and Secondary Education Act (ESEA), honored the Chairman by requesting that the program be named after Mr. FORD. Members and staff then gave the Chairman a standing ovation—a rare act of respect and admiration in such a setting.

The Chairman has been a friend to me and a friend to Guam and the other territories of the United States. His understanding and sensitivity to the needs of the territories was evident in his nominating me to the ESEA conference committee.

Mr. FORD is an effective legislator and a fair committee chairman. His insight and wisdom during committee proceedings was a testament to his knowledge and his legacy. He was demanding of his colleagues, but even more so of himself. BILL FORD truly knows how to lead by example. Seldom has another member challenged me as Chairman FORD has by showing me the very best of what a legislator can be.

Mr. Chairman, we wish you all the best, you will be missed.

Mr. RAHALL. Mr. Speaker, it gives me a great deal of pleasure to stand on the Floor of this body and pay tribute to BILL FORD for his three decades of distinguished service to the American people as a Member of the House of Representatives. My pleasure in doing so is diminished only by the fact that this body will lose one of its most talented, dedicated, and able Member.

BILL FORD came to the House of Representatives in 1964 and one of the first major issues he addressed as a freshman Member, under the Leadership of President Lyndon Johnson, was the Federal role in education in this country. As we are fond of saying, BILL FORD was present for the creation of the first ever Elementary and Secondary Education Act, and the Higher Education Act, both enacted in 1965.

It has been through his stewardship ever since, that the Federal role in education has continued to be defined as limited, but vitally important to educationally disadvantaged children and adults in this country.

It would be fitting to call Mr. FORD—Mr. Education. And I could go on about his strong personal commitment to the education of children, youth and adults in this country for over 30 years, but suffice it to say that many of us on this Floor today, would not have gone to college, nor would our children, if it had not been for him.

Needless to say, BILL FORD is not a single-issue Member. While we can speak here for hours about BILL FORD'S contribution to education, you have only to mention the word labor and you get an immediate vision of the tenacious BILL FORD in his unending defense of the rights of working men and women in this country.

For example, he worked for 13 years to bring to enactment the Plant Notification law—saying that if companies were going to dump employees or move south of our borders, they were darned well going to give adequate notification to employees before doing so.

He has been a long-time defender also of migrant children, seeing to their right to a free and equal education in our public schools, in spite of the transient nature of their lives.

In addition to elementary and secondary education issues, it was BILL FORD who saw to it that middle income as well as low-income American families were given a fair share of federal college aid. As a devoted supporter of vocational education, he caused vocational training to take a quantum leap toward the 21st Century, and gave high school students a sure grasp on an increasingly technological world when he authored the Tech-Prep Act.

When Black Lung reform legislation needed to move through his Committee to the Floor of the House, BILL FORD was there; he has been there to guide to enactment vital civil rights measures, to feed hungry school children, to care for and about older Americans, and to provide food supplements for poor pregnant women and their children.

From his heart he has diligently supported collective bargaining and the right of workers to strike without being permanently replaced; he has expanded education for the handicapped; assured access to employment opportunities for all Disabled Americans; supported public and college libraries, and has labored long and hard on behalf of professional development opportunities for teachers. He has sponsored many initiatives as a Member of the Education and Labor Committee that are too numerous to mention here.

I would be remiss not to mention Mr. FORD's chairmanship of the Post Office and Civil Service Committee where his major achievement was the timely reform the civil service retirement system. Throughout his chairmanship of the Committee, he was dedicated to improving and enhancing the terms and conditions of employment for Federal workers and for Federal retirees.

I sincerely offer these words in tribute to Representative BILL FORD of Michigan. I wish time would permit a fuller reiteration of his many contributions to this country. Let us then take this opportunity to bid him farewell with a heavy heart for our loss of his effective leadership and his wise counsel, but with hearty best wishes for a well-earned retirement after a lifetime of service to others.

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to one of the most valuable Members of this institution, a Representative whom we will all miss very dearly upon his retirement this year: the Honorable WILLIAM D. FORD.

As a 20-year-old when WILLIAM FORD first joined the Congress in 1965, I was not aware of the landmark Elementary and Secondary Education Act and Higher Education Act of 1965, much less of the role he played in crafting them.

I was an administrator in Community School District 7 in South Bronx when Representative WILLIAM FORD worked on the Elementary and Secondary Education Amendments of 1967, which supported dropout prevention projects and bilingual education programs. At that time I was not as attuned to the Federal legislative process as I might have been, but I was certainly appreciative of the results.

When Representative FORD helped craft and pass the Carl D. Perkins Vocational Educational Act in 1984, I was a senior member of the New York State Assembly Committee on Education, and I understood very well the significance of his efforts. Then 4 years later, as the chairman of that assembly committee when Representative FORD worked on the Childhood Education and Development Act, I understood his contribution even better.

However, Mr. Speaker, it was not until I had the privilege of joining what in 1990 had become his Committee on Education and Labor, did I fully comprehend the magnitude of his leadership on our Nation's educational policies. And I will always treasure the memories of his guidance in the crafting and passage of my very first bill, the School Dropout Prevention and Basic Skills Improvement Act of 1990.

Mr. Speaker, this House of Representatives—and this Nation—will miss the leadership of Chairman WILLIAM FORD very deeply. But those of us who have had the pleasure of working with him will miss him all the more.

Mr. EHLERS. Mr. Speaker, I want to join my colleagues in honoring BILL FORD upon his retirement from the U.S. House of Representatives. Like a number of us in the Michigan delegation, BILL came to Congress after serving in the Michigan State Legislature. Unlike me, he made that move early enough in his life that he has been able to serve 30 years in Congress, and still retire as a young man.

I was familiar with BILL FORD's reputation before I came to Congress. In Michigan BILL FORD is well known as a strong proponent and tough fighter for liberal causes. Even in my relatively short period of time of serving with him in Congress, I have seen that he is not only that, but that he also cares deeply about issues and concerns that affect nearly every person and family in our districts—education, working conditions, employment opportunities, and supportive services for persons in need. We may not often have agreed on the policy prescriptions, but certainly no one has fought harder or more skillfully on these issues than BILL FORD.

I know that he also cares deeply about this institution in which we are honored to serve. Again, we may not agree on what changes need to be made to restore the trust and confidence of the American people in this institution, but he has always conveyed to me and I'm sure to many, many others the sense of honor responsibility that comes with serving in this body.

He leaves Congress with many, many legislative achievements—a record for achievement that many of us will no doubt long envy. He has had a major hand in shaping our current policies on financing of postsecondary education, on Federal support for elementary and secondary education, and on many of our employment and training laws. His influence has come not only from his position as chairman of the Education and Labor Committee, but from the hard work in knowing the issues and understanding the details of legislation.

BILL FORD has fought hard and skillfully for what he believed was the best course for this country, and in so doing has served his district, his State, and his country, and the House of Representatives. So I want to join my colleagues in honoring his service here in the House of Representatives, and wish him the best in the months and years ahead in whatever his future endeavors may be.

Mr. STOKES. Mr. Speaker, I want to thank the Members of the Michigan congressional delegation, JOHN DINGELL and FRED UPTON, for allowing us to gather this evening to pay tribute to our colleague, Chairman BILL FORD. I am pleased to join in this tribute to BILL as he prepares to depart this institution after 30 years of dedicated service.

As he departs this Chamber, we honor Chairman FORD for his strong leadership and commitment to public service. The 13th Congressional District of Michigan and the Nation have benefited from that commitment.

Mr. Speaker, BILL FORD arrived in Congress in 1965. He cast some of his first votes for President Lyndon Johnson's Great Society programs. For the past 30 years, he has played an integral role in shaping legislation and public policy. As chairman of the Committee on Education and Labor, it is noted that BILL FORD has authored, or has helped to write, every piece of Federal education legislation since the 89th Congress.

His success includes the Higher Education Act, which makes it possible for any student in the United States to qualify for Federal education aid regardless of family income. The act goes a long way toward removing barriers to higher education and job training opportunities.

With his close ties to organized labor, BILL FORD championed legislation to require advance notice of plant closings, ease Hatch Act restrictions on Federal employees' participation in political activities and permit unpaid leave for workers in medical emergencies.

Mr. Speaker, during my first term in Congress, I had the honor of serving on the Education and Labor Committee with BILL FORD. As a freshman Member, I was impressed with his knowledge of the legislative process. I recall BILL FORD as a highly respected individual who took the time to offer counsel and advice to new Members. I also had the privilege of working closely with BILL FORD in the Democratic Study Group where he was a leader. He has done an outstanding job as a legislator and a chairman.

Mr. Speaker, it is said that many people refer to BILL FORD as "Mr. Education;" constituents refer to him as "their man in Washington;" and many in the Halls of Congress simply call him BILLY. Looking back, however, I can think of few individuals who have worn the title of "Mr. Chairman" as well as our distinguished colleague. As he leaves this Chamber and this Congress, I join others in expressing our appreciation and saluting Chairman FORD for a job well done.

Mr. BECERRA. Mr. Speaker, in my first term I have had the honor and pleasure to serve on the Education and Labor Committee. In this time, I have had the opportunity to witness and learn from the tireless efforts of the Chairman of the committee, WILLIAM D. FORD, whom I rise today to salute.

Chairman FORD has, in his 30 year career in Congress, distinguished himself as an astute and tenacious leader on education and labor legislation. He has left his imprint on virtually every major piece of legislation passed in the fields of education and labor since the Johnson administration. In his very first year of service on the Education and Labor Committee, he was involved in the enactment of groundbreaking legislation, including the Head Start Program, the Higher Education Act, and the Elementary and Secondary Education Act.

The son of working class parents in the industrial sector, Chairman FORD has shown unparalleled dedication to labor issues. From striker replacement, to workplace safety issues, he has consistently championed the rights of working Americans.

Throughout his career, Chairman FORD fought diligently for the rights and protection of migrant workers, passing legislation dealing with migrant crew leader reform. Under his watch, the National Labor Relations Act was amended to include our 5 million uncovered health industry workers, ERISA was passed, and plant closing notification was signed into law.

He is equally dedicated to education issues. A self-described "blue-collar kid," Chairman FORD attended an automotive trade school before completing college and law school with assistance from the GI bill. Partly as a result of his own educational background, Chairman FORD took an active role and was instrumental in increasing financial aid eligibility for trade school students by removing requirements that participating institutions must be nonprofit. These actions reflect Chairman FORD'S belief that all students are deserving of adequate education and training to prepare them for a productive future.

More recently, he led the effort to dramatically reform the Federal Student Loan Program through the enactment of President Clinton's Direct Loan Program last year. Clearly, Representative FORD is driven by a steadfast belief that students should have ample opportunity to excel, never allowing academic excellence to be hampered by financial constraints.

In the 103d Congress, Chairman FORD has steered legislative measures through the Education and Labor Committee which comprise the most significant legislative victories of the Clinton administration, including the Family and Medical Leave Act, Goals 2000, National Community Service, School-to-Work, and, in the final days of the Congress and of his tenure, the reauthorization of the Elementary and Secondary Education Act.

While elements of the ESEA were not without detractors, one would be hard-pressed to find someone who would speak against the bill as a whole—it was Chairman FORD'S task to pull all of these different viewpoints together to achieve passage of the bill. The ESEA conference—which I was fortunate to be part of—was an incredible learning experience and while I sometimes did not agree with some of my colleagues, I left the conference with a great admiration for the chairman's ability to forge consensus.

When the Congress reconvenes next year, it will be without one of its most eloquent and dedicated education leaders. The determination and intellect he brought to every legislative challenge will be missed. I salute him and thank him for his efforts on behalf of labor and education and, more personally, I must acknowledge my appreciation at having had the opportunity to serve with the chairman and participate in the development of so many significant pieces of legislation in the Education and Labor Committee. I wish him all the best for the future—he will be missed.

Mr. REED. Mr. Speaker, I rise to pay tribute to Chairman BILL FORD upon the conclusion of a remarkable career.

He entered Congress in 1965, just in time to be a foot soldier in the great educational struggles that brought us the first Elementary and Secondary Education Act. He is leaving in 1994 as the field marshal of the most productive education Congress since 1965.

Along the way from 1965 to 1994, he has served his constituents with distinction, inspired hope in the hearts of working men and women everywhere, helped educate a nation, and fearlessly led where few could or would go.

His wit and keen mind bolstered the spirits of his colleagues and the prospects of volumes of legislation that have materially benefitted the American people. His masterful command of the legislative process will not soon be duplicated.

Despite his great achievements, he never forgot where he came from and the fact that there are other young men and women who need a chance to go to school, a chance to work, an opportunity to realize their dreams. This belief in the fundamental dignity of people and the responsibility of government to provide a chance has animated all of his efforts and ennobled his service.

I also want to thank the chairman for his many kindnesses to me. I can think of no better way to begin service in the Congress than to have the privilege of serving on the Education and Labor Committee with Chairman BILL FORD. His personal interest, sage advice, and outstanding example of dedication has left a lasting impression upon me.

It is with great respect and regard that I wish him and his wife Mary the best. I hope that he will be a frequent presence on Capitol Hill in the days and years ahead.

Thank you Mr. Speaker.

Mrs. ROUKEMA. Mr. Speaker, I rise today to pay tribute to retiring chairman of our Committee on Education and Labor—the gentleman from Michigan, WILLIAM FORD.

Any observer of the Committee on Education and Labor knows that BILL FORD and I have never been philosophical soulmates. In fact, we have been on opposite sides of more issues than we both care to remember—our plant closing law, the striker replacement proposal and the Direct Loan Program that soon will bear his name, to name just a few.

But the same dedication and passion that made BILL FORD the most formidable of legislative foes, also made him a most valuable ally. I was proud to fight by his side for the landmark Family and Medical Leave Act, for a tough and effective Higher Education Act and against proposals to establish experimental school choice programs.

His mastery of this institution is well known. Chairman FORD has always been a skillful strategist, a meticulous vote-counter, and an articulate advocate for his positions.

Mr. Speaker, mine is not the first tribute to Chairman FORD, and certainly will not be the last. After 30 years of congressional and community service, he is deserving of all of them. However, when the speeches are over and the accolades stop flowing, the many legacies of BILL FORD will endure. His lifelong dedication to improving education and the lot of working Americans will stand in lasting tribute to his intelligence, his tenacity, and his character.

Mr. Speaker, this Congress and this Nation are better for having been served by WILLIAM FORD, the gentleman from Michigan.

Mr. MARTINEZ. Mr. Speaker, I rise today to pay tribute to a man who has been a mentor to me throughout my 13 years in the Congress.

A man whose knowledge of the House and the legislation passed and considered over the past three decades has helped those of us on the Education and Labor Committee to continue to develop strong leadership in the fight against poverty in this country.

BILL FORD, as chairman of the Education and Labor Committee in the 102d and 103d Congresses, has presided over a transition from the twelve years of voodoo and trickle down to the beginning of an era of reinvestment in America's workers and children.

His leadership in education, especially higher education, has led to greater opportunities for low income youth to attend college and to have a productive future in America, capped by the direct loan and national service programs enacted in the present Congress.

As one of the architects of the Head Start Program in his first term, in 1965, BILL FORD was present at the creation of the most successful anticrime and antipoverty program in our Nation's arsenal.

Throughout his long and distinguished career, BILL FORD has continued to work to strengthen the Head Start Program, which we again reauthorized this year under his able leadership.

In the 1970's, he was a leader on the Education and Labor Committee as programs were developed for older American's for senior volunteers, and for juvenile justice and delinquency prevention.

All of those programs bear the imprint of Mr. FORD's personal dedication to alleviating the situation of those Americans who need a hand up.

As chairman of the Education and Labor Committee, Mr. FORD developed an annual agenda—and guided the committee toward achieving that agenda with a firm and steady hand.

While it took a number of years to achieve, BILL FORD never wavered in his determination to see family and medical leave become law, as it did in this Congress.

Likewise, even though the final enactment of the OSHA reform and striker replacement bills has not taken place, I am confident that they will pass, and, when the history of those efforts is written, the name BILL FORD will loom large in the story.

Chairman FORD, for your dedication, you leadership, and your friendship, I thank you.

Those of us who hope to labor on in the 104th Congress, who were educated by you in our early careers, and who appreciate your outstanding leadership, salute you and wish you well.

Mr. DINGELL. Mr. Speaker, I yield back the balance of my time.

CONFERENCE REPORT ON H.R. 4950, JOBS THROUGH TRADE EXPANSION ACT OF 1994

Mr. GEJDENSON submitted the following conference report and statement on the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-834)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jobs Through Trade Expansion Act of 1994".

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. RAISING CEILING ON INSURANCE.

Section 235(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(1)) is amended by striking "$9,000,000,000" and inserting "$13,500,000,000".

SEC. 102. RAISING CEILING ON FINANCING.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(2)) is amended to read as follows:

"(2) Financing.—(A) The maximum contingent liability outstanding at any one time pursuant to financing issued under subsections (b) and (c) of section 234 shall not exceed in the aggregate $9,500,000,000.

"(B) Subject to spending authority provided in appropriations Acts pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized to transfer such sums as are necessary from its noncredit activities to pay for the subsidy cost of the investment guaranties and direct loan programs under subsections (b) and (c) of section 234.".

SEC. 103. EXTENDING ISSUING AUTHORITY.

Section 235(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(3)) is amended by striking "1994" and inserting "1996".

SEC. 104. ADMINISTRATIVE EXPENSES.

Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended by striking subsection (g).

SEC. 105. EXEMPTIONS FOR CERTAIN COUNTRIES.

Paragraph (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended by inserting after "Recovery Act (19 U.S.C. 2702)" the following: ", Ireland, and Northern Ireland".

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661(f)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(f)(1)) is amended—

(1) by striking "There are authorized" and inserting "(A) There are authorized";

(2) by striking "$55,000,000" and all that follows and inserting "$77,000,000 for fiscal year 1995 and such sums as are necessary for fiscal year 1996."; and

(3) by adding at the end the following new subparagraph:

"(B) Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.".

TITLE III—EXPORT PROMOTION PROGRAMS WITHIN THE INTERNATIONAL TRADE ADMINISTRATION

SEC. 301. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs such sums as are necessary for fiscal years 1995 and 1996."

TITLE IV—PROMOTION OF UNITED STATES ENVIRONMENTAL EXPORTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Environmental Export Promotion Act of 1994".

SEC. 402. PROMOTION OF ENVIRONMENTAL EXPORTS.

(a) Environmental Technologies Trade Advisory Committee.—Section 2313 of the Export Enhancement Act of 1988 (15 U.S.C. 4728) is amended—

(1) by striking subsection (d);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (b) the following:

"(c) Environmental Technologies Trade Advisory Committee.—

"(1) Establishment and purpose.—The Secretary, in carrying out the duties of the chairperson of the TPCC, shall establish the Environmental Technologies Trade Advisory Committee (hereafter in this section referred to as the 'Committee'). The purpose of the Committee shall be to provide advice and guidance to the Working Group in the development and administration of programs to expand United States exports of environmental technologies, goods, and services and products that comply with United States environmental, safety, and related requirements.

"(2) Membership.—The members of the Committee shall be drawn from representatives of—

"(A) environmental businesses, including small businesses;

"(B) trade associations in the environmental sector;

"(C) private sector organizations involved in the promotion of environmental exports, including products that comply with United States environmental, safety, and related requirements;

"(D) States (as defined in section 2301(i)(5)) and associations representing the States; and

"(E) other appropriate interested members of the public, including labor representatives.

The Secretary shall appoint as members of the Committee at least 1 individual under each of subparagraphs (A) through (E).

"(d) Export Plans for Priority Countries.—

"(1) Priority country identification.—The Working Group, in consultation with the Committee, shall annually assess which foreign countries have markets with the greatest potential for the export of United States environmental technologies, goods, and services. Of these countries the Working Group shall select as priority countries 5 with the greatest potential for the application of United States Government export promotion resources related to environmental exports.

"(2) Export plans.—The Working Group, in consultation with the Committee, shall annually create a plan for each priority country selected under paragraph (1), setting forth in detail ways to increase United States environmental exports to such country. Each such plan shall—

"(A) identify the primary public and private sector opportunities for United States exporters of environmental technologies, goods, and services in the priority country;

"(B) analyze the financing and other requirements for major projects in the priority country which will use environmental technologies, goods, and services, and analyze whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions; and

"(C) list specific actions to be taken by the member agencies of the Working Group to increase United States exports to the priority country.".

(b) Additional Mechanisms To Promote Environmental Exports.—Section 2313 of the Export Enhancement Act of 1988 is further amended by adding at the end the following:

"(f) Environmental Technologies Specialists in the United States and Foreign Commercial Service.—

"(1) Assignment of environmental technologies specialists.—The Secretary shall assign a specialist in environmental technologies to the office of the United States and Foreign Commercial Service in each of the 5 priority countries selected under subsection (d)(1), and the Secretary is authorized to assign such a specialist to the office of the United States and Foreign Commercial Service in any country that is a promising market for United States exports of environmental technologies, goods, and services. Such specialist may be an employee of the Department, an employee of any relevant United States Government department or agency assigned on a temporary or limited term basis to the Commerce Department, or a representative of the private sector assigned to the Department of Commerce.

"(2) Duties of environmental technologies specialists.—Each specialist assigned under paragraph (1) shall provide export promotion assistance to United States environmental businesses, including, but not limited to—

"(A) identifying factors in the country to which the specialist is assigned that affect the United States share of the domestic market for environmental technologies, goods, and services, including market barriers, standards-setting activities, and financing issues;

"(B) providing assessments of assistance by foreign governments that is provided to producers of environmental technologies, goods, and services in such countries in order to enhance exports to the country to which the specialist is assigned, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(C) training Foreign Commercial Service Officers in the country to which the specialist is assigned, other countries in the region, and United States and Foreign Commercial Service offices in the United States, in environmental technologies and the international environmental market;

"(D) providing assistance in identifying potential customers and market opportunities in the country to which the specialist is assigned;

"(E) providing assistance in obtaining necessary business services in the country to which the specialist is assigned;

"(F) providing information on environmental standards and regulations in the country to which the specialist is assigned;

"(G) providing information on all United States Government programs that could assist the promotion, financing, and sale of United States environmental technologies, goods, and services in the country to which the specialist is assigned; and

"(H) promoting the equal treatment of United States environmental, safety, and related requirements, with those of other exporting countries, in order to promote exports of United States-made products.

"(g) Environmental Training in One-Stop Shops.—In addition to the training provided under subsection (f)(2)(C), the Secretary shall establish a mechanism to train—

"(1) Commercial Service Officers assigned to the one-stop shops provided for in section 2301(b)(8), and

"(2) Commercial Service Officers assigned to district offices in districts having large numbers of environmental businesses,

in environmental technologies and in the international environmental marketplace, and ensure that such officers receive appropriate training under such mechanism. Such training may be provided by officers or employees of the Department of Commerce, and other United States Government departments and agencies, with appropriate expertise in environmental technologies and the international environmental *workplace, and by appropriate representatives of the private sector.*

"(h) International Regional Environmental Initiatives.—

"(1) Establishment of initiatives.—The TPCC may establish one or more international regional environmental initiatives the purpose of which shall be to coordinate the activities of Federal departments and agencies in order to build environmental partnerships between the United States and the geographic region outside the United States for which such initiative is established. Such partnerships shall enhance environmental protection and promote sustainable development by using in the region technical expertise and financial resources of United States departments and agencies that provide foreign assistance and by expanding United States exports of environmental technologies, goods, and services to that region.

"(2) Activities.—In carrying out each international regional environmental initiative, the TPCC shall—

"(A) support, through the provision of foreign assistance, the development of sound environmental policies and practices in countries in the geographic region for which the initiative is established, including the development of environmentally sound regulatory regimes and enforcement mechanisms;

"(B) identify and disseminate to United States environmental businesses information regarding specific environmental business opportunities in that geographic region;

"(C) coordinate existing Federal efforts to promote environmental exports to that geographic region, and ensure that such efforts are fully coordinated with environmental export promotion efforts undertaken by the States and the private sector;

"(D) increase assistance provided by the Federal Government to promote exports from the United States of environmental technologies, goods, and services to that geographic region, such as trade missions, reverse trade missions, trade fairs, and programs in the United States to train foreign nationals in United States environmental technologies; and

"(E) increase high-level advocacy by United States Government officials (including the United States ambassadors to the countries in that geographic region) for United States environmental businesses seeking market opportunities in that geographic region.

"(i) Environmental Technologies Project Advocacy Calendar and Information Dissemination Program.—The Working Group shall—

"(1) maintain a calendar, updated at the end of each calendar quarter, of significant opportunities for United States environmental businesses in foreign markets and trade promotion events, which shall—

"(A) be made available to the public;

"(B) identify the 50 to 100 environmental infrastructure and procurement projects in foreign markets that have the greatest potential in the calendar quarter for United States exports of environmental technologies, goods, and services; and

"(C) include trade promotion events, such as trade missions and trade fairs, in the environmental sector; and

"(2) provide, through the National Trade Data Bank and other information dissemination channels, information on opportunities for environmental businesses in foreign markets and information on Federal export promotion programs.

"(j) Environmental Technology Export Alliances.—Subject to the availability of appropriations for such purpose, the Secretary is authorized to use the Market Development Cooperator Program to support the creation on a regional basis of alliances of private sector entities, nonprofit organizations, and universities, that support the export of environmental technologies, goods, and services and promote the export of products complying with United States environmental, safety, and related requirements.

"(k) Definition.—For purposes of this section, the term 'environmental business' means a business that produces environmental technologies, goods, or services.".

TITLE V—INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

SEC. 501. ESTABLISHMENT OF PROGRAM.

(a) In General.—In carrying out part I of the Foreign Assistance Act of 1961 and other relevant foreign assistance laws, the President, acting through the Administrator of the United States Agency for International Development, shall establish a program of training and other technical assistance to assist foreign countries in—

(1) developing and strengthening laws and regulations to protect intellectual property; and

(2) developing the infrastructure necessary to implement and enforce such laws and regulations.

(b) Participation of Other Agencies.—The Administrator of the United States Agency for International Development—

(1) shall utilize the expertise of the Patent and Trademark Office and other agencies of the United States Government in designing and implementing the program of assistance provided for in this section;

(2) shall coordinate assistance under this section with efforts of other agencies of the United States Government to increase international protection of intellectual property, including implementation of international agreements containing high levels of protection of intellectual property; and

(3) shall consult with the heads of such other agencies in determining which foreign countries will receive assistance under this section.

And the Senate agree to the same.

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference.

Lee H. Hamilton,
Sam Gejdenson,
James L. Oberstar,
Benjamin A.Gilman,
Toby Roth,

As additional conferees from the Committee on Energy and Commerce, for consideration of title IV of the House bill, and modifications committed to conference:

John D. Dingell,
Cardiss Collins,
Carlos J. Moorhead,
Managers on the Part of the House.

Claiborne Pell,
Paul Sarbanes,

From the Committee on Banking, Housing, and Urban Affairs for consideration of titles III and IV of the House bill, and modifications committed to conference:

Don Riegle,
Paul Sarbanes,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on amendment of the Senate to the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

Title I—Overseas Private Investment Corporation

The House bill (title I) reauthorizes the Overseas Private Investment Corporation (OPIC) rewriting sections 231-240B of the Foreign Assistance Act of 1961.

Substantively, the House bill makes the following changes in the existing OPIC authority: (1) extends OPIC's authority through fiscal year 1997; (2) amends the eligibility criteria for participating countries, including making Ireland and Northern Ireland eligible for all OPIC programs; (3) establishes conditions and procedures under which OPIC must cease its operations in a country; (4) updates and consolidates guidelines and criteria for OPIC project support; (5) brings OPIC's funding procedures into conformity with the Federal Credit Reform Act of 1990; (6) raises the maximum contingent liability for insurance from $9 billion in current law to $15 billion; (7) broadens the maximum contingent liability for guarantees to cover all financing, setting an overall ceiling of $14.5 billion, with annual program levels of $3 billion in fiscal year 1995, $4 billion in fiscal year 1996, and $5 billion in fiscal year 1997; (8) authorizes the creation of an equity fund and transfers $45 million from OPIC's noncredit activities into this fund; (9) authorizes OPIC to transfer funds from its noncredit activities to cover the cost of all its programs; and (10) provides authority to extend direct loans to medium and large businesses, whereas under current law direct loans may be provided only to small companies.

The Senate amendment (secs.) extends the authority of OPIC for one year, raises the maximum contingent liability on insurance from $9 billion to $12 billion, and raises the ceiling on investment guarantees from $2.5 billion to $5 billion.

The conference substitute (title I) does not rewrite OPIC's authority, but includes the substantive sections extending issuing authority and raising the liability ceilings. Whereas the House bill extends OPIC's issuing authority for three years and the Senate amendment extends it for one year, the conference substitute provides two years' issuing authority. The conference substitute sets the maximum contingent liability on insurance at $13.5 billion, a compromise between the Senate ceiling of $12 billion and the House ceiling of $15 billion. On the question of combining direct investment with guarantees under one contingent liability ceiling, the conference substitute adopts the House language amending current law, with minor modifications. The conference substitute then raises the ceiling on financing to $9.5 billion and authorizes the transfer of funds from noncredit activities to pay for the subsidy costs of direct loans and guarantees, although the House provision setting annual program levels for direct lending and investment guarantees is not retained. The conference substitute also includes the House language making Ireland and Northern Ireland eligible for all OPIC programs.

TITLE II—TRADE AND DEVELOPMENT AGENCY

The House bill (title II) amends section 661 of the Foreign Assistance Act to clarify that the Trade and Development Agency (TDA) is an independent agency and that its purpose is to promote U.S. private sector participation in developing and middle-income countries in ways consistent with environmentally sound and broad-based sustainable economic development. Section 201 allows TDA to perform environmental assessments, states that the Director of TDA reports directly to the President, and provides that the Director of TDA is responsible for providing an annual report of TDA's activities to the appropriate congressional committees. Section 201 also authorizes such sums as may be necessary for TDA to effectively implement its programs for fiscal years 1995 and 1996. The funding is to remain available until expended.

The Senate amendment contains no comparable provision.

The conference substitute (title II) eliminates the amendments to the TDA's legal status and mandate, but retains the sections authorizing appropriations for fiscal years 1995 and 1996 and allowing amounts appropriated to remain available until expended. Whereas the House bill authorizes such sums as are necessary for both fiscal years, the conference substitute specifically authorizes $77 million in fiscal year 1995, which represents the total of amounts appropriated directly to TDA and transferred to TDA from other agencies for that year.

TITLE III—EXPORT PROMOTION PROGRAMS WITHIN THE INTERNATIONAL TRADE ADMINISTRATION

The House bill (title III) amends section 202 of the Export Administration Amendments Act of 1985 to authorize such sums as may be necessary for the International Trade Administration (ITA) to effectively implement its export promotion programs for fiscal years 1995 and 1996.

The Senate amendment contains no comparable provision.

The conference substitute (title III) is identical to the House bill.

TITLE IV—PROMOTION OF UNITED STATES ENVIRONMENTAL EXPORTS

The House bill (title IV) amends section 2313 of the Export Enhancement Act of 1988 by adding several new subsections.

New subsection 2313(c) requires the Secretary of Commerce to establish the Environmental Technologies Trade Advisory Committee. The Advisory Committee is to provide advice and guidance to the Environmental Trade Working Group, established by the Export Enhancement Act of 1992 as a subgroup of the Trade Promotion Coordinating Committee (TPCC).

New subsection 2313(d) requires the Working Group annually to identify the five foreign countries, with the greatest potential for U.S. environmental exports, and to create and implement a strategic plan for each.

New subsection 2313(f) requires the Secretary of Commerce to assign an environmental technologies specialist to the Foreign Commercial Service (FCS) office in each of the five priority countries.

New subsection 2313(g) requires the Secretary of Commerce to provide training in environmental technologies and the international environmental marketplace to FCS officers at the Department of Commerce's one-stop shops and district offices in districts that have large numbers of environmental businesses.

New subsection 2313(h) requires the TPCC to establish one or more international regional environmental initiatives. The purpose of these initiatives is to coordinate the activities of all Federal departments and agencies to build environmental partnerships between the United States and geographic regions of the world.

New subsection 2313(i) establishes an Environmental Technologies Project Advocacy Calendar and Information Dissemination Program.

New subsection 2313(j) establishes regional centers to promote environmental exports.

The Senate amendment contains no comparable provision.

The conference substitute (title IV) is similar to the House bill, with minor modifications. Subsection (h) of the House bill states that the TPCC "shall" establish one or more international regional environmental initiatives. The conference agreement amends that "shall" to "may". Subsection (i) is reorganized to provide greater clarity. Finally, subsection (j) authorizes the Secretary of Commerce to use the Market Development Cooperator Program to support the creation of alliances of private sector entities, nonprofit organizations and universities that support environmental exports and promote the export of products complying with U.S. environmental, safety, and related requirements.

TITLE V—INTERNATIONAL PROTECTION OF INTELLECTUAL PROPERTY

The House bill (title V) directs the Agency for International Development (AID) in conjunction with the Department of Commerce Patent and Trademark Office, to establish a program of training and technical assistance to assist foreign countries in developing and strengthening laws and regulations to protect intellectual property. The House bill also authorizes assistance to countries in developing the infrastructure needed to implement and enforce laws and regulations related to intellectual property protection. Funding is to be derived from existing AID accounts.

The Senate amendment contains no comparable provision.

The conference substitute (title V) is identical to the House bill.

From the Committee on Foreign Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

LEE H. HAMILTON,
SAM GEJDENSON,
JAMES J. OBERSTAR,
BENJAMIN A. GILMAN,
TOBY ROTH,

As additional conferees from the Committee on Energy and Commerce, for consideration of title IV of the House bill, and modifications committed to conference:

JOHN D. DINGELL,
CARDISS COLLINS,
CARLOS J. MOORHEAD

Managers on the Part of the House.

CLAIBORNE PELL,
PAUL SARBANES

From the Committee on Banking, Housing, and Urban Affairs for consideration of titles III and IV of the House bill, and modifications committed to conference:

DON RIEGLE,
PAUL SARBANES,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

Mr. MILLER of California submitted the following conference report and statement on the Senate bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes:

CONFERENCE REPORT (H.R REPT. 103–832)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 21) to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

Sections 1 and 2, and titles I through IX of this Act may be cited as the "California Desert Protection Act of 1994".

SEC. 2. FINDINGS AND POLICY.

(a) The Congress finds and declares that—

(1) the federally owned desert lands of southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated

with ancient Indian cultures, patterns of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

TITLE I—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's activities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

SEC. 102. DESIGNATION OF WILDERNESS.

In furtherance of the purpose of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps referenced herein, are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred and ninety acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed 1", dated May 1991, and two maps entitled "Argus Range Wilderness—Proposed 2" and "Argus Range Wilderness—Proposed 3", dated January 1989, and which shall be known as the Argus Range Wilderness. If at any time within fifteen years after the date of enactment of this Act the Secretary of the Navy notifies the Secretary that permission has been granted to use lands within the area of the China Lake Naval Air Warfare Center for installation of a space energy laser facility, and that establishment of a right-of-way across lands within the Argus Range Wilderness is desirable in order to facilitate access to the lands to be used for such facility, the Secretary of the Interior, pursuant to the Federal Land Policy and Management Act of 1976, may grant a right-of-way for, and authorize construction of, a road to be used solely for that purpose across such lands, notwithstanding the designation of such lands as wilderness. So far as practicable, and such road shall be aligned in a manner that takes into account the desirability of minimizing adverse impacts on wilderness values.

(2) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand three hundred and eighty acres, as generally depicted on a map entitled "Bigelow Cholla Garden Wilderness—Proposed", dated July 1993, and which shall be known as the Bigelow Cholla Garden Wilderness.

(3) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and within the San Bernardino National Forest, which comprise approximately thirty-nine thousand one hundred and eighty-five acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", dated July 1993, and which shall be known as the Bighorn Mountain Wilderness.

(4) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred and seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Big Maria Mountains Wilderness.

(5) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirteen thousand nine hundred and forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated July 1993, and which shall be known as the Black Mountain Wilderness.

(6) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred and twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", dated October 1993, and which shall be known as the Bright Star Wilderness.

(7) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-eight thousand five hundred and fifteen acres, as generally depicted on two maps entitled "Bristol Mountains Wilderness—Proposed 1", and "Bristol Mountains Wilderness—Proposed 2", dated September 1991, and which shall be known as Bristol Mountains Wilderness.

(8) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-nine thousand seven hundred and forty acres, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", dated July 1993, and which shall be known as the Cadiz Dunes Wilderness.

(9) Certain lands in the California Desert Conservation Area and Eastern San Diego County, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", dated February 1986, and which shall be known as the Carrizo Gorge Wilderness.

(10) Certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management, which comprise approximately sixty-four thousand three hundred and twenty acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Chemehuevi Mountains Wilderness.

(11) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on two maps entitled "Chimney Peak Wilderness—Proposed 1" and "Chimney Peak Wilderness—Proposed 2", dated May 1991, and which shall be known as the Chimney Peak Wilderness.

(12) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty thousand seven hundred and seventy acres, as generally depicted on two maps entitled "Chuckwalla Mountains Wilderness—Proposed 1" and "Chuckwalla Mountains Wilderness—Proposed 2", dated July 1992, and which shall be known as the Chuckwalla Mountains Wilderness.

(13) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirty-three thousand nine hundred and eighty acres, as generally depicted on a map entitled "Cleghorn Lakes Wilderness—Proposed", dated July 1993, and which shall be known as the Cleghorn Lakes Wilderness. The Secretary may, pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road within the area depicted as "nonwilderness road corridor" on such map.

(14) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Clipper Mountain Wilderness—Proposed", dated July 1993, and which shall be known as Clipper Mountain Wilderness.

(15) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand five hundred and twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", dated May 1991, and which shall be known as Coso Range Wilderness.

(16) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand acres, as generally depicted on a map entitled "Coyote Mountains Wilderness—Proposed", dated July 1993, and which shall be known as Coyote Mountains Wilderness.

(17) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred acres, as generally depicted on a map entitled "Darwin Falls Wilderness—Proposed", dated May 1991, and which shall be known as Darwin Falls Wilderness.

(18) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-eight thousand eight hundred and fifty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Dead Mountains Wilderness.

(19) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on two maps entitled "Domeland Wilderness Additions—Proposed 1" and "Domeland Wilderness Additions—Proposed 2", dated February 1986, and which are hereby incorporated in, and which shall be deemed to be a part of, the Domeland Wilderness as designated by Public Laws 93-632 and 98-425.

(20) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-three thousand seven hundred and eighty acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the El Paso Mountains Wilderness.

(21) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand nine hundred and forty acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated July 1993, and which shall be known as Fish Creek Mountains Wilderness.

(22) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand one hundred and ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Funeral Mountains Wilderness.

(23) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", dated February 1986, and which shall be known as Golden Valley Wilderness.

(24) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand six hundred and ninety-five acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed", dated July 1993, and which shall be known as the Grass Valley Wilderness.

(25) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred and forty acres, as generally depicted on a map entitled "Hollow Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Hollow Hills Wilderness.

(26) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed", dated May 1991, and which shall be known as the Ibex Wilderness.

(27) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand eight hundred and fifty-five acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed", dated July 1993, and which shall be known as the Indian Pass Wilderness.

(28) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, and within the Inyo National Forest, which comprise approximately two hundred and five thousand and twenty acres, as generally depicted on three maps entitled "Inyo Mountains Wilderness—Proposed 1", "Inyo Mountains Wilderness—Proposed 2", "Inyo Mountains Wilderness—Proposed 3", dated May 1991, and which shall be known as the Inyo Mountains Wilderness

(29) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand six hundred and seventy acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated July 1993, and which shall be known as the Jacumba Wilderness.

(30) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred and twenty-nine thousand five hundred and eighty acres, as generally depicted on a map entitled "Kelso Dunes Wilderness—Proposed 1", dated October 1991, a map entitled "Kelso Dunes Wilderness—Proposed 2", dated May 1991, and a map entitled "Kelso Dunes Wilderness—Proposed 3", dated September 1991, and which shall be known as the Kelso Dunes Wilderness

(31) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred and ninety acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed 1", dated February 1986, and a map entitled "Kiavah Wilderness—Proposed 2", dated October 1993, and which shall be known as the Kiavah Wilderness.

(32) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred nine thousand, six hundred and eight acres, as generally depicted on four maps entitled "Kingston Range Wilderness—Proposed 1", "Kingston Range Wilderness—Proposed 2", "Kingston Range Wilderness—Proposed 3", "Kingston Range Wilderness—Proposed 4", dated July 1993, and which shall be known as the Kingston Range Wilderness.

(33) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand eight hundred and eighty acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Little Chuckwalla Mountains Wilderness.

(34) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately thirty-three thousand six hundred acres, as generally depicted on a map entitled "Little Picacho Wilderness—Proposed", dated July 1993, and which shall be known as the Little Picacho Wilderness.

(35) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and sixty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated September 1991, and which shall be known as the Malpais Mesa Wilderness.

(36) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred and five acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", dated October 1991, and which shall be known as the Manly Peak Wilderness.

(37) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-four thousand two hundred acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated July 1993, and which shall be known as the Mecca Hills Wilderness.

(38) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred and thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated May 1991, and which shall be known as the Mesquite Wilderness.

(39) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Newberry Mountains Wilderness.

(40) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred and sixty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", dated July 1993, and which shall be known as the Nopah Range Wilderness.

(41) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand two hundred and forty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated October 1991, and which shall be known as the North Algodones Dunes Wilderness.

(42) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand five hundred and forty acres, as generally depicted on a map entitled "North Mesquite Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the North Mesquite Mountains Wilderness.

(43) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand and twenty acres, as generally depicted on a map entitled "Old Woman Mountains Wilderness—Proposed 1", dated July 1993, and a map entitled "Old Woman Mountains Wilderness—Proposed 2", dated July 1933, and which shall be known as the Old Woman Mountains Wilderness.

(44) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand seven hundred and thirty-five acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Orocopia Mountains Wilderness.

(45) Certain lands in the California Desert Conservation Area and Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-four thousand and sixty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed 1", dated February 1986, a map entitled "Owens Peak Wilderness—Proposed 2", dated March 1994, and a map entitled "Owens Peak Wilderness—Proposed 3", dated May 1991, and which shall be known as the Owens Peak Wilderness.

(46) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", dated February 1986, and which shall be known as the Pahrump Valley Wilderness.

(47) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred seventy thousand six hundred and twenty-nine acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Proposed 1", dated July 1993, and a map entitled "Palen/McCoy Wilderness—Proposed 2", dated July 1993, and which shall be known as the Palen/McCoy Wilderness.

(48) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and ten acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Palo Verde Mountains Wilderness.

(49) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated May 1991, and which shall be known as the Picacho Peak Wilderness.

(50) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand five hundred and seventy-five acres, as generally depicted on a map entitled "Piper Mountain Wildernes—Proposed", dated October 1993, and which shall be known as the Piper Mountain Wilderness.

(51) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-six thousand eight hundred and forty acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Piute Mountains Wilderness.

(52) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred and sixty-

eight acres, as generally depicted on a map entitled "Resting Spring Range Wilderness—Proposed", dated May 1991, and which shall be known as the Resting Spring Range Wilderness.

(53) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred and twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", dated May 1991, and which shall be known as the Rice Valley Wilderness.

(54) Certain lands in the California Desert Conservation area and the Yuma District, of the Bureau of Land Management, which comprise approximately twenty-two thousand three hundred eighty acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Riverside Mountains Wilderness.

(55) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand six hundred and ninety acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated October 1994, and which shall be known as the Rodman Mountains Wilderness.

(56) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-one thousand nine hundred acres, as generally depicted on two maps entitled "Sacatar Trail Wilderness—Proposed 1" and "Sacatar Trail Wilderness—Proposed 2", dated May 1991, and which shall be known as the Sacatar Trail Wilderness.

(57) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one thousand four hundred and forty acres, as generally depicted on a map entitled "Saddle Peak Hills Wilderness—Proposed", dated July 1993, and which shall be known as the Saddle Peak Hills Wilderness.

(58) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand nine hundred and eighty acres, as generally depicted on a map entitled "San Gorgonio Wilderness Additions—Proposed", dated July 1993, and which are hereby incorporated in, and which shall be deemed to be a part of, the San Gorgonio Wilderness as designated by Public Laws 88-577 and 98-425.

(59) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-four thousand three hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", dated March 1994, and which are hereby incorporated in, and which shall be deemed to be part of, the Santa Rosa Wilderness designated by Public Law 98-425.

(60) Certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand and eighty acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Sawtooth Mountains Wilderness.

(61) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-four thousand eight hundred acres, as generally depicted on two maps entitled "Sheephole Valley Wilderness—Proposed 1", dated July 1993, and "Sheephole Valley Wilderness—Proposed 2", dated July 1993, and which shall be known as the Sheephole Valley Wilderness.

(62) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred and eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", dated February 1986, and which shall be known as the South Nopah Range Wilderness.

(63) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand and fifty acres, as generally depicted on a map entitled "Stateline Wilderness—Proposed", dated May 1991, and which shall be known as the Stateline Wilderness.

(64) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Stepladder Mountains Wilderness.

(65) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand one hundred and eighty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Surprise Canyon Wilderness.

(66) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred and twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", dated February 1986, and which shall be known as the Sylvania Mountains Wilderness.

(67) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand one hundred and sixty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated July 1993, and which shall be known as the Trilobite Wilderness.

(68) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Mountains Wilderness—Proposed 1", dated February 1986 and a map entitled "Turtle Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Turtle Mountains Wilderness.

(69) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately seventy-seven thousand five hundred and twenty acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", dated July 1993, and which shall be known as the Whipple Mountains Wilderness.

SEC. 103. ADMINISTRATION OF WILDERNESS AREAS.

(a) MANAGEMENT.—Subject to valid existing rights, each wilderness area designated under section 102 shall be administered by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") or the Secretary of Agriculture, as appropriate, in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

(b) MAP AND LEGAL DESCRIPTIONS.—As soon as practicable after the date of enactment of section 102, the Secretary concerned shall file a map and legal description for each wilderness area designated under this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Each such map and description shall have the same force and effect as if included in this title, except that the Secretary or the Secretary of Agriculture, as appropriate, may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as appropriate.

(c) LIVESTOCK.—Within the wilderness areas designated under section 102, the grazing of livestock, where established prior to the date of enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 101(f) of Public Law 101-628.

(d) NO BUFFER ZONES.—The Congress does not intend for the designation of wilderness areas in section 102 of this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) FISH AND WILDLIFE.—As provided in section 4(d)(7) of the Wilderness Act, nothing in this title shall be construed as affecting the jurisdiction of the State of California with respect to wildlife and fish on the public lands located in that State.

(f) FISH AND WILDLIFE MANAGEMENT.—Management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title and shall include the use of motorized vehicles by the appropriate State agencies.

(g) LAW ENFORCEMENT ACCESS.—Nothing in this Act, including the wilderness designations made by such Act, may be construed to preclude Federal, State, and local law enforcement agencies from conducting law enforcement and border operations as permitted before the date of enactment of this Act, including the use of motorized vehicles and aircraft, on any lands designated as wilderness by this Act.

SEC. 104. WILDERNESS REVIEW.

(a) IN GENERAL.—Except as provided in subsection (b), the Congress hereby finds and directs that lands in the California Desert Conservation Area, of the Bureau of Land Management, not designated as wilderness or wilderness study areas by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), and are no longer subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(b) AREAS NOT RELEASED.—The following areas shall continue to be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976, pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness—

(1) certain lands which comprise approximately sixty-one thousand three hundred and

twenty, as generally depicted on a map entitled "Avawatz Mountains Wilderness—Proposed", dated May 1991;

(2) certain lands which comprise approximately thirty-nine thousand seven hundred and fifty acres, as generally depicted on a map entitled "Kingston Range Wilderness—Proposed 4", dated July 1993;

(3) certain lands which comprise approximately eighty thousand four hundred and thirty acres, as generally depicted on two maps entitled "Soda Mountains Wilderness—Proposed 1", dated May 1991, and "Soda Mountains Wilderness—Proposed 2", dated January 1989;

(4) certain lands which compromise approximately twenty-three thousand two hundred and fifty acres, as generally depicted on a map entitled "South Avawatz Mountains—Proposed", dated May 1991;

(5) certain lands which comprise approximately seventeen thousand two hundred and eighty acres, as generally depicted on a map entitled "Death Valley National Park Boundary and Wilderness 17—Proposed", dated July 1993;

(6) certain lands which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed", dated February 1986; and

(7) certain lands which comprise approximately eighty-four thousand four hundred acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", dated July 1993.

(c) WITHDRAWAL.—Subject to valid existing rights, the Federal lands referred to in subsection (b) are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 105. DESIGNATION OF WILDERNESS STUDY AREA.

In furtherance of the provisions of the Wilderness Act, certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated May 1991, are hereby designated as the White Mountains Wilderness Study Area and shall be administered by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

SEC. 106. SUITABILITY REPORT.

The Secretary is required, ten years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future wilderness designation of, the lands as generally depicted on maps entitled "Surprise Canyon Wilderness—Proposed", "Middle Park Canyon Wilderness—Proposed", and "Death Valley National Park Boundary and Wilderness 15", dated September 1991 and a map entitled "Manly Peak Wilderness—Proposed", dated October 1991.

SEC. 107. DESERT LILY SANCTUARY.

(a) DESIGNATION.—There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary shall administer the area to provide maximum protection to the desert lily.

(b) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the Desert Lily Sanctuary are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 108. DINOSAUR TRACKWAY AREA OF CRITICAL ENVIRONMENTAL CONCERN.

(a) DESIGNATION.—There is hereby established the Dinosaur Trackway Area of Critical Environmental Concern within the California Desert Conservation Area, of the Bureau of Land Management, comprising approximately five hundred and ninety acres as generally depicted on a map entitled "Dinosaur Trackway Area of Critical Environmental Concern", dated July 1993. The Secretary shall administer the area to preserve the paleontological resources within the area.

(b) WITHDRAWAL.—Subject to valid existing rights, the Federal lands within and adjacent to the Dinosaur Trackway Area of Critical Environmental Concern, as generally depicted on a map entitled "Dinosaur Trackway Mineral Withdrawal Area", dated July 1993, are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

TITLE II—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE

SEC. 201. DESIGNATION AND MANAGEMENT.

(a) DESIGNATION.—In furthermore of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the Havasu National Wildlife Refuge, California, which comprise approximately three thousand one hundred and ninety-five acres, as generally depicted on a map entitled "Havasu Wilderness—Proposed", and dated October 1991, and which shall be known as the Havasu Wilderness;

(2) certain lands in the Imperial National Wildlife Refuge, California, which comprise approximately five thousand eight hundred and thirty-six acres, as generally depicted on two maps entitled "Imperial Refuge Wilderness—Proposed 1" and "Imperial Refuge Wilderness—Proposed 2", and dated October 1991, and which shall be known as the Imperial Refuge Wilderness.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated under this title shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) MAPS AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this title, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committees on Energy and Natural Resources and Environment and Public Works of the United States Senate and Natural Resources and Merchant Marine and Fisheries of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

SEC. 202. NO EFFECT ON COLORADO RIVER DAMS.

Nothing in this title shall be construed to affect the operation of federally owned dams located on the Colorado River in the Lower Basin.

SEC. 203. NO EFFECT ON UPPER BASIN.

Nothing in this Act shall amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty pertaining to the Colorado River (including its tributaries) in the Upper Basin, including, but not limited to the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those rivers.

SEC. 204. COLORADO RIVER.

With respect to the Havasu and Imperial wilderness areas designated by subsection 201(a) of this title, no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise.

TITLE III—DEATH VALLEY NATIONAL PARK

SEC. 301. FINDINGS.

The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors.

(3) the monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archaeological, paleontological, cultural, historical ad wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a National Park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

SEC. 302 ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK.

There is hereby established the Death Valley National Park, (hereinafter in this title referred to as the "park") as generally depicted on twenty-three maps entitled "Death Valley National Park Boundary and Wilderness—Proposed", numbered in the title one through twenty-three, and dated July 1993 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within stand made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

SEC. 303. TRANSFER AND ADMINISTRATION OF LANDS.

Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Burau of Land Management depicted in the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the National Park service for administration as part of the National Park System, and the boundary of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", *approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).*

SEC. 304. MAPS AND LEGAL DESCRIPTION.

Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior.

SEC. 305. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 306. GRAZING.

(a) IN GENERAL.—The privilege of grazing domestic livestock on lands within the park shall continue to be exercised at no more than the current level, subject to applicable laws and National Parks Service regulations.

(b) SALE OF PROPERTY.—If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such based property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such based property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

SEC. 307. DEATH VALLEY NATIONAL PARK ADVISORY COMMISSION.

(a) The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Death Valley National Park.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

SEC. 308. BOUNDARY ADJUSTMENT.

In preparing the maps and legal descriptions required by sections 304 and 602 of this Act, the Secretary shall adjust the boundaries of the Death Valley National Park and Death Valley National Park Wilderness so as to exclude from such National Park and Wilderness the lands generally depicted on the map entitled "Porter Mine (Panamint Range) Exclusion Area" dated June 1994.

TITLE IV—JOSHUA TREE NATIONAL PARK.

SEC. 401. FINDINGS.

The Congress finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archeological, paleontological, cultural, historical, and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a National Park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

SEC. 402. ESTABLISHMENT OF JOSHUA TREE NATIONAL PARK.

There is hereby established the Joshua Tree National Park, (hereinafter in this section referred to as the "park"), as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed," dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness," numbered in the title one through four, and dated October 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

SEC. 403. TRANSFER AND ADMINISTRATION OF LANDS.

Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the National Park Service for administration as part of the National Park System. The boundaries of the park shall be adjusted accordingly. The Secretary shall administer the areas added to the park by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes," approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

SEC. 404. MAPS AND LEGAL DESCRIPTION.

Within six months after the date of enactment of this title, the Secretary shall file maps and legal description of the park with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and maps. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 405. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the park are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 406. UTILITY RIGHTS-OF-WAY.

Nothing is this title shall have the effect of terminating any validly issued right-of-way or customary operation maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 601(a)(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act of June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 601(a)(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within one hundred and eighty days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

SEC. 407. JOSHUA TREE NATIONAL PARK ADVISORY COMMISSION.

(a) The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for Joshua Tree National Park.

(b)(1) The advisory commission shall include an elected official for each county within which any part of the park is located, a representative of the owners of private properties located within or immediately adjacent to the park, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

TITLE V—MOJAVE NATIONAL PRESERVE

SEC. 501. FINDINGS.

The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional

desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national preserve;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop services, programs, accommodations, and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans With Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

SEC. 502. ESTABLISHMENT OF THE MOJAVE NATIONAL PRESERVE.

There is hereby established the Majave National Preserve, comprising approximately one million four hundred nineteen thousand eight hundred acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated May 17, 1994, which shall be on file and available for inspection in the appropriate offices of the Director of the National Park Service, Department of the Interior.

SEC. 503. TRANSFER OF LANDS.

Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 502 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

SEC. 504. MAPS AND LEGAL DESCRIPTION.

Within six months after the date of enactment of this title, the Secretary shall file maps and a legal description of the preserve designated under this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 502. The maps and legal description shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 505. ABOLISHMENT OF SCENIC AREA.

The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), is hereby abolished.

SEC. 406. ADMINISTRATION OF LANDS.

(a) The Secretary shall administer the preserve in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

(b) The Secretary shall permit hunting, fishing, and trapping on lands and waters within the preserve designated by this Act in accordance with applicable Federal and State laws except that the Secretary may designate areas where, and establish periods when, no hunting, fishing, or trapping will be permitted for reasons of public safety, administration, or compliance with provisions of applicable law. Except in emergencies, regulations closing areas to hunting, fishing, or trapping pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency having responsibility for fish and wildlife. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife on Federal lands and waters covered by this title nor shall anything in this Act be construed as authorizing the Secretary concerned to require a Federal permit to hunt, fish, or trap on Federal lands and waters covered by this title.

SEC. 507. WITHDRAWAL.

Subject to valid existing rights, all Federal lands within the preserve are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments thereto.

SEC. 508. REGULATION OF MINING.

Subject to valid existing rights, all mining claims located within the preserve shall be subject to all applicable laws and regulations applicable to mining within units of the National Park System, including the Mining in the Parks Act (16 U.S.C. 1901 et seq.), and any patent issued after the date of enactment of this title shall convey only to the minerals together with the right to use the surface of lands for mining purposes, subject to such laws and regulations.

SEC. 509. STUDY AS TO VALIDITY OF MINING CLAIMS.

(a) The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the preserve and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

(b)(1) Notwithstanding any other provision of law, the Secretary shall permit the holder or holders of mining claims identified on the records of the Bureau of Land Management as Volco #A CAMC 105446, Volco #B CAMC 105447, Volco 1 CAMC 80155, Volco 2 CAMC 80156, Volco 3 CAMC 170259, Volco 4 CAMC 170260, Volco 5 CAMC 78405, Volco 6 CAMC 78404, and Volco 7 CAMC 78403, Volco Placer 78332, to continue exploration and development activities on such claims for a period of two years after the date of enactment of this title, subject to the same regulations as applied to such activities on such claims on the day before such date of enactment.

(2) At the end of the period specified in paragraph (1), or sooner if so requested by the holder or holders of the claims specified in such paragraph, the Secretary shall determine whether there has been a discovery of valuable minerals on such claims and whether, if such discovery had been made on or before July 1, 1994, such claims would have been valid as of such date under the mining laws of the United States in effect on such date.

(3) If the Secretary, pursuant to paragraph (2), makes an affirmative determination concerning the claims specified in paragraph (1), the holder or holders of such claims shall be permitted to continue to operate such claims subject only to such regulations as applied on July 1, 1994 to the exercise of valid existing rights on patented mining claims within a unit of the National Park System.

SEC. 510. GRAZING.

(a) The privilege of grazing domestic livestock on lands within the preserve shall continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations.

(b) If a person holding a grazing permit referred to in subsection (a) informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which such permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the preserve, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the preserve and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

SEC. 511. UTILITY RIGHTS OF WAY.

(a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way, or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: Provided, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than three electrical transmission lines;

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the upgraded transmission line begins, after which time there may be only one electrical line in the lands encompassed by Mojave right-of-way and adjacent right-of-way;

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed;

(D) in the Eldorado rights-of-way and Mojave right-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to preserve resources;

(E) no more than 350 feet of additional land shall be issued, granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to preserve resources; and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on preserve resources.

(3) The Secretary shall prepare within one hundred and eighty days after the date of enactment of this title, in consultation with the

Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way issued, granted or permitted to the Southern California Gas Company, its successors or assigns, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(A)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(2) The Secretary shall prepare within one hundred and eighty days after the date of enactment of this title, in consultation with the Southern California Gas Company, plans for emergency access by the Southern California Gas Company to its rights-of-way.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact on preserve resources.

(d) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair and replacement activities of existing facilities issued, granted, or permitted to Molybdenum Corporation of America; Molycorp, Incorporated; or Union Oil Company of California (d/b/a Unocal Corporation); or its successors or assigns, or prohibiting renewal of such right-of-way, which is located on lands included in the Mojave National Preserve, but outside lands designated as wilderness under section 601(a)(3). Such activities shall be conducted in a manner which will minimize the impact of preserve resources.

SEC. 512. PREPARATION OF MANAGEMENT PLAN.

Within three years after the date of enactment of this title, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a detailed and comprehensive management plan for the preserve. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the preserve. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational and scientific programs within the preserve. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

SEC. 513 GRANITE MOUNTAINS NATURAL RESERVE.

(a) ESTABLISHMENT.—There is hereby designated the Granite Mountains Natural Reserve within the preserve comprising approximately nine thousand acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) COOPERATIVE MANAGEMENT AGREEMENT.—Upon enactment of this title, the Secretary shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of this title and laws generally applicable to units of the National Park System.

SEC. 514. SODA SPRINGS DESERT STUDY CENTER.

Upon enactment of this title, the Secretary shall enter into a cooperative management agreement with California State University for the purposes of managing facilities at the Soda Springs Desert Study Center. Such cooperative agreement shall ensure continuation of the desert research and educational activities of California State University, consistent with the provisions of this title and laws generally applicable to units of the National Park System.

SEC. 515. CONSTRUCTION OF VISITOR CENTER.

The Secretary is authorized to construct a visitor center in the preserve for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the preserve.

SEC. 516. ACQUISITION OF LANDS.

The Secretary is authorized to acquire all lands and interest in lands within the boundary of the preserve by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the preserve which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by the California State Lands Commission; and

(2) lands or interests therein within the boundary of the preserve which are not owned by the State of California or any political subdivision thereof may be acquired only with the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the preserve or which is otherwise incompatible with the purpose of this title: Provided, however, That the construction, modification, repair, improvement, or replacement of a single-family residence shall not be determined to be detrimental to the integrity of the preserve or incompatible with the purposes of this title.

SEC. 517. ACQUIRED LANDS TO BE MADE PART OF MOJAVE NATIONAL PRESERVE.

Any lands acquired by the Secretary under this title shall become part of the Mojave National Preserve.

SEC. 518. MOJAVE NATIONAL PRESERVE ADVISORY COMMISSION.

(a) The Secretary shall establish an Advisory Commission of no more than fifteen members, to advise the Secretary concerning the development and implementation of a new or revised comprehensive management plan for the Mojave National Preserve.

(b)(1) The advisory commission shall include an elected official for each County within which any part of the preserve is located, a representative of the owners of private properties located within or immediately adjacent to the preserve, and other members representing persons actively engaged in grazing and range management, mineral exploration and development, and persons with expertise in relevant fields, including geology, biology, ecology, law enforcement, and the protection and management of National Park resources and values.

(2) Vacancies in the advisory commission shall be filled by the Secretary so as to maintain the full diversity of views required to be represented on the advisory commission.

(c) The Federal Advisory Committee Act shall apply to the procedures and activities of the advisory commission.

(d) The advisory commission shall cease to exist ten years after the date of its establishment.

SEC. 519. NO ADVERSE AFFECT ON LAND UNTIL ACQUIRED.

Unless and until acquired by the United States, no lands within the boundaries of wilderness areas or National Park System units designated or enlarged by this Act that are owned by any person or entity other than the United States shall be subject to any of the rules or regulations applicable solely to the Federal lands within such boundaries and may be used to the extent allowed by applicable law. Neither the location of such lands within such boundaries nor the possible acquisition of such lands by the United States shall constitute a bar to the otherwise lawful issuance of any Federal license or permit other than a license or permit related to activities governed by 16 U.S.C. 4601–22(c). Nothing in this section shall be construed as affecting the applicability of any provision of the Mining in the Parks Act (16 U.S.C. 1901 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), or regulations applicable to oil and gas development as set forth in 36 CFR 9B.

TITLE VI—NATIONAL PARK SYSTEM WILDERNESS.

SEC. 601. DESIGNATION OF WILDERNESS.

(a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1311 et seq.), the following lands within the units of the National Park System designated by this Act are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred fifty-eight thousand thirty-eight acres, as generally depicted on twenty-three maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated October 1993 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, an dated July 1993 or prior, and which shall be known as the Death Valley Wilderness.

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand seven hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94–567.

(3) Mojave National Preserve Wilderness, comprising approximately six hundred ninety-five thousand two hundred acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", and numbered in the title one through ten, and dated March 1994 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated March 1994 or prior, and which shall be known as the Mojave Wilderness.

(b) POTENTIAL WILDERNESS.—Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental

Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, and which shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (a)(1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

SEC. 602. FILING OF MAPS AND DESCRIPTIONS.

Maps and a legal description of the boundaries of the areas designated in section 601 of this title shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. As soon as practicable after the date of enactment of this title, maps and legal descriptions of the wilderness areas shall be filed with the Committee on Energy and National Resources of the United States Senate and the Committee on National Resources of the United States House of Representatives, and such maps and legal descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

SEC. 603. ADMINISTRATION OF WILDERNESS AREAS.

The areas designated by section 601 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VII—MISCELLANEOUS PROVISIONS.

SEC. 701. TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK.

Upon enactment of this title, the Secretary shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of California Desert Conservation Areas to provide maximum protection for the area's scenic and scientific values.

SEC. 702. LAND TENURE ADJUSTMENTS.

In preparing land tenure adjustment decision with the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designed by this Act.

SEC. 703. LAND DISPOSAL.

Except as provided in section 406 of this Act, none of the lands within the boundaries of the wilderness or park areas designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District or any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b) or any similar acts.

SEC. 704. MANAGEMENT OF NEWLY ACQUIRED LANDS.

Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

SEC. 705. NATIVE AMERICAN USES AND INTERESTS.

(a) ACCESS.—In recognition of the past use of the National Park System units and wilderness areas designated under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such park system units and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of the park system unit or wilderness area in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Any such closure shall be made to affect the smallest practicable area for the minimum period necessary for such purposes. Such access shall be consistent with the purpose and intent of Public Law 95–341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

(b) STUDY.—(1) The Secretary, in consultation with the Timbisha Shoshone Tribe and relevant Federal agencies, shall conduct a study, subject to the availability of appropriations, to identify lands suitable for a reservation for the Timbisha Shoshone Tribe that are located within the Tribe's aboriginal homeland area within and outside the boundaries of the Death Valley National Monument and the Death Valley National Park, as described in title III of this Act.

(2) Not later than 1 year after the date of enactment of this title, the Secretary shall submit a report to the Committee on Energy and Natural Resources and the Committee on Indian Affairs of the United States Senate, and the Committee on Natural Resources of the United States House of Representatives on the results of this study conducted under paragraph (1).

SEC. 706. FEDERAL RESERVED WATER RIGHTS.

(a) Except as otherwise provided in section 204 of this Act, with respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 44 U.S.C. 666), commonly referred to as the McCarran Amendment.

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water right reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness area located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

SEC. 707. CALIFORNIA STATE SCHOOL LANDS.

(a) NEGTIATIONS TO EXCHANGE.—Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School lands or interests therein which are located within the boundaries of one or more of the wilderness areas or park system units designated by this Act (hereinafter in this section referred to as "State School lands."). The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management act of 1976.

(b) PREPARATION OF LIST.—Within six months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a list of the following:

(1) State School lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park system units designated by this Act.

(2) Lands within the State of California under the jurisdiction of the Secretary that the Secretary determines to be suitable for disposal for exchange, identified in the following priority—

(A) lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues;

(B) Federal claims in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project; and

(C) any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(3) Any other Federal land, or interest therein, within the State of California, which is or becomes surplus to the needs of the Federal Government. The Secretary may exclude, in the Secretary's discretion, lands located within, or contiguous to, the exterior boundaries of lands held in trust for a federally recognized Indian tribe located in the State of California.

(4) The Secretary shall maintain such list and shall annually transmit such list to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives until all of the State School lands identified in paragraph (1) have been acquired.

(c) DISPOSAL OF SURPLUS FEDERAL PROPERTY.—(1) Effective upon the date of enactment of this title and until all State School lands identified in paragraph (b)(1) of this section are acquired, no Federal lands or interests therein within the State of California may be disposed of from Federal ownership unless—

(A) the Secretary is notified of the availability of such lands or interest therein;

(B) the Secretary has notified the Commission of the availability of such lands or interests therein for exchange; and

(C) the Commission has not notified the Secretary within six months that it wishes to consider entering into an exchange for such lands or interests therein.

(2) If the Commission notifies the Secretary that it wishes to consider an exchange for such lands or interests therein, the Secretary shall attempt to conclude such exchange in accordance with the provisions of this section as quickly as possible.

(3) If an agreement is reached and executed with the Commission, then upon notice to the head of the agency having administrative jurisdiction over such lands or interests therein, the Secretary shall be vested with administrative jurisdiction over such land or interests therein for the purpose of concluding such exchange.

(4) Upon the acquisition of all State School lands or upon notice by the Commission to the Secretary that it no longer has an interest in such lands or interests therein, such lands or interests shall be released to the agency that originally had jurisdiction over such lands or interests for disposal in accordance with the laws otherwise applicable to such lands or interests.

(d) NO EFFECT ON MILITARY BASE CLOSURES.—The provisions of this section shall not apply to the disposal of property under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627; 10 U.S.C. 2687 note) or the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 104 Stat. 1808; 10 U.S.C. 2687 note).

SEC. 708. ACCESS TO PRIVATE PROPERTY.

The Secretary shall provide adequate access to nonfederally owned land or interests in land within the boundaries of the conservation units and wilderness areas designated by this Act which will provide the owner of such land or interest the reasonable use and enjoyment thereof.

SEC. 709. FEDERAL FACILITIES FEE EQUITY.

(a) POLICY STATEMENT.—It is the intent of Congress that entrance, tourism or recreational use fees for use of Federal lands and facilities not discriminate against any State or any region of the country.

(b) FEE STUDY.—The Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1996 to the Committee on energy and Natural Resources of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall—

(1) identify all Federal lands and facilities that provide recreational or tourism use; and

(2) analyze by State and region any fees charged for entrance, recreational or tourism use, if any, on Federal lands or facilities in a State or region, individually and collectively.

(c) RECOMMENDATIONS.—Following completion of the report in subsection (b), the Secretary, in cooperation with other affected agencies, shall prepare and submit a report by May 1, 1997 to the Committee on Energy and Natural Resource of the United States Senate, the Committee on Natural Resources of the United States House of Representatives, and any other relevant committees, which shall contain recommendations which the Secretary deems appropriate for implementing the congressional intent outlined in subsection (a).

SEC. 710. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this Act shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 711. DEFINITION.

Any reference to the term "this Act" in titles I through IX shall be deemed to be solely a reference to sections 1 and 2, and titles I through IX.

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

(2) the National Park System units and wilderness areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(3) there is a lack of alternative sites available for these military training, testing, and research activities;

(4) continued use of the lands and airspace in the California desert region is essential for military purposes; and

(5) continuation of these military activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. MILITARY OVERFLIGHTS.

(a) OVERFLIGHTS.—Nothing in this Act, the Wilderness Act, or other land management laws generally applicable to the new units of the National Park Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude low-level overflights of military aircraft over such units, including military overflights that can be seen or heard within such units.

(b) SPECIAL AIRSPACE.—Nothing in this Act, the Wilderness Act, or other land management laws generally applicable to the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act, shall restrict or preclude the designation of new units of special airspace or the use or establishment of military flight training routes over such new park system or wilderness units.

(c) NO EFFECT ON OTHER LAWS.—Nothing in this section shall be construed to modify, expand, or diminish any authority under other Federal law.

SEC. 803. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) Use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support;

(D) geothermal leasing and development and related power production activities; and

(E) subject to the requirements of section 804(f) of this title, other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands located with the boundaries of the China Lake Naval Weapons Center, comprising approximately one million one hundred thousand acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land law, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f) of this title, other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately two hundred twenty-six thousand seven hundred and eleven acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated July 1993.

SEC. 804. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Nature Resources of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the appropriate office of the Bureau of Land Management; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary for the cost of implementing this section.

SEC. 805. MANAGEMENT OF WITHDRAWN LANDS.

(2) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary shall manage the lands withdrawn under section 802 of this title pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 of this title may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders were permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) of this title (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing and development and related power production activities on the lands withdrawn under section 802(a) of this title (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary may issue any lease, easement, right-of-way, or other authorization with

respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 of this title during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 of this title as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary and the Secretary of the Navy shall (with respect to each land withdrawal under section 802 of this title) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—Lands withdrawn under section 802 of this title may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary may assign the management responsibility for the lands withdrawn under section 802(a) of this title to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary and the Secretary of the Navy: Provided, That nothing in this subsection shall affect geothermal leases issued by the Secretary prior to the date of enactment of this title, or the responsibility of the Secretary to administer and manage such leases, consistent with the provisions of this section. In the case that the Secretary assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary) shall develop such management plan.

(2) The Secretary shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) of this title and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the Navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary shall transmit such report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) of this title and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) of this title pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary before taking action under that section with respect to the lands withdrawn under section 802(a).

(7) Upon the expiration of the withdrawal or relinquishment of China Lake, Navy contracts for the development of geothermal resources at China Lake then in effect (as amended or renewed by the Navy after the date of enactment of this title) shall remain in effect: Provided, That the Secretary, with the consent of the Secretary of the Navy, may offer to substitute a standard geothermal lease for any such contract.

SEC. 806. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawals and reservations established by this title shall terminate twenty years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than eighteen years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continue or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact statement published pursuant to this section. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OR RENEWALS.—The Withdrawals established by this title may not be extended or renewed except by an Act or joint resolution of Congress.

SEC. 807. ONGOING DECONTAMINATION.

(a) PROGRAM.—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the United States Senate and to the Committees on Appropriations, Armed Services, and Natural Resources of the United States House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including—

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full contamination of such lands and the estimate of the time to complete such decontamination.

SEC. 808. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary of the Navy shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary of the Navy shall file a notice of intention to relinquish with the Secretary.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting

through the Department of the Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public lands law—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal reservation, the Secretary shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands law, including the mining laws.

SEC. 809. DELEGABILITY.

(a) DEPARTMENT OF DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) DEPARTMENT OF THE INTERIOR.—The functions of the Secretary under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 810. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 811. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 812. EL CENTRO RANGES.

The Secretary is authorized to permit the Secretary of the Navy to use until January 1, 1997, the approximately forty-four thousand eight hundred and seventy acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. All military uses of such lands shall cease on January 1, 1997, unless authorized by a subsequent Act of Congress.

TITLE IX—AUTHORIZATION OF APPROPRIATIONS

SEC. 901. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the National Park Service and to the Bureau of Land Management to carry out this Act an amount not to exceed $36,000,000 over and above that provided in fiscal year 1994 for additional administrative and construction costs over the fiscal year 1995–1999 period, and $300,000,000 for all land acquisition costs. No funds in excess of these amounts may be used for construction, administration, or land acquisition authorized under this Act without a specific authorization in an Act of Congress enacted after the date of enactment of this Act.

TITLE X—PROTECTION OF BODIE BOWL

SEC. 1001. SHORT TITLE.

This title may be cited as the "Bodie Protection Act of 1994".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) the historic Bodie gold mining district in the State of California is the site of the largest and best preserved authentic ghost town in the Western United States;

(2) the Bodie Bowl area contains important natural, historical, and aesthetic resources;

(3) Bodie was designated as a National Historical Landmark in 1961 and a California State Historic Park in 1962, is listed on the National Register of Historic Places, and is included in the Federal Historic American Buildings Survey;

(4) nearly 200,000 persons visit Bodie each year, providing the local economy with important annual tourism revenues;

(5) the town of Bodie is threatened by proposals to explore and extract minerals: mining in the Bodie Bowl area may have adverse physical and aesthetic impacts on Bodie's historical integrity, cultural values, and ghost town character as well as on its recreational values and the area's flora and fauna;

(6) the California State Legislature, on September 4, 1990, requested the President and the Congress to direct the Secretary of the Interior to protect the ghost town character, ambience, historic buildings, and scenic attributes of the town of Bodie and nearby areas;

(7) the California State Legislature also requested the Secretary, if necessary, to protect the Bodie bowl area, to withdraw the Federal lands within the area from all forms of mineral entry and patent;

(8) the National Park Service listed Bodie as a priority one endangered National Historic Landmark in its fiscal year 1990 and 1991 report to Congress entitled "Threatened and Damaged National Historic Landmarks" and recommended protection of the Bodie area; and

(9) it is necessary and appropriate to provide that all Federal lands within the Bodie Bowl area are not subject to location, entry, and patent under the mining laws of the United States, subject to valid existing rights, and to direct the Secretary to consult with the Governor of the State of California before approving any mining activity plan within the Bodie Bowl.

SEC. 1003. DEFINITIONS.

For the purposes of this title—

(1) The term "Bodie Bowl" means the Federal lands and interests therein within the area generally depicted on the map referred to in section 1004(a).

(2) The term "mineral activities" means any activity involving mineral prospecting, exploration, extraction, milling, beneficiation, processing, reclamation.

(3) The term "Secretary" means the Secretary of the Interior.

SEC. 1004. APPLICABILITY OF MINERAL MINING, LEASING AND DISPOSAL LAWS.

(a) RESTRICTION.—Subject to valid existing rights, after the date of enactment of this title Federal lands and interests in lands within the area generally depicted on the map entitled "Bodie Bowl" and dated June 12, 1992, shall not be—

(1) open to the location of mining and mill site claims under the general mining laws of the United States;

(2) subject to any lease under the Mineral Leasing Act (30 U.S.C. 181 and following) or the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following), for lands within the Bodie Bowl; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).

Such map shall be on file and available for public inspection in the Office of the Secretary, and appropriate offices of the Bureau of Land Management and the National Park Service. As soon as practicable after the date of enactment of this title, the Secretary shall publish a legal description of the Bodie Bowl area in the Federal Register.

(b) VALID EXISTING RIGHTS.—As used in this section, the term "valid existing rights" in reference to the general mining laws means that a mining claim located on lands within the Bodie Bowl was properly located and maintained under the general mining laws prior to the date of enactment of this title, was supported by a discovery of a valuable mineral deposit within the meaning of the general mining laws on the date of enactment of this title, and that such claim continues to be valid.

(c) VALIDITY REVIEW.—The Secretary shall undertake an expedited program to determine the validity of all unpatented mining claims located within the Bodie Bowl. The expected program shall include an examination of all unpatented mining claims, including those for which a patent application has not been filed. If a claim is determined to be invalid, the Secretary shall promptly declare the claim to be null and void, except that the Secretary shall not challenge the validity of any claim located within the Bodie Bowl for the failure to do assessment work for any period after the date of enactment of this title. The Secretary shall make a determination with respect to the validity of each claim referred to under this subsection within two years after the date of enactment of this title.

(d) LIMITATION ON PATENT ISSUANCE.—

(1) MINING CLAIMS.—(A) After January 11, 1993, no patent shall be issued by the United States for any mining claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before such date; and

(ii) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, 37) for placer claims were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mining claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this title, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

(2) MILL SITE CLAIMS.—(A) After January 11, 1993, no patent shall be issued by the United States for any mill site claim located under the general mining laws within the Bodie Bowl unless the Secretary determines that, for the claim concerned—

(i) a patent application was filed with the Secretary on or before January 11, 1993; and

(ii) all requirements applicable to such patent application were fully complied with by that date.

(B) If the Secretary makes the determinations referred to in subparagraph (A) for any mill site claim, the holder of the claim shall be entitled to the issuance of a patent in the same manner and degree to which such claim holder would have been entitled to prior to the enactment of this title, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States.

SEC. 1005. MINERAL ACTIVITIES.

(a) IN GENERAL.—Notwithstanding the last sentence of section 302(b) of the Federal Land Policy and Management Act of 1976, and in accordance with this title and other applicable law, the Secretary shall require that mineral activities be conducted in the Bodie Bowl so as to—

(1) avoid adverse effects on the historic cultural, recreational, and natural resource values of the Bodie Bowl; and

(2) minimize other adverse impacts to the environment.

(b) RESTORATION OF EFFECTS OF MINING EXPLORATION.—As soon as possible after the date of enactment of this Act, visible evidence or other effects of mining exploration activity within the Bodie Bowl conducted on or after September 1, 1988, shall be reclaimed by the operator in accordance with regulations prescribed pursuant to subsection (d).

(c) ANNUAL EXPENDITURES; FILING.—The requirements for annual expenditures on unpatented mining claims imposed by Revised Statute 2324 (30 U.S.C. 28) shall not apply to any such claim located within the Bodie Bowl. In lieu of filing the affidavit of assessment work referred to under section 314(a)(1) of the Federal land Policy and Management Act of 1976 (43 U.S.C. 1744(a)(1)), the holder of any unpatented mining or mill site claim located within the Bodie Bowl shall only be required to file the notice of intention to hold the mining claim referred to in such section 314(a)(1).

(d) REGULATIONS.—The Secretary shall promulgate rules to implement this section, in consultation with the Governor of the State of California, within 180 days after the date of enactment of this title. Such rules shall be no less stringent that the rules promulgated pursuant to the Act of September 28, 1976 entitled "An Act to provide for the regulation of mining activity within, and to repeal the application of mining laws to, areas of the National Park System, and for other purposes" (Public Law 94-429; 16 U.S.C. 1901-1912).

SEC. 1006. STUDY.

Beginning as soon as possible after the date of enactment of this title, the Secretary shall review possible actions to preserve the scenic character, historical integrity, cultural and recreational values, flora and fauna, and ghost town characteristics of lands and structures within the Bodie Bowl. No later than 3 years after the date of such enactment, the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives a report that discusses the results of such review and makes recommendations as to which steps (including but not limited to acquisition of lands or valid mining claims) should be undertaken in order to achieve these objectives.

SEC. 1007. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE XI— LOWER MISSISSIPPI DELTA REGION INITIATIVES.

SEC. 1101. FINDINGS.

(a) The Congress finds that—

(1) in 1988, Congress enacted Public Law 100-460, establishing the Lower Mississippi Delta Development Commission, to assess the needs, problems, and opportunities of people living in the Lower Mississippi Delta Region that includes 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee;

(2) the Commission conducted a thorough investigation to assess these needs, problems, and opportunities, and held several public hearings throughout the Delta Region;

(3) on the basis of these investigations, the Commission issued the Delta Initiatives Report, which included recommendations on natural resource protection, historic preservation, and the enhancement of educational and other opportunities for Delta residents;

(4) the Delta Initiatives Report recommended—

(A) designating the Great River Road as a scenic byway, and designating other hiking and motorized trails throughout the Delta Region;

(B) that the Federal Government identify sites and structures of historic and prehistoric importance throughout the Delta Region;

(C) the further study of potential new units of the National Park System within the Delta Region; and

(D) that Federal agencies target more monies in selected areas to institutions of higher education in the Delta Region, especially Historically Black Colleges and Universities.

SEC. 1102. DEFINITIONS.

As used in this title, the term—

(1) "Commission" means the Lower Mississippi Delta Development Commission established pursuant to Public Law 100-460;

*(2) "Delta Initiatives Report" means the May 14, 1990 Final Report of the Commission entitled "The Delta Initiatives: Realizing the Dream * * * Fulfilling the Potential";*

(3) "Delta Region" means the Lower Mississippi Delta Region including the 219 counties and parishes within the States of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee, as defined in the Delta Initiatives Report, except that, for any State for which the Delta Region as defined in such report comprises more than half of the geographic area of such State, the entire State shall be considered part of the Delta Region for purposes of this title;

(4) "Department" means the United States Department of the Interior, unless otherwise specifically stated;

(5) "Historically Black College or University" means a college or university that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2));

(6) "minority college or university" means a Historically Black College or University that would be considered a "part B institution" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) or a "minority institution" as that term is defined in section 1046 of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3));

(7) "Secretary" means the Secretary of the Interior, unless otherwise specifically stated.

SEC. 1103. LOWER MISSISSIPPI DELTA REGION HERITAGE STUDY.

(a) IN GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Lower Mississippi Delta Development Center, and other appropriate Delta Region institutions, is directed to prepare and transmit to the Congress within three years after the date of the enactment of this title, a study of significant natural, recreational, historical or prehistorical, and cultural lands, waters, sites, and structures located within the Delta Region. This study shall take into consideration the research and inventory of resources conducted by the Mississippi River Heritage Corridor Study Commission.

(b) TRANSPORTATION ROUTES.—(1) The study shall include recommendations on appropriate designation and interpretation of historically significant roads, trails, byways, waterways, or other routes within the Delta Region.

(2) In order to provide for public appreciation, education, understanding, interpretation, and enjoyment of the significant sites identified pursuant to subsection (a), which are accessible by public roads, the Secretary shall recommend in the study vehicular tour routes along existing public roads linking such sites within the Delta Region.

(3) Such recommendations shall include an analysis of designating the Great River Road (as depicted on the map entitled "Proposed Delta Transportation Network" on pages 102-103 of the Delta Initiatives Report) and other sections of the Great River Road between Baton Rouge and New Orleans, Louisiana and an analysis of designating that portion of the Old Antonio Road and the Louisiana Natchez Trace which extends generally along Highway 84 from Vidalia, Louisiana, to Clarence, Louisiana, and Louisiana Highway 6 from Clarence, Louisiana, to the Toledo Bend Reservoir, Louisiana, as a National Scenic Byway, or as a component of the National Trails System, or such other designation as the Secretary deems appropriate.

(4) The Secretary shall also recommend in the study an appropriate route along existing public roads to commemorate the importance of timber production and trade to the economic development of the Delta Region in the early twentieth century, and to highlight the continuing importance of timber production and trade to the economic life of the Delta Region. Recommendations shall include an analysis of designating that portion of US 165 which extends from Alexandria, Louisiana, to Monroe, Louisiana, as a National Scenic Byway, or as a component of the national Trails System, or such other designation as the Secretary deems appropriate.

(5) The study shall also include a comprehensive recreation, interpretive, and visitor use plan for the routes described in the above paragraphs, including bicycle and hiking paths, and make specific recommendations for the acquisition and construction or related interpretive and visitor information facilities at selected sites along such routes.

(6) The Secretary is authorized to make grants to States for work necessary to stabilize, maintain, and widen public roads to allow for adequate access to the nationally significant sites and structures identified by the study, to allow for proper use of the vehicular tour route, trails, byways, including the routes defined in paragraphs (3) and (4) or other public roads within the Delta Region and to implement the comprehensive recreation, interpretive, and visitor use plan required in paragraph (5).

(c) LISTING.—On the basis of the study, and in consultation with the National Trust for Historic Preservation, the Secretary shall inventory significant structures and sites in the Delta Region. The Secretary shall further recommend and encourage cooperative preservation and economic development efforts such as the establishment of preservation districts linking groups of contiguous counties or parishes, especially those that lie along the aforementioned designated routes. The Secretary shall prepare a list of the sites and structures for possible inclusion by the National Park Service as National Historic Landmarks or such other designation as the Secretary deems appropriate.

SEC. 1105. DELTA REGION HERITAGE CORRIDORS AND HERITAGE AND CULTURAL CENTERS.

(a) FINDINGS.—The Congress finds that—

(1) in 1990, the Congress authorized the Institute of Museum Services to prepare a report assessing the needs of small, emerging, minority, and rural museums in order to identify the resources such museums needed to meet their educational mission, to identify the areas of museum operation in which the needs were greatest, and to make recommendations on how these needs could best be met;

(2) the Institute of Museum Services undertook a comprehensive eighteen month study of such needs with the assistance of two advisory groups, surveyed 524 museums from throughout the Nation, held discussion groups in which representatives of 25 museum groups participated, and conducted case studies of 12 museum facilities around the Nation;

(3) on the basis of this assessment, the Institute of Museum Services issued a report in September, 1992, entitled, "National Needs Assessment of Small, Emerging, Minority and Rural Museums in the United States" (hereinafter "National Needs Assessment") which found that small, emerging, minority, and rural museums provide valuable educational and cultural resources for their communities and contain a reservoir of the Nation's material, cultural and historical heritage, but due to inadequate resources are unable to meet their full potential or the demands of the surrounding communities;

(4) the needs of these institutions are not being met through existing Federal programs;

(5) fewer than half of the participants in the survey had applied for Federal assistance in the past two years and that many small, emerging, minority and rural museums believe existing Federal programs do not meet their needs;

(6) based on the National Needs Assessment, that funding agencies should increase support available to small, emerging, minority, and rural museums and make specific recommendations for increasing technical assistance in order to identify such institutions and provide assistance to facilitate their participation in Federal programs;

(7) the Delta Initiatives Report made specific recommendations for the creation and development of centers for the preservation of the cultural, historical, and literary heritage of the Delta Region, including recommendations for the establishment of a Delta Region Native American Heritage and Cultural Center and a Delta Region African American Heritage and Cultural Center with additional satellite centers or museums linked throughout the Delta Region;

(8) the Delta Initiatives Report stated that new ways of coordinating, preserving, and promoting the Delta Region's literature, art, and music should be established including the creation of a network to promote the Delta Region's literary, artistic, and musical heritage; and

(9) wholesale destruction and attrition of archeological sites and structures has eliminated a significant portion of Native American Heritage as well as the interpretive potential of the Delta Region's parks and museums. Furthermore, site and structure destruction is so severe that an ambitious program of site and structure acquisition in the Delta Region is necessary.

(b) IN GENERAL.—The Secretary, in consultation with the States of the Delta Region, the Chairman of the National Endowment for the Arts, the Chairman of the National Endowment for the Humanities, the Director of the Smithsonian Institution, the Lower Mississippi Delta Development Center, Historically Black Colleges and Universities, and appropriate African American, Native American and other relevant institutions or organizations in the Delta Region, is further directed to prepare and transmit to the Congress a plan outlining specific recommendations, including recommendations for necessary funding, for the establishment of a Delta Region Native American Heritage Corridor and Heritage and Cultural Center and a Delta Region African American Heritage Corridor and Heritage and Cultural Center with a network of satellite or cooperative units.

(c) DELTA REGION NATIVE AMERICAN HERITAGE CORRIDOR AND CULTURAL CENTER.—(1) the plan referred to in subsection (b) of this section shall include recommendations for establishing a network of parks, museums, and other centers to interpret Native American culture and heritage in the Delta Region, including a ten year development strategy for such a network.

(2) Such plan shall include specific proposals for the development of a Native American Heritage Corridor and Heritage and Cultural Center in the Delta Region, along with recommendations for the appropriate Federal role in such a center including matching grants, technical and interpretive assistance.

(3) Such plan shall be conducted in consultation with tribal leaders in the Delta Region.

(4) Such plan shall also include specific proposals for educational and training assistance for Delta Region Native Americans to carry out the recommendations provided in the study.

(d) DELTA REGION AFRICAN AMERICAN HERITAGE CORRIDOR AND HERITAGE AND CULTURAL CENTER.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a heritage corridor or trail system, consisting of one or two major north-south routes and several east-west-spur loops to preserve, interpret and commemorate the African American heritage and culture in the Delta Region during all significant historical periods.

(2) Such plan shall make specific recommendations for representing all forms of expensive culture including the musical, folklore, literary, artistic, scientific, historical, educational, and political contributions and accomplishments of African Americans in the Delta Region.

(3) Such plan shall make specific recommendations for implementing the findings of the Delta Initiatives Report with respect to establishing an African American Heritage Corridor and Heritage and Cultural Center and related satellite museums in the Delta Region, together with specific funding levels necessary to carry out these recommendations and shall also include recommendations for improving access of small, emerging, minority or rural museums to technical and financial assistance.

(4) Such plan shall be conducted in consultation with institutions of higher education in the Delta Region with expertise in African American studies, Southern studies, archaeology, anthropology, history and other relevant fields.

(5) Such plan shall make specific recommendations for improving educational programs offered by existing cultural facilities and museums as well as establishing new outreach programs for elementary, middle and secondary schools, including summer programs for youth in the Delta Region.

(e) GRANTS.—(1) In furtherance of the purposes of this section, the Secretary is authorized to make planning grants to State Humanities Councils in the Delta Region to assist small, emerging, minority and rural museums selected on a financial needs basis in the development of a comprehensive long term plan for these institutions. The Secretary is also authorized to make implementation grants to State Humanities Councils in the Delta Region who, in consultations with State museum Associations, shall make grants to small, emerging, minority or rural museums for the purpose of carrying out an approved plan for training personnel, improving exhibits or other steps necessary to assure the integrity of collections in their facilities, for educational outreach programs, or for other activities the Secretary deems appropriate including the promotion of tourism in the region. Such institutions shall be selected competitively and on the basis of demonstrated financial need. The Secretary is also authorized to make grants to State Humanities Councils to update, simplify and coordinate the respective State Works Progress Administration guides and to develop a single comprehensive guide for the Delta Region.

(2) The Secretary is authorized to provide grants and other appropriate technical assistance to State Humanities Councils, State museum Associations, and State Arts Councils in the Delta Region for the purpose of assessing the needs of such institutions. Such grants may be used by these institutions to undertake such an assessment and to provide other technical, administrative and planning assistance to small, emerging, minority or rural institutions seeking to preserve the Delta Region's literary, artistic, and musical heritage.

(f) MUSIC HERITAGE PROGRAM.—(1) The plan referred to in subsection (b) of this section shall include recommendations for establishing a Music Heritage Program, with specific emphasis on the Mississippi Delta Blues. The plan shall include specific recommendations for developing a network of heritage sites, structures, small museums, and festivals in the Delta Region.

(2) The plan shall include an economic strategy for the promotion of the Delta Region's music, through the participation of musicians, festival developers, museum operators, universities, economic development districts, and other relevant individuals and organizations.

(g) COMPLETION DATE.—The plan authorized in this section shall be completed not later than three years after the date funds are made available for such plan.

SEC. 1106. HISTORIC AND PREHISTORIC STRUCTURES AND SITES SURVEY.

(a) ASSISTANCE.—The Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities to undertake a comprehensive survey of historic and prehistoric structures and sites located on their campuses, including recommendations as

to the inclusion of appropriate structures and sites on the National Register of Historic Places, designation as National Historic Landmarks, or other appropriate designation as determined by the Secretary. The Secretary shall also make specific proposals and recommendations, together with estimates of necessary funding levels, for a comprehensive plan to be carried out by the Department to assist Historically Black Colleges and Universities in the preservation and interpretation of such sites and structures.

(b) GRANTS.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical and financial assistance to Historically Black Colleges and Universities for stabilization, preservation and interpretation of such sites and structures.

SEC. 1107. DELTA ANTIQUITIES SURVEY.

(a) IN GENERAL.—(1) The Secretary is directed to prepare and transmit to the Congress, in cooperation with the States of the Delta Region, State Archeological Surveys and Regional Archeological Centers, a study of the feasibility of establishing a Delta Antiquities Trail or Delta Antiquities Heritage Corridor in the Delta Region.

(2) Such study shall, to the extent practicable, use nonintrusive methods of identifying, surveying, inventorying, and stabilizing ancient archeological sites and structures.

(3) In undertaking this study, the Secretary is directed to enter into cooperative agreements with the States of the Delta Region, the State Archeological Surveys, and Regional Archeological Centers located in Delta Region institutions of higher education for on-site activities including surveys, inventories, and stabilization and other activities which the Secretary deems appropriate.

(4) In addition to the over 100 known ancient archeological sites located in the Delta Region including Watson's Brake, Frenchman's Bend, Hedgepeth, Monte Sano, Banana Bayou, Hornsby, Parkin, Toltec, Menard-Hodges, Eaker, Blytheville Mound, Nodena, Taylor Mounds, DeSoto Mound and others, such study shall also employ every practical means possible, including assistance from the National Aeronautics and Space Administration, the Forest Service and Soil Conservation Service of the Department of Agriculture, the Army Corps of Engineers of the Department of Defense, and other appropriate Federal agencies, to locate and confirm the existence of a site known as Balbansha in southern Louisiana and a site known as Autiamque in Arkansas. The heads of these Federal agencies shall cooperate with the Secretary as the Secretary requires on a non-reimbursable basis.

(b) TECHNICAL ASSISTANCE.—In furtherance of the purposes of this section, the Secretary is authorized to provide technical assistance and grants to private landowners for necessary stabilization activities of identified sites and for preparing recommendations for designating such sites as national landmarks or other appropriate designations as the Secretary, with the concurrence of the landowners, determines to be appropriate.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the States, State Archeological Surveys, and Regional Archeological Centers of the Delta Region to develop a ten-year plan for the stabilization, preservation and interpretation of those sites and structures as may be identified by the Secretary.

SEC. 1108. HISTORIC AND ARCHEOLOGICAL RESOURCES PROGRAM.

(a) PROGRAM.—The Secretary shall conduct a comprehensive program for the research, interpretation, and preservation of significant historic and archeological resources in the Delta Region.

(b) ELEMENTS OF THE PROGRAM.—The program shall include, but not be limited to—

(1) identification of research projects related to historic and archeological resources in the Delta Region and a proposal for the regular publication of related research materials and publications;

(2) the development of a survey program to investigate, inventory and further evaluate known historic and archeological sites and structures and identify those sites and structures that require additional study;

(3) identification of a core system of interpretive sites and structures that would provide a comprehensive overview of historic and archeological resources of the Delta Region;

(4) preparation of educational materials to interpret the historical and archeological resources of the Delta Region;

(5) preparation of surveys and archeological and historical investigations of sites, structures, and artifacts relating to the Delta Region, including the preparation of reports, maps, and other related activities.

(c) GRANTS AND TECHNICAL ASSISTANCE.—(1) The Secretary is authorized to award grants to qualified tribal, governmental and non-governmental entities and individuals to assist the Secretary in carrying out those elements of the program which the Secretary deems appropriate.

(2) The Secretary is further authorized to award grants and provide other types of technical and financial assistance to such entities and individuals to conserve and protect historic and archeological sites and structures in the Delta Region identified in the program prepared pursuant to this section.

(d) DEMONSTRATION PROJECT.—The Secretary shall establish a national demonstration project for the conservation and curation of the archeological records and collections of Federal and State management agencies in the Delta Region.

SEC. 1109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE XII—NEW ORLEANS JAZZ NATIONAL HISTORICAL PARK.

SEC. 1201. SHORT TITLE.

This title may be cited as the "New Orleans Jazz National Historical Park Act of 1994".

SEC. 1202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Jazz is the United States' most widely recognized indigenous music and art form. Congress previously recognized jazz in 1987 through Senate Concurrent Resolution 57 as a rare and valuable national treasure of international importance.

(2) The city of new Orleans is widely recognized as the birthplace of jazz. In and around this city, cultural and musical elements blended to form the unique American music that is known as New Orleans jazz, which is an expression of the cultural diversity of the lower Mississippi Delta Region.

(3) Jean Lafitte National Historical Park and Preserve was established to commemorate the cultural diversity of the lower Mississippi Delta Region including a range of cultural expressions like jazz.

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of jazz, it is the purpose of this title to establish a New Orleans Jazz National Historical Park to preserve the origins, early history, development and progression of jazz; provide visitors with opportunities to experience the sights, sounds, and places where jazz evolved; and implement innovative ways of establishing jazz educational partnerships that will help to ensure that jazz continues as a vital element of the culture of New Orleans and our Nation.

SEC. 1203. ESTABLISHMENT.

(a) IN GENERAL.—In order to assist in the preservation, education, and interpretation of jazz as it has evolved in New Orleans, and to provide technical assistance to a broad range of organizations involved with jazz music and its history, there is hereby established the New Orleans Jazz National Historical Park (hereinafter referred to as the "historical park"). The historical park shall be administered in conjunction with the Jean Lafitte National Historical Park and Preserve, which was established to preserve and interpret the cultural and natural resources of the lower Mississippi Delta Region.

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) Lands which the Secretary of the Interior (hereinafter referred to as "the Secretary") may designate for an interpretive visitor center complex.

(2) Sites that are the subject of cooperative agreements with the National Park Service for the purposes of interpretive demonstrations and programs associated with the purposes of this title.

(3)(A) Sites designated by the Secretary as provided in subparagraph (B).

(B)(i) No later than 18 months after the date of enactment of this title, the Secretary is directed to complete a national historic landmark evaluation of sites associated with jazz in and around New Orleans as identified in the document entitled "New Orleans Jazz Special Resources Study", prepared by the National Park Service pursuant to Public Law 101–499. In undertaking the evaluation, the Secretary shall, to the extent practicable, utilize existing information relating to such sites.

(ii) If any of the sites evaluated are found to meet the standards of the National Historic Landmark program and National Park Service tests of suitability and feasibility, and offer outstanding opportunities to further the purposes of this title, the Secretary may designate such sites as part of the historical park, following consultation with the owners of such sites, the city of New Orleans, the Smithsonian Institution, and the New Orleans Jazz Commission, and notification to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Natural Resources of the United States House of Representatives.

SEC. 1204. ADMINISTRATION.

(a)(1) IN GENERAL.—The Secretary shall administer the historical park in accordance with this title and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). The Secretary shall manage the historical park in such a manner as will preserve and perpetuate knowledge and understanding of the history of jazz and its continued evolution as a true American art form.

(2) To minimize operational costs associated with the management and administration of the historical park and to avoid duplication of effort, the Secretary shall, to the maximum extent practicable, utilize the facilities, administrative staff and other services of the Jean Lafitte National Historical Park and Preserve.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or other public entities for the purposes of providing services, programs, and facilities that further the purposes of this title.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center in the historical park on lands identified by the Secretary pursuant to section 1203(b)(1). Programs at the center shall include, but need not be limited to, live jazz interpretive and educational programs, and shall

provide visitors with information about jazz-related programs, performances, and opportunities.

(d) JAZZ HERITAGE DISTRICTS.—The Secretary may provide technical assistance to the city of New Orleans and other appropriate entities for the designation of certain areas in and around New Orleans as jazz heritage districts. Such districts shall include those areas with an exceptional concentration of jazz historical sites and established community traditions of jazz street parades.

(e) COOPERATIVE AGREEMENTS, GRANTS AND TECHNICAL ASSISTANCE.—In furtherance of the purposes of this title—

(1) the Secretary, after consultation with the New Orleans Jazz Commission established pursuant to section 1107, is authorized to enter into cooperative agreements with owners of properties that are designated pursuant to section 1203(b)(3) which provide outstanding educational and interpretive opportunities relating to the evolution of jazz in New Orleans. The Secretary may assist in rehabilitating, restoring, marking, and interpreting and may provide technical assistance for the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the National Park Service will have reasonable rights of access for operational and visitor use needs, that rehabilitation and restoration will meet the Secretary's standards for rehabilitation of historic buildings, and that specify the roles and responsibilities of the Secretary for each site or structure;

(2) the Secretary is authorized to enter into cooperative agreements with the city of New Orleans, the State of Louisiana, and other appropriate public and private organizations under which the other parties to the agreement may contribute to the acquisition, construction, operation, and maintenance of the interpretive center and to the operation of educational and interpretive programs to further the purposes of this title; and

(3) the Secretary, in consultation with the New Orleans Jazz Commission, is authorized to provide grants or technical assistance to public and private organizations.

(f) JAZZ EDUCATIONAL PROGRAMS.—The Secretary shall, in the administration of the historical park, promote a broad range of educational activities relating to jazz and its history. The Secretary shall cooperate with schools, universities, and organizations supporting jazz education to develop educational programs that provide expanded public understanding of jazz and enhanced opportunities for public appreciation. The Secretary may assist appropriate entities in the development of an information base including archival material, audiovisual records, and objects that relate to the history of jazz.

SEC. 1205. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—The Secretary may acquire lands and interests therein within the sites designated pursuant to section 1203(b) (1) and (3) by donation or purchase with donated or appropriated funds or long term lease: Provided, That sites designated pursuant to section 1203(b)(3) shall only be acquired with the consent of the owner thereof.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests in lands which are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

SEC. 1206. GENERAL MANAGEMENT PLAN.

Within three years after the date funds are made available therefor and concurrent with the national landmark study referenced in section 1203(b)(3), the Secretary, in consultation with the New Orleans Jazz Commission, shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities associated with park programs that will be made available to the public;

(2) preservation and use plans for any structures and sites that are identified through the historic landmark study for inclusion within the historical park;

(3) the location and associated cost of public facilities that are proposed for inclusion within the historical park, including a visitor center;

(4) identification of programs that the Secretary will implement or be associated with through cooperative agreements with other groups and organizations;

(5) a transportation plan that addresses visitor use access needs to sites, facilities, and programs central to the purpose of the historical park;

(6) plans for the implementation of an archival system for materials, objects, and items of importance relating to the history of jazz; and

(7) guidelines for the application of cooperative agreements that will be used to assist in the management of historical park facilities and programs.

SEC. 1207. ESTABLISHMENT OF THE NEW ORLEANS JAZZ COMMISSION.

(a) ESTABLISHMENT.—To assist in implementing the purposes of this title and the document entitled "New Orleans Jazz Special Resource Study", there is established the New Orleans Jazz Commission (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 17 members to be appointed no later than six months after the date of enactment of this title. The Commission shall be appointed by the Secretary as follows:

(1) One member from recommendations submitted by the Mayor of New Orleans.

(2) Two members who have recognized expertise in music education programs that emphasize jazz.

(3) One member, with experience in and knowledge of tourism in the greater New Orleans area, from recommendations submitted by local businesses.

(4) One member from recommendations submitted by the Board of the New Orleans Jazz and Heritage Foundation.

(5) One member, with experience in and knowledge of historic preservation within the New Orleans area.

(6) Two members, one from recommendations submitted by the Secretary of the Smithsonian Institution and one member from recommendations submitted by the Chairman of the National Endowment of the Arts, who are recognized musicians with knowledge and experience in the development of jazz in New Orleans.

(7) Two members, one from recommendations submitted by the Secretary of the Smithsonian Institution and one member from recommendations submitted by the Director of the Louisiana State Museum with recognized expertise in the interpretation of jazz history or traditions related to jazz in New Orleans.

(8) Two members who represent local neighborhood groups or other local associations; from recommendations submitted by the Mayor of New Orleans.

(9) One member representing local mutual aid and benevolent societies as well as local social and pleasure clubs, from recommendations submitted by the Board of the New Orleans Jazz and Heritage Foundation.

(10) One member from recommendations submitted by the Governor of the State of Louisiana, who shall be a member of the Louisiana State Music Commission.

(11) One member representing the New Orleans Jazz Club from recommendations submitted by the club.

(12) One member who is a recognized local expert on the history, development and progression of jazz in New Orleans and is familiar with existing archival materials from recommendations submitted by the Librarian of congress.

(13) The Director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) advise the Secretary in the preparation of the general management plan for the historical park; assist in public discussions of planning proposals; and assist the National Park Service in working with individuals, groups, and organizations including economic and business interests in determining programs in which the Secretary should participate through cooperative agreement;

(2) in consultation and cooperation with the Secretary, develop partnerships with educational groups, schools, universities, and other groups to furtherance of the purposes of this tile;

(3) in consultation and cooperation with the Secretary, develop partnerships with city-wide organizations, and raise and disperse funds for programs that assist mutual aid and benevolent societies, social and pleasure clubs and other traditional groups in encouraging the continuation of and enhancement of jazz cultural traditions;

(4) acquire or lease property for jazz education, and advise on hiring brass bands and musical groups to participate in education programs and help train young musicians;

(5) in consultation and cooperation with the Secretary, provide recommendations for the location of the visitor center and other interpretive sites;

(6) assist the Secretary in providing funds to support research on the origins and early history of jazz in New Orleans; and

(7) notwithstanding any other provision of law, seek and accept donations of funds, property, or services from individuals, foundations, corporations, or other public or private entities and expend and use the same for the purposes of providing services, programs, and facilities for jazz education, or assisting in the rehabilitation and restoration of structures identified in the national historic landmark study referenced in section 1203(b)(3) as having outstanding significance to the history of jazz in New Orleans.

(d) APPOINTMENT.—Members of the Commission shall be appointed for staggered terms of 3 years, as designated by the Secretary at the time of the initial appointment.

(e) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(f) TERMS.—Any member of the Commission appointed by the Secretary for a 3-year term may serve after the expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(g) PER DIEM EXPENSES.—Members of the Commission shall serve without compensation. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

(h) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Commission with assistance in obtaining such personnel, equipment, and facilities as may be needed by the Commission to carry out its duties.

(i) ANNUAL REPORT.—The Commission shall submit an annual report to the Secretary identifying its expenses and income and the entities to which any grants or technical assistance were made during the year for which the report is made.

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill insert the following: "An Act to designate certain lands in the California Desert as wilderness, to establish the Death Valley and Joshua Tree National Parks, to establish the Mojave National Preserve, and for other purposes.".

And the House agree to the same.

From the Committee on Natural Resources, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE VENTO,
RICK LEHMAN,
BILL RICHARDSON,
SAM FARR,
NICK RAHALL,

As additional conferees from the Committee on Armed Services, for consideration of title VIII of the Senate bill, and title VIII of the House amendment, and modifications committed to conference:

RONALD V. DELLUMS,

As additional conferees from the Committee on Education and Labor, for consideration of sections 901–04, 906, and 907 of the Senate bill, and modifications committed to conference:

WILLIAM L. CLAY,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title II, sections 103(e), 103(f), and 805(a)(2)(B) of the Senate bill, and sections 111, 113 and 804(a)(2)(B) of the House amendment, and modifications committed to conference:

GERRY STUDDS,
LYNN SCHENK,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 901, 905 and 906 of the Senate bill, and modifications committed to conference:

NORMAN Y. MINETA,
ROBERT E. WISE, JR.,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

J. BENNETT JOHNSTON,
DALE BUMPERS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 21) to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

STATEMENT OF MANAGERS

SECTION 1. SHORT TITLE

The Senate bill, the House amendment and the Conference substitute all designate the short title as the California Desert Protection Act of 1994.

SECTION 2. FINDINGS AND POLICY

The Senate bill, the House amendment and the Conference substitute have identical findings.

TITLE I—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

Senate bill

The Senate bill designates 69 wilderness areas comprised of approximately 3.5 million acres.

House amendment

The House amendment designates 71 wilderness areas comprised of approximately 4 million acres.

Conference agreement

The conference substitute designates 69 wilderness areas comprised of approximately 3.5 million acres.

TITLE II—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE FISH AND WILDLIFE SERVICE

The Senate bill, the House amendment and the conference substitute establish identical wilderness designations in Havasu and Imperial National Wildlife Refuges.

TITLE III—DEATH VALLEY NATIONAL PARK

The Senate bill, the House amendment, and the conference substitute abolish the Death Valley National Monument, and establish the Death Valley National Park.

TITLE IV—JOSHUA TREE NATIONAL PARK

The Senate bill, the House amendment, and the conference substitute abolish the Joshua Tree National Monument, and establish the Death Valley National Park.

TITLE V—MOHAVE NATIONAL PRESERVE

Senate bill

The Senate bill establishes the 1,181,350 acre Mojave National Park.

House amendment

The House amendment establishes the 1,419,800 acre Mojave National Preserve.

Conference agreement

Same as House amendment.

TITLE VI—NATIONAL PARK SYSTEM WILDERNESS

Senate bill

The Senate bill designates 3,158,038 acres as Death Valley National Park Wilderness, 131,780 acres as Joshua Tree National Park wilderness additions, and 695,200 acres as Mojave National Park Wilderness.

House amendment

The House amendment designates 3,162,038 acres as Death Valley National Park Wilderness, 131,780 acres as Joshua Tree National Park Wilderness Additions, and 694,000 acres as Mojave National Park Preserve Wilderness.

Conference agreement

The conference substitute designates 3,158,038 acres as Death Valley National Park Wilderness, 131,780 acres as Joshua Tree National Park Wilderness Additions, and 695,200 acres as Mojave National Preserve Wilderness.

TITLE VII—MISCELLANEOUS PROVISIONS

The Senate bill, House amendment and conference substitute transfer approximately 20,500 acres to the state of California for inclusion in the state park system, direct the Secretary to give priority to consolidating Federal ownership within the national park units and wilderness areas designated, and recognize past uses of Indian people for traditional cultural and religious purposes.

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

Senate bill

The Senate bill withdraws for 25 years lands within China Lake Naval Weapons Center and Chocolate Mountain Aerial Gunnery Range from all forms of appropriation under the public land laws.

House amendment

The House bill withdraws for 15 years lands within China Lake Naval Weapons Center and Chocolate Mountain Aerial Gunnery Range from all forms of appropriation under the public land laws.

Conference agreement

The conference substitute withdraws for 20 years lands within China Lake Naval Weapons Center and Chocolate Mountain Aerial Gunnery Range from all forms of appropriation under the public land laws.

TITLE IX—AUTHORIZATION OF APPROPRIATIONS

Senate bill

No provision.

House amendment

The House amendment authorizes to be appropriated to the National Park Service and to the Bureau of Land Management not more than $36 million over that provided in Fiscal Year 1994 for additional administrative and constructive costs in Fiscal years 1995 through 1999, and $300,000,000 for all land acquisition costs.

Conference agreement

Same as House amendment.

TITLE X—PROTECTION OF BODIE BOWL

Senate bill

No provision.

House amendment

The House amendment withdrawals from the mineral leasing laws all lands within the Bodie Bowl in California.

Conference agreement

Same as House amendment.

TITLE XI—LOWER MISSISSIPPI DELTA REGION INITIATIVES

Senate bill

The Senate bill establishes initiatives pertaining to the Lower Mississippi Delta Region.

House amendment

No provision.

Conference agreement

Same as Senate bill, with amendment.

TITLE XII—NEW ORLEANS JAZZ NATIONAL HISTORICAL PARK

Senate bill

The Senate bill establishes the New Orleans Jazz National Historical Park.

House amendment

No provision.

Conference agreement

Same as Senate bill.

From the Committee on Natural Resources, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

GEORGE MILLER,
BRUCE VENTO,
RICK LEHMAN,
BILL RICHARDSON,
SAM FARR,
NICK RAHALL,

As additional conferees from the Committee on Armed Services, for consideration of title VIII of the Senate bill, and title VIII of the House amendment, and modifications committed to conference:

RONALD V. DELLUMS,

As additional conferees from the Committee on Education and Labor, for consideration of sections 901–04, 906, and 907 of the Senate bill, and modifications committed to conference:

WILLIAM L. CLAY,

As additional conferees from the Committee on Merchant Marine and Fisheries, for consideration of title II, sections 103(e), 103(f), and 805(a)(2)(B) of the Senate bill, and sections 111, 113 and 804(a)(2)(B) of the House amendment, and modifications committed to conference:

GERRY STUDDS,
LYNN SCHENK,

As additional conferees from the Committee on Public Works and Transportation, for consideration of sections 901, 905 and 906 of the Senate bill, and modifications committed to conference:

NORMAN Y. MINETA,
ROBERT E. WISE, Jr.,
Managers on the Part of the House.

From the Committee on Energy and Natural Resources, for consideration of the Senate bill, and the House amendment, and modifications committed to conference:

J. BENNETT JOHNSTON,
DALE BUMPERS,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today after 7 p.m. through 2 p.m., on tomorrow, October 5, 1994, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. UPTON) to revise and extend their remarks and include extraneous material:)

Mr. HOUGHTON, for 5 minutes, on October 6.

Mr. HOKE, for 5 minutes, today and on October 5.

Mrs. BENTLEY, for 5 minutes, today.

(The following Members (at the request of Mr. GENE GREEN of Texas) to revise and extend their remarks and include extraneous material:)

Mr. FINGERHUT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. UPTON) and to include extraneous matter:)

Mr. CRANE.
Mr. DREIER.
Mr. BARTON of Texas.
Mr. PACKARD.
Mr. SOLOMON.
Mr. GINGRICH in three instances.
Mr. GUNDERSON.
Mr. GOODLING.

(The following Members (at the request of Mr. GENE GREEN of Texas) and to include extraneous matter:)

Mr. WILLIAMS.
Mr. HINCHEY in five instances.
Mr. ACKERMAN.
Mr. ROMERO-BARCELO.
Mr. SKELTON in three instances.
Mr. ANDREWS of New Jersey.
Mr. SCHUMER in two instances.
Mr. LEVIN.
Mr. DEUTSCH.
Mr. FORD of Michigan in three instances.
Mr. FOGLIETTA.
Mr. ENGEL.
Mr. REED in two instances.
Mr. TORRICELLI.
Mr. ROEMER.
Mr. THURMAN.
Mr. BONIOR.
Mr. HARMAN.
Mr. LAFALCE.
Mr. MANTON.
Mr. MCNULTY.
Mr. WISE.
Mr. MFUME.
Mr. RAHALL.
Ms. NORTON.
Mr. MCCURDY in three instances.
Mr. PASTOR.
Mr. BROWN of California in two instances.
Mr. MEEHAN.
Mr. HALL of Texas.
Mrs. MINK of Hawaii.
Mr. PALLONE.

The following Members (at the request of Mr. DINGELL) and to include extraneous matter:)

Mr. SAXTON.
Mr. ROBERTS.
Mr. CLINGER.
Mr. SMITH of Michigan.
Mr. UPTON.
Ms. SNOWE in two instances.
Mr. GILLMOR.
Ms. ESHOO.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 734. An act to amend the act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes."

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

Mr. SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 157. Joint resolution to designate 1994 as "The Year of Gospel Music."

S.J. Res. 185. Joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

S.J. Res. 198. Joint resolution designating 1995 the "Year of the Grandparent."

BILL PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, bill of the House of the following title:

On September 30, 1994:

H.R. 4556. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1995, and for other purposes.

ADJOURNMENT

Mr. UPTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 18 minutes a.m.), under its previous order, the House adjourned until today, Wednesday, October 5, 1994, at 9:30 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 4922. A bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes; with an amendment, referred to the Committee on Energy and Commerce for a period ending not later than December 2, 1994, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 103–827, Pt. 1). Ordered to be printed.

Mr. DERRICK: Committee on Rules. House Resolution 563. Resolution providing for consideration of the concurrent resolution (H. Con. Res. 301) expressing the sense of the Congress regarding entitlements (Rept. 103–828). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 564. Resolution providing for consideration of the bill (H.R. 5110) to approve and implement the trade agreements concluded in the Uruguay round of multi-lateral trade negotiations (Rept. 103–829). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. House Resolution 565. Resolution providing for consideration of the bill (S. 455) to amend title

31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes (Rept. 103–830). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 4778. A bill to codify without substantive change recent laws related to transportation and to improve the United States Code; with an amendment (Rept. 103–831). Referred to the House Calendar.

Mr. MILLER of California: Committee of Conference. Conference report on S. 21. An act to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes (Rept. 103–832). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. S. 1457. An act to amend the Aleutian and Pribilof Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II (Rept. 103–833). Referred to the Committee of the Whole House on the State of the Union.

Mr. GEJDENSON: Committee of Conference. Conference report on H.R. 4950. A bill to extend the authorities of the Overseas Private Investment Corporation, and for other purposes (Rept. 103–834). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 5116. A bill to amend title 11 of the United States Code; with an amendment (Rept. 103–835). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DICKS (for himself, Mr. DEFAZIO, Mrs. UNSOELD, Mr. WYDEN, Mr. SWIFT, Ms. DUNN, Ms. FURSE, and Mr. KOPETSKI):

H.R. 5161. A bill to amend the Omnibus Budget Reconciliation Act of 1993 to permit the prompt sharing of timber sale receipts of the Forest Service and the Bureau of Land Management; jointly, to the Committees on Agriculture and Natural Resources.

By Mr. DREIER:

H.R. 5162. A bill to amend the Internal Revenue Code of 1986 to improve long-term care access for elderly Americans; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, and Government Operations.

H.R. 5163. A bill to amend the Trade Act of 1974 to apply fast track procedures to an implementing bill submitted by the President to the 104th Congress with respect to the Uruguay round trade agreements; jointly, to the Committees on Ways and Means and Rules.

By Ms. NORTON:

H.R. 5164. A bill to provide for the enrollment of individuals enrolled in a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision in the Federal Employees Health Benefits Program; to the Committee on Post Office and Civil Service.

By Mr. BEREUTER:

H.R. 5165. A bill to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FORD of Michigan (for himself and Mr. WILLIAMS):

H.R. 5166. A bill to establish a comprehensive program for worker reemployment, to facilitate the establishment of one-stop career systems to serve as a common point of access to employment, education, and training information and services, to establish a national labor market information program, and for other purposes; to the Committee on Education and Labor.

By Mr. JOHNSON of South Dakota:

H.R. 5167. A bill to amend chapter 84 of title 5, United States Code, to provide that the basic annuity under the Federal Employees' Retirement System for a Member of Congress be computed using the formula generally applicable under such chapter for Federal employees; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. LAFALCE:

H.R. 5168. A bill to provide for the minting and circulation of $1 coins and the establishment of the circulating coinage reserve fund as a successor to the coinage profit fund, to provide that excess amounts in the circulating coinage reserve fund may be made available to the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MCCRERY:

H.R. 5169. A bill to amend the Internal Revenue Code of 1986 to provide that the income tax imposed on estates and trusts shall be determined using the rate table applicable to married individuals filing separate returns; to the Committee on Ways and Means.

By Mr. PACKARD:

H.R. 5170. A bill to amend title 18, United States Code, to protect against code grabbers; to the Committee on the Judiciary.

By Mr. PENNY:

H.R. 5171. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to require nutrient fortification of agricultural commodities provided for feeding programs; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. ROBERTS (for himself, Mr. GUNDERSON, Mr. SMITH of Oregon, Mr. ALLARD, and Mr. BARRETT of Nebraska):

H.R. 5172. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to establish a Safe Meat and Poultry Inspection Panel within the U.S. Department of Agriculture; to the Committee on Agriculture.

By Mr. WYDEN:

H.R. 5173. A bill to amend the Public Health Service Act to establish within the Office of the Director of the National Institutes of Health an Office for Rare Disease Research; to the Committee on Energy and Commerce.

By Mr. ZIMMER:

H.R. 5174. A bill to prohibit former Members of the House of Representatives and the Senate who have been convicted of a felony from lobbying in the legislative or executive branch of the Federal Government; to the Committee on the Judiciary.

By Mr. ANDREWS of New Jersey:

H.R. 5175. A bill concerning denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support; to the Committee on Foreign Affairs.

By Mr. FARR:

H.J. Res. 423. Joint resolution designating February 27, 1995, as "John Steinbeck Day"; to the Committee on Post Office and Civil Service.

By Ms. FURSE:

H. Con. Res. 306. Concurrent resolution expressing the sense of the Congress that the President should pursue negotiations with Russia as quickly as possible to achieve a START III agreement that reduces the number of deployed strategic nuclear warheads to the lowest possible level, and no more than 2,000 each for the United States and Russia; to the Committee on Foreign Affairs.

By Ms. DANNER (for herself, Mr. RAHALL, and Mr. KILDEE):

H. Res. 566. Resolution expressing the sense of the House of Representatives urging Israel and the Palestine Liberation Organization [PLO] to reach agreement on holding free and democratic elections in Gaza and the West Bank; to the Committee on Foreign Affairs.

By Mr. HILLIARD (for himself, Mr. BEVILL, Mr. BROWDER, Mr. CRAMER, Mr. CALLAHAN, Mr. EVERETT, and Mr. BACHUS of Alabama):

H. Res. 567. Resolution honoring the memory of the late Claude Harris, Jr.; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Ms. ESHOO.

H.R. 65: Mr. POMBO.

H.R. 162: Mr. PAYNE of Virginia and Mr. HALL of Texas.

H.R. 290: Mr. LANCASTER.

H.R. 420: Mr. CHAPMAN.

H.R. 654: Mr. KOLBE, Mr. PASTOR, Mr. QUILLEN, and Mr. PALLONE.

H.R. 836: Mr. BARCIA of Michigan.

H.R. 911: Mr. EHLERS and Mr. GENE GREEN of Texas.

H.R. 1164: Mr. SMITH of New Jersey.

H.R. 1431: Mr. DEUTSCH.

H.R. 2420: Mr. FLAKE.

H.R. 2910: Mr. CALLAHAN, Mr. CONDIT, Mr. GILLMOR, Mr. SCHAEFER, and Mr. BARTON of Texas.

H.R. 3546: Mr. MAZZOLI and Mr. GENE GREEN of Texas..

H.R. 3645: Mr. SCHAEFER, Mr. PORTMAN, Mr. CAMP, and Mr. WALKER.

H.R. 3745: Mr. REYNOLDS, Mr. OWENS, and Ms. WATERS.

H.R. 3875: Mr. CARR and Mr. MCCURDY.

H.R. 3971: Mr. WALSH.

H.R. 4074: Mr. COPPERSMITH, Mr. EVANS, and Ms. BROWN of Florida.

H.R. 4086: Mr. DIAZ-BALART, Mr. HALL of Texas, Ms. LONG, Mr. HOYER, Mr. PARKER, and Mr. OLVER.

H.R. 4210: Mr. OWENS and Mr. BLACKWELL.

H.R. 4345: Mr. MINETA and Mr. EMERSON.

H.R. 4414: Mr. PARKER.

H.R. 4456: Mr. OWENS.

H.R. 4507: Mr. CANADY.

H.R. 4514: Mr. SISISKY, Mr. PICKETT, and Ms. SCHENK.

H.R. 4605: Mr. HOYER.

H.R. 4618: Mr. SHAW, Ms. MARGOLIES-MEZVINSKY, and Mrs. ROUKEMA.

H.R. 4669: Mr. SHAW, Ms. MARGOLIES-MEZVINSKY, and Mrs. ROUKEMA.

H.R. 4677: Mr. BARCIA of Michigan, Mr. BONIOR, Mr. CARDIN, Mr. FORD of Michigan, Mr. FROST, Mr. HOAGLAND, Mr. JACOBS, Mr. KILDEE, Mr. KLECZKA, Mr. KOPETSKI, Mr. LEHMAN, Mr. MANTON, Mr. MATSUI, Mr. MCDERMOTT, Mr. NEAL of Massachusetts, Mr. PARKER, Mr. REYNOLDS, Mrs. SCHROEDER, Mr. SCOTT, Mr. STARK, Mr. UNDERWOOD, and Ms. WOOLSEY.

H.R. 4714: Mr. PAYNE of Virginia and Mr. CLEMENT.

H.R. 4786: Mr. MCHALE.

H.R. 4802: Mr. COMBEST, Ms. SLAUGTHER, Mr. KLECZKA, and Mr. SMITH of New Jersey.

H.R. 4828: Mr. MINETA.

H.R. 4831: Mr. GENE GREEN of Texas.

H.R. 4887: Mr. SENSENBRENNER.

H.R. 4912: Mr. MARTINEZ, Ms. DANNER, and Mr. RIDGE.

H.R. 4957: Mr. WISE, Mr. SWETT, and Mrs. BYRNE.

H.R. 5032: Mr. CAMP, Mr. WELDON, and Mr. CANADY.

H.R. 5043: Mr. SCHUMER, Mr. APPLEGATE, Mr. HOCHBRUECKNER, Mr. POSHARD, Mr. BROWN of Ohio, Mr. STUPAK, Mr. SANDERS, and Mr. GUNDERSON.

H.R. 5062: Mr. KLUG, Mr. BUYER, Mr. RIDGE, Mr. WOLF, Mr. COSTELLO, Ms. NORTON, Mr. FRANKS of Connecticut, Mr. POSHARD, Ms. DANNER, Mr. CONYERS, Mr. MCCANDLESS, Mr. HANSEN, Mr. DIAZ-BALART, Mr. GUNDERSON, Ms. DUNN, Mr. MONTGOMERY, Mr. RAVENEL, and Mr. MOLINARI.

H.R. 5064: Mr. WATT.

H.R. 5100: Mr. BALLENGER, Mr. COSTELLO, Mr. CRANE, Mr. DELAY, Mr. EMERSON, Mr. FIELDS of Texas, Mr. GORDON, Mr. HAMILTON, Mr. KYL, Mr. SARPALIUS, and Mr. TALENT.

H.R. 5111: Mr. SPRATT, Mr. SERRANO, and Mr. ANDREWS of New Jersey.

H.R. 5128: Mr. PRYCE of Ohio, Mr. NEAL of North Carolina, Mr. STUPAK, and Mr. RUSH.

H.R. 5130: Mr. KYL and Mr. SANTORUM.

H.R. 5141: Mr. SANDERS, Mr. GONZALEZ, Mr. KENNEDY, Mr. MCCLOSKEY, Mr. DELLUMS, Mr. JEFFERSON, Mrs. MINK of Hawaii, Mr. OWENS, Ms. WOOLSEY, Mr. HAMBURG, Mr. CONYERS, Mr. MOAKLEY, Mr. SHAYS, Mr. REYNOLDS, Ms. MCKINNEY, MR. FLAKE, Mr. WATT, Mr. ANDREWS of New Jersey, Mr. LEACH, Mr. SANGMEISTER, Mr. BARCA of Wisconsin, Mr. MCDERMOTT, Mr. YATES, Mr. EDWARDS of California, Mr. BEILENSON, and Mr. HASTINGS.

H.R. 5159: Ms. SHEPHERD and Mr. Fingerhut.

H.J. Res. 385: Mr. SAM JOHNSON, Mr. ABERCROMBIE, and Mr. OLVER.

H.J. Res. 402: Mr. WILSON, Mr. OXLEY, Mr. SAWYER, Mr. HEFNER, Mr. EMERSON and Mr. MORAN.

H.J. Res. 405: Mr. SHARP, Mr. SYNAR, Mr. HALL of Texas, Mr. RICHARDSON, Mr. COOPER, Mr. ROWLAND, Mr. STUDDS, Mr. PALLONE, Mr. GENE GREEN of Texas, Mr. ANDREWS of Texas, Mr. HUNTER, Mr. SPENCE, Mr. SHUSTER, Mr. LANCASTER, Mr. DUNCAN, Mr. CALLAHAN, Mr. BOEHLERT, Mr. LEWIS of California, Mr. BRYANT, Mr. CAMP, Mr. VALENTINE, Mr. TEJEDA, Mr. ORTIZ, Mr. SABO, Mr. WISE, Mrs. THURMAN, Mr. BARTON of Texas, Mr. GONZALEZ, Mr. MONTGOMERY, Mr. HOEKSTRA, Mr. ENGEL, Mr. TANNER, Mr. PETE GEREN of Texas, Mr. ACKERMAN, Mr. BATEMAN, Mr. SAXTON, MS. DUNN, Mr. COBLE, Mr. PARKER, Mr. COLEMAN, Mr. DEAL, Mr. ORTON, Mr. BONILLA, Mr. ABERCROMBIE, Mr. MILLER of California, Mr. HASTINGS, Mr. MCCOLLUM, Mr. POSHARD, Mr. DICKS, and Mr. ROSE.

H.J. Res. 411: Mr. WILSON, Mr. HANSEN, Mrs. MORELLA, Mr. BATEMAN, Mr. FAZIO, Mr. APPELGATE, Mr. MCNULTY, Mr. GEJDENSON, Mr. WALSH, Mr. PICKETT, Mr. COSTELLO, Mr. LANCASTER, Mr. MCCLOSKEY, Mr. PALLONE, Mr. GENE GREEN of Texas, Mr. MANN, Mr. HOBSON, Mr. ROTH, Mr. ANDREWS of New Jersey, Mr. CASTLE, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. SKEEN, Mr. ACKERMAN, Mr. YOUNG of Alaska, Mr. CALLAHAN, Mr. DEUTSCH, Mr. MARTINEZ, and Mr. MOORHEAD.

H.J. Res. 418: Mr. REED, Ms. ENGLISH of Arizona, Mr. FLAKE, Mr. SANDERS, Mrs. KENNELLY, Mr. PETRI, Ms. LAMBERT, Mr. WAXMAN, Mr. MCCANDLESS, Mr. HUNTER, Mr. DIXON, Ms. ESHOO, Mr. EDWARDS of California, Mr. FAZIO, Mr. MILLER of California, Ms. DELAURO, Mr. GEJDENSON, Ms. BROWN of Florida, Mr. GIBBONS, Mr. PETERSON of Florida, Mrs. FOWLER, Mr. DARDEN, Mrs. COLLINS of Illinois, Mr. COSTELLO, Mr. POSHARD, Mr. RUSH, Mr. FAWELL, Mr. JACOBS, Ms. LONG, Mr. SMITH of Iowa, Mr. MYERS of Indiana, Mr. BAESLER, Mr. BARLOW, Mr. ROGERS, Mr. FIELDS of Louisiana, Mr. MARKEY, Mr. MOAKLEY, Mr. BARCIA of Michigan, Mr. DINGELL, Mr. CAMP, Mr. THOMPSON, Mr. SKELTON, Mr. BILBRAY, Mr. KLEIN, Mr. PALLONE, Mr. SMITH of New Jersey, Mr. ENGEL, Mr. MCNULTY, Ms. SLAUGHTER, Ms. MOLINARI, Mrs. CLAYTON, Mr. REGULA, Mr. FINGERHUT, Mr. MANN, Mr. KANJORSKI, Ms. MARGOLIES-MEZVINSKY, Mr. MURTHA, Mr. GOODLING, Mr. WELDON, Mr. DERRICK, Mr. SPRATT, Mr. QUILLEN, Mr. EDWARDS of Texas, Mr. DE LA GARZA, Mr. GONZALEZ, Mr. HALL of Texas, Mr. BARTON of Texas, Mrs. BYRNE, Mr. PICKETT, Mr. INSLEE, Mr. MOLLOHAN, Mr. RAHALL, Mr. WISE, and Mr. BARCA of Wisconsin.

H. Con. Res. 148: Mr. SHUSTER and Mr. JEFFERSON.

H. Con. Res. 173: Mr. KNOLLENBERG, Mr. CALLAHAN, Mr. REGULA, Mrs. THURMAN, Mr. GOODLING, Mr. FALEOMAVAEGA, Mr. WHEAT, Mrs. MEEK of Florida, Mr. LEWIS of Florida, Mrs. UNSOELD, Mr. SANDERS, Ms. NORTON, Ms. FURSE, and Mr. SISISKY.

H. Con. Res. 199: Mr. BILIRAKIS and Mr. BORSKI.

H. Con Res. 216: Mr. SKAGGS, Mr. LEACH, Mr. ROHRABACHER, Mr. PORTER, Mr. MCCURDY, Mr. DORNAN, Mr. SCHIFF, Mr. WAXMAN, Mr. MORAN, and Mrs. BYRNE.

H. Con. Res. 249: Mr. KLEIN, Mr. ANDREWS of New Jersey, Mr. FINGERHUT, Mr. KOPETSKI, Mr. LEWIS of Georgia, Mr. SWETT, Mr. PACKARD, Mr. HINCHEY, and Ms. SLAUGHTER.

H. Con Res. 255: Ms. ESHOO.

H. Res. 372: Ms. KAPTUR

H. Res. 519: Mr. HERGER.

H. Res. 541: Mr. BROWN of Ohio and Mr. FINGERHUT.

H. Res. 546: Mr. EVERETT and Mr. ZIMMER.

H. Res. 561: Mr. MOAKLEY and Mr. MANTON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5044

By Mr. TRAFICANT:

Page 103, after line 10, insert the following:

TITLE VII—BUY AMERICAN POLICY

SEC. 701. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(A) SENSE OF THE CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE REQUIREMENT.—In using funds made available under this Act to provide financial assistance to, or enter into any contract with, any entity, the Secretary, to the greatest extent practicable, shall provide to the entity a notice describing the statement made by the Congress in subsection (a).

EXTENSIONS OF REMARKS

WORKING TO RESTORE THE AMERICAN FAMILY

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. PACKARD. Mr. Speaker, the American family is being torn apart at the seams. The liberal leadership has stripped the American people of economic opportunity and has fostered a society dependent on social welfare.

Big government's effort to fight poverty taxes not only our pocketbooks, but the moral fabric of our society—the family. Great society hopes have dissolved into communities infested with drugs, violence and fatherless children. Liberal big government efforts to alleviate these social ills instead fosters a new epidemic, a society absent of values.

I believe we must seize the opportunity to make real changes which offer real results based on the belief that less government is more and that personal responsibility is paramount. That is why I signed the Republican contract with America.

The American people are fed up. While Congress promises solutions, it has delivered very little. Americans no longer trust Congress to get the job done. Republicans are working to restore that lost confidence. Contract with America is a solemn promise to the American people that we mean business.

Republicans are offering more than just words, we promise real changes. We pledge to restore those policies which will once again lead the American people down the road to the economic prosperity and hope. The American family must be saved.

HONORING LEW AND AMY KIRSCHNER

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. HINCHEY. Mr. Speaker, it is my very great honor to stand here today to honor my very good friends Lew and Amy Kirschner, who are the 1994 recipients of the Israel Bonds Peace Medal, which is to be bestowed upon them by the Ulster County State of Israel Bonds Committee. I cannot think of two more deserving individuals to receive this honor and I am proud to be able to add my voice to those who will be gathered on October 13 to extend our gratitude to Lew and Amy for all their good work on the behalf of our community.

Lew and Amy Kirschner have worked tirelessly for the people of Ulster County—working for the United Way, Kingston Hospital, the Lion's Club, U.A.R.C., the C.R.C., and on the behalf of a myriad of other nonprofit organizations. Their service to the Jewish community has been exhaustive; they have given of themselves selflessly and graciously. If ever two individuals exemplified the notion of public service it is Lew and Amy Kirschner. All of us in Ulster County owe a most sincere debt of gratitude to the Kirschners.

I ask my colleagues to join me in celebrating the contributions and very great public spirit of Amy and Lew Kirschner as I extend my own personal congratulations to them as well on being awarded the 1994 Israel Bonds Peace Medal.

TRIBUTE TO MICHAEL BOWLING

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. McCURDY. Mr. Speaker, today, I commend Michael Bowling, a young American from Duncan, OK, who recently won the Voice of Democracy scriptwriting contest sponsored by the Veterans of Foreign Wars of the United States for the state of Oklahoma.

Michael, a recent graduate of Duncan High School, is involved in numerous school activities. There, his achievements include: Boys' State Governor, Oklahoma State Lincoln-Douglas Debate Champion, and 1992 U.S. Senate Youth Program Delegate. He stands as an outstanding example of America's young people, and I congratulate him for his extraordinary accomplishments.

I submit for the RECORD a copy of Michael's script, entitled "My Commitment to America."

MY COMMITMENT TO AMERICA

(By Michael Bowling)

During December of 1777 the Continental Army weathered a bleak winter at Valley Forge. On December the 23rd, Commanding General George Washington reported, "We have this day no less than 2,783 men in camp unfit for duty because they are barefooted and otherwise naked." The harsh condition of the winter encampment was the greatest test faced by the American revolutionaries; yet, in the face of these overwhelming odds, the soldiers of the Continental Army persevered, remaining committed to their desire for freedom.

Throughout our history the American people have given to many challenges, embracing change and its effect upon the American ideal. The colonists led a rebellion against tyranny; Unionists battled to free enslaved Americans; and civil rights leaders fought to dismantle prejudice. These generations of Americans, though faced with seemingly impossible tasks, never lost sight of their commitment to America, defining their commitment through their dedication to political freedom and social unity. These commitments changed America, leading the American society to new heights and continuing the evolution of the American ideal.

Today the commitment of our generation of Americans is more important than ever. During recent years the world has undergone immense change. The choices America must make today are unlike any we have before faced. The Cold War, which for five decades had defined American policy, has ended, giving birth to a New World Order, an order defined by renewed freedom and marred by chaos. In this time of change we must both lead and follow, protecting freedom and respecting the sovereignty of nations. We must stand as the lone superpower in a world rife with conflict.

During this time of uncertainty, Americans have also begun to focus attention upon our domestic problems. Crime, environmental degradation, racial tension, economic restructuring—many problems plague the American society. In the face of these problems some have begun to question the American dream and its ideals, wondering if America chases the impossible, if we are committed to an unreachable goal.

It is during this turbulent period in our history when we must be most committed to America. We cannot allow our fear of the future to derail the American dream. We can rescue America from its despair, but in order to do this we must be committed to our ideals wholeheartedly. Our commitment must show through in our actions, as we seek to rebuild America and to renew the American dream.

Through involvement, both politically and socially, my commitment and the commitment of all Americans can begin to restore the American dream. Political activism can begin to restore our faith in government and to rebuild the foundations of our democracy, making the federal government more responsive to the will of the people. Social work through volunteer organizations can help to heal the wounds of our fractured society, restoring our unity and revitalizing our sense of community.

Each one of us can make a difference in the future of America. My personal commitment to America and its ideals can serve to better the future for all Americans. In being committed to America I am committed to America's future citizens, hoping to guarantee to them a free and democratic nation. Through involvement in community service and election campaigns, my commitment will aid in the betterment of our nation; yet, I can be only one link in a chain, a chain that must be wrought of hardened steel, strengthening the American dream. Each one of us must be strong in our commitment to America and its ideals. Our chain will only be as strong as its weakest link, but I have faith that our chain of commitment to America will have no weak links and that we will guarantee a bright future for all Americans.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

FEDERAL DIRECT STUDENT LOANS FOR CONGRESSIONAL RECORD

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. FORD of Michigan. Mr. Speaker, history will regard the 103d Congress as having accomplished much during its tenure. One of its most notable achievements is the 1993 Student Loan Reform Act passed as part of the Omnibus Budget Reconciliation Act of 1993. The 1993 reforms, which were in fulfillment of President Clinton's promise to make college more affordable, are now being implemented by the Department of Education with great success. Students across the country are enjoying lower fees and looking forward to more flexible repayment options. These benefits are available to every student borrower attending an eligible higher education institution and should make a substantial contribution toward enabling our Nation's young people to invest in their own futures through postsecondary education—dollar-for-dollar, the greatest investment they can make.

In addition to these new and substantial benefits that all borrowers now enjoy, students attending the 104 colleges, universities, and trade schools participating in the first year of the Federal Direct Student Loan Program are arriving at their financial aid offices to find that the long lines that typically wind down corridors no longer exist, that they know exactly when they will receive their checks, usually within a day or so, and that their loans are being processed with markedly less paperwork than ever before. $800 million in direct student loans will be issued in this academic year, and the reports coming in from the participating schools are nearly unanimous in their praise for the program.

By eliminating the multiple layers of bureaucracy from the process, the Congress has enabled student financial aid administrators to focus on students and students to focus on their education. Parents are finding it simpler and more reliable, and, because the process of turning around an application is now only a matter of a couple of days, students have had less need for short-term loans. The Direct Student Loan Program is proving itself to be better for parents and for students, reducing anxiety and allowing students to focus on their studies and academic careers.

The Department of Education is to be commended for its dramatic success in instituting this challenging new program. Those who opposed the reforms based on the belief that the Department of Education could not manage such a complex new endeavor must find themselves pleasantly surprised by the widespread reports of the success of the Federal Direct Student Loan Program. Financial aid administrators across the country have found their workload reduced and their students better served. Many financial aid administrators have commented on the responsiveness of the Department, the reduction in paperwork, and the simplicity of the one-stop shopping approach to student loans.

The success of this new program owes much to the Department of Education's Office of Postsecondary Education and their aggressive and innovative approach. The Office of Postsecondary Education has established an on-line "Direct Loan Bulletin Board" that provides regulatory updates, problem-solving, and idea sharing with other financial aid administrators. The bulletin board also provides financial aid professionals with a public forum area that allows them to ask and respond to questions of other program participants, share implementation tips, and post important program findings.

The dedicated professionals at the Office of Postsecondary Education, led by Assistant Secretary David Longanecker and Deputy Assistant Secretary Leo Kornfeld, have worked hard to ensure that participating school's data control systems are compatible with the Department's and that school professionals are kept informed of all developments and have adequate training in the new software applications. All of this has eased the transition.

The Office of Postsecondary Education is also using this new program as an opportunity to improve its internal systems, update procedures, and institute better oversight and management of the financial aid delivery system. Over the next couple of years, we will see continued improvements in data management and an overall streamlining of the delivery of Federal financial aid packages.

The Department of Education is not completing its selection of schools for year two of the Federal Direct Student Loan program. By this time next year, 40 percent of new student loan volume, $5.3 billion, will be through the Federal Direct Loan Program. The initial success of the program bodes well for next year and for the over 1,300 schools expected to participate. The continued success of this program will assure not only continued savings to students and taxpayers, increased simplicity for school administrators, and greater accountability for an important Government program, but will help to restore the American public's faith in the ability of the Federal Government to carry out its responsibilities and fulfill the promise of its mission.

TRIBUTE TO ROBERT D. SILVA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Robert D. Silva of Troop 44 in Glocester, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Robert supervised the removal and return of the book inventory at the Glocester Manton Library during recent renovations.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Robert D. Silva. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has, through its 84 years, honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Robert D. Silva will continue his public service, and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

IN RECOGNITION OF DR. JULIUS HOLTZMAN

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SCHUMER. Mr. Speaker. One of the pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge outstanding individuals of our Nation. I rise today to recognize one such individual, Dr. Julius Holtzman who after years of service is retiring as medical director of Coney Island Hospital.

As medical director he has led the ambulatory care programs and served as medical staff liaison to the community with great success. He was the founding president of the Coney Island Hospital Medical Group PC, and the leader of CIMG–PC's successful implementation of the their hospitals fee for service plan. He was the chief representative and liaison to the Health and Hospitals Corp.

Dr. Holtzman has gained the respect and admiration of all the entire medical staff and community that has benefitted from his tireless service and dedication. As he begins his retirement, I know that his time will be well spent with his wife Rosanne and his three children Joseph, John, and Matthew; but I know that his presence at Coney Island Hospital will be sorely missed.

I'm sure I speak on behalf of many members of the community who have either worked with Dr. Holtzman or have experienced the benefits of his hard work when I thank this remarkable individual.

TRIBUTE TO ERWIN OETTING

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SKELTON. Mr. Speaker, a good friend through the years, civil leader and public servant died September 29, 1994, in my hometown of Lexington. Erwin Oetting, Lafayette County Treasurer from 1939–56 lived a full life, having scores of friends and serving as an outstanding community leader.

Erwin Oetting was past president of the Lexington Lions Club and past chairman of the Lexington Park Board. He was a member of the Lexington Turners Society. He was a member, elder, and past congregation president of his church and was chairman of its building committee. He was born in Concordia and lived in Lexington most of his life.

Mr. Oetting will long be remembered for his unselfish leadership, dedication to the community, and warm friendship. He is survived by his son, Erwin Oetting, Jr., a daughter JoAnn Tognascioli, his sister, Freda Duensing, four grandchildren, and five great-grandsons, I know that the Members of this body join me in sending sympathy to the entire Oetting family.

CONGRATULATIONS TO MOU-SHIH DING

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. GINGRICH. Mr. Speaker, I want to join many of my colleagues in the House in congratulating the Honorable Mou-Shih Ding, Representative to the United States from the Republic of China on Taiwan, on his appointment as Secretary General of the National Security Council in Taipei. Although Representative Ding will be sorely missed, I am certain that his replacement, the Honorable Benjamin Lu, Will continue Representative Ding's commitment to strengthening the important United States-Republic of China relationship.

I wish Representative Ding well in his future endeavors, and I look forward to working with Representative Lu as Taiwan continues to experience significant economic, political, and social development.

TRIBUTE TO EISENHOWER HIGH SCHOOL OF RIALTO, CA

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. BROWN of California. Mr. Speaker, I rise today to pay tribute to Eisenhower High School of Rialto, CA.

Under the guidance of the school's principal, Mrs. Edna D. Herring, Eisenhower High School has continually been recognized as one of the top schools in the Nation. In 1992–93 Eisenhower high School was recognized by the Department of Education as one of the top schools in the Nation and awarded a national blue ribbon schools for excellence in education. More than 500 schools applied for the biannual award, of which 260 were recognized for their academic excellence.

For the 1993–94 schoolyear, Eisenhower was 1 of 40 schools in California to receive the California Distinguished School Award, and this past year Eisenhower High School has been awarded the 1994 National School of Excellence Award.

Mrs. Herring is serving in her sixth year as principal of this ethnically diverse, comprehensive high school of approximately 3,000 students. Previously, Eisenhower served a predominately middle to upper class community and failed to adapt to the changes in the district. Since Mrs. Herring became principal, Eisenhower High School has shown continual improvement in academics as well as extracurricular activities. Since Mrs. Herring's arrival, the Eisenhower High School football team, the Eagles, has become a nationally recognized football powerhouse, sending numerous student athletes to major universities throughout the country. Students and teachers work together in an environment of trust and collaboration, as a result, the dropout rate at Eisenhower has been cut in half.

Through the cooperation of all participants in the educational process—parents, teachers, support personnel, and students, Mrs. Herring has revolutionized the education process at Eisenhower High School and developed a curriculum committed to academic excellence and the development of the total student.

In addition to Mrs. Herring's dynamic leadership at Eisenhower, she also is very active in serving the community students come from. Mrs. Herring is a member of many professional and civic organizations, which include Alpha Kappa Alpha Sorority, Inc., American Association of University Women, and the National Council of Negro Women, Inc.

I salute Mrs. Herring and would ask my colleagues to join me in acknowledging Eisenhower High School for a job well done.

THE NEW REEMPLOYMENT ACT OF 1994

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. FORD of Michigan. Mr. Speaker, I rise today with Congressman PAT WILLIAMS to introduce legislation that begins to reform the Nation's employment and training system. This new version of the Reemployment Act of 1994 would assist over 1 million dislocated workers to become reemployed annually and would begin to improve the existing employment and training system by establishing one-stop career systems.

This bill would provide job search assistance and education or training to all dislocated workers who wanted and needed services. To encourage longer term training, income support for up to 78 weeks would be available. This proposal would also establish a demonstration program to award grants to States and localities to create one-stop career systems that better integrate the existing array of employment and training programs.

Finally, a national Labor Market Information Program would be created to provide locally based labor market information so that all users of the system can make informed choices.

The administration had sent up its "Reemployment Act" earlier this year. Secretary Reich is to be commended for his commitment to improving the reemployment prospects of the working people of this country. Three Education and Labor Committee subcommittees held hearings on H.R. 4050 this spring to hear from the community. While support was voiced for the general principles of the bill, many groups were critical of specific components, specifically competition and privatization. It became clear that major changes to the bill would be necessary.

Congressman WILLIAMS and I have tried to fashion a bill that addresses the concerns raised during the hearings and in written comments sent to our offices. This legislation incorporates the Clinton administration's goals of a single dislocated worker program, additional integration of the array of employment and training programs through a one-stop mechanism, and better local labor market information. In addition, this proposal builds on what works best in the current system, creates more flexibility at the State and local level, and uses the successful School-to-Work approach for establishing one-stop career systems.

Unfortunately, the committee will not be able to act on this legislation this year due to our crowded legislative calendar. The Education and Labor Committee has successfully considered major reforms in school-to-work programs, elementary and secondary education, and direct lending for student loans. Given the late date at which we were given to address this complex bill, the committee will not be able to act on another major reform before adjournment.

I expect that the Congress and the administration will take up this important issue early next year. It is my hope that the committee will use this bill as a starting point for deliberations in the next Congress.

SUMMARY OF THE NEW REEMPLOYMENT ACT OFFERED BY CHAIRMAN WILLIAM FORD AND CONGRESSMAN PAT WILLIAMS

This legislation incorporates the Clinton administration's goals of a single dislocated worker program, additional integration of the array of employment and training programs through a one-stop mechanism, and better local labor market information. In addition, this proposal builds on what works best in the current system, creates more flexibility at the State and local level, and uses the successful School-to-Work approach for establishing one-stop career systems.

TITLE I: DISLOCATED WORKER PROVISIONS

Allotments: 25% of the annual appropriation is reserved at the Secretary's discretion to carry out national activities, primarily for discretionary grants and disaster relief. 75% of funds must be allotted to the States applying the current formula. At least 70% of a State's allocation must be distributed to substate grantees. Up to 30% of a State's allocation may be reserved for State activities such that not more than 5% is available for the purposes of administration and not more than 25% is available for other State activities, primarily for the functions of the dislocated worker unit (DWU).

States' Roles and Responsibilities: States must establish a "dislocated worker unit" (DWU) at the state level. The DWU, pursuant to a State plan, must carry out the following activities: rapid response; promotion of the establishment of worker-management transition assistance committees; information collection and dissemination regarding plant closings; program support; and coordination. The Governor may also award grants for special projects. The Governor, after consultation with the State council and local elected officials designates substate areas (SSA) with incentives for areas representing labor markets.

Local Roles and Responsibilities: The substate grantee is the focal point for services to dislocated workers at the local level. Any public or non-profit entity, including the Employment Service, Service Delivery Area grant recipients or administrative entities under the Job Training Partnership Act, community colleges and area vocational schools, community based organizations, are eligible to be designated as a substate grantee in accordance with an agreement among the Governor, LEO(s) and private industry council(s). Substate grantees, pursuant to a substate plan, may provide services directly, or through contract, grant or agreement with service providers.

Services: There are five categories of authorized services for eligible dislocated workers: basic, intensive, education and training, retraining income support, and supportive services. Services can be tailored to the individual to achieve his or her employment goal and no arbitrary limits on the length or cost of training are included. Substate grantees have flexibility to select the types of intensive services to be offered to dislocated workers but must provide for an assessment, counseling, development of an employability development plan (EDP) for eligible individuals, case management, and assistance in the selection of education and training providers and in obtaining income support.

To encourage longer term training, income support is available. Individuals with more than 3 years of tenure with a previous employer or successor employer are referred to the mandatory income support program contained in Title of H.R. 4040. Individuals with 1-3 years tenure with previous or successor employer are eligible for up to 26 additional weeks of income support at UI levels beyond their UI benefit period. To be eligible for income support a dislocated worker must be permanently laid off and have at least one year of tenure with an employer or successor employer; be UI eligible; have exhausted UI benefits; be enrolled in training pursuant to reemployment plan by 16th week of initial unemployment period and be making satisfactory progress. This benefit is paid for with discretionary funds through fiscal year 2000. After fiscal year 2000, this benefit becomes a capped entitlement pending adoption of Title II of H.R. 4040.

TITLE II: ONE-STOP CAREER SYSTEMS

Overview: This title adopts the successful School-to-Work model as a flexible framework for establishing one-stop career systems. This approach involves a bottoms-up, collaborative process that builds on the previous efforts of states, localities, and service providers to integrate programs and services. This proposal would establish an all voluntary national program of grants and waivers to assist States and localities in implementing one-stop career systems. This legislation authorizes $250 million annually for Titles II and III.

The basic components of the one-step career system include:

Integration of employment and training programs;

Universal access to services by employers and job seekers;

Customer choice of information, services and providers;

Accountability of the providers of information and services.

Integration Component: One-Stop Career Systems (OSCS) will integrate employment and training programs by using common intake methodology; coordinated job development and placement; and unified computer systems including uniform management information systems. In addition, OSCS will include at least two of the following: common assessment methodology; cross-training of staff, coordinated employability development teams, joint purchasing and integrated contracting, or individual service accounts.

Customer Choice Component: One-Stop Career Systems will expand customer choice with respect to the point of entry in the system, the types of intensive services provided, and the providers of education and training services.

Universal Access Component: One-Stop Career Systems will achieve universal access into the system by including co-location of services or multiple points of entry. In addition, OSCS will use at least two of the following to improve access to services: telecommunication and computer technology, outstationing of staff, or satellite officers.

Accountability Component: The One-Stop Career Systems will provide for accountability by including the use of performance measures, customer satisfaction methods, and consumer reports.

Application Process: In general, States submit an application to the Secretary of Labor to establish a statewide network of One-Stop Career Systems. However, in those states that are unable or unwilling to apply for a grant, localities may submit an application directly to the Secretary of Labor. Local One-Stop Service Areas are only eligible to receive a grant if the State has not been awarded a grant or is in the first year of a grant. Other features of the application include a collaborative planning process between elected officials, employers, labor organizations, and officials from participating programs.

Governance: A State Human Resource Investment Council or similar entity must be established. The legislation also requires the designation of one-stop service areas and an independent administrative entity. In addition, a local consortium, composed of employers, labor organizations, and officials from participating programs, must be established to provide for overall strategic policy development. The bill also encourages the voluntary participation of approximately 50 employment and training programs. Operating agreements between all participating one-stop service providers are also required.

Waivers: This legislation contains waiver authority for major employment and training statutes including an expedited waiver process to ease the approval process for states and localities. In addition, an interagency task force is established to report back to Congress with recommendations for statutory changes to facilitate integration of existing federal workforce development programs.

TITLE III: NATIONAL LABOR MARKET INFORMATION SYSTEMS

Title III establishes a National Labor Market Information program to provide access to local labor market information including, information about where jobs are, necessary skills and experience, and location and quality of training programs. The need for a national strategy is outlined, an Office of Labor Market Information within the Department of Labor is established, and the necessary components of such a program are described.

BUDGET OVERVIEW

The bill authorizes $1.465 billion for Title I in FY95. Over the next 5 years, total REA expenditures are estimated at $9.9 billion in discretionary funding for Title I.

The bill authorizes $250 million for Titles II and III for FY95. Over the next 5 years, expenditures for Titles II and III are estimated at $1.25 billion for One-Stop Centers and Labor Market Information.

REINTRODUCTION OF THE REEMPLOYMENT ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. WILLIAMS. Mr. Speaker, I rise today with Chairman FORD to introduce a new version of the Reemployment Act—H.R. 4050. The Subcommittee on Labor Management Relations held numerous hearings in this Congress both in Washington and across the United States on dislocated workers and the Reemployment Act. I expect that the committee will use this legislation as a starting point for consideration next year.

Many Members of the House of Representatives, as I did, cosponsored the Reemployment Act when it was introduced in March 1994. There was broad-based concern with different parts of the legislation from Governors, mayors, county officials, unions, educators, and community based groups. I cosponsored this legislation in order to move the debate further.

As a result of the concern expressed about the legislation and our own concerns, Chairman FORD and I redrafted the bill. We made a draft available in mid-August to all of the interested parties mentioned above and others who requested the opportunity to review the legislation. As a result of that review, we received numerous comments which we made every attempt to accommodate in the legislation we are introducing today.

The legislation that we are introducing today simplifies the original bill so that governance, program consolidation, money flow, one-stop centers, and conflict-of-interest rules are clarified.

We are introducing this bill today so that interested parties can review our legislation between now and the beginning of the 104th Congress. I join in this effort despite the fact that I remain concerned with the effectiveness of training programs and the lack of jobs in many labor markets.

LEGISLATION CONCERNING "CODE GRABBERS"

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. PACKARD. Mr. Speaker, today I am introducing legislation to crack down on criminals who would use "code grabbers" to break into and steal automobiles.

Increasingly, car owners are installing costly auto security systems to deter theft. However, thieves can use code grabbers to completely neutralize those security systems. A small electronic device, the code grabber can intercept the coded signal sent from a car owners' remote transmitter, then repeat the code to disarm the alarm and unlock the vehicle.

Incredibly, current Federal law does not outlaw the criminal use of these devices. My bill would make it a Federal crime to use the code grabber for illicit purposes.

Although time is too short for any congressional action on my legislation this year, I intend to pursue this issue in the 104th Congress. We must ensure that honest law-abiding citizens are protected from the criminal use of these type of devices.

H.R. 4394, THE COMPREHENSIVE ONE-CALL NOTIFICATION ACT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. PALLONE. Mr. Speaker, I would like to thank my colleague, the gentleman from Indiana [Mr. SHARP] for his leadership on this issue. His belief in this bill and support have made the progress on this bill possible.

I introduced H.R. 4394, the Comprehensive One-Call Notification Act, in response to a pipeline accident that occurred in my district last March. In Edison, NJ, a rupture in a natural gas pipeline caused an explosion that demolished eight apartment buildings and left hundreds of people homeless. The explosion produced a fireball so great that it could be seen in three States, and a fire so intense that it melted the cars parked at the apartment complex.

To the people in my district, the safety of pipelines has taken on a terrible new significance. They were witnesses to a horrible tragedy and they carry with them, even today, fears that they had never before imagined. In a way however, they were also witnesses to a miracle: Only one person lost her life in the accident, tragically suffering a heart attack, and most residents escaped without injury. Certainly, in light of the total devastation of the area, the potential for a greater number of fatalities is apparent.

The Edison accident, like the majority of pipeline accidents, was caused by third party damage. Often times, excavators do not know what is buried beneath their work site. This ignorance can lead to fatal and expensive consequences. H.R. 4394 proposes a simple solution to this problem: Before excavators begin digging they must call a central phone number to learn whether there are any underground facilities at the excavation site. Facility operators, once notified, must come to mark the site. These simple measures can save lives, prevent property damage, and prevent the need for expensive repairs.

More than anything else, one-call is about prevention. One telephone call can prevent explosions like the Edison accident. One telephone call can prevent the death of an excavator digging near a gas line. One telephone call can prevent the contamination of the environment by a ruptured hazardous liquid or sewer line. One telephone call can prevent the need for expensive repairs to fiber optic cables.

By the end of this year 49 States will have some kind of one call system, but Federal action is necessary. Many of the current systems are inadequate: Some allow for exemptions for excavators, fail to cover all underground facilities, and have complex enforcement mechanisms. H.R. 4394 recommends a program that will be successful. Key to this success is the concept of mandatory participation for all excavators and facility operators. Excavators will be assured that they are digging in a safe place, and facility operators have insurance that their lines will not be damaged.

H.R. 4394 requires that States consider establishing a comprehensive one call system. The bill contains no mandate that the States adopt such a system, but does provide for grants to States that do choose to institute an effective one call system. The only burden on the States in this legislation is the consideration of these systems. I believe that once the States delve deeply into this issue they will conclude, as I have, that a comprehensive one-call system is a life-saving device that should be a part of any public safety program.

Today, we have an opportunity to prevent accidents like the Edison explosion in every community in this country. Let us take the explosion that awoke the residents of the Durham Woods Apartment Complex in Edison as a wake up call to us. Pass one-call.

INTRODUCTION OF THE ONE DOLLAR COIN AND COMMUNITY DEVELOPMENT ACT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. LAFALCE. Mr. Speaker, today I am introducing legislation to provide for the minting and circulation of one-dollar coins. This is a long overdue change which will result in substantial savings for both the Federal Government and the private sector. In addition, this particular bill will provide our Nation's underserved urban and rural communities with much of the funding necessary to address the many problems that they currently face due to a lack of financial resources. Chronic unavailability of credit, coupled with high unemployment and poverty rates, have precluded the potential for economic growth in many of our communities. My proposal, the "One Dollar Coin and Community Development Act of 1994," will help fulfill President Clinton's promise to create a network of alternative lenders that will supply loans and banking services to qualified community development banks, credit unions, and loan funds.

The introduction of a new dollar coin should prove to be a win-win situation for the United States. In addition to providing funds to low- and moderate-income communities in our society, the introduction of a new dollar coin will yield significant savings to both the Federal Government and private industry. According to a 1992 Federal Reserve study, the Government would save $395 million annually, or average, over the next 30 years. A portion of these savings represent printing and distribution savings which accrue because coins remain in circulation for 30 years at a production cost of 8 cents, while most bills must be reprinted every 17 months at a cost of 3.5 cents. Furthermore, in June 1992, the Congressional Budget Office [CBO] projected that a move to a dollar coin would result in deficit reduction of $470 million from 1993 to 1997 and an additional $580 million from 1998 to 1999. According to that same study, the private sector will also realize substantial savings, amounting to $435 million annually. Some of these savings will result in higher profits, hence more tax revenue for the Government.

The dollar coin also makes sense from a convenience standpoint. In today's economy, a dollar buys what a quarter did in the 1950's, the result being that it is difficult to have enough quarters in one's pocket to purchase a candy bar or make a long distance phone call. With increasing automation, and vending machines selling an array of consumer goods, the dollar coin is simply a more convenient way to pay for goods and services.

The private sector has developed its own solution to this problem—prepaid smart cards. Instead of having coins and bills many consumers carry a pocketful of cars, each designed for a specific use, such as a pay phone, transit system, or vending machines. The issuers of the smart card earn money on investments until the card's value is consumed, causing the Government to lose a portion of the coinage profits it makes from selling billions of coins to the public.

I fully recognize that there have been problems with the dollar coin in the past. The Susan B. Anthony coin failed because consumers, given the choice between a note they already use and new coin, resisted change and continued to use the note. Furthermore, the Susan B. Anthony resembled the quarter far too closely. The Dollar Coin and Community Development Act addresses these problems by seeking the immediate elimination of the one-dollar note and changing the dollar coin's visual features to make its denomination much more readably discernible.

By enacting this legislation, the United States will be joining other industrialized nations that have come to terms with past inflation and revamped their currency. Countries such as Canada, France, the United Kingdom, and Spain have successfully put high-denomination coins into circulation and phased out notes of the same values. All of these countries countered initial public resistance to the conversion by establishing a public awareness campaign which proved to be very effective.

The resistance eventually dissipated over time.

But the move to a dollar coin can have even greater benefits. Historically, many low- and moderate-income communities of the United States have been underserved by traditional lenders. As a result, essential community needs such as affordable housing, bridge and highway repair, and public transportation services have been deferred for lack of funding. I believe it is essential to restore and maintain the economics of these communities by developing a coordinated strategy that stimulates increased investment in low-income businesses, housing, commercial real estate, and other development activities. Toward that end, my legislation will further the goals of the Community Development Banking and Financial Institutions Act [H.R. 3474]. This act, recently signed by the President, will create a Community Development Financial Institutions Fund [CDFIF] that will be used to channel moneys, via community development financial institutions, to underserved geographic areas. Eligible institutions, will include low-income credit unions, community development corporations, housing revitalization lenders, as well as other community development banks.

In order to provide additional funds for this endeavor, my proposal will utilize the difference between the face value of the coins and the cost of production—the coinage profit—to increase the lending capacity of the CDFIF. Traditionally, coinage profits are accounted as an off-budget receipt and used to finance the deficit. Under my proposal, coinage profits will continue to be utilized to finance the deficit.

However, I believe that these profits can be utilized in a manner that will maintain their function of financing the deficit in addition to meeting the financial needs of underserved communities throughout the country. My proposal would channel coinage profits through a coinage reserve fund in the Treasury to the CDFIF which in turn will lend the money exclusively for community projects at an interest rate equal to that of a Treasury security. Any interest, dividends, and other earnings on investment will be paid to the Treasury to assist in reducing the deficit.

The time has come for Members of Congress to recognize that our current system is antiquated. It is my hope that this proposal will act as a catalyst for future discussions and debate that will eventually lead to passage of this or similar legislation in the 104th Congress. I believe that the introduction of a new dollar coin, and increased funding for community development, warrants serious consideration from my colleagues in Congress and I hope, and believe, this bill will be considered seriously in the next Congress.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "One Dollar Coin and Community Development Act of 1994".

SEC. 2 ONE DOLLAR COINS.

(a) COLOR AND CONTENT.—Section 5112(b) of title 31, United States Code, is amended—

(1) in the 1st sentence, by striking "dollar,"; and

(2) by inserting after the 4th sentence, the following new sentence: "The dollar coin shall be golden in color, have an unreeded edge, have tactile and visual features that make the denomination of the coin readily discernible, be minted and fabricated in the United States, and have such metallic, anticounterfeiting properties as United States clad coinage in circulation on the date of the enactment of the One Dollar Coin and Community Development Act of 1994.".

(b) DESIGN OF DOLLAR COIN.—Section 5112(d)(1) of title 31, United States Code, is amended by striking the 5th and 6th sentences and inserting the following new sentence: "The Secretary of the Treasury shall select an appropriate design for the obverse side of the dollar.

(c) EFFECTIVE DATE.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Treasury shall place into circulation 1 dollar coins authorized under subsection (a)(1) of section 5112 of title 31, United States Code, which comply with the design requirements of subsections (b) and (d)(1) of such section, as amended by subsections (a) and (b) of this section. The Secretary may include such coins in any numismatic set produced by the United States Mint before the date the coins are placed in circulation.

SEC. 3. CEASING ISSUANCE OF ONE DOLLAR NOTES.

(a) IN GENERAL.—After the date that coins described in section 2(c) are first placed in circulation, no Federal reserve bank may order or place into circulation any $1 Federal reserve note.

(b) REDEMPTION OF $1 NOTES.—

(1) IN GENERAL.—Section 5119(b)(1) of title 31, United States Code, is amended by adding at the end the following new subparagraph:

"(F) Federal reserve notes in the denomination of $1.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall take effect on the date on which coins minted pursuant to the amendments made by section 2 are first placed in circulation.

(B) NOTICE OF EFFECTIVE DATE.—The Secretary of the Treasury shall publish a notice in the Federal Register of the date on which the amendment made by paragraph (1) takes effect in accordance with subparagraph (A) of this paragraph.

(c) EXCEPTION.—The Secretary of the Treasury shall produce only such Federal reserve notes of 1 dollar denomination as are required from time to time to meet the needs of collectors of this series. Such notes shall be produced in sheets and sold by the Secretary, in whole, or in part, at a price that exceeds the face value of the currency by an amount that, at a minimum, reimburses the Secretary for the cost of production.

SEC. 4. RESERVE FUND FOR CIRCULATING COINAGE.

(a) ESTABLISHMENT.—Section 5111(b) of title 31, United States Code, is amended to read as follows:

"(b) COINAGE FUNDS.—

"(1) COINAGE METAL FUND.—The Secretary of the Treasury—

"(A) shall maintain a coinage metal fund in the Department of the Treasury; and

"(B) may use the fund to buy metal to mint coins.

"(2) CIRCULATING COINAGE RESERVE FUND.—

"(A) ESTABLISHMENT.—The Secretary of the Treasury shall maintain a circulating coinage reserve fund in the Department of the Treasury.

"(B) CREDITS AND DEBITS.—The Secretary shall—

"(i) credit the coinage reserve fund with the amount by which the nominal value of the coins minted and placed into circulation under this subchapter (other than numismatic items) exceeds the cost of the metal; and

"(ii) charge the account with—

"(I) the waste incurred in minting the coins referred to in clause (i); and

"(II) the cost of distributing the coins, including the cost of coin bags and pallets.

"(C) AVAILABILITY OF FUNDS FOR COMMUNITY DEVELOPMENT.—

"(i) IN GENERAL.—Effective for any fiscal year only to the extent and in such amounts as are provided in advance in appropriation Acts, the Secretary may lend excess amounts in the circulating coinage reserve fund to the Community Development Institutions Fund for the provision of financial assistance by such Fund through deposits, credit union shares, and loans in accordance with section 108 of the Community Development Banking and Financial Institutions Act of 1994.

"(ii) TERMS AND CONDITIONS.—Any loan by the Secretary to the Community Development Institutions Fund in accordance with clause (i) shall bear such rate of interest and be subject to such other terms and conditions as the Secretary determines to be appropriate.

"(D) INVESTMENT OF BALANCE IN ACCOUNT.—Subject to subparagraph (C), the Secretary of the Treasury shall invest excess amounts in the circulating coinage reserve fund in—

"(i) instruments issued by the Secretary under chapter 31; and

"(ii) other instruments to the extent, and in such amounts, as may be authorized by law.

"(E) PAYMENT TO GENERAL FUND.—Interest, dividends, and other earnings on investments of the circulating coinage reserve fund, including interest on loans to the Community Development Financial Institutions Fund, shall be paid into the general fund of the Treasury to assist in reducing the deficit.".

(b) TERMINATION OF COINAGE PROFIT FUND.—The coinage profit fund is hereby abolished and any balance in the account as of such termination shall be transferred by the Secretary to the circulating coinage reserve fund established pursuant to the amendment made by subsection (a) as soon as practicable after the date of the enactment of this Act.

HONORING AARON AND FLORENCE KLEIN

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. HINCHEY, Mr. Speaker. I am here to speak on behalf of Aaron and Florence Klein, who will be honored on October 13 with the Shema Yisrael award at the 1994 Ulster County State of Israel Bonds Committee Recognition dinner. Aaron and Florence, as well as their family, have devoted many years of time, service, and generosity to the Jewish community and to the community at large.

At a time in our Nation when service to the public is often derided, Aaron and Florence Klein are wonderful examples to us all, and they renew my faith in the ability of all American's to contribute in positive ways to the betterment of everyone. It is my personal honor and privilege to ask my colleagues to join me in honoring their contributions to the people of Ulster County.

TRIBUTE TO THE DOMESTIC ASSAULT RAPE ELIMINATION SERVICES [DARES] OF PORT HURON, MI

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. BONIOR. Mr. Speaker, next Thursday, on October 13, the Domestic Assault Rape Elimination Services [DARES] of Port Huron, MI is sponsoring their second annual international candlelight march and vigil.

Domestic violence victimizes millions of Americans and threatens all levels of society. Nationally, 3 to 4 million women are victimized each year. It is important to recognize this issue as a major social problem and to support both the victims and those who provide assistance.

In the past year, the DARES shelter services of St. Clair County, MI, provided safe haven to 611 adults and 278 children for over 3,800 nights. On any given day or night, the staff and volunteers at DARES are devoted to meeting the needs of people who have no place to turn. They also support initiatives designed to treat, prevent, and educate people about this serious social issue. Next Thursday's vigil and march is just one example of how they are helping raise the community's awareness.

We all look forward to a day when the need for DARES will be unnecessary; but until then, I strongly support their efforts. As the organizers prepare for the second candlelight vigil and march, I urge my colleagues to join me in expressing concern and hope for a future where everyone can feel safe in their home and neighborhood.

INTRODUCTION OF THE OFFICE FOR RARE DISEASE RESEARCH ACT OF 1994

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. WYDEN. Mr. Speaker, I am introducing today a companion bill to legislation sponsored in the Senate by my colleague from the Oregon delegation, Mr. HATFIELD. This bill would formally establish within the National Institutes of Health an Office for Rare Disease Research utilizing existing NIH personnel, and would authorize no new spending.

The Office for Rare Disease Research would coordinate NIH research activities in the crucial area of diagnosis and treatment of rare diseases, in the same manner as the existing Office for Women's Health and Office for AIDS Research. This coordination will help ensure that the various institutes working in this area will cooperate with each other, avoid wasted and duplicative effort, and focus scarce governmental resources on high priority research.

Congress has taken action in the past to motivate the private pharmaceutical industry to invest in treatments for rare disorders that represent too small a potential market to provide a reasonable return to investors who might otherwise invest in a cure. Enactment of the Orphan Drug Act in 1983 has proved to be a very successful venture in public policy, focusing private dollars and intellect on these vexing and often fatal diseases.

During the past 10 years, more than 500 orphan drugs have been designated by the FDA, and more than 100 such products are now available for use by patients. This is 10 times the number of orphan products approved for use in the decade preceding enactment of the Orphan Drug Act.

The Office for Rare Disease Research created by this legislation would provide an analogous focus for public sector investment in cures for these poorly understood diseases, which number in the thousands.

One of the reasons why this legislation is needed is that rare disorders affect the human body in many ways that don't respect the institutional pigeonholes that govern how NIH funds are divided up and spent. For example, a rare disease often will simultaneously affect several organ systems, ranging from the brain to the skin to the kidneys, each the special focus of a different institute at NIH. The Office for Rare Disease Research would act to coordinate the expertise of the separate institutes, getting the most bang for the taxpayers' research buck.

In addition, a tragic and preventable fact of life for people afflicted with rare diseases is that they often must see many doctors about their symptoms, but go without a proper diagnosis—let alone an effective treatment plan—for a year or more. One of the important contributions of this new office would be to establish and maintain a rare disease clinical database, to help scientists and physicians understand and treat rare diseases more promptly and appropriately.

Mr. Speaker, in closing I would like to point out that this legislation is supported by the key consumer organization representing those with rare disorders, the National Organization for Rare Disorders [NORD]. NORD's president, Ms. Abbey Meyers, worked closely with Chairman WAXMAN, Chairman DINGELL, and Senator HATCH in securing enactment of the original Orphan Drug Act. Ms. Meyers tells me that she has high hopes that this legislation will provide another major boost to the search for effective treatments for rare disorders.

Without objection, I would request that a letter of support for the Office of Rare Disease Research Act of 1994 from Ms. Meyers be incorporated in the record at the conclusion of my remarks.

NATIONAL ORGANIZATION FOR RARE DISORDERS INC.,
New Fairfield, CT, Oct. 4, 1994.

Representative RON WYDEN,
Washington, DC

DEAR CONGRESSMAN WYDEN: We fully support the Office for Rare Diseases Research Act, which you are sponsoring in the House of Representatives. As you know, this legislation would establish an Office for Rare Diseases at the National Institutes of Health [NIH].

The Office for Rare Diseases at NIH would fulfill one of the primary recommendations of the National Commission on Orphan diseases. As you know, the Commission found that there is an absence of coordination between the many Institutes of NIH which have responsibilities for orphan disease research, and that precious resources are being wasted through duplicated efforts. The NIH office will create a home for rare disorders at NIH, which will have authority to coordinate activities among the many Institutes.

The fact is, many rare disorders affect different body systems so research on each disease may be in the realm of several Institutes. For example, one disease may have skin manifestations that are the responsibility of NIAMS, neurological symptoms that fall under the NINDS umbrella, renal complications that encompass NIDDK, and genetic research may be pursued at the Human Genome Center. A rare disease center at NIH would be able to coordinate the activities of all these Institutes and Centers so they can plan and execute programs with minimal waste of time and funds. If a treatment is being developed and the FDA must become involved, the office could coordinate FDA's activities with NIH early in the process. This addresses a specific need identified by the Commission when it found that NIH and FDA do not coordinate their activities satisfactorily.

We support your effort for this legislation with the hope that it will spur productive research on orphan diseases, minimize delays and save needed resources. The astonishing advancements of the Human Genome Project make it imperative that the Office be established quickly to coordinate policies on more than 5,000 rare diseases, in a similar manner to Offices on Women's Health, Minority Health, AIDS and Alternative Therapies.

Thank you for your support of this important effort to develop a coordinated federal program for orphan diseases.

Very truly yours,
ABBEY S. MEYERS,
President.

THE CSIS ST. PETERSBURG ACTION COMMISSION

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. McCURDY. Mr. Speaker, I want to invite the attention of my colleagues in Congress to a unique international partnership formed by the Center for Strategic and International Studies [CSIS], a distinguished policy research institution in Washington, DC. I refer to the International Action Commission for St. Petersburg, on which I serve, and which is successfully increasing investment and business growth and speeding the process of economic conversion in St. Petersburg city and region. Working under the joint leadership of Dr. Henry Kissinger and Mayor Anatoly Sobchak, the 71 commissioners, comprising leaders of business, government, and universities from six nations, play an aggressive and direct role in bringing about an impressive number of positive changes in northwest Russia.

Commission actions are developed and implemented through a framework for cooperation involving 11 joint Russian-Western working groups and a consortium of international universities. These working groups have 26 concrete actions completed or underway in areas ranging from arbitration court development to defense industry conversion and energy conservation. Through these actions, and through the partnership that has created them, the commission has sparked joint venture development, growing private and public investment in the St. Petersburg region, job growth, business education, technical assistance, and the building of structures necessary for a functioning free-market economy and stable economic growth. These significant and tangible results not only provide clear benefits to the St. Petersburg region, but they also serve as a model for economic conversion for other Russian cities and regions, and cement a healthy working relationship between American and Russian leaders.

The intense activity taking place in St. Petersburg through this commission, the enthusiastic involvement of so many senior leaders, and the early successes already achieved in this effort, underscore the critical importance—to both Russia and the United States—of strong, bottoms-up change in this strategic region of Russia to accompany top-down reform efforts led from Moscow.

Under the leadership of its president, Ambassador David M. Abshire, CSIS's effort on this project merits our admiration and support.

MILITARY ORDER OF THE WORLD WARS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SKELTON. Mr. Speaker, on September 23, 1994 Gen. Carl Mundy, the Commandant of the Marine Corps, spoke to the military Order of the World Wars, Greater Kansas City Chapter. This dinner honored foreign officers attending the Command and General Staff College at Fort Leavenworth, KS.

General Mundy's remarks were quite appropriate for the occasion, as they reflect excellent military thinking and foresight. I include the remarks made by General Mundy:

REMARKS TO THE MILITARY ORDER OF THE WORLD WARS MADE BY GEN. CARL MUNDY

This is the second time this year I've had the pleasure of addressing the Military Order of the World Wars. In January, I spoke to your National Convention down in Charleston—and the warmth and enthusiasm of your welcome there made it hard to resist a second opportunity to visit with you.

Another reason I jumped at the opportunity to come out here is the chance to address an organization that captures so much that's good about America—the remembrance of honorable service rendered abroad from the First World War to today, and, also, a strong sense of ongoing public service. The support you give ROTC, your education programs like the Patriotic Education Foundation, and your regional youth leadership conferences—these are all very important initiatives, and they have a powerful—and positive—effect on the young people of our country.

I'm also pleased and honored to be up here with Congressman SKELTON. I think it's particularly fitting that he be here tonight at this gathering that honors Command and General Staff College students, because he has been one of the true leaders in the Congress on the issue of professional military education.

Tonight, as we honor the International Officers in attendance at Command and General Staff College, I want to take a few minutes to talk to you about our national defense capabilities and the requirements of the post cold-war world.

As you know, I wear two hats—as a member of the Joint Chiefs of Staff, and as a Service Chief. I'm going to give you the perspective I have from both of those jobs. The National Security environment is as unclear as it has ever been in my lifetime. Since our victory in the cold war, there have been a number of flashpoints that required U.S. and U.N. intervention. Some of these have been natural disasters—the rest man-made—but all have required the use of U.S. forces. We also have challenges at home that all of us want to address—from crime, to health care, to education. DOD isn't going to fix these latter problems, but we can help to meet the challenges—both foreign and domestic—that face us.

How we defend our Nation in this multipolar, regionally oriented world is both straightforward, yet difficult: we must be ready—both for the rational and the obvious—and also, for the irrational and the unexpected. We can't always choose when and where we'll have to fight. All states don't behave rationally. For example, North Korea in 1950, Iraq in 1990, and most recently, the dictators in Haiti, weren't operating within the same rational calculus that shapes most of our foreign policies.

We must be prepared to meet the requirements that stem from these challenges—from the overriding danger of nuclear proliferation—to the serious threats of major regional conflicts—and to the more likely, almost everyday threats that require deterrence and crisis response. In other words, for every potential Desert Storm, there will be dozens of potential Somalias and Haitis.

In a way, our problems are more difficult because of our own success. Today—tonight—the armed forces of the United States are the gold standard—the standard against which all armed forces are measured.

But that means we're also an open book—and we're being carefully studied by people out there who don't wish us well. We can rest assured, I think, that potential future adversaries will avoid Desert Storm-type encounters. While we may have a superb Army, they'll avoid a direct conventional conflict. Our Air Force is clearly the world's best, but we may find it hard to find attackable targets. All our opponents won't array their forces on a billiard table. In other words, everyone has read the after-action reports on Desert Storm, and, just as we apply those lessons, we can expect our enemies to do the same. It certainly complicates the way we approach future defense issues.

We're in a period of reorganizing the Department of Defense, and to help meet those domestic challenges I mentioned before, we've begun a period of steep decline of defense spending. The spending level for defense as a percentage of the gross national product is the smallest since 1948. We're on track to have, by 1997, the fewest number of men and women in uniform in 57 years—the fewest since 1940.

Let me give you a brief example of some pretty dramatic changes in capabilities that we've already undertaken. We no longer have any nuclear weapons under the control of ground forces of the United States, and we no longer deploy tactical nuclear weapons at sea.

At the same time, we've taken all our strategic bombers off day-to-day alert. We've reduced our total active stockpile of nuclear weapons by almost 60 percent—with a goal of almost 80 percent by 2003. We've made significant reductions in our conventional forces as well. These are remarkable changes in capabilities—capabilities that were once critical to deterrence, but are now of lesser value. The world has changed. One thing that won't change, though, is this: at some time and place in the future we'll have to support diplomacy with force.

History teaches us this inevitability. We don't know where, we can't predict accurately when; but on one thing, I'll give a stiff wager. The United States will again commit its young sons and daughters to conflict; and much as we might hope that conflict will be the sterile, precise, video-game, hi-tech, low or no casualty conflict some "silver bullet" strategists would like, it will, unfortunately, involve infantry, and mud, and rifles, and casualties.

And that brings me to the heart of what I want to say tonight. Readiness—the core of our military effectiveness, is people. We fought and won Desert Storm—magnificent victory by any standard—with a force that many of you in this room helped conceive and plan—a force that, to paraphrase general Schwarzkopf, could have swapped equipment with the Iraquis and still beat them. Why? Because it's the people, not the equipment—it's not the tanks—it's not the aircraft—it's not the ships—instead, it's the pilot, it's the infantryman, it's the tanker, it's the sailor—the man or woman who remains the key element of the equation.

As all of you know, that is not a force that represents a cross-section of America—instead, as an all-volunteer force, it's a force that represents something better—our finest vision of national service and self-sacrifice. The quality of our people today is very high, by any standard you care to measure us with—in the number of high school graduates we recruit, in the number of enlisted men and women who earn their undergraduate degrees while in the service, in the fact that we have a drug free environment—consider that. And while we may recruit with a variety of economic incentives, it's not just money that motivates the men and women who stand in our ranks.

This isn't just another job. An excellent editorial that appeared this week described their motivation in this way:

> Those who bear arms in the Nation's defense know and feel mysteries beyond the reach of those who do not * * *

Members of the Order of the World Wars—and your guests tonight—you know what I'm talking about.

So I think that while the weapons are going to change—and our potential adversaries are only going to get smarter and tougher—our success will remain directly related to our ability to continue to put the very best America has to offer into our ranks. We're on the razor's edge on this issue—our forces are being ridden hard and put away wet.

Here's an example from the Marine Corps: Tonight, Marines are, of course, in Haiti and in Guantanamo Bay, Cuba—but we're also in the Persian Gulf and Indian Ocean with 2,000 Marines; offshore Mogadishu; and ashore in Kenya with Marine aircraft supporting our operations in Rwanda * * * while other Marine forces operate in the Mediterranean and in Aviano, Italy, with an F-18 squadron in support of Deny Flight; and in Croatia as security for our hospital there. These forces are combat ready—or ready for anything else—at a moment's notice. The Corps is at its' highest tempo of operations in my 37 years of active service.

That's a tough pace to maintain, and we've got to look on down the road—not only for today, but for tomorrow as well. While we're healthy today, we may not be healthy 5 years from now, unless we carefully match our capabilities to our requirements, and provide the national resources to sustain them.

This, then, is our future as I see it: an era where all our forces will continue to be used frequently, for diverse and challenging tasks—from major regional contingencies, to peacekeeping, to deterrence, and everything in between—and we'll be doing this in an increasingly austere fiscal environment.

We're going to face opponents who have the book on us, and we'll be employing increasingly complex weapons, all with Rules of Engagement that may be blurred and uncomfortable. In these situations, we won't be saved by our equipment. We will be saved by our people. That's why I jumped at the chance to come out here tonight. In this room, out here in front of me, I can see the people who carried us to victory in earlier wars * * * and the people who will carry us to victory in future battles—those battles that we can foresee, and those battles that we haven't yet dreamed of.

Your charge is to carry this message back to your friends and your neighbors. Tell them that today's military—all the services—remain as ready to serve the nation—to sacrifice if need be—as you were. We must not forget the underlying lesson that America's wars in this century have taught us, a lesson purchased in blood, and that is this: the forces that defend our Nation must have the capabilities to meet not only the crises we can anticipate and prepare for, but also the unforeseeable, uncomfortable hot spots—the threats to freedom—that are sure to arise in this new, uncertain world.

To prevail will require some difficult trade-offs for American citizens, but as we continue our very good start into the post cold-war world, these are lessons that are too bloody to be forgotten and too dear to be re-learned. But in all this, remember: It's the people.

HONORING THE LION'S CLUB OF OLD FORT ON THE OCCASION OF THEIR 50TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. GILLMORE. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an outstanding service organization located in Ohio's Fifth Congressional District. On December 14, the Lion's Club of Old Fort, OH will celebrate their 50th anniversary.

The Village of Old Fort, my hometown, is a community renowned for its civic pride and commitment to service. In 1944, it was home to five active churches, an active Grange as well as school organizations dedicated to helping others. There was not, however, an agency which could coordinate these services to provide for the entire community. My father, P.M., who served as the club's first president, along with Ralph Blaney, were members of the nearby Tiffin Lions Club. Together, they proposed Old Fort should form a club of their own. After enlisting 41 good citizens of Old Fort, they became charter members and joined Lions International.

It was a good start and the club was active in the community from the very beginning. Throughout its history there has never been a lack of enthusiasm or volunteer labor for its many projects. In addition, the Old Fort Lions Club has been active throughout the years in zone, State and International Lions. Ralph Blaney served as an international director, David Biddle and Ralph Gillmor served as district governors, and the Club has had many zone officers.

Anniversaries are a time to reflect upon a steadfast tradition of service. They are also a time to look toward new horizons. Lions have made it their responsibility to serve those in need by keeping pace with the ever increasing challenges facing mankind.

Mr. Speaker, it is obvious that the community and the members of the club have greatly benefited from the effort that was started in 1944. I ask my colleagues to join me today in recognizing the achievements of the Old Fort Lions and encourage them to continue to uphold what has become the standard for service in Ohio.

LEGISLATION TO MODIFY THE LAFARGE PROJECT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. GUNDERSON. Mr. Speaker, Today the residents of the Kickapoo Valley in Wisconsin are winners. With the passage of the Water Resources and Development Act of 1994, they see an opportunity to lay to rest economic stagnation which has plagued the area for 30 years.

On June 14, Representative PETRI joined me in the introduction of H.R. 4575, a measure which would direct the Secretary of the Army to transfer to the State of Wisconsin lands and improvements associated with the LaFarge Dam and Lake Project—a Corps of Engineers flood control project initiated in 1962. This legislation would deauthorize the construction of the reservoir and dam, while completing other features of the original project.

Prior to 1962, the LaFarge area was a farm community which suffered from severe flooding each spring. Responding the residents' complaints, the Federal Government promised to correct the flooding problem by constructing a reservoir and dam. For environmental reasons, work was suspended in July 1975, leaving 61 percent of the dam uncompleted, while 80 percent of the land was acquired. By 1990, it was estimated that annual losses resulting from the removal of family farms and the unrealized tourism benefits anticipated with the completion of the project totaled over 300 jobs and $8 million for the local economy, further exacerbating poverty in the area.

In March of this year, the Wisconsin Legislature created the Kickapoo Valley Reserve and Governing Board. Having established this entity, the State of Wisconsin is prepared to receive the transfer of land from the Federal Government, pending action by the Congress.

I want to take this opportunity to thank Representatives APPLEGATE, BOEHLERT, and PETRI, and the Subcommittee on Water Resources and Environmental staff for their conscientious efforts in bringing this legislation to fruition in the House of Representatives.

I encourage my colleagues in the other body to pass this legislation during the remaining days of the 103d Congress. By doing so, we have seized on a golden opportunity to make a profound difference in the lives of those in the Kickapoo Valley, while sustaining the region's rich environmental surroundings for generations to come.

GLOUCESTER TOWNSHIP GIRLS ATHLETIC ASSOCIATION

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise to take this opportunity to extend my congratulations on an outstanding season to the Gloucester Township Girls Athletic Association Softball program.

As we all know, team sports empower youth in many different ways and develop skills that will last a lifetime. Cooperation, teamwork, and determination are some of the talents developed when playing softball. These skills in turn will equip these young women to face the ever-changing challenges of the world and enable them to succeed in life.

The girls that participate in the Gloucester Township Girls Athletic Association have proven themselves to be a group of dedicated, talented young women who tirelessly took the field with the determination of having fun and bringing the game of softball alive in Gloucester Township.

I am also proud to be associated with an organization that has dedicated itself to teaching the youth of its community. The parents and volunteers should be recognized because without their sacrifice and dedication to the children of our community, sports programs like the GTGAA would not exist.

It is a privilege to honor the members of the Gloucester Township Girls Athletic Association. May they continue to succeed on and off the field.

WHEN POLITICS GIVES THE MARCHING ORDER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. GINGRICH. Mr. Speaker, I would encourage of my colleagues to read the following editorial by Col. Harry Summers, Jr. (retired), about the dangers of pursuing military adventures to gain partisan political advantage.

The United States is facing very serious difficulties in the world, and I want to be helpful in bringing safety and freedom to other nations. I believe that politics should end at the water's edge and that U.S. foreign policy should be coherent and bipartisan. However, at the moment, I am very discouraged about the current administration's lack of planning.

I am worried about the Clinton administration's insistence on pursuing further reductions in the defense budget while using the military to go more places and do more things. There is a very great danger that the U.S. military is becoming hollow and will be cut too deeply to adequately provide for the defense of United States national interests. We cannot afford to take on more missions without providing sufficient resources to support our military needs.

Mr. Speaker, I hope that all of my colleagues will take the time to read Colonel Summers' insightful column.

[From the Washington Times, Aug. 18, 1994]

WHEN POLITICS GIVES THE MARCHING ORDER

(By Harry Summers)

One of the dirty little secrets making the rounds in Washington is that President Clinton's dogged determination to restore ousted Haitian President Jean-Bertrand Aristide to power, even if takes an American military invasion to do so, has little to do with democracy there. Instead it has everything to do with winning the support of the Congressional Black Caucus for passage of his health reform bill.

Shades of Lyndon Baines Johnson, who 30 years ago this August pressed the Congress for passage of the Southeast Asia Resolution (better known as the Tonkin Gulf Resolution), ostensibly to "take all necessary measures to repel an armed attack against the forces of the United States and to prevent further aggression." But, as it later turned out, his real reason (and the reason Democratic Sen. J. William Fulbright ramrodded the bill through the Senate) was to derail Republican Barry Goldwater's presidential campaign.

Mr. Goldwater had charged that the Democrats in general and LBJ in particular were soft on communism. And LBJ and partisan Democrats like Mr. Fulbright were willing to pay what turned out to be more than 50,000 American lives to prove him wrong. No wonder that earlier American military strategists like Brevet-Maj. Gen. Emory Upton (who committed suicide in despair in 1881) were adamant that when war starts politics must stop.

Where Karl von Clausewitz had defined "politics" as the interaction of peoples and their governments and had rightly said it was the very engine of war, Upton defined "politics" as domestic politics, the very kind of cynical profiteering for personal political gain with soldiers' lives practiced by LBJ in Vietnam and now by Mr. Clinton in Haiti.

It turned out that Mr. Johnson was too clever by half. When accounts of his duplicities began to surface, a "credibility gap" developed that ultimately destroyed his presidency. The same thing is beginning to happen to Mr. Clinton as more and more Americans question his truthfulness and his motives. You would think that of all people Mr. Clinton would have avoided such a credibility gap, since as a young man he took to the streets to publicly protest that breach of the public trust. But he evidently wasn't reading his own protest placards.

LBJ should have gotten the hint when all of our NATO allies, who had previously sent troops to help us in the Korean War, refused to send any at all to help in Vietnam. Instead he had to invent the "Free World Military Forces" subterfuge and strong-arm our Asian allies to send troops to provide a pretense of multilateral support.

Mr. Clinton should also have gotten the word when all of the members of the Organization of American States, who have a greater stake in democracy in Latin American than we do, rapidly disassociated themselves from a Haiti invasion. Instead of furthering U.S.-Latin American relations, Mr. Clinton risks a major setback. President Carter gave up the Panama Canal to avoid Latin American criticism of U.S. "imperialism" in the Caribbean. Now by proposing a unilateral U.S. invasion of Haiti, Mr. Clinton will sacrifice all that good will and re-establish the United States as the arrogant Big Brother from the North.

Lacking an OAS subterfuge, all Mr. Clinton has is a U.N. resolution, and even his own Senate has told him publicly that dodge won't cut it anymore. As Sen. Robert Byrd, West Virginia Democrat, remarked recently, when he looks to the front of the Senate chambers he doesn't see the U.N. flag there, he sees only Old Glory. And so do the American people.

It was said of the French commander during the Franco-Prussian War in 1870 that he had devised a plan that, if successful, would have guaranteed his instantaneous defeat. His descendant must be advising President Clinton today.

If Mr. Clinton persists in his public vow to invade Haiti over the objections of the Congress and the American people, he may, as planned, get the support of the Congressional Black Caucus for his health reform bill. But if one American is killed in action during that invasion in order to gain that domestic political advantage, Mr. Clinton will surely reap, as did LBJ before him, the disgust and contempt of the American people for playing politics with their sons' and daughters' lives.

Garry Trudeau's "Doonesbury" recently announced a contest for a symbol to represent Bill Clinton, with a choice between a flipping coin and a waffle. More appropriate would be a caricature of LBJ as the ghost of Presidents Past, rattling his chains and warning of the folly of sacrificing American soldiers' lives to gain partisan political advantage. To paraphrase Sir Thomas More in "A Man for All Seasons": "To risk one's immortal soul to gain the entire world is understandable . . . but for Haiti?"

SALUTE TO JAMIE KNIGHT, YOUTH AMBASSADOR FOR THE CITY OF PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise to salute Philadelphia's Youth Ambassador, Jamie Knight, of the 6800 block of North Broad Street in my district. Jamie is a 10 year old, fourth grade honor student at the Ellwood School in the East Oak Lane section of Philadelphia where she is a straight A student.

Jamie is carving a name for herself as the city's fastest rising jazz star. Jamie's magnetic personality and electrifying performance skills have brought her fame as winner of the 1994 Junior Vocalist of the Year Award on Ed McMahon's internationally acclaimed TV show "Star Search". Additionally, she has mesmerized the crowd at the historic Apollo Theater, dazzled the audience at the Philadelphia Jazz Festival and the Cape May, NJ, Jazz Festival, and owned the stage in performances at Carnegie Hall and on ABC's "Good Morning America" show.

Jamie's parents, Darlene and James Knight, have a long history in show business themselves, and have raised a daughter who is a shining role model to her peers. She is bright, talented, studies hard, and has a great future ahead of her. I stand with her friends, family, and the city of Philadelphia in embracing Jamie and proclaiming our great pride in her.

HONORING MURIEL WOJCIECHOWSKI

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. ENGEL. Mr. Speaker, It is with great pleasure that I recognize the community service of Muriel Wojciechowski, who is being honored this month by a leading organization in Westchester County, the Aquehung Women's Democratic Club.

This honor is most deserving because Muriel has dedicated much of her life to participation in local political and community activities. For three decades, she has been a member of the Westchester Democratic Party County Committee and for 20 years she served as a ward leader in the city of Yonkers.

Muriel's activities also reach out beyond the political arena. She is a retired guidance counselor at Lincoln High School and a past president of the PTA at Roosevelt High School and Public School 26 in Yonkers; in these roles she helped many students get the best education possible. She is a member of the Yonkers Citizen Union and has volunteered her services to the Multiple Sclerosis Society of Westchester.

It is clear that Muriel Wojciechowski is the type of citizen who gives of herself for the betterment of the community. Hers is an example we can all do well to emulate, and I congratulate the Aquehung Women's Democratic Club for choosing such a worthy honoree.

A CHANGE IN REPRESENTATION FOR THE REPUBLIC OF CHINA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SOLOMON. Mr. Speaker, an important change is taking place this month in the representation of the Republic of China to the United States. Representative Mou-Shih Ding, a good friend of many Members and staff here in the Congress, is leaving his post as the senior ROC diplomat in the United States and is returning to Taipei to assume the duties of Secretary-General of the National Security Council.

It scarcely seems possible that more than 6 years have already passed since Representative Ding left his post as Minister of Foreign Affairs and came here to Washington as the de facto Ambassador from the ROC. The years he spent with us were very productive and served to expand and strengthen the ties of friendship and common purpose between our two great nations.

I know all Members join me in extending fond farewell wishes to Representative Ding as he goes home to take up his important new responsibilities as the coordinator of national security policy for his government.

A very able successor to Representative Ding will be coming to Washington later this month. Benjamin Lu is well known to many Members thanks to his earlier tour of duty here as director of the ROC's economic affairs division in the United States.

Once again, I know all Members will want to join me in extending a hearty welcome to Representative Lu. I trust his service here will be as fruitful as that of Representative Ding. And may our two countries continue to go forward together as friends, trading partners, and most importantly, as democracies.

TRIBUTE TO MALA AND HENRY DORFMAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. LEVIN. Mr. Speaker, I wish to extend my congratulations to Mala and Henry Dorfman who will receive the first Holocaust Memorial Center Legacy Award for "exemplary leadership and life-long philanthropy" at the 10th anniversary dinner of the Holocaust Memorial Center in Detroit.

The Dorfmans have been tireless and unstinting supporters of the HMC and its educational outreach programs. Both Holocaust survivors, they were instrumental in stimulating community interest in creating America's first Holocaust Center. Henry Dorfman began raising funds for the HMC in 1979 when he became chair of the endowment committee for a future museum.

After the Holocaust Memorial Center was built, Henry Dorfman served as chairman of its executive committee, a position he held from 1984–94. He is now the president of the HMC; he and Mala Dorfman and their children continue to be active and generous supporters.

Henry Dorfman was born in Poland and survived the Holocaust by jumping with his father off a train carrying the family to Treblinka. Father and son lived underground until the end of the war. Three years after his arrival in America, he founded Thorn Apple Valley, which grew to be a Fortune 500 company.

Mala Dorfman survived the Holocaust in a labor camp. She and Henry met after the war and lived in Germany before immigrating to the United States. Both continue to be active in the Detroit Jewish community and are very generous to many organizations, both with their time and money.

I wish them many more years of service in good health and contentment.

CELEBRATING THE 150TH ANNIVERSARY OF THE TOWN OF ROSENDALE

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. HINCHEY. Mr. Speaker, I rise today to speak on behalf of the town of Rosendale, which will celebrate its 150th anniversary this October with a celebration scheduled to last for 10 days. As we begin this commemoration of Rosendale's history and contributions to the life of the Hudson Valley region and the State of New York, it is a honor and a privilege to recognize the tremendous contributions and achievements of the town and its supervisor, Beatrice Havranek.

I have been glad to call supervisor Havranek my friend and colleague for many years and I am confident that I am merely echoing the sentiment of my many friends in Rosendale when I praise her many good works. Over the years Bea has been a dynamic voice for the people of Rosendale and has represented their interests with great distinction, intelligence, and compassion. While I walk these halls, I often reflect upon the true meaning of public service and can cite without hesitation Bea Havranek's commitment and dedication to serving her constituents and her township as a fine example of selfless public service.

So as we gather in Rosendale on October 14, 1994 to honor Rosendale's 150 years of incorporation, we will all pause to thank Bea Havranek for her exemplary efforts and service, and I thank my colleagues for allowing me this opportunity to celebrate her efforts and the township's history.

A TRIBUTE TO MOU SHIH DING

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. ACKERMAN. Mr. Speaker, Mou Shih Ding has recently completed 6 years of service as the representative of the Coordination Council for North American Affairs, Taiwan's unofficial representative office in the United States. In his capacity as Taiwan's unofficial ambassador to Washington, Mou Shih Ding worked tirelessly to improve the level of dialogue and understanding between the United States and its fifth largest trading partner, Taiwan. During his tenure, the Coordination Council for North American Affairs helped to facilitate an ever growing relationship between the United States and Taiwan.

Many of our colleagues have traveled to this bustling island off the Chinese mainland, to learn, firsthand, how the 23 million residents have transformed Taiwan from a largely rural economy to an industrial ,and technological powerhouse in less than 50 years. Today, Taiwan is the world's 14th largest trading nation. Its annual per capita income exceeds U.S. $10,000. Its foreign exchange reserves are greater than U.S. $80 billion and it has become the world's seventh largest outbound investor. Taiwan is on the cutting edge of major industries such as steel, shipping, and computers.

Mr. Speaker, during the past 6 years Mou Shih Ding has worked to make certain that the bonds between the United States and Taiwan have grown even stronger. A thoroughly professional diplomat, Mr. Ding has guided the Coordination Council with an even-handedness and a quiet resolve which have yielded several important successes. Among these successes has been the growing movement in the U.S. Congress to change the nature and level of our government's relationship with Taiwan to more accurately reflect Taiwan's increased economic stature in the world order, as well as its longstanding friendship with the United States.

Mr. Speaker, Mou Shih Ding is returning to Taipei to assume a new assignment as Secretary General to the National Security Council. I know my colleagues join me in wishing Mou Shih Ding and his lovely wife, MeiChange Shih, congratulations on a job well done and best wishes for continued success in his important new assignment. As chairman of the Asia and Pacific Subcommittee, I look forward to seeing Mr. Ding on a future visit to Taiwan and to welcoming him back to Washington on a future visit to our Capital.

POSSIBLE ALTERNATE FORMS OF ALLERGY TESTING

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. BARTON of Texas. Mr. Speaker, I rise today to share with my colleagues some important information that I hope will become part of next year's congressional debate on health care reform. I recently became aware of an alternative method of diagnosing allergies that may both save money and reduce patient discomfort for the 24 million Americans who suffer from this condition.

I am referring to a form of allergy diagnosis known as radioallergosorbant, or RAST testing. This procedure screens a simple blood sample drawn from a patient and can indicate if that person has allergies. RAST testing differs from the more common form of diagnosis currently practiced in this country, using skin pricks, scratches and injections in the patient's arm and back.

Allergies are a significant and growing problem, costing Americans a billion dollars a year in medical bills, with Medicare and Medicaid paying millions in Federal funds, loss of output at work, and countless hours of physical irritation. Therefore, how allergy is diagnosed and treated in this country should receive consideration during next year's health care reform debate.

Every year thousands of men, women and children are misdiagnosed as having allergies. In other words, their symptoms while real and uncomfortable, are caused by something other than allergies. The resulting needless expenditures on immunotherapy costs the government, taxpayers and insurance companies millions of dollars annually. It's possible these costs could be significantly reduced by greater use of RAST testing as a screening procedure by allergists and other physicians that can more accurately identify through a simple blood test, whether or not a patient has allergies.

RAST testing is a cutting-edge medical technology that can save patients time and money, as well as ease the level of discomfort normally associated with the diagnosis of allergy. If more widely used, it could also reduce reimbursement expenditures by the government and insurance companies on immunotherapy on patients who have been misdiagnosed.

As we continue to consider health care reform issues in the next Congress, it is my hope we can explore what obstacles exist to the greater deployment and utilization of RAST testing as a method to change and improve the way allergy is diagnosed and treated in this country.

DYSTONIA AWARENESS WEEK

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. TORRICELLI. Mr. Speaker, recently former New Jersey Governor Jim Florio declared Dystonia Awareness Week in New Jersey. I would like to call your attention to the plight of dystonia sufferers and ask my colleagues to recognize this week as Dystonia Awareness Week for the entire nation.

Dystonia is a neurological disease characterized by severe involuntary muscle contractions, which frequently causes sustained abnormal posture. There is no definitive test for dystonia, and most doctors have very little knowledge of the disorder.

One third of the estimated 250,000 dystonia sufferers in the United States are children. Treatments include drug therapy, injections, and surgery, but there is no cure.

Mr. Speaker, too often we take our health for granted. During this time of lost health care reform, we need to acknowledge how many sick Americans out there need our help and our attention. It is imperative that we never loose sight of individuals in need.

A medical condition such as dystonia keeps this in perspective. So many children and adults are affected in the United States each year, that we can no longer turn our backs on the pain that these victims endure.

IN MEMORY OF HARTWELL D. REED, JR.

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. FORD of Michigan. Mr. Speaker, at the very time that we were debating the conference report on H.R. 6, amending and extending the Elementary and Secondary Education Act of 1965, a man who had an essential and important role in the original construction of that law and its improvement over the years was being interned at Arlington Cemetery. Hartwell D. "Jack" Reed retired in 1984. He had served the Committee on Education and Labor for 23 years.

He made a vital and impressive contribution to all of the important social legislation of that era, including Economic Opportunity Act, the Comprehensive Employment and Training Act, and vocational education. He had a detailed knowledge of the substantive aspects of all of this legislation. He was an imaginative and extraordinarily good draftsman. His quiet good sense caused most members of the committee to seek his advice and counsel.

Jack drafted many of the amendments to our committee rules that marked the liberalization and the democratization of the committee process in the 1960's and 1970's.

As his ashes are interned in Arlington, there are many of us who miss him. He was a professional; he contributed much to the legislative process.

TRIBUTE TO ERIC S. ANDERSON

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Eric S. Anderson of Troop 44 in Glocester, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and-or troop. This young man has distinguished himself in accordance with these criteria.

For his Eagle Scout project, Eric removed debris and cleaned up a historical cemetery on Snake Hill Road in Glocester, RI.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Eric S. Anderson. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Eric S. Anderson will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

IN RECOGNITION OF VINCENT ALBERICI

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge publicly the outstanding citizens of our Nation.

I rise today to honor Vincent Alberici for his outstanding record of community service. Mr. Alberici has been Secretary of Glendale Civilian Observation Patrol [G–COP] for many years. He is also serving as President of the Kiwanis Club of Glendale and has been chairman of the Anti-Graffiti Volunteers Committee [A.G.V.] for 4 out of it's 6 years existence. If more people followed his belief that services has no boundaries and no limitations, our country would surely be in better shape.

Anyone who lives in a city knows that graffiti isn't just a visual blight, it represents a loss of control over the very neighborhoods in which we live and work. It is no wonder that his successful program to keep our streets clean are famous throughout Queens and all of New York City. I hope that his important work along with Detective Keith Casey of the 104th Police Precinct in Queens and G–COP vice-president, Frank Kotnik, will continue to be a model for community service across New York and the United States.

THE CALIFORNIA DESERT PROTECTION ACT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. BROWN of California. Mr. Speaker, I am pleased once again to offer my support for S–21, which incorporates most of the provisions formerly in H.R. 518, on the part of those who appreciate the special qualities of the California Desert we have the opportunity to grant to present and further generations a unique and beautiful ecosystem for their benefit and enjoyment. The desert is a fragile system. It requires and deserves our protection.

As a native of southern California, I grew up in the desert. Over the years, the expansion of communities in southern California has brought many benefits, but as a result the fragile desert ecosystem in this region has come under increasing pressure. I have long believed that unless we acted to protect this special resource that it would be destroyed.

In 1978 I had the honor of sponsoring the original bill in Congress that sought to establish the east Mojave as a national scenic area. While this bill was not enacted, in 1980 this region of the California desert was designated the Nation's first national scenic area by the Secretary of the Interior. the east Mojave is of critical importance to the numerous species that inhabit the area.

I feel a special attachment to these lands as a native Californian. I think that all people to some degree feel that they belong to the land and that the land belongs to them. Especially the land of the region in which they live. But we must remember that the land which is the subject of this debate is land which is owned by all of the American people and not only by the citizens of California. I realize that not all of us will be able to enjoy a completely free range of activities on these lands. Some of us will bear a disproportionate part of the immediate costs of these restrictions. But, I believe that the preservation of this delicate system, complete with its specialized array of plant and animal life will in the long run provide an immeasurable benefit to the majority of us. This debate and the passage of this legislation can serve as a first step in the creation of alternative and lasting possibilities in this region. As the populations of southern California grows and our communities expand we need to explicitly reserve areas for contemplation, reflection, and recreation. We need these national parks and wilderness areas.

There are those who suggest that we may be the last generation to have the privilege to make choices about resource use and protection. Let us choose to pass on the mystery and beauty of the California desert to our children and theirs by passing the California Desert Protection Act without weakening amendments.

A TRIBUTE TO LAPORTE COUNTY EMERGENCY MEDICAL SERVICE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. ROEMER. Mr. Speaker, I rise today to honor and pay tribute to an outstanding group of people providing an invaluable service to my constituents in LaPorte County, IN. The LaPorte County Emergency Medical Service, which provides emergency care to the people of north central Indiana, has been awarded the 1994 State of Indiana Paramedic Provider of the Year Award by the Indiana State Emergency Management Agency.

The LaPorte County EMS has won the award twice in the past 5 years, demonstrating their unrelenting commitment to quality paramedic care. Of the approximately 350 EMS providers in Indiana, the LaPorte Country EMS is the only paramedic service to win the award twice.

The selection criteria for this award included a commitment no only to personnel and patients, but also to the community served by the provider. The LaPorte County Emergency Medical Service has shown their commitment to the community through the numerous special programs they have implemented. For instance, with their teddy bear program, EMS staffers comfort small children being transported to the hospital by providing them with a teddy bear to calm their fears and soothe their pain.

The LaPorte EMS was also singled out for demonstrating those "qualities which serve to elevate the standard of professionalism and the quality of patient care throughout the industry." Ira Mills, EMS Director, credits the award to the "dedications and professionalism of the employees and the strong management techniques of these supervisors."

Mr. Speaker, I wish to extend a personal vote of appreciation and congratulations to Mr. Mills and his team of 41 professionals and 140 volunteers. Their hard work and personal sacrifice in providing the people of LaPorte County with first rate health care services help to make LaPorte County the outstanding community it is today.

TRIBUTE TO H. LOUIS CHANDLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SKELTON. Mr. Speaker today I wish to honor H. Louis Chandler, an outstanding Missourian, for his dedicated services to the Boy Scouts of America. For the past 56 years, Mr. Chandler has not only been an active member but a constant participant in Scouting.

Mr. Chandler joined scouting in the late 1930's and received the Eagle Scout Award in 1941. Throughout his lifetime involvement with the Scout troops, he has been an assistant scoutmaster, a member if the troop committee, and has served as a unit commissioner. His recent involvement in the Scouts is with the district committee of the Blue Elk District. He is also a member of the Alpha Phi Omega National Scouting Services Fraternity and has been a church organist for several churches throughout the Independence area.

He has received many awards from the Scouts. From the Catholic Church, he has been given the Scouter's Award, the Bronze Pelican, and the Adult Religious Award. In 1993, he was given the Award of Merit and in 1994 was awarded the Paul D. Ahred Award for distinguished service to scouting. Other awards include the Silver Beaver, and the Silver Wreath Award.

Initiated as a brave into the Tribe of Mic-O-Say in 1941, his greatest achievement has been an honor camping program at the H. Roe Bartle Scout Reservation near Osceola, MO. In 1970 he was made medicine man and in 1980 he was bestowed the title of senior medicine man.

Through the years, Mr. Chandler has shown dedication to all that he has done with the Boy Scouts of America. I urge my colleagues to join me in commending this great Missourian for all that he has done.

HONORING CHEF LUCIE P. COSTA

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. HINCHEY. Mr. Speaker, I would like to bring to the attention of my colleagues the 1994 Culinary National Championships which were held in San Francisco, CA. The Championships are staged by the American Culinary Federation's National Convention and they honor twelve outstanding chefs who work in partnership with food service professionals across the Nation to develop dynamic new menus for school lunches. I would like to particularly honor and recognize Lucie P. Costa, one of my constituents, who was among the twelve finalists in this year's competition.

Competitions such as these serve as an inspiration to all parts of the food service industry to work together to provide American school children with menus that meet present standards for quality of food and service. By creating such networks within this industry, we can help raise the current Federal standards and provide 92,000 children with lunches that are nutritionally sound and cost effective.

It is likely that this program will have a positive impact on lunchroom diets in schools nationwide and I ask my colleagues to join me in honoring Chef Costa for her commitment of time, energy, talent, and creativity in helping to ensure that our children are well taken care of at school.

A SPECIAL SALUTE TO OKLAHOMA ARTIST SANDRA VAN ZANDT AND THE NATIONAL MUSEUM OF NAVAL AVIATION IN PENSACOLA, FL

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. MCCURDY. Mr. Speaker, today I am proud to salute Talala, OK, sculptress Sandra Van Zandt whose bronze sculptures of wild and domestic animals grace collections throughout the United States. Based on Ms. Van Zandt's exceptional artistry, the Naval Aviation Museum Foundation selected her to cast in bronze a larger-than-life tribute to the history, courage, loyalty, and honor of naval aviators.

The detail and craftsmanship of Ms. Van Zandt's creation, the Naval Aviator Monument, has captured the noble history of naval aviation and will keep it alive for generations to come—as the centerpiece of a $9-million expansion to the National Museum of Naval Aviation in Pensacola, FL. It is one of the three largest air and space museums in the world and is toured annually by more than half a million visitors.

Future museumgoers will cast their eyes upon the 9-foot-tail bronze sculptures that honor naval aviators at five significant stages in naval aviation history—the early years and World War I, World War II, early postwar and Korea, Vietnam, and Desert Storm and the modern years.

The Naval Aviator Monument will be unveiled the evening of Dec. 6—Pearl Harbor Day—at the Smithsonian's National Air and Space Museum in Washington, DC, at a ceremony honoring Ms. Van Zandt and the monument's sponsors.

This Oklahoma artist—who, by the way, has also designed The Cherokee Kid monument to Will Rogers to be dedicated at Oologah, OK, on the 60th anniversary of his death—has preserved for posterity the spirit of naval aviation and those naval aviators whose sky-high courage has helped and continues to keep Americans safe and our country free.

Many Americans will have the opportunity to appreciate Ms. Van Zandt's artistry as the monument tours the Nation during 1995. I hope by calling attention to this exceptional Oklahoma sculptress that many more will make plans to see the Naval Aviator Monument following its installation in late 1995 in its permanent home at the National Museum of Naval Aviation in Pensacola, FL. Thank you, Mr. Speaker.

TRIBUTE TO MAYOR JOE CANCHOLA

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to pay tribute to Joe Canchola, who has served as the mayor of Nogales, AZ for the past 2 years.

Nogales, home to approximately 20,000 citizens, shares its border with the State of Sonora, Mexico, 60 miles south of Tucson. While the city has a colorful and proud history, it is not without its problems, many of which derive from its location on the border. The array of Federal agencies with jurisdiction over the border issues both in the United States and in Mexico often cause confusion. Mayor Canchola has worked diligently with the Federal, State, and local agencies in getting the government to be more responsive to the needs of Nogales and other Arizona border communities.

In addition to improving the quality of life for those residing in Nogales, AZ through his position as mayor, Mr. Canchola spends a substantial amount of his personal time volunteering in the community. A few of his activities include raising funds for the Muscular Dystrophy Association and the March of Dimes and providing scholarships for both Mexican and American students.

Mr. Canchola has received numerous awards and honors over the years including being selected as one of the five finalists for the national retailer of the year. He is a former chairman of the U.S. Hispanic Chamber of Commerce, and is currently chairman of the U.S. Border Mayors Conference. In addition, he serves on the board of directors of Tucson Electric Power, the advisory board of the Northern Trust Bank of Arizona, and is a member of the Executive Board of the Hispanic professional action committee, a founding member of the Ronald McDonald House in Tucson, and a member of the McDonalds Corp. national operators advisory board.

Mr. Speaker, Joe Canchola has been a dedicated and successful mayor. Although, the people of Nogales will miss the leadership that Mayor Canchola brought to his job as mayor, we all look forward to his continued work in the community. Again, I would like to reiterate my appreciation to Joe Canchola for all of his hard work.

VISIT OF PRESIDENT NELSON MANDELA TO WASHINGTON, DC AND THE IMPORTANCE OF HIS MISSION

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Ms. NORTON. Mr. Speaker, during the 20th century there have been two major nonviolent revolutions. One occurred in our country, the other in South Africa. Ours was the civil rights revolution. South Africa's was the overthrow of apartheid.

The sporadic violence that attended both cannot detract from the ultimate triumph of human rights over war and fratricide. We are in good company as President Nelson Mandela comes to Washington today. South Africa now needs to solidify its revolution. This requires continuing U.S. aid and especially investment from U.S. companies.

Ten years ago, I did not expect to be an advocate for aid and trade with South Africa. In 1984, along with 3 others. I entered the South African Embassy and helped light the spark that led to sanctions.

Today, the call for divestment has been turned on its head. With a market economy and a nonracial democracy, South Africa is marching forward. We must join the new South Africa as it now moves on to an economic revolution.

THE NUCLEAR WASTE CAUCUS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. HALL of Texas. Mr. Speaker, I want to bring to the attention of my colleagues the formation of the Congressional Nuclear Waste Caucus and invite Members to join in resolving the important energy and environmental issue of moving forward with the Nation's spent nuclear fuel management program.

Electricity customers across the country have paid more than $10 billion to date for the Federal Government's spent nuclear fuel program, which was mandated by Congress in 1982 and reaffirmed in 1987. Although approximately $4 billion has been spent, Federal Government is nowhere near meeting its congressionally mandated 1998 responsibility to begin accepting spent nuclear fuel from utilities and either storing it permanently in a repository or temporarily at a federally managed interim facility.

This is of no small consequence to our Nation's energy security, the environment or to electricity customers. Without progress on the nuclear waste program, 23 of the country's nuclear power plants will have exhausted their spent fuel storage capacity by 1998, leaving these facilities with two options: build expensive temporary on-site storage facilities or shut down prematurely. At risk is 18,000 megawatts of electricity, or enough to serve more than 11 million homes for 1 year.

Our Nation's electric utilities, the National Association of Regulatory Utility Commissioners, the U.S. Congress and others agree that it is preferable to have spent nuclear fuel at one location—in a federally managed and protected facility—than at more than 70 locations throughout the United States.

This is an issue of equity and responsibility. The Nation's utilities entered the nuclear energy era with the promise that the Federal Government would meet its obligation for the ultimate disposal of spent nuclear fuel.

Electric utility customers have fulfilled their part of the agreement and have funded the spent nuclear fuel management program since the mid-1980's through a surcharge on their electric bills. Continued delays will compound the costly situation as utilities are forced to build temporary on-site spent fuel storage or face prematurely shutting down these important electric generation stations. America's utility customers would be forced to pay for spent fuel storage a second time.

Mr. Speaker, I urge my colleagues to join the Nuclear Waste Caucus. The caucus will serve as a clearinghouse for knowledge and opinion, will host briefings, and will work to resolve this important national issue. Addressing the problem of nuclear waste promises to be an important debate in the 104th Congress. Regardless of your views on the subject, I hope you'll look to the Nuclear Waste Caucus as a source of good information.

NEW ENGLAND FISHERMEN FACE RESTRICTIONS

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. MEEHAN. Mr. Speaker, I submit a recent article in the esteemed and distinguished Enterprise Sun, a daily newspaper that serves with great credit and distinction the communities of Marlborough and Hudson in my congressional district, on the serious problems facing our New England fishermen.

The Enterprise Sun describes what is taking place all over the world in the fishing industry, largely the result of overfishing, and suggests the possible substitution of other fish species for New England's beloved haddock and cod, pending the replenishment of scarce fish off Georges Bank.

Mr. Speaker, I see what is happening in Canada as an omen of the trying times ahead for our New England fishermen and their families. Boat seizures, confrontations at sea, even gunfire, smaller and smaller fish hauls, a growing number of bankruptcies—all these are problems facing us today, not tomorrow, and that is why I urge my colleagues to consider and enact needed legislation to bring relief to our sorely beset New England fishing industry.

The magnitude of the problem is well evidenced by what is happening in Canada. Canadian catches of cod in 5 years, 1988 to 1993, dwindled by an astonishing 90 percent. This big drop, a result of overfishing and a shift in climate cooling of local fishing waters, has resulted in a Canadian embargo on cod fishing. This ban has just about devastated Newfoundland, one of Canada's poorest provinces and one that is greatly dependent upon the fishing and canning industry.

The future, indeed, looks bleak for some 30,000 fishing industry workers in Newfoundland affected by Canada's moratorium on cod fishing. Even the more optimistic in the industry doubt that the cod will come back in any great numbers in this century.

It is quite understandable that our New England fishermen are not at all happy with Federal proposals to close down Georges Bank, long the favorite fishing ground for maritime nations with its almost endless supplies of cod and haddock, or so it seemed. Government subsidies and easy financing, here and abroad, have encouraged bigger, better, and more hungry fishing fleets to the point that there are more than a million trawlers roaming the world's oceans for fish.

Mr. Speaker, it is also quite understandable that quotas also make fishermen unhappy, but quotas are around and will continue to increase drastically with so many fishing boats closing in on dwindling and disappearing fish stocks. Our fishermen have cause for concern with what is happening in Canada and what happened in Alaska after quotas were set on halibut. With 5,000 or so fishing boats going after halibut, it now takes only 36 hours to catch the fish limit in Alaska. A much smaller fishing fleet just 20 years ago worked four months before reaching today's halibut limit.

The material from the Enterprise Sun follows:

There is growing uncertainty in the fishing industry with ever more gloomy reports and studies showing that the oceans of the world have just about been fished out to their limits. Now there are intensifying Federal pressures to close down Georges Bank or at least limit catches of cod, haddock and flounder in the once-rich fishing ground until stocks are replenished.

Bigger boats, highly technical and sophisticated gear to locate and net fish, and ever growing fishing fleets equipped with icing and freezing ships, the so-called fish factories at sea—all these have contributed to the decline of marine life, resulting in growing confrontations at sea, including gunfire, between fishing nations.

The decline in the world's fish stocks indicate that stricter limits on fishing, far beyond the tentative American and Canadian steps now under discussion, are inevitable. Already, the decline in fishing hauls has meant rising wholesale prices.

Prices for fresh North Atlantic haddock and cod have been on the rise for months. The trend is likely to continue indefinitely as limits on catches are forced on the industry. In the meantime, supermarkets are trying to hold their customers, price-wise, with imports of frozen haddock and cod from Norway and Iceland. That's why you're seeing more "previously frozen" or "thawed for your convenience" signs lately at your supermarket fish counter.

Over the years, fish prices have kept pace with the increased consumption of fish. George Berkowitz, owner of Legal Sea Foods, in his cookbook recalls the beginning of his business in 1969 when haddock was selling at 15 cents a pound wholesale.

Back in those days, I was working in Washington and our family had to manage on frozen cod and haddock. During regular visits home to Marlborough, my mother-in-law, bless her, would greet us with whole baked haddock for our first evening meal, even though she was never particularly fond of fish. I also have fond memories of the late Al Wellen, fish and meat expert and noted Frico and Rotary chef, going out of his way, against store policy, to put aside a whole haddock for me to take back to Washington on ice. For good reason, Al's employer had decided that there was more money in haddock fillets than in the whole fish. I can understand why—whole haddock was then 29 cents a pound retail.

Today, inexpensive fish is a thing of the past. It's quite possible here in New England, with its special fondness for haddock and cod, that there will be new and strange species of fish to replace these dinner favorites. Pollock, hake and cusk, now mostly ignored, soon may be more in demand with appropriate price increases.

Farm-raised fish products, such as salmon, trout, catfish and mussels are showing steady market growth. Promotional hype could soon make some new species sufficiently popular to excite New England palates. Monkfish, once a throwaway fish, is a good example of how tastes can be changed by the right promotion.

CORRECTION OF PRINTING OF H.R. 5057

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. UPTON. Mr. Speaker, on September 19th, I introduced H.R. 5057, the "Federal Nuclear Waste Responsibility Act of 1994," to rid my State and many other States of high-level nuclear powerplant wastes. I learned yesterday that there was a glaring misprint in the printed version of the bill, one that changes its meaning significantly. This sort of thing happens here on Capitol Hill and the usual reaction is to have the bill corrected and reprinted. Since we are at the end of the 103d Congress, however, I see no reason for the taxpayers to pay for another printing. H.R. 5057 will be corrected, expanded and reintroduced at the beginning of the 104th Congress. For now, a corrected version follows:

H.R. 5057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Nuclear Waste Responsibility Act of 1994".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The transportation, storage, and disposal of high-level radioactive waste and spent nuclear fuel is a matter of national urgency that is the responsibility of this generation.

(2) The utility generators and owners of high-level radioactive waste and spent nuclear fuel, together with their customers, have met their obligations under the Nuclear Waste Policy Act of 1982 to provide for the cost of siting, licensing, construction, and operation of a Federal Waste management system for the transportation, storage, and disposal of high-level radioactive waste and spent nuclear fuel.

(3) Some utilities have now exhausted their spent nuclear fuel pool storage capacity, a total of 26 nuclear power reactors will reach their spent nuclear fuel pool storage capacity by the end of 1998, and approximately 80 nuclear power reactors will be without spent nuclear fuel pool storage capacity by 2010. As a result, utility rate payers face significant costs associated with expanding storage capacity at reactor sites, and continued delay is unacceptable.

(4) Federal efforts to site, license, construct, and operate disposal facilities in accordance with the provisions of the Nuclear Waste Policy Act of 1982 have not met the timetables contemplated by such Act.

(5) the Secretary of Energy has an obligation to take title to and possession of high-level radioactive waste and spent nuclear fuel beginning not later than January 31, 1998.

(6) Notwithstanding the passage of 12 years since enactment of the Nuclear Waste Policy Act of 1982, the payment of more than $8,400,000,000 into the Nuclear Waste Fund during such period, and the additional programmatic direction provided by the Congress in the 1987 amendments to such Act, the projected date of commencement of operations at a repository is, under the most optimistic of assumptions, 2010.

(7) Until a repository is operational, interim storage will continue to be required for high-level radioactive waste and spent nuclear fuel.

SEC. 3. FEDERAL OBLIGATIONS REGARDING HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL.

Section 302(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(a)) is amended by adding at the end the following new paragraph:

"(7)(A) Notwithstanding any other provision of this Act or other law, the terms of the contracts entered into pursuant to this section, or the commencement of operations of a repository, the Secretary shall, by not later than January 31, 1998—

"(i) take title to the high-level radioactive waste and spent nuclear fuel covered by such contracts;

"(ii) begin taking possession of such waste and spent fuel in accordance with the Federal Integrated Spend Nuclear Fuel Management Program established in section 162; and

"(iii) establish an interim spent nuclear fuel storage facility at 1 or more Federal sites.

"(B) The Secretary shall provide not less than 30 days advance notification to the Congress of any inability of the Secretary to meet any deadline specified in subparagraph (A).".

SEC. 4. FEDERAL INTEGRATED SPEND FUEL AND HIGH-LEVEL WASTE MANAGEMENT PROGRAM

"(a) IN GENERAL.—Subtitle E of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10172 et seq.) is amended by adding at the end the following new section:

"FEDERAL INTEGRATED SPENT FUEL AND HIGH-LEVEL WASTE MANAGEMENT PROGRAM

"SEC. 162. (a) ESTABLISHMENT.—The Secretary shall establish and administer in accordance with this section a Federal Integrated Spent Fuel and High-Level Waste Management Program as a means of fulfilling, in a safe, efficient, and cost-effective manner, the responsibility of the Federal Government to take possession and provide for the removal from existing storage facilities of, and take title to, high-level radioactive waste and spent nuclear fuel as provided in section 302(a)(7), and to provide for the management of high-level radioactive waste and spent nuclear fuel in accordance with subsection (b).

"(b) COMPONENTS OF PROGRAM.—The Federal Integrated Spent Fuel and High-Level

Waste Management Program shall include the following components:

"(1) Development and use of a multipurpose canister system or systems for the transportation, storage, and disposal of spent nuclear fuel.

"(2) Development of the transportation infrastructure required to carry out the storage and disposal of high-level radioactive waste and spent nuclear fuel in accordance with the Program.

"(3) Establishment of an interim storage facility for high-level radioactive waste and spent nuclear fuel, consistent with applicable licensing and environmental protection requirements, by not later than January 31, 1998.

"(4) Disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act.

"(c) PROGRESS REPORTS.—The Secretary shall submit to the Congress, not later than 120 days after the date of the enactment of this section and annually thereafter, a comprehensive progress report with specific details of how the Secretary is implementing the Federal Integrated Spent Fuel and High-Level Waste Management Program. Each report shall also include a list of recommendations for the continued successful implementation of the Program and any proposed implementing legislation. Prior to submission of any such report, the Secretary shall publish in the Federal Register a notice of the availability of a draft of the report, and shall solicit comments from interested parties.".

SEC. 5 PERMIT AND LICENSING REQUIREMENTS.

Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended by adding at the end the following new subsection:

"c. (1) Notwithstanding any other law, no construction permit or combined construction and operating license may be issued for a utilization facility used for the generation of electricity for commercial sale until—

"(A) there is a facility licensed by the Federal Government for the interim storage or permanent disposal of high-level radioactive waste and spent nuclear fuel generated by the utilization facility; and

"(B) the Secretary of Energy certifies that the storage or disposal facility has, or is reasonably expected to have, an adequate volume of capacity to accept all of the high-level radioactive waste and spent nuclear fuel that will be generated by the utilization facility during the reasonably foreseeable operational lifetime of the utilization facility.

"(2) Paragraph (1) shall not apply to any construction permit or combined construction and operating license for which an application is filed before the date of the enactment of this subsection.

THE CONSUMER ACCESS TO LONG-TERM CARE ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. DREIER. Mr. Speaker, today I am introducing H.R. 5162, to increase access to long-term care for seniors. This legislation ends the tax penalties imposed on older Americans who try to access the equity they have worked to build up in their homes and retirement funds.

Roughly 75 percent of senior citizens over the age of 65 own their own homes, with an estimated $1.1 trillion in home equity. Most older Americans have additional savings tied up in IRAs and other pension funds. Unfortunately, they are often unable to access these critical resources without suffering severe tax penalties.

H.R. 5162 completely eliminates the capital gains tax penalty for the sale of certain assets used for long term care services. It allows seniors to make tax-free withdrawals from Individual Retirement Accounts [IRAs] and other pension funds to pay for qualified long term care expenses. It also allows seniors to take an unlimited capital gains exclusion on the sale of a residence where the proceeds are rolled over into a qualifying long term care fund or used for entrance into a continuing care retirement community.

For seniors who do not want to sell their homes, H.R. 5162 eliminates many of the restrictions currently imposed on reverse mortgages. Under this legislation, seniors will also be able to access their home equity through a reverse mortgage program without suffering a loss of eligibility from government programs.

I believe that older Americans who have worked and saved to provide for their own care and retirement should not be penalized for their responsible behavior by a punitive Tax Code. H.R. 5162 is a critical first step in allowing seniors increased access to long-term care services.

HOW TO REALLY HELP RUSSIA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. GINGRICH. Mr. Speaker, for the past 2 years, I have actively supported providing financial assistance to Russia and other former Soviet states because I believe that we have a historic opportunity to help make the world more stable and more secure for our children and grandchildren.

However, I would ask that all of my colleagues take a look at the following article from the September 9, 1994, Wall Street Journal, by Robert Keatley which has some valuable lessons about how a truly effective assistance program should work. The Financial Services Volunteer Corps is not a Government-run bureaucracy but rather a very lean and extremely capable private group of experienced volunteers who are committed to helping bring a democracy and private enterprise to the people of the former Soviet Union. I believe this is the type of assistance which we should be supporting because it will be the exchange of ideas and the people-to-people contacts which will make the long-term difference in the United States' relationship with the former Soviet States.

[From the Wall Street Journal, Sept. 9, 1994]

WALL STREET VOLUNTEERS IN EX-SOVIET BLOC SHOW HOW TO MAKE FOREIGN AID A SUCCESS

(By Robert Keatley)

NEW YORK—Wall Street is well known for many things, but running a free foreign aid program isn't among them.

Yet it has one. It's managed by a small organization called the Financial Services Volunteer Corps, founded four years ago by a lawyer and former Secretary of State Cyrus Vance and investment banker and former Deputy Secretary John C. Whitehead. Its difficult mission is to help spread sound financial systems across the former Soviet empire and speed the countries' integration into the world economy.

$40 MILLION WORTH OF TIME

The corps has achieved persistent if moderate success by dispensing unpaid advice from normally high-priced people, but only when asked. So far, it has persuaded about 400 bankers, lawyers and other well-paid specialists to donate time—some $40 million worth in dollops of days or weeks—to projects in Russia or other lands once dominated by Moscow.

It stands apart from profit-seeking advisers who roam ruins of the Soviet empire in search of hard-currency contracts financed by foreign-aid programs. Although many of them do excellent work, others produce indifferent advice of limited usefulness at a high cost. No wonder officials in the former Soviet Union sometimes compare them to swarms of locusts, devouring limited resources and leaving little of worth behind.

The volunteer corps sends people only where invited, and there isn't any charge to recipients. Moreover, its specialists don't draft grandiose plans for revising whole economies, but focus on narrow issues that have practical solutions. If Slovenia's fledgling stock exchange wants to promote initial public offerings, for example, the corps sends Ljubljana a securities lawyer and an investment banker to explain how IPOs are done.

"We deal only with financial services in all these countries," says Mr. Vance, the group's co-chairman. "One thing holding them back is the lack of sound systems."

TEACHING BASIC CONCEPTS

That's no minor matter. None of these nations has a particularly reliable way of mobilizing local or foreign capital for investment, or a banking system, and none can grow much without them. Shortfalls range from not understanding basic concepts of Western finance (loans should be repaid) to a lack of its basic tools (credit cards). But unless investors trust the financial system and laws that govern it, they won't risk much cash in Eastern Europe. That's especially true when other regions, East Asia and Latin America among them, are so attractive.

Rudolf Filkus, finance minister of Slovakia, seems to understand this. He gave creation of a competitive Slovak capital market top priority and asked the FSVC for help. He wants to begin privatizing 2,600 state-owned companies by year's end.

So, the volunteer corps has helped write a plan for developing a capital market and reorganizing government agencies to oversee it. The FSVC also sent him advisers with clout, including a retired IBM chairman, an executive vice president of the New York Fed and a securities lawyer from the New York firm of Davis, Polk & Wardwell. Their advice: Introduce more liquidity and transparency, or investors, even local ones, won't take part.

But they weren't vague about it. Their many recommendations included how to upgrade accounting standards, make stock transactions public in a timely fashion and avoid insider trading. Without "aggressive action," the team warned last month, "Slovakia will not be able to develop a viable capital market."

Herbert Okun, a retired U.S. ambassador who directs the program, finds that financial experts often welcome a chance to play useful roles in emerging economies, and he has a long list of would-be volunteers. "It appeals to your sense of wanting to do good," says Bradley Sabel of the law firm Sherman & Sterling, who has helped draft Russian bank legislation.

There is an obvious U.S. interest in all this, so aid funds cover most of the low running costs. The volunteers also have reason for promoting Western financial practices: Contracts made now could bring business later. But the FSVC has strict conflict-of-interest rules, and won't let its experts treat assignments like sales trips.

The volunteer corps stays lean, keeps focused and is realistic about what it can do. Big official programs have more complex missions, but even so, there may be lessons here for other aid providers.

MEAT INSPECTION LAWS

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. ROBERTS. Mr. Speaker, our Nation's meat inspection system has come under attack in the media as allowing unsafe meat and poultry products to be sold to the consumer. Many of these attacks have little foundation in fact. Our Nation's meat is safe. Our inspection system is sound. But it could be better.

The E. Coli outbreak in the Pacific Northwest was a tragedy. But what we sometimes forget, the deaths that occurred were the result of a restaurant chain not following basic health standards—and more importantly, USDA's rules—on proper cooking and handling procedures for meat.

The news media and certain public officials blamed our Nation's system of inspecting meat. In fact, the Centers for Disease Control and Prevention reports that 97 percent of food-borne illness results from mishandling food—77 percent in food service and 20 percent in the home. That's right—less than 3 percent of food-borne illness can be traced back to a breakdown in our inspection system.

Our meat inspection system does produce a safe product. But we can do better. We need to move beyond a meat inspection system that relies on visual examination of each carcass and instead relies on a system that is based on sound science. In fact, the meat industry would like to make changes and move to a sounder scientific approach.

They have repeatedly asked the U.S. Department of Agriculture to adopt a hazard analysis and critical control point [HACCP] inspection system that relies on microbial testing to check for pathogens. Instead of approving HACCP, the Department last year installed the policy of "zero tolerance" for the red meat industry. Industry sources tell us that this program may be increasing bacteria counts on beef, not reducing them. Now the Department is proposing to extend the "zero tolerance" rule to the poultry industry. If "zero tolerance" is not benefiting public safety, the question is "Why?".

The Department is currently soliciting comments on the proposed regulations as they impact the poultry industry. It is interesting to note that the Department, in proposing the rule, said it would only cost the industry $7 M. The Southeastern Poultry and Egg Association contends that the cost of the regulations will exceed $240 million in the first year and $180 million in subsequent years.

Mr. Speaker. We need a referee. Someone to wade through the press releases and look at the facts. Someone to analyze the science involved in proposed changes to the meat inspection system.

Several years ago when the pesticide industry found itself at loggerheads over the use and regulation of pesticides, the Congress created the Scientific Advisory Panel to review issues of science and make recommendations to the Administrator of EPA. The SAP has worked very well to bring some manner of calm and reason to the pesticide regulatory process.

Given the success of the SAP for the pesticide industry, there is merit in applying that concept to the meat inspection system. We need a panel of scientists with expertise in meat and food science to look at the issues of meat and poultry inspection and make recommendations to the Secretary of Agriculture for changes in our meat inspection system. These recommendations should be based on the collective wisdom of scientists who have knowledge of the issues impacting the meat industry and how proposed changes relate to public health questions.

I am introducing legislation creating the Safe Meat and Poultry Inspection Panel to review proposals for inspection system improvements and make recommendations in a timely manner to the Secretary of Agriculture on new procedures, petitions from the industry, processes, and techniques that could be used by the meat inspection system to make our food supply even safer. This panel could also address the issue of how we need to train our cadre of Federal inspectors.

I am optimistic that the Congress, in the next session, will update our Nation's meat inspection laws. The USDA has asked for the Congress to clarify their authority when it comes to microbial testing and we will be working with all the parties involved to craft a meat inspection bill that will address some of the issues that have surfaced in the last few years. The Safe Meat and Poultry Inspection Panel would provide, on an ongoing basis, scientific input in the meat inspection system. I will be pushing for its inclusion next year in any meat inspection reform legislation.

TRIBUTE TO ORVILLE T. MAGOON, THANKING HIM FOR YEARS OF SERVICE IN THE PROTECTION OF THE COASTS OF THIS COUNTRY

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. SAXTON. Mr. Speaker, I rise today to congratulate and pay tribute to Orville T. Magoon, who will be stepping down from his presidency of the American Shore and Beach Preservation Association after 8 years of service.

Mr. Magoon has received prestigious awards for his work in the coastal world, including the William Wisely Award, the Moffatt & Nichol Award, the Willington Prize, the Decoration for Meritorious Civilian Service Award, election to the Gallery of Distinguished Civilian Employee, the Benchmark Award from the National Oceanic and Atmospheric Administration, and many others.

Mr. Magoon retired after 30 years in Government service in the field of coastal planning, design, construction and rehabilitation of coastal structures, and become president of the American Shore and Beach Preservation Association. He later became the president of the International Coastal Zone Foundation, where he produced eight conferences, bringing together up to 2,000 coastal professionals from 22 countries at one time to discuss and promote solutions to problems of coastal erosion.

Mr. Magoon has dedicated his career to the protection, preservation, and restoration of the Nation's economically important coastal zone. He will be sorely missed by his colleagues for his accomplishments in this field.

GATT IS IMPORTANT TO U.S. ECONOMIC GROWTH

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. CRANE. Mr. Speaker, later this week my colleagues and I will have the opportunity to vote on H.R. 5110, legislation implementing the Uruguay round of the General Agreement on Tariffs and Trade [GATT]. In the last 5 years, international trade has been the driving force behind U.S. economic growth, accounting for 50 percent of economic expansion during that period. For this reason, passage of H.R. 5110 is important to ensure that American companies will have access to foreign markets, thereby facilitating future U.S. economic growth and job creation. As my colleagues prepare for the upcoming debate on H.R. 5110, I commend to their attention the following editorial from the September 25, 1995 issue of the *Chicago Tribune* by the United States Ambassador to France, Pamela Harriman. I urge my colleagues to consider Ambassador Harriman's conclusions on the importance of the GATT agreement to our country and to support the passage of H.R. 5110 later this week.

OUR ECONOMY NEEDS GLOBAL ATTENTION

(By Pamela Harriman)

Within the next two weeks, Congress will vote on a matter of great importance, one which will shape the economy of the United States and the world far into the future. Yet the issue—approval of the global trade agreement known as the Uruguay Round—has received relatively little attention in these tumultuous months in Washington.

It took seven years of negotiations to bring the Round to a close. During long, hard bargaining, particularly during the concluding weeks, our national interests were pressed strongly and successfully. From my vantage point, representing the United States in France—a crucial player in the world trading system—the very difficulty of the last months of negotiations demonstrates how finely wrought the agreement is, in order to advance both our own economic interests and the interests we share with our trading partners. In the end, we were able to forge an accord because they came to agree with us on three fundamental points.

Growth in international trade is essential for national economic health.

The trading system needs rules for areas such as agriculture, services and intellectual property.

And disagreements over trade will not disappear, even in free trade areas; it is better to have in place a set of principles and a mechanism to resolve disputes.

Any agreement negotiated among 128 nations involves compromise; each of the parties can find things in the package to criticize. But the benefits of the Uruguay Round far outweigh any problems. Congressional approval is critical for two reasons: our economy needs it for future growth and our leadership in the world demands it.

The accord provides a stronger, more reliable trading system that plays to American strengths. It cuts foreign tariffs on manufactured products more than one third, the largest reduction in history. It greatly expands export opportunities for our farmers by eliminating all non-tariff barriers, including quotas, and significantly reducing tariffs. Firms and workers who make pharmaceutical, entertainment, software and other products gain new protection for their intellectual property. American exporters of services, such as accounting, advertising, computer services, tourism, engineering and construction are guaranteed more open foreign markets as well. Finally, the agreement streamlines the process for dealing with trade disputes, ensuring that all countries live by the same rules—a major objective set for U.S. negotiators by the Congress.

The U.S. recently emerged from a deep recession. Our companies and workers went through a painful restructuring, but they are now the most efficient and competitive in the world.

Predictably, much has been made of the possibility that the World Trade Organization might decide against us in a trade dispute. Some claim will diminish our sovereignty. That is a caricature, that membership in the World Trade Organization raised every so often against international advances from the League of Nations to the International Monetary Fund to the U.N. In fact, the World Trade Organization rulings will set guidelines for our practices, but will not dictate specific action on our part.

Even more important, a loss of nerve now—whether a defeat this year or a delay until next year while the rest of the world moves ahead—would deal a body blow to markets worldwide. Negative repercussions would be felt across the American economy and, indeed, around the world.

Such failure or hesitation would also be read as a retreat from our historical commitment to free trade. The current global trading system arose from the trade liberalization treaties that the United States began negotiating even before World War II, as we recovered from the isolationist disaster of the Smoot-Hawley tariff. We have been at the center of every round of trade negotiations since then because it has been in our nation's interest—and in the world's interest—that we lead.

The trading system of the past was not up to the challenges of an expanding global economy. In the Uruguay Round, sectors that caused the most difficulty, including trade in agriculture, textiles, services and investment, will be dealt with realistically for the first time. We are committed to deal with the remaining challenges, such as aircraft, financial services, steel and audiovisual products.

Many of these are issues of particular difficulty here in France, where some fear their economic system may not have the flexibility necessary to compete on an equal footing in the kind of global market that is emerging. But France has accepted the Uruguay Round accord. It would be much more difficult, if not impossible, to make progress on these and other important issues with the French—and with our other trading partners—if Congress were to reject it, or treat it as partisan issue. Other great accomplishments—winning WWII, rebuilding Western Europe, staying the course in the Cold War, even NAFTA—were accomplished by Democrats and Republicans working together. History will judge harshly those who would turn our nation's place in the global economy into a political football.

In France this summer, we celebrated the 50th anniversary of a liberation largely won by the blood and sweat of a generation of Americans convinced that their country needed to play a positive role in global affairs, and optimistic that they could make a real difference. They were right then, and the same principles are true today. The future of the international economy will be molded by our decisions now. Our industry and our agriculture are the world's most efficient. We will prosper in the world, or fall behind. But we cannot opt out. It is time for decision, not delay.

THANKING LARRY BENNETT FOR HIS YEARS OF PUBLIC SERVICE

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. HINCHEY. Mr. Speaker. I rise today to celebrate the years of selfless service that Assemblyman Lawrence Bennett has provided the people and State of New York. I have been privileged to call Larry my friend for over 15 years now. He has been an outstanding colleague, legislator, friend, and representative to the people of the 96th Assembly District in New York. Looking forward to the occasion of his retirement dinner on October 19, 1994, I humbly ask my colleagues to join me in paying tribute to Larry Bennett for his selfless commitment to serving the public.

I know of no more accessible or generous man than Larry Bennett, who has worked tirelessly to advance the causes and interests of his constituents. His commitment to serving the public as an assemblyman is augmented and enhanced by his dedication to other community and church affairs. A life member of the VFW, a past commander of the American Legion, and an honorary member of numerous fire companies, Larry's contributions to our community are legendary and greatly appreciated.

It is with a heavy heart that those of us who have called on Larry for advice, guidance, and support over the years gather to acknowledge his retirement from public office. It is, however, with great hope that we wish Larry much continued happiness in the future and best wishes in all his future endeavors. I ask that my colleagues join me now in celebrating the contributions of Assemblyman Larry Bennett.

DON'T DENY COVERAGE TO THE WOMEN WHO NEED IT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Ms. NORTON. Mr. Speaker, in honor of Mental Illness Awareness week this week—October 2–8, 1994—I rise to draw attention to the fact that the health needs of women are often neglected, and women's mental health is no exception. Most health care program limit the number of outpatient visits and inpatient hospital days patients may have in a calendar year for mental health and substance abuse treatment. These limits have an especially disproportionate effect on women.

Women are two to three times more likely to suffer from depression than men and this depression often peaks during childbearing years. Although some depression can be treated effectively with medication, pregnant and nursing women cannot take medication.

A significant portion of mental illness in women is a result of violent crime or domestic violence. In fact, approximately one-third of women have a history of sexual abuse. Many of those traumatized develop symptoms of emotional illness. One of every five rape victims is so emotionally traumatized that she attempts suicide. Who would deny these women their needed care?

In order for women to receive the necessary care, mental health and substance abuse benefits must be comprehensive, without arbitrary limits. As Dr. Judith Herman, training director of the Victims of Violence Program at Harvard Medical School's Cambridge Hospital says, "society does not adequately protect women. For God's sake, at least please let me treat them."

A TRIBUTE TO PAT RISSLER

HON. NICK J. RAHALL, II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. RAHALL. Mr. Speaker, at the end of the 103d Congress, the House of Representatives will lose one of its finest and most respected staffers, Pat Rissler, who is retiring from her position as staff director of the Committee on Education and Labor. Her departure will be sorely missed by all Members who have had dealings with that committee.

Pat Rissler is a credit to herself, this institution, and to the State of West Virginia. She was born and raised in Charles Town, WV, and her first memory of the Nation's Capital was a visit here with her father in 1953 when she was 9 years old to see the late Representative Harley Staggers, Sr. Pat is a self-made woman, starting her career working for the security department of the Charles Town Race Track. She then earned a scholarship to attend business school at the Monroe College of Business in Winchester, VA. Armed with the secretarial skills learned there, she moved to Washington, DC in 1963.

During her 31 years in Congress, Pat worked for Senator Pat McNamara, Senator Phil Hart, and for the last 21 years, for Representative BILL FORD. During the last 4 years, she served as staff director of the Committee on Education and Labor. Prior to that, she was the staff director of the Committee on Post Office and Civil Service.

Mr. Speaker, I mentioned that Pat will be missed by all of us who have a concern with legislation involving education and labor issues. Indeed, as a chief proponent of legislation to provide just compensation to coal miners who suffer from the crippling effects of black lung disease, I have found Pat's counsel and guidance to be invaluable.

In fact, I well remember the committee markup on the black lung bill earlier this year. While not a member of the Committee on Education and Labor, I attended the markup session in order to lend whatever assistance I could to Chairman BILL FORD. Indeed, Pat Rissler was not shy at all in putting me to work. I soon found myself, at her direction, in the committee's offices making phone calls to Member's offices in order to urge them to appear at the committee session for the purposes of achieving a quorum so that the bill could be reported to the House.

At the end of this Congress, Pat will retire from her staff position and may enter the private sector for the first time since her days working for the Charles Town Race Track. She brought to the House of Representatives the type of strong work ethic, honesty, and integrity that is so typical of West Virginians. I wish her continued success and the best of wishes for whatever new occupation she takes on.

Thank you, Pat.

VIOLENCE AGAINST WOMEN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Ms. ESHOO. Mr. Speaker, today is the National Day of Remembrance for Victims of Domestic Abuse and their Families. Also, October is National Domestic Violence Awareness Month.

That is why I rise to commemorate the victims of this senseless and often silent crime. We must raise awareness about the magnitude of this problem and the larger problem of violence against women, which is increasing at an alarming rate and affects women in all walks of life.

Mr. Speaker, every 15 seconds a woman is beaten by her husband or boyfriend and every 6 minutes a woman is forcibly raped.

Since 1974, the rate of assaults against women aged 20–24 has increased almost 50 percent.

One out of every four female college students will be sexually attacked before graduating and one in seven will be raped.

African American women are almost twice as likely to be raped as white women, yet these crimes are less likely to result in prosecution, conviction and stern sentences.

The murder rate for women aged 65 and older has climbed by 30 percent since 1974, while the murder rate for men in the same age group has dropped by 6 percent.

Mr. Speaker, the women of California's 14th Congressional District, which I represent, are among the victims of this epidemic of violence. In San Mateo County, CA, 3,258 domestic violence cases were reported in 1993—an increase over the 2,870 cases reported in 1992. The San Mateo County Battered Women's Services has had an increase of 54.4 percent of domestic violence calls this year alone.

Mr. Speaker, with such statistics women who have not been victims of violence are plagued by the fear of becoming one. It is not fair that more than half of this country is terrorized by such a high likelihood of becoming victims of brutality, serious injury, and death.

That is why I am pleased Congress passed the Violence Against Women Act this year. This landmark legislation was signed into law by the President as part of the omnibus crime bill.

This bill authorizes $1.62 billion over the next 6 years for State and local grants to reduce domestic violence and sexual assault crimes.

The majority of these funds will assist police and prosecutors at the State and local levels. It will allow law enforcement authorities to more effectively prosecute crimes against women.

The legislation also creates a national domestic violence hot line, increases funding for domestic violence shelters, increases Federal penalties for repeat sex offenders, encourages mandatory arrest policies for abusive partners, and includes training money for State and Federal judges to increase awareness and sensitivity about crimes against women.

Mr. Speaker, in California's 14th Congressional District, San Mateo County and Santa Clara County both have innovative and effective community task forces on violence against women. They are poised and ready to utilize this funding at the local level.

Passage of the Violence Against Women Act is long overdue. It is my hope that its provisions will provide the essential first step to ending the devastating physical and emotional damage caused by domestic violence.

TAIWAN'S BIRTHDAY AND THE UNITED NATIONS

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. WISE. Mr. Speaker, happy birthday to the Republic of China on Taiwan. May the ROC rejoin the United Nations in the near future.

One of our largest trading partners is the Republic of China on Taiwan, which has one of the world's strongest economies and the largest foreign exchange reserves, valued at approximately $92 billion. Ironically, Taiwan, a truly democratic nation and a world economic power, is excluded from the United Nations.

Economically, Taiwan has a great deal to contribute to the world body. Taiwan could easily pay the assessed dues and help defray some of the U.N. expenditures in Somalia, Bosnia, Haiti, and other places in need of U.N. peacekeeping and/or humanitarian efforts.

I was happy to see that last month friendly nations submitted a proposal to establish an ad hoc committee, for the second year in a row, in the U.N. General Assembly to discuss Taiwan's lack of representation in the United Nations. This year, 12 nations forwarded the proposal to the General Assembly with three other nations as cosigners. Seven nations spoke on behalf of the ROC during a 90-minute discussion by the U.N. General Assembly. It seems apparent to me that more and more nations are sympathetic to the Republic of China's campaign to re-enter the United Nations. I hope to see more member nations discuss the issue of inviting the ROC back to the United Nations next September.

The Republic of China has many of the qualifications necessary to be a member of the United Nations, and given the opportunity, I believe that it would contribute a lot to the future success of the United Nations.

One of the active advocates for the Republic of China's campaign to re-enter the United Nations was the former Ambassador Mou-shih Ding of the former Coordination Council for North American Affairs. During his tenure in Washington, Ambassador Ding actively articulated his country's case for returning to the United Nations. Ambassador Ding's successor, Ambassador Benjamin Lu will most certainly continue to build on the achievements of his predecessor to secure the support of the Congress and the Clinton administration in the ROC's bid for the return to the United Nations.

TAIWAN'S NATIONAL DAY COMES A TIME OF CHANGE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. MANTON. Mr. Speaker, I want to call to the attention of our colleagues the departure of one of the best foreign representatives in Washington, the Honorable Mou Shih Ding, Representative to the United States from the Republic of China on Taiwan. For the past 6 years, Representative Ding has served as the head of the Coordination Council for North American Affairs, Taiwan's unofficial embassy in Washington. During this period we have seen a continuation of the impressive record of Taiwan's economic, social, and political development, now placing it as the 14th largest trading nation in the world. I believe Representative Ding's strong leadership has greatly contributed to Taiwan's advance, and will be missed by many of us here in the Congress.

Representative Ding will continue his service to his country. He has been appointed to serve as Secretary General to the National Security Council where he will work to further the current strong United States-Republic of China relationship. I would like to congratulate

Representative Ding on his appointment and wish Representative Ding and his wife Shih Mei-Chang well in all their endeavors back in Taipei.

I also would like to extend a warm welcome to Representative Ding's replacement, the Honorable Benjamin Lu, who recently arrived here in Washington. Representative Lu has a long, distinguished career in Taiwan's foreign service, and I am sure he will continue the good work of his predecessor. Having served as the past director of Taiwan's Economic Affairs Division in the United States, I am confident Representative Lu will perform well in this most important post. I look forward to working with him to build upon the continued good relations between the United States Congress and the people of Taiwan.

On a final note, I would like to say a few words about Taiwan's recent efforts for full participation in the United Nations. Given that Taiwan's October 10th National Day Celebration is right around the corner, I feel this is an excellent time to make mention of this situation. As my colleagues know, the Congress has just received the Administration's recent report on United States policy towards Taiwan, and I for one would like to go on record stating that, while the report shows some progress, I do not believe that report went far enough toward making our relationship with Taiwan reflect reality. Taiwan is currently the United States' 5th largest trading partner; its gross national product is the world's 20th; its annual per capita income exceeds $11,000; its foreign exchange reserves are the largest in the world and exceed $80 billion; and it has become the world's 7th largest outbound investor. Taiwan enjoys an active democratic government, its citizens' basic rights are respected, and Taiwan has developed into a major international contributor for relief efforts around the world. In the face of these outstanding achievements, I find it sad that a country of 21 million people is not afforded proper representation in the United Nations. I urge my colleagues in this body, and in the administration, to look again at the unjust treatment Taiwan has been given with regard to high level contracts, diplomatic recognition, and their United Nations bid. In that regard, I am proud to cosponsor House Concurrent Resolution 148, and I urge my colleagues to support House Concurrent Resolution 148, which puts Congress on record in support of Taiwan's campaign to obtain a seat in the United Nations.

A TRIBUTE TO DEDICATED CONGRESSIONAL STAFF: PATRICIA F. RISSLER

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Mr. GOODLING. Mr. Speaker, every once in a while, Members of Congress are provided special services by Congressional staff who exemplify what public service in our Nation is at its highest levels. I've known many fine staffers during my tenure in the House, but a few special ones deserve a gold star from this former educator. On the Education and Labor Committee, Members have been privileged to serve with staff in this category from both sides of the aisle. On the minority side, Dottie Strunk is a good example of a staffer who served with distinction for over two decades while Jack Jennings of the majority staff, who will retire at the end of this Congress, is as fine an example of this form of service as one will find.

Equally, Pat Rissler has served the institution of Congress with distinction since 1963—that's over three decades on Capitol Hill. She has served with Rep. BILL FORD since 1973, most recently as his full Education and Labor Committee Staff Director.

Roll Call noted Pat amongst an elite group of "Hill Climbers" in a 1993 story. When asked if she had plans for another 30 years, Pat said, "Oh God, no. My husband would divorce me."

Yet, as Members know all too well, that is the sacrifice that many make in Congress as they serve their country and the public. Late nights and long hours are the norm, and other personal priorities often get pushed aside.

Pat Rissler, however, has undertaken her responsibilities with a thorough sense of perspective, balance and fairness. No doubt she reflects the strong ideology of her boss, BILL FORD, yet every minority staffer who has encountered her will attest to the value of her word as well as her straight-forward and candid style. I cannot remember a single instance of staff complaining that they were "stabbed in the back" by Pat Rissler. In an institution where many play politics as a game, rather than a business, this is a tremendous credit to Pat's character.

As with Dottie Strunk a few years ago and now Jack Jennings, I personally will miss the opportunities to work with exceptional staff like Pat Rissler. I wish her well in her future endeavors and thank her for the special service she provided to Members and fellow staff alike.

NATIONAL DOMESTIC VIOLENCE MONTH

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 4, 1994

Ms. SNOWE. Mr. Speaker, I rise on behalf of the victims of domestic violence and abuse to commemorate October as National Domestic Violence Month. Domestic violence in this country is a silent scourge. It is the leading cause of injury to women aged 15–44, according to recent research by the surgeon general and the American Medical Association.

In this country, a woman is physically abused every 9 seconds. More women are severely injured by beatings than by car accidents, rapes and muggings combined. Almost four million women are physically battered every year, and two-thirds of the attacks are committed by someone a woman knows, often a husband or boyfriend.

And for every woman who is assaulted, there are thousands who must live with the fear of assault. This fear forces women across America to alter their lifestyles, often at significant cost and inconvenience. Every single day, women must consciously think about how to maximize their safety, and that of their children.

Domestic violence is terrorism that spans generations. Seventeen percent of women interviewed in public prenatal clinics reported being assaulted during pregnancy. Battering is learned behavior that has been accepted over time. Violent youth are four times more likely to come from homes in which their fathers beat their mothers than are nonviolent youth.

Domestic violence is everyone's business. As Co-chair of the Congressional Caucus for Women, I worked for passage of the Violence Against Women Act, which establishes a toll-free domestic violence hotline, provides funds for strengthening legal advocacy programs for victims and educating judges about domestic violence. The Violence Against Women Act also creates Federal penalties for anyone who travels across State lines and violates a protection order or injures their spouse or partner.

Domestic violence is not a private crime. More than one in three Americans have witnessed an incident of domestic violence, according to a survey conducted last year by the Family Violence Prevention Fund. People can make a difference. Instead of remaining silent, provide help. If you see or hear an assault, call the police. If you know someone who is being abused, listen and provide support. Let her know that physical violence is never acceptable in any relationship. Explain that domestic violence is a crime.

Let us all remember the victims of domestic violence during October, National Domestic Violence Month, and work toward the eradication of this heinous crime.

SENATE—*Wednesday, October 5, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

The PRESIDING OFFICER. The prayer will be offered by Dr. James R. Newby of the Earlham School of Religion, Richmond, IN.

PRAYER

The guest chaplain, Dr. James R. Newby of Earlham School of Religion, offered the following prayer:

Let us pray:

God of love and infinite wisdom, we gather today in a spirit of expectancy and hope. May we so act that we may bring help to those in need and credit to the Nation we serve.

For those who are discouraged,
We pray for encouragement.
For those who are weak,
We pray for strength.
For those who are ill,
We pray for healing.
For those who are ravaged by conflict,
We pray for peace.
For those who are treated unjustly,
We pray for justice.
And for all who are feeling a loss of spirit
and distance from Thee,
We pray for transformation.

Keep us, O God, ever sensitive to the needs around us as we enjoy our own abundance. May we be given a good disposition, Lord, that in all of our difficulties we may be part of the solution, and not part of the problem.

Gracious God, may Thy light guide us so that this Nation may be strong in truth and righteousness, to the glory of Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:45 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the time until 9:30 a.m. shall be under the control of the Senator from Nevada [Mr. REID] or his designee.

Mr. REID addressed the Chair.

The ACTING PRESIDENT pro tempore. Senator REID is recognized, the Senator from Nevada.

Mr. REID. I thank the Chair.

(The remarks of Mr. REID, Mr. WELLSTONE, and Ms. MOSELEY-BRAUN pertaining to the introduction of S. 2501 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

REGISTRATION OF MASS MAILINGS

The filing date for 1994 third quarter mass mailings is October 25, 1994. If a Senator's office did no mass mailings during this period, a form should be submitted that states "none."

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records Office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records Office on (202) 224–0322.

QUARTERLY REPORTS—OCTOBER 1994

The mailing and filing date of the October quarterly report required by the Federal Election Campaign Act, as amended, is Saturday, October 15, 1994. All principal campaign committees supporting Senate candidates in the 1994 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 12 noon until 4 p.m. on October 15, to receive these filings. For further information, please contact the Office of Public Records on (202) 224–0322.

TWELVE-DAY PRE-GENERAL REPORTS—1994

The filing date of the 12-day pre-general report required by the Federal Election Campaign Act, as amended, is Thursday, October 27, 1994. The mailing date for the aforementioned report is Monday, October 24, 1994, if postmarked by registered or certified mail. If this report is transmitted in any other manner it must be received by the filing date. All principal campaign committees supporting Senate candidates in the 1994 races must file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 8 a.m. until 9 p.m. on Thursday, October 27, to receive these filings. For further information, please contact the Office of Public Records on (202) 224–0322.

FORTY-EIGHT-HOUR NOTIFICATIONS

The Office of Public Records will be open on three successive Saturdays and Sundays from 12 noon until 4 p.m. for the purpose of accepting 48-hour notifications of contributions required by the Federal Election Campaign Act, as amended. The dates are October 22 and 23, October 29 and 30, and November 5 and 6. All principal campaign committees supporting Senate candidates in 1994 must notify the Secretary of the Senate regarding contributions of $1,000 or more if received after the 20th day, but more than 48 hours before the day of the general election. The 48-hour notifications may also be transmitted by facsimile machine. The Office of Public Records fax number is (202) 224–1851.

THIRTY-DAY POST-GENERAL REPORTS—1994

The mailing and filing date of the 30-day post-general report required by the Federal Election Campaign Act, as amended, is Thursday, December 8, 1994. All principal campaign committees supporting Senate candidates in the 1994 races must file their reports

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116. Senators may wish to advise their campaign committee personnel of this requirement.

The Public Records Office will be open from 9 a.m. until 5 p.m. on Thursday, December 8, to receive these filings. For further information, please contact the Office of Public Records on (202) 224–0322.

FAREWELL TO MOU-SHIH DING, WELCOME TO THE HONORABLE BENJAMIN C. LU

Mr. JOHNSTON. Mr. President, on September 20, many of my distinguished colleagues gathered together to bid farewell to Mou-Shih Ding, the outgoing representative of Taiwan in the United States. During his tenure, Mou-Shih Ding carried forward the strong traditions of his predecessor, Dr. Fred Chien, who made a lasting name for himself and his government by strengthening ties between the United States and Taiwan. It has been a pleasure to work with this distinguished career diplomat, who has been a great advocate of continued cooperation between Taiwan and the United States.

Mr. Mou-Shih Ding has had a lengthy and impressive diplomatic career, having served his nation in Taiwan's Ministry of Foreign Affairs; as a delegate to the United Nations; as an Ambassador to Rwanda, Zaire, and Korea; and as Representative of Taipei in the United States. I know Mr. Mou-Shih Ding will be a great asset to the National Security Council, and it is a pleasure for me to extend best wishes and congratulations to him.

I would also like to take this opportunity to welcome the Honorable Benjamin C. Lu, Taiwan's former Representative to Belgium, as Mr. Mou-Shih Ding's successor. Mr. Lu is currently serving as the Taipei Cultural and Economic Representative in the United States and has also represented Taipei at the United Nations. He also brings considerable economic expertise, having served as Deputy Director General on the Board of Foreign Trade in the Ministry of Economic Affairs and as Director of the Majestic Trading Company in London, as well as Director of the Far East Trade Service in Belgium.

I am confident Mr. Lu will be a worthy replacement for Mr. Mou-Shih Ding and look forward to working with him on matters of mutual interest in the future.

THE 50TH ANNIVERSARY OF THE U.S. ARMY LEGISLATIVE LIAISON

Mr. DOLE. Mr. President, I rise today to pay tribute to the soldiers and civilians of the U.S. Army's Office of the Chief of Legislative Liaison [OCLL]. For over 50 years this office has provided invaluable service to the Congress by providing timely information assisting us with constituent inquiries, and assisting Members of Congress on fact finding missions.

In June of this year, I stepped back in time for a few days as I attended several World War II commemorative activities in Europe. From Anzio, Italy where I fought with the 10th Mountain Division to the beaches of Normandy where so many soldiers fought and died for freedom on D-day, I was joined by over 150 of my colleagues in the Congress who came to remember and to say thank you to the veterans that freed a continent from tyranny.

Those who attended these ceremonies will recall just how well planned, well coordinated, and finely executed the events were. The quality of the support we collectively received was no accident. The men and women of Army OCLL, soldiers and civilians worked diligently for months to ensure that success. They are to be commended for their extraordinary efforts on our behalf.

This event only typifies the quality of support this fine organization has conscientiously provided to Congress for over 50 years. Formed during World War II to provide a single point of contact for Members of Congress to obtain information about soldiers for anxious families, war department programs, or war-related activities, their contribution was quickly recognized as an essential service, not only during war, but during peacetime as well.

Since those early years, the Army's OCLL has escorted thousands of congressional delegations on fact finding trips worldwide, often to places in harms way. No doubt about it, each of these missions have been well planned, meticulously coordinated, and flawlessly executed. It is a standard of excellence we have come to expect as routine and take for granted. However, the work of OCLL should not be taken for granted. It is a key reason why we in the Congress are able to get the facts we need.

Additionally, we all frequently request detailed information about the myriad of Army activities, especially during the authorizations and appropriations cycle. Again, the responsiveness of OCLL is outstanding. The ultimate judge, however, is our constituents. Their requests for information or assistance often lead us to OCLL for answers and help. Annually, OCLL responds to over 50,000 written inquiries from Members of Congress and thousands more telephonic inquiries. Army OCLL handles these inquiries conscientiously, with thoroughness, and in a timely manner.

Mr. President, Army OCLL has repeatedly distinguished itself as an agency which goes beyond the call of duty. They have served the Army, the Congress and the Nation admirably, faithfully, and well over the past 50 years. I am certain the men and women who serve in OCLL, and serve us will continue in this fine tradition. I ask my colleagues to join me in paying tribute to those who serve in Army OCLL, past, present, and future. Thank you for your service to the Congress, the Army, and to America.

A TRIBUTE TO MAJ. GEN. JOHN J. CLOSNER III, FOR HIS SERVICE AS CHIEF OF THE AIR FORCE RESERVE

Mr. NUNN. Mr. President, today I want to recognize Maj. Gen. John J. Closner for his distinguished service to our Nation. General Closner epitomizes our Air Force Reserve citizen-soldier. He has demonstrated exceptional leadership as chief of Air Force Reserve, Headquarters U.S. Air Force, Washington, DC., and commander, Air Force Reserve, Robins Air Force Base, GA for the past 4 years.

General Closner performed these duties in an outstanding manner despite the dramatic fiscal and structural changes brought about by the end of the cold war. Responding to these challenges, General Closner effectively reorganized the Air Force Reserve. He confronted tough decisions head on, directing numerous unit conversions as well as downsizing aircraft inventory and personnel while maintaining key capabilities.

Commissioned through the Reserve Officer Training Corps Program at Texas A&M University, General Closner's early training prepared him well for his later assignments commanding fighter units in Oklahoma, Louisiana, Utah, and Texas. Ultimately, he rose to command the 81,000 member Air Force Reserve.

General Closner is a highly decorated veteran of the Vietnam war. He flew over 300 combat missions in the F–100 as an instructor pilot with the 615th Tactical Fighter Squadron in the Republic of Vietnam in 1967. His military awards and decorations include the Distinguished Service Medal, Legion of Merit, Distinguished Flying Cross, Meritorious Service Medal, Air Medal with 14 oak leaf clusters, Air Force Commendation Medal, and Air Force Outstanding Unit Award with three oak leaf clusters.

Still current in the F–16 at age 54, General Closner has flown over 5,000 hours as a command pilot in the A–10, A–37, F–16, F–100, and F–105. Perhaps his proudest moment was being the first wing commander of an Air Force Reserve F–16 Wing. Under his leadership this wing won the prestigious Gunsmoke competition for the best air-to-ground fighter unit in the entire Air Force.

General Closner's greatest contribution as chief of the Air Force Reserve was his sustained leadership during a period that stressed resources to their limit. He embraced and led the total quality management revolution within the Air Force Reserve and received praise from the Executive Office of the White House for this quality leadership. He led the Air Force Reserve through Operations Desert Shield/Desert Storm, Provide Promise, Deny Flight, Provide Comfort, Southern Watch, and most recently, our multinational operation in Haiti. Despite the highest operational pace in the history of our Reserve forces, the Air Force Reserve always accomplishes its mission under his leadership.

The United States is indebted to General Closner for his many contributions to this Nation. As his hallmark, he left a stronger Air Force Reserve. We thank Jay and his wife Angela for their selfless service to the men and women of the Air Force Reserve, and wish them continued success in the future.

JAMIE WHITTEN RETIRES

Mr. COCHRAN. Mr. President, when my friend and distinguished colleague in the other body, JAMIE L. WHITTEN, retires at the end of this session as the Congressman for the First Congressional District of Mississippi, he will have served the people of his district, our State, and our Nation, for 53 years.

He came to Congress when rural electricity was just becoming a reality. He will leave when space travel is common and satellites can flash news and information around the globe in seconds.

Throughout his career, JAMIE WHITTEN has been first and foremost a champion of the interests of those who live in rural America. He has been a true friend of our farmers and their families. He has been a successful advocate for conservation of our soil and water resources, sound flood control policies, and support from the Government in time of special hardship and disaster.

JAMIE WHITTEN has been a friend and mentor for me, and I will truly miss him when he retires. I have learned much by studying his example, his seriousness of purpose, and his conscientious devotion to duty. He has always been courteous, and he has always been a gentleman.

It has been a great pleasure for me to have worked very closely with Congressman WHITTEN on Appropriations Committee matters, especially on the subcommittee on agriculture, rural development and related agencies.

He is the most knowledgeable person in Congress on the subject matter within the jurisdiction of that subcommittee.

And for me, he is, and has been during the 22 years we have served together in the Congress, a very helpful friend and colleague.

I will never forget when we Republicans won control of the Senate in 1980 and for 6 years I served as chairman of the same Appropriations Subcommittee in the Senate that JAMIE chaired in the House. As we began the first conference on the subcommittee's bill in 1981, he said to me: "You have to be careful what you ask for now, you may get it."

JAMIE WHITTEN was born in Cascilla, MS, in 1910. He married the former Rebecca Thompson of Saltillo, MS, and they have two children, a son, Jamie Lloyd Whitten, and a daughter, Beverly Rebecca Merritt. He attended the public schools at Cascilla, and at Charleston, the nearby county seat which he still calls home. He attended the literary and law schools of the University of Mississippi at Oxford and served 1 year as principal of the Cowart School in Tallahatchie County.

After beginning the practice of law in Charleston, JAMIE WHITTEN was elected to the State legislature from Tallahatchie County at the age of 21, the first year he was eligible to vote. He then was elected district attorney at age 23 from the 17th District, which included at that time Tallahatchie, Yalobusha, Panola, Tate, and DeSoto counties.

In November 1941, in a special election, JAMIE WHITTEN was elected to Congress and sworn into office during the 77th Congress. He was re-elected the next year to the 78th Congress, and has been returned by the people of his district by substantial margins to every succeeding Congress.

He has served honorably and exceptionally well for 53 years. He is the dean of the House of Representatives as well as the senior member of the Appropriations Committee, which he served ably and effectively as chairman from 1979 until 1992. As longtime member and chairman of the Subcommittee on Agriculture Appropriations, he has fondly, and I might add, accurately, been called "The Permanent Secretary of Agriculture." He has served with 11 Presidents of the United States, beginning with Franklin D. Roosevelt, and with more Secretaries of Agriculture than anyone can remember.

As his remarkable and historic career as a U.S. Congressman ends this session, I congratulated him for a job well done. Our Nation, and especially our State of Mississippi, are grateful for him for a record of honorable and very distinguished service.

We wish for him and his gracious wife, Rebecca, much happiness in the years ahead.

IN MEMORIAM: CAPT. HARRY SEAGROVE SELLERS

Mr. WARNER. Mr. President, I rise today to pay tribute to one of the outstanding citizens of my State, Capt. Harry Seagrove Sellers, who recently passed away at his Arlington home after a long and valiant battle against cancer. Captain Sellers was a superior naval officer who served in World War II, the Korean war and in Vietnam, and was also a prominent leader in the local community. His contributions to his country and to his community deserve the highest and most enduring praise.

Captain Sellers was born in Glendora, in 1924. He earned a bachelors degree in mathematics at the University of California at Los Angeles. After the outbreak of the Second World War, he entered the Aviation Cadet Program and earned his navy wings of gold, becoming a skilled pilot. Captain Sellers was assigned to a newly formed night torpedo squadron. Later, as 1 of 5 pilots in Project Cadillac, he performed the original flight test of high powered airborne radar against captured German snorkel submarines. During these tests, he alternated between days in the cockpit and days as a crew member of the German sub.

During the Korean war he served on the U.S.S. *Valley Forge* and in Composite Squadron 35. In 1954, he graduated from the U.S. Naval Postgraduate School with a masters of science in nuclear physics. His thesis on solid state physics and radiation effects was later presented to the American Physics Society.

From 1956 to 1958, Captain Sellers was assigned as a project officer to China Lake, where he worked in a program experimenting with nuclear propulsion for aircraft. There, Sellers also worked as a test pilot in jet fighters testing delivery systems for nuclear weapons on naval aircraft.

His next assignment was to the Naval War College in Rhode Island after which this rising officer became the commanding officer of a jet attack squadron assigned to the U.S.S. *Constellation* on her maiden deployment to the western Pacific.

During 1965, Captain Sellers was assigned as the navigator of the U.S.S. *Coral Sea* and had the opportunity to serve aboard this well-known ship as it participated in a period of intense combat operations. It was during this tour that the United States began the air war against Vietnam, and the U.S.S. *Coral Sea* served as the launch site for these aircraft. Sellers' management skills during this period of intense combat operations insured a rapid and effective response for U.S. forces operating from the U.S.S. *Coral Sea*. His outstanding performance earned him the Navy Commendation Medal.

From 1966 to 1968, Captain Sellers worked as a Navy representative in the Strategic Plans and Policy Division of the Joint Chiefs of Staff. There, Sellers was commended for his dynamic leadership, diligence, and foresight and for his efforts which greatly enhanced the war-planning effectiveness of U.S. Armed Forces and the security of our

Nation. For his distinguished performance, Captain Sellers was awarded the Legion of Merit.

Following his tour in the Joint Chiefs of Staff, Captain Sellers returned to Vietnam in October 1968 as commanding officer of the U.S.S. *Wrangel*, an ammunition ship operating in the Gulf of Tonkin. During combat operations, Captain Sellers displayed exceptional leadership qualities while directing his ship in providing mobile logistic support to combat units. He was awarded the Bronze Star Medal for his meritorious wartime service during this period.

In 1969, he took command of the aircraft carrier U.S.S. *Franklin D. Roosevelt*, which deployed to the Mediterranean as the flagship of the U.S. Sixth Fleet. Captain Sellers was responsible for the exceptional performance of the ship as a member of Task Force Sixty during her first deployment. Captain Sellers' exemplary guidance and direction ensured the maintenance of an ever-increasing level of readiness in both the ship and the air wing.

From September 1971 to June 1972, Captain Sellers served as the program manager for the Sea Control Ship System Operations. He was instrumental in establishing the Sea Control Ship System as a viable program of great potential value to the Navy of the future. For his distinguished service, Captain Sellers was once again awarded the Legion of Merit with gold star. After this final tour on the staff of the Chief of Naval Operations, he retired in 1972 with a wartime mobilization role as a convoy commodore.

Captain Sellers not only distinguished himself as a superior military officer, he also distinguished himself as a successful entrepreneur. In 1974, Harry Sellers formed the U-Store Co. to build and operate self-service storage facilities, then a new concept in real estate development. As owner and chief executive officer, he designed and built their first facility in Daytona Beach, FL. The immediate success and profitability facilitated nine more projects now totaling over 5,000 rental spaces and 420,000 square feet of floor space expanding into four States.

Captain Sellers was a man of extraordinary talent and he used those talents in serving his community. He was a member of the Masonic Order, the Scottish Rite and the Shrine. While on active duty in the Navy, he was a member of the Naval Institute and the Society of Experimental Test Pilots. On his post-Navy career, he served two terms on the board of directors and one term as president of the Self-Service Storage Association, southeast region; and also served for 15 years as the national treasurer of the American Defense Preparedness Association.

Captain Sellers was a deeply religious man who was very involved in his church and community. A lifelong Methodist, Harry Sellers held leadership positions in several churches across the country. A talented musician, he was active in church music programs where he contributed as a pianist and organist. He also composed and published original music.

Captain Sellers was also an avid sportsman with a love for skiing, scuba diving, and sailing. Following a distinguished naval career of 30 years, Captain Sellers fulfilled a lifelong dream as he and his wife bought a sailboat and spent most of a year sailing the Caribbean.

Captain Sellers will be remembered for his energy, discipline, dedication, and humility combined with his great love for God and church. He was a loyal and loving husband, father, patriot, and Christian of the first rank. He will not only be cherished and remembered by his wife, Helen Heald Sellers of 48 years, their two sons, Darrow and Richard, and his grandchildren, but he will also be remembered and honored as a distinguished career naval officer and an outstanding public citizen by all who knew him.

NEED TO PASS SEC FUNDING LEGISLATION

Mr. RIEGLE. Mr. President, last week I took this floor to discuss the urgent need to provide funding to the Securities and Exchange Commission. We face a very serious situation: the SEC has not yet been provided with funding sufficient to carry it through the new fiscal year that began on October 1.

As I remind the Senate last week, the Congress has provided the agency with only a portion of the funding that it needs for the next 12 months. Legislation that would provide the needed full funding was passed by the House of Representatives last week. That bill, H.R. 5060, is now at the Senate desk. It is crucial that the Senate immediately take up and pass this bill.

In the absence of full funding, the SEC has begun preparing to shut down. I ask unanimous consent to enter into the RECORD a letter I received yesterday from Arthur Levitt, Chairman of the SEC. He writes, "the SEC has been forced to suspend vital services." He notes that an examination of brokerages and investment advisers have been halted. The agency has had to stop seeking to recover funds from offshore accounts. The electronic filing system for all publicly traded companies will shut down next week, slowing down the process of filing registration statements for every public company in America. In addition, Congress's failure to pass the SEC funding bill is costing the U.S. Treasury an estimated $740,000 every day, because of the reduced fee schedule now in place.

If Congress adjourns without providing the needed funds, the SEC will have to shut down. This would be a catastrophe, because the SEC is crucial to the smooth operation of the capital markets that stand at the heart of our economy. The success of the U.S. financial markets is due, in large part, because the markets and their investors know that the SEC is a vigilant "cop on the beat." Leaving the SEC in budgetary limbo jeopardizes investor confidence in the market.

An SEC operating on a partial budget will not have the ability to police the markets or effectively respond to a market emergency. This needlessly places the stability of the markets and the personal savings of millions of individual investors at risk. In turn, the Nation's economy as a whole could be severely harmed. We cannot run that risk.

Mr. President, we can avoid that fate by taking up and passing H.R. 5060. The language contained in H.R. 5060 passed the Senate earlier this year. This legislation enjoys the strong support of both of the SEC's regulated industries and the administration. It is crucial that the Senate take up and pass this legislation today, to protect the smooth operation of our markets, to ensure that investors are protected, and to guarantee the efficient operation of our Government. I urge all my colleagues to give their consent so that the Senate can today take and pass this crucial bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, October 4, 1994.

RE H.R. 5060.

Hon. DONALD W. RIEGLE,
U.S. Senate, Washington, DC.

DEAR SENATOR RIEGLE: I know you share my commitment to protecting U.S. investors by maintaining the integrity and efficiency of our nation's capital markets. I am deeply distressed that the interests of U.S. investors and U.S. corporations are being jeopardized because H.R. 5060, the SEC's funding legislation which was approved by the House last Tuesday, has not yet been approved by the Senate.

I am most troubled that the SEC has been forced to suspend vital services. This has affected enforcement investigations and examinations of mutual funds, brokerage firms and investment advisers. Because of a mandated reduction in our fee schedule, the U.S. Treasury will continue (as of October 3) to needlessly forego $740,000 every day without a funding bill.

Although the agency is doing everything possible to maintain critical operations, this delay in the agency's funding has already impacted our program operations. For example, during the last 24 hours, six SEC examination staff members were recalled from an exam of a brokerage firm in Tennessee. An inspection of a $250 million investment adviser was cancelled. In addition, in a legal proceeding, the Commission is seeking the return of some $330,000 in funds belonging to defrauded investors which were transferred to offshore accounts. The Commission is unable to obtain the return of these funds for investors without being able to contract with foreign attorneys. Further, the agency today issued a "stop-work" order to its electronic filing system contractor. The effect of this action is that all electronic filings will cease effective 8:00 a.m., Tuesday, October 11. This action affects approximately 3,400 public companies throughout the nation and will slow the processing of filings for every registrant in this country.

We must maintain our preeminent position as the world's leading capital market, where last year American companies raised $868 billion. I urge you to move swiftly to approve H.R. 5060 and restore full protection for American investors.

Sincerely,

ARTHUR LEVITT.

WORLDWIDE REFUGEE PROBLEMS

Mr. KENNEDY. Mr. President, as required by the Refugee Act of 1980, on September 29, 1994, Acting Secretary of State Strobe Talbott held a consultation with members of the Judiciary Committee on the number of refugees to be admitted to the United States next year, and to review worldwide refugee programs.

On September 30, the committee completed the consultation process by sending the following letter to the President, which I ask be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 29, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Under the provisions of the Refugee Act of 1980 (P.L. 96-212), members of the Committee on the Judiciary have now consulted with your representative, Acting Secretary of State Strobe Talbott, on the proposed admissions of refugees for Fiscal Year 1995.

We are gratified that the Administration is putting into practice its commitment to reorient the refugee resettlement program toward serving refugees who face imminent threats to life and safety, and away from the defacto "pipeline" of in-country processing that developed in certain countries over recent years. We would encourage the Administration to expedite the entry of "pipeline" refugees, to permit an even more rapid completion of those programs.

Over the next few months we will monitor with particular interest the Administration's resettlement efforts in Africa, the former Yugoslavia, and other volatile parts of the world. The Administration is to be commended on its efforts in many unstable and difficult areas, such as the Sudan. We would urge you, however, to keep in close communication with us on your plans for resettlement of refugees from countries such as Bosnia, Liberia, and Rwanda, where it appears that major challenges remain.

We appreciate your work in ensuring a continuation of eight months of federal reimbursement for refugee resettlement for Fiscal Year 1995. We continue to believe, however, that this level still falls short of meeting actual assistance needs at the state and local level. As in the last year's refugee consultation, we again urge the Administration to request a level of funding for the domestic refugee program that more closely matches the number of refugees to be admitted.

The Committee continues to support the objectives of our Nation's program to assist refugees of "special humanitarian concern" to the United States. We accept your proposals to do so during Fiscal Year 1995, and look forward to working with you on this important program in the coming months.

With best wishes,
Sincerely,

ORRIN G. HATCH,
Ranking Member, Committee on the Judiciary.
ALAN K. SIMPSON,
Ranking Member, Subcommittee on Immigration and Refugee Affairs.
JOSEPH R. BIDEN, JR.,
Chairman, Committee on the Judiciary.
EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs.

Mr. KENNEDY. Mr. President, I would also like to share with my colleagues two tables that review fiscal year 1994 refugee admissions ceilings and actual refugee admissions, and proposed refugee admissions ceilings for fiscal year 1995. I would ask Senators to note particularly that the proposed overall ceiling is 112,000 refugee admissions. This is 9,000 fewer numbers than the fiscal year 1994 ceiling.

I ask that these tables be included in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—REFUGEE ADMISSIONS IN FISCAL YEAR 1993 AND FISCAL YEAR 1994

Region	Fiscal year 1993 actual	Fiscal year 1994 ceiling	Fiscal year 1994 arrivals thru 7/94	Projected fiscal year 1994 arrivals
Africa	6,969	7,000	4,566	6,000
East Asia	49,858	45,000	33,558	42,000
Eastern Europe[1]	2,651			
Latin America/Caribbean	4,126	[2]9,000	4,688	8,000
Near East	7,000	6,000	3,903	6,000
Former Soviet Union[1]	48,627			
Former Soviet Union/Eastern Europe[1]		[2]53,000	40,073	48,000
Unallocated reserve		(2)		
PSI	251	1,000	0	0
Total	119,482	121,000	86,788	110,000

[1] Former Soviet Union and Eastern Europe ceilings were combined in fiscal year 1994.

[2] Reallocations: 3,000 admissions numbers initially assigned to the Unallocated Reserve were reallocated during the year to the Latin America/Caribbean ceiling. An initial allocation of 55,000 numbers to the Former Soviet Union/Eastern Europe ceiling was reduced by 2,000 to 53,000, with the 2,000 numbers reallocated to the Latin America/Caribbean ceiling. The initial 4,000 numbers allocated to the Latin America/Caribbean ceiling were thus augmented by an additional 5,000 to accommodate a surge in Haitian admissions during the year.

TABLE II.—PROPOSAL FOR U.S. REFUGEE ADMISSIONS IN FISCAL YEAR 1995

Area of origin	*Proposed ceiling*
Africa	7,000
East Asia	[1]40,000
Former Soviet Union/Eastern Europe	48,000
Latin America and the Carribbean	8,000
Near East	5,000
Unallocated reserve	2,000
Subtotal, funded admissions	110,000
Private Sector Initiative	2,000
Total	112,000

[1] This figure includes Amerasians and their family members who enter as immigrants under a special statutory provision but receive the same benefits as refugees.

Mr. KENNEDY. Mr. President, as my colleagues review these two tables, would I point out with satisfaction that the two resettlement programs requiring the most concerted attention of the United States over the past decade—those in East Asia and the former Soviet Union—are moving in the direction of completion.

This is a testament to the generosity of the United States and the international community, which have accepted an unprecedented number of at-risk persons from these regions. It is also a tribute to the hundreds of American men and women—working for the State Department, the Immigration and Naturalization Service, the Office of Refugee Resettlement, voluntary agencies, and State and local governments, that have made possible resettlement of individuals who have a compelling connection to the United States.

In response to the emerging shift in U.S. resettlement policy, we are advised that the administration has revised its formulation of the worldwide priority system. This revision was communicated to the committee in the President's consultation documents. I anticipate that the committee will have occasion to discuss the formulation and ramifications of this new priority system in some detail with the administration at a later date.

I would ask that the section of the report to the Congress on proposed refugee admissions for fiscal year 1995 that describes the revised worldwide priority system be included in the RECORD.

There being no objection, the priority system was ordered to be printed in the RECORD, as follows:

THE WORLDWIDE PRIORITY SYSTEM

The worldwide processing priority system sets guidelines for the orderly management of refugee applications for admission within the established annual regional ceilings. The priority system has been revised for FY-95 to reflect trends over the past several years in the world-wide refugee resettlement caseload.

The issues of whether a person meets the definition of a refugee under U.S. law and the priority that person may be assigned for consideration of his case are separate and distinct. Assignment of an individual to a particular processing priority does not reflect any judgement as to whether that individual ultimately will qualify for admission to the U.S. as a refugee. Just as qualifying for refugee status does not confer a right to resettlement in the United States, assignment to a particular priority does not entitle a person to admission to the United States as a refugee.

The U.S. refugee priorities system sets guidelines for the orderly management of refugee admissions into the United States within the established annual regional ceilings and is subject to change during the fiscal year. Over the years, it has become increasingly apparent that the six processing priorities originally established in the early years of the huge Indochinese refugee outflows are less relevant to the refugee populations in need of resettlement today. For example, former USG employees, who were in Priority Two of the old system, are not inherently at risk in today's non-Indochinese refugee situations in which there often is no anti-American sentiment, whereas journalists opposing a repressive regime may be vulnerable even in a country of first asylum.

Accordingly, the old processing priorities have been revised to reflect the U.S. intent of providing resettlement to those most in need, relying to a greater extent on UNHCR to refer such individuals to our program. We also have included discrete categories of individuals of concern to the U.S. for selected nationalities. Since it makes sense that refugees with relatives in the U.S. be resettled here rather than in other countries, some family-based priority groups are still included in the revised list. The refugee processing procedure will remain unchanged; that is, refugees in Priority One are interviewed before those in Priority Two, etc.

REFUGEE PROCESSING PRIORITIES—FY 1995

Priority One: UNHCR-referred or Embassy-identified persons in immediate danger of loss of life.

UNHCR-referred or Embassy-identified cases of compelling concern such as former political prisoners or dissidents.

UNHCR-referred vulnerable cases including women at risk, victims of violence, torture survivors, and individuals in urgent need of medical treatment not available in the first-asylum country.

UNHCR-referred cases of individuals for whom the other durable solutions are not feasible and whose status in the place of asylum does not present a satisfactory long-term solution.

Groups of special concern to the U.S. to be established as needed by nationality (see listing below for FY 1995).

Priority Two: Spouses, unmarried sons and daughters, and parents of persons lawfully admitted to the U.S. as Permanent Residents Aliens, refugees, or asylees.

Unmarried sons and daughters, of any age, of U.S. citizens; parents of U.S. citizens under 21 years of age. (Spouses and minor children of U.S. citizens and the parents of U.S. citizens who have attained the age of 21 are required by law to apply for admission on immigrant visas.)

Priority Three: Married sons and daughters and siblings of U.S. citizens and persons lawfully admitted to the U.S. as Permanent Resident Aliens, refugees, or asylees.

Priority four: Grandparents, grandchildren, uncles, aunts nieces, nephews and first cousins of U.S. citizens and persons lawfully admitted to the U.S. as Permanent Resident Aliens, refugees, or asylees.

PRIORITY ONE: GROUPS OF SPECIAL CONCERNS FOR FY 1995

Burma: Students/dissidents who are referred by UNHCR, arrived in Thailand between March 15, 1988 and May 1, 1992, and have a well-founded fear of persecution due to pro-democracy activities in Burma.

Laos: Highlands (mostly Hmong).

Vietnam: Former reeducation camp detainees who spent more than three years in detention camps:

Certain former USG employees and other specified individuals or groups of concern;

On a case-by-case basis, other individuals who have experienced persecution because of post-1975 political, religious, or human rights activities.

Former Soviet Union: Soviet Jews, Evangelical Christians, members of the Ukrainian Catholic or Orthodox churches.

Bosnia: Bosnian Muslims, and on an exceptional basis non-Muslim Bosnians, referred by UNHCR, such as women victims of violence, torture victims, ex-detainees, and other individuals identified by UNHCR as requiring resettlement in the U.S.

Vulnerable Bosnians in mixed marriages of any ethnic group referred by UNHCR.

Parents and siblings of minor U.S. citizen children who have been displaced by the conflict in Bosnia-Herzegovina.

Bosnian Muslims, and on an exceptional basis non-Muslim Bosnians, referred by the International Organization for Migration (IOM) for medical treatment in the U.S.

Cuba: Former political prisoners, members of persecuted religious minorities, human rights activists, forced-labor conscripts, persons deprived of their professional credentials or subjected to other disproportionately harsh or discriminatory treatment resulting from their perceived or actual political or religious beliefs or activities, dissidents, and other refugees of compelling concern to the U.S.

In third countries, Priority One Cubans may be processed if they fled Cuba before November 20, 1987.

Haiti: Senior and mid-level Aristide government officials; close Aristide associates; journalists and educational activists and high profile members of political, development, and social organizations who have experienced significant and persistent harassment by the de facto authorities, or who have a credible fear because of their activities; others of compelling concern to the U.S. and in immediate danger because of their actual or perceived political beliefs or activities; and others who appear to have a credible claim that they will face persecution as defined in the Refugee Convention. (The 1951 Convention on the Status of Refugees defines a refugee as someone who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group, or political opinion.)

Iran: Refugees who have served in positions of leadership or played a conspicuous role within a religious denomination whose members are subjected to discrimination, including the clergy, prominent laymen, those who have served in denominational assemblies, governing bodies or councils; refugees who because of their minority religious affiliations have been deprived of employment, have been driven from their homes, have had their business confiscated or looted, have been denied educational opportunities available to others similarly situated in the same area, or have been denied pensions that would otherwise be available.

THE DEATH OF CLAUDE HARRIS

Mr. SHELBY. Mr. President, the State of Alabama suffered a great loss Sunday with the passing of Claude Harris. Known for his integrity, strength of character, and conviction, Claude Harris spent his entire life serving the people of Alabama—as a prosecutor, a judge, a congressman, an officer in the National Guard. Honor and integrity were the hallmark of his tenure in every position that he held.

Claude Harris's dedication to public service spanned over three decades, from his early beginnings as an assistant district attorney for Tuscaloosa County to his most recent post as U.S. attorney for the Northern District of Alabama.

Although only recently appointed to this position by President Clinton in 1993, his short tenure is no measure of the significant contribution he had already made to this office.

This is no surprise to those who knew him well. Claude Harris' professional career was built on a strong record for effectiveness and hard work.

Eight years on the circuit court for Tuscaloosa County bench earned him a reputation as an even-handed, fair-minded jurist. As presiding judge for the circuit court, he was widely recognized and respected for his work on the bench and it was only his election to the U.S. House of Representatives that cut short his contributions there.

In 1986 he was elected to fill my former congressional seat serving the Seventh District of Alabama. As a congressman, Claude earned a reputation as a champion of the welfare of veterans, active duty military personnel and guard and reserve members. His support for a strong national defense and the well being of military personnel is hardly surprising given his long-standing service in the Alabama National Guard—rising to the rank of lieutenant colonel.

Claude Harris retired from the Congress last year after three terms rather than run again in a significantly reconfigured congressional district. West

Alabama was deeply saddened by his retirement, as in his 6 years in the House, Claude served his constituents with honesty and diligence.

As a fellow resident of Tuscaloosa, I shared a close personal relationship with Claude Harris and his wife, Barbara, a relationship that transcended the everyday world of politics in which we worked.

I extend my deepest sympathies to Claude Harris' family for their loss. I share that loss, and mourn his friendship, but, I would also note how much richer the state of Alabama, it's citizens—and I am—for the time he was here with us.

AGRICULTURE EXTENSION SERVICE YOUTH AT RISK PROGRAM

Mr. COCHRAN. Mr. President, so often we hear about Federal programs that fail to meet our expectations and even worse waste taxpayer dollars. We see these disappointing efforts highlighted on the evening news and on the front page of newspapers and it seems everybody knows about them.

On the other hand, when a Federal program excels in the quality of service it provides or makes maximum use of modest Federal funding through matching contributions of local public and private resources, it's not unusual for that program to go unnoticed.

A meritorious program that should be talked about more is Youth and Families at Risk funded through the Agriculture Department's Extension Service. Funded at $10 million in each of the past fiscal years, cash from State and local resources, and in kind services have doubled and even tripled that amount.

The U.S. Department of Agriculture Cooperative Extension Service has an office in almost every county in the country. Some extension offices, particularly those in poor rural areas, also have a Youth at Risk project coordinator who works with local schools, 4-H Programs, parent groups and others to provide youth development activities. Small grants averaging less than $100,000 are provided to support Youth at Risk activities on a 5-year cycle, with Federal funds gradually phasing out over that time period. In the sixth year the program is expected to be self-sustaining.

In Mississippi, there are three outstanding programs in varying stages of development. One, the After School Child Care Education program is a collaborative effort of Alcorn State University and Mississippi State University and local school districts which targets children grades K-4 in the two rural Mississippi communities of Fayette and Greenville. The program is in its fifth year of funding and will become self-supporting next year. Children performing below their potential are identified by teachers, school administrators, or primary care givers to participate in the program after school hours. The program's purpose is to improve academic performance, build self-confidence and prepare students to become more productive in later life. Children are divided into small groups where they receive a nutritious snack, help with homework, and tutoring. Parents are also involved through activities to help improve their parenting skills, support, and encourage their children's educational progress, and increase their own educational attainment.

Classroom teachers report that children in the Extension Service After School Program come to school with a much greater understanding of why they are in school and bring in completed homework assignments much more frequently. School principals report less disruptive behavior and parents have noticed more self-confidence and enthusiasm for learning. Standardized reading tests show the children participating in the after school program improve reading skills by an average of one grade level. The program has been so successful in raising academic competencies of youth it has caught the attention of the local chapter 1 program, which will continue to provide funding to sustain and expand these programs when extension funds complete their cycle.

Another exciting program is an Oktibbeha County program called SOARS [Science Opportunities Activities and Responsibilities Series] which holds Super Science Days at Mississippi State University, where students from that county learn firsthand about science, engineering, and medicine from scientists themselves. Extension staff provide supplemental math and science instruction during the school day. Among the program's goals is to introduce African-American females to a wide range of engineering disciplines. SOARS began in 1992 as a youth-at-risk project designed to increase math and science awareness among the county's fourth through sixth grade students. Partners in the program include the county school system, Extension office, and Project Brickfire, a low-income housing area. Mississippi State University faculty and students provide time and resources to the 265 volunteers serving as tutors and summer camp instructors. Local contributions match the Federal funding two to one.

After the second year, test scores showed 35.8 percent of the students improved in math, 43.7 percent improved in science, and 48.5 percent increased in overall SAT scores.

The newest of Mississippi's Youth at Risk Program is Project GESTALT [Growth and Education for Students, Teachers, and Advocates Linked Together]. Students in the Jackson area public school system are selected to participate in this math and science oriented after school program. Junior and high school students are paired with elementary school students in after school care programs for tutoring and mentoring. The purpose is to enrich learning experiences for younger and older students. Parents receive training in academic support, communication, conflict resolution and are encouraged to participate in career education programs. After just 1 year, Project GESTALT has served over 1,000 students and parents. Project GESTALT is a collaborative effort of the Cooperative Extension Service, Jackson public schools, Mississippi Public Education Forum, the Federal Learn and Serve National and Community Service Program, and six other community civic organizations.

These projects offer many opportunities for some of our Nation's most vulnerable youth and their families to develop leadership skills and acquire knowledge needed to build strong communities. I am particularly proud of the Mississippi programs and am pleased to highlight their accomplishments. The U.S. Department of Agriculture Youth at Risk Program is one Federal program that is truly making a difference in youth development.

TRIBUTE TO SENATOR MATHEWS

Mr. JOHNSTON. Mr. President, when the Senate reconvenes next year, HARLAN MATHEWS will not be with us. He was appointed 2 years ago to fill the unexpired term created when AL GORE became Vice President. He said at the time that he would not seek reelection and he is making good that pledge.

Senator MATHEWS' presence will be missed. He brought to the Senate a lifetime's experience in State government. He began his career with the State of Tennessee in 1950 as a member of the Governor's planning staff and rose through the ranks over the next four decades to become Deputy to the Governor, cabinet secretary, and one of the most influential voices in the statehouse.

Much of Senator MATHEWS' time in State government was spent in the demanding field of public finance. He served as finance commissioner for 10 years and as treasurer for 13 years. He held both jobs longer than anyone else in Tennessee's history.

During his stewardship of the State's finances, Tennessee prospered. It became the fastest growing State in the Mississippi Valley. It provided the economic climate necessary to capture General Motors' Saturn plant and attract more Japanese investment than any other State save California. All the while, it managed to provide a high level of public services without resorting to a State income tax—one of only nine States without one.

At a time when cutting the Federal deficit and improving the national economy have dominated the Senate's agenda as never before, Senator MATHEWS' perspective and experience have been invaluable. We have benefitted from his wise counsel and will miss it when he retires.

Much of Senator MATHEWS' long and distinguished career has been spent out of the public eye. The press has said that because he never ran for office, he is unknown to many Tennesseans. Perhaps so, but whether the people of Tennessee know it or not, Senator MATHEWS has served them well. Like his predecessor, AL GORE, and his senior colleague, JIM SASSER, HARLAN MATHEWS comes from the old school of Tennessee Democrats who believe that government should be a positive force in people's lives; a friend of the common man, not his enemy.

I saw that side of Senator MATHEWS in my role as chairman of the Energy and Water Appropriations Subcommittee. Senator MATHEWS worked tirelessly to get funding for the Spring City flood damage reduction project. Spring City is a poor community in southeastern Tennessee that has long been beset by flooding. Senator MATHEWS obtained the funds needed to purchase flood-prone lands and build levees.

He has also promoted rural health initiatives and has joined me in sponsoring legislation to revitalize the Lower Mississippi Delta.

As a member of the Committee on Energy and Natural Resources, Senator MATHEWS has been a strong supporter of Tennessee's premier research and development center, the Oak Ridge National Laboratory. He has been a leader in our effort to make our national laboratories engines of economic growth by making the intellectual resources of these facilities and the technological innovations they produce available to American businesses and educational institutions. He has also been a strong defender of Tennessee's coal industry and a vigorous protector of the Great Smoky Mountains National Park.

On the Foreign Relations Committee, he has championed stronger trade ties with the Pacific rim to improve our own economic future. On the Commerce Committee, he has represented Tennessee's interests in high technology, transportation, small businesses, and tourism.

Although his stay has been brief, his presence has been felt. He has worked hard and served his constituents well. the press once called him "the Silent Senator" because he was quoted in the papers less than the more talkative among us. But he has labored day in and day out neither for the headlines nor for the history books, but for the greater good of his country and his State.

Mr. President, over a century ago, Mark Twain was asked to write an essay on the Declaration of Independence. He responded by producing one of his few serious works, a short biography of one of the Declaration's signers. He passed over the celebrated Jefferson, Adams, and Franklin, and instead wrote about a little known delegate named Francis Lightfoot Lee.

Francis Lightfoot Lee "made no brilliant speeches" and "left no phosphorescent splendors" in his wake, Mark Twain said. He was a "good citizen," who engaged in "no juggling or wire-pulling" to gain office, but went reluctantly when called. He worked industriously during his term, "never seeking his own ends, but only the public's," and retired gladly when the job was done.

If Mark Twain were alive today and wrote about a Member of the Senate, I think he would choose Senator MATHEWS. Senator MATHEWS exhibits the same solid purpose, the same strength of character, the same devotion to public service that Mark Twain admired in Francis Lightfoot Lee.

It has been a privilege to serve with Senator MATHEWS and to know his wonderful wife, Patsy. Their time with us has been all too brief, but the people of Tennessee and this institution are better because they were here. I am sure that I speak for all Senators when I offer Senator MATHEWS our gratitude for his service and extend to him and Patsy our best wishes for the next step in his career.

TRIBUTE TO JAMES M. OAKES

Mr. JOHNSTON. Mr. President, later this month, my State staff director, Jim Oakes, will become the new athletic director for Louisiana Tech.

Jim joined my staff 15 years ago, in 1979, just a few years out of Louisiana Tech, with two all-consuming interests, his alma mater and politics. Jim is from Homer, and his roots are deep in north Louisiana. His father, "Snap" Oakes, was sheriff of Claiborne Parish for 24 years before being sworn in as U.S. Marshall for the western district earlier this year. It is easy to see Jim learned a great deal from his father.

He began his Senate career by directing my Shreveport office, but later came to Washington as my administrative assistant, and since 1990 he has directed all of my State operations. He has been advisor, friend, campaign manager, and I can honestly say that I have never had a better informed, better organized, more loyal, and better liked staff member.

If genius is the infinite capacity for taking pains, Jim is the Albert Einstein of Louisiana. He is a tireless perfectionist. For Jim, no detail of an event is too small, no legislative issue too peripheral, and no Louisianian is too unimportant for his urgent attention. He not only works hard and effectively himself, but persuades others to give their best efforts as well. Any event organized by Jim Oakes runs like clockwork because he has foreseen all the problems and ironed out all the glitches.

Over the years, a number of those events seem to have involved Louisiana Tech. His lovely wife Tammie and their dog Homer come first, but Tech and its athletic teams run a close second in Jim's affections. He might have gone without sleep, but Jim would never miss a game by the three-time national champions, the Lady Techsters. By the way, the Lady Techsters have competed in 11 final fours and every single NCAA tournament for women. Jim would tell you that, and also that Karl "Mailman" Malone of the Utah Jazz and P.J. Brown of the New Jersey Nets, came from Tech. In a sense, Jim has already been working for Tech—he is the hardest working and best informed Tech booster alive.

I know that the energy and attention to detail that has characterized Jim's career in politics will now be directed to football, basketball, baseball, and all of Louisiana Tech's athletic programs. I have worked closely with Jim for 15 years now, and based on what I know of his character and drive, it is safe to predict a long string of winning seasons for Louisiana Tech.

IN MEMORY OF JUDGE WILLIAM DANIEL "DUB" MURRAY

Mr. BAUCUS. Mr. President, Montanans lost a good friend, as well as a bit of history, this week with the passing of Judge William Daniel "Dub" Murray of Butte. The son of James E. Murray, who served Montana in the U.S. Senate from 1936 to 1961, Dub's life was deeply rooted in public service.

Harry S. Truman would have been proud to know that the young man he nominated for the U.S. district court post in 1949 would leave such a proud legacy. Like President Truman, Judge Murray unfailingly exhibited the highest integrity, ability, and character.

As the Montana Standard reported in its October 4, 1994, issue, Judge Murray refused to be intimidated by authority figures like J. Edgar Hoover, and, indeed, incurred his wrath by dismissing criminal cases which were based on evidence obtained illegally by the FBI.

Judge Murray believed in the Nation's court system and insisted that the process be carried out to its conclusion.

Dub is survived by his wife, Lulu; sons, W.D. Murray, Jr. and Timothy J. Murray; and daughter, Gael Buckley.

My thoughts and prayers are with his family, as we pay tribute to the memory of this exemplary man.

CONFERENCE COMMITTEE CONCLUDES WITHOUT RECOMMENDATION ON MINING LAW

Mr. JOHNSTON. Mr. President, legislation to reform the Mining Law of 1872 has been in conference committee since May of this year. I regret that, as chairman of the conference, I must inform the Senate and the public that the conference has concluded without the conferees reporting a recommendation.

Reform of the Mining Law of 1872 has a long and controversial history. This latest attempt to reform the law began in 1987. In May of this year, after the appointment of conferees, and in an attempt to reconcile the disparate interests, I put together a chairman's mark. My goal was to provide for a fair return to the public for federally owned minerals and to increase environmental protection, but in a manner that would not shut down mines and cause job losses.

During the ensuing negotiations with all parties, I drafted numerous proposals in an attempt to find a compromise. These attempts ended last week when it became apparent that the mining industry could not accept the latest proposal. In a meeting with the Senate conferees on Thursday, September 29, 1994, I and all of the Senate conferees declared that efforts to reform the Mining Law of 1872 were ended for the year. The 103d Congress will adjourn sine die without having enacted reform. I regret this, and anticipate that further attempts to update this law will be made in the 104th Congress.

TRIBUTE TO MAJ. GEN. ANSEL STROUD

Mr. BREAUX. Mr. President, I rise this morning to pay tribute to a good friend and one of my State's most distinguished citizens and military officers, Maj. Gen. Ansel Stroud, who recently reached an important milestone in his career. Earlier this year, Buddy Stroud completed 50 years of exemplary military service. As adjutant general of Louisiana since 1980, General Stroud is a popular, respected and well-known figure throughout Louisiana. Under his able command, the Louisiana National Guard has enjoyed widespread popular support and has become recognized as a crucial lifeline in times of crisis in our State.

Just 2 years ago, when Hurricane Andrew pounded the south Louisiana coast and inflicted heavy damage on a number of communities from the New Orleans area west to Lafayette, General Stroud and his National Guard were on the scene almost immediately. I dare say that without General Stroud's leadership—and the dedicated, hardworking guardsmen under his command—Louisiana's recovery from Andrew would have been much more painful and prolonged.

The Louisiana military personnel under General Stroud's command also distinguished themselves in another endeavor. During 1990-91, more than 6,400 men and women were activated for duty in Desert Shield/Desert Storm in the Persian Gulf. In all, 2,000 Louisiana Guardsmen saw duty in the Persian Gulf war. Our Nation and the people of Kuwait owe these men and women—and thousands of other guardsmen from other States—our sincere gratitude for their service in this noble cause.

And all of us owe Buddy Stroud our thanks for what he has done over the years to ensure that Louisiana's military reserves are among the best trained and most devoted men and women in our Nation's military.

Buddy Stroud was born on April 5, 1927 in Shreveport, LA. After his high school graduation, he attended college at Baylor and Texas A&M and graduated with his B.S. degree from the University of the State of New York. His long and distinguished military career began with his enlistment in the Army in 1944 and culminated in 1981 with his promotion to the rank of major general.

In addition, General Stroud has served his Nation in a number of other capacities. He is former president of the National Guard Association of the United States and has served on that organization's executive council for the last 4 years. He is also the current president of the Adjutants General Association of the United States.

Among General Stroud's professional achievements is a 1977 study which he directed for the Department of the Army on full-time training and administration for the Army Guard and the Army Reserve. The study, known as the Stroud Study, was accepted by the Army as a guideline for requirements of the National Guard and Army Reserve for full-time manning programs and was the basis for launching the AGR Program.

Mr. President, in a day when heroes are so hard to come by, I suggest that men like Buddy Stroud should be held up as role models for all our young people. His discipline, his work ethic, his leadership and his love of his country all make Buddy Stroud a truly extraordinary American.

I know I speak for all Louisianians and all Americans when I salute General Stroud for his half century of distinguished service to his country and his State.

KEEPER OF THE FLAME AWARDED TO CONGRESSMAN JON KYL

Mr. COCHRAN. Mr. President, on a recent occasion Representative JON KYL of Arizona received the Center on Security Policy's distinguished Keeper of the Flame Award.

At the award dinner he made some very cogent remarks on the subject of ballistic missile defense, a matter of critical importance to the security of the United States, her allies, and forces deployed abroad.

His timing was excellent. Currently the Clinton administration is entering negotiations which may preclude development and deployment of the Navy's Upper Tier Program and which may adversely affect the Army's Theater High Altitude Area Defense [THAAD].

As Mr. KYL was writing his remarks a number of candidates for the House of Representatives stood together, on the Capitol steps and pledged their support for such systems, calling them an "immediate national priority."

At the same time various key Democrats including Representatives MURTHA, SISISKY, and MONTGOMERY signed a strongly worded, bipartisan letter to President Clinton urging him to "use the upcoming summit to create new latitude to develop and field effective theater and global antimissile systems and to reject any initiative that would further impinge upon the early acquisition of such systems."

I am afraid, Mr. President, that the administration is moving in precisely the opposite direction. As Mr. KYL expressed it, "the administration has endorsed a deterrence policy based on mutual assured destruction. MAD assumes that governments won't use nuclear weapons in anger because they will be deterred from doing so by the certainty of their own annihilation. As I said, the alternative is mutual assured survival, based on strategic defenses."

JON KYL has long been a leader in an effort more and more people are recognizing as vital. I commend him on his speech. Mr. President, I request that the attached remarks of Representative KYL be included at this point in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF CONGRESSMAN JON KYL AT THE KEEPER OF THE FLAME AWARD DINNER

I am deeply honored to receive the 1994 "Keeper of the Flame Award." To become a member of a group which includes Secretary Caspar Weinberger, Senator Malcolm Wallop, Malcolm Forbes, and Garry Kasparov is profoundly humbling to me.

The name of the award states a commitment to protect freedom. My role in helping to set national policy, including defense policy, is limited—as a member of the minority party in the House of Representatives. I have no illusions about my contributions compared, for example, to the thousands of men and women whose sole job is to protect that freedom—through use of arms if required. They are the real honorees tonight.

I have been given the honor of receiving this award tonight, perhaps more as a symbol of our continuing struggle than because of a great victory. It is true that the policies we have supported have resulted in the collapse of the biggest threat ever to freedom and even our very existence, the threat of Communism. But we have failed to consolidate our victory, and new threats loom at a time when the people are less galvanized to confront them.

So we continue to our efforts. As you might have inferred from my name, I am of

Dutch ancestry. So perhaps the symbol of the Dutch boy with his finger in the dike is not inappropriate for our struggle.

There is a sign posted outside the Marine Air Corps Station in New River, NC, that says "Pardon our noise, that's the sound of freedom." Some of those Marines are in Haiti right now risking their lives for a policy they don't understand and the American people don't support. These young marines are being asked to mesh their well-honed, professional skills with a very confused message coming from the White House, the United Nations, and Jimmy Carter. It is a message born of the same attitude that afflicted some British politicians before World War II. Winston Churchill described the attitude and policy vacillation as one in which those "leaders" could only "Decide to be undecided, resolve to be irresolute, adamant for drift, solid for fluidity, all-powerful to be impotent." Britain risked its security for peace and got neither. Under the Clinton administration, the United States has charted the same course. In the name of multilateralism, appeasement towards the Russians and endorsement of the supremacy of the United Nations, this administration and liberals in Congress are on the brink of risking American security because of course, "peace is at hand"—the cold war is over. Reversing that policy is our challenge for the future. I will discuss three specific manifestations of that policy.

One program which is absolutely critical for the security of the United States is the strategic defense initiative, now called ballistic missile defense, which liberals have nearly succeeded in decimating. Russian leaders have acknowledged its role in bringing down the Soviet Union. Conservatives tried to maintain funding for SDI to develop and deploy a missile defense system. Our goal seemed to us to be fundamental and unquestionably right. How could anyone be opposed to defending America from a ballistic missile attack? Yet, the ultimate irony is that after using the prospect of deploying SDI to convince the Soviets to hoist the white flag, we are now shutting down the program. The symbolism of Churchill's role in winning War World II and losing reelection is a sad reminder that greatness in people or ideas is not always recognized.

A glance at the headlines reveals the urgent need for defenses.

Yesterday's Washington Times carried the headline "Yeltsin can't curtail arms spread."

A Clinton administration official says yesterday, "The out-of-control weapons of mass destruction industries in Russia are the No. 1 national security issue facing the United States."

North Korea could have as many as five nuclear weapons and just announced again its unwillingness to allow inspection of its key facilities.

China has sold to Saudi Arabia the CSS-2, a medium range missile capable of reaching any place in Europe.

Iraq was merely 18 months away from reaching its goal of developing a nuclear bomb.

Iran is desperately shopping the blackmarket for the technology to develop nuclear weapons, and Russia wants to sell to Iran.

The threat is real. As former Director of the CIA, Bob Gates, said, "History is not over. It was merely frozen and is now thawing with a vengeance."

The CIA claims that 25 nations could acquire chemical, biological and nuclear weapons by the end of the decade. That's 20 more than we have today. And, potentially, 20 nations that are lead by despots that see it as their duty to annihilate the United States. One of those leaders could be Abul Abbas, head of the Palestinian Liberation Front, who promised revenge on the United States for attacking Iraq. He said, "Revenge takes 40 years. If not my son then the son of my son will kill you. Someday we will have missiles that can reach New York."

In day-to-day terms, the proliferation of weapons of mass destruction among the Third World and the lack of defenses against those weapons could radically alter the manner in which the United States carries out its foreign policy. Would we have 15,000 troops in Haiti today if General Cedras had a weapon of mass destruction and a missile that could reach Florida? Probably not. Would America stand up for human rights and democracy in a starving nation if warloads had stolen nuclear weapons from Russia? Probably not. Would the Persian Gulf war have been fought if Hussein had succeeded in his quest and acquired a deliverable nuclear weapon? Probably not.

The world will be dramatically different in the 21st century. We cannot predict the future. We don't know who will do it or when it will happen. But, ladies and gentlemen, it will happen. Some day, someone, somewhere will launch a ballistic missile at the United States.

When the warning comes, most Americans will believe that we will be able to defend ourselves. We can't. When the codes to launch a nuclear ballistic missile are entered and the keys are turned, there is no way to prevent the missile from reaching its target. We cannot intercept it. We cannot interfere with its guidance system. We cannot make it self destruct. There is nothing we can do to stop even one single missile from reaching the United States of America. Nothing.

Under the Clinton administration that situation won't change. In fact, it's getting worse. The Clinton administration and congressional liberals have destroyed any future strategic capability to defend the United States, and are on their way to destroying potential theater defenses as well.

This is being done by their decision to "clarify" the ABM Treaty to define our next theater defense missile as an illegal missile. The ABM Treaty, recall, was signed in 1972 by Leonid Brezhnev and Richard Nixon. It shouldn't have been endorsed in 1972, and it shouldn't be re-endorsed in 1994, 22 years later. It most certainly should not be redefined.

The threat has changed. Technology has improved. And the Soviet Union doesn't even exist. But, the Clinton team insists on deliberately drawing a distinction between strategic and theater ballistic missiles, something that was left undefined in 1972.

What Clinton's negotiators have accomplished is not only to negotiate away strategic systems—which came as no surprise—but, also to negotiate away the only advanced theater systems in research and development in the United States. The Clinton administration has done this by arbitrarily placing speed limits on interceptors. If an interceptor breaks 3km/sec, it is defined as a strategic ABM interceptor and would not be deployable as a theater missile under the new terms of the ABM Treaty. Key theater defense systems including THAAD and Navy Upper Tier have capabilities beyond 3km/sec. and, thus, could not be further developed as designed.

Over the last 2 years, the liberals have won significant budget cuts in ballistic missile defenses and have succeeded in canceling all space-based options. This is especially disturbing because space based sensors and interceptors are critical to the success of any global strategic defense system. They provide worldwide, instanteous detection of and protection against missiles launched from anywhere in the world, and are both cheaper and more effective than their ground based counterparts.

Missiles launched—either by accident or in anger—against the United States, its friends and allies, could be destroyed in the early stages of flight, before the release of the warheads, if, but only if, we have space based interceptors. This is especially important with multiwarhead missiles or missiles with chemical or biological weapons. With the latter, the early intercept results in more danger for the attacking nation because the chemical and biological agents would be dispersed over the enemy territory.

During Operation Desert Shield, it took the United States 6 months and 400 airlifts to put in place the Patriot interceptors that were used to shoot down some of the Iraqi Scuds. With space based interceptors, coverage would be instanteous. Yet, all systems capable of accomplishing that mission have been zeroed. Zeroed, because using space for military purposes is politically unpopular.

This narrow mindedness and refusal to view space for what it is—the High Frontier—will have serious consequences for our future military successes. Like earlier forays into the air and the sea, the use of space will change the course of warfare. It's already happening. The United States should not deny itself that capability.

The failure to consolidate support for SDI is just one of our failures. Another is our lack of success in derailing Clinton's defense cutbacks. We're on a path toward reducing America's armed forces to the "hollow force" of the 1970's—a military that is understaffed, poorly equipped, and demoralized.

The Pentagon has attempted to correct some of the quality of life issues by directing the Services to reduce $80 billion from major weapons programs over the next 5 years. President Clinton has forced Secretary Perry to chose between a well trained forced or advanced weaponry. They're busy scuttling the programs that will be necessary to win the next major conflict. The decisions Bill Perry makes today as Secretary of Defense will be felt for the next 25 years. That's how long it takes to train an officer to command a modern armor division in combat. It takes 13 years to develop a new type of Navy aircraft and 9 years, from authorization to completion, to build a new aircraft carrier. The President is gambling on our future defense capability in order to maintain today's ill-advised and poorly conceived military policy.

A third area in which our security is steadily slipping is our strategic nuclear force. Nuclear weapons have kept the peace for 40 years. Since the nuclear genie is out of the bottle, it is unfortunate, but true, that we always have to retain a nuclear deterrent capability, either that or a fail safe 100 percent effective defense system.

Today, the reliability, security, and viability of the nuclear weapons stockpile is in serious jeopardy under the management of the Clinton administration. The production complex is virtually dismantled; critical nuclear materials are not replenished; core scientists capable of designing and maintaining nuclear weapons are leaving our national labs or are encouraged to pursue more "politically correct" fields; and even the very existence of the national weapons labs is threatened by goals to consolidate, reduce and diversify the research conducted there. Testing is on hold regardless of whether other nations test.

The administration's new nuclear posture review is astonishing. It is based purely on an assumption that the Russians will comply with the START Treaties despite evidence to the contrary.

Start I has been agreed to, but only the United States is complying. Start II is unratified. Implementation of either treaty by Russia is far from assured, yet authors of the review speak of the possibility of future cuts in a Start III. A CIA analysis proposed for the Yeltsin-Clinton summit this week confirms that Yeltsin "will have difficulty implementing" existing Russian commitment. United States forces have been cut in half since 1989 while Russian forces have remained essentially static.

Further, by recognizing the integrity of the ABM Treaty, the administration has endorsed a deterrence policy based on mutual assured destruction [MAD]. MAD assumes that governments won't use nuclear weapons in anger because they will be deterred from doing so by the certainty of their own annihilation. As I said, the alternative is mutual assured survival, based on strategic defenses, but the administration has rejected that policy outright.

The Nuclear Posture Review directly undercuts MAD by refusing to support the need for a nuclear weapons production complex to manufacture and maintain our capability. In effect, what the administration has done is to select neither MAD nor mutual assured survival and has left the security of the United States to a highly deadly crap-shoot.

Members of the Clinton administration give new meaning to the immortal words of baseball great Yogi Berra: "When you come to a fork in the road, take it."

Of greatest concern is the short supply of tritium and our lack of capability to produce it. Tritium is critical to the successful functioning of a strategic weapon. It is a rare gas that greatly enhances the explosive power of a warhead. The problem is that tritium is an element with a half life of only 12 years. That means that as soon as it is added to a warhead it begins to deteriorate, losing its destructive force. It must be replenished on a regularly scheduled basis. We are running out of tritium. Because it deteriorates so rapidly, it does no good to create a large stockpile of tritium. It must be continually produced. The Clinton administration, however, stopped all production, dismantled our production facilities, and has made no plans for future production.

Since the beginning of the nuclear age, tritium has been produced at the K reactor at the Savannah River site, South Carolina. Not any more. The Clinton administration shut down the K reactor and has begun to cannibalize its parts after the Bush administration spent a lot of money to keep it going. The United States, therefore, has no ability to produce tritium. Russia does. Canada does too; neither will sell us tritium.

The United States will need new tritium no later than 2009. If it starts tomorrow, it will take the Department of Energy 15 years to build a new production reactor to produce tritium. The Department won't start tomorrow. DOE will not even begin the process of selecting a production source or begin preconstruction until 1996. And the Energy Secretary has made it clear that environmental considerations will dictate whether and when a new production facility will be constructed.

All of this means tritium won't be available until 2011, at best. If anything goes wrong, one environmental license held up or one construction date set back, it will be longer. Meanwhile, during this period, the strategic forces will continue to deteriorate. Questions will be raised about the viability of our deterrent. The Russians, Chinese, and every other Third World nuclear power will know this. Those with disputes will test us.

I've focused on just three challenges in our continuing struggle. There are many more; but the opposition to an effective missile defense system, the new "hollow force," and the deliberate destruction of our nuclear deterrent require our immediate attention. To keep the flame alive we will have to be more effective in galvanizing public opinion.

To the extent we have succeeded it is because of entities like the Center for Security Policy and previous recipients of the Keeper of the Flame Award. I salute Frank Gaffney and all who have worked so hard on behalf of our precious freedom. We have much to do. But, we are sustained by the knowledge that we are right. As we go forth tonight, let us not forget what President Abraham Lincoln said in his address at Coopers Union, New York: "Let us have faith that right makes might, and in that faith let us to the end dare to do our duty as we understand it." Good night.

URUGUAY ROUND AGREEMENTS ACT

Mr. MOYNIHAN. Mr. President, I am in receipt of a letter from U.S. Trade Representative Mickey Kantor indicating that, in reviewing the Statement of Administrative Action [SAA] accompanying the Uruguay Round Agreements Act (S. 2467), submitted to the Congress on September 27, 1994, his Office had discovered six minor errors. Four of these involve the omission of a few lines of text at the bottom of pages as a result of printing problems. The other two involve descriptive errors. All are technical in nature.

In order to ensure that all Members are aware of these corrections, I ask unanimous consent to insert in the RECORD, immediately following my statement, the letter from Ambassador Kantor and accompanying corrected pages to the SAA.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, DC, October 3, 1994.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In reviewing the Statement of Administrative Action (SAA) accompanying the Uruguay Round implementing bill, S. 2467, we have found that a few lines of text were omitted from the end of several pages of the SAA due to printing errors. The omissions occurred on pages 20, 24, and 367 of the SAA and at the conclusion of the endnotes following the document.

In addition, on page 45, the words "soda ash" were omitted in the fifth line of the second full paragraph and in the second line of the third full paragraph. The same words erroneously appear in the third line of the sixth full paragraph on that page.

Finally, in the first full paragraph on page 77, the words "WTO member" were erroneously inserted in place of the word "country." The sentence should read: "Combatting subsidized competition in third country markets will remain a high priority for the United States for two reasons."

I am enclosing with this letter corrected copies of those pages of the SAA pages mentioned above. I hope that they will clarify the Administration's intent with regard to the matters discussed on those pages and will permit the Committee to take the corrections into account in preparing its report on the bill.

Sincerely,

MICHAEL KANTOR.

EXCERPTS FROM THE STATEMENT OF ADMINISTRATIVE ACTION

F. PRIVATE LAWSUITS

Section 102(c) of the implementing bill precludes any private right of action or remedy—including an action or remedy sought by a foreign government—against a federal, state, or local government, or against a private party, based on the provisions of the Uruguay Round agreements. This would include any such suit brought against a federal, state, or local agency or against an officer or employee of any such agency. A private party thus could not sue (or defend suit against) the United States, a state or a private party on grounds of consistency (or inconsistency) with those agreements. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the Uruguay Round agreements.

With respect to the states, section 102(c) represents a determination by the Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the Uruguay Round agreements. Suits of this nature may interfere with the President's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under those agreements. Moreover, as section 102(c)(2) makes clear, through its approval and implementation of the Uruguay Round agreements Congress will have "occupied the field" with respect to any cause of action or defense that seeks, directly or indirectly, the private enforcement of those agreements. That means that private parties may not bring suit or raise defenses:

directly under those agreements;

on the basis of a successful judgment against a state in a suit brought by the Attorney General under the agreements; or

on any other basis, including Congress' Commerce Clause authority.

In sum, the language of section 102(c)(2) is intended to make clear that Congress seeks the complete preclusion of Uruguay Round agreement-related actions and defenses in respect of state law in any action or proceeding brought by or against private parties.

The prohibition of a private right of action based on the Uruguay Round agreements, or on Congressional approval of those agreements in section 101(a), does not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the Uruguay Round agreements, although any change in agency action would have to be authorized by domestic law.

L. WORKING PARTY ON WORKER RIGHTS

Section 131 of the bill directs the President to seek in the GATT and the WTO the establishment of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to GATT and WTO articles, objectives, and related instruments. Section 131 sets out four U.S. objectives for the working party:

To explore the linkage between international trade and internationally recognized worker rights, taking into account differences in the level of development among countries; to examine the effects on international trade of the systematic denial of such rights; to consider ways to address such effects; and to develop methods to coordinate the work program of the working party with the International Labor Organization.

Section 131 also directs the President to report to the Congress within one year on the progress made in establishing the working party and on U.S. objectives with respect to the working party's work program.

M. COUNTRIES PARTICIPATING IN BOYCOTT

Section 133 of the bill calls on the Trade Representative to oppose the admission into the WTO of any country that participates in a boycott of the type described in section 8(a) of the Export Administration Act of 1979.

N. AFRICA POLICY

Section 134 of the implementing bill provides that the President should develop and implement a comprehensive trade and development policy for the countries of Africa. Section 134 also requires the President to submit reports to the House Ways and Means and Foreign Affairs Committees and the Senate Finance and Foreign Relations Committees and other appropriate Congressional committees within twelve months of enactment of the bill and annually for the next four years thereafter on its trade and development policy for the countries of Africa and on progress made toward implementing it.

Sections 113 and 114 of the bill amend the Harmonized Tariff Schedule (HTS) and other provisions of U.S. law to permit the Secretary of the Treasury to liquidate or reliquidate entries of specified products and, on request, to refund any duty paid. These provisions are necessary to correct long-standing errors in classification of certain products in the HTS that are corrected prospectively in Schedule XX, or to correct omissions in the preparation of that Schedule.

B. ADDITIONAL TARIFF PROCLAMATION AUTHORITY

During the Uruguay Round, the United States sought the reciprocal elimination of duties among major trading countries in a wide range of sectors of key interest to U.S. firms. This zero-for-zero initiative consisted of the following sectors: pharmaceuticals, electronics, furniture, distilled spirits, medical equipment, non-ferrous metals, paper and paper products, wood products, soda ash, steel, agricultural equipment, construction equipment, scientific equipment, oilseeds, and oilseed products and toys. These products represent key U.S. import and export interests.

In some sectors, namely wood products, electronics, distilled spirits, non-ferrous metals, soda ash, and oilseeds and oilseed products, agreement on complete duty elimination was not achieved. Obtaining further reductions and elimination of duties in these sectors is a priority objective for U.S. multilateral, regional and bilateral negotiations.

The Administration was particularly disappointed over the failure of Japan to agree to further reductions of tariffs on wood products. Every effort will be made to negotiate reductions toward the elimination of the tariffs facing our exports in this sector.

Moreover, U.S. exports of items such as high value oilseed products would especially benefit from tariff reductions below that achieved in the Uruguay Round. U.S. interests have identified specific products that should be subject to intensified efforts to achieve duty reductions and elimination and the Administration intends to pursue negotiations on these products.

For those sectors in which the United States achieved duty elimination, acceleration of the phase-out of duties in certain sectors, such as paper, and paper products, should grant these U.S. industries improved access to key markets. The Administration will also pursue accelerated staging of tariff reductions as a priority objective with our trading partners, such as an accelerated reduction of the EU tariffs on paper and paper products.

Combatting subsidized competition in third country markets will remain a priority for the United States for two reasons. First, the European Union, in general, has higher export subsidy ceilings than does the United States. Therefore, there will continue to be a need to protect U.S. export markets abroad from subsidized competition. Secondly, the Agreement on Agriculture requires further multilateral negotiations on trade-distorting agricultural subsidies and import protection in five years. The use of U.S. subsidies in the interim should help induce the European Union and others to agree on further reductions in those negotiations.

The CCC will also administer egg EEP initiatives in a manner to maximize benefits to the entire U.S. egg industry. In particular, the CCC will make efforts to enable the U.S. egg industry to maintain a strong presence in Hong Kong.

B. DAIRY EXPORT INCENTIVE PROGRAM

Section 153 of the Food Security Act of 1985 requires the CCC to operate a Dairy Export Incentive Program (DEIP). The program operates in a manner similar to the EEP, but is limited to dairy products. Section 411(b) of the implementing bill extends the DEIP through 2001.

C. CCC DAIRY EXPORT SALES

Section 1163(a) of the Food Security Act of 1985 currently requires the Secretary of Agriculture annually through fiscal year 1995 to sell for export not less than 150,000 metric tons of dairy products, including not less than 100,000 metric tons of butter and not less than 20,000 metric tons of cheese, out of CCC-owned stocks. Because export sales are usually at world prices, which normally are lower than domestic prices, the export sale of these products by CCC under section 1163(a) is likely to constitute a "sale or disposition for export by governments or their agencies of non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market," within the meaning of Article 9:1(b) of the Agreement. Accordingly, CCC dairy export sales made at prices meeting this standard are subject to U.S. export subsidy volume and budgetary outlay commitments under the Agreement.

Just as the United States may now choose to take section 301 actions that are not GATT-authorized, governments that are the subject of such actions may choose to respond in kind. That situation will not change under the Uruguay Round agreements. The risk of counter-retaliation under the GATT has not prevented the United States from taking actions in connection with such matters as semiconductors, pharmaceuticals, beer, and hormone-treated beef.

Finally, nothing in the DSU will affect application of section 301 against practices by governments that either are not WTO members or by WTO members to which the United States does not apply the Uruguay Round agreements. The Trade Representative will address section 301 investigations of unfair trade practices by such countries on a bilateral basis.

C. ANTICOMPETITIVE PRACTICES

Among the foreign government practices that section 301(d)(3)(B) of the Trade Act of 1974 defines as "unreasonable" are those that deny fair and equitable market opportunities, including the toleration by a foreign government of systematic anticompetitive activities. The Administration will enforce vigorously the "toleration of * * * anticompetitive activities" provision in section 301 when appropriate to address foreign anticompetitive behavior. The practices covered by the provision include, but are not limited to, toleration of cartel-type behavior or toleration of closed purchasing behavior (including collusive coercion of distributors or customers) that precludes or limits U.S. access in a concerted and systematic way.

The Trade Representative, in consultation with the Attorney General, will look to a variety of information sources in evaluating a foreign government's toleration of anticompetitive practices. Issues to be addressed include the existence of the anticompetitive practices and whether there was an unreasonable failure to take timely action against them. In making an assessment, the Trade Representative will consider whether the pertinent foreign government, and especially its competition authorities, have been made aware of the alleged practices and, if so, how they were informed, the relevant evidence that has been provided to, or is known to be available to, the foreign authorities, and the nature of response those authorities have made.

The evidence provided to, or known to be available to, a foreign authority normally should include, among other things, the identity of the enterprises allegedly involved and the relevant markets affected, a description of the specific practices, and an indication of their duration and pervasiveness. In keeping with the Congressional intent in adopting this provision, the Trade Representative will also take into account whether the anticompetitive activities are inconsistent with the foreign country's own laws, how systematic and pernicious those activities have been, and their degree of effect on U.S. domestic or foreign commerce.

56. This method is also known as the frozen initial method.

57. Under this funding method, the normal cost is generally determined by dividing (1) the actuarial present value of future benefits less the sum of the actuarial value of the assets and the unfunded liability by (2) a weighted temporary annuity factor that spreads the cost of the plan over future years. If the sum of the actuarial value of assets and the unfunded liability exceed the present value of future benefits, the normal cost under the method will be negative.

58. For these purposes, plans with no unfunded vested benefits and plans not subject to title IV of ERISA are disregarded.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but nobody ever does anything about it.

A lot of politicians talk a good game, when they are back home, about bringing Federal deficits and the Federal debt under control. But just look at how so many of these same politicians regularly vote in support of bloated spending bills that roll through the Senate.

As of Tuesday, October 4, at the close of business, the Federal debt stood—down to the penny—at exactly $4,692,027,127,611.35. This debt, don't forget, was run up by the Congress of the United States.

The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend even a dime unless and until the spending had been authorized and appropriated by the U.S. Congress.

The U.S. Constitution is quite specific about that, as every school boy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes you hear false claims that Ronald Reagan ran it up; sometimes they play hit-and-run with George Bush.

These buck-passing declarations are false, as I said earlier, because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big-spenders.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,692 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at four trillion, 692 billion, 027 million, 127 thousand, 611 dollars and 35 cents. It'll be even greater at closing time today.

TRIBUTE TO SUSAN HAMILTON FOR 25 YEARS OF SERVICE TO THE SMITHSONIAN INSTITUTION

Mr. WARNER. Mr. President, I rise today to pay tribute to an outstanding individual, Ms. Susan Hamilton. Ms. Hamilton has served as a senior administrator and sometime unit director for several Smithsonian Institution organizations and who is currently the associate director of the Archives of American Art.

In the later 1960's, Ms. Hamilton was hired to direct the nascent Smithsonian Associates program. She established the innovative character now widely imitated in the museum community.

In the 1970's, she was director of the summer Folklife Festival on the Mall, and in fact may have been the founder of that idea also. Here again she was pivotal in defining the character of the program, enabling it to become the classic it now is.

She developed and coordinated the activities for the Smithsonian's celebration of the Nation's Bicentennial. In the process she was instrumental in winning millions of dollars in Federal appropriation. But a better measure of their effectiveness was in the universal acclaim they brought, the fact that the primary exhibit, "1876", still occupies most of the Arts and Industries Building; and she was the primae mover of the most believed and longest running exhibition in the Great Hall of the Castle: "The Federal City: Plans and Realities."

Ms. Hamilton has served as Deputy to Dr. Charles Blitzer in the Castle, when his scope included oversight of several of the installations on the Mall, including the Museums of Natural History, and History and Technology. At that time she was the highest ranking woman at the Smithsonian Institutes administrative structure. She was a model for dramatically increasing numbers of professional women over the better part of a decade in the not-for-profit sector of the Institution, and could well take pride in the fact that now the Smithsonian is thoroughly integrated by race and especially by gender at all levels.

Her most recent move to Archives of American Art took place about 1983. She has been associate director since then, and acting director for much of the time. Through a secession of several appointments of different directors, some of whom did not serve long enough to really settle in the job she has provided continuity and stability.

Again, Mr. President let me commend Ms. Susan Hamilton for her 25 years of service and outstanding contributions to the Smithsonian Institute.

THE INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT

Mr. LEAHY. Mr. President, I rise to commend our Assistant Attorney General of the Antitrust Division of the Department of Justice on the passage of this measure, which is due in no small measure to the commitment and diligence of Anne Bingaman and her staff. The Attorney General and the President can be justifiably proud of the manner in which this matter, the debate and this legislative resolution have been accomplished.

Chairman BROOKS and Mr. FISH have done an excellent job in moving this measure through the House in short order. My fellow cosponsors here in the Senate, Chairman BIDEN, Senators KENNEDY, METZENBAUM, SIMON, THURMOND, HATCH, SIMPSON, GRASSLEY, and SPECTER have all joined in a bipartisan fashion to create this opportunity for strengthening our antitrust enforcement efforts.

In the days ahead we must be vigilant to see that the confidentiality provisions of the bill accomplish their intended purposes and that this measure leads to fair and reciprocal efforts by foreign enforcement authorities. But we have responded to a call for action and assistance and provided the Assistant Attorney General for the Antitrust Division with additional tools that she needs to protect competition in our global economy.

ARMS SALES ARTICLE

Mr. HATFIELD. Mr. President, recently, I introduced a piece of legislation with Congresswoman MCKINNEY which creates requirements foreign nations must meet in order to be eligible to purchase weapons from the United States. It is time Congress did something to eliminate the great danger created by weapons sales, to ensure the security of this Nation, and to save innocent lives. Recently Father Robert Drinan, a noted professor of law at Georgetown University and former Member of Congress, published an article in the Catholic weekly, "America", which supports this idea of restriction. Father Drinan's piece provides a realistic look at the behavior of countries purchasing weapons from the United States. Action must be taken to stop the reckless sale of arms to nations which continue to endanger human lives. I commend him for producing an article capable of drawing attention to this issue; I hope his message does not go unheard.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the America, Sept. 24, 1994]

WHY IS THE UNITED STATES THE WORLD'S MERCHANT OF DEATH?

(By Robert F. Drinan)

The Holy See, Amnesty International and observers everywhere on the globe are denouncing the vast amount of weapons being transferred from rich nations to poor nations. On June 21, 1994, the Pontifical Council for Justice and Peace, in an unprecedented 36-page statement, deplored the worldwide increase in weapons sales and told the nations that it is "difficult to find any moral justification for supplying arms to authoritarian states."

The Vatican noted that in some developing states the military budget had become a matter of prestige and that spending on arms and armaments often exceeded expenditures for education, health or housing. On June 22, 1994, Amnesty International, in its third annual 77-page edition of "Human Rights and

U.S. Security Assistance," reviewed the sad state of human rights in 19 countries that received significant amounts of U.S. military aid. Amnesty deplored America's sales of military equipment to Turkey, Colombia, Saudi Arabia and other nations where internationally recognized human rights are violated in egregious ways. The London-based human rights group lamented the fact that the Clinton Administration plans to sell nearly $30 billion in conventional weapons to U.S. allies that engage in the systematic violation of human rights.

The reports of the Holy See and of Amnesty call for a rethinking of a problem that, since the end of the cold war, has apparently run out of control in the United States. In the last four years the United States has emerged as never before as the principal merchant of death to the human race. In the first year of the Clinton Administration, the United States sold or gave $31 billion in arms for training to some 140 nations. In 1993, the sale of $35 billion in arms sales was arranged in Washington—a sum unprecedented in history. In the same year the Russian figure dropped to $2.3 billion—down from $23 billion in the period from 1988 to 1992.

SALES TO DEVELOPING NATIONS.

The United States now controls 67 percent of the sales of arms to underdeveloped nations. The United States, moreover, provides indirect subsidies with $7 billion each year to promote arms exports. The companies pushing exports are the defense contractors whose orders in the United States have fallen off sharply. One of the hottest markets is Asia and Southeast Asia, where India, Pakistan, Bangladesh, Malaysia and Thailand are buying fighter jets and similar sophisticated military equipment. China and Russia are vying with the United States for sales in that part of the world, although Russia's total sales have dropped to only 11 percent of the world market.

In the 1970's, Congress developed a system by which it could checkmate the granting of permission by the White House to U.S. corporations seeking permission to sell arms abroad: It is given notice of proposed significant transfers of arms with the right to block them within a set period of time. But it has hardly ever been successful in stopping the sale of arms to foreign nations. The pressure on Congress by the corporations in this business, always intense, has increased.

A recently published book by William D. Hartung, And Weapons for All, is a graphic exposé of how American corporations, with the silent acquiescence of the U.S. Government, have victimized the nations of the world by the sale of arms that these nations do not need and cannot afford.

In the United States, the home of 9 of the world's 10 largest arms-making companies, there is very little visible sentiment to curb the sale of arms to other nations, however dangerous such transfers could be in the near or long future. President Bush set out to curb the proliferation of arms in the Mideast as the Gulf war ended in 1991. But since that time the United States, according to the Arms Control Association, a watchdog group in Washington, has sold $43.9 billion worth of arms in that area of the world.

On Jan. 28, 1994, The Wall Street Journal ran a 12,000-word story on the new escalation of arms sales. It is the first substantial account in a national journal of America's new role as the superpower merchant of death around the world. From 1989–92, the United States sold 917 fighter jets, 4,948 military tanks, 848 helicopters, 33 warships and 484 long range missiles. These figures have sharply increased since 1992.

In December 1991 the massive increase in the sale of arms prompted the United Nations to establish the U.N. Register of Conventional Arms. Its first report in October 1993 offered some hope that stabilizing trends might be developing. The next report of the U.N. Register of Conventional Arms, due in October 1994, will be more complete. But it will be acutely inadequate because nations are not required to report on the number or quality of weapons they manufacture for themselves, rather than purchase from other nations.

OUR MILITARISTIC MIND-SET.

At the root of the expanding sales of arms by the United States is the basic fact that America continues to live as a nation thought to be threatened by a vast world enemy. The United States existed for 40 years with that mentality and is having great difficulty in even thinking of substantial disarmament. The three legs of the triad remain: On the land, in the sea and in the air the United States threatens annihilation with thousands of nuclear weapons. The Navy has 85 submarines, designed to support a mission that has ended. The Air Force has 1,160 planes scheduled to bring troops and supplies to fight the nations of the Warsaw Pact—an organization that has been dissolved. In 1991, the U.S. spent $42 billion on weapons research—$37 billion of which was spent on the creation of new weapons.

The American corporations that have been an essential part of this military-industrial complex now see new opportunities fading away. As a result, they are moving rapidly into the arms markets that were abandoned by the Soviets. These corporations are marketing military hardware asserted to be useful for police work, for anti-terrorists protection and the interdiction of narcotics merchants. The Pentagon and the White House, anxious to postpone or prevent the inevitable massive restructuring of defense-related industries, are assisting U.S. corporations to merchandise their deadly weapons abroad.

It is hard not to be alarmed at what the United States is now doing to transfer an avalanche of weapons to poor and unstable nations. The consequences almost inevitably will be serious. More American soldiers will discover, as U.S. military personnel discovered in Panama, Iraq and Somalia, that they are facing adversaries armed with weapons exported from the United States.

A coalition of over 50 religious and arms control organizations, including Amnesty International, is proposing that limitations on the sale of arms be made a top legislative priority of the Congress and the White House. The coalition is supporting legislation filed by Senator Mark Hatfield (R., Ore.) and Congresswoman Cynthia McKinney (D., Ga.) that would require the President to certify, before any significant transfer of arms, that the recipient nation is not engaged in violations of internationally recognized human rights.

The recent statement on the transfer of arms by the Vatican also urged, in the strongest terms, that all nations curb the sale and use of guns within their own borders. The statement endorsed basic gun control measures, saying that it is "indispensable" for every nation to impose a "strict control on the sale of handguns and small arms." Could it be that the reluctance of the United States to eliminate guns in its own cities and schools makes it more difficult for it to curb the reckless escalation of the sale of arms abroad?

The vast exportation of arms in which the United States is now engaged clearly conveys a message from America that nations should prepare for war and that, with enough advanced hardware, these nations will prevail. It is almost self-evident that such a position is ill advised, anachronistic and even un-Christian. The United States should be assisting the United Nations with its 17 peacekeeping missions and all the other world entities that are working to eliminate the causes of war.

Over the last 30 years, the United States transferred $1.3 trillion worth of military equipment to foreign nations. Of the 48 nations in which some kind of ethnic warfare was under way in 1993, some 26 had received weapons from the United States prior to the onset of the conflict.

The Vatican, in its thoughtful and compelling plea for restrictions on the sale of arms, noted that five members of the Security Council, including the United States, have begun to discuss the preparation of common guidelines for arms transfers. The time has come for the United States and the world to prepare for the farewell to arms.

COMMENDING THE WORK OF CPSC CHAIRMAN ANN BROWN

Mr. BRYAN. Mr. President, 6 months ago Ann Brown appeared before the Senate Consumer Subcommittee, which I chair, as President Clinton's nominee for chairman of the Consumer Product Safety Commission. She was eminently well qualified for the position, having served as a leader of consumer health and safety organizations for many years. The subcommittee and the Senate quickly approved her nomination.

On taking office, she promptly revitalized the Commission, made it the national leader on product safety issues, and restored the visibility of the Commission to both business and consumers. I am pleased and proud of the work she has done.

Recently, the New York Times and Washington Post profiled Chairman Brown. The articles describe how she revived the CPSC and has again made it an effective consumer protection agency.

Mr. President, on September 16, 1994, Chairman Brown addressed the Consumer Product Safety Coalition. Her speech outlined her well balanced regulatory philosophy, emphasizing voluntary compliance over mandatory action, and her willingness to listen to all points of view. I commend Chairman Brown's statement to all those who are interested in Government regulation as an excellent model for regulation in the 1990's.

I ask unanimous consent that the text of her speech and the text of the above mentioned articles be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY CHAIRMAN ANN BROWN

At the outset, I want to thank Sandy Trowbridge for his advice and friendship. He has been a good friend and mentor for many years.

I am pleased to see so many of those who attended an earlier discussion in February, shortly before my confirmation by the Senate. Since I have been Chairman for only a few months, we are still getting to know each other. Most of you recognize, however, that I have a different agenda and approach from my recent precedessors. I am action oriented. I want to move the Commission to the forefront of product safety. I intend to make the Commission the leader in a national effort to improve product safety. I have no hidden agenda. In fact my agenda could not be more open.

Back in February, I said my three initial goals would be to revitalize the Commission into an effective, proactive agency, to make it a recognized player on major issues involving product safety and to increase the visibility of the Commission to both consumers and business.

After six months, we are well on the way to achieving these goals. In this brief time we have initiated four ANPRs, (baby walkers, upholstered furniture, 5-gallon buckets and multiple tube fireworks) more than the Commission issued in the previous three years, conducted four press conferences announcing recalls of millions of dangerous and defective products (crayons, toddler beds, multiple tube fireworks and rayon skirts) encouraged voluntary removal of strings from outerwear and their elimination from future production of these garments, and issued three commendations to companies for significant advances in product safety (P&G, Hasbro and Sunbeam). The Commission has been both active and productive.

As the Commission approaches a new fiscal year, (October 1) it is appropriate to look back at the principles underlying the actions we have taken, and forward to the agenda for the coming year.

At my confirmation hearing, I told the Senate I would adopt a balanced approach to regulation, favoring voluntary compliance and standards whenever possible. I also said I would not hesitate to recommend strong, mandatory action whenever necessary to protect the public.

When I came to the Commission, I vowed I would not be just an information and education Chairman. A few years ago one of my predecessors as Chairman said, "If consumers are made aware of reasonable risks associated with a particular product, and are willing to take those risks, they should be allowed to do so." I reject this philosophy. The flaw in this approach is that often it is not the consumer who suffers death or injury but innocent third parties who become the victims of hazardous products.

Unfortunately, it is still true that the marketplace does not always inform consumers of the danger in certain products and that some products do have hidden hazards. Moreover, seemingly innocent and innocuous products can cause death and injury to children and others.

The facts are that unintentional injury is the leading cause of death among people under 45 years old and is the fourth leading cause of death in the nation. Of the estimated 96,000 annual deaths resulting from unintentional injury, 21,700, or nearly one-fourth, are related to consumer products. Approximately 28.6 million injuries annually result from consumer product use. Nonfatal injuries account for one in every six hospital days. These injuries cause huge losses of productivity and avoidable medical care costs. Injuries, deaths, and property damage associated with consumer products cost the public about $200 billion annually.

Accordingly, I believe the CPSC must help protect the public, particularly the most vulnerable in our society: children, the elderly and the differently abled from unreasonable risk of injury or death from consumer products. These protective actions will improve the health and safety of the American people, and produce economic and social dividends for the nation.

Every dangerous product we remove from the market prevents an increase in the national health care bill. Multiply each of our protective actions by thousands and millions of products and you can quickly see that prompt action against product hazards saves the nation billions in potential health care costs.

Too often we focus on the cost of a regulation, and fail to recognize its benefits. We believe the recently implemented child resistant cigarette lighter rule will save 80–100 lives per year and produce more than $200 million in benefits to society. This rule will result in a net gain for our national welfare.

Government agencies at all levels, and their allies in the private sector, must be aggressive guardians of consumer health and safety. We cannot wait for deaths and injuries to pile up by the score before we act. We must reach out to prevent as many of these tragedies as we can. This is the theme that runs through all of the actions we have taken. From the ANPR on five gallon buckets, to the recall of defective rayon skirts, to the voluntary removal of strings from children's garments, our emphasis has been on the prompt prevention of deaths and injuries from consumer products.

In my view, regulation in the 90's must be different from regulation in the 70's. Government should avoid an adversarial relationship with business whenever possible. Voluntary action is preferable to mandatory, when it is implemented promptly and carried out effectively. That is why I have told many of you I have an open door and an attentive ear. I am attuned to business. As many of you know, my husband taught at the Harvard Business School for several years, and now teaches at universities here in Washington.

I come from a family that successfully operated a retail store in downtown Washington for decades. I strive for common sense regulation and am sensitive to the burden our rules may impose. So whether you represent a company, an association or just yourself, I welcome your views on product safety.

I believe the CPSC can fulfill its responsibility to protect the American people from unreasonable risk of death and injury from consumer products without becoming overly invasive. The Commission cannot—and should not—attempt to protect consumers from every possible risk of injury from consumer products. There are limits to what government regulation can achieve.

Some of you have heard me talk about the triangle of effective product safety regulation. I believe the Commission, business and consumers each have an equal role to play. Working together in partnership, we can cut the terrible toll of accidents in our country.

The Commission has adopted a balanced approach to regulation, carefully weighing costs, benefits and other relevant factors. For business, I believe the bottom line should include a margin of safety in all its products because today safety sells. It also avoids expansive private litigation and government action against unsafe products. Correspondingly, for their own safety, consumers should be informed about the products they purchase and take reasonable care in using them.

In my view, the key to effective regulation is proportionality. By that I mean the remedy should fit the risk. For example, the plastic five-gallon bucket contains a latent, unreasonable risk of death to small children which is not apparent to them or adults who are entrusted with their care. This is a perfect example of the danger not to the initial consumer, but to innocent bystanders. Accordingly, it was appropriate for the CPSC to issue an ANPR to consider the development of a performance standard to minimize this risk. Thus, the problem and the response were consistent.

In contrast, the potential danger to the user of in-line skates, roller blades to many of you, is readily apparent. Most sellers of this product caution buyers on their use, and urge skaters to purchase protective equipment along with their skates. Therefore, I took the proper action, in response to the increasing injuries associated with these products, by publicly warning skaters to take care in using these products and to wear protective gear at all times. Since few of the skates we have examined were defectively manufactured, and skaters have the ability to minimize their risk of injury by taking currently available precautions, no more than a public warning was called for. Thus, risk and remedy coincide.

In both of these cases, the emphasis of the Commission was on prevention. This will continue, but to maximize our effectiveness we need the cooperation of all manufacturers. If we work together, as partners, for the public interest, we can make great strides in product safety.

That is what the Chairman's commendation is designed to achieve. I want to recognize those companies and industries which voluntarily make significant advances in product safety. These companies brought their products to me or our staff, and demonstrated their voluntary improvements in product safety. I urge you to follow their path.

When I gave the first commendation to Procter and Gamble, I listed five primary criteria for the award. They are: Actions that contribute to reducing hazards to children and other vulnerable populations; voluntary actions that are not mandated by government regulations, that anticipate government regulations or that go beyond what the government requires; developments that affect the safety of large numbers of individuals; innovations or improvements to existing products; and safety devices, packaging, warnings or products that enhance consumer safety.

I believe that manufacturers which develop important contributions to product safety should be rewarded in the marketplace. As you know, I cannot endorse products, but if my commendation results in more sales of these products, I will be delighted. So show me your safety innovations. I want to give more commendations to deserving manufacturers.

As I look back over the last six months, and ahead to the coming year, one of the accomplishments of which I am most proud is the increased visibility I have been able to generate for the Commission. In recent years the Commission almost disappeared from public view; consumers and business had virtually forgotten us and our mission.

Through my press conferences, appearances on "Good Morning America" and articles about the revitalization of the Commission in the national media, the public has reawakened to the Commission and our vital work. In fact, we have had to increase the capacity of our hotline to handle the avalanche of incoming calls as people all over the country have responded to our safety messages.

I have heard that some among you have criticized these press conferences as regulation by press release and accused me of not following legal procedures. I have a one word answer to that nonsense. In every instance my actions had a solid factual and legal basis. The press conferences I have held have been to announce corrective actions under our statutes, recalls of products for violating mandatory standards, voluntary actions to eliminate hazards or to provide advice to consumers with no regulatory effect. Moreover, I review all my actions in advance with our General Counsel, Eric Rubel. He makes sure that I faithfully follow due process.

Fortunately, our statutes provide a wide variety of legal and proper ways to communicate our actions to the public. It is certainly in the public interest, and the interest of your companies, to reach the largest possible audience for both our recalls and commendations. I assure you I will continue to use every appropriate means to convey my views on product safety issues to both business and consumers. On the same principle, I want to hear from all of you, whatever your position with your company, association or firm, my door is equally open to you.

Now I want to turn to the future and tell you about my agenda for the coming year. First of all, I am pleased the Appropriations Committees have agreed on $42.5 million for the Commission for FY 95, including $1.2 million for the development of a fire safe cigarette standard, when Congressman Moakley's bill is passed. This amount is not all I had hoped for, but it is adequate for the coming year.

When we allocate our resources, I will look initially at the extent of the risk. I want to target those products which cause the most deaths and injuries to consumers. But my priorities will not be determined by statistical analysis alone. I will also be influenced by the need to protect the most vulnerable in our society—especially children, for they are most susceptible to death and injury from hazardous products. Combining these factors, in the coming year the Commission will devote at least a third of its resources to identify and correct hazards involving children's products.

We will also spend considerable time and resources on two other projects—residential fires and team sports injuries. Residential fires are a prime cause of deaths and injuries to consumers. In 1991, these fires resulted in over 3,500 deaths, more than 21,000 injuries and over $5.5 billion in property damage.

Recent advances in fire research have produced promising developments which may lead to new fire resistance standards for furniture, bedding and fabrics. We will study the results of this research to determine how quickly it can be applied to consumer products.

Team sports—football, baseball, basketball, hockey and soccer—generate about 25 deaths annually and nearly two million injuries to children and adults, according to our NEISS data.

Utilizing the latest in sports science—protective helmets, light weight energy absorbing materials and injury minimizing equipment, we hope to develop new guidelines and standards to reduce the sad toll of team sports deaths and injuries.

Another item high on my agenda is reauthorization of the Commission by the Congress. It has been four years since the last reauthorization. I have asked Eric Rubel, and Bob Wager, the Director of Congressional Relations, to develop a legislative package to present to the Congress next year. I earnestly solicit your thoughts and ideas. I hope you will meet with Bob and Eric to give them any proposals you have.

As you can see, we have a full work load planned for the coming year. In addition, the Commission agenda must be flexible for there will always be unexpected hazards, such as the imported crayons loaded with lead, which will require our attention. So you can look forward to another active and productive year at the Commission.

Overall, I am very pleased with the Commission's accomplishments in these first six months. We are moving in the right direction. I look forward to working with all of you to further strengthen the Commission and assist us in carrying out our important mission effectively.

[From the New York Times, Sept. 11, 1994]

Ann Brown Has Revived an Agency That Nearly Suffocated in the Reagan Days

(By Brian Steinberg)

Rompers and drawstrings, paint cans and fruit-scented crayons. Lyrics to a spoof of "My Favorite Things"? Possibly, but Julie Andrews wouldn't be singing. The voice might belong, however, to Ann Brown, head of the Consumer Product Safety Commission.

And if she were singing the song, she'd be lying. Those items, far from being her favorite things, have all come under the commission's scrutiny recently for a variety of hazards they pose.

When Mrs. Brown announced a huge Government recall of a popular but flammable two-layer chiffon and rayon skirt on Aug. 12—even though there had been no known cases of injuries—the commission's consumer hotline received more than 20,000 calls. And that was only the latest in a series of very public, and media-savvy, commission actions.

In just a few months, Mrs. Brown has put the commission in the spotlight, with frequent press conferences, a new award singling out companies with consumer-friendly products, and James Earl Jones' voice on the consumer hotline. She puts in an appearance on "Good Morning America" every three weeks or so, and USA Today's Life section keeps tabs on her announcements.

Suddenly, it seems, the commission has been transformed. Once called "moribund" by consumer advocates, it now sends ripples throughout pop culture. It was the commission, after all, that brought to public consciousness the fact that in-line skates can be hazardous when used improperly or without the right safety equipment. With one warning, a hip pastime became a health risk.

To be sure, there are those who raise questions about her motives and her style. "She has her own agenda," said Jan Amundson, general counsel for the National Association of Manufacturers, "and we want to know what it is." And David A. Miller, president of the Toy Manufacturers of America, said of her flair for publicity: "This is her style. Our concerns are that this is not a way a regulator should be making regulations."

But critics can't deny that she wields a power that is a distinct novelty at the Consumer Product Safety Commission. The Reagan Administration tried to weaken it in 1981, to keep it out of industry's hair, and budget and staffing levels decreased by the year. Mrs. Brown, who became chairwoman in March, is being hailed by consumer advocates like Ralph Nader as a "fresh breeze." "She's resuscitating it," said Mr. Nader. "The C.S.P.C. has been dormant for 15 years."

Mrs. Brown showed this new attitude clearly at some recent meetings. An admitted "cheerleader" with more energy than one might think could reside in her diminutive body, she demands action. Even while simply hearing reports, she urges advisers to make points quickly, and she constantly asks how the commission can best get results.

At meetings, she darts from topic to topic—calling for a new warning to be issued, pushing for a press conference on the dangers of products like mace and pepper gas containers, giving pep talks about the commission being an "activist agency." Mrs. Brown speaks in upbeat sound bites—"We are a voice for the voiceless" or "I hate those blankety-blank bath seats!" (and often, in fact, recycles those same sound bites in appearance after appearance).

She likes to avoid dead ends and delays, radiating an image normally alien to Government officials: a guerrilla, although one very much aware of the rules of the game.

The drive for consumer action despite obstacles and red tape is nothing new for Ann Winkleman Brown. Born in Philadelphia in 1937, she moved to Washington when she was 2. Her father owned a women's clothing store, where she would do her homework in the evenings after taking three different buses from school. Her father, she said, "believed in treating the consumer with utmost fairness," even having his salespeople pretend to be customers returning purchases. "Treat them as if they were buying the dress," her father urged.

"I was fascinated with the process of people buying and selling things, the consumer transaction," she recalled. "It was always a major interest of mine, maintaining a sense of indignation at consumer injustice."

She graduated from George Washington University in 1959, but her move to consumer activism did not come immediately. A stint for The New York Post, first as a "gal Friday," then as a Washington correspondent, helped her with "writing and learning the way of Washington." She had married while in college, and now had two daughters. Her husband, Donald, a former professor at Harvard Business School, is now a lawyer and developer in Washington and also teaches real estate.

Mrs. Brown soon decided to start a grassroots consumer group serving Washington. She said she "did the gamut" of consumer activism in the 1970's, boycotting iceberg lettuce, doing a price survey of toys, helping found the Consumer Protection Office.

Her daughters, now 29 and 32, recall that this activist life once led them to a near-melee at a boycott held in front of a Washington supermarket to protest high meat prices. A bus full of farmers' wives arrived to counter-protest just as Mrs. Brown began to make a speech, and they tried to drown her out.

The children did not eat sugary cereals, did not get BB guns for Christmas. And they assisted their mother with a project that would gain her some fame, a Christmas toy-safety survey whose results Mrs. Brown announced on television or at press conferences, tossing what she called unsafe toys into a garbage can. She once set a Mickey Mouse doll on fire to show its flammability.

Before arriving at the safety commission, Mrs. Brown was a vice-president at the

Consumer Federation of America and, since 1983, was chairman of the Board of Public Voice, a health and nutrition consumer advocacy group. She also served as local chairman of the Consumer Affairs Committee of Americans for Democratic Action, under whose auspices she performed the toy survey. None of these were paid positions. Mrs. Brown also spent time raising money for Democratic candidates.

Mrs. Brown now finds herself holding the reins of an agency whose inaction she had long criticized. "Laughable" was how she once characterized the commission—its efforts, she said, were akin to "trying to scoop up sand with a teaspoon."

One big change: While Mrs. Brown once sought out hazardous products, they now come to her—brought to her attention through consumer complaints and a variety of other channels, including reports from coroners and emergency room personnel. Staff members often join her for "show and tell" briefings on products, like portable camping equipment that causes carbon monoxide poisoning.

She portrays herself as "a regulator for the 90's," trying to bring industry, Government and the consumer together in a harmonious triangle. When clothing makers like Levi's, Nike and L.L. Bean all agreed to remove drawstrings—which can catch on doors and swings and choke a child—from sweatshirt hoods and the like, Mrs. Brown could not have been happier. The commission had just removed a potential hazard to children at little cost to itself.

With a budget that has increased only slightly from the 1970's (Mrs. Brown estimates that overall her agency will have a little more than $41 million for the fiscal year), it's no surprise that she gravitates towards cost-efficient ways to make her point like free publicity. As such, she said, the agency prefers using mandatory regulations as "a court of last resort." The voluntary route is much easier, she noted, as is steady barrage of public reminders and informative announcements.

Make no mistake, however. This is a woman who likes to see definite achievement and steady progress. "When I first came to this agency," she noted, "I found all bun and no beef. They never took an action on something. I want to know, and I ask myself all the time, and they're used to me now: What are the actions we can take" to protect consumers and be "an activist agency."

While consumer advocates praise her, others, while applauding her spate of activity, hold up signs of caution. In April, the commission recalled crayons that contained traces of lead that could poison children. Although many crayons contained less than .06 percent lead, the legal standard, some manufacturers felt intimidated by the commission to join in the recall, said Mr. Miller of the toy group. "Chairwoman Brown has a great talent for press coverage," he said, saying she had been "a friendly adversary" for more than 20 years. While conceding that part of her approach is constructive, he said the way she handled the crayon situation was "a dangerous precedent."

But Mrs. Brown said: "The other crayons, we felt, added enough to the lead level that they should be withdrawn, and the companies agreed to withdraw them. I think their knowing we can get good press encourages them to go along with us, but we're not legislating by press release."

Mrs. Brown has gotten substantial support from the agency's two other commissioners, Jacqueline Jones-Smith and Mary Sheila Gall, both Republican appointees, and there have been numerous 3-0 votes. Both Mrs. Brown and Ms. Jones-Smith portray the commissioners' relationship as "collegial." "If we differ on issues, we respect the differences," said Ms. Jones-Smith. One of Mrs. Brown's setbacks involved a 2-1 loss over whether to initiate formal rulemaking proceedings on baby bath seats. The chairwoman felt the seats encouraged a false sense of security, leading to parents leaving infants unattended in the bathtub, sometimes with tragic results.

The issue begs the question of how much government can or should do, particularly when it is consumers' actions that are at fault rather than a product itself. "You just can't assume that people understand" all the different risks, she told staff members. "There are just so many things coming at them in their lives. I don't think we can say, 'Ah, stupid consumers!' Nobody told us we were the Smart Consumer Product Commission. We're the agency for all consumers."

Still, she admits, even the agency has limits. "If people are going to be so dumb as to be on in-line skates, hold onto a car, and do wheelies and get killed, our hearts go out to them, but you've got to know not to hold onto a car going 70 miles an hour."

Part of her focus for the commission centers on breaking through to "vulnerable populations" that include children, the elderly, those who don't speak English, and those from low socioeconomic levels, she said. The commission will also be focusing on flammability and sporting equipment in the near future, she added, and will be making efforts to take whatever action is needed for a particular product, whether it be education, labeling, voluntary or mandatory recalls or publicity. The tactics are designed to get the most attention and results with the least amount of difficulty—and the fewest dollars.

Still, despite the Federal trappings, the activist spirit lingers. "This is not a time for big Government. This is a time for us to make people understand: Here is a little agency, and every time they hear us or see us, they should think, 'These are some Feds who are doing something that's useful in my life, and they're doing it on not a lot of money.'"

CPSC's Ann Brown Is Pragmatic, Persistent on Product Safety

When Ann Brown, chairman of the Consumer Product Safety Commission, was a 12-year-old Washington schoolgirl in 1949, she took her homework to Erlebachers', her parents' F Street NW clothing store, instead of going directly home.

"I learned there how small business should work," Brown told me last week. Her father, Jules Winkleman, would demonstrate for his sales staff how to be as concerned in dealing with a customer who brought in a return, as in making the original sale.

"My father would play out the role of the customer. He wanted to make sure his sales force understood that consumer satisfaction came first," Brown recalled. And well ahead of his time, Winkleman encouraged his daughter to think of a business career. "He told me a woman could go ahead and do anything a man could do."

It was an easy progression for Brown to become a consumer activist by profession and—by her own evaluation—one who was an aggressive advocate who viewed most business people as too focused "on short-term profits" and not enough on consumer needs or safety.

Now, at 57 in her first-ever government job, she finds that "times have changed and I have changed." She sees her role as "a regulator for the '90s," who can work with industry groups for compromises that pay off. Business, too, has changed, she believes, because "many large and small companies have had to update and upgrade their own missions and strategic marketing plans."

Brown has gotten across her message that however tough an activist she was in her private incarnation, she has no horns; rather, she portrays herself as a pragmatist willing to work things out with private industry.

A case in point relates to drawstrings in the hood and neck portions of children's garments, long a hazard for small children. Yet, in 1993, 12 children were strangled and another 27 were injured by such drawstrings, easily replaceable by buttons, snaps or velcro. One of the first things Brown did as chairman was to get the industry to agree voluntarily to redesign 200 million garments to eliminate this hazard by next year.

Industry leaders agree that safety in children's garments must become a priority focus. Brown has started a national award program for a company's commitment to safety first, with the first coveted honor going to Procter & Gamble Co. for developing safety caps for drugs that are both child-resistant and easy for seniors to open.

For more than two decades, Brown had been a recognized leader in lobbying for consumer safety and consumer rights. From 1979 until this year, she was vice president of the Consumer Federation of America. From 1983 to 1994 she had also been chairman of Public Voice, a pro-consumer lobby aimed at improving consumer health and nutrition. In addition, from 1972 until joining the Clinton administration, Brown headed consumer affairs for Americans for Democratic Action.

In her Bethesda office, chock-full of consumer products—notably children's toys and garments—that have been modified to make them safe, Brown says: "I'm not trying to be a cop. I don't believe that you can regulate everything that moves, or that you can make every product absolutely safe." But she also knows that not even the most dedicated parents or most conscientious consumers can always guarantee their children's or their own safety.

As government agencies go, you could skip right over the CPSC in the federal budget unless you were using a magnifying glass. Before Bill Clinton appointed Brown in March 10, 1994 to chair the CPSC, it had become a moribund and almost disowned backwater under presidents Reagan and Bush. David Stockman, as director of the Office of Management and Budget, wanted to junk it altogether, but never quite succeeded. It dwindled under the Reagan-Bush years from 978 to 487 employees; Brown's budget for fiscal 1995 will be $41.3 million, down $1 million from 1994.

Occasionally, a startling event makes the headlines, as did the recent untimely death of tennis star Vitas Gerulaitis of carbon monoxide poisoning from a faulty heater. CSPC has accelerated its efforts to make carbon monoxide detectors as common in homes as smoke detectors.

All told, more than 15,000 consumer products come under CPSC's jurisdiction, excluding most forms of transportation or workplace-related equipment. A rising concern is sports-related injuries. For example, rollerblading accidents zoomed from 38,000 in 1993 to an estimated 83,000 in 1994.

In a recent pep talk to employees, Brown recalled an old Washington Post article that referred to the three-member commission as "the little agency that can't." Under her guidance, Brown pledged, the agency will become "the little agency that could."

"Its's still a dangerous world out there," Brown says with conviction. "Unintentional injury is the leading cause of death in the nation." One-fourth of those 96,000 deaths annually are related to consumer products. With industry's help, Brown intends to get that number down.

WAIVER OF LIVE QUORUM

Mr. REID. Mr. President, on behalf of the majority leader, I ask unanimous consent that the live quorum required under rule XXII be waived with respect to the cloture motions filed relative to H.R. 6 and S. 349.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the time until 9:45 a.m. shall be under the control of the Senator from Wyoming, Mr. WALLOP. The Chair recognizes the Senator from Wyoming, Mr. WALLOP.

THE LOBBYING DISCLOSURE ACT OF 1994

Mr. WALLOP. Mr. President, I thank the Chair. I thank the Senator from Nevada for giving me just a smidgen more time on a topic which I think is terribly important and with which I find enormous fault with the structure that the majority leader has set up.

I am here this morning at my request to let Members know what is wrong with S. 349, the Lobbying Disclosure Act of 1994 and why cloture should not be invoked.

Mr. President, let me begin by saying I understand the trepidation with which Members approach this issue. This is a very bad bill with a very good name. The name and its announced purpose is somehow or another to keep us all from being corrupted in the future the way we have all been in the past from the blandishments of the wealthiest lobbyists and all their money and influence. Americans hear these comments and those about the gift ban as though all of us have been on the take all these years and now finally we will promise the American people that we will not take any more. The American public hears us talk about ourselves and watches what is taking place, and there is a political reaction that is understandable. Certainly people do not want to be seen as voting against the gift ban bill.

But, Mr. President, let me just begin by saying that none of the provisions of the lobbying legislation come into play until 1996. So there is no hurry to take away the rights of Americans in order to correct a perceived wrong that the Congress does not perceive to be so wrong as to wait for its provisions to come until 1996.

I find myself having to explain what is in this conference report in 20 minutes during morning business. I asked for unanimous consent to have 2 hours to discuss it prior to a cloture vote, and the majority leader denied that request. He complains about the use of filibusters. But how can you call it a filibuster when there is no time at all given to discuss the bill or the conference report? We all know that the motion to invoke cloture is the vote on this bill, and yet the Democratic leadership does not want to give us time to discuss what is in it.

Given the urgency with which we are being asked to act, I can only surmise that leadership and the proponents of the bill are fearful that too much examination will put it in jeopardy. We are being asked to vote without debate on a bill that just came out of conference only last week with a provision that was never considered in the Senate which will affect hundreds of thousands of Americans, all because the majority leader would like to accommodate the schedules of some Senators.

Mr. President, no wonder the American public is dismayed with their institution. No wonder we are being held in contempt. No wonder when the public is just now beginning to discover what is in this bill, and they are informed that somehow or another debate will not be allowed and that the title of the bill will be sufficient politics to support it, notwithstanding the fact that some of us believe that constitutional rights of Americans are seriously jeopardized by some of the provisions in this bill. In fact, even its sponsors seem to believe that constitutional questions exist because they have included a severance clause which says that if any parts are considered to be unconstitutional, the rest of it will still be operative.

Mr. President, what is wrong with that in the eyes of Americans, and why should they feel cynical about us? It is going to be incumbent upon citizens to prove that their constitutional rights have been violated when Congress expects that it already may have violated those rights.

I want to make clear to my colleagues why I so strongly oppose this bill and why I believe that the bill will have a chilling effect on the first amendment rights of Americans. Maybe the courts will not say that they feel sympathetic to Americans who are intimidated by their Government, that they ought to go ahead and exercise their first amendment rights. But, Mr. President, one of the great problems that Americans now see with their Government is that they cannot afford to contest it. Exercise your first amendment right and an arbitrary fine comes down by a man who was appointed by the President, and you have to find the wherewithal from within your own pockets to prove that you had a first amendment right.

Mr. President, something is desperately wrong with a country that guarantees rights under the Constitution and then allows them to be chilled by the legislation that it passes and the chill is so great that people forego their rights rather than exercise them.

Mr. President, the devil is in the details. As we saw with health care, principles that may sound virtuous can take on an entirely different meaning when drafted into bill language. Let me begin by saying that the language of this bill is so vague and so badly written that it can be interpreted in any number of ways. Sponsors will have declared that they can enter into colloquies trying to make clear those portions of the bill which we or the courts may find confusing or even vaguely drafted.

The problem is that courts read the language of the bill, not the language of the sponsors of the bill. And the problem is that given vaguely drafted legislation, this little "czar" who is appointed by the President—and I am perfectly willingly to cede that a Republican or a Democratic President would be tempted by the powers conferred under this bill—will have the opportunity to draft the regulations.

One of the problems that Americans have with their Government today is that it is so cussedly anonymous. Nobody knows who drafts regulations, and Members of Congress can say: Well, I never intended for them to draft it that way. But draft it they have and comply with it we must, as citizens. And the Office of Lobbying Disclosure, under the President of the United States, has no commission, just one person who arbitrarily has the power to assess these fines.

Mr. President, you do not have to be a wizard to suppose that the employee of the President of the United States will exercise the wishes of the President of the United States, Republican or Democrat. So those whose lobbying activities, grassroots, come crossways with the purpose of a given administration of whatever party will be the ones whose rights and whose activities will be curtailed, and others who do the same thing on the other side will not be effected.

There is something dreadfully wrong with a situation where having been accused and having been fined, your only privilege is to go to court to prove that you should not have been fined. And having been accused administratively and fined administratively, you must use the courts to prove your innocence, not they to prove your guilt.

Let me draw my colleagues' attention to section 105(B)(5) of the conference report. This is the provision at issue—a provision to which a diverse group of grassroots organizations from both the right and the left are opposed. It is a provision that was changed very significantly in conference, and let me make that clear.

Mr. President, section 105(B)(5) of the conference report was not the provision originally approved in the Senate bill. See page 53 of the report. The sponsors of this bill have insisted that the intent of the legislation is only to require paid lobbyists to register. Who is against that? It may very well be true that this was the intent. But no matter what the intent, Mr. President, the language of the bill speaks for itself.

I ask my colleagues to read section 105(B)(5) and the definition of "client" in section 103(2), and then tell me how you can interpret the language differently. Section 105 requires semiannual reports by registered lobbyists. A registered lobbyist is someone who is either an employee or a third person retained by a client to make lobbying contacts. The definition of "client" applies to a coalition or an association.

Now read this carefully. Section 105(B)(5) states that the report must contain "the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby on behalf of the client."

Mr. President, let me simply state what this means. The language says that any person who is not the coalition or association, but who could be a member of that coalition, who donated money to help finance an organization's effort, would have to be disclosed. Planned Parenthood's contributors, ACLU contributors, National Rifle Association contributors, American Chamber of Commerce contributors—everybody will have to be disclosed.

This is not to say that members of these organizations would have to register themselves as lobbyists. But in some cases, if you read this carefully, they might. More likely, a coalition will have to turn over its list of members who contributed to a particular lobbying effort.

Keep in mind, Mr. President, that there is but one person—an employee of the President—who, curiously, is allowed to take gifts from lobbyists under this bill—who makes the decision as to what the requirements are going to be.

Just think of all the organizations that, in addition to their annual dues, ask for donations to a particular lobbying effort. The Sierra Club does routinely. The Right-to-Work people do routinely. Planned Parenthood does routinely. The National Organization of Women does routinely. The Christian Coalition does routinely. Who, now, is going to dare to contribute to these efforts at grassroots lobbying knowing that their name will be disclosed, and for which they may find some retribution from an vengeful Government? Even the sponsors of the bills have acknowledged the problem with this language, because they were more than willing to include a colloquy to try and clarify its legislative intent.

But, Mr. President, colloquies do not clear up the issue. I know that the sponsors of the bill claim that the intent of the legislation is not to require disclosure, but their claim is irrelevant when the language of the bill does require it. No colloquy will change the language of the bill. Only an amendment will do that.

Since its provisions do not come into play until 1996, why should we wait and chill out the public in the meantime? Why is intent irrelevant and a colloquy ineffective? Because a presidentially appointed Director of the Office of Lobbying Registration will be the one who interprets the law first. Authority to clarify and to interpret is left entirely to the discretion of the Director. The Director works for the President of the United States, Republican or Democrat. The President, Republican or Democrat, is seriously interested in the course and direction of his legislation. Guess which way the interpretations are going to flow?

I merely remind my colleagues of the number of calls they have received from constituents that have run afoul of the Internal Revenue Service because of "misinterpretation" of the laws to understand the very real fears these grassroots organization have.

The fears of these groups are real because, do you know what happens if someone violates the law? The Director of the Office of Lobbying Registration has in his or her discretion the ability to impose civil fines of up to $200,000 for "failure to register."

Mr. President, if anybody thinks that this is going to allow grassroots people to function as they have, without fear of their Government, they are living in a dream world not related to the fanciful Halls of this Congress, but to the real paths of people out in the public areas of America.

It is not just the fines, Mr. President, that worry these grassroots organizations, it is the fact that individual Americans who finance a cause would have to have their names and addresses and places of business submitted to and disclosed by the Federal Government merely because they stood up for an issue in which they strongly believe. It is a fact that the Federal Government will have a list of the members in an organization that can be used for any number of purposes. The list is subject to public disclosure. It can be printed in the press. And if someone inadvertently fails to register, they could find themselves subject to the Federal lobby police.

The McCarthy hearings may have occurred a while ago, but their lessons are not forgotten.

Mr. President, this language threatens the very rights of privacy of Americans who choose to express their beliefs. They have a constitutional right to express their free speech and petition their Government.

There is a lack of adequate privacy protection in this bill. Once a person is required to register as a lobbyist, the information required to be disclosed under section 105 is subject to public review. It can and will be published in the newspaper. If a grassroots organization is required to publish its membership lists, those lists, containing the names of many of our constituents, will be available for public dissemination.

What about the use of this information by other Federal agencies? Nothing in this bill prevents the Internal Revenue Service from acquiring information filed by 501(C)(3) tax-exempt organizations regarding lobbying activities and using that information to conduct an audit on the tax-exempt status of these organizations.

I also find it ironic that a private citizen who violates the rules of this bill will be subject to civil penalties, while Members of Congress who violate the rules will only be subject to reprimands, if any, by the Ethics Committee, an Ethics Committee which in the House has not addressed a Post Office scandal of some 8 years' dimension. No wonder Congress is held in contempt. Certainly, this legislation will not improve this institution nor its reputation in the minds of the American public.

Mr. President, I could spend much longer talking about S. 349. But what I want to make clear to my colleagues is that this bill is a really bad bill with a good name.

It raises significant constitutional questions regarding the freedom of speech. Section 105(B)(5), added in the conference without debate, clearly shows that S. 349 goes beyond regulating the conduct of interest groups and seeks to regulate grassroots communications between citizen groups and their Members.

Just read the definition, if you will, of grassroots communications, section 103(8) of the bill, to see how far this legislation stretches. Regulated grassroots communications include communications sent by a group to its members urging them to contact a Member of Congress.

Clearly, we are not making up these concerns. Or why else would the many diverse groups around this country be so up in arms and so concerned about the passage of a piece of legislation? Groups as diverse as the ACLU, Planned Parenthood [NY], National Association of Women, National Restaurant Association, National Realtors Association, the U.S. Chamber of Commerce, and the Christian Coalition are all opposed to this bill and all are very concerned that their rights as Americans, and their members and contributors' rights as Americans to petition their Government, are being threatened.

It has been suggested that some Republicans stirred up these groups to protest, and all they are doing is creating a smokescreen for their high-powered lobbyist friends.

Mr. President, they are wrong. Members of Congress did not start this uproar. The American people started it. The grassroots coalitions threatened by legislation that is called Hillary Clinton's revenge are speaking out.

These are the people, the grassroots, Mr. President, of America, who defeated socialized medicine in this country.

So I say to my colleagues, what is so good about this bill that it justifies taking away constitutional rights and privileges of Americans?

No amount of perceived good should justify denying Americans their rights of freedom of speech or their rights to petition Congress. No amount of perceived good should require those Americans to prove in court their right to exercise these privileges. No amount of perceived good justifies trampling on individual liberties, and certainly no amount of perceived good justifies requiring Americans to have to litigate.

If you want to vote to ban gifts to Members of Congress, strip out the lobbying reform provisions and vote on the gift provisions, but let us not pass a bill that attacks Americans and their right to be heard when it does not even come into effect until 1996. There is time to do this properly.

We do not have to demonstrate to Americans that we have no concern or interest in their constitutional rights. It is time to show that the Senate deserves respect. We can earn that solely by exercising our judgment in behalf of the American people and their constitutional rights and not in behalf of the political rights of Members of Congress to be reelected on a gimmick, which it is.

Mr. President, I thank the Chair for the time.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized by the Chair.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I know we are going to get into a discussion of the Elementary and Secondary Education Act in just a moment.

The ACTING PRESIDENT pro tempore. The Chair advises the Senator, at the time of 9:45 a.m., we will be moving to the conference report to accompany H.R. 6.

Mr. WELLSTONE. Mr. President, I spoke to Senator KENNEDY. I ask Senator PELL that I be given 3 minutes to respond to the Senator from Wyoming. Senator KENNEDY thought that would be all right.

Mr. WALLOP. Mr. President, I object. Regular order.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:45 a.m. having arrived, the Senate will now resume consideration of the conference report accompanying H.R. 6, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to extend for 5 years the authorization of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for other purposes.

The Senate resumed the consideration of the conference report.

The ACTING PRESIDENT pro tempore. The time before the cloture vote shall be equally divided and controlled by the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Indiana [Mr. COATS].

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, if I may rise for a unanimous consent request, I ask unanimous consent that Walt Koscinski, of my staff, be permitted the privileges of the floor during the debate on the Elementary and Secondary Education Act conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, just before making, hopefully, the concluding comments in support of the legislation, I see my friend, Senator WELLSTONE, on the floor, who wanted to address the Senate on a matter that was raised by the Senator from Wyoming.

I yield him 3 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Senator from Massachusetts.

REGISTERING LOBBYISTS

Mr. WELLSTONE. Mr. President, in 3 minutes, let me respond briefly to what the Senator from Wyoming had to say.

First, I say to colleagues, this is not about a piece of legislation that says that citizens at the grassroots level have to register as lobbyists or that, as a matter of fact, their names will be collected, or anything else. That is a smokescreen argument. It is simply not in this piece of legislation.

I hope my colleagues will read this piece of legislation because I think, Mr. President, it is a very dangerous game to make these kinds of arguments and make these kinds of claims when, in fact, that is not what the legislation calls for.

Second, my distinguished colleague from the State of Wyoming talked about the Congress in contempt. Those were his words. I would think that what we have to be very, very careful about right now as we vote on this piece of legislation is that we understand that people in the country want accountability. They think it is inappropriate when, in fact, it happens that lobbyists who were doing the lobbying and getting paid for the lobbying are not registered. They want to have a clear record of that.

I think the whole effort to do away with some of the paid trips and to do away with some of the tickets to games and to do away with some of the dinners, and all of that—these are things that people in the country have said are inappropriate. And I think most of us in the Congress know that this is inappropriate. Most of us in the Senate know it is inappropriate. I think the vast majority of Senators understand we should just let go of it.

We do not want to see denigration of public service and people in public service. If we did not believe in public service, we would not be here.

But I say to my colleagues, let go of it. We do not need it. It is inappropriate. Let us end the practice. That is what this reform bill stands for.

Finally, quite to the contrary of the remarks of our colleague from Wyoming, one more time, it is not true that regular citizens have to register as lobbyists. If you are getting paid to work for an organization and you are doing lobbying, then you shall. That is not the issue. This is the issue.

There is an effort right now to make sure that we do not pass any substantive legislation at all, that we do not pass any reform legislation. Thus, another filibuster, another filibuster to block the U.S. Senate from passing reform legislation which would end some of this influence of special interests, which would make our process more accountable, and which would justify people to have more faith in our process.

People are not going to believe, Mr. President, in the final product if they do not believe in our process. I say to my colleagues, this is a reform bill that must not be stopped. And I believe 96 Senators, which was about the number we had the last time, should vote for this piece of legislation. It is the right thing to do.

Let us end the smokescreen arguments. Let us get down to the real issue. This is reform. This is making Congress work better. We need to support this.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, we have a number of our colleagues who will speak in support of the legislation. I will just speak very briefly now and I will yield myself 3 minutes.

Mr. President, this is an extremely important piece of legislation. This legislation fits into the composite of other very important pieces of legislation that have been fashioned in a bipartisan way. I express my strong appreciation to our colleagues on our committee, our Republican colleagues, who have been actively involved and instrumental in helping us to get to the point where we are.

We have now, as a result of the actions of our committee, an expansion of the Head Start Program that helps very young children. We have the Goals 2000 Program that encourages bottom-up reform of our education system. We have the School-to-Work Program to help the 70 percent of our young children who do not go on to college to move into employment.

In higher education, we have the direct loan program and the tuition contingency repayment program for those who have debt and want to be able to repay their debt as a percent of income over a period of time.

But the engine of reform in this particular legislation is the reauthorization of the Elementary and Secondary Education Act. In the title I program, we have tried to enhance the targeting of resources on the children who are the neediest in our country, in terms of both educational challenges and the challenges of poverty. We have revised this very important program in the most significant way in 30 years. We have tried to give greater attention and focus to the neediest children in our country and, as a result, we will hear from some who are going to talk about how States have won and how States have lost.

We have a fundamental choice to make: Are we going to do business as usual, or are we going to make a very modest change, giving additional weight to where the weight is needed, and that is to the needy children?

We have also enhanced teacher training programs. Most of all, we have raised academic standards for those children who participate in the title I program.

Mr. President, this legislation reauthorizes an absolutely essential program to enhance educational opportunity and educational advancement, to respond to the educational challenges of the neediest children in our country. It is not a perfect program, but it is, I think, reflective of the best that we could possibly manage in this particular Congress.

I know it could be drafted differently or changed by different Members. I know there are provisions that are controversial. But, nonetheless, this legislation represents the best judgment of the Republican and Democratic Members of the conference and also of this body.

Mr. President, I reserve the remainder of my time.

Mr. COATS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I yield to the Senator from Delaware to speak for 2 minutes in morning business and ask unanimous consent to take it off our time.

The ACTING PRESIDENT pro tempore. The Senator from Delaware [Mr. ROTH] is recognized.

DOVER AIR FORCE BASE PERSONNEL SERVING IN OPERATION UPHOLD DEMOCRACY

Mr. ROTH. Mr. President, I rise today to commend the role played in Operation Uphold Democracy by the men and women stationed at Dover Air Force Base. For nearly 30 years, Dover Air Force Base has been the home of the Air Forces' 436th "Eagle" Airlift wing—the premier East Coast Strategic airlift unit. From Vietnam through today's crises, personnel stationed with the Eagle Wing and its associate reserve unit, the 512th "Liberty" Airlift Wing, have performed key missions whenever American troops have been placed in harm's way.

Whether or not one supports American intervention in Haiti, we should all be proud of the efforts of those in uniform. The men and women sent from Dover should be especially commended—186 personnel from Dover were among the first to arrive on the scene. They secured the airport at Port-au-Prince and are running the airfield, as well as maintaining its security.

Mr. President, the 36 C-5's stationed at Dover Air Force Base represent over a quarter of the United States' strategic airlift capability. Through September, they flew over 65 missions carrying troops, their equipment, and supplies to Haiti. Meanwhile, the 436th and 512th wings continued to fly missions around the world in support of other ongoing operations, including a recent shipment of Magnetic Resonance Imaging [MRI] equipment to Chernobyl to help treat children affected by radiation from the terrible nuclear accident several years ago.

On the ground at Dover, the Aerial Port at Dover has contributed by being the primary air transport hub for the initial phases of Operation Uphold Democracy. Dover personnel have worked around the clock, assembling and loading almost a million pounds worth of shipments. Aircraft came to Dover from Andrews, McGuire, McChord, Charleston, Scott, and Travis Air Force Bases to ferry troops, equipment, and supplies to Haiti.

Mr. President, I remain opposed to the administration's intervention in Haiti. But, this view does not diminish my admiration and respect for the men and women stationed at Dover Air Force Base. They are performing critical functions in Operation Uphold Democracy, and are serving their country with honor and distinction.

I thank the Senator.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. KENNEDY. Mr. President, I yield 6 minutes to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island [Mr. PELL] is recognized for 6 minutes.

Mr. PELL. I thank my colleague and friend from Massachusetts.

Mr. President, I rise to express my strong and enthusiastic support for the conference report on H.R. 6, the reauthorization of the Elementary and Secondary Education Act. There are several landmark provisions in this legislation, provisions that make it very important that we approve this conference report in the remaining days of this session.

The title I program, which provides education assistance to educationally deprived children in areas of poverty, is the backbone of this bill. We have refined that program, better targeted it to children most in need, and linked it to the achievement of challenging academic and student performance standards. This is an achievement of considerable import and significance. In my own home State of Rhode Island, it will mean the provision of $20.7 million in needed funds, and in the coming years will provide an important increase in funding for cities such as Providence and Central Falls where the child poverty count exceeds 30 percent.

We have expanded the Eisenhower Professional Development program to include not only mathematics and science but also other disciplines, such as English, history, civics, economics, and geography. As the author of the original emergency math and science legislation in the mid-1980's, I believe the expansion of this program is most important. I have long contended that the teacher is the linchpin to a quality education, and the provision of professional development for teachers, administrations, and other school personnel on a ongoing basis is critical to making sure that American education is second to none. Well over a $1 million of these funds will to to Rhode Island, and that, without question, will have a dramatic and positive impact on the upgrading of the skills and knowledge of our teachers.

The Technology for Education title in this legislation is truly historic. It will help ensure that instruction is state of the art, and that students, teachers, and schools will have access to the very latest advancements in technology.

The Safe and Drug Free Schools title will enable us to provide continued support to insure that our children will be free of the scourge of drugs. It is augmented by strong provisions to insure that the school is a safe haven for learning, that weapons will not be tolerated in the classroom and that those who bring them will be dealt with sternly.

We have reworked the details of the Impact Aid Program, a program which is extremely important to school districts in which there is a heavy Federal presence. In Rhode Island, this will mean almost $2 million in aid for Middletown, aid which is necessary for the viable operation of that school district. There are similar communities in State after State, and the reauthorization of the Impact Aid Program will mean that the doors of schools in those communities remain open.

The Dropout Prevention Assistance Program, which I authored and was first enacted in 1988, will be continued but no longer as a demonstration program. This is good news, indeed, for the many innovative and effective programs that have been started as a result of this program. In Rhode Island, Providence has, as a result of this legislation, implemented a dropout program that has brought the dropout rate down. In maintaining this federal initiative, our hope is the existing programs will not only continue but also will spread to other communities where efforts to solve the exceptionally serious problem of school dropouts is vitally needed.

We also establish or continue a series of small, but particularly important education programs. While small, these innovative education programs are often considerable in their impact on American education. They include continuation of efforts in areas such as Reading is Fundamental, the We the People Program, the Gifted and Talented Program, the Close Up Program, and the Fund for the Improvement of Education. They also cover new initiatives in areas such as extended time for learning and a longer school year, arts in education, and cultural partnerships for at-risk children and youth.

Mr. President, as I said at the outset, this is a landmark piece of legislation. We all know the Federal contribution to education is small, only six cents out of every dollar spent on education in America. That small amount, however, can make a huge difference in aiding the education of children in high poverty areas, in improving professional development, in making our schools safe places in which to learn, and in spurring educational reform and innovation. We should not let these efforts lapse, and I would urge my colleagues to join me in approving this conference report.

Mr. President, I wish to engage in a colloquy with the distinguished chairman of the Labor and Human Resources Committee.

The Educating Children for Parenting Program is being used in many school districts around the county to help parents and children to learn parenting skills. My understanding is that the managers of the Improving America's Schools Act intended to include language on this innovative program in the Statement of Managers.

Mr. KENNEDY. The Senator is correct. The managers commend the Educating Children for Parenting Program and urge local education agencies to consider incorporating this model as part of their comprehensive drug and violence prevention activities, as authorized under title IV of this act.

Mr. PELL. I thank the Senator. I yield the floor.

ASSESSMENTS

Mr. KENNEDY. Mr. President, one of the most important elements of the new title I program is the set of high-quality assessments that each State will use to measure the progress of children served relative to the State's standards, and I would like to make a clarification regarding this issue. In section 1111(b)(7), we provide that the transitional set of yearly assessments should include at least mathematics, and reading or language arts, and be administered at least once in grades 3 through 5, grades 6 through 9, and grades 10 through 12. This will ensure that the transitional assessments, as well as the permanent assessments, will measure whether students served by the title I program are held to the same high academic standards as all students.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island yields. Who yields time?

The Senator from Indiana [Mr. COATS].

Mr. COATS. Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Indiana [Mr. COATS] is recognized for 5 minutes.

Mr. COATS. Mr. President, I think it is safe to say that a strong majority of Members of the United States Senate support the Elementary and Secondary Education Act and its purposes. It is a critical program for our Nation's children.

Title I, which was formerly Chapter 1 of the act, is especially important because it provides financial assistance for the education of educationally disadvantaged children. At $6.7 billion a year targeted for fiscal year 1995, title I is our Nation's largest Federal elementary and secondary education program. Because this amount of money is allocated, it is particularly important to Senators who represent their States to see that the money is fairly and equitably distributed.

Unfortunately, the bill before us today substantially varies from what the Senate produced and what the Senate voted on, in terms of how those funds are distributed.

The new formula, which was not even available to conferees when we voted on final passage of the conference report but was subsequently configured—and now we have the figures—the new formula disadvantages 33 States; 33 of our States will receive less funding under title I for needed programs for disadvantaged students than what they currently receive or would receive under current law. I have listed these 33 States and I have provided Senators with a listing of those States.

You can just look down the line: Pennsylvania—nearly $16 million less in funding from fiscal years 1996 to 1999 than under current law; North Carolina, Wisconsin—$11 million less; Virginia, Minnesota—$10.4 million less than in current year, and down we go. New Jersey, $9 million less; Georgia, $9 million less; Oregon, $8 million less; Missouri.

The rationale is that this formula was devised so as to target needier students. It is interesting that many of the States that will receive less under the new formula are Southern States, States that have children that certainly would fall in disadvantaged and low-income categories. The new formula very suspiciously looks as if it were crafted to satisfy members of the House conference committee. It does not reflect what the Senate passed.

It does not reflect the work of Senator KENNEDY and Senator JEFFORDS and Senator KASSEBAUM, who in my opinion represented the Senate in devising a fair distribution formula. But it does represent the work of a conference which was not even presented to conferees before the vote. It represents the work of, perhaps, staff that configured the formula after the conference report was voted on.

So I urge Senators, No. 1, to look at their States. I urge those 33 Senators from those 33 States—66 Senators—to compare what they receive under this so-called new reformed ESEA bill versus what they would receive under current law.

There has been some talk on the floor, and the Department of Education has suggested, and others, if we do not reauthorize this bill in the waning hours of this Congress, these funds will be lost. Nothing could be further from the truth. Section 414 of the General Education Provisions Act provides for the automatic extension—the automatic extension—of the Elementary and Secondary Education Act's authorization for an additional 2 fiscal years. We have already passed the appropriations for this. So Senators need to know the programs will continue and 33 States will receive more if we defeat this cloture vote than they would receive if this bill is passed.

There are several other reasons to oppose this particular bill. It is far from the reform bill that has been alleged. We all know the problems we are having in education. I think we all realize that maintenance of the status quo in education is certainly the last thing we want to do.

Senators have come to this floor and presented innovative, experimental, voluntary ideas that school districts ought to be given an opportunity to experiment with if they do so on a voluntary basis, approved by the Secretary of Education. Those provisions have been adopted by the Senate, and in many cases the House, by very substantial majorities. Yet the conference committee summarily dismissed the work of the Senate, the work of the House.

Senator HELMS has spoken at length about the school prayer amendment. Senator GORTON will be speaking very shortly about the provision regarding violence in schools; that is a bipartisan provision that he and Senator LIEBERMAN sponsored and which received overwhelming support in the Senate—summarily dismissed in the conference. Senator DANFORTH has a provision that passed here by a substantial margin—summarily dismissed in the conference.

Beyond that, it is bad legislation. As former Secretary of Education, Secretary Bill Bennett and former Secretary of Education, Secretary Lamar Alexander have said in the last few days, this is an unprecedented Federal takeover of local and State education. I quote from Secretary Bennett:

> H.R. 6, the ESCA, is the kind of pernicious legislation which, if enacted, will make American education worse, not better. H.R. 6 is hostile to the best reform ideas in education. It is over-regulatory and intrusive. It imposes new Federal controls on States and localities. It is a Washington knows best contribution to the worst decline in the history of American education.

I urge my colleagues to study what happens to their States under this formula, to look at this bill and understand that if funding is provided under current law they will do better. I encourage them to look at the thousands of new pages of Federal regulation and takeovers. I encourage them to look at what the conference committee has done in summarily dismissing the work the Senate has done in votes here on this floor.

Mr. President, if I have any remaining time I yield it back, and reserve the remainder of our time.

The PRESIDING OFFICER (Mr. FEINGOLD). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

I take strong issue with my friend and colleague from Indiana. He has construed the formula in a particular way. Under the legislation that is before us we have the chapter 1 formula and we also have the equity and effort formula. He has taken a $400 million appropriations increase and skewed it in one particular way. If you take the $400 million and if you assume that we put it under the equity and effort provisions, you have 34 States that come out ahead. So his charts are completely misleading. They represent only one possible outcome. If you divide the appropriations increase as has been intended by some members of the conference, if you have half by equity and effort and half by the chapter 1 formula, then you have 29 States that come out ahead. So the effort to persuade the Members of the Senate on that particular issue fails.

Second, there is no question that the $100 million for school construction, the $80 million for safe and drug-free schools, the $40 million for educational technology, the $157 million for school improvement, the $400 million, which are not authorized in the existing legislation—all of that money would be lost. All of that money would be lost if this action is not taken.

Finally, I have respect for the legal ability of my friend from Indiana, but we do have a letter from the Department of Education, which I will put in the RECORD. It indicates that, in the second paragraph, "It is our view that the provisions of the legislation which apply to elementary and secondary education, including the Title I Program, appropriate funds contingent upon the enactment of the reauthorization, and that the funds would not be available for expenditure in the absence of an active reauthorization."

The Senator can say the funds will be available. We have the Secretary of Education saying they will not be. At the very least we are going to have ambiguity. At least we are going to have court cases. At least we will be sending messages to school boards all across the country that it is not clear which way this is going to come out.

If you want confusion, if you want ambiguity, if you want uncertainty for school districts across the country, if you want the loss of those additional funds which I have mentioned here, then just play Russian roulette with the needs of the children in this country.

This formula may not be perfect, but what we have done is try to bring some small amount of targeting on the children with the greatest needs.

I withhold the remainder of my time.

Mr. COATS. Mr. President, before I yield 5 minutes to the Senator from Washington, let me just yield myself 30 seconds to respond to the chairman.

The numbers which we presented in the chart which I have here are derived from the Congressional Research Service. The CRS has provided us these numbers, and that is based on the directions that the conference committee gave to CRS to run the numbers. They have been revised several times. This is the latest revision.

So the Senator from Indiana is not skewing the numbers or sitting in his back office manipulating these to make it look good. These are CRS sources and numbers and the latest that we could find.

Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, each year on a number of occasions, school directors from districts throughout the State of Washington come to my office to speak to me about bills relating to education, as do representatives of principals and administrators and teachers and parents. And each year, each visit, one of the important points that they make is: Trust us to know what is best for the students in our own districts.

They say this very politely, but the message is that they believe that they know more about the education of the students in their own districts and have a greater concern for that education than do we as Members of the U.S. Senate or than does any Federal bureaucrat in the U.S. Department of Education.

With that proposition, Mr. President, I fully, totally and completely agree. We should not be detailing with page after page after page of Federal regulations the way in which our students are to be taught and instructed and disciplined.

This Senate, twice during the course of this year, has voted to move in the direction of more local control and influence over our schools in an area of particular interest to me; that of school discipline. Twice we have voted to restore to local school district officials, whether directors or administrators or teachers, powers over the discipline of criminal, unruly and violent students. And twice conference committees have totally and utterly rejected those ideas and have, if anything, increased the degree of control the Federal Government and the Federal courts impose on local school districts on one of the most fundamental of all policies: order in our schools, order without which teaching cannot take place, no matter how brilliant the teachers, no matter how fine the equipment that a school district has.

This happened in classic fashion in connection with this bill. An almost day-long debate, ending in a 60 to 40 vote in favor of restoring to local school districts power over students who come armed to school or who engage in life-threatening behavior, was watered down, perhaps watered down to the point in which the situation is perhaps worse for school districts than it was before this bill started.

Mr. President, it is for that reason primarily that I intend to vote against cloture and to vote against this bill. This bill, in this area and a wide range of other areas, increases the Federal involvement in the day-to-day operations of our schools. It says that we do not trust the people who are teaching in or administering or running those schools.

I am convinced that my experience with my school directors and administrators and teachers is no different than that of any other Member of this body. How is it that we constantly ignore people who give their entire lives and careers to our students by saying ourselves that we know better how students should be disciplined and under what circumstances they should be disciplined, how they should be taught, the details in the way in which they should be taught, is beyond my understanding.

My State is one which loses under this formula some $5 million from title I. But, Mr. President, in spite of that loss, I would vote for this bill if I thought that this bill helped our educational system, gave more authority to our teachers, our administrators, our school board directors. But it does not, not in this connection, not in connection with the dropped Danforth amendment, not in connection with all the regulations that will result from the committee report and the long and detailed text of this bill.

Mr. President, we can do better. If we start over again at the beginning of next year, I am convinced that we will do better. The money will be there; the controls will not be. We will be able to start to unwind this list of Federal regulations and place authority for our schools where it belongs: in our people, in our administrators, in our school board members, in our teachers, in those who are most concerned with the schools in each community in the United States. We should reject this bill.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. Who yields to the Senator?

Mrs. KASSEBAUM. I wonder if the Senator from Massachusetts will yield 5 minutes.

Mr. KENNEDY. I yield 5 minutes.

Mrs. KASSEBAUM. Mr. President, I rise in support of the conference version of H.R. 6, the reauthorization of the Elementary and Secondary Education Act. The Senate approved this version of this legislation, as has been stated, by a vote of 94 to 6, and the bill before us is very similar, in many ways, to the Senate measure and does retain a substantial number of its positive features.

We just heard some comments from those who are disappointed that the features that they particularly supported and/or the formula that was passed in the Senate was not retained. As has been stated, this is not a perfect bill, but when one goes to conference, fight as hard as one might to keep the Senate version intact, it is not always possible.

I would just like to list a number of positive features that were retained from the Senate measure. It provides greater flexibility for schools to combine Federal elementary and secondary education program funds in order to provide education services in a more coordinated and comprehensive way. It reduces paperwork for schools and teachers by providing for combined applications for Federal aid under multiple education programs.

It targets chapter 1 funding to the poorest schools more effectively than current law and allows States to use more accurate data to identify high poverty school districts. Kansas, Mr. President, loses some money under this formula. However, the whole purpose of Federal moneys to education under chapter 1, which was initiated in 1965, was to target Federal assistance to the poorest districts and schools. It is not easy figuring out a formula, and some States are going to win and some will lose. We argued over it a long time in conference, and actually many of us came to the conclusion that it might be best to wait until next Congress. However, I am convinced that the formula before us is probably the best formula that we can put together.

Another positive feature about this bill is that it encourages needed transition activities between preschool and elementary school to help assure that gains made in programs such as Head Start are not lost in the early elementary years. I think that is a very important provision, Mr. President.

It puts in place a system that will help guard against a lower set of expectations being applied to disadvantaged students. It promotes a strong belief of mine that children will rise to our level of expectations, and we need to demand more of all of them. It continues the current chapter 2 block grant program which allows school boards and teachers to decide what their most pressing educational needs are and provides Federal help to address those needs.

In addition, Mr. President, the measure retains important provisions included in the Senate bill to assure that the Federal Government will assist, not dominate, education. I do not think this is a takeover of education by the Federal Government. As a former member of a school board, nothing is more important to me than local control in educational matters, and I think we always need to protect that here in Congress.

This bill includes provisions that prohibit the imposition of unfunded mandates under this act and that prohibit the Secretary of Education from dictating the standards or assessments that a State may use.

It also specifically prohibits the Secretary of Education from tying receipt of funds under this act to a State's participation in the Goals 2000 Program. That was something that many of us believed was very important.

I am also pleased that the conference bill does not mandate either the development or the implementation of opportunity-to-learn standards.

This bill, once enacted, will allow us to continue to offer valuable assistance to States, local schools, and teachers. The largest program included in ESEA is the chapter 1 program which provides supplemental services to educationally disadvantaged children.

Concern has been expressed at some length about the formula for the title 1 program. As I have said, it is not easy to figure out a formula that is going to work best for every State. The conference formula is more targeted, I would suggest, than current law, in an effort to target scarce Federal dollars to States and schools. This is as it should be, where we want to target funds to the greatest amount of poverty. In fact, the formula passed by the Senate was even more targeted than the conference formula.

In many respects the compromise formula represents only a slight change from current law. The current formula will remain in place for the first year of the reauthorization period and all States and districts are guaranteed not to lose a penny of funding during the second year. Only in the third year does the new formula take effect, and it applies only to any "new" funds appropriated in that and succeeding years. However, even in these later years, the legislation prevents any State or district from losing more than 85 percent of its funds from the previous year.

Other criticisms of various kinds have been made about this bill, and I would just like to comment to a greater extent on a few of them.

I recognize that many are disappointed that the school prayer language from the House bill is not included in the final bill. I should just note, Mr. President, that the House receded in conference to the Senate language. The House then voted to recommit the bill to include the original

House prayer language, and that motion to recommit failed on the House floor after the conference. I was prepared at that point, if the motion to recommit had been successful, to move that we recede to the House language. But the House did not move to recommit the bill to conference.

I should just like to suggest both the House bill and Senate bill protect rights of students to engage in constitutionally protected prayer. Where the two amendments differ is determining who will interpret the Constitution and in establishing how the provisions will be implemented.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes.

Mrs. KASSEBAUM. I wonder if the Senator from Massachusetts will yield 2 additional minutes.

Mr. KENNEDY. Yes. I yield 2 minutes.

Mrs. KASSEBAUM. My greatest concern about the House prayer language is that it would have put school administrators in the position of having to determine what is or is not constitutionally protected prayer. It is for that reason that I drafted the language included in this bill which makes it clear that such a decision is the responsibility of the courts.

In addition, the language in the House amendment was very vague in terms of identifying the point at which Federal education funds would be withdrawn. Enactment of this amendment would have resulted in depriving children of Chapter 1 help in cases where an arbitrary judgment is made by unspecified parties that school officials have prevented legal prayer. The Senate amendment clearly defines when funds will be withdrawn and that is the point where the school is found to be in willful violation of a court order.

Finally, I would suggest there is a great deal of misinformation about several aspects of this legislation. Let me emphasize that it does not federalize education. For the most part, it reauthorizes existing Federal programs and does not affect the regular education provided to most students supported with State and local funds. This bill does not affect home schooling. It does not mandate national standards or outcomes-based education. Decisions about curriculum and instructional methods are properly left with State and local school boards.

This bill taken as a whole moves us in a positive direction in terms of improving many federally funded elementary and secondary education programs.

Mr. President, this is not a perfect bill. It is too wordy, in my mind, with all of these pages and there is a lot of underbrush in here. However, I believe that the basic aspects of it are important and we should move forward and approve this legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, could I inquire how much time is remaining on each side?

The PRESIDING OFFICER. The Senator from Indiana has 12½ minutes, the Senator from Massachusetts, 7 minutes.

Mr. COATS. I yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Senator.

Mr. President, it has become more and more frequent in the past 2 or 3 years that the distinguished Senator from Kansas and I have had to agree to disagree agreeably. She has just said this bill does not federalize education. But it does further federalize education. Education began to be federalized when we bought this crazy concept of providing Federal aid to education—that is because every time the Federal Government aids something, the Federal Government moves in and takes control of it.

Yesterday, two distinguished former Secretaries of Education called on this Senate to defeat this bill. Let me quote Bill Bennett, the Secretary of Education under Ronald Reagan. He said: "It is big Government"—he was referring to this bill—"throwing money at problems. It gives parents no leverage and it constrains State and local decisionmaking. It is filled with all the trendy notions of gender equity and it wants in 8 years for the Federal education appropriation to be $160 billion."

Lamar Alexander and Secretary Bennett are quoted as saying they also want to know why so few Republican lawmakers are willing to oppose the legislation. Maybe it is because Senators fear that it may have some political consequences.

Well, I have news for them. Any Republican Senator who voted for this bill, or who fails to vote for cloture, better look out for the people back home because they are wise to what is going on. The people back home—and I am one of them—often contemplate the increasingly obvious fact that America is in the midst of an historic struggle between those who on the one hand yearn for the restoration of the heritage envisioned by our Founding Fathers and those, on the other hand, who contend that anything goes, no matter how destructive or how debased, particularly when the Federal Government finances it. Nobody mentions the fact that the Federal Government has no money except that which it forcibly extracts from the pockets of the American taxpayers back home in our States.

But, what is really taking place in this Nation today, Mr. President, is a struggle for the soul of America. How it is finally resolved will determine whether America will move forward, or end up on the ash heap of history as so many nations have done before us.

The American people, I guarantee you, are more aware than ever before as to what is at stake. They are sick and tired of crime, and pornography, and mediocre schools, and politicians who cater to every fringe group that comes down the pike.

Now, Readers Digest not too long ago, a year and so ago, published an article entitled "Let Us Pray," in which the magazine reported the results of a Wirthlin poll. That poll found that 80 percent of the American people resent the Supreme Court's ruling 2 years ago that it is unconstitutional for prayers to be offered at high school graduations.

I was encouraged back on February 3 when the Senate voted 75–22 to approve an amendment offered by Senator LOTT of Mississippi—and this Senator—to the Goals 2000 bill to prevent public schools from prohibiting constitutionally protected, voluntary, student-initiated school prayer.

Now, 75 to 22, that was the vote in the Senate. The House then voted overwhelmingly on February 23 to support the amendment by passing, 367 to 55, a motion to instruct the House conferees on the Goals 2000 bill to accept the Helms-Lott amendment.

But on Friday, March 17—despite those two overwhelming votes in both Houses—Senator KENNEDY and other liberal Democrats in the conference between the House and the Senate dropped the Helms-Lott school prayer amendment and instead adopted do-nothing language written by Representative PAT WILLIAMS.

I was dismayed that this amendment was dropped in the closing 60 seconds of the conference. There was no debate, no discussion, no vote; just a wink and a nod and a slap on the back between the Senator from Massachusetts and his counterpart on the House side, who by prearrangement dropped the amendment and replaced it with do-nothing language—the very same do-nothing language the House subsequently rejected 179 to 239 the following Monday, March 21 as part of the H.R. 6 education reauthorization bill.

As I said to the majority leader the other night, when I first came to the Senate, conferees did not routinely use the legislative conference between the House and the Senate as an excuse to give one Senator or one House Member—or a combination of the two—the right to override overwhelming majorities of the Senate and the House.

We used to have something called "scope of conference." If an amendment or an issue did not fall within the scope between the House version and the Senate version of legislation, then it could not be added or substituted in conference. But that is no longer the case. It is a wink and a nod and the conferees put in, take out, and rewrite whatever they please. And the school prayer amendment has been victimized not once, but twice that way this year.

So I will just conclude by saying that this vote today, in addition to being about all of the faults of expanding Federal control over education in this country, is also about the prayer amendment—the school prayer amendment—which is a paramount issue in the minds of about 80 percent of the American people. The voters will know who really supports school prayer from this vote—friends of school prayer will vote against cloture.

I thank the Senator for yielding to me. I yield the floor.

Mr. COATS. May I inquire of the remaining time on each side?

The PRESIDING OFFICER. The Senator from Indiana has 6 minutes and the Senator from Massachusetts has 7 minutes.

Mr. KENNEDY. Mr. President, I yield the Senator from California 5 minutes.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President. I thank the chairman of the committee for giving me this opportunity to speak on this important bill, because what could be more important than our children? I say that as a mother and I say that as one of the Senators from the largest State in the Union, that has more children than any other State. We need this bill. What is at stake in this bill is very important.

I am stunned to see the slowdown on this bill. I would think for all our disagreements we could come together and work together for the children of this country. I am proud to see some of my Republican friends who support this bill. I hope we can all come together as Democrats and Republicans and move this important bill forward.

The Senator from North Carolina said that "Federal aid to education is a crazy concept." I repeat: The Senator from North Carolina said "Federal aid to education is a crazy concept." That is an extreme view. As a matter of fact, I say to my colleagues that Federal aid to education is sound and it works. And, I want to tell you, the President who really brought it to the fore was a Republican President, Dwight D. Eisenhower. I remember those days in the fifties, when he said our national security depends upon whether or not our kids are educated. He put forward the National Defense Education Act. That was Dwight David Eisenhower. So to call Federal aid to schools a crazy concept is saying a former Republican President had a crazy idea. And I do not buy that.

So I think it is important that we put the rhetoric behind us and move forward with this bill. What is at stake? Title I for poor children, teacher training in math and science, dropout prevention, computers in the classroom, and safe schools. That is what this bill is all about.

Our national security, as far as I am concerned, does depend on whether our children are educated.

I want to talk about prayer in the schools. I do not think Government has to tell us when to pray, where to pray, what to pray, and how to pray.

Mr. President, I am a product of public schools. I prayed all through school. When I was not prepared, I prayed the teacher would not call on me. When I took a test, I prayed I would do OK because my father would have been mad if I did not. I did not need the Federal Government telling me how to pray, when to pray, or what to pray. I find it interesting that my colleagues on the other side of the aisle who are always saying big Government should get out of our lives want us to be the ones to tell our kids how to pray, what to pray, and when to pray.

I believe in prayer. I belong to a house of worship in my home county. I am proud. I support education of children so that they learn about religion. But, there is a difference between that and prayer in public schools. Let me talk about the prayer amendment that is in this bill because I think it is a good amendment written by Senator KASSEBAUM, my Republican colleague from Kansas, and voted on by this body 93 to 7.

I commend the Senator from Massachusetts for fighting for the Senate position in conference. He did not go in there and blow up the Senate position. He fought for the Senate position and he won the Senate position, which the Senator from North Carolina also voted for.

I have to say, the Senator from North Carolina, who objects to this, lost his chance. His amendment, as I understand it, was defeated. Senator KASSEBAUM's amendment prevailed. It says "Schools which are in violation of the court order regarding the students' right to prayer will lose funds under the act." That is tough language, the strongest prayer language we have ever had. To tell you the truth, I voted for it because I thought it was the best. I think it is very strong.

Again, I want to commend my colleague, the chairman of the committee, who did not fight for my position, his position, or anything else. He fought for the Senate position, and the Senate position prevailed.

Mr. HARKIN. Will the Senator yield for a second?

Mrs. BOXER. I am happy to yield.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes.

Mrs. BOXER. Is it possible to get 1 minute additional?

Mr. KENNEDY. May we ask for 2 additional minutes evenly divided?

The PRESIDING OFFICER. Is there objection?

Mr. COATS. Mr. President, reserving the right to object, it is my understanding that there are two cloture votes scheduled back to back that were set for 10:45. I was informed by the leadership that our time was up to 10:45, and that the minority leader was attempting to ask unanimous consent to speak on leader time to present a unanimous consent request.

I am reluctant to agree to this request. I believe there is still some time left.

Mr. KENNEDY. I think there is 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts has 1 minute at this point.

Mr. KENNEDY. I believe I had 7 minutes; I yielded 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator's time is running.

Mr. KENNEDY. I yield what time remains to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I strongly support the conference report accompanying H.R. 6, a bill to reauthorize the Elementary and Secondary Education Act. We will soon see whether the Members of the U.S. Senate will support the millions of children helped by this bill, or whether we are more interested in scoring political points against one another at their expense.

Before us is the single largest education program within the Federal Government. Yet I predict in this debate we will hear very little about education.

And you have seen that from the debate. For instance, we are hearing a great deal about the school prayer issue but it is not an issue. The school prayer provisions included in this bill passed the Senate 93 to 7. The conference report retains the school prayer provisions of S. 1513. As my colleagues know, the Helms amendment was defeated on the floor. Yet, we are spending a great deal of time on it when it is not an issue.

They say that partisanship ends at the water's edge. I say it must end at the school house door as well, because too many of our school house doors today are guarded by metal detectors. And from too many school house doors emerge children whose education is not worthy of the name.

The PRESIDING OFFICER. The Senator from Indiana controls the remaining time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I yield myself the remainder of the time that I have left.

Mr. President, we will be shortly moving to a cloture vote on this bill. Let me just repeat some points that have been made and try to make some additional points for Senators to consider before we move to this vote.

ESEA has been supported by a majority of Senators in the past because it does provide needed funds to State and local communities to help with the educational process for needy students. It is not true that if this cloture vote is defeated, these funds will expire. The program will continue, as I have indicated, because of provisions that are already in the law, because the appropriations have been appropriated for this program.

So Senators need not be concerned with the possibility that funds will be lost if somehow this bill is defeated.

The formula has been changed. It was changed in conference—actually, it was changed after the conference and voted on the bill. The formula was finalized, and the latest run, which we have here, showing that 33 States will do far worse under the new formula than under current law is what was presented to us by CRS just yesterday. That is the latest run.

It is not so much the distribution of funds that concerns me as much as how the decision was made. A fair, equitable, and a targeted procedure was very carefully crafted by the chairman from Massachusetts and by the ranking member from Kansas, and by members of the Education Committee in the Senate, and was presented to the Senate and supported. It was that formula that was not accepted by the House. Some have charged that the House formula was designed to "buy off" House votes. I do not know if that is true or not.

The bottom line is that the House rejected the Senate formula, and the consequence of that is that 33 States lose an awful lot of funds. It is hard for me to conceive that the State of Ohio wants to lose $22.5 million; or the State of Pennsylvania, $15 million; and Wisconsin, $11 million; and Virginia $10.5 million; Minnesota $10.5 million; Iowa, $9.5 million, because they think the money ought to be better targeted somewhere else. You can argue perhaps it ought to go to Southern States, States where we have a disproportionate number of low-income and needy students. But Alabama loses $6.7 million. South Carolina loses $5.7 million. West Virginia loses $5.2 million. So it is hard to make the argument that this money is better targeted somewhere else.

Even if you do not buy the funding formula argument, I think you ought to understand that these thousand pages of new law under this reauthorization does not bring about the reform in the education process that many of us are seeking.

If you like the way the Federal Government runs education today, I think you should vote for cloture. But if you are not happy with the education system and the Federal Government's involvement in terms of how it regulates decisions made by State and local officials on education, then I think you ought to vote "no," against cloture, because this denies some of the very reforms that the Senate wanted to do on a voluntary, experimental basis, summarily dismissed by the House of Representatives.

Mr. HARKIN. Will the Senator yield?

Mr. COATS. I would like to, but I have a Senator seeking time. I have very little time left in order to do that. If I have time at the end, I will be happy to yield to the Senator from Iowa.

Mr. President, in summary, if you think Washington knows best, you ought to vote for cloture. If you think we ought to grant States and local jurisdictions more flexibility in terms of making education decisions, you ought to vote against cloture. If you vote against cloture, current law remains in place. If current law remains in place, 33 of our States are going to do better and, frankly, we will send a message to the conferees that this game of denying what the House does, the majority of the House, denying what the Senate does, and simply doing what the conferees want to do in a conference in the last few days of the Senate will not be accepted, and that it ought not to override the will of the majority in either body. If you think that is the way we ought to do business, then I think you should vote for cloture.

Why do we not send a message and say we think it is more important what a majority of Senators and House Members agree on and vote on—sometimes two and three times, and we even instruct the conferees on what to do. The House had a motion to instruct on the prayer amendment that was overwhelmingly bipartisan; 360-some votes were cast in favor of the language of the Senator from North Carolina. Yet, the members of the conference simply said forget that.

I urge Senators to vote against cloture.

Mr. INOUYE. I rise to commend the distinguished chairs and ranking minority members of the Labor and Human Resources Committee and its Subcommittee on Education and Humanities for their leadership in writing the Improving America's Schools Act of 1994, and for ensuring that provisions important to Native Americans were incorporated in the conference report. As I extend my appreciation to Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS, I would like also to express my gratitude to Senators BINGAMAN, SIMON, and WELLSTONE, for the special contributions they made to the Native American provisions.

I rise, too, to ask the distinguished chairman of the committee to clarify two provisions of special importance to schools that are funded by the Bureau of Indian Affairs. These provisions will ensure, for the first time, that virtually all of the 185 schools funded by the Bureau of Indian Affairs will become eligible for all programs for which public school districts are eligible, whether such programs are administered under the Department of Education or elsewhere, and which provide eligibility for local educational agencies. Am I correct in this reading of the two provisions?

Mr. KENNEDY. The chairman of the Committee on Indian Affairs is correct, and I thank him for his kind comments on the work of our subcommittee and committee.

The conference report would end the disadvantage Bureau of Indian Affairs funded elementary and secondary schools have suffered regarding eligibility for Federal grants and services for which local education agencies [LEA's] are eligible. Under current law, Bureau schools are not covered by the definition of LEA, so, except for a few programs in which they have been specifically included, these schools could not benefit from the wide range of Federal grants and services available to public schools through the eligibility of their LEA's.

Since this issue is addressed in two provisions of the bill, let me explain it more fully. The first provision defines virtually all Bureau funded schools as LEA's, except in those cases where a specific statute already makes provision for their eligibility, as in Chapter 1 and Even Start. This exception ensures that there is no double benefit for Bureau schools. The bill also protects tribal sovereignty by providing that the Bureau shall be the State educational agency for its schools, rather than the State in which the schools are located.

Let me note that the definition of Bureau schools as LEA's in this provision does not include those schools which are smaller than the smallest LEA which receives assistance under the act. But, as I will point out in a moment, there is an opportunity for these schools also to benefit from provisions of the Improving America's Schools Act intended to benefit local school districts. The exclusion of the Smallest schools from the definition, which would omit only a small number of Bureau funded schools, was the result of concern from some conferees that very small schools would have difficulty in preparing competitive applications.

The opportunity for the smallest Bureau funded schools to participate in programs and receive services is contained in a separate provision that authorizes such schools to form consortia with other schools, tribal, or community organizations and be treated as LEA's for purposes of the act. This provision would also allow all Bureau funded schools to form consortia for the purposes of applying for grants or services under the act, if they so elect.

In summary, I agree with the chairman of the Indian Affairs Committee about the importance of including Bureau funded schools in that definition of local education agencies. Many Federal statutes will cite the definition of LEA's incorporated in the Improving America's Schools Act. Inclusion of Bureau funded schools in that definition will ensure that such schools and their students will no longer be left out of Federal programs.

Mr. INOUYE. I thank the chairman for the clarification, and I again congratulate him and his colleagues for their accomplishment.

Mr. KENNEDY. Mr. President, I am pleased that the Senate is now taking up this far-reaching education legislation—the reauthorization of the Elementary and Secondary Education Act. It was approved last Friday in the House by a vote of 262 to 132—a margin of 2 to 1—and it deserves a similar majority in the Senate.

This legislation is the result of weeks of bipartisan negotiation and cooperation, and it has the strong support of Senator KASSEBAUM, Senator JEFFORDS, Senator DURENBERGER, and Senator GREGG on the Committee on Labor and Human Resources.

This bill is a major reform in Federal aid to help improve elementary and secondary education throughout the Nation. It is the most important reauthorization of ESEA since that landmark act was first passed in 1965.

It is a very significant step forward, because it puts the Federal Government squarely behind the reform efforts that are taking place in States and school districts throughout the country. The truly innovative feature of this legislation is that it encourages these local reforms without dictating them from Washington.

Much of the opposition we are going to hear this morning is an attempt to suggest that we should have done more on school prayer. But I believe a solid majority of Senators will agree that this bill contains strong provisions on school prayer. No Federal funds under this bill will go to any school district that fails to safeguard a student's right to constitutionally protected prayer as defined by a court. That compromise does not go as far as Senator HELMS would like, but it is a reasonable solution that strikes the right balance on this sensitive and important issue.

Make no mistake. Those who vote against ending this filibuster are voting against education. They are voting against an increase in Federal aid to hard-pressed local schools. They are voting against teachers and students. They are voting against major reforms and improvements in the most important Federal assistance for schools in every city, town, and village in America.

First, this bill creates a new Title I Program based on high standards for all students. Over 90 percent of the school districts in the country have been receiving these funds for years. But their use has been focused on bring some low-income children only up to the standard of other low-income children not in the program. This misguided emphasis has had the unintended effect of creating thousands of separate, watered-down programs that have been found ineffective. We set our sights too low.

The core of this bill will scrap that dead-end low-standard approach and establish high academic standards for all students. It will hold disadvantaged students to the same standards that all other students are held. Why should we target disadvantaged children for special aid, and then educate them to a lower standard than other children? The American dream is open to all. Education is the key that opens the golden door, and this legislation can help millions of children use that key the way it should be used.

Second, and related to the first, this bill offers unprecedented new flexibility in the use of Federal funds to achieve this goal. It makes it far easier for schools to serve disadvantaged students in regular classes, rather than in separate, pull-out classes. For too long, for example, too many students have missed out on regular reading classes, because they have been pulled out for low-level drills.

Half the teachers in these classes have not been teachers at all, but uncertified teacher's aides. This reform will enable schools to end this practice and use Federal funds for all students.

In addition, there are also important new waiver provisions as well, which will enable schools to request exemptions from particular requirements of programs if they can show in their plans how the needs of the students can be met in other ways.

Third, this bill offers an unprecedented new investment in the Nation's teachers. All of title II in the bill is dedicated to professional teacher development. It makes no sense to provide Federal aid for education, and then neglect the single most important part of any education program—the teachers. This bill offers generous new support for the Nation's teachers, and will help them learn new strategies that will enable their students to reach higher academic achievement.

Fourth, the bill encourages the use of modern technology in the schools. Technology is transforming all sectors of our economy, from health care to manufacturing to retailing. Yet most public school classrooms lack even a telephone, let alone a computer. If students are to acquire the skills they will need to function effectively in tomorrow's workplace, we must give them the opportunity to work with today's technology in their schools. Title III of the new ESEA is a new education technology program that will help the poorest schools pay for new computers and electronic network links, and encourage the development of new educational software and programming.

Fifth, the bill offers new Federal support for violence prevention. It makes substantial improvements in the Safe and Drug Free Schools Program. Violence prevention becomes a key element of all programs. The new provisions also set measurable goals, such as a decrease in drug use, violent behavior, and illegal gang activity.

Sixth, the bill improves current bilingual education programs. The new provisions focus on English-language skills and on how all the students meet high standards—rather than how many years they stay in the program.

It also creates several worthwhile new programs important to many of us in Congress, such as charter schools, character education, and incentives to lengthen the school day and school year.

Seventh, the bill makes substantial grants available for school construction. For the first time, the Federal Government is finally recognizing the third-world conditions in which thousands of children go to school every day. For the first time, real Federal help is on the way.

Finally, and by no means least, this bill contains a better formula for targeting Federal funds to schools most in need.

For the first time in the ESEA's 30-year history, significant changes are made in the formula to do a better job of carrying out the historic purpose of the landmark 1965 act, to target Federal aid to schools and pupils who need help the most.

The formula is phased in so that the changes will take place gradually and enable school systems to adjust to the changes. For the next 2 years, virtually every school district in the country is guaranteed at least as much funding as it currently receives. In later years, funds are increased for districts in a formula that has the greatest increases for districts with the highest numbers and concentrations of poor students.

In my view, this formula is our best effort to act responsibly in the highest interest of our Federal system. Some States will gain, and other States will not do as well a they hoped. It is true that many States will not do as well as if the current formula is retained.

But the current formula is badly flawed, and it would be irresponsible to continue it. The new formula is a fair compromise that makes better use of scarce Federal dollars by better targeting funds to States with the greatest need, while mitigating the dislocation to States that have benefited for so long from the old, failed, and flawed formula. No States will lose unduly, and the Nation will gain immensely.

For all of these reasons, I urge the Senate to end this senseless filibuster and approve this legislation. It is a bill that all of us, Republicans and Democrats alike, can be proud of, and proud to take home to our constituents as one of the genuine bipartisan achievements of this Congress.

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with provisions of rule XXII of the Standing Rules of the Senate hereby move to bring to a close debate on the conference report to accompany H.R. 6, the elementary and secondary education bill:

George J. Mitchell, Daniel K. Akaka, Max Baucus, Harris Wofford, Carl Levin, Claiborne Pell, J. James Exon, Barbara Boxer, Jay Rockefeller, Daniel K. Inouye, Byron L. Dorgan, Howell Heflin, Harry Reid, Joseph I. Lieberman, Patty Murray, Dianne Feinstein, Russell D. Feingold.

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived. The question is: Is it the sense of the Senate that debate on the conference report accompanying H.R. 6, the elementary and secondary education amendments bill, shall be brought to a close? The yeas and nays are required.

The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER (Mr. CAMPBELL). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 75, nays 24, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—75

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Hatch
Hatfield
Heflin
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Specter
Warner
Wellstone
Wofford

NAYS—24

Bond
Brown
Coats
Cochran
Coverdell
Craig
Danforth
Dole
Faircloth
Gorton
Gramm
Grassley
Helms
Kempthorne
Lott
Mack
McCain
McConnell
Nickles
Shelby
Simpson
Smith
Thurmond
Wallop

NOT VOTING—1

Stevens

So the motion was agreed to.

The PRESIDING OFFICER. On this vote, the yeas are 75, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. KENNEDY. Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, the Senate has spoken decisively and I hope now that we could move to early conclusion and the passage of this vitally needed education program that has demonstrated bipartisan support.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER (Mr. FORD). The question is on the adoption of the conference report. All in favor, say aye?

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk call the roll.

Mr. KENNEDY. Mr. President, there is obviously a quorum present.

The PRESIDING OFFICER. The Senate being under cloture, the Chair is authorized to note the presence of a quorum and I do note that a quorum is present.

The question now is——

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the conference report accompanying the Elementary and Secondary Education Act occur at 5:30 p.m. today, and that the time between now and then be equally divided in the usual form and under the control of the majority leader and minority leader or their designees, and that the time for the cloture vote on the conference report accompanying S. 349, the lobbying disclosure bill, be set by the majority leader following consultation with the minority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I thank my friend, the distinguished Republican leader for his cooperation. I designate Senator KENNEDY to manage the time on our side. Senators now should be aware that a vote will occur on the education bill at 5:30 p.m. today. I thank my colleagues for their cooperation. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Who yields to the Senator from North Carolina?

Mr. HELMS. Mr. President, I am authorized by the minority leader to designate myself.

The PRESIDING OFFICER. The Senator from North Carolina may proceed.

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, 10 or 12 years ago there was an expression in the Senate, "Win another one for the Gipper." This vote this morning was "Win one for Bill." And Bill even came up to the prayer breakfast this morning, Mr. President, and he shared with those present a few opinions about who was demonizing whom, I understand. But in any event, we have witnessed a remarkable degree of discipline on the other side, and I congratulate him.

And now the American people will be the ultimate judge of what happened this morning—not only with regard to the wisdom of putting more and more responsibility for education in the hands of Federal bureaucrats here in Washington, but also about cementing in the bill, Senator KENNEDY's version of a "do nothing" prayer amendment—an amendment which he worked out with Senator KASSEBAUM and others to thwart the will of 80 percent of the American people who want voluntary prayer returned to the classrooms in America.

As I was saying this morning, all of us are doing a lot of thinking these days in terms of the problems plaguing this country, and on occasion I reflect that I am glad I was born when I was, between the two world wars. I was a child during the Great Depression. As a result of that, I have seen, I suppose, the best of America in terms of people's character and their will to practice personal responsibility.

Those were also days when a Federal bureaucrat in Washington, DC, could not dictate to a local principal or superintendent or school board. But some years ago, those who believe there is such a thing as free money from Washington arranged to get the camel's nose under the tent by dreaming up something called Federal aid to education. They did not realize that what they are doing when accepting Federal aid is the same as getting a transfusion from one of their arms to the other—spilling a good part of their blood in the process.

Mr. President, the Federal Government has no money to dish out. The

Congress has no money to deliver to constituents back home except the money taken from the constituents in the first place.

So, what has occurred over the 30 years or so has been a disintegration of the kind of Government Thomas Jefferson and others—whom we refer to as the Founding Fathers—envisioned when they pledged their lives and their property to make this Nation possible. Thomas Jefferson probably spins in his grave every time we pass a bill—such as this one—to increase and expand Federal control over State and local governments. What Thomas Jefferson said about the least government being the best government will be pushed aside again—as it is time after time—this afternoon when this bill passes.

And yet there will be Jefferson-Jackson Day dinners all over this country—just as there are Lincoln dinners. But to tell you the truth, I like Thomas Jefferson better than I do Abraham Lincoln. Of course, both of them were pretty good Americans. But Thomas Jefferson is sort of a hero of mine because he understood the nature and character of man. He also understood the meaning of tyranny. And he certainly understood freedom—and all of the responsibilities and sacrifices required of those who want freedom.

Mr. President, thoughts about the future of our country and the state in which it now finds itself, go through my mind with increasing intensity when I think about my three children and seven grandchildren who are very special to me. I shudder sometimes when I think of what may lay ahead for America and for them. I am very proud of them. But when I compare what they face in the future with the good life that I enjoyed so far, I cannot help but feel I got the better deal. Now we were poor as church mice when I was a boy, but I did not know we were poor at the time.

Mr. President, votes such as the one we had this morning puzzles me. Here we are in an America that is in the midst of an historic struggle for survival in terms of restoring traditional values, family values—whatever you want to call them—and then we vote down time after time every attempt to restore those values. The struggle in this Nation—as a very fine editor out in Oklahoma wrote 20, 25 years ago—is for the soul of America.

That is what we are struggling through right now. You can stand on the Capitol steps and almost throw a rock into neighborhoods where you cannot walk at night because of the violence that takes place nightly. As Members of Congress, we pass great big expensive crime bills—but they do no good. Then we go home and say, boy, we really took care of it this time. There is not going to be any more crime because we are going to kill it with money. We are going to appropriate enough money to solve this problem.

Mr. President, we have been passing crime bill after crime bill almost ever since I came here in 1973. And what has been the result?

There is more crime than ever before, and crimes are more heinous than ever before. There has been, in short, an absolute disintegration of morality.

For instance, we now have homosexuals dictating what the Agriculture Department of the U.S. Government can and cannot do in personnel matters. But, what does the media write about? It is like a ship passing in the night. They are too busy reporting on imaginary conspiracies of the so-called "religious right." They are not interested or they do not care about the disintegration of America—and I say that as one who comes from the news media. Fortunately, there are more and more Americans every day who are aware of what is at stake.

Mr. President, I have met with several groups in the last 10 days. One of them was the Concerned Women for America. They know what is going on because they have an organization that furnishes them with information on a constant basis.

These women, as individuals, are now getting involved in specific political campaigns. I am glad to see them do it. They are operating phone banks already in certain States where Senators are running for reelection. They have targeted those Senators who have trampled on traditional values time after time. Some of them have winked and nodded in conference and helped plow under the Helms-Lott school prayer amendment even though it was adopted overwhelmingly—and approved overwhelmingly—by the House and the Senate. One Senator running for reelection has done that kind of thing over and over and over again.

But these ladies operating the phone banks—on their own time—are getting involved and they are making calls to voters because they are sick and tired of all the crime, the blatant pornography which some people call art, the mediocre schools, and especially the politicians who cater to every fringe group and perverted lifestyle. It may not happen in this year's election, but there is a growing realization, and I pray that it grows even more, that Washington is the problem and not the solution to America's concerns.

As I said this morning, Reader's Digest published an article a year or so ago which was titled "Let us Pray." In that article, Reader's Digest reported the results of a poll taken by the Wirthlin group—which is a widely recognized and respected polling organization. The Wirthlin folks found that 75 percent of the American people strongly favor prayer in the public schools and want it restored.

Mr. President, the subtitle of that Reader's Digest article was what caught my attention. The article said at the top "Let Us Pray," and then right below that in smaller print it said, "Why can't the voice of the people be heard on prayer in schools?" Why indeed, Mr. President? Well we just had a manifestation of why right here in this Chamber this morning.

The Reader's Digest pointed out that opinions in favor of school prayer "were expressed by Democrats, Republicans, blacks, and whites, rich and poor, high-school dropouts and college graduates—reflecting a profound disparity between the citizenry and the [Supreme] Court."

Yet, despite this massive outcry, the liberals in Congress and in the media claim that the Constitution somehow forbids governmental establishment of religion, and, ipso facto, prayer in school cannot be permitted. Horsefeathers.

Of course, they never point out that the Constitution specifically forbids governmental restrictions on the free exercise of religion. You never hear that mentioned. But they talk incessantly about separation of church and state even though it is not even in the Constitution. The first amendment says "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." It certainly does not say anything about separation of church and state.

Something else the Constitution says that nobody mentions very often. The Constitution protects students' rights to free speech, whether religious or not, and that student-initiated, voluntary prayer—expressed in an appropriate time, place and manner—has never been outlawed by the Supreme Court. But try telling that to school principals and school superintendents—or the teachers' unions.

But back to the question asked by Reader's Digest: "Why can't the voice of the people be heard on prayer in schools?" The simple answer is that many of the Nation's politicians have deliberately mislead, and continue to mislead, the voters about where they really stand on the issue of school prayer. Oh, they go home and say, "Yes, ma'am. Yes ma'am. I favor school prayer," and then they come right back up here and vote for cloture on this bill. They come right back up here and pass the Goals 2000 bill as they did back on March 25–26—after their fellow liberals knocked off school prayer in conference.

Mr. President, most of the education bills were altered by one Senator in conference, one Senator who in effect said, I am not going to have school prayer. And he has made some comments in the past to the effect that it does not matter how the House and Senate vote; that House and Senate votes are meaningless and he will do as he sees fit in conference.

I do not know if that is the case under the Senate rules. But, I do know that for any Senator to say that is arrogant. I also know that politician after politician—when they are in Washington—knowingly and willingly allow their leadership to beat back the restoration of voluntary school prayer time and time again.

It does not matter how hard DAN COATS works, or TRENT LOTT, or anybody else. It does not matter how many votes are cast in favor of the restoration of school prayer. This one Senator, in a conference between the House and the Senate, winks and nods, and out school prayer goes. And they substitute some intentionally meaningless language for it and then receive awards from the ACLU and other liberal groups for cleverly blocking school prayer again.

Mr. President, school prayer has been killed not once, but twice this year—both times despite overwhelmingly strong votes, 3 to 1, in favor of it in both the House and Senate. But I have to say again, as one who made his living in and with the news media for most of my life—save 4 years in the Navy during World War II—the news media just will not tell the whole truth about what goes on in Washington and where politicians really stand on this issue. They will not do it this time.

We have three guys and one lady sitting up there in the press gallery. I will bet you they will not give the other side—and if they did write it, their superior will knock it out. So the liberal leadership in the Congress is permitted to beat back school prayer time after time, and it is just like that ship passing in the night, it gets just a fleeting mention with no specifics and that is it.

The same is true about how Dr. Mertz, the USDA employee down in Atlanta, has been treated. You cannot find a line in the newspaper, nor a syllable in a newscast, about how this man committed an unpardonable sin in a television interview while he was off duty in Biloxi, MS. He had just attended a USDA conference where officials discussed plans to indoctrinate USDA employees in homosexual propaganda and to extend special rights to homosexuals in the workplace. The reporter asked what he thought of the proposed new policies and he responded—and I think this is verbatim—"At a time when we ought to be reaching for Camelot, we are instead grasping for Sodom and Gomorrah."

Before nightfall, Dr. Mertz was removed from his job—a job in which his work had been praised time and time again, formally and informally, for 7 or 8 years. His superiors moved him over to a do-nothing job, just sitting there.

Well, I heard about it and I called him up. He told me the story and I checked on it. What he told me was entirely accurate, USDA did not dispute it at all. So, I called the Secretary of Agriculture—soon to be the former Secretary of Agriculture—Mr. Espy, and told him about this and he said he would look into it. But I did not hear from him for quite a while. So I wrote him a letter and I said, "You are too nice a guy to be trapped in this sort of a mess. Reinstate this man Mertz and then give him a public hearing—a public hearing—so the homosexual militants cannot try him in private. Let him be heard in a public hearing where he can tell his side of the story, and anybody who wants to testify against him can do so as well."

Well, I got nothing from the USDA in response to that letter—nothing. So I put holds on every piece of Agriculture Department legislation that was on the Senate calendar and I sent word to the USDA that my holds are not coming off until you treat Dr. Mertz fairly. Well, that woke them up and we negotiated back and forth. They wanted this condition and that. I said, "Just be fair to Dr. Mertz; reinstate him pending a public hearing at a place of his choice; and then I will give you what you want."

You know, the night before last, I finally got a letter, hand delivered from Secretary Espy, agreeing in writing to do what I said he ought to do from the outset. I took the holds off the legislation and the nominations, and they were approved.

Mr. President, the homosexuals can climb up on the top of my house, as they did one time, and hoist up a 35-foot canvas condom, but they are not going to deter me. And to the best of my ability and to the limit of my strength, they are not going to successfully take over any Department of the Federal Government without my raising hell about it. I give the people of America my word about that.

Now, Mr. President, Senators who voted for cloture a while ago—and a lot of them are my good friends, most of them—but I have to say to my good friends who voted for cloture: You are not a true friend of restoring voluntary school prayer. You did what the President wanted you to do. You did what your leader told you to do. But you did not help the cause of restoring school prayer.

Let me go back and review what happened earlier this year when we had another Federal education bill—the Goals 2000 bill—before the Senate. I was somewhat encouraged back on February 3 when the Senate voted by a margin of 75 to 22 to approve an amendment offered by Senator LOTT of Mississippi, and this Senator from North Carolina, to prevent public schools from prohibiting constitutionally protected, voluntary, student-initiated school prayer. Oh, you know that was an easy vote.

But there was one Senator who winked and nodded and said: Go ahead and vote for it, I will take care of it in conference. Well, it was made a little stickier for him to do that, I thought—dumb old me—when the House voted 367 to 55 to instruct the House conferees on the Goals 2000 bill to keep the Senate's Helms-Lott amendment in the bill in conference.

But then came March 17 and, Mr. President, despite the 75-to-22 vote in the Senate, and the 367-to-55 vote in the House of Representatives, in favor of the restoration of voluntary school prayer, one Senator and a few of his liberal friends from the House, dropped the Helms-Lott amendment. By every honorable tradition of this Congress, that was not permissible, because there used to be an understanding—and I have served on many conference committees between the House and Senate—that whatever you do to an amendment in conference has to be within the scope of both the House and the Senate version of the legislation.

But, not anymore. It just takes a wink and a nod between one Senator and his counterpart from the House, and they can drop an amendment voted for overwhelmingly in both Houses and put in its place ridiculous do-nothing school prayer language—written by Congressman Pat Williams—which neither body had ever seen, much less voted on.

Of course, I was dismayed when the Goals 2000 conference did that, and so was Senator LOTT from Mississippi. Our amendment had been dropped in the last 60 seconds of the conference between the House and the Senate. Everybody else had gone home and then came that wink and a nod: "How about this, Senator?" "How about this language?" "Yes, that suits me fine. Put it in there." And the deed was done.

But there was nothing in the media about that. That is OK. See, a liberal did it—so it is OK. The Senator from Massachusetts and his counterpart on the House side had prearranged to drop the Helms-Lott amendment and replace it with do-nothing language. The following Monday, March 21, the House of Representatives refused to add that do-nothing language—by a vote of 179 to 239.

The distinguished majority leader comes in and says the Senator from North Carolina cannot have his way, and so forth and so on. But, I am not insisting on having my way. I am insisting that the House and the Senate ought to have their way when they pass amendments overwhelmingly.

The Senator from Massachusetts does not own this Senate. There should not be a process which enables any Senator, or any Member of the House of Representatives, to ignore the will of the majority of both Houses. But that is what happened on both the Goals 2000 education bill, and on H.R. 6, that is before us now.

Mr. SIMON assumed the chair.

Mr. HELMS. The Goals 2000 conference report, with the "do-nothing" language in it came back on the Senate floor for approval on March 25. That was right before the Easter break. It also happened to be the birthday of Mrs. Helms.

At that time, some of us were highly critical of what had gone in conference with the Helms-Lott amendment. But the distinguished majority leader kept the Senate in until after midnight so as to impose cloture on the discussion of the Goals 2000 conference report.

He managed to do it because Senators wanted to get home for Easter. They had plane reservations and everything all set to go home for the holiday.

But perhaps the Senator from Massachusetts has it right when he said—as he was quoted as saying in the Washington Post—that the Senate vote on an issue is meaningless as long as he presides over a conference between the House and the Senate.

He was not elected, and I was not elected, to do that kind of thing, or to take that kind of position, or adopt that kind of attitude. I shall never do it.

I do not mind losing, Mr. President. I am accustomed to it. I try to get a lot of things done to defend moral principles that should survive—and deserve to survive. I win some of them and I lose some of them. But I do mind losing in the way that school prayer has been defeated this year. And I resent the way one of the reporters in one of the papers put it, that bills were being held up by so trivial a matter as school prayer. Trivial? Ask 80 percent of the American people if it is trivial.

I can even respect the Senators—and do respect them—who disagree with me on this issue and are straightforward about it. A number of Senators who I count as close friends vote against me on a number of things. But the point is that the voters deserve to know where their Senators stand on issues—and what happened on school prayer this year keeps the voters from finding out.

And that is the reason I am so pleased that women's organizations, a number of them, are working on phone banks between now and election day in November, because they are calling voters and telling them how their Senators and Congressmen really stand on key issues—and the impact is showing. And I say God bless those women.

Bill Bennett, the former Secretary of Education under President Ronald Reagan, and Lamar Alexander, who held the same post when George Bush was President, held a meeting up here yesterday, and they urged Senators to take a close look at this monstrosity of an education bill and vote against it. But Senators did not take the time to read it, because they had already been instructed by their President, and by their leader, to vote this thing through and to vote for cloture. And they did it 75 to 24.

However, the American people, if I have anything to do with it, are jolly well going to find out how everybody voted on this issue—and where they really stand on school prayer.

I do not know how many years I have remaining. By all actuarial odds, I have been going downhill for a long time. Anybody who is 73 is in that fix. But I will say that I feel mighty good for that age. And then I look at STROM THURMOND and I say I have a lot of years ahead of me.

When Bill Bennett came by not long ago, he commented to me that America has become the kind of country that civilized countries once dispatched missionaries to centuries ago—that is to say we are becoming more and more uncivilized every day, and we are approaching the character of countries to which, for years and years and years in the past, we sent missionaries.

Mr. President, if we really care about cleaning up the streets and the classrooms, if we care about the long-term survival of our Nation, is there anything more important for the Senate to protect than the right of America's children to participate in voluntary, constitutionally-protected prayer in school?

My friend from Illinois, who is presiding over the Senate right now, will acknowledge that this Senate begins its daily session with a prayer. True enough, not many Senators show up for it, but it happens. So does the House of Representatives and the courts. The members of every one of those branches of Government take their oaths of office on the Bible.

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

They do it so fast in school that children say, "What did they say?" It has become a ritual without meaning.

Now, I noticed a number of Senators predicated their votes on how much money their respective States were going to get out of the pot of money this bill hands out. Boy, with all due respect to any Senator, to pass judgment on a piece of legislation solely on such a basis tells you something about the political process in this country.

Well, we already spend more money per pupil than any other industrialized country in the world and what has it bought? We have the lowest math scores, the lowest English scores, and the highest crime rate of any of our major trading partners. And this has happened to education since Federal aid to education began. We should be No. 1 based on the hundreds of billions of dollars we have spent on education in this country at the Federal, State, and local levels.

The point being, Mr. President, we can spend all the money we dare tax out of people and it is not going to improve our children's achievement, or happiness, or well-being one whit unless and until we take traditional morality out of Government-imposed exile and bring it back and put it back in the place of prominence and give it the respect it once enjoyed in our lives and in our schools.

Michael Novak said it pretty well. Michael is with the American Enterprise Institute. He said:

> There is no issue in American life in which the public will is so clear and the political establishment is so heedless. The cultural and political elites have simply ignored the overwhelming support of the American people for voluntary school prayer—indeed for the role of religion and faith in the Nation's life.

And he is exactly right.

And, of course, every schoolboy knows about George Washington's counsel 200 years ago or more. He said:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

George Washington said that, and it is as relevant today as it was when he said it.

Mr. President, may I inquire how much of my 1 hour of time I have used?

The PRESIDING OFFICER. The Senator from North Carolina has spoken for 40 minutes.

Mr. HELMS. For 40 minutes?

The PRESIDING OFFICER. Forty minutes.

Mr. HELMS. I thank the Chair. I believe that I will reserve the remainder of my time and yield the floor so somebody else can speak.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

Mr. President, I rise in support of this important education bill. I know that the Senator who is presiding played a very important role in that bill.

I was very pleased to see my Republican friends decided to join with the Democrats, although not a majority of them, and vote for cloture so we were able to get on with this debate.

I agree with the Senator from North Carolina on one statement he made, and that statement was that the American people will be the judge on this particular issue. And that is correct. The American people will be the judge. The American people will decide if education is an important issue. The American people will decide whether they want to have gun-free schools and safe schools and schools that foster quality education. They will decide, and they will watch and they will judge, because we will cast a vote today.

You know, I really have to say, I was so pleased that I had a few minutes to speak before the cloture vote and make a couple of points on school prayer. I want to again underscore those points.

I think that any reasonable person who has followed this debate on school prayer would support the language in this bill. And what is very interesting to me, Mr. President, is that the language in the bill that survived the conference between the House and the Senate is in fact the language that passed this Senate overwhelmingly with more than 90 votes.

So it is very difficult for me to understand why the Senator from North Carolina is upset about the prayer language that is in this bill. I know the Senator believes in democracy. He believes that majority rules. And yet, on his prayer amendment, he could not prevail in this Senate. He failed.

Senator KASSEBAUM, my Republican friend from Kansas, put on her thinking cap and came forward with an excellent amendment. It got almost unanimous support. You do not usually see amendments getting in excess of 90 votes. This is the amendment that survived conference and comes back here to us, and the Senator from North Carolina says, essentially, this is a terrible job done by the chairman of the committee, Senator KENNEDY. This is terrible.

Senator KENNEDY prevailed. He got the Senate's position on prayer. And it is a sensible provision.

All this talk about needing to debate this issue until 5:30, because the Senator from North Carolina says 80 percent of the people want prayer in schools and this bill does not address it, is, frankly, in this Senator's view, nonsensical. It does not make sense.

The Senate voted for the Kassebaum amendment, which says if a school interferes with constitutional prayer and a court gets involved in it, the school will lose its funds.

The Senator from Massachusetts brings it back as it went from the Senate—by the way, as the occupant of the chair knows, it is very rare that the Senate will prevail like this. There is usually a compromise.

It comes back to us intact. The 93 Senators who voted for it should be very happy. And, I might add, the Senator from North Carolina voted for the Kassebaum prayer amendment. It survived intact. It is in here. And if a court says to a school district, you are interfering with constitutionally protected prayer and there is a court order, that school will lose funds.

Now, what I also find interesting about this debate is that the Senator from North Carolina is very eloquent about how, when he went to school in the thirties, the Federal Government had no role. Those were the good old days. It was terrific. The Federal Government had no role and no Federal bureaucrat ever told a local school official what to do.

But yet, in the Senator's prayer amendment, he gives complete authority to a Federal bureaucrat to withhold funds from schools. I find that really hard to understand. He decries Federal bureaucrats on the one hand; on the other hand, in his amendment, he gives a Federal bureaucrat the right to make the decision if a school is acting in violation of constitutionally protected prayer.

In the Kassebaum amendment, which the Senator from Massachusetts brought back to us, that decision is left to the court and you keep it out of the hands of the Federal bureaucracy.

I think the Senator from North Carolina should be applauding that particular amendment as it came back to us.

When I spoke before the cloture vote, I pointed out that I am a product of public schools, all the way from kindergarten through college. I am a very fortunate person. I am a first generation American on my mother's side. We never owned our own home; I grew up in a little tiny apartment. I am a U.S. Senator.

Today some people might say, "Big deal." I think it is a big deal. I am proud to be here. I owe so much to the people of California for putting their faith in me. I did not go to fancy schools. The kids in my school were mostly first generation Americans.

I was able to get a good college education at a free university, and I was able to get a job as a stockbroker at a time when no women ever did that, because I had the skills. And even though I could not get into a Wall Street firm because they did not hire women, I studied for the exam on my own and I passed it and I became a stockbroker. Why? Because I had the skills I needed to compete because I had a quality education.

I understand it is very tempting for those of us who are pleased with our life to get up and say, "Those were the greatest times when I grew up. Those were the best times. Let us bring back those times."

The Senator from North Carolina wants to bring back, in many ways, the 1930's. He said those were the greatest times. It is a tribute to him that he survived the life of poverty he described to get to the U.S. Senate. But I have to tell you, I am not so sure I want to bring back the 1930's—the Depression years, the years the Senator from North Carolina says were so great to be in school because no Federal bureaucrat was involved.

My dad told me about the Depression years. I was born after the Depression years. He said it was the hardest, hardest times. People were distressed about their lives. People were jumping out of windows and killing themselves, or selling apples on the street to make a living. And they feared for their families and their children. Frankly, it took a Democratic President to get us out of it and give us the hope and the tools that we needed.

Then, in the 1950's, when I was a kid, it took a Republican President named Dwight David Eisenhower to tell us that education was key to our national security. Indeed, he put forward the National Defense Education Act and said: Yes, there is a role for the Federal Government, because if our young people are not educated, do not have the tools, it does not matter how many bombs we have because they will not want democracy and they will not want capitalism—unless they have the education and the ability to rise to the top.

So I think those were good days. Were they the greatest days? Were they perfect days? No. But I think the important point is that each generation has its success stories and its failures. We have to pick the best of each generation before us as we try to legislate for our people. I think what this bill tries to do is discard the things that do not work, to try some new things that might work, and to keep some of the things that have been excellent. And some of those things, by the way, were brought to us by Republican legislators. For example, there is a Javits program in the bill, there is an Eisenhower program in the bill—I will explain those in a minute.

This bill is crucial. We can fight all day about prayer in the school, but the fact remains this is the toughest school prayer language that we have ever voted on, and this is the school prayer language that the Senate supported, including the Senator from North Carolina. I, frankly, am at a loss to understand why he would wish to hold up this bill until 5:30 instead of voting on it now.

Title I, education of poor children, is in here; teacher training in math and science, dropout prevention, school construction and improvement, safe schools, computers for the classrooms—I do not think there is anyone who is alive who has a pulse beat and a heartbeat in America today who does not understand the need for safe schools, the need to get guns out of the schools.

Senator FEINSTEIN and Senator DORGAN did an excellent job of bringing this issue to our attention and we have a gun-free schools provision in this bill. I would say to the Senator from North Carolina, if we could listen in to the prayers of a lot of our kids and their parents, if we could listen in on those prayers, they would be prayers for safe schools and safe streets and safe lives for them. We do something about it in this bill. Let us get it done.

Improving teaching and learning. I told my colleagues before, two Republicans are in this bill by name—the Eisenhower professional development program devotes an entire title to the professional development of teachers, and teachers are key.

Technology For Education. If you have a pulse beat and a heartbeat, if you are alive today, you know our young people need to understand how to use computers. We have some wonderful people in the business world who have donated computers. I have been to schools all over California and seen the excitement on those kids' faces when they learn how to use computers. We cannot go back to the fifties or thirties and say it was great and not recognize the technological revolution we have had in the meantime.

When I was a young mother I started an organization that helped high school dropouts learn skills for the workplace. What were those skills? Answering the phone, learning how to type, and the big thing was to try to get enough electric typewriters at that time. Answering the phone, learning how to type, learning how to use adding machines, basic filing—that was it. Today it is a different story. Computer skills are necessary and this bill answers that need.

Drug-free schools and communities—in this bill.

School dropout prevention programs are in this bill. It costs us so many hundreds of billions of dollars when all these children drop out of school. I do not have to tell the occupant of the chair. He has dedicated his life to education. Let us get on with it.

If we could listen to those prayers, we would also hear from the parents, "I hope those kids stay in school and get that education so they can get a good job."

School construction and infrastructure. We have a terrific woman in our California assembly, Assemblywoman Eastin. She made a wonderful speech once and she said: You know, when our kids go to the store and they go shopping and they look around at the beautiful stores—for example we have Nordstrom's and we have Macy's and other stores—they see the beauty and the cleanliness. Then they walk into their public schools and they are a mess. "What is the message," she asks, "that shopping is more important than schooling?" Perhaps that is the not so subtle message that is getting through to our kids.

Schooling is crucial to their future and the buildings need to be safe and painted and made attractive. They cannot continue to deteriorate. That is part of this bill.

I talked about the gun-free schools. We have seen it too much in California, little kids bringing guns to school, using them to kill themselves or injure other people. We need to do something about it. It is in this bill.

So, let me wind down here. There is no need to delay this vote. We had a terrific vote on cloture. I am so proud of that. But the reason I wanted to speak out is I do not want the people of America who could be listening to this debate to think that this bill attacks school prayer or does not include it. It does. It was a difficult issue for some to come to agreement on. But Senator KASSEBAUM deserves a lot of praise, as I said earlier. I do not think the Federal Government should be involved in telling us where to pray, whether to pray, what to pray, or how to pray. I do not think we need such laws.

As I said, I prayed all through public school. There were times when I was nervous the teacher might call on me and I was not prepared. I did not need a constitutional amendment. I was able to do that. But the fact is we have come to a good compromise here. We have language that is clear.

It says if any school interferes with constitutionally allowable prayer, then the court can issue an order and that school will lose its funds. The good thing about this is that it does not leave it to a bureaucrat or a politician to make the decision, Mr. President. It leaves it to the court. Americans know we have a separation of church and State. There is a fine line, and the court will decide if that fine line is being crossed. That is the way we should legislate and make sense out of these difficult issues. That is what Senator KASSEBAUM did.

So I hope the American people who are watching this debate understand that the issue of school prayer has been dealt with very fairly; that the chairman of this committee brought back exactly what the Senate told him to do. I do not think that was easy. This is a complex issue. But the Senator from Massachusetts brought this school prayer language back the way the Senate voted for it, and he should be praised for that.

This bill is worthy of a lot of praise. What could be more important than educating our young people? It is not a Democratic issue or a Republican issue, it is an American issue. We all know that with a great education you can rise to the top in this global economy, and that is all we want for all our children.

So, I thank you, Mr. President. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

Mr. SIMON. Madam President, this Elementary and Secondary Education Act contains a number of things that are important to our Nation. Let me just mention one that I think could have a real impact on our future.

The Senate was good enough to accept an amendment that I offered, cosponsored by Senator PELL, Senator BYRD, Senator JEFFORDS, and I am sure I am leaving off some, that when it passed the Senate would have authorized $100 million to schools that go from 180 days to 210 days.

Right now in Japan, they go to school 243 days a year. In Germany, they go to school 240 days a year. We go to school an average of 180 days a year. Why do we go 180 days a year? In theory, it is so that our children can go out and harvest the crops. The Presiding Officer is from Marin County in California. There are not too many children going out harvesting the crops there. I live in rural southern Illinois. My address is Route 1, Makanda, IL, population 402. That is as rural as you get. Even in rural Makanda, IL, there are not very many children going out harvesting the crops. That was another era, and yet we have not adjusted our schools to the current reality, that we have to be competitive with the rest of the world.

If we were to go from 180 days in a school year to 210—and we would still be well behind Germany, Japan and many other nations —that would, over the course of 12 years of school, mean you get 2 more years of school. This may not be a popular move with the pages who are here, and some young people and maybe some teachers who are watching this, but the reality is, we cannot learn as much in 180 days as our friends in Japan, Germany and other countries learn in the longer period. That is the simple reality.

One other benefit of going to 210 days, particularly in elementary school when you have a 3-month hiatus, you forget what you learned in the third grade and when you start the fourth grade, the fourth grade teacher has to spend a lot of time reminding people what they learned in geography, in math, English, or whatever it was.

By having this additional money—and in conference the $100 million was compromised to $72 million, and I understand that is what conferences have to do. We cannot all get everything we want. In a Nation of 250 million people, that is not very much money, but it is a little carrot out there for school boards and school administrators and PTA's to start talking about are we really doing the right thing by our young people by having school 180 days a year? This is a step forward.

I have written about the need for a longer school year, and the intent of my amendment, in a column I publish weekly. I ask unanimous consent that the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

LONGER SCHOOL DAYS WOULD BOOST U.S. STANDARD OF LIVING

(By Senator Paul Simon)

Without fanfare, the United States Congress has adopted a small amendment to the

Elementary and Secondary Education Act that could have a far-ranging impact on our nation.

A few weeks ago the Senate adopted an amendment I proposed—co-sponsored by a bipartisan group of senators including Claiborne Pell, Robert Byrd, Herb Kobl, Jim Jeffords, John Chafee and Carol Moseley-Braum—authorizing that $100 million a year be given to schools that move from our present 180 school days a year to 210 days a year. The dollars were reduced in conference with the House of Representatives to $72 million, not a large amount in a nation of 45 million elementary and high school students, but enough to start us on the road to improvement.

It is enough to get school boards and school administrators across the nation talking about our problem.

In Japan, students go to school 243 days a year, in Germany 240, and in most other industrial nations numbers that are greater than ours. Can we learn as much in 180 days as they do in 240 and 243? Obviously not.

Why do young people in our nation attend only 180 days? In theory, so that they can go out and harvest the crops. Even in smalltown, rural America—where I live—that is not true for most young people. Our world has changed, but our educational system has not changed.

The schools that move to 210 days in order to qualify for the extra federal dollars will find that their students learn more, and do better, whether they go on to college or not.

Increasing attendance from 180 days to 210, still far behind Japan and Germany, is the equivalent of adding two additional school years of study by the 12th grade.

The few who will lead on this, and see their students do better on the average than other American students, will soon be followed, I believe, by many other schools who recognize the improvement such a change will bring.

This is not the federal government forcing any local schools to do anything, but it is a message from the federal government that if we want our young people to compete with the rest of the world, we will have to be better prepared.

Increasingly, we will compete with others either with better prepared personnel, or lower wages.

The answer to what we should do is obvious, but we're not doing much about it. This legislation is a start.

Some months ago, in one of the committees on which I serve, we heard the story of a U.S. corporation trying to decide where to locate a small manufacturing plant. Their choices: Mexico, the United States or Germany. Mexico had the advantage of the lowest wages, the United States of better prepared workers than Mexico and lower wages than Germany, and Germany—with better trained workers and an average hourly manufacturing wage now $6 higher than the United States. They chose Germany because the workers are better prepared.

Recently, I visited Motorola headquarters, located in Illinois. Motorola is adding workers at its Libertyville, Ill., plant and they require that applicants be at least high school graduates. Motorola then tests them but finds only 1 in 10 applicants meets its minimum requirements.

Motorola also has plants in Scotland, Germany, Japan, Singapore and Taiwan. In those countries they do not even give the tests, because they find the educational background of the workers has prepared them adequately.

The lesson for us should be clear. We're going to have to do much better. A 210-day school year is not the sole answer, but would be a step toward doing better.

Mr. SIMON. Madam President, this bill is also important in that it begins to lead us in the direction of better targeting of chapter 1 funds. While I would like to have seen the funds focused to an even greater degree on children living in areas with high concentrations of poverty, the new formula is an important step in the right direction. Editors of the Chicago Tribune wrote cogently on this subject in an editorial published 2 days ago. I ask unanimous consent that their comments be reprinted in the CONGRESSIONAL RECORD.

Thre being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 3, 1994]

CHAPTER 1 STILL MISSES THE MARK

In its inimitable way, Congress has once again passed up an opportunity to make a significant change for the betterment of all in favor of a modest change for the political comfort of a few.

There was cause for celebration when in August, the Senate approved a measure that would reallocate Chapter 1 education funds for disadvantaged children so that the money would be going to the poorer school districts that need it most.

So-called Chapter 1 funding, established 30 years ago as a tool against poverty, was intended to boost the learning levels of poor children through enhanced, specialized educational programs. But by last year, 9 out 10 school districts in the country were getting a portion of the almost $7 billion annually provided under Chapter 1. Many schools didn't need the money; many schools needed far more than they got.

The reallocation measure, spearheaded by Sen. Paul Simon (D–Ill.) and passed by the Senate, excluded from the funding pool schools where fewer than 5 percent of the students are poor. Such a sensible step would restore Chapter 1 to its original purpose of targeting at-risk children for special help.

Under Simon's proposal, Chicago schools would have received an additional $183 million in Chapter 1 funding. True, communities like Highland Park and Palatine would have lost their funding, but Chapter 1 was never designed to enhance educational programs in the nation's upper-middle-class suburbs.

Unfortunately, a House-Senate subcommittee, last week gutted the measure, moving the student poverty cutoff from 5 percent to 2 percent and, thus, restoring to eligibility many communities that don't need anti-poverty funds and—more to the point—letting off the hook many politicians who didn't want to see schools in their districts uncoupled from the gravy train.

But there is good news, as well. A portion of the original bill—which would have penalized states for not allocating enough money for education and not distributing it equitably—has been reworked to reward states that provide adequate funding for schools and do it most equitably.

Offering incentives for states like Illinois to do the right thing in school funding is far more productive than withholding funds, a tactic that would ultimately harm the schools most in need.

And if the committee's funding formula passes the House and Senate, Chicago schools still stand to benefit from the change, as will other needy districts throughout the country—just not as much as they could have if the narrow vision of political gain had not won out over the larger goal of a better education for a new generation of Americans.

Mr. SIMON. Second, Madam President, we are at that point in the session where we are kind of getting bogged down and tempers are a little short and we want to get out of here. Humanity is inconsistent. We work like mad in California or Illinois to get elected, and then after we get elected, we want to get out of here.

One of the things that I think has been lost for this past 2 years is that while we did not do what I think we should have done in health care and some other things, in the area of education, there really has been substantial improvement. The Goals 2000 bill has been talked about and talked about somewhat negatively. Here I just remind those who think the Federal Government is trying to impose curriculum and standards on States, that Goals 2000 simply says to the States: You establish your own goals. You establish the standards. The Federal Government does not do that.

That bill has passed. And whole series of things passed. The school-to-work legislation and the Direct Lending Program, which is just catching on in our colleges and universities, now will be of great help to students in the future. Five percent of the colleges and universities have it this year; next year it will be 40 percent.

A person who deserves great credit, along with Senator PELL, the chair of the Subcommittee on Education, is the chairman of our full Committee on Labor and Human Resources, Senator KENNEDY. He has been a real leader in this whole field of education. He and the people of Massachusetts and the people of this Nation can be proud of what Senator KENNEDY has contributed through his leadership in this field of education.

I ask unanimous consent, Madam President, to print in the RECORD the list of the nine major bills, and a brief description of them, that have passed the 103d Congress.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EDUCATION AGENDA OF THE 103D CONGRESS

LEGISLATION ENACTED FROM THE LABOR AND HUMAN SOURCES COMMITTEE

1. *Human Services Reauthorization Act of 1994, S. 2000—PL-252:*

Authorizes $30 billion in appropriations for fiscal years 1995–1998 to carry out the Head Start Act and the Community Services Block Grant Act. Expands Head Start to reach all eligible children, and guarantees $1 billion over five years for new initiatives to reach pregnant women and young children in the 0–3 age group. Reauthorizes other essential programs including funding for Community Action Agencies, Community Development Corporations, and the Low Income Home Energy Assistance Program.

Date enacted—May 18, 1994.

2. *Goals 2000: Educate America Act, H.R. 1804 (S. 1150, originally S. 846)—PL 103–227:*

A. Standards and School Reform—Authorizes nearly $5 billion in grants over the next five years for local schools to carry out their own locally developed school reform programs. Encourages the development of voluntary standards for school courses so that parents and local communities will know what students should learn in core subjects such as English, history, math and science. Also, supports teacher development and training to revitalize teaching in American schools, and provides greater and long overdue flexibility in the use of federal dollars to support schools and students.

B. National Skill Standards Board (Title IV)—Establishes standards for skills training.

Date enacted—March 31, 1994.

3. *Safe Schools Act of 1993, S. 1125 (Incorporated in H.R. 1804, Goals 2000: Educate America Act)—PL 103–227:*

Supports efforts by local school systems to achieve Goal Six of the National Education Goals,which provides that by the year 2000, every school in America will be free of drugs and violence and offer a disciplined environment conductive to learning.

Date enacted—March 31, 1994.

4. *Office of Educational Research and Improvement Reauthorization Act of 1993, S. 286 (H.R. 856) (Incorporated in H.R. 1804, Goals 2000: Educate America Act)—PL 103–227:*

Reauthorizes funding for the Office of Educational Research and Improvement which coordinates and disseminates information on successful school reform strategies.

Date enacted—March 31, 1994.

5. *Improving America's Schools Act (H.R. 6) (Elementary and Secondary Education Act Reauthorization):*

Reforms the major federal aid-to-education program, the Elementary and Secondary Education Act (ESEA), building on the reforms of goals 2000. Provides over $60 billion over the next five years for local education and targets new funds to middle and low income communities that need it most. Eliminates bureaucratic restrictions that have hindered the use of ESEA funds for school wide reform. Under the proposed reforms, teachers, parents and administrators will have the power to decide how federal dollars can be used most effectively to promote local school reform and provide a stronger education for disadvantaged students.

House agreed to the ESEA Conference report on September 30, 1994.

6. *Technology for Education Act of 1993, S. 1040:*

Provides schools throughout the United States with technology-enhanced curriculum, instruction, and administrative support, resources, and services to create a competitive and technologically literate workforce.

Incorporated into ESEA, House agreed to Conference Report September 30, 1994.

7. *National Service Trust Act, H.R. 2010 (S. 919—PL 103–82:*

Creates the Corporation for National and Community Service; establishes AmeriCorps, the domestic volunteer service corps, and authorizes vouchers and loan forgiveness for higher education and job training in return for service; supports service earning in schools and colleges.

Date enacted—September 21, 1993.

8. *School-to-Work Opportunities Act of 1993, S. 1361—PL 103–239:*

Establishes a national framework for the development of school-to-work opportunities systems in all States bringing together the business, education and labor communities to assist young adults in making the transition from school to the workplace. The legislation will fund apprenticeship programs and innovative partnerships between schools, colleges, businesses, and unions to develop coordinated programs integrating classroom learning and actual work experience.

Date enacted—May 4, 1994.

9. *Student Loan Reform Act, S. 920 (H.R. 2055) (Incorporated in H.R. 2264, the Budget Reconciliation Act of 1993)—PL 103–66:*

Restructures the federal college student loan program. Saves taxpayers $4.3 billion by expanding the direct student loan program and streamlining the loan process; saves students $2.4 billion by reducing student loan origination and insurance fees and allows more flexible repayment options.

Date enacted—August 10, 1994.

Mr. SIMON. Madam President, finally, let me just comment briefly on the matter that Senator BOXER talked about and Senator HELMS talked about: The question of religion and morality. We know we are not doing what we should be doing in this country. We have to do better. I think we are looking in the wrong direction when we say prayer in schools will solve this problem.

My father was a Lutheran minister, my brother is a Lutheran minister. I have grown up in a home and a background that believes in the efficacy of prayer. But I believe it is the job of our homes, our churches, our synagogues, our mosques to promote religion and not the job of schools.

That does not mean that schools cannot get into the issue of morality. That is a different question. Here, and I mentioned this on the floor before but I will mention it again, our former colleague—he still serves in the House—Congressman DAN GLICKMAN. The Presiding Officer served with him. I served with him in the House. Once when this issue of school prayer came up, he told me of his experience. He grew up in Wichita, KS. Congressman GLICKMAN happens to be Jewish by background. When he was in the fourth grade, every morning he was excused from the room while they had a school prayer. And after the prayer, he was brought back in. Every morning DAN GLICKMAN was being told, you are different, and all the other fourth graders were being told the same thing.

That should not happen in a democracy. When we talk about prayer, we have to realize we are a very diverse nation today. We have, believe it or not, today more Moslems than Presbyterians in the United States, more Buddhists than Episcopalians. And when you say let us have school prayer, you have to also ask then: Whose prayer? And you get into some very, very difficult situations.

If religion, teaching religion in schools, or school prayer, would solve the problems—I think we have to remind ourselves that in Germany under Hitler they had religion taught in the public schools. That is really not the way to convey real religion. We have to do it in our homes, in our religious institutions. But that does not mean we cannot deal with problems of morality. There is no nation on the face of the Earth in which family values is a phrase that is tossed about by politicians more than in the United States, and yet we do not do much about family values.

What are the things we could do? Well, Madam President, one of the things, a very basic thing, is to reform welfare. Our welfare policy, believe it or not, discourages families from living together. We ought to change those welfare policies. I think we need a massive overhaul of welfare policies generally. But that is a very practical area where we in the Senate can do something about family values.

In the area of crime, we have far, far more people per 100,000, or we did have far more people per 100,000, in prison than any other country. Russia has just passed us in numbers per 100,000. South Africa is third now. We are now second.

But if you really want to do something about crime, make fewer speeches and do something about education. Eighty-two percent of the people in our prisons today are high school dropouts. In 1970, interestingly, 82 percent of the people in our prisons were high school dropouts. The majority of people in our prisons today were unemployed when they were arrested. You show me an area of high unemployment, I will show you an area of high crime.

Let us have a jobs bill for this country. There may be a few people in the gallery who are old enough, along with me, to remember something called the WPA. Madam President, you cannot remember the WPA. But what we did was we took the liability of unemployment and turned it into a national asset. We did all kinds of things—1.5 million Americans learned how to read and write under the WPA. I remember when I was 10 or 11 or 12 reading Richard Wright's book "Black Boy." It is not his most famous book, but it caught me at the right time. It moved me. It was not until many years later that I learned Richard Wright learned to be a writer as a result of the WPA project. Arthur Miller, the playwright, learned to be a writer as a part of the WPA project. We enrich this Nation by tapping our human resources, and we ought to be doing that again.

When we discourage dropouts, we also discourage parenthood at too early an age. A disproportionate number of both mothers and fathers involved in teenage pregnancies are high school dropouts. You really want to do something about abortion, for example—and that is another big issue that is talked about. We have about a million teenage pregnancies each year, about 400,000 of which end up in abortions. You work on the problem of high school dropouts and you will reduce the problem of teenage pregnancies and the number of abortions in our country. And then you will also do something about problems of poverty and other things.

It is very interesting that people who are teenage mothers, who are single at the time they are mothers, 78 percent of their children end up in poverty. For those who are married and at least 20 years of age before they have their first child, 9 percent of their children end up in poverty. The problems of morality and poverty are intertwined, and we have to work on these.

Madam President, I have digressed some from the Elementary and Secondary Education Act, but we have in the process of this gotten into the question of morality and religion and other things. There is no question but we as a nation can do better. But I do not think we should be looking for some kind of magic bullet.

I agree with you, Madam President, in your remarks earlier that Senator KASSEBAUM is to be commended for working out a provision on school prayer that is generally satisfactory. I happen to have been one of the very few who voted against that because I think we are better not enmeshing that in legislation at all. But this is a practical, well-crafted compromise that certainly offends no one and I think moves us in the direction probably we ought to be going.

If no one else seeks the floor, I question the presence of a quorum. My understanding, Madam President, is that the time is equally divided during the quorum call. Is that correct?

The PRESIDING OFFICER. If there is no objection, it is so ordered. The time will be equally divided. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. FEINSTEIN). Without objection, it is so ordered.

Mr. LOTT. Madam President, parliamentary inquiry: Is the floor open for discussion on the Elementary and Secondary Education Act?

The PRESIDING OFFICER. Yes.

Mr. LOTT. Madam President, I rise to speak on the Elementary and Secondary Education Act, H.R. 6. I want to emphasize that I think that there are some good provisions in this legislation. Education is a very important component of the future advancement of our country and certainly of my State of Mississippi.

In Mississippi we have been working and we have been struggling to improve the infrastructure of our schools. We have been trying to improve the quality of our education. We have been trying to improve the salaries of our teachers. In short, a major effort is being made to advance education in our State. I think we are making some real progress. Our teachers' salaries are still not up, certainly, to the national average. We are still way below that. But I think the State should be commended for the efforts that have been made and that are being made.

We are trying to have a better literacy program. We are also trying a separate effort to deal with illiteracy in our State. If we are going to move forward in a positive way and a role in the national agenda, we are going to have to continue to focus on education and try to improve its quality.

Some of the provisions in this bill I like—I think the formula is better because I think the formula is written in such a way where States that have educational needs, high poverty levels like many sections in my State of Mississippi, would actually get a higher percentage of the funds.

I understand that 30 States lose under this formula, and 20 States gain. Mississippi is one that would have some gain. So, naturally, I think it is a little better. I think the important thing is how it is targeted. We should use this program to try to help get education to and improve education in areas where because of poverty, primarily, and other considerations, the educational level has not been up to the standards it should be.

I have always been a supporter of impact aid, the so-called H–74 funds. We have Federal installations in our State in certain communities, where those people do not actually live in the community. They live on the base, and they buy their supplies on the base. They, in other words, use the schools but do not contribute to the tax base in that community. So we have had the impact aid to try to address that for years and years and years. We do have funding for that authorized in this particular program.

So I think that we need to find ways to work out our disagreements on this legislation and move it forward. Let me talk a little bit about the situation we find ourselves in right now. What does invoking cloture mean? We have sort of, I think, lost sight of that. The majority leader complains that, well, he has to lay down a cloture motion on every bill that comes up now. I have noticed that many times—most times recently—before we even get to debate a bill, before one word is said, a cloture motion is laid down. Maybe that is the way it has evolved over the years. Maybe both sides have done that in recent years. But when you invoke cloture, you are saying that you are cutting off debate.

I think when you vote not to invoke cloture—if you vote not to cut off debate, you are not voting against a bill. You are saying, look, I want to know more about it, talk more about it, and I want to hear other Senators speak on it. I would like the opportunity to try to find a way to improve this bill. That is what is happening with GATT now, the General Agreement on Tariffs and Trade. We are having more time to consider it.

I do not think any one Senator, or the administration, should necessarily be criticized for that. What we are saying is: Look, let us take the 45 days and have hearings in the Commerce Committee and in other committees. Let us make sure we understand all that is in this massive new global trade agreement. I think it actually improves its chances of passing if, in fact, it is as good as the U.S. Trade Representative, Mickey Kantor, said it is. He did a very good job this morning before the Commerce Committee in making his case. I still have some questions. But the same is true here. We are not saying that we should not have, necessarily—or I am not saying we should not have—the Elementary and Secondary Education Act; I am saying there are problems with it. We need to talk about that and see if we can find ways to further improve it.

My mother taught school for 19 years, so I have always considered myself a product of education in our State. Unfortunately, she wound up having to move to another line of work because she could not make enough money teaching school. She wound up being a bookkeeper, a radio announcer, and several other things. I am a product of public education in my State of Mississippi. My own children went to public schools from kindergarten all the way through college. And I worked for the University of Mississippi for 2 years. I was a member of the Guidance Counselors Association. I know the significance of education.

I do not believe necessarily that the Federal Government has all the solutions to the needs of education in America, or my State, or any other State, for that matter. But on this bill, by not invoking cloture—or, in fact, by invoking cloture, but by having additional time to talk, we want the opportunity to raise some reservations and hopefully find a way to make some changes.

The second point I want to clarify is that there is this argument made, in effect, that once you pass a bill in the Senate—and this passed overwhelmingly—you have to support the conference report. I voted for this bill when it came through the Senate, and I think the vote was 93 to 6 or something; It was overwhelming—now the bill after conference is beyond our reach. We have had our chance, we have had our say, and now it has gone to conference: Goodbye. Well, in conference after conference after conference, whether it is the crime bill or the Elementary and Secondary Education Act, or the Lobbyist Disclosure and Gift Ban Act, it goes off to conference and it is completely overhauled. It is significantly changed. In several instances, we have had these negotiations going on between the Democratic leaders on both sides, without including Republicans or without including people on their own side that do not agree with them. They have these negotiations and they cut a deal, and that is just inserted into the conference and it comes back to the Senate, and we are told: Well, we cannot amend it. You voted for it. You have to still be for it.

Yet, in this case, you see an example where a totally arrogant, out-of-control chairman from the other side just said: Look, this is in and this is out; I do not care whether this guy offered it or that lady offered it or whether it is a Democrat or Republican. If I do not like it, it is out of there. If I want to put it in, I will put it in.

When I first came to Congress, the way it sort of worked was that the Senate would pass a bill at one spending level, and the House would pass it at another level, usually one above the other, and you kind of split the difference, go between the two. And in one of those rare occasions this year on the crime bill, we saw that spending was not at the House level or the Senate level; it was above them both.

In the past, the general rule was, and the effort was, that something had to be in the House bill or in the Senate bill and you might mix the two, you might take one or the other. But now we have another deal. It does not make a difference whether it was in the House bill or in the Senate bill, either one of them at all. If we decide in conference, some chairman can just stick it in there. It may not have been in either bill. It may not be a marriage of anything that was in either one of the bills. So bills go off to the deep, dark hole of these conferences, and then they come back completely different bills, significantly overhauled, or those bills may have very little resemblance to what the Senate originally passed.

So I think when it is inferred that because you voted for it when it passed the Senate, you have to vote for the conference report, that is totally ridiculous. It depends on what is in the conference report. I think the conference rules or the conference conduct in more and more instances are being severely abused and violated. It does not make any difference if there was a prayer amendment that passed the Senate earlier this year, and in the House, overwhelmingly. No. If we do not like that, we will just change it. That is the way it happens in the conference now.

So at the last part of the session in what supposedly will be the last week, in instance after instance, a bad conference report is brought back to the Senate and we are told: Take it or be obstructionists. I say that is ludicrous. I am going to look at it and weigh it. Most every bill has some good and some bad and you are faced with the choice: Is there enough good to offset the bad? It is one of the unfortunate things about legislating. You never get 100 percent of what you want, so you try to get as much as you can. In many instances, there is a point or two that outweighs a lot of good in the bill.

So I want to just completely debunk the idea of conferences where autocratic, arrogant chairmen basically almost write these conferences in longhand, without consulting anybody, without considering the votes in either body. We should not tolerate that.

Now the argument is made: What do you want us to do? Maybe you are right; maybe on this point or that point, the conference made a mistake.

But if we change it, it has to go back to the House. It has to go back to conference. So what? That is the way it works.

I have been in the House and the Senate for several years, and I have seen bills bounce back and forth like a tennis ball. The House will make a change and send it back to the Senate. The Senate will throw that change out, maybe put another change in there, and kick it back to the House. We can do it.

The argument is made, an argument that I might make sometimes, "Hey, time is short. We cannot keep doing it."

I have seen miracles work in the last hours of the session. I have seen bills go back and forth you would think they were being electronically communicated, and not carried by hand.

We should change these conference reports when we feel like a change should be made. We should be able to offer an amendment, or we should be able to stop a conference report and insist on some changes. And the leaders can always work that out.

So again the fear that it might have to go back to the House is not well founded. For one thing, the House has a Rules Committee. If they do not want additional amendments, if they want to limit the time of debate, if they do not want to make a change, or if they do, they just protect it with the Rules Committee.

We do not have that, but we do have a very powerful instrument. It is called unanimous consent. It is amazing to me the things we can get agreed to in this body by unanimous consent when we get tired enough.

This leads me, also, to comment just briefly on another bill that we will be considering later on today, and that is the lobbyist disclosure bill. That is another example where we are presented with a fait accompli.

Most Senators are perfectly prepared to vote for the gift ban—part of it or all of it. Most Senators do not have great problems with most of the lobbyist disclosure.

But when these bills come back, when you start reading them, very often you find there are problems. There are little rotten eggs hidden away in these conference reports, and questions are raised in this case of lobbyist disclosure. We see now there is language in the conference report that is very ambiguous, very unclear. Would it mean this or something else? Would some Federal bureaucrat be able to make a decision that maybe in some way our constituents would be limited in how they could petition their Government, how they can contact their Congressmen and Senators? Would it mean that individuals who sent $50 to an association or an organization that is fighting a piece of legislation, would they then have to have their names reported, their names and addresses, and how much they gave?

People are worried about that. The argument against changing that is, well, again it will have to go back to the House. It is even argued we can address that question with language in the debate. We can respond to those questions.

My argument is if there is an ambiguity and it is not clear what it means, then let us clear it up. Let us make sure that some bureaucrat cannot come up with a system that clearly has a chilling effect on people's ability and, in fact, their right and responsibility to contact their Congressmen and Senators.

These are questions not being raised just by conservative religious groups but by the ACLU and people at both ends of the philosophical spectrum. They are saying, "Oh, wait. We do not want those provisions and do not think we should have to reveal our supporters. In fact, it is a violation of the Constitution that we have to reveal all the people who might be involved in the process of dealing with legislation or fighting legislation."

So here again I think it relates to the Elementary and Secondary Education Act in that we have a problem and we can fix it. We can fix it by unanimous consent. We can make clear what our intent is, and the House will surely accept that because they had a very, very close vote on the rule on this same point in the House. In fact, I think the vote was like 215 to 206, and they got it through after only keeping the voting time open for an extended period of time so that Members of the House could change their vote. So there is strong support for clearing up this question about what has to be revealed and would it have a chilling effect and would people be limited in how they could, in effect, lobby their Congressmen and Senators.

You know this word "lobbyists" seems to scare a lot of people. Then I ask myself who are they? Maybe it is a big special interest group. Maybe it is a group representing companies or labor unions. But lobbyists can also be nurses. Lobbyists can also be small business men and women. A lobbyist can be just the average Joe out there on the street who wants to express himself or express herself by association with the National Federation of Independent Businesses; for example, as a way to amplify their voice.

I think we should not be taking actions that would limit that. But again we can fix that problem if we just make up our minds to do it.

Madam President, earlier this week there was a joint press conference by two former Secretaries of Education, former Secretary of Education William J. Bennett and former Secretary Lamar Alexander, talking about their concern about this bill. I would like to read a part of what they said in that press conference, and I ask unanimous consent at this point to print in the RECORD the letter of September 30 that they sent to all Senators.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EMPOWER AMERICA,
Washington, DC, September 30, 1994.

DEAR SENATOR: Earlier today, the House accepted the conference report on the Elementary and Secondary Education Act (H.R. 6). Next week, you will consider the same report.

A lot is at stake in this debate. And as secretaries of education for Presidents Reagan and Bush, we want our views on this issue to be clear and emphatic: H.R. 6 is the kind of pernicious legislation which, if it is enacted, will make American education worse, not better. H.R. 6 is hostile to the best reform ideas in education; overly regulatory and intrusive; imposes new federal controls on states and localities; and is morally obtuse. In many ways, it embodies the worst and most arrogant tendencies we see in modern legislation: the kind of "Washington-knows-best" thinking which has contributed to the worst decline in the history of American education.

We are convinced that America's parents and children would be better served if the 103rd Congress were to allow this bill to die, extend present laws for a year, and start over again in 1995. At the very least, we would urge Congress to recommit the bill to conference for substantial revision. Here are some of our reasons:

The bill is more than a thousand pages long. It contains much mischief that was inserted behind closed doors and has not been exposed to the sunlight. It is a safe bet that virtually nobody voting on the conference report will actually have read the final text, and the country has had no time to examine its myriad provisions. Only a few staffers and lobbyists really know what's in it or how it will work. For example, how will Congress explain what its jury-rigged Title 1 formula will actually do to particular state and local budges in "out-years", or how it interacts with other measures, especially the new "Goals 2000" program?

Every state and community in the land is affected. This bill authorizes more than $12 billion a year in federal spending. That's enough to force state and local officials to follow its dictates, even when state and local officials know better. And that means the content of this bill needs the closest public scrutiny before it takes effect. Killing this version doesn't mean that federal education aid vanishes; it simply means that the current law is extended for another year.

The bill is the quintessence of top-down, big government, "Washington-knows-best" thinking. It tightens myriad federal controls and imposes new ones on what states and localities can do with their schools. It is totally "producer-centered," favoring the education establishment, giving money and power to school administrators, not to parents, not to governors and legislators, not to mayors, not to teachers—in other words, not to those actually involved in educating the young.

Other than a bit of lip service, it's oblivious—or worse—to the most promising reform ideas that are percolating in American education: choice, charter schools, privatization and decentralization, among other things.

H.R. 6 deals with accountability in a perverse way, essentially making schools (and school systems) accountable to Washington for compliance with regulations and with a new federally-imposed version of "outcome-based education" that applies—for now—to disadvantaged children. Schools will be even less accountable to their consumers, their communities and their states than is the case today.

The bill mandates the kinds of federally-approved "standards" that Goals 2000 said would be voluntary. Only with those approved "content" and "student performance" standards in place can a state or community get its federal aid. Although language having to do with input standards (today's trendy term is "opportunity to learn") was softened in conference, the bill takes a giant step toward reviving the legitimacy—and federal supervision—of criteria that judge schools by their spending levels, pupil-teacher ratios, and suchlike, instead of their effectiveness. And since Goals 2000 authorized the Education Department to develop national "opportunity to learn" standards, we can expect that these will soon exist—and will be used.

By mandating "state plans" that are based on federally-approved standards, this bill moves the new National Education Standards and Improvement Council (NESIC) ever closer to becoming the "national school board" that critics warned of when Goals 2000 was enacted. This means that Tennessee, for example, no longer has the final say over what young Tennesseeans will learn in school. If H.R. 6 is enacted, that power shifts to Washington—unless, of course, Tennessee wants to forfeit its federal aid.

Incorporated into this bill is something called the "Gender Equity Act," which—among many provisions—mandates training for teachers in gender "sensitivity" and "gender equitable teaching and learning practices." Senator Nancy Kassebaum tried to get this dropped in conference, noting the spurious "research" on which the whole concept is based, but she was outvoted.

Though conferees agreed to ban the use of federal funds for education programs that "directly promote sexual activity," they refused to deny funds to schools that distribute instructional material portraying homosexuality as an acceptable lifestyle. Hypocrisy and political correctness characterize much of this bill: evidently it is fine with the conferees to force schools to practice "gender equity," but it is not okay to discourage them from promoting "alternative" lifestyles. This, of course, is precisely why Washington should not even be trying to make education decisions for America's schools.

Also lost in conference was the "Johnson-Duncan" language denying federal aid to school systems that bar "constitutionally protected" prayer. Instead, "compromise" language was agreed to that cuts off funds only if a federal court finds that a court order allowing such prayer has been "willfully violated." As the Christian Coalition rightly observes, that language "places such hurdles on aggrieved individuals whose constitutional rights to school prayer have been violated that for all intents and purposes it is meaningless."

The bill constitutes a huge windfall for colleges of education. Not only will they get hundreds of millions in new "professional development" funds under the totally-overhauled "Eisenhower program," but they also get additional bonuses as well. (For example: a requirement that schools whose disadvantaged students score below average must spend 10 percent of their Title 1 grant—or equivalent sums—on, yes, "professional development.")

The heretofore-independent National Assessment Governing Board will henceforth have its members chosen by education interest groups. (Up to now the board has functioned as its own nominating committee.) Within a year or two, that will turn the country's most important and sensitive testing program into an appendage of the school establishment and the federal bureaucracy, which has already made clear its intention of "race norming" the test scores and probing families for sensitive information.

Two years ago, when a bad, big government, "Washington-knows-best" education bill was nearing the end of its trip across Capitol Hill, Senators who saw its folly were able to stop it. That is what should happen now. The country has minimal regard—and rightly so—for those who rationalize the enactment of a bad bill by saying, "It could have been worse."

Even senior officials in the Clinton Administration recognize that the whole approach embodied in H.R. 6 is mistaken. O.M.B. director-designate Alice M. Rivlin, for example, recently wrote a Brookings book arguing that Washington should get out of elementary/secondary education altogether. "The federal government," she observed, "is not well suited to take responsibility for improving education. . . . These are functions of government that require experimentation, adaptation to local conditions, accountability of on-the-scene officials, and community participation and support."

We agree. That's why H.R. 6 should perish. To reiterate: current education laws should be extended for a year so as to give the President, the Congress and the country a chance to start afresh in 1995. Then—following Dr. Rivlin's advice—we should put states and localities back in the education driver's seat. Insofar as the federal government retains any role, it should focus on parental choices, deregulation of the classroom, the acquisition of essential skills and knowledge, and good, objective tests that tell us how the country is doing. The time has come to turn this train around. Anyone who needs evidence that today it is heading in the wrong direction should take a look at this fundamentally flawed bill.

Sincerely,
LAMAR ALEXANDER.
WILLIAM J. BENNETT.

Mr. LOTT. Madam President, this is from a press conference, and these views sum up the position of these I believe very respected gentlemen, authors, leaders. Lamar Alexander certainly has established a very credible, respected record as a Governor of the State of Tennessee, as a former Senate staff member, as a president of the University of Tennessee system, and as Secretary of Education. He has a very respected record in the area of education. He is a very innovative thinker, and he is not one who would easily criticize an education bill, certainly not the Elementary and Secondary Education Act, an area in which he put a lot of time and work when he was Secretary of Education. But these leaders begin to raise a lot of questions that people are interested in and that I am hearing about back in my own State.

There were some good provisions in the Senate bill that were taken out, for instance. I believe that it might have been Senator COATS, but others offered an amendment with regard to violence in schools. Almost every day now in my State of Mississippi it is hard to believe, but in my own State of Mississippi there is violence in our schools, in our high schools, and our junior high schools. And in Jackson, MS, students are assaulted, students are shot, students are stabbed in the schools. What have we come to?

I remember when I was in high school most of us were afraid of being caught chewing gum or running in the hall. Nobody thought about buying and selling drugs on the school premises. Nobody thought about even smoking cigarettes on the school premises. Nobody thought about carrying a gun or getting stabbed. Nobody was afraid to go to school.

Now it is an every day occurrence and on the front page of the Jackson, MS, newspaper.

So there was some language in the bill when it passed the Senate that would help our schools deal with this problem of violence in schools.

That language was knocked out summarily, inexplicably, just knocked out in conference, because Chairman BILL FORD, I guess, did not like it. I do not know. How do I explain that?

I had to meet with students from Sardis, MS, that came to my office about 10 strong, and one of the young women in the group looked up at me with tears in her eyes and said, "We are scared to go to school. What can we do about violence and guns in our school?" That is in Sardis, MS, a community of maybe—I do not know—maybe 2,000 people. The school there is a consolidated school now, so they probably have pretty good attendance there.

Yet we finally get a little provision that is not going to break the bank but it is not going to solve the problem either. It is an effort. It is a start. They took it out of conference. Why? I would like for someone to explain that before we have another vote on this issue.

And then another area that really bothers me is that provisions were knocked out that allowed more choice in how education is conducted at the local level. It imposes more Federal bureaucracy and standards. A lot of what was supposed to be voluntary in the Goals 2000 is mandated under this bill.

Senator DANFORTH from Missouri had an amendment that said on an experimental basis—I do not remember exactly how many areas where it would be applicable—that schools could try gender-based education. Is there something fundamentally wrong with having all-girls classes or all-boys classes? I do not know. Maybe that is not the way to go. Maybe there are problems with it. But give it a shot. Let the local schools try it. Why not? I do not understand that.

So there are so many things that we had in this bill that were good things that disappeared.

Let me read some of the reservations that are pointed out in this letter from former Secretary Bennett and former Secretary Alexander. It says:

> H.R. 6 is hostile to the best reform ideas in education; overly regulatory and intrusive; imposes new Federal controls on States and localities; and is morally obtuse. In many ways, it embodies the worst and most arrogant tendencies we see in modern legislation: The kind of "Washington-knows-best" thinking which has contributed to the worst decline in the history of American education.
>
> We are convinced that America's parents and children would be better served if the 103rd Congress were to allow this bill to die, extend present laws for a year, and start over again in 1995. At the very least, we would urge Congress to recommit the bill to conference for substantial revision. Here are some of our reasons:
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> The bill is more than a thousand pages long.

It is something that you can go over—and I have been looking through a copy of the bill that is on my desk—but it is pretty hard to get through 1,000 pages, let alone understand all that is done here. It is a major problem with the way we legislate.

A lot of things can be put in a bill like this at the last minute and you never know about it until years later. Because, even if you read it, sometimes it refers back to another law. And if you are going to understand it, you have to read this passage and go back to the previous law and see how it relates to this one. So it is 1,000 pages long.

Reading further, their communication to the Senate said:

> It contains much mischief that was inserted behind closed doors and has not been exposed to the sunlight. It is a safe bet that virtually nobody voting on the conference report will actually have read the final text, and the country has had no time to examine its myriad provisions. Only a few staffers and lobbyists really know what's in it or how it will work. For example, how will Congress explain what its jury-rigged Title 1 formula will actually do to particular state and local budgets in "out-years", or how it interacts with other measures, especially the new "Goals 2000" program?
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> Every state and community in the land is affected. This bill authorizes more than $12 billion a year in federal spending. That's enough to force state and local officials to follow its dictates, even when state and local officials know better. And that means the content of this bill needs the closest public scrutiny before it takes effect. Killing this version doesn't mean that federal education aid vanishes; it simply means that the current law is extended for another year.

And we have done that sort of thing in the past.

> The bill is the quintessence of top-down, big government, "Washington-knows-best" thinking. It tightens myriad federal controls and imposes new ones on what states and localities can do with their schools. It is totally "producer-centered," favoring the education establishment, giving money and power to school administrators, not to parents, not to governors and legislators, not to mayors, not to teachers—in other words, not to those actually involved in educating the young.
>
> Other than a bit of lip service, it's oblivious—or worse—to the most promising reform ideas that are percolating in American education; choice, charter schools, privatization and decentralization, among other things.

We saw on the news in the last couple of days where a school system in Connecticut has hired a private company to run their school. I do not know whether that is a good idea. I do not know how it would work, but certainly we ought to see how it works. Maybe it will save some money. Maybe it will improve education. That is the type of innovative thinking that is happening at the State and local level, and I want to make sure at the Federal level we do not stop that or undermine it.

Back to the letter now:

> H.R. 6 deals with accountability in a perverse way, essentially making schools (and school systems) accountable to Washington for compliance with regulations and with a new federally-imposed version of "outcome-based education" that applies—for now—to disadvantaged children. Schools will be even less accountable to their consumers, their communities and their states than is the case today.
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I think the most I ever learned in any school was when I was in the second, third, and fourth grades at Duck Hill, MS. I still remember the names of my three teachers. They were great.

They made us work hard. But they really dealt with us on an individual basis.

As I recall, our classes were rather large. We had six grades and we had six rooms in the school building, three on each floor. So they did not meet the pupil-teacher ratio. They would not meet the spending levels that are called for in this bill. And yet, they did the best job of any teachers I ever had. Their effectiveness is what we should measure. They were not paid well. They had too many students. The old building was about to fall down, had lots of problems.

So I worry about these mandates and these formulas that can be used to determine whether or not a school system gets Federal aid.

And since Goals 2000 authorized the Education Department to develop national "opportunity to learn" standards, we can expect that these will soon exist—and will be used.

By mandating "state plans" that are based on federally approved standards, this bill moves the new National Education Standards and Improvement Council (NESIC) ever closer to becoming the "national school board" that critics warned of when Goals 2000 was enacted. This means that Tennessee, for example, no longer has the final say over what young Tennesseans will learn in school. If H.R. 6 is enacted, that power shifts to Washington—unless, of course, Tennessee wants to forfeit its federal aid.

Incorporated into the bill is something called the "Gender Equity Act," which—among many provisions—mandates training for teachers in gender "sensitivity" and "gender equitable teaching and learning practices." Senator Nancy Kassebaum tried to get this dropped in conference, noting the spurious "research" on which the whole concept is based, but she was outvoted.

Though conferees agreed to ban the use of federal funds for education programs that "directly promote sexual activity," they refused to deny funds to schools that distribute instructional material portraying homosexuality as an acceptable lifestyle. Hypocrisy and political correctness characterize much of this bill: evidently it is fine with the conferees to force schools to practice "gender equity," but it is not okay to discourage them from promoting "alternative" lifestyles. This, of course, is precisely why Washington should not even be trying to make education decisions for America's schools.

Also lost in conference was the "Johnson-Duncan" language denying federal aid to school systems that bar "constitutionally protected" prayer.

And, of course, we have had that debate here in the Senate several times in recent months.

Instead, "compromise" language was agreed to that cuts off funds only if a federal court finds that a court order allowing such prayer has been "willfully violated." As the Christian Coalition rightly observes, that language "places such hurdles on aggrieved individuals whose constitutional rights to school prayer have been violated that for all intents and purposes it is meaningless."

That is exactly what was intended.

Even though the House and Senate have both voted by large margins in the last year on this legislation to have language that allows voluntary prayer led by the students in schools, this language really is intended to be meaningless and to be frank, not allow for prayer to be offered in the schools like we had in Jackson, MS, at Wingfield High School.

The bill constitutes a huge windfall for colleges of education. Not only will they get hundreds of millions of dollars in new "professional development" funds under the totally overhauled Eisenhower Program, but they also get additional bonuses as well. For example, a requirement that schools whose disadvantaged students score below average must spend 10 percent of their title I grant—or equivalent sums—on, yes, professional development.

The money is not spent directly on the students that are in the title I Program.

So, I have included the entire letter in the RECORD. I just wanted to list the points that they have made here and urge my colleagues to read them over and think about the points that are raised by these very distinguished former Secretaries of Education.

One of my major problems with this education bill this year is that it did take out or change very important provisions. That particularly is true with regard to prayer in schools. The numbers are overwhelming in my State and, I think, across the country of people who think we should allow voluntary prayer, certainly one that is written by the students, proposed by the students, urged by the students, delivered in such a way that nobody is offended or in jeopardy.

We do it here in the Senate. Right over the back of that door as we go out of the Chamber it says, "In God We Trust." On the front of the Chamber in the House, right over the Speaker's chair, "In God We Trust."

Every day we open with prayer in the Senate and in the House. Maybe it is a Jewish rabbi, maybe it is a Greek Orthodox priest, maybe it is a Baptist preacher, maybe it is a Methodist minister, but we do it every day. We say our students cannot do it. I do not understand that.

We have had vote after vote after vote on that issue over the past year:

February 3, 1994, the Senate voted 75 to 22 in favor of the Helms-Lott school prayer language as an amendment to H.R. 1804, the Goals 2000 bill. The House voted 367 to 55 for the same language, to instruct the House conferees on the Goals 2000 bill to accept that language. On March 17, 1994, the House and Senate Goals 2000 conferees dropped the language altogether. Even though the Senate had voted for it 75 to 22 and the House had voted overwhelmingly to instruct their conferees to include it, the conference threw it out.

On March 21 of this year the House voted 345 to 64, to add language identical to the Helms-Lott language, and I referred to it by its sponsors in the House earlier as an amendment to this bill, H.R. 6, the Elementary and Secondary Education Reauthorization Act. That vote came after the House voted 171 to 239 to reject Representative Pat Williams' attempt to add a "do nothing" language amendment to the bill. So the House, on March 21, voted overwhelmingly, over 3 to 1, to add the language that I am advocating to this bill—not to some other bill, to this bill—and rejected the language of the Representative from Montana, Representative WILLIAMS, that basically is now the language we have in the bill, or close to it, to render it meaningless. That is what he wanted to accomplish, but he failed.

On March 23, the House voted 232 to 195 not to recommit the Goals 2000 bill and to insist that the bill include the school prayer amendment.

March 25, the Senate voted 62 to 23, just before Easter, to invoke cloture to cut off the effort to put the prayer amendment back in Goals 2000 after it had been knocked out in conference.

July 27, the Senate voted 43 to 57 on H.R. 6, this bill, against the amendment that would have put the school prayer language I am supporting into this bill.

The House voted 369 to 55, on September 20, to instruct the House conferees to include the language.

Finally, on September 30, the House voted 215 to 184 to recommit the conference report on H.R. 6 in order to have this important prayer language included.

I read all this just to point out this is not something that just happened. We did not just bring this up today on this conference report. We have voted repeatedly in the House and the Senate throughout this year, with the House insisting by wide margins every time to include the prayer language. The Senate did vote not to put it in, in July. But at least 43 Senators—and at one point 75—have voted to put this prayer language in the bill. Yet when we had a key amendment earlier here today on whether or not we were serious about insisting on having the prayer language in this bill, a lot of Senators who voted for it earlier, some Senators who are even talking about it in their campaigns, switched and went the other way.

So make no mistake about it. This debate involves a lot of things. But one of the linchpins is whether or not we are going to have language that allows our students, our children, to have prayer in schools. That is what it is all about. That is why a number of us voted against invoking cloture, because we think this is an important enough issue we should have it discussed further and we should have it in the legislation.

To teach in our schools right from wrong, to allow reference to the Bible, to have prayer, I do not think it will solve all of our problems but I think it will help. Maybe it would help. Should we not be able to make that decision at our local levels? I think we should. Here is what the language we have had included earlier, and we are still trying to have included, says. It is not that scary.

> Notwithstanding any provision of law, no funds made available through the Department of Education under this Act or any other Act shall be available to any State or local educational agency which has a policy of denying, or which effectively prevents participation in, constitutionally protected prayer in public schools by individuals on a voluntary basis. Neither the United States nor any State nor any local educational agency shall require any person to participate in prayer or influence the form or content of any constitutionally protected prayer in such public schools.

It says we cannot use these funds to require prayer or what is in the prayer, form or content. It just says that schools will allow students to participate in constitutionally protected prayer.

I have told the story before in the Senate but I will repeat it because I think it is worth repeating. Last year the students at Wingfield High School, in Jackson, MS, decided they wanted to have a prayer read over the PA system. The President of the senior class, or the student body—a young lady—read a prayer over the PA system that said, basically, "Oh Lord, we ask that You bless our country, our schools, and our parents. In Your name we ask. Amen." Something about like that. Not exactly those words.

The principal, an African-American principal named Bishop Knox, supported the students' right to do that; allowed them to do it. And he lost his job. He was removed by the school board. They said, "Oh, my goodness, you could put us in violation of Federal court decisions. You should not have done that."

The students started going on strikes and standing up for a principal who stood up for them; a principal who stood for principle, that is a unique idea.

In the end, he is going to get his job back with back pay, in a preliminary ruling of a judge. It may be appealed. But I ask you, what was wrong with that? Why should the students not be allowed to do that? Why should the principal not allow the students to do that? Why should his job be in jeopardy?

The language in this bill, though, shifts the burden. Say we want students to be allowed to do that, the presumption, the burden is sort of on the school board and the principal and the school officials and the parents and everybody to explain why they cannot do it. The language in the bill turns that around. The pressure is going to be not to do it. That is the intent.

So, I think this is a mistake. It is something our people feel very strongly about, and I think it should be included in this legislation.

Madam President, I do not have much more to offer at this time.

There are three points I would like to make in conclusion. One, I think we need to remember that up until I think it was maybe 1964, but during the 1960's, we had no, none, zero, Federal aid for education. And yet, over the last 30 years, we have seen a steady funding of Federal assistance to State and local education. It has been basically rising every year.

Now, I support Federal aid to education. Unlike some of my constituents, I think clearly we have a role. There are some places where we can help, where States and local governments just do not have the ability financially or for other reasons. I do think we need Federal financial aid for higher education—loans, grants, scholarship programs, work study programs. I think they are certainly a good investment in our future. I have already pointed out that I support funds for impact aid in communities that have Federal installations that impact those schools without the tax base revenue.

I believe programs for children that need special help in reading, arithmetic, compensatory education, are worthwhile; gifted and talented programs so that our students that are exceptionally talented can have an opportunity to take some classes beyond sort of the lowest common denominator. Those are all programs which I think are worthwhile.

However, one thing which continues to baffle me is that every year since the 1960's, we have spent more money for education and the test scores have been sliding all the time. Our students seem to be learning less. When I hire young students now, some of them out of college, they do not know good grammar. They say, "Him and me went to the movie." What? "Him and me went to the movie."

What is happening? I am not going to rely on the old classic argument that what we need to do is go back to the basics, but I think it is a good argument and I think we need to do more of it. I think education would be a lot better. I think our students would be better. Yes, we need Federal contribution to education. But I think we should question why we are not getting better results for what we have invested.

My second point is, as is always the case in a bill like this, you have a number of programs included that cost millions, maybe billions, of dollars and you really just have to question whether or not that is the way you want your money to be spent. Programs going into video programming for preschool children, maybe that will help, maybe it is good, but there is a lot of money in this bill for that.

Grants for correctional facilities. I wonder if we could not make a better investment of our education money than to put it in the correctional facilities—in not just one area. They have it in two different areas.

There is language in here which says Federal education spending shall take up to 10 percent of the Federal budget. Well, I ask, why? Maybe not quite that much. Maybe we should spend more. But if it is 10 percent, it would be $150 billion, and if we did that over a 5-year period, that would cause certainly a lot of disruptions in other areas. We would have to make some tough choices. That is OK. That is what we are here for. But I just wonder if we want to make that kind of commitment at this time.

It also creates the 156th Federal job training program. We have 155 job training programs paid for, sponsored by the Federal Government. Job training programs, great. We need that. But I think it is again Senator KASSEBAUM who has made the point: We need to consolidate these programs and get rid of the overlap. Stop the competition, if you will, between the job training programs. Let us focus on what can best be done and let us do it and probably do a better job for less. But we have the 156th Federal job training program as a result of this bill.

These are some principles I hope we will consider with this legislation—three of them. I hope Congress will preserve State and local authority over these key areas and not try to take it over by the Federal Government. First, preserve local and State authority over standards or curriculum content and student performance. I just do not think it can be dictated from Washington. I just do not believe some person sitting down here in the Department of Education in Washington can know what is best in the area of curriculum all over this country. I think that should be decided at the local level, by the teachers and by the students and by the parents and by the administrators without being dictated by the Federal Government.

I think Congress should preserve for the State and local governments authority over student assessment, including how testing results are used by States and localities. I just do not think, again, that what is in tests and how they are conducted and how the scores are used should be mandated from the Federal level. But in this bill, they certainly will make an effort.

I think that Congress should protect State and local authority over the resources that States and communities spend on education and over the school and classroom processes that provide students with an opportunity to learn.

Think about that. Is it asking too much to allow the people at the local level to have the authority and the control over the resources that States and communities spend on education and not try to mandate that they have to meet some Federal process of determining how the opportunity to learn will be run?

Those are the areas that really bother me about this bill. There is some good. And in the end, I plan to vote for it. But I think we should raise the points about the excesses of this legislation, the Federal mandates, the fact that the prayer language is not in there, and the fact that there is some spending in this legislation which could be better used in other areas. I hope we will make some changes before we pass the final legislation. If we do not, I fear we will continue to spend more but get less in results from our students.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Madam President, first let me acknowledge my appreciation to the Senator from Mississippi for his courtesy in permitting me to have the floor for a few minutes. I rise in support of the conference report on the Improving America's Schools Act. I think it is one of the most important pieces of legislation that we have dealt with during the course of this Congress.

Although there may be some portions with which some of us may have some differences and probably would have wished to change a bit, but overall I think it moves us strongly forward as far as improving the elementary and secondary education system of this country.

Surely no issue is more important to the future of our Nation than the education of our children. This measure represents the commitment of the Federal Government to helping our Nation's elementary and secondary schools revitalize and improve.

Since 1965, the heart of this effort has been the title I program which provides help to schools to improve the achievement of disadvantaged children. The bill makes a number of important changes in this program, including a new emphasis on ensuring that participating students are taught to the same high standards as other children, so that they will have the opportunity to obtain the advanced skills they will need to succeed in life.

The legislation also recognizes that the involvement of parents is key to student success and incorporates a number of new provisions designed to strengthen the parent involvement requirements of the title I program. I am pleased that the conference report includes several of my proposals in this area.

The conference report also includes important new initiatives to assist schools in their efforts to provide professional development for teachers, upgrade their technology, prevent violence, and improve their facilities.

I am of course very pleased that the conference report incorporates S. 996, legislation which I introduced regarding disclosure requirements for educational programs.

The disclosure provisions will improve the quality and type of information students and their families receive before paying to participate in Government study programs and other types of educational programs which are offered to young people for a fee.

My legislation will require the groups running these programs to disclose honestly how students are recruited and what their money will go for. These requirements will ensure that students and their families have the facts they need to make an informed decision before spending their hard earned money for an education program.

I have been concerned for some time about the recruiting and marketing techniques employed by some of those who bring students to Washington for Government study programs—organizations that send out letters to young people and say to the young people, "You have been chosen, you can come to Washington and you can participate in a congressional youth conference," and give sort of an official feeling about it.

One group that has done that has been the Congressional Youth Leadership Council. At one point, the Senator from Kansas, Senator DOLE, had raised some questions about the manner in which they operated, and I have also raised some questions. I am pleased to say that they have moved in the right direction. Maybe not quite as far as I would have hoped they might move, but I think that they have taken some action in response to the concerns that I had previously expressed, and that the minority leader had expressed.

So I think we have made some headway, not quite as much as I would have hoped, and I hope that in the future the Congressional Youth Leadership Council, and other organizations that bring young people in will tell them exactly how they have been selected, and will see to it that there is full disclosure of any profitmaking aspects of their conduct.

But I do say that the CYLC has taken some steps in the right direction.

Let me speak about another part of the bill that reflects really the most determined effort that I have made in connection with any bill for a long period of time. This Senator has been disturbed about the fact that when young black children are up for adoption, some black social workers in this country, as a policy matter, have opposed transracial adoptions for these children because the social workers believe that somehow such adoptions would adversely affect the child's ability to be proud of his of her heritage and the history of blacks in this country and in the world.

Neither I nor any other right-thinking person I know would want to do that. Every race, color, or ethnic group has value and should look back to its ancestors with a source of pride.

But that does not mean that when a black child comes up for adoption that somebody should stand in the way of that child being adopted by a white family if the white family is fully capable, and in a position to provide loving care and wholesome guidance for that young person, and there is not a black family of equally capable characteristics also wanting to adopt that black child.

Let me make my position clear: If there is a white family and a black family that want to adopt the black child and they are equal in all respects, then the black family ought to have preference. But time and time and time again social workers of this country, as a policy matter, have opposed transracial and multiethnic adoptions. As a consequence, children have been sent from this foster home to that foster home, from this group home to that group home, and remain in foster care limbo. When the foster care ends in a particular State, no matter what age the child might be, the child is then homeless and out on the street. I do not have to tell you what happens.

So I said we cannot permit this kind of discrimination to occur. I introduced a bill with Senator CAROL MOSELEY-BRAUN to put an end to such discriminatory policies. We held hearings and passed it out of committee. We then sent the bill to the floor. I must say that I not only had my transracial bill added as an amendment that is on this education bill—I also added my bill as an amendment to the minority health bill that is presently in conference with Congressman WAXMAN, who is very supportive of our concerns. I did all these amendments and work because I wanted to be sure before I left this body, which I will be doing shortly, that we addressed ourselves to this issue and did not walk away from it and all the many children who need our help.

When my bill went to the House, some changes were made that the Department of Health and Human Services concluded were necessary to make the bill pass constitutional muster and to get the job done better. It is with some regret that I acknowledge the fact that one of the groups that has been most supportive of the bill as originally introduced, the National Council for Adoption, and was kind enough to present me with an award some months ago, felt that the changes that were made by the House did some damage to the legislation and as such this organization changed from being supporters to opponents. I cannot tell you how sad I feel about that.

However, I do not agree with their conclusion that the House and HHS changes weaken my bill. I believe that Donna Shalala, the Secretary of HHS, and those who are working at that agency, are determined to enforce my bill and to make it possible and easier for black children to be adopted by white families if there is not a black family of equal characteristics and stature available.

If HHS does not, I say to you that as a private citizen I will raise all kinds of problems if this act does not work by reason of the HHS failure to or incorrect implementation of it. I will not sit silently on the sidelines. I have been assured in every way possible that this administration will see to it that the bill works in accordance with the intent of this Senator and so many others who are supportive of it. I am proud of the fact that Marian Wright Edelman of the Children's Defense Fund, the National Child Welfare League, the ACLU, and Adoptive Families of America, all strongly support this bill. But I want to be certain and will monitor the situation to see to it that this bill works in a way that I originally intended it to work.

I want to say that I attached my transracial adoption bill to just about every single piece of legislation or conference report that was pending in the Senate, I was determined that I would not leave the Senate before the bill was passed by the House and Senate. I have no doubt that the President will now sign the bill because he publicly and strongly endorsed the bill and addressed the very concerns that I have expressed here in these short remarks.

We would not be where we are today had it not been for the devoted effort of Gail Laster who worked so closely with me with respect to the transracial adoption bill, and Cheryl Birdsall, who worked so diligently and continues to work diligently with respect to all issues having to do with education.

Madam President, it is one of the proudest moments of my Senate career that I had a part in making transracial adoptions to be permitted and fought for, and in making it illegal to stand in the way of a transracial adoption just because some social workers have a policy objection to them. I support adoptions of all kinds, for all children, and I am a very happy man.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Who seeks recognition?

Mr. HARKIN. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask that I be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Thank you very much, Mr. President.

Mr. President, I listened to the comments of the distinguished Senator from Mississippi. I must say I find myself in agreement with many of them. As one who does not serve on the committee, I find it sometimes very difficult to have input on what is really happening out in the streets and communities with respect to education. But I rise now to support particularly the chapter 1 formula in the H.R. 6 conference report which reauthorizes the Elementary and Secondary Education Act.

I want to particularly thank the committee, the committee staff, the chairman, Mr. KENNEDY, and others who have at least been responsive to my concerns as best they could be because during the last 2 years I have tried very hard to participate in the chapter 1 debate. I think you know how important the chapter 1 formula is to States and particularly to my State, California, and many other States that have not received their Federal fair share in the past.

While it does not represent as much change as I supported, the new formula I believe is a clear improvement over current law and will provide more funds where they are most needed and help the overburdened school systems in high-growth States like California.

One of the things that we must all come to grips with as discretionary funds decrease and demand for domestic spending increases is that it is critical the dollars really go where the need is. I think we all have to become less parochial and more involved in where the need is if we are really going to improve public education throughout this great country.

I think it is widely known that the existing chapter 1 formula is unfair and ineffective, especially for the high growth States of this Nation such as California, where the population of poor children grew 38 percent between 1980 and 1990. The current formula provides different amounts of funds to poor children depending on where they live rather than treating all poor children equally for the purposes of the distribution of these funds.

The current formula spreads funds to so many school districts with very low levels of poverty that it undercuts the effectiveness of the program in high poverty areas. Most importantly, the current formula uses outdated poverty data to distribute funds to States long after students have moved to the other places. That is one of the basic problems.

I have introduced legislation called the Poverty Data Improvement Act which is very simple. It says that every 2 years the formula allocations shall be recalculated based on up-to-date census data, so that dollars can follow where the children are. A modified version of this requirement is included in the new chapter 1 formula, as I will describe later.

While I pushed for even more substantial revisions, it is important to note that the new formula does contain several beneficial reforms, and I am grateful for them. After the first year, key new provisions will be phased in, including more targeting of funds to high poverty areas, and the use of updated poverty data.

Beginning in 1996, instead of sending funds to State and school districts with very low levels of poverty, the new formula will distribute a growing share of funds to the most poverty stricken States and schools in the Nation. That is after all the way it should be. Every year thereafter the most high poverty schools can receive more of the funds that they desperately need to help their children succeed in school and in life.

Beginning in 1997, instead of relying on decade-old census data, the new formula approved in the ESEA conference report will also use updated poverty data. As a result, States with growing numbers of poor children will not have to wait until after the next census is released in order to have their allocation increased.

The new formula means that California schools—with over 5 million students—can finally have hope of receiving the fair share of chapter 1 funds, which has been denied in the past. Each year under the new formula, the benefits will become more and more apparent, as changes are phased in and California receives a larger share of chapter 1 funds.

In fiscal year 1995, the last year in which the current funds formula will be used, California will receive an estimated $729 million in chapter 1 funds, up $35 million from the prior year, based on an appropriations level of $6.7 billion. I support this increase in chapter 1 appropriations and will continue to support increases as long as funds are targeted where they are needed.

In fiscal year 1996, the first year of the new formula provisions, California will receive $782 million in chapter 1 funds, an increase of $53 million over the previous year and more than $7 million above what the State would get under current law based on an appropriations increase of $400 million in the targeted formula.

In fiscal year 1999, when updated poverty data will have been included in the chapter 1 formula, California will receive much more than the $907 million that is projected without poverty data updates—a $13 million increase over what the State would have gotten under the current formula.

This sounds very complicated. But what it all boils down to is that there is some improvement.

However, there are remaining inequities, especially the gap in how different States receive aid for poor children. I think a poor child should be treated the same no matter where he or she attends school.

Under the new formula, as in current law, allocations range widely, from over $1,000 per poor child for Alaska, Delaware, New Hampshire, Rhode Island, New York, Wyoming, and Vermont to less than $700 per poor child for many States, including Alabama, Arizona, Arkansas, Utah, and Oklahoma.

California's allocation will be $752 per child, which is still below the national average of $775. So, while the new formula has the potential to target more funds and make use of updated data, the underlying problem of differences in funding between States remains.

Mr. President, I ask unanimous consent that a chart that shows the distribution of funds be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ESTIMATED TITLE I, PART A GRANTS FOR 1995–96 (FISCAL YEAR 1995) UNDER THE CONFERENCE VERSION OF H.R. 6

State	Total grant	Basic grant	Concentration grant	Average grant per formula child
Alabama	$122,416,000	$106,911,000	$15,505,000	$676.13
Alaska	14,586,000	13,389,000	1,197,000	1,239.03
Arizona	95,960,000	83,080,000	12,880,000	690.36
Arkansas	73,358,000	64,178,000	9,180,000	675.25
California	729,198,000	637,751,000	91,448,000	751.94
Colorado	66,330,000	60,653,000	5,677,000	775.80
Connecticut	50,417,000	47,097,000	3,321,000	947.78
Delaware	15,064,000	13,880,000	1,184,000	1,184.22
District of Columbia	19,354,000	16,752,000	2,602,000	1,022.88
Florida	276,129,000	244,741,000	31,387,000	784.67
Georgia	158,806,000	140,673,000	18,133,000	672.58
Hawaii	18,363,000	16,548,000	1,815,000	834.44
Idaho	21,337,000	19,517,000	1,820,000	646.27
Illinois	304,764,000	270,831,000	33,934,000	870.76
Indiana	102,912,000	94,964,000	7,948,000	747.45
Iowa	49,136,000	46,504,000	2,632,000	713.10
Kansas	47,862,000	44,416,000	3,446,000	739.39
Kentucky	121,382,000	106,167,000	15,214,000	742.63
Louisiana	185,072,000	160,190,000	24,882,000	681.92
Maine	24,185,000	22,370,000	1,815,000	859.33
Maryland	83,107,000	76,710,000	6,397,000	960.43
Massachusetts	116,644,000	106,557,000	10,087,000	967.44
Michigan	292,349,000	261,139,000	31,210,000	965.20
Minnesota	80,330,000	73,929,000	6,401,000	799.18
Mississippi	121,746,000	105,699,000	16,047,000	679.85
Missouri	113,721,000	101,472,000	12,249,000	725.94
Montana	25,235,000	22,273,000	2,962,000	833.95
Nebraska	29,642,000	27,330,000	2,312,000	739.06
Nevada	18,010,000	16,323,000	1,687,000	745.10
New Hampshire	15,472,000	14,395,000	1,078,000	1,128.06
New Jersey	136,542,000	124,821,000	11,720,000	977.82
New Mexico	57,809,000	50,048,000	7,761,000	681.77
New York	599,856,000	531,628,000	68,229,000	1,004.56
North Carolina	123,358,000	113,202,000	10,156,000	666.04
North Dakota	16,416,000	14,601,000	1,815,000	795.23
Ohio	288,644,000	256,044,000	32,599,000	867.07
Oklahoma	81,721,000	71,592,000	10,128,000	674.20
Oregon	62. 026,000	57,199,000	4,827,000	877.61
Pennsylvania	295,622,000	267,079,000	28,543,000	980.06
Puerto Rico	253,030,000	219,011,000	34,019,000	451.36
Rhode Island	20,666,000	18,433,000	2,233,000	1,006.17
South Carolina	88,865,000	79,188,000	9,676,000	662.89
South Dakota	18,467,000	16,583,000	1,884,000	670.71
Tennessee	118,799,000	103,608,000	15,191,000	677.68
Texas	579,564,000	505,461,000	74,103,000	721.48
Utah	31,391,000	29,451,000	1,940,000	629.12
Vermont	14,500,000	13,407,000	1,093,000	1,228.10
Virginia	97,265,000	88,995,000	8,271,000	745.28
Washington	92,395,000	84,857,000	7,538,000	783.02
West Virginia	65,154,000	56,656,000	8,498,000	808.60
Wisconsin	116,136,000	107,937,000	3,198,000	914.04
Wyoming	15,256,000	14,059,000	1,197,000	1,167.61
U.S. Summary	6,566,372,000	5,840,300,000	726,072,000	775.39

U.S. Summary—Basic and concentration grant totals are equal to the level of funding provided in H.R. 4606, in the same proportions as fiscal year 1994 appropriations (i.e., approximately 11 percent concentration grants, 89 percent basic grants). Estimates prepared by CRS. The only change in the basic and concentration grants from current law is an increase in the State minimum to the lesser of 0.25 percent or the average of this plus 150 percent of the national average grant per child.

Mrs. FEINSTEIN. Mr. President, I want to particularly thank Senator BYRON DORGAN of North Dakota who sponsored the gun-free schools amendment. I cannot tell you how important I think this amendment is. If we cannot guarantee that our schools are safe places, if we persist to worry about the youngster who brings the gun to school and not worry about the good children who do not bring guns to school and the education they are getting, we just continue with misplaced priorities.

The gun-free schools provision is part of the conference report. I am hopeful that every school district all over this Nation will put it into effect immediately, and I hope that parents that learn about this will see that their school districts put it into effect.

What this legislation is meant to do is ensure zero tolerance for guns in school. If you bring a gun to school, no matter what the excuse, you are expelled for a year. This is a strong, tough, no-nonsense message. Schools must be safe places. They are for learning; they are not for getting shot in the back; they are not for being big man on campus with a .38 tucked in your pocket; they are for learning, and they must be safe places.

Mr. President, when it comes to education, I am one that very much favors a decentralized system. I am hopeful that in the coming years, on a bipartisan basis, we might really begin some major conversations in this body as to how we can make our schools work for our young people, what we can do to be helpful to the States. I suspect one of them is to see that the States really have the ability to do what is necessary.

I am one that very strongly believes there should be achievement levels set which are mandatory achievement levels in each of the grades. And if a youngster does not achieve that level, instead of rewarding that youngster with promotion, one ought to find out why that youngster is not learning, address the problem, and do what is necessary to deal with it.

I am also one who believes very strongly in chartered schools. Recently, I visited a school by the name of Vaughn Elementary School in Sylmar, CA, a large school of 4,000 students—a school that has had the lowest test scores in the district, a student body that is dominantly minority—which became a chartered school, with a new principal, who brought in parents and teachers and they worked together and planned together. They decided on their curriculum. Guess what? Test scores are going up. The parents handle the budget, and they have saved money. They have more books and supplies than they have ever had, and they have instituted—because they want it—a uniform policy, which is now going into effect. It is working in that school.

I have also been a supporter of bilingual education because we have a diverse educational student body. But one of the problems now in California schools is there are up to 80 different languages in a school. So there are new challenges. How do you handle youngsters that are not proficient in English, not able to learn English, when you have so many languages in a school? Is it not better to teach them first a learning ability in English so they can go ahead and learn and think in English? I am beginning to think that the answer is "yes," because if there are so many different languages and if the teachers have to spend so much of their time coping with this, then the learning for each youngster decreases.

These kinds of new problems of the day are brought on by changing demographics. I think local school boards and State school boards, and, yes, even U.S. Senators, have to begin to look again at what is happening in our schools.

I think, overall, this is a bill that moves us forward, and I am proud to support it. It is not a perfect bill, but I would like to conclude by thanking the members of the conference committee for their indulgence and by thanking our Senate committee and by indicating my support for this legislation.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KENNEDY] is recognized.

Mr. KENNEDY. Mr. President, I know we are under controlled time. Could the Chair indicate to me what is the present allocation of the time that remains?

The PRESIDING OFFICER. The Senator has approximately 2 hours on his side.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, I ask unanimous consent that George Jesien, a Kennedy Foundation fellow with the Labor Committee, be granted floor privileges for the remainder of the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. When the 103d Congress adjourns later this week, the American people will begin their assessment of our accomplishments. We started this Congress with an ambitious agenda. While we have not met all of our goals, the 103d Congress has been extremely productive on education, and we can be proud of our achievements. Fortunately for school and college students and their parents across the country, the gridlock that has affected Congress on so many other issues has spared education.

The passage of ESEA later today will be the culmination of 2 years of impressive bipartisan cooperation and accomplishment in all aspects of education. President Clinton can be proud of this record, and so can Democrats and Republicans alike in Congress. In this Congress, after ESEA passes, the Senate and the House will have completed action on six major bills that will strengthen all aspects of education for all students—preschool through college.

In years to come, this Congress may well be known as the education Congress.

A decade ago, the report of the National Commission on Excellence in Education called for urgent action to improve the quality of education. We all heard the warning—a "rising tide of mediocrity" was eroding our schools and undermining our national strength.

Despite this warning, there was little immediate progress in rethinking the Federal role in improving education. President Reagan tried to eliminate the Department of Education altogether. President Bush called himself the education President, and his administration established an impressive agenda of goals, but the emphasis instead was on smaller-scale private school projects.

In the last 2 years, under the leadership of President Clinton, we have enacted an unprecedented series of bills with broad bipartisan support to restructure the Federal role in education and make existing Federal programs much more responsive to the Nation's critical needs in the years ahead.

First, we expanded Head Start, so that more young children will have access to these highly successful educational activities. We set aside 25 percent of all new funds to be used in quality improvement projects, such as better training of staff and better working conditions.

As part of that legislation, we also created a new Early Start program—a zero-to-three initiative for infants and toddlers to provide prenatal care, training in parenting, and comprehensive and continuous social services to families with very young children.

We have learned that for many children, Head Start starts too late. If we wait until the age of 4, when Head Start begins, we have already lost the battle for many children. The goal of Early Start is to give them and their families the support they need when they need it the most.

Second, to support local school reform, this Congress enacted the landmark Goals 2000 bill. This legislation is already helping schools across the country develop their own plans for improving the curriculum and set high standards for student achievement.

Over the next 5 years Goals 2000 will help schools to carry out reforms such as extending the school day and school year, reducing the size of classes, increasing parental involvement, and integrating various subjects into fewer courses. The legislation encourages voluntary standards for courses, so that parents and communities will know what students should learn in core subjects such as English, history, math, and science. It also supports teacher development and training to revitalize teaching in American schools.

Third, today, with the passage of the pending major revisions in the Elementary and Secondary Education Act, we are overhauling the largest single source of Federal aid to education. This massive bill will provide $60 billion for schools across the Nation over the next 5 years.

The reforms we have made in ESEA will target more funding to middle-income and low-income communities that need it most.

We give schools much more freedom to take aid earmarked for disadvantaged students and apply it to schoolwide reforms.

The bill also contains important initiatives to encourage the professional development of teachers, as well as significant steps to prevent violence in schools and fight drug abuse among students.

ESEA also includes the Technology for Education Act, to assist teachers in their efforts to bring computers and other new telecommunications tools into the classroom. Computer software, video equipment, electronic networks, satellite broadcasting, and other technologies are revolutionizing learning in the best schools, and we need to make them more widely available in all of our schools.

Fourth this year, we also broke new ground in helping students enter the workforce with the academic and occupational skills needed to hold a good job. The School-to-Work Opportunities Act is designed to close a key education gap with other countries and end the relative lack and ineffectiveness of work-based learning programs in the United States.

Japan and European nations have extensive apprenticeship and company-based training programs that give graduates the skills to hold good jobs. The United States has done too little to ease the transition from school to work, especially for the so-called forgotten three-quarters—the 75 percent of American students who do not earn a 4-year college degree. The School-to Work Act addresses this problem by encouraging coordinated programs that link classroom learning with actual work experience.

Fifth, we also took a far-reaching step to make college more accessible and affordable for large numbers of students. The Budget Reconciliation Act of 1993 established a new direct student loan program that will save students $2 billion in loan fees and give them more flexible repayment options. Direct lending will also save taxpayers $4 billion in reduced subsidies to banks and other loan guaranty agencies. Mr. President, that is enormously important.

This is a very important and significant assistance to students as well as to families that need to find resources through loan programs to send their sons and daughters or themselves through the college and university systems in our country.

Sixth, finally, we passed the National and Community Service Act, which encourages Americans of all ages to become more involved in their communities. Key activities include service-learning programs in schools, senior citizen efforts, and the new AmeriCorps project, which offers vouchers for college tuition in return for community service. In the long run, this new lay may be the most important education reform of all, because it encourages citizens and communities to restore the ideals of civic duty and service to others to their rightful place in education. Congress cannot solve the profound problems we face in education, but involved citizens can.

Six bills in 2 years. It has not been easy. At times we have had to fend off filibusters from our opponents. We have had to work hard to find common ground. We have threaded many needles, and adopted many compromises that were painful to achieve. But in the end we have succeeded in building a new bipartisan consensus on the basic principles that must guide Federal education reform.

We need to start early. If we wait until children come through the schoolhouse door, it is already too late for many of them. They have fallen behind and will never catch up.

We need to emphasize high standards for all students. For too many years, we have been willing to accept too little from students and from schools. We need to set goals for what children should learn in school, and we need to give schools more resources to help meet those goals.

We must emphasize local responsibility for results. In the past, Federal education programs have too often tried to micromanage local decisions on schools. Teachers and parents know local needs best. I don't intend to try to dictate local school reforms and neither should Senator HELMS. The best Federal role is to let States set their own performance standards and give schools greater freedom to decide how to use Federal money most effectively.

We need to invest in teachers. Good teachers are at the heart of good schools. But too many of today's teachers are overburdened and receive little backing in their effort to learn new teaching methods. With adequate time and support, they can be more effective in developing new ways to teach.

We must bring more schools into the future with new technology. Technology is transforming all other sectors of the economy. Yet most classrooms today lack a computer. For students to acquire the skills they need, they must have more opportunities to work with technology in school.

Communities and businesses must work in partnership with schools, and schools must work with them. Schools will not succeed as long as they are isolated from the rest of the world. Communities and businesses must take greater responsibility for the success of local schools and find new ways to work with students and teachers. Schools can teach more effectively and better prepare students for future careers by integrating community service and work experience into the curriculum.

We need to keep college affordable and accessible. The road to a college degree should never be barred by a dollar sign. Students who succeed in high school and want to continue their education should not be discouraged by the costs, or saddled with repayments so large that they cannot afford the career they prefer.

If college becomes the preserve of a wealthy few, the Nation will be losing the talents of millions of its citizens who could contribute immensely to our society in numerous and satisfying professions where the chance for the chase for the almighty dollar is not the overriding and driving concern.

Our education system is and should be locally based. But as we have seen in this Congress, there is much that the Federal Government can do to assist education reform. Federal spending may constitute only 6 percent of the Nation's education budget, but the Federal Government can offer urgently needed seed money for innovative projects.

Through research and targeted incentives, we can provide leadership and essential aid to improve all aspects of education.

In a sense we have only just begun. As we look to the future, I hope we will continue the reforms we have begun so successfully in this Congress. Above all, let us never lose our grip on the bipartisan spirit and commitment by Senators, Representatives, and the administration alike that have made this unusual trend of achievement possible. We have kept gridlock at bay on education, and the Nation is the winner.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota [Mr. DORGAN].

Mr. DORGAN. Mr. President, while the Senator from Massachusetts is on the floor, let me say that there are many in politics these days who look for prevailing winds in which to raise their sail. I was struck, as I sat here and listened once again, that Senator KENNEDY has in good times and bad, no matter which way the wind is blowing, represented the timeless truths about what is important in this country. Investment in this country's children represents this country's future. Senator KENNEDY has spent many years in this Senate, in all kinds of different political climates, fighting for exactly the same thing, the opportunity to give our kids a chance to lead this country to a better future.

I compliment the Senator for his wonderful work on the Improving America's Schools Act.

Mr. KENNEDY. I thank the Senator.

Mr. DORGAN. Mr. President, I would like to follow up on some remarks that were made by Senator FEINSTEIN. First however, let me thank Senator KENNEDY for helping Senator FEINSTEIN and I preserve an important provision in this conference—the Gun-Free Schools Act of 1994.

I know that this provision caused some consternation in conference, but I think the final result is the right result. In this piece of legislation, we send a message in the form of a national standard that we want our schools to be safe. The Gun-Free-Schools Act, which is included in this piece of legislation, says to schools all around this country that we want to be sure when children go through the front door of their school each morning, they are going into a place of safety.

As we have discussed this Gun-Free Schools provision over the past several weeks, I was interested to learn from some people that they think the Federal Government has no business discussing the issue of guns in schools. Some would say, "Keep your noses out of that. That is none of your business."

Well, sadly, the epidemic of violent crime in this country has moved from city streets to America's classrooms. There are no national statistics, even though the Centers for Disease Control is beginning to record them, documenting the number of shootings in schools. However, I know of at least 41 people who have been killed in shootings in schools, or on school grounds, in the last 2 years.

It cannot escape the notice of people that our schools, especially in large cities, are now having to put metal detectors and security guards at the doors. And still guns are getting in to our schools.

I would say to those who believe this is none of our business, do not give me five reasons, or even two reasons—rather give me just one reason why anyone should ever be allowed to bring a gun to school. Just one reason.

Schools are places of learning and they must be safe. Children cannot learn if they do not feel safe. And that is what this issue is about.

Some say, "Well, the Federal Government has no business telling anybody anything." In this amendment we preserve—even as we establish a national standard of expulsion for kids who bring guns to school—local control by saying in the law itself that the head of the local school agency can make a case-by-case exception and modify the expulsion requirement, if they think it is necessary. We are saying that we want a national standard. And we also say in the law that there can be a case-by-case exception when the local school authorities think that is necessary.

Additionally, people say, "Well, if you expel some kid who brings a gun to school, the kid is going to be out on the street terrorizing people."

If some kid brings a 9-millimeter or a .38 to school, and decides to threaten some other kid, and is therefore expelled when caught with the weapon, some people say, "Well, what is going to happen to that kid?". I will tell you what is not going to happen to that kid. That kid is not going to be in school with other kids. He is not going to be in the classroom with that gun. That kid is either going to be expelled and on the street, or the school can, as our law provides, set up an alternative setting in which they can educate that kid. But that kid will not be back in the classroom during the 1-year expulsion. That is what our law says.

Let me reiterate, we have not taken control away from the local school authorities. We have set a national policy, that says if you bring a gun to school you will be expelled. But the head of the school agency can make a case-by-case exception if they think the expulsion policy is not appropriate for a specific case.

I have mentioned this to my colleagues before, and I want to do it one more time, this is not an abstraction. I toured an inner city school this year. I went through the metal detector at the front door. I saw the police officer watching the front door. I talked to the principal, superintendent, and students at that school.

Just a month after I visited that school a tragedy occurred. One student bumped a second student at the water fountain down near the cafeteria. The student then pulled out a pistol and shot his schoolmate five times and left him lying on the floor critically wounded.

I have met that youngster who was shot five times while in school. Fortunately, he survived. His name is Jerome. My guess is that Jerome understands. I think all the other kids like him who fear for their safety in school understand. I think Jerome's parents understand. And I think teachers understand that we cannot use excuses to tolerate such dangerous behavior. We must say that you cannot bring a gun to school. We must say if you do, you will be expelled. If we can't do that, our schools won't be safe.

This policy is not inappropriate. Thirty years ago the biggest problem in schools was truancy and chewing gum. Today the biggest problem in our schools is drugs, guns, and teenage pregnancies.

We already have some national standards for our schools. It makes sense to have a similar standard for guns. For example, when a school district decides it wants to use Federal funds, do you know what it must certify on the application? I have a copy of the application. Right in the middle of the application a school district must certify that its schools are a drug-free-workplace. If the school district does not certify that it is a drug-free-workplace, it cannot access Federal funds of any kind. Every school district must certify that it has a drug-free-workplace policy. Everyone agrees that it is fine to require schools to certify that they are a drug-free-workplace. But what kind of logic is it that some people feel we should not require gun free schools.

We also have told schools they must be equal opportunity employers. We tell them they must meet OSHA workplace safety requirements. We tell them they must establish drug-free school zones, and drug offenses within these zones carry double penalties. Schools have to be handicapped accessible. Schools are required to have a minimum number of school days each year.

So what the Senator from California [Mrs. FEINSTEIN] and I did was simply say, "Let us also recognize the change in our times and the danger to our kids and decide that schools must be safe and establish a national standard that says guns shall not come to schools."

We are not eclipsing local control. Our law says the local agency can make an exception where appropriate. But we do believe all across this country there ought to be one simple, clear, message to students and parents alike—you shall not bring a gun to school. If you do, there will be a certain penalty.

Again, I want to, as I close, commend the work of Senator FEINSTEIN, Representative GEORGE MILLER, and the others who helped enact the Gun-Free Schools Act. To enact this law in this conference report is one day going to save the lives of children. We are probably not going to know their names, and we will not know the circumstances. But if we can decide all across this country that kids can be safer in schools if we will not allow guns in school, then we will have done something for our kids.

I have a young son in a classroom right now. I hope that classroom is safe. And I hope every child in school today in this country is sitting in a classroom that is safe. Sadly, I know that is not the case.

And at least part of the reason for that is some kids today have walked in the front door of their schools with guns. Some kids have done that because they do not believe they will have to pay for their behavior. They believe that this society will tolerate everything. They believe the society will make excuses for everything. In this instance, I say, let us decide no more excuses. Let us have a zero tolerance policy on the issue of guns in schools. Let us tell the young people who would think about bringing a gun to school tomorrow, "Don't even think about it. It is not appropriate. There is a uniform policy and certain penalty. If you don't want to pay the price, then don't even think about bringing a gun to school."

I hope those who misunderstand this provision, those who say, "Well, you have taken all the authority away from the local school districts," now understand that is simply not the way the law is written. It is written for one important purpose—to establish a national standard to tell everyone we do not want guns in our schools and we are serious about it. I am convinced that one day this law will save lives and that it is the right thing to do.

This Congress has taken many steps to improve our elementary and secondary schools. I am proud to have supported the Goals 2000: Educate America Act, the Safe Schools Act, and other important education bills. We now have before us perhaps the most important piece of education legislation to be considered by the 103d Congress.

The House and Senate have labored long and hard to complete this reauthorization of the Elementary and Secondary Education Act. I commend the Labor and Human Resources Committee, as well as the House Education and Labor Committee, for their leadership on this bill. Under the guidance of Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS, the Senate conferees have brought back an excellent bill.

Most Federal aid for elementary and secondary education programs, totaling more than $12 billion in fiscal year 1995, will be reauthorized by this legislation. In addition, this bill will significantly improve education law and set new directions for the education partnership between Federal, State, and local governments. The bill will restructure many Federal programs to help schools use Federal funds more productively and help students meet high standards of achievement.

This act will provide approximately $60 billion in Federal education aid for schools across the Nation. It will also help make our schools safe for learning. Finally, the reforms in this bill will make Federal educational programs work better for our students. I urge my colleagues to join me in supporting this legislation.

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa, Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, there are a couple of points in this bill that I would like to address.

I am concerned that the language in the bill requires that school officials act willfully in order for Federal funding to be withheld. I am convinced that in the real world the willfulness standard will be meaningless. No school district anywhere will have its funds withheld for violating students' first amendment free exercise right to pray. That is probably why the conference committee adopted the language in the first place.

In the context of a violation of rights, willfulness legally means that the individual has acted to voluntarily and intentionally violate a known legal duty. Consideration of these requirements will show that willful violations will never occur. The first issue under the conference report willfulness standard is whether there is a legal duty to allow schoolchildren to pray. The law clearly states that if schools are opened to extracurricular activities, access cannot be denied to certain groups because of their religious content. Other content-based religious speech distinctions also violate legal rules. But, intentional violations of these legal rules are already actionable under section 1983, the Civil Rights Act of 1866. So the conference report creates no new rights protective of religion.

The second issue is whether the school official knew of the right. For a school official cannot intentionally violate a legal right unless he or she knows of the existence of the right. If the school official either is ignorant of the law, or misunderstands the law, or has a good-faith belief that he or she was not violating any legal right, then the official cannot willfully violate the right. One cannot intend to violate a right if one is ignorant of it, misunderstands it, or believes that the right does not exist. In the end, the question is a factual one, and would require any aggrieved parent or an education department lawyer to bring a lawsuit that would take a long time and a great deal of money to resolve. Innocent mistakes will not result in a cutoff of funds, yet the violation of the students' first amendment rights is just as evident as if the official intentionally violated a legal right.

It would be easy for a school official to take any action against religion, but in doing so, violate no legal right that he knew of. Any lawyer could provide some basis for a good-faith belief that the official was in compliance with the law. So long as the official could show that he subjectively believed that his action violated no right, he could never willfully violate anyone's rights.

Under the standard in the conference, funds would never be cut off unless the administrator knew of the right to engage in religious activity, and intentionally decided to violate that right. That will virtually never happen. Even if it did, the funds would not be cut off unless there was proof that in fact the administrator acted in this fashion.

So I want my colleagues to know that the language we passed to safeguard first amendment rights of students had teeth. The conference report does not. This bill will not enhance in any way the ability of the Federal Government to make sure that school officials respect the first amendment free exercise rights of students.

We expect our school administrators to know the Civil Rights Law on the risk of losing Federal funding. We do not require a willfulness standard for those funds to be cut off. We should be equally adamant that our school officials protect students' first amendment rights.

I am also concerned, Mr. President, with the chapter one formula that came out of the conference committee. I supported the Senate language added by Senator HATCH, which removed the restrictions on the equity bonus. Under the change made by Senator HATCH's language, each State received the full benefit of its equalization effort.

Under the Hatch chapter one formula which passed the Senate, 38 States would have received increased chapter one allocations. Iowa would have received $2.5 million more than the original formula in S. 1513.

Unfortunately, according to the Congressional Research Service, Iowa is among 31 States to lose funds from 1996 to 1999 under this conference passed formula. Iowa loses almost $10 million in funds from 1996 to 1999. The big winners under the formula changes are New York, California, Texas, and Illinois.

Mr. President, I worked very hard to have seven amendments included in the Senate bill, which I supported. But the concerns I have on the school prayer language and the chapter one losses bring me to the position where I believe we can do better next year. Though some have said that funds will be lost if we do not complete action on this bill before this Congress adjourns, that simply is not true. All programs will continue under the previously approved programs and authorization levels.

I think we can do better next Congress and I voted against cloture for this reason.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. Mr. President, as a member of the Labor and Education Committee and also as chair of the Senate Appropriations Committee that appropriates money for the Department of Education, including title I, I would like to correct the record. I have the greatest respect and friendship for my colleague from Iowa. However, sitting here listening to his remarks and comments, I certainly wish the Senator, my colleague, had talked to me before he made those comments. Maybe I would not have to stand up to correct them. Because, frankly, what my colleague just said simply does not comport with the facts.

The chart that Senator COATS sent out this morning, and used this morning, it is like that old saying: In the Bible it says "There is no God." It says that in the Bible.

But the sentence before it says, "The fool hath said in his heart, There is no God."

So, if you take things out of context you can prove the Bible says "There is no God." That is what Senator COATS did this morning.

Senator COATS sent this notice around to our offices this morning, "Urgent, Members Attention Only," and it says, "Senator HARKIN: Reasons to Vote No on Elementary-Secondary Act; Iowa Would Lose $9.95 a million." I assume that is where my colleague got that figure.

Senator COATS is only telling half the story. He is sort of it says, in the Bible, "There is no God," but he does not tell you what the sentence before it says.

I tried to get the floor this morning to correct it. We were under a time agreement, the time ran out and I could not get the floor. Fortunately, I was able to talk to Senators as they came to the well to let them know that the figures that Senator COATS was putting out were wrong.

Let me correct that RECORD now. Iowa does not lose $10 million. I happen to chair the Appropriations Committee that funds the money. There is no way this would have gotten through if my State was going to lose $10 million, I can tell you that, Mr. President. No, what we did and what is not being said here and what is not understood—and I say this to my friend from Iowa, my colleague—there are two parts to this formula on title I. There is the targeted grant formula. That is what Senator COATS is using. If you only look at the targeted grant money, yes, Iowa and a lot of other States lose money. But what we added in conference was another portion of the formula called effort and equity, something I feel very strongly about. I debated it on the Senate floor. So when we went to conference, in trying to strike a deal with the House, they only wanted targeted grants, but I insisted that we also have a second formula for effort and equity, and that is what we did.

So under the bill itself, there is money that goes for targeted or for effort and equity. New moneys that we will appropriate can be split by the Appropriations Committee. Some can go to targeted, some can go to effort and equity. The Appropriations Subcommittees will decide. First of all, next year we have already appropriated the money for fiscal year 1995. That is already done. For fiscal year 1996, there is a hold-harmless clause. So no States are going to lose money in 1996, not Iowa nor any other State can lose money in 1996. So, again, Senator COATS used this from fiscal year 1996 to 1999. You cannot use 1996 because there is a hold-harmless clause.

Beginning in fiscal year 1996, the Appropriations Committee, under the authorization of this bill, is allowed to use whatever new moneys we appropriate, up to $200 million in 1996, for effort and equity. Beyond that, such sums as are necessary.

Senator COATS used a figure from CRS of $400 million. I can show you the record in conference. They were talking about $400 million increases in title I. I said, "I don't know what you are talking about." The average over the last 5 years has been $275,000, and under the budget caps and the ceilings we have, there is no way over the next 5 or 6 years that we are going to have a $400 million increase in title I. I would like to see it. If you are asking me if we can get the money, would I like to put $400 million in title I, absolutely; but we are not going to have that kind of money.

So in title I then, assuming we can get a $200 million increase, the Appropriations Committee can put all of it into effort and equity, 75 percent of it into effort and equity, half of it into effort and equity—whatever we want to do.

So what we did is we prepared a chart showing what would happen to the States if just half of the money went into the effort and equity or if all of it went into effort and equity.

Under either one of those scenarios, Iowa, instead of losing money, makes money. In fact, I do not have the runs for anything other than $400 million, but even under $400 million, Iowa would gain about $400,000 a year; and if we put the whole thing into effort and equity, Iowa would gain about $1.8 million a year.

Mr. GRASSLEY. Will the Senator yield?

Mr. HARKIN. I will be delighted to yield.

Mr. GRASSLEY. Will the Senator yield for a question?

Mr. HARKIN. I will be delighted to yield.

Mr. GRASSLEY. Prior to the question, if I can just say, first of all, I compliment the Senator because I know when it came out of committee the first time, that he got the formula that was in the original bill introduced improved dramatically. So our State would be helped and probably a lot of other States would be helped. So I compliment him on that.

I do not know anything about his activity in conference or any other process, but I did notice his work in that area, and he did improve it and I compliment him for it.

My question is only this: Senator COATS and I are both relying upon the work of the Congressional Research Service. I have not found the Congressional Research Service to be wrong very often, if at all, that I can recall. Has my colleague from Iowa discussed this with the people in the Congressional Research Service to see if they made a mistake and how they made a mistake? Can you tell me how they made a mistake?

Mr. HARKIN. I appreciate the question. I will try to respond to it. The figures I am using come from the Congressional Research Service. What I am saying is that Senator COATS only took one column.

Mr. GRASSLEY. I think I have that chart here.

Mr. HARKIN. If you look at the chart, what he did was he took the second column over, which just says $400 million under targeted formula. Senator COATS used that column. He did not take the other two columns. The other two columns add effort and equity; the third column over showing what would happen if we split it in half; the last column showing if we put it all into effort and equity.

I cannot in any way tell my colleague how much we will put in. I can assure him it will be a minimum of 50 percent. I suggest, knowing the members of the Appropriations Committee and that 33 States will be helped by effort and equity, it stands to reason that the bulk of the money will go into effort and equity. So I would say we are probably close to the column on the right-hand side, which shows Iowa getting $54 million.

Keep in mind, that is based on $400 million. There is no way we are going to get $400 million, but it gives you an idea of what happens under this thing.

So what Senator COATS did is he simply took out of context what CRS came up with. He took one column, and that is why I tried to get the floor this morning to explain that is not so. That is just not the way the Appropriations Subcommittee is going to operate, and that is why we put the effort and equity thing in there.

In no way is Iowa going to have their moneys reduced under this effort and equity formula. That is the point I tried to make this morning and I tried to make it in the well to the Senators. As I said about my Biblical example, about taking something out of context, sure you can take one column, but that is not what we are operating under.

I hope that clears it up. Does my colleague have any further questions on that?

Mr. GRASSLEY. I do not have any further questions, Mr. President. I will say, I hope it clears it up because I would like to think we are passing legislation that will be more fair to more States than that original chart that I saw. But I also suggest that I have been informed that Senator COATS is going to come over and try to discuss what interests my colleague from Iowa in some further depth, and I think I will defer to his discussion of that.

Mr. HARKIN. I will be glad to. I talked about this with Senator COATS in private. I will discuss it with him on the floor and have him respond as to what CRS put in the other columns because he just used one column, he did not use the other two.

Mr. President, I ask unanimous consent that the CRS table to which I referred be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1996 CHAPTER 1 ALLOCATION ESTIMATES

[All runs include $400 million increase]

State	Current Law	$400 m under targeted formula (Costs)	$200 m under targeted formula and $200 m under effort and equity	$400 m under effort and equity
Alabama	$130.1	$129.4	$129.2	$129.1
Alaska	13.5	15.5	15.6	15.7
Arizona	102.0	102.4	102.1	101.8
Arkansas	78.0	77.6	77.5	77.3
California	775.1	782.8	778.2	773.7
Colorado	70.5	69.7	70.6	71.6
Connecticut	53.6	53.2	54.3	55.3
Delaware	14.5	16.0	16.1	16.1
District of Columbia	20.6	20.5	20.5	20.4
Florida	293.5	292.2	293.3	294.4
Georgia	168.6	167.6	168.2	168.9
Hawaii	19.5	19.4	19.8	20.2
Idaho	22.7	22.3	22.8	23.3
Illinois	323.9	326.3	324.2	321.9
Indiana	109.3	107.7	110.2	112.6
Iowa	52.2	51.2	52.6	54.0
Kansas	50.8	50.0	51.1	52.1
Kentucky	129.0	128.6	128.1	127.5
Louisiana	196.7	197.6	195.5	193.3
Maine	25.6	25.2	25.8	26.3
Maryland	88.3	87.8	89.1	90.4
Massachusetts	123.7	123.3	123.9	124.6
Michigan	310.7	310.3	308.9	307.5
Minnesota	85.3	84.2	85.9	87.8
Mississippi	129.4	130.3	128.3	126.5
Missouri	120.9	120.1	120.5	121.0
Montana	26.8	26.4	26.5	26.7
Nebraska	31.3	31.0	31.6	32.3
Nevada	19.0	19.0	19.4	19.8
New Hampshire	15.4	16.5	16.8	17.1
New Jersey	144.2	143.8	145.9	148.0
New Mexico	61.5	61.4	61.0	60.6
New York	636.0	642.1	633.8	625.4
North Carolina	130.9	129.3	131.4	133.4
North Dakota	17.4	17.4	17.4	17.5
Ohio	306.8	304.3	305.2	306.1
Oklahoma	86.9	86.1	86.5	87.0
Oregon	65.9	64.9	65.8	66.8
Pennsylvania	314.2	312.2	312.7	313.2
Puerto Rico	269.0	266.9	264.0	261.1
Rhode Island	21.8	21.7	22.0	22.2
South Carolina	94.4	93.6	94.3	94.9
South Dakota	19.5	19.5	19.6	19.7
Tennessee	126.2	125.1	125.6	126.2
Texas	616.0	619.0	613.8	608.7
Utah	33.4	33.0	34.2	35.4
Vermont	13.4	15.4	15.5	15.5

FISCAL YEAR 1996 CHAPTER 1 ALLOCATION ESTIMATES—Continued

[All runs include $400 million increase]

State	Current Law	$400 m under targeted formula (Costs)	$200 m under targeted formula and $200 m under effort and equity	$400 m under effort and equity
Virginia	102.7	101.9	103.8	105.6
Washington	98.2	97.2	98.7	100.3
West Virginia	69.2	68.8	68.7	68.4
Wisconsin	123.4	122.2	123.5	124.9
Wyoming	15.0	16.2	16.3	16.3

Mr. HARKIN. Mr. President, if my colleague wanted to make the point that what we came back with from conference was not quite as good for certain States, including my own, as was in the bill passed by the Senate, he is absolutely right. But the reality is that the House would not accept that. So we had to work it out with the House, and I think we worked it out in a reasonably fair manner, I must say.

The original formula that came out of the Clinton administration, what they had advocated, was devastating for Iowa and for a number of other States.

But we worked with Senator PELL, Senator KENNEDY, Senator HATCH, Senator KASSEBAUM and Senator JEFFORDS. We worked this whole thing out in committee on a bipartisan basis to come up with a better formula. We did that. We had votes on it. We had debates. We even had a debate here on the Senate floor. We had a vote. But in going to conference it was clear that the House Members were not going to accept in totality what we had done in the Senate. And thus we came up with this new formula. And, quite frankly, I must say I think the new formula is fair.

I just want to say the Congressional Research Service, again, will do any run that Senators ask for. If you ask for a run on $500 million a year, they will do that. You can do a run on $1 billion a year. They will do that. But just because these tables are prepared does not mean that is actually what is going to happen. As I said, they ran these tables based upon a $400-million-a-year increase in title I. As the chairman of the Appropriations Subcommittee that funds this program, I can tell you right now, unless somebody comes up with some magic money someplace, we are not going to have that kind of money. We will be lucky to get the average of the $275 million that we have gotten over the last 5 years.

So we tried to do two things with title I: target our scarce resources to areas where they have a high concentration of eligible children, but then also to be fair to rural States such as Iowa where we may not have high concentrations but we certainly do have needy children, children in poverty, title I eligible children, but they may be in small towns and communities scattered around the States and thus the formula does address that.

(Mr. WELLSTONE assumed the chair).

Mr. HARKIN. On the issue of school prayer, the language that we have in the Senate bill is almost identical to what passed the Senate in the first place. There was a debate on an amendment I think offered by Senator HELMS, if I am not mistaken. That amendment was soundly defeated here on the Senate floor. And thus what we went to conference with and what we came back with from conference is basically the same language on prayer in the schools as was contained in the Senate-passed bill. So I cannot understand how someone—if they voted for the bill when it left the Senate, I cannot now see why they would vote against this bill based on school prayer. There may be other reasons, but I do not see why there would be a reason to vote against it on that basis.

So, Mr. President, I wanted to clear up these questions on title I funding because I simply did not have the opportunity under the time constraints this morning.

I think Senators can refer to the table and you can see what States come out as winners under the effort-and-equity formula. I am told there were 33 States that so come out—Iowa being one of those, I might add. Now, some States did not fare as well. But again, we tried to take our scarce dollars and allocate them in the best way we could.

I have asked many times in many audiences around this country, Where is it written in the Constitution or the Bill of Rights or the Declaration of Independence, where in any of those documents or any amendment thereto, where is it written that education in this country is to be funded by property taxes? I dare anyone to find anywhere, in any of our documents that set up the foundation for our country, that it says primary and secondary education is to be funded out of property taxes.

It is nowhere to be found. It has just sort of sprung up, and this is the way education funding developed in our country.

Well, of course, we did not have an income tax, as we know, prior to 1917. So basically all we had before that was Federal excise taxes and some tariffs and things like that. And so as States and local communities saw the need for general education, the only source they could go to was the property taxes and that is what they did. So the system built up.

Now, just because that is the way it was built, does that necessarily mean it is right for today? Should we simply adhere to a system of funding for elementary and secondary education that sprung up in the 18th and 19th centuries as a means of funding elementary and secondary education in the 20th and 21st centuries? I think that is a fundamental question we ought to be asking ourselves because, you see, if you fund education based upon property taxes, then clearly you get the inequalities we have today. Very rich areas with very beautiful homes and high property taxes have great schools. Inner cities, low-income areas, poor housing, low income have poorer schools. And as Jonathan Kozol said in his book, we have savage inequalities in our country today in schools and in education.

Why is it that 12 miles from this Capitol where I happen to reside, in Virginia, Fairfax County, and where my children have attended public schools—I still have one in public school; one just graduated from public high school—we have great schools. We have great teachers, great facilities, the best schools. They are wonderful. We have equipment. We have computers. That is 12 miles from the Capitol. But in other parts of Viriginia, the situation is not as rosy. That is what happens when you have a system of education based upon property taxes.

So I think that what we ought to be examining is how we rectify this, how we start to change that system, or we will continue to have these savage inequalities. Lest anyone think, "Well, what is wrong with that? We have a poor school district, poor students, poor schools. So what?" The fact is that when that child goes through that poor school and he receives an inferior education and cannot get a good job and earn a decent income, when that young person goes to a dilapidated school, and they see on television, they read in the papers, they know the good schools are out there, these kids are not stupid. These kids that go to these poor inner city schools know that nearby there are great schools, and they get stuck in schools where the roof is leaking and they do not have computers, and they do not have the best of education. They know. And the message it sends to them is, you do not count. This is what we think of you because this is the school you go to.

When that child becomes a teenager, and they say "Well, that is what society thinks of me, I am not good. They gave me a bad education, no good schools, what the heck, I might as well drop out. I am not getting anything out of my school anyway, I might as well drop out." That is where we have the highest dropout rates.

Then that dropout does not just affect that local school district. That student who has dropped out affects all of us. It affects the entire United States because that young person who drops out will not become a participating, productive member of society. Thus, the welfare rolls go up, crime goes up and dependency goes up. Then we respond by building more prisons, you see. That is the end result. We just build more prisons and lock them up.

So we cannot escape. There is no escape from this. We may live in the suburbs. We may live in great areas and we may think our schools are great and we do not have to worry about those poor schools. Yes, you do. You better worry a lot about those poor schools.

So that is why we need to rectify this. Thus, we have Federal aid to education to try to get funds down to help disadvantaged students, to try to get some money into these schools. That is why we built into this formula what we called "effort in equity." What we are trying to say is there are some States that do a great job of equalizing funding.

In other words, through the State income tax systems or other forms of State revenues, they have taken money and put it down into local school districts so that the poorer school districts are brought up to the level of the best and the richest school districts. That is called school equalization formulas.

Some States have done a great job at this. I am proud of my State. We started at it nearly 20 years ago. We are one of the best in the country.

Some States do not. Some States do not have an income tax system. That is fine. We cannot tell a State what kind of State tax system they have. That is up to the State. But what we can do is say to that State if you want Federal dollars for education, we will give you a bonus, we will give you an incentive. If you have better equalization formulas, if you have a better effort, first of all to fund education, and then if you have equalization, we will give you some more money.

That is what the formula does for title I. That is the way it ought to be.

I do not think that we ought to take taxpayer dollars from around this country and give it to, say, Texas where they have a lot of inequality in their schools, where they do not have a State income tax system and we bail them out. I do not think taxpayers in Iowa, Minnesota, Rhode Island, New Hampshire, or New York or anyplace else ought to bail them out. But if they want to equalize, to have a better effort, then we will be glad to help a little bit more.

So that is sort of in response to the comments of the Senator from Mississippi about Federal aid to education. We live in one Nation. Primary and secondary education still is a function of local governments as it ought to be, in the States as it ought to be. But I believe we have an obligation to the children of this country, regardless of where they live, to ensure that they get the best possible elementary and secondary education.

I was told, Mr. President, about a study that was commissioned by the Government of Singapore. The government of Singapore commissioned a study and wanted a recommendation on what kind of education system they should establish for Singapore. A group of educators, business people, and others were commissioned to do this study. They came back after a worldwide study and they recommended that the state of Singapore, the Government of Singapore, adopt the elementary system of Japan, the secondary system of Germany, and the college system of America because that was the best. I think if you look at it, and you look at what we do the best in this country, postsecondary education is the best in the world. People come from all over the world to go to college here or to post graduate school. Guess where we put the most Federal dollars? Postsecondary education.

I see the distinguished Senator from Rhode Island. We have Pell grants that we give to students to go to college, poor students, so they can have access to college education. We also have student loans. We have all kinds of moneys that flow out to our colleges and universities.

I just wonder what would happen in primary education if we spent per pupil in the primary education what we spend per pupil on college students, from the Federal Government. It might be a little bit different in this country. That is why I think the nation of Singapore said yes, we will adopt the United States system of postsecondary because it is the best. I think we need to reverse it. We need to not reverse it—I do not want to become less than the best in postsecondary. But we ought to become the best in primary education.

I daresay it is going to take the same kind of involvement that we have done with Pell grants and guaranteed students loans, the same kind of investments we made in our Land Grant Colleges, the same kind of research that we put into postsecondary education research in our colleges around the country. If we do that, then we will equalize it. Then we will not have these poor school districts with poor students and poor equipment and poor teachers.

So that is why we need this Elementary and Secondary Education Act. It does not do it all. It does not even really do what I think we ought to start doing. It begins as one small step in that right direction. I hope in the next few years we will start reversing our priorities in this country and we will start seeing that if we want to spend less on building prisons and we want to put less into crime bills and hiring 100,000 more policemen for our streets, the best thing we can do is to put the money into elementary and secondary education.

An ounce of prevention is still worth a pound of cure. I do not know how many times we have to learn that lesson but maybe we have not learned completely yet because we still have those who say Federal Government should not have any vote.

I will close on this note, Mr. President. Twenty years ago when I came to Congress, I remember that the National Education Association—I think at that time there was a team—a proposal that was put forward. It was called the one-third, one-third, one-third proposal. I thought it had a lot of merit and I supported it. Quite frankly I still do. The idea behind it was that primary, elementary, and secondary education ought to be funded: One-third local, one-third State, and one-third Federal.

At that time—I may be off a percentage point or two—but it seems to me that at that time in the late 1970's the percent of total funding for elementary and secondary education that came from the Federal Government was right around 10 or 11 percent. That was in 1978, about 10 or 11 percent. We were talking about taking it up to 33⅓ percent, one-third. What happened in the 1980's? We turned around and went in the other direction. If I am not mistaken, it is right around 5 or 6 percent now. So we have gone in the opposite direction from where we were in the 1970's, when many educators, school boards, PTA's, and others, were saying we should have one-third, one-third, one-third. We are not even at 10 percent, where we were in 1978. We are down to 5 or 6 percent in terms of Federal help for local schools. So we have gone in the wrong direction and we have to turn it around. This bill is a small step in the right direction to start turning it around.

Mr. President, this effort took a long time this year. I know the occupant of the chair serves on our committee and has been a great force in getting this bill through and making sure that we address the needs of our kids, and elementary and secondary education. It was a long struggle, with a lot of debate and a long conference, but we got it through and now we are going to vote at 5:30.

I thank the Iowa education community, including the Iowa Education Association, the Iowa School Board Association, the School Administrators of Iowa, Iowa Parent-Teachers Association, Iowa Department of Education, and members of the Iowa Legislature. We were in contact with them constantly. They were very helpful to me and my staff throughout the reauthorization process.

I want to state for the record how much I appreciate the help of all of those organizations and others from the State of Iowa.

Mr. President, it is October and children are back in school. It is also a very appropriate time to take up the conference report for the Improving America's Schools Act. This bill reauthorizes the major Federal programs that impact our Nation's schoolchildren, including the largest single program—title I.

Contrary to popular opinion, the 103d Congress has passed a number of very important pieces of Federal education legislation. Last spring, President Clinton signed two important education initiatives—Goals 2000: Educate America Act and the School To Work Opportunities Act.

Those bills responded to important concerns about our Nation's educational system. Goals 2000 established the framework for comprehensive, systemic reform of elementary and secondary education. The School To Work Opportunities Act responded to the critical issue of making sure that all of our students are well prepared for the workplace. Goals 2000, School To Work, and Improving America's Schools Act are integrally linked. Together, they form the most extensive examination of elementary and secondary education since 1965 when the first Federal Elementary and Secondary Education Act was enacted.

While I cannot stress the importance of the earlier legislation, I believe they were setting the stage for this conference report. Improving America's Schools Act authorizes the bulk of Federal education programs. Put quite simply, it is where the money is. This legislation authorizes $13 billion in spending for our Nation's elementary and secondary school children.

The bill is quite lengthy so it is impossible to comment on all of its many provisions. I would like to use my time to talk about just some of the important features of this legislation.

The bill reauthorizes the title I Compensatory Education Program for 5 years. It significantly restructures the program to ensure that students targeted by title I will be taught to the same high standards as other students. Report after report has told us about the tremendous need to improve American education so we can effectively compete with other nations. This legislation makes many needed changes aimed at assuring a high quality education for all American students.

The legislation also rewrites the formula for distributing funds under the title I program to make more effective use of these limited Federal funds. While the formula has changed from the bill we passed last summer by a 94 to 6 vote, it still contains some very important elements of the original Senate formula.

Mr. President, I think most Americans are familiar with the glass ceiling—that invisible barrier that often keeps competent and capable women from ascending to top jobs. Many of us are less aware that early in life it isn't the glass ceiling of the corporate suite but the plaster walls of the classroom that keep female students from realizing their potential.

The inclusion of the gender equity in education package will ensure that girls receive a share—an equal share—in the American dream by requiring equal treatment in the classroom. I am very pleased that the bills gender equity in education bills sponsored by myself, Senator MIKULSKI, Senator SIMON, and Senator MOSELEY-BRAUN have been included in this legislation.

I am also pleased that the conference report also includes the Elementary School Counseling Demonstration Program as part of the fund for improvement in education.

Elementary school counseling programs can make a big difference in the lives of young children. Children today face enormous challenges. Some live with a drug-addicted or alcoholic parent, some are suffering from the trauma of a divorce, some are victims of physical, sexual, or mental abuse. And they need our help.

By making contact with a child early on, these students have a better chance of developing the self-esteem and problem-solving skills that will benefit them during their teenage years. This principle has been put into practice in the Des Moines Independent School District with a program called smoother sailing.

Smoother sailing provides professional counselors to work with students in groups on self-esteem and conflict resolution activities. These professionals are also available to work with students on an individuals basis. And it works.

Attendance is up, classroom disruptions are down and test scores have improved since smoother sailing began in the Des Moines public schools. Elementary school counseling demonstration grants will provide grants to establish and expand counseling programs in elementary schools to focus on prevention and early intervention at a critical time in the development of children.

Title III of the legislation focuses our attention on the need to improve technology in our Nation's schools. I cosponsored the Technology for Education Act which has been incorporated into this legislation.

Walk into any workplace today and it is a much different place than that of 30 years ago. The same is true of our homes, highways, grocery stores, and shopping centers. But, enter most of our schools and it still looks very much the same. Desks are in orderly rows and much of the work being done on blackboards with chalk and on paper with pencil. And these are the tools educators are expected to use to help train the future work force. There is a huge disconnect between the worlds of school and work. We must bridge these gaps in order to be competitive and this legislation will help us meet those goals.

The State of Iowa has established an outstanding statewide distance learning network for education. The Iowa Communication Network links secondary schools, with the colleges and universities of the State in a unique interactive system.

I am also aware of the Community Learning Information Network, a national, nonprofit consortium. CLIN provides community-based technology and information delivery systems and interactive distance learning to link elementary and middle schools, employers, social service agencies, and other community organizations to provide a safe and enriched full day environment for children including at-risk and limited-English-proficient children.

These distance learning programs are good examples of activities that need to be supported in the future through improved education technology.

Mr. President, in closing, I have often spoken about the importance of education—it is vital to the future of our country. The economic health of our Nation and well-being of our children depends on the education of our citizens.

One of our Founding Fathers, Thomas Jefferson, spoke eloquently about the importance of education for a strong and lasting democracy. He said, "a democratic society depends on an informed and educated citizenry."

Thomas Jefferson's words remind us about that it is in the national interest to have a strong educational system. Improving America's Schools Act will help build the educated citizenry that forms the strong foundation for our Nation. I urge my colleagues to support this legislation.

Mr. President, this is a good bill. I urge my colleagues to vote for the conference report. Also, at the conclusion of my remarks, I would like to include a statement in the RECORD on the implications of this legislation for students with disabilities.

IMPLICATIONS OF THE IMPROVING AMERICA'S SCHOOLS ACT FOR CHILDREN WITH DISABILITIES

As chairman of the Subcommittee on Disability Policy, I would like to take this opportunity to comment on the implications of the Improving America's School Act of 1994 for children with disabilities.

The passage of the Americans With Disabilities Act in 1990 and our recent celebration of the law's fourth anniversary highlight the national policy path on which our country has embarked which focuses on the inclusion, independence, and empowerment of individuals with disabilities.

Part B of the Individuals With Disabilities Education Act extends to all students with disabilities the right to a free and appropriate public education based on the unique needs of the child. To the maximum extent appropriate, children with disabilities must be educated with children who are not disabled. Separate classes, separate schooling, or other removal of children with disabilities from regular educational environments occurs only when the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Although major strides have been made in educating students with disabilities, in far too many schools around the country, separate educational systems have developed with little or no coordination—one system for regular or general education, a separate and distinct system for special education. This isolation and lack of coordination creates artificial barriers to achieving a world class education for all disabled students.

The Improving America's Schools Act of 1994 is fully consistent with the ADA. In addition, it is also consistent with Goals 2000: Educate America Act and complements the spirit of part B of the Individuals With Disabilities Education Act and section 504 of the Rehabilitation Act of 1973.

This legislation is significant because it takes this Nation's educational systems one step closer to viewing all of our children as having the potential for achieving excellence according to their abilities. The term "all students" is defined as students from a broad range of backgrounds and circumstances, including students with disabilities. The legislation recognizes the need to provide additional support to these students where appropriate, so that they can achieve the challenging State content standards and challenging State student performance standards in the core academic subjects. The legislation makes programs for students who are disabled as accountable as other educational efforts by holding children to the same high standards and by providing the necessary accelerated curricular programming to make those standards attainable.

The legislation also encourages parental involvement and encourages schools to reach out to parents, including those with disabilities, and identify barriers to increased parent participation. Provisions in the legislation encourage school personnel to remove potential barriers to parental involvement and to provide training and support to facilitate meaningful parent participation in school activities and the education of their childern.

The legislation also directs local school personnel to coordinate their programs for educationally disadvantaged children with other educational services agencies and Federal programs, including resources provided under IDEA. Rather than building separate programs, this legislation encourages greater coordination among programs so that children with a wide range of challenges can be more fully integrated in the general education program and provided the necessary supports to make that integration effective and facilitative for learning.

The legislation recognizes that much-needed change and lasting school reform will not occur unless teachers are provided with opportunities to learn, study, and discuss new strategies for working with students with diverse learning needs, including students with disabilities. Therefore, title II enhances professional development opportunities for our Nation's educators through a series of activities. First, the legislation encourages institutions of higher education to improve the teaching and learning of all students by, among other actions, incorporating effective strategies, techniques, methods, and practices for meeting the educational needs of diverse student populations, including students with disabilities, in order to ensure that all students have the opportunity to achieve challenging State student performance standards.

Second, the legislation authorizes the use of funds to disseminate models of high quality professional development activities that train educators in strategies, techniques, methods, and practices for meeting the educational needs of historically underserved populations, including individuals with disabilities, and to develop activities to prepare all teachers, and, where appropriate, paraprofessionals, pupil services personnel, and other staff in the collaborative skills needed to appropriately teach children with disabilities in general education settings, consistent with their individual educational programs, in the core academic subjects. Third, the legislation requires that State and local educational plans describe how programs in all core subjects, but especially in mathematics and science, will take into account the need for greater access to, and participation in, such disciplines by students from historically underrepresented groups, including individuals with disabilities, by incorporating pedagogical strategies and techniques which meet such individuals' educational needs.

Lastly, States are authorized to carry out professional development and recruitment activities designed to increase the numbers of individuals with disabilities teaching in the core academic subjects.

These activities will help assure that America's teaching force is better prepared to address the needs of students from diverse populations and is trained in the collaborative skills need to work with their educational colleagues to assure that all students meet the high standards that are set for them and that the true promises of IDEA and the ADA are achieved.

Consistent with the focus on establishing and maintaining high expectations for all students, including students with disabilities, the conferees believe that it is critical that all students, including those with disabilities, participate in school assessments. The legislation includes provisions for the participation of all students with diverse learning needs and the adaptations and accommodations necessary to permit such participation. The conferees emphasize the importance of these provisions because of evidence of considerable exclusion of students with disabilities from national and State data collection programs. For example, it is currently estimated that the National Assessment of Educational Progress excludes 50 percent of students with disabilities.

Based on evidence from States such as Kentucky, Maryland, and others, the conferees believe that all children can participate in assessment efforts. Most students—over 98 percent in Kentucky's experience—will be able to participate in the regular assessment provided to nondisabled children with accommodations such as extended time limits, use of large print or braille versions of assessments, or use of a reader, scribe, sign language interpreter, or technology. The remainder may need adaptations to participate such as the use of information provided by an individual who has extensive knowledge of the student's performance or portfolio assessments which permit students to demonstrate their educational proficiency.

The conferees also believe that the IEP, required by part B of IDEA, serves as an excellent source for identifying the necessary adaptations and accommodations for students with disabilities to fully participate in assessments. The supports provided in the instructional environment will also serve the student in the assessment process and will help provide valid information on student progress and achievement.

I'm pleased to inform my colleagues that the legislation allows a local educational agency to use title I funds to pay the excess costs of providing services to children with disabilities. This will allow local educational agencies to utilize funds under this legislation for the provision of special education and related services described in a disabled child's IEP. Heretofore, this practice was prohibited.

As my colleagues will remember, the Senate bill contained two amendments regarding disciplining students with disabilities. The Gorton amendment would have modified the "stay put" provisions of IDEA by allowing school districts to remove a child from their educational setting and be placed in an alternative setting for up to 90 days for bringing weapon to school or asserting that the child was engaging in life-threatening behavior. If the parent appealed, the child would stay in the alternative setting pending all appeals. The Jeffords amendment would allow a child to be removed and placed in an alternative setting only for bringing a weapon to school.

The House Education conferees were vehemently against the Gorton amendment as were many national parent and educational organizations. Many of the House conferees felt that we should postpone any potential changes until next year when we reauthorize IDEA.

The legislation agreed to in conference includes compromise language. First, the legislation directs the Secretary of Education to disseminate widely the existing discipline policies for students with disabilities with the present provisions for changing a student's placement if deemed necessary. Second, it directs the Secretary to gather data on the incidence of children with disabilities engaging in life-threatening behavior or bringing all types of weapons to school. The data to be collected by the Secretary will provide us with useful information to determine what types of changes, if any, are needed for the reauthorization of IDEA. Third, the legislation directs the Secretary to submit a report to Congress by January 31, 1995, analyzing the strengths and problems with the current approaches regarding disciplining children with disabilities.

The compromise language also includes a modified Jeffords amendment. This amendment alters the "stay put" provision of IDEA in order to provide discretion to school officials to remove any child who brings a weapon to school and who has a disability or alleges he or she is disabled and place such child in an alternative educational setting for up to 45 days. The term "weapon" is defined as a firearm as defined in section 921 of title 18, United States Code. If a parent objects or appeals to the courts, the child remains in the alternative placement and not in the original placement. This process is identical to the process included in the Gorton amendment, except 90 days was changed to 45 days.

Second, the Jeffords amendment codifies an interpretation by the Office of General Council of the U.S. Department of Education regarding the relationship between the Gun Free Schools Act and IDEA, as modified by this amendment. Third, the Jeffords amendment sunsets the amendment made to IDEA on the date the reauthorization of such legislation is signed into law.

Although I, and many parents and educational groups, would have preferred to postpone making any changes to IDEA and the safeguards it offers to students with disabilities until the law is reauthorized, I believe the provision incorporated into the legislation provides school officials additional flexibility while we can obtain the critically important information on the extent and types of problems facing our schools.

Lastly, I'm particularly pleased that the bill incorporates S. 2144, the Support for Families With Children with Disabilities Act of 1944, which I sponsored along with my colleagues Senators JEFFORDS, KENNEDY, SIMON, DODD, LEAHY, METZENBAUM, and WELLSTONE. The bill adds a new part I to IDEA. This is a critically important new program.

The purposes of the legislation are to: First, provide financial assistance to States to support systems change activities to assist each State to develop and implement, or expand and enhance, a statewide system of family support for families of children with disabilities and to ensure the full participation, choice and control by families of children with disabilities; and second, enhance the ability of the Federal Government to identify Federal policies that facilitate or impede the provision of family support for families of children with disabilities, provide States with technical assistance and information, conduct a national evaluation of the program of grants to States, and provide funding for model demonstration and innovation projects.

The legislation states that it is the policy of the United States that all activities carried out under this act shall be family-centered and family-directed and be consistent with the following principles: Family support for families of children with disabilities must focus on the needs of the entire family; families should be supported in determining their own needs and in making decisions concerning necessary, desirable, and appropriate services; families should play decisionmaking roles in policies and programs that affect their lives; family needs change over time, and family support for families of children with disabilities must be flexible and respond to the unique needs, strengths and cultural values of the family; family support for families of children with disabilities is proactive and not solely in response to a crisis; families should be supported in promoting the integration and inclusion of their children with disabilities into the community; family support for families of children with disabilities should promote the use of existing social networks, strengthen natural resources of support, and help build connections to existing community resources; youth with disabilities should be involved in decisionmaking about their own lives; and services and support must be provided in a manner that demonstrates respect for individual dignity, personal responsibility, self determination, personal preferences, and cultural differences.

This legislation will help us transform current State systems, many of which foster dependence, separation, and paternalism, into systems that foster inclusion, independence, and empowerment for American families with children with disabilities who have chosen to raise their children at home. The legislation helps States through systems change grants, develop or expand and improve family-centered and family-directed, community-centered, comprehensive, statewide systems of family support for families of children with disabilities that are true to the precepts of the ADA. As a witness at our hearings testified:

> This modest statute has the potential to influence Government policy, Federal, State, and local more positively than do many of the Federal Government's largest pieces of legislation. I know, because the State of New Hampshire has taken its first steps in this direction of family support, and it is the best human services policy that we have made in the last two decades.

I am pleased to have been able to join with parents in Iowa and across this country in developing and passing this legislation which will now begin to give this message of support and empowerment to families with children with disabilities across all of our States.

In summary, the provisions in this legislation will serve as an effective vehicle for strengthening our overall efforts to meet the needs of all children in the United States and ensure that children with disabilities are included in the mainstream of educational progress and reform and their families are treated with dignity and respect.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. GREGG] is recognized.

Mr. GREGG. Mr. President, I ask unanimous consent to proceed as in morning business for a period of 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. Could the Senator repeat the request?

Mr. GREGG. I ask unanimous consent to proceed as in morning business for 15 minutes.

Mr. PELL. Is the time coming out of the time of the minority?

The PRESIDING OFFICER. This would be time, it is the Chair's understanding, coming out of the minority side on the conference report. I ask the Senator from New Hampshire if that is the case?

Mr. GREGG. Yes.

The PRESIDING OFFICER. The Senator may proceed.

THE UNITED STATES POLICIES IN HAITI

Mr. GREGG. Mr. President, I wish to address, once again, as I have on a number of other occasions, the issue of what our policies are in Haiti. There has not been a great deal of discussion in the last few days about this issue, although a number of our Members, including myself, just recently returned from a brief trip there to try to assess the situation.

I continue to be concerned that we as a country, and this administration specifically, have not defined a national goal which justifies the huge amount of commitment we have made in Haiti, specifically the fact that we have put a large number of American troops on the ground there and put their lives at risk, and we have committed to spend at least a billion dollars in a plan laid out for us by the administration—probably multiple billions of dollars in this country.

We are spending it without any definition, in my opinion, of what is the national interest there. We have discussed that issue before at some length, and I hope there will be a resolution jointly sponsored by both sides which will give us more of a definition as to what is going on in Haiti and the timeframes involved there, and which will get the administration to define the mission for us in Haiti, what the rules of engagement are in Haiti, and how much it is going to cost on a daily basis. I think that is critical.

As we proceed down this road on the issue of Haiti and how we are going to deal with that nation, one of the obvious key factors is that we went into Haiti, according to the President, for the purposes of restoring to power President Aristide. Yet, today, there appears to be more and more issues as to Mr. Aristide and as to his credibility, character, and also his purposes. Should he obtain the position of President again?

I want to refer today to two issues raised in the press, and I believe this Senate has an obligation to pursue these issues and to get some determination as to what the accuracy of these questions are. First, of course, is the representation that has been in the press from a number of quarters that Mr. Aristide is alleged to be taking money that was paid to him by the Colombian drug cartel. DEA has requested the opportunity to interview him and has been denied that by our Justice Department. Those are two representations that have been made in the public and reported September 30 and have been followed up on in a number of reports, and they are serious, obviously.

The fact that we would be putting the American imprimatur of "good government" on an individual who may be taking bribes from the Colombian drug cartel is serious. The fact that American troops are on the ground in Haiti for the purpose of defending this individual and his supporters and for the purpose of reinstituting his Government, when that Government may actually be headed by an individual who has this sort of potential background, is serious.

We need some answers here, and I hope that we will receive them from the administration, and that they will, at a minimum, allow their own Department of Drug Enforcement to pursue their investigation without interference from the Attorney General.

The second group of issues which are raised relative to Aristide are his actions in relationship to the American commitment there. There is a story by Bradley Graham today in the Washington Post which has a number of very interesting issues raised in it. Specifically, it states that Mr. Aristide, through his lawyers—remember, his lawyers are paid American lawyers who represent him here and receive a great deal of money—his lawyers have represented that they will not sign what is the traditional status-of-forces agreement so our military on the ground knows what their purpose is and what their relationship is to the Government of Haiti, unless they receive a commitment from our troops that our troops will go in and disarm the enemies of Mr. Aristide, as defined by the Aristide faction.

That, of course, is a very threatening position to put our troops in—that they would basically have to do a house-to-house search for weapons in Port-au-Prince and throughout the country of Haiti for the purpose of disarming people who may arbitrarily be chosen by the Aristide forces and Aristide faction as their opponents.

When you look at the history of Mr. Aristide's political movement, you see that in the past he used the purposes of mob violence in order to enforce his own political agenda. And there is, from my experience—which is brief, I must admit, my exposure to the Haitian situation—serious and probably legitimate concerns by a number of people in Haiti that once their weapons are removed, they and their families may be the subject of mob violence.

Second, the attorneys have said a condition of his signing the status-of-forces agreement is that the American forces must be committed to protect him and his people personally. I find that to be an interesting condition to put on American forces. The fact that the status-of-forces agreement has not been signed is truly an affront to this Congress, this country, and especially to our soldiers who are on the ground there.

One wonders if it is just a continuation of the Aristide reaction to the situation that we have seen throughout this process, because as is described by Mr. Graham, he says:

> Aristide was angry and disappointed by the deal crafted by former President Jimmy Carter that led to the peaceful occupation of Haiti by the U.S. troops on September 19. The exiled president, whose restoration to power is the goal of the U.S. intervention, was unhappy that the deal allowed Haiti's top military leaders to remain in office until as late as October 15 and did not require they leave the country after stepping down.

As a result, Mr. Aristide refused to thank the American troops or the American people for their commitment there for a number of days.

One has to question this person's approach to the whole issue and whether he is an individual who qualifies for the commitment of American soldiers that is being made there or the American tax dollars that are being put into this country.

Furthermore, it appears that this administration has designed a fairly comprehensive plan for the future of Haiti, and I find this to be the most disturbing because in this article it states:

> U.S. officials have shared with the Aristide representatives a number of papers outlining America's plans and intentions in Haiti.

I want to tell you this administration has not shared those plans or those intentions with either this Congress, this Senate, or with the people of the United States As far as we know as a Congress or as a Senate, or as far as the people of this country know, there is no definition that has yet been given to the policies in Haiti.

We are seeing a mission which is subject to constant fluctuation in its purposes and its goals, and we are seeing a mission where our own troops are put on ground in a position which is confusing and difficult to enforce and where they are being asked to be policemen one day in support of one group and policemen another day in support of a different group.

Yet this administration has been able to share with Mr. Aristide, according to this article, numbers, papers outlining American plans and intentions in Haiti. I do believe that it is time that they also shared those papers and plans and intentions with this Congress and with this Senate.

I would hope that as we move down this road into the Haitian situation we would recognize that this is a murky and difficult business, that there is a potential here to draw American forces and American tax dollars into a very deep and murky lake and that we could end up in a position where a large number of American military personnel and

American personnel generally and a large number of American dollars could be expended without any clear and effective policy to guide that activity.

We clearly have some significant questions about Mr. Aristide and about his policies, about him personally, and what he has been doing and in the area of the DEA probe and about his policies and his role relative to the United States in regard to a status-of-force agreement.

These need to be answered and, most important, the American people need to know what is the end plan, when are we going to get our troops out, and how much is it going to cost us. These are serious questions, and they need to be answered.

I would hope that this Congress before it adjourns goes on record asking for those answers and that the administration has the courtesy to give them to us.

I yield back the remainder of my time.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PELL. I yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am going to yield 5 minutes of my time to my colleague from Montana, if I may, and when that time is expired I will use the remaining time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I very much thank the Senator from Rhode Island and the Senator from Connecticut.

I ask unanimous consent that my remarks appear as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PASSAGE OF PRIVATE RELIEF BILL FOR WADE BOMAR

Mr. BAUCUS. Mr. President, I am proud to say last night the Senate passed a bill of monumental importance to me and to Wade Bomar. Who is Wade Bomar, you ask? Well, I will tell you.

Wade Bomar is a brave man. He is 31 years old and a father of three who lives in Billings, MT. Five years ago, on a hot August day in 1989, Wade volunteered to help the Bureau of Indian Affairs extinguish the Pryor Gap fire, which was threatening the nearby Crow Indian Reservation.

The fire was out in the woods. Forest fires are terrible, dangerous, unpredictable events. Montanans have always known that. The whole country has come to learn that this year. Nobody was killed in this one, thank God. But during the fire, a burning, 100-year-old pine crashed down on Wade. It left him paralyzed from the waist down and unable to work again.

Meanwhile, as Wade was fighting the fire, the Senate was debating a bill to compensate firefighters permanently disabled in the line of duty. The bill passed and went into effect a few months later.

So if Wade has been injured a little while later—or if the act has applied retroactively—Wade would have qualified for a payment of around $100,00 under the Public Safety Officers' Benefit Act. Payments do not happen often under that act. But when they do, it means an awful lot.

But Wade did not choose the day he was to get hurt. And the act was not retroactive. So the fire left Wade and his young family with nothing but a lot of hospital bills and no means of paying them—not to mention an incredible amount of physical and emotional pain.

He has no medical insurance; and because of his bills, he cannot afford health or dental insurance for his children. They are shut out of school field trips. His son cannot afford the risk of joining the local hockey team.

Wade is a courageous man. He can make it on his own. But his injury has left him with a hospital debt that he simply will not be able to pay. He needs and deserves our help.

So in May of last year, after exhausting all the bureaucratic and administrative avenues, I decided that we had to be direct. I introduced a private relief bill to give Wade Bomar the compensation he has earned. And by passing my private relief bill, the Senate has given Wade Bomar that compensation.

With these funds, Wade will bring himself out of debt and give his family some security. Wade's son will be able to join the hockey team. His 6-year-old daughter can go on field trips with her first-grade classmates. It fairly settles the score once and for all.

The 103d Congress is coming to a close. There is a lot of rancor and division in the air. And in times like these, people often forget why we are here. But I can tell you the answer. We are here to help people like Wade Bomar, people who are the victims of forces outside their control, and whom we can help.

I called Wade last night after the Senate passed the bill late last night. He was genuinely overcome with emotion. And to be honest, I was too. Bills like this—days like today—are the reason I ran for Congress in 1974. And they are the reason I have stayed on the job ever since.

Mr. President, I am grateful to my colleagues in the Senate for giving a hand to Wade Bomar. I am grateful to my colleagues not just as Senators who have helped out with a bill, but as Americans who have done something good for a fellow citizen in need.

I give particular thanks to my colleague from Missouri, Senator DANFORTH, for working with me and also to my staff member Dave Flanagan who worked very hard following this to be sure that this day finally came to pass.

And I urge the House of Representatives to follow suit in the few days remaining before the 103d Congress closes down.

I thank Senators DODD and PELL for yielding.

IMPROVING AMERICA'S SCHOOLS ACT OF 1994—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, first of all, I commend the distinguished chairman of the Labor and Human Resources Committee, Senator KENNEDY, and the distinguished chairman of the Education Subcommittee, Senator PELL, along with Senator KASSEBAUM, the ranking Republican member of the committee, and others, for the tremendous job that was done on passing in this body, and the other Chamber, the Improving America's Schools Act of 1994.

Mr. President, I am proud to have been a party to this bill. I am confident that this legislation is going to make a great deal of difference to school districts all across our country.

Mr. President, by passing the bill before us, we make good on our promise to the next generation of Americans.

Throughout our history, we have invested in the education of our young people. We have put our hearts, our minds, and our pocket books into building schools, buying books, and educating our kids. We have done so secure in the knowledge that education is a strong and sturdy ladder up to a better life for our children and a better future for our country.

That's what this bill is all about. Along with the Goals 2000 legislation we passed earlier this year, the Improving America's Schools Act goes a long way toward fulfilling our promise to offer the hope of education to all of our 49 million schoolchildren—regardless of where they live or how much their parents earn.

BREADTH OF PROGRAMS CONTAINED IN THE BILL

Just a simple glance at the table of contents of this bill demonstrates how much more is at stake here than high-octane political issues like school prayer:

The Title I Program, which provides supplemental services to disadvantaged children.

The Eisenhower Professional Development Program, which was expanded to include all the core academic subjects.

The Safe and Drug-Free Schools and Communities Program to reduce violence and drug abuse.

The Impact Aid Program to compensate communities with a significant Federal presence.

The New Chapter II, renamed the Innovative Education Strategies Program, which will assist States across-the-board in their school reform activities.

The Technology for Education Program, which will provide schools with new Federal resources to bring technology into their classrooms.

An Educational Infrastructure Program—with an appropriation of $100 million—which will help begin the long process of improving the crumbling infrastructure of our schools.

The Bilingual Education Program.

The Even Start Program.

And the list could go on and on.

Each of these programs delivers on the promise we have made to support America's children and schools. They will provide teachers, parents, and communities with the Federal help they need to carry them into the 21st century.

IMPORTANCE OF FEDERAL PROGRAMS

Some argue that the 6 percent that the Federal Government contributes to education is so limited that it is meaningless. I would agree that it is much too small, and I will continue to work with Senator JEFFORDS and others to increase our commitment to education. But these dollars are certainly not meaningless.

In thousands of communities all across the country, Federal education money provides that extra bit of support necessary to buy computers or hire tutors. It pays for foreign language instruction or more library books. It makes possible professional development to ensure that teachers meet high standards. It allows schools to experiment with innovative programs in parental involvement and coordinated services. Federal dollars do matter a great deal, and that's why this bill is so important.

IMPORTANCE OF TITLE I PROGRAM

In particular, these dollars mean a great deal to disadvantaged children, those who are in the most desperate need for the advancement that education can offer. Too many children find themselves in communities ill-prepared to care for them, support them and educate them. We all know of schools in our states where the buildings are crumbling, the books are old, the teachers are not qualified, and the chances for students are slim.

While I don't believe we do enough to help students in those schools, this bill at least offers them a ray of hope through the Title I Program, which offers needy students in poor communities supplemental Federal assistance in the form of additional teachers, computers, after-school enrichment and summer programs.

TITLE I TARGETING

To make sure we get the biggest bang for the buck, this legislation targets title I funds more toward the communities with high concentrations of poverty. The bill eliminates eligibility for the most affluent districts that have poverty rates of less than 2 percent. Frankly, I wish we could have targeted funds even further than this conference report does. But it certainly moves us in the right direction, and it will make a real difference in many of our poorest communities.

EFFORT AND EQUITY FACTOR PRESERVED

In addition, we retained in a modified form the new effort and equity factors, which the Senate adopted as a part of its original formula. Beginning in fiscal year 1996, appropriators will be able to channel funds into this important additional formula.

These funds will serve to reward States that are making a substantial investment in education and that are addressing the disparities in spending among their school districts.

It is absolutely unfair that two children who live a few miles apart receive greatly different educations—all because of variations in their respective communities' property tax bases. This new incentive money will encourage States to look seriously at these issues and will provide a tool the Federal Government can use to help States trying to establish more educational equity.

CJD INITIATIVES

I was pleased to work on a number of additional components to this bill.

SCHOOL SAFETY

As chairman of the Subcommittee on Children, I have struggled for the last 3 years with the crisis of youth violence, much of which takes place in our schools. Earlier this year, the Senate approved my Safe Schools bill, which provided stop-gap support for schools working to meet the challenge of violence. The Crime bill included the Ounce of Prevention Council, which will fund after-school and summer programs to provide children with alternatives to street life and violence.

This legislation takes us one step further by expanding the Drug-Free Schools Program so that it will include a new focus on safety. More than $500 million of Federal funds will now be available to schools to prevent violence.

And I am pleased that changes I offered will ensure that all schools receiving these funds will have the most promising tools at their disposal—conflict resolution, peer mediation, and other strategies that teach children about nonviolent ways to resolve disputes.

CHARACTER EDUCATION

In addition, we also incorporated my initiative to provide new Federal support for character education. We can get at the roots of violence, drug and alcohol abuse, and other discipline problems by teaching kids the importance of traits such as honesty, responsibility, respect, trustworthiness, and civic virtues.

We also include their partnerships in character education pilot project program, which Senator DOMENICI and I offered as a floor amendment when we first considered this bill. This program will support State and local partnerships in 10 States for developing and implementing model programs of character education.

TRANSITION INITIATIVE

This legislation also establishes support for the transition initiative, which I authored in the Senate bill. This program will provide children in the early grades with a better chance of educational success through increased parental involvement, coordinated services, and appropriate curriculum.

CONCLUSION

Every day we hear a great deal about the things that are wrong with America—crime, welfare dependency, and the disintegration of the American family. The problems are always easy to spot.

But the solutions are a lot harder to identify. But today we have before us a solution. It will reduce crime and welfare dependency, strengthen the economy, improve our communities and neighborhoods, and enhance the lives of millions of Americans. Education—that is the answer.

And that is what this bill is all about. I urge my colleagues to join me in supporting it.

HAITI

Mr. DODD. Mr. President, it is coincidental that I am following the distinguished Senator from New Hampshire, Senator GREGG, regarding Haiti because I wanted to take a few minutes this afternoon and report to our colleagues on a trip that I and five of Senate colleagues made last Saturday to Haiti. The delegation included the distinguished senior Senator from Rhode Island and the chairman of the Foreign Relations Committee, Senator PELL, Senator WARNER of Virginia, Senator LEVIN of Michigan, Senator COVERDELL of Georgia and Senator GREGG of New Hampshire.

The six us, Mr. President, spent about 7 hours in Haiti on Saturday. We went down in the morning and made it back about 1 o'clock Sunday morning. We had a rather full and extensive day. We met with people from all across the political spectrum in Haiti, including, of course, Lt. Gen. Shelton and the commanders of our military forces who are in Haiti.

I would like to take a minute or two and use the remainder of my time and share with my colleagues at least this Senator's impression of our visit there and how the situation looks as we saw it.

The purpose, Mr. President, of our visit was to discuss with our military commanders the wisdom of including a date certain for the departure of United States troops from Haiti in any resolution that the Senate might consider. Second, to see firsthand the progress being made to implement the Carter agreement and provisions of other relevant U.N. resolutions. And third, to assess the security situation.

We saw a number of people, as I mentioned, General Shelton, Ambassador Swing, parliamentarians from all the major political parties acting Prime Minister Robert Malval, the Haitian minister of defense, Jean Beliotte, the head of President Aristide's transition team and other members of the transition team, members of the Haitian business community, General Cedras, and the military commanders. Some members of the delegation also visited some U.S. military units operating in and around Port-au-Prince.

Mr. President, with respect to the primary purpose of our visit to determine whether it makes sense to legislate a date certain for withdrawal of United States forces from Haiti, the delegation came away—and I think I can speak here unanimously for the delegation—we came away with the view that such action would be contrary to United States interests.

While other Senators may speak for themselves as to how they came to this view, speaking for myself, Mr. President, it was the briefing by General Shelton that crystallized my thoughts on this important matter. General Shelton made it quite clear to all of us during his briefing that setting any date for withdrawal of our forces would seriously jeopardize the security of United States military personnel, as well as make the successful completion of his and our mission in Haiti that much more difficult.

General Shelton pointed out that he was not a Member of Congress, he was not speaking politically, but, in strictly military terms. He felt that any fixed date might cause him to have to accelerate their activities, might cause mistakes to happen, thus placing U.S. forces in some potential harm. I think all of us, regardless of our differences of opinion about whether or not our forces should have gone into Haiti in the first place, or how that should have occurred, came away with the unanimous point of view that General Shelton was correct.

There may be, as early as tomorrow, a resolution before this body regarding our presence in Haiti. My strong hope is that no date certain will be included for the reasons that I have already mentioned.

We had very little time in Haiti—as I mentioned, 7 hours—but we did meet with a broad cross section of Haitian society, parliamentarians, business leaders, or simply talking with people in the streets.

I was struck by how hopeful Haitians seemed that their 3 years of trial and travail were nearly over and by how much they have all come to believe that, whatever their personal feelings about President Aristide, his return to Haiti is their only hope for ending the current crisis. Maybe the group that best crystallized that was the business community. To a person, they all said they had voted against President Aristide in the elections. But to a person they all said they hoped he came back as quickly as possible, that they saw his return as an opportunity to achieve stability and offer some hope for the people of Haiti.

So even for people who are not supportive of him politically, the general consensus there was that he ought to get back, and they are prepared to be supportive for the remainder of his term.

This hopefulness contrasts, I might add, sharply with the mood I encountered when I first visited Haiti earlier in the year, in March. At that time, there had been months of inaction by the international community, despite blatant acts of provocation and violence by General Cedras and his followers. The Haitian people were in despair. They truly believed that the entire world had forsaken them.

Operation Uphold Democracy—the name of the operation that has brought as many as 20,000 of our forces to Haiti—appears, in my view, Mr. President, up to now, to be making significant progress. And I cannot underestimate the joy, the true joy, with which our troops have been welcomed by the people of Haiti. I presume many have actually seen this on their television screens over the last 2 weeks.

There has been some last-ditch efforts by enemies of democracy in Haiti to derail the return of President Aristide, but most Haitians, the overwhelming majority, truly believe that President Aristide is going to return shortly, and they applaud that decision.

Mr. President, there are now some 20,000 American men and women in and around Haiti. And I can tell you from seeing them first hand that the American people can be rightly and justly proud of these fine young men and women. Their skill, their courage and their commitment is to be applauded by all. And whatever we may do with our resolutions, whatever other views people may have about the wisdom of going into Haiti in the first place, I hope everyone will strongly express their support for these people who, having been given orders to go to Haiti, are doing their job, I think, admirably.

And I particularly want to point out the tremendous leadership of General Shelton and his staff. I was truly impressed with the briefing that he gave us and the respect with which he is held by everyone that we saw him come in contact with.

No one should give one moment of comfort, in my view, to those elements in Haiti who, through their unspeakable abuse of their own people and through their blatant acts of provocation and defiance, have brought us to where we are today.

Matters have gone remarkably well, Mr. President, in Haiti to date. I have not seen any news reports in the last 15 or 20 minutes, but it is truly miraculous that, after almost 2½ weeks, going on 3 weeks, in what is a very hostile environment or an environment where violence could break out, we have lost no U.S. personnel. In a city of that size, with 20,000 Americans on the ground, it would not be uncommon for us to hear of difficulties. And despite the fact that we had one soldier injured and one who apparently took his own life, it really is truly miraculous that things have gone as well as they have.

I would caution all of us that Murphy's law, anything that can go wrong will go wrong, is alive and well in Haiti. And while things have gone well to date, that does not mean we will not face some problems in the coming days and weeks. But, up to now, I think it has been a truly remarkable mission.

One major obstacle to President Aristide's return should be resolved shortly, and that is the departure of the military junta. Based upon our meeting, the delegation's meeting with General Cedras and his colleagues, it is our judgment—again, I think, unanimous judgment—that General Cedras has come to terms with the fact that he is going to step down. He told us very clearly—Senator WARNER asked the question very directly of him, whether or not he would be living up to the Carter agreement to step down by October 15. He unequivocally said that he intended to do just that.

And as to the question of whether General Cedras and the others will leave the country, I, for one, have no doubt about it.

The justifiable hatred, I must tell you, Mr. President, felt towards these three individuals—that is, the leadership of the Haitian military—you could feel it, it was palpable. Life would be impossible, I think, for them should they choose to remain in Haiti.

Colonel Francois, who heads up the police, appears to share my judgment about his prospects for a pleasant life in Port-au-Prince. Colonel Francois has already packed his bags, I am told, and gone into exile in the Dominican Republic.

Despite these positive comments, Mr. President, and the success of the mission to date, I would not wish to leave any doubt in the minds of our colleagues that difficulties remain in

Haiti. The security situation is serious and worrisome. Thanks to General Cedras and others in the high command, paramilitary groups exist throughout the country, and they are very well armed.

The good news is that General Shelton is seized with the importance of dealing with this problem quickly. He assured our delegation that it is a major priority for him and his forces to see that these groups are disarmed—with or without the cooperation of Haitian Armed Forces; preferably with their cooperation.

We have seen over the last several days U.S. forces moving quite aggressively to dismantle the FRAPH headquarters and collect weapons caches. The judgment of those who know something about paramilitary organizations is that if we are able to disarm and dismantle the leadership of these groups, this should be sufficient to render harmless the vast majority of the participants in these organizations.

General Shelton explained in some detail what appears to be the overlapping membership between the Haitian Armed Forces and the various paramilitary organizations. He related to us the details of the arrest of a heavily armed Haitian who was found to be carrying membership identifications of three organizations—the Haitian Armed Forces, the Attaches, and the FRAPH, the political wing, if you will, of the armed groups—suggesting that the total numbers of the armed military and paramilitary groups may be smaller than appearances would suggest.

In addition to these armed thugs—and the word "thugs" was used by General Shelton, and I think appropriately so, to describe them—large public demonstrations also pose a potential security problem.

Our colleague, Senator LEVIN, I think, very properly, Mr. President, urged the supporters of President Aristide not to take to the streets even in peaceful demonstrations because they can create, unintentionally, the possibility of violence. It gives the opponents of President Aristide the opportunity to create situations that could be explosive.

I think Senator LEVIN's suggestion was taken to heart. President Aristide has also urged his supporters to remain calm, and in his speech yesterday at the United Nations he emphatically made the point that revenge and retaliation are not to be a part of his government. I hope the people of Haiti will listen to his words and follow his advice as strongly as they have in other matters.

I would join President Aristide in urging all Haitians who want to see their President return quickly, to cooperate with United States Forces as they attempt to create a secure environment for the restoration of the legitimate Government of Haiti.

As my colleagues know, the Carter agreement, like the Governors Island accord and United Nations Security Council resolutions before it, calls upon the Haitian Parliament to enact a general amnesty law—this to facilitate the early departure of General Cedras and the others.

Last Wednesday the Parliament was reconvened by President Aristide. While they have not yet adopted an amnesty law per se, they are getting closer to it. I think we left Port-au-Prince with a sense of confidence that these different political groups present in Parliament will be able to reach a satisfactory resolution of the amnesty problem. Members of the delegation urged the parliamentarians to reach consensus on that point.

Prime Minister Malval is willing and desirous of taking over the civilian control of government. He cannot do so as long as Mr. Jonassaint is there. If Mr. Jonassaint will step down, then the acting Prime Minister can assume the levers of civilian control in that government. That would be a very positive thing. I hope that would occur in the next few days.

Should Mr. Jonassaint be persuaded to step down, then Prime Minister Malval indicated he was prepared to act as the caretaker Prime Minister pending President Aristide's return, and the naming of a new Prime Minister.

So I want to conclude by saying that up to now our forces have done a good job. I think we should at this juncture be tremendously confident that we are on the right course; things are going well. To hear some of my colleagues talk here, I am left with the impression that there is almost a sense of disappointment that things have gone as well as they have over the last several weeks. I am somewhat stunned by the allegations, the new ones now, about President Aristide's involvement with drug trafficking that appeared yesterday in the Washington Times. Anyone who reads the documentation from our Department of State reporting on Aristide's tenure as President would read very clearly the significant cooperation that the Aristide government gave to our drug enforcement agencies and authorities. This is a new allegation. It is groundless. It is another attempt at character assassination, first, he was considered psychopathic by some. That charge has now been debunked entirely. Now we get a new charge—some will do anything possible to try and discredit this individual. Anyone who has met him and spent time with him, as I have, would tell you there is an entirely different conclusion that ought to be reached about him.

Our troops are doing a good job. Democracy is on the march. It has a chance in Haiti. I do not know if it can be secured. But there is a chance here. I think we ought to be proud of the fact we have been able to participate in giving this small poor country some 200 miles off our shore a chance to have a future. I think every citizen and every Member of this body, despite any differences that may have existed over the decision to go to Haiti, ought to be proud of what we have achieved up to now and to try to work cooperatively to secure a better future for the people of Haiti.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of President Aristide's speech he gave at the United Nations yesterday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY HAITIAN PRESIDENT IN EXILE JEAN-BERTRAND ARISTIDE

Mr. President, Mister Secretary General, distinguished delegates, ladies and gentlemen.

How happy I am to hail you on behalf of the Haitian people, and with a sense of joy to address the most heartfelt congratulations to Monsieur Amara Essy, minister of foreign affairs of Cote d'Ivorie, on his election to the presidency of the 49th general assembly session.

Mr. President, as I wish you every measure of success, I would make it a point to assure you of the fullest cooperation of the delegation of Haiti. To Ambassador Insanally, may I address my compliments for having so so masterfully guided the work of the 48th general assembly session.

Our congratulations and appreciation go out as well to the secretary general of the United Nations, Mr. Boutros-Boutros Ghali, thanking and appreciating him for the ties of solidarity he was woven with the Haitian people. We say thank you, Mr. Secretary General, from the bottom of our hearts.

To all of you, dear friends, throughout the international community, thank you a thousand times over for the support you have given to the Haitian people throughout these last three years. Allow me to address words of special appreciation to President Bill Clinton, and to our special friends the United States, Canada, France, Venezuela, Argentina, and to all states, notably those of CARICOM, that offered their contribution to making the reality of resolution 940 and to the implementation of the Governors Island agreement. Ladies and gentleman, how happy I am indeed to hail you and to thank you in a very special way. Finally, 11 days from now I will be back in Haiti. (Applause.)

Thanks to the heroic courage of the Haitian people and thanks to your solidarity we soon will be back. Your eyes and our own will contemplate the opening of the flowers of democracy. Eleven days hence I shall invite you to celebrate this festival of reconciliation of democracy and of peace back home in Haiti.

Even now, with the getting under way of the peace operation known as Uphold Democracy on the 19th of September just passed, a tropical smile has shed light upon the faces of those that espouse and love peace. Together, President Clinton and we have managed to open up a channel of hope after so much suffering.

My hat is off to the Haitian people. Honor and respect go its 5,000 victims. Father Jean-Marie Vincent has died so that Haiti might live. The resistance of the Haitian people finds its deepest roots in a historical past, where day and night a beacon of liberty has shone quite rightly to—(inaudible)—who declared at the moment that he embarked for France: "In turning around, I see that you have only cut down the trunk of the tree of liberty. Its roots will grow yet again because its roots are many and deep indeed."

At the threshold of the bicentennial of our independence, these roots nourish us with the sap of democracy. Never shall the Haitian people cease to fight to guarantee its inalienable rights, its rights that no one can deny it: rights to life, to liberty and to happiness. Never shall we cease to fight for setting up a socially just, economically free and politically independent Haitian nation.

Thus, the first black republic on earth, today torn asunder by the coup d'etat of September 30th, 1991, resolutely and definitely is marching towards the establishment of a democratic society. Via diplomacy, we attain democracy. (Applause.)

Faced with this lugubrious drama and tragedy that has involved three years of suffering, the pangs of pain have pierced our hearts. And yet our people excel in portraying reality before it, with help. The brave live ahope and fools live afear. Better late than never. In following the river, you finally reach the sea, Plato said, even during the second century before our time.

To this end, notwithstanding democratic structures set up by Solon and Pittacus in the 6th century before Christ, it was necessary to wait until (Ephielt ?), (Cleistine ?) and Pericles came along to see democratization of political life in Athens made a reality.

It is hope that makes you live, I say. And above and beyond the dreadful spectacle that is embodied in the last three years, we march towards the year 2004 with optimism. The path that goes there necessarily involves a historic crossroads where the elections of 16th of December, 1990 and our return to Haiti cross.

Eleven days from now I shall be there, this thanks to the determination of the Haitian people and to our solidarity—a history worthy of being paid attention to, because there is no history worthy of attention other than that of free peoples. The history of peoples subjected to despotism is only something that is worthy of a gathering of anecdotes.

Eleven days hence we shall be there. A bright light will all but blind our eyes, the light of reconciliation. Between violence and vengeance, reconciliation steps in, between impunity and iniquity, justice steps in. In other words, we, the president of the Republic of Haiti, clearly and firmly say yes to reconciliation, no to violence, no to vengeance, no to impunity, yes to justice. (Applause.)

We shall prepare the coffee of reconciliation through the filter of justice so that one shall find there no longer any trace of violence nor any vengeance. (Applause.) Via reconciliation you have to see to it that enthusiasm embrace all—the hearts of one and all, rich and poor, civilian and military alike. Via reconciliation must you see to it that torrents of tears shall no longer flood our eyes filled with pride.

You, parents and friends of our 5,000 victims, you have endured this crushing yoke, you all—rich and poor, military and civilian alike—soon a light will flood the very recesses of your hearts. We are indeed here talking about the light of reconciliation, otherwise how indeed to dispel the gloom of sub-human want and misery, how indeed do you move from want to poverty with indignity?

Exploring countries the world over shows us that one-fifth of the people in development every day suffers from hunger, a quarter of them is deprived of the ways and means for ensuring their very survival, a third of them is vegetating in extreme want.

In this connection, the social development summit scheduled for 1995 in Copenhagen must afford fresh possibilities for reducing the terrible conditions in which are languishing over a billion people that are the victims of hunger, disease and being stripped of everything. In Haiti in 1994, the number of children going to school amounts to 750,000. Over 1.25 million children remain at home or work on agricultural lots, and yet our constitution stipulates that education is a right that all our citizens have. It is a duty incumbent upon the state which it cannot sidestep. Thus, 10 years hence we will have to take care of 3 million children in school. This presupposes an increase in number of teachers from 35,000 to 100,000, and the number of schools from 8,000 to 20,000. Once back in our country, we shall undertake a literacy drive that should allow us to attain a significant reduction in illiteracy, down to 5 to 10 percent.

Reconciliation amongst one and all, of course, is absolutely imperative. Reconciliation and peace are intertwined everywhere and always. The dissolution of the Soviet bloc has favored the opening of a new era after decades of bipolarization, and yet we have the responsibility of protecting peace with our own countries. Between 1989 and 1992, 82 armed conflicts were recorded. Three of them only pitted one state against another.

Back home, institutionalized violence did not unleash a civil war but rather genocide instead. Even today, notwithstanding the presence of the multinational force, acts of violence against our people are continuing. The disarming of the paramilitary group, notably FRAPH and their attaches, is indispensable to see to it that peace reigns throughout our country. Obviously, the restoration of democracy will bring reconciliation for all, peace to all of us, respect and justice to every single citizen.

Lavalas brings a message of peace. The arms must fall silent for us to have peace. (Applause.)

The professionalization of an army 1,500 strong and the establishment of a police force separate from the armed forces are part and parcel of the process of peace which must be protected, a peace which must be guaranteed, and this for the happiness of all Haitian men and women. The armed forces of Haiti, as Article 265 of our constitution stipulates, are apolitical. They are, as it says in Article 264, set up to guarantee the security and integrity of the territory of our republics. Article 269/1 specifies that the police must ensure the maintenance of public order, must protect life, and must protect the property of citizens.

It is time to create a stable environment, making possible national reconciliation on our land, where we shall have no longer more than an army of 7,000 absorbing some—where we no longer shall have an army of 7,000 absorbing 40,000—40 percent, rather, of the national budget. Globally speaking, military expenditures are considerably in decline for the last six years at the rate of roughly 3.6 percent per annum.

Why then, back home, do we have a situation where there is one soldier for every thousand Haitians, at one point eight physicians for every 10,000 inhabitants; while in the industrialized countries you have on average one physician for 400 inhabitants?

Once back home, we shall set en train our health program to correct the current situation, namely, 1,000 physicians for 7 million inhabitants, one nurse for every 2,200 inhabitants, one hospital bed for every 1,300 of our people. Our goal by the year 2004 will be that of taking care of 8 million Haitians with 2,000 physicians and 8,000 nurses, and to increase the number of hospital beds to a rate of one for every 400 inhabitants. We will have to open a health center in every district, and we shall have, then, some 52 of these. Each municipal area will have its own dispensary.

The measures to be adopted in terms of health will allow us to reduce the rate of infant mortality from 135 to 40 per 1,000. Our population will see its average life expectancy raised from 54 to 65. Reconciliation and reconstruction are intimately intertwined, and we shall prepare the coffee of reconciliation, I say again, through the filter of justice so that we shall no longer find there any trace of violence, nor of vengeance.

Above and beyond our national boundaries, the tragedies of Rwanda, Burundi and Bosnia-Hercegovina have confronted us day after day. The suffering of one man or woman is the suffering of any other, and every individual is a human being. Ever since the end of the Second World War, over 23 million people have been killed in armed conflict. How can one remain indifferent in the face of the tempest of violence that have scourged so many of the countries with which we enjoy fraternal ties, including Liberia, Somalia, Georgia, Sudan and Armenia—to cite just a few? Happily, certain conflicts have evolved towards a situation of peace over the last couple of years. We hail with hope the horizons of peace that have begun to emerge in the Middle East between Israel and Palestine, the same applying to South Africa, where the first nonracial and free elections have been held.

Neither racial barriers nor barriers of class must exist at the threshold of the year 2004, the Haitian diaspora, where our 10th Department, as it were, is the special place for us to celebrate reconciliation between Haitians and Haiti. I say bravo for our 10th Department. Haiti is the Haitian's greatest wealth. (Applause.) Haiti always will be our chez nous, our back home. Let us go back home. We can embellish our homeland and turn it, as it were, into a rainbow.

Returning peace to Haiti will allow us to devote ourselves to rebuilding Haiti along with its infrastructure and its economy, reconciling Haiti with the Haitians as it were. Now there are 17.4 percent meaning 740 kilometers of paved roads. The remainder of roads—that is, 2,960 kilometers—have a hardened earth surface only. Ten years hence, all major and secondary towns and—cities and towns will be linked by a network of some 2,500 kilometers of paved roads. The new municipal roads that will be laid down will account for some 3,000 kilometers. In 1994, we only have a 1.3 percent forest cover left. At that rate there will be no longer any forest in Haiti

In 1998, with the major drive to reforest that we're going to set up, over six million trees will be planted per annum. In the year 2004, one third of our territory, thus, will be reforested. It goes without saying there will be a climate of political stability that will allow us to promote economic growth. In 1991 economic policy and fiscal discipline as adopted by the government—Lavalas government brought in $5,200,000 in customs receipts, as well as in domestic revenues from public enterprises, an historic performance for our country.

By the year 2000 at a growth rate of 10 percent per annum the same receipts will bring in $1.26 billion.

In monetary terms the results were just as satisfactory. An increase in the reserves of foreign exchange of some $20 million, an increase in comparative value of our gourd—the national currency—by some 11 percent and inflation rate brought down from 20 to 12 percent.

But what remains of these achievements after three years of plunder? The debt ceiling has been raised at—twice over. Inflation is estimated at some 60 percent, the comparative value of our national currency the gourd has drastically declined by some 300 percent in terms of relative value to the U.S. dollar. The public finances are in bankruptcy and the public treasury has recorded a loss of $100 million for the budgetary years 1992 to 1994. This means there's an absolute need for this reconciliation between Haitians and Haiti, a sine qua non for creating a modern state by rebuilding the economy. We have to open the economy to attract foreign investment and to provide goods at better prices to Haitian consumers. Synergistic relationships are indispensable between the private sector and the state.

At the level of developing countries, external indebetness has grown and multiplied 15 times over in just two decades. From $100 billion in 1970, it rose to $650 billion in 1980 to go to the level of $1.5 trillion in 1992, which is an enormous—this debt burden—an enormous brake on the development of third world countries. In 1992 these countries had to shoulder debt servicing to the tune of $160 billion, that is twice the amount of official development aid. And yet, what you note are certain signs of a turnaround. Back home, payments arrears rose to $42 million in September 1993, and will surpass $81 million in December of this year. As soon as I get back home $13 million will be freed up as the government's contribution to reducing these same arrears.

Setting up a state based upon the rule of law also implies reconciliation between Haitians and Haitians. Citizens of a country where every man and every woman is a human being. Equal before the law. Administration of real justice will spare us the vicious cycle of violence and vengeance. Today the people of Haiti have no access to a system of justice. For our 565 municipal areas, there are only 174 courts and 300 attorneys. Now then, the rule of law remains an indispensable tool is responding to building the kind of world we aspire to by the year 2004.

Between now and then, each and every one of our communal areas will have to get its own court. The number of attorneys will be doubled to attain the level of some 600. A reformed judicial system backed by an independent national—nationwide civilian police force some 10,000 strong will restore confidence to our citizens, thus the restoration of democracy will bring about respect and justice for one and all.

In 2004, after some 10 years of sound, democratic management, we shall be in a position of having achieved a structured civil and civilian society where the bread of tolerance will be shared amongst political parties, the parliament, elected local officials, trade unions, socio-professional organizations, women on the farms, grass roots organizations, religious and ecclesiastical groups and communities, Protestants, Catholics and practioners of voodoo alike, cooperatives and non-governmental organizations and so forth.

At the threshold of the third millennium, the principle "one man, one vote" can only accelerate the march forward of democracy globally. From half to three-quarters of the world's population lives under relatively pluralistic and democratic systems of government. In 1993, elections were organized in 45 different countries, sometimes for the very first time. Back home in our country in 2004, we shall already have held four municipal elections, six legislative elections and three presidential ones. Public administration will already have strengthened by the modernization of ministries and public institutions. Political life will be more active at the local level because most of major decisions will be taken at the level of the 565 municipal areas and the 135 municipalities.

Mr. President, distinguished diplomats, dear friends of ours throughout the international community, thanks to your support and thanks to the determination of the Haitian people, we shall soon see this brighter 'morrow created to spare the world from the scourge of a new global war. The United Nations over the course of the years has seen its role expand, and its responsibilities become more and more significant in an international setting that is totally different from back then. Gathered as we are in the context of this, the 49th session which marks the prelude to the commemoration of the 50th anniversary of our organization, I voice the hope, the organization, may always prove able efficaciously and efficient to respond to the new challenges that will arise the world over.

Haitian people, I say—you, the young people of Haiti, source of our pride and our dignity, all of you, to save our beloved Haiti, I say to you, let us all be united under the cover of the palm trees spread wide, of this cover of liberty—(applause)—and these palm trees that have written in them in unity their lives' strength.

I say to you, let us all be united under the cover of the palm trees spread wide, of this cover of liberty—(applause)—and these palm trees that have written in them in unity their lives' strength.

Our universe is expanding. The 100 billion galaxies making it up are moving farther and farther away at the very time that we Haitian men and women are moving closer and closer together to one another. Reconciliation amongst one and all and justice for all. As the earth proceeds through a solar eclipse, it moves along at the clip of 30 kilometers a second. Let the land of Haiti turn around the sun of justice at a similar speed, I say.—(Applause.)

All of you at this rendezvous of reconciliation, all of us marching toward the year 2004, towards the bicentenary of our independence. Spread the word, spread the news in calm and in peace. Let democracy's sweet sound win today.—(Applause.)—I'm counting on you and you are counting on me. Adieu. Our next meeting is not far away.

Alone we are weak; together we are strong.—(Applause.)—All of us together, we are Lavalas. That is the way it is.—(Applause.) That indeed is the way it is. I stress again, alone we are weak; together we are strong.—(Applause.)—All of us together, we are Lavalas.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise today to oppose the conference report accompanying H.R. 6, the "Improving America's Schools Act of 1993."

It appears that we are getting into a guessing game with the amounts allocated under the compromise formula. I received one "Dear Colleague" which states that shifts in funding amount to less than 2 percent. It also shows gains in every State. What is fails to show is the allocations for the years 1997, 1998, and 1999. It fails to compare how each State will do under the current formula versus the formula proposed under this legislation. It also fails to show how devastating a 2-percent shift in funding would be to South Carolina.

Fortunately, I have received another "Dear Colleague" which does compare the current formula and the proposed formula for the years 1996 through 1999. Instead of showing everyone gaining, it shows that at least 30 States and Puerto Rico will lose substantial amounts of money under the proposed formula.

Mr. President, I want to repeat that statement: that at least 30 States and Puerto Rico will lose substantial amounts of money under the proposed formula.

My home State of South Carolina stands to lose approximately $6.3 million under the conference formula. South Carolina gained in allocations under both formulas passed by the House and the Senate. However, the so-called compromise forged in the last moments of the conference is now worse for South Carolina and 6 of the 10 poorest States in the Nation. Amazingly enough, a number of States that lost under the Senate and House formulas, who had members on the conference committee, came out with gains under this formula.

Those States that gained had members on the conference committee. With the way the House and Senate passed it, that would not have been the case.

During the conference, we constantly heard arguments that this is not a "poor" program. We also heard that poverty is not the only way a child can be educationally disadvantaged, and I agree. However, the formula is based on wealth of the counties. In other words, it is tied directly to the poverty rates in a State. How does a formula based on rates of poverty overlook six of the 10 poorest States in the Nation? And that is what this does.

This is not to say that money solves all the problems associated with poor school performance. There are other factors, such as the stability of the family, crime rates, and basic learning skills. However, there is a correlation between the wealth of a school district and the success of the children in that district.

Much has been said about "targeting" the money to the poorest children. Indeed, that is one of the reasons I supported this legislation the first time here in the Senate. I felt at that time that it targeted the neediest areas. I also supported it because it pushed more money to the local level. As the evidence shows, the legislation produced by the conference does not do this. It appears that if one is a small State and meets the "small State minimum" it does it very well. Also, if as one has a large metropolitan area in the State, the State does very well. I am not saying these areas are not in need of help. I am saying that the rural poor continue to be overlooked by this legislation.

Mr. President, let there be no mistake. I am an ardent supporter of public education. There are a number of programs in this legislation that I support. There are a few that I do not support. I voted for this legislation here in the Senate on August 2, 1994 because I believed that on balance the Senate version was a good bill. However, at that time, I informed my colleagues that I could not accept a bill that was substantially changed. The legislation produced by the House/Senate conference has done just that.

First, as I have already discussed, the funding of title I has been substantially altered.

Second, the conferees have once again taken the "low road" when it comes to the issue of school prayer.

The conferees discussed the vote taken by the House to instruct the conferees to insist on the Johnson/Helms language. At that time, the Chairman of the conference, Congressman WILLIAM FORD, stated that he would not do as his colleagues had instructed him to do by a vote of 369 to 55. Chairman FORD stated that he voted for the motion to instruct the conferees to insist on the Johnson/Helms language, and that he did not yield 1 minute to his colleagues to criticize the instruction. He then stated that because he voted for it and suppressed opposition to the instruction he did not feel obligated to support the amendment in conference. We must ask where the logic is in this argument.

I compliment my friend and colleague from Kansas, Mrs. KASSEBAUM, on her amendment. It addresses the issue of school prayer, and for that reason I voted in support of her amendment on the Senate floor. However, I believe the Johnson/Helms language best addresses the issue of school prayer. The Johnson/Helms language simply prohibits a school from having a policy of denying constitutionally protected prayer. The Kassebaum amendment requires the student to go to Federal court and prove there was a willful intent to deny student-initiated prayer and violates a court order. Unfortunately, under the Kassebaum amendment, the student will likely have already graduated before there is a judicial resolution.

As is becoming all too common in education, our conferees chose to select the lowest common denominator.

Finally, many of the programs contained in the Senate version were maintained, and many programs were even improved in conference. Unfortunately, other programs that were adopted here in the Senate were not included or were modified in detrimental ways. At this time, I do not believe many of the important aspects of that bill have been retained in conference.

Now, Mr. President, I ask unanimous consent that a chart concerning this matter showing the amount of money from 1996 through 1999 pertaining to South Carolina appear in the RECORD, showing the current law amount and the conference report and the difference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA—H.R. 6/S. 1513 FORMULA

Fiscal year	Current law	Conference	Difference
1996	$94,422,000	$93,638,000	($784,000)
1997	99,852,000	98,445,000	(1,407,000)
1998	105,287,000	103,218,000	(2,069,000)
1999	112,362,000	110,328,000	(2,034,000)
Total	411,923,000	405,629,000	(6,294,000)

Mr. THURMOND. Mr. President, I intend to vote against this legislation, and I urge my colleagues to vote against this measure as well.

Mr. President, I yield the floor.

Mr. WELLSTONE. Mr. President, first of all, I thank Senator KENNEDY for his very skillful leadership with this piece of legislation, the Elementary and Secondary Education Act, which has really had a much more difficult journey than it should have had, on the basis of its merit, through the Senate. I think only with his skillful leadership will we be able to, in a very short period of time, pass this piece of legislation. I should also like to thank Senator PELL, who is chairman of the Education Subcommittee, and certainly Secretary Riley, for all their leadership as well.

For my part, I wish to talk about some provisions that are very specific and concrete that I worked on, that other Senators worked on. But these were initiatives based in part on a Minnesota model that I think are important. Then I want to express a little bit of disappointment. And then I wish to conclude.

The funding for effort and equity, Mr. President, I actually think is very important. We had to fight very hard for this. It is really the first time that we have incorporated this into national legislation. My colleague from Iowa, Senator HARKIN, spoke to this very well. I do not think I really need to repeat the case that he made, just to say, Mr. President, that there is something fundamentally wrong with such an emphasis on a property tax, which is all too often highly correlated to the wealth of a community, which therefore means that the sort of right to equality of education which has everything to do with whether or not we are going to have equality of opportunity, is all too often based upon the wealth of a community.

So I think the extent to which we have a carrot in here that encourages States to move toward more equity in their funding for their school systems is all for the better. That is what we are about as a Nation, to make sure that each child, every boy and girl, every young man and woman, can be all they can be.

Second of all, the mathline program is one that I am excited about because this is sort of an effort that came out of Minnesota, KCTA, and it is essentially teacher mathematics. This mathline program is one we are very pleased with. It is kind of a demonstration model. But I think that is the way it works. We start out with sort of concrete things that work, that provoke the hopes and aspirations of others.

I think that is what people are looking for, specific, concrete, commonsense models that work, and that is one we were really proud to incorporate into this bill.

The cultural arts partnership, again with the strong support of Senator KENNEDY and Senator PELL, especially, makes all the sense in the world. I am telling you the sort of connection between the arts in the community and children in our schools is critical. It is wonderful. It brings out the creativity in young people. It could not be a better idea.

Finally, the summer institute, which was based on all the positive experience with the writers workshop, is one, as a former teacher, that I really pushed hard on with the support of Sherry Ettleson, who works with me. This is one that makes a great deal of sense.

There are a number of critical ingredients to make education work, and one of them—I did not say the only one but one of them—is you have to have teachers with a high sense of morale. Too much of this past decade, plus part of the 1990's—that is to say, the 1980's and part of the 1990's—has been a devaluing of the children and devaluing of the work of the adults that work with children. I think, to the extent that teachers can come together in some summer programs, share experiences, kind of renew one another, get fired up, believe in their work, believe in the children that they teach, that is all for the better. That is part of what we need to do to make education work. And where education works is not in Washington, but it is back in our communities, in North Dakota or in Minnesota.

My final point, which is disappointment, but not enough disappointment to think that this is not a very important piece of legislation—it, indeed, is—is I just think that some of the comments made by my colleagues about what should the Federal role be, and about the allocation of resources from the Federal Government back to our States and local communities, to my mind is just simply propounded wrong.

I remember when we had this debate about the crime bill, and I will just simply tell you one more time, Mr. President, what I heard from the law enforcement community, I think without any exception. I think without any exception, I have heard from men and women in the law enforcement community that we will never, never, never break the cycle of violence, no matter how many prisons we build, no matter how long the sentences are, unless we make sure that young people have the opportunities.

So, Mr. President, I think that this bill is an important first step. I do not think there are anywhere near enough resources going back from the Federal Government to our States and local communities. No one would argue that money is the answer, but I will tell you money is key to adequate physical facilities; it is key to the labs and textbooks; it is key to the ability of school districts to hire and retain good teachers; it is key to the support for students with special needs, which is a good part of what we have been talking about within this piece of legislation; and I think it is absolutely key to national security.

I am convinced that there will come a time in our country—and unfortunately it is not now, not yet—where we will, as a Nation, decide that critical to our national security is an investment in the health, skills, intellect, and character of young people. We just have to come to understand that.

Mr. President, until we do understand that and until we commit all the resources we should commit—and we are not there yet and this bill is not there—we will continue to pay—I hate to say this on the floor of the Senate—the interest. And the interest will be high rates of dropout, high rates of illiteracy, high rates of drug abuse, high rates of alcohol abuse, and, yes, high rates of crime.

So I just hope that come the vote at 5:30, we will have a good, strong, vote. I am sure that we will. And I think that the country will be better off for our having passed this piece of legislation.

Mr. President, I also would like to just ask unanimous consent to take about 10 minutes to speak on another issue, if I might.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DOMESTIC VIOLENCE

Mr. WELLSTONE. Mr. President, in connection with violence, domestic violence is the leading cause of serious injury to women, more common than muggings and car crashes combined. A woman is beaten every 9 seconds in the United States of America. Four million American women were beaten by their husbands or boyfriends in the last year alone. At least 25 percent of domestic violence victims are pregnant when beaten. Close to half of all the incidents of domestic violence against women discovered in the national crime survey were not reported to the police. And violent youth are four times more likely to come from homes in which their fathers beat their mothers, than are nonviolent youth.

By the way, Mr. President, I also have not talked to a judge or a police chief or sheriff who has not said to me, "Senator," or, "PAUL, we will not stop the violence in the neighborhoods and the communities unless we stop it in the homes."

Mr. President, I started out with the statistics because October is National Domestic Violence Awareness Month. In recognition of this occasion, I would like to call to the attention of this body an art exhibit in the rotunda of the Russell Senate Office Building. This exhibition includes portraits of domestic violence survivors, and it provides a "window of understanding" into the strength and the hopes of battered women nationwide.

Mr. President, the organization which assembled this collection, "A Window Between Worlds," is an extraordinary, nonprofit program which is dedicated to bringing the healing power of the creative arts to women who are the victims of domestic violence. This display is the culmination of a tour which has brought 31 exhibitions to 18 States. Throughout this journey, "A Window Between Worlds" has assisted domestic violence facilities in using art as a resource for survivors, helping to establish 18 new ongoing art programs for battered women across the country.

Mr. President, Sheila and I decided to invite Cathy Salser. Each October we have invited artists and those that have been down in the trenches, that have been struggling with this issue to come to Washington. We decided to invite Cathy Salser and "A Window Between Worlds" to Washington and display it in the Russell Senate Office Building because we believe that it is critical to bring this reality face to face with the decisionmakers and the leaders in this Nation.

We did that with the "Silent Witness" December play from Minnesota last year, and many of my colleagues came by and saw that and commented to me how important it was to them in personal terms. These paintings that Cathy Salser has done are such powerful lobbyists. In fact, I think they are the most powerful lobbyists. I do not think any of us will be able to put the issue of domestic violence in categories.

Mr. President, I could go on and on about this exhibit. I will just make three final points.

Through art, "A Window Between Worlds" guides battered women to discover safe ways to rebuild their own self-worth and hope for the future. It is empowering for those women. I want to commend "A Window Between Worlds" and Cathy Salser for providing this unique empowering resource for battered women and for assisting domestic violence programs nationwide to be able to use this as an effective tool for women to be able to rebuild their lives.

Finally, Mr. President, I would like to thank all of the survivors in the United States of America of domestic violence who have made this exhibition possible by courageously sharing their lives through this art. In doing so, those courageous women have offered us "A Window Between Worlds," which provides us an opportunity to gain a new understanding of this tragedy, a new insight into the hopes of the victims, and a new respect for their strength and will as they rebuild their lives.

It is only through this kind of exhibition now in the Russell Office Building rotunda that we can continue as decisionmakers to face the reality of what is happening to our country, the violence that none of us approve of, violence that will have to ultimately be dealt with at the community level but violence that we can make an enormous contribution toward lessening and ending by coming up with creative programs, working with people throughout the country, and enacting good public policy that will make a very positive difference in the lives of women, of children, and, yes, finally, Mr. President, of men as well.

I have to tell you that I think the most empowering thing I have ever seen in Minnesota besides the strength of some of these women who in the face of unbelievable pain and suffering have had the strength to come forward, the strength to rebuild their lives, is the fact that in communities, especially where Sheila has gone throughout the State of Minnesota, men come to those meetings and they talk about what it is that they can do to help. They ask what they can do to help.

I say to my colleague from Indiana, who I know cares a great deal about this issue, it is great to see the law enforcement community and ministers come, and I think people are aware. Once upon a time we used to say it is nobody's business. We do not believe that any longer. I think this display is extremely important. And I hope that my colleagues will be able to drop by to the rotunda of the Russell Senate Office Building to see this fine work by Cathy Salser and "A Window Between Worlds."

I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Indiana.

ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. COATS. Mr. President, I would like to return to the discussion of the Elementary and Secondary Education Act conference report, which we will shortly be voting on.

I spoke earlier outlining reasons why I believe Senators should be concerned about passing this legislation, primarily because it sets in place education policy directed by the Federal Government for the next 5 years. It inhibits a number of reforms that I think are taking place and should take place at the State and local level. Clearly, there has been disillusionment with the Federal role in education, and that disillusionment obviously is the result of the lack of progress and lack of success in our educational program that I think all Americans would like to see.

One of the most persuasive reasons for Senators to vote against this bill was a presentation of how title I, formerly chapter 1, funds would be distributed to the various States. I asked the Congressional Research Service for the figures that they had compiled based on official runs which the conferees requested the CRS to run for this particular bill.

The Senator from Iowa [Mr. HARKIN] has apparently indicated that this Senator from Indiana cooked the figures or, as I think the quote was, "doctored" the figures so as to skew the results. All this Senator did was present the figures as presented to him by the Congressional Research Service. It was the conferees in the conference between the Senate and the House that requested the Congressional Research Service to make the runs under the assumption that there would be a $400 million increase in the appropriation. I did not make this request. The conferees made the request. So the only estimates available to us from the Congressional Research Service were the estimates available under the conferees' request and under the assumption that there would be a $400 million increase in the appropriation.

When those numbers came back, they permitted a comparison of how each State would fare under the current law formula as compared with the formula in the conference report. The Congressional Research Service ran both the current law formula and the new conference formula based on the conferees' requested assumption of a $400 million increase in the appropriation. When those two formulas are compared, based on the estimates prepared by CRS, it indicates that 33 States would get less Federal education money under the conference formula than the current law formula.

The Senator from Iowa, Senator HARKIN, says that the Appropriations Committee will not increase education funding by $400 million. That may be the case because he is the chairman of the Labor-HHS Subcommittee of the Appropriations Committee. He controls what will be increased and what will not be increased. But the only CRS estimates available to us assumed the appropriation increase of $400 million because that is what the conferees asked them to assume.

I just recently asked CRS how States would be affected if the appropriation remained unchanged or was only increased, say, $100 million or $200 million. They indicated to me that while they obviously did not have time to make the run, since that request was just as a result of discussion we had on the floor an hour or so ago, they indicated that a majority of States would still lose money as compared with the current law formula regardless of the amount appropriated.

The Senator from Iowa talks about a fourth grant program in the bill, a new one, called "effort and equity." This is the so-called "miracle cure" with which they could go to Members and say, "Well, we know that the CRS estimates indicate that 33 of your States are going to lose money. But we are going to make up that difference through the 'effort and equity' program." The effort and equity formula is a new grant program that is separate from the traditional chapter 1 grants, which apparently gives new powers to the appropriators. Under those new powers, the appropriators can shift funds from one State to another, and depending on what they appropriate, they can move some money around to remedy some of the inequities created by this bill.

I do not know how the Senator from Iowa or the appropriators are going to make this decision or if any funds will actually be appropriated—especially considering the House strongly opposes the effort and equity formula. But they apparently are going to have the power under this bill to move that money around. We will have to go to the appropriators and plead our case.

So that is what the confusion is in terms of the presentation of the numbers. Once again, it was not this Senator, it was the Congressional Research Service that provided the estimates. These estimates are based on the explicit language of the conference report, which states that any appropriation above the fiscal year 1995 level "shall be allocated in accordance with section 1125." That is what the bill says and that is what CRS based its estimates on. According to CRS, 33 States would receive less Federal education money under this formula than they would under current law.

For the information of all Senators, I will insert these charts based on CRS estimates into the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

Estimated Title 1, Part A Grants Fiscal Year 1996–1999, Cumulative Comparison of Current Law With Conference Formula

States that lose under conference formula	*Fiscal year 1996–1999 cumulative loss*
Ohio	($22,657,000)
Puerto Rico	(20,371,000)
Pennsylvania	(15,827,000)
Indiana	(14,952,000)
North Carolina	(11,324,000)
Wisconsin	(10,937,000)
Virginia	(10,630,000)
Minnesota	(10,424,000)
Iowa	(9,955,000)
Tennessee	(9,937,000)
New Jersey	(9,665,000)
Georgia	(9,110,000)
Oregon	(8,318,000)
Missouri	(8,199,000)
Oklahoma	(7,562,000)
Kansas	(6,743,000)
Alabama	(6,301,000)
Washington	(5,839,000)
South Carolina	(5,719,000)
Kentucky	(5,319,000)
West Virginia	(5,281,000)
Maine	(4,499,000)
Arkansas	(4,216,000)
Montana	(3,789,000)
Colorado	(3,729,000)
Nebraska	(3,632,000)
Idaho	(3,133,000)
Rhode Island	(1,645,000)
South Dakota	(664,000)
Massachusetts	(606,000)
Michigan	(328,000)
Connecticut	(313,000)
New Mexico	(184,000)
Utah	(95,000)

Source: CRS.

States that gain under conference formula	*Fiscal year 1996–1999 cumulative gain*
New York	$70,970,000
California	61,344,000
Texas	23,344,000
Illinois	20,575,000
Florida	9,327,000
Vermont	8,795,000
Alaska	8,711,000
Delaware	7,447,000
Louisiana	7,289,000
Mississippi	5,739,000
Wyoming	5,628,000
New Hampshire	4,985,000
Maryland	3,793,000
Arizona	2,409,000
Hawaii	812,000
Nevada	672,000
D.C.	61,000
North Dakota	0

Source: CRS.

ESTIMATED TITLE I, PART A GRANTS 1996–97

[Fiscal year 1996; in thousands of dollars]

State	Fiscal year 1996 current law formula	Fiscal year 1996 conference formula	Fiscal year 1996 difference
ALABAMA	$130,105	$129,412	($693)
Alaska	13,533	15,503	1,970
Arizona	102,005	102,382	377
ARKANSAS	77,951	77,649	(302)
California	775,105	782,823	7,718
COLORADO	70,488	69,744	(744)
CONNECTICUT	53,581	53,225	(356)
Delaware	14,548	16,015	1,467
DC	20,573	20,458	(115)
FLORIDA	293,501	292,217	(1,284)
GEORGIA	168,638	167,636	(1,002)
HAWAII	19,508	19,363	(145)

ESTIMATED TITLE I, PART A GRANTS 1996–97—Continued

[Fiscal year 1996; in thousands of dollars]

State	Fiscal year 1996 current law formula	Fiscal year 1996 conference formula	Fiscal year 1996 difference
IDAHO	22,671	22,337	(334)
Illinois	323,930	326,295	2,365
INDIANA	109,336	107,734	(1,602)
IOWA	52,179	51,159	(1,020)
KANSAS	50,822	50,046	(776)
KENTUCKY	129,023	128,572	(451)
Louisiana	196,729	197,556	827
MAINE	25,590	25,185	(405)
MARYLAND	88,255	87,808	(447)
MASSACHUSETTS	123,682	123,255	(427)
MICHIGAN	310,734	310,276	(458)
MINNESOTA	85,304	84,157	(1,147)
Mississippi	129,414	130,282	868
MISSOURI	120,864	120,055	(809)
MONTANA	26,793	26,396	(397)
NEBRASKA	31,342	30,971	(371)
Nevada	18,987	19,010	23
New Hampshire	15,393	16,458	1,065
NEW JERSEY	144,175	143,840	(335)
NEW MEXICO	61,451	61,434	(17)
New York	635,985	642,095	6,110
NORTH CAROLINA	130,895	129,346	(1,549)
North Dakota	17,416	17,416	0
OHIO	306,802	304,437	(2,365)
OKLAHOMA	86,859	86,094	(765)
OREGON	65,917	64,913	(1,004)
PENNSYLVANIA	314,180	312,234	(1,946)
PUERTO RICO	268,967	266,886	(2,081)
RHODE ISLAND	21,775	21,736	(39)
SOUTH CAROLINA	94,422	93,638	(784)
SOUTH DAKOTA	19,530	19,502	(28)
TENNESSEE	126,197	125,078	(1,119)
Texas	616,047	618,952	2,905
UTAH	33,360	33,009	(351)
Vermont	13,351	15,418	2,067
VIRGINIA	102,685	101,907	(778)
WASHINGTON	98,195	97,221	(974)
WEST VIRGINIA	69,220	68,774	(446)
WISCONSIN	123,406	122,244	(1,162)
Wyoming	14,955	16,219	1,264

Note.—States in upper case do better under current law formula.

Source: CRS.

ESTIMATED TITLE I, PART A GRANTS 1997–98

[Fiscal year 1997; in thousands of dollars]

State	Fiscal year 1997 current law formula	Fiscal year 1997 conference formula	Fiscal year 1997 difference
ALABAMA	$137,597	$135,560	($2,037)
Alaska	14,315	16,406	2,091
Arizona	107,887	108,099	212
ARKANSAS	82,443	81,439	(1,004)
California	819,845	835,840	15,995
COLORADO	74,569	74,200	(369)
Connecticut	56,695	58,386	1,691
Delaware	15,390	17,440	2,050
DC	21,759	21,421	(338)
FLORIDA	310,465	309,245	(1,220)
GEORGIA	178,263	176,041	(2,222)
Hawaii	20,638	20,698	60
IDAHO	23,980	23,332	(648)
Illinois	342,652	345,969	3,317
INDIANA	115,673	112,120	(3,553)
IOWA	55,196	53,038	(2,158)
KANSAS	53,745	52,696	(1,049)
KENTUCKY	136,471	134,930	(1,541)
Louisiana	208,073	208,679	606
MAINE	27,042	26,161	(881)
Maryland	93,340	93,850	510
Massachusetts	130,853	133,522	2,669
Michigan	328,709	328,964	255
MINNESOTA	90,213	88,334	(1,879)
Mississippi	136,878	137,939	1,061
MISSOURI	127,851	126,338	(1,513)
MONTANA	28,316	27,395	(921)
NEBRASKA	33,058	32,174	(884)
Nevada	20,078	20,138	60
New Hampshire	16,268	17,444	1,176
NEW JERSEY	152,194	151,341	(853)
NEW MEXICO	64,994	64,635	(359)
New York	671,737	685,673	13,936
NORTH CAROLINA	138,356	135,940	(2,416)
North Dakota	18,416	18,416	0
OHIO	324,537	319,182	(5,355)
OKLAHOMA	91,867	89,914	(1,953)
OREGON	69,740	68,308	(1,432)
PENNSYLVANIA	332,374	329,821	(2,553)
PUERTO RICO	284,476	278,882	(5,594)
RHODE ISLAND	22,958	22,683	(275)
SOUTH CAROLINA	99,852	98,445	(1,407)
SOUTH DAKOTA	20,591	20,469	(122)
TENNESSEE	133,462	130,527	(2,935)
Texas	651,588	654,889	3,301
Utah	35,299	35,648	349
Vermont	14,124	16,328	2,204
VIRGINIA	108,099	106,096	(2,003)
Washington	103,888	104,380	492
WEST VIRGINIA	73,177	71,929	(1,248)
WISCONSIN	130,563	127,904	(2,659)
Wyoming	15,820	17,167	1,347

Note.—States in upper case do better under current law formula.

Source: CRS.

ESTIMATED TITLE I, PART A GRANTS 1998–99

[Fiscal year 1998; in thousands of dollars]

State	Fiscal year 1998 current law formula	Fiscal year 1998 conference formula	Fiscal year 1998 difference
ALABAMA	$145,079	$142,555	($2,524)
Alaska	15,093	17,323	2,230
Arizona	113,765	114,520	755
ARKANSAS	86,928	85,730	(1,198)
California	864,520	889,464	24,944
COLORADO	78,628	77,614	(1,014)
Connecticut	59,785	61,194	1,409
Delaware	16,226	18,391	2,165
DC	22,945	22,525	(420)
FLORIDA	327,383	325,333	(2,050)
GEORGIA	187,903	184,870	(3,033)
HAWAII	21,763	21,698	(65)
IDAHO	25,281	24,332	(949)
Illinois	361,321	367,499	6,178
INDIANA	121,977	116,942	(5,035)
IOWA	58,203	55,060	(3,143)
KANSAS	56,651	54,881	(1,770)
KENTUCKY	143,907	142,119	(1,788)
Louisiana	219,410	221,163	1,753
MAINE	28,485	27,161	(1,324)
Maryland	98,427	98,551	124
Massachusetts	137,984	140,134	2,150
Michigan	346,622	346,891	269
MINNESOTA	95,106	92,160	(2,946)
Mississippi	144,337	146,475	2,138
MISSOURI	134,818	132,672	(2,146)
MONTANA	29,843	28,555	(1,288)
NEBRASKA	34,786	33,503	(1,283)
NEVADA	21,163	21,138	(25)
New Hampshire	17,133	18,430	1,297
NEW JERSEY	160,488	158,639	(1,849)
NEW MEXICO	68,535	68,260	(275)
New York	707,800	727,912	20,112
NORTH CAROLINA	145,852	141,928	(3,924)
North Dakota	19,416	19,416	0
OHIO	342,222	334,975	(7,247)
OKLAHOMA	96,867	94,287	(2,580)
OREGON	73,538	71,195	(2,343)
PENNSYLVANIA	350,488	346,434	(4,054)
PUERTO RICO	299,977	292,738	(7,239)
RHODE ISLAND	24,207	23,753	(454)
SOUTH CAROLINA	105,287	103,218	(2,069)
SOUTH DAKOTA	21,657	21,504	(153)
TENNESSEE	140,723	136,806	(3,917)
Texas	687,087	694,277	7,190
Utah	37,223	37,267	44
Vermont	14,891	17,246	2,355
VIRGINIA	113,602	110,737	2,865
WASHINGTON	109,548	109,206	(342)
WEST VIRGINIA	77,134	75,549	(1,585)
WISCONSIN	137,679	134,012	(3,667)
Wyoming	16,679	18,130	1,451

Note.—States in upper case do better under current law formula.

Source: CRS.

ESTIMATED TITLE I, PART A GRANTS 1999–2000

[Fiscal year 1999; in thousands of dollars]

State	Fiscal year 1999 current law formula	Fiscal year 1999 conference formula	Fiscal year 1999 difference
ALABAMA	$152,551	$151,504	($1,047)
Alaska	15,820	18,240	2,420
Arizona	116,499	117,564	1,065
ARKANSAS	91,498	89,786	(1,712)
California	894,835	907,522	12,687
COLORADO	82,913	81,311	(1,602)
CONNECTICUT	64,782	61,725	(3,057)
Delaware	17,143	18,908	1,765
DC	24,220	25,154	934
Florida	344,516	358,397	13,881
GEORGIA	197,776	194,923	(2,853)
Hawaii	22,900	23,862	962
IDAHO	26,550	25,348	(1,202)
Illinois	379,857	388,572	8,715
INDIANA	129,044	124,282	(4,762)
IOWA	62,946	59,312	(3,634)
KANSAS	61,257	58,109	(3,148)
KENTUCKY	151,992	150,453	(1,539)
Louisiana	231,593	235,696	4,103
MAINE	29,865	27,976	(1,889)
Maryland	103,760	107,366	3,606
MASSACHUSETTS	146,914	141,916	(4,998)
MICHIGAN	365,040	364,646	(394)
MINNESOTA	100,220	95,768	(4,452)
Mississippi	151,975	153,647	1,672
MISSOURI	141,501	137,770	(3,731)
MONTANA	30,601	29,418	(1,183)
NEBRASKA	36,060	34,966	(1,094)
Nevada	22,250	22,864	614
New Hampshire	17,864	19,311	1,447
NEW JERSEY	170,645	164,017	(6,628)
New Mexico	72,295	72,762	467
New York	747,979	778,791	30,812
NORTH CAROLINA	154,438	151,003	(3,435)
North Dakota	20,416	20,416	0
OHIO	357,465	349,775	(7,690)
OKLAHOMA	100,830	98,566	(2,264)
OREGON	77,628	74,089	(3,539)
PENNSYLVANIA	372,979	365,705	(7,274)
PUERTO RICO	316,644	311,187	(5,457)
RHODE ISLAND	24,945	24,068	(877)
SOUTH CAROLINA	111,787	110,328	(1,459)
SOUTH DAKOTA	22,589	22,228	(361)
TENNESSEE	147,109	145,143	(1,966)
Texas	718,099	728,047	9,948
UTAH	39,035	38,898	(137)
Vermont	16,234	18,403	2,169
VIRGINIA	118,801	113,817	(4,984)
WASHINGTON	115,623	110,608	(5,015)
WEST VIRGINIA	81,095	79,093	(2,002)
WISCONSIN	147,437	143,988	(3,449)
Wyoming	17,557	19,123	1,566

Note.—States in upper case do better under current law formula.

Source: CRS

Mr. COATS. The CRS estimates were provided at the request of the ESEA conferees. Those Members of the Senate and the House met in conference and said to CRS: Would you run the numbers on this assumption of a $400 million appropriation increase? Those are the numbers they ran, and the charts I have are simply the result of the CRS' runs.

Having said that, Mr. President, regardless of whether your State gets more money or less money under this new authorization versus current law, regardless, the substance of what is contained in this new thousand-page proposal, the provisions of that proposal ought to be disturbing to a great number of us.

As I indicated earlier, two former Secretaries of Education, Alexander and BENNETT, faxed a letter to each Senator urging them to defeat this legislation so that we could start again with the next Congress and provide a much more sensible approach to Federal involvement in education. In doing so, they pointed out, as I have pointed out, and others have pointed out, this does not deny funds to the States. This does not deny funding under this bill. There is a provision in the General Education Provisions Act which allows that funding to go forward regardless of whether Congress acts. So nobody is going to be denied their Federal education funds. In fact, if you go by the CRS estimates, 33 States will receive more money, because they do better under current law than under the new, revised formula, with the caveat that the Appropriations Committee may, under this new effort and equity provision, try to remedy some of that problem.

But when you look at this particular piece of legislation before us, which we will be voting on in less than an hour, and when you understand the kinds of things that are in this thousand-page bill, I think many ought to think twice before they lock in place a 5-year Federal program that overregulates, oversupervises, overcontrols what State and local educational institutions are doing in education.

Former education Secretaries Bill Bennett and Lamar Alexander had this to say about the bill before us:

> The bill deals with accountability in a perverse way, essentially making schools and school systems accountable to Washington for compliance with regulations. Under the new federally imposed version of outcome-based education that applies, for now, to disadvantaged children, schools will be even less accountable to their consumers, their communities, and their States than is the case today, if this legislation passes.
>
> The bill mandates the kinds of federally approved standards that Goals 2000 said would be voluntary.

They go on to say:

> The bill mandates the kinds of federally approved standards that Goals 2000 said would be voluntary, because only with those approved content and student performance standards in place can a State or community get its Federal aid.

Although language having to do with the input standards was softened somewhat in conference, the bill takes a giant step toward reviving the legitimacy and Federal supervision of criteria that judge schools by their spending levels, by their pupil-teacher ratios, and so forth, instead of by their effectiveness.

Since Goals 2000 authorized the Education Department to develop national opportunity to learn standards, we can expect that these will soon exist and will be used. They point out that:

> By mandating State plans that are based on federally approved standards, the bill moves the new National Education Standards and Improvement Council ever closer to becoming the national school board that critics warned of when Goals 2000 was enacted.

Former Secretary Alexander, a former Governor of Tennessee, indicated, "This means that Tennessee, for example, no longer has the final say over what young Tennesseans will learn in school. If the bill is enacted," he said, "that power shifts to Washington, unless, of course, Tennessee wants to forfeit its Federal aid." And, of course, that is the sword hanging over the heads of our States and educational institutions. Washington has this big pot of money for you, but if you follow the Federal standards and comply with the Federal guidelines, this money will be available to you. For financially strapped school districts and financially strapped educational institutions, that is a tough choice. If they want the money, they have to comply with the Federal standards. If they want the Federal money, the Federal strings come attached. This bill, the thousand pages, very substantially increases the number of Federal strings and Federal standards.

Secretary Bennett also noted that the National Assessment Governing Board is going to have its members chosen by education interest groups. Up to now, the board function has had its own nominating committee. Within a year or two, that will turn the country's most important and sensitive testing program into an appendage of the school establishment and Federal bureaucracy, which has already made clear its intention of race norming the test scores and probing families for sensitive information.

There are certain aspects from the bill itself that ought to be disturbing to us. Let me read: "Both the House bill and Senate amendment say that if they do not already do so, aggregate State expenditures for the operation of elementary and secondary programs must equal or exceed the level of Federal expenditures for the operation of such programs by a time certain."

The way I read that is that this is yet one more unfunded mandate on the States. The bill also says that all laborers and mechanics employed in the performance of any contract and subcontract for the repair, renovation, alteration, or construction of any building or work that is financed in whole or in part by a grant under this title shall be paid wages in accordance with Davis-Bacon. We all know Davis-Bacon imposes on many areas higher wage standards than what would otherwise be applicable.

So this is another high-priced win for mandating schools to perform contract work, repair work, mechanical work, renovations, alterations, or construction based on a federally dictated wage.

Opportunity-to-learn standards are advanced in this bill. The text reads: "Each State plan shall describe such other factors the State deems appropriate to provide students an opportunity"—it goes on to say—"which may include opportunity-to-learn standards"—"to provide students an opportunity to achieve the knowledge and skills described in the challenging content standards."

I ask the question: How likely is the Education Department to approve plans that do not include opportunity-to-learn standards?

The bill goes on to say: "Each local educational agency identified under paragraph 3"—that is as having failed to meet State student performance standards—"shall in consultation with schools, parents, and educational experts revisit the local educational agency plan. Such revision may include reviewing the local educational agency plan in the context of the opportunity to learn and standards or strategies developed by each State."

The text goes on to say that "the term 'performance indicators' means measures of specific outcomes that the State or local educational agency identifies as assessing progress toward the goal of achieving that all teachers have the knowledge and skills necessary."

That sounds like outcome-based education for teachers to me.

I also spoke about the fact that the conference report eliminates what were some promising reforms. It undermines those promising reforms. It says that a local educational agency that chooses to implement a school choice plan shall first develop a comprehensive plan that includes assurances that both the sending and the receiving schools agree to the student transfer.

What good, I would ask, is choice if the school you want to escape has the power to deny you an exit visa?

The bill says that the Senate amendment but not the House bill provides that the ESEA shall not be construed to deny States or local educational agencies the opportunity to use Federal funds to contract with private management firms, and the Senate receded to the House in that provision.

It goes on to define a number of provisions related to gender equity. It also deals with a number of social and miscellaneous issues that are tangential at best to the educational process. The conferees have taken some innovative ideas that were discussed, debated, and passed on the Senate floor and dismissed them in conference.

I could go on and on with page after page of objections that have been raised relative to the legislation before us.

So, regardless of where any individual Senator might come down on the subject of funding, on the subject of the Federal dollars that will be available to local educational agencies, regardless of where you may come down on that, whether or not you want to take CRS's view based on what they were asked to do by the conference, whether or not you think you can make your case with the appropriators and rebalance your State's deficiency by this effort-and-equity formula, regardless of where you come down on that, there are serious, serious questions about the expanded Federal role in the education of our children in terms of dictating to States and local governments and local educational agencies how education should be conducted.

Frankly, it is a part of a significant debate going on in our country now as to how and whether and if we will be able to bring about reforms in our educational system that will truly make a difference, that will truly bring the results that we are all looking for.

If there is one correlation that is true, it is that the more money the Federal Government spends and the more power and authority it exerts, the lower the results are from our public educational system. No case has been made that increased Federal spending and involvement in education improves the product. What we ought to be concerned about here are the results. We ought to be concerned about the product. We ought to be concerned about whether or not our children are getting the education they need and deserve in our public school systems.

And while there are certainly school systems that are doing the job and while there are certainly courageous teachers that are trying to do the job and local authorities that are trying to bring about changes, it seems that every time they attempt to take a step forward, the Federal Government comes in and says: "No, no, no. If you want to receive Federal dollars, you have to do it our way. We have the wisdom in Washington. We have the agency and the bureaucracy here and we have it all figured out. If you will just do it our way, we will achieve what we want to achieve in the educational process in this country."

Well, frankly, doing it Washington's way has had its day in the Sun, and it has not produced the results.

I say let us give State and local educational agencies more flexibility and more authority to try something different and to bring about some real innovation and reform in our schools. Let us give parents some choices about their children's future rather than locking them into a system that they know has failed.

Probably one of the most egregious abuses of power presented are the decisions that have been made to deny children from low-income families the opportunity to get an alternative education in some place other than their local public school.

Every effort on this Senate floor over the past several years to allow even demonstration programs for school choice to low-income students has been defeated, defeated by a powerful lobby that says, "We do it our way or no way." We do not even want to experiment to see if the other way works. And the plea this Senator has been making for years is, what are you afraid of? All we are asking for is a demonstration program. If you are right, it will not work, and then you can stand on the floor and say, "We tried that, and it does not work."

But we are saying, let us give it a chance. Parents who live in crime-infested neighborhoods, who have to send their children to crime-infested schools with inadequate educational possibilities for those students are crying out for an opportunity for an alternative.

We are saying why do not we set up 5 or 6 or 10, or whatever demonstration programs and give them some funds, and we will try it for 2 years? And if it makes a difference in their lives, if it makes a difference in their performance, if it makes a difference in their educational opportunities, then we will have a model program to expand that. If the public educational lobby and those speaking for it are correct, then they will say: "Look, you tried it, and it did not work. So let us not talk about it any more."

But they are even afraid to try it. They will not set aside one nickel to allow low-income children trapped in poverty, trapped in a failed educational system the opportunity to try something else.

The tragedy and the shame is that those who are saying to try to advance opportunities for children trapped in inner cities that have no chance to do anything except to go to the rat-infested, lousy educational, violence-prone local public school are denied that opportunity by the U.S. Senate and the U.S. Congress because they do not even want to take a chance that it might work. Why might it work? Because it would show up the public educational system for the bankruptcy that exists in parts of that system across this country.

I think it is disgraceful that we cannot even try something different, because we are so locked in by a lobby that says "our way or no way," or someone might show us up because they might do a better job than we do. So we need to protect our little fiefdoms here. So every attempt to try to do something different is taken into conference and the conferees sit there smugly and say: "I do not care if the Senate voted for that 2 to 1; I do not care if the House voted for that proposal 10 to 1; we are going to decide in here what goes in that bill. The heck with what the House and Senate say. The heck with what the people are saying. We want more of the status quo. We want more of what has given us this great educational system in America over the past 20 years and, by golly, we are going to give it to you whether you want it or not."

That is what we are going to get here in less than an hour, it appears, based on the last vote, but I think this country ought to wake up and I think the Senate ought to wake up. Actually, the country ought to wake up to what the Congress is doing and the public educational lobby is doing in denying opportunities for educational advancement in this country.

Perhaps when they do, they will demand that Congress give States and schools and parents and teachers and local administrators some flexibility to do something without hanging over them the Federal dollars saying, "Oh, if you do not do it our way and dot every 'i' and cross every 't' and make sure you run to Washington and comply with all the Federal standards and beg our bureaucrats and show them your plan and make sure it is just in accordance with everybody else's plan, unless we standardize education for Los Angeles and Baltimore and Miami and everybody gets on the same standard"—which I would contend is a standard of mediocrity that is a disgrace for the country with the wealth that we have—"unless you do that, you cannot play ball. You cannot get any Federal funds at all."

Maybe some educational institutions and maybe some States and maybe some localities will say, "Look, even without the Federal money, we think we can do a better job for the people that we serve." There are courageous teachers, courageous administrators, courageous superintendents of education, and courageous Governors who are asking us to do it differently, and yet we look at them and say: "No, no, no. We are going to do it our way, and if you want the Federal bucks you better play along."

So this bill now locks in the status quo for 5 more years. The country is demanding change. The country wants reform. The country wants to do it differently. But, no, we are going to lock it in for 5 years. "Do it our way 5 more years."

The same wonderful process that brought us lower SAT scores and that brought us a disgrace in public education in some areas, is going to continue for 5 more years. Well, that is not the way to address change and reform in America, and I do not believe that is the way to provide opportunities for our children.

Mr. President, I just hope that our Members can come down here at 5:30 and vote "no" on this bill, knowing that they are not going to lose a dime and knowing that we are going to have a much better opportunity next year to craft a bill that truly brings about educational reform in America.

Mr. President, I yield the floor

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATHEWS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I would like to address the issues of the pending Elementary and Secondary Education Act.

Mr. President, I strongly support the conference report accompanying H.R. 6, a bill to reauthorize the Elementary and Secondary Education Act.

Before us is the single largest education program supported by the Federal Government. Yet, the debate we have had has really said little about education, but rather we have been distracted by important social issues which tend to distract us from emphasizing those things in this bill which do help to do what we must do to improve education in this country.

We are graduating kids who cannot read, yet we are worried about whether they can pray in school. Let us let the schools try to teach them to read, and let their parents and churches worry about their religious instruction and observance.

We rank last or next to last in the industrialized world in our children's math and science ability, yet instead of worrying about how we teach science and math, we are consumed by how we deal with sexuality.

Our priorities in this debate are all wrong. We talk about one set of issues, while ignoring the more important issues. Instead of worrying so much about school prayer and sex education, we should be worrying more about how we are going to teach our children the skills they need to complete with the rest of the world.

The priorities of this debate are not those of the people who care about education across the country. Over a year ago, when I held a hearing on this bill in Montpelier, VT, one Vermonter after another told me that they wanted greater flexibility, and with it greater accountability. And we have done that in this bill. Vermonters told me that they wanted good performance rewarded, and we have done that, too.

What, really, is at stake in this debate? At stake, at the very heart of this bill, is $6 billion targeted to educationally and disadvantaged young people across this country, in both rural and urban areas.

Last year alone, 4 million students were served by this program. According to the national assessment of chapter 1, the Achievement of Disadvantaged students has improved since 1965, especially in reading, relative to the achievement of the general population.

Chapter 1 works. Students receiving chapter 1 services experience larger increases in their standardized achievement test scores than students who do not. And chapter 1 works because the poorest school districts are the ones least able to provide assistance to these needy children. They, more than most, need Federal help.

The education challenges we face are enormous. Right now, between 30 and 80 million Americans are either illiterate or functionally illiterate. They cannot read a story in a newspaper, balance their checkbook, or follow simple instructions on the job.

A quarter of our children do not graduate from high school, and of those that do, more than one-third lack the skills needed for college or entry-level work. Fewer than 50 percent of our high school graduates can now meet the goals we have set for reading and math skills.

As we sit in Washington bickering over provisions which have little bearing on education, millions of young people, teachers, administrators and parents await critically needed Federal support. Let us put our narrow interests aside and recognize the real purpose of this program—to increase the academic achievement levels of all children, and especially those who need our help the most.

This bill fundamentally changes the status quo by demanding high academic standards and encouraging the philosophy that all children can learn. And it states in no uncertain terms that poor children do not deserve a poor education.

What is more central to a democracy than education? The prominent educator Horace Mann once wrote that education, "beyond all other devices of Human origin, is the great equalizer of the conditions of men—the balance wheel of the social machinery."

I think what was true for him in Boston in the mid-1800's is just as true for us in Washington almost 150 years later. Look at any of the major problems we face today—the economy, crime, welfare—you name it. None of them will be solved with a single answer. But on each of them we do know the best single answer, and it is a better education.

Who gets the best jobs in this country? Those people with the best education. Who populates our jails? High school dropouts, for the most part. And who makes up the welfare rolls? Those people with the poorest education.

No act of Congress will cure all these ills. Their cure lies with the American people. But we will have failed if we do not give the people—the parents, the teachers and the children—the best tools we can. And as time has taught us, the strongest tool is a stronger educational system.

This conference report will help us move toward such a system. As reported by the conference committee, it retains much of the Senate bill. Let me quickly outline some of the important provisions. And let me point out that many of these provisions were pushed by my Republican colleagues on the Labor and Human Resources Committee. This has been a bipartisan bill, a strong bipartisan effort.

The conference report continues to give State and local educational agencies flexibility over school curricula and decisionmaking. While the bill requires States to ensure that our most disadvantaged young people receive the same high academic standards as all children, it requires States to develop standards in math and reading only for students served by title 1. It also allows States as many as 4 years to make the transition toward new testing systems based on performance measures rather than standardized tests.

H.R. 6 retains the Eisenhower professional development section which authorizes $800 million toward increasing access by teachers and school staff to intensive, high-quality professional development activities. The conference report retains the much-needed and long-awaited Federal support for the development and purchase of educational technology and continues a program to encourage the transition from early childhood programs to elementary school.

Finally, it continues what was known as chapter 2, now called title VI and increases the authorization to $370 million—well over the Senate passed level. As with the former chapter 2, title VI continues to provide schools the flexibility to respond to emerging local education priorities. The conference report does not eliminate all new programs created under S. 1513 but it does consolidate eight into an existing title and abolishes one of them.

I have not been asked many questions about the education provisions of the conference report, though. Instead, the questions that I have been asked by many of my colleagues concern how do I do under the formula? What happened with prayer? What are the prohibitions on sexual behavior, opportunity to learn, guns and violence?

Let me take a few moments to address these specific issues.

The formula adopted by the conference committee targets more funds to higher poverty areas, but will do so slowly so that no State will lose funds. While all funds up to the 1995 appropriations level will go out under a slightly modified version of current law, a higher percentage of all new money will flow to areas most in need.

In other words, it is the new money that will be distributed under the new formula, to ensure that more goes to the needy areas.

A 100-percent hold harmless will apply to all States and school districts in the 1996–97 school year. No State or district will lose a single dollar between 1995 and 1996, and most will receive more funds than they do currently.

The conference report retains the school prayer provisions of S. 1513. The Kassebaum amendment, which passed by an overwhelmingly vote of 93 to 7 remains in H.R. 6. As my colleagues know, the Helms amendment was defeated on the Senate floor.

The conference report does not drop the prohibitions on sexual behavior but modifies the Senate language. As my colleagues will recall, S. 1513 passed with two separate amendments regarding prohibitions on sexual behavior—the Smith-Helms amendment and the Kennedy-Jeffords amendment.

The compromise prohibits any funds received under this act to be used to develop or distribute materials to encourage any kind of sexual activity. It further prohibits the distribution of obscene materials or condoms to minors. Finally, it includes a House provision which requires that any sex education program be age specific and include the health benefits of abstinence.

The compromise is different than the amendment passed by my colleagues from New Hampshire and North Carolina in one fundamental way—it does not attempt to direct or control the use of State and local funds or control State and local decisionmaking. The compromise is consistent with the provisions that prohibit Federal control over education in this country, and with the Republican philosophy of federalism that we all embrace.

H.R. 6 retains the amendment to require that States have in place a policy to expel for 1 year any child caught with a weapon on school grounds and contains a modification of the provision to discipline students with disabilities. That compromise requires the Secretary to collect data on the incidence of disabled children bringing weapons to school and exhibiting life threatening behavior and to report to Congress prior to the reauthorization of the individuals with disabilities education act, or IDEA, which is to be reauthorized next year.

Further, it extends IDEA's current 10 day stay-put provision to 45 days for students who bring guns to school. This compromise may not satisfy all the Members of this body, but it was a hard-fought battle with the House conferees to retain any provision addressing IDEA prior to next year.

Finally, the bill takes out the "teeth" of the House opportunity to learn, or OTL, provisions by eliminating the requirement that States develop or include OTL standards in their State plan. This provision is reinforced by Senator GREGG's amendment which prohibits mandates or control over State and local spending or decisionmaking over curriculum and instruction. In other words, local control is maintained, so important to the Members of this side of the aisle in particular.

Later today, we will be voting on final passage of H.R. 6. It is by no means everything I want. I was on the losing side in some arguments in conference.

But those losses, in context, are minor. If we fail to pass the bill, the losers will not be this Senator or any other, they will be America's children. I urge my colleagues to join me in passing this important legislation.

Mr. President, let me also point out that this is just a follow-up to what we have done this past year in the Goals 2000 bill. When we look toward the future, it is clear that this Nation is at risk when it comes to our educational system. Our students are not reaching the high educational levels that are necessary to cope with the economic demands of the future. Study after study has demonstrated that we must raise the educational level of our students, not only of those in school, which we are dealing with here today, but also of the adult population. Hundreds of billions of dollars are spent by businesses just in remedial education.

As I mentioned earlier, we have 30 to 80 million people in this country who are illiterate or functionally illiterate. In my mind, we cannot ignore this issue. Many of these citizens do not even have the skills to work in entry-level jobs. Clearly, if we do not provide them with an opportunity to gain the knowledge they need to succeed in the workplace, then this Nation will not be capable of keeping the jobs we have, creating new jobs, and bringing more higher-paying jobs into the country.

As I look to the future, I see serious problems in the area of crime, in the area of welfare reform, with the economy. As we near the next century, the only hope for solving these problems seems to be to provide States with the necessary resources, in the form of planning grants or otherwise, to help them meet the goals we have set out by the year 2000. It is my hope that next time, in addition to reauthorizing and funding those existing programs, we will search for and find a way to reorder the Nation's priorities and we will increase the funding for those programs which are dedicated to improving educational opportunities for our Nation's children.

If we can just take 1 percent of the budget each year, $15 billion, and for the next 8 years use that money to expand the funding for the Chapter 1 program, which incidentally is only funded about 50 percent, to fully fund Head Start, to fully fund the other programs we have, then we may be able to make the kind of inroads into solving the problems of this Nation's educational system in order to bring us into that next century.

I was so pleased with the result of the votes we got for cloture and I expect we are going to have even a higher number of Senators voting for final passage of the bill. So we can, I think, demonstrate to the public and to the Nation that we are willing to shift resources to take care of the problems we are facing now in the economy, to decrease the number of people who are breaking our laws and filling our prisons, so that in the future, instead of building new prisons, we will be able to tear them down, and to restructure the fabric of our social welfare system so that those individuals who are now caught in that system will gain the skills they need to participate as productive members in the great society that we have in this country.

So I look forward as we go on, Mr. President, to seeing that we do develop the tools necessary to reach the next century.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DEPARTING COLLEAGUES

Mr. JEFFORDS. Mr. President, since there is no one seeking recognition, I would like to take a moment to mention two of my colleagues who are leaving this body and proceeding to private life.

JACK DANFORTH is and has been a friend of mine for many, many years. We started together as attorneys general back in the early seventies and worked together on many interesting projects at that time. So I was very pleased when I was honored to be a Member of this body and could rejoin Senator DANFORTH. His leadership, which he has displayed to all of us, his ability to bring to a point the very difficult and complicated issues that we have before us is amazing to all of us. His dedication to bipartisanship, his dedication to finding consensus on difficult issues has greatly enhanced the ability of this body to do its job.

In particular, I worked very closely with him when we were dealing with the problems of civil rights during the Bush administration. He and I worked many, many hours with the administration and with Members on the other side of the aisle. He was the leader on our side in finding those magic words which would help us solve some of the serious problems that we had with respect to this complicated issue.

In addition to that, as we have gone forward in other critical areas this year, education, of course, but most notably health care, he was one of the original participants in the so-called mainstream activities of Senator CHAFEE and one of the most dedicated and loyal attendees of the Thursday morning breakfast. Senator DANFORTH had an admirable understanding and comprehension of the very difficult aspects of achieving meaningful health care reform.

He worked with us to the end, and shared in the disappointment that I, as well as Senator KENNEDY and others, felt when we were unable to bring together a coalition in time to achieve meaningful health care reform this year.

But without his help in many critical areas, we would not have been able to finally get consensus, even though it was too late by then to act upon a bill.

In addition, I would like to say a few words about my good friend from Minnesota, Senator DAVE DURENBERGER. He and I also worked closely together on many issues. In the area of education, and this bill in particular, we spent much time trying to find solutions to some of the difficult questions we face. I believe we did a good job, and hopefully it will be demonstrated by today's vote.

His intuition and knowledge of the many complexities of health care are what we are going to miss most. Achieving health care reform in this Nation, as we have found, is not an easy thing to do. The complications of trying to work with multi-State corporations as well as States while trying to have national uniformity raises many complex questions. Unfortunately, we did not start out in the right way with those kinds of issues. Rather, we tried to change the whole system.

He and I took it upon ourselves to deal with the mysteries of the so-called ERISA language, which is foreign to most. Only after years of being on the committees that deal with the complications of ERISA and with all of the difficulties of multi-State problems of businesses in the benefits area such as health care pensions, I believe we finally did put together an appropriate solution to State flexibility in the mainstream package.

As we found we had reached failure this year, there are many States which want to deal with the complicated issues of health care. Yet, to allow them to move forward without some Federal guidelines, and without understanding how to deal with multi-State businesses who have their own health care plans, created a great stumbling block for many months.

It was only this past month that we were able to work out something acceptable to me as one who is dedicated to giving States flexibility to handle their health care problems and, at the same time, be fair to the multi-State corporations that now have working health care plans.

So, Mr. President, I am going to miss him. His personality and his ease in discussing complicated issues will be a loss to all of us. I know we all want to share our thoughts about those two great Senators. But I for one today want to express it now in a moment when we are discussing one of the bills, for which they both have had very meaningful participation.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

IMPROVING AMERICA'S SCHOOLS ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. There are approximately 11 minutes remaining.

Mr. MOYNIHAN. Mr. President, 2 weeks of near continuous debate and extraordinary dedication on the part of Senate and House conferees have produced a compromise on the reauthorization of the Elementary and Secondary Education Act. Although I was not a member of the conference committee, I did have serious concerns regarding the Senate Chapter 1 formula. Chairman KENNEDY was well aware of my concerns about New York's treatment under the Senate-passed bill, and I am pleased that the conference agreement includes a principled Chapter 1 compromise. The formula agreed to by the conferees corrects the inequitable allocation for New York contained in the Senate bill, which would have increased funds to 38 States at New York's expense.

Under the conference committee formula, New York's substantial needs will be addressed by allocating more to New York than would have either the House- or Senate-passed bills. New York received $578 million in Chapter 1 funds in fiscal year 1994. The Senate Labor and Human Resources Committee estimates that under the conference committee formula, New York will receive $599.9 million in fiscal year 1995 and $642.1 million in fiscal year 1996. This is a much needed improvement.

I would remind my colleagues that the principle upheld in this legislation is not a new one. It was established with the original bill enacted by Congress in 1965. That principle holds that the money should follow the children. But I would ask, "Which children?" The history that answers that question is a simple one.

President John F. Kennedy established a task force in the Executive Office of the President to study the issue of poverty and whether general education programs of the kind he was seeking would be more successful if focused on a specific problem. With these findings, he proposed the first Federal aid to education bill of a general nature, which neither House of Congress passed until after his assassination.

President Johnson, immediately upon taking office, saw the viability of that measure and the justice of it. In 1963, he declared a war on poverty, and by the following year, the Economic Opportunity Act was adopted. Thereafter, children and aged persons in poverty were to be a special concern of Federal legislation. And since then, the Federal Government has made such matters its particular concern.

In 1965, consistent with pledges made in the 1964 Democratic platform and The 1964 campaign generally, the administration and the new Congress understood their mandate to be: adopt aid-to-education legislation. The Presidential campaign of 1964 had been fought on just such issues. And, on April 11, 1965, the new Congress having no more than just come into office, President Johnson had the bill on his desk and signed it, the Elementary and Secondary Education Act of 1965.

As an Assistant Secretary of Labor in the Johnson administration, I had been involved in the Government's efforts in the war on poverty and in Federal aid to education. President Johnson proposed this new program of financial assistance to public schools serving children in "low-income families[,] . . . with the assurance that the funds [would] be used for improving the quality of education in schools serving low-income areas." This became chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

Now, to which children was that act directed? It was to children with family incomes below the Federal poverty standard, a statistical standard developed in the Department of Health, Education, and Welfare, now the Department of Health and Human Services—which continues its use today in various ways, as it ought to do.

The legislation before us upholds that just principle by focusing funds on high poverty areas. Under this legislation, school districts with a poverty rate of less than 5 percent will not receive targeted funds appropriated above the fiscal year 1995 level in fiscal year 1996. And in that same fiscal year, school districts with a poverty rate of less than 2 percent will no longer receive title I money.

The time has come to return this program to the principled ground on which it was founded, and this conference report begins that transition. Chairman KENNEDY, Chairman PELL, and the other conferees have done excellent work. I wish to commend them and to thank them. I strongly urge my colleagues to vote for this conference report.

Ms. MIKULSKI. Mr. President, I am pleased to support the reauthorization of the Elementary and Secondary Education Act. This legislation provides funding for all major Federal elementary and secondary programs. It is a good bill and an important one.

The primary purpose of this legislation is to improve the old Chapter 1 Program that provides money to help educate our poorest and most disadvantaged children. We certainly know how important that is.

But, this bill also contains smaller provisions that I must take this time to mention because they help create a new social intervention, not a new social program.

This legislation helps eliminate the problem of school violence. It contains a pilot program on character education, and it includes my legislation to help abolish every element of bias in our society—that is, it promotes gender equity in education for boys and girls.

First, this legislation expands the Drug Free Schools and Communities Act to encourage school safety programs. It gives States and local officials $630 million to boost their efforts to make their schools and communities safe and drug free. It will help fund violence prevention programs in our schools, such as early intervention programs, counseling, mentoring, and before and after school programs.

Mr. President, I have seen the way the crime has infiltrated our schools and our communities. Students in Baltimore have told me that crime is one of their main concerns.

Students should not be concerned about crime. They should be concerned about getting their homework done, not about running from gunfire on the playground or on their way home from school.

This is an extremely important section of this legislation that should be noted and recognized. We cannot afford to tolerate any more of what is happening on our streets and in our schools. We need to say yes to kids who say no to drugs and yes to homework.

We need to make investments in our youth before the trouble begins, before they join a gang, and before they drop out of school.

That is why I strongly support the creation of the Character Counts pilot program.

Character Counts is an initiative to bring back some of the community building spirit that this country has lost. It encourages building individual capacity among our young people so that they can be a productive part of a larger community.

To me, character education means trustworthiness, fairness, justice and caring, civic virtue and citizenship; those aspects of continuity that will help us to not only cope with change, but to embrace change, and lead us into the 21st century.

For our students sake and for our sake, we need to advocate for a society based on virtue and value and not a society where every aspect or our cultural communication rewards and exploits violence and vulgarity.

People have known this for years. It is the habits of the heart that de Tocqueville spoke about. It is habits of the heart and habits of the mind that shape character. We need to teach it first in the best classroom we have—it is called the American family.

We need to teach in the homes. We need to teach in the neighborhoods; and, we need to teach in our schools.

It is about neighbors caring for neighbors, personal responsibility, personal respect for yourself and respect for others. It is about social responsibility, the desire to be part of a neighborhood, a community, and to truly be a citizen of the United States of America.

So, I am happy to see that this education bill supports this cause that I believe transcends party and geographic lines. Next week is designated Character Counts week and I am happy to be a part of the Character Counts initiative.

Third, Mr. President, I am especially pleased that this bill incorporates a package of bills introduced by myself and my colleagues to help make sure that we create an environment more conducive to learning. It is an initiative on gender equity.

Our agenda is to make sure that all Americans are given equal value in our society and to make sure that with equal value we have equal opportunity.

I, and my colleague, Senator HARKIN, have included language in this legislation to make sure that teachers are sensitive to the needs of all students. I know teachers do the best job they can.

We want to be sure, however, that no student is overlooked and that all students are treated equally in the classroom—girls and boys. In this legislation, teachers will have access to professional development programs and materials on gender equality in the classroom.

I added language to this bill to build on the concept of making our schools safe. The language I added allows schools to make the elimination of sexual harassment and abuse a part of its mission to create a healthy school environment for girls and boys.

Let me give you one example of why this language is important.

Students, parents, and teachers in Maryland, and across the country, have expressed concern about disturbing incidents of harassment between staff members, between staff and students, and peer harassment—among students.

Eighty-five percent of all girls and 76 percent of all boys reported being sexually harassed in some way. One result has been that one-third of the girls who have been sexually harassed reported not wanting to go to school, compared to 12 percent of the boys.

The purpose of my bill is to support our coordinators out there who are already working to address this issue of sexual harassment. Instead of teaching young girls and boys how to handle harassment, let us teach our students character and behavior that encourages mutual respect for each other.

My goal is to make every classroom and every school in the United States conducive for all students—through violence prevention, equity training and character building.

Finally, Mr. President, I would like to commend the chairs of the Labor Committee for their work on revamping the Chapter I, now Title I, distribution formula. I know it was not easy. It is a complicated formula and it is difficult to satisfy the needs of all states and districts.

I know that in Maryland Title I helps Maryland's disadvantaged students to get the education they need and deserve. This formula will help Maryland's efforts and is a step in the right direction.

I have only mentioned a few of the good things in this bill. It helps eliminate school violence and bias in our educational system and it helps to build character in our students.

I believe these are just some of the noteworthy programs that will create again the habits of the mind, the habits of the heart, and provide the social glue that will hold us together.

The education of our youth is an investment we cannot afford to overlook. It is what's best for our children and our future. I am pleased to support this legislation and I look forward to its passage.

Mr. KOHL. Mr. President, I rise in support of H.R. 6, the Elementary and Secondary Education Act, because I believe that this legislation is extremely important for all American students. I am delighted that even in the final days of the 103d Congress, when partisanship is running high, we have been able to rise above politics and accomplish something which will benefit this Nation's schools. I encourage all of my colleagues to support this bill.

H.R. 6 should not be misinterpreted as an attempt by the Federal Government to usurp State and local control. Rather in recognition of the daunting task of educating students at world-class standards, the Federal Government has developed a mutually benefitial relationship with local education authorities. I am impressed by the number of school districts and education professionals in my State that have contacted me in support of this legislation.

Today we are reauthorizing many successful Federal programs, such as; chapter I, assistance for disadvantaged students; chapter II, State block grants for school improvement; professional development programs; and Impact Aid. This bill also includes new anti-gun provisions which will make our schools safer and more productive. I strongly believe that by improving opportunities for every American student, we improve the quality of life for every American citizen.

Among the most controversial aspects of this bill has been the formula by which Chapter I funding will be distributed. I would like to thank Senators KENNEDY and PELL and the other members of the conference committee who have worked tirelessly to devise and fight for a fair formula. When President Clinton initially proposed targeting chapter I funds toward the most needy school districts. I must admit I understand the logic of this argument. The Federal government has very limited resources, and it makes sense that we should try to put these resources where they are needed most.

However, President Clinton's formula did not result in a reasonable allocation of our funds. His formula would have hurt many school districts in the interest of helping others. I believe that we have an obligation to do better than that. I worked very hard with my colleagues in the Senate to improve upon President Clinton's idea. I wanted to make sure that we did not waste our limited resources. Yet, I did not want to penalize States which had invested in education. I was very pleased with the formula that the Senate passed in August.

Now, I realize that the formula we are voting on today is not as generous to States like Wisconsin as the Senate's formula had been. However, that is what compromise is all about. And in order to pass this bill we needed to compromise with the House. I believe that the conference committee's formula is reasonable. And it is clearly an improvement upon current law. For that reason, despite the fact that it is not my favorite formula, I will support this bill.

This bill is larger than any one program; any one provision; or any one formula. This bill is about improving all of America's schools. And I am pleased that the 103d Congress, despite being unable to agree on solutions for so many of this Nation's problems, will be able to do something for our students, and for our schools. I urge my colleagues to join me by voting yes on H.R. 6.

Mr. BURNS. Mr. President, I rise today to speak about H.R. 6, which reauthorizes the Elementary and Secondary Education Act [ESEA].

As my colleagues know, this bill reauthorizes important programs such as chapter I and the Eisenhower Program. These programs are all important to my State of Montana, as they are to the whole United States.

I would like to make a few comments about provisions in the bill. First, while I am pleased that more effort is being made to send title I dollars to the neediest districts, I am not sure the conference formula fully accomplishes that goal.

In looking at the winners and losers under this formula, and comparing the child poverty rates of the two, I see some serious discrepancies. I do not want to pick on any particular State, but some examples deserve attention.

For example, my State of Montana has a child poverty rate of 18.6 percent. Yet, under the new formula, Montana does not get as much title I money as it would if the current formula stayed in place.

Fifteen of the 20 States that gain under the new formula have child poverty rates less than that of Montana. For example, New Hampshire gains significantly yet has a 7.1 percent child poverty rate. Vermont and Delaware have a 11.1 percent rate.

Maryland has a 10.8 percent rate. Connecticut has a 10.2 percent rate. On the other hand, States with significantly high child poverty rates end up losing funds—New Mexico, South Dakota, West Virginia, Kentucky, South Carolina, Alabama, Tennessee, and Georgia all will get less than they would have under the formula already in place.

I would also like to touch on Impact Aid. This program is very important to my State of Montana, for there are seven native American reservations there. Many of the schools rely heavily—if not almost exclusively—on impact aid, for they receive little or no revenue from property taxes.

I am pleased that many of the provisions in Senator PRESSLER's bill, which I cosponsored, were included in the final version of H.R. 6. Funding constraints this year will mean that districts will see significant reductions, but I believe the formula itself is much more equitable to heavily impacted school districts.

I remain concerned about opportunity to learn standards. I am relieved that the conference language is less prescriptive than the original House-passed language on OTL standards. It is a matter of deep concern to me that policymakers here in Washington think that they should be able to have input into matters like class size, building standards, and textbooks to local school districts.

The locally elected members of Montana school boards do the very best they can to see that our children receive an excellent education. In many communities, there are not a lot of resources to work with, but the job gets done. These folks do not want more heavy-handed Federal intervention.

And as an original cosponsor of the Gorton amendment, I was disappointed that it was stripped from the bill. This language would have been a positive step forward for schools, teachers, and students who are being held hostage by violent students shielded from discipline by the well-intentioned but flawed Individuals with Disabilities Education Act [IDEA]. I am sure the Senate will be revisiting this issue in the 104th Congress, when IDEA will be reauthorized. I look forward to that debate.

Mr. GORTON. Mr. President, 2 months ago I voted in support of the Senate version of the Improving America's Schools Act, but my vote came with this caveat, if the conference committee strips the provisions that have been added to make this a better bill, I will help lead the opposition to the conference report.

I regret to say that the conferees did just that, and so today I withdraw my support for this legislation.

I am outraged that the Gorton-Lieberman "Local Control Over School Violence" amendment, which passed 60 to 40 with strong bipartisan support and support from the five national education associations, was struck during conference on the Improving America's Schools Act. Educators in my State are upset the language was struck.

My top priority this year has been to deal with the issue of violence in our schools. In January, I held an education summit at which I listened to nearly 200 parents, teachers, administrators, and students share their concerns about our schools. Their primary concern was violence in the classroom.

More specifically, here's what they asked for—freedom from the Federal red tape that ties their hands when it comes to school violence, freedom from Federal laws which prohibit them from implementing their own school discipline policies, and freedom to do what they need to restore safety in our schools.

Time and time again, I have come before my colleagues in the Senate asking for passage of an amendment that will protect our students from the violence that is tearing our society apart. Time and time again, the Senate adopts my school violence amendment with overwhelming support, but the conferees ignore the wishes of the Senate by striking the language during conference.

The bipartisan fight for school safety has simply been ignored.

This time, my amendment was replaced with a watered town version that fails to target the discipline problems our local school officials on the front lines experience daily. Last time, they replaced it with a study on school violence.

Educators in our schools across the Nation do not need or want their school policies dictated by Washington, DC bureaucrats. How can D.C. bureaucrats possibly come up with an effective solution for the violence that hit Ballard High School last year? How can D.C. bureaucrats come up with an answer to get weapons out of schools in Federal Way? Why should a Senator from Massachusetts be allowed to dictate the discipline policies for schools in Yakima, WA?

The answer is—they simply can't.

The solutions to the violence problems in our schools will not be found by D.C. bureaucrats who are so far removed from the problems that they simply don't understand them. They will come from those on the front lines—those who deal with children day in and day out, those who have been struggling with these problems, and those who hold the greatest stake in solving them.

What I find most frustrating is that the majority in this body think that all the wisdom in the world resides here, in Washington, DC, and none of it with the teachers and administrators we trust to educate our children at home. The message being sent by this conference report is that we in Congress do not trust our local educators and school board members and that we don't believe that authority should be restored to the local level.

That is the wrong message.

Educators must be allowed to address the problems of violent and criminal behavior in their schools. They must be given the ability to restore discipline, reduce violence in our schools and in our communities. My amendment would have done just that. It would have returned authority to school officials to address serious disciplinary problems so they can do their jobs.

We are not going to provide the proper educational atmosphere for our students until we restore authority to our school authorities to do their jobs. Our schools and educators need our help now, and their pleas have been ignored twice.

The Gorton-Lieberman amendment was a strong first step in making our schools safer and restoring much needed local disciplinary control. The House and Senate conferees had a chance to increase the safety and protect our children in schools by incorporating the Gorton-Lieberman local control over school violence amendment. Instead, they stripped one of the few amendments in the education bill that would actually improve our Nation's schools.

Let me restate for the record the provisions and the action taken on these provisions that I declared must be kept in the conference report to retain my support. These provisions should not have been compromised.

The Gorton-Lieberman amendment to let local people determine how best to stop violence in their schools, without interference from Federal bureaucrats.

This language was struck and replaced with a watered down version that evades the discipline problems our local school officials on the front lines experience daily.

The Danforth amendment to create demonstration programs that allow for the development and study of same gender classes for low income, educationally disadvantaged children.

This language was struck.

The Smith-Helms amendment to prohibit the spending of federal taxpayer dollars for school programs that promote or encourage homosexuality as a positive lifestyle.

This language was struck.

The Hatch amendment to distribute fairly chapter 1 funds to schools in communities throughout the Nation, including my home State of Washington.

This language was struck and replaced with a new funding formula that actually reduces funding for title 1 in the upcoming years in 36 States, including Washington State.

Mr. President, negotiations should not have occurred on these provisions, and especially on my school violence amendment that would have made it safer to walk the halls and sit at the desks of our Nation's schools. The fact that my school violence amendment was stripped from the bill leaves me no choice but to vote "no" on the conference report.

The conferees could have done much better. Our Nation's children deserve better. We can do much better by coming back next year to rework this bill to restore decisionmaking and disciplinary control to those who must deal with them every day—our local teachers, principals, and administrators.

Mr. PELL. Mr. President, prior to the vote on cloture earlier today, I spoke briefly on the need to enact the reauthorization of the Elementary and Secondary Education Act this year. As we approach the vote on final passage later this afternoon, I thought it might be helpful to focus on some important aspects of this legislation that I was either unable to address this morning or cover only in the most cursory fashion.

Perhaps one of the most important features of this legislation is the way in which we tie title I assistance to the achievement of challenging academic and student performance standards. The need for all children to be taught to the highest standards is critical if America and her people are to be adequately prepared for the challenges of the 21st century. We began to address this in the Goals 2000 legislation enacted earlier this year. We continue it with renewed emphasis in this bill.

Nowhere is the need for improvement more necessary than in the education of disadvantaged children—most particularly those in areas of considerable poverty. I believe it very significant that this legislation moves away from a focus just on compensatory or remedial education.

Children who are educationally disadvantaged must be taught to the same high academic standards as all other children. Children who are educationally disadvantaged must be afforded the opportunity to learn and advance in the same manner as all other children.

Some children may need more help than others, but the help should be directed to the same objective, namely an education of the highest quality for all children. This legislation has been fashioned to ensure that this objective is within the reach of those children most in need. In doing so, it builds upon and strengthens the very foundation upon which this program was based when it was first enacted almost 30 years ago.

The first National Education Goal commits our Nation to ensuring that by the year 2000, all children will start school ready to learn. To accomplish that objective, we must provide a strong transition from preschool and early childhood education programs to instruction in the elementary grades. Both Senator DODD and Senator KENNEDY have provided important leadership in this area, and I believe the provisions in this bill are crucial to moving us toward achievement of this goal.

The new Eisenhower Professional Development Program is also a provision that deserves mention. Another of the National Education Goals is to have our children first in the world in science and mathematics achievement by the year 2000. To reach this goal, we must constantly improve the quality of math and science in our Nation's schools. This bill protects the math and science program in current law, and ensures that we will neither lose sight of nor relax our focus on the imperative need to improve instruction in these areas.

Yet, if we are to achieve another of the National Education Goals, that of making sure that all students will be competent in the core subjects, we need to move beyond mathematics and science and bring the benefits of professional development to other disciplines as well. What we have begun to do for math and science must also be done for areas such as English, history, and civics and government.

In this area we are particularly indebted to the leadership provided by Senator HATFIELD. He played an instrumental part in putting these provisions together and, as the ranking member of the Appropriations Committee, in seeing that the program was adequately funded.

If we are to prepare our students for the 21st century, we must dramatically change the 19th century classrooms in which too many of our young people learn. Without state of the art instruction, our students will be at a disadvantage in the workplace, and America will most certainly suffer in the international marketplace. Access to the very latest advancements in technology is essential if we are to achieve the National Education Goal to have every American possess the skills necessary to compete in a world economy.

Learning cannot occur, however, unless the classroom is free from fear, and the health and safety of our children are protected. Making sure that our schools are safe from drugs and violence is yet another of the National Education Goals, and it is one to which the Safe and Drug Free Schools title in this legislation is directed.

We must also make sure that our education facilities are adequate, and contribute to our children's education. A child's education should not be placed at risk because of inadequate facilities. Our children should not be placed in harm's way of faulty plaster, poor wiring, or dangerously outdated buildings. The Facilities Infrastructure Act is an important part of this bill, an accomplishment due in no small measure to both the eloquence and the determination of Senator MOSELEY-BRAUN. She brought to our attention the sad plight of school after school in this country, and of the need for a program that would address this truly serious problem.

I spoke this morning about the importance of the Dropout Prevention and Assistance Program. At that time, I did not refer to the fact that another of the National Education Goals pertains to increase the high school graduation rate to 90 percent by the year 2000. That is a goal which, quite frankly, we cannot reach unless we get a handle on the very severe school dropout problem that has plagued our Nation for over a quarter of a century. The Dropout Prevention Assistance Program is very important to reaching that goal by identifying and assisting innovative approaches to solve this serious problem.

Mr. President, as we prepare to vote on final passage, it is also important that we give credit where credit is due. This administration—President Clinton, Secretary Riley, Assistant Secretary Payzant, the talented staff at the U.S. Department of Education—have all provided strong leadership in moving us in the direction of positive change, and in staying the course. This is, as I said earlier today, landmark legislation, and a bill that surely merits the strong bipartisan support so clearly evident in the cloture vote. My own belief is that we should move now to overwhelming approval of this conference report so that we can all get along with improving America's schools and strengthening American education.

Mr. CRAIG. Mr. President, there is a great deal at stake in this debate on the conference report to the Elementary and Secondary Education Act, H.R. 6.

I supported this bill in the Senate, and voted for the Senate version of the bill. However, much of what was good in that bill was either weakened or deleted in conference.

Therefore, Mr. President, I am here today to speak against the conference report.

This is not a decision that I made lightly. There are some good things in this bill—provisions that I supported throughout the process. The most important of those provisions was the language reauthorizing the Impact Aid Program.

I have long supported a limited Federal role in education. The responsibility for education lies primarily with State and local governments, not with the Federal Government.

Since my days in the Idaho State Senate, I have been a strong advocate of State funding for education and control of curriculum.

Local school boards, teachers, administrators, and parents must continue to put pressure on their State legislators to support high quality in education.

Having said that, there is also a role for the Federal Government to play. There are certain areas of Federal responsibility that should be priorities for Federal education funding.

One such area is redressing the educational disadvantages caused when the presence of the Federal Government directly affects a local school district's ability to raise revenue. Such is the case with impact aid.

When the U.S. Congress passed Public Law 81-874 in 1950, it recognized the need to provide high quality education to children whose parents live and/or work on Federal lands.

These federally secured properties are not taxable by local units of government, preventing school districts from generating revenue through property taxes.

The effect of this tax exemption hits Idaho school districts particularly hard because approximately two-thirds of our State is owned by the Federal Government. In Idaho, 41 school districts are federally impacted and qualify for impact aid.

Without these funds, the students they educate would be greatly disadvantaged. The local property tax base simply would not be able to provide the necessary funds for a basic education.

Having said that, Mr. President, I would like to share some of the concerns I have with the conference report that led me to oppose passage.

As I mentioned before, a lot is at stake in this debate. This bill authorizes the programs that the Federal Government runs, to assist States with the education of our children. It is very important to the families of Idaho, including my own family.

Unfortunately, H.R. 6 is not a step forward in education, but a side-stepping of reform by responding with greater Federal regulation.

The road to improving our schools is not the Washington Beltway. Rather, we should be working to increase local control and authority over education and provide education funds with fewer strings attached.

In short, Mr. President, I have grave concerns about the general direction this bill would take our education system.

Another issue that, disappointingly, was rewritten in conference was the title I—formerly chapter 1—funding formula.

Title I provides financial assistance for the education of "educationally disadvantaged children." With overall funding at $6.7 billion for fiscal year 1995, it is the largest Federal program for elementary and secondary schools.

Mr. President, I cosponsored two amendments on the title I funding formula during the Senate's debate on this bill.

Both of those amendments would have ensured more equitable title I funds for my home State, Idaho.

The conference report has not only deleted any increase Idaho would see in title I funds, it would now actually decrease the funds we receive in comparison to the current funding formula—resulting in a significant loss in title I money.

According to figures provided by the Congressional Research Service, the cumulative loss for Idaho from fiscal year 1996 to fiscal year 1999 would be $3.1 million.

This may not sound significant to those Members coming from heavily populated States, but it is a significant loss for Idaho—especially when States like New York and California will have cumulative gains of $72 million and $62 million respectively.

An additional concern I have with the conference report is the fact that the Gorton-Lieberman local control over school violence amendment, which I cosponsored, and which passed with strong bipartisan support—60 to 40—in the Senate, was struck during the conference.

The amendment was replaced with a watered-down version that will not serve the needs of our local school officials in their efforts to make schools safe for our children.

Again, the conference committee took a strong provision that guaranteed local control over a problem and rewrote it to keep control in the hands of Washington bureaucrats.

The original amendment would have simply put local officials in control of the violence in our schools, including incidents involving children with a disability.

The conference language directs the Secretary of Education to widely disseminate the current policy on disciplining children with disabilities and to collect data on the incidence of violent or life-threatening behavior.

The Department of Education would then provide this information to the Congress so that this issue can be looked at again, next year, when the Individuals With Disabilities Education Act is reauthorized.

Mr. President, this is not a solution, it is a stalling tactic that will not make our schools safer.

Mr. President, there is another portion of H.R. 6 that I would like to talk about for a moment—the provisions containing the Multi-Ethnic Placement Act, which is strongly supported by myself and others in the Senate and House.

The sponsor of the legislation, Senator METZENBAUM, has already spoken to this issue, and I agree with most of what he had to say. In fact, I would like to underline some of his comments and go into a little more detail about the issue.

As we all know, the purpose of this legislation is to end discriminatory practices that prevent or retard the placement of children in loving homes. Since the legislation was introduced, however, changes have been made to it.

There is a difference of opinion among experts in adoption policy as to the effect of those changes. Some believe that the changes may actually work against the goals of the legislation.

Because of that controversy, I think it is important to make a record of the arguments on both sides of this question. I ask unanimous consent to insert in the RECORD a letter from the National Council for Adoption and a letter and attachment from a number of legal scholars, explaining their concerns about this section of the bill.

I also ask unanimous consent to insert a "Dear Colleague" letter in the RECORD, giving the other side of the debate from several of our colleagues, including the bill's sponsor and the cochairman of the adoption coalition.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL FOR ADOPTION,
October 4, 1994.

DEAR SENATOR: The National Council For Adoption wants to set the record straight regarding our position on Senator Metzenbaum's MultiEthnic Placement Act (MEPA) which was added to the Conference Report on H.R. 6, the Elementary and Secondary School Reauthorization Act Amendments.

The National Council For Adoption which represents voluntary, non-profit adoption agencies was the ONLY national adoption organization to testify in support of the legislation before the Senate Subcommittee on Children, Family, Drugs and Alcoholism in July, 1993. In fact, not one of the groups who now claim to support the hijacked MEPA was at the hearing testifying in support of it over one year ago. The National Council For Adoption has spent the past year working closely with Senator Metzenbaum to ensure that the bill that passed would do what it purports to do: i.e., move minority children out of the limbo of foster care and into permanent, loving adoptive homes.

The position of The National Council For Adoption has not changed over the past year—what has changed is the legislation. The Administration has hijacked the legislation by making amendments that do not advance the purpose of the Act. The amendments: will not result in finding homes for the estimated 40,000 African American children who are waiting for loving adoptive families; will not, according to a bi-partisan group of legal scholars, end discrimination in the child welfare system; will not close legislative, regulatory and procedural loopholes that act as barriers to the adoption of black children; and will not provide for stiff mandatory penalties for discrimination violations.

The National Council For Adoption urges you to cast a vote for providing more children of color with parents who are colorblind. Vote against Senator Metzenbaum's MultiEthnic Placement Act as currently amended.

Sincerely,

WILLIAM PIERCE,
President.
CAROL STATUTO BEVAN,
Director of Public Policy.

HARVARD LAW SCHOOL
Cambridge, MA, October 4, 1994.

To: United States Senate
c/o Senator Larry Craig

We urge the Senate to reject the current version of Senator Metzenbaum's Multiethnic Placement Act, as embodied in H.R. 6. Recent Amendments weaken the Act, turning it from an Act designed to eliminate race discrimination in adoption and foster care placement, to one which endorses race matching.

The Act as it now reads permits the use of race to delay and deny placement, so long as agencies do not act "categorically" and "solely" on the basis of race. This language would enable, if not invite, agencies to continue the very practices which were the target of Senator Metzenbaum's original concern—holding African-American children in foster care for years at a time rather than placing them with waiting white families.

The Act as it now reads mandates race-conscious recruitment of adoptive and foster parents with the goal of achieving a prospective parent pool that matches the racial composition of the foster child pool. So while the original Metzenbaum bill was designed to eliminate the rigid race matching practices that are responsible for locking black children into foster limbo, the amendments are designed to encourage race matching.

As we said in a Dec. 1, 1992 letter to Congress signed by dozens of law professors from around the nation, attached hereto, "what parentless children need most are not 'white' parents or 'black' parents or 'yellow' parents but loving parents able to raise children in a nurturing environment."

We appreciate the concerns that inspired Senator Metzenbaum to develop this legislation but it is our strong conviction, based on our experience with civil rights legislation generally, and with race matching policies and practices in the child welfare system in particular, that this legislation, in its current form, will make the problem worse, not better, from the perspective of the minority race children condemned to the foster care system.

We urge the Senate to reject this bill.

Sincerely,

ELIZABETH BARTHOLET,
RANDALL KENNEDY,
LAURENCE TRIBE,
CHARLES FRIED,
ROBERT MNOOKIN,
Professors of Law.

HARVARD LAW SCHOOL,
Cambridge, MA, December 1, 1993.

Re the Multiethnic Placement Act of 1993.

To: The Congress of the United States.
From: The undersigned Teachers at American Law Schools.

If enacted into law, the Multiethnic Placement Act of 1993 (S. 1224) would give Congressional backing to practices that have the effect of condemning large numbers of children—particularly children of color—to unnecessarily long stays in institutions or foster care. These practices involve a commitment to "racial matching'—the dubious notion that authorities should seek to place parentless children of a given race with adoptive parents of that same race.

The Multiethnic Placement Act states that its purpose is "to decrease the length of time that children wait to be adopted" and "to prevent discrimination in the placement of children on the basis of race, color, or national origin." Yet, the bill then proceeds to undercut its own laudatory goals. It provides that "if . . . efforts fail to produce an appropriate placement of a child with a parent of the same race, color, or national origan, a transracial or multiethnic placement may be a preferable alternative to long-term foster care." (emphasis added). In other words, the Act assumes the legitimacy of racial matching, presumes that authorities will seek same-race adoptions in the first instance, conveys a willingness to countenance at least some degree of delay for the purpose of racial matching, and then portrays a transracial or multiethnic placement as decidedly inferior by asserting that for a parentless child such a placement may be preferable to prolonged foster care.

Intended as a sensible compromise, this provision may seem, at first blush, like a reasonable acknowledgment that we continue to live in a society grievously scarred by racial stratification. This provision may seem, initially, like a sensible measure which merely posits that it is at least permissible for agencies to prefer to place children of a given race with adults of that same race when doing so can be accomplished without undue delay. The cruel fact of the matter is, however, that the bill will not have this effect. Rather, the bill will provide new legitimacy—Congressional approval—to the widespread custom of holding racial minority children while social workers seek prospective parents of "the right" race. This policy, which virtually always exacts the cost of delay, is justified by nothing more than a stubborn, reflexive, racialist impulse about which we should be profoundly troubled.

Across the nation, racial minority children account for as many as half of the minors in need of placement in adoptive homes. Despite successful efforts by racial minority adults to adopt such children and increasing efforts to encourage and facilitate adoption within minority communities, the population of parentless minority children is increasing dramatically. Against this backdrop, and considering that the bias in favor of racial matching is already ingrained in many social welfare bureaucracies, the provision of the Multiethnic Placement Act that would expressly authorize delays for the purpose of racial matching is unwise, intolerable, and unconstitutional. There is simply no compelling reason to delay even briefly, for the purpose of racial matching, placing parentless children in permanent homes. What parentless children need most are not "white" parents or "black" parents or "yellow" parents but loving parents able to raise children in a nurturing environment.

Although proposed with good intentions, the Multiethnic Placement Act should be rejected. At the very least, additional hearings should be held to explore the many troubling issues this legislation raises.

Laurence H. Tribe, Harvard Law School.
Charles Fried, Harvard Law School.
Mary Ann Glendon, Harvard Law School.
Joseph Goldstein, Yale Law School.
Sonya Goldstein, Yale Child Study Center.
Boris Bittker, Yale Law School.
Anita Allen, Georgetown University Law Center.
Albert W. Alschuler, University of Chicago Law School.
Anthony Amsterdam, New York University School of Law.
Bruce Ackerman, Yale Law School.
Elizabeth Bartholet, Harvard Law School.
Lee Brilmayer, New York University School of Law.
Robert Burt, Yale Law School.
David Chambers, Harvard Law School.
Elizabeth Chambliss, University of Texas School of Law.
Christine Desan, Harvard Law School.
Norman Dorsen, New York University School of Law.
Nancy Dowd, University of Florida.
Cynthia Estlund, University of Texas School of Law.
Samuel Estreicher, New York University School of Law.
Richard Fallon, Harvard Law School.
Gerald E. Frug, Harvard Law School.

Lino Graglia, University of Texas School of Law.

Jon Hanson, Harvard Law School.

Joan H. Hollinger, University of California, Berkley.

Samuel Issacharoff, University of Texas School of Law.

Jay Katz, Yale Law School.

Duncan Kennedy, Harvard Law School.

Michael Klausner, New York University School of Law.

Lewis A. Kornhauser, New York University School of Law.

Sylvia Law, New York University School of Law.

Sanford Levinson, University of Texas School of Law.

Richard & Inga Markovits, University of Texas School of Law.

Harry S. Martin, Harvard Law School.

Michael McConnell, University of Chicago Law School.

Michael Meltsner, Northeastern University.

Roy Mersky, University of Texas School of Law.

Frank Michelman, Harvard Law School.

Martha Minow, Harvard Law School.

Thomas Nagel, New York University School of Law.

Daniel D. Polsby, Northwestern University School of Law.

Robert Post, University of California, Berkeley.

Lucas Powe, University of Texas School of Law.

Robert L. Rabin, Stanford Law School.

Margaret Jane Radin, Stanford Law School.

Todd Rakoff, Harvard Law School.

Susan Rose-Ackerman, Yale Law School.

Edward Rubin, University of California, Berkeley.

Lawrence Sager, New York University School of Law.

Frank Sander, Harvard Law School.

Peter Schuck, Yale Law School.

David Shapiro, Harvard Law School.

Jeffrey Sherman, Harvard Law School.

William Simon, Stanford Law School.

Jordan Steiker, University of Texas Law School.

Henry Steiner, Harvard Law School.

Arthur von Mehren, Harvard Law School.

James Vorenberg, Harvard Law School.

David Westfall, Harvard Law School.

Zipporah Wiseman, University of Texas School of Law.

Bernard Wolfman, Harvard Law School.

U.S. SENATE,
Washington, DC, October 3, 1994.

DEAR COLLEAGUE: We are writing to clarify certain misinformation you may have received pertaining to amendments made to the Multiethnic Placement Act which is a part of H.R. 6, the Elementary and Secondary Education Act.

Our deep and sincere commitment to the goals of ending discrimination in making foster and adoptive home placements and eliminating the barriers to adoption have long been known. As members of the Congressional Coalition on Adoption and sponsors of the legislation, we are deeply disturbed by reports which have mischaracterized the amendments made to the Multiethnic Placement Act in conference.

In approaching the issue of multiracial placements we have been guided by the principle that a transracial placement is a valid method of providing a child with a loving home when an appropriate same race placement is not available. The amendments made to the Multiethnic Placement Act do not in any way detract from this principle. In fact, the amendments in several respects enhance it.

First, the amendments further limit the use of race in a placement decision to only permit consideration of the racial, ethnic or cultural background of a child and the capacity of the prospective parent to meet the needs of a child of this background as one of a number of factors used to determine the best interests of a child. Second, the amendments emphasize the recruitment of prospective foster and adoptive families from various racial, ethnic and cultural backgrounds. Increasing the pool of appropriate and available prospective parents will be a significant step toward decreasing the amount of time that children wait for out of home placements. Third, the amendments broaden the penalty provisions of the Act by allowing the Department of Health and Human Services to penalize noncompliance with termination of all Federal funds where warranted.

The amendments made to the Multiethnic Placement Act enjoy strong support from key child welfare, civil rights, and foster care and adoption organizations. These groups include the Children's Defense Fund, the Child Welfare League of America, Adoptive Families of America, the North American Council on Adoptable Children, and the American Civil Liberties Union. A letter of support from these organizations is attached.

We believe that passage of the Multiethnic Placement Act will move us one step closer to ensuring that all children are provided with permanent and loving homes.

Thank you once again for your commitment to America's children. We look forward to your continued support for this important initiative.

Sincerely,

DAN COATS,
NANCY KASSEBAUM,
DAVID DURENBERGER,
HOWARD M. METZENBAUM,
CAROL MOSELEY-BRAUN,
PAUL SIMON.

September 28, 1994.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: Adoptive Families of America, the American Civil Liberties Union, the Child Welfare League of America, the Children's Defense Fund, and the North American Council on Adoptable Children share your concerns about the overrepresentation of minority children in the foster care system and delays in placing them with adoptive families and appreciate your efforts to address these problems. Our organizations believe that the technical amendments added to the Multiethnic Placement Act in H.R. 6, the Improving America's Schools Act of 1994, strengthen the Act's goal of ensuring that race, color and national origin are not used inappropriately in delaying or denying the placement of children with foster or adoptive families, and will help move children into adoptive families. They also advance the best interests of the children affected and will broaden support for the Act among parents, professionals, and organizations that seek to ensure children permanent families through adoption.

The amendments agreed to by the conference committee on H.R. 6, among other things, emphasize the importance of recruiting foster and adoptive parents from all racial and ethnic groups. They also clarify the relevance of the child's best interest in making foster care and adoption placement decisions, so that children will not remain in foster care unnecessarily. The penalties imposed will also assure prompt attention to the failure of agencies to comply with the Act's provision.

Our organizations strongly prefer the Multiethnic Placement Act of 1994 as amended and included in H.R. 6, to the Senate-passed version of the bill. Without these amendments, the Act could unintentionally undermine good child welfare practice and deny children appropriate foster and adoptive homes that best meet their needs.

Sincerely,

Adoptive Families of America.
American Civil Liberties Union.
Child Welfare League of America.
Children's Defense Fund.
North American Council on Adoptable Children.

Mr. CRAIG. Mr. President, what all these letters show is that no matter what the technical controversy, there is no question whatsoever about the intent of these provisions. By passing this legislation, Congress is demonstrating its commitment to the position that children should be provided with permanent and loving homes, and race should not be raised as a barrier to that goal.

I was very pleased to hear the bill's sponsor say that he has obtained reassurances from the administration and others that they would adhere strictly to the clear intent of these provisions.

But I would submit, Mr. President, that the way to measure our success in achieving the goals of this initiative is to look at the numbers of children who are still caught in the limbo of foster care a year from now. If this legislation works the way we all want it to work, we will see a reduction in those numbers.

I hope the administration and all State agencies involved in these decisions will take note of the strong sentiment of Congress on this issue.

Mr. President, in closing, I would ask unanimous consent that a letter sent to Senators from two former Secretaries of Education, Lamar Alexander and William Bennett, outlining problems with this conference report. The sentiments and concerns expressed in this letter reflect concerns I have received from many of my constituents.

There being no objection, the letter was ordered to be printed in the RECORD, as follows

EMPOWER AMERICA,
Washington, DC, September 30, 1994.

DEAR SENATOR: Earlier today, the House accepted the conference report on the Elementary and Secondary Education Act (H.R. 6). Next week, you will consider the same report.

A lot is at stake in this debate. And as secretaries of education for Presidents Reagan and Bush, we want our views on this issue to be clear and emphatic: *H.R. 6 is the kind of pernicious legislation which, if it is enacted, will make American education worse, not better.* H.R. 6 is hostile to the best reform ideas in education; overly regulatory and intrusive; imposes new federal controls on states and localities; and is morally obtuse. In many ways, it embodies the worst and most arrogant tendencies we see in modern legislation: the kind of "Washington-knows-best" thinking which has contributed to the worst decline in the history of American education.

We are convinced that America's parents and children would be better served if the 103rd Congress were to allow this bill to die, extend present laws for a year, and start over again in 1995. At the very least, we would urge Congress to recommit the bill to conference for substantial revision. Here are some of our reasons:

The bill is more than a thousand pages long. It contains much mischief that was inserted behind closed doors and has not been exposed to the sunlight. It is a safe bet that virtually *nobody* voting on the conference report will actually have read the final text, and the country has had no time to examine its myriad provisions. Only a few staffers and lobbyists really know what's in it or how it will work. For example, how will Congress explain what its jury-rigged Title 1 formula will actually do to particular state and local budgets in "out-years", or how it interacts with other measures, especially the new "Goals 2000" program?

Every state and community in the land is affected. This bill authorizes more than $12 billion a year in federal spending. That's enough to force state and local officials to follow its dictates, even when state and local officials know better. And that means the content of this bill needs the closest public scrutiny before it takes effect. Killing this version doesn't mean that federal education aid vanishes; it simply means that the current law is extended for another year.

The bill is the quintessence of top-down, big government, "Washington-knows-best" thinking. It tightens myriad federal controls and imposes new ones on what states and localities can do with their schools. It is totally "producer-centered," favoring the education establishment, giving money and power to school administrators, *not* to parents, *not* to governors and legislators, *not* to mayors, *not* to teachers—in other words, *not* to those actually involved in educating the young.

Other than a bit of lip service, it's oblivious—or worse—to the most promising reform ideas that are percolating in American education: choice, charter schools, privatization and decentralization, among other things.

H.R. 6 deals with accountability in a perverse way, essentially making schools (and school systems) accountable to Washington for compliance with regulations and with a new federally-imposed version of "outcome-based education" that applies—for now—to disadvantaged children. Schools will be even *less* accountable to their consumers, their communities and their states than is the case today.

The bill mandates the kinds of federally-approved "standards" that Goals 2000 said would be voluntary. Only with those approved "content" and "student performance" standards in place can a state or community get its federal aid. Although language having to do with input standards (today's trendy term is "opportunity to learn") was softened in conference, the bill takes a giant step toward reviving the legitimacy—and federal supervision—of criteria that judge schools by their spending levels, pupil-teachers ratios, and suchlike, instead of their effectiveness. And since Goals 2000 authorized the Education Department to develop national "opportunity to learn" standards, we can expect that these will soon exist—and will be used.

By mandating "state plans" that are based on federally-approved standards, this bill moves the new National Education Standards and Improvement Council (NESIC) ever closer to becoming the "national school board" that critics warned of when Goals 2000 was enacted. This means the Tennessee, for example, no longer has the final say over what young Tennesseans will learn in school. If H.R. 6 is enacted, that power shifts to Washington—unless, of course, Tennessee wants to forfeit its federal aid.

Incorporated into this bill is something called the "Gender Equity Act," which—among many provisions—mandates training for teachers in gender "sensitivity" and "gender equitable teaching and learning practices." Senator Nancy Kassebaum tried to get this dropped in conference, noting the spurious "research" on which the whole concept is based, but she was outvoted.

Though conferees agreed to ban the use of federal funds for education programs that "directly promote sexual activity," they refused to deny funds to schools that distribute instructional material portraying homosexuality as an acceptable lifestyle. Hypocrisy and political correctness characterize much of this bill: evidently it is fine with the conferees to force schools to practice "gender equity," but it is not okay to discourage them from promoting "alternative" lifestyles. This, of course, is precisely why Washington should not even be trying to make education decisions for America's schools.

Also lost in conference was the "Johnson-Duncan" language denying federal aid to school systems that bar "constitutionally protected" prayer. Instead, "compromise" language was agreed to that cuts off funds only if a federal court finds that a court order allowing such prayer has been "willfully violated." As the Christian Coalition rightly observes, that language "places such hurdles on aggrieved individuals whose constitutional rights to school prayer have been violated that for all intents and purposes it is meaningless."

The bill constitutes a huge windfall for colleges of education. Not only will they get hundreds of millions in new "professional development" funds under the totally-overhauled "Eisenhower program," but they also get additional bonuses as well. (For example: a requirement that schools whose disadvantaged students score below average must spend 10 percent of their Title 1 grantor equivalent sums—on, yes, "professional development.")

The heretofore-independent National Assessment Government Board will henceforth have its members chosen by education interest groups. (Up to now the board has functioned as its own nominating committee.) Within a year or two, that will turn the country's most important and sensitive testing program into an appendage of the school establishment and the federal bureaucracy, which has already made clear its intention of "race forming" the test scores and probing families for sensitive information.

Two years ago, when a bad, big government, "Washington-knows-best" education bill was nearing the end of its trip across Capitol Hill, Senators who saw its folly were able to stop it. That is what should happen.

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Mr. PELL. Mr. President, this conference agreement also includes a number of important technical amendment to the Higher Education Act. One such provision will ensure that students of hospital-based, diploma schools of nursing do not lose Pell grant funding under a new regulation pertaining to the conversion of course credit hours to clock hours. There are approximately 130 such schools in the United States who prepare young men and women for careers in registered nursing. In the absence of this amendment, many of these students would no longer be eligible for the maximum Pell grant, simply because the public or private, non-profit school they attend awards a diploma, rather than an associate or baccalaureate degree.

To ease the burden of student loan repayment for those who pursue a career in nursing, another provision of this conference report will permit recipients of HHS nursing loans to consolidate those loans with the loans they received pursuant to title IV of the Higher Education Act.

This conference report will also ensure that, consistent with the intent of Congress in the 1992 Amendments to the Higher Education Act, borrowers with a very significant Federal education debt burden, relative to their level of income, shall be considered to have economic hardship. As such, these borrowers will be eligible for a deferment on their federally subsidized student loans for a period of up to 3 years. This provision is of particular importance to students who are forced to take on significant debt in order to complete costly professional programs, such as medicine and dentistry.

This legislation further ensures that students who received their first title IV student loans prior to July 1, 1993, will not lose the deferment opportunities provided under the Federal Family Education Loan [FFEL] Program with respect to the loans they receive under the new, direct student loan program. This amendment is especially important to schools of medicine and dentistry, including Brown Medical School in my State of Rhode Island.

Another provision of this conference agreement removes an impediment to institutional participation in the Historically Black College and University Capital Financing Program authorized under title VII of the Higher Education Act. This program was initially enacted in 1992 to provide HBCU's with access to affordable loan capital for critical capital improvements and expansions.

Mr. WOFFORD. Mr. President, I strongly support the Improving America's Schools Act. This legislation is a down payment on a better future for our children. It provides needed resources and puts more power where it belongs: in the hands of parents and local school boards.

This act is based on the fundamental truth that real school reform doesn't happen in Washington. It's not legislated in these Chambers. Real reform happens in schools and homes and PTA meetings.

The Improving America's Schools Act gives communities the tools they need to improve their schools. It will help schools strengthen basic skills through an invigorated Chapter I Program and expanded staff development. And it will bring badly needed technology to schools around the Nation.

I'm particularly pleased that this legislation includes the Safe and Drug Free Schools Act—legislation I introduced to help parents, teachers and students end the violence in our schools.

According to the Centers for Disease Control, nearly three million crimes occur on or near schools every year—one every 6 seconds. Every day, an estimated 100,000 students carry guns to school, some of them as young as 8 and 10 years old. Thousands of students and teachers alike are victims of physical attacks or threats of violence. It's a terrifying situation. And, it's a scandal.

The seventh National Education Goal, established by the Nation's Governors, states that "by the year 2000, every school in America will be free of drugs and violence and will offer a disciplined environment conducive to learning."

I can't guarantee that passing this bill will enable us to meet that goal on time. But I do know that doing nothing will only push our goals further out of reach.

The Safe and Drug Free School Act is not a cookie-cutter approach. It will help schools tailor programs to fit their own specific needs. Some schools may want to develop after-school programs. Other schools might choose to concentrate on anti-gang efforts. Still others may decide to develop partnerships with local police or mentoring programs with members of the local business community.

These programs work. I know because I've seen them work in communities across Pennsylvania. In Erie, the school district has developed an alternative education program that is a national model. Working with community groups such as the Boys and Girls Club, students attend classes, receive job-training and counseling from 8 in the morning until 8 in the evening. In Carlisle, peer mediation programs are in every elementary school. In Lancaster, the teachers and parents at McCaskey High School provide evening activities for students. And in Williamsport, the Walkway of Hope Program helps young people learn acceptable ways of resolving conflicts. The legislation we are considering today will enable these programs to grow.

I'm also pleased that this legislation incorporates key provisions of the Service-Learning Act, which I introduced with my distinguished colleagues, Senators DURENBERGER, KENNEDY, and WELLSTONE.

The Service-Learning Act is based on a simple yet powerful truth: students learn best by doing, by being active and engaged in the process of learning.

That is another of our Nation's education goals: that "all students will be involved in activities that promote and demonstrate good citizenship, community service and personal responsibility" by the year 2000 so that they are "prepared for responsible citizenship, further learning, and productive employment in our modern economy."

Service-learning promotes teamwork, leadership and problemsolving—all the skills young people need to succeed in school, and in life. When it is one well, service-learning replaces alienation with engagement, boredom with excitement.

If you want to see what service-learning can do, come to Abraham Lincoln High School in Philadelphia where students from the Horticulture and Environmental Technology Academies learn botany and natural science by creating their own gardens in vacant lots around the city.

Mr. President, education, to me, is more than an issue. It is a cause to which I have devoted years of my life. I've been a teacher and a college president. Perhaps more important, I am a grandfather.

My grandson, Nathaniel, is 3 years old now. Two years from now, when Nathaniel starts kindergarten, I want him to learn. I want his teachers to be well trained. And I want him to be safe in his classroom.

Parents and grandparents all over Pennsylvania want the same opportunities for their children. And that's what this bill will help to deliver.

I commend Senator KENNEDY, Senator KASSEBAUM, Senator PELL, and Senator JEFFORDS for their leadership in crafting this bipartisan education bill, and I encourage my colleagues to join me in offering their full support for the Improving America's Schools Act.

Mr. HARKIN. Mr. President, I want to commend the chairman for his leadership on this important legislation. H.R. 6 reauthorizes a number of programs established under the Elementary and Secondary Education Act which have contributed greatly to the services and benefits offered to our school children. The safe and drug-free schools and communities programs, authorized in H.R. 6 support activities designed to help meet the national education goal of making all schools in America free of drugs, guns, alcohol, and violence by the year 2000.

Many States are developing and instituting innovative programs to combat drug abuse and youth violence and are on their way toward meeting this important education goal. One State has undertaken a comprehensive, statewide drug abuse and youth violence prevention program. The program provides teaching materials, interactive video, teaching guides and community resource and outreach activities to every classroom, from K–12. The program is designed to reach every student and every parent in the State with comprehensive and coordinated messages. The program is provided directly to the classrooms and leverages the support and involvement of local, regional, and statewide community resources.

Mr. President, it is my understanding that statewide programs such as that which I just described will be eligible for funding under title IV of ESEA as reauthorized by H.R. 6. Am I correct in this interpretation?

Mr. KENNEDY. Yes the Senator is correct.

Mr. HARKIN. I thank the Chairman, and I commend him again for his work on this important legislation, and in particular this provision. The problems of youth violence and drug abuse are no longer contained within urban school districts, and are rapidly spreading to suburban an rural communities. By making a program available for statewide distribution, we can better ensure that each student in a State will be reached by a program, and that students throughout the State will receive the same messages.

I was extremely impressed by Jonathan Kozol's "Savage Inequalities," and I know the Senator from Utah has also done considerable research on school equalization. Is it his view that the concept of equalizing resources among school districts as public policy is supported by experts in the field?

Mr. HATCH. The Senator from Iowa is correct. The literature in the education field is loaded with recent articles suggesting that equalization is an important means of addressing inequalities. In a statement I gave on July 28, 1994, I outlined the reasons, which are supported by the literature in the education field, why I support equalization as a sound policy.

Mr. HARKIN. Does the Senator from Utah therefore support effort and equity as factors in determining the allocation of title I money?

Mr. HATCH. Yes, I do, provided that it is not mandatory. If effort and equity were factors driving education dollars, states would be encouraged to take steps toward equity on their own. Education is primarily a state and local responsibility to begin with. The equity factor included in this authorization, unlike the State per pupil expenditure—which I believe is an extremely poor and terribly unfair measure of effort—can benefit a State even if its needs are great and its tax base is small. This is because an equalization incentive is based not on how much a

State has, but on how it distributes what it has. I confess that in many areas of public policy I do not favor such an approach. In many areas, I believe this type of allocation destroys incentives to work hard and to do more that contributes to our economy overall.

But, education is a legitimate function of State and local governments. We do not need to be concerned with hindering private sector incentives. Educational equalization—based on a plan developed by the State itself—should be encouraged.

Some of our colleagues have expressed concern regarding the equity factor. Does the Senator from Iowa believe that the equalization of resources within a State is inherently consistent with the premise of the title I program?

Mr. HARKIN. I would respond to the Senator from Utah that yes, I believe the equalization of resources is consistent with the premise of the title I program which is to give disadvantaged students additional help by directing supplemental resources to them. If federal resources are not supplementary, then States have absolutely no incentive to deal effectively with education financing problems in their own States. The Federal Government should not subsidize this kind of inaction.

Mr. HATCH. I agree with the distinguished Senator from Iowa. Many States have recognized the need to more fairly redistribute their resources. I am very proud that Utah has been a leader in just about every aspect of education—achievement, graduation rates, school finance. Utahans long ago developed a workable plan for school equalization. It is working in our State.

I believe the title I formula should reward real effort and real progress toward serving every child in a State equally.

I obviously would have preferred that the effort and equity provisions that were included as an integral part of the Senate-passed title I formula. However, it was the final decision of this conference to include these factors in the title I formula but to include them as a separate authorization that is, based on the Senate-passed version of the bill. This, I believe, is a step in the right direction.

I hope that this will not be a hollow authorization, that is, one with no money. While I do not want to put my colleague from Iowa on the spot because I know he is as committed to this idea as I am, I wonder if he would comment on this last point? He is in a position of some influence on that subcommittee.

Mr. HARKIN. The Senator from Utah is correct. I share his commitment to education finance reform and I favor the establishment of this effort and equity incentive in title I of ESEA.

The Senator from Utah mentioned that he was proud of the efforts his State has made to equalize resources among schools. The State of Iowa revamped its State aid formula to equalize funding in the 1970's. I am equally proud of efforts in my State to provide a quality education for all students.

I will do what I can as chairman of the Labor, Health, and Human Services Appropriations Subcommittee to support this new authorization.

Mr. HATCH. I thank my colleague from Iowa for his analysis and support.

Mr. SMITH. Mr. President, I would like to take a few moments to express some concerns I have about this conference report, and why I will be voting against it.

Obviously, I am disappointed that an amendment that I had attached to this bill in the Senate was dropped by the conference committee. This amendment would have prohibited Federal funds from being used to support prohomosexual school programs. I had hoped that the Senate's position would prevail in conference, but must content myself with knowing that I have helped raise public awareness on this important issue. I have since received letters from all over the country from parents who watched the debate on the Smith amendment and were motivated to find out exactly what their children were learning in school.

I would also like to take special note of the efforts of my good friend Senator HELMS on his school prayer amendment. The purpose of the House-passed Helms amendment, which the Senate passed as well on the Goals 2000 bill, was to encourage local school districts to permit as much voluntary participation by students in school prayer, the content of which is not prescribed the government, as is possible consistent with governing Supreme Court precedents. Notwithstanding the fact that the Helms amendment has passed both the Senate and the House, albeit on separate legislative vehicles, in this Congress, the conference committee chose to adopt the weaker language of the Kassebaum amendment. I share Senator HELMS' strong sense of disappointment, and even anger, at this unfortunate result. Our Nation's schoolchildren deserve more from this Congress.

These are battles that I am sure will be fought on another day. The decisions to drop the Smith language and the Helms language by themselves would not be enough to lose my vote on this bill. A more serious matter has lost my vote.

I believe this bill represents a continuation of one of the most dangerous trends in our society: the increased federalization of decisions that traditionally have been left to lower tiers of government, or even to private citizens. Whenever things are not working quite properly, the instinct is to turn responsibility over to the Federal Government, which I suppose is supposed to know best. It isn't just in education; witness the health care debate.

As a U.S. Senator and as a private citizen, I feel this trend needs to be reversed. As a former school board chairman, I feel especially strongly that this trend needs to be reversed in our public schools.

Make no mistake, this bill will work in concert with the Goals 2000 legislation already signed into law to further undermine local control of our schools. More money will flow to our schools through Washington, and our schools will have to live up to more mandates to get at that money. I say, why not get rid of the middle man? Keep the funding at the local level, and with it the decisionmaking. We can move toward that goal by defeating this bill this year, and working next year toward true reform by establishing school choice.

Mr. President, I urge my colleagues to vote against this bill.

Mr. SIMPSON. Mr. President, I rise in opposition to the Elementary and Secondary Education Act. I am so very concerned that the legislation we are considering takes us even further down the road toward the federalization of our public schools. I feel it would ultimately result in a limitation on the autonomy of local school districts.

This $12 billion bill authorizes title I—the single largest Federal elementary and secondary education program—for 5 additional years. It includes a new formula for title I spending that targets more funds to disadvantaged children than under the current law. However, there is a provision in the bill which ensures that no State, for 1 year after enactment, would experience a decline in funds in comparison with the old formula.

Many Members are upset about the formula. Thirty States will ultimately fare worse under this formula. Wyoming is one of the States that would actually fare better. For the next 5 years, my State will receive an additional $1,264,000 annually for the education of its disadvantaged students. Of course, I am pleased with that aspect of the bill.

In this Congress we passed the "Goals 2000" bill. That bill essentially delivered this message to local school boards, "If you would like to have some of this education money to develop education strategies, you will have to adopt our guidelines." Unfortunately, this bill follows that same flawed philosophy.

Similar to "Goals 2000," States, in this legislation, are not required to submit their plans to the Secretary for approval. However, in order to receive title I funds, States must "voluntarily" describe and submit the strategies it will use to develop academic standards to the secretary of education in Washington, DC, and obtain his or her approval.

Local education agencies [LEA's] desiring to receive title I funds would be required to submit local plans to the State for approval. Since some LEA's do not have the financial capacity to carry out the measures required in State plans, the bill requires States to help LEA's and schools achieve compliance with their obligations under the bill.

That may be satisfactory when school districts are financially able to make a choice to do without these funds. But, the fact is that most school districts are severely hamstrung for resources.

My concern is that we are eliminating the funding for less intrusive programs, such as impact aid, in order to "free up" money for these new, so-called "voluntary" initiatives. In the final analysis we are effectively leaving our schools without "choice."

The impact aid reform provisions in this legislation are another example of the movement toward the federalization of education. This legislation drastically reduces a significant portion of the funding for "section B" students.

Impact aid was created in order to neutralize the negative impacts of the Federal presence in local school districts. It is money that I believe some school districts and local taxpayers rightfully deserve. The reductions in this program simply make more room for expensive new Federal initiatives.

When a school district faces a $900,000 decrease in impact aid—as does one district in my State—naturally, the administrators are going to strongly consider complying with the "voluntary" guidelines in order to recapture some of that lost revenue. That is the reality.

This administration is embarking upon a course of a Federal education policy that is highly intrusive and which violates the traditional Federal respect for the primacy of local education authorities.

I just do not believe this administration is listening to the American people. Americans do not want more "strings attached," Washington controlled Federal programs. They want Washington to control less of their lives, not more. And when initiatives like this are presented to Congress, I believe they expect us to have the discipline to say "no." Many of them will be saying just that on November 8.

I urge my colleagues to vote against the conference report.

Mr. PELL. Mr. President, I would like to ask the distinguished chairman of the Committee on Labor and Human Resources to enter into a colloquy with me to correct the record with respect to certain language contained in the statement of managers accompanying H.R. 6, Improving America's Schools Act of 1994.

Mr. KENNEDY. Mr. President, I thank the distinguished chairman of the Subcommittee on Education, Arts, and Humanities for bringing this matter to my attention, and I am pleased to have the record corrected.

Mr. PELL. Mr. President, as the chairman knows, this act contains a provision, numbered section 568, with respect to which the conferees agreed to managers' language explaining the provision in certain respects.

Mr. KENNEDY. Yes that is my understanding.

Mr. PELL. Is the chairman's understanding that the conferees intended that the managers' language accompanying section 568 be placed in the statement of managers in a position corresponding to that section in the act?

Mr. KENNEDY. Yes, that is my understanding.

Mr. PELL. Is it the chairman's understanding that the conferees agreed that the managers' language should contain the notation "The House recedes with an amendment," following the first paragraph of the statement of manager's concerning section 568?

Mr. KENNEDY. Yes, that is my understanding.

Mr. PELL. I thank the chairman for helping me to clarify this matter.

Mr. DURENBERGER. Mr. President, I rise in support of the conference committee report on H.R. 6—legislation reauthorizing the Elementary and Secondary Education Act [ESEA].

I want to thank Senators KENNEDY, KASSEBAUM, PELL and JEFFORDS for their leadership during this long and at times, contentious process. They hung tough during conference meetings in spite of very strong opposition from the House of Representatives and from some members in this body as well.

It has been a privilege and a pleasure to serve with my colleagues on this committee. Our ability to work together on a bipartisan basis has resulted in legislation we can all be proud of. From direct lending and national and community service to Goals 2000 and ESEA, we have made a contribution to reforming education in this country.

While some provisions in this bill concern me, overall I am pleased with its final form. Unfortunately, when it comes to formulas, there will always be winners and losers. The title I formula in this bill seems to focus Federal money to the poorest children and to the communities and States most in need of assistance. My own State of Minnesota tells me that this is a formula they can live with.

Reasonable compromises were reached on a number of difficult social issues including school prayer and school health related issues.

Senator GREGG's amendment regarding unfunded mandates, which is now part of this legislation, clearly states that if any requirement in this bill results in an unfunded mandate, affected States and communities do not have to comply.

We prevented inclusion of mandated opportunity to learn standards in this bill.

There are two provisions in this bill I want to briefly mention. I am very pleased that my recommendations on the Charter Schools Program were accepted by the conference committee. The changes I proposed allow States to subgrant funds received from the Department of Education to local education agencies or other public entities authorized under State law, thus putting the State in the driver's seat.

I am also excited about inclusion of the Community Schools Partnership Act which will expand a network of locally based organizations and allow them to leverage funds for scholarships and mentoring programs to help disadvantaged youth.

Even though I do not agree with every item in this bill, I respect that process that produced it. I feel I had a fair opportunity for input—many of my own ideas were incorporated. I believe it now deserves to become law.

Thank you, Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

During the course of this debate, I heard those who are opposed to the legislation characterize it in ways which are really completely unrelated to the substance of the important educational legislation which we are addressing this afternoon. I would like to, for the remaining few moments, highlight briefly what this legislation will achieve for the young children of this country.

I am pleased that we are finally coming to this point where we will act, and I am confident, act positively, in support of the reauthorization of the Elementary and Secondary Education Act. It was approved last Friday in the House by a vote of 262 to 132, a margin of 2 to 1, and it deserves a similar majority in the Senate. This legislation is the result of weeks of bipartisan negotiation and cooperation, and has the strong support of Senator KASSEBAUM, Senator JEFFORDS, Senator DURENBERGER, and Senator GREGG on the Committee on Labor and Human Resources.

This bill is a major reform in Federal aid to help improve elementary and secondary education throughout the Nation. It is the most important reauthorization of ESEA since that landmark act was first passed in 1965.

It is a very significant step forward, because it puts the Federal Government squarely behind the reform efforts that are taking place in States and school districts throughout the country. The truly innovative feature of this legislation is that it encourages these local reforms without dictating them from Washington. Let me describe this bill.

First, this bill creates a new title I program based on high standards for all students. Over 90 percent of the school districts in the country have been receiving these funds for years. But their use has been focused on bringing some low-income children only up to the standard of other low-income children not in the program. This misguided emphasis has had the unintended effect of creating thousands of separate, watered-down programs that have been found ineffective. We set our sights too low.

The core of this bill will scrap that dead-end low-standard approach and establish high academic standards for all students. It will hold disadvantaged students to the same standards that all other students are held. Why should we target disadvantaged children for special aid, and then educate them to a lower standard than other children? The American dream is open to all. Education is the key that opens the golden door, and this legislation can help millions of children use that key the way it should be used.

Second, and related to the first, this bill offers unprecedented new flexibility in the use of Federal funds to achieve this goal. It makes it far easier for schools to serve disadvantaged students in regular classes, rather than in separate, pull-out classes. For too long, for example, too many students have missed out on regular reading classes, because they have been pulled out for low-level drills.

Half the teachers in these classes have not been teachers at all, but uncertified teacher's aides. This reform will enable schools to end this practice and use Federal funds for all students.

In addition, there are also important new waiver provisions as well, which will enable schools to request exemptions from particular requirements of programs if they can show in their plans how the needs of the students can be met in other ways.

Third, this bill offers an unprecedented new investment in the Nation's teachers. All of title II in the bill is dedicated to professional teacher development. It makes no sense to provide Federal aid for education, and then neglect the single most important part of any education program—the teachers. This bill offers generous new support for the Nation's teachers, and will help them learn new strategies that will enable their students to reach higher academic achievement.

Fourth, the bill encourages the use of modern technology in the schools. Technology is transforming all sectors of our economy, from health care to manufacturing to retailing. Yet most public school classrooms lack even a telephone, let alone a computer. If students are to acquire the skills they will need to function effectively in tomorrow's workplace, we must give them the opportunity to work with today's technology in their schools. Title III of the new ESEA is a new education technology program that will help the poorest schools pay for new computers and electronic network links, and encourage the development of new educational software and programming.

Fifth, the bill offers new Federal support for violence prevention. It makes substantial improvements in the Safe and Drug Schools Program. Violence prevention becomes a key element of all programs. The new provisions also set measurable goals, such as a decrease in drug use, violent behavior, and illegal gang activity.

Sixth, the bill improves current bilingual education programs. The new provisions focus on English-language skills and on how well the students meet high standards—rather than how many years they stay in the program.

It also creates several worthwhile new programs important to many of us in Congress, such as charter schools, character education, and incentives to lengthen the school day and school year.

Seventh, the bill makes substantial grants available for school construction. For the first time, the Federal Government is finally recognizing the third-world conditions in which thousands of children go to school every day. For the first time, real Federal help is on the way.

Finally, and by no means least, this bill contains a better formula for targeting Federal funds to schools most in need.

For the first time in the ESEA's 30 year history, significant changes are made in the formula to do a better job of carrying out the historic purpose of the landmark 1965 act, to target Federal aid to schools and pupils who need help the most.

The formula is phased in so that the changes will take place gradually and enable school systems to adjust to the changes. For the next 2 years, virtually every school district in the country is guaranteed at least as much funding as it currently receives. In later years, funds are increased for districts in a formula that has the greatest increases for districts with the highest numbers and concentrations of poor students.

In my view, this formula is our best effort to act responsibly in the highest interest of our Federal system. Some States will gain, and other States will not do as well as they hoped. It is true that many States will not do as well as if the current formula is retained.

But the current formula is badly flawed, and it would be irresponsible to continue it. The new formula is a fair compromise that makes better use of scarce Federal dollars by better targeting funds to States with the greatest need, while mitigating the dislocation to States that have benefited for so long from the old, failed, and flawed formula. No State will lose unduly, and the Nation will gain immensely.

For all of these reasons, I urge the Senate to approve this legislation. It is a bill that all of us, Republicans and Democrats alike, can be proud of, and proud to take home to our constituents as one of the genuine bipartisan achievements of this Congress.

Finally, Mr. President, I wish to draw attention to another section of the bill for those who have talked about what authority is in this legislation that could impact local school districts: section 14512, the Prohibition on Federal Mandates, Direction, and Control:

> Nothing in this Act shall be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control a State or local education agency, or school's curriculum, program of instruction, or allocation of State or local resources, or mandate a State or any subdivision thereof to spend any funds or incur any costs not paid for under this Act.

The ball is in the local school's court, where it should be, and it is as clear as can be stated in the English language that is both the intent and the law in this legislation.

Finally, I commend, Mr. President, not only my colleagues on our committee, our Democratic colleagues, all of whom were involved in various provisions of this legislation, certainly the Senator from Rhode Island, Senator PELL, who has been chairman of the Education Committee for so many years, and whom history will record as being one of the great giants in terms of strengthening the educational and academic achievement of the young people of this country, and also many others of my colleagues on our committee. We had virtually unanimous support for the development of this legislation, and virtually unanimous votes except for one important vote, but virtually unanimous efforts. Republicans and Democrats worked together in the committee, and there was overwhelming bipartisan support in the enactment of the legislation. Conference was difficult, and we tried to represent the Senate's position as well as we could. This is good legislation, and I urge all of my colleagues to support it.

I wish to thank in particular our staff members who have worked so hard: On my staff, Ellen Guiney, Clayton Spencer, Stephanie Goodman, Matt Alexander, Bonnie Leitch, Jerry Hauser, and Susan Shin; on Senator PELL's staff, David Evans, Margaret Smith, Barbara Bennison, and Michael Dannenberg; on Senator KASSEBAUM's staff, Lisa Ross, Wendy Cramer, and David Goldfarb; on Senator JEFFORDS' staff, Pam Devitt and Katie Henry; and on Senator SIMON's staff, Charlie Barone.

I thank in particular the majority leader for his perseverance in ensuring that this legislation was finally going to be enacted. We faced a filibuster in the last Congress, and were unable to get enactment of legislation, and also in the Congress before, both times in the final hours. I will not spend time in reviewing that history, but that was the case. And we were dangerously close to that kind of counterproductive action on this legislation.

It is really by the perseverance of the majority leader in insisting that we take and complete action on this legislation that the educational opportunities of millions of children in this country will be enhanced for years to come. We give great tribute to the majority leader for many, many reasons which we will outline in these remaining hours of this session, and I do not want to write off how much more he is going to achieve and accomplish. But when we pass this legislation, it is a major achievement for his legislative leadership.

I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. Mr. President, after reflection on the chapter I formula colloquy I had with Senator HARKIN earlier today and discussions with Senator COATS and Congressman LIGHTFOOT, I am convinced that my statement earlier today was correct.

I said earlier today that Iowa would lose almost $10 million between 1966 and 1999. Those figures came from the Congressional Research Service. The conferees requested that CRS issue numbers based on a $400 million increase in the appropriation.

When you compare the current law formula with the basic formula in the conference committee, 33 States lose money, including Iowa.

The effort and equity provision in the conference report is a totally separate authorization. The only way that Senator HARKIN's evaluation that Iowa will not lose money would be correct is if he can find $200 million somewhere in the Labor, Health and Human Services, and Education appropriation's budget.

In my experience, that budget is always so tight that we cannot fund even the programs that are already in existence. That means that the appropriators will have to cut some other important Labor, Health and Human Services or Education program in order to be able to fund that extra $200 million for the effort and equity authorization.

To reiterate, the only way Iowa will not lose money under the chapter I formula in the conference report is for the appropriation's committee to take money from some other valuable program and give it to the effort and equity formula of this bill.

As I mentioned in my earlier remarks, the basic chapter I formula in the conference report is a loser for 33 States. Thirty-three States are better off under the formula in existence today.

Congressman LIGHTFOOT reports to me that in his district alone, 26 out of 27 counties will lose money under the conference report formula for a total loss of $203,000 per year.

I wanted to make this clarification for the RECORD after further evaluation and discussion.

The PRESIDING OFFICER. Under the previous order, the hour of 5:30 p.m. having arrived, the question is on agreeing to the conference report accompanying H.R. 6, the Elementary and Secondary Education Act. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] and the Senator from Alabama [Mr. SHELBY] are absent because of attending a funeral.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 20, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—77

Akaka
Baucus
Bennett
Biden
Bingaman
Boren
Boxer
Bradley
Breaux
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
D'Amato
Daschle
DeConcini
Dodd
Domenici
Dorgan
Durenberger
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Gregg
Harkin
Hatch
Hatfield
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mathews
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Specter
Warner
Wellstone
Wofford

NAYS—20

Bond
Brown
Coats
Coverdell
Craig
Danforth
Dole
Faircloth
Gorton
Gramm
Grassley
Helms
Mack
McCain
McConnell
Nickles
Simpson
Smith
Thurmond
Wallop

NOT VOTING—3

Heflin
Shelby
Stevens

So the conference report was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 9 a.m. tomorrow the Senate consider the conference report accompanying S. 349, the Lobbying and Gift Reform Act; that there be 1 hour for debate equally divided and controlled in the usual form by the majority leader and the minority leader, or their designees; and that at 10 a.m. tomorrow, the live quorum being waived, the Senate vote on the motion to invoke cloture on that conference report.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening.

I thank my colleagues for their cooperation and the overwhelming support for the education bill just passed. We will proceed to debate and vote on the Lobbying Disclosure and Gift Reform Act, as stated, in the morning. The next rollcall vote will be at 10 a.m. tomorrow morning.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LOBBYING DISCLOSURE BILL

Mr. DOLE. Mr. President, I want to just focus for a moment on this so-called lobbying disclosure bill which we will have a cloture vote on tomorrow morning. I must say, I think the more you look at it, the more questions are raised.

We had a conference this afternoon. I think probably before the conference we had probably a fairly even split or even less. But the more you talk about this bill and the more complicated it becomes, it seems to me we need to address some things before it leaves the Senate. I am not certain it can be taken care of with a colloquy.

I will have printed in the RECORD a letter I addressed today to Senator LEVIN and Senator COHEN, where we raised a number of concerns with reference to grassroots lobbying. I know there have been some saying there is no problem with this, it is all smoke and mirrors. That may or may not be the case.

I would like to include in the RECORD the letter that was directed to the Honorable CARL LEVIN and the Honorable WILLIAM COHEN, which contains some of the questions we have. Also, a letter directed to the majority leader, Senator MITCHELL, and myself, the Republican leader, signed by 30-some Republicans who are concerned about the same problem.

Then also I would like to include in the RECORD a list of organizations that now oppose this bill outright. I must say, you do not get a group like this in opposition to a bill very often: the American Civil Liberties Union, the American Farm Bureau, the American Family Association, the Child Protection Lobby, the Coalition Against Gun Violence, Doris Day Animal League, Humane Society of the United States, the National Association of Realtors, the American Legion—the list goes on and on—the U.S. Chamber of Commerce, Safe Streets Coalition. About every group in America, whether they are on the right side, the middle, or the left side of the issue, have read this conference report, now, carefully, and they are having real problems with us. They are calling us and sending us faxes and directing their opposition to us, Members on both sides of the aisle.

We know that some of the liberal media have already decided this is a great bill, even though they probably have not read it and do not intend to read it. Maybe they want to discourage grassroots lobbying. Why should anybody else make up the views? Maybe let the liberal elite make up our minds through editorials in the Washington Post or the New York Times or whatever.

So we have been looking at it very closely this afternoon. Hopefully, we can address some of the concerns. But the more you read this the more you are concerned. I will just pick out one provision.

We are going to create another big bureaucracy. We are talking about downsizing Government, and here we are about to create another bureaucracy and who knows how large it will be and how inefficient and how it is going to be expanded.

It also could become a tool for political revenge because the President of the United States, in this case President Clinton, is going to appoint somebody for 5 years. That person is going to be the Director of Office of Lobbying Registration and Public Disclosures. And this same Director is going to promulgate the rules and regulations and all the enforcement aspects.

There is no bipartisan representation there. I do not know why we have the President of the United States appointing someone to deal with congressional lobbying or gift-taking.

So let me make it very clear that there may be a way to resolve this. One way to resolve it is to take care of the gift matter by changing the Senate rules.

I will just conclude by making this point: When we talk about grassroots lobbying, we are not talking about high-priced lobbyists' lunches or legislative deals. We are talking about activity out there in America when the people ban together to let their elected representatives know where they stand on the issues that affect them.

I want to make it clear, we are not trying to make any changes in some of these rules. I support the gift ban provisions—no lobbyist lunches, no entertainment, no travel, no contribution into defense funds, no fruit baskets, no nothing. That is fine with this Senator, and I doubt many Senators partake in that in any event.

It is also good to point out—and I assume somebody will have a lot of fun with this one—the conference report treats Members of Congress differently than it does other citizens. If you are a lobbyist—and that could be anybody, your brother, sister. There are good people out there. Because they are lobbyists does not mean they are not good people. It does not mean they are not honest or men and women of integrity. That is what they do for a living.

You have a right to petition Congress. You have a right to engage somebody, hire somebody and come to Washington and do whatever you want to do. But if they knowingly violate the registration disclosure requirements, they could face a maximum fine of $200,000. But if a Member of Congress does the same thing, if you knowingly accept a gift that is banned under the new rules, there is not any dollar penalty. So here we go again. And we wonder why the American people do not trust the Congress. We are about to pass a new law and everybody is going to say, "Boy, isn't this great, we are going to nail down these lobbyists and let the Members go." All we are required to do is go before the Ethics Committee.

I am not certain we can correct all this with colloquies. Maybe we can. The best thing to do is get unanimous consent to amend the conference report and send it back to the House. We will propose that tomorrow after the cloture vote.

I just say to my colleagues on the other side of the aisle, this should not be a partisan measure. I hope my colleagues on the other side of the aisle will take a look at it. If you have not heard yet from all these groups, I can tell you they will probably be calling you between now and tomorrow, and they are groups that I think represent and reflect the views of a lot of good, hardworking Americans, whether it is the American Legion, the American Farm Bureau, the Humane Society, or the Doris Day Animal Group, or whatever.

So, Mr. President, I ask unanimous consent that the material I made reference to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ORGANIZATINS OPPOSED TO S. 349

Alliance For Educational and Cultural Exchange.
Alliance For America.
American Civil Liberties Union.
American Farm Bureau.
American Family Association.
American Legion.
Americans For Tax Reform.
American Land Rights Association.
Americans United For Life.
American Veterinary Medical Association.
Association of Concerned Taxpayers.
Center for Science in the Public Interest.
Child Protection Lobby.
Christian Coalition.
Christian Legal Society's Center for Law and Religious Freedom.
Citizens Committee for the Right to Keep and Bear Arms.
CNP Action, Inc.
Coalition Against Gun Violence.
Coalitions for America.
Concerned Women For America.
Defenders of Property Rights.
Doris Day Animal League.
English First.
The Environmental Policy Task Force.
Family Research Council.
Federation of American Scientists.
The Feminist Majority.
Free Congress Foundation.
Fund for an Open Society.
Gun Owners of America.
Humane Society of the United States.
Independent Insurance Agents/California.
International Freedom Foundation.
The National Center for Public Policy Research.
National Association of Realtors.
National Cotton Council of America.
National Federal Lands Conference.
National Restaurant Association
National Right to Life Committee.
National Right to Work Committee.
National Rifle Association.
National Legal and Policy Center.
National Association of Housing Cooperatives.
Ohio Citizen Action.
Planned Parenthood of America (NY office).
Population-Environment Balance.
Project 21.
Safe Streets Coalition.
Small Business Survival Committee.
Traditional Values Coalition.
United Seniors Association, Inc.
U.S. Chamber of Commerce.

U.S. SENATE,
Washington, DC, October 4, 1994.

Hon. GEORGE J. MITCHELL,
Office of the Majority Leader,
Hon. BOB DOLE,
Republican Leader,
U.S. Senate,
Washington, DC.

DEAR GEORGE AND BOB: We are writing to request that the Senate adopt a unanimous consent agreement allowing us to amend the conference report on S. 349, the Lobbying Disclosure Act, to eliminate some of the unnecessary regulatory burdens that the conference report would impose on grassroots citizens' organizations.

A wide array of citizens' organizations representing the entire breadth of the political spectrum have written to us expressing their concerns as to how the conference report's recordkeeping and paperwork requirements will interfere with their ability to communicate effectively with Congress and the executive branch. One diverse coalition of groups has informed us that the broadly drafted grassroots lobbying provisions "will seriously impair our ability to exercise our rights guaranteed under the First Amendment".

We are not raising objections to the section of the conference report that establishes new rules prohibiting lobbyists from giving gifts to Members of Congress and staff. However, modifications should be made to certain grassroots lobbying provisions in the conference report. We hope we can accomplish this limited goal expeditiously. Nevertheless, we are prepared to support efforts to block the passage of this conference report if our request is not accommodated.

Thank you both for your consideration of this matter. We look forward to hearing from you.

Sincerely,

____ ____.

U.S. SENATE,
Washington, DC, October 5, 1994.

Hon. CARL LEVIN,
Hon. WILLIAM S. COHEN,
U.S. Senate, Washington, DC.

DEAR CARL AND BILL: As you know, a number of concerns have been raised concerning the conference report on S. 349, the Lobbying Disclosure Act of 1994. To help clarify the meaning of some of the provisions in the conference report, I would appreciate answers to the following questions:

1. Section 103(2)(B) of the conference report defines the term "client" to include the individual members of an association when the association's lobbying activities are financed by members outside of regular dues and assessments. Would this provision require the public disclosure of the name, address, and place of business of each member of an organization that engages in lobbying activities, but finances these activities through donations rather than through regular dues and assessments?

2. Section 104(b)(5) requires registered lobbyists to publicly disclose "the name, address, and principal place of business of any person or entity retained by the registrant to conduct grassroots lobbying communications on behalf of the registrant or the client * * * (emphasis added)." To be covered by this provision, must a "person or entity" be retained for compensation? Would this provision require the disclosure of the names and addresses of volunteers who have been "retained" for the purpose of conducting "grassroots communications?"

3. Section 105(b)(5) requires "registered lobbyists" to publicly disclose on a semi-annual basis "the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby on behalf of the client." Would this provision require "registered lobbyists," including non-profit "grassroots organizations," to publicly disclose their lists of donors? For example, if a grassroots organization solicits contributions to help pass or defeat a specific piece of legislation, must the names and addresses of those individuals who responded to the solicitation be publicly disclosed? If your answer is "no," how can that answer be reconciled with the text of the conference report and with the conference committee's amendment to the Senate language?

4. Section 104(b)(3) requires registered lobbyists to publicly disclose the "name, address, and principal place of business of any organization, other than the client, that (A) contributes more than $5,000 toward the lobbying activities of the registrant * * * and (B) participates significantly in the planning, supervision, or control of such lobbying activities." What is meant by "participating significantly?" Would this provision require the public disclosure of an organization that contributes $6,000 to a grassroots lobbying effort and requests that the contribution be used to defray the cost of a television commercial or a newspaper ad?

5. Section 103(10)(B)(xviii) exempts from the definition of "lobbying communication" any communication made by a "church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return * * *, "if the communication constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion (emphasis added)." Could you please elaborate on the meaning of this provision? For example, if a church and its membership contact Members of Congress in support of a school-prayer bill or against abortion-rights legislation, would these contacts constitute the "free exercise of religion" or an effort to "protect the right to the free exercise of religion." Who ultimately makes this determination?

I want to emphasize that I have no objection whatsoever to the section of the conference report that establishes new rules prohibiting lobbyists and others from giving gifts to Members of Congress. However, I believe it is imperative that legislation such as S. 349, which seeks to impose broad new regulations on individuals and which, if violated, could result in fines up to $200,000, be as clear as possible on its face. Quite simply, it should define exactly what is expected of those we seek to regulate. Unfortunately, many of my colleagues believe that S. 349 does not achieve this clarity.

If possible, I would appreciate a prompt response to the questions I have outlined in this letter. Thank you for your consideration.

Sincerely,

BOB DOLE.

Mr. DOLE. Mr. President, the "Law of Unintended Consequences" is alive and well in Washington. And that is why it is critical to take a very close look at the fine print of the Lobbying Disclosure Conference Report.

Earlier this Congress, I supported final passage of both the gifts-ban and lobbying disclosure bills, and they were adopted by the Senate in overwhelming votes. But guess what? A funny thing happened on the way to the conference committee. New requirements were imposed. New provisions were added. Efforts were made to get at what is known as grassroots lobbying.

One new provision would require citizens' organizations to publicly reveal all their so-called grassroots lobbying expenditures. Grassroots lobbying is defined to include such evil activities as communications that attempt to influence Federal legislation through contacts not with Congress, but with the general public. In other words, television, radio, and newspaper ads. How awful.

Grassroots lobbying is also defined to include internal communications between organizations and their members with the goal of influencing public policy. In other words, internal organizational newsletters. Another terrible vice.

A second provision added in conference would require the public disclosure of the names and addresses of any businesses retained by a citizens' organization to assist in grassroots lobbying. And, perhaps worst of all, a third provision could be read—could be read—to require citizens' organizations to publicly disclose the names and addresses of their donors.

I know my colleagues on the other side of the aisle say the conference report does not require the public disclosure of donors. But I have read the disclosure provision and, at best, it is ambiguous. And, frankly, ambiguous is just not good enough, particularly when it comes to imposing new regulatory burdens on the American people's right to petition their government. We cannot solve this problem with a colloquy. We cannot solve this problem with a floor statement.

Certainly, we do not expect the American people to go to their nearest library or bookstore, pick up a CONGRESSIONAL RECORD, and try to figure out what we actually meant when we passed a law. The law itself should be clear on its face.

And again, Mr. President, when we talk about grassroots lobbying, we are not talking about high-priced lobbyist lunches in fancy Washington restaurants, or legislative deals being cut in smoky Capitol Hill Back rooms. We're talking about activity out there in America—in the grassroots—when people of like mind band together to let their elected representatives know where they stand on the issues that affect them.

I want to emphasize that we are not, in any way, trying to make any changes to the new rules prohibiting lobbyists and others from giving gifts to Members of Congress. I support the gifts—ban provisions: No lobbyist lunches. No entertainment. No travel. No contributions to legal defense funds. No fruit baskets. No nothing.

I might add that the conference report treats Members of Congress differently than it does other citizens. If you are a lobbyist and you knowingly violate the registration and disclosure requirements, you could face a maximum fine of $200,000. But if you are a Member of Congress and you knowingly accept a gift that is banned under the new rules, there are no maximum fines, no big-dollar penalties. Instead, you go to the Ethics Committee.

And that is why I suggest we add language to the conference report directing the head of the new Office of Lobbying Disclosure to impose penalties on private citizens that are commensurate with the penalties imposed on Members of Congress.

So, Mr. President, I hope my colleagues on the other side of the aisle understand that we do not want to block the conference report. We don't want to filibuster. We want to pass a tough law, but one that is also targeted at the right activities.

Earlier this week, I wrote to the distinguished majority leader requesting a unanimous-consent agreement allowing us to amend the conference report to deal with the grassroots lobbying issue. I am still hopeful we can take this approach, make the necessary changes, and pass an amended conference report that satisfies all those concerned.

SENATOR GEORGE MITCHELL: A GREAT LEADER

Mr. HOLLINGS. Mr. President, the next Senate can elect a new majority leader, but what it cannot do is replace GEORGE MITCHELL. We cannot replace GEORGE MITCHELL the leader or GEORGE MITCHELL the politician or GEORGE MITCHELL the man. In each capacity, he has achieved a stature in the eyes of his colleagues that is unique in the contemporary Senate. To appreciate that unique stature and standing, bear in mind that this is an institution of 100 highly accomplished men and women—every one with a robust ego and high regard for his or her talents and intellect. Yet I dare say that if you polled the Members of the Senate, you'd get a near unanimous opinion, on both sides of the aisle, that GEORGE MITCHELL is the best Senator and the consummate leader. In the 20th century, no other man save Lyndon Johnson rose more rapidly to the post of majority leader. In both cases, the propellant behind the ascent was the same: Raw talent, rare intellect, sheer ability.

By any measure, GEORGE has done an extraordinary job during his 6 years as leader. In an institution notorious for the independence and waywardness of its Members, he's about as close as we get to adult supervision. He has been unfailingly fair, unfailing respectful of the rights of the minority party. That said, I don't think anyone has ever forgotten that GEORGE MITCHELL is a Democrat. The fact is, GEORGE is about as partisan a Democrat as you'll find—a partisanship bred in the bone and learned at knee of his immigrant, working-class parents. But, with GEORGE, it is partisanship with a difference—partisanship with passion and force, but never with a jagged edge. GEORGE doesn't personalize his political combat. He has adversaries not enemies. He fights to win, but—even under the most trying of circumstances—he fights clean.

In short, Mr. President, in the old-fashioned sense of the word, GEORGE MITCHELL is an honorable man. He is a unique combination: The sagacity of a first-rate judge plus the savvy of a first-rate legislator, the appearance of a professor plus the heart of a prize fighter. The Senate has been ennobled by his daily presence at the majority leader's desk, and the Senate will be diminished by his departure.

I would like to take this opportunity to thank GEORGE MITCHELL for his many kindnesses and courtesies to me personally. He has been a great leader, and I have no doubt he will take his special qualities of mind and character to other high offices in the service of our Nation. We all wish GEORGE MITCHELL the very best.

TRIBUTE TO ROB McDONALD

Mr. DANFORTH. Mr. President, on Friday, one of my most trusted aides is leaving the Senate. Rob McDonald has worked for me since 1982. For 9 years, he worked as the head of my St. Louis office. He helped me and, more importantly, he contributed to the life of St. Louis in countless ways. Rob ensured that the Valley Park levee received a $15 million appropriation and that the St. Louis North Riverfront project received Federal money for needed improvements. He also was essential in securing Department of Transportation approval for the St. Louis Light Rail project and obtaining appropriations from the Congress.

Since joining my Washington office as administrative assistant in 1991, Rob has maintained his dedication to St. Louis while also looking out for the rest of Missouri. He has helped ensure that a healthier TWA remains in St. Louis and Kansas City. He has helped the commuters of St. Charles, MO by negotiating legislation providing a waiver for the $150 million Page avenue project. He was central in the effort to ensure that biotechnology development was not set back by opponents of BST. To this day, he is working tirelessly to find funds for the Union Station project in Kansas City. The people of Missouri should not only be grateful to Rob but disappointed that they are losing such a successful advocate for their interests.

More important than these many accomplishments, however, is Rob's running of my office. In 1991, when my former Administrative Assistant Alex Netchvolodoff left, I called Rob and asked him to come to Washington. This must have been a difficult decision for the McDonalds. Yet, he came, and with him came his wife Cathy, and his two wonderful twin girls, Lauren and Rachel. He arrived in the middle of a tumultuous period in my Senate life. In only a few months, I would be involved in two contentious issues, the Clarence Thomas nomination and the Civil Rights Act of 1991. Throughout this period, Rob, as my new administrative assistant, ran my office with grace and civility. For that, I will always be grateful.

Rob fosters the kind of positive, optimistic attitude that Missourians cherish in their Senator's office. He has an indefatigable, can-do attitude. He simply never quits. He is an understanding person who is always willing to take the time to address the needs and concerns of every member of my staff. It is largely because of Rob that my staff functions together as well as it does.

I will miss him. His new company, Emerson Electric, has gained quite an asset. Along with my thanks for his friendship and his service, I wish Rob and his family all the best.

IN COMMEMORATION OF STEVEN J. YOUNG

Mr. LEAHY. Mr. President, I rise to bring a matter to attention of the Senate which is of considerable interest and pride to the people of Swanton, VT as well as the family and friends of the late Steven Young.

The U.S. Fish and Wildlife Service Mississippi National Wildlife Refuge in Swanton, VT recently dedicated a restored wetland the Steven J. Young Marsh. This action was taken in memory of Steven Young, a Swanton native and assistant refuge manager of the Yukon Flats National Wildlife Refuge in Alaska. Steve died in an aircraft accident while conducting a moose census on the refuge in November 1992.

I wish to insert into the RECORD some materials from the September 10 dedication ceremony as well as excerpts from letters which were read at that time which illustrate the contribution Steven Young made to the Fish and Wildlife Service and to the conservation of our Nation's natural resources.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROGRAM—DEDICATION OF STEPHEN J. YOUNG MARSH

Al Zelley, Refuge Manager, Mississippi NWR Welcome and unveiling of sign.

Eric Goodenough and Skip Thomas, Ducks Unlimited.

Brian Parkurst—Ben and Jerry's Homemade Inc.

Father Boucher, St. Amadeus, St. Anne's Shrine.

Reverend Cindyellen Robinson, Memorial United Methodist Church, Swanton.

Al Zelley, Refuge Manager.

Robert Paquin—Aide—Senator Patrick Leahy.

Al Zelley.

Presetation in memory of Steven J. Young (letters, photographs).

DEDICATION OF THE STEPHEN J. YOUNG MARSH, AUGUST 17, 1994

The U.S. Fish and Wildlife Service's Missisquoi National Wildlife Refuge will dedicate the 2-acre Stephen J. Young Marsh on Tabor Road, Swanton, Vermont, at a public ceremony at 1:00 PM on September 10.

The marsh, once an intermittent wetland, has been restored to a permanent marsh by the construction of a small dike on the north drainage. The marsh provides food, cover and nesting habitat for a variety of wildlife including waterfowl, great blue heron, bittern, snipe, muskrat, raccoon and deer.

This marsh is being dedicated to the memory of Stephen J. Young, son of Lou Young and the late Barbara Young of Swanton. Steve grew up around the marshes of the Missisquoi National Wildlife Refuge. He was the Assistant Refuge Manager of the Yukon Flats National Wildlife Refuge in Alaska. He died in an aircraft accident while conducting a moose census on the Refuge on November 12, 1992.

Funding for this project was provided by the U.S. Fish and Wildlife Service and a special donation made by Ben and Jerry's Homemade, Inc., to the Ducks Unlimited MARSH Habitat Restoration Program. MARSH is an acronym for "Matching Aid to Restore States Habitat." The objective of the MARSH program is to compliment the on-going Ducks Unlimited habitat programs in Canada and Mexico through the development, restoration, maintenance, and preservation of waterfowl/wetland habitat in the United States, and to create a positive fund-raising atmosphere through the acquisition and enhancement of waterfowl/wetland habitat within each State. This reimbursement program provides matching funds and grants to public and private agencies and organizations within each state based on DU's income within that state.

The public is invited to attend the dedication ceremony. For further information, contact the Refuge at 868-4781.

U.S. SENATE,
Washington, DC, September 10, 1994.

Mrs. KIMBERLY YOUNG,
c/o Missisquoi National Wildlife Refuge,
Swanton, VT.

DEAR MRS. YOUNG: My office was honored to be asked to participate in the dedication ceremony of the Stephen J. Young Marsh, a most fitting tribute to one who dedicated his life to the protection of our nation's natural resources.

Those of us who bear the responsibility for national conservation policy depend on the efforts of the Fish and Wildlife Service professionals in the field, both for guidance as decisions are made and for perseverance when the laws must be implemented.

I want you to know that my support for the Missisquoi Refuge and for the National Wildlife Refuge System will remain firm, thanks in no small part to the contribution Steve made.

Sincerely,

PATRICK J. LEAHY.

EXCERPTS FROM LETTERS RECEIVED FOR DEDICATION CEREMONY

Gary L. Pearson. * * * I have been acquainted with, and have worked with, scores of people in the wildlife field over more than a quarter of a century, and I have known few with Steve's personal committment and professional integrity. I feel that it is important that we know and remember who Steve Young was, what he did, and what he stood for, and that somehow seems to be appropriately symbolized in the preservation of a marsh in his name.

Robert G. Green. * * * I am pleased to hear that Steve will be recognized for his significant contribution to the wildlife resource in the United States and to the Fish and Wildlife Service.

It is entirely appropriate, in my opinion, to dedicate a memorial in Steve's home state of Vermont. I knew Steve for many years, first as a staff biologist with the Ecological Services office in Bismarck, ND and then as assistant refuge manager at Sand Lake National Wildlife Refuge in SD. We shared many long evenings working on projects related to the preservation of wetlands in North and South Dakota. Afterwards, whether at the Mirror Bar in Mandan or at Steve's home feeding the ever-present hunting dog, Steve would reminisce about growing up in Vermont and especially about his experiences on the Missisquoi NWR. It was that positive wildlife experience that drew Steve to wildlife biology in college, and to the Fish and Wildlife Service.

Peter Carrels. * * * My dealings and friendship with Steve began through our mutual concerns about the environment, especially Sand Lake NWR and the James River, in South Dakota. Steve and I consulted with each other on many occasions. We brought different, but complimentary vantages to our struggles to protect the environment: He, as a biologist and as an employee of the U.S. Fish and Wildlife Service; and me as an environmental activist, often working with the Sierra Club. In my dealings with Steve, I found he stood for integrity and sincerity. Facts, not fabrication were vital to him in his dealings with issues that were controversial. He provided valuable help to those of us outside government. He helped us understand the inner workings of "bio-politics," as he so often referred to it. He generously shared his time and his experience and his expertise. He never sought the limelight, always keeping a low profile, despite his important roles in a variety of environmental issues. He was a public servant of the highest order. I am proud to have known him, and I am a better person for it.

Scott McLean. * * * The dedication of the marsh is an appropriate epitaph to Steve, especially to those who knew what the "resource" meant to him. What Steve was doing at the time of his death personifies what all of us who work for the resource put on the line in order to protect, maintain, and perpetuate the wildlife resource. We strive to learn and understand all that we can by doing the task in which Steve was engaged. Although his loss saddens us and may make us a little more fearful of the work that he was doing and that we often do, we should keep in mind that this is part of what we love about this job and the satisfaction that if we can help improve the resource by learning a little more about it, maybe it is worth the risk. This may sound somewhat idealistic but that little bit of idealism is what keeps the spark in our desire to "do something for the resource."

Erling Podoll. * * * Anyone who knew Steve was aware of his zeal for the proper management of wildlife habitat and most importantly wetlands. He would consider it a worthy memorial—your dedication of a marsh in his honor.

Ron Shupe. I know Steve would be very pleased about the location of the Stephen J. Young Marsh. His love of the outdoors, of wildlife, and especially wetlands was first begun as a neighbor of yours. He often told me of his early years visiting the Refuge and learning about wildlife and nature. His untimely passing was and is a shock to all of us. But with that sorrow, I also know that Steve is up there smiling down on his wife and children, proud of their doing their best to live up to his expectations. I can think of no greater legacy than what Steve has left us, his love and dedication to wildlife, wetlands, and the environment.

TELL CITY, IN.

TO THE FAMILY AND FRIENDS OF STEVE: There is no more fitting place for Steve to be remembered than in his beloved home territory, the Mississippi Wildlife Refuge. Steve knew intimately the backwaters, swamps, and woodlands of this area. It was here in this jewel of a natural area that he grew from a child into a young man. It was here where he developed his love of wildlife and the land. It was here he absorbed the lessons of nature, developed his personal values, nurtured his character, and developed a life long passion to dedicate himself to the betterment of wildlife resources. And it was here, no matter where he traveled, and no matter how much he enjoyed his new surroundings, that he longed to be.

Steve and I spent many hours during our college years pursuing largemouth bass and white-tailed deer around the Swanton area. The most important harvest we realized from treks in the woods, hours in a boat, or time around a campfire was our shared philosophies as we developed our values and beliefs in our soon to be realized profession of wildlife management. Our paths took us on journeys separated by hundreds or even thousands of miles but our kindred spirits were linked through the many of hours spent around the Missisquoi.

The phone would ring at odd intervals, sometimes several months would go by with no communication. Conversations often began on serious biology stuff, strategy, politics, ramifications of certain decisions or disclosures of an analysis but I do not believe we ever conversed without talking about meeting in the Missisquoi area for "one more" adventure. As our careers matured and our lives filled with job and family responsibilities it was always the promise of a trip down the Missisquoi that allowed us to rebond and drop the burdens of mid-life to share once again the anticipation, warmth, and camaradrie two people who care for and respect each other may feel.

I remember clearly a phone call to request I be best man at his wedding. The excitement and love he felt were obvious. The wedding was to be in North Dakota and they would then come to Swanton where Steve wanted to show his new bride the land around Swanton that meant so much to him. A few years later a call came in about a beautiful new daughter and the pride he was feeling came across the phone. This wonderful new dimension to his life added depth and deepened his love and commitment to his family * * * but we still ended by talking about a trip down the river and into the Missisquoi. Then it was a new son who he couldn't wait to "take deer hunting in Vermont".

Like all old friends we shared hopes, dreams, and speculated on the future. Always we were both in the picture doing what we both enjoyed most. Steve's dream was to retire in Swanton, live on the river and enjoy the beauty and resources of the Missisquoi and surrounding environments. We rush * * * but someday we would again float the peaceful river, enter the almost alien environment of the delta and fish for bass and bullheads. We would once again flush wood ducks and great blue herons, listen to the bullfrogs, swap stories and philosophize over where our lives had taken us and what we had done.

Events do not often unfold the way we think they should or wish they will. It gives me some sense of peace however that if I am fortunate enough to make it to the winter of my life I will be able to return to the Missisquoi and visit one more time the area my great friend and confidant loved so deeply. I will never doubt Steve's presence in this beautiful piece of Vermont. It is truly fitting and worthy that he be remembered by the dedication of this marsh in his name.

A Friend Always,

JIM DENONCOUR.

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Fairbanks, AL, August 17, 1994.

ROBERT A. ZELLEY,
Refuge Manager, Missisquoi National Wildlife Refuge, Swanton, VT.

DEAR AL: All of us on the Yukon Flats and Kanuti National Wildlife Refuge staffs were very pleased to learn about the dedication of the restored marsh on Missisquoi National Wildlife Refuge to our friend and co-worker Steve Young. We believe that dedicating a restored marsh in Steve's memory is particularly fitting because Steve had such a devout interest in and concern for the conservation of wetlands and waterfowl. It is also very fitting that the project was done in Steve's hometown and in cooperation with Ducks Unlimited, since Steve was a loyal and active member of DU.

Steve accomplished much during his 16 years with the U.S. Fish and Wildlife Service. He received numerous awards for his work with refuges, waterfowl, flood control projects, and the Garrison Diversion Unit in North Dakota. His efforts contributed greatly to the conservation and management of wetlands and National Wildlife Refuges in Alaska and the Dakotas.

Although, Steve had a relaxed, easy-going demeanor and a very "comfortable" personality, he also had bull-dog determination, an eye for details, and a penchant for thorough record keeping (to which Kim can attest). Steve was known as a tireless, dedicated professional who loved the National Wildlife Refuge System and was proud to be an employee of the U.S. Fish and Wildlife Service. We know he would be very honored to have his efforts and contributions to wildlife and wetland conservation remembered in such a fitting manner.

It is nice for us to know that Steve's memory will live on not only in all of us who knew and worked with him, but also in all who visit the Stephen J. Young Marsh.

We would like to thank you, the rest of Missisquoi staff, Duck Unlimited, and Ben and Jerry's Homemade, Inc. for this very appropriate tribute to Steve. He will always be in our hearts.

Sincerely,

TED HEUER,
Refuge Manager, Yukon Flats, NWR.
TOM EARLY,
Refuge Manager, Kanuti NWR.

THE ECONOMICS OF INSOMNIA

Mr. HATFIELD. Mr. President, I rise today to update my colleagues on an issue that should be a wake up call to every person in America. In an article to be published this month by Melissa Stoller of the University of Chicago, in the medical journal Clinical Therapeutics, it is estimated that the annual economic cost of insomnia due to reduced productivity, accidents, and medical problems is between $92.5 and $107.5 billion. This figure does not even begin to include the toll that insomnia takes in terms of human suffering, decreased quality of life or deteriorated personal relationships.

This is not a problem that affects only the few. Research consistently shows that in any given year 30 to 40 percent of the U.S. population suffers from insomnia. The majority of these cases are not associated with a psychiatric or medical problem.

The average person is absent from work 1 day per month. However, the average workers suffering from insomnia misses 2.8 additional days per month. The estimated cost of absenteeism to a single organization is more than $4,800 per year. The most obvious result of nighttime insomnia is daytime sleepiness. This daytime impairment is associated with more sleep during work breaks, markedly reduced productivity, and dissatisfaction with one's job. The estimated annual cost of performance impairment due to insomnia is $41.1 billion.

In addition, both work-related and motor-vehicle accidents are more likely committed by someone suffering from insomnia than by a well rested individual. Insomniacs have about 1.5 times as many work-related accidents as the rest of the population and have auto accidents 2 to 3 times more often. It is estimated that sleep-related accidents cost $43 to $56 billion annually; $29 to $38 billion for motor vehicle accidents; $10 to $14 billion for work-related accidents; and $2 to $3 billion for at-home accidents.

It has also been found that insomnia is directly linked with heart disease, high blood pressure, diabetes, stroke, and depression. Persons with poor sleep see the doctor more often and have more health problems than those who sleep well. Insomnia has also been related to higher levels of depressive illness and alcoholism. People who sleep less than 6 hours per day have a 30 percent higher death rate than those who sleep 7–8 hours.

In 1993 the National Commission on Sleep Disorders Research reported to Congress on the need to establish a National Center for Sleep Disorders Research. I introduced legislation and in the 1993 NIH reauthorization the National Center was established and housed within the National Heart, Lung and Blood Institute. In the few months that it has existed, the National Center has done a tremendous job in starting a national public awareness campaign on sleep disorders while coordinating their activities with other Federal agencies. However, there is still a long way to go and the National Center needs the participation and cooperation of all branches of the government in order to make the public and health professionals aware of the seriousness of insomnia and other sleep disorders.

As you can see, insomnia is a problem that has an astronomical economic impact on our society. With such grave consequences, insomnia can no longer be thought of as simply an irritating but inevitable part of modern life. It must be viewed as a potentially life-threatening condition that can and should be treated.

I ask unanimous consent that the article be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Clinical Therapeutics, 1994]

ECONOMIC EFFECTS OF INSOMNIA

(By Melissa Kaleta Stoller, MA)

ABSTRACT

Insomnia affects up to 40% of the general population yearly and is a significant cause of morbidity and mortality. The direct and indirect costs of insomnia place a tremendous economic burden on society and employers. In addition to the cost of the medical treatment and drugs, measurable costs of insomnia include reduced productivity, increased absenteeism, accidents, and hospitalization, as well as medical costs due to increased morbidity and mortality, depression due to insomnia, and increased alcohol consumption. This article reviews the literature on the economic costs and effects associated with insomnia. Based on the data reviewed, a conservative estimate of the total cost of insomnia was calculated at $92.5 to $107.5 billion. Early recognition and treatment of insomnia can reduce the costs associated with the condition, as well as possibly prevent other illnesses.

INTRODUCTION

Insomnia, or difficulty falling or staying asleep, is one of the most pervasive problems affecting human health. Research and surveys consistently have reported that 30% to 40% of the general population suffer from insomnia in a given year.[1-7] Similar insomnia rates, averaging 32.4% are reported for Europe and Australia,[5,6] suggesting that insomnia is a global problem. About one half of the cases are classified as moderate to severe. The majority of persons suffering from insomnia have primary insomnia;[8] they do not have a psychiatric or medical problem that accounts for their insomnia. Estimates for the current prevalence of insomnia (i.e., the portion of the population that is actually suffering at any one time) range from 13.4% to 48%.[4,9] largest US study reports a current prevalence of 32% to 33%,[10] which is the estimate used throughout this article.

Insomnia carries an incalculable cost in terms of human suffering and deterioration in personal and professional relationships. Sufferers report reduced satisfaction with life; loss of opportunity; deteriorated relationships with children, spouses, and coworkers; reduced ability to cope; and reduced enjoyment of life.[3,7,11,14] Family and friends also may be affected and their lives disrupted.[7] These costs are not considered here. What will be assessed are the quantifiable economic costs of insomnia to society and employers.

Footnotes at end of article.

The objectives of this article are to review the literature on the economic costs and effects of insomnia, provide a current summary of recent research addressing these issues, compile data reflecting the economic costs of insomnia, and calculate and summarize them as precisely as possible.

Both direct (medical treatment and drugs that address the complaint of insomnia) and indirect costs are involved. The indirect quantifiable costs of insomnia are summarized in Table I. Fortunately, good data exist to establish a range of values for many of these costs. Some factors, such as increased mortality associated with insomnia, are discussed, but no dollar figures are presented. An attempt was made to present the most recent cost estimates and relevant data for all categories. With one exception noted in the text, dollar figures were not adjusted for inflation. Although the analysis is not precise, a reasonable estimate of the overall cost of insomnia in the United States can be calculated.

TABLE I.—INDIRECT COSTS OF INSOMNIA

Measurable work loss due to reduced productivity and increased absenteeism.

Accident costs (death, disability, property damage, medical expenses) resulting from significantly higher accident rate.

Hospitalization and medical costs related to increased morbidity and disproportionate utilization of primary care resources.

Depression related to chronic insomnia.

Increased mortality associated with habitually short sleep.

Self-treatment with alcohol.

LOSS OF PRODUCTIVITY

Many persons with insomnia know intuitively what can be quantitatively demonstrated—the most devastating cost of insomnia both to individuals and society may be the reduction in productivity. Work performance is compromised in two ways: increased absenteeism (loss of time from work) and reduced effectiveness (loss of productive ability).[15, 18]

Absenteeism

Insomnia was a powerful predictor of absenteeism (Figure 1)* in a large, cross-sectional national study that assessed 37 employee and job attributes. It was a more powerful predictor of absenteeism than even age or job satisfaction. The only employee attribute that correlated more strongly with absenteeism was being a mother of small children.

The negative consequences of increased absenteeism run throughout an organization. For the worker who is frequently absent, there is loss of pay and stature, while coworkers suffer from increased work load and increased work coordination problems, as well as decreased productivity.[19] There also may be an increased accident rate, both for coworkers and the worker replacing the absentee who are forced to perform additional or unfamiliar work.[19, 21]

It is estimated that more than 400 million workdays are lost to absenteeism each year. A 1977 study estimated that the cost of absenteeism among nonmanagerial personnel was about $66 per day.[22] This figure included replacement or overtime, fringe benefits, overhead, productivity loss, and accident and grievance costs. Adjusted by the increase in the employer's costs for employee compensation, which have roughly doubled from $7.43 to $16.14 since 1977,[23, 24] the cost per absent day can now be estimated at $143.22 for nonmanagerial workers, or more than $57 billion per year. Whereas an average worker is absent about 1 day per month, a worker suffering from insomnia is absent approximately 2.8 additional days per month,[15] costing an organization more than $4800 per year.

Performance Impairment

Nighttime insomnia goes hand in hand with impaired daytime functioning. Laboratory studies of task performance by individuals with insomnia have concluded that this group demonstrates impaired daytime performance.[25] A study of 691 persons with untreated insomnia showed that they recognize their impaired daytime functioning: 83% reported being "easily upset, irritated, or annoyed," 78% reported being "too tired to do things," 59% reported having "more trouble remembering," and 43% reported being "confused in their thinking."[14]

Lavie's[1] large detailed study of the lifestyle, health, sleep, and work habits of 1,502 employees concluded that sleep habits directly affect the workplace. Daytime fatigue, a common result of insomnia, was associated with significantly more sleeping during work breaks (14.2% vs 3.5%, $P < 0.001$), significantly higher frequency of stopping work to take short naps (16.8% vs 1.4%, $P < 0.0001$), and significantly less satisfaction with one's work ($P < 0.03$). The association between insomnia and reduced efficiency was supported by the results of a 1992 survey, which recorded two to three times as many days of poor productivity and concentration in individuals with insomnia as in good sleepers.[26] A third study that matched insomniacs with good sleepers found that good sleepers spent twice as much time working, studying, or communicating compared with insomniacs (Figure 2).[12]* Poor sleepers were twice as likely to be relaxing during the day.

To complete an economic analysis of insomnia the following questions must be asked: What is the effect of these complaints and habits on overall productivity? What are the economic consequences of insomnia over the course of a career and within an organization? This analysis will limit itself to workplace productivity, although insomnia is unquestionably related to reduced household productivity as well.

The standard technique used in cost of illness studies is to equate wages with productivity.[27, 28] In an efficient market, persons will be paid a wage equal to the value of their output.[27] Diminished efficiency, therefore, should be reflected by lower earnings in subjects with insomnia compared with good sleepers when other variables are held constant. An extensive longitudinal study of 2929 subjects documented the career consequences and overall performance decrement associated with insomnia.[18] Tracking Navy servicemen who entered the service at the same level, the study found that impaired sleepers received significantly fewer promotions (Figure 3),* remained in lower pay grades, received fewer positive recommendations, and had higher attrition rates compared with good sleepers. This study concluded: "In all measures used as indices of Navy performance, poor sleepers performed significantly less effectively."[18]

Estimates of reduced workplace productivity due to insomnia also can be derived from studies of school performance by individuals with and without insomnia. Schoolwork generally is graded numerically, allowing for quantitative comparisons of retention and output among different quality of sleep categories. Results from a 1990 study showed that insomnia was the most powerful predictor of school failure, more significant than parental education and profession; the rate of failure among insomniacs was twice that of noninsomniacs.[17] Similarly, a long-term study of medical school students demonstrated that quality of academic performance varied directly with perceived quality of sleep.[29]

Dollar Cost of Reduced Productivity Due to Insomnia

A calculation of the actual dollar cost of insomnia related to reduced productivity follows. The calculation is based on data from the Johnson and Spinweber[18] study of Navy servicemen.

Method

Earnings are used to represent productivity, as summarized by the Department of Health and Human Services: "To estimate the value of losses due to reduced productivity, the method used is to take the difference in earnings or income between [affected] and [nonaffected] groups. . . . Attempts are made to account for other factors such as age, education, family structure, that undoubtedly influence earnings."[27]

Johnson and Spinweber[18] present wage data from two populations of insomniacs and noninsomniacs entering the work force at the same level; the data were controlled for sex, age, and education (Table II). Using both population samples and wage data from the 1994 Navy Times pay chart,[30] the performance decrement associated with insomnia can be estimated at 4%. This can be compared with an estimated 6.63% inefficiency rate for alcoholic individuals (calculated with labor force data only).[27]

TABLE II.—HIGHEST PAY GRADE ATTAINED IN TWO POPULATIONS OF NAVY SERVICEMEN CLASSIFIED AS POOR OR GOOD SLEEPERS.*

	Percent at Pay Grade in 1981 *						
	E1	E2	E3	E4	E5	E6	E7
Population 1 (n=1043)							
Poor sleepers	9.17	11.01	13.76	40.37	22.02	2.75	0.92
Good sleepers	2.77	6.13	11.86	45.85	32.61	0.79	0
Population 2 (n=1186)							
Poor sleepers	16.49	15.96	38.83	27.66	1.06	0	0
Good sleepers	8.50	17.19	31.74	40.14	2.44	0	0

*Initial data collection periods: 1976 and 1977 for population 1; 1978 and 1979 for population 2.

Employing the cost-analysis approach, the cost to society of this reduced productivity is calculated from the following equation:

LOSS $=(POP•PREV)(b•Y)

where POP = number of labor force participants, or 127 million[23]; PREV = prevalence rate, or 33%; b = percentage income loss for afflicted individuals, or $5; and Y = average income for those without the disorder, or $24,575, the mean annual pay for 1991.[23]

The following assumptions will be made: (1) the entire loss of income associated with insomnia is due to insomnia and not to another uncontrolled variable; and (2) the performance decrement associated with insomnia does not differ by sex, although performance impairment data are available only for men.

In addition, several factors will result in an underestimation of the cost of diminished productivity in persons with insomnia: 1. Because the sample controls for educational and occupational variables (students entering a training program at the same level), true income loss will be underestimated. Insomnia affects not only current income but also occupational and educational attainment; that is, this calculation will not measure the cost of the insomniac's inability to enter this sample population due to past performance impairment.

2. Average earnings are not adjusted for insomnia. A precise estimate would consider mean earnings for the nonafflicted population, not for the general population, not for the general population. These data generally are not available, and cost-of-illness studies commonly substitute general population data.[27] However, this may result in a significant underestimation of the lost production costs attributable to insomnia as it is so prevalent.

3. The performance impairment data are based on military data. The military probably is less of a true market than the civilian workplace. Income in the military may correlate more strongly with tenure than with achievement.

4. We will assume that there is no increase in unemployment due to insomina; that is, the loss of efficiency associated with insomnia does not result in job loss. However, some persons with severe insomnia presumably may become to impaired that they are unable to work.

5. Additional costs related to the increased absenteeism of the insomniac may be partially reflected in the wage data and in the costs associated with increased morbidity. Therefore, to avoid double counting, costs associated with increased absenteeism are not included in the final productivity calculation

Results

A conservative estimate of the cost of performance impairment due to insomnia is $41.1 billion per year, based on a 4% reduction in productivity among the 42 million working Americans suffering from insomnia. The estimate is conservative because it considers only loss of work productivity among those earning an income. It does not include measures of increased unemployment among persons suffering from insomnia, lost opportunity costs due to insomnia-related academic failure, or lost household productivity.

Special Productivity Issues

Of particular concern to employers is the possibility that insomnia is not only associated with impaired daytime functioning generally but also with failure to respond appropriately to challenge or emergency situations.[31] In other words, the individual with insomnia shows marked deterioration in performance under the high stress or "deadline" conditions commonly associated with certain lines of work. This type of performance breakdown may explain the finding that highly intelligent poor sleepers who performed successfully in college were significantly less successful than good sleepers once they entered the more stressful and competitive atmosphere of medical school.[29] Similarly, Spinweber and Bellune[32] concluded from their analysis of the performance of participants in an extremely stressful training program—"hell week" of the elite special force Navy SEAL teams—that those who developed insomnia would not succeed. Despite its being significant, particularly in situations were training is intense and expensive, the economic impact of this type of insomnia-related critical performance failure cannot be assessed.

COST OF INSOMNIA-RELATED ACCIDENTS

Accidents Related to Sleepiness

An increasing amount of attention is being given to the role of fatigue as a cause of accidents. It has long been recognized that, in industries and occupations in which constant vigilance is required, accidents do not occur at random times—they peak during the hours the workers are most likely to be sleepy.[13] As early as 1970, the US Bureau of Motor Carrier Safety concluded that 30% of truck accidents involved a sleeping driver.[33] Other groups have found that fatigue was the primary cause of 41% of truck accidents and a secondary cause in an additional 18%.[24] Leger[35] calculated that 41% to 54% of motor vehicle accidents were fatigue related. A similar figure for commercial vehicle accidents was presented by the Arizona Department of Public Safety, which concluded that 42% to 49% were due to driver sleepiness or inattention.[35] The National Transportation Safety Board (NTSB)[36] found fatigue was the cause of 57% of fatal truck accidents, based on reconstruction of the accident site and driver sleeping history.

The somewhat higher rate of fatigue-related accidents found by the NTSB can be explained by the fact that it considered only fatal commercial vehicle accidents, whereas the Arizona Department of Public Safety figure considered all commercial vehicle accidents. Fatigue-related motor vehicle accidents tend to result in disproportionately more severe injury and property damage, with drivers often falling asleep on highways and hitting barriers or crossing the midline.[31, 37] In one study, 27% of drivers who lost consciousness while driving had fallen asleep; that 27% accounted for 83% of the fatalities.[37]

A recent study calculated the cost of sleep-related accidents for the year 1988.[35] The Human Capital Approach method, which uses wages to represent output, was used. Costs for different accident categories were divided into direct and indirect costs. Direct costs included medical and treatment expenses; indirect costs included loss of productivity due to missed work or premature fatality. The study concluded that the total cost of sleep-related accidents was $43 to $56 billion, including estimates of $29 to $38 billion for sleep-related motor vehicle accidents, $10 to $14 billion for fatigue-caused work-related accidents, $2 to $3 billion for home-based fatigue-caused accidents, and $1 to $2 billion for public accidents caused by fatigue.

Increased Rate of Accidents Among Insomniacs

Because sleepiness is implicated as the cause of up to 50% of certain types of accidents,[35] it is not surprising that persons with insomnia have a higher overall accident rate compared with the general population.

Comparing general accident rates in more than 5000 adults, Balter and Uhlenhuth[38] calculated an accident rate for chronic insomniacs that was 3.5 to 4.5 times that of the control group (Figure 4).* The authors concluded that a high accident rate is one of the unexamined consequences of insomnia and signals a need for greater physician intervention. Several other studies[1,7,26,40] specifically investigated the rate of motor vehicle accidents and the rate of work-related accidents among insomniacs. Data from these studies can be used to estimate the total cost of insomnia-related accidents.

Motor Vehicle Accidents

Individuals with insomnia are reported to have auto accidents at a rate two to three times higher than the general population.* A 1991 Gallup Poll found chronic insomniacs reported 2.5 times as many fatigue-related car accidents compared with good sleepers. Aldrick[40] found that 29% of men and 15% of women with disorders of excessive daytime sleepiness had had fatigue-related car accidents, compared with 11% and 6% in the male and female control groups, respectively (both groups, $P < 0.01$ vs controls). The increased car accident rate among insomniacs may be a result of daytime fatigue, as the frequency of drowsy driving doubles or triples in poor sleepers compared with good sleepers (1.9 vs 0.8, $P < 0.05$, Figure 5).[26]

Work-Related Accidents

Lavie[1] found that the most striking significant difference between workers with excessive daytime sleepiness and the rest of the population was the percentage that had work accidents (52.1% vs 35.6%, $P < 0.0005$). The rate of work-related accidents among individuals with insomnia can be estimated at 1.5 times that of the general population.

Why do insomniacs suffer two to three times the number of auto accidents but only 1.5 times the number of work-related accidents? The possible discrepancy is explained by Leger's[35] findings that although 52.5% of work accidents might reasonably be associated with sleepiness and human error, the vast majority of motor vehicle accidents are caused by human error. Taking these statistics into account, the numbers are in remarkably good agreement. In both cases, insomniacs cause two to three times as many accidents as noninsomniacs.

Cost of Insomnia-Related Accidents Methods

The total cost of insomnia-related accidents can be estimated by calculating the difference between accident costs in insomniacs and accident costs in a group of the same size from the general population:

$$\$\ \text{ACCIDENT} = (\text{PREVI RISK } n) + \text{PREVG } n)$$

solve for n, then:

$$\$\$\ \text{COST} = (\text{PREVI RISK } n) - (\text{PREVI } n)$$

where $ ACCIDENT = cost of all accidents of the type being considered in a given year ($70.2 billion for motor vehicle[41]; $47.1 billion for work related[41], $9.86 billion for home and public accidents—falls and transportation based[35]); $$ COST = cost of insomnia-related accidents; PREVI = prevalence of insomnia, or 33%; RISK = rate of accidents of the type being considered in insomniacs compared with that in the general population, estimated at 2 to 3 for motor vehicle[26] and 1.5 for work related[1], and PREVG = prevalence of good sleepers, or 67%. Each category of accident is considered separately.

No specific data are available on the rate of home-based or public accidents in insomniacs. Home-based or public accidents account for only $28.3 billion of the $143.4 billion total cost of accidents.[40] For the purpose of estimating the total cost of these accidents due to insomnia, the accident rate will be estimated as being two to three times that in noninsomniacs. It seems reasonable to assume that the increased risk for home-based or public accidents is similar to the increased risk for auto-and work-related accidents. As with work-related accidents, not all home or public accidents are potentially related to fatigue. Therefore, only falls and transportation-based public accidents, which account for $9.86 billion of the total $28.3 billion, will be considered.[35]

A second method can be used to calculate the cost of work-related accidents due to insomnia. The method multiplies the cost of work-related accidents calculated by Leger[35] to be possibly sleep related ($24.7 billion) by the standard risk factor for insomniacs—2 or 3—and the frequency of insomnia—0.33. The difference between this figure and the expected costs for a noninsomniac group calculated as above yields an estimated cost of $6.13 to $9.82 billion for work-related accidents due to insomnia. thus both methods yield cost estimate that are in good agreement.

Results

The economic cost of the high accident rate among insomniacs is staggering. The total cost of insomnia-related accidents is estimated at $26.42 to $38.43 billion per year compared with the total costs of accidents in 1988 of $143.4 billion (Table III). These estimates are based on 1988 accident statistics and should be considered low, due to inflation and increased health care costs. Furthermore, these figures do not include the cost of time lost by people not directly involved in the accident, lawsuits directly related to accidents, or catastrophic accidents caused by impaired performance in the insomniac.[35] These costs may not be inconsequential; litigation and settlement costs of a serious trucking accident exceeded $8 million in a case reported by the National Commission on Sleep Disorders.[3]

TABLE III.—TOTAL COST OF ACCIDENTS IN 1988 AND THE COST OF INSOMNIA-RELATED ACCIDENTS

Accident type	Dollar cost in billions	
	Total	Insomnia-Related
Motor vehicle	70.2	17.41 to 27.91
Work-related	47.1	6.60
Home and public	28.3	2.44 to 3.92
All accidents	143.4	26.42 to 38.43

Catastrophic Accidents

It has been observed that insomniacs who perform adequately under normal conditions may exhibit a marked decrease in performance under high-stress conditions.[29] The Association of Professional Sleep Societies' Committee of Catastrophes, Sleep and Public Policy concluded, after examining several industrial catastrophes: "Sleep loss combined with a period of stress, such as is faced by working groups before production deadlines and launch deadlines, can lead to personality change and irrational behavior."[31]

Although there are many catastrophes in which sleepiness, sleep disorders, and fatigue are clearly implicated, it is not possible to estimate the fiscal impact of insomnia-related catastrophic accidents.[42, 43] Despite post hoc attempts to reconstruct chains of events, decision making, and actions that unfolded during a crisis and to correlate these with sleep impairment, consumption of alcohol, or any other lifestyle issue, it essentially is impossible to attribute a catastrophe to one single cause, such as insomnia.[31, 42, 43] Nevertheless, based on reconstructed sleep/wake histories of key personnel, fatigue has been implicated as a cause or a confounder of many catastrophes (Table IV).

TABLE IV.—SLEEP-RELATED CATASTROPHES[31, 42]

Accident	Cause/Damage
Nuclear power:	
Three Mile Island	Coolant loss ignored by tired worker.
Chemobyl	Reactor meltdown.
David Besse reactor	Safety feature overridden by fatigued worker.
Rancho Seco reactor	Control system power loss.
Space/air travel:	
Space Shuttle Challenger explosion.	Errors by fatigued managers.
Columbia Launch abortion	Loss of fuel overlooked by fatigued operators.
China Airlines Flight 006	Loss of control by fatigued captain.
Rail:	
Burlington Northern head-on collision (Wiggins, CO).	Engineer asleep/estimated damage: $3,891,428.
Burlington Northern derailment (Newcastle, WY).	Engineer asleep/estimated damage: $1,358,993.
Sea:	
Exxon Valdez grounding	Inexperienced and fatigued third mate.
A. Regina grounding	Estimated damage: $5.2 billion. Master of ferry insomniac/damage: $5 million.

The economic impact of catastrophes may run as high as $5.2 billion for the grounding of the Exxon Valdez. Such estimates may be too low, however, as the real cost of a catastrophe may be the loss of public trust.[43] After the Three Mile Island nuclear accident, no nuclear reactors were built in the United States. What price can be put on the virtual dissolution of an industry? Nonetheless, despite the potential magnitude of this factor, the absence of quantitative data and the inability to measure the degree to which insomnia-related fatigue is a factor makes it impossible to obtain an accurate economic analysis of the cost of insomnia-related catastrophes.

MORBIDITY AND MORTALITY

Long-term epidemiologic studies have shown that insomnia and habitually short sleep, less than 6 or 7 hours per night, are directly related to the development of heart disease, high blood pressure, diabetes, stroke, and clinical depression.[44-48] Several very large long-term studies have reported a significant increased risk of death among those who complain of poor sleep.[44,49,50] Numerous studies have attempted to assess the degree to which insomniacs consume a disproportionate amount of health care resources and burden the health care system. This section will assess the cost of this morbidity and dependence on health care by individuals with insomnia.

Insomnia-Related Morbidity

Habitual short sleepers and isomniacs are at higher risk of becoming ill than are good sleepers. More than 50% of those suffering from insomnia reported two or more health problems during the past year, compared with approximately one third of the entire population.[2] In a study of 5419 Finnish men, short sleepers had significantly more symptoms of coronary heart disease. This correlation held after controlling for possible risk factors of coronary heart disease and confounders.[46, 49] The American Cancer Society study on more than 1 million adults documented a higher rate of fatal coronary heart disease, stroke, and cancer in persons with habitually short sleep.[44,50] Shift workers who exhibit high rates of insomnia have a higher incidence of gastrointestinal disorders and heart disease.[45, 51] Industrial workers who suffered from excessive daytime sleepiness were found to have significantly higher rates of asthma, high blood pressure, arthritis, and ulcers compared with satisfied sleepers.[1]

The extent to which the association between insomnia and poor sleep reflects compromised recovery or actual debilitation in the insomniac due to sleep deprivation is unclear. It is likely that insomnia is both a cause and effect of poor health; the person with insomnia becomes trapped in a cycle of pain or illness that interrupts sleep, and simultaneously, the lack of sleep compounds the disability.[3] Until more data are collected on the role of sleep in promoting good physical health and recovery and the degree to which insomnia actually causes rather than is associated with the development of illness, the cost of insomnia-related morbidity cannot be estimated. This does not mean that such costs should be ignored, however. Other conditions that may compromise resistance and recovery, such as alcohol abuse, escalate health care costs by billions of dollar.[27]

A different, intriguing perspective should be considered. To the extent that it is an indicator of poor health[2,46] or a risk factor for the development of future disease,[44,47] insomnia theoretically could save society and employers money. This would be the case if persons suffering from insomnia sought treatment, and physicians, recognizing insomnia as a warning signal, screened for and prevented future somatic and psychiatric diseases. This scenario does not seem likely at this time because of the widespread reluctance of insomniacs to seek treatment and the tendency for physicians to trivialize the complaint of insomnia.[39,52]

Insomnia-Caused Depression

For many years, insomnia has been related to higher levels of depressive illness.[2,5,47,53] As many as 70% of depressed patients report suffering from insomnia.[5] Only recently was it recognized that insomnia may precede the development of depression and may be a causal factor rather than a sequela. A study of 7946 adults, characterized as "probably one of the most scientifically rigorous epidemiologic investigations of sleep disturbance and psychopathology ever reported,"[53] found a dramatically lower incidence of new major depression in patients whose insomnia has resolved (Figure 6).* By considering only the development of new depression in the insomniac and noninsomniac population, this study clarified the role of insomnia in causing depression, not just the previously documented association between insomnia and depression. The study showed that individuals whose insomnia had resolved had a slightly higher, though statistically insignificant, risk (1.6) for developing major depression compared with noninsomniacs. The risk of depression in unresolved insomniacs skyrocketed to 39.8 times that of the noninsomniacs. The incidence of developing major depression was 0.4% for noninsomniacs, 0.6% for resolved insomniacs, and 14% for unresolved insomniacs. The investigators concluded that early recognition and treatment of sleep disorders could prevent future psychiatric disorders.

Depression and mental health disorders are among the most costly and destructive illnesses. An estimated 12 to 20 million Americans suffer from depression with an annual direct cost to society of $10 billion.[3,8] If up to 95% of new cases of depression in chronic insomniacs could be prevented through resolution of the insomnia, the direct savings in medical care alone could be billions of dollars.

Disproportionate Utilization of Health Care by Insomniacs

Insomnia is associated with approximately a twofold increase in the rate of hospitalization[11] and a two- to three-fold increase in office consultations.[6] Elderly persons with insomnia have a higher rate of institutionalization in nursing homes than do elderly noninsomniacs.[54] The increased dependence on medical care may reflect both increased morbidity and mortality associated with insomnia, as well as an increased rate of serious accidents.

In a study comparing two large insomniac groups with controls, Kales et al[11] documented that adult chronic insomniacs had a rate of hospitalization twice that of noninsomniacs. Patients suffering from chronic insomnia had been hospitalized a mean of 2.7 times compared with 1.4 hospitalizations for the control group ($P < 0.01$). Similar results were presented in a study of more than 1500 adults that examined the extent to which persons suffering from insomnia used general hospital services: 21.9% of adults with moderate-to-severe insomnia had had a nonpsychiatric admission in the last year compared with 12.2% of controls ($P < 0.001$).[6] Bixler et al[10] reported a somewhat lower but significant rate of hospitalization among adults with insomnia: 15.7%, compared with 11.6% of the total sample ($P < 0.01$). However, because 42.5% of the total sample was classified as having insomnia, the hospitalization rate of the noninsomniac population presumably was significantly lower than that of the total sample.

Of particular interest to employers are two studies that compared the hospitalization rate of employees with and without insomnia. Johnson and Spinweber's[18] major longitudinal study reported that 53.2% of poor sleepers had been hospitalized one or more times compared with 39.9% of good sleepers ($P<0.02$) and that 24.8% of poor sleepers had been hospitalized two or more times compared with 14.2% of good sleepers ($P<0.01$). Lavie's[1] study also found a significantly higher rate of hospitalization among those complaining of poor sleep and excessive daytime sleepiness (63% vs 52.4%, $P<0.03$).

The economic costs related to an increased hospitalization rate are substantial. Using an average of 1.3 additional hospitalizations per person with insomnia[11] and estimating the average cost of a single hospital admission at $5947.27,[55] the additional hospital admissions in each of the approximately 32 million adults with severe chronic insomnia[3] would cost society more than $25 billion.

Insomnia also constitutes a major burden for the primary care physician.[6,47,56] Some data document a doubling of primary care consultations due to insomnia, from a mean of 5.25 consultations per year in good sleepers, to 10.61 per year in persons with mild insomnia, and 12.87 per year in persons with moderate-to-severe insomnia (Figure 7).* Extrapolating these data and the frequency estimates for insomnia to the 179 million Americans 20 years of age or older,[23] insomniacs would generate an estimated additional 328 million primary care consultations over the expected number. Of these, mild insomniacs are responsible for 143 million extra consultations, and moderate-to-severe insomniacs for 184 million. The cost of these consultations, using the 1990 mean office fee of $39.87,[55] is $13.08 billion.

Insomnia figures prominently in the decision to place an elderly adult in a nursing home. A study of men older than 65 years concluded that, of all the lifestyle and health factors considered, insomnia carried the highest hazard for nursing home placement, higher than age, poor health, or cognitive impairment (Figure 8).* Physicians have speculated that nighttime sleep disruption becomes unbearable for caregivers of elderly insomniacs.[39]

The annual cost of nursing home care is approximately $25,000 per patient, for a total annual cost of $59.9 billion per year.[57] For every day that insomnia hastens the institutionalization of an elderly person, the medical cost to society is about $80.[3,55]

Cost of Insomnia-Related Morbidity

The National Commission on Sleep Disorders Research report to Congress estimated that the direct medical expense of insomnia was $15.4 billion in 1980.[3] Despite clear evidence that insomnia is associated with increased morbidity, it is not possible to calculate the total indirect economic costs of insomnia-caused illness. Research is just beginning to address the issues of causation, covariance, and confounding factors in correlating insomnia with illness. The frequency with which insomnia occurs with other diagnoses creates a major measuring difficulty.[47]

In the preceding section, however, some calculations were made to give an idea of the magnitude of the indirect costs associated with insomnia-related morbidity. The cost of the additional physician consultations associated with insomnia was estimated at $13.08 billion per year. The cost of additional hospitalizations over the lifetime of chronic insomniacs was estimated at more than $25 billion. The increased risk of nursing home placement due to insomnia is documented, but associated costs were not estimated. None of these estimated costs are included in this report's final calculation due to the causation and correlation problems discussed above.

INSOMNIA AND ALCOHOLISM

Insomnia may be a causal factor in the development of alcohol abuse and thus contribute to alcohol-related morbidity and mortality. It has been long recognized that there is a significant association between alcohol use and insomnia (Figure 9).* The rate of alcoholism among insomniacs is twice that of good sleepers.[10,11,47]

Alcohol abusers frequently claim that they use alcohol as a hypnotic; 60% report using alcohol to self-treat a sleep disturbance.[59] Despite the fact that 28% of insomniacs report using alcohol to promote sleep,[7] there may be some doubt as to the legitimacy of the alcoholic's claim that his or her drinking is insomnia related.

However, two recent studies support a prodromal role for insomnia in the development of alcoholism.[47,59] In one study that examined sleep complaints and use of alcohol, 60% of alcoholic individuals claimed to use alcohol as a sleep aid.[59] Of these, the past sleeping history in 15.7% indicated that alcohol abuse developed after the sleeping disorder. From these data, it is reasonable to estimate that 9% to 10% of all alcoholism is the consequence of insomnia.

A very large epidemiologic study confirmed not only that insomnia may precede the development of alcohol abuse but also suggested that treatment of insomnia may reduce the risk of developing alcohol abuse.[47] The incidence of new cases of alcohol abuse was compared among good sleepers, those who initially had reported insomnia but whose insomnia had resolved, and those who had unresolved, and those who had unresolved insomnia. By comparing only new cases of alcoholism among those who were already suffering or had suffered from insomnia, the extent to which insomnia is a causal, not just an associated, factor in alcohol abuse was clarified. Unresolved insomniacs had 2.4 times the risk of developing alcoholism compared with good sleepers (Figure 10.* Those with resolved insomnia had a slightly higher risk of developing alcohol abuse (1.4 times) than did good sleepers. Considering only the approximately 15% of the population with severe chronic insomnia[3] and estimating that the odds of developing alcohol abuse could be reduced from 2.4 to 1.4[47] if the insomnia were resolved, we again reach the estimate that approximately 10% of all costs of alcohol abuse could be attributed to insomnia:

$$(0.85\ 1) + (0.15\ 2.4) = 1.21$$

$$(0.85\ 1) + (0.15\ 1.4) = 1.06 \text{ (a reduction of 12\%)}$$

Several economic studies have suggested that alcohol abuse may be one of the single most costly health problems in America.[3,27] Even the 10% estimated as being attributable to insomnia is a staggering figure. Four recent major studies, including that of the US Department of Health and Human Services, estimated the cost of alcohol abuse at $85 to $116 billion per year.[27] These estimates include the direct treatment costs of alcoholism, the costs of increased morbidity and mortality associated with alcoholism, reduced productivity and increased unemployment of the alcoholic subject, and expenses related to increased accident and crime rates for the alcoholic subject.[27] Using these estimates of the cost of alcoholism and the percentage of insomnia-related alcoholism, the annual cost of insomnia-related alcoholism may be between $8.5 and $11.6 billion. In addition, it has been demonstrated that alcohol and sleepiness interact to heighten the effect of each.[60-62] Thus insomnacs may be responsible for a disproportionate amount of the cost associated with alcoholism. When more precise data quantifying this interactive factor are collected, any prevalence-based estimate of the cost of insomnia related to alcoholism would have to be adjusted upward.

Increased Mortality Among Insomniacs

Despite the fact that insomnia carries a higher death risk than other factors, such as high blood pressure, which have received significant public attention, mortality associated with insomnia has received little attention.[63]

Several large studies have shown that insomnia, or habitually short sleep, is a powerful predictor of death and that this correlation remains strong even after other factors are controlled for, such as physical health.[44,64,65] The mortality risks associated with a series of health-related behaviors in 6925 adults aged 30 to 69 years were calculated in a 9-year study that controlled for age, sex, physical health, and many social and behavioral factors.[64,65] Sleeping fewer than 6 hours a day carried the same mortality risk as physical inactivity and high alcohol consumption; only cigarette smoking carried a higher risk (Figure 11).* Persons sleeping fewer than 6 hours a day had a 30% higher death rate than did those sleeping 7 or 8 hours ($P<0.01$).[65] The American Cancer Society study determined that habitually short sleep is associated with increased mortality in every age group, even after controlling for physical health.[44] Men 30 years of age or older who slept 4 or fewer hours per night were 2.8 times more likely to die within 6 years than were those who slept 7 or 8 hours; women who slept poorly were 1.5 times more likely to die.[50] This correlation was independent of age or medical history. Kripke et al[63] calculated a particularly high death rate among those persons habitually sleeping fewer than 5 hours. Sleep duration was a better predictor of mortality than a history of diabetes, heart disease, stroke, or high blood pressure. Another study that examined mortality in elderly adults calculated that sleeping fewer than 7 hours a night increased mortality risk 1.34 times in women and 1.6 times in men.[66]

The mechanism by which sleep duration or insomnia affects mortality is unknown. The American Cancer Society study suggested, "It is commonly hypothesized that sleep serves as yet unknown neurobiologic or restorative functions. Possibly, insufficiency or excess of these functions can impair longevity."[44] The direct correlation between sleep duration and mortality is further supported by data suggesting that treatment of insomnia reduces morbidity.[38]

Premature death carries a high psychosocial cost in terms of grief, pain, and suffering. The value of these cannot be estimated. However, each death has a concrete economic cost that can be estimated. For every premature death, society is denied the productive contribution that person could have made. Death takes a person out of the workplace and the loss to society is the loss of his or her future productivity, measured by his or her estimated future earnings. The value of a life is calculated as the arithmetic sum of predicted future lifetime earnings discounted by an adjustment rate, generally 6%. Expected future earnings are calculated from tables of annual mean earnings with a 1% per year rise assumed. Although this method has been criticized as an incomplete measure, it is straight-forward and measures an important aspect of the cost of disease—the reduction in economic resources caused by premature death. For these reasons, it has become the method of choice in cost-of-illness studies.[27, 28]

Estimates of the value of a single life using the Human Capital Approach method range from $568,546 for those aged 25 to 29 years, to $101,085 in those aged 60 to 64 years, the age at which earnings generally cease.[27] Because insomnia was associated with 3.8% of all deaths in the American Cancer Society study and was significant in all age groups (from age 30 to older than 90 years),[44] it can be safely assumed that billions of dollars are lost each year due to premature death associated with insomnia. Estimation of the true figure would involve a summation of the costs of the deaths directly attributable to insomnia in each of the age and sex categories based on wage data, a project beyond the scope of this article.

CONCLUSION

The direct and indirect costs attributable to insomnia are staggering. Data limitations prevent calculation of cost estimates for all factors that result in losses due to insomnia, and several factors, such as pain and suffering, marital problems, and an increased likelihood of catastrophic accidents due to insomnia, cannot be quantified. Nonetheless, the costs of insomnia may well reach more than $100 billion per year. Table V summarizes the estimated costs calculated in this article. Other cost estimates that were not included in the overall total due to possible overlap between cost categories and indirect costs that cannot be calculated are summarized in Table VI. Such costs may add substantially to the overall cost of insomnia to society.

Table V.—Summary of the total annual cost of insomnia

Related Cost	*Annual Dollar Cost in Billions*
Loss productivity	41.1
Direct medical cost of treatment	15.4
Insomnia-related depression	1.0
Insomnia-related alcohol abuse	8.5 to 11.6
Accidents:	
Motor vehicle	17.41 to 27.91
Work-related	6.6
Home and public	2.44 to 3.92
Total	92.45 to 107.53

Table VI.—Other costs related to insomnia

Costs that can be estimated:

Increase in employee absenteeism, $4800 yearly per individual with insomnia.

Increase in hospitalization rate, $7731 per individual with chronic insomnia.

Increase in primary care consultations, $13.08 billion yearly.

Indirect costs that cannot be estimated:

Catastrophes
Increase in morbidity
Increase in mortality
Lost job opportunities
Academic failure
Nursing home care

A silver lining may exist, however. New research suggests that insomnia may precede the expression of psychiatric and somatic disorders, such as depression and coronary heart disease. This finding raises the possibility that insomnia may serve as a valuable warning flag such that treatment of insomnia may have value in preventing other illnesses.[44,47] Unfortunately, many primary care physicians remain unresponsive to complaints of insomnia, and many persons suffering from insomnia trivialize their own conditions.[52] Thus this opportunity for interventon remains theoretical.

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*Illustrations not reproducible in the Record.

A FRIEND LEAVES WASHINGTON

Mr. WALLOP. Mr. President, several days ago, I spoke on the occasion of the Republic of China's National Day. The 83rd National Day will occur tomorrow. While we celebrate this important day, there is a note of sadness. The Republic of China's representative in Washington, Mou-shih Ding, is leaving us. He is returning to Taipei to assume very important new duties. He will be the Secretary General of the National Security Council. All of us in Washington who have worked with him know that Ding will provide vigorous leadership in this office.

I will miss his advice and counsel here in Washington, but as we both move on to new challenges, I look forward to continuing my friendship with Mou-shih Ding. Good luck in your new endeavor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. DECONCINI. Mr. President, I ask unanimous consent that in morning business I may speak until I finish my statement.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

TRIBUTE TO SENATOR GEORGE MITCHELL

Mr. DECONCINI. Mr. President, this evening there is going to be one of many tributes being paid to the majority leader, GEORGE MITCHELL, which I intend to attend. I know there is going to be very many nice things said about the majority leader tonight.

Mr. President, as we near the end of the 103d Congress and the end of my term in the Senate, I would like to pay tribute to one of the most admired individuals ever to serve in this body, our esteemed Majority Leader Senator GEORGE MITCHELL. The citizens of Maine, the Nation and, most especially, the Members of the U.S. Senate are losing the services of a remarkable individual and dedicated public servant.

When Senator MITCHELL was elected to the Senate in 1982, I doubt that he or many of his colleagues knew that he would rise to the position of majority leader in such a short period of time. Through his hard work, deep dedication to the institution and the traditions of the Senate and his unquestioned personal integrity, Senator MITCHELL quickly won the profound respect of his Democratic colleagues who elected him as majority leader in 1989.

I can only stand in awe of the way GEORGE MITCHELL has carried out his responsibilities as majority leader. He has been eminently fair with both Democrats and Republicans alike. With Herculean patience, he has tried to accommodate the requests of 99 other Senators with diverse and often conflicting demands, and has always honored his commitments to individual Members. He has steadfastly defended the rights of the minority. He has tried his best to improve the quality of life for those of us who serve with him by giving us as much advance notice as possible about the Senate schedule. In my judgment, there has been no finer majority leader in the history of the Senate, and I want to thank him sincerely for his service and for the many courtesies he has extended to me and my staff over the years, and his staff has extended to me.

During his service in the Senate, Senator MITCHELL has witnessed great changes in both the institution and the Nation it serves. He had the vision to recognize these changes for what they are—precursors of the new era, full of challenge, hazard, and opportunity. He is a man of ideas who has faced the complex challenges of the Nation and translated those challenges into constructive solutions for the future.

GEORGE MITCHELL's concern for the future was most evident through his work on the Environment and Public Works Committee, where he led the fight to reauthorize the 1990 Clean Air Act over a Presidential veto. Among other things, this legislation included controls on acid rain and air toxins in order to protect the environmental future of the generations to follow. Senator MITCHELL was also in the forefront of the fight to clean up toxic sites throughout the country with the enactment of the Superfund. And he led the effort to protect Americans against radon and other indoor air pollutants through the enactment of the Indoor

Air Pollution Act in 1987. He also led the effort to enact oilspill legislation and worked with his colleagues to improve the safety of our nuclear plants. I have scarcely scratched the surface on his environmental accomplishments. Suffice it to say that Senator MITCHELL has left an indelible mark on the environmental quality of this Nation, a legacy of which he can be extremely proud.

Senator MITCHELL has never forgotten his humble roots as the son of immigrant parents. Those roots have led him to champion the rights of and to provide opportunities for the less fortunate in society. He fought for the passage of landmark civil rights legislation. He was instrumental in the passage of the Americans With Disabilities Act. He played a leading role in enacting child care legislation and legislation to provide up to 12 weeks of unpaid leave for families to care for a newborn, a sick child, or ill parents. He has fought for enhanced educational opportunities for low-income Americans through the expansion of Pell grants. To improve the lives of working Americans, he has been a leading proponent of enhanced training for unskilled and unemployed workers. He was a leader in efforts to increase the minimum wage, to provide workers sufficient notice before the closing of plants, and to extend benefits for the long-term unemployed.

Before assuming the post of majority leader, I came to know Senator MITCHELL best through his service on the Senate Committee on Veterans' Affairs, a committee on which I also sit. Senator MITCHELL was dogged in trying to protect and enhance benefits for the veterans of his State and the Nation. His leadership on national health care issues carried over to his work on the Veterans' Affairs Committee where he has worked tirelessly to increase veterans' access to high quality medical care. He can be extremely proud of his accomplishments for Maine veterans in this area. During his tenure in the Senate, a clinical addition was added to the VA Medical Center at Togus, an outpatient clinic was established in northern Maine, a mobile clinic was made available for coastal Maine, and substance abuse outpatient units are established in both Bangor and Portland. In addition to these expansions, five vet centers were established around the State and a post-traumatic stress disorder unit was installed at Togus. When legislation was introduced to elevate the Veterans' Administration to cabinet level status, Senator MITCHELL was the only Member to serve on both committees having jurisdiction over the bill. He used his powers of persuasion on both committees to ensure that this long-sought dream of American veterans became a reality.

Senator MITCHELL's decision to continue his service on the Committee on Veterans' Affairs, even after assuming his responsibilities as majority leader, is a reflection of his deep dedication to Maine veterans and to all those who risked their lives in the service of their country. From his first day on the committee to his last, he continued his advocacy and hard work in behalf of the Nation's veterans. His service on that committee will be greatly missed by veterans around the Nation, but especially by those in Maine.

But Senator MITCHELL will undoubtedly be best remembered for his leadership on health care reform. Despite the failure of comprehensive reform during this session of Congress, Senator MITCHELL can be proud of his many successes in improving both the quality and delivery of health care services during his career. His work led to the enactment of nursing home standards in 1987 and to the evaluation of medical care outcomes in 1989. From his seat on the Senate Finance Committee, he was always in the vanguard of efforts to protect Medicare and Medicaid from huge reductions. While I know that GEORGE MITCHELL is disappointed that comprehensive health care reform was not enacted this year, I am certain that the seeds that he sowed will ultimately bear fruit.

Senator MITCHELL epitomizes the very best in public service. He has raised public service to a level against which all who follow will be measured. He will be sorely missed by the people of Maine and, particularly, by the Members of this body.

I appreciate the majority leader so much. I happened to have been foolish enough not to support him when he ran for the majority leader position. He told me he was going to win. I said, "GEORGE, you haven't been here long enough." I did not think that was going to happen, and I was committed to somebody else. He responded, "Dennis, you are my friend, and after I am elected, you will still be my friend just like you are today."

That is exactly how I feel toward the majority leader today. He is a friend and I am grateful for the service that he has given to this body. He has always been there for this Senator. And I think everybody in this body has found GEORGE MITCHELL to be available, to consult, to be considerate, and attempt to assist.

As Senator MITCHELL leaves the Senate to pursue a new career, I want to sincerely thank him for his service and to wish him every success and godspeed. May all the goodwill he has engendered everywhere come back to him a hundredfold. In closing, I would like to extend to Senator GEORGE MITCHELL an old Irish blessing.

May the roads rise up to meet you,
May the wind be ever at your back,
May the good Lord keep you in the
hollow of His hand.

Senator MITCHELL, you are an outstanding servant of the people.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I thank my colleague and my friend for his very kind remarks. I am deeply grateful to him. I will miss the Senate very much and I will especially miss the daily interaction with so many friends and colleagues. And among those who are and have been good friends is my colleague from Arizona, Senator DECONCINI. I thank him very much for his thoughtful words.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank Senator MITCHELL. I will join later tonight in one of many tributes to him.

Mr. MITCHELL. Will the Senator yield to permit me to get one unanimous consent agreement?

Mr. DECONCINI. Of course.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent the cloture motion on S. 349 that will mature tomorrow instead mature on Friday, October 7.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona.

MINING LAW REFORM

Mr. DECONCINI. Mr. President, I rise to express my deep disappointment over the failure to reform the Federal mining law during the 103d Congress. The failure was not created by the mining industry, as reported by the press, nor was it created by Western Senators. No one wanted mining law more than the mining industry and the western coalition of Senators, Democrats and Republicans. No mining company wanted to have the potential of mining law reform hanging over its head for another year and all the Western Senators that I worked with wanted to see responsible mining law reform.

The industry came to the table and spent several months this past spring and summer working with the Energy and Natural Resources Committee. The mining companies and committee staff worked incredible hours with the goal of creating a mining bill that would allow the companies to remain in business while protecting the fragile western environment. They accomplished that mission. Their effort resulted in a bill that struck this fragile balance, known as the Reid-Johnston bill, or the August 2d chairman's mark. Senator CRAIG of Idaho was an intimate part of that and an advocate on behalf of this industry, as was Senator REID of Nevada and many others. I commend the industry for coming to the table and agreeing to compromise many ideas they held together.

I am very disappointed the 103d Congress was unable to complete action on this vital legislation. I am also very disappointed that at the very moment industry was at the table and agreeing to a great many concessions, the Department of Interior was so unwilling to seek a middle ground. The West cannot be won by destroying the mining industry, and that is what was about to happen.

I think it is important to look at the economic benefits provided by the mining industry, and to fully understand what we may be losing if we pass irresponsible legislation that has been suggested in this body and in the other body. Let me illustrate the economic contributions of just one segment of U.S. mining industry, Arizona copper.

Last year, the Arizona copper industry employed 12,000 people and contributed $2.2 billion in direct contributions to the economy in the form of personal and business income, and taxes at the Federal, State and local level. Federal taxes alone amounted to over $97 million. When taking into account the ripple effect or multipliers, the Arizona copper industry added $23 billion to the national economy. Additionally, the Arizona copper industry helped lower the national trade deficit by $293 million through international sales of copper and copper concentrate.

As I hope people are aware, the Western Senators recently agreed to a mining patent moratorium in the appropriations process, something I was not ready to do myself. But I was convinced that we had to demonstrate once again that the mining industry was not stonewalling, was not trying to keep things as they were, wanted a reasonable compromise. And we did that. We did not get anything in return. We did not come back with a reasonable mining law that had been put together here, at least from the standpoint of the Western Senators.

This appropriation bill was not the appropriate vehicle to do this and we could have stopped it, in my judgment, those of us on the Appropriations Committee. But we went ahead. The mining industry accepted that for 1 year. Only with an agreement between the House and the Senate that recognizes the importance of mining and is not bent to bring this to an end can we possibly see some compromise here and a continuing viable industry.

Since I will be retiring at the end of the session, I will not be here next year to continue working on this. But those who will be here, like the Senator from Idaho—I do not have to urge him to continue his effort to offer those compromises that he himself put forward early in this stage, sitting on the committee of jurisdiction. Mining provides too many benefits to the economy of the West as well as the whole Nation to allow that industry to become the victim of irresponsible legislation.

The mining companies have shown a willingness to play, to be part of the process. The Western Senators have shown surprising, in my judgment, commitment to stick together and to preserve the West. We know the West. We want clean air. We want wilderness. We want peace and quiet. But we also understand the economic benefits to our States and to the Nation by this outstanding industry.

Now we must find a way to get the administration to the table, to bring the Interior Department and I suspect the White House to the table, if we are ever going to pass a bill, in my judgment. The challenge next year will be great. I think it is important to look at the economic benefits that are so vital and so important to us, as well as the environmental benefits. Miners, believe it or not, are environmentalists. And, yes, there have been abuses, and those abuses should be corrected. And I believe they can be through responsible effort.

Mr. CRAIG. Will the Senator from Arizona yield?

Mr. DECONCINI. I will be glad to yield to my friend without losing the right to the floor.

Mr. CRAIG. I thank the Senator for his kind comments.

Let me also have the record show he was a real trooper in working with Western Senators to assure that we got a fair and balanced mining law reform. I think his words were well placed, in that we worked very closely with the industry and a lot of interest groups to get that done. We simply could not get there.

I hope we can get there next year. I think all the parties involved want a good reform bill but we, from the West, do not believe we ought to be putting the mining industry out of business. They are a very important part of, not only our Western economy, but the Nation's economy. And in a developed industrial Nation we have to have a mining policy that we can live with.

I thank the Senator for working with us, as he has, in building that.

TRIBUTE TO THE HONORABLE DONALD RIEGLE

Mr. DECONCINI. Mr. President, I have had the pleasure of serving all 18 of my years in the U.S. Senate with the distinguished Senator from Michigan, DON RIEGLE. We came to the Senate in the same freshman class in 1977. And now as Senator RIEGLE prepares to leave the Congress to spend more time with his family, he leaves behind a proud record of public service—27 years of serving the people of Michigan and the Nation with distinction.

DON RIEGLE's retirement will be a loss for the people he served so well. Time and again he brought to the forefront issues vitally important to America long before they caught the public's attention. In the early 1980's DON saw the crisis in our health care system and worked diligently for reform. He chaired more than 40 hearings, in Washington and throughout his State of Michigan, in which hard-working families could voice their problems with a health care system in need of repair. In 1989, he recognized the need for a new finance Subcommittee on Health Care for Families and the Uninsured, fought for its creation, and became its chairman. He was a leading force in expanding Medicaid coverage for pregnant women and children and fought tirelessly to make immunizations available to America's children.

As chairman of the Senate Committee on Banking, Housing and Urban Affairs, and as a key member on the Finance and Budget Committees, DON RIEGLE has made major contributions to U.S. economic policy. He has been one of our strongest spokesmen in promoting a fair but tough trade policy which puts America on a level playing field with our competitors. He did yeoman's work in reforming both the savings and loan industry and the banking industry. He has championed the rebuilding of America's cities and was an early advocate of enterprise zones. He is an acknowledged expert on the unemployment compensation system, and authored the law reforming the method by which the system is funded. As my colleague from Maryland, Senator MIKULSKI, has pointed out, Senator RIEGLE "has truly been an architect for housing policy in the United States of America. His approach has been to see the housing framework as a way not only to provide shelter for the homeless but also to look at how we can generate jobs today and opportunity tomorrow."

Senator RIEGLE will be sorely missed by America's senior citizens for whom he worked tirelessly. He will be missed by every working man and woman in this Nation and by his beloved constituents in Michigan for whom he has done so much. He has served this Nation well and I wish him and his family every happiness and success in the years ahead.

Senator RIEGLE is a friend of mine. I have grown to know him and his family well. I cherish his friendship. We have had good times and we have had hard times together. We understand what this Government process is all about—the joys of it and the sorrows. I hate to see him leave this body, but I understand because I have made the same decision.

TRIBUTE TO SENATOR JACK DANFORTH

Mr. DECONCINI. Mr. President, as the 103d Congress draws to a close, I would like to pay tribute to one of the most esteemed members of this body who will be retiring with me at the end of this session, Senator JACK DANFORTH. JACK and I began our service in the Senate in 1977 and will be closing the door at the same time. Our departures are tinged with sadness, yet great expectations for the future.

JACK leaves his 18-year Senate career with a long string of legislative accomplishments, but it is JACK the "Man" who has left an indelible mark on this institution. An ordained Episcopal minister, he has lived his Christian principles both as a Member of the Senate and in his own personal life. JACK DANFORTH is a man of unquestioned honor and integrity. No one questions his motives or accuses him of crass partisan politics. Why? Because they know JACK fights for causes simply because he believes they are right, the political consequences be damned. The people of Missouri recognized how unique JACK DANFORTH is in the world of politics and rewarded his efforts by electing him to three consecutive terms in the Senate, the first time that has occurred in the history of the State.

Perhaps JACK will be best remembered for his passionate defense of Clarence Thomas to be an Associate Justice of the Supreme Court. Clarence Thomas had worked for JACK DANFORTH both in Missouri where he served as assistant Missouri attorney general, and in his Senate office in Washington, DC. As a result of his long personal and professional relationship with Clarence Thomas, JACK DANFORTH felt that the Supreme Court nominee was being unfairly pilloried by the press and certain members of the Senate. He strongly and emotionally defended both Clarence Thomas' character and his credentials to serve on the Supreme Court. One by one, he talked with undecided Members, including this Senator. Clarence Thomas' ultimate confirmation to serve on the U.S. Supreme Court can in no small measure be attributed to the efforts of Senator JACK DANFORTH. As he has done on so many other occasions, JACK DANFORTH fought for what he believed was right regardless of the political consequences.

While I have stressed JACK DANFORTH's personal qualities, I do not mean to minimize his legislative accomplishments. He was the principal author and sponsor of the Civil Rights Act of 1991, a landmark piece of legislation ensuring fairness in hiring, promotion and other employment practices. He negotiated some very difficult compromises on the legislation among Republicans and Democrats, liberals and conservatives, which ultimately led to its enactment.

From his seat on the Senate Finance Committee, Senator DANFORTH worked to strengthen world trade laws, remove trade barriers, expand U.S. export opportunities and open global markets. Domestically, he worked to ensure effective assistance and training for workers and firms injured by imports. Beyond trade, Senator DANFORTH worked to ensure long term economic growth by spearheading efforts to spur research and development, to foster capital formation and to provide incentives to modernize plants and equipment.

From his position as ranking member on the Senate Commerce Committee, Senator DANFORTH worked tirelessly to improve our Nation's infrastructure by expanding and modernizing our Nation's airports and the air transportation system. Simultaneously, he fought for improved safety by establishing national standards for licensing professional truck drivers and strengthening laws to ensure passenger safety. He was also the principal author of laws to require on-the-job testing for drug and alcohol use by key transportation workers.

Even in the waning days of this Congress, JACK DANFORTH was hard at work trying to forge a compromise on health care reform. While those efforts were not successful, all those involved in the effort have sown a seed which, I believe, will ultimately bear fruit.

As we leave the Senate, I want to thank JACK DANFORTH for his exemplary service and to wish him and his family good luck, good health, and Godspeed.

I yield the floor.

UNANIMOUS-CONSENT REQUEST

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2505, a bill introduced earlier today by myself, amending the Employee Retirement Income Security Act of 1974, to exempt from preemption certain provisions of the law of the State of Washington relating to health plans; that the bill be read a third time and passed; that the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

ERISA REFORM

Mrs. MURRAY. I am deeply disappointed that this bill was objected to and therefore not allowed to be enacted this year. Let me take a minute to explain briefly the purpose of this bill.

It waives sections of the Employee Retirement Income Security Act, known as ERISA, to allow the 1993 Washington Health Services Act to cover workers in self-insured companies. Without the ERISA waiver, some 40 percent of Washington's work force will remain outside my State's comprehensive health reform law.

Mr. President, last month, this Congress failed to pass national health reform legislation. Those who succeeded in killing national health reform have now turned their sights on State reform. Today, by objecting to this bill, Congress has fired its first shot directly at the heart of Washington State's landmark health reform legislation.

The people of Washington have worked for more than a decade to enact a comprehensive health reform law. We passed in April 1993, and we are moving ahead. But today, people who do not live in my State, and who do not represent my State, are trying to kill Washington's health reform law. They are trying to tell the people of my State what we can and cannot do in health reform.

People in my State from Spokane to Seattle, from Walla Walla to Bellingham, have told me they want State health reform to move ahead. They want flexibility from Federal laws so we can control soaring health care costs. They want flexibility so no one can be denied coverage because of preexisting condition. They want flexibility so they can have a choice of affordable plans.

The people of Washington have also told me what they do not want. They do not want health care costs to continue to eat up ever larger portions of their household income or our State budget. They do not want to have to divert scarce State dollars away from education, the environment and transportation to pay for rising health insurance premiums. And they certainly do not want outsiders and special interests in this Washington to undo our State laws.

My State enacted a comprehensive health care reform law 18 months ago. And it is working. We have insurance market reforms. We are aiming for universal coverage by 1999, including a start on long-term care. We are finalizing a standard benefits package, and a 50/50 employer/employee cost sharing that begins a phase-in next July. We have caps on insurance premiums. Even if we reduce insurance premium growth by just 1 percentage point over the next 10 years, Washington's businesses will save one billion dollars.

The ability for my State to proceed with this reform depends on whether Federal law gives us the flexibility to do so. Hawaii has had a similar system in place for more than 20 years. Oregon is not far behind Washington. Several other States, like Florida, Maryland, Massachusetts, and New York, have reforms of their own.

If we deny our States the latitude to move ahead, Congress will do more than simply deny States rights. Congress will have failed to recognize ingenuity. But more importantly, Congress will have killed the very initiatives that are the best models for national reform.

In the absence of national health reform, it is the States that will lead the way. Preventing my State of Washington from implementing a law we passed in April 1993 is surely one more way the special interests have found to kill any reform. They want the status quo in this Washington, and they want to undo the pioneering reform in my home State of Washington.

A key part of the debate over State flexibility involves ERISA. The question I keep coming back to is: Whom does ERISA really protect?

The title of the law is deceptive. ERISA was meant to protect employee pension plans. And, it does—through a detailed series of standards and enforcement mechanisms. But ERISA covers employee benefits, and that means all benefits, including vacation, day care, health, and life insurance.

Simply stated, ERISA prevents States from establishing any health standards for self-insured companies. Workers in these companies may enjoy health insurance now, but under our State health reform they will soon fall behind without an ERISA waiver. For example, while premiums of those outside self-insured companies will be capped, their neighbors in self-insured companies may watch their premiums continue to soar.

Unless we obtain an ERISA waiver, those in self-insured companies will be locked into the only plan offered by their employer. Everyone else under our State reform will enjoy a choice of plan. I want everyone in my State to benefit from additional reforms.

The bottom line is: ERISA does not provide real consumer protection. It does not provide consumer choice. Employees in self-insured companies will be locked into the status quo.

Without an ERISA waiver, what happens to the employee in a self-insured company who gets cancer and has his health insurance dropped? What happens to the employee in a self-insured company who wants more than one choice of health plan? What happens to the employee in a self-insured company who sees her rates doubled because another employee has a traumatic accident?

Where does these employees turn for help?

They cannot turn to the State insurance commissioner because she has no authority to help them. They cannot turn to the Department of Labor that oversees ERISA because there are no Federal procedures to help them. There is nowhere they can turn.

Clearly, ERISA protects the big insurance companies. It does not protect the little guy.

I know, because the Washington Health Services Commission told me 2.5 million citizens out of 5.2 million —almost half of our population—will not benefit from my State's important health reforms because of ERISA. The State Insurance Commissioner cannot enforce these reforms because of ERISA. Once again, the little guy loses out.

I decided to run for the Senate 2 years ago because I believe the little guy should be heard, too. That is what the ERISA debate is all about.

This debate is not about taking anything away from workers. Nor is it about taking anything away from large corporations. Most of them do an excellent job providing health care for their employees. It is about making consumer choice and protection available to all workers. It is about containing the soaring cost of health care that consumes an increasing share of business profits and household budgets.

I believe States like Washington should not be prevented from moving as fast as we want on the health reform road. We certainly should not be punished for trying to improve the health care of our citizens. If Washington is not given flexibility to move ahead, we will not only be hurting the citizens of my State, but destroying a model for national health care reform.

The chairperson of Washington's Health Services Commission recently wrote:

> Rather than caving in to special interests by changing or repealing health reform, it's time for all of us to work together to ensure that what the people asked for is implemented judiciously and fairly throughout the state.

I am disappointed the special interests in this Washington were able to block an ERISA waiver for the people of Washington State. Be assured I shall return to fight this battle for the people of my home State again next January.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I thank the Chair.

SUPERFUND KILLED BY GRIDLOCK

Mr. LAUTENBERG. Mr. President, today is kind of a sorry day for me because I learned that the House decided that it was impossible to act on the Superfund reauthorization bill. That decision effectively kills any chance for action on this legislation this year.

I regret that, Mr. President. I regret it very much.

When I came to the Senate in 1982, one of the committees that I sought to join was the Environment and Public Works Committee and was finally able to do that. And I got very involved with Superfund, with the program and plans for its reauthorization which finally took place in 1986 for the first reiteration. We fought hard. We got what was a good bill, certainly better than the first presentation that had passed and was signed into law. But we saw the flaws and we saw the defeats.

Senator BAUCUS and I introduced a further iteration of the Superfund Reform Act of 1994 which was done in February of this year. We really thought that finally we had fashioned something that could be efficient, that would pass.

We had worked hard on the bill. Indeed, 2 years ago, as chair of the Senate's Superfund Subcommittee, I began a series of a dozen hearings and commissioned several investigations to define the problems with the current Superfund law and develop ways to fix it.

Working closely with the chairman of the Environment and Public Works Committee and with the administration, we crafted a sweeping reform bill that would speed up cleanups by at least 20 percent, make cleanups more cost-effective, cut in half the money that is being wasted on lawyers instead of cleanup, and promote job creation and economic development throughout the country.

Let me point to just four specific virtues of the proposed bill.

First, a new out-of-court arbitration process and improvements to the cleanup process could have saved businesses nearly half a billion dollars a year in lawyers' fees and almost $400 million a year in unnecessary cleanup costs.

Second, communities would have been able to get a much earlier and much more direct say in how sites in their neighborhoods should be cleaned up. There would have been Federal funding to hire technical experts and advisors to help them participate meaningfully in cleanup decisions.

Third, parties like the Girl Scouts, local taxpayers, small businesses, and churches would have been protected from frivolous lawsuits brought by polluters to shift the cost of cleanup to innocent parties who sent only ordinary household garbage to Superfund sites.

And fourth, everyone would have benefited from the creation of a program to promote voluntary cleanups, which can free up fallow, contaminated property for economic redevelopment and job creation. That part of the bill was modeled after a similar law in New Jersey that has already produced 3,000 jobs and several hundred million dollars' worth of economic redevelopment in our State. Enhancing this program in New Jersey and expanding it to the rest of the country could pay off in billions of dollars of economic opportunity.

The bill we developed reflected an unusual coalition of business groups, environmentalists, and community activists. It really represented a consensus which met the needs of every group that had worked with Superfund in the past. They came together to support a bill which did not give them everything they wanted, but gave them everything they needed. And that really was a remarkable feat.

The administration worked hard to build support for the bill. Senator BAUCUS the chairman of the committee, was incredibly supportive. Senators CHAFEE and DURENBERGER were always cooperative.

But, in the end, the bill will not be passed. And we have to ask why.

That same question could be asked about a long list of widely—supported bills that have been killed in this Congress.

In my view, Mr. President, the answer is simple: the Republican leadership simply did not want the Congress, as an institution, to demonstrate that it can do the business of the people. That is not just my view. It is virtually the public admission of the Republican leadership which has said, for months, that they did not want our Superfund bill to pass.

In the past, I have encountered steady opposition by Republican Senators who stalled for months any serious consideration of the bill and asked for extremist changes that would destroy its reforms. Despite the pleas from hundreds of thousands of small businesses, and from municipalities, school boards, business associations, and even the Salvation Army and American Bible Society to let this bill pass, the Republican leadership has been very clear over the past 2 months that they are not interested in moving this bill forward.

And unfortunately, in the Senate where the rules and filibusters give the minority the ability to paralyze legislation, we can see very clearly the handwriting on the wall if we ask for a vote on Superfund reform.

Mr. President, my bill is supported by environmentalists and industry alike, but the Senate Republicans are intent on denying the Congress and the Democrats any legislative accomplishments this year in order to claim an advantage in the upcoming elections.

In the past few weeks, there has been an unprecedented abuse of the filibuster and procedural rules of the Senate as the Republicans have stalled and killed bill after bill. Just yesterday, we saw five filibusters going simultaneously on the floor.

All I can hope is that after the November elections the partisan rancor that has infected the 103d Congress will disappear. I pledge to continue my efforts next year, with Chairman BAUCUS and the President and any and all Senators of either party, who are committed to dealing with this problem.

There are 73 million Americans—one in four—who live near Superfund sites. They are depending on all of us in Congress—both Democrats and Republicans—to make Superfund reform a reality. They deserve to have their voices heard. We owe it to them, the people of America, to pass this legislation.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO APPOINT A COMMITTEE OF ESCORT

Mr. FORD. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort Mr. Nelson Mandela, President of the Republic of South Africa, into the House Chamber for the joint meeting on Thursday, October 6, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAILWAY LABOR DISPUTE BETWEEN THE SOO LINE RAILROAD AND ITS EMPLOYEES

Mr. FORD. I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 417, a joint resolution regarding the railway labor dispute between the Soo Line Railroad and certain of its employees; that the joint resolution be deemed read the third time, passed; that the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res. 417) was deemed read the third time, and passed.

MEASURE PLACED ON CALENDAR—S. 1818

Mr. FORD. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 1818, and that it be placed on the Senate Legislative Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AERONAUTICS AND SPACE POLICY ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 674, H.R. 4489, the NASA Authorization Act of 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4489) to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and Inspector General, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aeronautics and Space Policy Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the National Aeronautics and Space Administration will require a stable budget, adjusted for inflation, in order to carry out the initiatives now planned in human space flight and science, aeronautics, and technology;

(2) cooperation in space should continue to be a major element of the post-cold war foreign policy agenda through a broad range of scientific and engineering programs that have the potential to stabilize the scientific and industrial base of the former Soviet Union and encourage the transition toward political reform and a market-based economy;

(3) the National Aeronautics and Space Administration should aggressively pursue actions and reforms directed at reducing institutional costs, including management restructuring, facility consolidation, procurement reform, personnel base downsizing, and convergence with other defense and private sector systems;

(4) in formulating a national space transportation policy, the National Aeronautics and Space Administration should take the lead role in developing advanced space transportation technologies including reusable space vehicles, single-stage-to-orbit vehicles, and manned space systems; and

(5) maintaining experimental state-of-the-art facilities has been a key investment to retaining United States competitiveness and technological leadership, and these facilities have been heavily utilized by United States industry in their research and development programs.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration; and

(2) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Subtitle A—Special Authority and Limitations

SEC. 101. OPERATING PLAN.

Not later than 60 days after the date of enactment of an Act making appropriations to the National Aeronautics and Space Administration for fiscal year 1995 or the date of enactment of this Act, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an operating plan that provides a detailed plan for obligating fiscal year 1995 funds.

SEC. 102. USE OF FUNDS FOR CONSTRUCTION.

(a) AUTHORIZED USES.—The Administrator may use funds appropriated for purposes other than—

(1) construction of facilities;

(2) research and program management, excluding research operations support; and

(3) Inspector General,

for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities at any location in support of the purposes for which such funds are appropriated.

(b) Limitation.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $750,000, until 30 days have passed after the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

(c) Title to Facilities.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

SEC. 103. AVAILABILITY OF APPROPRIATED AMOUNTS.

To the extent provided in appropriations Acts, appropriations may remain available without fiscal year limitation.

SEC. 104. REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.

(a) In General.—Amounts appropriated for a construction of facilities project—

(1) may be varied upward by 10 percent in the discretion of the Administrator; or

(2) may be varied upward by 25 percent, to meet unusual cost variations, after the expiration of 15 days following a report on the circumstances of such action by the Administrator to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) Special Rule.—Where the Administrator determines that new developments in the national program of aeronautical and space activities have occurred; and that such developments require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next National Aeronautics and Space Administration Authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities, the Administrator may use for such purposes up to $10,000,000 of the amounts appropriated for construction of facilities purposes. No such funds may be obligated until a period of 30 days has passed after the Administrator has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its costs, and the reasons therefor.

SEC. 105. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated to the National Aeronautics and Space Administration may be used for any program for which the President's annual budget request included a request for funding, but for which the Congress denied or did not provide funding; and

(2) no amount appropriated to the National Aeronautics and Space Administration may be used for any program which has not been presented to the Congress in the President's annual budget request or the supporting and ancillary documents thereto,

unless a period of 30 days has passed after the receipt by the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 106. USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.

Funds appropriated for Mission Support may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the authority of the Administrator.

SEC. 107. LAND CONVEYANCE.

(a) The Administrator may accept the conveyance to the United States of certain parcels of land from the cities of Cleveland and Brook Park, Ohio, for the purpose of establishing a Visitor Center for the Lewis Research Center.

(b) If cost-effective, the Administrator may acquire a certain parcel of land, together with existing facilities, located at the site of the Clear Lake Development Facility, Clear Lake, Texas. The land and facilities in question comprise approximately 13 acres and include a Light Manufacturing Facilities, an Avionics Development Facility, and an Assembly and Test Building which may be modified for use as a Neutral Buoyancy Laboratory in support of human space flight activities.

SEC. 108. GEOGRAPHICAL DISTRIBUTION.

The National Aeronautics and Space Administration shall give consideration to geographical distribution of its research and development funds whenever feasible.

SEC. 109. ADDITIONAL NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FACILITIES.

The Administrator shall not construct or enter into a new lease for facilities to support National Aeronautics and Space Administration programs unless the Administrator has certified to the Congress that the Administrator has reviewed existing National Aeronautics and Space Administration and other federally owned facilities, including military facilities scheduled for closing or reduction, and found no such facilities appropriate for the intended use.

SEC. 110. SENSE OF CONGRESS; ADDITIONAL NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FACILITIES.

It is the sense of Congress that, when consistent with the goals of the National Aeronautics and Space Administration, the Administrator should select sites in depressed communities for new programs or functions of the National Aeronautics and Space Administration, unless those new programs or functions are so closely related to programs or functions carried out at an existing facility as to require being carried out at that existing facility.

SEC. 111. PROCUREMENT.

(a) Procurement Demonstration.—

(1) In General.—The Administrator shall establish within the Office of Space Access and Technology a program of expedited technology procurement for the purpose of demonstrating how innovative technology concepts can rapidly be brought to bear upon space missions of the National Aeronautics and Space Administration.

(2) Procedures and Evaluation.—The Administrator shall ensure that proper procedures will be developed for actively seeking, from nongovernment persons, innovative technology concepts relating to the provision of space hardware, technology, or services to the National Aeronautics and Space Administration. Expedited technology procurement procedures shall include, but not be limited to Space Act Agreements, Cooperative Agreements with both profit and not-for-profit organizations, and other consortium and partnering programs that will ensure proactive commercial applications development and technology infusion for both NASA and industry.

To carry out this subsection, the Administrator shall ensure use in the evaluation process of persons with special expertise and experience related to the innovative technology concepts with respect to which procurements are made under this subsection. Use of nongovernmental sector expertise will be used to the maximum extent practicable through the use of existing special appointment procedures.

(3) Sunset.—This subsection shall cease to be effective 10 years after the date of enactment of the Aeronautics and Space Policy Act of 1994.

(b) Technology Procurement Initiative.—

(1) In General.—The Administrator shall coordinate National Aeronautics and Space Administration resources in the areas of procurement, commercial programs, and advanced technology in order to—

(A) fairly assess and procure commercially available technology from the marketplace in the most efficient manner practicable;

(B) achieve a continuous pattern of integrating advanced technology from the commercial sector into the missions and programs of the National Aeronautics and Space Administration;

(C) utilize streamlined buying and bidding procedures to the maximum extent practicable, and survey private sector buying and bidding procedures to determine the extent to which they may be incorporated into procedures of the National Aeronautics and Space Administration;

(D) consider the use of fixed price contracts at both contract and subcontract levels to integrate commercially available technology into systems and subsystems of the National Aeronautics and Space Administration; and

(E) provide an annual report to the Congress as to progress achieved in implementing the technology procurement initiative set forth under this subsection.

(2) Requirements.—The Administration shall ensure that requirements developed for space hardware, innovative technology or related space services under this demonstration program shall, to the maximum extent practicable, enhance the integration of existing commercial, non-developmental or available off-the-shelf hardware or services into meeting the Agency's mission. Requirements shall seek to utilize non-Governmental research and development activities, and those cooperative research efforts between Government and non-Government sources to bring potentially innovative technology concepts into the Agency's mainstream missions.

SEC. 112. COORDINATION OF EDUCATION SUPPORT FOR UNDERREPRESENTED GROUPS.

The Administrator shall coordinate with other Federal agencies all National Aeronautics and Space Administration education activities to encourage the participation of women, minorities who are underrepresented in science, engineering, and mathematics, and persons with disabilities.

SEC. 113. REQUIREMENT FOR INDEPENDENT COST ANALYSIS.

The Chief Financial Officer for the National Aeronautics and Space Administration shall be responsible for conducting independent cost analyses of all new projects estimated to cost more than $100,000,000 and shall report the results annually to Congress at the time of the submission of the President's budget request. In developing cost accounting and reporting standards for carrying out this section, the Chief Financial Officer shall, to the extent practicable and consistent with other laws, solicit the advice of expertise outside of the National Aeronautics and Space Administration.

SEC. 114. SMALL SPACECRAFT TECHNOLOGY INITIATIVE.

The Administrator may not obligate funds for the Small Spacecraft Technology Initiative to duplicate private sector activities or to fund any activities that a private sector entity is proposing to carry out for commercial purposes.

SEC. 115. SCIENTIFIC COOPERATION WITH RUSSIA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Aeronautics and Space Administration should seek, to the maximum extent practicable, to undertake joint scientific activities with Russia with an initial focus on the robotic exploration of Mars. Such joint scientific activities may include other spacefaring nations, as appropriate.

(b) MARS TRANSITION PLAN.—The Administrator shall provide to the Congress by February 15, 1995, a detailed plan to integrate the Mars Surveyor program with a Mars exploration program with Russia and other spacefaring nations, as appropriate.

SEC. 116. VISITORS CENTER.

To the extent provided in advance in appropriations Acts, all unobligated funds available to the Administrator from appropriations for fiscal years before fiscal year 1995, but not to exceed $5,000,000, may be obligated for the establishment of a Visitor Center for the Lewis Research Center, if at least an equal amount of funding of in-kind resources of equivalent value or a combination thereof are provided for such purpose from non-Federal sources.

SEC. 117. CONSORTIUM FOR INTERNATIONAL EARTH SCIENCE INFORMATION NETWORK BUILDING.

The Consortium for International Earth Science Information Network may not obligate more than $27,000,000 for the construction of a new building. Such funds may not be obligated until 90 days after the completion of a building prospectus by the General Services Administration.

SEC. 118. GLOBAL CHANGE DATA AND INFORMATION SYSTEM.

Title I of the Global Change Research Act of 1990 (15 U.S.C. 2931 et seq.) is amended by adding at the end the following new section:

"SEC. 109. GLOBAL CHANGE DATA AND INFORMATION SYSTEM.

"(a) The National Aeronautics and Space Administration, in coordination with other agencies that belong to the Committee established under section 102, shall establish the requirements and architecture for, design, and develop a Global Change Data and Information System that shall serve as the system to process, archive, and distribute data generated by the Global Change Research Program.

"(b) The National Aeronautics and Space Administration shall design the Global Change Data and Information System—

"(1) so that other Federal agencies may connect data centers operated by such agencies to such System; and

"(2) so as to minimize, to the extent practicable, the cost of connecting such data centers.

"(c) Each agency involved in the Global Change Research Program shall retain the responsibility to establish and operate Global Change Data and Information System data centers to process, archive, and distribute data generated by such agency's programs. Agencies may agree to assume the responsibility for processing, archiving, or distributing data generated by other agencies.".

SEC. 119. ACCESS TO DATA FOR GLOBAL CHANGE RESEARCH.

The National Science and Technology Council, through its Committee on Environment and Natural Resources, shall develop and submit to the Congress within one year after the date of enactment of this Act a plan for providing access to declassified data from classified archives and systems for global change research. The plan shall—

(1) determine whether the Global Change Data and Information System or other means should be used to provide access to such data for the scientific community; and

(2) identify what agencies should be responsible for particular parts of such data and any data centers needed to process, archive, and distribute such data.

SEC. 120. UNIVERSITY INNOVATIVE RESEARCH PROGRAM STUDY.

(a) STUDY.—The Administrator shall undertake a study of the feasibility and potential implementation of a University Innovative Research Program which—

(1) promotes technological innovation in the United States by using the Nation's institutions of higher education to help meet the National Aeronautics and Space Administration's research and development needs, by stimulating technology transfer between institutions of higher education and industry, and by encouraging participation by minority and disadvantaged persons in technological innovation; and

(2) avoids duplication of existing National Aeronautics and Space Administration programs with the institutions of higher education.

(b) COMPLETION.—The study required by subsection (a) shall be completed and its results submitted to the Congress within one year after the date of enactment of this Act.

(c) ADVICE.—In carrying out the study required by subsection (a), the Administrator shall seek the advice of the National Aeronautics and Space Administration Advisory Council, the National Research Council's Aeronautics and Space Engineering Board and Space Studies Board, and other organizations as appropriate.

SEC. 121. STUDY ON TDRSS AND COMMERCIAL SATELLITE SYSTEM CONVERGENCE.

(a) REQUIREMENT.—The Administrator shall conduct a study on the convergence of the National Aeronautics and Space Administration Tracking and Data Relay Satellite System (TDRSS) with commercial communications satellite systems. The study shall assess whether a converged system, from which the National Aeronautics and Space Administration would buy tracking and data relay services, could—

(1) satisfy the National Aeronautics and Space Administration's tracking and data relay requirements;

(2) reduce the National Aeronautics and Space Administration's expenses in satisfying tracking and data relay requirements through maintenance and operations of the TDRSS;

(3) be financed, developed, and operated by the private sector;

(4) serve commercial communication needs;

(5) be established to satisfy the National Aeronautics and Space Administration's requirements in time to obviate the need to procure TDRSS spacecraft beyond the tenth flight; and

(6) encourage the growth of the commercial satellite communications market.

(b) CONSULTATION.—In conducting the study, the Administrator shall consult with commercial satellite operators, including the International Telecommunications Satellite Organization, other international satellite operators, and United States satellite operators, as appropriate, and shall also consult with the Department of Defense concerning its requirements for tracking and data relay services.

(c) REPORT.—The Administrator shall report on the study's findings and recommendations on feasibility of convergence to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by February 15, 1995.

SEC. 122. SPACE SHUTTLE COST REDUCTION INITIATIVES.

By February 1, 1995, the Administrator shall submit a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

(1) specifies the minimum number of Space Shuttle flights that would be required each fiscal year from 1995 through 2004 to implement payload and related activities provided for in the President's fiscal year 1995 budget request and supporting and ancillary documents thereto;

(2) outlines the Space Shuttle flight and payload manifest that could be implemented for each of the fiscal years 1995 through 1999 if the Space Shuttle flight rate for each of those years were 8 missions, if the flight rate were 7 missions, and if the flight rate were 6 missions;

(3) evaluates the extent to which various potential management consolidation initiatives could reduce the annual cost of the Space Shuttle program while preserving quality and safety; and

(4) evaluates the extent to which various potential contract incentives could be used to reduce the annual cost of the Space Shuttle program while preserving quality and safety.

SEC. 123. ADVANCED LAUNCH TECHNOLOGY REPORT.

By February 1, 1995, the Administrator shall submit to the Congress a program plan for an advanced launch technology program that—

(1) clearly articulates the goals and objectives of the program and the flight hardware it will produce;

(2) describes the management structure and development philosophy that will be used to implement the program;

(3) outlines key milestones toward the achievement of the goals and objectives articulated under paragraph (1);

(4) estimates the total cost that will have been incurred upon completion of the program;

(5) defines the annual budgetary requirements of the program for the next 5 years; and

(6) identifies the source or sources of funding anticipated for the program for each of the next 5 years.

SEC. 124. SENSE OF CONGRESS; WOMEN'S HEALTH ISSUES.

It is the sense of Congress that the National Aeronautics and Space Administration should pursue, to the extent practicable, life and microgravity sciences research related to the causes of breast and ovarian cancers, bone-related diseases, and other women's health issues.

SEC. 125. SPACE STATION ACCOUNTING REPORT.

Within one year after the date of enactment of this Act, and annually thereafter, the Administrator shall transmit to the Congress a report with a complete annual accounting of all costs of the space station, including cash and other payments to Russia.

SEC. 126. PURCHASE OF SPACE SCIENCE DATA.

To the maximum extent practicable, the National Aeronautics and Space Administration shall purchase from the private sector space *science data. Examples of such data include scientific data concerning the elemental and mineralogical resources of the moon and the planets, Earth environmental data obtained through remote sensing observations, and solar storm monitoring.*

SEC. 127. REMOTE SENSING FOR AGRICULTURAL AND RESOURCE MANAGEMENT.

(a) INFORMATION DEVELOPMENT.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide, to the extent feasible, farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(b) ENHANCED REMOTE SENSING.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly evaluate the need for a radar imaging platform that could enhance United States remote sensing capability by providing information and data relating to agricultural resources, and which may have other commercial and research applications.

(c) TRAINING.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to inform farmers and other prospective users concerning the use and availability of remote sensing data.

(d) SUNSET.—The provisions of this section shall expire 5 years after the date of enactment of this Act.

SEC. 128. SPACE EXPLORATION OPPORTUNITIES ASSESSMENT.

(a) ASSESSMENT.—The Administrator shall conduct an assessment of methods for maximizing, based on a variety of prospective funding levels, the quantity and quality of opportunities for space exploration, both human and robotic, using space vehicles and platforms available or expected to be available. Such assessment shall focus on the 5-year period after the date of enactment of this Act, and on each of the two subsequent 5-year periods. Such assessment shall address opportunities in connection with civilian and military, domestic, and foreign, space vehicles and platforms, whether publicly or privately funded.

(b) REPORT TO CONGRESS.—The Administrator shall, within one year after the date of enactment of this Act, submit to Congress a report containing the results of the assessment conducted under subsection (a).

SEC. 129. CATALOGUE OF EARTH-THREATENING COMETS AND ASTEROIDS.

(a) REQUIREMENT.—To the extent practicable, the National Aeronautics and Space Administration, in coordination with the Department of Defense and the space agencies of other countries, shall identify and catalogue within 10 years the orbital characteristics of all comets and asteroids that are greater than 1 kilometer in diameter and are in an orbit around the sun that crosses the orbit of the Earth.

(b) PROGRAM PLAN.—By February 1, 1995, the Administrator shall submit to the Congress a program plan, including estimated budgetary requirements for fiscal years 1996 through 2000, to implement subsection (a).

Subtitle B—Aeronautics

SEC. 151. NATIONAL AERONAUTICAL FACILITIES POLICY.

It is the policy of the United States that—

(1) revitalizing national aeronautical facilities shall be a major element of Federal investment in aeronautical research and development; and

(2) industry and government cost-sharing for facilities construction and use shall be investigated to achieve aeronautics research and technology goals within a constrained Federal budget.

SEC. 152. WORLDWIDE FACILITIES ASSESSMENT.

The President or his designees shall conduct an assessment of all aeronautics facilities in the United States and in other countries and report to Congress the results of this assessment at the time the fiscal year 1996 budget is submitted. The assessment shall include—

(1) identification of all existing and planned aeronautics research and development facilities in the United States and in other countries;

(2) analysis of the capabilities of each aeronautics facility that impact aeronautical research and technology objectives of the United States Government and domestic industries; and

(3) determination of the current use and plans for use of foreign aeronautics facilities for research and technology activities of the United States Government and domestic industries and the risk to the competitiveness of the United States industry due to the potential unintended transfer of technology.

SEC. 153. AERONAUTICS FACILITIES STRATEGY.

(a) STRATEGY.—The President or his designees shall work closely with domestic industries to coordinate, develop, and implement a strategy for Federal investment in aeronautics research and technology and aeronautics facilities. This strategy shall establish—

(1) priorities for Federal investment in aeronautics facilities;

(2) a facilities implementation schedule to meet research and technology project milestones and aerospace industry market requirements;

(3) the projected cost of constructing and operating new facilities; and

(4) options and recommendations to provide funding (including cost-sharing and risk-sharing with industries and among Federal agencies and innovative procurement, financing, or management arrangements) for the construction of new aeronautics facilities and for the operation of new aeronautics facilities.

(b) DEADLINE.—The strategy required by subsection (a), and budget requirements associated with implementing such strategy, shall accompany the fiscal year 1996 budget submission to Congress.

TITLE II—COMMERCIAL SPACE LAUNCH AMENDMENTS

SEC. 201. COMMERCIAL REENTRY VEHICLES.

Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites, and reentries";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries";

and

(D) by adding at the end the following new item:

"70120. Report to Congress";

(2) in section 70102—

(A) by inserting "from Earth" after "and any payload" in paragraph (3);

(B) by redesignating paragraphs (10) through (12) as paragraphs (12) through (14), respectively; and

(C) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

"(11) 'reentry vehicle' means any vehicle designed to return from Earth orbit or outer space to Earth substantially intact.";

(3) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§70104. Restrictions on launches, operations, and reentries";

(B) by inserting ", or reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a) (3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES OR REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(4) in section 70105—

(A) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(5) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site"; and

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle";

(6) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§70108. Prohibition, suspension, and end of launches, operation of launch sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(7) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(8) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(9) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry" after "launch services" in subsection (a)(4);

(C) by inserting "or a reentry" after "launch services" each place it appears in subsection (b);

(D) by inserting "or Reentries" after "Launches" in the heading for subsection (e); and

(E) by inserting "or reentry" after "launch site" in subsection (e);

(10) in section 70113 (a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(11) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "site of a launch vehicle";

(12) in section 70117—

(A) by inserting "or reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) in subsection (f)—

(i) by inserting "or Reentry" after "Launch" in the subsection heading;

(ii) by inserting ", reentry vehicle," after "A launch vehicle";

(iii) by inserting "or reentered" after "that is launched"; and

(iv) by inserting "or reentry" after "the launch"; and

(D) in subsection (g)—

(i) by inserting "reentry of a reentry vehicle," after "or launch site," in paragraph (1); and

(ii) by inserting "reentry," after "launch," in paragraph (2)

(13) in section 70119, by inserting the following after paragraph (2):

"There are authorized to the Secretary of Transportation such amounts as may be appropriated to carry out this chapter for fiscal year 1995."; and

(14) by adding at the end the following new section:

"§70120. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

SEC. 202. LICENSE APPLICATION.

(a) Section 70105 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "receiving an application" both places it appears and inserting in lieu thereof "accepting an application in accordance with subsection (b)(2)(D)";

(2) by striking "and" at the end of subsection (b)(2)(B);

(3) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and"; and

(4) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting an application for a license under this chapter.".

(b) The amendment made by subsection (a)(1) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code.

SEC. 203. PROHIBITION ON OBTRUSIVE SPACE ADVERTISING.

(a) DEFINITION.—Section 70102 of title 49, United States Code, is amended by inserting after paragraph (14), as redesignated by section 301(2)(B) of this title, the following new paragraph:

"(15) 'obtrusive space advertising' means advertising in outer space that is capable of being seen by a human being on the surface of the earth without the aid of a telescope or other technological device;".

(b) PROHIBITION.—Chapter 701 of title 49, United States Code, is amended by inserting after section 70109 the following new section:

"§70109a. Prohibition on obtrusive space advertising

"(a) PROHIBITION.—Notwithstanding the provisions of this chapter or any other provision of law—

"(1) the Secretary shall not—

"(A) issue or transfer a license under this chapter; or

"(B) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising; and

"(2) no holder of a license under this chapter, on or after the date of enactment of this Act, shall launch a payload containing any material to be used for purposes of obtrusive space advertising.

"(b) CIVIL PENALTIES.—Any person who violates the provisions of subsection (a)(2) shall—

"(1) be subject to a civil penalty, not to exceed $30,000,000 which shall be assessed by the Secretary; and

"(2) not be issued a license under this chapter for a period of 2 years from the date of such violation, or, in the case of multiple violations, from the date of the most recent violation.".

(c) NEGOTIATION WITH FOREIGN LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for obtrusive space advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for obtrusive space advertising purposes.

(3) As used in this subsection, the term "foreign launching nation" means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 of title 49, United States Codes, is amended by inserting the following after the item relating to section 70109:

"70109a. Prohibition on obtrusive space advertising".

TITLE III—REVISIONS TO LAND REMOTE SENSING POLICY ACT OF 1992

SEC. 301. AMENDMENTS.

The Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.) is amended—

(1) by amending section 2(9) to read as follows:

"(9) Because Landsat data are particularly important for global environmental change research, the program should be managed by an integrated team consisting of the National Aeronautics and Space Administration and the Department of Commerce.";

(2) in sections 3(6)(A), 101 (a) and (b), 103(b), and 504, by striking "Secretary of Defense" and inserting in lieu thereof "Secretary";

(3) in section 3(6)(B), by striking "Department of Defense and" and inserting in lieu thereof "and the Department of Commerce, as well as the Department of Interior, or";

(4) in section 101(b)(1), by striking ", with the addition of a tracking and data relay satellite communications capability";

(5) in section 101(b)(2), by striking all after "baseline funding profile" and inserting in lieu thereof "for the development and operational life of Landsat 7 that is mutually acceptable to the agencies constituting the Landsat Program Management;";

(6) in section 101(b), by inserting after paragraph (4) the following:

"The Director of the Office of Science and Technology Policy shall, no later than 60 days after enactment of the Aeronautics and Space Policy Act of 1994, transmit the management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(7) in sections 101(c)(3), 202(b)(1), 501(a), and 502(c)(7), by striking "section 506" and inserting "section 507";

(8) by adding at the end of Section 101 the following new subsection:

"(f) AUTHORITY TO RETAIN REIMBURSEMENTS.—The member agency of the Landsat Program Management responsible for operating Landsat 7 is authorized to offset the cost of such operations by retaining reimbursements collected from foreign ground stations and through the sale of Landsat 7 data until such data are transferred to the National Satellite Land Remote Sensing Data Archive.";

(9) in section 102(b)(1), by striking "by the expected end of the design life of Landsat 6" and inserting in lieu thereof "by the predicted end of life of Landsat 5, or as soon as practicable thereafter";

(10) in section 103(a), by striking "section 105" and inserting in lieu thereof "section 104";

(11) by striking section 104 and redesignating section 105 as section 104;

(12) in section 201(c), by amending the second sentence thereof to read as follows: "If the Secretary determines that the license requested by the applicant should not be issued, the Secretary shall inform the applicant within such 120-day period of the reasons for such determination and the specific actions required of the applicant to obtain a license.";

(13) in section 202(b)(6), by inserting ", other than for the sale of data generated by the system in accordance with the license, that" after "of any agreement";

(14) in section 204, by striking "may" and inserting in lieu thereof "shall";

(15) by inserting at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Within 30 days after any determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed pursuant to this title, the Secretary shall report to the Congress the reasons for such determination, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Within 30 days after any action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 203(a)(2), the Secretary shall notify the Congress of such action and provide the reasons for such action.";

(16) in section 302—

(A) by striking "(a) GENERAL RULE.—"; and

(B) by striking subsection (b); and

(17) in section 507, by striking subsection (a) and subsection (b)(1) and inserting in lieu thereof the following:

"(a) RESPONSIBILITY OF SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under this Act affecting national security. Within 60 days after receiving a request from the Secretary, the

Secretary of Defense shall recommend any conditions for a license issued under title II, consistent with this Act, that the Secretary of Defense determines are needed to protect the national security of the United States. If no such recommendations have been received by the Secretary within such 60-day period, the Secretary may deem activities proposed in the license application to be consistent with the protection of the national security of the United States.

"(b) RESPONSIBILITY OF SECRETARY OF STATE.—

"(1) The Secretary shall consult with the Secretary of State on all matters under this Act affecting international obligations of the United States. Within 60 days after receiving a request from the Secretary, the Secretary of State shall recommend any conditions for a license issued under title II, consistent with this Act, that the Secretary of State determines are needed to meet existing international obligations of the United States. If no such recommendations have been received by the Secretary within such 60-day period, the Secretary may deem activities proposed in the license application to be consistent with existing international obligations of the United States.".

TITLE IV—TECHNOLOGY INVESTMENT POLICY FOR AERONAUTICS AND SPACE

SEC. 401. FINDINGS.

The Congress finds that—

(1) the United States aerospace industry has provided a major contribution to the competitiveness of the United States;

(2) the international market share of the United States aerospace industry has steadily eroded due to competition from foreign consortia that receive substantial direct subsidies from their governments;

(3) the United States aerospace industry has been severely impacted by the reductions in defense spending, leading to reduced levels of research and development investment by industry;

(4) increased contribution to the health of the United States economy by the National Aeronautics and Space Administration is important to the long-term support of civilian aeronautics and space activities; and

(5) no effective means have been developed by which the National Aeronautics and Space Administration can accurately measure the contribution of its research toward achieving United States competitiveness and maintaining technological leadership.

SEC. 402. AERONAUTICS AND SPACE POLICY OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

It is the policy of the United States that—

(1) improving the competitive capability of the United States industry shall be a fundamental goal of the aeronautical and space research and development programs of the National Aeronautics and Space Administration;

(2) the investment in aeronautics and space technology by the National Aeronautics and Space Administration shall be closely coordinated with United States industry; and

(3) the establishment of industry-led, precompetitive consortia, alliances, or other entities shall be encouraged to better identify and coordinate the industry requirements for advanced technologies and facilities.

SEC. 403. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

(a) TECHNICAL CORRECTION AMENDMENTS.—

(1) Section 214 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 is amended by striking "(c)" both places it appears and inserting in lieu thereof "(d)".

(2) The amendment made by paragraph (1) shall be effective as of the date of enactment of the Act referred to in paragraph (1).

(b) REPORTS TO THE CONGRESS.—Section 206(a) of the National Aeronatuics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking "January" and inserting in lieu thereof "May"; and

(2) by striking "calendar" and inserting in lieu thereof "fiscal".

(c) COMPETITIVENESS.—Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking subsection (e) and inserting the following:

"(e) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to the economic growth, competitiveness, and productivity of the Nation.";

(2) by striking subsection (f) and by redesignating subsections (g) and (h), as subsections (f) and (g), respectively;

(3) in subsection (g), as so redesignated, by striking "(f), and (g)" and inserting "and (f)"; and

(4) in section 102(d)—

(A) by striking "and" in (8) and

(B) by adding the following after "(9)":

"(10) The research required for the improvement of the safety, capacity, and efficiency of the United States air transportation system through close coordination among the agencies of the Federal Government."

SEC. 404. TECHNOLOGY DEVELOPMENT AND COMMERCIALIZATION GOALS.

The Administrator shall require that, to the maximum extent practicable, aeronautical and space projects of the National Aeronautics and Space Administration—

(1) incorporate a technology plan that fosters technological advances of value to the mission of the National Aeronautics and Space Administration which benefits the economy of the United States and reduces the life cycle costs of such projects;

(2) promote commercial technology applications;

(3) measure and evaluate technology development and the potential for commercialization; and

(4) seek the involvement of United States industry.

SEC. 405. INDUSTRY TECHNOLOGY PROGRAM.

(a) PURPOSE; CRITERIA.—The Administrator shall establish a competitive program under which the Administrator may fund research and development projects proposed by industry-led consortia, alliances, or other entities, for the purpose of advancing aeronautics and space technologies. In selecting projects to be funded under this section, the Administrator shall weigh and consider—

(1) the extent of funding provided by industry for such project;

(2) each project's scientific and technical merit;

(3) the potential of the project to advance mission needs of the National Aeronautics and Space Administration;

(4) each project's potential to advance technologies that enhance the competitiveness of United States industry in global markets; and

(5) such other criteria as the Administrator considers appropriate to carry out the purposes of this section.

(b) COST-SHARING.—Amounts appropriated for this program may be obligated only to the extent that an equal or greater amount of non-Federal funding is provided for this program. Of the non-Federal funding provided for this program, the Administrator shall require contributions from sources other than those identified as Independent Research and Development.

(c) FINANCING MECHANISMS.—In funding the technology projects selected under this section, the Administrator is encouraged—

(1) to make greater use of the authority of the National Aeronautics and Space Administration under section 203(c)(5) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(5)) especially when applied to non-aerospace firms; and

(2) to enter into innovative procurement, financing, and management arrangement, consistent with existing statutes.

(d) COORDINATION WITH FEDERAL AGENCIES.—In carrying out this section, the Administrator shall consult with the Secretaries of Commerce, Defense, Energy, and Transportation and with such other Federal agency heads as the Administrator considers appropriate.

SEC. 406. CONDITIONS ON TECHNOLOGY INVESTMENT; ECONOMIC BENEFIT.

In funding technology programs and activities under this title, the Administrator shall ensure that the principal economic benefits accrue to the economy of the United States. The Administrator may consider such specific criteria as appropriate, and in developing such criteria, shall consult with appropriate Federal agency heads.

SEC. 407. ROLE OF PROCUREMENT IN TECHNOLOGY INVESTMENT.

The Administrator, in meeting aeronautical and space mission needs, shall coordinate and direct resources of the National Aeronautics and Space Administration in the area of procurement to—

(1) advance state-of-the-art technologies;

(2) assess and procure, where appropriate, commercially available technologies from the marketplace;

(3) use performance incentives; and

(4) reduce the paperwork requirements associated with procurement.

SEC. 408. COORDINATION WITH OTHER FEDERAL PROGRAMS.

(a) TECHNOLOGY PROGRAMS AND TECHNOLOGY TRANSFER PROGRAMS.—To ensure a consistent Federal investment policy and to preclude multiple awards for a single proposal, the Administrator shall ensure that the technology investment activities established under this title are coordinated closely with existing and future—

(1) Federal technology programs such as the Technology Reinvestment Program of the Advanced Research Projects Agency and the Advanced Technology Program of the National Institute of Standards and Technology; and

(2) Federal technology transfer programs and activities established to promote and advocate the use of technologies developed in the Federal laboratories.

(b) IDENTIFICATION OF FUNDING RECEIVED FROM OTHER AGENCIES.—The Administrator shall identify, as part of the annual budget submission to Congress, all funding received by the National Aeronautics and Space Administration from other Federal agencies for technology investment and development, including funds from programs listed in (a)(1) above.

SEC. 409. INTERAGENCY TECHNOLOGY INITIATIVES.

As part of the National Aeronautics and Space Administration's annual budget submission to Congress, the Administrator shall identify funding requirements, project milestones, and 5-year budget projections, for the portion undertaken by the National Aeronautics and Space Administration of each interagency technology project.

SEC. 410. COORDINATION WITH OTHER NASA PROGRAMS.

(a) SMALL BUSINESS INNOVATION RESEARCH.—The Administrator shall coordinate the technology investment activities under this title with the Small Business Innovation Research activities of the National Aeronautics and Space Administration to ensure the effectiveness of funding to small businesses, to the maximum extent permitted by law.

(b) INDEPENDENT RESEARCH AND DEVELOPMENT FUNDS.—The Administrator shall identify all funds provided to contractors of the National

Aeronautics and Space Administration for activities commonly referred to as "Independent Research and Development" and coordinate such funds with the technology investment activities under this title.

(c) TECHNOLOGY TRANSFER AND COMMERCIAL PROGRAMS.—The Administrator shall coordinate the activities of ongoing and future technology transfer, innovation, and commercial programs of the National Aeronautics and Space Administration with the technology investment activities under this title.

SEC. 411. PERSONNEL INCENTIVES.

To encourage the personnel of the National Aeronautics and Space Administration to pursue technology innovation and development, the Administrator shall provide personnel incentives, including—

(1) promotions and within-grade increases;

(2) bonuses and cash awards under the inventions and contributions system and senior executive service; and

(3) paid leave, sabbaticals, or intergovernmental personnel transfers to other Federal agencies or the private sector to pursue technology innovation and development, as the Administrator deems appropriate.

SEC. 412. ANNUAL REPORT TO CONGRESS.

The Administrator shall assess the technology investment activities established under this title and shall submit a report to Congress on the results of such assessment of activities. The report shall accompany the annual budget submission to Congress.

SEC. 413. APPLICATION OF ANTITRUST LAWS.

Nothing in this title shall be construed to create an immunity from any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

SEC. 414. DEFINITIONS.

For the purposes of this title, the term:

(1) "Federal laboratory" has the meaning given such term in section 4(6) or the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)).

(2) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

AMENDMENT NO. 2615

Mr. FORD. On behalf of Senator ROCKEFELLER, I send a substitute amendment to the desk and ask for its immediate consideration; that the amendment be agreed to and the motion to reconsider be laid upon the table; that the committee substitute, as amended, be agreed to; that the bill, as amended, be deemed read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to; further, that any statements relating to this item be inserted at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered:

Mr. FORD, for Mr. ROCKEFELLER, offered amendment No. 2615, which was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ROCKEFELLER. Mr. President, when the Senate passes this measure, H.R. 4489, the Aeronautics and Space Policy Act of 1994, we will take one more step in providing clearer direction in the interests of all Americans.

As a Nation, we are rethinking our investment of Federal dollars in civil aeronautics and space. The post-cold-war era has affected the United States aerospace infrastructure profoundly with its attendant downsizing and efforts to convert military production to fit civilian needs. While this change has been very disruptive to our aerospace community, it also has opened new opportunities to explore commercial avenues and international alliances.

Within this setting, it makes little sense to continue allocating tax dollars on research and technology priorities which were set over a decade ago. Federal discretionary dollars available to fund aeronautics and space activities have continued to shrink.

Over the past year and a half, as the chairman of the Science, Technology, and Space Subcommittee, I have worked with my colleagues in the Senate and my counterparts in the House of Representatives as well as the National Aeronautics and Space Administration [NASA], and the White House to help give meaning to these changes.

As a result of these labors, I am pleased to have the Senate consider H.R. 4489, the Aeronautics and Space Policy Act of 1994.

H.R. 4489 was passed by the House of Representatives and was referred to the Commerce Committee on August 9, 1994. On September 23, 1994, the Commerce Committee approved a substitute to H.R. 4489. The substitute to H.R. 4489 before the Senate today is similar to that approved by the Commerce Committee but incorporates technical amendments and changes that I believe substantively improve the legislation.

One thing I would like to make clear: H.R. 4489 is a policy bill. There are no authorizations of appropriations. This legislation makes mid-course corrections to our existing body of aeronautics and space law to reflect new policy directions in the National Aeronautics and Space Act of 1958, the Commercial Space Launch Act of 1984, and the Land Remote Sensing Policy Act of 1992.

The bill has five titles and incorporates many provisions of S. 1881, the NASA Technology Investment Policy Act of 1994. Title I provides authority for reprogramming and land conveyance to support ongoing NASA programs as well as requires reports to Congress on timely aeronautics and space issues.

Title II amends the Commercial Space Launch Act of 1984 to extend the authority of the Secretary of Transportation to license commercial reentry vehicles. It also expressly limits the launch of "obtrusive space advertising".

Title III amends the Land Remote Sensing Policy Act of 1992 to reflect changes to the future United States land remote sensing satellite program. These changes were recommended by the President's inter-agency National Science and Technology Council in May 1994.

Title IV amends the National Aeronautics and Space Act of 1958 to require NASA to work with industry in compatible areas of technology development. NASA needs to demonstrate a more direct link between its $14 billion annual budget and technology benefits to U.S. commercial sectors. Finally, title V requires NASA to provide Congress annually with budget materials that NASA submits to the President and which cover a 5-year period.

This substitute represents a truly collaborative effort. I would like to commend the ranking member of the Subcommittee on Science, Technology, and Space, Senator CONRAD BURNS, for working closely with me on this legislation and on other important legislation of the Science Subcommittee. I ask that my colleagues in the Senate join me and pass H.R. 4489, the Aeronautics and Space Policy Act of 1994.

Mr. COHEN. Mr. President, title V of the amendment proposed by the managers is essentially identical to S. 776, a bill I introduced to help ensure stability in NASA's programs.

This title addresses a matter the General Accounting Office has labeled a high risk problem with the budget of the National Aeronautics and Space Administration.

During the late 1980's NASA's budget grew by more than 50 percent in 3 years and NASA established long-term procurement plans that assumed such rapid growth would continue. When the Bush administration decided to drastically reduce the growth in NASA's long-term budget, NASA should have scaled back its buying plans accordingly.

It didn't. Instead, it acted as if nothing had changed and, as a result, a huge gap developed between its long term buying plans and its long-term budget, as illustrated in this chart. Accordingly to a 1992 NASA document, the gap for the succeeding 5 years was well over $15 billion, with the disparity growing larger with each passing year.

While, over the past 2 years, NASA has begun to make some serious efforts to reduce the cost of its 5-year program plan, the challenge of closing the gap has grown more difficult with the Clinton administration's decision to hold NASA to level funding for the next 5 years. NASA claims to have eliminated about half of the gap, but the General Accounting Office, which has continued to monitor this problem, has not yet been able to substantiate this claim.

The huge gap between NASA's 5-year program plan and its 5-year budget has five harmful consequences:

First, NASA is committing itself to more programs than it can possibly pay for. As a result, down payments are made on programs that later must be canceled, wasting billions of taxpayers' dollars.

Second, in an effort to avoid cancellation, some programs are stretched out, reducing their cost in any given year but increasing their total cost, again wasting taxpayers' money.

Third, rational planning is rendered impossible for NASA and its contractors, as the stable, predictable environment needed to manage NASA's complex development and acquisition programs is undermined.

Fourth, NASA experts abdicate their responsibility to set priorities among NASA programs, leaving Congress to substitute its judgment—which is often based on factors other than what is best for the Nation as a whole.

Fifth, and the ever present threat of stretch outs or terminations undermines morale at NASA and its contractors.

Mr. President, we have seen this all before. During the 1980's, the Pentagon created for itself an identical "bow-wave" problem, making small down payments on more programs than it could possibly pay for once the full bills came due.

Congress dealt with the defense bow-wave problem by adopting legislation to require the Pentagon to live within its means. Specifically, we passed a law requiring the Pentagon's 5-year defense plan to be consistent with the President's 5-year defense budget.

It worked. The bow-wave problem of the 1980's was essentially resolved despite deep cuts in defense procurement made by the Bush administration. We now face other problems with defense spending, but these are of a different nature.

Title V of the amendment before the Senate would simply impose on NASA the same discipline we imposed on the Pentagon in the 1980's: NASA would have to produce a 5-year program plan that is consistent with the 5-year budget proposed by the President for NASA.

It would not be a burden on NASA to provide such a 5-year program plan. The 3-year budget NASA currently submits would form the core of the program plan. It would need to be expanded to include budget figures for 2 additional years, but NASA already produces that data. The reason it does not provide it to Congress is largely to avoid the political embarrassment from revealing the large growth in the out-years of negative funding wedges, that is, unspecified cuts that NASA has yet to figure out how to make.

The additional data for the 4th and 5th year would not need extensive justification, although we would expect explanations of out-year budget figures that do not clearly flow from the narrative justification now provided in NASA's 3-year budget. Also, if a projected figure for a given year changed significantly from what had previously been projected, an explanation would be expected.

It is simply good sense and good government to require agencies to base their long-term plans on the President's budget submissions. This is especially important for agencies such as the Pentagon and NASA that engage in large-scale procurements that spend out over many years and, thus, are at special risk to procurement bow-waves.

The problem goes well beyond any specific NASA program to a culture of denial at NASA that has failed to come to grips with budget realities. NASA Administrator Daniel Goldin has worked to deal with these realities, but the extent of the problem and its institutional nature, transcending administrations and administrators, requires us to act legislatively.

Mr. President, I want to emphasize that title V is policy neutral. It does not prejudge how to close the gap between NASA's 5-year program plan and its budget. It would be up to NASA to set the priorities.

Regardless of what priorities are established, though, bringing NASA's plans in line with its budget is essential if NASA is to have rational, stable, and ultimately successful programs.

Mr. President, I will not take the time to read into the RECORD the testimony and many reports GAO has provided on this matter. I would refer those who are interested to the statement I made when I introduced S. 776 [April 7, 1993, 7679–81, which quotes at length from several.

So the bill (H.R. 4489), as amended, was deemed read the third time, and passed.

The title was amended so as to read: "An Act to amend the National Aeronautics and Space Act of 1958, and for other purposes.".

THE SMALL BUSINESS ADMINISTRATION REAUTHORIZATION—CONFERENCE REPORT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the conference report accompanying S. 2060, the Small Business Administration reauthorization; that the conference report be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I submit a report of the committee of conference on S. 2060 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2060) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1994.)

Mr. BUMPERS. Mr. President, S. 2060 is the first SBA reauthorization to be considered by Congress since President Clinton took office. It is a dramatic departure from the hold-the-line, do-as-little-as-necessary policy of the previous two administrations. President Clinton's fiscal year 1995 budget and legislation contain significant increases in SBA loan programs aimed at economic development and meeting the credit needs of small firms in a changing economy. This bill is major economic legislation which is badly needed and which can and will help further the Nation's recovery.

This conference report responds to the President's requests to the greatest extent possible in a time of fiscal constraints and sends a strong economic message. The small business sector has been and will remain the major resource of new jobs in the American economy. Paradoxically, small businesses face more difficulty than ever in obtaining the capital required for business start-ups, expansion, and operating capital.

In business loans, loan guarantees, and bond guarantees, S. 2060 as reported by the Small Business Committee authorizes about $16 billion in financial assistance to small businesses in 1995, over $18 billion in fiscal year 1996, and almost $23 billion in 1997. The role of the Small Business Administration is more vital than ever before in sustaining and expanding the economic recovery now underway.

The conference report also contains a bill (S. 737) which was introduced by Senator HATFIELD, and others, and a similar administration-requested bill (S. 2061) which ease prepayment penalties imposed on borrowers of high interest-bearing loans under the section 503 program. The committee has included a substitute for those bills as title V of the conference report.

The conference report authorizes SBA loan programs and certain business development programs. Included are section 7(a) loan guarantees, section 502 and 504 development company loans, microloans, small business investment company [SBIC] debentures, specialized SBIC preferred stock and debentures, and SBIC participating securities. Also included is a "such sums as may be necessary" authorization for SBA business and homeowner businesses in communities which have been affected by natural disasters.

Funding for SBA programs with the exception of disaster loans are detailed in a table, which I ask be printed at the conclusion of my statement.

This conference report is the product of many months of work by Senate and House committee staff and by Members on both sides. I thank all those who have participated, and particularly our ranking minority member, Senator PRESSLER, for all their work and support. I urge all Senators to support this report and send this bill to the President.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CONFERENCE AGREEMENT—SBA REAUTHORIZATION FUNDING LEVELS

Program	Proposed fiscal year 1995		Conference agreement	Proposed fiscal year 1996		Conference agreement	Proposed fiscal year 1997		Conference agreement
	Senate	House		Senate	House		Senate	House	
7(A) guarantees (billions)	$9	$7.815	$9.15	$10	$10.93	$10.5	$12	$14.2	$13.1
Defense conversion (7)(A)(21)) (billions)	2.0	1.5	2	2.5	0	2.5	3.5	0	3
Microloans direct (millions)	110	130	120	175	185	180	250	250	250
Microloan-TA (millions)	45	0	45	65	0	65	98	0	98
Micro guarantee pilot (millions)	15	20	20	20	30	30	20	40	40
Handicapped direct loans (millions)	0	12	10	0	13	11	0	14	12
504/502 development cos. (billions)	2.3	2.2	2.25	2.8	2.5	2.65	3.5	3	3.25
SBIC debentures (millions)	230	200	200	250	210	210	310	220	220
SBIC participating (millions)	500	400	400	750	650	650	1.25	900	900
MESBIC stock (SSBIC) (millions)	33	23	23	39	24	24	45	25	25
MESBIC guaranty (SSBIC) (millions)	55	44	44	70	46	46	75	48	48
Surety bond (billions)	1.8	1.8	1.8	2	1.8	1.9	2.2	1.8	2
SCORE (millions)	3.5	3.5	3.5	3.75	3.67	3.7	4	3.86	3.9
SBI (millions)	3	3	3	3.25	3.15	3.2	3.5	3.31	3.4
SBDCs regular (millions)	70	70	70	77.5	77.5	77.5	85	85	85
SBDCs defense conversion (millions)	25	0	5	25	0	10	25	0	15

Mr. PRESSLER. Mr. President, I rise as ranking member of the Small Business Committee in strong support of the conference report accompanying S. 2060, the Small Business Administration Reauthorization and Amendments Act of 1994—legislation to reauthorize the Small Business Administration [SBA] and its programs for the next 3 years.

This conference report is the result of many months of hard work by the Small Business Committees of both the Senate and the House. It has been a pleasure to work with Senator BUMPERS, chairman of the Senate committee, and Chairman LAFALCE and ranking member MEYERS of the House Small Business Committee. I also want to commend all the dedicated staff, on both sides of the aisle, who worked so hard to get us where we are today. This legislation represents a bipartisan effort. It is a good bill for this Nation's small business men and women. It not only provides authorization levels for SBA's programs for fiscal years 1995 through 1997, it fine tunes many existing programs and creates a few new ones.

Mr. President, S. 2060 marks the culmination of a series of oversight hearings we conducted in our committee over the past 2 years. During that process, our committee has explored in considerable detail the workings and problems of SBA's increasingly popular 7(a) business loan guaranty and section 504 development company programs, the agency's often overtaxed Disaster Assistance Loan Program and the still young but growing Microloan Demonstration Program. The committee also conducted oversight hearings on SBA's business development programs, including the Small Business Development Center [SBDC], Service Corps of Retired Individuals [SCORE], and Small Business Institutes [SBI] programs. We also explored the effectiveness of SBA programs targeted toward minority small business owners. Each of these hearings pointed out areas in which programs were working very well and areas in need of improvement. Of course, many witnesses urged the committee to increase funding levels for the particular program they supported.

I believe the committee responded with an excellent bill. Budget constraints prevented us from providing the levels of program authorization requested by the administration and witnesses. However, the bill takes an extremely responsible approach—expanding programs in a prudent manner and putting taxpayer dollars where they will get the most bang for the buck. I am proud to say we also have developed some very innovative approaches to solving what in some cases were some very old and difficult problems. For instance, the conference agreement allows borrowers under the SBA 503 program—borrowers who for years have been locked into loans with unreasonably high interest rates—the chance to refinance these loans. It also will expand and improve the Microloan Program so many more of this Nation's smallest and most disadvantaged businesses can obtain badly needed credit. Regarding the Microloan Program, I am particularly proud of the steps taken by this legislation to expand opportunities for what is often one of this country's poorest minority populations—American Indians.

Mr. President, I would now like to take a moment to outline some of the more important features of this conference report.

TITLE I—AUTHORIZATIONS

Title I of the conference agreement establishes the SBA's authorization levels for fiscal years 1995, 1996, and 1997. These levels reflect a realistic view of what these programs can probably receive in appropriations in the coming years. The conference agreement will allow these important programs to continue to serve America's small business men and women. In some cases, the agreement even expands the levels of service. The funding levels provided will allow SBS's highly effective business loan programs to continue stimulating small business growth. The section 7(a) business loan guaranty program—SBA's flagship assistance program—is expanded substantially. Under this program, the agency guarantees business loans made by commercial lenders to small businesses in the largest of cities and the smallest of towns. Recent years have witnessed an explosion in demand for this program. Much of the increased demand is the result of the credit crunch faced by many small entrepreneurs. With an SBA guarantee of 70 to 90 percent of the loan amount, banks and other lenders are willing to provide longer term financing than otherwise would be available. Lenders also will lend larger amounts at lower interest rates than the market and regulatory environment would allow without SBA's participation.

The 504 Development Company loan program also has been strained to the limit over the past several years. Under this program, SBA guarantees 10- and 20-year debentures issued by a certified development company. The proceeds of the debentures are lent with similar terms to small firms for plant acquisition, construction, conversion, expansion or the purchase of equipment. The SBA portion of the loan may fund not more than 40 percent of the project with the balance coming from the borrower and commercial sources. This program represents a remarkable example of how the Government can leverage taxpayer dollars to effectively create business expansion and large numbers of new jobs. The subsidy rate for the 504 program currently is set at roughly one-half of 1 percent. This means for every half cent Congress provides, $1 is lent to small business.

Mr. President, the word "efficient" seldom seems to attach itself appropriately to the phrase "government program." However, in the 504 program we have one of the most cost-effective economic development tools available to any State or local economy. Because of its great success, demand for the program has increased dramatically and the administration and development company industry sought extremely ambitious authorization levels for the program. This legislation responds with substantial increases in authorized levels for this proven program.

Title I of the conference agreement also provides authorized levels for the Small Business Investment Company [SBIC] debentures, the Specialized SBIC preferred stock and debentures and the SBIC participating securities programs. The conferees accepted funding levels for these programs as provided in the House amendment to S. 2060. I understand these numbers may be disappointing to some in both the small business community and the venture capital industry. However, I would provide two caveats. First, the authorized levels for these programs are higher than those under current law and reflect the view that the SBA's venture capital program—although it has a troubled history—has an important role to play in financing small business development. However, given the yet untested nature of the SBIC participating securities program, the conferees felt the most prudent course was not to expand the program too rapidly. For example, the administration's request would have almost tripled the funding for SBIC participating securities in fiscal year 1997.

My second caveat is that, quite frankly, the levels contained in this report more accurately reflect what the programs actually can expect in terms of appropriations. In other words, I was concerned the numbers in the administration's request would send an unwarranted signal to capital markets regarding actual future funding levels for these programs. At the same time, I understand the importance of venture capital. I also know the new SBIC participating security program is attracting many more well-financed applications than anticipated. Therefore, I will support efforts to revisit this issue as more information—such as the study required by section 216 of the conference agreement—becomes available.

Title I of the conference report also provides needed increases in funding levels for the Microloan, Surety Bond, Service Corps of Retired Executives [SCORE], Small Business Institute [SBI] and Small Business Development Center [SBDC] programs. Also included in the conference agreement is an authorization of appropriations for SBA business and homeowner disaster loans. These are direct loans made to individuals and businesses in communities damaged by natural disasters.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

Mr. President, title II of the conference agreement makes changes to the financial assistance programs of the SBA. It extends and improves the Microloan program, enhances export assistance and international trade programs, creates new Accredited Lender and Premier Certified Lender programs within the 504 program and enhances the SBIC and Specialized SBIC programs.

The legislation makes important changes to the Microloan Demonstration Program. First it extends the program until October 1, 1997. This is 1 year less than provided for in the Senate version of the bill. However, it is consistent with other loan program authorizations contained in the agreement. Conferees also agreed to expand the program by authorizing SBA to fund up to 200 programs beginning in fiscal year 1995. The agreement also developed a new state funding formula that should allow both the largest and smallest States to receive a more equitable share of Microloan program funding. In addition, the conference agreement directs the SBA to select microloan intermediaries in a manner that will ensure microloans are available both in urban and rural areas. The agreement further provides that the agency should strive to make microloans available throughout each State and to small businesses in all industries. One problem with the current program is that parts of some States are not served. The conference agreement seeks to correct that flaw.

The agreement also appropriately addresses an administration request to convert the Microloan Program from a direct to a guaranteed loan program. This legislation creates a pilot Microloan Guarantee Program directing part of the resources of larger demonstration program into the pilot. I agree with this approach. In my view, the SBA failed to provide a compelling need to suddenly route all loans to intermediaries through private lenders on a guaranteed basis. Given the Microloan Program's demonstration status, such a dramatic shift would be unwise at this time. The limited pilot guarantee program provides an excellent compromise.

Mr. President, I also am pleased the conferees accepted a modified version of an amendment I offered during the Senate committee's consideration of S. 2060. Under existing law, each loan made by the SBA to a Microloan intermediary is accompanied by a 25-percent grant to be used to provide technical assistance to those microenterprises borrowing from the intermediary. This grant is subject to a 25-percent non-Federal matching requirement. Additional technical assistance grant money equal to 5 percent of an intermediary's total outstanding balance of loans is available to those intermediaries maintaining a loan portfolio average of not more than $7,500. This additional grant is not subject to the matching requirement.

My amendment provided the extra 5 percent technical assistance grant to any intermediary making 25 percent of its loans to businesses owned by members of federally recognized American Indian tribes. These intermediaries would have been treated just as those maintaining an average loan portfolio of not more than $7,500. My amendment provided additional incentives for intermediaries making 50 percent or more of their loans to businesses owned by members of federally recognized American Indian tribes. These intermediaries would have received the full 30 percent maximum technical assistance grant allowed. However, none of the grant was subject to the matching requirement.

This amendment resulted directly from a field hearing I chaired just over 1 year ago on the Pine Ridge Indian Reservation in South Dakota. During that hearing—the first ever of the Senate Small Business Committee on an Indian reservation—witnesses testified as to the extreme scarcity of credit for businesses owned by American Indians. Many witnesses also explained how technical guidance and training were a critical part of effective small business assistance in their communities. Several individuals also provided examples of how small businesses developed through microlending programs already in existence effectively created jobs and economic opportunities on all too often economically depressed American Indian reservations because microbusiness development is a concept well suited to the American Indian culture.

During conference deliberations, I was persuaded communities in other areas of the country, such as Appalachia and the Delta, also suffer from extreme poverty and could benefit from a similar program. Therefore, the conferees agreed, in section 208 of the conference report, to create a 3-year pilot program identical in structure to my amendment, but with more broadly based eligibility. The additional technical assistance grants now will be provided to any intermediary making the prescribed percentages of loans to small business concerns located in or owned by one or more residents of an economically distressed area. The agreement defines "economically distressed area" as a county or equivalent division of local government in the State in which the small business concern is located, in which, according to the most recent data available from the Census Bureau, 40 percent or more of the individuals live at or below the poverty level. Thus, the provision will work as I had envisioned, but on an expanded basis and will assist other economically distressed communities. Section 208 fits extremely well with section 202 of the conference agreement that will allow American Indian tribal entities to act as intermediaries under the Microloan Program. I fully support this change and believe the two sections will work in tandem to provide important resources to American Indian entrepreneurs.

Title II of the conference agreement also makes dramatic changes to the 504 program. First, it creates an Accredited Lenders Program [ALP] for qualified State and local development companies. This change to the program was modeled after the Certified Lender Program within the 7(a) program. Under the ALP, certified development companies that meet certain criteria will be accredited and will receive expedited processing and servicing from the SBA. Both the Senate bill and the House amendment contained this provision. The agreement also creates a 3-year pilot Premier Certified Lenders Program [PCLP], similar to the Preferred Lender Program under 7(a). Under PCLP, certified development companies that meet even more stringent criteria will receive a delegation of authority from SBA to issue guarantees on behalf of the administration. In exchange, a premier certified lender will be required to reimburse SBA a percentage of any loss sustained by the agency due to guarantees issued under the delegated authority. These lenders also will be required to create loss reserves to cover their contingent exposure. The PCLP concept was part of the House amendment, but not contained in the Senate bill. Thus, the conferees agreed to create the program on a pilot basis and allow a maximum of 15 development companies to participate.

Mr. President, it is my hope these changes to the 504 program will help alleviate the excessive backlog of loan applications awaiting approval at the SBA. However, as development companies are not commercial lenders, their expertise in determining the credit worthiness of borrowers may prove inadequate in some cases. Therefore, I will be looking closely at the reports required for both programs under the conference agreement. I am certain the committees will need to revisit these issues in the future.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

This title of the conference agreement extends the pilot Preferred Surety Bond Guarantee Program until September 30, 1995. Conferees felt the 1-year extension was warranted to provide the time necessary to review the performance of the program in light of matters outlined in the Senate report accompanying S. 2060.

The conferees also agreed to a provision designed to promote access to Federal contracting opportunities requiring manufacturing for small business concerns participating in Manufacturing Application and Education Centers [MAEC's]. The SBA is directed to work with the Commerce Department and other Federal agencies to identify contracting opportunities for manufactured products, especially subsystems or components currently obtained from foreign sources. It is the intent of conferees that the SBA will use the authority provided under this title, together with its existing programs, to support the adoption and deployment of advanced manufacturing technologies and practices by small business concerns participating in MAECs.

Finally, I am pleased this title establishes a pilot program to expand the participation of very small business concerns in Federal contracting opportunities.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

I am very pleased with the changes made in the SBDC funding formula contained in title IV of the conference agreement. Conferees agreed to increase each State's base level of funding to $125,000 in fiscal year 1995 and to $200,000 thereafter. While conferees also agreed to eliminate the minimum level or floor all SBDC programs receive under current law, the new formula will guarantee those States currently at the floor will see their Federal share increase. This increase is absolutely vital to rural, Western States—like my home State of South Dakota—that have a large geographic area and thus suffer from disproportionately large travel and programming expenses.

The SCORE and SBI programs also fall under SBA's business development assistance program function. The conference agreement authorizes both programs for 3 years. These important resources provide grassroots counseling to small businesses for an extraordinarily nominal Federal expenditure. The SCORE Program teams experienced small business men and women and their wealth of experience with fledgling entrepreneurs who sometimes have little more than an idea and a great deal of enthusiasm.

During the Senate Small Business Committee hearing covering the SCORE Program, I raised concerns over the manner in which funds for the program are apportioned among local chapters. My concerns remain. I am not convinced reliable standards exist to guide the national SCORE office in its decisionmaking process in this regard. Indeed, I considered amending the Senate bill to ensure equitable distribution of SCORE funding. However, Chairman BUMPERS and I have agreed to pursue this concern in an official request for a General Accounting Office [GAO] study of the program and its funding formula. It is our intention that GAO's findings will be available before next year's appropriation cycle begins. I will consider legislative options once the results of that study are released.

SBI's provided an incredible service to America's small business community while creating an invaluable learning experience for business students in our colleges and universities. This program, together with State colleges and universities, provides teams of business students and faculty members to work one-on-one with existing businesses. Although the administration did not request funding for the SBI Program, I am extremely pleased the conferees acted to reauthorize it. SBIs are especially important to small businesses with limited access to SBDCs. Like SCORE, they provide their services in an extremely cost effective manner. Almost as a byproduct, the program provides our next generation of entrepreneurs with excellent hands-on experience in the working of an actual business.

Mr. President, title IV of the conference agreement also creates an Office of Women's Business Ownership within the SBA. The agreement also establishes an Interagency Committee on Women's Business Enterprise (Committee) and restructures the National Women's Business Council (Council). Committee membership will include high ranking policymaking officials from a variety of Federal agencies and offices. The council will consist of owners of small businesses and representatives of national women's business organizations. The committee and council will meet both separately and jointly as they work to fulfill their missions.

The committee is charged with the promotion of women's business ownership in the public sector, women-owned businesses' access to credit and capital, and assistance with data collection on women-owned businesses. It is to make annual reports to Congress outlining its activities and recommendations concerning women's business ownership.

The council is responsible for reviewing, promoting and coordinating women-owned businesses' access to credit and capital and their development and growth in both the public and private sectors. The council also is charged with helping in data collection on women-owned businesses. It is intended the council will function as a truly independent, objective and nonpartisan source of advice and policy recommendations for the committee, Congress, and the President.

The work of both the committee and the council is vitally important if the Federal Government is to address adequately the needs and special concerns of this rapidly growing segment of the small business community. However, previous efforts in this regard have proven less than completely successful. I believe it is critical the Senate and House Small Business Committees continue to monitor the progress of the committee and the council to ensure their important missions are carried out efficiently and effectively. I also very much look forward to receiving their views and recommendations.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

Mr. President, one of the most important provisions in the entire conference report is title V. This section of the legislation provides an excellent resolution to a longstanding and extremely unfair situation. It provides needed relief to borrowers under the Certified Development Company Section 503 Program, and certain borrowers under the SBIC and Specialized SBIC Programs. All of these borrowers are suffering from excessively high interest rates and extraordinarily burdensome prepayment penalties that prevent them from getting out from under. Presently some 3,500 borrowers under the 503 program and 200 participants in the SBIC and Specialized SBIC Programs are locked into SBA-backed loans with interest rates reflecting the Government's cost of money 10 or more years ago. Thus, rates on these loans can run 12 to 15 percent and higher.

Unfortunately, these borrowers are unable to refinance because of extremely onerous prepayment penalties of which many borrowers say they were either unaware of or mislead about at the time they took out the loan. Another unfortunate reality is the Federal Government simply is unable to absorb the cost—by some estimates well over $100 million—of totally relieving these borrowers of their obligations. The good news is that for fiscal year 1995 we secured an appropriation of $30 million to address the problem. It then became the small business committees' challenge to develop a formula to distribute the $30 million in as equitable a manner as possible. I am convinced the conference agreement achieves this objective. Borrowers wishing to refinance still will be required to pay a reduced prepayment penalty. However, the agreement at least makes refinancing a possibility for many who simply find it impossible under current law. Given the realities of the Federal budgetary situation, this represents an extremely fair remedy.

TITLE VI—MISCELLANEOUS AMENDMENTS

The final title of the conference agreement makes several improvements and technical corrections to a variety of SBA programs. Two important changes concern eligibility for SBA financial assistance. Under this agreement, individuals known by SBA to be illegal aliens will not be eligible for SBA assistance. In addition, anyone wishing to borrow from SBA now must certify they are not in substantial violation of any court order or agreement requiring the payment of child support. Individuals will be subject to the criminal and civil penalties contained in both the Small Business Act and the False Statements Act for false representations made to the agency in the course of a loan application or other application for assistance.

Mr. President, I also want to touch briefly on a provision not contained in the conference report, nor in either the Senate or House bills. Why raise something not in the conference agreement? Simply to emphasize that both committees rejected the idea and that this Senator will continue to fight the proposals should it surface again. I am speaking of the administration's proposal to charge a $15 per hour fee for SBDC counseling services. As I said in committee and when S. 2060 was before this body, SBDCs provide valuable counseling services to established and fledgling entrepreneurs. In some areas of the country, the fee may not have been unreasonable. However, I can tell you with certainty that in rural States and small cities such a requirement would be tantamount to shutting off the service. It simply would close the door of opportunity for many potential or new entrepreneurs with limited resources. I am extremely pleased the committees and the conferees rejected this proposal.

The last provision I wish to discuss involves another amendment I offered during Senate committee consideration of S. 2060. This amendment, adopted unanimously in committee and retained by the conferees, prohibits the SBA from providing assistance to businesses engaged in the production and distribution of obscene products and services. This provision, section 611 of the conference report, was drafted in response to the recent repeal of SBA's opinion molder rule. With the repeal of the rule, businesses such as newspapers, movie theaters, radio stations and bookstores now are eligible for SBA assistance.

However, this also means businesses involved in the production and distribution of obscene products and services also could seek SBA support. This section makes clear the SBA is not authorized to provide any assistance to those engaged in any class of obscene business as defined by the U.S. Supreme Court—and thus not entitled to first amendment protection. The section is intended to cover the narrow range of adult theme businesses, including adult book stores, adult theaters, adult film and video producers, and adult film and video distributors. It is not meant to apply to businesses such as convenience stores carrying adult materials that do not fall within the Supreme Court's definition of obscenity.

Mr. President, this concludes my overview of the conference agreement accompanying S. 2060. Let me again offer my wholehearted support for this legislation. I also want to again thank Chairman BUMPERS for his excellent leadership and willingness to work together in a bipartisan fashion.

As ranking member of the Senate Small Business Committee over the last 2 years, I have been privileged to play a role in an organization that has one main goal—to improve the opportunities for new and existing small businesses. With over one-fifth of the entire U.S. Senate represented on the committee, I have found the going is not always easy. Even when you share a common goal, individuals—especially U.S. Senators—often have very strong and very different opinions about how best to achieve the objective. However, Mr. President, I have enjoyed every minute of it. It is now my hope that as we conclude the business of the 103d Congress, we will enact this legislation and give our country's No. 1 job creating force and source of innovation—small business—new opportunities to succeed, expand, create jobs and increase the prosperity of our great nation.

So the conference report was agreed to.

LEGISLATION FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 554, H.R. 4455, a bill to authorize the Export-Import Bank to provide financing for the export of nonlethal defense articles.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4455) to authorize the Export-Import Bank of the United States to provide financing for export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2616

(Purpose: To provide for a substitute)

Mr. CRAIG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. D'AMATO, proposes an amendment numbered 2616.

Mr. CRAIG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

(a) IN GENERAL.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended by adding at the end the following:

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the Bank determines that—

"(aa) the defense articles or services are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.".

(b) REPORT TO THE CONGRESS.—Section 2(b)(6)(H) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(H)) is amended by inserting "or described in subparagraph (I)(i)" before the period at the end of the first sentence.

"(c) PERIOD OF EFFECTIVENESS.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, 1997.

SEC. 2. PROMOTION OF EXPORTS OF ENVIRONMENTALLY BENEFICIAL GOODS AND SERVICES.

"(a) IN GENERAL.—The first section 11(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-5(b)) is amended—

"(1) by inserting before "The Bank shall" the following:

"(1) IN GENERAL.—";

(2) in the first sentence, by inserting before the period "(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)"; and

(3) by adding at the end the following:

"(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriated to the Bank not more than $35,000,000 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of supporting such exports. If, in any fiscal year, the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.".

"(b) TECHNICAL CORRECTION.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by redesignating the second section 11 (12 U.S.C. 635i–8) as section 14.

Mr. D'AMATO. Mr. President, I rise today in support of H.R. 4455 which would authorize the Export-Import Bank to provide financing for the export of nonlethal defense articles and defense services for which the primary end use will be civilian purposes. The Export-Import Bank's jurisdiction should be expanded in this limited way, in order to maintain the U.S. defense industrial base which is so crucial to America's well being. I introduced S. 2289, the Senate counterpart.

The defense budget has been cut substantially. This has made it necessary to find alternative ways to keep the defense industry strong. Developing dual-use technologies—technologies that may be used for both civilian and military purposes—is one way. The Export-Import Bank is presently restricted from participating in any defense-related transactions.

The Bank's financing is important to promote trade opportunities, especially to developing third-world countries who are in need of these items such as air traffic control radars. The Export-Import Bank should be authorized to help finance dual-use products when the primary end use is civilian. This would create jobs badly needed in New York and throughout the entire country. This legislation would especially assist small businesses in the defense industry through the increased export opportunities.

This legislation passed in the House contains amendments regarding environmental products and services. Ken Brody, president and chairman of the Export-Import Bank, has argued against these amendments. Through the spirit of compromise, an agreement has been reached with the House. We intend to offer that compromise as an amendment to the House passed bill. The compromise helps promote environmental exports while not putting other exporters at a disadvantage. The House is prepared to accept and send the bill to the President for his signature. I urge my colleagues to support this legislation that will benefit the whole country.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2616) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there are no further amendments, the bill will be deemed read the third time and passed.

So the bill (H.R. 4455), as amended, was deemed, read the third time, and passed.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENSE OF THE SENATE WITH RESPECT TO ELECTIONS IN HONG KONG

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 695, Senate Resolution 265, a resolution to express the sense of the Senate concerning elections in Hong Kong on September 18, 1994; that the resolution and the preamble be agreed to; the motions to reconsider be tabled, en bloc; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 265) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 265

Whereas the United States strongly supports the development of effective, functioning democratic institutions worldwide;

Whereas the government of Hong Kong successfully conducted its first District Board elections on September 18th;

Whereas voter registration for the September 18th district council elections in Hong Kong was higher than ever before;

Whereas the number of candidates running for District Board positions is higher than in any previous election in Hong Kong's history;

Whereas Hong Kong has recently taken bold strides to increase democracy and expand the rule of law;

Whereas the rule of law is essential to the effective functioning of a market economy;

Whereas Hong Kong currently is one of the world's leading market economies;

Whereas recent electoral reforms in Hong Kong are consistent with the Joint Declaration and the Basic Law for Hong Kong;

Whereas Hong Kong is an important friend and trading partner of the United States;

Whereas the people of the United States and Hong Kong have long maintained close, friendly ties;

Whereas the stability of Hong Kong and the continuance of its special status are of great importance to the United States;

Whereas, to be effective, the rule of law must be firmly based upon the consent of those it governs; and

Whereas one of the most effective methods to protect against corruption is to ensure a government that is accountable to those it governs: Now, therefore be it

Resolved, That it is the sense of the Senate:

(1) Free and fair elections are an essential component of a stable, democratic government in Hong Kong that is free from corruption.

(2) The people of Hong Kong should be congratulated for the recent success of the District Board elections and for the progress of democratic reforms that support the rule of law in Hong Kong.

(3) The United States should make every effort to support the progress of democratic reforms in Hong Kong and to encourage all parties to protect these gains as the 1997 transition approaches.

THE TAIWAN RESOLUTION

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 696, Senate Resolution 270, a resolution to express the sense of the Senate concerning United States relations with Taiwan; that the resolution and preamble be agreed to, the motion to reconsider be laid on the table, en bloc, and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 270) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 270

Whereas the Republic of China on Taiwan (known as Taiwan) is the United States fifth largest trading partner and an economic powerhouse buying more than twice as much annually from the United States as do the 1.2 billion Chinese of the People's Republic of China.

Whereas European countries, with numerous ministerial visits to Taipei in support of their trade promotion efforts have been awarded over US$5 billion in contracts for Taiwan's Six Year National Development Plan, while U.S. companies have won only US$1.37 billion in contracts (1991–93);

Whereas Taiwan is a model emerging democracy, with a free press, free elections, stable democratic institutions, and human rights protections;

Whereas United States interests are served by supporting democracy and human rights abroad;

Whereas United States interests are best served by policies that treat Taiwan's leaders with respect and dignity;

Whereas the results of the Executive branch review of the policy of the United States toward Taiwan were announced on September 7, 1994; and

Whereas the adjustments made in United States policy toward Taiwan do not concretely or adequately upgrade relations: Now, therefore, be it

Resolved, That it is the sense of the Senate that United States policy toward Taiwan should

(1) welcome the President of the Republic of China on Taiwan and other high-level government officials to the United States;

(2) allow unrestricted office calls by all representatives of Taiwan in the United States to all United States departments and agencies, including the Departments of Defense and State and offices in the Old Executive Office Building;

(3) send cabinet-level officials, including officials from the Departments of State and Defense, to Taiwan on a regular basis;

(4) support a proposal in the 48th General Assembly of the United Nations for formal observer status for Taiwan as a first step toward full membership in the United Nations and its specialized agencies;

(5) support a proposal at the earliest possible time for full admission for Taiwan into a wide range of international organizations including, but not limited to—

(A) the General Agreement on Tariffs and Trade (GATT) as a developed country, irrespective of the timetable for the admission into GATT of the People's Republic of China;

(B) the International Bank for Reconstruction and Development (IBRD or the World Bank);

(C) the International Monetary Fund;

(D) the Convention on Trade in Endangered Species of Flora and Fauna (CITES);

(E) the Montreal Protocol of the United Nations Environment Programme (UNEP);

(F) International Maritime Organization (IMO);

(G) International Atomic Energy Agency (IAEA); and

(H) United Nations High Commission for Refugees (UNHCR);

(6) change the name of Taiwan's representative office in the United States to the "Taipei Representative Office";

(7) approve defensive arms sales to Taiwan based solely on Taiwan's self-defense needs, without qualitative or quantitative restrictions;

(8) require advice and consent of the United States Senate for the highest level representative of the United States in Taiwan;

(9) upgrade the status of the existing American Institute in Taiwan (AIT);

(10) include a report by the Secretary of to the Senate Foreign Relations Committee and the House Foreign Affairs Committee on United States economic, cultural, political and security relations with Taiwan on an annual basis;

(11) support participation of the President of the Republic of China on Taiwan in the Asia Pacific Economic Cooperation forum; and

(12) raise U.S. concerns about the People's Republic of China threat to forcefully reunify Taiwan and the People's Republic of China.

THE FARM CREDIT SYSTEM AGRICULTURAL EXPORT AND RISK MANAGEMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4379, the Farm Credit System Agricultural Export and Risk Management Act just received from the House; that the bill be deemed read the third time, passed, and the motion to reconsider be laid on the table, and that any statements relating to this matter be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4379) was deemed read the third time, and passed.

Mr. LEAHY. Mr. President, I am pleased to join today with the distinguished ranking member on the Committee on Agriculture, Senator LUGAR, to speak in support of final passage of the Farm Credit System Agricultural Export and Risk Management Act.

I believe that the act strongly merits passage by the Senate for three prime reasons. First, it expands the capacity of our Nation's financial system to provide credit for the export of U.S. agricultural products—a very promising growth area for rural economies that we must stimulate in every reasonable, affordable way we possibly can.

The act accomplishes this through modest expansion of the export lending authority of the National Bank for Cooperatives [CoBank], which has played a growing role in financing the export of American agricultural products since 1980.

Second, the act authorizes member lenders of the Farm Credit System—a Government-sponsored enterprise [GSE]—and the Nation's private banks to participate together in multilender transactions for the purpose of improving loan management capability and reducing the concentration of risk.

Finally and very important to the American taxpayer, the act moves in these two important directions without any Federal subsidy. Its provisions are modest and narrowly drawn. It will enhance credit opportunities for important rural ventures by carefully expanding CoBank's already-existing authority and by providing incentives for the Farm Credit System and private banks to cooperate and share risks.

The CoBank's present authority allows it to finance only exports produced by American agricultural cooperatives. This places an artificial limitation on its capacity to serve all of American agriculture. One of the act's central provisions will broaden CoBank's ability to finance the export of any U.S. agricultural product, regardless of the source.

CoBank has an excellent track record of providing significant financing for U.S. agricultural exports. In addition, it actively markets our products abroad and works with commodity and governmental organizations to develop new export opportunities.

In this rapidly changing era of NAFTA and GATT, it makes good sense to enhance this authority. CoBank—an experienced, technically proficient export lender that concentrates exclusively on agricultural products—can help our farm sector increase its exports dramatically without having to turn to the small group of foreign-owned banks that now dominate this relatively low-profit, high-risk business.

The act will accomplish something additional that I believe both the Farm Credit System and private banks have been seeking for some time and will find mutually beneficial. It creates the opportunity for farm credit institutions and private banks to manage and reduce their concentration of loan loss risk in terms of geography, industry, and account exposure by expanding the System's ability to purchase and sell loan participations from commercial banks and other nonsystem lenders.

The act may be modest in scope and neutral in its effect on the Federal budget. However, it is good for both America's private banks and for our Government-sponsored Farm Credit System, which has been so diligent in repaying the Federal obligations it incurred as a result of the 1987 Agricultural Credit Act, and in streamlining and improving its operations.

More important, the act is also good for the farms, ranches, and agriculture-related businesses of rural America, which will benefit from enhanced credit opportunities.

Most important of all, the act is good for American taxpayers and consumers, who will appreciate and support its reliance on nonfederal resources—and who have a real stake in improving the health of American agriculture. I strongly support and look forward to its final passage.

Mr. LUGAR. Mr. President, I strongly support the Farm Credit System Agricultural Export and Risk Management Act, which Senator LEAHY and I offer today on behalf of ourselves and Senator DOLE. This legislation will encourage U.S. agricultural exports, remove burdensome regulatory requirements from the Banks for Cooperatives, and clarify legal authorities for Farm Credit System institutions to manage risk through loan participations and similar transactions that will benefit not only the System but also commercial lenders.

The Farm Credit System's borrower-owned institutions have made a phenomenal recovery from their near-collapse in the mid-1980's. It is appropriate that Congress continue to encourage the System to manage its risks prudently, structure its operations in a manner consistent with the changing nature of the U.S. financial system, and facilitate its borrowers' participation in the international marketplace. I believe this legislation will help accomplish all these goals.

The key provision of this bill affects the ability of the banks for cooperatives to finance agricultural export transactions. These banks—primarily the National Bank for Cooperatives, or CoBank—have had export financing authority since 1980. CoBank finances about $2 billion of U.S. farm exports per year, nearly all of which is backed by the Agriculture Department's GSM-102 Credit Guarantee Program.

CoBank is, in fact, the dominant player among lending institutions participating in the GSM-102 Program. Relatively few U.S. commercial banks have financed GSM-102 transactions.

The law presently requires that, in order to finance an export sale, CoBank must ensure that the exported commodities originated with a cooperative. This does not mean that a co-op must actually be the exporter; more typically, a commercial grain company would export grain that was sourced from co-op elevators.

Since CoBank is owned by its cooperative borrowers, the institution has an obvious desire to source the exports it finances from co-ops whenever possible. In some cases, however, it is difficult or impossible for the exporter to certify co-op origin to CoBank. In such circumstances, CoBank simply loses business, often to foreign banks.

Two years ago, Congress absolved CoBank of the co-op sourcing requirement with respect to exports to the former Soviet Union, reflecting the high priority of maintaining trade ties to those republics unencumbered by unnecessary redtape. The legislation before the Senate will, in essence, extend this authority to all export destinations, while requiring that priority be given to commodities originating with cooperatives. In addition, following consultation with representatives of both CoBank and the commercial banking sector, this legislation will include a limitation on the total amount of noncooperative-sourced exports that can be financed without Federal guarantees.

As I have already indicated, I believe that by allowing some flexibility to CoBank, we will achieve a number of desirable goals. We will reduce a regulatory burden that sometimes results in export financing business being forfeited to offshore institutions. By virtue of CoBank's dominant role in GSM-102, we will enhance that program's efficiency and its ability to facilitate U.S. export sales. We will encourage an expansion of U.S. agricultural export sales at a time when exports of many commodities are in decline. And by reducing the administrative cost of some transactions, we will enhance efficient operations in a major Farm Credit System institution, further shoring up the safety and soundness of the entire System.

The bill has several other provisions, all of which enhance the Farm Credit System's ability to keep up with changing practices in the U.S. financial system. Specifically, the bill will—

Authorize the banks for cooperatives to finance international joint ventures and partnerships in which U.S. co-ops hold an ownership interest, while prohibiting any such financing that would lead to any U.S. facilities being moved overseas;

Authorize all Farm Credit System institutions to use risk management authorities presently available to the banks for cooperatives, by participating in loans to entities similar to those eligible to borrow from the System, but not holding more than a 50-percent interest in such loans;

Clarify the System's current authority to participate in loans originated by other financial institutions by ensuring that this authority will keep pace with evolving banking industry practice, permitting the System to take part in syndications and similar transactions.

In each case, these changes will enhance the System's ability to reduce its concentration of risk in terms of geography, industry, and account exposure. System institutions both purchase and sell participations from and to other lenders, a practice that is important particularly in the case of larger loans. For example, CoBank recently administered a $650 million syndication for Farmland Industries, Inc., a major farmer-owned marketing and supply cooperative. Seven commercial banks joined CoBank to provide funding for the syndication, illustrating the growing number of cases where banks and System institutions are working together harmoniously to meet the credit needs of rural America.

It is important to note that the legislation will not give System institutions an unfair advantage over the commercial banking industry. For example, in the case of loans to agricultural entities that are similar to System borrowers, the System would be prohibited from providing 50 percent or more of the funds for such loans, ensuring that the System's use of loan participations will be limited to those cases where commercial lenders desire to involve the System, and that the System still will not be able to originate loans of this type. As I have previously mentioned, there are also strict limits on CoBank's ability to finance export transactions not originated by cooperatives where these transactions are not protected by Federal credit guarantees.

Mr. President, I am pleased to join Senators LEAHY and DOLE as a sponsor of this important bill. Identical legislation has been approved by the House Committee on Agriculture, and I hope congressional consideration of the measure can be concluded in this session and the bill sent to the President. Let me again urge all Senators to support the bill.

I would like to clarify one aspect of the legislation before us, and ask the chairman of the Agriculture Committee whether his understanding is the same as mine. In the expanded authority for CoBank financing of export transactions in section 4, the products eligible for such financing include farm supplies. Does the chairman concur that authority to finance sales of such products is also contained in current law, and that the existing statute uses the identical phrase "farm supplies"?

Mr. LEAHY. That is my understanding. What is being changed in this bill is the current requirement that every export sale, without exception, be sourced from a cooperative. The product coverage of the current law is not being changed.

Mr. LUGAR. At present, I am told, farm supplies are understood to comprise inputs for use on the farm. The phrase is not considered to include such items as agricultural processing equipment, machinery used in food manufacturing, or similar capital goods for off-farm use. Does the chairman agree that nothing in this bill should be construed to imply a change in the current understanding of the phrase "farm supplies"?

Mr. LEAHY. The Senator is correct. We are not expanding that kinds of products that are eligible for CoBank financing; we are allowing for limited exceptions to the current requirement that all such products originate with cooperatives.

Mr. LUGAR. I thank the Chairman.

PETROLEUM PRACTICES ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1520, the Petroleum Practices Act, just received from the House; that the bill be read deemed a third time, passed; that the motion to reconsider be laid upon the table and any statements appear at the appropriate place in the RECORD as if read.

So the bill (H.R. 1520) was deemed read a third time and passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PETROLEUM MARKETING PRACTICES ACT AMENDMENTS

Mr. FORD. Mr. President, I rise today in support of H.R. 1520, which is identical to my bill, S. 338 the Petroleum Marketing Practices Act amendments.

It is my hope that this bill will provide a small but important example of the loosening of gridlock, and the reduction of the stranglehold on our legislative process. This compromise legislation was overwhelmingly supported by all interested parties during the last Congress. It passed the House and Senate Energy Committees unanimously. It was strongly supported by all elements of the petroleum marketing industry. And it should have become law 2 years ago. Today, we have before us legislation that has again obtained overwhelming support by all interested parties. The Senate Energy Committee held a hearing on this bill last year and the committee reported the amended bill by a unanimous voice vote on September 21, 1994. I am determined, along with many of my Senate colleagues and Chairman DINGELL and others in the House, to see that this important legislation becomes law this year.

The Petroleum Marketing Practices Act was enacted in 1978 as a "dealer's day in court" bill, to provide fairness and balance in negotiations between franchisors and franchisees involved in gasoline marketing. I have had an interest in this issue for several years now. It took nearly a decade to negotiate the original 1978 legislation. Since that time, a complex series of judicial decisions have led many to believe that the original statute is in need of fine tuning. In each of the last three Congresses, bills were introduced and hearings were held to reform the PMPA.

Today, after a series of negotiations among all interested parties on this issue, including service station dealers, jobbers, and oil companies, we have negotiated a new compromise which is reflected in the bill which is before us today.

The Petroleum Marketing Practices Act amendments would among other things, clarify the grounds for nonrenewal of a franchise relationship. Current law sets forth the only permissible grounds for termination or nonrenewal of a gasoline marketing franchise agreement. Nonrenewal may occur if there is a failure to agree to changes or additions to the franchise, so long as the new conditions are negotiated in good faith and not for the purpose of preventing the franchise removal. The interpretation of this section of current law has been somewhat subjective and confusing. The legislation before us today clarifies one major area of uncertainty. It makes explicit that preventing renewal includes situations where new conditions are proposed for the purpose of converting a franchisee operation into one operated by a franchisor's employees. In other words, a gasoline marketer cannot force conditions upon an independently operated service station for the purpose of converting it into a company-owned station. This is an important clarification to existing law.

While this important explanation and many other of the issues addressed in the bill are technical in nature, I believe that they will serve to bring a balance to the operation of the PMPA which will assure fairness in bargaining in the future. I am pleased by the support this legislation enjoys from all affected parties in the gasoline marketing industry. The efforts to achieve meaningful PMPA reform have been in motion for several years, and I believe we now have a compromise which will serve in the best interests of the entire industry. Such a compromise could not have been achieved without the hard work and support of many of my colleagues, particularly Chairman JOHNSTON, ranking minority member Senator WALLOP and Senator WELLSTONE. I appreciate the efforts of all who have helped fashion this compromise legislation that addresses these complex issues in plain and clear language.

I urge prompt adoption of this important legislation.

Mr. President, in debating this legislation, the issue of Federal preemption of State laws has caused particular difficulty. I would like to take this opportunity to stress, yet again, what I believe should be clear from the language of the committee report and the additional views of my friend and colleague from Minnesota: in passing this bill, aside from the two specific changes regarding goodwill and transfer of the franchise upon the death of the franchisee, we do not at this time take any action whatsoever on the issue of pre-emption. We neither endorse nor reject any court's interpretation of pre-emption law under the Petroleum Marketing Practices Act. We could not come to agreement on the issue, so we simply do not mean to address it in this bill.

Mr. WELLSTONE. I thank my friend from Kentucky for his hard work and infinite patience in moving this bill. It will certainly serve to better the lot of independent service station dealers nationwide.

It is my understanding, as well, that we will revisit the pre-emption issue next year. Service station dealers in Minnesota and throughout the country have indicated that resolving the pre-emption issue is of great importance to them.

Mr. DECONCINI. I join my colleague in the belief that it is very important to address the issue of pre-emption. This issue is very important not only to my State of Arizona, but nationwide, and Congress must revisit it next year and craft a resolution which serves the best interest of all involved.

Mr. FORD. I agree that resolving the pre-emption issue is of extreme importance and I intend to work diligently next year to see that we address that issue. I will work with other Senators in an effort to hold hearings early in 1995.

Mr. JOHNSTON. That is my understanding as well. Since we did not deal with the pre-emption issue this year, I fully intend to bring it up and try to resolve it early next year. I ask my friend the Senator from Wyoming, as the ranking minority member of the Energy Committee, whether he agrees with the statement of the Senator from Kentucky.

Mr. WALLOP. Mr. President, I agree with the comments of Senator FORD with respect to the intent of the committee on the issue of pre-emption. If Congress wishes to further address pre-emption, then it will have to take up that matter next Congress.

LEGISLATION TO AMEND THE PETROLEUM MARKETING PRACTICES ACT

Mr. REID. Mr. President, I would like to take this opportunity to address an issue of concern to me in the pending legislation. The senior Senator from Louisiana, and chairman of the committee, is to be commended for his leadership on this legislation. I am well aware of the hard work it takes to get legislation, such as this bill, to the floor of the Senate. I support this bill and intend to vote for it.

Yet, there is one outstanding issue that continues to concern me. This legislation is designed to protect independent petroleum wholesalers and retailers from arbitrary and unfair termination or nonrenewal of their franchise relationship with major oil companies. However, this protection is extended only to motor fuel franchises. Franchisees of other petroleum products sold by the major oil companies lack similar protection.

My concern is in relation to this lack of protection of other petroleum products. I have heard from a constituent in Nevada that his franchise agreement to sell lubricating oils to car dealers in Las Vegas was arbitrarily canceled with 30 days notice. This seems grossly unfair and, in fact, if the product sold by my constituent were gasoline or diesel fuel rather than lubricating oil, it would have been illegal. I have also been made aware of similar terminations or nonrenewals in other States.

Mr. President, I ask of the distinguished chairman if there are plans to address the issue of lubricating oil contracts to be included in the protections provided in the Petroleum Marketing Practices Act that currently exist for gasoline or diesel fuel franchisees?

Mr. JOHNSTON. I am aware of the concerns of the gentleman from Nevada, and I appreciate his willingness to support the bill before the Senate. The gentleman is correct. This legislation represents considerable time and effort to get to this stage of the process. The issue of concern to the senior Senator from Nevada is not one that has been the subject of hearings. I would say to the gentleman that I will be happy to schedule a hearing in the Energy Committee early next year to examine the magnitude of the problem that he raises and the most appropriate remedy to it.

Mr. REID. I thank the Senator from Louisiana for his understanding and his willingness to bring this issue before his committee.

Mr. LIEBERMAN. Mr. President, I would like to clarify my understanding of two aspects of the Petroleum Marketing Practices Act Amendments of 1994. First, this legislation has no effect on the notification provisions of any State law, such as that provision in effect in Connecticut. The Connecticut law requires at least 1 year notice of termination and was upheld by the Second Circuit Court of Appeals in *Bellmore* v. *Mobil*, 783 F.2d 300 (1986). Second, this bill looks to State law to determine when a termination of a service station dealer's franchise agreement is unlawful because the State law renders the franchise provision upon which termination is based unenforceable. For example, the Connecticut law regarding hours of operation will now be in effect because of this bill.

FEDERAL POWER ACT AMENDMENTS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 571, S. 2384, the Federal Power Amendments Act of 1994.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2384) to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2617

AMENDMENT NO. 2618

(Purpose: To provide for the extension of certain projects located in the State of West Virginia)

AMENDMENT NO. 2619

AMENDMENT NO. 2620

(Purpose: To extend the deadline for the commencement of construction of an Allegheny River hydroelectric power project)

Mr. FORD. Mr. President, I ask unanimous consent that be in order to send to the desk, en bloc, four amendments; that the Senate proceed to their immediate consideration; that the amendments be agreed to and the motion to reconsider be laid upon the table, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments (Nos. 2617, 2618, 2619, and 2620) were agreed to, en bloc, as follows:

AMENDMENT NO. 2617

(Amendment proposed by Mr. JOHNSTON)

On page 3, line 6, strike "the Governor of the State notifies".

On page 3, line 7, following "Energy" insert "determines, after notice and an opportunity for public comment,".

On page 3, line 10, strike "appropriate".

On page 3, line 14, strike "adequate".

On page 3, line 20, following "applicable." insert "Upon notice from the Governor of the State, the Secretary of Energy shall immediately initiate the process to make this determination, and shall complete said process and make a determination within 180 days of such notice.".

On page 5, line 21, strike "(a) General Licensing Authority.—".

On page 5, line 24, following the word "Hawaii" insert a comma and the phrase "unless a license would be required by section 23 of the Act".

On page 6, line 1, strike section 301(b) in its entirety.

On page 8, line 14, insert the following title:

TITLE VI—PROJECTS IN THE STATE OF KENTUCKY

SEC. 601. EXTENSION OF DEADLINE.

That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 10228 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interests requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the project for up to a maximum of three consecutive two-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

AMENDMENT NO. 2618

(Amendment proposed by Mr. BYRD)

On page 10, below line 2, add the following:

TITLE X—PROJECTS IN THE STATE OF WEST VIRGINIA

SEC. 1001. EXTENSION OF DEADLINE.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission projects numbered 6901 and 6902, the Commission shall, upon the request of the licensee for such projects, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section and the procedures specified in such section, extend the time period during which such licensee is required to commence of construction of such projects to terminate on October 3, 1999. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such projects. If the license issued for project numbered 6902 should expire prior to the date of enactment of this Act, the Commission is authorized and directed to reinstate effective October 15, 1994, the license previously issued for such project and to extend the time required for the commencement of construction of such project until October 3, 1999.

Mr. BYRD. Mr. President, I offer, on behalf of myself and Senator ROCKEFELLER, an amendment to S. 2384, the Federal Power Act Amendments of 1994, which grants the city of New Martinsville, WV, a 4-year extension to its Federal Energy Regulatory Commission [FERC] licenses to begin construction of two hydroelectric power projects at New Cumberland and Willow Island on the Ohio River. These projects are to be financed by the city of New Martinsville through the sale of municipal bonds. This extension is necessary, because the current licenses expire during the current year, and the city has already invested over $4 million in these projects. The hydroelectric projects take advantage of existing Army Corps navigation dams on the Ohio River in order to generate power, and also will include the development of recreational facilities. Without any contribution from the Federal Government, the city of New Martinsville will finance projects that will include fishing piers, underwater reefs, walkways, picnic facilities, and parking areas.

The city anticipates that the two projects would employ 500 staff during the peak of construction, with a $1.5 million monthly payroll. The total construction payroll for both projects is expected to be $25 million. The New Martinsville hydropower projects will also pay substantial taxes and other payments to various governmental entities during construction and operation. The Federal Government will benefit from these projects, since it will receive annual payments of $800,000 from the hydroelectric projects, even though the projects will be financed by the city of New Martinsville. The license extensions made possible by this amendment will bring significant economic development to the northern Panhandle region of West Virginia.

Mr. President, I thank the managers for supporting this amendment, and urge its adoption by the Senate.

AMENDMENT NO. 2619

(Amendment proposed by Mr. SIMON)

At the appropriate place sustitute the following new section for the section already included in the Omnibus FERC bill regarding FERC Project License Numbers 3943 and 3944.

SEC.   . The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 16, 1994 the hydroelectric license previously issued for Project Number 3943. Within the meaning of Section 13 of the Federal Power Act time required for the commencment of construction of such project shall be reinstated for not more than 3 consecutive 2-year periods.

SEC.   . The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 15, 1994 the hydroelectric license previously issued for Project Number 3944. Within the meaning of Section 13 of the Federal Power Act time required for the commencment of construction of such project shall be extended for not more than 3 consecutive 2-year periods.

Mr. SPECTER. Mr. President, this amendment which I am offering would extend the deadline for construction of a hydroelectric power project on the Allegheny River. This extension is necessary because the Allegheny North Council of Governments and the Borough of Cheswick received a license from the Federal Energy Regulatory Commission and must commence construction prior to April 15, 1995 or face the loss of their license under the Federal Power Act.

The licensees have been negotiating on power sales agreements, but have not yet been able to finalize these arrangements. This amendment would provide additional time for the municipal licensees to conclude their negotiations with potential power purchasers.

The Allegheny Project is one of several projects licensed for development along the Upper Ohio River Basin. Construction of this licensed power plant would permit Pennsylvania to use previously untapped hydroelectric energy, creating substantial environmental benefits and jobs for local residents.

I urge my colleagues to support the amendment.

AMENDMENT NO. 2620

(Amendment Proposed by Mr. SPECTER)

At the appropriate place in the bill, insert the following:

TITLE X—PROJECTS IN THE STATE OF PENNSYLVANIA

SEC. 1001. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 4474, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until April 15, 2001, the time required for the licensee to commence construction of such project.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the bill will be deemed read for the third time and passed.

So the bill (S. 2384), as amended, was deemed read a third time and passed, as follows:

S. 2384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Power Act Amendments of 1994".

TITLE I—PROJECTS IN THE STATE OF ALASKA

SEC. 101. STATE LICENSING JURISDICTION OVER SMALL PROJECTS.

The Federal Power Act, as amended, (16 U.S.C. 791a et seq.) is further amended by adding the following at the end of section 23:

"(c) In the case of any project works in the State of Alaska—

"(1) that are not part of a project licensed under this Act prior to the date of enactment of this subsection;

"(2) for which a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant);

"(3) having a power production capacity of 5,000 kilowatts or less;

"(4) located entirely within the boundaries of a single State; and

"(5) not located in whole or in part on any Indian reservation, unit of the National Park System, component of the Wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system, the State in which such project works are located shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this part, effective upon the date on which the Secretary of Energy determines, after notice and an opportunity for public comment, that the State has assessed its river resources in a comprehensive way and has in place a process for regulating such projects which gives consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable. Upon notice from the Governor of the State, the Secretary of Energy shall immediately initiate the process to make this determination, and shall complete said process and make a determination within 180 days of such notice.

"(d) In the case of a project that would be subject to authorization by a State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

"(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe.

"(f) Nothing in subsection (c) shall preempt the application of Federal environment, natural, or cultural resources protection laws according to their terms.".

SEC. 102. REMOVAL OF FEDERAL ENERGY REGULATORY COMMISSION JURISDICTION.

The following projects located entirely within the State of Alaska are removed from the jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction—

(1) a project located at Sitka, Alaska, identified in FERC Docket No. UL89-08; and

(2) a project located near Nondalton, Alaska, identified in FERC Docket No. EL88-25.

TITLE II—PROJECTS IN THE STATE OF ARKANSAS

SEC. 201. EXTENSION OF DEADLINE.

That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC projects numbered 4204, 4660 and 4659 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the projects for a maximum of two years. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

TITLE III—PROJECTS IN THE STATE OF HAWAII

SEC. 301. EXEMPTION FOR PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon".

TITLE IV—PROJECTS IN THE STATE OF IDAHO

SEC. 401. EXTENSION OF DEADLINE.

Notwithstanding the time limitation of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 4797, is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend until March 28, 2000 the time required for the licensee to commence the construction of such project.

TITLE V—PROJECTS IN THE STATE OF ILLINOIS

SEC. 501. PROJECT NUMBER 3943.

The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 16, 1994 the hydroelectric license previously issued for Project Number 3943. Within the meaning of section 13 of the Federal Power Act time required for the commencement of construction of such project shall be reinstated for not more than 3 consecutive 2-year periods.

SEC. 502. PROJECT NUMBER 3944.

The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 15, 1994 the hydroelectric license previously issued for Project Number 3944. Within the meaning of section 13 of the Federal Power Act time required for the commencement of construction of such project shall be extended for not more than 3 consecutive 2-year periods.

TITLE VI—PROJECTS IN THE STATE OF KENTUCKY

SEC. 601. EXTENSION OF DEADLINE.

That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 10228 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the project for up to a maximum of three consecutive two-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

TITLE VII—PROJECTS IN THE STATE OF NEW MEXICO

SEC. 701. EXEMPTION OF PORTION OF EL VADO HYDROELECTRIC PROJECT FROM LICENSING REQUIREMENT OF PART I OF THE FEDERAL POWER ACT.

(a) Part I of the Federal Power Act shall not be applicable to the portion of the El Vado Hydroelectric Project, New Mexico (FERC project numbered 5226) that is described in subsection (b).

(b) The portion of the El Vado Hydroelectric Project referred to in subsection (a) consists of the 69 KV transmission line, including the right of way, which originates in the switchyard of such project and extends north to the Spills Switching Station operated by the Northern Rio Arriba Electric Cooperative, Inc., located in Rio Arriba County, New Mexico.

TITLE VIII—PROJECTS IN THE STATE OF OREGON

SEC. 801. EXTENSION OF DEADLINE.

The Federal Energy Regulatory Commission is authorized and directed to reinstate effective May 23, 1993 the hydroelectric license previously issued for project numbered 7829. Commencement of construction within the meaning of section 13 of the Federal Power Act shall commence within four years of the date of enactment of this section.

TITLE IX—PROJECTS IN THE STATE OF WASHINGTON

SEC. 901. EXTENSION OF DEADLINE.

Notwithstanding the time limitation of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 3701, is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend until May 31, 2000, the time required for the licensee to commence the construction of such project.

TITLE X—PROJECTS IN THE STATE OF WEST VIRGINIA

SEC. 1001. EXTENSION OF DEADLINE.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission projects numbered 6901 and 6902, the Commission shall, upon the request of the licensee for such projects, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section and the procedures specified in such section, extend the time period during which such licensee is required to commence of construction of such projects to terminate on October 3, 1999. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such projects. If the license issued for project numbered 6902 should expire prior to the date of enactment of this Act, the Commission is authorized and directed to reinstate effective October 15, 1994, the license previously issued for such project and to extend the time required for the commencement of construction of such project until October 3, 1999.

TITLE XI—PROJECTS IN THE STATE OF PENNSYLVANIA

SEC. 1101. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 4474, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until April 15, 2001, the time required for the licensee to commence construction of such project.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:25 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 967. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use pesticides.

H.R. 1520. An act to amend the Petroleum Marketing Practices Act.

H.R. 4495. An act to amend the Federal Aviation Act of 1958 to prohibit smoking on all scheduled airline flight segments in air transportation or intrastate air transportation.

H.R. 4704. An act to provide for the conveyance of certain lands and improvements in Hopewell township, Pennsylvania, to a nonprofit organization known as the "Beaver County Corporation for Economic Development" to provide a site for economic development.

H.R. 4910. An act to designate the United States courthouse under construction in White Plains New York, as the "Thurgood Marshall United States Courthouse."

H.R. 4939. An act to designate the United States courthouse located at 201 South Vine Street in Urbana, Illinois, as the "Frederick S. Green United States Courthouse."

H.R. 4967. An act to designate the United States courthouse located at 231 West Lafayette Street in Detroit, Michigan, as the "Theodore Levin United States Courthouse" and to designate the postal facility located at 1401 West Fort Street in Detroit, Michigan, as the "George W. Young Post Office."

H.R. 5108. An act to extend the Export Administration Act of 1979.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H.Con. Res. 279. Concurrent resolution condemning the July 13, 1994, sinking of the *13th of March*, a tugboat carrying 72 unarmed Cuban citizens, by vessels of the Cuban Government.

H.Con.Res. 286. Concurrent resolution recognizing the contribution of President Alfredo Christiani of El Salvador to achieve peace and national reconciliation in El Salvador.

The message further announced that the House had passed the following bill, without amendment:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2060) to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 2440) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

At 12:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it request the concurrence of the Senate:

H.R. 3426. An act to authorize the Secretary of Agriculture to convey lands to the City of Rolla, Missouri.

H.R. 4778. An act to codify without substantive change recent laws related to transportation and to improve the United States Code.

H.R. 4948. An act to designate Building Number 137 of the Tuscaloosa Veterans' Medical Center in Tuscaloosa, Alabama, as the "Claude Harris, Jr. Building."

H.R. 5053. An act to authorize the Secretary of Agriculture to extend for one year Water Bank Act agreements that are due to expire on December 31, 1994.

H.R. 5156. An act to make a technical correction to the Food Stamp Act of 1977.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The following enrolled bill and joint resolutions, previously signed by the Speaker of the House, were signed on today, October 5, 1994, by the President pro tempore (Mr. BYRD):

H.R. 734. An act to amend the Act entitled "An Act to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.".

S.J. Res. 157. Joint resolution to designate 1994 as "The Year of Gospel Music."

S.J. Res. 185. Joint resolution to designate October 1994 as "National Breast Cancer Awareness Month."

S.J. Res. 198. Joint resolution designating 1995 as the "Year of the Grandparent."

MEASURES REFERRED

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 4939. An act to designate the United States courthouse located at 201 South Vine Street in Urbana, Illinois, as the "Frederick S. Green United States Courthouse"; to the Committee on Environment and Public Works.

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 967. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act with respect to minor use pesticides; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4495. An act to amend the Federal Aviation Act of 1958 to prohibit smoking on all scheduled airline flight segments in air transportation or intrastate air transportation; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The Committee on the Energy and Natural Resources was discharged from further consideration of the following measure and ordered placed on the calendar:

S. 1818. A bill to establish the Ohio & Erie Canal National Heritage Corridor in the State of Ohio as an affiliated area of the National Park System, and for other purpose.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1203. A bill to establish a Center for Rare Disease Research in the National Institutes of Health, and for other purposes (Rept. No. 103–399).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1697. A bill to improve the ability of the Federal Government to prepare for and respond to major disasters, and for other purposes (Rept. No. 103–400).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1020. A bill to promote economic growth and job creation in the United States by facilitating worker involvement in the development and implementation of advanced workplace technologies and advanced workplace practices and by identifying and disseminating information on best workplace practices (Rept. No. 103–401).

By Mr. BAUCUS, from the Committee on Environment and Public Works, without amendment:

H.R. 3300. A bill to amend the Act popularly known as the "Sikes Act" to enhance fish and wildlife conservation and natural resources management programs on military installations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs:

Mary Ellen R. Fise, of the District of Columbia, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1996, vice Virginia Stanley Douglas, term expired.

Bruce A. Morrison, of Connecticut, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2000, vice William C. Perkins, resigned.

J. Timothy O'Neill, of Virginia, to be a Director of the Federal Housing Finance Board for the remainder of the term expiring February 27, 1997, vice Marilyn R. Seymann, resigned.

James Clifford Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997. (Reappointment)

H. Terry Rasco, of Arkansas, to be a Member of the Board of Directors of the National Institute for Building Sciences for a term expiring September 7, 1997, vice Arnold L. Steinberg, term expired.

Christine M. Warnke, of the District of Columbia, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1995, vice Louis L. Guy, Jr., resigned.

James Clifford Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1994, vice James G. Sterns, term expired.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee on the Senate.)

The following executive reports of committee were submitted:

By Mr. GLENN from the Committee on Governmental Affairs:

Vanessa Ruiz, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of 15 years, vice Judith W. Rogers.

Luise S. Jordan, of Maryland, to be Inspector General, Corporation for National and Community Service. (New Position)

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 1996, vice Roger W. Mehle, resigned.

Scott B. Lukins, of Washington, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1995, Vice John David Davenport, term expired.

Martha F. Riche, of Maryland, to be Director of the Census, vice Barbara Everitt Bryant, resigned.

George J. Opfer, of Virginia, to be Inspector General, Federal Emergency Management Agency, vice Russell Flynn Miller.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee on the Senate.)

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Michael Goldsmith, of Utah, to be a Member of the U.S. Sentencing Commission for a term expiring October 31, 1997, vice Helen G. Corrothers, term expired.

Wayne Anthony Budd, of Massachusetts, to be a Member of the U.S. Sentencing Commission for a term expiring October 31, 1997, vice Ilene H. Nagel, resigned.

Deanell Reece Tacha, of Kansas, to be a Member of the U.S. Sentencing Commission for a term expiring October 31, 1997, vice George E. MacKinnon, term expired.

Richard P. Conaboy, of Pennsylvania, to be Chairman of the U.S. Sentencing Commission, vice William W. Wilkins, Jr.

Richard P. Conaboy, of Pennsylvania, to be a Member of the U.S. Sentencing Commission for a term expiring October 31, 1999, vice William W. Wilkins, Jr., term expired.

Richard Thomas White, of Michigan, to be a Member of the Foreign Claims Settlement

Commission of the United States for a term expiring September 30, 1996, vice Frank H. Conway, term expired.

Florence K. Murray, of Rhode Island, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995, vice Malcolm M. Lucas, term expired.

Robert Nelson Baldwin, of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995, vice Carl F. Bianchi, term expired.

Joseph Francis Baca, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995, vice James Duke Cameron, term expired.

Rose Ochi, of California, to be Associate Director for National Drug Control Policy, vice Kay Coles James, resigned.

John Edward Rouille, of Vermont, to be U.S. Marshal for the District of Vermont for the term of 4 years, vice Christian J. Hansen.

Sheldon C. Bilchik, of Maryland, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention, vice Robert W. Sweet, Jr., resigned.

Reginald B. Madsen, of Oregon, to be U.S. Marshal for the District of Oregon for the term of 4 years, vice Kernan H. Bagley, resigned.

Wiliam Henry Von Edwards III, of Alabama, to be U.S. Marshal for the Northern District of Alabama for the term of 4 years, vice Thomas C. Greene.

Robert Henry McMichael, of Georgia, to be U.S. Marshal for the Northern District of Georgia for the term of 4 years, vice Lynn H. Duncan.

Sven E. Holmes, of Oklahoma, to be U.S. District Judge for the Northern District of Oklahoma, vice James Oliver Ellison.

William H. Walls, of New Jersey, to be U.S. District Judge for the District of New Jersey, vice Harold A. Ackerman, retired.

Eddie J. Jordan, Jr., of Louisiana, to be U.S. Attorney for the Eastern District of Louisiana for the term of 4 years, vice Harry A. Rosenberg, resigned.

Vicki Miles-LaGrange, of Oklahoma, to be U.S. District Judge for the Western District of Oklahoma, vice Lee R. West.

Alvin W. Thompson, of Connecticut, to be U.S. District Judge for the District of Connecticut, vice Ellen Bree Burns, retired.

Helen W. Gillmor, of Hawaii, to be U.S. District Judge for the District of Hawaii, vice a new position created by Public Law 101–650, approved December 1, 1990.

Roslyn Moore-Silver, of Arizona, to be U.S. District Judge for the District of Arizona, vice Earl H. Carroll, retired.

Sean J. McLaughlin, of Pennsylvania, to be U.S. District Judge for the Western District of Pennsylvania, vice Glenn E. Mercer, retired.

Robert W. Gettleman, of Illinois, to be U.S. District Judge for the Northern District of Illinois, vice John F. Grady, retired.

David A. Katz, of Ohio, to be U.S. District Judge for the Northern District of Ohio, vice Alvin I. Krenzler, retired.

Elaine F. Bucklo, of Illinois, to be U.S. District Judge for the Northern District of Illinois, vice John A. Nordberg, retired.

William T. Moore, Jr., of Georgia, to be U.S. District Judge for the Southern District of Georgia, vice Anthony A. Alaimo, retired.

Fred I. Parker, of Vermont, to be U.S. Circuit Judge for the Second Circuit, vice James L. Oakes, retired.

Diana E. Murphy, of Minnesota, to be U.S. Circuit Judge for the Eighth Circuit, vice John R. Gibson, retired.

(The above nominations were approved subject to the nominees' commitment to appear and testify before any duly constituted committee on the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

*A.J. Eggenberger, of Montana, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1998.

*Clifford B. O'Hara, of Connecticut, to be a Member of the Board of Directors of the Panama Canal Commission.

*Herbert Kouts, of New York, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1997.

*Gil Coronado, of Texas, to be Director of Selective Service.

*Bernard Daniel Rostker, of Virginia, to be an Assistant Secretary of the Navy.

*Alan J. Dixon, of Illinois, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

*Alan J. Dixon, of Illinois, to be Chairman of the Defense Base Closure and Realignment Commission.

*Albert H. Nahmad, of Florida, to be a Member of the Board of Directors of the Panama Canal Commission.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be general

Lt. Gen. John J. Sheehan [redacted] U.S. Marine Corps.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. William H. Forster [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Otto J. Guenther [redacted] U.S. Army.

The following-named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Lt. Gen. Daniel W. Christman, [redacted] U.S. Army.

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James E. Chambers [redacted] U.S. Air Force.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. Robert L. Rutherford, [redacted] U.S. Air Force.

The following-named officer for reappointment to the grade indicated while serving in a position of importance and responsibility designated by the President under the provisions of title 10, United States Code, section 601, and to be appointed as Chief of Staff, U.S. Air Force under the provisions of title 10, United States Code, section 8033:

TO BE CHIEF OF STAFF, U.S. AIR FORCE

To be general

Gen. Ronald R. Fogleman, [redacted] U.S. Air Force.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD of September 26, October 3, and October 4, 1994, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 26, October 3 and 4, 1994, at the end of the Senate proceedings.)

*Lt. Gen. Daniel W. Christman, USA for reappointment to the grade of lieutenant general. (Reference No. 1581.)

*Gen. Ronald R. Fogleman, USAF to be Chief of Staff, U.S. Air Force and to be general. (Reference No. 1704.)

*Gen. Robert L. Rutherford, USAF for reappointment to the grade of general. (Reference No. 1705.)

*Lt. Gen. John J. Sheehan, USMC to be general. (Reference No. 1728.)

*Lt. Gen. James E. Chambers, USAF, to be placed on the retired list in the grade of lieutenant general. (Reference No. 1819.)

**In the Air Force Reserve there are 3 appointments to the grade of lieutenant colonel (list begins with Thomas O. Wildes). (Reference No. 1820.)

**In the Air Force Reserve there are 25 promotions to the grade of lieutenant colonel (list begins with Tommie S. Alsabrook). (Reference No. 1821.)

**In the Air Force there are 27 appointments to the grade of second lieutenant (list begins with Bret D. Anderson). (Reference No. 1822.)

**In the Army there is 1 promotion to the grades of major and lieutenant colonel (Brain M. McWilliams). (Reference No. 1823.)

**In the Air Force Reserve there are 917 promotions to the grade of lieutenant colonel (list begins with Francis L. Abad, Jr.). (Reference No. 1824.)

*Maj. Gen. Otto J. Guenther, USA to be lieutenant general. (Reference No. 1831.)

**In the Air Force Reserve there are 15 promotions to the grade of lieutenant colonel (list begins with Francis M. Anuclair). (Reference No. 1839.)

*In the Army there is 1 promotion to the grade of lieutenant colonel (Michael D. Furlong). (Reference No. 1840.)

**In the Army Reserve there are 85 promotions to the grade of colonel (list begins with Kristine Campbell). (Reference No. 1841.)

By Mr. BAUCUS, from the Committee on Environment and Public Works:

Frederic James Hansen, of Oregon, to be Deputy Administrator of the Environmental Protection Agency.

D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of 2 years.

Gerald V. Poje, of Virginia, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of 5 years.

Devra Lee Davis, of the District of Columbia, to be a Member of the Chemical and Hazard Investigation Board for a term of 5 years.

Kenneth Burton of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of 2 years.

Paul L. Hill, Jr., of West Virginia, to be a Member of the Chemical and Hazard Investigation Board for a term of 5 years.

Paul L. Hill, Jr., of West Virginia, to be Chairperson of the Chemical and Hazard Investigation Board for a term of 5 years.

Anne Jeanette Udall, of North Carolina, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. REID (for himself, Ms. MOSELEY-BRAUN, and Mr. WELLSTONE):

S. 2501. A bill entitled "Federal Prohibition of Female Genital Mutilation Act of 1994" to the Committee on the Judiciary.

By Mr. GLENN:

S. 2502. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio; to the Committee on Energy and Natural Resources.

By Mr. DURENBERGER (for himself, Mr. HARKIN, Mr. DOLE, Mr. MCCAIN, Mr. SIMON, Mrs. MURRAY, and Mr. JEFFORDS):

S. 2503. A bill to amend the Small Business Act to authorize small business concerns owned and controlled by individuals with disabilities to participate in business development programs established by that Act, and for other purposes; to the Committee on Small Business.

By Mr. METZENBAUM (for himself and Mr. SIMON):

S. 2504. A bill to extend the protections of Federal labor and civil rights laws to part-time, temporary, and leased employees, independent contractors, and other contingent workers, and to ensure equitable treatment of such workers; to the Committee on Labor and Human Resources.

By Mrs. MURRAY:

S. 2505. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to exempt from preemption under such title certain provisions of the law of the State of Washington relating to health plans; to the Committee on Labor and Human Resources.

By Mr. JOHNSTON:

S. 2506. A bill entitled "Wetlands Regulatory Reform Act of 1995" to the Committee on Environment and Public Works.

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 2507. A bill to amend the Federal Water Pollution Control Act to improve stormwater management, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PACKWOOD:

S. 2508. A bill to amend the fishing endorsement issued to a vessel owned by Ronnie C. Fisheries, Inc.; to the Committee on Commerce, Science, and Transportation.

By Mr. MOYNIHAN:

S. 2509. A bill to establish an American Heritage Areas Partnership Program in the Department of the Interior; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI (for himself and Mr. GRASSLEY):

S. Con. Res. 78. A concurrent resolution concerning the removal of military forces of the Russian Federation from the independent nation of Moldova; to the Committee on Foreign Relations.

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. Con. Res. 79. A concurrent resolution recognizing Belleville, New Jersey, as the birthplace of the industrial revolution in the United States; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Ms. MOSELEY-BRAUN, and Mr. WELLSTONE):

S. 2501. A bill entitled "Federal Prohibition of Female Genital Mutilation Act of 1994"; to the Committee on the Judiciary.

THE FEDERAL PROHIBITION OF FEMALE GENITAL MUTILATION ACT OF 1994

Mr. REID. Mr. President, last night when I went home about 9 o'clock, or thereabouts, I had a very pleasant evening. My two grandchildren from Nevada are here. One of the little girls is 4 years old and her sister is 2 years old. I called my wife this morning from my office and told her what a pleasant night I had last night, especially as I was falling asleep, listening to those two little girls in an adjoining bedroom talk and play. I went to bed with my 4-year-old granddaughter singing, "It's a Small, Small World." It is something I will always remember.

I mention that today, Mr. President, because the subject about which I am going to speak indirectly relates to my 4-year-old granddaughter, Ryan, and my 2-year-old granddaughter, Savannah.

Two weeks ago, I introduced a sense-of-the-Senate resolution condemning the cruel ritual practice of female genital mutilation, and commending the Government of Egypt for taking quick action against two men who performed this deed, this illegal act, on a 10-year-old girl in front of television cameras beamed across the world. This resolution passed on September 27 of this year.

At that time, I committed myself to continuing to talk about this issue and to informing my colleagues, my friends and my constituents of the dangers it poses to the physical and emotional health of young girls who undergo the procedure and the violation it constitutes against an individual's human rights.

I also indicated during my speech on the Senate floor that I would be introducing a bill to make the practice of female genital mutilation against the law in this country, the United States. I rise to do that today with two of my distinguished colleagues who are well known for their commitment to improving the lives of women and children, Senators WELLSTONE and MOSELEY-BRAUN.

Senator WELLSTONE and his wife Sheila have worked tirelessly—and I underscore that word—throughout his tenure in the Senate and even before he came to the U.S. Senate, as a college professor, to end domestic violence and to make homes a safer place for women, children and their families. Their efforts have resulted in the passage of the Child Safety Act which will provide funds for child safety centers across our great land for families with a history of violence. He also has worked on the Domestic Violence Firearm Prevention Act, which denies gun ownership to persons who have restraining orders against them for threatened abuse to a spouse or child in the family, and the Violence Reduction Training Act, which authorizes funds to train health care providers to identify and refer victims of domestic violence.

Senator MOSELEY-BRAUN, a graduate of one of our most distinguished law schools in the country, the University of Chicago, shares Senator WELLSTONE's commitment to our Nation's children and has successfully worked for uniform child support enforcement legislation. Perhaps her greatest achievement this session, though, is the school infrastructure title in the ESEA reauthorization bill, which we will be debating today. Because of her vision, our Nation's students will be able to count on safe classrooms and appropriate school facilities as they work to secure a successful future for themselves and, accordingly, for our Nation.

So I say, Mr. President, in introducing this legislation, no one has worked harder, fought harder than Senators MOSELEY-BRAUN and WELLSTONE to protect our children and provide them with the foundation that is so essential to growing into happy, healthy adults. I am pleased they have joined in addressing this issue which is so important to the well-being of children across the world.

Mr. President, it is estimated that up to 100 million young girls and women have been mutilated in ritual female genital mutilation as practiced in over 30 countries worldwide. This ritual is usually performed on young girls between the ages of 4 and 10 years of age. My little girl, my little 4-year-old granddaughter, would be, in some countries, subject to this mutilation. Excision and infibulation are the most common practices. Infibulation is practiced in many countries, and it entails the excision of all the female genitalia. The remaining tissue is stitched together, leaving only a small opening for urine and menstrual fluid. Sometimes their legs are strapped together for up to 2 weeks.

This practice has, of course, no medical justification for being performed on anyone, but especially healthy young girls and women and is usually performed with crude, unsterile instruments without anesthetic. The cauterizing material in many of the practices is ash out of the fireplace. The aftereffects of this act include shock, infection, emotional trauma, hemorrhaging, debilitating scarring, and, of course, infertility and, yes, death.

As immigrants from countries in which female genital mutilation is performed as a rite of passage have traveled to other nations, this practice, sadly, has traveled with them.

Following my statement a few weeks ago on the floor on this subject, I received a letter in my office from a woman in Woodland Hills, CA. She wrote to me to express her support for my efforts—now our efforts—to draw attention to this practice. One paragraph of her letter tells it all. It stunned me. It reads:

> When my gynecologist told me that a colleague of his in Los Angeles regularly performed this ritual legally, you could have taken my breath away.

What troubles me most about this reality is that it is most often performed on children, young girls under the age of 18, at an age at which a child cannot give consent. A child does not have the ability to consent or understand the significance and the consequence of this ritual, certainly what effect it will have on her life and health and certainly not on her dignity.

The United Kingdom, Sweden, and Switzerland have all passed legislation preventing female genital mutilation. France and Canada maintain that the practice violates already established statutes prohibiting bodily mutilation and have taken action against this practice. The United States should also move to take the responsibility of abolishing this practice within the borders of our country.

The legislation introduced today will do exactly that, by outlawing the practice of female genital mutilation in the United States on young women and girls under the age of 18.

Eradication of this procedure will require more than just outlawing its practice. It will also require educating immigrant communities about the physical and psychological health effects of such a practice.

This legislation will give authority to the Deputy Assistant Secretary for Women's Health and the Deputy Assistant Secretary for Minority Health to design and implement outreach activities and educational programs in cooperation with representatives of various ethnic groups practicing this mutilation to educate individuals that it is wrong.

This legislation will also direct the Secretary of Health and Human Services to develop recommendations for the education of medical students in the treatment of women who have undergone this procedure and the complications arising from this mutilation.

In a special article for the New England Journal of Medicine, entitled "Female Circumcision as a Public Health Issue," Dr. Nahid Toubia explains the importance of education for health professionals on the implications of female genital mutilation. He states:

> Under the conditions in which most procedures take place, female (genital mutilation) constitutes a health hazard with short-term and long-term physical complications and psychological effects. The influx of refugees and immigrants from different parts of Africa to North America, Europe, and Australia in the past decade requires that physicians and other health professionals familiarize themselves with the practice and its ramifications for their patients.

This ritual practice is difficult for me to talk about, but ignoring this issue because of the discomfort it causes us does nothing but perpetuate the silent acquiescence to its practice. Some women around the world are standing up against tremendous pressure and defiance to fight for the health and dignity of their friends, sisters, mothers and daughters. We must do the same in our country. We must protect innocent young girls living in this country and abolish this practice. We must use education as our strongest weapon against its perpetuation. We must continue to talk about it until its end is reached.

The three of us rise today recognizing that this legislation is not going to pass this year, but the reason I introduced my colleagues and told about their accomplishments legislatively is to let the world know we are going to continue working on this until this legislation passes. I am going to do it for my grandchildren. I am going to do it for the children of this world. It is one of the most important things about which we can be engaged. It is all about human dignity.

I yield now to my colleague from Minnesota for whatever time he may consume.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. I thank my colleague. I say to my distinguished colleague from Illinois, Ms. MOSELEY-BRAUN, that I will be very brief.

I honestly feel that Senator REID has more than covered the ground. To me, this mutilation is an horrific form of child abuse, and it is a human rights violation. We should absolutely make sure it is abolished in our country. Our country should take the lead.

I also think, Mr. President, I say to Senator REID and Senator MOSELEY-BRAUN, we as a nation should be very active in the United Nations on this issue as well.

Mr. President, first of all, I wish to kind of talk about my personal connection to this issue and why I share Senator REID's absolute determination to make sure that we pass this legislation. This is not symbolic. We are not just introducing the bill at the end of this session and it just sort of fades away, never to be seen or heard about again. We are going to make sure this bill becomes the law of the land in the next Congress.

First of all, I thank Senator REID. When he first spoke about this absolutely horrible form of child abuse and basic violation of human rights—and in many, many cases we are talking about young girls—I happened to be in the Chamber, and I just listened to him. As you know, Mr. President, we become so used to seeing Senators out in the Chamber speaking, and then we rush to committee meetings or whatever else. We almost sometimes do not even hear the words. I just stopped and came back and sat and listened. I thank Senator REID for his personal commitment on this issue. This is inside of his heart. It is very, very clear. He is, as my kids would say, on fire on this issue. I just think that there is no question in my mind that none of us are going to rest until we make sure that this bill becomes the law of the land.

Second, I would like to thank Abe Rosenthal, the other person who has brought my attention to this. Mr. Rosenthal, a columnist for the New York Times, has been so strong in his writing about this. I think he is somewhat of a model conscience for our country and the world on this issue.

Finally, Mr. President, let me just simply say that as a man, as a father, as a husband with two sons and one daughter, and also as a grandfather, with one granddaughter, I feel the same way about this. I do not even like to think about what the statistics mean in personal terms. I cannot even imagine such a cruel practice taking place. I really believe that this is a basic human rights issue.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEMALE GENITAL MUTILATION ACT OF 1994

This bill will make it illegal to perform the procedures of FGM on persons younger than 18 years punishable by a fine or imprisonment for up to 5 years.

The procedures will not be considered a violation if it is necessary for the health of the person and is performed by medical professionals. Also, it will not be considered a violation if it is performed on person in labor or just given birth.

Under this bill it will be illegal to discriminate and to deny medical services to any person who has undergone FGM procedures, or to persons who have requested that the procedures be performed on another. Violation equals fine and/or imprisonment up to 1 year.

The bill calls for the compilation of data on the number of females in U.S. who have subjected to FGM (whether done inside or outside of U.S.), and a breakdown of number of girls under 18.

The bill requires the Secretary of HHS to identify communities in U.S. which practice FGM and design and implement outreach activities to inform people of the physical and psychological health effects. This is to be done in collaboration with representatives of ethnic groups, and representatives of organizations which have expertise in prevention of FGM.

The bill requires the Secretary of HHS to develop recommendations for educating students in medical schools on FGM.

Female genital mutilation is a horrific form of child abuse as well as a human rights violation which should be explicitly outlawed in the United States.

Even the "mildest" form of FGM, the clitoridectomy, is the anatomical equivalent to amputation of the penis.'

Though the extent of the problem in the U.S. is unclear, we should join with other nations such as The United Kingdom and Sweden in setting an example for the world by enacting legislation which explicitly prohibits FGM. One section of the bill calls for the collection of data which will provide us with the numbers we need to determine how widespread the problem is. [See U.S. examples as shown in background information below.]

For most of us, it is difficult to discuss this issue and to acknowledge that this form of child abuse could take place in our communities—in a nation which considers itself civilized. The passage of this act will send a clear message, especially to our immigrant communities, that it will be illegal for any child or young woman, regardless of cultural tradition, to be subjected to the torture of FGM.

I urge my colleagues to support this important and necessary bill.

BACKGROUND INFORMATION

Definitions.—Female genital mutilation (FGM) includes: clitoridectomies and infibulation. Clitoridectomies: removal of part of the clitoris or the whole organ. Infibulation: removal of the clitoris and labia minora, plus incision of labia majora, which is then stitched to cover the urethra and entrance to the vagina (a very small opening is left to pass urine and menstrual blood).

Clitoridectomy (the mildest type of FGM) is the anatomical equivalent to amputation of the penis.

Estimates range from 80 to 100 million women in over 30 countries have been subjected to FGM.

Extent of FGM in United States is unknown, however health care workers are seeing an increasing number of immigrants who have been subjected to the procedures. Examples: Somali refugees have offered to pay doctors up to $3,000 to perform the procedure on their daughters. In 1986, an African-born nurse, living in Atlanta, was charged with child abuse because of a botched clitoridectomy performed on her 3-year old niece. (Source: U.S. News & World Report, Feb. 7, 1994).

According to the World Health Organization (May 1993) complications of FGM include the following: Immediate risks are death (hemorrhage); shock (servere pain); infertility; tetanus; infection; HIV infection from tools used. Long-term effects include general health & reproductive problems—urinary tract infections; coital difficulty; cysts & abscesses; severe scar formations; difficulty voiding; difficulties with menstruation. Problems with childbirth include double the risk of maternal death; several times increased risk of stillbirth; increased risk of hemorrhage and infection.

Laws and initiatives of other countries/organizations: World Health Assembly (May 1993) adopted a resolution which highlighted the elimination of "harmful traditional practices and other social and behavioral obstacles affecting the health of women, children and adolescents . . . [including] female genital mutilation." Sweden, 1982, passed a law which prohibits all forms of FMG. United Kingdom passed a smilar law in 1985. France has not passed an specific law prohibiting FGM, however, several cases have been brought against parents for having the procedure performed or intending to do so, on their French-born daughters. These cases were established a precedent for the illegality of FGM, and were tried under child-abuse laws. The Netherlands and Belgium have made it clear that the practice is illegal. (Source: New England Journal of Medicine, Sept. 15, 1994).

Mr. WELLSTONE. I thank my colleague, Senator REID, from Nevada, and I would like to thank Senator MOSELEY-BRAUN. I look forward to working with the Senators on this to make sure that in fact we are successful in the next Congress.

Mr. REID. Mr. President, I yield whatever time the Senator from Illinois may consume.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Ms. MOSELEY-BRAUN].

Ms. MOSELEY-BRAUN. Mr. President, at the outset, I wish to thank and commend my colleague, the Senator from Nevada, for his initiative in this area. This issue of femald genital mutilation is an important child abuse issue. It is an important women's issue. But most significantly, it is an important human rights issue. As my colleagues have spoken to the point, this is not just a matter of difference in cultural points of view. This really goes to a public health concern, a concern for human rights that I think as Amerians we all share.

Mr. President, circumcision is a procedure with a long history. It is a common, accepted practice in the United States for babies to be circumcised. The Jewish religion has even made circumcision a religious ceremony. It is quick, relatively painless, and without long-term consequences—for men.

For women, however, circumcision is another matter altogether. The procedure known as female circumcision is not at all benign. It is mutilation.

Eighty million women worldwide have been mutilated by being subjected to female circumcision. This practice is most widely seen in Eastern and Western Africa and some Middle Eastern countries. In Mali, Sierra Leone, Somalia, and parts of Ethiopia and northern Sudan, nearly all women are circumcised.

Even the United States is not immune to this phenomenon. Tragically, we are seeing more and more genital mutilation as communities from African countries immigrate to this country.

That is why I am so pleased to be introducing this legislation with Senator REID and Senator WELLSTONE to halt this practice in the United States.

Female circumcision has been associated with the Moslem religion, but nowhere in Islamic scripture is it required. Nor is it practiced in Saudi Arabia, the cradle of Islam. Historically, the procedure dates back before the rise of the Moslem religion to the times of the Pharaoh in Egypt.

In countries where the practice is not universal, female genital mutilation is more common among poor, uneducated women, and it is inextricably tied to the status of women in the community.

In these societies, women who have not been circumcised are considered unclean, and unmarriageable. In communities where the only role for a woman is to be married and have children, the fear of being labeled unmarriageable is enormous and real.

Ironically, that is why women are the strongest supporters of this practice. It is the older women who know best about how an uncircumcised woman in a traditional village will be treated.

Girls are taught that with circumcision, they enter womanhood. Mothers encourage the mutilation because they want their daughters to marry—because marriage is the only access to a meal ticket. And men support the custom because a woman who is circumcised is chaste. In short, circumcision is a passport into the only role that women can play.

As a woman and a mother, I am outraged, because I can't imagine leading a child to this kind of torture.

I want to raise awareness of this practice. This is mutilation of otherwise healthy women, pure and simple. We must work together to stop teaching girls that undergoing this kind of butchery is essential to their future.

Mr. President, there are very serious health risks associated with the practice of female genital mutilation that do not exist with male circumcision.

This practice is most often performed by midwives or other women elders with little or no medical training. It is performed without anesthetic or sanitary tools. Often, the cut is made with a razor blade or a piece of glass.

The New England Journal of Medicine has examined female genital mutilation as a public health issue. They report that women often hemorrhage after the cutting. Prolonged bleeding may lead to severe anemia. Urinary tract infections and pelvic infections are common. Sometimes, cysts form in the scar tissue. The mutilation can also lead to infertility.

At childbirth, circumcised women have double the risk of maternal death, and the risk of a stillbirth increases severalfold.

And because the cutting is performed without sanitary tools, female genital mutilation has become a means of spreading the HIV virus.

There are no records of how many girls die as a result of this practice.

Mr. President, Sweden, Britain, the Netherlands, and Belgium have outlawed this practice. In France, it is considered child abuse.

I think we can do as well here at home in the United States.

Last year, the World Health Organization adopted a resolution on maternal child health and family planning for health sponsored by Guinea, Kenya, Nigeria, Togo, Zambia, and Lebanon that highlights the importance of eliminating harmful traditional practices, including female genital mutilation, affecting the health of women, children, and adolescents.

Banning this practice in the United States is just the first step toward eradicating it. Girls must be taught that they will have opportunities, both in marriage and outside the home, if they are not mutilated. Mothers must believe that their daughters will have a place in the community if they are not circumcised. And men must be taught that the terrible health risks involved with the procedure far outweigh their belief that a circumcised woman is a virgin bride.

I want to commend the Inter-African Committee on Traditional Practices affecting the health of women and children, for their work in Africa over the last 10 years to educate women so that this practice can be abolished. It will take much more than government statements against the procedure to eradicate the tradition.

I also wish to acknowledge Americans who have spoken out against this procedure, including Gloria Steinem, Alice Walker, A.M. Rosenthal of the New York Times, ABC's "Day One."

Mr. President, no woman, anywhere, should have to undergo this kind of mutilation, not to get a husband, not to put food on the table, not for any reason. Female circumcision is, in the final analysis, about treating women as something less than people. It must be stopped. It has no place in today's world.

It certainly has no place here in the United States.

Mr. President, I think it is fair to say that the leadership of the Senator from Nevada in this area has been very important in bringing this issue to the attention of the American people and bringing this issue to the attention of this legislative body so that we can make a definitive statement as the Congress of the United States that female genital mutilation has no place in this country and that we are intent and will see to it that it is banned.

By Mr. GLENN:

S. 2502. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio; to the Committee on Energy and Natural Resources.

OHIO HYDROELECTRIC PROJECT LEGISLATION

• Mr. GLENN. Mr. President, I am introducing a bill to extend the time limitation on an already issued Federal Energy Regulatory Commission [FERC] license for the Summit Pumped Energy Storage Project in Norton, OH. Legislation authorizing the FERC to grant this extension has been introduced in the House by Congressman SAWYER.

Upon completion of environmental, engineering, and other project review, the FERC issued a license to Summit Energy Storage, Inc., for the Summit Pumped Storage Hydropower Project. The 1,500 megawatt Summit project, to be located in Summit and Medina Counties, OH, will generate an estimated maximum 3,900 gigawatt-hours of electricity per year.

In addition, this project will create thousands of man-years worth of construction jobs in the area. Other benefits for the region include tax revenue and economic growth in the short term and for the future.

Section 13 of the Federal Power Act prescribes the time limits for commencement of construction of a hydropower project once FERC has issued a license. The licensee must begin construction not more than 2 years from the date the license is issued, unless FERC extends the initial 2-year deadline. FERC has extended the Summit Project's construction commencement deadline for the one permissible 2-year period, setting the current deadline of April 11, 1995. The bills introduced by Congressman SAWYER and me would grant FERC authority to extend the commencement of construction deadline for up to 6 additional years.

Mr. President, I urge the enactment of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DEADLINE.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission (FERC) project numbered 9423, the Federal Energy Regulatory Commission may, upon the request of the licensee for such project, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, extend the time period during which such licensee is required to commence the construction of such project for not more than 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the expiration of the extension of the period required for the construction of the project described in subsection (a) that was issued before the date of enactment of this section by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806).•

By Mr. DURENBERGER (for himself, Mr. HARKIN, Mr. DOLE, Mr. MCCAIN, Mr. SIMON, Mrs. MURRAY, and Mr. JEFFORDS):

S. 2503. A bill to amend the Small Business Act to authorize small business concerns owned and controlled by individuals with disabilities to participate in business development programs established by that act, and for other purposes; to the Committee on Small Business.

THE AMERICANS WITH DISABILITIES BUSINESS DEVELOPMENT ACT OF 1994

Mr. DURENBERGER. Mr. President, when Congress passed the Americans With Disabilities Act [ADA], a long-overdue step was taken to empower individuals who had for years, faced unfair discrimination and prejudice simply on the basis of a disability. The intent of the ADA is to allow people with disabilities to participate fully in all aspects of society. Unfortunately, one area in which individuals with disabilities have experienced inequality is in gaining the opportunity to own, operate, and manage a business.

Today I am introducing the Americans With Disabilities Business Development Act, a bill which would allow people with disabilities to compete for contracts and capital under the Small Business Administration's [SBA] 8(a) and 8(c) minority enterprise programs.

I want to thank my distinguished colleagues—Mr. HARKIN, Mr. DOLE, Mr. MCCAIN, Mr. SIMON, Mrs. MURRAY, and Mr. JEFFORDS—who have joined in cosponsoring this bill.

Mr. President, individuals with disabilities have historically experienced difficulty obtaining employment. Moreover, they have not had the same opportunities and financial support as others in society, to own and operate their own businesses. While the ADA prevents most employers from discriminating on the basis of disability, it does not provide financial support to business entrepreneurs who happen to have a disability.

The Small Business Act established the 8(a) and 8(c) programs, in part, to foster business ownership by individuals who are both economically and socially disadvantaged. By entering into contracts with Government agencies and departments for supply, service, construction, and research development, the SBA is able to offer subcontracts to 8(a) and 8(c) businesses. This not only maintains the viability to competitive, minority held businesses, but also works to eliminate the doubts which non-Government contractors may have in negotiating with minority enterprises.

The criteria for participation in the 8(a) and 8(c) programs are not clearly specified in law or regulations. By definition, members of racial or ethnic minorities are held to be "socially and economically disadvantaged." Although the ADA found that individuals with disabilities have suffered a history of unequal treatment, unfair discrimination and prejudices, the ambiguity in the SBA guidelines forces those with a disability to individually prove their "social and economic disadvantage." This is something that a disabled person should not have to do.

Mr. President, this legislation is another step toward affording individuals with disabilities the same opportunities that we all enjoy. I would urge my colleagues on both sides of the aisle to support the Americans With Disabilities Business Development Act and promote the long term vitality of the disabled entrepreneurs.

I ask unanimous consent that the text of the Americans With Disabilities Business Development Act be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2503

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Americans with Disabilities Business Development Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

"(i) The Congress finds that—

"(1) approximately 43,000,000 Americans have 1 or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

"(2) census data, national polls, and other studies have documented that individuals with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

"(3) individuals with severe disabilities have faced many of the same discriminatory obstacles in developing small businesses as have groups previously recognized as 'socially and economically disadvantaged' under the Small Business Act;

"(4) the Nation's proper goals regarding individuals with severe disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

"(5) these goals can be advanced by providing the maximum practicable opportunities for the growth and development of small business concerns owned and controlled by individuals with severe disabilities.".

(b) PURPOSES.—The purposes of this Act are—

(1) to assist the legitimate business interests of small business concerns owned and controlled by individuals with severe disabilities;

(2) to permit small business concerns owned and controlled by individuals with severe disabilities to participate in business development programs established by the Small Business Act; and

(3) to eliminate, insofar as possible, discrimination against individuals with severe disabilities in obtaining capital and other production assistance.

SEC. 3. DEFINITIONS.

Section 3(f) of the Small Business Act (15 U.S.C. 632(f)) is amended to read as follows:

"(f) SEVERE DISABILITY.—For purposes of this Act, unless otherwise specifically provided, the term 'severe disability' shall, have the meaning given such term, by regulation, by the Administration.".

SEC. 4. AMERICANS WITH DISABILITIES.

(a) POLICY STATEMENT.—Section 2(f)(1)(C) of the Small Business Act (15 U.S.C. 631(f)(1)(C)) is amended by inserting "Americans with severe disabilities," after "Asian Pacific Americans,".

(b) SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM.—Section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) is amended by adding at the end the following new sentence: "For the purposes of this subsection, individuals with severe disabilities shall be considered to be socially disadvantaged individuals.".

(c) CONTRACT CLAUSE.—The contract clause contained in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 631(d)(3)) is amended in the last sentence by inserting "Americans with severe disabilities." after "Asian Pacific Americans,".

SEC. 5. TECHNICAL AMENDMENTS TO SMALL BUSINESS ACT.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 3(e)—

(A) by striking "the handicapped" and inserting "individuals with severe disabilities"; and

(B) by striking "handicapped individuals" each place such term appears and inserting "individuals with severe disabilities";

(2) in section 7(a)(10)—

(A) by striking "the handicapped" and inserting "individuals with severe disabilities"; and

(B) by striking "handicapped individual" and inserting "individual with severe disabilities"; and

(3) in subsection 7(h)—

(A) by striking "handicapped individuals" and inserting "individuals with severe disabilities";

(B) by striking "handicapped individual" and inserting "individual with severe disabilities"; and

(C) by striking paragraph (3).

Mr. HARKIN. Mr. President, I rise today in strong support of the Americans With Disabilities Business Development Act of 1994, which I am proud to cosponsor along with Senators DURENBERGER, DOLE, MCCAIN, SIMON, MURRAY, and JEFFORDS.

I particularly want to thank Senator DURENBERGER for his tireless efforts on this and other legislation to enhance opportunities for individuals with disabilities. As the ranking member on the Senate Subcommittee on Disability Policy of the Committee on Labor and Human Resources, Senator DURENBERGER has been a great advocate and good friend to the disability community.

As a member of the Senate Committee on Small Business and as chairman of the Subcommittee on Disability Policy, I have long been concerned that persons with disabilities have an inordinate amount of difficulty in meeting the Small Business Administration's criteria for socially and economically disadvantaged persons and, thus, are unable to access the section 8(a) program even though they are clearly among those Congress intended to benefit from the program.

Over the past several years, I have seen many examples of the systematic exclusion of persons with disabilities from the economic marketplace. The American With Disabilities Act was passed in an effort to eliminate this exclusion. The SBA plays a critical role in this effort by providing persons with disabilities with the means to gain their rightful place in the economic mainstream of society though small business ownership.

This bill would amend the Small Business Act to include persons with severe disabilities as one of the groups presumed to be socially disadvantaged for purposes of eligibility for the section 8(a) program. It is critical that persons with disabilities have access to programs that encourage small business ownership and that unfair barriers faced by persons with disabilities in SBA programs be eliminated.

By creating opportunities for would-be small business owners with disabilities, this legislation will advance the ADA's goals of independence, inclusion, and empowerment for all Americans with disabilities.

By Mr. METZENBAUM (for himself and Mr. SIMON):

S. 2504. A bill to extend the protections of Federal labor and civil rights laws to part-time, temporary, and leased employees, independent contractors, and other contingent workers, and to ensure equitable treatment of such workers; to the Committee on Labor and Human Resources.

THE CONTINGENT WORKFORCE EQUITY ACT

• Mr. METZENBAUM. Mr. President, I introduce the Contingent Workforce Equity Act. As more and more employers replace full-time positions with part-time, temporary, and other contingent jobs, a growing number of American workers find themselves relegated to second-class status in our work force. This comprehensive legislation ensures that contingent workers—who now account for over a quarter of the work force—have the same rights and protections under our Federal labor laws as full-time workers. In short, their work may be contingent, but their rights shouldn't be.

Corporate America has always supplemented full-time employees with part-time and temporary workers to meet increases in demand for their products or services. In recent years, however, many U.S. businesses have been hiring part-time, temporary, and other contingent workers to replace full-time workers. Their aim is to cut labor and health care costs.

For example, last year, after earning a record $1.5 billion in profits, Bank of America fired thousands of full-time bank tellers and loan officers and rehired them as part-timers. This simple reclassification allowed the company to cut workers' paychecks in half and eliminate their health, pension, and vacation benefits altogether.

Unfortunately, it's not just Bank of America. In fact, the largest U.S. employer today is not GM, nor IBM, but Manpower, Inc., a temporary services firm that sent out 640,000 temporary workers to run America's businesses. In the last 10 years, the temporary help industry has grown more than 10 times faster than the work force as a whole. And these workers are not just performing secretarial duties any more: They are being sent to companies like electronics manufacturer Robertshaw Controls, which opened a Michigan factory last year staffed entirely with temporary hires from Manpower.

Today, the contingent work force is 34 million strong, and growing. Some say contingent workers may outnumber full-time workers by the end of the decade.

Of course, some contingent workers want the flexibility of part-time or temporary work. But there are millions of American workers who need full-time work to make ends meet, but who are stuck in the contingent work force because they can't find a full-time job. In the part-time sector alone, there are over 6 million workers who would prefer full-time employment. And even those who want contingent work still deserve fair wages and decent treatment.

But the profile of the contingent worker paints a grim picture. For example, part-time workers earn, on average, 62 cents for every dollar earned by full-time workers, leaving many of their families below the poverty line. Sixty-five percent of full-time workers have employer-provided health care benefits, as compared to only 15 percent of part-time workers. Nearly half of all full-time workers get pension benefits from their employer, as compared to only 10 percent of part-time workers.

State employment laws leave many contingent workers out in the cold. For example, millions of contingent workers find themselves excluded from workers' comp when they are injured on the job. In addition, the majority of States exclude independent contractors and part-time workers from their unemployment insurance program.

As employers, many State and local governments have contributed to the problem, by subcontracting public services to private firms that pay contingent workers low wages and no benefits. At the Citadel in South Carolina, for example, food service workers were treated for years as public sector employees, earning good wages with benefits. Then the State-owned school contracted out the food-service operation to ARA Services, which hired the same workers to do the same jobs for lower wages and no benefits. Recently, the NLRB refused to let the workers organize to bargain with ARA, finding that the Citadel still controls their wages.

A broad patchwork of Federal labor laws provides American workers with a safety net of minimum protections. These protections extend to wages, benefits, working conditions, equal employment opportunity, and other aspects of the employment relationship. But Congress wrote these laws with full-time workers in mind, and millions of contingent workers are slipping through the safety net.

For example, Patricia Knight was an Indiana insurance agent who was, for all practical purposes, an employee of an insurance company. Her supervisor subjected her to continuous sexual harassment, imposed different performance standards than those imposed on male agents, and discharged her when she tried to assert her rights. A Federal judge found substantial evidence of sexual harassment, but dismissed Knight's case because she was deemed an independent contractor not covered by Federal civil rights laws.

Katy Broughton was hired through Kelly Temp Services to work at a Mitchellace shoelace plant in Portsmouth, OH. She was paid minimum wage with no benefits, performing production jobs alongside Mitchellace's direct hires, who, were paid $7 an hour with benefits. After working there 2½ years, her assignment was hardly temporary. Nevertheless, when she and others tried to organize the plant to improve conditions, the NLRB denied her the opportunity to organize with the other workers because of her temporary status. The day after the union election, she was fired.

Jimmie Ruth Daughtrey had worked for Honeywell Corp. as a computer programmer for 7 years when the company eliminated her job. Shortly thereafter, Honeywell rehired her as an independent contractor—performing the same job, but without health care, pension, or other benefits. When Honeywell later terminated Daughtrey and other older workers, she filed suit under the Age Discrimination in Employment Act, but her case was dismissed because she was deemed a consultant rather than an employee covered by the act.

Millions of contingent workers are similarly excluded from the protections of other Federal labor laws such as Family and Medical Leave, Occupational Safety and Health, Worker Adjustment and Retraining Notification, and ERISA. In many cases, employers have deliberately modified their employment practices to escape their obligations under these laws. For example, every year U.S. employers misclassify millions of employees as independent contractors in order to avoid their obligations under Social Security, workers' comp, and unemployment insurance laws. As more and more employers transform their work forces from full time to contingent, more and more American workers are left unprotected by Federal labor laws.

The Federal Government, like State and local governments, has contributed to the problem as an employer. Last year, we mourned the loss of James Hudson, who passed away after having held his temporary caretaker job at the Lincoln Memorial for 8 years. Similarly, this summer one of my staff met a U.S. Park Service Ranger in Colorado who has held a temporary position, without benefits, for 10 years. All told, there are more than 450,000 Federal workers employed in temporary and part-time positions without benefits.

The legislation I am introducing today extends Federal labor law protections to contingent workers. By closing these legal loopholes, the bill will also dissuade employers from eliminating full-time jobs in an effort to escape their obligations under these laws. Contingent workers work hard, pay taxes, and deserve more than to be treated like second-class citizens. We can no longer afford to turn our backs on these workers.

Ultimately, this trend may force us to rethink many of our traditional assumptions about work, training, pensions, unemployment insurance, and a host of other issues. We need a high-wage, high productivity strategy to ensure U.S. competitiveness into the next century. But the increasing use of contingent labor—a central feature of a low-wage strategy—takes us in the opposite direction. It devalues workers, and breaks the bonds that have traditionally linked workers and employers, a critical component of a high-productivity workplace.

In fact, this trend may pose a substantial risk to the free enterprise system as a whole, because these workers will no longer be able to purchase the very products they are making, to buy a car or afford a mortgage, or to contribute much to the economy. In addition, the more contingent our work force becomes, the more dependent workers will be on Government programs for health care, for retirement income, and for their very survival.

These are deeply troubling issues, and we must begin to address them. In the meantime, the Contingent Workforce Equity Act will end the second-class treatment of our Nation's part-time, temporary, and leased employees. As my colleagues know, I will be retiring at the end of this session, but I hope that this legislation will be reintroduced in the next Congress. America's hard working men and women deserve nothing less.

I ask unanimous consent that a summary appear in the RECORD together with the full text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contingent Workforce Equity Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of part-time, temporary, leased, and other contingent workers is increasing in numbers and as a percentage of the workforce as a whole;

(2) Federal personnel practices have contributed to the increasing use of contingent workers;

(3) on average, contingent workers earn substantially less than full-time workers and are less likely to receive employer-provided health, pension, or other basic benefits;

(4) many contingent workers are excluded from coverage under State unemployment insurance laws;

(5) many contingent workers are excluded from the basic worker protections of Federal labor and civil rights laws;

(6) many employers misclassify their employees as independent contractors to avoid the requirements of social security, unemployment insurance, workers' compensation, and other laws; and

(7) contingent workers are entitled to fair wages and benefits, protections under Federal labor and civil rights laws, and coverage under State unemployment insurance laws, where feasible.

(b) PURPOSES.—The purposes of this Act are to—

(1) discourage employers from replacing full-time positions with part-time, temporary, or other contingent positions as a means of lowering labor costs or avoiding the requirements of Federal or State employment or employment-related laws;

(2) extend the protections of Federal labor and civil rights laws to contingent workers; and

(3) extend coverage under State unemployment insurance laws to contingent workers, where feasible.

TITLE I—WORKER PROTECTIONS

SEC. 101. MINIMUM WAGE.

Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section—

"(A) not less than—

"(i) $4.25 an hour during the period ending on December 31, 1994;

"(ii) $4.85 an hour during the year beginning on January 1, 1995;

"(iii) $5.55 an hour during the year beginning January 1, 1996;

"(iv) $6.20 an hour during the year beginning January 1, 1997; and

"(v) $6.75 an hour during the year beginning January 1, 1998; and

"(B) with respect to the year beginning on January 1, 1999, and each such succeeding year, not less than the amount applicable under clause (v) of subparagraph adjusted on October 1 of the previous year to equal 50 percent of the monthly average hourly earnings for nonfarm, nonsupervisory private workers for the preceding 12 months, as determined by the Bureau of Labor Statistics, rounded to the nearest multiple of $0.05, except that any amount determined under this subparagraph shall not be less than the amount applicable under this paragraph for the preceding year;".

SEC. 102. EQUAL PAY.

Section 6 of the Fair Labor Standards Act (29 U.S.C. 206) is amended by adding at the end thereof the following:

"(g)(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of employment status by paying wages to part-time or temporary employees in such establishment at a rate less than the rate at which the employer pays wages to full-time employees in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to—

"(A) a seniority system;

"(B) a merit system;

"(C) a system that measures earnings by quantity or quality of production; or

"(D) a differential based on any other factor other than employment status.

An employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

"(2) No labor organization, or its agents, representing employees of an employer having employees subject to any provisions of this section shall cause or attempt to cause such an employer to discriminate against an employee in violation of paragraph (1).

"(3) For purposes of administration and enforcement, any amounts owing to any employee that have been withheld in violation of this subsection shall be deemed to be unpaid minimum wages or unpaid overtime compensation under this Act.

"(4) As used in this subsection, the term 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.".

SEC. 103. CIVIL RIGHTS.

Section 1977(a) of the Revised Statutes (42 U.S.C. 1981(a)) is amended to read as follows:

"(a)(1) All persons within the jurisdiction of the United States shall have the right in every State and Territory—

"(A) to make and enforce contracts free from unlawful discrimination based on race, color, religion, sex, national origin, age, or disability; and

"(B) to sue, be parties, give evidence, and to be subject to punishment, pains, penalties, taxes, licenses, and exactions, free from such unlawful discrimination.

"(2) For purposes of determining the existence of unlawful discrimination under paragraph (1)—

"(A) in the case of a claim of unlawful discrimination based on race, color, religion, sex, or national origin, the same legal standards shall apply as are applicable under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

"(B) in the case of a claim of unlawful discrimination based on age, the same legal standards shall apply as are applicable under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

"(C) in the case of a claim of unlawful discrimination based on disability, the same legal standards shall apply as are applicable under the Americans with Disabilities Act (42 U.S.C. 12101 et seq.).".

SEC. 104. COLLECTIVE BARGAINING RIGHTS.

(a) DETERMINATION OF BARGAINING UNITS.—Section 9(b) of the National Labor Relations Act (29 U.S.C. 159(b)) is amended—

(1) by striking "; or (2)" and inserting "or"; and

(2) by striking "or (3)" and inserting "; (3) decide that an employee shall be excluded from a unit otherwise appropriate for the purposes of collective bargaining based on the employee's part-time or temporary status, if such employee (A) has a reasonable expectation of continued employment; and (B) is employed by the employer on the date on which eligibility for participation in a representation election is determined and on the date of the election; or (4)".

(b) JOINT EMPLOYER STATUS.—Section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)) is amended by adding at the end thereof the following: "An individual employed by a contractor of an employer shall be considered an employee of the employer if the individual is assigned on a regular basis to perform work on the premises of the employer, and the tasks performed by such individual are functionally integrated with the operations of the employer.".

SEC. 105. OCCUPATIONAL SAFETY AND HEALTH.

Section 5(a)(1) of the Occupational Safety and Health Act (29 U.S.C. 654(a)(1)) is amended to read as follows:

"(1) shall furnish employment and a place of employment that are free from recognized hazards that are causing or are likely to cause death or serious physical harm to the employees of the employer or to individuals who are employed by another employer and are performing services at such place of employment;".

SEC. 106. ADVANCE NOTICE OF LAYOFFS AND PLANT CLOSINGS.

Section 2 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) is amended—

(1) in subsection (a)—

(A) in paragraph (1), to read as follows:

"(1) the term 'employer' means any business enterprise that employs 100 or more employees;";

(B) in paragraph (2), by striking "excluding any part-time employees";

(C) in paragraph (3), by striking "(excluding any part-time employees)" each place such term appears; and

(D) by striking paragraph (8); and

(2) in subsection (b)(1), by striking "(other than a part-time employee)".

SEC. 107. CONTINGENT WORKFORCE SURVEY.

The Secretary of Labor, acting through the Commissioner of the Bureau of Labor Statistics, shall establish and carry out an annual survey identifying—

(1) the characteristics of temporary workers in the United States;

(2) the relationship between such workers and the establishments at which such workers are temporarily employed; and

(3) where appropriate, the relationship between such workers and their permanent employers.

SEC. 108. FEDERAL SERVICE CONTRACT SUCCESSORSHIP.

Section 4(c) of the Service Contract Act of 1965 (41 U.S.C. 353(c)) is amended—

(1) by striking "(c) No" and inserting "(c)(1) No"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) Except as provided in subparagraph (B), a contractor under a successor contract (under which substantially the same services are performed) shall, in good faith, provide a right of first refusal of employment under that contract to each employee employed under the predecessor contract. If, under the successor contract, the number of employees to be employed is less than the number of employees employed under the predecessor contract, the contractor shall provide such right to the employees on the basis of seniority.

"(B) Notwithstanding the requirements of subparagraph (A), a contractor shall not be required to provide a right of first refusal of employment to an employee employed under the predecessor contract if—

"(i) the contractor reasonably believes, based on the past performance of the employee under the predecessor contract, that the employee is unable to perform the work suitably under the successor contract; or

"(ii) if such action would require the contractor to lay off or discharge an employee who has worked continuously for the contractor for not less than the 60-day period immediately preceding the commencement of the successor contract.

"(C) A contractor satisfies the requirement under subparagraph (A) to provide employees under the predecessor contract with a right of first refusal of employment under a successor contract on the basis of seniority if the contractor provides such right first to the most senior employees and then to the other employees on the basis of descending order of seniority until all of the positions of employment are filled or all employees under the predecessor contract have exercised the right, whichever occurs first. Seniority shall be determined on the basis of length of service under the predecessor contract and each contract, if any, that preceded the predecessor contract.

"(D) In subparagraph (A), the term 'contractor', with respect to a successor contract, includes a subcontractor performing the obligations of the contractor under such contract.

"(3) The Secretary shall issue an order against any contractor or subcontractor under a successor contract who fails to hire an individual in accordance with this subsection. The order shall require the contractor or subcontractor to hire any individual whom the contractor or subcontractor has unlawfully failed to hire and to compensate the individual for any wages and fringe benefits that the individual would have received if the individual would have been hired by the contractor or subcontractor. Any amount that the Secretary determines is owed to an individual by a contractor or subcontractor under this paragraph may be withheld from any accrued payment due on the successor contract or any other contact between the contractor and the Federal Government.

"(5)(A) This subsection shall not apply to contracts awarded pursuant to the Javits-Wagner-O'Day Act, or under which services are provided to the Federal Government on an intermittent basis.

"(B) In subparagraph (A), the term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

TITLE II—EMPLOYEE BENEFITS

SEC. 201. FAMILY AND MEDICAL LEAVE.

Section 101(2)(A) of the Family and Medical Leave Act (29 U.S.C. 2611(2)(A)) is amended—

(1) by striking "at least 12 months" and inserting "at least 3 months"; and

(2) by striking "at least 1,250 hours of service with such employer during the previous 12-month period" and inserting "at least 125 hours of service with such employer during the previous 3-month period".

SEC. 202. RETIREMENT AND HEALTH CARE BENEFITS.

(a) TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER PARTICIPATION, VESTING, AND ACCRUAL RULES GOVERNING PENSION PLANS.—

(1) PARTICIPATION RULES.—

(A) IN GENERAL.—Section 202(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(a)(3)) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the 12-month period referred to in subparagraph (A)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such 12-month period shall be treated as completion of 1,000 hours of service.

"(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary shall prescribe providing for consideration of facts and circumstances peculiar to the workforce constituting the participants in such plan.".

(B) CONFORMING AMENDMENT.—Section 204(b)(1)(E) of such Act (29 U.S.C. 1054(b)(1)(E)) is amended by striking "section 202(a)(3)(A)" and inserting "subparagraphs (A) and (E) of section 202(a)(3)".

(2) VESTING RULES.—

(A) IN GENERAL.—Section 203(b)(2) of such Act (29 U.S.C. 1053(b)(2)) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

"(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary shall prescribe providing for consideration of facts and circumstances peculiar to the workforce constituting the participants in such plan.".

(B) 1-YEAR BREAKS IN SERVICE.—Section 203(b)(3) of such Act (29 U.S.C. 1053(b)(3)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this paragraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to subparagraph (A)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 250 hours of service within such period shall be treated as completion of 500 hours of service.

"(ii) For purposes of this subparagraph, the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary shall prescribe providing for consideration of facts and circumstances peculiar to the workforce constituting the participants in such plan.".

(3) ACCRUAL RULES.—Section 204(b)(4)(C) of such Act (29 U.S.C. 1054(b)(4)(C)) is amended—

(A) by inserting "(i)" after "(C)"; and

(B) by adding at the end the following new clauses:

"(ii) For purposes of this subparagraph, in the case of any employee who, as of the beginning of the period designated by the plan pursuant to clause (i)—

"(I) has customarily completed 500 or more hours of service per year but less than 1,000 hours of service per year, or

"(II) is employed in a type of position in which employment customarily constitutes 500 or more hours of service per year but less than 1,000 hours of service per year,

completion of 500 hours of service within such period shall be treated as completion of 1,000 hours of service.

"(iii) For purposes of clause (ii), the extent to which employment in any type of position customarily constitutes less than 1,000 hours of service per year shall be determined with respect to each pension plan in accordance with such regulations as the Secretary shall prescribe providing for consideration of facts and circumstances peculiar to the workforce constituting the participants in such plan.".

(b) TREATMENT OF EMPLOYEES WORKING AT LESS THAN FULL-TIME UNDER GROUP HEALTH PLANS.

(1) IN GENERAL.—Part 2 of subtitle B of title I of such Act is amended—

(A) by redesignating section 211 (29 U.S.C. 1061) as section 212; and

(B) by inserting after section 210 (29 U.S.C. 1060) the following new section:

"TREATMENT OF PART-TIME WORKERS UNDER GROUP HEALTH PLANS

"SEC. 211. (a) IN GENERAL.—A reduction in the employer-provided premium under a group health plan with respect to any employee for any period of coverage solely because the employee's customary employment is less than full-time may be provided under such plan only if the employee is described in subsection (b) and only to the extent permitted under subsection (c).

"(b) REDUCTIONS APPLICABLE TO EMPLOYEES WORKING LESS THAN FULL-TIME.—

"(1) IN GENERAL.—An employee is described in this subsection if such employee, as of the beginning of the period of coverage referred to in subsection (a)—

"(A) has customarily completed less than 30 hours of service per week, or

"(B) is employed in a type of position in which employment customarily constitutes less than 30 hours of service per week.

"(2) REGULATIONS.—For purposes of paragraph (1), whether employment in any type of position customarily constitutes less than 30 hours of service per week shall be determined with respect to each group health plan in accordance with such regulations as the Secretary shall prescribe providing for consideration of facts and circumstances peculiar to the workforce constituting the participants in such plan.

"(c) AMOUNT OF PERMISSIBLE REDUCTION.—The employer-provided premium under a group health plan with respect to any employee for any period of coverage, after the reduction permitted under subsection (a), shall not be less than a ratable portion of the employer-provided premium which would be provided under such plan for such period of coverage with respect to an employee who completes 30 hours of service per week.

"(d) DEFINITIONS.—For purposes of this section—

"(1) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided such term in section 607(1).

"(2) EMPLOYER-PROVIDED PREMIUM.—

"(A) IN GENERAL.—The term 'employer-provided premium' under a plan for any period of coverage means the portion of the applicable premium under the plan for such period of coverage which is attributable under the plan to employer contributions.

"(B) APPLICABLE PREMIUM.—For purposes of subparagraph (A), in determining the applicable premium of a group health plan, principles similar to the principles applicable under section 604 shall apply.".

(2) CONFORMING AMENDMENTS.—

(A) Section 201(1) of such Act (29 U.S.C. 1051(1)) is amended by inserting ", except with respect to section 211" before the semicolon.

(B) The table of contents in section 1 of such Act is amended by striking the item relating to section 211 and inserting the following new items:

"Sec. 211. Treatment of part-time workers under group health plans.

"Sec. 212. Effective date.".

(c) EXPANSION OF DEFINITION OF EMPLOYEE TO INCLUDE CERTAIN INDIVIDUALS WHOSE SERVICES ARE LEASED OR CONTRACTED FOR.—Paragraph (6) of section 3 of such Act (29 U.S.C. 1002(6)) is amended—

(1) by inserting "(A)" after "(6)"; and

(2) by adding at the end the following new subparagraph:

"(B) Such term includes, with respect to any employer, any person who is not an employee (within the meaning of subparagraph (A)) of such employer and who provides services to such employer, if—

"(i) such person has (pursuant to an agreement with such employer or any other person) performed such services for such employer (or for such employer and related persons (within the meaning of section 144(a)(3) of the Internal Revenue Code of 1986)) for a period of at least 1 year (6 months in the case of core health benefits) at the rate of at least 500 hours of service per year, and

"(ii) such services are of a type historically performed, in the business field of the employer, by employees (within the meaning of subparagraph (A)).".

(d) EFFECTIVE DATES.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to plan years beginning on or after January 1, 1995.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1995" the date of the commencement of the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 1995, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(B) January 1, 1997.

(3) PLAN AMENDMENTS.—If any amendment made by this section requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1996, if—

(A) during the period after such amendment made by this section takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment made by this section, and

(B) such plan amendment applies retroactively to the period after such amendment made by this section takes effect and such first plan year.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this paragraph.

SEC. 203. PENSION PORTABILITY.

(a) REQUIREMENT OF PORTABLE PENSION ACCOUNTS.—

(1) IN GENERAL.—Part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1051 et seq.) is amended by inserting after section 205 the following new section:

"SEC. 205A. PORTABILITY REQUIREMENTS FOR DEFINED CONTRIBUTION PLANS.

"(a) DIRECT TRANSFERS.—

"(1) IN GENERAL.—Each defined contribution plan shall, at the election of an employee upon separation from service, make a direct trustee-to-trustee transfer of the portion of the employee's eligible amount specified in the election to a portable pension account specified in the election which—

"(A) is maintained by a qualified pension plan which agrees to accept the transfer, or

"(B) is established by the individual on the individual's own behalf.

"(2) TIME FOR TRANSFER.—The transfer under paragraph (1) shall be made no later than 60 days after the date of the employee's separation from service.

"(b) PORTABLE PENSION ACCOUNTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'portable pension account' means—

"(A) in the case of a qualified pension plan, an individual account plan, an individual account within the plan, or simplified employee pension under section 408(k) of the Internal Revenue Code of 1986 meeting the requirements of the following paragraphs of this subsection, and

"(B) in the case of an individual, an individual retirement plan meeting such requirements.

"(2) DISTRIBUTION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if distributions from the account—

"(i) may only be made in a permitted retirement income form, and

"(ii) may only be made with the consent of the participant.

"(B) PERMITTED RETIREMENT INCOME FORM.—For purposes of subparagraph (A), a permitted retirement income form is as follows:

"(i) A qualified joint and survivor annuity (within the meaning of section 205(d)).

"(ii) Any other joint life annuity (including a cash refund annuity).

"(iii) A single life annuity (including a cash refund annuity).

"(iv) Any series of substantially equal periodic payments described in section 72(t)(2)(A)(iv) of the Internal Revenue Code of 1986 which are not part of an annuity described in the preceding clauses.

"(3) SPOUSAL CONSENT.—The requirements of this paragraph shall not be met unless the account provides that any election as to form of benefit must meet spousal consent requirements which are identical to the requirements of section 205(c)(2).

"(c) ELIGIBLE AMOUNT.—For purposes of this section, the term 'eligible amount' means, with respect to any participant, the balance to the credit of the participant as of the date of the distribution, including interest on such balance through the date of the distribution.

"(d) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) QUALIFIED PLAN.—The term 'qualified plan' means—

"(A) a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust which is exempt from tax under section 501(a) of such Code,

"(B) an annuity plan described in section 403(a) of such Code, and

"(C) an annuity contract described in section 403(b) of such Code.

"(2) INDIVIDUAL RETIREMENT PLAN.—The term 'individual retirement plan' means—

"(A) an individual retirement account described in section 408(a) of such Code, and

"(B) an individual retirement annuity described in section 408(b) of such Code.

"(3) BENEFICIARIES OR ALTERNATE PAYEES.—In the case of an individual who is a beneficiary of the participant or an alternate payee (within the meaning of section 206(d)(3)(K)) under a plan, such individual shall be treated in the same manner as if a participant in the plan."

(2) Conforming amendments.—

(A) Section 204(g)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)(2)) is amended by adding at the end the following new sentence: "Except as otherwise provided in regulations of the Secretary of Labor and the Secretary of the Treasury, the requirements of subparagraph (B) shall not be treated as violated in the case of a direct trustee-to-trustee transfer described in section 205A."

(B) Section 204(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(d)) is amended—

(i) in paragraph (1), by striking "or",

(ii) in paragraph (2), by striking the period and inserting ", or", and

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) a direct trustee-to-trustee transfer described in section 205A."

(C) The table of contents for part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 205 the following new item:

"Sec. 205A. Portability requirements for defined contribution plans."

(b) Reciprocity Agreements Between Industry and Labor Funds.—

(1) Establishment.—The Secretary of Labor shall establish standards for plans maintained pursuant to collective bargaining agreements between employers and employee representatives which provide that 2 or more of the plans may enter into agreements under which—

(A) the plans would maintain portable pension accounts described in section 205A of the Employee Retirement Income Security Act of 1974 (as added by section 121) for employees who terminate employment covered by 1 plan and begin employment covered by another, or

(B) the plans would make arrangements for employees to transfer accrued benefits and vesting rights from one plan to another.

(2) Standards made available.—The Secretary of Labor shall make any standards developed under paragraph (1) available to employers and employee representatives.

(c) Inflation Adjustment for Deferred Vested Benefits.—

(1) In general.—Section 203 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053) is amended by adding at the end the following new subsection:

"(f) Deferred Nonforfeitable Benefits.—If an employee's participation in a plan is terminated before the date the employee is eligible for payment of an immediate annuity under the plan—

"(1) subsection (e) shall not apply, and

"(2) the plan shall provide that the employee may elect—

"(A) to have the plan immediately distribute the present value (using the interest rate specified by the Secretary) of the employee's nonforfeitable benefit, or

"(B) to have the plan provide inflation adjustments (at the rates specified by the Secretary) to such benefit during the period beginning with the date of separation and ending with the date an annuity is first payable."

(2) Accrued benefit.—Section 204(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(d)) is amended by adding at the end the following new sentence: "An employee's accrued benefit under a plan shall be increased by any inflation adjustment under section 203(f)(2)(B)."

SEC. 204. UNEMPLOYMENT COMPENSATION.

(a) Part-Time Employees; Independent Contractors.—Subsection (a) of section 3304 of the Internal Revenue Code of 1986 (relating to requirements for approval of State unemployment compensation laws) is amended by striking "and" at the end of paragraph (17), by redesignating paragraph (18) as paragraph (20), and by inserting after paragraph (17) the following new paragraphs:

"(18) in applying the State law provisions relating to availability for work, active search for work, or refusal to accept work, to an individual seeking part-time employment, the term 'suitable work' shall not include any work where the individual would normally perform services for more hours per week than the number of hours per week for which the individual is available, if the individual demonstrates good cause for the individual's limited availability and such limitation does not substantially impair the individual's current attachment to the labor force;

"(19) the determination of whether an individual is an employee of another person shall be made in accordance with section 3306(i); and".

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on November 1, 1995.

(2) Special rule.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not successive) between the date of the enactment of this Act and November 1, 1995, the amendments made by this section shall take effect 30 calendar days after the 1st day on which such legislature is in session on or after November 1, 1995.

TITLE III—MISCLASSIFICATION OF EMPLOYEES AS INDEPENDENT CONTRACTORS

SEC. 301. INTERNAL REVENUE SERVICE PROCEDURES.

(a) Waiver of Employment Tax Liability for Reasonable Good Faith Misclassification Based on Common Law Rules.—Section 3509 of the Internal Revenue Code of 1986 (relating to determination of employer's liability for certain employment taxes) is amended by adding at the end the following new subsection:

"(e) Waiver of Employment Tax Liability for Reasonable Good Faith Misclassification Based on Common Law Rules.—

"(1) In general.—For purposes of determining the liability of any taxpayer for employment taxes with respect to any individual for any period, such individual shall be deemed not to have been an employee of the taxpayer for such period if—

"(A) the taxpayer did not treat such individual as an employee for purposes of the employment taxes for such period,

"(B) the taxpayer's treatment of such individual as not being an employee was based on a reasonable good faith misapplication of the common law rules used for determining the employer-employee relationship,

"(C) all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period were filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee,

"(D) the taxpayer (and any predecessor) did not treat any other individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977, and

"(E) the taxpayer enters into a closing agreement under section 7121 with the Secretary (in the time and manner determined by the Secretary) agreeing to treat such individual, and any other individual holding a substantially similar position, as employees and to file all Federal employment tax returns with respect to such individuals on a basis consistent with the taxpayer's treatment of such individuals as employees.

"(2) Definitions and special rules.—

"(A) Employment tax.—For purposes of this subsection, the term 'employment tax' means any tax imposed by subtitle C, including any interest, penalty, or additional amount with respect to such tax.

"(B) No refund or credit of overpayment.—No refund or credit of any overpayment of an employment tax resulting from the application of paragraph (1) shall be allowed, notwithstanding that the period for filing a claim for refund or credit of such overpayment is not barred on the effective date of this subsection."

(b) Modifications to Safe Harbor for Classifications of Individuals as Nonemployees.—

(1) Requirement of reasonable basis.—Paragraph (1) of section 530(a) of the Revenue Act of 1978 (relating to controversies involving whether individuals are employees for purposes of the employment taxes) is amended by striking "unless the taxpayer had no reasonable basis" and inserting the following: "if the taxpayer had a reasonable basis".

(2) Repeal of prior audit as reasonable basis, etc.—Paragraph (2) of section 530(a) of the Revenue Act of 1978 is amended—

(A) by striking the paragraph caption and inserting the following: "Reasonable basis for not treating individual as employee.—",

(B) in the matter preceding subparagraph (A)—

(i) by striking "in any case", and

(ii) by inserting "only" before "if the taxpayer's",

(C) by adding "or" at the end of subparagraph (A), and

(D) by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

(c) Authority for Regulations and Rulings on Employment Status.—Section 530 of the Revenue Act of 1978 is amended by striking subsection (b) and by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall take effect beginning on the date which is 120 days after the date of the enactment of this Act.

(2) Modifications to safe harbor.—The amendments made by subsection (b) shall apply to periods ending on or after the date which is 120 days after the date of the enactment of this Act.

SEC. 302. FEDERAL CONTRACTS.

(a) Classification of Persons as Employees and Independent Contractors Under Certain Procurement Contracts.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

"SEC. 312. CLASSIFICATION OF PERSONS AS EMPLOYEES AND INDEPENDENT CONTRACTORS.

"(a) Ineligibility for Government Contracts and Subcontracts.—(1) A person (including any subsidiary, successor, or related entity of a person) shall not be eligible for a contract during the 2-year period beginning on the date of the issuance of any final determination under Federal law that the person (including any subsidiary or related entity of the person) willfully misclassified an individual for purposes of any employment tax.

"(2) For purposes of this subsection, a determination is final if all rights to appeal the determination, or to request a review, rehearing, or redetermination of the matter that is the subject of the determination, have been exhausted or have lapsed.

"(b) Certification of Adequacy of Bids to Pay Employment Taxes.—A person who submits a bid or proposal for a contract shall certify that the amount of the bid or proposal is adequate to pay all employment taxes with respect to all work to be performed under the contract by employees of the person.

"(c) Notification of Independent Contractors.—Each contract shall include a requirement that the contractor provide, to each person who performs work under the contract and who is treated by the contractor as an independent contractor for purposes of employment taxes, a notification regarding—

"(1) all obligations of the independent contractor under Federal and State law to withhold and pay employment taxes with respect to work performed under the contract by the independent contractor (including work performed by employees of the independent contractor); and

"(2) all statutory rights and protections that are available under Federal and State law to employees of the contractor and are not available to the independent contractor (including employees of the independent contractor), including rights and protections under the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1978, and title VII of the Civil Rights Act of 1964.

"(d) Right of Action.—A person who submits a bid or proposal for a contract and who suffers damages as a result of the award of the contract to a person who knowingly and willfully submits a certification under subsection (b) with respect to the contract that is false, may bring an action for damages against the person awarded the contract in any district court of the United States in which the defendant is located.

"(e) Definitions.—As used in this section:

"(1) The term 'employment tax' means any tax imposed by subtitle C of the Internal Revenue Code of 1986.

"(2) The term 'contract' means a contract that is entered into by an executive agency under this title, and all subcontracts under such a contract.

"(3) The term 'misclassify' means to treat as an independent contractor an individual who is an employee.".

(2) The table of contents in the first section of the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to the last section in title III the following new item:

"Sec. 312. Classification of persons as employees and independent contractors.".

(b) Applicability.—Section 312 of the Federal Property and Administrative Services Act of 1949, as added by subsection (a), shall apply to—

(1) contracts entered into under title III of such Act after the expiration of the 180-day period beginning on the date of the enactment of this Act;

(2) subcontracts under contracts covered by paragraph (1); and

(3) options exercised under any such contract after the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 303. DEFENSE CONTRACTS.

(a) Classification of Persons as Employees and Independent Contractors Under Defense Contracts.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2393 the following new section:

"§ 2393a. Classification of persons as employees and independent contractors

"(a) Ineligibility for Defense Contracts and Subcontracts.—(1) A person (including any subsidiary, successor, or related entity of a person) shall not be eligible for a contract during the 2-year period beginning on the date of the issuance of any final determination under Federal law that the person (including any subsidiary or related entity of the person) willfully misclassified an individual for purposes of any employment tax.

"(2) For purposes of this subsection, a determination is final if all rights to appeal the determination, or to request a review, rehearing, or redetermination of the matter that is the subject of the determination, have been exhausted or have lapsed.

"(b) Certification of Adequacy of Bids to Pay Employment Taxes.—A person who submits a bid or proposal for a contract shall certify that the amount of the bid or proposal is adequate to pay all employment taxes with respect to all work to be performed under the contract by employees of the person.

"(c) Notification of Independent Contractors.—Each contract shall include a requirement that the contractor shall provide, to each person who performs work under the contract and who is treated by the contractor as an independent contractor for purposes of employment taxes, a notification regarding—

"(1) all obligations of the independent contractor under Federal and State law to withhold and pay employment taxes with respect to work performed under the contract by the independent contractor (including work performed by employees of the independent contractor); and

"(2) all statutory rights and protections that are available under Federal and State law to employees of the contractor and are not available to the independent contractor (including employees of the independent contractor), including rights and protections under the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1978, and title VII of the Civil Rights Act of 1964.

"(d) Right of Action.—A person who submits a bid or proposal for a contract and who suffers damages as a result of the award of the contract to a person who knowingly and willfully submits a certification under subsection (b) with respect to the contract that is false, may bring an action for damages against the person awarded the contract in any district court of the United States in which the defendant is located.

"(e) Applicability.—This section applies to contracts entered into under chapter 137 of this title.

"(f) Definitions.—In this section:

"(1) The term 'employment tax' means any tax imposed by subtitle C of the Internal Revenue Code of 1986.

"(2) The term 'contract' includes subcontracts.

"(3) The term 'misclassify' means to treat as an independent contractor an individual who is an employee.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2393a. Classification of persons as employees and independent contractors.".

(b) Applicability.—Section 2393a of title 10, United States Code, as added by subsection (a), shall apply to—

(1) contracts entered into under chapter 137 of title 10, United States Code, after the expiration of the 180-day period beginning on the date of the enactment of this Act;

(2) subcontracts under contracts covered by paragraph (1); and

(3) options exercised under any such contract after the expiration of the 180-day period beginning on the date of the enactment of this Act.

TITLE IV—FEDERAL TEMPORARY EMPLOYEES

SEC. 401. LIMITATION ON TEMPORARY EMPLOYMENT.

It is the sense of Congress that—

(1) the Federal Government has appointed and maintained employees in temporary positions that are not appropriate for temporary appointments, both by virtue of the type of work and the extended lengths of service in some cases;

(2) when a vacancy occurs in a position that was filled continuously by a temporary employee in the year preceding the vacancy, the Federal Government should not fill such vacancy with a temporary employee, regardless of whether the individual previously employed would refill such position;

(3) when a vacancy occurs in a position as described under paragraph (2), the Federal Government should not establish a successor position and fill it with a temporary employee; and

(4) when a vacancy occurs in a position that was filled continuously by a temporary employee in the year preceding the vacancy, and the Federal Government determines there is a need for the services performed in such position, the Federal Government should establish a permanent or term position to fill such need whenever feasible.

SEC. 402. HEALTH BENEFITS.

(a) Elimination of Service Requirement and Employee Payment of Government Contribution.—Section 8906a of title 5, United States Code, is amended to read as follows:

"§ 8906a. Temporary employees

"The Office of Personnel Management shall prescribe regulations to provide for offering health benefits plans to temporary employees under the provisions of this chapter.".

(b) Inclusion of Temporary Employees.—Section 8913(b) of title 5, United States Code, is amended—

(1) in the second sentence by striking out ", such as short-term appointment, seasonal or intermittent employment, and employment of like nature"; and

(2) in paragraph (4) by striking out "and is eligible under section 8906a(a)".

SEC. 403. RETIREMENT BENEFITS.

(a) Inclusion of Certain Temporary Employees Under Civil Service Retirement System.—The second sentence of section 8347(g) of title 5, United States Code, is amended by inserting before the period "or any temporary employee who, in the aggregate, has completed 5 years of service (in the same or different positions), including service as a temporary employee.".

(b) INCLUSION OF CERTAIN TEMPORARY EMPLOYEES UNDER FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402(c)(1) of title 5, United States Code, is amended by inserting before the period "or any temporary employee who, in the aggregate, has completed 5 years of service (in the same or different positions), including service as a temporary employee".

(c) CREDITABILITY OF SERVICE.—In administering the amendments made under this section, service may be taken into account whether performed before, on, or after the date of the enactment of this Act, for all purposes of chapters 83 and 84 of title 5, United States Code (including employee and Government contributions relating to such service and the computation of annuities). An employee shall have service as a temporary employee (which would otherwise be excluded except for the amendments made under subsections (a) and (b) and for which no employee contributions have been made) used for the computation of an annuity under chapters 83 and 84 of title 5, United States Code (as amended by this Act) if the employee deposits such contributions (including interest) as determined by the Office of Personnel Management relating to such service into the Civil Service Retirement and Disability Fund. All appropriate employing agencies shall pay the applicable contributions into the Civil Service Retirement and Disability Fund. The Office of Personnel Management shall prescribe regulations to carry out the provisions of this subsection.

SEC. 404. LIFE INSURANCE BENEFITS.

Section 8716(b) of title 5, United States Code, is amended—

(1) in the second sentence, by striking out ", such as short-term appointment, seasonal, intermittent employment, and employment of like nature";

(2) in paragraph (2) by striking out "or" after the semicolon;

(3) in paragraph (3) by striking out the period and inserting in lieu thereof "; or"; and

(4) by adding at the end thereof the following:

"(4) a temporary employee who has completed 6 months of current continuous employment (in the same position or different positions), including service as a temporary employee, excluding any break in service of 5 days or less.".

S. 2504, THE CONTINGENT WORKFORCE EQUITY ACT—SUMMARY OF PROVISIONS

TITLE I. WORKER PROTECTIONS

Section 101. Minimum Wage. Raise the minimum wage to make up for lost real value since 1978, and index to allow automatic increases in future to reflect inflation.

Section 102. Equal Pay. Provide that contingent workers must be paid at the same rate as full-time workers if they perform the same work.

Section 103. Civil Rights. Protect independent contractors from discrimination based on gender, religion, age, and disability (they are already protected against race discrimination).

Section 104. Collective Bargaining Rights. Include contingent workers in otherwise appropriate bargaining units; clarify joint employer rules to protect contingent workers.

Section 105. Occupational Safety and Health. Clarify employer's duty to protect all workers from hazards within its control, not just its own employees.

Section 106. Advance Notice of Layoffs and Plant Closings. Extend WARN Act advance notice rights to part-time workers.

Section 107. Contingent Workforce Survey. Direct BLS to improve collection of data on contingent workforce.

Section 108. Federal Service Contract Successorship. Require federal service contract successors to provide a right of first refusal to each qualified employee who was employed under the previous contract, provided that (1) a position still exists for that employee, and (2) such action would not require the successor to discharge one of its own employees.

TITLE II. EMPLOYEE BENEFITS

Section 201. Family and Medical Leave. Drop FMLA coverage threshold from 1250 hours annually to 500 hours, to protect part-time workers.

Section 202. Retirement and Health Care Benefits. Lower ERISA coverage threshold from 1000 hours annually to 500 hours; allow part-time employees, leased employees and independent contractors working 500 or more hours annually to accrue pensions under employer-sponsored plans; allow part-time employees to receive pro-rated health benefits under employer-sponsored plans.

Section 203. Pension Portability. Allow departing employees to transfer pensions when changing jobs or convert their value to individual retirement accounts or annuities; direct DOL to develop standards for reciprocity among pension plans;

Section 204. Unemployment Compensation. Amend Internal Revenue Code to require states to provide unemployment compensation to part-time employees who are unable to take full-time jobs.

TITLE III. MISCLASSIFICATION OF EMPLOYEES AS INDEPENDENT CONTRACTORS

Section 301. Internal Revenue Service Procedures. Limits IRS ability to waive employer tax liability for misclassifying employees as independent contractors; employer must have acted with reasonable good faith, treated all similarly-situated individuals as independent contractors, and agreed to treat affected workers as employees in future.

Section 302. Federal Contracts. Impose 2-year ban on federal contracts for employers who willfully misclassify employees as independent contractors; require federal contractors to notify all independent contractors performing services for them of their legal rights and obligations as independent contractors; grants federal contract bidders a right of action against bidders who misclassify employees as independent contractors.

Section 303. Defense Contracts. Impose 2-year ban on defense contracts for employers who willfully misclassify employees as independent contractors; require defense contractors to notify all independent contractors performing services for them of their legal rights and obligations as independent contractors; grants defense contract bidders a right of action against bidders who misclassify employees as independent contractors.

TITLE IV. FEDERAL TEMPORARY EMPLOYEES

Section 401. Limitation on Temporary Employment. Adopt sense of Congress that federal government should limit positions designated as "temporary" to those lasting a maximum of one year.

Section 402. Health Benefits. Allows temporary federal employees to receive same health benefits as those provided to full-time federal workers.

Section 403. Retirement Benefits. Allows federal employees in temporary assignments to participate in federal employees retirement system after five years of service.

Section 404. Life Insurance Benefits. Allows temporary federal employees, after completing six months of continuous employment, to receive same life insurance benefits as full-time federal workers.•

By Mr. JOHNSTON:

S. 2506. A bill entitled "Wetlands Regulatory Reform Act of 1995"; to the Committee on Environment and Public Works.

THE WETLANDS REGULATORY REFORM ACT OF 1995

• Mr. JOHNSTON. Mr. President, I am pleased today to introduce the Wetlands Regulatory Reform Act of 1995. This bill will reform the section 404 "wetlands" permitting program under the Clean Water Act by introducing balance, common sense, and reason to a Federal program that is causing unnecessary problems for my constituents—and I believe for many of our citizens around the Nation.

I am introducing this legislation in the closing days of this Congress so that interested persons may review the legislation in the coming months and recommend improvements. My intent is to reintroduce this legislation early in the next Congress, with any modifications that seem appropriate, and to press vigorously for its enactment. Reforming this regulatory program will be one of my highest priorities in the coming Congress.

Mr. President, the current section 404 regulatory program has been designed less by the elected representatives of the people in Congress than by officials of the Corps of Engineers and the Environmental Protection Agency and by Federal judges. In 1972, the Congress enacted the Federal Water Pollution Control Act. Section 404 of that act prohibited "discharges of dredged or fill material" into "waters of the United States" without a permit from the Secretary of the Army. At the time of passage, "waters of the United States" was thought to be limited to the navigable waters of the Nation.

From this narrow beginning has come a rigid regulatory program that is devaluing property and preventing the construction of housing, the extension of airport runways, the construction of roads—often on lands that rarely have water on the surface but which, nevertheless, are viewed as "wetlands" within the definition of "waters of the United States". And I might add, Mr. President, that 75 percent of the land that is being regulated through the section 404 program as "wetlands" or "waters of the United States" is privately owned property.

I do not believe that we, in Congress, intended for the section 404 program to become a rigid, broad Federal land use program that affects primarily privately owned property. Yet, the evidence is clear to me that the section 404 program has become just that. Therefore, Mr. President, I believe that the time has come for the Congress to reform this program to focus Federal regulatory authority on those wetlands that are truly important functioning wetlands, to ensure that our citizens can obtain permits through a reasonable process within a reasonable period of time, and to ensure that this program is not denying people the use of their property unless there is an overriding reason to do so.

Mr. President, the Wetlands Regulatory Reform Act of 1994 proposes several key changes to the current 404 program:

First, this legislation will require that Federal jurisdictional wetlands be classified into three categories: high-, medium-, and low-valued wetlands, based on the relative wetlands functions present. Today, the section 404 program regulates all wetlands equally rigidly, whether the wetlands is a pristine, high-value wetland or a wet spot in a field. This treatment of wetlands defies logic and common sense.

My legislation will require the Corps of Engineers to classify wetlands based on their functions, and then regulate them accordingly. Class A—high-value—wetlands will be regulated under the current sequencing methodology, which first seeks to avoid adverse effects on wetlands, them attempts to minimize those adverse effects that cannot be avoided or minimized. Class B—medium-value—wetlands will be regulated under a balancing test, which does not require the avoidance step. Finally, Class C—low-value—wetlands will not be regulated by the Federal Government, but may be regulated by the States if they so choose.

Second, this legislation removes the dual agency implementation of this program, an aspect of the program that is particularly confusing and troublesome to our constituents. Today, the Army Corps of Engineers issues section 404 permits, but the Environmental Protection Agency may veto the decision of the Corps to issue the permit. Although EPA actually exercises its veto power infrequently, I understand that veto is threatened often, causing undue delays and repeated multi-agency consultations. My legislation removes the EPA veto, and instead simply requires the Corps to consult with EPA before acting.

Similarly, the EPA currently may veto permit decisions made by States that have assumed responsibility for the section 404 program. My bill deletes this authority as unnecessary interference with State administration of the program. If EPA determines that the State is not implementing the program appropriately, EPA has the authority, which my bill does not change, to withdraw approval of the State program and return the program to Federal hands. But as long as the State is in charge, its individual permit decisions should not be subject to veto from Washington.

Third, mitigation banking is authorized and encouraged by the bill as a sound means to return wetlands functions to the environment. There are a number of mitigation banking projects now around the Nation. The experience with these projects is proving that mitigation banking holds great promise as a means of restoring, enhancing, reclaiming, and even creating wetlands to offset the wetlands disturbances that are permitted under the section 404 program. Mitigation banking is the type of market driven mechanism that I believe we must incorporate in our national environmental laws if we are to achieve our national environmental goals.

Finally, this legislation will require that steps be taken to provide notice to our citizens regarding the location of Federal jurisdictional wetlands. Remarkably, Mr. President, the Federal Government is regulating over 100 million acres of land, over 75 million acres of which is privately owned, yet there are no maps posted to inform our citizens about the location of these lands. Perhaps this would not be a problem if Federal jurisdictional wetlands were only swamps, marshes, bogs and other such areas that are wet at the surface for a significant portion of the year. But land that is dry at the surface all year long can also be a Federal jurisdictional wetlands.

Without maps and other notices, only the most highly trained technicians among our citizens can identify the subtle differences between lands that are not subject to the section 404 program and those that are. Thus, many people have bought land for home sites, only to find out later that they have bought a Federal jurisdictional wetland and cannot obtain a permit to build their house. We owe our citizens better than that.

My legislation will require the Corps of Engineers to immediately post notices about the section 404 program near the property records in the courthouses around the Nation, and to post maps of Federal jurisdictional wetlands as those maps become available, including the National Wetlands Inventory maps that are being developed by the National Biological Survey.

Mr. President, there are many other improvements of the current program in my legislation, including time limits on the issuance of section 404 permits, an administrative appeal process, the expansion of the program to cover drainage and excavation of wetlands, and the designation of the Soil Conservation Service to delineate wetlands on agricultural wetlands. The legislation I am introducing today is similar to the Comprehensive Wetlands Conservation and Management Act of 1993, H.R. 1330, which was introduced in the House of Representatives by my colleagues from Louisiana, Representative HAYES and Representative TAUZIN. That bill has 170 cosponsors representing congressional districts in 40 states.

However, my legislation varies from the House reform legislation in at least one important aspect. My legislation does not provide a mechanism for obtaining compensation from the Federal Government when private property is taken through the operation of the 404 program. I believe that the impact of the section 404 program on private property rights is a very important issue. However, rather than address the compensation issue at this time, I believe that it is preferable to include provisions in the legislation that will help ensure that the section 404 program does not result in takings of private property in the first place. Therefore, in addition to the many provisions of the bill that will make the wetlands program more balanced and rational, it also directs the Secretary of the Army and the Administrator of the Environmental Protection Agency to implement the program in a manner that minimizes the adverse effects on the use and value of privately owned property.

I encourage all of my colleagues to review the legislation that I am introducing today. I look forward to working with my colleagues and others in an effort to find a consensus on the important issue of reforming the section 404 wetlands regulatory program so that the program will work both for the environment and for our constituents.

Mr. President, I ask that the legislation be printed in its entirety in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wetlands Regulatory Reform Act of 1995".

SEC. 2. FINDINGS AND DECLARATION OF POLICIES AND GOALS

(a) FINDINGS.—The Congress finds that—

(1) wetlands serve important ecological and natural resource functions, such as providing essential nesting and feeding habitat for waterfowl, other wildlife, and many rare and endangered species, fisheries habitat, the enhancement of water quality, and natural flood control;

(2) much of the Nation's resource has sustained significant degradation, resulting in the need for effective programs to limit the loss of ecologically significant wetlands and to provide for long-term restoration and enhancement of the wetlands resource base; and

(3) because 75 percent of the Nation's wetlands in the lower forty-eight States are privately owned and because the majority of the Nation's population lives in or near wetlands areas, an effective wetlands conservation and management program must reflect a balanced approach that conserves and enhances ecologically significant wetlands functions while respecting private property

rights, recognizing the need for essential public infrastructure, such as highways, utilities, ports, airports, sewer system, and public water supply systems, and the need to preserve strong local tax bases, and providing the opportunity for sustained economic growth.

(b) Declaration of Policies and Goals.—Section 101(a) (33 U.S.C. 1251(a)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting a semicolon; and

(3) by adding at the end the following:

"(8) it is the national policy that the Federal wetlands permitting program under Section 404 of the Federal Water Pollution Control Act shall be implemented to protect ecologically significant wetlands while avoiding the diminishment of the use and value of privately-owned property.".

SEC. 3. BALANCED IMPLEMENTATION OF PROGRAM TO CONSERVE WETLANDS WHILE PROTECTING PRIVATE PROPERTY RIGHTS.

Section 404 (33) U.S.C. 1344) is amended by adding at the end the following new subsection:

"(u) Balanced Implementation.—

"(1) In implementing their responsibilities under the regulatory program under this section, the Secretary and the Administrator shall balance the objective of conserving functioning wetlands with the objective of ensuring continued economic growth, providing essential infrastructure, maintaining strong state and local tax bases, and protecting against the diminishment of the use and value of privately-owned property.

"(2) In carrying out this section, the Secretary and the Administrator and all other Federal agencies and officials of the Federal government shall seek in all actions to minimize the adverse effects of the regulatory program under this section on the use and value of privately-owned property.".

SEC. 4 DEFINITION AND DELINEATION OF WETLANDS.—

(a) Section 404 is amended by adding at the end the following new subsection:

"(v) Definitions.—For purpose of this section, the term:

"(1) 'wetlands' means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marches, bogs, fens, potholes, playa lakes, vernal pools, and similar areas;

"(2) 'Secretary' means the Secretary of the Army, acting through the Chief of Engineers; and

"(3) 'Administrator' means the Administrator of the Environmental Protection Agency.".

(b) Section 404(a) (33 U.S.C. 1344(a)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(3) by striking "clause (1)" and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following new paragraphs:

"(2) Revisions to Delineation Procedures.—

"(A) In general.—After the date of enactment of this Act, no revisions to or clarifications of the guidelines for identifying and delineating wetlands areas under this subsection shall be issued until the National Academy of Sciences has completed the study of wetlands authorized by the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Public Law 102–389).

"(B) Revisions.—Within 18 months of the completion of the study required under subparagraph (A), the Administrator shall review the results of the study and, in consultation with the Secretary, the Secretary of Agriculture, the Secretary of the Interior, and the States, revise the guidelines referenced in subparagraph (A) in accordance with subparagraph (E), and as is otherwise necessary.

"(C) Promulgation of regulations.—Revision of the guidelines referenced in subparagraph (A), along with those portions of the guidelines that the Administrator does not propose to revise, shall, after public notice and opportunity for comment, be issued (in accordance with section 553 of Title 5 of the United States Code and as otherwise required under this section) as final rules and regulations. In carrying out the provisions of this subparagraph, public hearings shall be held in geographic areas of the Nation that contain significant areas of wetlands.

"(D) Notwithstanding subparagraph (C), regulations adopted pursuant to this paragraph shall be submitted to the relevant authorizing committees of the House of Representatives and the Senate and shall not become effective until the 181st day after such submission.

"(E) The regulations promulgated pursuant to this paragraph shall provide that, except in the limited instances identified in the Corps of Engineers Wetlands Delineation Manual issued in January 1987 (Technical Report Y–87–1) and implementing guidelines, in order to make a positive wetland delineation determination, clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soil must be found to be present during the period in which the delineation is made.

"(3) Continued use of 1987 manual.—

"(A) In general.—Until such regulations are promulgated, the Secretary, acting though the Chief of Engineers, shall use the Corps of Engineers Wetlands Delineation Manual issued in January 1987 (Technical Report Y–87–1) and implementing guidelines to identify and delineate wetlands areas.

"(4) Agricultural lands.—

"(A) In general.—For purposes of this section, wetlands located on agricultural lands and associated non-agricultural lands shall be delineated by the Secretary of Agriculture in accordance with Section 1222(j) of the Food Security Act of 1985 (16 U.S.C. 3822(j)).

"(B) Consistency.—Any areas of agricultural land or any activities related to the land determined to be exempt from the requirements of Subtitle C of Title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) shall also be exempt from the requirements of this section for such period of time as those lands are used as agricultural lands.

"(C) Definition.—For purposes of this section, the term 'agricultural lands' means cropland, pastureland, native pasture, rangeland, orchards, vineyards, nonindustrial forest land, and any other land used to produce or support the production of an annual or perennial crop of a commodity, aquaculture product, nursery product, or livestock."

SEC. 5. WETLANDS CLASSIFICATION.

Section 404(d) (33 U.S.c. 1344(d)) is amended by striking all therein and by inserting in lieu thereof the following:

"(d) Wetlands Classification.—(1) The Administrator, with the assistance of the Secretary, and in consultation with the Secretary of the Department of Agriculture, the Secretary of the Department of the Interior, and the States, shall undertake a project to classify wetlands in the United States. Such classification project shall be completed not later than ten years after the date of enactment of this Act. In undertaking such project, priority shall be given to requests for classification under paragraph (4).

"(2) In conducting the project under this section, the classification of wetlands shall be based upon the best reasonably obtainable scientific information, including the results of the National Academy of Sciences study of wetlands authorized by the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993 (Public Law 102–389). Wetlands shall be classified as either Class A, Class B, or Class C, depending on their relative ecological significance, taking, into account regional variations in hydrology, soils, and vegetation, as follows—

"(A) Class A wetlands are those wetlands:

"(i) which serve critical wetlands functions, including the provision of critical habitat for a concentration of avian, aquatic, or wetland-dependent wildlife;

"(ii) which consist of or may be a portion of ten or more contiguous acres and have an inlet or outlet for relief of water flow; except that this requirement shall not operate to preclude the classification as Class A wetlands lands containing prairie pothole features, playa lakes, or vernal pools if such lands otherwise meet the requirements for Class A classification under this paragraph;

"(iii) for which there exists a scarcity of functioning wetlands within the watershed or aquatic ecosystem such that the discharge of dredged or fill material into such wetlands would seriously jeopardize the availability of the wetlands functions identified in clause (i); and

"(iv) for which there is no overriding public interest in the use of such wetlands for purposes other than those served by wetlands;

"(B) Class B wetlands are those wetlands that provide habitat for a significant population of avian, aquatic, or wetland-dependent wildlife, or provide other significant wetlands functions, including significant enhancement or protection of water quality, or significant natural flood control; and

"(C) Class C wetlands are those wetlands that:

(i) serve marginal wetlands functions that exist in such abundance that regulations of activities in such wetlands is not necessary to conserve important wetlands functions;

(ii) are within industrial complexes or other intensely developed areas that do not serve significant wetlands functions as a result of such location; or

(iii) are located behind legally constituted, man-made structures or natural formations, such as levees constructed and maintained to permit the utilization of such lands for commercial, industrial, or residential purposes consistent with local land use planning requirements.

"(3) In conducting the classification project under this section, there shall be a public hearing in each county, parish, or borough of a State before completion of wetlands classification in such county, parish, or borough. Promptly after completion of wetlands classification in a county, parish, or borough, a map or maps indicating the classification of such wetlands shall be made available to the public in the building within the county, parish, or borough that contains property records, and shall be filed with such property records, and notice of same shall be published in the Federal Register and in publications of wide circulation in such county, parish, or borough.

"(4) Until the classification process has been completed with respect to wetlands within a particular county, parish, or borough, any person seeking a classification of such wetlands may file a request with the Secretary, identifying the site of the wetlands and requesting the Secretary to determine the classification of such wetlands. The requestor shall provide such additional information as may be necessary for purposes of determining the classification of such wetlands.

"(5) Within ninety days following receipt of a request for classification under paragraph (4), the Secretary shall notify the requestor of the classification of the wetlands that are the subject of such request and shall state in writing the basis for such classification. The classification of the wetlands that are the subject of the request shall be determined by the Secretary in accordance with this subsection and the regulations promulgated pursuant thereto.

"(6) Not later than one year after the date of enactment of this Act, the Administrator, with the assistance of the Secretary, shall issue regulations implementing this subsection. Until such regulations are issued, the Secretary shall classify wetlands in response to a request for classification under paragraph (4), or as part of the permitting process pursuant to subsection (a).

SEC. 6. ACTIVITIES REGULATED

Section 404(a) (33 U.S.C. 1344(a)) is amended—

(a) by striking "(a) The Secretary" and inserting the following:

"(a) IN GENERAL.—

"(1) ISSUANCE OF PERMITS.—The Secretary";

(b) by adding at the end the following new paragraph:

"(2) For purposes of this section, the discharge of dredged or fill material into waters of the United States includes the draining, channelization, and excavation of wetlands.".

SEC. 7. PERMIT METHODOLOGY

Section 404(a) (33 U.S.C. 1344(a)) is further amended by adding at the end the following new paragraphs:

"(3)(A) The Secretary shall determine whether to issue a permit for the discharge of dredged or fill material into wetlands classified pursuant to subsection (d) as Class A wetlands based on a sequential analysis that seeks to (i) avoid adverse effects on such wetlands, (ii) minimize such adverse effects that cannot be avoided, and (iii) mitigate any adverse effects that cannot be avoided and that remain after minimization. Any permit authorizing the discharge of dredged or fill material in Class A wetlands may contain such terms and conditions concerning mitigation that the Secretary deems appropriate to prevent the unacceptable loss or degradation of Class A wetlands.

"(B) The Secretary shall determine whether to issue a permit to authorize discharges of dredged or fill material in wetlands classified pursuant to subsection (d) as Class B wetlands pursuant to a public interest review. Such public interest review shall balance the reasonably foreseeable benefits and detriments resulting from issuance of the permit, based on such factors as economic growth, the need for fish and wildlife habitat, water supply and conservation, water quality, infrastucture needs, energy needs, mineral needs, food production, recreation, and considerations of private property ownership. The Secretary may condition such permit as necessary to ensure that the watershed or aquatic ecosystem of which such wetlands are a part does not suffer significant loss or degradation of wetlands functions.

"(C) No permit from the Secretary shall be required with respect to the discharge of dredged or fill material in wetlands classified pursuant to subsection (d) as Class C wetlands. A state may require a permit with respect to discharges in Class C wetlands if such state deems it appropriate, along with such terms and conditions as such state may impose.".

SEC. 8. REQUIRE CONSULTATION BETWEEN EPA AND THE CORPS; REPEAL AUTHORITY OF EPA TO VETO CORPS PERMITTING DECISIONS

Section 404(c) (33 U.S.C. 1344(c)) is amended to read as follows:

"The Secretary shall consult with the Administrator regarding whether the discharge of such material at the specified disposal site would have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.".

SEC. 9. EXTENSIONS OF TIME AND THE CONSEQUENCES OF FAILURE BY THE SECRETARY TO MAKE A DECISION.

Section 404(a) (33 U.S.C. 1344(a)) is further amended—

(a) by adding at the end of paragraph (1) (as so designated) the following new sentence:

"The Secretary shall request from the applicant any additional information to complete the application not later than 60 days after the Secretary receives the application."; and

(b) by adding at the end the following new paragraphs:

"(3) DATE OF DECISION BY SECRETARY.—Except as provided in paragraph (4), the Secretary shall make a decision with respect to an application for a permit submitted under paragraph (1) not later than 90 days after the completed application is submitted.

"(4) EXTENSION.—The decision of the Secretary with respect to an application for a permit under paragraph (1) may be made after the date specified in paragraph (3) only if—

"(A) with respect to issuance of the permit, the Secretary is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to issue an environmental impact statement, in which case the decision shall be made not later than 30 days after the date on which the requirements of such Act are met;

"(B) the permit application involves an activity that may affect any species that is listed or proposed for listing or any critical habitat that is designated or proposed for designation under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), in which case the decision shall be made not later than 30 days after the date on which the requirements of such Act are met, as determined by the Secretary of the Interior, or the Secretary of Commerce, whomever is appropriate;

"(C) the Administrator, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Commerce, or the Secretary of Transportation, the head of any other appropriate Federal agency, or the Governor of the State in which the activity occurs requests that the Secretary of the Army or the Secretary of Agriculture, as the case may be, grant an extension beyond the date specified in paragraph (3), and such Secretary grants such request in writing, in which case the decision shall be made not later than 150 days after the completed application is submitted;

"(D) the Secretary and the applicant for the permit determine that additional time is needed to evaluate the application; or

"(E) the decision is precluded as a matter of law or procedures required by law.

"(5) CONSEQUENCES OF FAILURE BY THE SECRETARY TO MAKE A DECISION.—If the Secretary fails to make a decision by the date specified in paragraph (3) or (4), as the case may be, the permit shall be deemed granted."

SEC. 10. GENERAL PERMIT IMPROVEMENTS.

Section 404(e) (33 U.S.C. 1344(e)) is amended—

(a) by adding after "minimal" in the first place it appears, "or temporary"; and

(b) by adding at the end the following new paragraphs:

"(3) STATE POGRAMS.—Upon the request of a State, regional, local, or Tribal governmental body with an existing wetlands regulatory program, the Secretary shall issue a general permit for such program if the non-federal regulatory program—

"(A) has jurisdiction over the activities and waters within the scope of the requested general permit.

"(B) provides adequate safeguards to ensure that it will provide at least the same degree of protection for the navigable waters as the protection provided by this section;

"(C) provides at least the same opportunity for public review, comment, and hearings as the opportunity provided by this section; and

"(D) provides an opportunity for the Secretary, in cooperation with the Administrator, the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), and the Secretary of Commerce (acting through the Administrator of the National Oceanic and Atmospheric Administration) to conduct periodic reviews of permit decisions made under the non-federal program in order to ensure that the requirements of this subsection are met. The provisions of this paragraph shall not apply to general permits issued by the Secretary for linear utility facilities, and such linear utility facilities shall continue to be regulated by the Secretary.

"(4) CONSISTENCY WITH SWAMPBUSTER.—A general permit may be issued for discharges of dredged or fill material associated with activities found by the Secretary of Agriculture, in consultation with the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service, to be exempted from the ineligibility provisions of section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) pursuant to subsections (f) and (h) of section 1222 of such act (16 U.S.C. 3822) if the general permit—

"(A) provides adequate safeguards to ensure that the activities exempted will have no more than minimal individual and cumulative impacts on the environment; and

"(B) includes provisions to provide an opportunity for the Secretary and the Administrator to conduct periodic reviews of permit decisions made by the Secretary of Agriculture to ensure that the terms and conditions of the general permit and the requirements of this subsection are met.

"(5) GRANTS FOR STATE, REGIONAL, LOCAL AND TRIBAL PROGRAMS.—The Secretary and the Administrator may make a grant to a State, Tribal, regional, or local governmental body for the operation of a regulatory program with respect to which a general permit has been issued pursuant to this subsection. The aggregate amount of such grants may not exceed the amount made available by appropriations to the Secretary or the Administrator to carry out this section with respect to State, Tribal, regional, or local governmental bodies.".

SEC. 11. EXEMPT ACTIVITIES.—

(a) Paragraph (1) of Section 404(f) (33 U.S.C. 1344(f)(1)) is amended to read as follows:

"(f)(1) EXEMPT ACTIVITIES.—

"Except as provided in paragraph (2) of this subsection, the discharge of dredged or fill material is exempted from regulation under this section, section 301(a) and 402 of this Act (except for effluent standards or prohibitions under section 307) if it is:

"(A) from normal farming, silviculture, and ranching activities, such as haying, grazing, plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices;

"(B) for the purpose of maintaining, including emergency reconstruction of recently damaged parts, of currently serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, water conveyances, linear utility facilities, causeways, bridge abutments or approaches, and transportation structures;

"(C) for the purpose of constructing or maintaining farm or stock ponds or irrigation ditches, or the maintenance of drainage ditches or spreading areas for groundwater recharge;

"(D) for the purpose of constructing temporary sedimentation basins on a construction site that does not involve a discharge of fill material into navigable waters;

"(E) for the purpose of constructing or maintaining farm roads or forest roads, or temporary roads for moving mining equipment, or access roads for linear utility facilities, or access roads to, or within, drinking water treatment plants, if the roads are constructed and maintained, in accordance with best management practices, to ensure that—

"(i) flow and circulation patterns and chemical and biological characteristics of the navigable waters are not impaired;

"(ii) the reach of the navigable waters is not reduced; and

"(iii) any adverse effect on the aquatic environment will otherwise be minimized;

"(F) resulting from any activity with respect to which a State has a program approved by the Administrator under section 208(b)(4) that meets the requirements of subparagraphs (B) and (C) of such section;

"(G) undertaken in connection with a marsh management and conservation program in a coastal county, parish, or borough, where such program has been approved by the Governor of the State or the designee of the Governor;

"(H) into tightly sealed forms or cells where the material will be used as a structural member for standard pile supported structures, such as piers and docks, and for linear projects such as bridges, transmission and distribution line footings, and walkways;

"(I) for the placement of pilings in waters of the United States in circumstances involving linear projects such as bridges, elevated walkways, or powerline structures, or that involve structures such as piers, boathouses, wharves, marinas, lighthouses and individual houses built on stilts solely to reduce the potential of flooding;

"(J) for the clearing of vegetation (i) within rights-of-way associated with the development and maintenance of linear utility projects, including electric power transmission and distribution lines, petroleum product and natural gas pipelines, and water and sewer lines, or (ii) from reservoirs used primarily for storage of drinking water where the construction of the reservoirs was authorized pursuant to this section, or where the construction of reservoirs predates the requirement for the authorization;

"(K) undertaken on farmed wetlands, except that any change in use of such land for the purpose of undertaking activities that are not exempt from regulation under this subsection shall be subject to the requirements of this section to the extent that such farmed wetlands are 'wetlands' under subsection (d) of this section;

"(L) undertaken on lands or involve activities within a State's coastal zone which are excluded from regulation under a State coastal zone management program approved under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.);

"(M) undertaken in incidentally-created wetlands that have exhibited wetlands functions for less than five years;

"(N) part of expanding an ongoing farming operation involving the water-dependent, obligate crop Vaccinium macrocarpin, so long as such expansion does not occur in Class A wetlands, does not result of in the conversion of more than ten acres of wetlands per operator per year, and the converted wetlands (other than where dikes and other necessary facilities are placed) remain as wetlands or other waters of the United States;

"(O) from aggregate or clay mining activities in wetlands if such activities are conducted pursuant to a State or Federal permit that requires (i) that reclamation of such affected wetlands to be completed within five years of the commencement of such activities, and (ii) that such wetlands be reclaimed to a condition capable of supporting wetlands functions substantially equivalent to the functions supported by such wetlands at the time of commencement of such activities; or

"(P) for the purpose of preserving and enhancing aviation safety or undertaken in order to prevent an airport hazard.".

(b) EXEMPTED AREAS.—Section 404(f) is further amended by adding at the end the following new paragraph:

"(3) EXEMPTED AREAS.—For purposes of this section, the following shall not be considered to be navigable waters:

"(A) nontidal drainage and irrigation ditches excavated in uplands;

"(B) artificially irrigated areas which would revert to uplands if the irrigation ceased;

"(C) artificial lakes or ponds created by excavating or diking uplands to collect and retain water, and that are used primarily for stock watering, irrigation, agricultural settling ponds, fire control, cranberry growing, or rice growing;

"(D) artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking uplands to retain water for primarily aesthetic reasons;

"(E) waterfilled depressions created in uplands incidental to construction activity and pits excavated in uplands for the purpose of obtaining fill, sand, gravel, aggregates or minerals, unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of navigable waters;

"(F) artificial stormwater detention areas and artificial sewage treatment areas that are not modifications of navigable waters;

"(G) prior converted croplands; and

"(H) confined dredged material disposal areas constructed in uplands.".

SEC. 12. STATE PROGRAMS.

(a) STANDARDS FOR STATE DELEGATION.—Subsection (h)(2) of section 404 (33 U.S.C. 1344(h)(2)) is amended by adding the following at the end:

"The Administrator shall approve a state program submitted under subsection (g)(1) that is developed to meet the particular needs and circumstances of such state, provided that the level of wetlands protection provided by the state program is substantially similar to the protection provided by this section."

(b) FEDERAL OVERSIGHT OF STATE PROGRAMS.—Subsection (i) of section 404 (33 U.S.C. 1344(i)) is amended by adding the following at the end:

"Not later than 5 years after the date of the approval of a State program, and every 5 years thereafter, in order to ensure that the requirements of this section are met, the Administrator, in cooperation with the Secretary and the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), shall conduct a periodic review of permit decisions made by a State that carries out a program that is approved by the Administrator under subsection (h)(2).

"The Secretary and the Administrator may make a grant to a State for the operation of a program that is approved by the Administrator pursuant to subsection (h)(2). The aggregate amount of such grants may not exceed the amount that is made available by appropriations to the Secretary or the Administrator to carry out this section with respect to State programs.".

(c) The last four sentences of Section 404(j) (33 U.S.C. 1344(j)) are hereby repealed.

SEC. 13. MITIGATION BANKS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following new subsection:

"(w) MITIGATION BANKS.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, after providing notice and opportunity for public review and comment, the Secretary shall issue regulations for the establishment, use, maintenance, and oversight of mitigation banks. The regulations shall be developed in consultation with the Administrator and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

"(B) PROVISIONS AND REQUIREMENTS.—The regulations issued pursuant to subparagraph (A) shall ensure that mitigation banks—

"(i) comply with the guidelines established under subsection (b)(1);

"(ii) to the extent practicable and environmentally desirable, provide in-kind replacement of lost wetlands functions, and be located in, or in proximity to, the same watershed as the affected wetlands;

"(iii) be operated by an entity which has the financial capability to meet the requirements of this section, including the deposit of a performance bond or other appropriate demonstration of financial responsibility to support the long-term maintenance of the bank, specify responsibilities for long-term monitoring, maintenance, and protection, and provide for the long-term security of ownership interests of wetlands and uplands on which projects are conducted to protect the wetlands functions associated with the mitigation banks;

"(iv) employ consistent and scientifically sound methods to determine debits by evaluating wetlands functions, project impacts, and duration of the impact at the sites of proposed permits for discharges of dredged or fill material pursuant to this section, and to determine credits based on wetlands functions at the sites of mitigation banks;

"(v) provide for the transfer of credits for mitigation that has been performed and for mitigation that shall be performed within a designated time in the future, provided that financial bonds shall be posted in sufficient amount to ensure that the mitigation will be performed in the case of default; and

"(vi) provide opportunity for public notice of, and comment on, proposals for mitigation banks; *provided however*, that the process utilized by a mitigation bank to obtain a permit under this section satisfies the requirement for such public notice and comment.

"(2) MITIGATION BANK DEFINED.—As used in this section, the term 'mitigation bank' means a wetlands restoration, creation, enhancement, or preservation project undertaken by one or more parties, including private and public entities, expressly for the purpose of providing mitigation compensation credits to offset wetlands losses authorized by the terms of permits allowing discharges of dredged or fill material into the navigable waters.".

SEC. 14. ADMINISTRATIVE APPEALS PROCESS.

Section 404 (33 U.S.C. 1344) is amended by adding at the end the following new subsection:

"(x) ADMINISTRATIVE APPEALS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall, after providing notice and opportunity for public comment, issue regulations establishing procedures pursuant to which—

"(A) a landowner may appeal a determination of regulatory jurisdiction under this section with respect to a parcel of property;

"(B) any person may appeal a determination that the proposed activity is not exempt under subsection (f);

"(C) a landowner may appeal a determination that an activity is not regulated under a general permit issued under this section;

"(D) an applicant for a permit under this section may appeal a determination made pursuant to this section to deny issuance of the permit or to impose a requirement under the permit; and

"(E) a landowner or any other person required to restore or otherwise alter a parcel of property pursuant to an order issued under this section may appeal such order.

"(2) FILING DEADLINE.—An appeal brought to this subsection shall be filed not later than 30 days after the date on which written notice of the decision or action that is the subject of the appeal is received, or is deemed received, by the party filing the appeal.

"(3) DECISION DEADLINE.—An appeal brought pursuant to this subsection shall be decided not later than 90 days after the date on which the appeal is filed.

"(4) THIRD-PARTY COMMENTS ON APPEAL.—Any person who participated in the public comment process concerning a decision or action that is the subject of an appeal brought pursuant to this subsection may file written comments with respect to such appeal.

"(5) OFFICIAL DECIDING APPEAL.—An appeal brought pursuant to this subsection shall be heard and decided by an appropriate and impartial official of the Federal Government, other than the official who made the determination or carried out the action that is the subject of the appeal.

"(6) PAYMENT OR MITIGATION AFTER APPEAL.—A landowner or any other person who has filed an appeal under this subsection shall not be required to pay a penalty or perform mitigation or restoration assessed under this section or section 309 until after the appeal has been decided.".

SEC. 15. MAPPING AND PUBLIC NOTICE REQUIREMENTS.

Section 404 is amended by adding at the end the following new subsection:

"(y) MAPPING AND PUBLIC NOTICE REQUIREMENTS.—

"(1) The Corps of Engineers shall, within 90 days after the enactment of this Act, provide the court of each county, parish, or borough in which Federal jurisdictional wetlands may be located, a notice for posting near the property records of the county, parish, or borough. Such notice shall: (i) state that Federal jurisdictional wetlands may be located in the county, parish, or borough, (ii) provide an understandable explanation of how Federal jurisdiction over wetlands is determined, (iii) describe the requirements and restrictions of the wetlands regulatory program under this section, and (iv) provide instructions on how to obtain a delineation and classification of wetlands.

"(2) When the delineation or classification of a property pursuant to this section becomes final, the Secretary shall file a copy of the delineation, including the classification of the wetland if any are present, with the records of the property in the local courthouse, and the Secretary shall serve a copy of the delineation determination on every property owner of record and any person with a recorded mortgage or lien on the property.

"(3) The Corps and the EPA shall file notice of enforcement actions taken with respect to private property in the property records of such property.

"(4) As the National Biological Survey completes the National Wetlands Inventory, the maps prepared in that inventory shall be provided to the court for posting in the counties, parishes, and boroughs that are covered by the maps.".

SEC. 16. REGULATORY PROGRAM FOR ALASKA.

(a) Section 404(b) (33 U.S.C. 1344(b)), as amended, is further amended by adding at the end the following new paragraph:

"(5) For permits for the discharge of dredged or fill material within the State of Alaska, the guidelines issued under this subsection—

(A) shall not include requirements or standards for compensatory mitigation of adverse impacts, but may include requirements for non-compensatory mitigation of adverse impacts,

(B) shall include requirements or standards for minimization of impacts, and

(C) may include standards or requirements for avoidance of impacts, except that the permit applicant shall not be required to establish that upland alternative sites do not exist."

(b) STANDARDS FOR GENERAL PERMITS IN ALASKA—Section 404(e) (33 U.S.C. 1344(e)), as amended by Section 10, is further amended by inserting the following new paragraph after paragraph (5):

"(6) Notwithstanding the requirements of paragraphs (1) and (2), the Secretary shall issue a general permit for discharges of dredged and fill material in Alaska. Such general permit shall contain requirements that provide a similar degree of protection for navigable waters as the protection required by the other provisions of subsection (b)(5).".

(c) Section 404 (33 U.S.C. 1344) is amended by adding at the end thereof:

"(z) ALASKA NATIVE CORPORATION LANDS—

"(1) IN GENERAL—Lands conveyed to, selected by, or owned by Alaska Native Corporations pursuant to the Alaska Native Claims Settlement Act, P.L. 92–203, as amended, shall be "economic base lands."

"(2) PERMIT CONSIDERATIONS—Regarding permit decisions for economic base lands, in addition to the requirements in subsection (a) and (b), the Secretary shall—

"(A) balance the standards and policies of this Act against the obligations of the United States to allow economic base lands to be used beneficially to create and sustain economic activity;

"(B) give substantial weight to the social and economic needs of Alaska Natives; and

"(C) account for regional differences, abundance, and functions of wetlands.

"(3) GENERAL PERMITS—Regarding rural Alaska Native villages as defined in section 3(c) of the Alaska Native Claims Settlement Act, P.L. 92–203, (43 U.S.C. 1602(c)), the Secretary shall issue general permits for disposition of dredge and fill material for critical infrastructure, including water and sewer systems, airports, roads, communication sites, fuel storage sites, landfills, housing, hospitals, medical clinics, schools, and other community infrastructure in rural Alaska villages without a determination that activities authorized by such a general permit cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effects on the environment.

"(4) OTHER CONSIDERATIONS.—The Secretary shall consult with and provide assistance to Alaska Native Corporations and the State of Alaska regarding promulgation and administration of policies and regulations under this section.".

SEC. 17. DEFINITIONS.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end thereof the following new paragraphs:

"(21) The term 'wetlands' means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, fens, potholes, playa lakes, vernal pools, and similar areas.

"(22) The term 'creation of wetlands' means an activity that brings a wetland into existence at a site where it did not formerly exist.

"(23) The term 'enhancement of wetlands' means any activity that increases the functioning of existing wetlands.

"(24) The term 'wetlands functions' means the roles wetlands serve, including flood water storage, flood water conveyance, groundwater discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, fisheries, wetlands plant habitat, aquatic habitat, and habitat for wetland-dependent wildlife.

"(25) The term 'incidentally created wetlands' means lands that exhibit wetlands characteristics sufficient to meet the criteria for delineation of wetlands, where one or more of such characteristics is the unintended result of human induced alterations of hydrology.

"(26) The term 'maintenance,' when referring to wetlands, means activities undertaken to assure continuation of a wetland or the accomplishment of project goals after a restoration or creation project has been completed, including water level manipulations and control of non-native plant species.

"(27) The term 'normal farming, silviculture, aquaculture and ranching activities' means normal ongoing practices identified as such by the Secretary of Agriculture, in consultation with the Cooperative Extension Service for each State and the land grant university system and agricultural colleges of the State, taking into account existing practices and such other practices as may be identified in consultation with the affected industry or community.

"(28) The term 'prior converted cropland' means land that was both manipulated (drained or otherwise physically altered to remove excess water from the land) and cropped before December 23, 1985, to the extent that such land no longer exhibits significant wetlands functions.

"(29) The term 'restoration,' when referring to wetlands, means an activity undertaken to return a wetland from a disturbed or altered condition with lesser acreage or fewer functions to a previous condition with greater wetlands acreage or functions.

"(30) The term 'temporary impact' or 'temporary effect' mean the disturbance or alteration of wetlands caused by activities under circumstances in which, within three years following the commencement of such activities, such wetlands—

"(A) are returned to the conditions in existence prior to the commencement of such activity; or

"(B) display conditions sufficient to ensure that without further human action, such wetlands will return to the conditions in existence prior to the commencement of such activity.".

"(31) The term 'linear utility facility' means a continuous conveyance, such as a pipeline, cable, line, or wire, used for the transmission, gathering, or distribution of electric power, natural gas, oil, or water.•

By Mr. BAUCUS (for himself and Mr. CHAFEE):

S. 2507. A bill to amend the Federal Water Pollution Control Act to improve stormwater management, and for other purposes; to the Committee on Environment and Public Works.

THE STORMWATER CONTROL REFORM ACT OF 1994

• Mr. BAUCUS. Mr. President, I ask unanimous consent that the legislation I am introducing today for myself and Mr. CHAFEE from Rhode Island, the Stormwater Control Reform Act of 1994, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stormwater Control Reform Act of 1994".

SEC. 2. STORMWATER MANAGEMENT.

Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated)—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

"(1) IN GENERAL.—The requirements of paragraph (4) for applications and the issuance of permits for stormwater discharges shall apply to:";

(B) in subparagraph (B), by inserting "or commercial" after "industrial";

(C) by striking "separate" each place it appears in subparagraph (C) and (D);

(D) by redesignating subparagraph (E) as subparagraph (F); and

(E) by inserting after subparagraph (D) the following new subparagraph:

"(E) A discharge from a municipal storm sewer system serving a population of fewer than 100,000 individuals that is located in an urbanized area (as designated by the Bureau of the Census) in which a stormwater discharge covered by a permit issued under subparagraph (C) or (D) is also located.";

(4) by inserting after paragraph (1) (as so redesignated) the following new paragraph:

"(2) OTHER MUNICIPAL STORMWATER DISCHARGES.—

"(A) MORATORIUM ON PERMITTING FOR REMAINING URBANIZED AREAS.—

"(i) MUNICIPAL STORMWATER SYSTEMS.—Except as provided in clauses (iii) and (iv), prior to October 1, 2001, neither the Administrator nor the State (in the case of a permit program approved under subsection (b)) shall require a permit under this section for discharges composed entirely of stormwater from municipal storm sewer systems serving a population of fewer than 100,000 individuals that is located in an urbanized area (as designated by the Bureau of the Census) other than discharges described in paragraph (1)(E).

"(ii) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than 2 years after the date of enactment of this subparagraph, the Administrator shall publish an advance notice of proposed rulemaking that summarizes available information on municipal storm sewer systems covered by clause (i) and outlines the options being considered for regulations under clause (iii).

"(iii) REGULATIONS.—The Administrator may issue regulations specifying permit application requirements for permits for the discharges covered by clause (i) prior to October 1, 1998, based on a determination by the Administrator that the discharges would be appropriately regulated by a permit issued pursuant to this subsection. If the Administrator issues the regulations, permits shall be issued or denied for the discharges not later than 7 years after the date of enactment of paragraph (3)(C).

"(iv) FAILURE TO ISSUE REGULATIONS.—Notwithstanding clause (i), if the Administrator fails to issue the regulations described in clause (iii) prior to October 1, 1998, the discharges covered by clause (i) shall be subject to the requirements of section 301 and this section as of October 1, 1998.

"(B) EXEMPTION FROM PERMIT REQUIREMENTS FOR NONURBANIZED AREAS.—Notwithstanding section 301 or any other provision of this section, a source of discharges composed entirely of stormwater from municipal storm sewer systems, other than the discharges described in paragraph (1) or subparagraph (A), is not required to obtain a permit for the discharges under this Act.

"(C) CLARIFICATION.—Nothing in this subsection shall be interpreted, construed, or applied to modify the requirements of this Act (including other provisions of this section) otherwise applicable to discharges of stormwater combined with domestic or industrial wastewater.";

(5) in paragraph (3)—

(A) in subparagraph (A)—

(i) by inserting "AND COMMERCIAL" after "INDUSTRIAL"; and

(ii) by inserting "and commercial" after "industrial";

(B) in subparagraph (B)—

(i) by striking "and" at the end of clause (ii);

(ii) by striking the period at the end of clause (iii) and inserting "; and"; and

(iii) by adding at the end the following new clause:

"(iv) shall include monitoring and reporting requirements that, at minimum, provide for—

"(I) representative monitoring for the quality of receiving waters; and

"(II) reporting for the implementation of management measures."; and

(C) by adding at the end the following new subparagraphs:

"(C) MAXIMUM EXTENT PRACTICABLE.—

"(i) MAXIMUM EXTENT PRACTICABLE DEFINED.—As used in subparagraph (B)(iii) (and with respect to permits issued after the date that is 2 years after the date of enactment of this subparagraph), the term 'maximum extent practicable' means applying management measures, as defined in section 6217(g)(5) of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b(g)(5)), for municipal stormwater discharges that, in the judgment of the Administrator (or a State authorized to issue a permit under this section), will attain and maintain water quality standards.

"(ii) GUIDANCE.—Not later than 2 years after the date of enactment of this subparagraph, the Administrator, after consultation with persons with expertise in the management of stormwater (including officials of local governments and representatives of public interest groups), shall—

"(I) establish requirements for specific management measures for municipal stormwater discharges based on the guidance issued under section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1445b) to define 'maximum extent practicable' for the purposes of this section; and

"(II) if practicable, include in the requirements minimum and objective performance standards for each of the management measures.

"(D) NUMERIC EFFLUENT LIMITATIONS.—Notwithstanding section 301 and this section, during the 10-year period beginning on the date of enactment of this subparagraph, a permit issued pursuant to this subsection for discharges from municipal storm sewers composed entirely of stormwater shall not require compliance with numeric effluent limitations and water quality standards shall not be applied or enforced as effluent limitations.

"(E) MUNICIPALLY OWNED AND COMMERCIAL DISCHARGES.—The Administrator (or a State with a program approved under subsection (b)) may issue a consolidated permit for discharges from a storm sewer system owned by a municipality and the stormwater discharges from industrial or commercial sources owned by the same municipality.";

(6) in paragraph (4)—

(A) by striking "(2)" each place it appears and inserting "(1)";

(B) in subparagraph (B)—

(i) by striking "(B) OTHER MUNICIPAL DISCHARGES.—Not later than" and inserting the following:

"(B) OTHER MUNICIPAL DISCHARGES.—

"(i) IN GENERAL.—Not later than"; and

(ii) by adding at the end the following new clauses:

"(ii) DEADLINE FOR SUBMISSION OF APPLICATION.—Applications for permits for discharges from municipal storm systems that were not required to apply for a permit before the date of enactment of this clause because the systems are combined storm and sanitary systems shall be filed not later than 4 years after the date of enactment of this clause.

"(iii) EFFECTIVE DATE.—The requirement for a permit under section 301 and this section shall apply to discharges from municipal storm sewer systems described in paragraph (1)(E) beginning on the date of the expiration of a permit for a discharge described in subparagraph (C) or (D) of paragraph (1) that is located in the same urbanized area and that occurs after the date that is 3 years after the date of enactment of this clause."; and

(C) by adding at the end the following new subparagraph:

"(C) COMMERCIAL AND LIGHT INDUSTRIAL DISCHARGES.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall, after notice and opportunity for public comment, establish permit application and other requirements for stormwater discharges from commercial and light industrial sources and ensure that permits under this section for all sources are issued as expeditiously as practicable, but no later than 8 years after the date of enactment of this subparagraph.

"(ii) EXCEPTIONS.—This subparagraph shall not apply to discharges from sources that—

"(I) were required to submit applications for a permit by the rule published by the Administrator at 55 Fed. Reg. 47990 (November 16, 1990);

"(II) are in a source or a class for which an exemption to the permit requirements of this section and section 301 is granted before the date that is 8 years after the date of enactment of this subparagraph, pursuant to paragraph (5); or

"(III) are owned or operated by a municipality and are subject to a consolidated permit as authorized by paragraph by (3)(E).

"(D) REGULATIONS.—The Administrator shall publish a notice of proposed rulemaking for the requirements described in subparagraph (C) not later than 4 years after the date of enactment of this subparagraph and shall issue final regulations relating to the requirements not later than 6 years after the date of enactment of this subparagraph."; and

(7) by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) COMMERCIAL AND LIGHT INDUSTRIAL DISCHARGES.—

"(A) IN GENERAL.—The Administrator may exempt a class or category of commercial and light industrial discharges composed entirely of stormwater (other than discharges subject to permit application requirements published at 55 Fed. Reg. 47990 (November 16, 1990)) from the requirement to obtain a permit pursuant to section 301 and this section if the Administrator determines based on available information that, considering controls and management measures installed at sources in the class or category, stormwater discharges from sources in the class or category have minimal effect on water or sediment quality.

"(B) REGULATIONS.—

"(i) IN GENERAL.—The Administrator shall issue regulations for classes or categories of discharges exempt under subparagraph (A).

"(ii) CONTENTS.—Such regulations shall, at a minimum, establish priorities, establish requirements for State stormwater management programs, and establish expeditious deadlines for compliance with the requirements established by the regulations. The regulations may include performance standards, guidelines, guidance, and management practices and treatment requirements, as appropriate. The Administrator may, in making a determination under subparagraph (A), take into account controls and management measures established pursuant to this subparagraph.

"(iii) REFERENCES.—For purposes of sections 309 and 505, any reference to a permit issued under section 402 shall be interpreted to include a requirement imposed by a regulation issued pursuant to this subparagraph.

"(6) STORMWATER RESEARCH.—

"(A) IN GENERAL.—To determine the most cost-effective and technologically feasible means of improving the quality of the waters of the Nation, the Administrator shall establish an initiative through which the Administrator shall fund State and local demonstration programs and research to test innovative approaches to address the impacts of hydrologic and hydraulic changes, source controls, and water quality management practices and controls for runoff from municipal storm sewers. Persons conducting demonstration programs and research funded under the initiative shall also take into account the physical nature of episodic stormwater flows, the varying pollutants in stormwater, the actual risk the flows pose to the designated beneficial uses, and the ability of natural ecosystems to accept temporary stormwater events.

"(B) AWARD OF FUNDS.—The Administrator shall award the demonstration and research program funds taking into account regional and population variations.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph a total of $100,000,000 for the period consisting of fiscal years 1995 through 2004. Such sums shall remain available until expended.

"(7) ADDITIONAL MONITORING SUPPORT.—Municipalities subject to permits issued under this subsection shall be eligible for grants under section 319(h) to train and facilitate training of citizens in citizen watershed monitoring activities to support municipal stormwater management programs.".•

By Mr. PACKWOOD:

S. 2508. A bill to amend the fishing endorsement issued to a vessel owned by Ronnie C. Fisheries, Inc.; to the Committee on Commerce, Science, and Transportation.

THE RONNIE C. FISHERIES, INC. VESSEL ACT OF 1994

• Mr. PACKWOOD. Mr. President, I introduce a bill for the sake of fairness. It is a bill based on the merits of a case that didn't meet the rigid guidelines of Federal regulations despite meeting the intent of the Federal program. The private relief I offer today is for the Seibel family of South Beach, OR, who need to have the Pacific Coast groundfish limited entry permit transferred from their vessel that was lost at sea, to their other vessel, the *F/V A J*.

Some may say that offering this kind of private relief sets a precedent. I believe it is a precedent of righting a wrong. The Seibels have jumped through all the administrative hoops possible. The regulators they have encountered side with them on the merits of their case, but have denied them the permit due to the rigid wording of the regulations. The very agency that denied them the permit, the National Oceanic and Atmospheric Administration, says it will not oppose my legislation.

We in Congress are charged with the awesome responsibility of making sure justice is served in the laws we create. I say let the merits of the case determine the precedent we set. With every bill Congress passes we create a precedent.

Mr. President, Dave and Barbara Seibel have fished in the waters off the coast of the Pacific Northwest since 1968, and in the groundfish fishery since 1976. They are classic examples of historical fishermen, as defined under the Magnuson Fishery Conservation and Management Act. The Seibels are an example of the category of fishermen that were meant to be included in the Pacific Coast Groundfish Limited Entry Program.

As happens to those that go to sea in ships, the Seibels have felt the bitter sting of losing their boat, and much more tragically, losing the three crewmen aboard. On March 9, 1989, their 75-foot *F/V Ronnie C.* and crew were lost at sea. The loss was devastating. In deciding how to continue in the fishery after this loss, the Seibels sought to resume the fishing done by the lost vessel using their other boat, the 150 foot *F/V A J*. While the Seibels have fished all these years, and the *Ronnie C.* had a groundfish permit from the National Marine Fisheries Service, the *F/V A J* did not. In 1991, the *F/V A J* sat at the dock, so that year the *F/V A J* did not fulfill the 1994 National Marine Fisheries Service regulations. The regulations call for two 500-pound catches of fish per year from 1989–91. The Seibels had no market for the whiting they might have caught in 1991 because the groundfishery was in the throes of changing from factory processor deliveries at-sea to the not yet geared-up shoreside processing plants. So the boat sat at the dock. The boat, the *F/V A J*, did meet the requirements the two previous years when they sold to the at-sea processors.

Oregonians can be very practical people, Mr. President, especially the independent fishermen. Their logic tells them that if you can't sell any fish, it's a waste of time to harvest the fish from the sea and let them rot on the boat.

So, right between the regulatory cracks this fishing family fell. In one part of the National Marine Fisheries Service regulations, it specifically refers to the consideration of occurrences beyond the owners control, but this is not specifically stated throughout the regulation, a bureaucratic oversight, no doubt. So, National Marine Fisheries Service has followed the very letter of its regulations and denied a permit that would let the Seibel's fish with their one boat that is still above water.

The Seibels have gone through the council review process, the review board having decided in their favor. The Seibels have gone to the Pacific Fishery Management Council, the council having voted unanimously in favor of reconsideration of the Seibel'situation by the National Marine Fisheries Service. Still, National Marine Fisheries Service cannot reverse its original decision and issue a permit for the *F/V A J* due to the wording of the regulations.

The legislation I am introducing moves the original permit to the Seibel's remaining boat. Quite simply, the Seibels will have no permitted boat with which to fish for Pacific groundfish next spring, Mr. President. And since they will not be able to finance the boat without a permit, they will loose their boat. And since fishing is their livelihood, they will be unable to make a living. I ask for my colleague's support for letting the Seibels get on with their lives as working and productive people of this country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FISHING ENDORSEMENT.

Notwithstanding any other provision of law, the size endorsement on Pacific Coast Groundfish Limited Entry Permit Number GF0351, issued to Ronnie C. Fisheries Incorporated, is hereby amended to read "150 feet" length overall.•

By Mr. MOYNIHAN:

S. 2509. A bill to establish an American Heritage Areas Partnership Program in the Department of the Interior; to the Committee on Energy and Natural Resources.

THE AMERICAN HERITAGE AREAS PARTNERSHIP ACT OF 1994

• Mr. MOYNIHAN. Mr. President, I introduce the American Heritage Partnership Act of 1994. This bill will recognize the natural, cultural, historic, and scenic resources and recreational opportunities that together constitute the idea of the American heritage. The bill will also preserve and protect these unique resources and make easier their enjoyment by Americans from near and far.

It is no easy task to define an American heritage area, but here we do so by saying it means a place where natural, cultural, historic, or scenic resources, or a combination thereof, combine to form a cohesive, nationally distinctive landscape that has developed from patterns of human activity shaped by geography. Heritage areas are together representative of the national experience, as demonstrated through the physical features that remain and the traditions that have evolved there.

The Secretary of the Interior may award grants to help identify areas that meet the requirements for this designation and to prepare the management plan that is required before designation. One of the criteria for designation is the presence of residents, nonprofit organizations, other private entities, and governments within the proposed area that have demonstrated support for the designation and the implementation of the management plan. Without such local support, a proposal would not meet the criteria.

Mr. President, this bill will make possible the enjoyment and protection of many unique facets of American life for us and for future generations. I am hopeful that one or more areas in New York will be considered worthy of this designation. But that is for the future. We must first enact the bill, and for that I ask my colleagues' support.•

ADDITIONAL COSPONSORS

S. 1288

At the request of Mr. AKAKA, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Tennessee [Mr. SASSER], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1343

At the request of Mr. AKAKA, the names of the Senator from Rhode Island [Mr. PELL], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1343, a bill entitled the "Steel Jaw Leghold Trap Prohibition Act."

S. 1690

At the request of Mr. DANFORTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1690, a bill to amend the Internal Revenue Code of 1986 to reform the rules regarding subchapter S corporations.

S. 1871

At the request of Mr. KENNEDY, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1871, a bill to establish the New Bedford Whaling National Historical Park in New Bedford, MA, and for other purposes.

S. 1971

At the request of Mr. MCCAIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 1971, a bill to require the reauthorization of executive reporting requirements at least every 5 years.

S. 2156

At the request of Mr. LEVIN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2156, a bill to provide for the elimination and modification of reports by Federal departments and agencies to the Congress, and for other purposes.

S. 2310

At the request of Mr. CONRAD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2310, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of payment under part B of the Medicare Program relating to anesthesia services furnished by certified registered nurse anesthetists, and for other purposes.

S. 2330

At the request of Mr. ROCKEFELLER, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 2330, a bill to amend title 38, United States Code, to provide that undiagnosed illnesses constitute diseases for purposes of entitlement of veterans to disability compensation for service-connected diseases, and for other purposes.

S. 2375

At the request of Mr. BIDEN, his name was added as a cosponsor of S. 2375, a bill to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

S. 2411

At the request of Mr. DOLE, the names of the Senator from Idaho [Mr. CRAIG] and the Senator from Indiana [Mr. COATS], were added as cosponsors of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Kentucky [Mr. FORD], were added as cosponsors of S. 2411, supra.

S. 2460

At the request of Mr. CHAFEE, the names of the Senator from Texas [Mrs. HUTCHISON], the Senator from Kentucky [Mr. FORD], the Senator from California [Mrs. FEINSTEIN], the Senator from Arizona [Mr. DECONCINI], the Senator from Missouri [Mr. DANFORTH], the Senator from Alabama [Mr. HEFLIN], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Illinois [Mr. SIMON], the Senator from Nebraska [Mr. KERREY], the Senator from Missouri [Mr. BOND], the Senator from Florida [Mr. MACK], the Senator from Florida [Mr. GRAHAM], and the Senator from Massachusetts [Mr. KENNEDY], were added as cosponsors of S. 2460, a bill to extend for an additional 2 years the period during which Medicare select policies may be issued.

S. 2464

At the request of Mr. WOFFORD, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from West Virginia [Mr. ROCKEFELLER], were added as cosponsors of S. 2464, a bill entitled the "Congressional Health Insurance Accountability Act."

S. 2478

At the request of Mr. KERRY, the names of the Senator from Virginia [Mr. ROBB] and the Senator from Texas [Mrs. HUTCHISON], were added as cosponsors of S. 2478, a bill to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes.

S. 2489

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 2489, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

At the request of Mr. KENNEDY, the names of the Senator from Kentucky [Mr. FORD], the Senator from Maine [Mr. COHEN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of S. 2489, supra.

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 186, joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day".

SENATE JOINT RESOLUTION 208

At the request of Mr. WOFFORD, the names of the Senator from Alaska [Mr. STEVENS], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Georgia [Mr. NUNN] were added as cosponsors of Senate Joint Resolution 208, joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Nevada [Mr. BRYAN], and the Senator from New Mexico [Mr. DOMENICI], were added as cosponsors of Senate Joint Resolution 219, joint resolution to commend the U.S. rice industry, and for other purposes.

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. METZENBAUM, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Concurrent Resolution 69, concurrent resolution expressing the sense of the Congress that any legislation that is enacted to provide for national health care reform should provide for compensation for poison control center services, and that a commission should be established to study the delivery and funding for poison control services.

SENATE CONCURRENT RESOLUTION 77

At the request of Mr. LEAHY, the names of the Senator from California [Mrs. BOXER], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Concurrent Resolution 77, concurrent resolution expressing the sense of the Congress regarding the U.S. position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization.

SENATE CONCURRENT RESOLUTION 78—CONCERNING THE REMOVAL OF MILITARY FORCES OF THE RUSSIAN FEDERATION FROM THE INDEPENDENT NATION OF MOLDOVA

Mr. DECONCINI (for himself and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

SENATE CONCURRENT RESOLUTION 78

Whereas military forces of the Russian Federation continue to be deployed on the territory of the sovereign and independent nation of Moldova against the wishes of the people and government of Moldova;

Whereas the continued stationing of military forces by the Russian Federation in Moldova without permission of the government of Moldova is contrary to international law;

Whereas the Parliamentary Assembly of the Conference on Security and Cooperation in Europe passed a resolution on July 6, 1994, calling for a "most rapid, continuing, unconditional, and full withdrawal" of the 14th Army of the Russian Federation from Moldova, and the diplomatic mission in Moldova of the Conference on Security and Cooperation in Europe has called for the accelerated withdrawal of the 14th Army;

Whereas on August 10, 1994, negotiators of the governments of Moldova and the Russian Federation initialed an agreement according to which the Russian Federation will withdraw its military forces from Moldova in 3 years; and

Whereas the Minister of Defense of the Russian Federation has called for changes in such withdrawal agreement and the Commander of the 14th Army of the Russian Federation has publicly rejected the terms of the agreement: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

That the Congress—

(1) calls upon the government of the Russian Federation to adhere to the provisions of the agreement initialed on August 10, 1994, to provide for the withdrawal of the military forces of the Russian Federation from Moldova; and

(2) urges the Administration to continue to use every appropriate opportunity, including multilateral and bilateral diplomacy, to secure removal of the military forces of the Russian Federation from Moldova.

SENATE CONCURRENT RESOLUTION 79—RELATIVE TO BELLEVILLE, NJ

Mr. LAUTENBERG (for himself and Mr. BRADLEY) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

SENATE CONCURRENT RESOLUTION 79

Whereas, in 1753, Josiah Hornblower, an English engineer who was an associate and rival of James Watt, assembled the 1st functioning steam engine in the Western Hemisphere in Belleville, New Jersey, to pump water from the Schuyler copper mines;

Whereas, approximately 40 years after such assembly, the 1st steam engine made in the United States was manufactured in a foundry in Belleville from designs by Josiah Hornblower;

Whereas the designs were commissioned by Nicholas Roosevelt, who was the great-uncle of Franklin Delano Roosevelt and Theodore Roosevelt, to power the Polacca, which was the 1st experimental steamboat in the United States;

Whereas the Polacca negotiated the Passaic River on October 21, 1798, which was several years before Robert Fulton's boat, Clermont, sailed the Hudson River;

Whereas historians herald the invention of the steam engine as the beginning of the industrial revolution;

Whereas the presence of Josiah Hornblower in Belleville brought many of the initiators of the industrial revolution in the United States to Belleville;

Whereas such individuals included members of the Rutgers family, many of whom are buried in the cemetery of the old Dutch Reformed Church in Belleville; and

Whereas Belleville has a rightful claim to the title "Birthplace of the American Industrial Revolution": Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Congress recognizes Belleville, New Jersey, as the birthplace of the industrial revolution in the United States; and

(2) the President is authorized and requested to issue a proclamation honoring Belleville as such birthplace.

AMENDMENTS SUBMITTED

AERONAUTICS AND SPACE POLICY ACT

ROCKEFELLER AMENDMENT NO. 2615

Mr. FORD (for Mr. ROCKEFELLER) proposed an amendment to the bill (H.R. 4489) to authorize appropriations to the National Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and inspector general, and for other purposes; as following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aeronautics and Space Policy Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the National Aeronautics and Space Administration will require a stable budget, adjusted for inflation, in order to carry out the initiatives now planned in human space flight and science, aeronautics, and technology;

(2) cooperation in space should continue to be a major element of the post-cold war foreign policy agenda through a broad range of scientific and engineering programs that have the potential to stabilize the scientific and industrial base of the former Soviet Union and encourage the transition toward political reform and a market-based economy;

(3) the National Aeronautics and Space Administration should aggressively pursue actions and reforms directed at reducing institutional costs, including management restructuring, facility consolidation, procurement reform, personnel base downsizing, and convergence with other defense and private sector systems.

(4) in formulating a national space transportation policy, the National Aeronautics and Space Administration should take the lead role in developing advanced space transportation technologies including reusable space vehicles, single-stage-to-orbit vehicles, and manned space systems; and

(5) maintaining experimental state-of-the-art facilities has been a key investment to retaining United States competitiveness and technological leadership, and these facilities have been heavily utilized by United States industry in their research and development programs.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration; and

(2) the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SUBTITLE A—SPECIAL AUTHORITY AND LIMITATIONS

SEC. 101. OPERATING PLAN.

Not later than 60 days after the date of enactment of an Act making appropriations to the National Aeronautics and Space Administration for fiscal year 1995 or the date of enactment of this Act, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an operating plan that provides a detailed plan for obligating fiscal year 1995 funds.

SEC. 102. USE OF FUNDS FOR CONSTRUCTION.

(a) AUTHORIZED USES.—The Administrator may use funds appropriated for purposes other than—

(1) construction of facilities;

(2) research and program management, excluding research operations support; and

(3) Inspector General,

for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities at any location in support of the purposes for which such funds are appropriated.

(b) LIMITATION.—None of the funds used pursuant to subsection (a) may be expended for a project, the estimated cost of which to the National Aeronautics and Space Administration, including collateral equipment, exceeds $750,000, until 30 days have passed after the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost to the National Aeronautics and Space Administration of such project.

(c) TITLE TO FACILITIES.—If funds are used pursuant to subsection (a) for grants to institutions of higher education, or to nonprofit organziations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities, title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

SEC. 103. AVAILABILITY OF APPROPRIATED AMOUNTS.

To the extent provided in appropriations Acts, appropriations may remain available without fiscal year limitation.

SEC. 104. REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.

(a) IN GENERAL.—Amounts appropriated for a construction of facilities project—

(1) may be varied upward by 10 percent in the discretion of the Administrator; or

(2) may be varied upward by 25 percent, to meet unusual cost variations, after the expiration of 15 days following a report on the circumstances of such action by the Administrator to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) SPECIAL RULE.—Where the Administrator determines that new developments in the national program of aeronautical and space activities have occurred; and that such developments require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next National Aeronautics and Space Administration Authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities, the Administrator may use for such purposes up to $10,000,000 of the amounts appropriated for construction of facilities purposes. No such funds may be obligated until a period of 30 days has passed after the Administrator has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its costs, and the reasons therefor.

SEC. 105. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated to the National Aeronautics and Space Administration may be used for any program for which the President's annual budget request included a request for funding, but for which the Congress denied or did not provide funding; and

(2) no amount appropriated to the National Aeronautics and Space Administration may be used for any program which has not been presented to the Congress in the President's annual budget request or the supporting and ancillary documents thereto,

unless a period of 30 days has passed after the receipt by the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Except as otherwise provided by law, any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 106 USE OF FUNDS FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.

Funds appropriated for Mission Support may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the authority of the Administrator.

SEC. 107. LAND CONVEYANCE.

(A) The Administrator may accept the conveyance to the United States of certain parcels of land from the cities of Cleveland and Brook Park, Ohio, for the purpose of establishing a Visitor Center for the Lewis Research Center.

(b) If cost-effective, the Administrator may acquire a certain parcel of land, together with existing facilities, located at the site of the Clear Lake Development Facility, Clear Lake, Texas. The land and facilities in question comprise approximately 13 acres and include a Light Manufacturing Facilities, an Avionics Development Facility, and an Assembly and Test Building which may be modified for use as a Neutral Buoyancy Laboratory in support of human space flight activities.

SEC. 108. GEOGRAPHICAL DISTRIBUTION.

The National Aeronautics and Space Administration shall give consideration to geographical distribution of its research and development funds whenever feasible.

SEC. 109. ADDITIONAL NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FACILITIES.

The Administrator shall not construct or enter into a new lease for facilities to support National Aeronautics and Space Administration programs unless the Administrator has certified to the Congress that the Administrator has reviewed existing National Aeronautics and Space Administration and other federally owned facilities, including military facilities scheduled for closing or reduction, and found no such facilities appropriate for the intended use.

SEC. 110. SENSE OF CONGRESS; ADDITIONAL NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FACILITIES.

It is the sense of Congress that, when consistent with the goals of the National Aeronautics and Space Administration, the Administrator should select sites in depressed communities for new programs or functions of the National Aeronautics and Space Administration, unless those new programs or functions are so closely related to programs or functions carried out at an existing facility as to require being carried out at that existing facility.

SEC. 111. PROCUREMENT.

(a) PROCUREMENT DEMONSTRATION.—

(1) IN GENERAL.—The Administrator shall establish within the Office of Space Access and Technology a program of expedited technology procurement for the purpose of demonstrating how innovative technology concepts can rapidly be brought to bear upon space missions of the National Aeronautics and Space Administration.

(2) PROCEDURES AND EVALUATION.—The Administrator shall ensure that proper procedures will be developed for actively seeking, from nongovernment persons, innovative technology concepts relating to the provision of space hardware, technology, or services to the National Aeronautics and Space Administration. Expedited technology procurement procedures shall include, but not be limited to Space Act Agreements, Cooperative Agreements with both profit and not-for-profit organizations, and other consortium and partnering programs that will ensure proactive commercial applications development and technology infusion for both NASA and industry.

To carry out this subsection the Administrator shall ensure use in the evaluation process of persons with special expertise and experience related to the innovative technology concepts with respect to which procurements are made under this subsection. Use of nongovernmental sector expertise will be used to the maximum extent practicable through the use of existing special appointment procedures.

(3) SUNSET.—This subsection shall cease to be effective 10 years after the date of enactment of the Aeronautics and Space Policy Act of 1994.

(b) TECHNOLOGY PROCUREMENT INITIATIVE.—

(1) IN GENERAL.—The Administrator shall coordinate National Aeronautics and Space Administration resources in the areas of procurement, commercial programs, and advanced technology in order to—

(A) fairly assess and procure commercially available technology from the marketplace in the most efficient manner practicable;

(B) achieve a continuous pattern of integrating advanced technology from the commercial sector into the missions and programs of the National Aeronautics and Space Administration;

(C) utilize streamlined buying and bidding procedures to the maximum extent practicable, and survey private sector buying and bidding procedures to determine the extent to which they may be incorporated into procedures of the National Aeronautics and Space Administration;

(D) consider the use of fixed price contracts at both contract and subcontract levels to integrate commercially available technology into systems and subsystems of the National Aeronautics and Space Administration; and

(E) provide an annual report to the Congress as to progress achieved in implementing the technology procurement initiative set forth under this subsection.

(2) REQUIREMENTS.—The Administration shall ensure that requirements developed for space hardware, innovative technology or related space services under this demonstration program shall, to the maximum extent practicable, enhance the integration of existing commercial, non-developmental or available off-the-shelf hardware or services into meeting the Agency's mission. Requirements shall seek to utilize non-Governmental research and development activities, and those cooperative research efforts between Government and non-Government sources to bring potentially innovative technology concepts into the Agency's mainstream missions.

SEC. 112. COORDINATION OF EDUCATION SUPPORT FOR UNDERREPRESENTED GROUPS.

The Administrator shall coordinate with other Federal agencies all National Aeronautics and Space Administration education activities to encourage the participation of women, minorities who are underrepresented in science, engineering, and mathematics, and persons with disabilities.

SEC. 113. REQUIREMENT FOR INDEPENDENT COST ANALYSIS.

The Chief Financial Officer for the National Aeronautics and Space Administration shall be responsible for conducting independent cost analyses of all new projects estimated to cost more than $100,000,000 and shall report the results annually to Congress at the time of the submission of the President's budget request. In developing cost accounting and reporting standards for carrying out this section, the Chief Financial Officer shall, to the extent practicable and consistent with other laws, solicit the advice of expertise outside of the National Aeronautics and Space Administration.

SEC. 114. SMALL SPACECRAFT TECHNOLOGY INITIATIVE.

The Administrator may not obligate funds for the Small Spacecraft Technology Initiative to duplicate private sector activities or to fund any activities that a private sector entity is proposing to carry out for commercial purposes.

SEC. 115. SCIENTIFIC COOPERATION WITH RUSSIA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Aeronautics and Space Administration should seek, to the maximum extent practicable, to undertake joint scientific activities with Russia with an initial focus on the robotic exploration of Mars. Such joint scientific activities may include other spacefaring nations, as appropriate.

(b) MARS TRANSITION PLAN.—The Administrator shall provide to the Congress by February 15, 1995, a detailed plan to integrate the Mars Surveyor program with a Mars exploration program with Russia and other spacefaring nations, as appropriate.

SEC. 116. VISITORS CENTER.

To the extent provided in advance in appropriations Acts, all unobligated funds available to the Administrator from appropriations for fiscal years before fiscal year 1995, but not to exceed $5,000,000, may be obligated for the establishment of a Visitor Center for the Lewis Research Center, if at least an equal amount of funding of in-kind resources of equivalent value or a combination thereof are provided for such purpose from non-Federal sources.

SEC. 117. CONSORTIUM FOR INTERNATIONAL EARTH SCIENCE INFORMATION NETWORK BUILDING.

The Consortium for International Earth Science Information Network may not obligate more than $27,000,000 for the construction of a new building. Such funds may not be obligated until 90 days after the completion of a building prospectus by the General Services Administration, which shall be completed within 60 days after the date of enactment of this Act.

SEC. 118. GLOBAL CHANGE DATA AND INFORMATION SYSTEM.

Title I of the Global Change Research Act of 1990 (15 U.S.C. 2931 et seq.) is amended by adding at the end the following new section.

"SEC. 109. GLOBAL CHANGE DATA AND INFORMATION SYSTEM.

"(a) IN GENERAL.—The National Aeronautics and Space Administration, in coordination with other agencies that belong to the Committee established under section 102, shall establish the requirements and architecture for, design, and develop a Global Change Data and Information System that shall serve as the system to process, archive, and distribute data generated by the Global Changee Research Program. The Office of Science and Technology policy shall coordinate the activities of the National Aeronautics and Space Administration and such other agencies under this section.

"(b) SPECIFICATIONS.—The Office of Science and Technology Policy shall ensure that the Global Change Data and Information System is designed—

"(1) so that Federal agencies may connect data centers operated by such agencies to such System;

"(2) so as to minimize, to the extent practicable, the cost of connecting such data centers; and

"(3) so as to avoid duplication with existing Federally-funded efforts and to promote products that are useful to the Global Change Data and Information System.

"(c) OPERATING RESPONSIBILITY.—Each agency involved in the Global Change Research Program shall retain the responsibility to establish and operate Global Change Data and Information System data centers to process, archive, and distribute data generated by such agency's programs. Agencies may agree to assume the responsibility for processing, archiving, or distributing data generated by other agencies.

"(d) PLAN.—The Office of Science and Technology Policy shall prepare a plan that will ensure the interoperability among the data systems of the agencies of the United States Global Change Research Program, develop standards among the agencies to promote the exchange of data by researchers, and maintain high levels of data service among the agencies. The Office shall submit the plan to the Congress within one year after the date of enactment of the Aeronautics and Space Policy Act of 1994.".

SEC. 119. ACCESS TO DATA FOR GLOBAL CHANGE RESEARCH.

The National Science and Technology Council, through its Committee on Environment and Natural Resources, shall develop and submit to the Congress within one year after the date of enactment of this Act a plan for providing access to declassified data from classified archives and systems for global change research. The plan shall—

(1) determine whether the Global Change Data and Information System or other means should be used to provide multiple source access to such data for the scientific community; and

(2) identify what agencies or nonprofit institutions or consortia should be responsible for particular parts of such data and any data centers needed to process, archive, and distribute such data.

SEC. 120. UNIVERSITY INNOVATIVE RESEARCH PROGRAM STUDY.

(a) STUDY.—The Administrator shall undertake a study of the feasibility and potential implementation of a University Innovative Research Program which—

(1) promotes technologies innovation in the United States by using the Nation's institutions of higher education to help meet the National Aeronautics and Space Administration's research and development needs, by stimulating technology transfer between

institutions of higher education and industry, and by encouraging participation by minority and disadvantaged persons in technological innovation; and

(2) avoids duplication of existing National Aeronautics and Space Administration programs with the institutions of higher education.

(b) COMPLETION.—The study required by subsection (a) shall be completed and its results submitted to the Congress within one year after the date of enactment of this Act.

(c) ADVICE.—In carrying out the study required by subsection (a), the Administrator shall seek the advice of the National Aeronautics and Space Administration Advisory Council, the National Research Council's Aeronautics and Space Engineering Board and Space Studies Board, and other organizations as appropriate.

SEC. 121. STUDY ON TDRSS AND COMMERCIAL SATELLITE SYSTEM CONVERGENCE.

(a) REQUIREMENT.—The Administrator shall conduct a study on the convergence of the National Aeronautics and Space Administration Tracking and Data Relay Satellite System (TDRSS) with commercial communications satellite systems. The study shall assess whether a converged system, from which the National Aeronautics and Space Administration would buy tracking and data relay services, could—

(1) satisfy the National Aeronautics and Space Administration's tracking and data relay requirements;

(2) reduce the National Aeronautics and Space Administration's expenses in satisfying tracking and data relay requirements through maintenance and operations of the TDRSS;

(3) be financed, developed, and operated by the private sector;

(4) serve commercial communication needs;

(5) be established to satisfy the National Aeronautics and Space Administration's requirements in time to obviate the need to procure TDRSS spacecraft beyond the tenth flight; and

(6) encourage the growth of the commercial satellite communications market.

(b) CONSULTATION.—In conducting the study, the Administrator shall consult with commercial satellite operators, including the International Telecommunications Satellite Organization, other international satellite operators, and United Stats satellite operators, as appropriate, and shall also consult with the Department of Defense concerning its requirements for tacking and data relay services.

(c) REPORT.—The Administrator shall report on the study's findings and recommendations on feasibility of convergence to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by February 15, 1995.

SEC. 122. SPACE SHUTTLE COST REDUCTION INITIATIVES.

By February 1, 1995, the Administrator shall submit a report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

(1) specifies the minimum number of Space Shuttle flights that would be required each fiscal year from 1995 through 2004 to implement payload and related activities provided for in the President's fiscal year 1995 budget request and supporting and ancillary documents thereto;

(2) outlines the Space Shuttle flight and payload manifest that could be implemented for each of the fiscal years 1995 through 1999 if the Space Shuttle flight rate for each of those years were 8 missions, if the flight rate were 7 missions, and if the flight rate were 6 missions;

(3) evaluates the extent to which various potential management consolidation initiatives could reduce the annual cost of the Space Shuttle program while preserving quality and safety; and

(4) evaluates the extent to which various potential contract incentives could be used to reduce the annual cost of the Space Shuttle program while preserving quality and safety.

SEC. 123. ADVANCED LAUNCH TECHNOLOGY REPORT.

By February 1, 1995, the Administrator shall submit to the Congress a program plan for an advanced launch technology program that—

(1) clearly articulates the goals and objectives of the program and the flight hardware it will produce;

(2) describes the management structure and development philosophy that will be used to implement the program;

(3) outlines key milestones toward the achievement of the goals and objectives articulated under paragraph (1);

(4) estimates the total cost that will have been incurred upon completion of the program;

(5) defines the annual budgetary requirements of the program for the next 5 years; and

(6) identifies the source or sources of funding anticipated for the program for each of the next 5 years.

SEC. 124. SENSE OF CONGRESS; WOMEN'S HEALTH ISSUES.

It is the sense of Congress that the National Aeronautics and Space Administration should pursue, to the extent practicable, life and microgravity sciences research related to the causes of breast and ovarian cancers, bone-related diseases, and other women's health issues.

SEC. 125. SPACE STATION ACCOUNTING REPORT.

(a) ANNUAL REPORT TO THE CONGRESS.—The Administration of the National Aeronautics and Space Administration shall transmit a report to the Congress each year containing a complete accounting of all costs of the space station, including cash and other payments to Russia.

(b) QUARTERLY REPORTS FROM RUSSIA.—The Administrator shall obtain quarterly reports from the Russian Space Agency and the National Aeronautics and Space Administration which fully account for the disposition of funds paid or transferred by the National Aeronautics and Space Administration to Russia, including—

(1) the amount of funds received from the National Aeronautics and Space Administration and the date of their receipt,

(2) the amount of funds converted from United States currency by the Russian Space Agency, the currency into which the funds have been converted, and the dates and exchange rates of each such conversion,

(3) the amount of non-United States currency, and of United States currency, disbursed by the Russian Space Agency to any contractor or subcontractor, the identity of such contractor or subcontractor, and the date on which the funds were disbursed, and

(4) the balance of the funds provided by the National Aeronautics and Space Administration which have not been disbursed by the Russian Space Agency as of the date of the report.

SEC. 126. PURCHASE OF SPACE SCIENCE DATA.

To the maximum extent practicable, the National Aeronautics and Space Administration shall purchase from the private sector space science data. Examples of such data include scientific data concerning the elemental and mineralogical resources of the moon and the planets, Earth environmental data obtained through remote sensing observations, and solar storm monitoring.

SEC. 127. REMOTE SENSING FOR AGRICULTURAL AND RESOURCE MANAGEMENT.

(a) INFORMATION DEVELOPMENT.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration, maximizing private funding and involvement, shall provide, to the extent feasible, farmers and other interested persons with timely information, through remote sensing, on crop conditions, fertilization and irrigation needs, pest infiltration, soil conditions, projected food, feed, and fiber production, and any other information available through remote sensing.

(b) ENHANCED REMOTE SENSING.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly evaluate the need for a radar imaging platform that could enhance United States remote sensing capability by providing information and data relating to agricultural resources, and which may have other commercial and research applications.

(c) TRAINING.—The Secretary of Agriculture and the Administrator of the National Aeronautics and Space Administration shall jointly develop a proposal to inform farmers and other prospective users concerning the use and availability of remote sensing data.

(d) SUNSET.—The provisions of this section shall expire 5 years after the date of enactment of this Act.

SEC. 128. SPACE EXPLORATION OPPORTUNITIES ASSESSMENT.

(a) ASSESSMENT.—The Administrator shall conduct an assessment of methods for maximizing, based on a variety of prospective funding levels, the quantity and quality of opportunities for space exploration, both human and robotic, using space vehicles and platforms available or expected to be available. Such assessment shall focus on the 5-year period after the date of enactment of this Act, and on each of the two subsequent 5-year periods. Such assessment shall address opportunities in connection with civilian and military domestic, and foreign, space vehicles and platforms, whether publicly or privately funded.

(b) REPORT TO CONGRESS.—The Administrator shall, within one year after the date of enactment of this Act, submit to Congress a report containing the results of the assessment conducted under subsection (a).

SEC. 129. CATALOGUE OF EARTH-THREATENING COMETS AND ASTEROIDS.

(a) REQUIREMENT.—To the extent practicable, the National Aeronautics and Space Administration, in coordination with the Department of Defense and the space agencies of other countries, shall identify and catalog within 10 years the orbital characteristics of all comets and asteroids that are greater than 1 kilometer in diameter and are in an orbit around the sun that crosses the orbit of the Earth.

(b) PROGRAM PLAN.—By February 1, 1995, the Administrator shall submit to the Congress a program plan, including estimated budgetary requirements for fiscal years 1996 through 2000, to implement subsection (a).

Subtitle B—Aeronautics

SEC. 151. NATIONAL AERONAUTICAL FACILITIES POLICY.

It is the policy of the United States that—

(1) revitalizing national aeronautical facilities shall be a major element of Federal investment in aeronautical research and development; and

(2) industry and government cost-sharing for facilities construction and use shall be investigated to achieve aeronautics research and technology goals within a constrained Federal budget.

SEC. 152. WORLDWIDE FACILITIES ASSESSMENT.

The President or his designees shall conduct an assessment of all aeronautics facilities in the United States and in other countries and report to Congress the results of this assessment at the time the fiscal year 1996 budget is submitted. The assessment shall include—

(1) identification of all existing and planned aeronautics research and development facilities in the United States and in other countries;

(2) analysis of the capabilities of each aeronautics facility that impact aeronautical research and technology objectives of the United States Government and domestic industries; and

(3) determination of the current use and plans for use of foreign aeronautics facilities for research and technology activities of the United States Government and domestic industries and the risk to the competitiveness of the United States industry due to the potential unintended transfer of technology.

SEC. 153. AERONAUTICS FACILITIES STRATEGY.

(a) STRATEGY.—The President or his designees shall work closely with domestic industries to coordinate, develop, and implement a strategy for Federal investment in aeronautics research and technology and aeronautics facilities. This strategy shall establish—

(1) priorities for Federal investment in aeronautics facilities;

(2) a facilities implementation schedule to meet research and technology project milestones and aerospace industry market requirements;

(3) the projected cost of constructing and operating new facilities; and

(4) options and recommendations to provide funding (including cost-sharing and risk-sharing with industries and among Federal agencies and innovative procurement, financing, or management arrangements) for the construction of new aeronautics facilities and for the operation of new aeronautics facilities.

(b) DEADLINE.—The strategy required by subsection (a), and budget requirements associated with implementing such strategy, shall accompany the fiscal year 1996 budget submission to Congress.

SEC. 154. FACILITIES SITE SELECTION PLAN.

(a) PRESIDENT TO DEVELOP SITE PLAN.—The President shall develop a site selection plan for the location of new aeronautics research facilities, consistent with the strategy developed under section 153 of this Act, and submit the plan to Congress by March 1, 1995.

(b) GENERAL FACTORS.—In developing the plan, general factors to be considered for site selection shall include—

(1) cost;

(2) technical merit;

(3) extent of local cost sharing;

(4) availability of sufficient power and water;

(5) access to suitable transportation infrastructure;

(6) quality of local labor force; and

(7) other criteria as appropriate.

(c) SPECIFIC FACTORS.—In developing the plan, specific factors to be taken into consideration are—

(1) environmental requirements for operating aeronautics research facilities at specific speeds and regimes;

(2) advantages and disadvantages of both rural areas and Standard Metropolitan Statistical Areas; and

(3) other criteria as appropriate.

(d) NO AREA TO BE RULED OUT.—No area of the United States shall be ruled out for consideration of a proposal for development of new aeronautics research facilities.

SEC. 155. AERONAUTICAL BASIC RESEARCH PLAN.

(A) PLAN.—The Administrator of the National Aeronautics and Space Administration shall develop an aeronautical basic research investment plan as part of the Research and Technology Base of the Administration which—

(1) describes the aeronautical basic research underway within the Administration, including a review of the status of basic research in critical aeronautics disciplines;

(2) establishes goals and objectives for aeronautical basic research of the Administration to advance the critical disciplines required by United States industry for such research;

(3) identifies the priorities for aeronautical basic research of the Administration required by industry to advance United States long-term competitiveness;

(4) describes the anticipated impact of aeronautical basic research of the Administration on United States long-term competitiveness;

(5) encourages the transfer of Government-developed technologies to the private sector to promote economic strength and competitiveness; and

(6) identifies opportunities for aeronautical basic research to be performed by minority-owned and women-owned businesses within the aeronautical basic research industry.

(b) REPORT TO CONGRESS.—The Administrator shall update the plan described in subsection (a) annually and transmit the plan to Congress with the Administration's annual budget request.

SEC. 156. JOINT AERONAUTICAL RESEARCH AND DEVELOPMENT PRIORITIES.

The Administrator of the National Aeronautics and Space Administration shall work with the heads of other appropriate Federal agencies to identify and establish priorities for research on aeronautical technologies that will enhance the competitiveness of the United States in aeronautics, including—

(1) research on next-generation wind tunnel and advanced wind tunnel instrumentation technology,

(2) research on advanced engine materials, engine concepts, and testing of propulsion systems or components of the high-speed civil transport research program,

(3) advanced general aviation research,

(4) advanced hypersonic aeronautical research,

(5) selected programs that jointly enhance public and private aeronautical technology development,

(6) an opportunity for private contractors to be involved in such research and development; and

(7) the transfer of Government-developed technologies to the private sector to promote economic strengths and competitiveness.

TITLE II—COMMERCIAL SPACE LAUNCH AMENDMENTS

SEC. 201. COMMERCIAL REENTRY VEHICLES.

Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites, and reentries";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries";

and

(D) by adding at the end the following new item:

"70120. Report to Congress";

(2) in section 70102—

(A) by inserting "from Earth" after "and any payload" in paragraph (3);

(B) by redesignating paragraphs (10) through (12) as paragraphs (12) through (14), respectively; and

(C) by inserting after paragraph (9) the following new paragraphs:

"(10) 'renter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

"(11) 'reentry vehicle' means any vehicle designed to return from Earth orbit or outer space to Earth substantially intact.";

(3) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting ", or reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting in lieu thereof "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES OR REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(4) in section 70105—

(A) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting in lieu thereof ", operation, or reentry" in subsection (b)(2)(A);

(5) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site"; and

(B) by inserting "or reentry vehicle" and "assemble a launch vehicle";

(6) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch sites, and reentries";

and

(B) in subsection (a)—

(i) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(7) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site" after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(8) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(9) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry" after "launch services" in subsection (a)(4);

(C) by inserting "or a reentry" after "launch services" each place it appears in subsection (b);

(D) by inserting "or Reentries" after "Launches" in the heading for subsection (e); and

(E) by inserting "or reentry" after "launch site" in subsection (e);

(10) in section 70113(a)(1) and (d)(1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(11) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site" after "launch site,"; and

(B) by inserting "or reentry vehicle" after "site of a launch vehicle";

(12) in section 70117—

(A) by inserting "or reenter a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) in subsection (f)—

(i) by inserting "or Reentry" after "Launch" in the subsection heading;

(ii) by inserting ", reentry vehicle," after "A launch vehicle";

(iii) by inserting "or reentered" after "that is launched"; and

(iv) by inserting "or reentry" after "the launch"; and

(D) in subsection (g)—

(i) by inserting "reentry of a reentry vehicle," after "or launch site," in paragraph (1); and

(ii) by inserting "reentry," after "launch," in paragraph (2); and

(13) by adding at the end the following new section:

"§ 70120. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

SEC. 202. LICENSE APPLICATION.

(a) Section 70105 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "receiving an application" both places it appears and inserting in lieu thereof "accepting an application in accordance with subsection (b)(2)(D)";

(2) by striking "and" at the end of subsection (b)(2)(B);

(3) by striking the period at the end of subsection (b)(2)(C) and inserting in lieu thereof "; and"; and

(4) by adding at the end of subsection (b)(2) the following new subparagraph:

"(D) regulations establishing criteria for accepting an application for a license under this chapter.".

(b) The amendment made by subsection (a)(1) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code.

SEC. 203. SPACE ADVERTISING.

(a) DEFINITION.—Section 70102 of title 49, United States Code, is amended by inserting after paragraph (14), as redesignated by section 301(2)(B) of this title, the following new paragraph:

"(15) 'obtrusive space advertising' means advertising in outer space that is capable of being recognized by a human being on the surface of the earth without the aid of a telescope or other technological device;".

(b) PROHIBITION.—Chapter 701 of title 49, United States Code, is amended by inserting after section 70109 the following new section:

"§ 70109a. Space advertising

"(a) LICENSING.—Notwithstanding the provisions of this chapter or any other provision of law, the Secretary shall not—

"(1) issue or transfer a license under this chapter; or

"(2) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of obtrusive space advertising.

"(b) LAUNCHING.—No holder of a license under this chapter may launch a payload containing any material to be used for purposes of obtrusive space advertising on or after the date of enactment of the Aeronautics and Space Policy Act of 1994.

"(c) COMMERCIAL SPACE ADVERTISING.—Nothing in this section shall apply to nonobtrusive commercial space advertising, including advertising on commercial space transportation vehicles, space infrastructure, payloads, space launch facilities, and launch support facilities.".

(c) NEGOTIATION WITH FOREIGN LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for obtrusive space advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for obtrusive space advertising purposes.

(3) As used in this subsection, the term "foreign launching nation" means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 of title 49, United States Codes, is amended by inserting the following after the item relating to section 70109:

"70109a. Space advertising".

TITLE III-REVISIONS TO LAND REMOTE SENSING POLICY ACT OF 1992

SEC. 301. AMENDMENTS.

The Land Remote Sensing Policy Act of 1992 (15 U.S.C. 5601 et seq.) is amended—

(1) by amending section 2(9) to read as follows:

"(9) Because Landsat data are particularly important for global environmental change research, the program should be managed by an integrated team consisting of the National Aeronautics and Space Administration and the Department of Commerce.";

(2) in sections 3(6)(A), 101 (a) and (b), 103(b), and 504, by striking "Secretary of Defense" and inserting in lieu thereof "Secretary";

(3) in section 3(6)(B), by striking "Department of Defense and" and inserting in lieu thereof "and the Department of Commerce, as well as the Department of Interior, or";

(4) in section 101(b)(1), by striking ", with the addition of a tracking and data relay satellite communications capability";

(5) in section 101(b)(2), by striking all after "baseline funding profile" and inserting in lieu thereof "for the development and operational life of Landsat 7 that is mutually acceptable to the agencies constituting the Landsat Program Management;";

(6) in section 101(b), by inserting after paragraph (4) the following:

"The Director of the Office of Science and Technology Policy shall, no later than 60 days after enactment of the Aeronautics and Space Policy Act of 1994, transmit the management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.";

(7) in sections 101(c)(3), 202(b)(1), 501(a), and 502(c)(7), by striking "section 506" and inserting "section 507";

(8) in section 102(b)(1), by striking "by the expected end of the design life of Landsat 6" and inserting in lieu thereof "by the predicted end of life of Landsat 5, or as soon as practicable thereafter";

(9) in section 103(a), by striking "section 105" and inserting in lieu thereof "section 104";

(10) by adding at the end of section 103 the following:

"(c) IMPLEMENTATION OF AGREEMENT.—If negotiations under subsection (a) result in an agreement that the Landsat Program Management determines generally achieves the goal stated in paragraphs (1) through (8) of subsection (a), the Landsat Program Management shall award an extension, until the practical demise of Landsat 4 or Landsat 5, whichever occurs later, of the existing contract with the Landsat 6 contractor incorporating the terms of such agreement.";

(11) by striking section 104 and redesignating section 105 as section 104;

(12) in section 201(c), by amending the second sentence thereof to read as follows: "If the Secretary determines that the license requested by the applicant should not be issued, the Secretary shall inform the applicant within such 120-day period of the reasons for such determination and the specific

actions required of the applicant to obtain a license.'';

(13) in section 202(b)(6), by inserting "significant or substantial" before "agreement";

(14) in section 204, by striking "may" and inserting in lieu thereof "shall";

(15) by inserting at the end of title II the following new section:

"SEC. 206. NOTIFICATION.

"(a) LIMITATIONS ON LICENSEE.—Within 30 days after any determination by the Secretary to require a licensee to limit collection or distribution of data from a system licensed pursuant to this title, the Secretary shall report to the Congress the reasons for such determination, the limitations imposed on the licensee, and the period during which such limitations apply.

"(b) TERMINATION, MODIFICATION, OR SUSPENSION.—Within 30 days after any action by the Secretary to seek an order of injunction or other judicial determination pursuant to section 203(a)(2), the Secretary shall notify the Congress of such action and provide the reasons for such action.";

(16) in section 302—

(A) by striking "(a) GENERAL RULE.—"; and

(B) by striking subsection (b); and

(18) in section 507, by striking subsection (a) and subsection (b)(1) and inserting in lieu thereof the following:

"(a) RESPONSIBILITY OF SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary promptly of such conditions. Within 60 days after receiving a request from the Secretary, the Secretary of Defense shall recommend any conditions for a license issued under title II, consistent with this Act, that the Secretary of Defense determines are needed to protect the national security of the United States. If no such recommendations have been received by the Secretary within such 60-day period, the Secretary may deem activities proposed in the license application to be consistent with the protection of the national security of the United States.

"(b) RESPONSIBILITY OF SECRETARY OF STATE.—

"(1) The Secretary shall consult with the Secretary of State on all matters under this Act affecting international obligations of the United States. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Secretary promptly of such conditions. Within 60 days after receiving a request from the Secretary, the Secretary of State shall recommend any conditions for a license issued under title II, consistent with this Act, that the Secretary of State determines are needed to meet existing international obligations of the United States. If no such recommendations have been received by the Secretary within such 60-day period, the Secretary may deem activities proposed in the license application to be consistent with existing international obligations of the United States.".

TITLE IV—TECHNOLOGY INVESTMENT POLICY FOR AERONAUTICS AND SPACE

SEC. 401. FINDINGS.

The Congress finds that—

(1) the United States aerospace industry has provided a major contribution to the competitiveness of the United States;

(2) the international market share of the United States aerospace industry has steadily eroded due to competition from foreign consortia that receive substantial direct subsidies from their governments;

(3) the United States aerospace industry has been severely impacted by the reductions in defense spending, leading to reduced levels of research and development investment by industry;

(4) increased contribution to the health of the United States economy by the National Aeronautics and Space Administration is important to the long-term support of civilian aeronautics and space activities; and

(5) no effective means have been developed by which the National Aeronautics and Space Administration can accurately measure the contribution of its research toward achieving United States competitiveness and maintaining technological leadership.

SEC. 402. AERONAUTICS AND SPACE POLICY OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

It is the policy of the United States that—

(1) improving the competitive capability of the United States industry shall be a fundamental goal of the aeronautical and space research and development programs of the National Aeronautics and Space Administration;

(2) the investment in aeronautics and space technology by the National Aeronautics and Space Administration shall be closely coordinated with United States industry; and

(3) the establishment of industry-led precompetitive consortia, alliances, or other entities shall be encouraged to better identify and coordinate the industry requirements for advanced technologies and facilities.

SEC. 403. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

(a) TECHNICAL CORRECTION AMENDMENTS.—

(1) Section 214 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 is amended by striking "(c)" both places it appears and inserting in lieu thereof "(d)".

(2) The amendment made by paragraph (1) shall be effective as of the date of enactment of the Act referred to in paragraph (1).

(b) REPORTS TO THE CONGRESS.—Section 206(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2476(a)) is amended—

(1) by striking "January" and inserting in lieu thereof "May" and

(2) by striking "calendar" and inserting in lieu thereof "fiscal".

(c) COMPETITIVENESS.—Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking subsection (e) and inserting the following:

"(e) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to the economic growth, competitiveness, and productivity of the Nation.";

(2) by striking subsection (f) and by redesignating subsections (g) and (h), as subsections (f) and (g), respectively; and

(3) in subsection (g), as so redesignated, by striking "(f), and (g)" and inserting "and (f)".

(d) AIR TRANSPORTATION.—Section 102(d) of such Act is amended—

(1) by striking "and" in (8) and

(2) by adding the following after "(9)":

"(10) The research required for the improvement of the safety, capacity, and efficiency of the United States air transportation system through close coordination among the agencies of the Federal Government.".

SEC. 404. TECHNOLOGY DEVELOPMENT AND COMMERCIALIZATION GOALS.

The Administrator shall require that, to the maximum extent practicable, aeronautical and space projects of the National Aeronautics and Space Administration—

(1) incorporate a technology plan that fosters technological advances of value to the mission of the National Aeronautics and Space Administration which benefits the economy of the United States and reduces the life cycle costs of such projects;

(2) promote commercial technology applications;

(3) measure and evaluate technology development and the potential for commercialization; and

(4) seek the involvement of United States industry.

SEC. 405. INDUSTRY TECHNOLOGY PROGRAM.

(a) PURPOSE; CRITERIA.—The Administrator shall establish a competitive program under which the Administrator may fund research and development projects proposed by industry-led consortia, alliances, or other entities, for the purpose of advancing aeronautics and space technologies. In selecting projects to be funded under this section, the Administrator shall weigh and consider—

(1) the extent of funding provided by industry for such project;

(2) each project's scientific and technical merit;

(3) the potential of the project to advance mission needs of the National Aeronautics and Space Administration;

(4) each project's potential to advance technologies that enhance the competitiveness of United States industry in global markets; and

(5) such other criteria as the Administrator considers appropriate to carry out the purposes of this section.

(b) COST-SHARING.—Amounts appropriated for this program may be obligated only to the extent that an equal or greater amount of non-Federal funding is provided for this program. Of the non-Federal funding provided for this program, the Administrator shall require contributions from sources other than those identified as Independent Research and Development.

(c) FINANCING MECHANISMS.—In funding the technology projects selected under this section, the Administrator is encouraged—

(1) to make greater use of the authority of the National Aeronautics and Space Administration under section 203(c)(5) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(5)) especially when applied to non-aerospace firms; and

(2) to enter into innovative procurement, financing, and management arrangement, consistent with existing statutes.

(d) COORDINATION WITH FEDERAL AGENCIES.—In carrying out this section, the Administrator shall consult with the Secretaries of Commerce, Defense, Energy, and Transportation and with such other Federal agency heads as the Administrator considers appropriate.

SEC. 406. CONDITIONS ON TECHNOLOGY INVESTMENT; ECONOMIC BENEFIT.

In funding technology programs and activities under this title, the Administrator shall ensure that the principal economic benefits accrue to the economy of the United States. The Administrator may consider such specific criteria as appropriate, and in developing such criteria, shall consult with appropriate Federal agency heads.

SEC. 407. ROLE OF PROCUREMENT IN TECHNOLOGY INVESTMENT.

The Administrator, in meeting aeronautical and space mission needs, shall coordinate and direct resources of the National Aeronautics and Space Administration in the area of procurement to—

(1) advance state-of-the-art technologies;

(2) assess and procure, where appropriate, commercially available technologies from the marketplace;

(3) use performance incentives; and

(4) reduce the paperwork requirements associated with procurement.

SEC. 408. COORDINATION WITH OTHER FEDERAL PROGRAMS.

(a) TECHNOLOGY PROGRAMS AND TECHNOLOGY TRANSFER PROGRAMS.—To ensure a consistent Federal investment policy and to preclude multiple awards for a single proposal, the Administrator shall ensure that the technology investment activities established under this title are coordinated closely with existing and future—

(1) Federal technology programs such as the Technology Reinvestment Program of the Advanced Research Projects Agency and the Advanced Technology Program of the National Institute of Standards and Technology; and

(2) Federal technology transfer programs and activities established to promote and advocate the use of technologies developed in the Federal laboratories.

(b) INDENTIFICATION OF FUNDING RECEIVED FROM OTHER AGENCIES.—The Administrator shall identify, as part of the annual budget submission to Congress, all funding received by the National Aeronautics and Space Administration from other Federal agencies for technology investment and development, including funds from programs listed in (a)(1) above.

SEC. 409. INTERAGENCY TECHNOLOGY INITIATIVES.

As part of the National Aeronautics and Space Administration's annual budget submission to Congress, the Administrator shall identify funding requirements, project milestones, and 5-year budget projections, for the portion undertaken by the National Aeronautics and Space Administration of each interagency technology project.

SEC. 410. COORDINATION WITH OTHER NASA PROGRAMS.

(a SMALL BUSINESS INNOVATION RESEARCH.—The Administrator shall coordinate the technology investment activities under this title with the Small Business Innovation Research activities of the National Aeronautics and Space Administration to ensure the effectiveness of funding to small businesses, to the maximum extent permitted by law.

(b) INDEPENDENT RESEARCH AND DEVELOPMENT FUNDS.—The Administrator shall identify all funds provided to contractors of the National Aeronautics and Space Administration for activities commonly referred to as "Independent Research and Development" and coordinate such funds with the technology investment activities under this title.

(c) TECHNOLOGY TRANSFER AND COMMERCIAL PROGRAMS.—The Administrator shall coordinate the activities of ongoing and future technology transfer, innovation, and commercial programs of the National Aeronautics and Space Administration with the technology investment activities under this title.

SEC. 411. PERSONNEL INCENTIVES.

To encourage the personnel of the National Aeronautics and Space Administration to pursue technology innovation and development, the Administrator shall provide personnel incentives, including—

(1) promotions and within-grade increases;

(2) bonuses and cash awards under the inventions and contributions system and senior executive service; and

(3) paid leave, sabbaticals, or intergovernmental personnel transfers to other Federal agencies or the private sector to pursue technology innovation and development, as the Administrator deems appropriate.

SEC. 412. ANNUAL REPORT TO CONGRESS.

The Administrator shall assess the technology investment activities established under this title and shall submit a report to Congress on the results of such assessment of activities. The report shall accompany the annual budget submission to Congress.

SEC. 413. APPLICATION OF ANTITRUST LAWS.

Nothing in this title shall be construed to create an immunity from any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

SEC. 414. DEFINITIONS.

For the purposes of this title, the term—

(1) "Federal laboratory" has the meaning given such term in section 4(6) or the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)).

(2) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE V—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION BUDGET

SEC. 501. SHORT TITLE.

This title may be cited as the "National Aeronautics and Space Administration Consistency in Budgeting Act of 1994".

SEC. 502. FIVE-YEAR PLAN.

(A) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall submit to Congress each year, not more than 30 days after the date on which the President's budget is submitted to Congress under section 1105(a) of title 31, United States Code, a 5-year program plan reflecting the expenditures and proposed appropriations included in the President's budget for the Administration.

(b) CONSISTENCY OF AMOUNTS.—

(1) IN GENERAL.—The Administrator shall ensure that the amounts described in paragraph (2)(A) for any fiscal year are consistent with amounts described in paragraph (2)(B) for that fiscal year.

(2) AMOUNTS DESCRIBED.—The amounts referred to in paragraph (1) are—

(A) the amounts specified in program and budget information submitted to Congress by the Administrator in support of expenditure estimates and proposed appropriations in the President's budget submitted under section 1105(a) of title 31, United States Code, for any fiscal year, as shown in the 5-year program plan submitted under subsection (a); and

(B) the total amount of estimated expenditures and proposed appropriations necessary to support the programs, projects, and activities of the Administration, included under such section in the President's budget submitted for any fiscal year.

EXPORT OF NON-LETHAL DEFENSE ARTICLES

D'AMATO AMENDMENT NO. 2616

Mr. CRAIG (for Mr. D'AMATO) proposed an amendment to the bill (H.R. 4455) to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

(a) IN GENERAL.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended by adding at the end the following:

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the Bank determines that—

"(aa) the defense articles or services are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives, and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.".

(b) REPORT TO THE CONGRESS.—Section 2(b)(6)(H) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(H)) is amended by inserting "or described in subparagraph (I)(i)" before the period at the end of the first sentence.

(c) PERIOD OF EFFECTIVENESS.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, 1997.

SEC. 2. PROMOTION OF EXPORTS OF ENVIRONMENTALLY BENEFICIAL GOODS AND SERVICES.

(A) IN GENERAL.—The first section 11(b) of the Export-Import Bank Act of 1945; 12 U.S.C. 635i–5(b)) is amended—

(1) by inserting before "The Bank shall" the following:

"(1) IN GENERAL.—";

(2) in the first sentence, by inserting before the period "(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects

dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)''; and

(3) by adding at the end the following:

''(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriate to the Bank not more than $35,000,000 for the cost (as defined in section 5092(5) of the Federal Credit Reform Act of 1990) of supporting such exports. If, in any fiscal year, the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.''.

(b) TENCHNICAL CORRECTION.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by redesignating the second section 11 (12 U.S.C. 635i-8) as section 14.

FEDERAL POWER ACT AMENDMENTS OF 1994

JOHNSTON AMENDMENT NO. 2617

Mr. FORD (for Mr. JOHNSTON) proposed an amendment to the bill (S. 2384) to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes; as follows:

On page 3, line 6, strike ''the Governor of the State notifies''.

On page 3, line 7, following ''Energy'' insert ''determines, after notice and an opportunity for public comment,''.

On page 3, line 10, strike ''appropriate''.

On page 3, line 14, strike ''adequate''.

On page 3, line 20, following ''applicable.'' insert ''Upon notice from the Governor of the State, the Secretary of Energy shall immediately initiate the process to make this determination, and shall complete said process and make a determination within 180 days of such notice.''.

On page 5, line 21, strike ''(a) General Licensing Authority.—''.

On page 5, line 24, following the word ''Hawaii'' insert a comma and the phrase ''unless a license would be required by section 23 of the Act''.

On page 6, line 1, strike section 301(b) in its entirety.

On page 8, line 14, insert the following title:

TITLE VI—PROJECTS IN THE STATE OF KENTUCKY

SEC. 601. EXTENSION OF DEADLINE.

That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 10228 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the project for up to a maximum of three consecutive two-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

BYRD AMENDMENT NO. 2618

Mr. FORD (for Mr. BYRD) proposed an amendment to the bill S. 2384, supra; as follows:

On Page 10, below line 2, add the following:

TITLE X—PROJECTS IN THE STATE OF WEST VIRGINIA

SEC. 1001. EXTENSION OF DEADLINE.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission projects numbered 6901 and 6902, the Commission shall, upon the request of the licensee for such projects, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section and the procedures specified in such section, extend the time period during which such licensee is required to commence of construction of such projects to terminate on October 3, 1999. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such projects. If the license issued for project numbered 6902 should expire prior to the date of enactment of this Act, the Commission is authorized and directed to reinstate effective October 15, 1994, the license previously issued for such project and to extend the time required for the commencement of construction of such project until October 3, 1999.

SIMON AMENDMENT NO. 2619

Mr. FORD (for Mr. SIMON) proposed an amendment to the bill S. 2384, supra; as follows:

At the appropriate place substitute the following new section for the section already included in the Omnibus FERC bill regarding FERC Project License Number 3943 and 3944.

SEC. . The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 16, 1994 the hydroelectric license previously issued for Project Number 3943. Within the meaning of Section 13 of the Federal Power Act time required for the commencement of construction of such project shall be reinstated for not more than 3 consecutive 2-year periods.

SEC. . The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 15, 1994 the hydroelectric license previously issued for Project Number 3944. Within the meaning of Section 13 of the Federal Power Act time required for the commencement of construction of such project shall be extended for not more than 3 consecutive 2-year periods.

SPECTER AMENDMENT NO. 2620

Mr. FORD (for Mr. SPECTER) proposed an amendment to the bill S. 2384, supra; as follows:

At the appropriate place in the bill, insert the following:

TITLE X—PROJECTS IN THE STATE OF PENNSYLVANIA

SEC. 1001. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for project number 4474, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until April 15, 2001, the time required for the licensee to commence construction of such project.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, October 5, 1994, at 2:30 p.m. in open session to consider the nomination of the Honorable Alan J. Dixon to be Chairman of the Base Realignment and Closure Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, October 5, 1994, to conduct a hearing on the 2d annual report by the Trade Promotion Coordinating Committee, and a markup on the nominations of Bruce Morrison and Timothy O'Neill for the Federal Housing Finance Board, James Clifford Hudson for the Securities Investor Protection Corporation; and Mary Ellen Fise, H. Terry Rasco, and Christine M. Warnke to be members of the National Institute of Building Sciences.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 5, 1994, at 9:30 a.m. on S. 2467—GATT implementing legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on October 5, 1994, at 2:30 p.m. on the nomination of Christine A. Varney (DC) to be a Federal trade commissioner.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, October 5, 1994, to conduct a business meeting beginning after the first vote after 12 p.m. to consider: Frederic J. Hansen, nominated by the President to be Deputy Administrator of the Environmental Protection Agency; Paul L. Hill, nominated by the President to be chairperson and a member of the Chemical Safety and Hazard Investigation Board; Devra Lee Davis and Gerald V. Poje, nominated by the President to be members of the Chemical Safety Hazard and Investigation Board; Kenneth K. Burton, David Michael Rappoport, and Ann J. Udall, nominated by the President to be members of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy foundation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 5, 1994, at 11 a.m. to hold an additional hearing on Thomas McNamara to be Assistant Secretary of State for Politico-Military Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Wednesday, October 5, 1994, at 10 a.m. for a markup on S. 2467, subtitle E, Government procurement of title 3, and S. 1946, to provide for the repurchase, by native American organizations, of land acquired or taken from them.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 5, 1994 at 10:30 a.m. to hold a hearing on "Implementing the Strategy: How the Crime Bill Will Fight Drugs."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Wednesday, October 5, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSTITUTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Constitution, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, October 5, 1994, at 2 p.m., to hold a hearing on "the Constitutional Right to International Travel."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY AND AGRICULTURAL TAXATION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Energy and Agricultural Taxation of the Committee on Finance be permitted to meet today, October 5, 1994 at 1 p.m., to hear witnesses testify on miscellaneous farm tax issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., October 5, 1994, to receive testimony on the following bills: S. 2280, to provide for an orderly process to ensure compensation for the termination of an easement or the taking of real property used for public utility purposes at the Manassas National Battlefield Park, VA, and for other purposes; S. 2359, to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; S. 2434 and H.R. 3516, bills to increase the amount authorized to be appropriated for assistance for highway relocation regarding the Chickamauga and Chattanooga National Military Park in Georgia; and H.R. 3905, to provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. DOLE. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby give written notice of my intention to amend rule 35 of the Standing Rules of the Senate; as follows:

GIFT RULES

AMENDMENTS TO SENATE RULES.

Resolved, rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No Member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a registered lobbyist, a lobbying firm, or an agent of a foreign principal subject to the limitations and definitions contained in House Report 103–750 of the 103d Congress.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this Rule, no Member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this Rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(d)(1) Except as prohibited by paragraph 1, a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(e) No Member, officer, or employee may accept a gift the value of which exceeds $250 under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the Member, officer or employee of the Senate unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(f)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the Member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the Member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the Member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.".

This rule change becomes effective May 31, 1995.

ADDITIONAL STATEMENTS

IRISH-AMERICAN HERITAGE MONTH

• Mr. LAUTENBERG. I rise to commend the Senate for approving House Joint Resolution 401 yesterday, which designates March 1995 and March 1996 as "Irish-American Heritage Month." I am also a cosponsor of Senate Joint Resolution 223, the Senate companion resolution.

This resolution pays tribute to the numerous contributions the Irish have made to America.

The year 1995 marks the 150th anniversary of the beginning of the Great

Famine in Ireland. Between then and 1910, more than 3 million Irish immigrants came to our shores.

The Irish-American community has made an invaluable contribution to the rich mosaic which is our American heritage. Their culture and traditions have enriched us all. For that we owe them a debt of gratitude, and our tribute.

It is a privilege to support this joint resolution honoring the rich ancestry of Irish-Americans as well as the important contribution that they have made to our country. I am pleased that the Senate approved this resolution overwhelmingly.•

S. 340—ANIMAL MEDICINAL DRUG USE CLARIFICATION ACT OF 1994

• Mr. COATS. Mr. President, last evening, the Senate-passed legislation that codifies the practices allowed under the current compliance policy guidelines regarding the extra-level use of veterinary pharmaceutical products. I supported this legislation as a cosponsor and am pleased at its passage. By passing this legislation, we have reaffirmed our trust in veterinarians to use their professional judgement in treating animals—both livestock and pets. This legislation allows veterinarians to fulfill there professional responsibility of animal care in the context of a veterinarian-client-patient relationship.

Extra-label drug use is the use of a federally approved product in ways not specified on the products labeling. Extra-label drug use in no way increases the risk to humans or animals by allowing unsafe or unapproved drugs to be used in the treatment of livestock and pets. Because there are too few approved animal health products to treat all animal illnesses, in order to treat animals adequately and to alleviate animal suffering, veterinarians must use some products in an extra-label fashion. This legislation allows veterinarians to use products in an extra-label manner as deemed appropriate by the Food and Drug Administration's [FDA] Center for Veterinary Medicine [CVM].

Although I am quite pleased at the passage of this legislation, it is at best a short-term solution to a long-term and larger problem—the lack of drugs available to treat animals. The legislation, as it passed, will not address this problem.

The animal health industry spends $400 million each year on research to bring new products to the market. The investment is tremendous as one takes a product from discovery to the market. Yet, 87 percent of all pharmaceuticals, vaccines, and feed additives used in animal health generate annual revenues of less than $1 million each. A new animal drug application review process mandated by law to take 6 months now averages 4 years. S. 340 does nothing to expedite the review process of the FDA and CVM. We must now work with the manufacturers of animal health products, veterinarians, livestock producers, FDA, and CVM to address this larger problem of animal drug review and approval policies and procedures.

The FDA/CVM regulatory process was established to ensure that products marketed have met the key criteria of safety, quality, and efficacy. As we celebrate the passage of S. 340, we should understand that our goal is to have more approved products available to meet the needs of animal care. The extra-label use allowed in this legislation should be interpreted such that we maintain the incentive to bring products through the regulatory process.

Livestock producers and the animal health industry joined with veterinarians in support of this measure to address their valid issues. Through future legislative initiatives, we now need to address animal drug availability deficiencies. Congress can address these deficiencies by improving the animal drug approval process. Improving the process will help turn extra-label uses into labeled claims, which ultimately serves the animal and pet industry as a whole.

Again, Mr. President, I am extremely pleased at the passage of this legislation, but caution that we must address the larger and increasingly urgent problem of animal drug availability.•

CROW SETTLEMENT ACT—S. 1216

• Mr. BAUCUS. Mr. President, Monday night the Senate passed S. 1216, the Crow Settlement Act. This has been a long time coming.

The Crow Settlement Act is the product of good faith effort, compromise, and sometimes difficult negotiations between the Crow Tribe, the Northern Cheyenne Tribe, the State of Montana, and the U.S. Government. It is a credit to all concerned that an agreement of this importance could receive the unanimous endorsement of the Senate when so many critical issues have been allowed to remain unresolved in the final days of the 103d Congress.

The Crow Settlement Act settles a century-old dispute that deprived the Crow Nation of 36,000 acres of land. This land was promised by the Federal Government under the 1868 Fort Laramie Treaty. Yet, before the Crow Tribe had the opportunity to begin settling upon this land, a surveying error stole away a significant piece of their reservation.

The disputed land is in the southeastern corner of Montana, north of the Wyoming border, south of the Yellowstone River. Under the Fort Laramie Treaty, the Crow Tribe's eastern boundary was designated as the 107th meridian. Sixteen years later, the Northern Cheyenne Reservation was established with a western boundary as the 107th meridian. The tribes lived as neighbors, sharing a common boundary. But in 1889–91, a U.S. surveying team erroneously drew the eastern boundary of the Crow Reservation one-fourth mile west of the 107th meridian. The Crow Tribe lost 36,000 acres of their tribal lands. This error was not discovered until the 1950's.

Throughout the intervening 60 years, patents to the minerals and allotments to these lands were issued to the Northern Cheyenne, Crow, and other holders. Almost 13,000 acres of the Crow Tribe's original land has been settled by the Northern Cheyenne Tribe.

Boundaries established by treaty constitute a solemn promise to a tribe by the U.S. Government. A promise of land to be given to the tribe in perpetuity. The land above, and the natural resources below, belong to the tribe. No one has the right to take away what is legally the Crow's. Yet an administrative error caused significant hardship to the Crow Tribe, the Northern Cheyenne Tribe, and all residents of the 107th meridian strip.

The Crow Settlement Act seeks to reconcile this injustice. By returning to the Crow Tribe the land and coal within the strip that has not gone out of Federal ownership and compensating the tribe for lands and minerals lost forever, the Federal Government is seeking to make good on their promise. It is about time.

I applaud the efforts of so many people involved in the successful conclusion of this dispute: representatives of the Crow and Northern Cheyenne Tribes, the excellent staff of the Senate Indian Affairs Committee, and the negotiators on behalf of the Department of the Interior. But no one has worked harder or perserved longer than Madame Chair Clara Nomee of the Crow Nation. Her dedication to her people and her grace under difficult circumstances is a tribute to her leadership.

As the specifics of this settlement are implemented we must all continue our concerted effort to work things out amicably and fairly. I am confident that we can do it. I am confident that finally, every Montanan who has been affected by this dispute can put this issue behind them and we can move forward to a more productive future.•

THE RYAN WHITE CARE ACT OF 1990

• Mr. McCAIN. Mr. President, I am proud to add my name as a cosponsor of S. 2489, a bill to reauthorize the Ryan White Care Act of 1990. It is important to note that the Ryan White Care Act is named for Ryan White, and the battle which he fought against AIDS. Today, the Ryan White Care Act carriers on Ryan's battle to help those infected with HIV/AIDS to continue to fight the deadly effects of this disease. It funds programs nationwide, to both treat individuals with HIV/AIDS and educate the general public about what we can do to prevent the spread of HIV/AIDS.

As the vice chairman of the Senate Committee on Indian Affairs, I have become increasingly aware of the rapid spread of AIDS in Indian communities. As you know, during the Senate's consideration of the Ryan White Comprehensive AIDS Resources Emergency Act in 1990, I offered an amendment to ensure that native Americans would be eligible to receive HIV and AIDS health and support services. With the assistance of my colleagues from Massachusetts and Utah, Indians with HIV disease and their families are currently eligible for funding under title II, special projects of a national significance. This was a great accomplishment as Indians are among the highest at-risk populations for the HIV infection.

It is my understanding, that S. 2489 would enable special projects of a national significance to receive 3 percent of the amounts appropriated under parts A, B, and C of title XXVI of the Public Health Service Act which would result in an overall funding increase. S. 2489 would also ensure that 50 percent of the funds made available would be used for special geographic areas, such as reservation communities. Under this approach, it appears that both urban and reservation Indians will be eligible for funding.

S. 2489 should yield even greater opportunities for Indians with HIV and their families to access funding. This is a necessary step to address the projected HIV growth rate in Indian populations. In fact, since the Ryan White Act was passed, the number of reported American Indian AIDS cases has increased by approximately 351 percent. This is the largest growth of HIV in any ethnic group. What is equally alarming, is that Indian women, in their first through third tri-mester of pregnancy were four to eight times more likely to be infected with the HIV virus than other rural populations of women nationwide—and all indications are that these numbers will continue to increase in the future.

It is my hope, that S. 2489 will provide the necessary funding to assist Indian communities in fighting this deadly disease. And I thank my colleagues from Massachusetts and Utah for their work on behalf of Indians with HIV.•

CHABAD'S CHILDREN OF CHERNOBYL

• Mr. MOYNIHAN. Mr. President, I rise today in recognition of the efforts being made by Chabad's Children of Chernobyl. I am pleased to report that to date this organization has successfully rescued over 1,000 children from the ravages of the Chernobyl nuclear accident. By relocating these children to Israel, they are able to offer them nutritious diets and ongoing medical care and are providing these youngsters the opportunity to build healthy and productive lives.

Mr. President, Chabad's Children of Chernobyl is the only group committed to permanently evacuating children from the areas surrounding the worst nuclear disaster in history. And I am most proud to be an honorary cochairperson of this organization.•

TRIBUTE TO CAL TURNER, SR.

• Mr. McCONNELL. Mr. President, I rise today to commend a fellow Kentuckian, Cal Turner, Sr., for his outstanding achievement in discount merchandising. Mr. Turner has recently been inducted into the Discounting Hall of Fame, placing him among such famous retailers as Wal-Mart's Sam Walton.

Fifty-five years ago, during the Great Depression, Cal Turner, Sr. and his father, J.L., a salesman with a third grade education, began a business endeavor purchasing failed merchants' inventories and selling them for a minimal profit. For many years, the Turners lived hand-to-mouth, barely making ends meet. The buying at the bankruptcy auctions eventually led to the opening of the original Dollar Store in Springfield, KY in 1955. There, the Turners instituted the root of their success by making "dollar-day sales" an everyday procedure. Today, the Turner dynasty controls 1,940 stores in 24 States and is growing at the rate of about 300 stores a year.

In 1977, Cal Sr. relinquished the presidency of the Dollar General Corp. to his son, Cal Jr., who moved the executive offices to Nashville, TN in 1989. The administrative offices and distribution center still remain in Scottsville, KY employing 500 to 600 people. At 79, Cal Sr. continues to work at the Scottsville location 6 days a week, fulfilling the duties of chairman emeritus while at the same time, managing a farm of 1,200 head of cattle.

Although the Scottsville location continues to reap profits of nearly $3 million a year, Cal Sr. has maintained his "country ways and values." He regularly gives to many charities and the church. After losing his wife to cancer 6 years ago, he donated some of his land for development of a new hospital. He also gave $1 million to the Lindsey Wilson College in Columbia, KY 3 years ago, which was used to build a new dining hall.

Cal Turner, Sr. began his business in rural Kentucky which flourished into a successful, multistate corporation. From humble beginnings to fame and fortune, Mr. Turner has remained loyal to Kentucky and his county.

Mr. President, I ask that the article from the Courier-Journal appear at this point in the RECORD.

The article follows:

[From the Louisville Courier & Journal, Oct. 2, 1994]

THE DOLLAR GENERAL

(By C. Ray Hall)

SCOTTSVILLE, KY.—Cal Turner, the man who invented Dollar General stores, wheeled his Range Rover around the town square. As the scent of new-car English leather filled the compartment, Turner looked for a parking space near the busiest Dollar store in the country.

To his immense satisfaction, he couldn't find one.

"I like to see us a little tight," said Turner, whose mouth always seems to be crinkled into a smile. It's kind of a cumulative smile. It's kind of a cumulative smile, unerasable, fixed by 79 years of rare good fortune. (And, more recently, by fame. Six weeks ago he was inducted into the Discounting Hall of Fame, a distinction that's hard to discount when you consider it includes Wal-Mart's Sam Walton, possibly the most famous merchant of modern times.)

Turner wheeled the truck down the street that runs beside the store. There's a couple of years back, someone took a photo of him. Turner, a man who tips his hat to ladies and says, "Hi you?" projected a vision of village squiredom in the photo, except that nearing age 80, he was kneeling and plucking grass from the sidewalk.

Turner's son Steve says: "I've always maintained that his store was his presenting of his soul to the public. Nothing was to stand between him and that presentation, not even a blade of grass."

After a trip around the block, Turner nestled the Range Rover in front of the store. Yielding to the urge to show off a little, he pushed the button that raises and lowers the frame, depending on the terrain. While touring his hilly farm, he rides high. But this being pavement, a lowering was in order. The British luxury truck curtsied toward the Dollar store.

"For $50,000, you can get a lot on these things, whether you need them or not," he said, sounding more chagrined than proud. Inside the store, surrounded by $10 jeans, $5 shirts and 25-cent mousetraps, he yielded to pride, though. The subject was not a $50,000 truck but a 50-cent greeting card.

"A lot of our customers are like me," he said. "They can't write very well and they can't spell. I got so tired of going to a store and paying a dollar or more for, greeting cards,"

So, two-for-a-dollar greeting cards.

"You wouldn't believe," he said, "how many millions of these things we sell."

Certainly enough to keep the family in British luxury trucks. Turner's is a hand-me-up from his son Cal Jr., the company president and chairman who drives a Range Rover through the rugged outback of Nashville, Tenn.

The elder Turner's truck isn't exactly a trophy.

"He's never been a materialistic man, by any stretch of the imagination," said Steve. "Which makes it extremely difficult, of course, to try to buy him any sort of gift. It's not just a matter of he doesn't need it, he doesn't want it."

The Range Rover wasn't a gift, either. "Oh, he didn't give it to me," Turner said of his son, laughing gently. "He let me buy it from him." Thereby hangs a double moral that has usually served the Turners well: Keep it in the family, and get your money's worth. (Cal Sr. is so notoriously thrifty that he once told his family that he couldn't sleep well in an expensive hotel, for worrying that he wouldn't get his money's worth. "It's hard," he said, "to sleep that hard.")

That's been the way the Turners have run things since Cal and his father, J.L., opened the forerunner of Dollar General 55 years ago this month: fretting about value and values. They fretted even more in 1968, when Dollar General went public, and Wall Street met Scottsville's Main Street. But the Turners have often resisted Wall Street's advice, partly because there's a Turner's name atop the company hierarchy.

"A hired gun might not be secure enough to manage for the long run," said Cal Jr.

CHURNING PROFITS

For the Turners, it has already been a long and improbable run. Cal. Sr. and his father, a salesman with a third-grade education and an MBA in real life, regularly worked bankruptcy auctions during the Depression, buying up store inventories, then selling them for a small profit. Cal's delight at learning the trade was tempered by the fact that it meant scavenging among the ruined dreams of older men.

"What a sobering, sad situation," he said. "You'd see a gray-headed, fine-looking man standing there. Then you didn't have any Chapter 11's. When a fellow went broke, he really went broke. And that fellow . . . he more than likely had children in college. They'd lived well all these years. And there they are selling his store. He's broke.

"That really will make you awfully careful with your money if you ever get some, so it won't happen to you.

"That has stayed with me all my life."

It took a long time to feel secure; they were running from the same demons as the broke, broken men of the Depression.

He and his father each put up $5,000 to start a wholesale company in 1939. They broke into retailing, Turner said, "because I had to have a place to sell my mistakes." As the business grew, so did the worries. Cal and J.L. Turner sweated through their own version of Saturday night fever.

"I used to call every Saturday night, maybe there'd be 15 stores, to see if I could cover the checks I had written," Cal Sr. said. "If I didn't quite make it, I'd get my father and we go down to the Nashville banker. I'd go in and tell him I have to have another $25,000. I needed it that day too. I didn't go until I needed it."

After 16 years of staying a few steps ahead of the banker, the Turners hit upon their enduring inspiration. Incited by other merchants' dollar-day sales, the Turners decided to make every day dollar day. They opened the first Dollar store in 1955, in Springfield, Ky. They stocked the stores with close-outs, irregulars and imports. Nothing sold for more than a dollar. Ultimately, when inflation forced them to break the dollar price barrier, they did it in an ingenious way.

"We ended up with shoes for a dollar a shoe," Turner said.

The inevitable happened at a Memphis, Tenn., store. "I had a one-legged fellow come in." So, he sold him a shoe for a dollar.

"I imagine we still have that other shoe in the Memphis store," cracked Steve.

This isn't to suggest that Turner held on to goods. The idea was to churn the merchandise, even at a loss, to keep it moving. Not that long ago, even the younger generation of company leaders resisted computerizing the operation. The theory was that computers just couldn't keep up, because the Turners moved so fast. It's part of corporate lore that Cal Sr. approved buying the first computer after being assured it was an "IBM accounting machine."

He's something of an accounting machine himself, getting the good news from secretary Earline Frost that "our stock is up to 26 today," or poring over computer screens and printouts for reports of a company so leanly staffed that it averages fewer than five employees per store. (The company is similarly staffed at the top. "Every executive in our company has about 125 percent of a job," said Cal Jr.)

Computer screens can tell you only so much. Cal Sr. was at the Glasgow, Ky., Wal-Mart recently, doing a little comparison shopping. He paused in the jeans section to study a sign.

"They said, 'Dollar Store price, $8. Our price $7.96.' I thought, 'I'll give 'em more than 4 cents to mention our name to their customer.'"

Which begs a question. How does Dollar General keep from getting cannibalized by giants like Wal-Mart, Kmart and Target?

"They're the elephant," says Cal Jr. "They've got enough of their own agenda and mischief to put up with that they don't need to pay attention to this little gnat."

It's a swarm of gnats: a billion-dollar company with 1,940 stores in 24 states. And the swarm is growing by about 300 stores a year. Even so, the hometown Dollar Store in Scottsville still does the most business: almost $3 million a year.

The growth spurt came during the reign of Cal Jr., who took over as president in 1977, with about 700 stores in the fold. His father, a man not given to prideful utterances, said he is more proud of what his son has done with the company than of his own accomplishments.

"He does a better job of running the company than I ever could," he said. "I couldn't run it this size."

When the younger Turner was a teenager casting about for careers, he thought little of the store trade. He resented it because it "invaded our home" and consumed so much of this father's time.

"I thought about medicine," he said, "but my dad conspired with the local doctor for me to get out of school and witness an unsightly operation, and that changed my mind."

SMALL-TOWN LIFE

The sight of blood in the operating room is nothing compared with the sight of blood in the corporate boardroom. The Turners avoided such a bloodbath when Cal Jr. and his younger brother Steve both vied for the top spot. "They couldn't both run the company," their father said. "Cal Jr. was older and plenty good." He didn't take sides, though, expecting his children could work it out. They did, in a peaceful, but not painless resolution: Steve moved on to banking and developing.

Blood and bitterness might have flowed in 1989, when Cal Jr. moved the executive office to Nashville against his father's wishes.

"Sam Walton didn't have to leave Bentonville," the father groused, playing a new variation on a familiar theme: the joy and wonder of small-town life.

"I maintain that when you're raising a family, they'll be better people and you'll be a better person in a small town because everybody knows where you went last night and what you did," he said. "I don't think any of us have as many secrets as we'd like to think we do at times; but I'm telling you, in a small town, you don't have any."

If Cal Sr. were worried that moving to the city would change his son, or the company, for the worse, those fears seem to have been allayed.

"I think I'm more of a defender of the country ways and values now that I'm in the city than I ever was when I was in the country," said Cal Jr. "I don't like to see anybody put the little person down, and I think you see it more in the city than you do in the country. And I'm inclined to crusade for the little guy."

Cal Sr. also fretted that the city might make them soft. "I don't want to have a social club," he said. "If he hires somebody who turns out to be a socialite, he gets rid of him."

In this way, Turner indicated, his son is stronger than he.

"I never could fire anybody," he said.

That's the knock on Cal Sr. He's too nice.

"I was fascinated that he was able to be successful because he's so kind, gentle and forgiving," Steve said. "He kept people working in the company that others would have fired in a minute. Of course, what that did was build some highly unusual loyalty. There were people that had been given a second, third and fourth chance that now would kill for him, because they knew out there is the rest of the world you don't get treated that way.

"It always fascinated me that somebody didn't get all of his money before he could make it."

When the executives headed 60 miles south, it still left behind a robust contingent of 500–600 employees in Scottsville, home of the administrative offices and distribution center. There, above a sprawling complex on the edge of town, the rim of a hill is solid with Dollar General truck trailers; the horizon, truly is full of Dollar signs. Though he will turn 80 next spring, Cal Sr. still reports to this happy valley of prosperity six days a week, brown-bagging his lunch.

As "chairman emeritus," Cal Sr. has a large title and little responsibility. But when you've been working 60 years, it's hard to stop.

"I don't want to get in the way," he said, "but I don't want to get out of the way either. . . ."

Maybe it has something to do with the sense of place, the thing that causes Turner to say, "I feel sorry for everybody that doesn't live in Scottsville, Ky."

With the exception of about 4,300 people, that's everybody on the planet: It's also all his children. The eldest, Laura Jo, lives in Florida. Another daughter, Betty, lives in Louisiana. The two sons spend most of their time in Nashville. Does Turner feel sorry for his children?

"In that case, I feel sorry for me that they don't live here," he said.

The company he gave so much to is now giving back. "I like to think 20–25 years ago, it needed me," he said. "Now I need it."

One reason he needs it is the mile-wide hole in his life the past six years, since his wife of nearly 52 years, Laura Katherine, died of cancer.

"There can't be anybody else. We were lifetime lovers and friends and all that goes with, perfection, I guess, in marriage."

"Gosh, they were a dedicated couple," Steve said. "She died in '88. I just knew this would be the case where one of the spouses dies and the other one lasts three or four months. Of course he loves life, and he has tremendous love for the company and what he does."

If being chairman emeritus, talisman, touchstone and institutional memory of a billion-dollar company can't fill your life, there are other consolations. Turner owns a farm with 1,200 head of cattle, inspiring observations such as this: "I can remember a time when we were ashamed to say we were from the country. Now we're proud of it."

THE GIFT OF LIVING

Owning, it seems, is less important than giving. He gave some of his farm land for a new hospital. One supplicant seeking money for a church got a donation despite the fact she addressed her request to "Cow turner." Three years ago he gave $1 million to Lindsey Wilson College in nearby Columbia, explaining, "The president over there is a Methodist minister, and these little colleges need to make up money."

At first, Turner wanted the gift to be anonymous. But John Begley, the president, asked him to go public, convincing Turner it would inspire others to give similar gifts. It did. "Since then we've had four other million-dollar gifts," Begley said. (Turner's million went toward a dining hall.)

Turner has a tender spot for Methodist preachers. In his youth, Cal Jr. thought seriously of becoming one. "I think that scared him," Cal Jr. says of his father. (Not just because it might deny Dollar General a future chief executive, but because the elder Turner probably couldn't devise a way to dissuade him. He could send an aspiring doctor to see gory surgery, but what could he do to a prospective preacher? Take him to church, from gory to glory?)

Memories of another Methodist preacher, Gainy Bohanon, inspire a long moment of reflection from the chairman emeritus.

"I loved him dear," Turner said. "I accused him of ruining my golf game; we played golf together, and he wouldn't cheat. He wouldn't move the ball toward the hole. Gosh, that just really tore me up, because now I'm embarrassed to move it.

Turner once told the young preacher: "If I ever say anything that sounds smart or sounds all right, I want you to make a note of it, because I expect you to preach my funeral."

One of the melancholy revelations of long life is its overdose of heavy ironies. On your 50th anniversary, your wife can get into her wedding dress, only because a mortal disease is taking her away, bit by bit: a litheness bought with life itself. The minister you hope would say a few words over your grave dies before you, despite his youth.

Is anybody taking up Gainy Bohanon's charge, recording Turner's smart sayings nowadays?

"No," the chairman emeritus said, "and I've gotten where I can't say them anymore."

It's enough to give a man . . . perspective. A way of summing up that involves no mention of money from the man who gave new meaning to the word dollar.

"There are so many ways to describe being rich. Good health and friends, long life. . . . I know that God has been good to me. I see other people with loads that I know I couldn't bear. I've had a wonderful wife and four wonderful children. . . .

"How lucky can you be?"•

TRIBUTE TO DR. P. ROY VAGELOS

• Mr. LAUTENBERG. Mr. President, I rise to pay tribute to Dr. P. Roy Vagelos, one of the Nation's preeminent scientific and business leaders, on the occasion of his retirement as chairman of Merck & Co., the world's largest pharmaceutical company. Under Dr. Vagelos' leadership, Merck introduced more new medicines than any other company. As its chief executive officer, Vagelos oversaw the growth of Merck's research budget from $425 million in 1985 to more than $1.3 billion in 1994. During this extraordinary period, Merck was named America's Most Admired Company in Fortune magazine's survey of business for an unprecedented 7 consecutive years.

Roy Vagelos is a proud son of New Jersey. Born in Westfield, as a young man he worked in his parent's luncheonette in Rahway, where he served sandwiches to workers from the nearby Merck plant. In 1951, as a 22-year-old Columbia University medical student, he went to work in Merck's labs as a research intern. Following successful careers as a researcher at the National Institutes of Health and Washington University, Vagelos came back to his Rahway roots in 1975 to serve as Merck's senior vice president for research and later president of the labs. In these roles he presided over the discoveries of many important medicines and put Merck on a path to increased investment in research and development.

In 1985, Dr. Vagelos became Merck's chief executive officer. A year later he also assumed the title of chairman. His 19 years at the helm of Merck were characterized by bold innovation, a commitment to research, and a willingness to assume risk that made Merck an industry leader. In response to growing national concerns over rising health care costs, Dr. Vagelos pledged that his company would keep price increases to the level of inflation. Seventeen other companies decided to follow Merck's lead. And then, just last year, Dr. Vagelos took the bold step of leading Merck's acquisition of Medco Containment Services, one of the Nation's leading prescription drug benefit management companies. With this move, Dr. Vagelos secured a place for Merck in the growing movement toward managed care.

Throughout his years leading Merck, Dr. Vagelos never lost his commitment or connection to Merck's research and discovery mission. Since his coming to Merck in 1975, the company has put 34 new products on the market to fight diseases of the heart, eye, and prostate, among many others. He has also placed Merck in a leadership role in the fight to find a cure for AIDS. Merck helped create the Inter-Company Collaboration for AIDS Drug Development which puts 15 pharmaceutical companies in a joint effort to find new antiviral agents and combination therapies to fight HIV infection and AIDS.

Dr. Vagelos' tenure at Merck was also characterized by a commitment to community and public service in New Jersey and throughout the world. In 1987, Dr. Vagelos pledged that Merck would provide Mectizan free of charge throughout the world to fight river blindness, a horrible disease that infects 18 million people, principally in Africa and Latin America. To date, Merck, with the help of the Carter Center in Atlanta and the World Health Organization, has made more than 29 million doses available to people in need.

In 1990, thanks to a $3.7 million grant from Merck, Dr. Vagelos was able to preside over the opening of the Children's Inn at the National Institutes of Health in Bethesda, MD. The inn is a family-centered residence that allows the desperately ill children seeking help from the NIH to live in a supportive setting with their families. In New Jersey, Dr. Vagelos serves as a cochairman of the New Jersey Performing Arts Center, a cultural center planned for the heart of Newark. A $1 million Merck donation is helping boost this critical project. Achievements such as these, at home and abroad, along with many others in the fields of environmental protection, science education, and children's health, are a lasting legacy of Dr. Vagelos' commitment to improving our world.

Throughout my years in the Senate, I have often had the advantage of calling on Dr. Vagelos' counsel on issues related to health, science, and pharmaceutical industry. He has served as a respected adviser to leaders throughout the world. Ray Gilmartin, Dr. Vagelos' successor as leader of Merck, identified one of the keys to the enormous respect he enjoys from leaders of government and industry when he said "as a physician, Dr. Vagelos never lost sight of the end user of Merck's products, the patient."

On September 28, Merck renamed its Rahway, NJ site, established in 1900 as the company's first research and manufacturing facility, the P. Roy Vagelos Research and Development Center. I can think of no more fitting tribute to this native New Jerseyan who, for nearly two decades, made this Rahway site the center of a world of healing and caring.•

EXECUTIVE-LEGISLATIVE CONSULTATIONS IN FOREIGN POLICY

• Mr. SIMON. Mr. President, there is no question that the Clinton administration has faced some stormy weather in its handling of certain foreign policy and national security problems. I serve on the Committee on Foreign Relations and I see these problems on a daily basis.

One of the underlying causes of President Clinton's foreign policy problems is rooted in a failure to adequately consult and communicate with Congress on a timely basis—particularly with the Senate Foreign Relations Committee, ably led by my good friend from Rhode Island, the distinguished Senator CLAIBORNE PELL. I know he is deeply committed to good relations between branches, and he has labored mightily under both Republican and Democratic administrations to bring this about during his tenure as chairman of our committee.

Mr. President, somewhere along the line consultations on significant foreign policy and arms control matters has faltered. Last year, when the administration suddenly decided to alter key provisions of the ABM Treaty, no one from our committee was consulted. We were informed after a National Security Council staff member was already negotiating with the Russians in Geneva. This year, when the Pentagon and to a lesser extent the State Department were in the midst of their nuclear posture review, again the committee—which has jurisdiction over arms control matters—was neither consulted nor informed.

And just yesterday we all learned that the administration has agreed to lift missile proliferation sanctions against the Chinese. I am still studying the details, but I am uneasy that another decision of this magnitude was undertaken without any prior consultations with members of the Foreign Relations Committee.

Yesterday I requested a letter from the National Security Council urging that the administration make a stronger effort at consultations than they have to date. Today I received a response from Sandy Berger, the Deputy National Security Advisor, which I request unanimous consent to print in the RECORD at this point.

THE WHITE HOUSE,
Washington, DC, October 5, 1994.

Hon. PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: The Administration is committed to maintaining close consultations with the Congress on major foreign policy and national security issues, but consultations between the Executive and the Legislative branches are never perfect. In particular on the ABM Treaty demarcation discussions and the Nuclear Posture Review, consultations were not held with the Senate Foreign Relations Committee. We are working to assure that this does not occur again.

We are committed to a regular dialogue with the Committee on all foreign policy and security issues and will make special efforts to improve serious two-way communication on arms control issues.

Sincerely,

SAMUEL R. BERGER,
Deputy Assistant to the President for National Security Affairs.

Mr. SIMON. The second paragraph of Mr. Berger's letter, frankly, falls short of the mark, but I am pleased that the administration has made a renewed pledge to engage in sincere and timely consultations with the Committee on Foreign Relations before Presidential decisions are made, especially in the field of arms control and nonproliferation. I assume that is what is meant by "special efforts to improve serious two-way communication on arms control issues." For two-way communication to work, Congress has to be engaged early in the process—not after NSC staffers board planes for Geneva.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Thursday, October 6, that following the prayer, the Journal of Proceedings be deemed approved to date and the time for the two leaders reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 9 a.m., with Senators permitted to speak therein for up to 5 minutes each; with the first 15 minutes of morning business under the control of Senator GRASSLEY, and Senator BOXER be recognized for up to 10 minutes; that at 9 a.m., the Senate resume consideration of the conference report accompanying S. 349, under the limitations and provisions as previously ordered; that at 10 a.m., without intervening action, the Senate vote on the motion to invoke cloture; further that at 10:35 a.m., the Senate proceed as a body to the House to meet in a joint meeting to hear an address by the President of South Africa; that at 10:40 a.m., the Senate stand in recess until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL THURSDAY, OCTOBER 6, 1994, AT 8:30 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:07 p.m., recessed until Thursday, October 6, 1994, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 1994:

THE JUDICIARY

DAVID FOLSOM, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS, VICE SAM B. HALL, JR., DECEASED.

THAD HEARTFIELD, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TEXAS, VICE ROBERT M. PARKER, ELEVATED.

LACY H. THORNBURG, OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF NORTH CAROLINA, VICE ROBERT D. POTTER, RETIRED.

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. RICHARD I. NEAL, [redacted]

HOUSE OF REPRESENTATIVES—*Wednesday, October 5, 1994*

The House met at 9:30 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, that Your word to us is a word that challenges and corrects, that gives solace and comfort in every need. We are grateful too for the words of our colleagues and friends, words that educate and encourage, that brighten and give light to each day. Remind us always, to use our words in ways that reflect the truth, that edify and point the way, that contribute to the common good and to the unity that we should express. May Your good word, O God, be with us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman form Louisiana [Mr. FIELDS] come forward and lead the House in the Pledge of Allegiance?

Mr. FIELDS of Louisiana led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

GATT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the GATT bill is up. Hulk Hogan cannot lift it. Albert Einstein could not understand it. And the American workers fear it. Is it any wonder under NAFTA jobs go to Mexico? Under GATT jobs will go everywhere except America. I do not blame workers.

I will say one thing, I think the Democrat party today is pushing the working people of America away, real far away. But let us tell us like it is.

If GATT is so good for America, why does China love it? If GATT is so good for America, why does Japan love it? If GATT is so good for America, tell me, colleagues, why do the American workers vehemently hate this bill? This is a Woody Allen answer to a John Wayne problem.

I say today that the Democrat party is starting to set in motion a change for the common working man to move toward the Republican side of the aisle. John Lewis, roll over in your grave.

OBSTRUCTION OF LEGISLATION

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, the majority leader in the other body has embarked on an ornery tirade against Republicans. He hopes to label all Republicans as obstructionist.

But on issue after issue important to the American people, the Democratic majority has obstructed passage of legislation. Here are a few of the bills the Democrats have obstructed:

The line-item veto; an A-to-Z spending cut session; welfare reform; balanced budget amendment; legal reforms; a middle-class tax cut; regulatory reform; immigration reform; Whitewater hearings; and term limits.

And of course, the Democrats have obstructed reform of Congress. They have obstructed efforts to cut committees and staff and they are trying to obstruct legislation to make Congress comply with the laws they impose on others.

Mr. Speaker, let us put an end to Democratic obstructionism by electing a Republican majority for the first time in 40 years.

REPUBLICANS CAN BALANCE THE BUDGET WITHOUT TOUCHING SOCIAL SECURITY

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, in the 2 years of a Democrat-controlled Congress and a Democrat-controlled White House, we Republicans have submitted two detailed budget proposals. Neither Republican budget touched Social Security.

In fact, the Democrats raised Social Security taxes on middle-income seniors in the 1993 tax bill. Moreover, even as the Democrats were ringing a false alarm about the Contract being a threat to cut Social Security benefits, the Democrat controls Ways and Means Subcommittee on Social Security was hearing presentations about four different Democrat plans to cut Social Security benefits.

The Social Security trust fund—which is currently running a $58-billion surplus—represents a pact between American taxpayers and the Federal Government. Republicans are committed to preserving this pact with the Nation's now and future senior citizens.

DEMOCRATS FEAR THE SUCCESS OF OUR CONTRACT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the Republican contract with America will change the way business has been done in the House for the past 40 years.

Here is the bottom line: Republicans favor congressional votes on the balanced budget amendment, line-item veto, welfare reform, family tax cuts that are paid for with spending cuts, and term limits. Democrats oppose these provisions.

Our contract guarantees that every penny in cost will be offset with spending cuts. Democrats want to keep spending freely even if it means racking up huge Federal deficits. They have surrendered to deficit spending and now admit they cannot envision a Federal Government that balances its budget.

The American people can now easily see how a Republican-controlled House would be different from the past 40 years of Democrat control. And that is what frightens the Democrats. As the Wall Street Journal put it: "It's hard to avoid the impression that the critics fear not that the contract would fail but that it would succeed."

THE TAKING BACK OUR STREETS ACT

(Mr. GOSS asked and was given permission to address the House and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, crime is a huge problem in the American society today. When asked to name the most important problem facing our country, 22 percent, a plurality, point to crime, gangs, and the justice system. One out of five say that is what the trouble is. It is not surprising that 85 percent of the American people favor lifetime jail sentences with no chance of parole for anyone convicted of three or more violent crimes. Three or more violent crimes, and we are going to let them out?

The contract with America goes several steps further with the Taking Back Our Streets Act. Clinton's crime

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

bill is riddled with new social programs which greatly contribute to the $30 billion price tag, but we know that coddling young criminals does not solve the crime problem.

We propose truth-in-sentencing and real prisons. This means when a criminal goes to prison he will not be allowed to leave after he has only served a third of his sentence. The place he will be incarcerated is not going to be the Club Med for convicts.

Rather than make it more difficult for our law-abiding citizens to purchase a handgun, let us talk about taking back our streets by putting a 10-year mandatory minimum sentence for the use of a gun during a State or Federal felony. That is the way to get tough on crime. That is what we need now. The Republicans know the answer.

URGING HOUSE LEADERSHIP TO RECONSIDER SCHEDULING ON GATT LEGISLATION

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, the leadership should reconsider its plan to schedule a vote on legislation to implement the Uruguay round of the General Agreement on Trade and Tariffs, or GATT.

There is much confusion and concern over the provisions of this complex agreement that will have a massive effect on the economic health of our Nation.

Most Americans support the principle of free trade, but when you read the details of this agreement it is far from clear that Americans will be on a level playing field with foreign competition.

Numerous studies raise serious questions concerning jobs and incomes that will be lost, particularly in the agriculture, textiles and apparel industries.

These questions need to be answered. Instead of rushing this legislation through the closing days of this Congress, the administration should take a lesson from the fate of the health care reform effort.

We should go slow and get it right.

DEMOCRATS CONTINUE TO FRIGHTEN ELDERLY REGARDING GOP CONTRACT WITH AMERICA

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, the politics of fear, intimidation, and deception continue, with my colleagues on the other side of the aisle continuing to scare elderly people into believing that somehow the Republican contract with America would cut Social Security, or otherwise impair the elderly. It is absolutely not true. Not only is it not true, but in fact, we have already done that in this Congress. We did it with the 1993 budget deal.

If we look at it, we have cuts in Social Security and Medicare from the 1993 Clinton budget. In 1994 we had cuts in Social Security of $1.93 billion; in 1995, $4.597 billion; in 1996, $5 billion; 1997, $6 billion; in 1998, $6.7 billion; a total of $24.5 billion in Social Security cuts; Medicare, a total of $56 billion.

Let me repeat that. This is the Clinton budget of 1993. Not one single Republican member of this Congress voted for that budget. It was passed by Democrats.

DEMOCRATS FUMBLE, REPUBLICANS GO ON OFFENSE ON CONTRACT WITH AMERICA

(Ms. DUNN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DUNN. Mr. Speaker, last week, several on the other side tried to make football analogies regarding the contract with America. Not surprisingly these comparisons were a few yards short of a first down.

For the past 40 years, the Democrats have had the ball, they have controlled the clock, they have rammed their liberal agenda through the line despite the crowd of Americans roaring against them.

The Democrats are nervous now. After a series of Democrat fumbles and penalties, the Republicans are going on the offense.

But today, we are merely drawing up our game plan: The Republicans' contract with America. Our strategy includes applying the rules of the game to Congress, a very popular move among the crowd of Americans whose pleas have gone unanswered for too long.

When we finally get our hands on the ball, we will be ready. All those Republicans who have been forced by the Democrats to sit on the bench will finally get in the game.

PERSONAL RESPONSIBILITY AND OUR CONTRACT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, we are in the midst of a social crisis.

Illegitimacy rates are exploding. Crime rates are rising. Our cities are decaying, and millions of Americans are trapped in poverty.

Last week, more than 300 Republicans signed a historic agreement to reverse these trends. The Personal Responsibility Act is a key element of our contract with America.

Drawing upon the lessons of the last 30 years, we have pledged to reform a welfare system that deprives individuals from obtaining the American dream.

Real welfare reform means spending less and moving dependents off the dole. Our plan will instill responsibility by requiring work for benefits. We will strengthen the family by eliminating subsidies for out-of-wedlock births. And we will provide the American taxpayer with relief by cutting runaway welfare spending.

Mr. Speaker, the American people realize that we can no longer punish what is right in America to subsidize what is wrong with America.

The Republican contract with America provides real and effective welfare reform, and I am confident that on November 8, the American people will voice their support for the principles of this pact.

MORE EVIDENCE OF SLAVE LABOR IN CHINA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, these artificial flowers are the latest evidence that goods made with slave labor in Chinese prison camps are making their way into the United States. The proof is in the label and the story is documented in the latest report by my friend Harry Wu. It was also the subject of a report aired on ABC news last night. I am submitting this and another report on export of slave-labor-grown green tea for the RECORD.

The labels were smuggled out of China by a courageous prisoner named Chen Pokong. I want to quote from a six-page appeal he sent to the international community:

> I am thrown into this hell because the Guangdong authorities want to crush me physically and spiritually. I strongly urge * * * the world * * * to pay close attention to human rights conditions in China, and to extend their assistance to the Chinese people who are in an abyss of misery. I understand that once my letter is published, I might be persecuted even more harshly. I might even be killed. But I have no choice.

These flowers were purchased at a popular craft retail store in the United States. Importing slave labor goods is illegal.

Last spring President Clinton certified that the People's Republic of China is complying with the memorandum of understanding for slave labor goods signed in 1992. This new evidence makes me wonder if the administration is doing all it can to enforce it.

Mr. Speaker, this man risked his life to bring us this information. The U.S. Government has an obligation to make sure Chen Pokong is not harmed.

PROVIDING FOR CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 301, SENSE OF CONGRESS REGARDING ENTITLEMENT SPENDING

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 563 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 563

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the concurrent resolution (H. Con. Res. 301) expressing the sense of the Congress regarding entitlements. General debate shall be confined to the concurrent resolution and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. After general debate the concurrent resolution shall be considered for amendment under the five-minute rule and shall be considered as read, and the question on adopting the amendment numbered 1 in the report of the Committee on Rules accompanying this resolution shall be considered as pending without intervening motion or debate. No other amendment shall be in order except those printed in the report of the Committee on Rules. Each other amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against amendments printed in the report are waived. At the conclusion of consideration of the concurrent resolution for amendment, the Committee shall rise and report the concurrent resolution to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the concurrent resolution and amendments thereto to final adoption without intervening motion or demand for division of the question.

□ 0950

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 563 is a rule providing 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Government Operations Committee.

The amendments are considered as read, are not subject to amendment, and are not subject to a demand for a division of the question.

All points of order are waived against the amendments in the report. The rule provides that the previous question shall be considered as ordered to final adoption without intervening motion or demand for a division of the question.

Mr. Speaker, House Concurrent Resolution 301 is a resolution expressing the sense of Congress that current trends in entitlement spending are not sustainable, and the Congress must act to resolve the long-term imbalance of the entitlement promises and available funds to ensure that today's debt does not fall unfairly on America's children.

Today, entitlement spending and interest on the national debt together consume more than 60 percent of Federal outlays. That is double the percentage of just 25 years ago.

The August 1994 interim report by the Bipartisan Commission on Entitlements and Tax Reform concludes that unless appropriate policy changes are made, projected outlays for entitlements and interest on the national debt will consume all tax revenues collected by the Federal Government by the year 2012.

The September 1994 study on reducing entitlement spending by the Congressional Budget Office found that in 1990, nearly half of all families in this country received benefits from one or more of the 11 major entitlement programs. The value of these benefits averaged about $10,300.

The conventional wisdom is that the Nation's budget deficit cannot be controlled without enacting reforms in entitlement spending.

House Concurrent Resolution 301 will begin the debate on this pressing issue and the options that must be considered.

Members will be asked to make hard choices on such questions as means-testing benefits, age qualifications, and cost-of-living adjustments.

For many, the choices are politically difficult. But, it is a debate that this body must undertake. I urge the adoption of House Resolution 563.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the pieces of the A-to-Z buyout continue to fall into place—one by one. By my count, we are about to check off the fourth of five demands made by the so-called deficit hawks in the majority who were promised all sorts of special floor votes if only they would withhold their signatures from the A-to-Z spending cut discharge petition. Today's serving of political cover comes in the form of a sense-of-Congress-resolution—AKA a completely nonbinding statement of principle.

As a member of the President's Commission on Entitlement and Tax Reform, I wholeheartedly support the principle of laying the groundwork for the heavy lifting of reforming entitlements. In fact, I have spent many long hours this year in Commission hearings as we proceed toward a December due date for our recommendations. I do not think the work of that Commission should be underestimated or second-guessed before we have even had a chance to fulfill our mandate. Quite frankly, I believe today's effort is at best a waste of time and at worst a thinly-veiled attempt to allow Members a freebie feel-good, do-nothing vote less than 5 weeks from election day.

Mr. Speaker, I am strongly opposed to using valuable floor time so close to the end of the session for this type of political exercise. But if we are going to proceed in this direction, the least we can do is make the process as open as possible so all Members have an equal chance to make this statement of principle mean a little bit more. At the moment what we have here is something akin to a one-man band—a bill drafted by Mr. ORTON, fulfilling a leadership pledge to Mr. ORTON, that received no committee hearing or markup, with amendments limited to those offered by Mr. ORTON. As wise as Mr. ORTON is on these matters, I firmly believe the Nation and this House could benefit from some broader input than just that of one Member.

For instance, Mr. KASICH, the ranking member of the Budget Committee came before our Rules Committee to request an open rule that would allow him to offer language calling for a balanced budget amendment to the Constitution—something Americans strongly support and the minority has been seeking for years. But this request was denied. Mr. BARCA, a member of the majority party, came to Rules seeking an amendment pertaining specifically to Medicare and means-testing. But that too was denied. And Mr. SABO, the chairman of the Budget Committee, had originally offered a proposal of his own, that never saw the light of day.

Mr. Speaker, as I said, this resolution never was heard in committee, never went through the normal legislative process, and now its prime sponsors have apparently used some left-over leverage from the A-to-Z buyoff to secure a rule that turns normal procedures on their head. Instead of allowing all Members a chance to propose amendments to the base text and then vote on passage of the final product as amended—if amended, this rule ensures a vote on the base text of the resolution first—before any other amendments are considered.

This convoluted process also precludes the minority from the customary motion to recommit with instructions. Why? Mr. ORTON explained that this is because Members want a chance to vote for the generic policy statement, but might not be able to summon the political courage to support specific reform options, like means-testing for certain entitlements, or COLA reform, or changing the age threshold for entitlement benefits. Just how far will this House go in manipulating the rules of this House in order to protect its membership from casting the so-called tough votes? This is walking a very fine line between looking tough, but not too tough, as election day draws near. But the problem with walking a tightrope is that you can easily fall off—and I am afraid that is what the majority is about to do here today. Once Members go on record for some of these reform proposals—even though their votes today will not lead to any meaningful change—they should expect to be held accountable when the binding reform proposals start coming down the pike. Anyone who has looked at the data about entitlements and the entire Federal budget knows that day is coming sooner than we think.

Members should be advised—this chicken is going to come home to roost.

Mr. Speaker, I strongly oppose this rule. This resolution and all its attendant rhetoric may boost some Members' short-term political fortunes, but it will do little to enhance the fortunes of our children and grandchildren. And so, once again, we will be less than candid with the American people about our true commitment to change.

Mr. Speaker, I include data on consideration of House Concurrent Resolution 301 in the Committee on Rules and the comparative charts of open versus restrictive rules for the RECORD, as follows:

ROLLCALL VOTES IN THE RULES COMMITTEE ON MOTIONS OFFERED TO RULE ON H. CON. RES. 301, ENTITLEMENTS, TUESDAY, OCTOBER 4, 1994

1. Motion Offered by Mr. Quillen for an Open Rule—Rep. Quillen moves a one-hour open rule, with debate time allocated to the chairman and ranking minority member of the Government Operations Committee. Rejected: 4-5. Yeas: Solomon, Quillen, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Gordon, Slaughter. Not Voting: Derrick, Bonior, Hall, Wheat.

2. Motion Offered by Mr. Solomon on Motion to Recommit—Mr. Solomon moves to insert language to provide for one motion to recommit, with or without instructions. Rejected: 4-4. Yeas: Solomon, Quillen, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Gordon. Not Voting: Derrick, Bonior, Hall, Wheat, Slaughter.

3. Motion Offered by Mr. Goss on Kasich Amendment—Mr. Goss moves to make in order an amendment by Rep. Kasich of Ohio expressing the sense of Congress that a Balanced Budget Constitutional amendment should be passed to impose on Congress the discipline necessary to achieve the goals of reducing entitlement growth and debt. The amendment would not be subject to amendment but debatable for 30 minutes divided between the proponent and an opponent. Rejected: 4-6. Yeas: Solomon, Quillen, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Gordon. Not Voting: Hall, Wheat, Slaughter.

4. Motion Offered by Mr. Dreier on Barca Amendment—Mr. Dreier moves to make in order the amendment by Rep. Barca of Wisconsin expressing the sense of Congress that Medicare premiums should be imposed on beneficiaries earning more than $100,000. The amendment would not be subject to amendment but debatable for 30 minutes divided between the proponent and an opponent. Rejected: 3-6-1. Yeas: Solomon, Dreier, Goss. Nays: Moakley, Derrick, Beilenson, Frost, Bonior, Gordon. Present: Quillen. Not Voting: Hall, Wheat, Slaughter.

5. Motion Offered by Mr. Derrick to Report Rule—Mr. Derrick moves to report a one-hour, modified closed rule, making in order a vote on a substitute identical to the base text prior to consideration of three amendments by Rep. Orton, and denying a motion to recommit. Adopted: 6-4. Yeas: Moakley, Derrick, Beilenson, Frost, Bonior, Gordon. Nays: Solomon, Quillen, Dreier, Goss. Not Voting: Hall, Wheat, Slaughter.

AMENDMENT OFFERED BY MR. QUILLEN TO RULE ON H. CON. RES. 301

Strike all after the resolving clause and insert in lieu thereof the following:

"That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 301) expressing the sense of the Congress regarding entitlements, and the first reading of the concurrent resolution shall be dispensed with. After general debate which shall be confined to the resolution and which shall not exceed one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the resolution shall be considered for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.".

* * * * *

Explanation: This amendment to the proposed rule provides for a one-hour of general debate on the entitlement resolution (H. Con. Res. 301), controlled by the Government Operations Committee, followed by an open amendment process under the five-minute rule. Since the resolution was only introduced last Friday and since Members were not given advance notice to submit amendments to the Rules Committee, this should be considered under an open amendment process.

AMENDMENT OFFERED BY MR. SOLOMON TO RULE ON MOTION TO RECOMMIT H. CON. RES. 301

In the last line, insert after the word "motion" the following: "except one motion to recommit, with or without instructions,".

* * * * *

Explanation: This would permit a motion to recommit with instructions—the only opportunity under the rule as moved for the minority to offer an amendment to the resolution.

* * * * *

AMENDMENT TO H. CON. RES. 301 OR TO THE ORTON SUBSTITUTE, OFFERED BY MR. KASICH OF OHIO

At the end of the concurrent resolution (or at the end of the amendment in the nature of a substitute made in order by this resolution, if the substitute is adopted) add the following:

"SEC. 2. It is the further sense of the Congress that, in order to resolve the imbalance in entitlement promises and resources and to reduce the debt as called for by this resolution, a Balanced Budget Constitutional Amendment should be passed by the Congress at the earliest possible date to impose on the Congress the discipline needed to achieve these goals.".

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	102	31	30	71	70

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 4, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National Defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps. FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp. FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A.	
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A.	
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A.	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

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Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON].

Mr. SOLOMON Mr. Speaker, I thank the gentleman from Florida for yielding me this time and join him in urging defeat of this rule.

Mr. Speaker, it is exercises like this that give the term, sense of Congress an oxymoronic taint.

Here we are in the final week of the Congress spending 4 hours or more on a so-called sense-of-Congress resolution that says entitlement spending trends are a problem, laying debt on our kids is bad, and Congress should do something about it. Well, good morning. Tell me something new.

In the meantime, a major congressional reform bill continues to languish in the very same committee that brings us this rule. Only one of some 29 pending amendments have been disposed of in the markup on that reform bill, some 8 months after that bill was first introduced.

How long has this resolution been pending in a committee? Just 4 days. It was introduced last Friday. It was referred to the Government Operations Committee over the weekend, and then, without any opportunity for that committee to report, it was taken up in the Rules Committee on Monday and granted this rule yesterday. In short, this rule discharges the Government Operations Committee from any charge of paternity.

What are we doing? What are our priorities? Have we taken leave of our senses?

Mr. Speaker, let's not pull any punches as to what is going on here. This is all part of the so-called A–Z buyout deal in which several Democrats promised not to sign a discharge petition calling for real spending cuts, if they in turn were allowed to bring certain budgetary matters to this floor.

We've already considered most of the other items including expedited rescissions, entitlement targets, baseline budgeting, and emergency spending. But this was supposed to be the one item in the A–Z alternative plan that really cut spending, according to Mr. ORTON on June 17.

But I suspect the CBO, (had it been allowed to score this one,) would conclude that it doesn't save a dime. It does have a cost, though. It is costing the valuable time and energy of this House which could be better spent on real legislation having real benefits for this Congress and the country.

What happened to those real spending cuts in entitlements promised by the author of this resolution and by the majority leader?

Mr. Speaker, there are times when a rule should be defeated to spare the House from wasting its time on meaningless or bad legislation. This is one of those times.

Mr. Speaker, if there was ever any doubt that this is nothing more than a political exercise to give some Members cover for avoiding the real spending cuts of the A–Z plan, one need look no further than this rule. It is written to please just one person—the author of this resolution.

The rule makes in order the Orton resolution, followed by a vote on an identical Orton substitute, followed by votes on three Orton amendments. Denied by the Rules Committee were amendments by two Democrats—the chairman of the Budget Committee, Mr. SABO, relating to the Entitlement Commission's recommendations, and the second by the gentleman from Wisconsin, Mr. BARCA, relating to imposing Medicare premiums on wealthy beneficiaries.

Also denied by the Rules Committee was a sense-of-Congress amendment by Representative KASICH of Ohio. That amendment would recognize the need for a balanced budget amendment to impose on Congress the discipline needed to reduce entitlement growth and the national debt.

Moreover, the majority denied the minority our traditional right to recommit with instructions. We cannot even offer a single amendment at the end of the process in a motion to recommit with instructions. That's outrageous.

The majority leadership is content to pay its debt to one Member for a deal that was cut, and the rest of the House be damned.

Even the author of this resolution should vote against this rule since he promised back on June 17 at least 2 days of debate and the opportunity for other Members to offer amendments.

Mr. Speaker, I am sure the sponsor of this measure will understand if we pull the plug on this non-sense-of-the-House resolution now rather than 4 hours from now so that we can move on to the more important business at hand and adjourn this House sine die all the sooner.

I urge my colleagues not to dignify this little political exercise any more than it already has been. Defeat this rule.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Georgia [Mr. GINGRICH], our Republican whip.

Mr. GINGRICH. Mr. Speaker, I thank my friend from Florida for yielding time to me.

Mr. Speaker, I want to encourage all of my colleagues to vote no on this rule. I want to say that I believe this is a case study in three things.

Bringing this up is a case study in how the Democratic liberal leadership manipulates and manages the House. Bringing this up is a case study in why the American people are sick of Democratic control of the House after 40 years of monopoly. Bringing this up is a case study in bad policy and how you can bring a dumb idea to the floor without having any context and without having any hearings and without understanding what you are doing.

So for three reasons we should defeat it. Let me go back through them. Let us be clear that this rule and this resolution is a case study in how the liberal Democratic leadership manipulates the House. The gentleman from New Hampshire, Mr. BILL ZELIFF, working with some Democrats, developed an idea called the A-to-Z spending cuts. It involved real cuts, it involved a real law that involved really eliminating some pork barrel. Under the new open discharge petition rule which the gentleman from Oklahoma [Mr. INHOFE] developed, we were actually on the verge of getting enough votes that we could actually bring the A-to-Z spending cuts to the floor and spend a week actually cutting spending.

At that point, the liberal Democratic leadership went in overdrive, and they began to say to their Members do not sign the discharge petition for real spending cuts and we will give you a smoke screen to go home and claim you accomplished something. This bill on the floor today is in effect a reward for not having voted for and signed up on the discharge petition. It is a classic example of how the liberal Democratic leadership picks off one element of their party at a time to maintain control of the House against the will of the American people.

But now let us look at the substance of today. It is the sense of Congress that current trends in entitlement spending are not sustainable. Let me tell Members, the baby boomers are too old to be taken in by this anymore. This used to work in the early 1980's when Tony Coelho was here, and when just saying anything would work, and people actually still believed politicians. But given the Clinton administration record of not meaning what it says, and given the Democratic control of Congress for 40 years, if any Member goes back home and stands up in the next 5 weeks and says I voted for a sense of Congress, in the first place, people do not believe there is any sense in the Congress. In the second place, the idea that instead of real cuts, instead of real changes, instead of real effort what we are going to have is one more phony campaign press release disguised as a vote on the floor so that when it was a Kasich budget that was real cuts, do not vote for that. When it was the Penny-Kasich spending cuts, so that was real, do not vote for that.

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But now do you want a press release that has no binding law? Oh, that is terrific, vote yes, but, I mean, no person who is self-respectingly serious about cutting spending ought to vote for this thing just on the principle that it is embarrassing.

But then there is the last point. Now, maybe my friends want to vote to cut Social Security. I know the White House attacked us just 2 days ago, and so we have an acid-test opportunity today, because as I understand it, this would cut the COLA's, the cost-of-living increases, for people on Social Security. There will be an amendment offered to give every Member a chance, without having hearings, without an overall strategy to cut spending, without doing anything about welfare, without cutting out pork-barrel spending, without doing anything about all the other entitlements, there will be an effort to come in here and cut cost-of-living increases for most Americans.

Well, my Democratic friends may want to go ahead in a moment of foolishness and vote to cut Social Security. I think it is a bad idea. I think it breaks our contract with the American people. It is the one thing we Republicans said we were going to take off budget and we would not touch as part of our balanced-budget amendment. It is the one thing we said we would protect.

I know that four senior Democrats last week jumped up and said you have got to cut Social Security, including the former chairman of the Committee on Ways and Means. I know that a lot of Democrats are itching to cut Social Security. I know the Clinton administration raised taxes on Social Security recipients, retired Americans. I know there is some passion in the Democratic Party right now to punish senior citizens.

I know the Clinton health plan was going to be paid for by $400 billion in cuts in Medicare, but I do not see why any Member should get up and vote for a Social Security cut that has had no hearings, been in no committee, been reported by no subcommittee, been reported by no full committee, and sprang full-blown from the brow of one Member.

This is almost as bad as the secret White House Clinton task force on health, one Member, on their own, invented their magic solution, they convinced their leadership to make it in order for the leadership's political purposes; they now want the House to walk the plank to make them look good.

I urge a no vote on the rule. I urge a no vote on the amendments. I urge a no vote on the resolution. Let us be honest with the American people. Let us pass a constitutional amendment that will require a balanced budget, and let us pass a Kasich budget that cuts spending. Let us pass real welfare reform. Let us pass real cuts in pork. Let us pass real downsizing of the bureaucracy. But let us do it in law, not in some kind of public relations campaign.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, as long as we are talking about honesty in this body, let us be honest about what this body is willing to do and what this body is not willing to do.

I challenge anyone in this body or anyone in this country to show me how you are going to balance the budget in the long term if you say we are not going to raise taxes, if you say we are not going to cut entitlements, if you say add onto that we are going to raise defense, but even without dealing with defense, if we are not going to raise taxes and we are not going to cut entitlements, ladies and gentlemen, it cannot be done in the long term.

You can make it look good over a 5-year period of time. The Kasich budget, in fact, does reduce, but would not balance even over the 5 years, but assuming their numbers were correct on the Kasich budget over a 5-year period of time, if it did balance at the end of 5 years, it does not balance at the end of 20, 25, 30, 35 years, because even with those changes it is clear, it is undisputed, the findings of the entitlement commission are clear if we do nothing with entitlements in 25 to 35 years, entitlement spending alone consumes 100 percent of the revenue generated by this country. If we do not deal with entitlement spending, we cannot balance the budget, period. That is the fact.

Now, if you want to dispute that, I would like to hear the argument. If we agree that we have to deal with entitlements, the question is when; if not now, when?

Ladies and gentlemen, arguments are made here that the committee has not acted, that in fact the Committee on Government Operations should have looked at this and acted; by the way, the same argument by the same folks who signed a discharge petition to say Government Ops has not acted on A-to-Z, we have got to discharge that thing and bring it out here to the floor so this body can work its will, and then we turn around and say, "Oh, but we cannot bring out entitlement reform because Government Ops has not acted." Talk about a duplicitous argument.

Also, to suggest that this is nothing but a ruse, nothing but politics, talk about politics: Those people who say they want to balance the budget, who want to do something about entitlement reform, how many of them came to the floor 2 months ago and voted for the Stenholm-Orton-Penny amendment on entitlement caps which would have placed a limit on the growth of entitlements, would have said that entitlement spending could grow by the amount of growth in the inflation index, growth in the population, plus 1 percent over that; 37 brave souls voted to cap entitlements in that one, a specific law, a statute, which is being asked for, to really reform entitlements, and 37 people said yes. So we backed up and said OK, if we cannot get the people to step to the plate and vote for a real statute which reforms entitlements, then we had better take a look at what does this body want to do. Let us take the temperature of this body and let us ask them, "Do you really want to talk about entitlements, or do you not? If you want to talk about entitlements, what areas do you want to deal with? Do you want to deal with means-testing, do you want to deal with age, do you want to deal with COLA's?"

Because, folks, if you are not willing to deal with any of those, take a look at the CBO budget book on options for cutting the budget. You will find that virtually by far the vast majority and virtually all of the money that can be saved in entitlements is in those three areas.

So if we are not willing to look at any of those, I ask my colleagues, if you do not want to vote, if you do not want to do anything with entitlements, vote against the rule, because you will kill the debate.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member.

Mr. SOLOMON. Mr. Speaker, I just wanted to call it to the attention of the previous Member in the well that he voted for a balanced budget. Our task force budget was balanced and did not raise taxes, did not cut Social Security. It did reinstate some defense cuts, but we cut $700 billion, including entitlements over 5 years. We left a surplus at the end of the 5 years, a surplus at the end of 6 years. For the gentleman to say that this budget was not balanced 25 years later, well, I ask, what in the world is? None of us will, probably, be alive 25 years from now, but we have got to start someplace.

This resolution before us now does not start someplace. It is just a whitewash of the terrible deficit situation we have in this country, and that is a shame.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I would like to urge my colleagues to reject this rule.

We have heard a lot of revisionist history on the other side. They are the Republicans, the only party under President Reagan to specifically pass legislation that hurt tens of millions of Social Security recipients, and now they want to become the great protectors, because they saw that was a disaster for them.

It is hidden in their contract that they are going after Social Security again. Do not listen to the revisionism.

There are other good reasons to vote against this rule. We do not know what we are doing here. This has not had hearings. What about this provision about 200 percent of the poverty line? First of all, Social Security at this point does not accumulate those records, so the Social Security would have to go out to all of its recipients and begin income reporting from those recipients.

□ 1020

That would be a bit of a problem since they cannot keep their computers straight now. That would cost tens of millions of dollars in person power and new computer investments.

Who would be affected? A widow with an income of $15,000 a year would have her COLA capped under this proposal. Is that something the Democratic Party wants to support? I think not.

But people do not understand that because this is a feel-good resolution. Let us go after entitlements, sort of entitlements in general.

Think of the individuals who are impacted by this. What about veterans benefits? What is going to happen to veterans benefits under this? That is not something that the people paid into individually. Are they going to fall under the strictures of this? This is something that is ill-intentioned. It is not understood, and it is something that should not be voted on here today.

Let us wait for the Entitlements Commission report and then let us begin to deliberately address this problem in ways that are effective, but let us not unintentionally put ourselves on record as going after widows with incomes of $15,000 a year, or veterans or other people.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman from Florida for yielding.

Mr. Speaker, it has been suggested here by some of the speakers that this is our one chance to deal with entitlements. That is nonsense. The fact is there are a number of things we can be doing to deal with the entitlement problem that are better solutions than this.

In fact, there is one solution to the entitlement spending problem that has been scored by CBO as being successful. This particular resolution we have before us is simply an idea that has not even been scored by CBO and cannot be scored by CBO.

But the debt buydown concept that has been included in the Contract with America has been scored by CBO. CBO says if you give the American people an opportunity to check off up to 10 percent of their tax money to go to one purpose and one purpose alone and that is to buy down the debt, then you subtract $1 in spending for every dollar that the American people set aside for debt buydown, including out of entitlement programs except for Social Security—Social Security is exempted—if you do that, CBO says if it works optimally you balance the budget in 6 years.

We have got CBO scoring on one of our proposals; where is the CBO scoring here? This is a feel-good measure. It has no effect. It is something being done in the final week of the Congress to allow Democrats to go home and talk about how wonderful it is that they dealt with the entitlement problem. They did nothing of the kind.

If they wanted to deal with the entitlement problem, they would bring forward real proposals. There are real proposals that have been introduced. Debt buydown has over 100 cosponsors in the U.S. House of Representatives. It is one of the things we could be debating here.

Why do not Democrats want to bring forward something like the debt buydown concept? Because it works. They do not really want to cut spending, there are practically no Democrats who even rank in the top 50 of the people who are against spending in the House of Representatives, according to the National Taxpayers Union.

These are people who love to spend money. They build their careers on spending money. This lets them get off the hook.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Florida [Mr. BACCHUS].

Mr. BACCHUS of Florida. Mr. Speaker, I am not running for reelection, so I am free to tell the truth without political consequences. And I want to begin by applauding a man who is running for reelection and yet has the courage to tell the truth. His name is BILL ORTON.

Virtually everyone on both sides of the aisle in this House agrees with Mr. ORTON. We all know he is right. Many fear the consequences of voting with him because they fear that if they do, people will not vote for them. And that is the sad state of affairs in which we find ourselves as a Nation.

The truth of the matter is that we cannot do what we need to do as a Nation without restraining entitlement spending. It is that simple.

Yet there are only 37 of us who voted a few months ago to begin restraining that spending that is running away with our future as a Nation. The truth is I support Social Security, Medicare, Medicaid, and other entitlement programs. But those programs will not survive unless we begin to restrain the growth in spending and provide that only those who need it the most get the most.

The truth is I want to avoid massive tax increases on the American people as a means of balancing the budget. But the truth of the matter is that unless we do something about restraining entitlement spending, we are going to have massive tax increases on working people as a means of balancing the budget.

The truth of the matter is that we need significant investments in education, transportation, technology, defense, other domestic discretionary spending, as we call it, if we hope to have the right kind of future, a future in which we will not have to fear international trade agreements, in which we will not have to fear competition, a future in which we can compete and win.

But unless we restrain entitlement spending, the growth in entitlement spending, we will not have that kind of future. We will not have a space station, we will not have a super collider, which we have already had to kill because of our refusal to deal with entitlement spending growth.

The truth of the matter is that Republicans and Democrats alike, the vast majority of my colleagues, know that Mr. ORTON is right and yet only Mr. ORTON has had the courage to come to the floor of this House and offer this resolution. I hope his constituents in Utah will understand that BILL ORTON is a leader and BILL ORTON has the courage where others do not.

Mr. Speaker, I urge the passage of this rule.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. HOKE], a member of the Committee on the Budget.

Mr. HOKE. I thank the gentleman from Florida for yielding this time to me.

Mr. Speaker, I rise today first of all to associate myself almost completely, almost completely with the remarks of the distinguished gentleman from Oregon [Mr. DEFAZIO]. I will get to the "almost" in a moment.

Let us review the bidding for a moment.

What has happened in the Committee on Rules? Well, what happened in the Committee on Rules was that we had one member from one district who somehow was able to get a single resolution with 3 amendments to that resolution made in order by the Committee on Rules. A number of other amendments were, remarkably enough, not made in order. In fact, they were all defeated on party line votes. Let us review what that means in the Committee on Rules for a moment, for those who have forgotten.

The Democrats in the Committee on Rules have 9 members of the committee and the Republicans have 4, that is, 9 to 4. Remember what the balance is in the House. It is about 59 percent; it is about 60 percent to 40 percent in the House.

Yet on this particular committee it is 2 to 1 plus 1; 2 times the number of Republicans plus 2, completely stacking the deck.

So what do we have here? We have got the sense of Congress resolution that says, "It is the sense of the Congress that current trends in entitlement spending are not sustainable." Well, no kidding.

You know, this is what we are going to be asked to vote about? Let me tell you about one of the amendments that was not made in order.

Section 2, and this would be added at the end of the resolution, and this is the Kasich amendment. "It is the further sense of the Congress that in order to resolve the imbalance in entitlement promises and resources and to reduce the debt as called for by this resolution, a balanced budget constitutional amendment should be passed by the Congress at the earliest possible date to impose on the Congress the discipline needed to achieve these goals."

It was voted down. Guess what the vote was; 9 to 4 against. Not in order.

I commend the gentleman from Utah [Mr. ORTON]; he did vote in favor of a balanced budget amendment. That is great. But when we wanted to have that amendment placed on this, "Not in order. Closed rule."

Let me ask, if I might engage my distinguished friend from Oregon in a colloquy about the thing that I did not agree with with respect to his remarks. He said that in the Republican Contract with America, that there is somewhere hidden in that contract a cut for social security. He said it is hidden in the contract.

I wonder if the gentleman could cite the line and page of the contract where it is hidden.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. HOKE. I yield to the gentleman.

Mr. DEFAZIO. I thank the gentleman for yielding.

Mr. Speaker, it is hidden by implication. You cannot raise defense, lower taxes, and balance the budget.

Mr. HOKE. Reclaiming my time, that is completely untrue. It is not in the budget, it is not hidden, it does not exist because that is not the way we are going to do it.

□ 1030

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, we are in a time where I am not sure that we should not just go home because it has gotten to be such a silly season.

I brought this hot fudge sundae down here because it reminds me of the Republican Contract. I say to my colleagues, "It's not very hard to sell a hot fudge sundae diet. Everybody wants it, but when do you realize that it didn't work, that you're gaining weight on it?" It is one more time that we are wishing and dreaming that, oh, if we could just increase defense, and cut taxes, and balance the budget; gee, that sounds wonderful. We tried it in the 1980's, and we added trillions to the debt, and now we will either add trillions to the debt or we will have to cut Social Security by at least the $157 a month, according to CBO and other people. So, one or the other happens, and I think we should not try to hoodwink the American people that way.

Fine. I mean we know entitlements have got to be dealt with, but we know we are not really going to deal with them here today. We should wait until this commission comes out in December with some really hard choices, and I think at that time what we really need is to get the backbone and the will to come back and start dealing with these issues.

I think the American people want common sense. They want to know that we are going to be fiscally sound. I think they are tired of all this political razzmatazz, and they would like a rendezvous with reality.

So, maybe we ought to go home and rendezvous with reality to our constituents. They are very savvy. They know we cannot cut taxes, increase defense, and balance the budget, and they also know eventually we have to figure out how we are going to deal with entitlements.

In Social Security more have paid more money into that than they have paid into taxes. So, to compare that type of entitlement with other kinds of entitlements is very unfair, and that is hopefully what the commission that is looking at this would look at, and hopefully then we will have some more common sense.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, there were several other points I wanted to make in the first opportunity I had to speak here. Perhaps we can now get into some of those.

I think there are some points on which most of us in this body could agree. That is that in order to have long-term economic and fiscal strength we have to get at or near balance in our budget. The way to do that, the ways to do that, are limited. We either have to radically cut spending or radically increase taxes. Those are the only two ways.

Increasing taxes is not a viable option. The country does not want it, this body does not want it; OK? So that leaves the only other option; that is, cutting spending, and I ask, "Where are you going to cut spending to arrive at that?"

Now, I, as mentioned, voted for the Kasich budget because I believe we have to make drastic cuts in spending. It did not pass. There are a number of other bills that I voted for, the balanced budget amendment and so on, that have not passed. So what we are attempting to do here is engage this body, and, by so engaging this body in a public policy debate, we can engage the country in a public policy debate. We can look at the realities of where are we spending money, where is the budget increasing over the next 5, 10, 20, and 30 years.

That is what the entitlement commission has been doing, and for those people who scoff at the resolution, this resolution is nothing more than the principal finding of the entitlement commission. It is brought to this floor for the purpose of engaging a policy debate. I say to my colleagues, "You cannot start with statutory changes to this program or that program because everyone in the body is supporting this program or that program comes in and, like my colleague from Oregon, argues vehemently, 'Well, we can't cut this because we are hitting the little widow with a $15,000 income,' and that's the point, that we are not trying to do that."

One other point, and then I would be happy to yield to the gentleman.

What we are hoping to do here is test the temperature of this body. Is there a desire to talk about the public policy issues behind entitlements, all of the entitlements? Is there a desire to really look at the realities of life expectancy in this country? When we started Social Security, life expectancy was below 60 years old. It is now above 70 years old. Yet we still have a 65-year retirement age. Do we need to deal with that over the long term? Are COLA's applied appropriately? COLA's began in the 1970's because this body came in giving substantial increases every year based on nothing, and so in an effort to try to hold down costs and save dollars this body created the COLA which put everything on automatic pilot to constantly increase at some arbitrary rate the Consumer Price Index. Is that an appropriate method for calculating COLA's? Who should get COLA's? Should the very wealthy who are earning hundreds of millions of dollars be eligible for those entitlements?

I would ask my colleagues to look at the RECORD on Monday night. I did a 1-hour special order and outlined the information that has been provided to us by the entitlement commission. The areas of the budget that is increasing, increasing the most rapidly, are entitlements. They are the non-means-tested entitlements. If we vote today that we vote against the rule, voting against the rule tells this body and this Nation we do not even want to talk about the public policy of entitlements. I say to my colleagues, "You have got to talk about the policy before you can aim in a direction of where you're even going to start looking to make these changes."

To vote against this rule is to say, "No, it's a month before I'm standing for reelection. I don't want to make any voters mad. I don't want to have anything for my opponent to use in a 30-second campaign ad against me. I simply don't want to have to talk about the issue now. We'll talk about it later."

We have been putting that off for decades. We have got to get to the point where we are willing to have a public dialog on the basic policies of entitlements and how we can start controlling those, and, if we do not start with a sense of the Congress, I promise my colleagues this:

If we pass this rule, and we pass this resolution, and we give this body a direction of where to go, we will come back with specific legislation to accomplish the desires of this body.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The time of the gentleman from Utah [Mr. ORTON] has expired.

Mr. DERRICK. Mr. Speaker, I yield an additional minute to the gentleman from Utah.

Mr. ORTON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me say to the gentleman, "I know that you're sincere and what you have said is so right. In other words, you either have to raise taxes or cut spending. The American people do not want to raise taxes. You, and I and this body doesn't want to. Therefore the only way to go is cutting spending. Our argument is the fact that, when we were pushing A to Z and forgetting the merits or demerits of A to Z, you and others were promised that we would have a debate on this floor of 2 days where we could really debate this issue and then have meaningful cuts. Our problem is we're not being allowed that, and you know that."

Mr. ORTON. Mr. Speaker, I am as disappointed as the gentleman is.

Mr. SOLOMON. As disappointed as I am.

Mr. ORTON. I am as disappointed as the gentleman from New York [Mr. SOLOMON] is that we do not have 2 days to deal with specific real cuts.

Mr. SOLOMON. Right.

□ 1040

Mr. ORTON. If we can start here, if we can start here with the policy debate for a few hours and get some direction about where this body wants to head, we can take this up again in January and February of next year, if we work together.

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield. Would it not be great if we could have had this meaningful dialog 2 months ago followed by meaningful cuts? That is what should have happened.

Mr. ORTON. Mr. Speaker, it should have happened. I wish it could have happened. It has not happened. So the question is, do we now just cut and run and tell the public we do not even want to talk about this a month before the election, or do we really talk about the public policy issues behind these things? Bring it out in the open and let us find the ways, give this body direction of where we can start at the beginning of next year.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY], chairman of the Republican Conference and senior member on the Joint Commission on Economics.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding time to me.

This is a rather pathetic moment in the life of this body. Just last week the Republicans gathered together on the steps of this Capitol, offered a contract to American that was very explicit, written in very clear and precise language, each and every one of the 10 bills that we guaranteed will be brought to the floor under an open rule where everyone would be allowed to offer their amendments, Republican and Democrat alike. It was all spelled out.

The President's chief of staff, Mr. Panetta, who watched us lay our cards on the table, clearly and openly and honestly with the American people, called that a fraud. The Democrats began to attack it on the basis of all kinds of things that are not even in the contract.

Today what does the Democrat leadership do to respond to that? They bring a sense of the Congress resolution to the floor with a closed rule that forbids other amendments from being offered, even to do nothing but talk. The Democrats in this body cannot even abide free and open debate in an academic sense. As the gentleman from Utah [Mr. ORTON] so eloquently suggested, all he wants to do here is talk about it.

My colleagues, that is all in fact we will do here.

Panetta calls our effort a fraud. The gentleman from Utah [Mr. ORTON] has an opportunity, granted to him so graciously by the Democrat leadership, to come to the well with a bill and show his good intentions, to offer a sense of Congress resolution where we could acknowledge to America that we now know everything they have known for years, that entitlement spending is running this nation into the ground, and we ought to do something about it. Big deal.

This is the Democrats' idea of action, create the perception of reality.

One other request to open the debate was made before the Democrat-controlled Committee on Rules by the gentleman from Ohio [Mr. KASICH]. He said if we are going to talk about entitlement spending, the fact that something ought to be done about it, why do we not talk also about the balanced budget amendment that 70 percent of the American people want.

Democrats said we cannot talk about that. If we had a balanced budget amendment, it might mean we would have to do something about entitlements, which today we only want to talk about. Talk about a fraud. My colleagues, if this were any place other than the U.S. Congress, it would be so apparently goofy that people would be laughing at us. They would think this was Imus in the morning.

The Democrats say you cannot get to a balanced budget without slashing and burning entitlements.

Let me tell Members, the way we get to a balanced budget is we cut the increase in spending over the next 5 years from 5.2 percent to 3.2 percent. Not a real cut in the business, no real increase in taxes and we do not touch Social Security. And they ought to be ashamed of themselves for trying to scare the seniors of this country into voting for you in another election year. That story is getting awful old, colleagues.

Mr. DERRICK. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Speaker, anyone listening to this debate would be thoroughly confused, I believe, about what it is we are trying to do here. What we are doing on the Democratic side, to be perfectly blunt about it, is keeping a promise.

We made a promise to at least one Member and maybe more that if they would agree not to sign a petition to bring entitlements to the floor to be slashed, that we could agree to publicly consider the issue. The Republicans call that just talk.

Think about this for a minute. When the Congress appears to move quickly on a matter, the Republicans gin up their talk show machines and this place is flooded with calls saying to us Democrats: "You mean you are not even going to talk about it, you are not going to debate it on the floor, you are not going to do anything about it? You are just going to vote, you are just going to vote on a secondary education act without ever talking about it."

Before we do what the Republicans like, which I truly believe is to take an ax to entitlements to lower middle income people, we thought we ought to publicly discuss it first. That is what we are doing.

Are the Republicans satisfied with that? No. No, they would rather just take the ax to it, and they demonstrated that with that contract out front. The American people know they demonstrated it with that contract out front, because when we add up the promises in the contract and we draw a line and we subtract, do Members know what falls below the line, do they know what has to take the cuts? Social Security and Medicare. It is all that is left in their contract promises. It is all that is left in the Republican cut bull's-eye.

So they are not satisfied to just come before the floor and publicly talk about this, have a rational national discussion about entitlements. They simply want to go after them, and they have wanted to go after them for half a century.

Look at the records, my colleagues. Look and see how they voted on the critical amendments that designed Social Security as we know it today. Republicans voted more than 75 percent those decades ago against Social Security and against those critical amendments that went into the design of today's Social Security. And since then, they have been on record almost every time against Social Security.

Look and see how they voted on Medicare, when it was first designed. They voted overwhelmingly against it. And since then, they have been on record almost every single time as being against Medicare.

Now, Democrats have said we recognize that entitlement growth is a problem in America so let us talk about that problem. Democrats recognize, as do the American people and as do our colleagues on the right, including our colleagues on the far right, we all recognize together that there is a problem with entitlements in this country, a growing problem. President Clinton and Senator KERRY and the gentlewoman from Pennsylvania, Ms. MARGOLIES-MEZVINSKY have established a commission to have a dialog with the American people so that somehow we can come to grips with our constituents regarding what we do about this coming financial crisis in America, a crisis placed on us in large part because of unintended consequences due to entitlements and the growth of that entitlement spending.

□ 1050

Mr. Speaker, we need that dialog. We need that discussion. What we do not need in America is the way our Republican colleagues would deal with this, which is to bring up a bill, slash entitlements, and tell the American people "tough." That is not the way to deal with it. Perhaps a discussion like this is the way to deal with it, even though they call it just talk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FIELDS of Louisiana). The Chair would remind members of the gallery that they are guests of the House, and any manifestations for or against the proceedings of the floor are contrary to House rules.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. COX], a member of the committee.

Mr. COX. Mr. Speaker, I thank the gentleman for yielding time to me.

My colleague just pointed out that rank-and-file Members of Congress complain when the Democratic majority rushes things to the floor, schedules votes, and permits no debate. We also complain, as we are complaining today, when we schedule only debate and no votes. What we actually want to see is action: a deliberative process, real debate, followed by real action.

As I was leaving the airport men's room the other day I saw on the hot air hand dryer, as I was walking out, the work of a populist graffiti artist who had written just above the button "Press here for a message from your Congressman."

Today the choice is between hot air and action. Why are we, in the last hours of the session, debating a nonbinding, sense-of-the-Congress resolution? It is not for lack of substantive vehicles to cut spending. My own budget process reform act, with nearly 200 sponsors in this Congress, deals directly with the problem of entitlement spending. We cannot get it to the floor for a vote.

Mr. Speaker, the commonsense budget reform act deals directly with real spending cuts. H.R. 3801, the overall legislative reform bill proposed by the bipartisan Joint Committee on the Organization of Congress, could be here on the floor, but the Democratic leadership prevents it; most importantly of all, Mr. Speaker, the A-to-Z bill, which would provide 56 hours under an open rule to debate and then vote upon legislative spending cuts.

However, Mr. Speaker, this procedure today, which I am strongly opposing, has been specifically designed to prevent legislative action on spending cuts and to prevent, specifically, A to Z.

I read from a statement by the gentleman from Utah, BILL ORTON, dated June 17, 1994:

> I am very pleased to announce that after weeks of work within the Democratic Caucus, we have developed an alternative to A-to-Z spending cuts. There is a very basic concern that it is almost impossible for individual Members to actually cut spending. The result of this frustration is a large number of Members cosponsoring the A-to-Z bill.

However, he says this approach will prevent A to Z.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to point out that I guess we would have titled this debate "Tell me something I don't know." This is a sense of Congress that says something we know.

I would ask my friends on the other side of the aisle, do they not have any confidence whatsoever in the Entitlement Commission, which was a bipartisan Entitlement Commission which has been put together by our President to study this and make resolutions within the next 3 months, which is an ongoing process? I think that shows a real loss of faith. I resent it, because I am on the Commission.

Mr. Speaker, I want to read from a letter from the gentleman from Pennsylvania [Mr. CLINGER]:

> While facially inoffensive, H. Con. Res. 301 does nothing to address the entitlement spending trends which it criticizes. In fact, the resolution does little more than quote from the real work of the ongoing Bipartisan Commission on Entitlement and Tax Reform. Because this measure is devoid of substance and offers little more than a parliamentary parlor game to provide cover for those unwilling to face true spending reforms, I urge the Rules Committee to deny it a rule and prevent this last minute charade from reaching the House floor.

That says it all, Mr. Speaker.

Mr. DERRICK. Mr. Speaker, I have one speaker, and I reserve the right to close.

Mr. GOSS. Mr. Speaker, I understand we have 1 minute remaining on our side, and the distinguished gentleman from South Carolina [Mr. DERRICK], has only his closing remarks, is that correct?

Mr. DERRICK. That is correct, Mr. Speaker.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would briefly say this debate cannot be too encouraging for those watching it out in the country. We hear all this talk about balancing the budget and about doing something about excessive spending on the Federal level. However, if we cannot even get a resolution to the floor to talk about it, how could anyone have any confidence that we are going to do anything about it?

Mr. Speaker, I include for the RECORD the letter I referred to earlier, which was addressed to the chairman of the Committee on Rules by the gentleman from Pennsylvania [Mr. CLINGER].

The letter referred to is as follows:

COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, DC, October 3, 1994.

Hon. JOHN JOSEPH MOAKLEY,
Chairman, Committee on Rules,
Washington, DC

DEAR MR. CHAIRMAN: It is my understanding that the Rules Committee will meet this afternoon at four o'clock to consider a rule on H. Con. Res. 301, Expressing the Sense of the Congress Regarding Entitlements. I strongly urge that no rule be granted.

Introduced just last Friday, H. Con. Res. 301 was reportedly referred to the Government Operations Committee, although we have yet to receive it. Still, it appears that without formal receipt or notice of waiver, Government Operations has once again been dischared of its jurisdiction over the federal budget process.

While facially inoffensive, H. Con. Res. 301 does nothing to address the entitlement spending trends which it criticizes. In fact the resolution does little more than quote from the real work of the ongong Bipartisan Commission on Entitlement and Tax Reform. Because this measure is devoid of substance and offers little more than a parliamentary parlor game to provide cover for those unwilling to face true spending reforms, I urge the Rules Committee to deny it a rule and prevent this last minute charade from reaching the House floor.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Ranking Minority Member.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would briefly say this debate cannot be too encouraging for those watching it out in the country. We hear all this talk about balancing the budget and about doing something about excessive spending on the Federal level. However, if we cannot even get a resolution to the floor to talk about it, how could anyone have any confidence that we are going to do anything about it?

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. GOSS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The Chair advises Members that this is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 83, noes 339, not voting 12, as follows:

[Roll No. 483]

YEAS—83

Bacchus (FL)
Barca
Berman
Bonior
Browder
Bryant
Clement
Collins (IL)
Conyers
Cooper
Coppersmith
Coyne
Darden
Deal
Derrick
Deutsch
Dixon
Dooley
Edwards (CA)
Fazio
Foglietta
Frank (MA)
Frost
Gephardt
Gibbons
Hamilton
Hansen
Hastings
Hoagland
Hoyer
Hutto
Jacobs
Johnston
Kanjorski
Kennedy
Kleczka
Klink
LaFalce
Lambert
LaRocco
Lloyd
Long
Mann
Margolies-Mezvinsky
Martinez
Matsui
Mazzoli
McDermott
Meehan
Miller (CA)
Mineta
Minge
Moakley
Montgomery
Moran
Murphy
Neal (NC)
Oberstar
Olver
Orton
Parker
Payne (VA)
Pelosi
Penny
Pickle
Reynolds
Rostenkowski
Sabo
Sangmeister
Sawyer
Shepherd
Stark
Stenholm
Swift
Tanner
Taylor (MS)
Torres
Valentine
Vento
Visclosky
Watt
Waxman
Williams

NAYS—339

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hancock
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hughes
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Klein
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
Lancaster
Lantos
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lowey
Lucas
Machtley
Maloney
Manton
Manzullo
Markey
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mink
Molinari
Mollohan
Moorhead
Morella
Murtha
Myers
Nadler
Neal (MA)
Nussle
Obey
Ortiz
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sanders
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stokes
Strickland
Studds
Stump
Stupak
Swett
Synar
Talent
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Unsoeld
Upton
Velazquez
Volkmer
Vucanovich
Walker
Walsh
Waters
Weldon
Wheat
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Barcia
Clayton
Ford (MI)
Gallo
Hamburg
McNulty
Sharp
Slattery
Sundquist
Tucker
Washington
Whitten

□ 1118

Messrs. CUNNINGHAM, DINGELL, FLAKE, OWENS, CLAY, HALL of Ohio, ROEMER, GONZALEZ, and THOMAS of Wyoming, Miss COLLINS of Michigan, Ms. WOOLSEY, Ms. FURSE, Mrs. KENNELLY, and Mr. FIELDS of Louisiana changed their vote from "yea" to "nay."

Messrs. BRYANT, DEUTSCH, STARK, and FOGLIETTA, and Ms. SHEPHERD changed their vote from "nay" to "yea."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, on the vote for House Resolution 563, the rule for providing for consideration of House Concurrent Resolution 301 that expresses the sense of Congress regarding entitlement spending, I was misrecorded as having voted "aye" for the resolution.

PERSONAL EXPLANATION

Mr. BARCIA of Michigan. Mr. Speaker, I rise to indicate that had I been present this morning for the vote on House Resolution 563, I would have cast a "no" vote. However, I was unavoidably detained and could not make it to the floor in time for the vote.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 810. An act for the relief of Elizabeth Hill;

H.R. 2902. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to reauthorize the annual Federal payment to the District of Columbia for fiscal year 1996, and for other purposes;

H.R. 4308. An act to authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes;

H.J. Res. 389. Joint resolution to designate the second Sunday in October of 1994 as "National Children's Day";

H.J. Res. 398. Joint resolution to establish the fourth Sunday of July as "Parents' Day";

H.J. Res. 401. Joint resolution designating the month of March 1995 and March 1996 as "Irish-American Heritage Month"; and

H.J. Res. 415. Joint resolution designating the week beginning October 16, 1994, as "National Penny Charity Week."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested a bill of the House of the following title:

H.R. 4709. An act to make certain technical corrections, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 4217) "An Act to reform the Federal crop insurance program, and for other purposes."

The message also announced that the Senate agrees to the amendment of the

House to the bill (S. 2406) entitled "An Act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes."

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 340. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes;

S. 927. An act for the relief of Wade Bomar, and for other purposes;

S. 1216. An act to resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States;

S. 2341. An act to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reauthorization proceedings before the United States Patent and Trademark Office, and for other purposes;

S. 2457. An act for the relief of Benchmark Rail Group, Inc;

S. 2475. An act to authorize assistance to promote the peaceful resolution of conflicts in Africa;

S. 2500. An act to enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes; and

S. Con. Res. 77 Concurrent Resolution Expressing the sense of Congress regarding the United States position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization.

□ 1120

MAKING IN ORDER AT ANY TIME CONSIDERATION OF HOUSE JOINT RESOLUTION 416, LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that:

At any time hereafter the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of House Joint Resolution 416;

The first reading of the joint resolution be dispensed with;

All points of order against the joint resolution and against its consideration be waived;

General debate be confined to the joint resolution and not exceed 4 hours, equally divided and controlled by the chairman and ranking minority member of the Committee of Foreign Affairs, or their designees;

After general debate the Committee of the Whole rise without motion; and

No further consideration of the joint resolution be in order except pursuant to a subsequent order of the House.

The SPEAKER pro tempore. (Mr. FIELDS of Louisiana). Is there objection to the request of the gentleman from Connecticut?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, I would just say to the gentleman who is propounding the unanimous-consent request that I believe what he is asking for is that we not have to go to the Committee on Rules to bring a rule to the floor which would allow for 4 hours of general debate on the Haiti issue.

However, there will be a Committee on Rules meeting this afternoon at 1 o'clock at which time we will take up a rule which will provide for other alternatives to the bill that will be debated here during this 4 hours this afternoon.

Is that the understanding of the gentleman from the Committee on Foreign Affairs?

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Further reserving the right to object, I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, yes, that is my understanding.

Mr. SOLOMON. Further reserving the right to object, I just wanted to clarify it for the membership, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

TECHNICAL CORRECTION OF OMNIBUS BUDGET RECONCILIATION ACT OF 1993 REGARDING SHARING OF TIMBER SALE RECEIPTS

Mr. DICKS. Mr. Speaker, with the consent of the Republican and Democratic leadership and with the approval of the affected committees, I ask unanimous consent to call up the bill (H.R. 5161) to amend the Omnibus Budget Reconciliation Act of 1993 to permit the prompt sharing of timber sale receipts of the Forest Service and the Bureau of Land Management as a technical correction, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Ms. DUNN of Washington. Mr. Speaker, reserving the right to object, I wonder if I might ask the gentleman from Washington [Mr. DICKS] to explain the bill, please.

Mr. DICKS. Mr. Speaker, will the gentlewoman yield?

Ms. DUNN. Further reserving the right to object, I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, this bill simply allows for necessary technical corrections on a provision in the Omnibus Reconciliation Act of 1993, in chapter 4 entitled "Timber Sales," and specifically sections 13982 and 13983 of the Act, which allow for payments to timber counties in the Northwest through Forest Service and BLM receipts.

There is no budget impact to the technical corrections measure, and the original provision in the Omnibus Reconciliation Act is budget neutral, since it is covered through recaptured revenues from foregoing the Foreign Sales Corporation subsidy to Northwest timber companies.

The Treasury Department has identified this technical correction as necessary in order to fully implement the provisions affecting timber counties, and to carry out the intent of Congress to have these counties receive these payments.

This is simply a maintenance provision necessary for clarity in implementation.

Ms. DUNN. Further reserving the right to object, Mr. Speaker, I thank the gentleman from Washington.

I would like to say that I support this legislation. It is long overdue. The counties affected will be helped greatly by this legislation, and I certainly urge support.

Mr. DICKS. Mr. Speaker, will the gentlewoman yield further?

Ms. DUNN. Further reserving the right to object, I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I appreciate very much the outstanding leadership of the gentlewoman from Washington on this issue, and the cooperation of the gentleman from California [Mr. HERGER], the gentleman from Oregon [Mr. SMITH], and all of the members of the Northwest delegation on both sides of the aisle.

Ms. DUNN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION REGARDING SHARING OF TIMBER SALE RECEIPTS.

(A) FOREST SERVICE.—Section 13982(b)(1) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 681; 16 U.S.C. 500 note) is amended by inserting "out of any money in the Treasury not otherwise appropriated," before "for the benefit of counties".

(b) BUREAU OF LAND MANAGEMENT.—Section 13983(b)(1) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 682; 43 U.S.C. 1181f note) is amended by inserting ", out of any money in the Treasury not otherwise appropriated," after "shall make payments".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMERICAN HERITAGE AREAS ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 562 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 562

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5044) to establish the American Heritage Areas Partnership Program, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed three hours (excluding time consumed by recorded votes and proceedings incidental thereto). Each section shall be considered as read. No amendment to the bill shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII before the beginning of consideration of the bill. Any amendment to the bill caused to be printed in the Record by Representative Vento of Minnesota may amend portions of the bill not yet read for amendment. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I will just announce that it is not our intention to ask for a vote on this rule, so that if Members would have other business to attend to, there probably will not be another vote for a good hour or so on the floor.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from New York for that information.

Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 562 is an open rule providing for the consideration of H.R. 5044, a bill to establish the American Heritage Areas Partnership Program Act of 1994.

The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Natural Resources Committee. The rule provides that each section shall be considered as read. Only those amendments printed in the CONGRESSIONAL RECORD prior to consideration of the bill will be in order and debate on consideration of the bill for amendment is limited to 3 hours. The rule provides that any amendment printed in the RECORD by Representative VENTO may amend portions of the bill not yet read for amendment. Finally, the rule provides one motion to recommit.

Mr. Speaker, recently a motion was offered to suspend the rules and pass the bill (H.R. 5044). Although supported by a large majority, the motion failed the required two-thirds vote. I believe there was general agreement to the concept of the bill although there was some controversy. The resolution recommended by the Rules Committee will adequately protect the right of any Member to address their concerns by amendment.

Mr. Speaker, H.R. 5044 establishes the American Heritage Areas Partnership Program, provides for individual American Heritage Area designation pursuant to that program, directs the National Park Service to study specific areas for inclusion in the program, and makes modifications to several laws that designated certain heritage corridors or areas in the 1980's.

H.R. 5044 also sets forth the minimum criteria for recognition of a management group to administer a heritage area and for developing a management plan. The bill sets limits on the amount of Federal financial assistance any one area may receive and requires State and local governments to provide matching funds for that Federal assistance.

Mr. Speaker, there are currently four congressionally established heritage areas. They have shown that with a small amount of Federal financial and technical assistance, State and local governments along with participating private groups can develop partnerships to manage a variety of historical, cultural, and recreational resources in a way that can be of benefit to all the people living in those areas. The American Heritage Areas Partnership Program is a good, workable program which requires only a small amount of Federal involvement. The Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island, which was established in 1990, is a prime example of how well this cooperative arrangement for cultural and historical preservation works.

Mr. Speaker, I urge adoption of the rule and the bill and I reserve the balance of my time.

☐ 1130

Mr. SOLOMON. Mr. Speaker, I thank the chairman of the Committee on Rules for graciously yielding us half of his time.

Mr. Speaker, I yield myself such time as I may consume.

I join the gentleman from Massachusetts in urging support for this rule, and thank him for his fairness in holding consideration of the bill over until today so that Members had the opportunity to put their amendments in order.

Mr. Speaker, we have before us a modified open rule providing for 1 hour of general debate with a time limit of 3 hours on consideration of amendments.

Those amendments which were printed in the CONGRESSIONAL RECORD prior to the consideration of the bill shall be in order.

While I have some serious concerns about this legislation, I urge support for the rule.

Mr. Speaker, currently the National Park System is facing a 37-year backlog in construction, renovation, and maintenance.

I am sure there are Members listening right now, who have situations similar to mine, where park projects have already been initiated in their districts and these projects need Federal dollars for their completion. In my district alone, sites like the Vanderbilt Mansion and the Saratoga Battlefield have been waiting years for much-needed Federal assistance for their completion.

And yet, here we are diverting tens of millions of dollars to new areas. Where is the sense in that?

Do we not owe it to the American taxpayer to finish projects before we start new ones?

The National Park System can ill-afford to take on any additional financial burdens at this time, let alone those provided for in this bill.

Mr. Speaker, this bill was debated on the floor the other day under suspension, so most Members should be familiar with its contents.

In this final week of the session, time is of the essence. Therefore, the process should go forward with the adoption of this rule.

Mr. Speaker, I submit the following matter relating to open and closed rules for the RECORD.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	102	31	30	71	70

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 4, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A.	
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A.	
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A.	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 6 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding this time to me.

Let me thank the chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], for both yielding time to me and for the rule. This rule is entirely appropriate in that it allows under open debate introduction of the amendments that most concerned us when this bill came up under suspension. The amendment that we will offer today dealing with landowner property rights issues, that is.

For those of the Members who are sitting at their desks watching the television monitors, I will try to give a brief explanation of what is ahead when we begin voting on this bill under this open rule that I hope we will approve shortly.

No. 1, we will be offering now an en bloc amendment by agreement with the authors that will include several changes in the bill.

The first and most important change will be a change that allows the landowners in the affected areas to consent to be covered by this act, to in fact have their property subjected to the regulations that this act would bring to their property pursuant to these heritage and cultural areas.

In short, the landowner consent features very similar to the landowner consent arguments that were made on the biological survey bill will make it clear that the landowners have freedom of choice, to either come under its provisions or not. This will protect, if you will, the right of landowners to be secure against regulations that might take away the use or value of their property without their consent.

I would urge Members to pay particular attention to that part of the en bloc amendment. Mr. REGULA, I am told, will be offering an amendment to delete that portion of the en bloc amendment.

Let me make it clear that is the most important part of the en bloc amendment, the landowner consent feature.

If that is deleted from the amendment, the en bloc amendment will no longer have the kind of protection for private property rights that the bill ought to have. So I would be urging Members to vote against the Regula amendment to the Tauzin en bloc amendment.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me just say—and I will have more to say about property rights of individual Americans—if that amendment were to be successful, if that is knocked out from the gentleman from Louisiana's en bloc, amendment. I am going to guarantee the membership right now there is a Senator over in the other body who will put a hold on this bill and it will never see the light of day.

I just wanted to say that.

Mr. TAUZIN. I thank the gentleman for his comment. Let me make it clear, I would like to see this bill passed, I would like it to see the light of day. I want the Members who have heritage areas, who want protection and Federal help, to get it.

□ 1140

But I want to make sure when this bill goes over to the Senate that it has the adequate protection of property rights that this House has agreed to put on other bills like the Desert Protection Act. If that amendment to guarantee landowners the right of consent to be covered is taken out by the Regula amendment, we will be offering a second amendment at that point.

Let me try to wrap this up. If, if the Tauzin amendment is defeated, or if the gentleman from Ohio [Mr. REGULA] succeeds in gutting out the landowner consent provisions of the Tauzin amendment, we will then offer a second amendment. That second amendment will provide administrative relief to landowners so that, if that property and its value or its use are substantially diminished by the effect of this act without their consent, that the act will then provide that those landowners are entitled to compensation for their property loss just as we have passed that provision on the Desert Protection Act.

Let me say it again. Our first option is landowner consent. This ought to be a consensual program. This ought to be one where the property owners affected by it are partners in this act, not just government telling them what is going to happen. They ought to be full partners in deciding whether to participate fully in these heritage corridors that could be as wide as six counties wide and as long as the Mississippi River. Landowners ought to have the right to say that they want to be or not, that they do not want to be, a part of this kind of land use regulation. But if this House should agree with the gentleman from Ohio [Mr. REGULA] to take out that landowner consent or to defeat the Tauzin amendment, we will be offering a second amendment to guarantee landowners who were brought under this program without their consent, that they will be guaranteed full compensation for the significant loss of property use or value that will flow from these regulations.

Let me sum it up. I am not opposed to heritage acts. I am not opposed to heritage corridors or cultural protection. I think those are all laudable goals, just as wetlands protection and endangered species protection, many other laudable goals in this country. But when these good, laudable goals that are good for all of us in society require some small landowner to reduce his property as a result, the fifth amendment of the Constitution provides a remedy. It says he must be compensated and the compensation must be just. We either must give these landowners the consensual right to join or not join, or if they are forced to join against their consent, we must accord them the right of compensation under the fifth amendment.

I am not talking about a property right. Property does not own rights. I am talking about a civil right to own property in America. That is what these votes will be all about, and I say to my colleagues, if you believe as I do, you'll vote for the Tauzin en bloc amendment and against the Regula amendment that will gut it. If for any reason that amendment fails or the Regula amendment passes, we will be offering the compensation amendment to guarantee property owner rights under the fifth amendment of the Constitution.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume and will say that in just one moment I am going to yield to a very valuable Member of this body. But let me just for a minute tell my colleagues why I have become so exercised about legislation that would lead to the usurpation of the rights of property owners in America.

As my colleagues know, I represent an area of New York State that is one of the most beautiful areas in the world. As a matter of fact, today, it is the most beautiful area in the world because this is the peak day in the Adirondacks when the colors change. Unlike most mountain ranges that are mostly fir trees and pine trees, we have over 100 different species up in the Adirondacks, and they are prevalent throughout the entire range. When the colors change, Mr. Speaker, they are the most beautiful colors, golds, and oranges, and reds, and yellows. I invite all of my colleagues to come up there. No Member can go right now because we are in session, but next year come on up to see the most beautiful area in the world.

But let me tell my colleagues something about that area. There are 6,000,000 acres up there, and the State of New York owns part of that land. But most of it is owned by just plain ordinary people such as myself and my colleagues. And guess what? We have something called the Adirondacks Park Agency, and there is something called regional zoning that was put on top of all of the other local zonings up in these small towns. We do not have any businesses, industries, up there. We have unemployment that runs 9, 10, 11, 12 percent, and in the wintertime up to 20 percent in some of these counties, so the people are really hard-pressed up there. But they have literally been zoned out of the reasonable use of their land. So not only are we talking about national park land where the people do not have rights, but about people who own their own land and really cannot use it as they see fit because they have not been compensated for the taking of their rights to develop it as they see fit.

Now the other thing that I am so concerned about, Mr. Speaker, is headlines like these. In New York State, we have something called the Conservation Department, and it is like the EPA, the Federal EPA. They have such stiff regulations on every issue that the Environment Protection Agency at the Federal level gives up its own authority and says, "You're tougher than we are, so you go ahead and lay down all these laws." Well, they have laid down law so much that New York is the highest-taxed State in the Nation, and more than that, Mr. Speaker, we are the most overregulated State in the Nation.

What does that bring about? Look at this headline. It says, "IBM Deepens Job Cuts. Kingston, Poughkeepsie to lose jobs." Over on the other side of the page it says that 4,000 workers are to lose their jobs in East Fishkill. Now that is down in the southern part of the Hudson Valley, the lower part of the district that I have the privilege of representing.

Then go on over here, and here is another headline. "GE to Cut 1,200 Jobs." This is on top of the 1,800 that they cut just last year. That is 3,000 more jobs that are gone out of our State. "Four Hundred Jobs Going to Mexico. Mallinckrodt to Leave Argyle and go to Juarez, Mexico."

Here is another one. "Scott Paper Planning 300 Layoffs." Three hundred jobs down the drain.

Here is one just yesterday about leather manufacturers in Gloversville and Johnstown, NY, laying off hundreds of workers.

Mr. Speaker, as my colleagues know, this goes on and on. So when we see people like the gentleman from Louisiana [Mr. TAUZIN] and myself stand up here and be concerned about property rights, it is for these reasons. I do not want to have to require a business that wants to locate in one of these heritage areas to go through the Secretary of the Interior to get permits to put up a plant. I want him to go to the local government body and get permits to put up that plant, and that is what the gentleman from Louisiana is talking about. That is all that I am taking about, and that is why we have such concerns about this legislation. If it can be amended properly so that we can live up to its laudable goals without taking away the rights of property owners, then I will vote for this legislation.

Mr. TAUZIN. Mr. Speaker, would the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Louisiana, my friend.

Mr. TAUZIN. Mr. Speaker, there is one thing in this bill that I failed to mention that our amendment will correct that I think deserves mentioning, and that is that this bill picks up some language from the 404 wetlands regulatory program. It is called the no practicable alternative language. I say to the gentleman, "What it means, Mr. SOLOMON, is that just as in wetlands laws this Heritage Act could impose an obligation on Federal agencies not to do the normal things Federal agencies do like flood control projects, assistance and development projects, or housing projects, not to do those things if there is a practicable alternative to do them somewhere else. That's the language that's in this bill."

Our amendment, in addition to correcting the property rights amendment, will also delete that language so we do not have a situation where in the guise of heritage protection people will be told, as they are in the wetlands laws right now, that they cannot use their own property to create jobs, or to form or build their homes, because there is a practicable alternative in two counties down or in Juarez, Mexico. We want to make sure, in effect, that that same language in the wetlands laws is not carried over in this law, and I would urge my colleagues to make sure that that Tauzin amendment is adopted because we clarify that job-killing provision of this Heritage Act.

□ 1150

Mr. SOLOMON. Mr. Speaker, on behalf of business and industry and the farmers in the Hudson Valley, Members can be sure I will be supporting that amendment.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. REGULA], a very, very distinguished Member of this body and one who is really valuable to all of us in looking out for our interests.

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding time to me and I welcome his vote, along with the accolades.

All I want to say to the Members is, listen carefully when we get to the debate so we do not get confused by some of the rhetoric that does not square with the facts.

First of all, I am as sensitive to private property rights as anybody. I live on a farm in a rural area that is unzoned and I am very much aware of how important property rights are.

In this bill, every effort has been made to protect those property rights. It does not allow for any taking by the Federal Government or the local government. It does not allow for a change in zoning by the Federal Government or the local government. It does not allow any encroachment on private property rights.

What this bill does is help people help themselves. That is why in my area, we have Boy Scouts and Kiwanis Clubs and garden clubs and all kinds of volunteer groups that want to put together this historic corridor. They are not going to take anybody's land. They are going to simply clean up the towpath, cut the brush. They are already cutting brush. They are going to try to make bicycle and hiking trails eventually, as a legacy for the generations to come, because in time as more and more urbanization takes place, these open spaces will be ever more valuable.

Here is an opportunity for the Federal Government to lend a helping hand in terms of money, albeit a very small amount of the National Park Service or the Department of the Interior budget, to lend the communities a helping hand which will generate thousands of hours of volunteers being involved in preserving something for today, tomorrow and 100 years or more from now. I think to deny these people the privilege of doing something to enhance the beauty and the historic values of their community would be very unfair.

I might say that the substitute that the gentleman from Louisiana was talking about, we support a number of things that he is proposing, because we do not want to encroach on anybody's property rights. Let me reemphasize, there is no taking, no zoning changes provided, we in no way disturb private property.

The gentleman from New York talked about industry, the loss of industry. Let me say that the Cleveland Growth Association, this is made up of industries and people in the Cuyahoga County area, which is the northern terminus of the Ohio and Erie corridor, has a pamphlet promoting the great things about Cleveland, the north coast, they call it. And one of the features in here is History in the Making.

And they talk about how valuable this corridor would be in attracting industry, in making the quality of life better in northern Ohio and, therefore, saying to industries that would contemplate relocating that this is a great place to put their business because it is a great place for people to live. We have the Cuyahoga Valley National Recreation Area that was authorized by this body and is supported annually with appropriations. Part of the Ohio and Erie corridor goes through the recreation area.

What a great chance we have today to give these 10 communities that are involved in these corridors a helping hand, to say, we will give you a little Federal money. You raise a lot of money locally.

I know our local garden clubs already contributed $100. The Kiwanis has contributed $100 toward getting a matching fund to do this.

But more importantly than the money will be the fact that people will be involved, that those Scout troops and 4H clubs will be out there cleaning the trail and getting a sense of the value of open spaces. Most of it is already public land.

As I mentioned, Cuyahoga Valley, the canal lands are owned by public entities. The rivers, of course, are public. The cities own the areas within the cities. So private property rights are well preserved.

Let us not take on in this bill a separate issue, this whole thing of private property rights is a separate issue that ought to be addressed by this body in another way in establishing perhaps what are the criteria for Federal action, but let us not use this bill as a vehicle for that, because this bill is designed to create these locally initiated and locally managed corridors.

They have been successful. We have three or four of them in the United States now. People like them. In, I think it is, Blackstone they want to expand it because people love it.

Let me say one other thing. Most people of the Eastern States, particularly, do not get a chance to go to the great national parks, the Yosemites and the Grand Canyons and the Yellowstones. But a corridor they can visit every day. They can take the family out for a walk.

We are talking about family values all the time. We are talking about partnerships between Federal and local communities. Here is an ideal vehicle to enhance family values. This family that goes out and cleans a trail and uses that trail on a perhaps daily or weekly basis, it is an opportunity to demonstrate that the Federal Government wants to be a partner with local communities, that we want the Federal Government to be a very valuable presence in helping people help themselves.

I say again, let us not get confused on this broad issue of private property rights. Again, I emphasize, I am as sensitive to that as the gentleman from Louisiana, because I have to live it.

Let us talk about what this does for people. I think that is the value of this bill.

I hope all of our Members will listen carefully to the debate when we get to that so that they make their judgments based on the facts.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule and I support the efforts of the gentleman from Ohio [Mr. REGULA], Stark County, my neighbor. I give him credit for much of the work he has done on this in helping the State of Ohio immensely. I am a very big supporter of the gentleman from Louisiana [Mr. TAUZIN], and I hope that we can work this out, because I think they are two of the better Members. I hope that we can. This is a good bill.

I will not take a whole lot of time. I am hoping that the Democrat Party is listening and they do not bring the GATT rule to the floor of this House. I hope that we pass this rule and we do not, in fact, take up the GATT rule today and give Members more time. And Democrats better run a head count before the Democrat Party loses some Members.

I am hoping that the gentleman from California [Mr. MATSUI] and the gentleman from Massachusetts [Mr. MOAKLEY] will talk with the Speaker.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. I have a letter here from John J. Motley III, vice president of Federal governmental relations for the National Federation of Independent Business. The letter is addressed to my good friend, the gentleman from Louisiana [Mr. TAUZIN].

It says, "On behalf of the more than 600,000 members of the National Federation of Independent Business, I want to express our strong support for your landowner consent amendment to H.R. 5044, the American Heritage Areas Act of 1994. We commend your effort to protect this fundamental right of private property owners." And the letter goes on from there.

Let me say, as I said in my opening remarks, I am going to support the motion to bring this bill to the floor.

Mr. Speaker, I include for the RECORD the letter to which I referred.

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, October 3, 1994.

Hon. BILL TAUZIN,
2330 Rayburn House Office Building,
Washington, DC.

DEAR CONGRESSMAN TAUZIN: On behalf of the more that 600,000 members of the National Federation of Independent Business (NFIB), I want to express our strong support for your landowner consent amendment to H.R. 5044, the American Heritage Areas Act of 1994.

We commend your effort to protect this fundamental right of private property owners, by requiring that a property owner provide their written consent before their property is included in the Heritage Management Area or placed on the inventory list of those properties to be "preserved, restored, managed, developed, or maintained." We also agree strongly that the federal government should not be able to dictate to local entities how to manage these Heritage areas.

Small business owners and landowners have growing concerns about the ever-increasing government intrusion in the name of protecting the environment or other public interests. While small business owners certainly support the preservation of our nation's heritage, they also strongly feel the need to preserve our constitutional private property rights.

This amendment will serve as an important precedent for the protection of private property rights as small business owners and landowners alike need some degree of control and certainty over what takes place on their property. Your amendment will help retain a vital element in ensuring this certainty.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

□ 1200

Mr. Speaker, I have strong reservations about it. We will see what happens during the amendment process.

Mr. Speaker, I yield to my good friend, the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I realize the other side is going to close. I want to make one preemptive strike here.

My friend, the gentleman from Ohio [Mr. REGULA], pointed out that he did not think this bill affected any local zoning ordinances. I want to read to you from a report issued by Mr. Dennis Galvin, associate director of Augusta Canal National Heritage Corridor.

This is his statement: "More specifically," this is what they were required to do under their plan, "More specifically, as called for in the plan, there needs to be adoption of the plan by the City of Augusta, two counties involved, by the State, commitment from all levels of government, and evidence of commitment to modify zoning regulations."

That is what we are talking about. We are talking about major big greenways, and the authority and the commitment to modify land use zoning regulations, so do not let them kid you, that this is not a property rights issue. It is a big one. This will be a big property rights vote when we get to it. I urge Members to pay close attention to the debate when it does come.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee.

Mr. VENTO. Mr. Speaker, I want to first of all thank the chairman and support the rule. It is a fair rule. It gives the opportunity for the opponents of the Heritage Partnership Act, and there are opponents of it, to offer amendments which will basically gut the bill.

The reason that I sought suspension votes and failed nine short on this is because there is no way to reconcile the type of proposals being made here in the name of property rights with the establishment or designation of these heritage area partnership proposals.

Mr. Speaker, I would remind my colleagues that there are about 20 different measures in this bill that affect a large number of Members. Not one Member sponsoring or advocating this is asking for these types of property rights amendments. This is either, in terms of the property rights, a big misunderstanding, or an effort to superimpose one on it and hijack this bill for a different purpose, to make a different point.

I object to that. We are trying to get something done. We are trying to make some positive progress in terms of a partnership act here, where the Federal Government can for once cooperate in partnership with the local governments. What are we getting pushed at us? What are we getting pushed at us? Where is the end of this nonsense?

This Congress doesn't want to set in place what it is that a local government can do in zoning and what they cannot do. But, that is what this is all about. We do not have enough to do around here, we are going to become the local zoning boards in terms of property rights and how people are treated from a zoning point of view.

I think in this bill, Mr. Speaker, I avoid establishing new political subdivisions, and try to give the responsibilities to the State and local governments. It has worked successfully in the heritage areas that we have designated in the past. We've got four of these. This is a model that works.

There is a lot of reform in this bill, there are a lot of initiatives. There is not new money. This money is authorized already under the National Historic Preservation Act. This is a new way of trying to do something to stretch the limited Federal dollars and respond to the needs of people in this body.

Mr. Speaker, if these property rights amendments that are being proposed were to be enacted, they would render this bill moot. It would not work. There is not a local government, there is not a State government, which would accept these types of definitions in terms of limiting.

This would be an individual making a decision here, and there would be anarchy in local government. You would have no control over, basically, the zoning responsibilities that are inherently and appropriately, I think, local, nor is there a place where we can demonstrate where there is a compensation panel that is set up nationwide.

Mr. Speaker, make no mistake about it, if these amendments, if the Regula amendment, which we are bending over backwards here for, we make numerous disclaimers in this bill to avoid interfering with local government. They can enter and use and exercise the powers that they have. The Federal Government can exercise and use the powers.

However, if we want to diminish, eliminate and cut them off at the knees and kill these bills, that is what the Tauzin amendment will do. We will have a good debate on that. The point is we ought to understand what the effects of those amendments are.

This bill is not going to go forward, in my judgment, on that basis. It will not do anything, it will be moot, it will be rendered useless. It may make a point for those that want to score one more point in terms of saying how much they are for property rights, but they will defeat the purpose of this bill and there would be no use in moving forward.

Mr. Speaker, I urge the adoption of the rule. I urge a proper consideration of the amendments. We will be offering some en bloc amendments. I appreciate the cooperation from the gentleman from Louisiana [Mr. TAUZIN] in offering the en bloc amendments, but I disagree with them, and would vigorously oppose amendments.

Mr. Speaker, I want to make clear what the procedure is. The procedure is the consideration of the bill, the en bloc amendments as the bill was prepared on suspension. Then we will have a Tauzin amendment which I will not object to being offered en bloc.

In fact, I appreciate the cooperation the gentleman has shown with regard to limiting the debate time. Then, in concert with the gentleman from Ohio [Mr. REGULA], another sponsor of the bill, we will offer an amendment which will modify the Tauzin amendment. I think it will go as far as we can go in addressing some of the concerns and still make the bill a meaningful bill.

Mr. Speaker, at the conclusion of that we will consider other amendments that have been made in order under the rule that have been printed in the RECORD, and hopefully we will go on to pass this bill. This is a very good bill, it is a good initiative.

As far as the demands that are being made in the Senate as to how we can conduct ourselves and what we can do, it seems to me the one-Senator veto program is working pretty well over there. But, I would like to put this bill on their door and see if we have an opportunity to pass really what has been a significant amount of work.

Mr. Speaker, we have been working on this bill for years. I have been personally working on it very hard for the last 5 months. I think the Members in this body that have elements in this bill very much would appreciate a positive vote, and other Members resisting the opportunity today to pull down this particular bill. It is a very important bill to those Members.

Resist this property rights amendment, resist it here. We do not affect property rights. We should not try to solve that particular problem on this bill.

Mr. Speaker, I urge the Members to support the bill, and I thank the chairman of the committee for yielding time to me.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 562 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5044.

☐ 1206

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5044), to establish the American Heritage Areas Partnership Program, and for other purposes, with Mr. MENENDEZ in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise in support of the bill. This bill establishes the American Heritage Areas Partnership Program. It provides for individual American heritage area designations pursuant to the program that directs the National Park Service to study specific areas for inclusion.

This bill, while providing a generic or an overall legislative mandate and program, also, of course, designates a number of areas. The basic provisions of the bill in terms of setting forth the generic proposed law concerning the American Heritage Areas Partnership Program incorporate the provisions of H.R. 3707, which I introduced in November 1993.

That bill had hearings, went through the committee, was marked up in the committee, was the subject of a major compromise between members of the minority and majority in the committee, and has bipartisan support.

Mr. Chairman, furthermore, all the provisions in the bill that relate to the American heritage designations have been the subject of hearings in the committee, have been processed by the committee. They had not all been marked up, but are generally agreed to by most members.

Mr. Speaker, there are some very, very important provisions in this dealing with Vancouver, dealing with Wheeling, WV, for example. Some of them, in fact, Mr. Speaker, have received funding from the Committee on Appropriations, but without an overall authorization bill or without a policy to guide these measures.

Mr. Speaker, I want to especially commend my colleague, the gentleman from New York [Mr. HINCHEY] for his efforts with regard to the heritage area legislation. After introducing his own version he has graciously agreed to work with me to draft and craft the proposal that is now before us. As my colleagues know, we have advocated for some time the establishment of a more effective process to recognize these important resources.

In fact, Mr. Speaker, this is a true partnership act. I think the word "partnership" often gets overworked with regard to what it means, but here is a case where we really have local governments, State governments, forming a compact, making commitments in concert and in agreement with the Federal Government, with the Department of the Interior. So here we have a real partnership.

Today we have, as the Members know, landmarks that are identified and recognized by the Department of the Interior. We have historic districts that undergo State and Federal recognition, but there are not dollars flowing to them. Here we have an opportunity for Congress to actually designate the areas.

People are going to show us maps today that suggest there are all kinds of areas that could be heritage areas. That is true, but Congress has to designate any such area. No area can become a heritage area unless Congress designates it.

□ 1210

Then, too, the amount of support is limited. It is matched by local governments, it comes out of existing authorization, so it is not new spending or new authorization, and there is a limit to the length of time or the amount of money the Federal Government can be in a heritage area. In 10 years, we are out of there. Then they are on their own and we all get the benefit of that conservation.

Mr. Chairman, H.R. 5044, the omnibus heritage areas legislation, establishes the American Heritage Areas Partnership Program, provides for individual American heritage areas designations pursuant to that program, directs the National Park Service to study certain specific areas for inclusion in the program, and makes modifications to several laws that designated certain heritage corridors or areas in the 1980's. This legislation represents a consensus among the administration, a bipartisan group of members of the Committee on Natural Resources and other interested parties, that innovative ways must be found to extend national preservation efforts in a new cost-effective manner.

H.R. 5044 was considered under suspension of the rules last week, and a significant majority of House Members supported its enactment, but the bill failed to get the two-thirds necessary for passage. Unfortunately, misinformation about the bill has created confusion about the effect of this legislation, and I welcome this further debate and the opportunity to set the record straight on this legislation.

AMERICAN HERITAGE AREAS PARTNERSHIP PROGRAM

H.R. 5044 incorporates the provisions of H.R. 3707, which I introduced in November 1993, and which establishes the American Heritage Areas Partnership Program within the Department of the Interior. The bill was reported favorably to the House by the Committee on Natural Resources on May 25, 1994, and has the strong support of the administration and Members on both sides of the aisle who are committed to developing this partnership between the Federal Government and State and local officials to assure the preservation and conservation of some of our most valuable resources.

These provisions have continued to evolve through discussions with the minority, with the administration, and with other interested parties, and I believe the version we are bringing to the floor today is a better bill because of this input.

I would like to commend my colleague on the committee, Mr. HINCHEY, for his efforts with regard to heritage area legislation. After introducing his own version, he has graciously agreed to work with me on my draft and has provided substantial insight into the process from his own experience tin dealing with this type of legislation as a State legislator in New York. I appreciate his input.

As my colleagues know, I have advocated for some time the establishment of a more effective process by which to recognize the important resources contained in so-called heritage areas while limiting Federal involvement in their development and operation. Our Nation contains many geographically and thematically unified areas, which include significant resources worthy of preservation and conservation. In many cases, these areas are connected by greenways, trails, or natural corridors which could be the focus of innovative management ideas. Such areas are important nationally, and are best managed in a true Federal partnership with State and local government and private entities.

In fact, the strong State, local, and private support these areas receive, and their diverse resources, indicate that national involvement, while welcome and necessary, should be limited. The professional expertise of the National Park Service can be useful in identifying and providing assistance for defining, establishing, and managing these important areas. However, the diversity of their resources, the ownership patterns, and the variety of uses and activities taking place, suggest that a true Federal partnership, wherein the National Government provides recognition and limited financial and technical assistance, and other entities, through the State and local governments, manage and fund the largest share of the necessary preservation and interpretation, is the most appropriate method of preserving these areas.

Proposals for heritage areas or corridors have significantly increased in the past several years; there are currently four such areas affiliated with the National Park Service. Budgetary reality suggests that limited funds will be available to accommodate existing units of the National Park System, and less will be available for establishing new national park units or proposed heritage areas. The American Heritage Areas Program under consideration today would extend national preservation efforts in a new cost effective manner and would assure that new heritage areas or corridors will have been properly reviewed.

The text of the bill we are considering today incorporates the consensus I have reached with various parties on these issues. The bill defines an American Heritage Area and lists the criteria for designation. Designation will require an act of Congress after an entity requesting designation has submitted a feasibility study and compact approved by the Secretary. Proposed areas may qualify for limited technical and financial assistance before designation, and after established, heritage areas may receive technical and financial assistance for the purpose of developing and implementing a comprehensive management plan. The bill also provides for the withdrawal of designation if the Secretary determines that the area no longer meets the criteria.

The legislation states minimum criteria for recognition of a management entity to administer an individual heritage area, prohibits the use of Federal funds received through this act for the acquisition of property, and limits a management entity's eligibility to receive Federal funds for 10 years, with an additional 5 authorized if the Secretary approves. Other Federal agencies are required to coordinate their activities within a designated heritage area to the extent possible.

Authorization for specified activities within an area are limited as follows:

A maximum of $100,000 for feasibility studies, $150,000 for compacts, $150,000 for management plans, and $250,000 for early actions. All of the preceding must received a 25-percent match, and the total annual funding for all such assistance is limited to $10 million.

Management entities may receive up to $250,000 annually, but must provide a 50-percent match for Federal funding for this purpose.

Technical assistance provided by the National Park Service is limited to $150,000 annually for each American Heritage Area. Such assistance is defined as guidance, advice, help, or aid, other than financial aid. Services procured from the private sector by a management entity using funds provided under the American Heritage Areas Partnership Program are not considered technical assistance. Only that assistance provided by the employees of the Department of the Interior will be counted as technical assistance for the purposes of this program.

For grants to assist in implementing management plans, the bill provides $25 million annually, with no one area eligible to receive more than 10 percent of the annual appropriation for this purpose, and with the conditions that the area must provide a 50-percent match, and that no area may receive more than $10 million for this purpose in total.

H.R. 5044 authorizes the program for 25 years, and states that this act does not affect existing authorities for established heritage areas.

Questions were raised during our discussions on heritage areas about certain provisions, and I would like to take this opportunity to set the record straight on a few issues.

This is not a Federal land grab. These areas will be established as the result of local initiative; heritage area designation will require initial nomination by local groups and a demonstration of strong commitment by local and State entities. Furthermore, the bill expressly forbids the use of Federal funds to acquire property. Finally, section 110 underscores the fact that nothing in this act shall be construed to enlarge, diminish, or modify any current authority under Federal, State, and local law to regulate land use. Land use plans for a designated area may be adopted and implemented by local governments or those entities authorized by State law to exercise such authorities concerning private property use. While State and local governments may choose to adopt land use plans and regulations in support of American heritage areas, nothing in this bill requires such action, nor does this bill grant such authority to management entities. Zoning regulations are not affected by this act and remain under the jurisdiction of State and local governments. No new authorities, including the authority to impose or enforce new Federal regulations, are included or anticipated.

The bill does direct other Federal entities to consult with the Secretary and to coordinate their activities within an American heritage area to the extent practicable. Such agencies are to conduct activities within a designated American heritage area consistent with the management plan unless the Federal entity determines that there is no practicable alternative.

This requirement does not subordinate other Federal agencies to the Secretary of the Interior. The affected Federal entities may take such actions as they deem necessary regardless of the Secretary's approval. This provision merely requires appropriate coordination to eliminate wasteful duplication of efforts and to minimize the impacts of actions which may adversely affect the resources contained in the American heritage area. This language was suggested by OMB, which coordinated discussions with other Federal agencies, and is supported by the administration.

Finally, the funding levels prescribed by the bill were those suggested by the administration. This is a program designed to minimize the Federal Government's direct involvement in American heritage areas. Matches are required for each category of Federal funding, and there are conditions placed upon the future uses of projects completed with Federal funds. There is an overall cap on spending for each American heritage area, and Federal funding is limited to 10 years for each area, with a 5-year renewal subject to certain conditions.

As Members know, there have been many requests for funding through the appropriations process, and we are seeing more and more Members seeking park designation for such areas which are not really appropriate for inclusion in the National Park System. This program, and the level of funding associated with it, are designed to encourage this limited approach instead of continuing the earmarks and park designations now consuming so much of the National Park Service budget. I believe the funding contained in this bill provides an appropriate incentive for areas which seek Federal funding while limiting Federal involvement in these initiatives.

Mr. Speaker, Americans are increasingly interested in conserving and preserving natural areas and cultural symbols. There is also an increased understanding that resource preservation and economic viability are not mutually exclusive but compatible and mutually enhancing. Obviously, the National Government can neither own nor manage each property or area worthy of preservation. In these active communities containing a variety of resources, multiple management and funding sources would be the most appropriate method of preserving and interpreting the nationally important resources and themes.

I believe H.R. 5044 provides national encouragement for protecting these assets without instituting a massive new Federal bureaucracy or providing significant Federal funding. The Federal Government will neither own nor manage the resources assembled in these areas. These are dynamic, thriving communities, which with the assistance of the National Park Service will maintain an appropriate balance between preservation and growth.

INDIVIDUAL DESIGNATIONS

While H.R. 5044 establishes an American Heritage Areas Partnership Program, and specifically a process by which heritage areas could be nominated and designated American heritage areas, we are providing for the designation in this bill of certain areas as American heritage areas.

Many local groups have already begun working to complete studies and nominations pending the enactment of generic heritage area legislation. Some of these attempts have been underway for some time and there have been concerns expressed by supporters that delays may endanger the resources contained in the proposed areas and disrupt the coalitions formed to assist these projects. To avoid uncertainty and unnecessary delays, I have agreed to consider several of these proposals. These proposals have all been heard by the Subcommittee on National Parks, Forests and Public Lands and have been tailored to the provisions of the generic legislation to the extent possible.

AMERICAN COAL HERITAGE AREA

The section designating the American Coal Heritage Area includes provisions of two bills: H.R. 3988, The West Virginia National Coal Heritage Act of 1994 introduced by Representative RAHALL on March 9, 1994, and H.R. 4692, the Appalachian Coal Heritage Act of 1994 introduced by Representative BOUCHER on June 30, 1994. These bills concern contiguous coal mining communities in southern West Virginia and in southwestern Virginia, including Pocahontas, Virginia, and Bramwell WV, towns on either side of the State line that grew up around the Pocahontas Coal Mine. The Subcommittee on National Parks, Forests, and Public Lands held a hearing on the Rahall and Boucher measures on July 28, 1994.

The Pocahontas Coal Mine opened in 1882, changing forever the corner of Appalachia at the Virginia/West Virginia State line. Local architecture reflects the migration to this area of Hungarian, German, and Welsh workers, along with others, near the turn of the century.

The West Virginia mining conflicts of the first decades of this century pitted workers and their families against not only mine owners but also against the U.S. Army, providing a significant, if dark, chapter in the history of the labor movement and Appalachia. The best known of these incidents are the battle of Matewan and the battle of Blair Mountain.

Section 201 of H.R. 5044 authorizes the establishment of the American Coal Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The area will be managed pursuant to the provisions of Title I.

AUGUSTA CANAL AMERICAN HERITAGE AREA

The section designating the Augusta Canal American Heritage Area incorporates many of the provisions of H.R. 2949, introduced by Representative JOHNSON of Georgia on August 6, 1993. The Subcommittee on National Parks, Forests, and Public Lands held a hearing on H.R. 2949 on June 28, 1994.

The Augusta Canal in Augusta, GA, was constructed in 1845 to transport cotton from its source to downtown Augusta, prompting the construction of several textile mills in the city, and the subsequent rise of the area as a center of cotton manufacturing in the South. In 1875, the canal was expanded, bringing new economic and social vitality to the city. The canal, a national historic landmark, remains intact along with much of its associated historic, cultural, and natural setting in the adjacent industrial area, an example of 19th century Southern industrial development.

The Augusta Canal Authority, established by the General Assembly of Georgia in 1989, has prepared the Augusta Canal master plan with funding from the State of Georgia, the city of Augusta, Columbia County, and the U.S. Departments of Transportation and Interior. The plan identifies actions to preserve and interpret the canal and related resources, while also proposing strategies to extend the influence of the canal and its setting to enhance the natural and urban environment of Augusta.

Section 202 of H.R. 5044 authorizes the establishment of the Augusta Canal American

Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The Augusta Canal Authority is identified as an appropriate management entity, and the area will be managed pursuant to the provisions of title I.

CANE RIVER AMERICAN HERITAGE AREA

The section designating the Cane River American Heritage Area incorporates many of the provisions of S. 1980, introduced by Senator JOHNSTON on March 24, 1993. The Subcommittee on National Parks, Forests and Public Lands held a hearing on S. 1980 on July 28, 1994.

The Town of Natchitoches, LA, is the oldest permanent settlement within the Louisiana Purchase territory, and was the site of the western-most fort of the French Empire, Fort St. Jean Baptiste. In 1767, this part of the French Empire was ceded to Spain. The subsequent conversion of the frontier economy to an agricultural economy led to the development of a plantation economy based on slave labor. In 1803, this area was ceded back to France, and shortly thereafter the Louisiana Purchase gave jurisdiction over the area to the United States.

The early years of French and Spanish domination, and the relative isolation of the area, left a lasting legacy in Natchitoches Parish. One aspect of this multi-cultural history was the development and nurturing of a unique culture on Isle Brevelle, the Cane River creoles of color, a distinct community which exists today. Nearby Cloutierville retains its French small village flavor, and the life and folkways of the town were the basis for many of the fictional writings of Kate Chopin, who lived there between 1879 and 1884.

A congressionally directed National Park Service special resource study completed in 1993 found several resources within the Cane River study area nationally significant, and recommended an approach which would combine National Park Service management of certain specified properties with a heritage partnership framework for the larger area. Section 203 of H.R. 5044 authorizes the establishment of the Cane River American Heritage Area upon publication of a notice in the Federal Register that the Secretary has approved the compact. The Secretary is authorized to designate a coalition of listed representatives as the management entity for the area, which will be managed pursuant to title I.

ESSEX AMERICAN HERITAGE AREA

The section designating the Essex American Heritage Area incorporates many of the provisions of H.R. 1685, introduced by Representative TORKILDSEN on April 2, 1993. The Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 1685 on June 28, 1994.

Essex County in Massachusetts contains historic, cultural, and natural resources reflecting the themes associated with Salem Maritime National Historic Site, including the history of early settlement, maritime trade, and textile and leather industries. In 1987, the city of Salem, MA, contracted for the development of a "heritage park" plan to link the Salem Maritime National Historic Site more closely with the surrounding communities. The resulting Salem partnership, including representatives from the National Park Service, local government, and the private sector produced an action plan to promote rehabilitation and expansion of the Salem Maritime National Historic Site and improvements in the city's other historic resources and visitor services.

In 1990, the National Park Service produced a study of alternatives ranging from rehabilitation of Salem Maritime NHS to a county-wide system of historic sites with several adjunct visitor centers and county-wide interpretive themes. The Essex Heritage Ad Hoc Commission, consisting of mayors of the towns in Essex County, representatives of private interests, and residents, was formed, and along with the Salem Partnership is proceeding with implementation of the countywide preservation and promotion aspects pending legislation authorizing the Essex American Heritage Area.

Section 204 of H.R. 5044 authorizes the establishment of the Essex American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The area will be managed pursuant to the provisions of title I.

Because the proposed Essex American Heritage Area contains two National Park System units, Saugus Iron Works National Historic Site and Salem Maritime National Historic Site, it is expected that park operations will be closely coordinated. In particular, Salem Maritime National Historic Site will plan an important role in visitor orientation and interpretation of the related themes in the surrounding heritage area.

HUDSON RIVER VALLEY AMERICAN HERITAGE AREA

The section designating the Hudson River Valley American Heritage Area incorporates many of the provisions of H.R. 4720, introduced by Representative HINCHEY on June 30, 1994. The Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 4720 on July 28, 1994.

The Hudson River Valley embraces natural, historic, cultural, and recreation resources between Troy, NY and the border of New York City representing themes of settlement and migration, transportation, and commerce. The Hudson River Valley Greenway, created by the State of New York, creates a framework for voluntary regional cooperation in the 10 counties of New York's Hudson River Valley, emphasizing both environmental protection and economic development. The State of New York has established a structure in which the communities in the Hudson River Valley may join together to preserve, conserve, and manage these resources, and to link them through trails. The National importance of the resources contained in the valley, as well as the scope of the greenway project indicate that Federal participation in development and preserving the resources could be appropriate.

Section 205 of H.R. 5044 authorizes the establishment of the Hudson River Valley American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The Hudson River Valley Greenway Communities Council and the Greenway Conservancy are identified as appropriate management entities, and the area will be managed pursuant to the provisions of title I.

OHIO & ERIE CANAL AMERICAN HERITAGE AREA

The section designating the Ohio & Erie Canal American Heritage Area incorporates many of the provisions of H.R. 3593, introduced by Representative REGULA on November 20, 1993. The Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 3593 on April 26, 1994.

In fiscal year 1991, Congress appropriated funds for a National Park Service study of the Ohio & Erie Canal corridor. That study, released in September 1993, found the area suitable for designation as an affiliated area of the National Park System. Its purpose would be to preserve the canal, the first inland waterway link between the Great Lakes and the Gulf of Mexico, and to Chronicle the evolution of transportation systems in America.

Section 206 of H.R. 5044 authorizes the establishment of the Ohio & Erie Canal American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The Secretary is authorized to recognize a coalition of specified representatives as the management entity, and the area will be managed pursuant to the provisions of title I.

SHENANDOAH VALLEY BATTLEFIELDS AMERICAN HERITAGE AREA

This section authorizes the establishment of a Shenandoah Valley Battlefields American Heritage Area, which incorporates some of the provisions of H.R. 746, the Shenandoah Valley National Battlefields Partnership Act of 1993, introduced February 2, 1993 by Congressman WOLF, and its companion, S. 1033, which was passed by the Senate on June 8, 1994.

The Shenandoah Valley of Virginia was the site of 326 armed conflicts during the Civil War, 15 of which were battles of major significance. The valley's position enhanced its strategic significance in the war; it is defined at its northern end by the first range of the Allegheny Mountains, separated from the Virginia Piedmont by the Blue Ridge Mountains and divided in the middle by the large and complex ridge of Massanutten Mountain.

Two significant Civil War campaigns took place in the Shenandoah Valley. In 1862 Stonewall Jackson brought 17,000 confederate troops into the valley and, using his detailed knowledge of the valley's topography, rivers and road, bested three Union armies of twice the manpower, forcing the Union to divert troops from the confederate capital at Richmond, which had been at risk from the growing Union presence outside of town.

In 1864, Union General Sheridan attacked from the north, devastating the confederate troops commanded by Jubal Early, and burning the valley's farms and mills along the way, disrupted the food supply. The campaign concluded with a decisive Union victory at Cedar Creek that served to build public confidence in the White House in the month before Lincoln's reelection.

In 1990, Congress authorized a National Park Service study of the Civil War battlefields of the Shenandoah Valley. The report identifying the resources was issued in September 1992. In September 1993, the National Park Service issued a followup report recommending the creation of a heritage area to protect and interpret these resources.

Section 207 of H.R. 5044 authorizes the establishment of the Shenandoah Valley Battlefield American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The area will be managed pursuant to the provisions of title I.

STEEL INDUSTRY AMERICAN HERITAGE AREA

This section authorizes the establishment of the Steel Industry American Heritage Area in southwestern Pennsylvania centered around the city of Pittsburgh. It contains elements of H.R. 3144, the Steel Industry Heritage Project, introduced by Representative COYNE on September 28, 1993.

Southwestern Pennsylvania was a center of activity during the Industrial Revolution and the steel industry of that region played a key role in the establishment in the 1920's of the preeminence of the United States in mass production industries. It also gave occasion for a new chapter in the history of the labor movement, spawning such labor organizations as the Congress of Industrial Workers and the United Steel Workers of America. It attracted immigrants whose culture became a part of the region's heritage, and shaped settlement patterns across six counties, including the city of Pittsburgh.

In 1988, as a part of the Southwestern Pennsylvania industrial Heritage Preservation Commission's enabling legislation (PL 100–698), Congress authorized the Commission to conduct a study of the Greater Allegheny and Washington Counties/Mon Valley area, in coordination with the Pittsburgh Area Steel Industry Heritage Task Force. The study, which was completed in March 1993, recommends the establishment of a steel heritage area, to be carried out under cooperative management.

Section 208 of H.R. 5044 authorities the establishment of the Steel Industry American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The area will be managed pursuant to the provisions of title I.

VANCOUVER AMERICAN HERITAGE AREA

This section authorizes the establishment of the Vancouver American Heritage Area in Washington State, incorporating aspects of H.R. 4607, the Vancouver national Heritage Area Partnership Act of 1994, introduced on June 21, 1994, by Congresswoman UNSOELD.

Vancouver, Washington's location on the Columbia River has played a part in several chapters of U.S. history. Fort Vancouver, established in 1825, was the regional headquarters of the Hudson's Bay Co. Vancouver Barracks has served the U.S. Army from the mid-1800's. Officer's Row, an avenue of historic homes, housed top military leaders for over 100 years. Pearson airpark, now a general aviation airport, played a role in the development of aviation.

Congress passed a law in 1948 to establish the Fort Vancouver National Monument, and in 1961 redesignated it the Fort Vancouver National Historic Site. Because nearly all of the fort's structures were destroyed within 6 years of its abandonment by the Hudson's Bay Co. in 1860, the site comprises reconstructed structures based on archeological data.

Next to Fort Vancouver is Pearson Airpark, including an aircraft museum. In 1972 the National Park Service paid over $500,000 to acquire from the city of Vancouver a portion of the runway and other land serving Pearson Airpark. The general management plan for the fort provides for the acquired lands to eventually be open space with plantings compatible with the fort. Use of this land for airport operation has been an ongoing matter of concern and discussion and is one of the aspect the bill seeks to address.

In November 1990, Congress established the Vancouver Historical Study Commission to study the feasibility of establishing a historical reserve to preserve and protect the area's special resources (P.L. 101–523). The study was completed in April 1993, and found the establishment of a partnership to preserve Vancouver's resources both feasible and suitable.

Section 209 of H.R. 5044 authorizes the establishment of the Vancouver American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The areas will be managed pursuant to the provisions of title I. In addition, the bill provides for the phasing out of general aviation at Pearson Airpark by 2022.

WHEELING AMERICAN HERITAGE AREA

The section designating the Wheeling American Heritage Area incorporates many of the provisions of H.R. 2843, introduced by Representative MOLLOHAN on August 3, 1993. The Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 2843 November 16, 1993.

Wheeling, WV became a center for transportation and industry in the first half of the 19th century. Serving as the western terminus of the National Road in the early 1800's as well as one of the few major inland ports, Wheeling was home to developing industries such as coal, iron and steel, tobacco, glass, china, title, and boat building. The resources remaining in Wheeling illustrate and interpret transportation and industrial themes in America's development.

Since enactment of Public Law 100–121, the fiscal year 1990 Interior and related Agencies Appropriations Act, which appropriated funds for a study, the National Park Service has been working with the city of Wheeling and the State of West Virginia to evaluate the city's resources and develop a plan for the preservation, promotion, interpretation, and development of these resources. In August 1992, all parties approved a plan which calls for the establishment of the Wheeling National Heritage Area.

Section 210 of H.R. 5044 authorizes the establishment of the Wheeling American Heritage Area upon publication in the Federal Register that the Secretary of the Interior has approved the compact. The area will be managed pursuant to the provisions of title I, and funding for the Wheeling American Heritage Area will be limited to $5 million for capital projects, $1 million for planning, and $500,000 for technical assistance. Both capital projects and planning require a 50-percent match for Federal funds.

OHIO RIVER STUDY

The section directing a study of the Ohio River corridor incorporates many of the provisions of H.R. 2095, introduced by Representative HAMILTON on May 12, 1993.

The Ohio River flows through six States from its headwaters in the Commonwealth of Pennsylvania to its confluence with the Mississippi River and comprises a chain of commercial, industrial, historical, archaeological, natural, recreational, scenic, wildlife, urban, rural, cultural, and economic areas. Section 301 of title III directs the Secretary of the Interior to complete within 2 years a study of the feasibility and suitability of designating this section of the Ohio River as an American Heritage Area.

FOX AND LOWER WISCONSIN RIVER STUDY

The section directing a study of the Fox and Lower Wisconsin River corridor incorporates many of the provisions of S. 344, introduced by Senator KOHL on February 4, 1993, and approved by the Senate on March 17, 1993.

The Fox-Wisconsin Waterway, the discovery route of Marquette and Joliet, connects the Great Lakes and the Mississippi River, was critical to the opening of the Northwest Territory and served as a major artery in bringing commerce to the interior of the United States and in providing a vital communication link for early explorers, missionaries, and fur traders. Section 302 or title III directs the Secretary of the Interior to complete within 2 years a study of the feasibility and suitability of designating the Fox and Lower Wisconsin River corridors as an American Heritage area.

SOUTH CAROLINA CORRIDOR STUDY

The section directing the National Park Service to cooperate in a study of the South Carolina corridor incorporates many of the provisions of H.R. 4330, introduced by Representative DERRICK on May 3, 1994.

More than 250 miles in length, a corridor stretching from Charleston, SC, to Oconee County in the upcountry possesses a diversity of significant natural, historic, and cultural resources related to past and current commerce, transportation, mining, cattle, pottery, and national defense industries in the region providing significant ecological, natural, tourism, recreational, timber, management, educational, and economic benefits. Section 303 of title III directs the Secretary to cooperate with the South Carolina Department of Parks, Recreation, and Tourism in preparing a study on the feasibility and suitability of designating the South Carolina corridor as an American Heritage Area.

NORTHERN FRONTIER STUDY

The section directing a study of the struggle for American independence within the northern frontier incorporates many of the provisions of H.R. 79, introduced by Representative BOEHLERT on January 5, 1993.

The Northern Frontier, comprising the Mohawk Valley in the State of New York and the country of the Six Nations—Iroquis Confederacy—was extremely valuable to both sides of the American Revolutionary War, as well as for the establishment of the Northern Indian Department there. Section 304 of title III directs the Secretary to complete within 2 years a study of the suitability and feasibility of designating the Northern Frontier as an American Heritage Area.

BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

The title amending the Blackstone River Valley National Heritage Corridor establishment incorporates many of the provisions of H.R. 2633, introduced by Representative NEAL of Massachusetts on July 14, 1993. The Subcommittee on National Parks, Forests and Public Lands held a hearing on H.R. 2633 on April 26, 1994.

The Blackstone River Valley National Heritage Corridor was established by Public Law 99–647 in 1986 to preserve and interpret the nationally significant resources of the corridor associated with the American industrial revolution. The corridor consists of the 46-mile segment of the Blackstone River running from Worcester, MA to Providence, RI, and includes 20 communities in two States. The 19-member Blackstone River Valley National Heritage Corridor Commission was established by Public Law 99–647 to develop and implement a plan for preserving and interpreting the corridor's resources. The Blackstone River Valley cultural heritage and land management plan was approved by the Secretary of the Interior in June 1990, and the Commission is slated to terminate in 1996. The establishing act authorized $250,000 annually for the Commission with the Federal contribution not to exceed 50 percent of the costs of the Commission's operation.

Public Law 101–441, enacted in 1990, authorized the Secretary to provide limited financial assistance for qualified projects within the corridor. The Federal contribution for such projects was limited to 50 percent, and the Secretary was required to give consideration to projects providing a greater leverage of Federal funds. Public Law 101–441 also authorized $350,000 annually for the Commission's operations and $1 million annually for fiscal years 1991–93 for the financial assistance authorized by the act.

Title IV of H.R. 5044 revises the boundaries of the Blackstone River Valley National heritage corridor to include five additional communuities—Worcester and Leicester in Massachusetts, and Burrillville, Gocester, and Smithfield in Rhode Island, and specifies the revision of the cultural heritage and land management plan accordingly. The bill extends the Commission for an additional 7 years, and increases the authorization for funding for the Commission's operation to $500,000 annually. This title also authorizes an additional $5 million for development and interpretive materials and programs in the corridor.

BRAMWELL NATIONAL HISTORIC DISTRICT

The section directing the establishment of the Bramwell National Historic District accomplishes many of the purposes of H.R 793, the Bramwell National Historical Park Act of 1993, introduced by Representative RAHALL on February 3, 1993, in recognition of the importance of preserving, restoring, and interpreting the historical, cultural and architectural values of the town of Bramwell, WV.

SOUTHWESTERN PENNSYLVANIA AMERICAN HERITAGE AREA

The provisions regarding the Southwestern Pennsylvania Heritage Area modify the original 1988 law dealing with this area to provide more accountability and control on the use of Federal funds in the area, as Federal participation in the project draws to a close over the next several years. These changes will allow work on the project to continue but limits the overall scope and involvement of the Federal Government to the minimum necessary to complete the work underway in the area.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not the first time we have looked at this particular piece of legislation. As many Members know, it was defeated on suspension just a few days ago. Since that time, there have been some modifications to the bill which many people have found objectionable. I am sure we can overcome many of those today as we move forward with this.

It is an interesting piece of legislation because it is a way that we work into parks that we have not done in the past. We find ourselves now coming up with a new provision, a new designation for what a park would be. These are scattered from one coast to the other and many Members are very interested in them. I think the gentleman from Ohio said it well when he talked about many people cannot go out to the Yellowstone and the Zion and the Bryce and the Grand Canyon but they can walk into these heritage areas. They can feel it, they can see it, they can have an experience with their family that they have not had in the past.

The gentleman from Minnesota [Mr. VENTO], the chairman, has worked very diligently to work out something that would come about for many of us. We have lowered the amount of money so it would not be financially such a burden. We have changed some of the areas around so that it will fit.

Private property is always a hang-up for us in this particular area. No one feels stronger about it than I do. I come from the West where people come in on wetland issues and endangered species issues and many of our people lost their shirts. They have owned it for 4 and 5 generations and someone comes along. I worked with the gentleman from Louisiana [Mr. TAUZIN] during the California Desert protection bill on coming up with a reasonable piece of legislation, and I think everybody in this House realizes that we will have to face that uncomfortable position of facing what we are going to do on endangered species and what we are going to do on wetlands, and I urge that this body bring this up next time that we can discuss those things.

Today basically I think we have a good piece of legislation, one we should agree on. We should get it out and try this experience of working on a heritage area that the people of America can enjoy.

Mr. Chairman, I would be remiss if I did not say I do harbor in my heart the feeling of where are we going to get the money to take care of these things. Hopefully as the gentleman from Ohio pointed out, much of this will be done by people themselves who will cut the brush and work it out and make these things work, because the Federal Government is robbing the money on our national parks and we do not have that money at this time. Therefore, I commend my friend from Minnesota. I hope we can get this bill through at this particular time. I do not know anyone who has worked harder on it and we have had more hours of discussion, some of it very strong, some of it working out compromises. Let us hope today we can resolve this bill. I would urge my colleagues on both sides of the aisle to support this piece of legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New York [Mr. HINCHEY], who has been my coworker in terms of this matter. I commend him. I thank him for his help and appreciate his good work.

Mr. HINCHEY. Mr. Chairman, first of all, I want to express my appreciation to the gentleman from Minnesota [Mr. VENTO], the chairman, for the hard work he has done on this very important piece of legislation, a piece of legislation which is critical to the preservation of our national historical heritage. Let me try to explain here in a couple of minutes what we are trying to do with the American Heritage Partnership Act.

What we are trying to do is to conserve and protect places that are meaningful and valuable to our country and to our country's people. I hope that all who are present today, even those who are speaking against this bill, recognize that there are such places, and that they deserve our attention. Congress has been acting to protect them since Yellowstone National Park was established in 1872.

But we are not trying to establish a new chain of national parks in this bill. Far from it. We are trying to establish a new model for conservation and protection. The Federal Government would not own land. It would not manage land. It would not control land. Instead it would work in cooperation with property owners and with local communities who want to protect the special places where they live. If they do not want any of that help, it will not be forced upon them. But if they do want it, and I believe almost all of them will, it will be available. What we are proposing in short is a cooperative relationship.

It is sad to see the cooperation characterized as an attack on property owners, since almost all private property owners depend on cooperative relationships every day to protect their property. We depend on the cooperation of our neighbors, and we depend on the cooperation of our local governments. Many property owners depend on the cooperation of the Federal Government, too. I was quite surprised to hear that some people who say they want to protect property rights objected to the bill on grounds that it might put an obstacle in the path of other Federal agencies that want to run a road through someone's private property or put a military installation or waste depot near it. We are trying to help prevent unwanted Federal intrusions.

This bill will protect the rights of property owners against unwanted Federal activities. I am a property owner myself and my property is located in one of the heritage areas this bill would designate. If I thought for a second this bill would take away my rights as a property owner or any of my neighbors' rights, I would not be supporting it. But I know that it does not take away those rights. It enhances those rights. It enhances those rights because it would help protect some of the places that make my community a special place. It will invite my neighbors to join in that effort, so that we can decide what deserves and needs to be protected.

If you are skeptical about how such efforts can protect property rights, read the real estate ads. When they say "located in historic district" or "backs up to parkland," they mean it as a plus.

That is not to say that this bill is about real estate values, because it is not. But it is about what we jointly value in the land, its beauty and its history. Although I believe it will promote the private economy, and I have the support of many private owners in the Hudson Valley who back me up on that, its chief purpose is to protect our common inheritance, our common national heritage.

I understand that the gentleman from Alaska [Mr. YOUNG], our colleague, may raise the issue today of the rights of some people who are not necessarily private property owners, people who often use the land of private property owners for recreation. I am speaking specifically of hunters, fishers and trappers. I welcome the opportunity to say that I want to protect their rights, too. This bill as written would have no effect on their rights, but I would be glad to join the gentleman from Alaska [Mr. YOUNG] in clarifying that point. I hope that today's defenders of private property rights will not argue that they, the hunters and the fishermen, should lose their access to private property. We do not want that to happen. We want to protect it. We do not intend that.

Mr. Chairman, this is a bill that is designed to promote and enhance the national heritage by promoting it and enhancing it in discrete places around the country. It is a very important piece of legislation, and I hope that all of us will join together in defeating the amendments and passing the bill.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Oregon [Mr. SMITH], a very important Member of our committee.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, it is interesting how people can read legislation and come up with almost opposite points of view. I think that is the case here.

We have heard a lot from the chairman about trying to deflect this question of private property rights in this bill, saying, "Well, if we protect private property rights, we ruin the bill." Yet on the other hand we have heard people say, "This does not apply to private property rights." I guess the obvious question would come, then: If it does not affect private property rights, why not accept the Tauzin amendment? Yet if you accept the Tauzin amendment, the chairman says it will kill the bill. This is very confusing to me.

I would suggest for safety's sake, if you are interested in private property rights, accept the Tauzin amendment and, therefore, you have done so. Whether or not one individual's private property right is affected or is not, I have heard that one person has private property in a heritage area; it is not affecting his. Yet the rest of us in the United States are quite concerned about this issue, and if we are concerned, let us put a little safety factor in here. Let us say private property rights are protected and then go ahead.

Nobody is suggesting here that we eliminate the rights of counties and of cities and jurisdictions to set aside heritage areas. Nobody is suggesting that.

□ 1220

We do know, however, that we have overexposed ourselves in the National Park Service. In the last 2 years the Natural Resources Committee, on which I serve, has offered up over $2 billion of new parks. We are $9 billion behind in financing parks. And by the way, every dollar we take for heritage areas we take out of the National Park Service budget.

The chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], has arrears of over $13 million on parks. He is going to drag money for heritage areas, a new program for America, and subject his parks to continuing underprovision, underfinancing, as is everybody in America who has a national park. Remember, this is an end run on the National Park Service program.

I have heard that this is going to be no mandate to counties. My goodness, the Federal Government is only helping us here, helping us out. How often have we heard the Federal Government is helping without controlling? The Secretary of the Interior controls this bill. Read it. Read it.

By the way, if it is such a great deal for counties, why does the National Association of Counties oppose this bill? Because they do not like unfunded mandates. This is another unfunded mandate upon counties of America. They oppose it.

Listen to who else opposes it: the home builders, realtors, small business, farmers, cattlemen. They all support the Tauzin amendment; all oppose this bill as written.

I suggest, folks, that we oppose this bill unless the Tauzin amendment and my amendment passes a little later on.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. NEAL] who is one of the advocates of the Blackstone River Corridor which is being expanded in this measure.

Mr. NEAL of Massachusetts. Mr. Chairman I rise in strong support of H.R. 5044, the American Heritage Areas Act of 1994. Through its partnership program, this legislation provides a unique opportunity to preserve and protect important historical and cultural sites of national significance.

This legislation does not in any way threaten private property rights. Inclusion in a heritage area is voluntary. Moreover, the Secretary has no authority to modify or add to existing State and local land use regulations.

Local communities and businesses, along with historic and environmental groups, work together with the National Park Service through a commission to manage, develop, and preserve the unique characteristics of a heritage area. The legislation requires A 1:1 match of Federal dollars with non-Federal dollars.

A fine example of how successfully the Heritage Program works is the Blackstone River Valley National Heritage Corridor, part of which is located in my district in Massachusetts.

The Blackstone River runs 46 miles from Worcester to Providence and is considered the birthplace of the American Industrial Revolution. To appreciate the importance of this event, you have to understand that in the 1790's, even after we had won the Revolutionary War, America was still dependent on England for clothing. In 1793, Samuel Slater built the first mill that successfully used waterpower from the Blackstone River to spin cotton. This revolutionary method of using water power spread quickly throughout the valley and the rest of New England, changing our economy and society forever. If you go there today, you can feel our Nation changing from the pre-Revolutionary War farming-based economy to the industrial society that is still the basis of our Nation.

The Blackstone Corridor is a model for heritage areas. Its success is due to the solid support and enthusiasm it receives from local groups. For every Federal dollar spent on the Blackstone Corridor, 3 non-Federal dollars are attracted.

Despite its remarkable accomplishments there remains much to be done in the Blackstone Corridor to secure its future as an integral part of our American history.

Time and economics have moved the economic engine of America elsewhere. But the Blackstone Valley today provides a unique and irreplaceable way for generations of Americans to see how it all began. To let this resource slip away would be a great tragedy.

The American Heritage Areas Act provides a cost-effective and proven way to promote historical preservation and environmental conservation of nationally significant sites. Without this legislation, these sites could be irreparably destroyed and their importance to our American history and culture lost forever.

I strongly urge you to support this legislation, H.R. 5044.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN], a gentleman who has worked so very diligently on this bill.

Mr. TORKILDSEN. Mr. Chairman, I thank the gentleman for yielding me the time and commend both the chairman of the committee and the ranking member for their work in getting this bill to the floor.

Mr. Chairman, I rise in strong support of H.R. 5044, the American Heritage Areas Partnership Act of 1994.

This bill establishes a framework by which heritage areas throughout the country can be created and designated. One area being considered for designation today, the Essex County Heritage District in Massachusetts, is truly unique in its wealth of historical sites and structures. As one of the earliest landing sites of European colonists, Essex County contributed to and witnessed much of our Nation's history. Throughout America's early development, towns throughout the county played important roles in early settlement, the establishment of the United States as a maritime power, and the emergence of the Industrial Revolution, especially in the textile and leather industries.

Essex County also has the highest concentration of first period homes in our country. The sheer number of historical buildings in this region, along with the historical significance of these structures, offers a unique opportunity to educate future generations about how this Nation was settled and developed.

Designation of the Essex Heritage District will help in the coordination of two national park historic sites, 23 national historic landmarks, and numerous other resources listed on the National Register of Historic Places, all located in this area. Enthusiastic local support for this designation has helped drive this legislation to the floor. The people of Essex County want this bill and want to be involved.

As a strong and consistent supporter of the rights of people to own private property, I would not support this bill if its passage would result in a land grab by the Federal Government. I support the strong language included in the bill to protect the rights of private land owners. I also support many of the reasonable amendments being offered today designed to clarify any perceived problems arising from this legislation.

This bill does not constitute a property rights crisis. It is locally driven, locally managed, and filled with private property protections. I strongly urge my colleagues to support H.R. 5044 because of its importance for the protection of valuable and irreplaceable historical resources throughout the country. America has an important story to tell. Allow us to tell it.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TORKILDSEN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman makes a very important point, and that is that this bill forbids the Federal Government from spending any dollars on the land or having any ownership. Any grants will be controlled by the local level and the local zoning authorities that exist. It is a very, very important point. The management entities are set up as a result of local governments coming together to exercise their lawful powers.

Mr. TORKILDSEN. I thank the chairman for mentioning that, and thank him for clarifying that language so that we would keep this as a local control issue without the Federal Government taking property.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding me this time. Again I want to reiterate my support for the general purposes of this bill, but my support conditioned upon the passage of very vitally necessary property rights amendments to the bill that I will offer along with the gentleman from Minnesota [Mr. GRAMS], in just a little while. The amendments we will offer are supported by the National Association of Realtors, the National Association of Home Builders, the National Federation of Independent Businesses, the National Cattlemens Association, the Farm Bureau, and the National Wetlands Coalition.

□ 1230

Why have these six major groups come forward to say, "We support the Tauzin-Grams voluntary landowner consent amendment and oppose the Regula amendment that will take that amendment out of our en bloc amendment?" Why have they come forward?

Well, I think the statement of one of my good friends made earlier today on the floor makes the point for me. Our good friend from New York talked about hunters and fishermen, hunters and fishermen. You will not find a bigger hunter in this Chamber than the gentleman in the well. I love to hunt. Most of my people do. But I cannot conceive of allowing someone to come hunt on my property without my consent. Landowner consent is critical.

Can you imagine people showing up on your property with guns and rifles without your consent?

Someone said this bill is voluntary. It is not voluntary until you pass the Tauzin amendment without the Regula amendment.

Do you want to make it voluntary? Do you want it to be voluntary? You support the Tauzin en bloc amendments. Because we will make it voluntary on landowners.

You see, we are playing with words a little bit here. It is voluntary on government, yes, to impose these regulations. It is voluntary on government, yes, to subject your land to these new regulations. It is voluntary on government to say there will be a greenway, a path, a trail, a bike trail on your property without your consent. But it is not voluntary on your part.

I am going to give you one of the best reasons to vote for the Tauzin amendment, even if you are not yet persuaded, as I hope you are, just thinking about hunters on your property without your consent. If you are not yet persuaded, and you want to protect your local governments from lawsuits, you had better support the Tauzin amendment. The bill we are talking about is a bill about greenways and pathways and bike trails. That is right.

Go check the Supreme Court decision just this year on Dolan versus the City of Tigard and find out that city was sued successfully because the government in that city imposed an obligation on a landowner to create a bike path and a greenway without that landowner's consent and without compensation. Do you know what happened in that case? The Supreme Court said the fifth amendment protection against taking property for public purposes without just compensation applied as surely and as strongly as free speech did in America, and it ordered that city to pay that family damages for what they did in those regulations. If you do not want hunters on your property without your consent, you had better pass the Tauzin amendment to guarantee landowner consent. If you want to protect property rights in America, you need to make sure landowners consent to these new regulations.

If you do not want to guarantee landowner consent, I will offer you a second choice, and that will be a compensation amendment, the same kind we passed in the Desert Protection Act.

I want to draw one final distinction for you. I want you to notice we did not offer a compensation amendment on the Headwaters Forest Act. Do you know why? Because the authors there agreed to landowner consent in the takings; in that bill, landowners' consent, no compensation required. In this bill, if you pass landowner consent, we protect property rights. If you do not, we will have to provide for compensation, or the cities and counties will be sued. Mark my word and the word of the Supreme Court.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise to express my strong concern with this legislation, primarily about property rights.

But there is another concept that has been talked about here recently. The two gentlemen from Massachusetts talked about what is being done in their State and talked about the farm he visited.

It is possible to have set these aside by using local government, by using State government, by using private. Everything in the world does not have to be run by the Federal Government.

I am especially concerned about the potential in this bill to infringe on the rights of private property owners across the country. This measure places a Federal boundary around millions of acres of private property and allows the Secretary to dictate how these areas will be managed. Currently the Federal Government owns about 30 percent of the land in these United States.

This legislation would expand that and provide the potential for an additional Federal control. It is time for Congress to stop attacking the rights of property owners, to step up and say no to the Federal Government bureaucrats who want more and more land across this country, no to the Federal Government intrusion on the lives of the American people.

I urge every Member of this House to support the Tauzin amendment and work to protect property rights across the country.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. SAWYER], a strong proponent of the legislation.

Mr. SAWYER. Mr. Chairman, I rise today to thank Chairman VENTO for his fine work, and to urge the House to give its strong support to the American Heritage Areas Partnership Program.

This legislation provides the framework and management tools to bring together the full range of public and private-sector resources that projects of this kind require. Preserving areas of national significance can and should be partnership initiatives—bringing Federal, State, and local resources together with the resources and perspectives of the private sector.

This measure is particularly significant for Ohio and for my hometown of Akron. It establishes the Ohio and Erie Canal Heritage Area. This legislation will help preserve and enhance the legacy of the canal that, in large part, shaped Ohio's society and economy. This historic corridor will unite an 87-mile stretch of land and waterway—stretching from Zoar in Tuscarawas County to Cleveland at the mouth of the Cuyahoga River. As many Ohioans know, the State of Ohio owes a large part of its population pattern, its economic diversity, and its social cohesion to the economic energies unleashed by the Ohio and Erie Canal.

Just as the canal corridor provides common ground that unites Ohioans with their history, this project has united civic groups throughout Ohio. Groups that sometimes find themselves in conflict on other issues—advocates of economic development, environmental protection, and historic preservation—have come together to advocate the preservation of the Ohio and Erie Canal Heritage Area. Such preservation-minded groups as Progress Through Preservation and the Ohio Historical Society, along with environmental organizations like the Sierra Club, are united in this effort with such economic-development advocates as the Akron Regional Development Board and the Greater Cleveland Growth Association.

But support does not end there. This effort enjoys the strong backing of the business community, including such businesses as B.F. Goodrich, Roadway Services, and General Tire. This support will enhance and augment the already substantial State and local investments already made in the corridor and tie them together with the Cuyahoga National Recreation Area through which it flows.

I know it is rare that a single initiative can capture the active support from preservation and civic groups and individuals and corporations throughout an entire region. However, I also know that in Ohio the canal project has done just that.

Mr. Speaker, the Ohio and Erie Canal Heritage Area enjoys the overwhelming support of Ohio delegation. I am especially grateful to my colleague from Stark County, Representative RALPH REGULA, with whom I have worked closely to advance this project. The cooperation shown by northeast Ohio's civic groups and civic leaders in advancing this project is a testament to the versatility and energies that helped shape Ohio's history.

Mr. Speaker, I again commend Chairman VENTO for his hard work on this legislation and for recognizing the importance of these kinds of partnership initiatives that can, as Ohio has shown, bring together the finest resources that our diverse and committed communities have to offer.

I urge my colleagues to join me in supporting this important measure.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I rise, once again, in strong support of the American Heritage Areas Partnership Program Act, which includes, among other things, the reauthorization of the Blackstone River Valley National Heritage corridor.

As one of the very few Members of this House that represents one of these heritage areas, I want to just reiterate to my colleagues that these areas are a good idea, and a very wise use of Federal dollars.

I also want my colleagues to know that we have gone to great lengths in crafting this legislation to insure that Members' concerns over issues such as private property rights were addressed here. And they have been, in my opinion.

This bill has broad bipartisan support, as was demonstrated last week when this same bill garnered 272 votes. Unfortunately, that was just short of the two-thirds required.

Today, we have the opportunity to explore, more deeply, some of the issues that Members are concerned about, and the chance to make this an even better bill in some ways.

I simply ask my colleagues to do right by the taxpayers of this country, and take advantage of one of the very few good deals that has come along. I have said it before, the heritage area concept is a great bang for the buck, and I hope that we will have the good sense to move forward with this bill today.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Pittsburgh, PA [Mr. COYNE].

□ 1240

Mr. COYNE. Mr. Chairman, I rise today in strong support of H.R. 5044, the American Heritage Areas Partnership Act and the en bloc amendment offered by Chairman VENTO.

H.R. 5044 is a bipartisan effort to help preserve our Nation's heritage. This legislation also provides a strict criteria for judging the historical significance of projects worthy of support by the U.S. National Park Service.

H.R. 5044 includes authorization for the Steel Industry American Heritage Area which is a locally controlled effort to document and conserve the industrial and cultural heritage of southwestern Pennsylvania. The focus of this work is the Pittsburgh industrial district which emerged in the 19th century as a distinct industrial center for the production of iron and steel.

For generations of Americans, the word "Pittsburgh" has evoked images of steel mills belching smoke and producing the basic ingredient of America's industrial might. Names like Carnegie and Frick became household names because of their role in shaping

American corporate capitalism. Events like the Homestead strike also mark crucial moments in our Nation's history. The development of new industrial techniques in southwestern Pennsylvania's steel and steel-related industries resulted in Pittsburgh being known around the world as the center of U.S. industrial might.

H.R. 5044 as amended by the gentleman from Minnesota [Mr. VENTO] would support the ongoing effort to tell the story of America's growth as an industrial superpower to future generations. The amendment offered by Mr. VENTO does this in a fiscally responsible manner and serves to protect all private property concerns in the area.

Mr. Chairman, I urge my colleagues to support the amendment offered by Mr. VENTO.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to H.R. 5044.

By allowing the Secretary of the Interior to impose land-use restrictions on private property within these designated heritage areas without providing any compensation to the affected property owners, this bill will lead to more abuses in the historic preservation process.

I cannot understand why we are giving more control to a department where one of its own historic preservation officials said:

> * * * the greatest threats to historic properties, natural resources, scenic values, and national parks come not from Federal agencies but from private parties, doing private things on private lands.

In my own congressional district, this way of thinking is being used over the overwhelming opposition of surrounding counties to declare an entire mountain a historic district. Based on claims that it is of religious significance to American Indian tribes, the keeper of the National Register of Historic Places has decided to designate 235 square miles and over 1,000 private parcels of land as a historic district.

The area in question, better known as Mount Shasta, contains no physical evidence of the activities that are being designated as historic. The reason for the designation, I believe, is primarily to halt economic development in the community.

Mr. Chairman, this bill is just another Trojan horse to restrict more of our private property rights. Vote "no" on this bill and on any amendments that further weaken private property rights. Finally, I urge your "aye" vote on the Tauzin-Grams amendment which provides private property assurances.

Mr. VENTO. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. JOHNSON].

Mr. JOHNSON of Georgia. Mr. Chairman, I too want to offer my congratulations and my gratitude to the chairman for his work in brining this to the floor.

You know, this has been a subject that has been discussed primarily from the standpoint of Federal control versus local control versus individual property rights. I think that is an important issue here.

I look at it from a little different standpoint, however. This is a management plan for my district that has been requested where a group of people locally are coming to Washington seeking help for the Augusta Canal. They want help in restoring a very important national resource. We are not going down there. Washington is not going down to Augusta, GA, and saying, "We want to help you." They are coming here asking for help, and they have got the plan originated and they will be managing it.

What some people in this body want to do is to tell them they cannot do that, that the way they have been operating their zoning and land use for years has to be changed. That is what the amendment is going to say.

This project, the Augusta Canal, has been generated for years by my constituents who studied the canal's historic value, developed a management plan, and then came to me to request that canal be designated a national heritage corridor.

In 15 minutes last week Washington told them "no," that they know better than what these people want.

It has been pointed out in the Augusta plan there is reference to the possibility that zoning regulations would be modified. Well, let me point out that the Augusta Canal Authority, which is a local entity, has no authority to change the zoning regulations. The Federal Government has no authority to change the zoning regulations, local land use regulations. It is all done entirely under the procedure that has been there for years and years.

What we are trying to do in some of these amendments is to change that, to exempt out certain pieces of property that will not be covered in the way it has been done before.

What I want to say is that if we follow one of the amendments, if the Tauzin amendment is adopted, what you are going to do is to change the history of land use and allow people to opt out of land use regulation locally. That is not the intent of this bill.

This is not a Federal land grab. This is an effort to help preserve national historic resources that are locally initiated and locally managed. Do not impose another Federal unfunded mandate on local Governments by adopting this amendment that is going to be offered.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Georgia. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has put it very well. The Tauzin amendment is like throwing an anchor to a drowning man. They are having trouble getting their act together in Augusta. And if you try this out, there will be anarchy on the part of every individual landowner, who I might say will use that as a basis to justify some compensation or payment to themselves.

This would completely pull out the rug from the purposes and intent of this bill.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, it is exciting to think about the possible good that will be accomplished by passage of the American heritage areas partnership program. We can protect our heritage and at the same time protect private property rights.

Let me just give you an example of what happened in the district that I am privileged to represent.

Back in 1991, because of the budgetary problems, the State of New York was forced to close some important monuments and parks that have great significance and historical value in the central New York area. But the people responded. They would not accept it; neither would I.

We worked together by forming committees, such as the Northern Frontier Project, the Oriskany Battlefield Committee, and the Friends of Baron von Steuben.

On their own time these dedicated volunteers, with their own money, maintained these sites. But obviously that cannot keep going on into perpetuity.

They did not stop there. They researched and sought more information about the sites and its relationship to the people. We have right now sort of an all-volunteer effort in the central New York area that is doing some magnificent thinking, reaching out to us, saying, "Please, offer some help."

□ 1250

Mr. Chairman, this bill is just the ticket. In central New York this is a people's project. They do it in their own time and with their own flavor. This authorization for heritage areas will help them bring their work and projects to completion, ascertain suitability for participation as a heritage area and provide technical assistance and management options for protecting their resources, sharing their legacy and promoting the local economy.

I am really glad that the gentleman from Minnesota [Mr. VENTO], the chairman, and the vice chairman, the gentleman from Utah [Mr. HANSEN] sought a rule on this bill so we can have this full and open discussion. I think it is a good bill, a modest bill, a bill that helps local people and communities help themselves, and what more worthy objective of our efforts here in Washington?

And I look at the bill, and I say to myself, "Look what it does. It authorizes matching assistance for locally initiated and managed American heritage areas." Let me stress that, locally initiated and managed American heritage areas, and it limits Federal funding for each proposal, does not write a blank check. It gives a modest contribution and then puts a ceiling on it, and it says, "Let's go from there," and it protects private property rights by authorizing no Federal land purchases and no federally mandated zoning rules, and I think that is important and bears repeating. It authorizes no Federal land purchases and no federally mandated zoning rules, and it draws its preservation fund.

Mr. Chairman, I think about the important work that so many people in central New York are engaged in promoting the heritage of that great area which played such a significant role in the development of this Nation, and I think that day in and day out they are working hard with their own time, their own resources, and they say, as my colleagues know, there has to be a limit, we just cannot keep going on like this without some assistance from Washington, and I look at this program, and I say, "We have matched their needs perfectly in a very modest way, and it deserves our enthusiastic support."

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, I thank the gentleman from Utah [Mr. HANSEN] for yielding this time to me.

First let me say that there is no law keeping the local or State governments from doing any of the things called for in this bill. As strapped for funds as our State and local governments are, almost all of them are in much better shape than is our Federal Government which is over $4.5 trillion in debt and still losing hundreds and millions of dollars more each day.

Mr. Chairman, the House made a good decision last week in rejecting the American Heritage Areas Partnership Program Act under suspension of the rules. It was a good decision because this 100-plus-page bill has not been subjected to the normal legislative process. It is here under a process which requires us to suspend our own rules. Only in the last few days of the session would an effort be made to avoid the normal markup in committee and bring such a highly controversial bill to the floor. Since there is no Senate companion to this bill, Mr. Chairman, there appears to be little chance of its enactment, and we should not pass it either since we need to amend it to make it the best that it can be.

I would like to recount for my colleagues a little of the history of this bill. The American Heritage Areas Partnership Program Act was initially introduced on November 22, 1993. That measure was a generic bill which established the American heritage program, but designated no new heritage areas.

On May 25, 1994, over 4 months ago, the earlier bill, H.R. 3707, which was cosponsored by only three Members, was ordered reported from the Committee on Natural Resources. By then the controversy over private property impacts from this bill was already mounting.

Recognizing that the bill was in serious jeopardy, H.R. 3707 was tabled, and a new bill, this bill, combining the original text of H.R. 3707, was combined with about 15 site-specific studies or designations around the country. H.R. 5044, this bill, was then offered under suspension of the rules with 29 cosponsors.

Each of these cosponsors and each of the persons who spoke in favor of this measure during previous flood consideration is associated with one of those heritage areas which, if designated, would authorize a $10 million Federal expenditure. I am not saying that these projects are unjustified, although some do appear to have more merit than others, but simply wish to point out to Members that there is no ground swell of support for this program, only for the individual projects.

I am also curious why, if there is such strong local support for these designations, why do we need a new Federal entitlement program that will cost tens of millions of dollars annually. Local governments could do these things. The amendments, which will be offered today, will focus on the generic aspects of this bill, not the site-specific programs.

With regard to the major issue of impacts on private property, it is hard to believe the claim that this bill will not impact private property values or land use. Are Members aware that a Federal boundary will be drawn around each heritage area? Are Members aware that the Secretary of the Interior will have to approve a land use plan for each heritage area? Are Members aware that the Secretary of the Interior will have a virtual veto authority over every other Federal action within each heritage area? Have Members seen the tens of millions of acres which have already been targeted for inclusion in this heritage area program?

In other words, Mr. Chairman, this bill provides for the Secretary to approve a land use plan which could specify that agricultural lands would be forced to forever remain devoted to agricultural use even if that was not the wisest and the best use and even if it drives up the price of land so average citizens will have a more difficult time buying or building homes. Certain historic buildings will be preserved in perpetuity even if only a small minority of the people want it that way. Such decisions by the Secretary of the Interior could have significant impacts on property values in the heritage area.

Some people get rich off this bill, Mr. Chairman, but at the expense of others. I hope the Members will support the Tauzin-Grams private property amendment. This amendment is supported by groups such as the National Association of Realtors, the National Federation of Independent Businesses, the Home Builders, the National Cattleman's Association, and many others.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I just want to commend the gentleman on an excellent statement and, second to correct the record, our amendment will not change local zoning laws. It will not affect them at all. It simply says that in these heritage areas there will be landowner consent required.

Mr. DUNCAN. Mr. Chairman, let me just end up by saying this. There is greater resentment toward the Federal Government today than at any time in history. According to a Washington Post focus group a couple of years ago, Mr. Chairman, 94 percent of the people agree with the statement that the Federal Government is too big and costs too much. They do not want us passing bills that will increase the cost, and size, and power of the Federal Government. They do not want us to pass bills like this. I urge its defeat.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, I rise in support of H.R. 5044, legislation to provide for the long-term preservation and interpretation of significant historical resources across the Nation. I would like to commend the chairman of the subcommittee for his continuous efforts to bring this bill to the floor today.

I am particularly pleased that section 209 of the bill incorporates much of my legislation to establish a heritage area in Vancouver, WA, and I would say to some of the people across the aisle that it is supported by the Chamber of Commerce, supported by the downtown business groups, supported by the citizen groups. It has broad support in the area.

Vancouver, which is located just across the Columbia River from Portland, OR, was at the center of the settlement and development of the northwest during the 19th and early 20th centuries. In a single 360-acre area are five historic assets that chronicle the history of the northwest from the region's exploration by Lewis and Clark between 1805 and 1806 to the rise of American aviation in its golden age—

between the First and Second World Wars.

For the past 3 years I have been working with the mayor of Vancouver, the Park Service, and many others to establish a Federal-State-local partnership to preserve, restore, and coordinate the management of the historic area in Vancouver. Working together this partnership crafted a proposal, which is reflected in my bill and section 209 of H.R. 5044, to manage the assets, protect the historic resources, and encourage visitors to come to Vancouver to learn about the compelling history of the Pacific Northwest.

In 1990 Congress adopted my legislation to establish a Commission to analyze various management options for these historic properties. The Commission was composed of representatives of the major entities interested in the area, including the National Park Service, the Army Corps of Engineers, the city of Vancouver, and the State of Washington. The Commission completed its work in April 1993, by recommending that a partnership be established to ensure effective, coordinated, management of the area. The members of the Commission agreed that management of the area needed to be coordinated by a federally established management framework based on partnership between the interested government entities.

To implement the recommendations of the Commission I introduced H.R. 4607 to protect all of the key areas and the equally significant historic periods and events they represent. Most importantly, by unifying and coordinating the management of all these historical assets, the bill proposes a partnership to develop the full educational, recreational, and historical potential of the area.

Mr. Chairman, it is no secret that resolution of the Pearson Airpark controversy—what the appropriate role of the airport should be after 2002—is crucial to an overall cooperative management agreement for the area. While there is now an appreciation that Person's aviation history is of national significance and should be preserved, there has been disagreement over whether it should remain an operating general aviation airport.

My own view is that it would be unconscionable to eliminate the aviation history represented by Pearson Airpark and its young but flourishing aviation museum. I am also convinced that some general aviation activity at Pearson is necessary to help underwrite the costs of maintaining the airfield, which is essential to the historic aviation mission. Both my legislation and the bill before us today follow the recommendation of the Commission that general aviation continue through the years 2022. Beyond that time it would take an act of Congress to allow general aviation to continue—a decision left to another generation

Mr. Chairman, H.R. 5044 is about partnership. It's about local groups coming together to protect American heritage. It's about the Federal Government working cost-effectively with State and local groups. But, most importantly it's about protecting our Nation's history so that it can be enjoyed and appreciated by future generations. For those of us in southwest Washington, this legislation is a rare opportunity to preserve our past and make Vancouver the premier showcase of northwest history.

I say to my colleagues, If the partners don't agree, you don't have anything. It's fully protected in that regard within this legislation. Most important for those of us in southwest Washington, this legislation is a rare opportunity to preserve our past and make Vancouver the premier showcase of Northwest history.

□ 1300

I urge my colleagues' support of this legislation.

Mr. HANSEN. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, I want to thank the gentleman for yielding time to me. I rise in strong opposition to H.R. 5044. I want to let my colleagues know that I too have a heritage corridor study in my district. Contrary to what this bills proponents are saying, counties do not support this.

Let me read a letter from Houston County, MN:

> While Houston County recognizes the constitutional structure of American government and the necessary federal role therein, any federal role in expanding its jurisdiction within the boundaries of Houston County would be unconstitutional, unnecessary, and counter-productive. Government closest to the people is the most accountable to those people it serves. Thomas Jefferson, father of The Constitution, understood this concept and the Houston County Board of Commissioners agree with him.

Mr. Chairman, this bill, as currently drafted, does not protect private property rights and erodes the sovereignty of local governments. I urge my colleagues to vote against any gutting amendments to the Tauzin-Grams landowner's consent amendment.

Mr. HANSEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I commend the chairman of the committee and the ranking member for their work on this.

What I have heard today reminds me of the less-than-distinguished citizen of the little town that died. At the funeral they were waxing eloquent, the eulogizers, and finally the wife said, "Sonny, go up there and see if that is really your Pa in the casket."

That is what we have here. I have been listening to all these statements about this bill, and I do not think it is the same bill that we are talking about today. I do not recognize it. Because it does not provide for a taking of private property. It does not allow encroachment on local zoning. It does not give the Federal Government any power in involving itself in private property rights.

I have here just some of the letters we have received. Many of these are private property owners who live in the vicinity who say how worthwhile it is to save the historic and the recreational and the ecological values that this corridor would do. These are the people that would be affected. These are the private property owners, and they write supporting it. I do not have one negative letter. These are the people who care about this.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding. I want to point out I do not want his bill to end up in a casket either, whatever it looks like. If we do not want it to end up there, why not support an amendment that says to all those property owners who do consent, "You will be joined by every other property owner, because consent will be required." What is wrong with that?

Mr. REGULA. The substitute we will be offering would provide if there is any taking or any need, that the people would have to consent. But what you are proposing in your amendment is everybody in the neighborhood has to consent. There could be hundreds of thousands of individual property owners. If we would follow the Tauzin amendment, there would be no Interstate Highway System, there would be no Yellowstone, there would be no Yosemite, because you could not get all the people around to agree. How far do you go?

Mr. TAUZIN. If the gentleman will yield further, there would be highways, there would be Yosemite, there would be parks and public lands, because the Constitution requires payment of the landowner in those cases. The landowner that does not consent gets paid.

We are suggesting if you are not going to pay them, should you not at least get their consent to be part of this?

Mr. REGULA. If they are involved, yes. We will address that when your amendment comes up.

I have here every board of county commissioners involved strongly supporting it, mayors, little towns, big cities, strongly supporting it, every major newspaper in the area strongly supporting it. The major business groups, the Cleveland Growth Association, up and down the line, strongly supporting it and opposing the Tauzin amendment.

This is a case of people wanting to do this. They are simply saying give us the tools, give us a helping hand, so we can preserve these great values.

I received a letter from a fourth grader in South Euclid, near Cleveland, not in my district:

> Dear Mr. Regula, my name is Caren J. Maiden. I am asking you very nicely to vote yes for the Ohio & Erie Canal National Heritage Corridor Act. I hope you will think long and hard on this decision. Just think, the other fourth grades that come in the future might not ever learn about the Ohio Canal National Heritage Corridor Act. I wanted at least 30 classes to learn about the Ohio & Erie Canal. P.S., I know what I am talking about.

And she certainly did. All kinds of other groups have written in strong support.

The problem with the Tauzin amendment is it is a killer amendment, because mechanically it cannot be done. It cannot be achieved. These volunteer groups, the Kiwanis, the Boy Scouts, the Rotary, the 4-H Clubs, they cannot be involved in chasing all up and down the corridor, where there are literally thousands of possible property owners. If it is a case of this property actually being utilized for the corridor, that is a different matter, and that will be addressed by our substitute.

Let me say to the 273 Members, we keep hearing that this bill is defeated. That was because of procedure. Two hundred and seventy-three Members, an overwhelming majority of this body, voted for the bill when it was up on suspension. I urge every one of those of you who did vote for this bill to vote again, because we are going to clarify even more precisely the private property rights by our substitute to the Tauzin amendment.

So listen carefully on the debate on these amendments, so that we make sure that we are all talking about the same bill and not having a red herring put out there in an attempt to defeat it.

Mr. VENTO. Mr. Chairman, I yield myself two additional minutes.

Mr. Chairman, I want to commend the gentleman from Ohio [Mr. REGULA], for his excellent statement and want to point out to the Members page 30 of the bill, because we are going to be hearing a lot about the effect on land use regulation. The point here is that the Congress should not get involved in dictating what the local land use restrictions would be in this particular instance, because we are not buying the land. We should not superimpose a decision on how a county or a State government or local government should deal with land use regulations or zoning. That is in effect what some of our colleagues are asking us to do in terms of the amendments today. It is ironic, because I think very often the limits that local government places on the various zoning in fact enhances the land. It provides for a rational use, where it is residential, where it is light industrial, where it is something that might need to be cared for. It is the very hand of the local government on the land which is the essence of the role that they play, but some would usurp that and say that is the job of Congress.

This bill in fact points out on page 30 the lack of effect on authority of governments:

> Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided by current law or regulation.

That is a pretty affirmative, positive statement. It addresses the concerns.

Furthermore, it says:

> Lack of Zoning or Land Use Powers of Entity.—Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for an American Heritage Area.

This is something that is uniquely local. We ought to let the local governments do their job. They are asking us to do something positive, and at the same time you say we are going to give you a little bit of Federal help but make it impossible for you to do this. Imagine thousands of residential and other landowners in the Ohio Canal. Who would keep track of this, whether they approved it or disapproved it? It is a nightmare. No local government would accept this. They would reject the bill. It would be moot.

□ 1310

Mr. HANSEN. Mr. Chairman, may I inquire how much time is left on both sides?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has 1½ minutes remaining, and the gentleman from Minnesota [Mr. VENTO] has 3 minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield the balance of my time to the gentleman from Oregon [Mr. SMITH].

The CHAIRMAN. The gentleman from Oregon [Mr. SMITH] is recognized for 1½ minutes.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding time to me.

The fact is, if Members begin to read this bill, they find out that what has been said is not exactly direct to the bill.

I refer my colleagues also to page 30 which says, in effect, that these management entities must consult with the Secretary; i.e., Secretary of Interior; must cooperate with the Secretary; i.e., the Secretary of Interior, must conduct and support such activities that the Secretary agrees with and determine that there is no practical alternative. They must go along.

Now, if that is not Federal control, I do not know how else we could state it.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Oregon. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding to me.

Let me add, contrary to what we have just heard, the bill also contains language that says that the top priority of the implementing entity is directed at adopting land use policies consistent with the management plans adopted and supervised by, guess who, the Secretary of the Interior.

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for that contribution.

I wanted to make directly the point that this is a Federal mandate, a Federal land use plan, supported and directed by the Secretary of Interior. As we talk about these corridors, what better protection could we have to allow a person who gets caught in the corridor of a heritage area, as the gentleman has already discussed, what is to stop folks from walking through my property? Do I not have a right to protect my own private property?

Members will, by supporting the Tauzin amendment.

Mr. VENTO. Mr. Chairman, I yield myself 1 minute.

I want to point out to my colleague from Oregon that the Regula amendment will address this. It is a further en bloc amendment that we have agreed to with the minority, and other Members and sponsors of the bill, in order to deal with some of the concerns that he has just expressed.

The point is that nothing in this bill affects the fifth amendment of the Constitution. That is inviolate. Those protections remain. Nothing in this bill affects local governments and State governments regarding hunting and fishing. We will make that clear. We have no intention of interfering, or mandating, for that matter, that these areas be open or closed to hunting or fishing. That is uniquely a local function.

So I think the point is that we are finding a lot of issues being raised here. Most of them are not germane. The real point is the effort here, of course, and by all these groups that we have heard about, is to undo. They are opposed to the bill. They are finding another excuse to argue property rights. This is simply an attempt to hijack this bill for a different purpose. I would urge the Members to defeat and to deal with the reasonable amendment that will be offered by my colleague from Ohio.

Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. HINCHEY].

The CHAIRMAN. The gentleman from New York [Mr. HINCHEY] is recognized for 2 minutes.

Mr. HINCHEY. Mr. Chairman, I just wanted to respond to the gory red herring that was dragged up on the floor here a few moments ago by my good friend and colleague from the State of Louisiana. He raised the spector of hunters and fishermen traveling over everybody's property in a reckless fashion. Of course, there is nothing in this bill that would cause that to happen in any way whatsoever, under existing law, and certainly does not exist anywhere in this bill. Everything that happens as a result of this particular legislation on any property whatsoever would require the consent of the property owner. There is no additional regulations that are taken by the Federal Government.

It recognizes the responsibility of land use planning at the most local level of government, the village, the town, the city. Those areas remain solely in control of local zoning practices.

The Supreme Court decision that was mentioned, I think is very important for us to focus upon. Because that recognizes the inherent ability of the courts to understand private property rights and to protect them. Those rights exist currently. The courts have said so. They are protecting them. And this bill is precisely consistent with the protection of those individual property rights in accordance with that Supreme Court decision.

This is a modest bill. It is a mild bill. It simply allows people to work together in a cooperative way to enhance the quality of the areas in which they live and at the same time promote our common national heritage.

I hope that we will be successful in defeating these amendments which are designed really to gut the bill and to get on with the final passage of this bill which is in the best interest of the people in the areas here and of all the people across the country.

Mr. RIDGE. Mr. Chairman, I am pleased to rise in support of H.R. 5044, the American Heritage Areas Partnership Program Act of 1994. While I voted against this bill when it was considered under the suspension of the rules, I did so to ensure that the bill was considered openly and to make certain that necessary amendments were able to be offered today and voted on by the full House.

This legislation sets forth criteria in which partnerships consisting of local governments, State governments, and private, nonprofit organizations can access Federal funding to designate certain areas of land as American Heritage corridors.

I support this concept because it takes a different approach than the normal top-down, big-government "land grabs" most private property owners have come to know and hate. The American Heritage Areas Partnerships Act provides funding to only those projects which have been grown in the community from the ground up. The matching funds provided by the Federal Government can be accessed only after the community and local and State officials have come together and made the commitment to designate an area as one of historical value to the community's heritage.

One such project is moving forward in western Pennsylvania. It is called the Steel Heritage Center and it spans the counties of Allegheny, Beaver, Fayette, Greene, Washington, and Westmoreland. While this particular project is not inside my congressional district, I am nevertheless pleased that the community has come together to have it designated as an American Heritage Area. The fact is that Munhall, PA, the town in which I was born and lived the early years of my life, is located in the Steel Heritage Center area.

The region being designated is well known for its heritage in making steel and helping make this country great. The people of the region, whether laborers in the steel mills or those in the community who supported the local mills, were of the highest caliber. They reflected credit upon themselves and their community. This region continues to display the same tradition of hard work and skill which workers exhibited in years past.

Lastly, I am also pleased that the legislation clearly states that no provisions in the bill shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by current law or regulations. I have always worked on behalf of the rights of private property owners and I am pleased that the bill's crafters considered their rights as they moved forward with this legislation.

Mr. Chairman, I would like to again say that I am pleased to rise in support of this legislation.

Mr. BREWSTER. Mr. Chairman, I rise today to speak in favor of the Young-Brewster amendment to the American Heritage Areas Partnership Act. Today, I speak as the Democratic cochairman of the Congressional Sportsmen's Caucus. The Sportsmen's Caucus is comprised of over 190 Members of the House with common beliefs such as: Preserving and promoting the traditional rights of American citizens to hunt, fish, and pursue other outdoor activities; Insuring that America's Sportsmen have reasonable access to federally managed public lands to enjoy these outdoor pursuits; and supporting efforts to enhance multiple use wildlife and habitat management.

The Young-Brewster amendment reflects these beliefs. Clarifying the rights of State fish and wildlife agencies to manage fish and wildlife on lands designated as heritage areas including regulating hunting and fishing. Simply put, our amendment preserves the right to continue hunting in areas designated as American Heritage Areas. An example of why this amendment is needed is a proposed heritage area running the entire length of the Mississippi River—an extremely important waterfowl hunting and management area.

Allowing hunting to continue to occur in heritage areas, such as the proposed Mississippi River Heritage Area, will have unending positive effects on the preservation of several species native to that area. As you may know Mr. Speaker, of the five designated flyways, the Mississippi Flyway is the home to an overwhelming majority of the Nation's waterfowl.

As many Members in this chamber know, our Nation's waterfowl population is at the highest level in recent years. The resurrection of this resource can be directly attributed to the dollars spent by American waterfowl hunters. Millions of dollars have been collected from hunters through the Federal and State Duck Stamp Programs, the Pittman-Robertson Trust Fund, and voluntary contributions through programs such as Ducks Unlimited.

Federal duck stamp sales for the Mississippi Flyway represents 43 percent of the total Federal duck stamp sales. The Mississippi Flyway also accounts for 45 percent of the total waterfowl harvest in the United States. If we allow large areas of our country such as this to become off limits to hunting, we will lose large percentages of the money collected from hunters. Allowing this to happen will only serve to hurt our successful conservation efforts.

As my colleague from Alaska previously stated, past practices of the National Park Service regarding the designation of new lands as being under its jurisdiction, dictates that Congress must clarify that the National Park Service recognize hunting as a discretionary activity.

I urge my colleagues to support the Young-Brewster amendment.

Mr. REED. Mr. Speaker, I rise once again in support of H.R. 5044, legislation which establishes an American Heritage Area Partnership Program within the Department of the Interior.

The bill establishes a new method of designating and managing nationally important heritage areas. Specifically, H.R. 5044 creates a partnership with State and local governments, as well as private entities, to preserve these historical regions by allowing communities to develop and implement operation and management plans. This new partnership will go a long way in preserving valuable historical areas while limiting the Federal Government's role and future financial obligations.

I am especially pleased that this legislation includes reauthorization for the Blackstone River Valley National Heritage Corridor. The bill also adds three new towns, Glocester, Smithfield, and Burriville into the corridor. Most importantly, the bill extends the Blackstone Valley commission for 7 additional years. This will allow the commission to continue enhancing the distinctive character and nationally significant resources of the corridor.

The Blackstone River Valley National Heritage Corridor is the largest national park in New England, and is widely recognized as the birthplace of the American Industrial Revolution. It was here, at Slater Mill, where the first successful water-powered cotton spinning mill was used in 1790. This rich area best exemplifies the entire history of the American Industrial Revolution and the complex economic and social relationships of the people who lived and worked there.

The Blackstone Valley Heritage Corridor has become an example of how surrounding communities can work together toward a common theme of protecting and promoting their area. This rich and historic national resource needs to be protected so that the history of the Industrial Revolution can be preserved for all generations.

Mr. Chairman, I strongly urge Members to vote for passage of this bill.

The CHAIRMAN. All time for general debate has expired.

The bill shall be considered under the 5-minute rule by section, and pursuant to the rule each section shall be considered as read.

The bill shall be considered for amendment under the 5-minute rule for a period of not to exceed 3 hours, excluding time consumed by recorded votes and proceedings incidental thereto.

No amendment to the bill shall be in order unless printed in that portion of the CONGRESSIONAL RECORD designated for that purpose in clause 6 of rule 23 before consideration of the bill.

Any amendment printed in the RECORD by the gentleman from Minnesota [Mr. VENTO] may amend portions of the bill not yet read for amendment.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5044

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "American Heritage Areas Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.

TITLE I—AMERICAN HERITAGE AREAS PARTNERSHIP PROGRAM

Sec. 101. Short title.
Sec. 102. Congressional findings.
Sec. 103. Statement of purpose.
Sec. 104. Definitions.
Sec. 105. American Heritage Areas Partnership Program.
Sec. 106. Feasibility studies, compacts, management plans, and early actions.
Sec. 107. Management entities.
Sec. 108. Withdrawal of designation.
Sec. 109. Duties and authorities of Federal agencies.
Sec. 110. Lack of effect on land use regulation.
Sec. 111. Authorization of appropriations.
Sec. 112. Expiration of authorities.
Sec. 113. Report.
Sec. 114. Savings provision.

TITLE II—DESIGNATION OF AMERICAN HERITAGE AREAS

Sec. 201. American Coal Heritage Area.
Sec. 202. Augusta Canal American Heritage Area.
Sec. 203. Cane River American Heritage Area.
Sec. 204. Essex American Heritage Area.
Sec. 205. Hudson River Valley American Heritage Area.
Sec. 206. Ohio & Erie Canal American Heritage Area.
Sec. 207. Shenandoah Valley Battlefields American Heritage Area.
Sec. 208. Steel Industry American Heritage Area.
Sec. 209. Vancouver American Heritage Area.
Sec. 210. Wheeling American Heritage Area.

TITLE III—STUDIES REGARDING POTENTIAL AMERICAN HERITAGE AREAS

Sec. 301. Ohio River Corridor.
Sec. 302. Fox and Lower Wisconsin River Corridors.
Sec. 303. South Carolina Corridor.
Sec. 304. Northern Frontier.

TITLE IV—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR AMENDMENTS

Sec. 401. Boundaries, commission, and revision of plan.
Sec. 402. Implementation of plan.
Sec. 403. Authorization of appropriations.

TITLE V—BRAMWELL NATIONAL HISTORIC DISTRICT

Sec. 501. Bramwell National Historic District.

TITLE VI—SOUTHWESTERN PENNSYLVANIA AMERICAN HERITAGE AREA AMENDMENTS

Sec. 601. Short title.
Sec. 602. Designation of Southwestern Pennsylvania American Heritage Area.
Sec. 603. Powers of the commission.
Sec. 604. Federal participation.
Sec. 605. Congressional oversight.
Sec. 606. Authorization of appropriations.
Sec. 607. Path of progress.

Mr. VENTO. Mr. Chairman, I ask unanimous consent that the remainder of the bill be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The text of the remainder of the bill is as follows:

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "compact" means a compact described in section 106(a)(2).

(2) The term "Secretary" means the Secretary of the Interior.

TITLE I—AMERICAN HERITAGE AREAS PARTNERSHIP PROGRAM

SEC. 101. SHORT TITLE.

This title may be cited as the "American Heritage Areas Partnership Program Act of 1994".

SEC. 102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) certain areas of the United States represent the diversity of the national character through the interaction of natural processes, distinctive landscapes, cultural traditions, and economic and social forces that have combined to create a particular pattern of human settlement and activity;

(2) in these areas, natural, historic, or cultural resources, or some combination thereof, combine to form a cohesive, nationally distinctive landscape arising from patterns of human activity shaped by geography;

(3) these areas represent the national experience through the physical features that remain and the traditions that have evolved in the areas;

(4) continued use and adaptive reuses of the natural and cultural fabric within these areas by people whose traditions helped to shape the landscapes enhance the significance of the areas;

(5) despite existing Federal programs and existing efforts by States and localities, the natural, historic, and cultural resources and recreational opportunities in these areas are often at risk; and

(6) the complexity and character of these areas distinguish them and call for a distinctive system of recognition, protection, and partnership management.

SEC. 103. STATEMENT OF PURPOSE.

The purposes of this title are—

(1) to recognize that the natural, historic, and cultural resources and recreational opportunities of the United States represent and are important to the great and diverse character of the Nation, and that these resources and opportunities must be guarded, preserved, and wisely managed so they may be passed on to future generations;

(2) to recognize that combinations of such resources and opportunities, as they are geographically assembled and thematically related, form areas that provide unique frameworks for understanding the historical, cultural, and natural development of the community and its surroundings;

(3) to preserve such assemblages that are worthy of national recognition, designation, and assistance, and to encourage linking such resources within such areas through greenways, corridors, and trails;

(4) to encourage appropriate partnerships among Federal agencies, State and local governments, nonprofit organizations, and the private sector, or combinations thereof, to preserve, conserve, and manage those resources and opportunities, accommodate economic viability, and enhance the quality of life for the present and future generations of the Nation;

(5) to authorize Federal financial and technical assistance to State and local governments and private nonprofit organizations, or combinations thereof, to study and promote the potential for conserving and interpreting these areas; and

(6) to prescribe the process by which, and the standards according to which, prospective American Heritage Areas may be assessed for eligibility and included in the American Heritage Areas Partnership Program established by this title.

SEC. 104. DEFINITIONS.

For purposes of this title:

(1) AMERICAN HERITAGE AREA.—The term "American Heritage Area" means an area so designated under this title.

(2) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) TECHNICAL ASSISTANCE.—The term "technical assistance" means any guidance, advice, help, or aid, other than financial aid.

(4) UNIT OF GOVERNMENT.—The term "unit of government" means the government of a State, a political subdivision of a State, or an Indian tribe.

SEC. 105. AMERICAN HERITAGE AREAS PARTNERSHIP PROGRAM.

(a) ESTABLISHMENT.—In order to preserve nationally distinctive natural, historic, and cultural resources, and to provide opportunities for conservation, education, and recreation through recognition of and assistance to areas containing such resources, there is hereby established within the Department of the Interior an American Heritage Areas Partnership Program, which shall consist of American Heritage Areas designated under subsection (d).

(b) GENERAL AUTHORITY OF SECRETARY.—In accordance with the purposes of this title, the Secretary is authorized—

(1) to evaluate, in accordance with the criteria established in subsection (c), areas nominated under this title for designation as American Heritage Areas;

(2) to advise State and local governments, nonprofit organizations, and other appropriate entities regarding suitable methods of recognizing and preserving thematically and geographically linked natural, historic, and cultural resources and recreational opportunities; and

(3) to consider any American Heritage Area, designated under this or any other Act,

for nomination to the World Heritage List if the Secretary determines that such area meets the qualifications for such nomination.

(c) CRITERIA.—To be eligible for designation as an American Heritage Area, an area shall meet each of the following criteria:

(1) ASSEMBLAGE OF RESOURCES.—The area shall be an assemblage of natural, historic, or cultural resources that—

(A) together represent distinctive aspects of American heritage worthy of recognition, preservation, interpretation, and continuing use; and

(B) are best managed as such an assemblage, through partnerships among public and private entities, and by combining diverse and sometimes noncontiguous resources and active communities.

(2) TRADITIONS, CUSTOMS, BELIEFS, OR FOLKLIFE.—The area shall reflect traditions, customs, beliefs, or folklife, or some combination thereof, that are a valuable part of the story of the Nation.

(3) CONSERVATION OF NATURAL, CULTURAL, OR HISTORIC FEATURES.—The area shall provide outstanding opportunities to conserve natural, cultural, or historic features, or some combination thereof.

(4) RECREATIONAL AND EDUCATIONAL OPPORTUNITIES.—The area shall provide outstanding recreational and educational opportunities.

(5) THEMES AND INTEGRITY OF RESOURCES.—The area shall have an identifiable theme or themes, and resources important to the identified theme or themes shall retain integrity capable of supporting interpretation.

(6) SUPPORT.—Residents, nonprofit organizations, other private entities, and governments within the proposed area shall demonstrate support for designation of the area and for management of the area as appropriate for such designation.

(7) AGREEMENTS.—The principal organization and units of government supporting the designation shall be willing to commit to agreements to work in partnership to implement the management plan of the area.

(8) CONSISTENCY WITH ECONOMIC VIABILITY.—The proposal shall be consistent with continued economic viability in the affected communities.

(d) CONDITIONS FOR DESIGNATION.—An area may be designated as an American Heritage Area only by an Act of Congress or by the means provided in title II. Except as otherwise provided in title II, the Congress may designate an area as an American Heritage Area only after each of the following conditions is met:

(1) SUBMISSION OF STUDY AND COMPACT TO SECRETARY.—An entity requesting American Heritage Area designation for the area submits to the Secretary a feasibility study and compact meeting the requirements of section 106(a). The comments of the Governor of each State in which the proposed American Heritage Area lies, or a statement by the entity that such Governor has failed to comment within a reasonable time after receiving the study and compact, accompanies such submittal to the Secretary.

(2) APPROVAL AND SUBMISSION BY SECRETARY.—The Secretary approves, pursuant to section 106(b), the feasibility study and compact referred to in paragraph (1) and submits the study and compact to the Congress together with any comments that the Secretary deems appropriate regarding a preferred action.

(e) RELATION TO NATIONAL REGISTER OF HISTORIC PLACES.—The act of designation of an American Heritage Area shall not be deemed to signify that such American Heritage Area is included on, or eligible for inclusion on, the National Register of Historic Places, as established in accordance with section 101 of the National Historic Preservation Act (16 U.S.C. 470a). Designation of an American Heritage Area shall not preclude the American Heritage Area or any district, site, building, structure, or object located within the American Heritage Area from subsequently being nominated to, or determined eligible for inclusion on, the National Register.

SEC. 106. FEASIBILITY STUDIES, COMPACTS, MANAGEMENT PLANS, AND EARLY ACTIONS.

(a) CONTENTS AND REQUIREMENTS.—

(1) FEASIBILITY STUDIES.—Each feasibility study submitted under this title shall include sufficient information to determine whether an area has the potential to meet the criteria referred to in section 105(c). Such information shall include, but need not be limited to, each of the following:

(A) A description of the natural, historic, and cultural resources and recreational opportunities presented by the area, including an assessment of the quality and degree of integrity of, the availability of public access to, and the themes represented by such resources and opportunities.

(B) An assessment of the interest of potential partners, including units of government, nonprofit organizations, and other private entities.

(C) A description of tentative boundaries for an American Heritage Area proposed to be established in the area.

(D) Identification of a possible management entity for an American Heritage Area proposed to be established in the area.

(2) COMPACTS.—(A) A compact submitted under this title shall include information relating to the objectives and management of an area proposed for designation as an American Heritage Area. Such information shall include, but need not be limited to, each of the following:

(i) A delineation of the boundaries of the proposed American Heritage Area.

(ii) A discussion of the goals and objectives of the proposed American Heritage Area, including an explanation of the proposed approach to conservation and interpretation and a general outline of the protection measures committed to by the partners referred to in clause (iv).

(iii) An identification and description of the management entity that will administer the proposed American Heritage Area.

(iv) A list of the initial partners to be involved in developing and implementing the management plan referred to in paragraph (3) for the proposed American Heritage Area, and a statement of the financial commitment of the partners.

(v) A description of the role of the State or States in which the proposed American Heritage Area is located.

(B)(i) The compact shall be prepared with public participation.

(ii) Actions called for in the compact shall be likely to be initiated within a reasonable time after designation of the proposed American Heritage Area and shall ensure effective implementation of the State and local aspects of the compact.

(3) MANAGEMENT PLANS.—A management plan submitted under this title for an American Heritage Area shall present comprehensive recommendations for the conservation, funding, management, and development of the area. The plan shall take into consideration existing State, county, and local plans and involve residents, public agencies, and private organizations in the area. It shall include a description of the actions recommended to be taken, to protect the resources of the area, by units of government and private organizations. It shall specify existing and potential sources of funding for the protection, management, and development of the area. The plan also shall include the following, as appropriate:

(A) An inventory of the resources contained in the American Heritage Area, including a list of property in the area that should be preserved, restored, managed, developed, or maintained because of the natural, cultural, or historic significance of the property as it relates to the themes of the area.

(B) A recommendation of policies for resource management that consider and detail the application of appropriate land and water management techniques, including (but not limited to) the development of intergovernmental cooperative agreements to protect the historical, cultural, and natural resources and the recreational opportunities of the area in a manner consistent with the support of appropriate and compatible economic viability.

(C) A program, including plans for restoration and construction, for implementation of the management plan by the management entity specified in the compact referred to in paragraph (2) and specific commitments, for the first 5 years of operation of the plan, by the partners identified in the compact.

(D) An analysis of means by which Federal, State, and local programs may best be coordinated to promote the purposes of this title.

(E) An interpretive plan for the American Heritage Area.

(4) EARLY ACTIONS.—After designation of an American Heritage Area but prior to approval of the management plan for that area, the Secretary may provide technical and financial assistance for early actions that are important to the theme of the area and that protect resources that would be in imminent danger of irreversible damage without such early actions.

(b) APPROVAL AND DISAPPROVAL OF COMPACTS AND MANAGEMENT PLANS.—

(1) IN GENERAL.—The Secretary, in consultation with the Governors of each State in which the relevant American Heritage Area, or proposed area, is located, shall approve or disapprove every compact or management plan submitted under this title not later than 90 days after receiving such compact or management plan. Prior to approving the compact or plan, the Secretary shall consult with the Advisory Council on Historic Preservation in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

(2) DISAPPROVAL AND REVISIONS.—If the Secretary disapproves a compact or management plan submitted under this title, the Secretary shall advise the submitter, in writing, of the reasons for the disapproval and shall make recommendations for revisions of the compact or plan. The Secretary shall approve or disapprove a proposed revision to such a compact or plan within 90 days after the date on which the revision is submitted to the Secretary.

(3) AMENDMENTS TO MANAGEMENT PLANS.—The Secretary shall review substantial amendments to management plans for American Heritage Areas. Funds appropriated pursuant to this title may not be expended to implement such amendments until the Secretary approves the amendments.

SEC. 107. MANAGEMENT ENTITIES.

(a) IN GENERAL.—

(1) RECEIPT OF FEDERAL FUNDS.—Management entities that are designated in compacts approved under section 106(b) for American Heritage Areas are authorized to receive Federal funds in support of cooperative partnerships to prepare and implement the management plans regarding the American Heritage Areas and to otherwise perform the functions contemplated in this title.

(2) ELIGIBILITY.—To be eligible for designation as the management entity of an American Heritage Area, a unit of government or private nonprofit organization must possess the legal ability to—

(A) receive Federal funds for use in preparing and implementing the management plan for the area;

(B) disburse Federal funds to other units of government or other organizations for use in preparing and implementing the management plan;

(C) account for all Federal funds so received or disbursed; and

(D) sign agreements with the Federal Government.

(b) AUTHORITIES OF MANAGEMENT ENTITY.—The management entity of an American Heritage Area may, for purposes of preparing and implementing the management plan for the area, use Federal funds made available under this title—

(1) to make grants and loans to States, political subdivisions thereof, private organizations, and other persons;

(2) to enter into cooperative agreements with Federal agencies; and

(3) to hire and compensate staff.

(c) DUTIES OF MANAGEMENT ENTITY.—The management entity for an American Heritage Area shall do each of the following:

(1) MANAGEMENT PLAN.—The management entity shall develop, and submit to the Secretary for approval, a management plan described in section 106(a)(3) within 3 years after the date of the designation of the area as an American Heritage Area.

(2) PRIORITIES.—The management entity shall give priority to the implementation of actions, goals, and policies set forth in the compact and management plan referred to in section 106(a), including—

(A) assisting units of government, regional planning organizations, and nonprofit organizations—

(i) in preserving the American Heritage Area;

(ii) in establishing and maintaining interpretive exhibits in the area;

(iii) in developing recreational opportunities in the area;

(iv) in increasing public awareness of and appreciation for the natural, historical, and cultural resources of the area;

(v) in the restoration of historic buildings that are located within the boundaries of the area and relate to the themes of the area; and

(vi) in ensuring that clear, consistent, and environmentally appropriate signs identifying access points and sites of interest are put in place throughout the area;

(B) consistent with the goals of the management plan referred to in section 106(a)(3), encouraging economic viability in the affected communities by appropriate means; and

(C) encouraging local governments to adopt land-use policies consistent with the management of the area and the goals of the management plan referred to in section 106(a)(3).

(3) CONSIDERATION OF INTERESTS OF LOCAL GROUPS.—The management entity shall, in developing and implementing the management plan referred to in section 106(a)(3), consider the interests of diverse governmental, business, and nonprofit groups within the geographic area.

(4) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly regarding the implementation of the management plan referred to in section 106(a)(3).

(5) SUBMISSION OF CHANGES IN PLAN.—The management entity shall submit any substantial changes to the management plan referred to in section 106(a)(3) (including any increase of more than 20 percent in the cost estimates for implementation of the management plan) to the Secretary for the approval of the Secretary.

(6) ANNUAL REPORT.—The management entity shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the entity with Federal funds under section 107(b)(1) is outstanding, submit an annual report to the Secretary setting forth its accomplishments, its expenses and income, and the entities to which it made any loans and grants during the year for which the report is made.

(7) COOPERATION WITH AUDITS.—The management entity shall, for any fiscal year in which it receives Federal funds under this title or in which a loan made by the entity with Federal funds under section 107(b)(1) is outstanding, make available for audit by the Congress, the Secretary, and appropriate units of government all records and other information pertaining to the expenditure of such funds and any matching funds, and require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds.

(8) LIABILITY FOR LOANS.—The management entity shall be liable to the Federal Government for any loans that the management entity makes under section 107(b)(1).

(d) DISQUALIFICATION FOR FEDERAL FUNDING.—If a management plan regarding an American Heritage Area is not submitted to the Secretary as required under subsection (c)(1) within the time specified in such subsection, the American Heritage Area shall cease to be eligible for Federal funding under this title until such a plan regarding the American Heritage Area is submitted to the Secretary.

(e) PROHIBITION OF ACQUISITION OF REAL PROPERTY.—A management entity for an American Heritage Area may not use Federal funds received under this title to acquire real property or interest in real property. No provision of this title shall prohibit any management entity from using Federal funds from other sources for their permitted purposes.

(f) DURATION OF ELIGIBILITY FOR FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—A management entity for an American Heritage Area shall be eligible to receive funds appropriated pursuant to this title for a 10-year period beginning on the day on which the American Heritage Area is designated, except as provided in paragraph (2).

(2) EXTENSION OF ELIGIBILITY.—The eligibility of a management entity for funding under this title may be extended, by the Secretary, for a period of not more than a 5 years after the 10-year period referred to in paragraph (1), if—

(A) the management entity determines that the extension is necessary in order to carry out the purposes of this title and notifies the Secretary of such determination not later than 180 days prior to the end of the 10-year period referred to in paragraph (1);

(B) the management entity, not later than 180 days prior to the end of the 10-year period referred to in paragraph (1), presents to the Secretary a plan of its activities for the period of the extension, including provisions for becoming independent of the funds made available pursuant to this title; and

(C) the Secretary, after consulting with the Governor of each State in which the American Heritage Area is located, approves such extension of eligibility.

(3) LACK OF EFFECT OF EXTENSION ON FUNDING LIMITATIONS.—An extension provided under this subsection shall not be construed as waiving any limitation on funds provided pursuant to this title.

SEC. 108. WITHDRAWAL OF DESIGNATION.

(a) IN GENERAL.—The American Heritage Area designation of an area shall continue unless—

(1) the Secretary determines that—

(A) the American Heritage Area no longer meets the criteria referred to in section 105(c);

(B) the parties to the compact approved in relation to the area under section 106(b) are not in compliance with the terms of the compact;

(C) the management entity of the area has not made reasonable and appropriate progress in developing or implementing the management plan approved for the area under section 106(b); or

(D) the use, condition, or development of the area is incompatible with the criteria referred to in section 105(c) or with the compact approved in relation to the area under section 106(b); and

(2) after making a determination referred to in paragraph (1), the Secretary submits to the Congress notification that the American Heritage Area designation of the area should be withdrawn.

(b) PUBLIC HEARING.—Before the Secretary makes a determination referred to in subsection (a)(1) regarding an American Heritage Area, the Secretary or a designee shall hold a public hearing within the area.

(c) TIME OF WITHDRAWAL OF DESIGNATION.—

(1) IN GENERAL.—The withdrawal of the American Heritage Area designation of an area shall become final 90 legislative days after the Secretary submits to the Congress the notification referred to in subsection (a)(2) regarding the area.

(2) LEGISLATIVE DAY.—For purposes of this subsection, the term "legislative day" means any calendar day on which both Houses of the Congress are in session.

SEC. 109. DUTIES AND AUTHORITIES OF FEDERAL AGENCIES.

(a) DUTIES AND AUTHORITIES OF SECRETARY.—

(1) GRANTS.—The Secretary may make matching grants to provide assistance regarding feasibility studies and compacts described in section 106(a) and, upon request of the management entity for the relevant American Heritage Area, regarding management plans and early actions described in section 106(a) and capital projects and improvements undertaken pursuant to such management plans. The Secretary may make grants under this section to units of government, and, in consultation with affected units of government, to private nonprofit organizations. In awarding grants, the Secretary shall be guided by the criteria for

eligibility for designation referred in section 105(c).

(2) TECHNICAL ASSISTANCE.—(A) The Secretary may provide technical assistance to units of government and private nonprofit organizations regarding feasibility studies and compacts described in section 106(a) and, upon request of the management entity for the relevant American Heritage Area, regarding management plans and early actions described in section 106(a) and capital projects and improvements undertaken pursuant to such management plans. In providing the technical assistance, the Secretary shall be guided by the criteria for eligibility for designation referred to in section 105(c).

(B) The Secretary may elect to provide all or part of the technical assistance authorized by this subsection through cooperative agreements with units of government and private nonprofit organizations whose missions and resources can contribute substantially to the purposes of this title.

(3) OTHER ASSISTANCE.—Nothing in this title shall be deemed to prohibit the Secretary or units of government from providing technical or financial assistance under any other provision of law.

(4) PRIORITIES FOR ASSISTANCE.—In assisting an American Heritage Area, the Secretary shall give priority to actions that assist in—

(A) conserving the significant natural, historic, and cultural resources which support the themes of the American Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the resources and associated values of the American Heritage Area.

(5) DETERMINATIONS REGARDING ASSISTANCE.—The Secretary shall decide which American Heritage Areas shall be awarded technical and financial assistance and the amount of the assistance. Such decisions shall be based on the relative degree to which each American Heritage Area effectively fulfills the objectives contained in the management plan for the area, achieves the purposes of this title, and fulfills the criteria referred to in section 105(c) and shall give consideration to projects which provide a greater leverage of Federal funds.

(6) NON-FEDERALLY OWNED PROPERTY.—The Secretary is authorized to spend Federal funds directly on nonfederally owned property to further the purposes of this title, giving priority to assisting units of government in appropriate treatment of districts, sites, buildings, structures, and objects listed or eligible for listing on the National Register of Historic Places.

(7) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress regarding the American Heritage Areas Partnership Program. Each report shall include—

(A) the number, amount, and recipients of any grants provided by the Secretary under this title and the nature of any technical assistance or early action provided under this title;

(B) a description of the status and condition of, and Federal funding provided under this Act to, each American Heritage Area;

(C) a description of the areas nominated for the American Heritage Partnership Program;

(D) the recommendations of the Secretary regarding areas to be designated by the Congress as American Heritage Areas; and

(E) the status of the implementation of all contractual agreements entered into by the Secretary under this title.

(8) OVERSIGHT OF HERITAGE AREAS WITH EXPIRED ELIGIBILITY.—The Secretary shall investigate, study, and continually monitor the welfare of all American Heritage Areas whose eligibility for Federal funding under this title has expired and shall report to the Congress periodically regarding the condition of such American Heritage Areas.

(9) PROVISION OF INFORMATION.—In cooperation with other Federal agencies, the Secretary shall provide the general public with information regarding the location and character of components of the American Heritage Areas Partnership Program.

(10) PROMULGATION OF REGULATIONS.—The Secretary shall promulgate such regulations as are necessary to carry out the purposes of this title.

(b) DUTIES OF FEDERAL ENTITIES.—Any Federal entity conducting or supporting activities directly affecting an American Heritage Area, and any unit of government acting pursuant to a grant of Federal funds or a Federal permit or agreement and conducting or supporting such activities, shall, to the maximum extent practicable—

(1) consult with the Secretary and the management entity for the American Heritage Area with respect to such activities;

(2) cooperate with the Secretary and the management entity in the carrying out of the duties of the Secretary and the management entity under this title, and coordinate such activities with the carrying out of such duties; and

(3) conduct or support such activities in a manner consistent with the management plan for the American Heritage Area unless the Federal entity or unit of government, after consultation with the Secretary and the management entity, determines that there is no practicable alternative.

SEC. 110. LACK OF EFFECT ON LAND USE REGULATION.

(a) LACK OF EFFECT ON AUTHORITY OF GOVERNMENTS.—Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by current law or regulation.

(b) LACK OF ZONING OR LAND USE POWERS OF ENTITY.—Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for an American Heritage Area.

(c) MANAGEMENT PLAN AVAILABILITY TO LOCAL GOVERNMENTS.—Any management plan referred to in section 106(a) and submitted to the Secretary by the management entity for an American Heritage Area shall be made available to the local governments having jurisdiction over land use regulations affecting the American Heritage Area for the use of the local governments in updating their growth management plans and in the event that such governments desire to amend current land use legislation as they may deem appropriate and in accordance with their legal authority.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

(a) FEASIBILITY STUDIES, COMPACTS, MANAGEMENT PLANS, AND EARLY ACTIONS.—From the amounts made available to carry out the National Historic Preservation Act (16 U.S.C. 470 et seq.), there is authorized to be appropriated to the Secretary, for grants and technical assistance pursuant to section 109(a) and the administration of such grants and assistance, annually not more than $10,000,000, to remain available until expended, with the following conditions:

(1) PERCENT OF COST.—No grant under this title for a feasibility study, compact, management plan, or early action may exceed 75 percent of the cost, to the grantee, for such study, compact, plan, or early action.

(2) STUDIES.—The total amount of Federal funding under this title for feasibility studies for a proposed American Heritage Area may not exceed $100,000.

(3) COMPACTS.—The total amount of Federal funding under this title for compacts for a proposed American Heritage Area may not exceed $150,000.

(4) EARLY ACTION GRANTS.—The total amount of Federal funding under this title for early action grants for an American Heritage Area may not exceed $250,000.

(5) MANAGEMENT PLANS.—The total amount of Federal funding under this title for management plans for an American Heritage Area may not exceed $150,000.

(b) MANAGEMENT ENTITY OPERATIONS.—

(1) OPERATING COSTS.—From the amounts made available to carry out the National Historic Preservation Act (16 U.S.C. 470 et seq.), there is authorized to be appropriated to the Secretary, for each management entity of an American Heritage Area, not more than $250,000 annually for the operating costs of such management entity pursuant to section 107.

(2) COST SHARE.—The Federal contribution under this title to the operations of any management entity of an American Heritage Area shall not exceed 50 percent of the annual operating costs of the entity.

(c) PLAN IMPLEMENTATION.—From the amounts made available to carry out the National Historic Preservation Act (16 U.S.C. 470 et seq.), there is authorized to be appropriated to the Secretary, for grants and technical assistance for the implementation of management plans for designated American Heritage Areas and the administration of such grants and assistance, not more than $25,000,000 annually, to remain available until expended, with the following conditions:

(1) PERCENT OF COST.—No grant under this title for implementation of a management plan may exceed 50 percent of the cost to the grantee of the implementation.

(2) PERCENT OF FUNDING FOR EACH AREA.—Not more than 10 percent of the annual appropriation for this subsection shall be made available, in any 1 year, to each American Heritage Area.

(3) TOTAL FUNDING FOR EACH AREA.—Not more than a total of $10,000,000 may be made available under this subsection to each American Heritage Area.

(4) AGREEMENTS.—Any payment made under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this title, as determined by the Secretary, shall result in a right of the United States to the greater of—

(A) reimbursement of all funds made available for such project; and

(B) the proportion of the increased value of the project attributable to such funds, as determined at the time of such conversion, use, or disposal.

(d) LIMITATION ON AMOUNTS FOR TECHNICAL ASSISTANCE.—The amount of Federal funding made available under this section for technical assistance for an American Heritage Area for a fiscal year may not exceed $150,000.

SEC. 112. EXPIRATION OF AUTHORITIES.

The authorities contained in this title shall expire on September 30 of the 25th fiscal year beginning after the date of the enactment of this title.

SEC. 113. REPORT.

The Secretary shall submit to the Congress, every 5 years while the authorities contained in this title remain in force, a report on the status and accomplishments of the American Heritage Areas Partnership Program as a whole.

SEC. 114. SAVINGS PROVISION.

Nothing in this title shall be construed to expand or diminish any authorities contained in any law designating an individual National Heritage Area or Corridor before the date of the enactment of this title.

TITLE II—DESIGNATION OF AMERICAN HERITAGE AREAS

SEC. 201. AMERICAN COAL HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the rise of American industry in the late 19th and 20th centuries led to tremendous growth in the Appalachian coal fields, creating an area of national historic significance in terms of its contributions to the industrial revolution, architecture, culture, and diversity;

(2) within the Appalachian coal belt, the coal mined in southern West Virginia and in southwestern Virginia produced some of the purest and most sought-after coal in the Nation, and the region associated with this coal contains a rich cultural heritage;

(3) the influx of labor needed to mine coal in this region created a diverse community of African Americans from the south, recent immigrants from southern and southeastern Europe, Americans from northern mining areas, and native Appalachians;

(4) it is in the national interest to preserve and protect physical remnants of the late 19th and early 20th century rise of American industry for the education and benefit of present and future generations; and

(5) there is a need to provide assistance to the preservation and promotion of the vestiges of the coal heritage of Appalachia that have outstanding cultural, historic, and architectural value.

(b) STATEMENT OF PURPOSE.—The purposes of this section are to preserve and interpret, for the educational and inspirational benefit of present and future generations, certain lands and structures with unique and significant historical and cultural values associated with the coal mining heritage of southern West Virginia and southwestern Virginia.

(c) DESIGNATION.—

(1) IN GENERAL.—Upon publication by the Secretary in the Federal Register of notice that a compact meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the American Coal Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(2) COMPACT.—The Secretary may not require, as a condition of approving a compact submitted pursuant to this section regarding the Heritage Area, that both the State of West Virginia and the Commonwealth of Virginia sign the compact.

(d) BOUNDARIES.—The Heritage Area shall be composed of the lands generally depicted on the map entitled "Coal Industry National Heritage Area", numbered CMNHA-80,008, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

SEC. 202. AUGUSTA CANAL AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Augusta Canal National Historic Landmark in the State of Georgia, listed on the National Register of Historic Places, is one of the last unspoiled and undeveloped areas in the State of Georgia, has remained largely intact, and has excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreage in open space;

(2) the beautiful rural landscapes, scenic vistas and excellent water quality of the Augusta Canal contain significant undeveloped recreational opportunities for people throughout the United States;

(3) the existing mill sites and other structures throughout the Augusta Canal were instrumental in the development of the cotton textile industry in the south;

(4) several significant sites associated with Native Americans, the American Revolution, and African-Americans are located within the area; and

(5) the Augusta Canal Authority would be an appropriate management entity for an American Heritage Area established in the area of the Augusta Canal.

(b) STATEMENT OF PURPOSE.—The purposes of this section are to—

(1) designate the Augusta Canal as an American Heritage Area; and

(2) provide a management framework to assist the State of Georgia, its units of local and regional government, and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret significant features of the lands, waters, historic structures, and heritage of the Augusta Canal.

(c) DESIGNATION.—Upon publication in the Federal Register of notice that a compact meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Augusta Canal American Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(d) BOUNDARIES.—The Heritage Area shall be comprised of the lands generally depicted on the map entitled "The Augusta Canal", numbered AUCA-80,000, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

SEC. 203. CANE RIVER AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the settlement in the Natchitoches area along Cane River, established in 1714, is the oldest settlement in the Louisiana Purchase Territory;

(2) the Cane River area is the locale of the development of Creole culture, from the French-Spanish interactions of the early 18th century to the living communities of today;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement in the area, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, most, unlike the Cane River area, are isolated examples and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features, with original elements, in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, 4 other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefited from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs of the area.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to recognize the importance of the Cane River Creole culture as a significant element of the cultural heritage of the United States; and

(2) to establish a Cane River American Heritage Area to be undertaken in partnership with the State of Louisiana, the city of Natchitoches, local communities and settlements of the Cane River area, preservation organizations, and private landowners, with full recognition that programs must fully involve the local communities and landowners.

(c) DESIGNATION.—In furtherance of the need to recognize the value and importance of the Cane River region, upon publication by the Secretary in the Federal Register of notice that a compact meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Cane River American Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(d) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Area shall be composed of the lands encompassing—

(A) an acre approximately 1 mile on both sides of the Cane River, as depicted on the map numbered "CARI-80,000", and dated January 1994;

(B) the Natchitoches National Historical Landmark District;

(C) the Los Adaes State Commemorative Area;

(D) the Fort Jesup State Commemorative Area;

(E) the Fort St. Jean Baptiste State Commemorative Area; and

(F) the Kate Chopin House.

(2) MAP.—The Secretary shall prepare a map of the Cane River American Heritage

Area, which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

(f) MANAGEMENT ENTITY.—Upon petition, the Secretary is authorized to recognize a coalition consisting of the following persons as the management entity, for purposes of title I, for the Cane River American Heritage Area:

(1) 1 member submitted by the mayor of Natchitoches.

(2) 1 member submitted by the Association for the Preservation of Historic Natchitoches.

(3) 1 member submitted by the Natchitoches Historic Foundation, Inc.

(4) 2 members, with experience in and knowledge of tourism in the area of the Cane River American Heritage Area, submitted by local business and tourism organizations.

(5) 1 member submitted by the Governor of the State of Louisiana.

(6) 1 member submitted by the Police Jury of Natchitoches Parish in Louisiana.

(7) 1 member submitted by the Concerned Citizens of Cloutierville.

(8) 1 member submitted by the St. Augustine Historical Society.

(9) 1 member submitted by the Black Heritage Committee.

(10) 1 member submitted by the Los Adaes/Robeline Community.

(11) 1 member submitted by the Natchitoches Historic District Commission.

(12) 1 member submitted by the Cane River Waterway Commission.

(13) 2 members who are landowners in and residents of the Cane River American Heritage Area.

(14) 1 member, with experience and knowledge of historic preservation, submitted by Museum Contents, Inc.

(15) 1 member, with experience and knowledge of historic preservation, submitted by the President of Northwestern State University of Louisiana.

(16) 1 member, with experience in and knowledge of environmental, recreational, and conservation matters affecting the Cane River American Heritage Area, submitted by the Natchitoches Sportsmans Association and other local recreational and environmental organizations.

(17) The superintendent of the Jean Lafitte National Historic Park and Preserve, or a designee.

SEC. 204. ESSEX AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) Essex County, Massachusetts, was host to a series of historic events that influenced the course of the early settlement of the United States, its emergence as a maritime power, and its subsequent industrial development;

(2) the North Shore of Essex County and Merrimack River valley contain examples of significant early American architecture and significant Federal-period architecture, many sites and buildings associated with the establishment of the maritime trade in the United States, the site of the witchcraft trials of 1692, the birthplace of successful iron manufacture, and the establishment of the textile and leather industries in and around the cities of Peabody, Beverly, Lynn, Lawrence, and Haverhill;

(3) Salem, Massachusetts, has a rich heritage as one of the earliest landing sites of the English colonists, the first major world harbor for the United States, and an early thriving hub of American industries;

(4) the Saugus Iron Works National Historic Site is the site of the first sustained, integrated iron works in Colonial America, and the technology employed at the Iron Works was dispersed throughout the Colonies and was critical to the development of industry and technology in America;

(5) the Salem Maritime National Historic Site contains nationally significant resources that explain the manner in which the Nation was settled, its evolution into a maritime power, and its development as a major industrial force, and the story told at the Salem Maritime and Saugus Iron Works National Historic Sites would be greatly enhanced through the interpretation of significant theme-related resources in Salem and Saugus and throughout Essex County;

(6) partnerships between the private and public sectors have been created and additional partnerships will be encouraged to preserve the rich cultural heritage of the region, which will stimulate cultural awareness and preservation and economic development through tourism; and

(7) the resident and business communities of the region have formed the Essex Heritage Ad Hoc Commission for the preservation, interpretation, promotion, and development of the historic, cultural, and natural resources of the area and are investing significant private funds and energy to develop a plan to preserve the nationally significant resources of Essex County.

(b) PURPOSES.—The purposes of this section are—

(1) to designate the Essex American Heritage Area in order to recognize, preserve, promote, interpret, and make available for the benefit of the public the historic, cultural, and natural resources of the North Shore and lower Merrimack River valley in Essex County, Massachusetts, which encompass the 3 primary themes of the Salem Maritime National Historic site and Saugus Iron Works National Historic site (the histories of early settlement and industry, maritime trade, and textile and leather manufacturing); and

(2) to provide a management framework to assist the Commonwealth of Massachusetts and its units of local government in the development and implementation of an integrated cultural, historical, and land resource management program in order to retain, enhance, and interpret the significant values of the lands, waters, and structures located in the district.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Essex American Heritage Area (hereinafter in this section referred to as the "Heritage Area"), within the county of Essex in the Commonwealth of Massachusetts.

(d) BOUNDARIES.—The Heritage Area shall be comprised of the lands generally depicted on the map numbered NAR-51-80,000 and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

SEC. 205. HUDSON RIVER VALLEY AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Hudson River Valley between Yonkers, New York, and Troy, New York, possesses important historical, cultural, and natural resources, representing themes of settlement and migration, transportation, and commerce;

(2) the Hudson River Valley played an important role in the military history of the American Revolution;

(3) the Hudson River Valley gave birth to important movements in American art and architecture through the works of Andrew Jackson Downing, Alexander Jackson Davis, Thomas Cole, and their associates, and played a central role in the recognition of the esthetic values of landscape and the development of an American esthetic ideal;

(4) the Hudson River Valley played an important role in the development of the iron, textile, and collar and cuff industries in the 19th century, exemplified in surviving structures such as the Harmony Mills complex at Cohoes, and in the development of early men's and women's labor and cooperative organizations, and is home of the first women's labor union in the United States and the first women's secondary school in the United States;

(5) the Hudson River Valley, in its cities and towns and its rural landscapes—

(A) displays exceptional surviving physical resources illustrating these themes and the social, industrial, and cultural history of the 19th and early 20th centuries; and

(B) includes numerous national historic sites and landmarks;

(6) the Hudson River Valley is the home of the traditions associated with Dutch and Huguenot settlements dating to the 17th and 18th centuries, was the locus of characteristic American stories such as "Rip Van Winkle" and the "Legend of Sleepy Hollow", and retains physical, social, and cultural evidence of these traditions and the traditions of other more recent ethnic and social groups;

(7) the State of New York has established a structure, in the Hudson River Greenway Communities Council and the Greenway Conservancy, for the Hudson River Valley communities to join together to preserve, conserve, and manage these resources and to link them through trails and other means; and

(8) the Heritage Area Committee jointly established by the Hudson River Valley Greenway Communities Council and the Greenway Conservancy (agencies established by the State of New York in its Hudson River Greenway Act of 1991) is expected to be the management entity for an American Heritage Area established in the Hudson River Valley.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to recognize the importance of the history and resources of the Hudson River Valley to the Nation;

(2) to assist the State of New York and the communities of the Hudson River Valley in

preserving and interpreting these resources for the benefit of the Nation;

(3) to maintain agricultural viability and productivity in the region; and

(4) to authorize Federal financial and technical assistance to serve these purposes.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Hudson River Valley American Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(d) BOUNDARIES.—The Heritage Area shall be comprised of the lands generally depicted on the map entitled "Hudson River Valley National Heritage Area", numbered P50–8002, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

SEC. 206. OHIO & ERIE CANAL AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Ohio & Erie Canal, which opened for commercial navigation in 1832, was the first inland waterway to connect the Great Lakes at Lake Erie with the Gulf of Mexico via the Ohio and Mississippi Rivers and was a part of a canal network in Ohio that was one of the most extensive and successful systems in America during a period in history when canals were essential to the growth of the Nation;

(2) the Ohio & Erie Canal spurred economic growth in the State of Ohio that took the State from near bankruptcy to a position as the third most economically prosperous State in the Union in just 20 years;

(3) a 4-mile section of the Ohio & Erie Canal was designated a National Historic Landmark in 1966 and other portions of the Ohio & Erie Canal and many associated structures have been placed on the National Register of Historic Places;

(4) in 1974, 19 miles of the Ohio & Erie Canal were declared nationally significant, under National Park Service new area criteria, in the designation of the Cuyahoga Valley National Recreation Area;

(5) the National Park Service found the Ohio & Erie Canal nationally significant in a 1975 study entitled "Suitability/Feasibility Study, Proposed Ohio & Erie Canal"; and

(6) a 1993 Special Resource Study of the Ohio & Erie Canal Corridor, conducted by the National Park Service and entitled "A Route to Prosperity", has concluded that the corridor is eligible to become a National Heritage Corridor, an affiliated unit of the National Park System.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to the national heritage of certain historic and cultural lands, waterways, and structures within the 87-mile Ohio & Erie Canal Corridor between Cleveland and Zoar; and

(2) to provide a management framework to assist the State of Ohio and its political subdivisions in developing and implementing a management plan for the area and developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreational, and scenic resources of the corridor.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Ohio & Erie Canal American Heritage Area (hereinafter in this Act referred to as the "Heritage Area").

(d) BOUNDARIES.—The Heritage Area shall be composed of the lands that are generally the route of the Ohio & Erie Canal from Cleveland to Zoar, Ohio, as depicted in the 1993 National Park Service Special Resources Study, "A Route to Prosperity". The specific boundaries shall be those specified in the management plan submitted under subsection (e). The Secretary shall prepare a map of the area which shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

(f) MANAGEMENT ENTITY.—Upon petition, the Secretary is authorized to recognize a coalition consisting of the following persons as the management entity, for purposes of title I, for the Ohio & Erie Canal American Heritage Area:

(1) The Superintendent of the Cuyahoga Valley National Recreational Area.

(2) 2 individuals submitted by the Governor of Ohio, who shall be representatives of the Directors of the Ohio Department of Natural Resources and the Ohio Historical Society.

(3) 8 individuals submitted by the county commissioners or county chief executive of the Ohio counties of Cuyahoga, Summit, Stark, and Tuscarawas, including—

(A) from each county, 1 representative of the planning offices of the county; and

(B) from each county, 1 representative of a municipality in the county.

(4) 3 individuals submitted by the county or metropolitan park boards of the Ohio counties of Cuyahoga, Summit, and Stark.

(5) 1 individual with knowledge and experience in the field of historic preservation, submitted by the Director of the National Park Service.

(6) 1 individual with knowledge and experience in the field of historic preservation, submitted by the Ohio Historic Preservation Officer.

(7) 1 individual who is a director of a convention and tourism bureau within the area, submitted by the Director of the Ohio Department of Travel and Tourism.

(8) 4 individuals, who shall include 1 representative of business and industry from each of the counties of Cuyahoga, Summit, Stark, and Tuscarawas, submitted by the Greater Cleveland Growth Association, the Akron Regional Development Board, the Stark Development Board, and the Tuscarawas County Chamber of Commerce.

(g) ASSISTANCE.—The Secretary may provide to public and private entities within the Heritage Area (including the management entity for the Heritage Area) technical, financial, development, and operational assistance. Assistance provided under this subsection shall be provided on a reimbursable basis through the Cuyahoga Valley National Recreation Area.

SEC. 207. SHENANDOAH VALLEY BATTLEFIELDS AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) there are situated in the Shenandoah Valley in the Commonwealth of Virginia the sites of several key Civil War battles;

(2) certain sites, battlefields, structures, and districts in the Shenandoah Valley are collectively of national significance in the history of the Civil War;

(3) in 1990 the Congress enacted legislation directing the Secretary of the Interior to prepare a comprehensive study of significant sites and structures associated with Civil War battles in the Shenandoah Valley;

(4) the study, which was completed in 1992, found that many of the sites within the Shenandoah Valley possess national significance and retain a high degree of historical integrity;

(5) the preservation and interpretation of these sites will make an important contribution to the understanding of the heritage of the United States;

(6) the preservation of Civil War sites within a regional framework requires cooperation among local property owners and Federal, State, and local government entities; and

(7) partnerships between Federal, State, and local governments and their regional entities, and the private sector, offer the most effective opportunities for the enhancement and management of the Civil War battlefields and related sites in the Shenandoah Valley.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to preserve, conserve, and interpret the legacy of the Civil War in the Shenandoah Valley;

(2) to recognize and interpret important events and geographic locations representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864;

(3) to recognize and interpret the effect of the Civil War on the civilian population of the Shenandoah Valley during the war and postwar reconstruction period; and

(4) to create partnerships among Federal, State, and local governments and their regional entities, and the private sector, to preserve, conserve, enhance, and interpret the nationally significant battlefields and related sites associated with the Civil War in the Shenandoah Valley.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Shenandoah Valley Battlefield American Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(d) BOUNDARIES.—The Heritage Area shall be composed of the areas of the Commonwealth of Virginia generally depicted on the map entitled "Shenandoah Valley National Heritage Area", numbered SVNHA-80,006, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

SEC. 208. STEEL INDUSTRY AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the industrial and cultural heritage of southwestern Pennsylvania, including the city of Pittsburgh and the counties of Allegheny, Beaver, Fayette, Greene, Washington, and Westmoreland, related directly to steel and steel-related industries, is nationally significant;

(2) these industries include steel-making, iron-making, aluminum, specialty metals, glass, coal mining, coke production, machining and foundries, transportation, and electrical industries;

(3) the industrial and cultural heritage of the steel and related industries in this region includes the social history and living cultural traditions of the people of the region;

(4) the labor movement of the region played a significant role in the development of the Nation, including both the formation of many key unions, such as the Congress of Industrial Organizations (CIO) and the United Steel Workers of America (USWA), and crucial struggles to improve wages and working conditions, such as the Rail Strike of 1877, the Homestead Strike of 1892, and the Great Steel Strike of 1919;

(5) there are significant examples of cultural and historic resources within this 6-county region that merit the involvement of the Federal Government to develop programs and projects, in cooperation with the Steel Industry Heritage Task Force, the Commonwealth of Pennsylvania, and other local and governmental bodies, to adequately conserve, protect, and interpret this heritage for future generations while providing opportunities for education and revitalization; and

(6) the Steel Industry Heritage Task Force would be an appropriate management entity for a Heritage Area established in the region.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to foster a close working relationship between all levels of government, the private sector, and the local communities in the steel industry region of southwestern Pennsylvania and empower the communities to conserve their heritage while continuing to pursue economic opportunities; and

(2) to conserve, interpret, and develop the historical, cultural, natural, and recreational resources related to the industrial and cultural heritage of the 6-county steel industry region of southwestern Pennsylvania.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Steel Industry American Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(d) BOUNDARIES.—The Heritage Area shall be composed of the lands generally depicted on the map entitled "The Steel Industry American Heritage Area", numbered SINHA-80,007, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

SEC. 209. VANCOUVER AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the lower Columbia River basin and Vancouver, Washington, have been the focal point of a number of important periods, themes, and events in American history and prehistory, including native settlements, westward expansion of the British colonies and the United States from 1763 to 1898, political and military affairs from 1865 to 1939, and military affairs from 1914 to 1941;

(2) the Columbia River is the central feature around which the history of the proposed Vancouver National Heritage Area and the entire Pacific Northwest revolves;

(3) the proposed Vancouver National Heritage Area is located on the shores of the Columbia River, 78 miles from the Pacific Ocean, and the Columbia River has been an artery for communication and trade since prehistoric times;

(4) Fort Vancouver National Historic Site, a unit of the National Park System, was founded in 1825 by the Hudson Bay Company and its development from 1825 to 1860 was seminal to Euro-American settlement of the Northwest;

(5) the Vancouver barracks served as the principal administrative outpost of the United States Army in the Pacific Northwest from 1849 until World War I, served as a command post during the Native American Wars of the mid- to late-19th century, and provided major facilities for support of United States military ventures throughout the Pacific during the Spanish American War and the 2 World Wars;

(6) Pearson Airfield was the site of significant events in the history of aviation in the Pacific Northwest, was particularly prominent during the interwar period between 1923 and 1941, and today continues to be an important home to historic aircraft and historic aviation;

(7) the proposed Vancouver American Heritage Area contains a number of discovered and unrecovered archaeological sites significant to the history of North America and the growth of the United States;

(8) the proposed Vancouver American Heritage Area is located close to major metropolitan areas, including Portland, Tacoma, and Seattle, and is immediately adjacent to Interstate 5, the major north-south interstate of the Pacific Northwest; and

(9) many Federal, State, and local government entities, as well as numerous private organizations and individuals—

(A) have expressed a desire to join forces and work together in a cooperative spirit in order to preserve, interpret, and enhance the cultural, recreational, and educational potential of the proposed American Heritage Area;

(B) have already demonstrated their ability to effectively cooperate in the course of preparing the "Vancouver National Historical Reserve Feasibility Study and Environmental Assessment", as required by Public Law 101-523 (104 Stat. 2297); and

(C) are capable of forming the continued cooperative alliances needed to enter into a compact, identify a management entity, and establish an appropriate management plan for the proposed Vancouver American Heritage Area.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to preserve, enhance, and interpret the significant aspects of the lands, water, structures, and history of the proposed Vancouver American Heritage Area; and

(2) to provide a partnership that will develop and implement an integrated cultural, historical, recreational, and educational land resource management program in order to achieve these purposes.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Vancouver American Heritage Area (hereinafter in this section referred to as the "Heritage Area").

(d) BOUNDARIES.—The Heritage Area shall be composed of the lands generally depicted on the map entitled "Vancouver American Heritage Area", numbered VAAM-80,001, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section, except that the responsibilities of the management entity for the Heritage Area shall not extend to those lands under the control of the Department of the Interior or the Department of the Army. The management entity may enter into cooperative agreements and partnerships with these and other entities as appropriate to further the purposes of this Act.

(f) PEARSON AIRPARK.—

(1) TRANSITION.—(A) General aviation shall cease at Pearson Airpark not later than April 3, 2022, unless a continuation of general aviation is expressly authorized by an Act of Congress.

(B) Not later than January 30, 2010, the management entity for the Heritage Area shall submit to the Secretary a plan regarding general aviation at Pearson Airpark that is consistent with this section.

(C) Not later than June 30, 2010, the Secretary shall—

(i) approve such a plan and transmit the plan to the Congress; or

(ii) notify the Congress that no acceptable plan has been submitted under subparagraph (B).

(D) If the management entity fails to submit a plan acceptable to the Secretary under subparagraph (B) before June 30, 2010—

(i) the Secretary may not provide further assistance to the Heritage Area under this Act; and

(ii) the Secretary shall prepare such a plan for submittal to the Congress not later than June 30, 2011.

(2) HISTORIC AIRCRAFT DEFINED.—For purposes of this section, the term "historic aircraft" means any aircraft representing aviation in World War II or earlier.

(3) VIABILITY AND MITIGATION PLAN.—Any management plan submitted to the Secretary pursuant to section 107(c)(1) and subsection (e) of this section regarding the Heritage Area shall include a Pearson Airpark Viability and Mitigation Plan that accomplishes the following:

(A) Identifies incentives and proposes regulations to facilitate a transition from the use of Pearson Airpark from predominantly general aviation to use for historic aircraft.

(B) Establishes a program to mitigate any conflicts related to the operation of Pearson Airpark and to other activities within the Heritage Area. The program shall, in coordination with the Federal Aviation Administration and other agencies as appropriate, address, but not be limited to, considerations of noise, safety, visual intrusion, and the location of new facilities. Mitigation measures shall include limitations on the number of air-worthy aircraft that may be based at the Airpark.

(4) PEARSON AIRPARK MUSEUM PLAN.—The management plan submitted pursuant to section 107(c)(1) and subsection (e) of this section regarding the Heritage Area shall include a Pearson Airpark Museum Plan, which shall include budgetary strategies by which proceeds from general aviation and other sources will fund the Pearson Airpark Museum and other aviation curation activities.

(5) MITIGATION MEASURES AND CONDITIONS REGARDING GENERAL AVIATION.—The management plan submitted pursuant to section 107(c)(1) and subsection (e) of this section regarding the Heritage Area shall permit general aviation at Pearson Airpark to continue until April 3, 2022, subject to the following conditions:

(A) Pearson Airpark and Pearson Airpark Museum shall be operated by the city of Vancouver or its designated entity. Beginning on June 30, 2002, the Secretary shall require payment at fair market value for any National Park Service lands leased within the boundaries of the Heritage Area, except as otherwise provided in this subparagraph. The Secretary may enter into agreements that provide that specific additional work performed or expenses paid by the city of Vancouver, which the city is not otherwise obligated to perform or pay under this or any other provision of law, may be used, fairly valued, to reduce or offset the amount of the obligation of the city to pay rent pursuant to this subsection.

(B) Not later than June 30, 2003, the city of Vancouver shall remove from National Park Service property in the Heritage Area all nonhistoric aviation-related buildings and devices, including T-hangers and associated taxiways, except buildings and devices necessary for navigation and safety.

(C) The city of Vancouver shall not be compensated for historic buildings remaining on National Park Service property, but shall continue to bear liability and responsibility for continued use and maintenance of these structures.

(D) No structural improvements or structural additions to any structure or facility of the Pearson Airpark Museum located on property of the National Park Service may be made without the approval of the Secretary.

(E) Helicopters shall not use Pearson Airpark except in cases of emergency, disaster, or national security needs.

SEC. 210. WHEELING AMERICAN HERITAGE AREA.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) Wheeling, West Virginia, and its vicinity possess important historical, cultural, and natural resources, representing major heritage themes of transportation, commerce, industry, and Victorian culture in the United States;

(2) the city of Wheeling played an important part in the settlement of the Nation by serving as the western terminus of the National Road in the early 1800's, by serving as the Crossroads of America throughout the 19th century, by serving as one of the few major inland ports in the United States in the 19th century, and by hosting the establishment of the Restored State of Virginia, and later the State of West Virginia during the Civil War years;

(3) the city of Wheeling was the first capital of the new State of West Virginia, during the development and maintenance of many industries crucial to the expansion of the Nation, including iron, steel, and textile manufacturing, boat building, glass manufacturing, and stogie and chewing tobacco manufacturing, many of which are industries that continue to play an important role in the Nation's economy;

(4) the city of Wheeling has retained its national heritage themes with the designations of the old custom house, now Independence Hall, as a National Historic Landmark, with the designation of the historic suspension bridge as a National Historic Landmark, with 5 historic districts, and with many individual properties in the Wheeling area listed on or eligible for nomination to the National Register of Historic Places; and

(5) the heritage themes and number and diversity of the remaining resources of Wheeling should be appropriately retained, enhanced, and interpreted for the education, benefit, and inspiration of the people of the United States.

(b) STATEMENT OF PURPOSE.—The purposes of this section are—

(1) to recognize the special importance of the history and development of the Wheeling, West Virginia, area in the cultural heritage of the Nation;

(2) to provide a framework to assist the city of Wheeling and other public and private entities and individuals in the appropriate preservation, enhancement, and interpretation of resources in the Wheeling area that are emblematic of the contributions of Wheeling to the cultural heritage of the Nation; and

(3) to allow for limited Federal, State, and local capital contributions for planning and infrastructure investments to create the Wheeling American Heritage Area, in partnership with the State of West Virginia, the city of Wheeling, West Virginia, and their designees, and to provide for an economically self-sustaining American Heritage Area that will not be dependent on Federal assistance beyond the initial years necessary to establish the American Heritage Area.

(c) DESIGNATION.—Upon publication by the Secretary in the Federal Register of notice that a compact regarding the Heritage Area and meeting the requirements for a compact under section 106(a)(2) has been approved by the Secretary under the procedures referred to in section 106(b), there is hereby designated the Wheeling American Heritage Area (hereinafter in this Act referred to as the "Heritage Area") in the State of West Virginia.

(d) BOUNDARIES.—The Heritage Area shall be composed of the lands generally depicted on the map entitled "Boundary Map, Wheeling American Heritage Area, West Virginia", numbered WHNA-80,005, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(e) ADMINISTRATION.—The Heritage Area shall be considered to be part of the American Heritage Areas Partnership Program and shall be considered for all purposes, including but not limited to the management plan submission requirement of section 107(c)(1) and the provisions of section 108, to have been designated an American Heritage Area under section 105(d) on the date on which the Heritage Area is designated under subsection (c) of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section not more than—

(A) $5,000,000 for capital projects;

(B) $1,000,000 for planning and studies; and

(C) $500,000 for technical assistance.

(2) LIMITATIONS.—(A) Funds made available pursuant to subparagraph (A) or (B) of paragraph (1) for a capital project or for planning and studies regarding a project shall not exceed 50 percent of the total costs of the capital project or project, respectively.

(B) Funds made available under this section or any other Federal law for the Heritage Area or the Wheeling National Heritage Area (including the Wheeling project) may not exceed $6,500,000 in the aggregate.

(3) NOT ELIGIBLE FOR FUNDS UNDER TITLE I.—No funds may be appropriated under title I for purposes of the Heritage Area.

TITLE III—STUDIES REGARDING POTENTIAL AMERICAN HERITAGE AREAS

SEC. 301. OHIO RIVER CORRIDOR.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the amenities and resources of the Ohio River, which flows through 6 States from its headwaters in the Commonwealth of Pennsylvania to its confluence with the Mississippi River and comprises a chain of commercial, industrial, historical, archaeological, natural, recreational, scenic, wildlife, urban, rural, cultural, and economic areas, are of major significance and importance to the Nation;

(2) the national interest is served by—

(A) preserving, protecting, and improving such amenities and resources for the benefit of the people of the United States; and

(B) improving the coordination between all levels of government in the Ohio River Corridor;

(3) the preservation, protection, and improvement of such amenities and resources are failing to be fully realized despite efforts by the States through which the Ohio flows, political subdivisions of such States, and volunteer associations and private businesses in such States;

(4) existing Federal agency programs are offering insufficient coordination to State and local planning and regulatory authorities to provide for resource management and economic development in a manner that is consistent with the protection and public use of the amenities and resources of the Corridor; and

(5) the Federal Government should assist in the coordination, preservation, and interpretation activities of public and private entities with respect to the significant amenities and resources associated with the Ohio River.

(b) STUDY OF OHIO RIVER CORRIDOR.—

(1) IN GENERAL.—Not later than 2 years after the date on which funds are made available to carry out this section, the Secretary shall complete a study on the suitability and feasibility of designating the Ohio River corridor, from its headwaters in the Commonwealth of Pennsylvania to its confluence with the Mississippi River, as an American Heritage Area.

(2) REPORT TO CONGRESS.—On completion of the study required by subsection (a), the Secretary shall submit a report describing the results of the study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 302. FOX AND LOWER WISCONSIN RIVER CORRIDORS.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Fox-Wisconsin waterway is famous as the discovery route of Marquette and Joliet;

(2) as the connecting route between the Great Lakes and the Mississippi River, the waterway was critical to the opening of the Northwest Territory and served as a major artery in bringing commerce to the interior of the United States and providing a vital communication link for early explorers, missionaries, and fur traders;

(3) within the Fox and Lower Wisconsin River corridors are an abundance of historic and archaeological sites and structures representing early Native Americans, European exploration, and 19th-century transportation and settlement; and

(4) the unique aspects of the waterway, from the heavily developed portions of the Fox River to the pristine expanses of the Lower Wisconsin River, should be studied to determine the suitability and feasibility of the waterway for designation as an American Heritage Area.

(b) STUDY OF FOX-WISCONSIN RIVER CORRIDORS.—

(1) IN GENERAL.—Not later than 2 years after the date on which funds are made available to carry out this section, the Secretary shall complete a study on the suitability and feasibility of designating the Fox and Lower Wisconsin River corridors in the State of Wisconsin as an American Heritage Area.

(2) REPORT TO CONGRESS.—On completion of the study referred to in subsection (a), the Secretary shall submit a report describing the results of the study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 303. SOUTH CAROLINA CORRIDOR.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the counties of Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston, in the State of South Carolina, form a corridor, more than 250 miles in length, which possesses a wide diversity of significant rare plants, animals, and ecosystems, agricultural and timber lands, shellfish harvesting areas, historic sites and structures, and cultural and multicultural landscapes related to the past and current commerce, transportation, maritime, textile, agricultural, mining, cattle, pottery, and national defense industries of the region, which provide significant ecological, natural, tourism, recreational, timber management, educational, and economic benefits;

(2) there is a national interest in protecting, conserving, restoring, promoting, and interpreting the benefits of the region for the residents of, and visitors to, the corridor area;

(3) a primary responsibility for conserving, preserving, protecting, and promoting the benefits of the region resides with the State of South Carolina and the various local units of government having jurisdiction over the corridor area; and

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, conserving, preserving, and interpreting areas of significant natural and cultural importance, and in view of the national significance of the corridor, the Federal Government has an interest in assisting the State of South Carolina, its units of local government, and the private sector in fulfilling their responsibilities.

(b) STUDY OF SOUTH CAROLINA CORRIDOR.—Not later than 2 years after the date of the enactment of this Act, the Secretary, acting through the National Park Service, shall cooperate with the South Carolina Department of Parks, Recreation, and Tourism in preparing a study on the suitability and feasibility of designating the corridor formed by the counties of Oconee, Pickens, Anderson, Abbeville, Greenwood, McCormick, Edgefield, Aiken, Barnwell, Orangeburg, Bamberg, Dorchester, Colleton, and Charleston, in the State of South Carolina, as an American Heritage Area.

SEC. 304. NORTHERN FRONTIER.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the area comprising Tryon County, in the Mohawk Valley of the State of New York, and the Country of the Six Nations (Iroquois Confederacy), known during the American Revolutionary War period as the "Northern Frontier", offers excellent opportunities to study a little known or understood aspect of the American Revolution—the frontier experience;

(2) the Northern Frontier territory was extremely valuable to both sides of the American Revolutionary War and was contested because of its geopolitical, military, agricultural, transportation, and commercial attributes;

(3) because a complex social, economic, and political society was emerging on the Northern Frontier, the Continental Congress established the Northern Indian Department to conduct affairs there, and the English made the area, and its Indian population, the centerpiece of the English strategy to split the colonies;

(4) due to the struggle to control the Northern Frontier, privation and hardship were inflicted upon nearly all who lived there, a diverse mix of ethnic and racial groups willingly and unwillingly thrust into the struggle for independence, leaving many dead, homeless, orphaned, or dislocated by the end of the hostilities;

(5) the tensions on the Northern Frontier reached such a pitch that hostilities erupted, pitting neighbors, families, tribes, and clans against each other, and led to a bloody, savage, and destructive battle;

(6) new interpretations and interdisciplinary studies of this human drama are not only necessary, but timely because of the abundant supply of assets in the area, including sites, buildings, celebrations, folklore, and collections, many safely preserved and many at risk; and

(7) if these Northern Frontier assets can be thematically related and portrayed for the education and enjoyment of Americans and foreign visitors, an important and often overlooked chapter in the heritage of the Nation will be displayed for the benefit and edification of all peoples.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date on which funds are made available to carry out this section, the Secretary shall complete a study on the suitability and feasibility of designating Tryon County, in the Mohawk Valley of the State of New York, and the Country of the Six Nations (Iroquois Confederacy) as an American Heritage Area.

(2) REPORT TO CONGRESS.—On completion of the study referred to in subsection (a), the Secretary shall submit a report describing the results of the study to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE IV—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR AMENDMENTS

SEC. 401. BOUNDARIES, COMMISSION, AND REVISION OF PLAN.

(a) BOUNDARIES.—Section 2(a) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 100 Stat. 3625), is amended by striking the first sentence and inserting the following new sentence: "The boundaries shall include the lands and waters generally depicted on the map entitled 'Blackstone River Valley National Heritage Corridor Boundary Map', numbered BRV-80-80,011, and dated May 2, 1993.".

(b) COMMISSION MEMBERSHIP.—(1) Section 3 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 100 Stat. 3625), is amended—

(A) by amending subsection (b) to read as follows:

"(b) MEMBERSHIP.—(1) The Commission shall be composed of 19 members, appointed as follows:

"(A) the Director of the National Park Service, or a designee, ex officio;

"(B) 5 individuals appointed by the Secretary after consideration of recommendations from the Governor of Rhode Island;

"(C) 5 individuals appointed by the Secretary after consideration of recommendations from the Governor of Massachusetts;

"(D) 4 individuals appointed by the Secretary to represent the interests of local government in the State of Rhode Island; and

"(E) 4 individuals appointed by the Secretary to represent the interests of local government in the State of Massachusetts.

"(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made."; and

(B) in subsection (c), by inserting immediately before the period at the end the following: ", but may continue to serve until a successor has been appointed".

(2) Paragraph (1) shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

(c) REVISION OF PLAN.—Section 6 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 100 Stat. 3625), is amended by adding at the end the following new subsection:

"(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of the enactment of this subsection, the Commission shall revise the Cultural Heritage and Land Management Plan submitted under subsection (a) and shall submit the revised plan to the Secretary and the Governors of Massachusetts and Rhode Island for approval under the procedures referred to in subsection (b). The revision shall address any change in the boundaries of the Corridor that occurs after the submission of the plan required by subsection (a) and shall include a natural resource inventory of areas or features that should be protected, restored, or managed because of the natural and cultural significance of the areas or features.

"(2) No changes other than minor boundary revisions may be made in the plan approved under subsection (b) and revised under paragraph (1) of this subsection, unless the Secretary approves such changes. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).".

(d) TERMINATION OF COMMISSION.—Section 7 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 100 Stat. 3630), is amended to read as follows:

"TERMINATION OF COMMISSION

"SEC. 7. The Commission shall terminate on December 31, 2003.".

SEC. 402. IMPLEMENTATION OF PLAN.

Section 8(c) of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 100 Stat. 3630), is amended to read as follows:

"(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan, submitted and revised under section 6, in a manner consistent with the purposes of this Act, and to assist in the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places, the Secretary is authorized to provide funds for projects in the Corridor that exhibit national significance or provide a wide spectrum of historic, recreational, environmental, educational, or interpretive opportunities, without regard to whether the projects are in public or private ownership. Applications for funds under this section shall be made to the Secretary through the Commission. Each such application shall include the recommendation of the Commission and its findings regarding the manner in which the project proposed to be funded will further the purposes of this Act.

"(2) The Commission shall not be eligible for funds under this section unless it submits to the Secretary an application that includes—

"(A) a 10-year development plan including the resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

"(B) specific descriptions of any projects that have been identified and of the participating parties, roles, cost estimates, cost-sharing, or cooperative agreements necessary to carry out the development plan.

"(3) Funds made available pursuant to this subsection for any project shall not exceed 50 percent of the total cost of such project.

"(4) In making funds available under this subsection, the Secretary shall give priority to projects that attract greater non-Federal than Federal funding.

"(5) Any payment made under this subsection for the purposes of conservation or restoration of real property or of any structure shall be subject to an agreement—

"(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

"(B) that upon conversion, use, or disposal of the real property or structure for purposes contrary to the purposes of this Act, the recipient of the payment, or the successors or assigns of the recipient, shall pay to the United States the greater of—

"(i) the total of all Federal funds made available for conservation or restoration of the real property or structure, reduced pro rata over the useful life of the improvements funded; and

"(ii) the increased value attributable to such funds, as determined at the time of the conversion, use, or disposal.

"(6) The determination that, for purposes of paragraph (5)(B), a conversion, use, or disposal has been carried out contrary to the purposes of this Act shall be solely within the discretion of the Secretary.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647; 100 Stat. 3630), is amended—

(1) in subsection (a), by striking "$350,000" and inserting "$500,000"; and

(2) by amending subsection (b) to read as follows:

"(b) DEVELOPMENT FUNDS.—There is authorized to be appropriated to carry out section 8 for fiscal years beginning after September 30, 1994, not more than $5,000,000 in the aggregate, to remain available until expended.".

TITLE V—BRAMWELL NATIONAL HISTORIC DISTRICT

SEC. 501. BRAMWELL NATIONAL HISTORIC DISTRICT.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the coal mining heritage of southern West Virginia is of historical and cultural significance;

(2) the town of Bramwell, West Virginia, possesses remarkable and outstanding historical, cultural, and architectural values relating to the coal mining heritage of southern West Virginia; and

(3) it is in the national interest to preserve the unique character of the town of Bramwell, West Virginia, and to enhance the historical, cultural, and architectural values associated with its coal mining heritage.

(b) STATEMENT OF PURPOSE.—The purpose of this section is to encourage the preservation, restoration, and interpretation of the historical, cultural, and architectural values of the town of Bramwell, West Virginia.

(c) DESIGNATION.—In order to preserve, protect, restore, and interpret the unique historical, cultural, and architectural values of Bramwell, West Virginia, there is hereby designated the Bramwell National Historic District (hereinafter in this section referred to as the "Historic District"). The Historic District shall consist of the lands and interest therein within the corporate limits of the town of Bramwell, West Virginia.

(d) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, to further the purposes of the Historic District.

(2) RATIO OF NON-FEDERAL FUNDS.—Funds authorized to be appropriated to the Secretary for the purposes of this subsection shall be expended in the ratio of 1 dollar of Federal funds for each dollar contributed by non-Federal sources. With the approval of the Secretary, any donation of land, services, or goods from a non-Federal source, fairly valued, may be considered as a contribution of dollars from a non-Federal source for the purposes of this subsection.

(3) AGREEMENTS REGARDING PAYMENTS.—Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for any purpose contrary to the purpose of this section, as determined by the Secretary, shall result in a right of the United States to the greater of—

(A) reimbursement of all funds made available to such project; or

(B) the proportion of the increased value of the project attributable to such funds, as determined at the time of the conversion, use, or disposal.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section.

TITLE VI—SOUTHWESTERN PENNSYLVANIA AMERICAN HERITAGE AREA AMENDMENTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Southwestern Pennsylvania American Heritage Area Amendments Act".

SEC. 602. DESIGNATION OF SOUTHWESTERN PENNSYLVANIA AMERICAN HERITAGE AREA.

The Act entitled "An Act to establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes", approved November 19, 1988 (102 Stat. 4618), is amended by adding at the end the following new title:

"TITLE III—SOUTHWESTERN PENNSYLVANIA AMERICAN HERITAGE AREA

"SEC. 301. DESIGNATION.

"There is hereby designated the Southwestern Pennsylvania American Heritage Area, which shall be comprised of the region in southwestern Pennsylvania described in section 101(a).

"SEC. 302. CLASSIFICATION.

"The Southwestern Pennsylvania American Heritage Area shall not be considered to be an American Heritage Area for purposes of the American Heritage Areas Partnership Program Act of 1994 or the American Heritage Areas Partnership Program established by section 105(a) of such Act.".

SEC. 603. POWERS OF COMMISSION.

Section 103(h)(3) of the Act entitled "An Act to establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes", approved November 19, 1988 (102 Stat. 4618), is amended by inserting "or an appropriate private nonprofit organization exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986," after "public agency,".

SEC. 604. FEDERAL PARTICIPATION.

Section 105 of the Act entitled "An Act to establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes", approved November 19, 1988 (102 Stat. 4618), is amended to read as follows:

"SEC. 105. PROCEDURES FOR FEDERAL PARTICIPATION.

"(a) Revision of Comprehensive Management Plan and Scope and Cost Document.—(1) The Commission shall revise, to carry out this title in a manner that provides for limited Federal involvement, the management plan developed before the date of the enactment of this section. The Commission shall also revise the scope and cost document developed before the date of the enactment of this section to reflect the total cost of each project proposed for approval under this section and the Federal portion of such cost. Both the management plan and the scope and cost document shall be submitted to the Secretary for approval.

"(2) The Secretary shall approve or disapprove any management plan or scope and cost document submitted under paragraph (1) not later than 90 days after receiving such plan or document. If the Secretary disapproves the submitted management plan or scope and cost document, the Secretary shall advise the Commission in writing of the reasons therefor and shall make recommendations for revisions in the plan or document. The Secretary shall approve or disapprove a proposed revision to such a plan or document within 90 days after the date on which the proposed revision is submitted to the Secretary.

"(b) Loans, Grants, and Technical Assistance Using Federal Funds.—The Commission may not make loans or grants involving Federal funds under section 104 except as provided in this subsection. The Secretary may provide a loan, a grant, or technical assistance, for the purpose described in section 104, pursuant to an application made to the Secretary through the Commission in accordance with procedures required by the Secretary. Each such application shall include the findings of the Commission regarding the manner in which the proposed loan, grant, or technical assistance will further the purpose of this Act. Each such application shall also include the recommendations of the Commission regarding the proposed loan, grant, or technical assistance. The Secretary may approve such an application only if the Federal funds provided pursuant to the application will be used in a manner that is generally consistent with Federal law relating to the type of project or activity to be funded, as determined by the Secretary. Federal funds made available for loans or grants pursuant to section 104 or this subsection may be used to provide for the preservation or restoration of historic properties in an amount not to exceed $100,000 for each project so assisted.

"(c) Use of Federal Funds.—(1) Federal funds made available under this Act with respect to projects may be made available only for projects that are consistent with the Standards and Guidelines for Historic Properties promulgated by the Secretary.

"(2) Federal funds made available under this Act after the date of the enactment of this section with respect to a project may be used only for planning and design with respect to the project, except that such funds may be used to complete construction commenced before such date regarding Saltsburg Canal Park or West Overton Village.

"(3) The total amount of Federal assistance provided under this section for a project in any fiscal year may not exceed 20 percent of the total amount of Federal funds made available for that fiscal year for the Southwestern Pennsylvania National Heritage Area.

"(4) Federal funds made available under this title with respect to a project may not exceed 50 percent of the total costs of the project. In making such funds available, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds. Any payment made under section 104 or 105 shall be subject to an agreement that conversion, use, or disposal of the project so assisted for any purpose contrary to the purpose of this Act, as determined by the Secretary, shall result in a right of the United States to the greater of—

"(A) compensation for all funds made available with respect to such project; and

"(B) the proportion of the increased value of the project attributable to such funds, as determined at the time of such conversion, use, or disposal.

"(5) No Federal funds made available to carry out this Act for fiscal years beginning after September 30, 1995, may be used to provide operational or maintenance support with respect to any building, site, or structure that is not owned by the Federal Government, except the Railroaders Memorial Museum, Saltsburg Canal Park, and West Overton Village. Such funds for the Railroaders Memorial Museum, Saltsburg Canal Park, and West Overton Village may not exceed $200,000 annually, in the aggregate.

"(6) No Federal funds made available to carry out this Act may be used for the construction of any visitor center, interpretive center, or museum, except West Overton Village.

"(7) The Secretary shall approve or disapprove the use of Federal funds made available pursuant to this title within 30 days after application for such funds by the Commission.".

SEC. 605. CONGRESSIONAL OVERSIGHT.

Section 104(b) of the Act entitled "An Act to establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes", approved November 19, 1988 (102 Stat. 4618), is amended—

(1) in the first sentence, by inserting "and to the Congress" after "Secretary"; and

(2) by inserting after the first sentence the following: "Funds made available for a fiscal year to carry out this Act may not be obligated for that fiscal year until the report required for the preceding fiscal year by the preceding sentence is submitted to the Congress.".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

Title I of the Act entitled "An Act to establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes", approved November 19, 1988 (102 Stat. 4618), is amended by adding at the end the following new section:

"SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this Act the following:

"(1) For each of the fiscal years 1996, 1997, and 1998, $1,000,000 for planning and design, $1,600,000 for construction, $600,000 for grants and loans, and $400,000 for the operations of the Commission.

"(2) For that portion of fiscal year 1999 that occurs before the Commission ceases to exist under section 104(e), $250,000 for planning and design, $400,000 for construction, $150,000 for grants and loans, and $100,000 for the operations of the Commission.".

SEC. 607. PATH OF PROGRESS.

Title II of the Act entitled "An Act to establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes", approved November 19, 1988 (102 Stat. 4618), is amended as follows:

(1) By amending the heading of the title to read as follows:

"TITLE II—PATH OF PROGRESS".

(2) By amending section 201 to read as follows:

"SEC. 201. IDENTIFICATION OF ROUTE.

"In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally and regionally significant sites in Southwestern Pennsylvania which are accessible by public roads, the Secretary, with the concurrence of the agency having jurisdiction over such roads, may provide signs, interpretive materials, and other informational devices for a vehicular tour route, commonly known as the 'Path of Progress Heritage Route'.".

The CHAIRMAN. Are there amendments to the bill?

AMENDMENTS OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments offered by Mr. Vento: Page 12, after line 13, insert the following:

(E) An inventory of the amount of land in the area owned by public, private, and private nonprofit entities, respectively.

Page 17, after line 3, insert the following:

(4) No Requirement for Land Use Regulation as Condition for Approval.—No provision of this title shall be construed to require any change in land use regulation as a condition of approval of a compact, management plan, or revision of a compact or management plan by the Secretary.

Page 26, line 2, insert "under this section" after "grants".

Page 29, line 20, strike "directly affecting" and insert "within".

Page 31, line 20, strike "$10,000,000" and insert "$8,000,000".

Page 33, line 15, strike "$25,000,000" and insert "$14,500,000".

Page 53, strike lines 11 through 16 and insert the following:

(d) Boundaries.—

(1) In General.—Except as otherwise provided in paragraph (2), the Heritage Area shall be comprised of the lands generally depicted on the map entitled "Hudson River Valley National Heritage Area", numbered P50—8002, and dated August 1994. The map shall be on file and available for public inspection in the office of the Director of the National Park Service.

(2) Local Agreement to Inclusion.—Each of the following counties, cities, and towns in the State of New York shall not be included within the boundaries of the Heritage Area unless the government of such county, city, or town agrees to be so included and submits notification of such agreement to the Secretary:

(A) The counties of Greene and Columbia.

(B) Any city or town within the county of Greene or Columbia.

(C) The counties of Rensselaer and Dutchess.

(D) Any city or town (except the town of Hyde Park) within the county of Rensselaer or Dutchess and located entirely within the 22d Congressional District of New York.

Page 72, line 17, strike "additional".

Page 72, line 18, strike ", which the city" and all that follows through "provision of law,"on line 20.

Page 72, line 23, after "subsection" insert the following: ", unless the city is obligated to perform the work or pay the expenses under a statute other than this Act".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, these amendments reflect agreements reached among a bipartisan group of House Members, the administration and other interested parties on certain provisions of H.R. 5044, as introduced. Before consideration of H.R. 5044 under suspension of the rules last Tuesday, several changes were made to the bill as introduced. Now that we are considering the legislation under a rule, I am offering those changes in the form of en bloc amendments.

First, the amendment adds a requirement that the feasibility study required for all proposed American Heritage areas contain an inventory of the amount of land in the area owned by public, private, and private nonprofit entities respectively. American heritage areas will contain active communities with a variety of resources and multiple uses, and some have expressed concern that the Federal involvement will negatively impact the rights of private property owners. Because the feasibility study provides the basis for further action with regard to American heritage area designation, I believe it is appropriate to document the ownership patterns at this stage, and I have agreed to include this requirement in the legislation.

Second, the amendment contains a provision disclaiming any requirement to change land-use regulation as a condition of approval of a compact, management plan, or a revision thereof. H.R. 5044, as introduced, makes no changes in current authority to regulate land use. State and local entities already responsible for zoning and other land-use regulations will continue to have this authority. New authorities have been neither provided nor anticipated as the result of enactment of this legislation.

However, some remain concerned that secretarial approval of compact or management plans will be conditioned upon the enactment of stricter land-use controls in American heritage areas. This provision states that nothing in this title shall be so construed. While the Secretary will be responsible for ensuring that Federal funds are expended responsibly and the Federal investment in these areas is protected, only local and State authorities currently authorized to do so may require changes in land-use regulation.

Third, the amendment changes the Federal consistency requirement to direct that Federal entities conducting or supporting activities within an American heritage area should consult with the Secretary of the Interior and coordinate those activities to the extent practicable. H.R. 5044 as introduced had provided for such consultation and coordination of activities directly affecting an American heritage area. Concerns were raised about the broad scope of this requirement in the bill as introduced, and I have agreed to limit the requirement to the boundaries of the American heritage area.

Let me make clear at this point, that this requirement does not subordinate other Federal agencies to the Secretary of the Interior. The affected Federal entities may take such actions as they deem necessary regardless of the Secretary's views. This provision merely requires appropriate coordination to eliminate wasteful duplication of efforts and to minimize the impacts of action which may adversely affect the resources contained in the American heritage area. Our interest is not in ceding control of all Federal activities to the Secretary of the Interior or to the management entity, but in assuring consistency and savings in areas where more than one Federal agency is involved.

Fourth, the amendment cuts the funding authorized for the American Heritage Areas Partnership Program. Based on estimates by the administration, H.R. 5044 had authorized $10 million annually for studies, plans, and early actions, and $25 million annually for development. While these funds will be drawn from an already authorized source, the Historic Preservation Fund, some have suggested that the program should be curtailed. Accordingly, I have agreed to limit the budget for studies, plans, and early actions to $8 million annually, and the budget for development to $14.5 million annually.

Let me stress that this continues to be a modest program. The budget for the entire National Park Service is $1.4 billion, and we are authorizing $22.5 million for the 10 areas designated by this legislation, and these Federal dollars must be matched. This program is a true partnership between Federal, State, local, and private entities. It is cost-effective, yet provides for the preservation of significant national resources. These minimal amounts will be leveraged in ways that will save the taxpayers money while providing appropriate assistance.

Fifth, the amendment addresses a particular concern with the designation of the Hudson River Valley American Heritage Area. I have worked closely with my colleague, Representative SOLOMON, who represents these areas of the Hudson River Valley, and we have agreed to require that political subdivisions within the counties of Greene and Columbia, and in certain parts of the counties of Rensselaer and Dutchess, must agree to be included in order to participate in the program.

The American Heritage Areas Partnership Program is designed to be voluntary. Procedurally, local groups petition the Secretary for study and inclusion in the program. Local entities will manage the areas so designated, and there is a requirement that all Federal funding be matched. Neither Congress nor the administration is interested in requiring participation, and I am pleased that this section underscores that understanding.

Finally, the amendment addresses particular concerns raised by Representative UNSOELD with respect to the Vancouver American Heritage Area. The language simply clarifies that work called for in the bill for the city of Vancouver to perform to improve National Park Service property may be among the in-kind services that the Secretary may permit to offset a portion of the fair market rental payments required of the city, under this act, for its use of Park Service land.

To summarize, Mr. Chairman, these en bloc amendments are the result of negotiations with Members who had expressed concerns about several provisions of H.R. 5044, as introduced. I am pleased that we were able to work out these disagreements, and I urge support for these en bloc amendments which improve the legislation.

□ 1320

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. VENTO] has expired.

(By unanimous consent, Mr. VENTO was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, I yield to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman's yielding to me.

Mr. Chairman, I hope Members realize we have worked a long time on these en bloc amendments. These are a result of work between myself and the chairman of the committee, and many members of the committee. I would hope that the Members would go along with us on this one, get this behind us, and let us get to some of these others.

Mr. TAUZIN. Mr. Chairman, I rise in support of the Vento en bloc amendments, and commend the gentleman for some of the improvements to the bill that he discussed with us over the last 5 minutes.

Let me suggest, Mr. Chairman, for example, that this amendment, like our own amendment, contains a provision clarifying that nothing in these heritage plans will mandate the modification of land use regulations by local authorities. Our language, which will come a little later, actually makes that even, if it is possible to say this within the English language, more clear. We will attempt to do that within our own version of language coming up soon. However, I commend the gentleman for the effort.

Let me point out, however, Mr. Chairman, that the gentleman, in an earlier statement, acknowledged something that I hope the House paid some attention to. The gentleman from Ohio [Mr. REGULA] mentioned that hundreds of landowners would be affected.

The gentleman from Minnesota [Mr. VENTO] quickly jumped in and said thousands, and he has reiterated that point later on. What a nightmare, to go check with thousands of landowners to find out whether they should be included in one of these heritage areas that will regulate the use and value of their property.

Mr. Chairman, let me suggest that the nightmare is that thousands of homeowners, landowners, farmers, ranchers, ordinary citizens, thousands of them would never be consulted to find out if they wanted to give their consent to be regulated in this way, if the Tauzin amendment is not later on adopted. The Tauzin-Grams amendment will protect that right to consent for those thousands of citizens who ought to be consulted.

If it is a nightmare to check with them, so be it. The nightmare in America is when we are never consulted and our land is taken from us, and we never get compensated, and the Government says, "We did not take your fee title away, we did not take the title away at the courthouse, so what are you complaining about, even though we took away your right to use your property, to enjoy it, and to exercise what is commonly understood under the Constitution to be the value in your property?"

Mr. Chairman, in this bill we have a provision, in fact, that is most pernicious. It is a provision that says the Government cannot pay a landowner, and the authors tell us that is a property rights protection. This provision says a landowner can lose his right to use, he can lose his right to enjoy, and this bill says the Government is forbidden to pay him for the property it took from him.

If there ever was a provision in a bill that was most pernicious, most damaging to property owner rights, it is that one, and believe it or not, the authors cited in defense of this bill it having no effect on property rights.

Mr. Chairman, let me assure the Members that if thousands of their constituents, and the Members saw the map a moment ago, how broad these corridors are, if thousands of their constituents living in these corridors are never consulted, never given the chance to say "Yes, we want in or out," I want to suggest that I guarantee there will be lawsuits flying. Everybody will have cases like Dolan versus the City of Tigard, where somebody is complaining that property has been taken without their consent and without compensation.

I want to point out something. The fifth amendment to the Constitution, like most of the amendments of the Bill of Rights, guarantees individual protections, not Government protections. They are there to protect every one of us against Government action. The provision of the fifth amendment that says our Government cannot take our property, with bulldozers or regulations, cannot take it without compensating us, is a provision there to protect civil liberties in America.

We are discussing today, Mr. Chairman, a civil right in America. We are discussing a civil right as sacred as speech, as the practice of religion, as the right of assembly and due process. Those are not my words, those are the words of the Supreme Court in Dolan versus the City of Tigard. The civil right to own property and not have the Government take it from you without paying for it is as important as those other incredibly important civil rights in America.

Mr. Chairman, when it came time for us to protect individuals' civil rights in this country, this body responded. It responded during the great civil rights era. It responded by saying "Every citizen, large and small in this society, rich and poor, has the same individual rights under our Constitution, and no action of government, acting for the best of purposes, can take them away from us." It says the majority cannot infringe upon the rights of the individual.

For the good purposes of heritage protection, we cannot take people's property away from them without their consent or without compensation.

As we adopt these en bloc amendments, Mr. Chairman, I again commend the chairman of the committee for making an effort. However, this is not an amendment we drew up together. The amendment we are offering, the Tauzin amendment, is a property rights protection amendment.

The Tauzin-Grams amendment, if adopted, will make this bill a much better bill, and let me clarify the record, please. I should have hoped that the gentleman from Minnesota [Mr. VENTO] had done it, but let me do it.

Mr. Chairman, I do not know what other people want to do in this debate. I do not want to kill this bill. I want to pass it, but I want to pass it with these good amendments, just as we passed the Desert Protection Act and the Headwaters Forest Act.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 5044, the American Heritage Areas Partnership Program Act, a bill which establishes a procedure within the Department of Interior to designate and manage national heritage areas.

Mr. Chairman, this measure designates 10 specified areas as American heritage areas, including an area located in the Hudson River Valley of New York. This area, the Hudson River Valley between Yonkers and Troy, NY, is a 150 mile corridor that is the gateway to America. Not only does this corridor possess invaluable scenic beauty and wondrous natural resources, it also retains important historical and cultural values indigenous to the Hudson Valley region and the origins of our Nation.

The proposed legislation will not only supply national recognition of the importance of the Hudson River Valley as a cultural and historic landscape, but also provides for a region-wide management plan to implement important preservation, interpretive and protective measures.

Accordingly, Mr. Chairman, I ask my colleagues to support this important legislation.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota [Mr. VENTO].

The amendments were agreed to.

The CHAIRMAN. Are there any further amendments?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 103, after line 10, insert the following:

TITLE VII—BUY AMERICAN POLICY

SEC. 701. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) NOTICE REQUIREMENT.—In using funds made available under this Act to provide financial assistance to, or enter into any contract with, any entity, the Secretary, to the greatest extent practicable, shall provide to the entity a notice describing the statement made by the Congress in subsection (a).

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, several things before we get started. I want to commend the gentleman from Minnesota [Mr. VENTO], the chairman of the committee, the ranking member, the gentleman from Utah [Mr. HANSEN], the gentleman from Ohio [Mr. REGULA], who has been a real leader on this issue in Ohio, the gentleman from Louisiana [Mr. TAUZIN], and everybody involved with the bill. This is a good bill. We should pass it.

Later today, Mr. Chairman, I hope to God we do not bring up the godawful trade treaty, GATT, but if we do, the great ambush to taxpayers around here, I hope the rule is defeated, and I hope the Speaker is listening and he pulls it from the schedule before he loses 4 or 5 Democrat seats.

□ 1330

Mr. Chairman, I have an amendment here that the Committee on Ways and Means basically never really supported. I don't know what the hell they support. It is a little Buy American amendment that says if there is money to be expended, let us try and encourage that the money be expended on products made in our country. It does not tie anybody's hands.

I also want to invite the ranking member and the chairman to my valley to see an area that should be, I think, designated a heritage area under this legislation. I think this is great for America. I am glad to see you taking it on.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Minnesota, the chairman.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding.

I support the amendment he has, a Buy American amendment he wants to add to the legislation. I think the application of it is acceptable to me. I have no objection to it. I know that there was some comment earlier about a number of areas that are proposed as heritage areas, and the gentleman from Ohio has one of them. I might point out that every area that does end up being proposed has to be acted on by Congress. We intend to designate them. Nothing is going to happen by accident. Very often the actions of the Park Service with regard to historic districts or landmarks are something that is an administrative action that does not necessitate action by Congress. That has, of course, embroiled us sometimes in controversy. But the gentleman from Ohio has one, and has this amendment. I support the amendment. I certainly want to cooperate with the gentleman in terms of the evaluation of the Ohio valley area that he represents concerning heritage areas.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Utah, the distinguished ranking member.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman from Ohio yielding.

Mr. Chairman, I listened intently to the comments that he made and the words that he said. I have to agree with everything he said. I think the amendment he came up with plus his other verbiage was excellent. I agree with it, and I support the amendment he has come up with. It is well drafted, well thought out. I would urge support from all of us to go along with the gentleman from Ohio.

Mr. TRAFICANT. I thank the chairman and the ranking member.

Let me say this, also: Today there is a vote on final passage of S. 986, the Corinth, MS battlefield. There has been a lot of contentious moments around here, but it is very important to the gentleman from Mississippi [Mr. WHITTEN]. I would hope that Members listening would realize that and look at that measure. I urge an aye vote on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer amendments, en bloc and I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that debate on my amendments and all amendments thereto be limited to 1 hour, with the time to be equally divided among myself, the gentleman from Ohio [Mr. REGULA], the gentleman from Minnesota [Mr. VENTO], and the gentleman from Minnesota [Mr. GRAMS].

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. TAUZIN: Page 9, after line 24, insert the following:

(9) CONSENT OF PRIVATE PROPERTY OWNERS.—No privately owned property shall be included within the area unless informed written consent to such inclusion is submitted to the management entity for the proposed American Heritage Area by all of the persons who own the property.

Page 14, line 19, after the period insert the following: "No privately owned property shall be included in such list unless informed written consent to such inclusion is submitted to the management entity for the area by all of the persons who own the property."

Page 15, line 18, strike "approval" and insert "submission".

Page 16, strike line 1 and all that follows through line 2 and insert the following:

(b) APPROVAL AND DISAPPROVAL OF COMPACTS.—

Page 16, line 7, strike "or management plan".

Page 16, line 8, strike "or".

Page 16, line 9, strike "management plan".

Page 16, line 10, strike "or plan".

Page 16, line 15, strike "or management plan".

Page 16, line 19, strike "or plan".

Page 16, line 21, strike "or plan".

Page 16, strike line 23 and all that follows through line 3 on page 17.

Page 18, beginning on line 20, strike "for approval".

Page 20, line 22, strike "for the" and all that follows through line 23 and insert a period.

Page 19, line 22, insert "and" after the semicolon.

Page 20, line 2, strike "; and" and insert a period.

Page 20, strike line 3 and all that follows through line 6.

Page 24, line 14, strike "approved" and insert "submitted".

Page 24, line 15, strike "106(b)" and insert "107(c)(1)".

Page 25, strike line 13 and all that follows through line 15 and insert the following:

SEC. 109. DUTIES AND AUTHORITIES OF SECRETARY.

The duties and authorities of the Secretary under this title shall include the following:

Page 25, line 16, insert "(A)" after "GRANTS.—".

Page 26, after line 4, insert the following:

(B) The Secretary may not, as a condition of the award of a grant under this section, require any recipient of such a grant to enact or modify land use restrictions.

Page 29, strike line 19 and all that follows through line 14 on page 30.

AMENDMENT OFFERED BY MR. REGULA TO THE AMENDMENTS OFFERED BY MR. TAUZIN

Mr. REGULA. Mr. Chairman, I offer an amendment to the en bloc amendments.

The Clerk read as follows:

Amendment Offered by Mr. REGULA to the amendments offered by Mr. TAUZIN: In the en bloc amendments offered by Mr. Tauzin to H.R. 5044, in the amendments to section 105—

(1) Strike "PRIVATE PROPERTY OWNERS" and insert "LOCAL GOVERNMENTS";

(2) strike "privately owned property" and insert "county, city, or town"; and

(3) strike "area unless" and all that follows through the period and insert the following "boundaries of the area unless the government of such county, city, or town agrees to be so included and submits notification of such agreement to the Secretary."

In the en bloc amendments offered by Mr. Tauzin to H.R. 5044, in the amendments offered to section 106—

(1) strike "line 19" and all that follows through "own the property." and insert the following "strike lines 13 through 19 and redesignate the following subparagraphs accordingly."; and

(2) strike "Page 15, line 18" and all that follows through "line 3 on page 17."

In the en bloc amendments offered by Mr. Tauzin to H.R. 5044, in the amendments to section 107, strike "Page 18, beginning" and all that follows through "line 23 and insert a period."

In the en bloc amendments offered by Mr. Tauzin to H.R. 5044, in the amendments to section 108, strike "Page 24, line 14" and all that follows through "insert '107(c)(1)'.".

In the en bloc amendments offered by Mr. Tauzin to H.R. 5044, in the amendments to section 109—

)1) strike "Page 25, strike" and all that follows through line 3; and

(2) strike "Page 29" and all that follows through "page 30." and insert the following:

Page 30, line 3, insert "and" after the semicolon.

Page 30, line 7, delete "with the" and all that follows through line 14 and insert the following. "to minimize any real or potential adverse impact on an American Heritage Area.".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 15 minutes, the gentleman from Ohio [Mr. REGULA] will be recognized for 15 minutes, the gentleman from Minnesota [Mr. VENTO] will be recognized for 15 minutes, and the gentleman from Minnesota [Mr. GRAMS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will be very brief. We have discussed this amendment previously. Let me reiterate. The amendment basically contains three features. The first feature is the landowner consent feature. It simply says in this limited area of these heritage programs that landowner's consent must be obtained to be covered by the area of the heritage protection.

This landowner consent amendment, if adopted, if the gentleman from Ohio [Mr. REGULA] does not strike it, will in effect provide landowner protection in this bill so that we do not have to offer a compensation amendment as a backup. If this amendment is deleted from our set of amendments and landowner consent is not required in this bill, we will be offering a separate amendment later to provide for landowner compensation.

The second and very important parts of the amendment provide in effect that the language of the bill demanding consistency with all other programs and in effect making it more difficult to conduct ordinary programs like flood control and housing programs and economic development programs is out of the bill. As the gentleman from Minnesota [Mr. VENTO] pointed out, he did amend this section but it is still very much present in the bill. We suggest it ought to be eliminated from the bill.

Finally, the last part of our amendment deals with basically the authority of the Secretary to approve these regional contracts but limits his authority to dictate to the local heritage management entities the terms and conditions of the plan, in effect, guaranteeing more local flexibility for the plans. In short, our amendments provide for local authority and flexibility, it takes away this broad and incredible Federal grant of consistency with other Federal programs, and, lastly, it provides for landover consent.

The gentleman from Ohio [Mr. REGULA] will attempt to take away the landowner consent feature. I urge Members not to adopt the Regula amendment, because if it passes, we are going to then come with the compensation amendment as we did in the Desert Protection Act in order to ensure that landowners affected by regulations in this bill will either give their consent or be allowed to seek compensation and recover, as the Supreme Court in Dolan versus Tigard has clearly said landowners have a right under the fifth amendment of our Constitution.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the real issue here is this question of landowner consent. On the surface. it sounds rather innocuous. The landowner has to consent to be in the boundaries. As has been pointed out by the chairman and myself, this could involve thousands and thousands of parcels. Not that there is any taking, not that there is any limitation on their use of the land. Let us make it clear. The fact that there is a boundary does not impact on the landowner in any way. There is just a boundary out there.

Let me point out that I have here letters from county commissioners and mayors. I would just like to read one which I think embodies what is in all of these letters. This is from the Commissioners in Stark County.

> This proposed legislation seems to have become a debate over the issue of private property rights. As representatives of county government elected represenitves, we are strong advocates for private property rights and the rights of state and local government. The Heritage Area designation, however, in no way negatively impacts the rights of the local jurisdictions. In fact we view this as a recognition of the importance of local initiatives in these regards.
>
> One amendment to be offered by Congressman Tauzin as we read it would impose significant extra burdens on the local jurisdictions and in particular the management entity of the heritage area, to the point that it would discourage participation in the program. A written consent provision would require that the management entity, in the case of the Ohio and Erie Canal, would literally have to identify and contact tens of thousands of individual property owners along the 87 mile corridor, a nearly impossible task which would be unnecessarily costly and time consuming.
>
> Another idea is the elimination of the requirement that heritage areas meet professional standards, subject to approval by the Secretary of the Interior. For areas such as the Ohio and Erie Canal, where so much time and so many resources have been invested in developing a top-notch program, this proposal to dilute the Heritage Areas program and its limited funding by supporting programs that would not meet standards of quality, is highly undesirable.

□ 1340

It says "we," and these are the commissioners speaking, up and down the 87 miles and the mayors and the people,

> We are strong advocates of local rights and private property rights, but also strong supporters of the American Heritage Areas legislation as currently drafted. We believe this bill safeguards our rights while at the same time affording us an opportunity to enter into a beneficial partnership with the Federal Government to preserve important features of our cultural heritage. The American Heritage Area designation will enhance our communities in terms of economic development potential and quality of life for our residents and will preserve unique features of our natural and cultural landscape for generations to come.

Let me say again what is involved in the Tauzin amendment. They are boundaries. The boundaries do not require any taking, they do not impose any zoning changes, they do not limit the use of the property by the landowners, and to say that there would have to be consent would be like saying if you are going to build an interstate highway you have to go back perhaps 5 miles on both sides and get the consent, written consent of every property owner to build a highway. It would become impossible.

One of the popular things we hear now is unfunded mandates. What we are talking about here is an even more onerous unfunded mandate because we are saying to the local entities that are participating in these heritage corridors that they shall go out, (a), identify every property owner within this corridor, and (b), go see that property owner and get written consent, I do not know exactly to do what, because we are not taking the property or limiting the use. I guess the written consent as to whether or not there ought to be a heritage corridor. I have all of these letters from people living on the corridor saying, "We want it."

But the cost would be prohibitive for a group that is made up of volunteers, that is made up of local governments, and that is really a co-op effort and local initiative.

In the substitute that I am proposing we do say to the counties to have this heritage corridor the counties first have to opt in because the local commissioners that are elected, represent the people and they are right there within the community. So we say OK, we want the counties to opt in because their cooperation is very important to the enhancement and development of these features in a corridor.

In my substitute we accept a number of the Tauzin proposals because we are interested that in every way possible, common sense be used to protect local property rights. We use the Solomon language that we have used for the forest legacy bill suggested by our distinguished colleague from New York to protect his local communities under the forest legacy, and we give the local communities the right to opt in if they choose to be part of it. We have done exactly the same thing in the substitute, and we have tried as much as possible to accept the portions of the Tauzin amendment that I think make sense. But we simply cannot put a burden on the volunteer groups with a very limited amount of resources to go up and down the way, to go to the courthouse and try to identify these thousands and tens of thousands of properties and go visit each property. It would be an impossible task.

So the thrust of the Tauzin amendment requiring the written consent is in effect a killer amendment. There is no practical way that these local groups could do that, and we do not require it. We never have on other items, only where there is a taking, and there is no taking, there is no impact on zoning, there is no impact on land use regulations. This bill depends entirely on local effort, local cooperation, and I urge the Members to support the amendment to the amendments so that we have a bill that does protect private property rights to the greatest extent possible.

The en bloc amendment offered by the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee, already went a long way. As I said earlier to the 273 Members that supported this initially, we have clarified, we have gone further, reduced the amount of money and gone further in making it very clear that we are in no way encroaching on private property rights. That is a subject that should be dealt with as a policy matter on a separate piece of legislation. But it would be a tragedy to lose the ability of these 10 areas across the United States to enhance and develop great opportunities for their people to cause economic development because the quality of life would be improved, to preserve their historical heritage, their environmental heritage and provide for families and for young people and people of all ages a chance where they could enjoy the open spaces of their community on a daily basis.

I strongly urge the Members to support the amendment to the amendments and reject the Tauzin amendment as such.

Mr. Chairman, I reserve the balance of my time.

Mr. GRAMS. Mr. Chairman, I yield myself such time as I may consume.

First of all, Mr. Chairman, I would like to thank my colleague, the gentleman from Louisiana [Mr. TAUZIN], for working with me on this very important commonsense amendment.

Mr. Chairman, I rise in strong opposition to Mr. REGULA's substitute to the Tauzin-Grams amendment. While its goals are well-intentioned, it does not go far enough to protect the individual private property rights embodied in our Constitution.

The protection of an individual's private property is one of our Constitution's most important rights. It is a sacred right our Forefathers fought to defend and today we can help to ensure that their efforts were not in vain.

Having grown up on a farm and currently representing rural areas of Minnesota, I am fully aware of the negative impact that well-meaning environmental regulations on private property and their associated litigation have on rural Americans.

In 1990 alone, 53,000 pages of Federal Government regulations were issued on the use of private property. These regulations undoubtedly have placed severe limitations on the use of private property, have substantially reduced land values in some cases, and have created financial worries for many rural economies. Unfortunately, H.R. 5044, even with the Regula substitute, continues this unfair trend by failing to give individual landowners the choice to opt out of a heritage area.

The Regula substitute only gives counties, not individuals, the choice to opt out of an American heritage area. It guts the true democratic intentions of the Tauzin-Grams amendment by failing to give individual landowners the rights they need to protect themselves from what could potentially be Washington-based land use regulations.

The Regula substitute also imposes more unfunded Federal mandates on local governments. Unfunded mandates cost localities an estimated $11.3 billion in 1993 and are expected to rise to over $88 billion over the next 5 years. Our municipal, township, county, and State governments have begged Congress to stop legislating mandates without footing the bill—yet this is exactly what the Regula substitute does.

As if this were not bad enough, the Regula substitute is yet another example of Washington imposing its Government-knows-best attitude on the people. It assumes that Government entities have more knowledge than individual landowners when it comes to managing private land resources.

Instead of voting for this bad amendment, I urge my colleagues to support the real private property protections embodied in the Tauzin-Grams landowner consent amendment. Unlike the Regula substitute, it requires the written consent of the individual landowner for his or her land to be included within a heritage management area.

The Tauzin-Grams amendment is a well-balanced measure which protects the environment and individual private property rights, as well as the sovereignty of local governments. It enjoys bipartisan support and is endorsed by the American Farm Bureau, the National Cattleman's Association, the National Association of Homebuilders, the National Association of Realtors, the National Federation of Independent Businesses, and more.

I urge my colleagues to vote against the Regula substitute and support real private property rights protection as outlined in the Tauzin-Grams landowner's consent amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 4 minutes to the gentleman from West Virginia [Mr. RAHALL], a cosponsor of the Regula amendment.

☐ 1350

Mr. RAHALL. Mr. Chairman, I thank the subcommittee chairman, the gentleman from Minnesota [Mr. VENTO], for his hard and persistent work in bringing this legislation once again to the floor today.

Mr. Chairman, I rise as a cosponsor of the Regula/Rahall substitute amendment to the pending amendment.

Mr. Chairman, the amendment offered by our colleague, Mr. TAUZIN, is premised on a gross misperception of what the pending legislation entails.

To be clear, the pending legislation does not infringe upon the rights of private landowners. Nor does it infringe upon local zoning or land use planning decisions.

Nobody is forcing anybody located within a proposed heritage area to do anything.

Let me repeat that. This legislation does not force anybody located within a proposed heritage area to do anything. Plain and simple.

As a matter of fact, the bill goes so far as to state that no Federal funds can be used to acquire property within a heritage area, even, I might add, when you have a willing seller situation.

These are the facts. It is all set forth in the bill.

Yet, here we go again. The so-called property rights bandwagon rolls on.

It kind of reminds me of that TV commercial for a battery company with the rabbit mechanically marching on and on, banging on its drums, through every situation and every environment.

In my view, agendas are being pursued under the banner of allegedly protecting the property rights of the average law abiding American citizen that do not have anything to do with actually protecting their property rights.

And I say this because nobody's property rights would be adversely affected under the pending legislation.

Mr. Chairman, the record does not support the adoption of this amendment, and the clear reading of what this legislation would do does not support the adoption of this amendment.

I have a heritage area included in this bill. And I can guarantee you that there will be no infringement upon private property in southern West Virginia under this legislation.

However, we find ourselves at the end of this Congress, and if you find that you simply have to vote for some type of amendment, the proper course of action to take is to vote for the pending Regula-Rahall substitute.

What it says is that only those properties which a county, city, or town has agreed to be included within the boundaries of a heritage area, may be included on the inventory of significant resources located within the heritage area.

This action would be taken within the context of the management plans that are to be developed for each heritage area.

As such, the Regula-Rahall amendment clarifies that the applicable unit of local government would decide which significant cultural or historic resources located within a heritage area are to be a priorities for preservation or restoration under a management plan.

To adopt the Tauzin-Grams amendment without this perfecting amendment would be to strike at the very authority many localities have in this Nation to engage in local land use planning and zoning in order to protect the public health, safety and environment.

This would be a terrible precedent to establish, is not in the public interest, and is not an action necessary to be taken within the context of this bill.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to reiterate a correction in the RECORD. Our amendment does not affect current local zoning regulations whatsoever, nor authority whatsoever.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I was going to use the same rabbit as my colleague, the gentleman from West Virginia, used, but with a little different context, because it is the private property owners of America who feel like we are being run over constantly by the same little rabbit, always saying the same things.

A private property owner does not care whether it is a local government riding in, it does not matter whether it is the mayor or the President of the United States making a Government determination as to how in fact a private property owner's land is going to be used. Your arguments, I say to the gentleman from West Virginia [Mr. RAHALL], both of the authors of this amendment and the substitute, the argument you are making I happen to be involved as many of my Texas colleagues right now in an actual on-the-line, actual example of which nonintended circumstances are happening because of laws having been passed by the Federal Government concerning the utilization of private property.

Now, whatever the merits of this legislation, it seems to me if it is as good as you contend that is, there will be no difficulty getting the consent of a private property owner to utilize that land if it is as good as you contend it to be.

But there must be something wrong with it. One of the things that I think is wrong with it is I have found that every single time a nonproperty owner chooses to use somebody else's property, they are for it; they are for it, for the public good. We have laws that protect those. It is called eminent domain. If you are going to take someone's property for any use, you must compensate that individual.

Now, that is why some of us are beating that drum, and we are going to continue to beat that drum, because we believe that we have passed far too much good-sounding legislation for all of the right reasons that have the wrong end effect, and the wrong end effect begins to cost the individual private property owner the utilization of their land or the value of their land.

Yes, I feel very strongly about it. I disagree totally with this weakening amendment today, because we are experiencing right now in Texas the end effect in the Endangered Species Act of good-sounding, good legislation that will not affect any property owner, but it is literally taking thousands of dollars of value away from individuals.

So I hope we will adopt the Tauzin-Grams amendment today. I hope we will do what we should be doing in all legislation, which is beginning to again recognize the priority and importance of individual private property rights, and before we take it, whether it is the mayor or the President, there are certain rules that we ought to follow.

Let us not circumscribe them today.

The CHAIRMAN. I rise in strong support of the Tauzin-Grams amendment to H.R. 5044, the American Heritage Partnership Act.

H.R. 5044 would establish new Federal land-use controls for areas designated as heritage areas, which could severely limit the landowner's property rights without compensation. This bill makes a poor attempt to protect private property rights by prohibiting land acquisitions, but contradicts itself by requiring Federal agencies to identify and promote compatible land management activities. These Federal land-use plans will infringe upon property rights by restricting the ability of landowners to utilize property.

Therefore, I strongly support the amendment offered by Mr. TAUZIN of Louisiana and Mr. GRAMS of Minnesota that gives individual landowners within these heritage parks the freedom not to have their land included in these systems. If they do not have this option, their land will be subject to any land-use restrictions which would be included in the land-use management plan approved by the Secretary of the Interior. Among other things, the Tauzin-Grams amendment would require that landowners give their written consent before their lands could be included in an American heritage area. Furthermore, it deletes the language that requires, to the maximum extent possible, all Federal actions to be consistent with the heritage management plan, unless there is no other practicable alternative. This type of language has created many of our current problems both with the Endangered Species Act and with wetlands regulation. If this language is left in the bill, it will make it more difficult to conduct an activity in these areas that requires a Federal permit or any use of Federal funds.

I strongly urge my colleagues to support the Tauzin-Grams amendment and protect the rights of private property owners.

Mr. GRAMS. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, the difference between America and the rest of the countries around the world is that, you know, we believe in the individual person in our country, and we believe in private property. That separates us from all of the other nations of the world, and certainly separates us from the other isms of the world and creates a freedom unknown really to most people on this globe. We fight to protect those very rights, the individual and private property.

In this situation, we are not sure, honestly, what infringement there may or may not be on private property rights, because in many of these areas, the heritage proposed areas, the local committees have not met, the cities have not met, and the Secretary of the Interior has not yet been consulted. He will be, as you follow this bill.

I have had personal experience here in this kind of thing on the Columbia River, the Columbia River Gorge. Many of you may remember that.

In that situation, inholders, private property people, were surrounded by a corridor that extends up and down the Columbia River, a beautiful spot, and yet they have to have Government authorization to paint their houses. They cannot plant a tree on their private property without consent of the Government, and they certainly cannot change their homes or build a barn without Government consent.

Now, there will be inholders around and inside of these heritage areas, and the Tauzin amendment asks only one thing, if a private property owner does not want in, let him out. That is a choice we have. We are not mandating that private property be out at all. We are asking that private property owners have the choice.

It is a very simple, straightforward amendment, and I might say that, indeed, if all of the arguments you have heard here that, in fact, private property is not in peril, that zoning ordinances are not in peril, why not accept the amendment? It cannot hurt the bill, and it certainly will make a lot of people in America rest more easily at night, because finally they know their freedoms are intact in this legislation.

So I ask you again, support the Tauzin amendment. And, by the way, I should set the record straight, I mentioned that the National Association of Counties supported the Tauzin bill. The National Association of Counties opposed the amendment to the Tauzin bill.

□ 1400

These are the counties that are affected, these are the counties that are crying about unfunded mandates; these are the counties that we all think we would like to support. So please vote for the Tauzin amendment.

Mr. VENTO. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California [Mr. MINETA], the chairman of the Committee on Public Works and Transportation.

Mr. MINETA. I thank the very fine chairman of the subcommittee for yielding this time to me.

Mr. Chairman, I rise today in strong opposition to the private property provision of the en bloc amendment, and in support of the Regula substitute.

Mr. Chairman, everyone agrees that the rights of private property owners must be protected and preserved. It is a concept that is fundamental to our Nation and is protected by the Fifth Amendment to the Constitution.

The American Heritage Partnership Act does more to protect the rights of private property owners than any piece of legislation in recent memory.

American Heritage Areas are places of national significance that deserve special attention and protection. But this bill gives no special attention or protection to any area without the express consent of the local community.

Each American Heritage Area is developed in coordination with local and Federal governments, nonprofit organizations and the private sector, and funded on a 1-to-1 matching basis. All decisions on the management of these areas are dependent upon local approval.

Requiring the written consent of each landowner within a proposed American Heritage Area is a cynical attempt to prevent the implementation of this legislation.

It would be an expensive, time-consuming process that would only delay the needed protection for these historic areas.

The American Heritage Protection Act and the fifth amendment to the Constitution ensure that the rights of all private property owners are protected and preserved.

I encourage my colleagues to support the Regula substitute, and to support the American Heritage Areas Protection Act.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the chairman, the gentleman from Minnesota.

Mr. VENTO. I thank the chairman for yielding.

Mr. Chairman, I want to point out relative to the discussion of unfunded mandates, well, the cost of going around and collecting tens of thousands of signatures, how would that be funded? Who would fund that?

I think the gentleman makes the point, the question is do you trust your local Government? Do you trust your local Government to do what local Governments essentially do in terms of zoning, in terms of regulations on land? We say we will designate an American heritage area in your area, but we will withdraw from you one of the key tools you need in order to try to protect and preserve that area; not to take anyone's property rights away, not to amend the fifth amendment to the Constitution, but then we will take it away.

As I said to my colleague, the gentleman from Louisiana, it is throwing an anchor at a man who is drowning. In other words, they need that like they need a hole in the head.

You cannot have it both ways. That is why we need to adopt the Regula amendment, which maximizes the impact of responsibility of local Governments and permits the program to go forward.

Mr. Chairman, I thank the gentleman from California [Mr. MINETA] for his statement.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

I want to speak in particular against the Regula amendment to the Tauzin amendment. The Regula amendment at its core has exactly the words that our friend from Minnesota just echoed in this Chamber, "Trust your Government." Trust your Government? That is what the Dolan family did in the city of Tigard. The government there took that property without paying for it and they had to go all the way to the Supreme Court. In fact, Mr. Dolan never survived it. His widow had to carry the case on.

In case after case where Americans have trusted their Government when it comes to Federal regulations, they found they had to spend 10 years in court to get their rights adjudicated. Ask Mr. Bowles in the case of *Bowles* v. *the United States Government*, in Texas, who was denied the right to build on his subdivision lots in Brazoria County. It took him 10 years to get the Government to recognize that they had taken his property. It took him 10 years for the Court of Claims to say the Government owed him compensation for denying him the use of his property.

Trust your Government, that is the theme of the Regula amendment. It says that we will not seek the consent of the landowners. The Regula amendment would strike that from my amendment. What it will say is we will seek the consent of the local government. So we will let the local government decide whether to take your land without paying for it, just as they did in the city of Tigard. We will let the local government be the hatchet man for the Secretary of Interior, who will come in and say your property is covered by these regulations, whether you like it or not, and we will not provide any money in this bill to compensate you.

Trust your Government? Well, Americans wrote a document called the U.S. Constitution. They adopted a Bill of Rights, and they adopted it for one reason, that we did not trust Government always to protect our rights, that we insisted that Government live by a covenant, 10 basic sacred amendments to that Constitution. They said every one of us is entitled to rights the Government cannot take away from us.

Why do you think we wrote that if we trusted our Government? We wrote it to insure that when a criminal goes before a court he is entitled to due process? Is that a burden? Is it expensive? Is it troublesome? Yes. But due process is the sacred right of every citizen.

When we tell people they can practice free religion in this country and they have free speech in this country, is it a burden? Do we like what they write about us in the press sometimes? I suggest many of you do not like what you read about us in the press lately.

But it is a right we diligently protect under the Constitution. One of those rights is the basic civil right to own property in this country and not have the Government take it away from you and not to have to trust the Government in that regard.

Now, if you trust the Government completely, you vote for the Regula amendment to the Tauzin amendment. If you believe not the Government but the landowner ought to consent to what happens to him or her and their personal private property in America, I suggest you reject the Regula amendment and adopt the Tauzin amendment.

It is the only amendment that will perfect this bill to make sure that the personal civil rights to private property in America are adequately protected by making sure we go through, yes, the burden and the trouble of going around and making sure that we fill up folders, such as the gentleman from Ohio [Mr. REGULA] brought to this House Chamber today, and that we fill the folders up with landowners' consents before we begin to take their property away from them in derogation of the civil rights guaranteed to us under the Constitution.

We fought some tremendous battles in this country for civil rights. We ought not to surrender them on this floor for heritage areas or for any other good purpose.

We ought to stand up for them today, defeat the Regula amendment to the Tauzin amendment.

Vote for the Tauzin amendment and stand up for that Constitution and that Bill of Rights and let the Government know once again in this renewal of our democracy that we still do not trust the Government completely, that we want our rights protected and guaranteed under that Constitution and in the law adopted by this Chamber, which is always supposed to represent the individual citizens of this country, not necessarily what Governments would like us to do on the local level.

Mr. Chairman, I reserve the balance of my time.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN], whose

State is the cradle of private property rights and liberty and the personal freedoms that we cherish.

Mr. TORKILDSEN. I thank the gentleman for yielding. Coming from the State where the Boston Tea Party was held, yes, we do not like Government very much at all. And I do agree with one statement from the gentleman; I do not trust Government either. That is why we have specific provision in the original bill, in the Regula substitute. I do not trust Government.

Opponents of this bill have said, "Well, you don't want private property takings." So the specific language in the bill says, "No, you can't use Federal money for property takings."

We think that answers it because I do not trust the Federal Government. If you give them a blank check, they are going to spend the money. I do not trust Government. I wanted that protection in there. The opponents said that they do not want the Federal Government or these management entities dictating zoning laws. So the language of the bill with the Regula substitute will say that no management entity has zoning power, that only the Government entities, whether it be a city, a town, or a county which currently has zoning power will keep that.

□ 1410

Now we do not seek to take away zoning power from local governments. We think they have the right to keep that power. But we specifically say the Federal management entity will have no zoning power, will have no land use power. Because I do not trust Government, I wanted that specific language included there as well.

Some people have gotten up to this microphone and stated they object to decisions that local governments have made about land use takings, and they may have very legitimate gripes and disagreements with what local governments have done. Certainly not every local government has acted perhaps in the best interests of property owners. I would not disagree with that. But this language seeks neither to add or diminish the power of zoning or the power of land use from local governments. That is what this bill is all about.

Let local government, the duly elected people, the people's choice for government officials at the local level, continue to make these decisions, to make these decision on zoning, to make these decisions on land use, and, if a property taking is desired at the local level, not the Federal level, but at the local level, let the locally chosen officials make that decision. But this language, the language of H.R. 5044 with the Regula substitute, has that.

Again, Mr. Chairman, I strongly urge my colleagues to support the Regula substitute and vote against the Tauzin amendment.

Mr. GRAMS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] together with the gentleman from Minnesota [Mr. GRAMS]. The private property protections embodied in this amendment make the American Heritage Areas Partnership Program a better bill, pure and simple. Mr. Chairman, I say this as a Member who supported the bill on the suspension calendar. I know this may stun some of my colleagues in this Chamber, but I was persuaded to support H.R. 5044 last week and I plan to vote "aye" on final passage today, if this amendment passes.

But, Mr. Chairman, I supported the Tauzin-Taylor amendment to the National Biological Survey Authorization this body passed earlier this Congress and I see this amendment as a similar tool to ensure good faith on the part of the Federal Government in dealing with its citizens living within a designated heritage area. The NBS amendment passed the House by an overwhelming 309 to 115 vote, and this amendment should do as well. Why? Because what could be more basic than the Federal Government seeking approval from a landowner before incorporating private property within the strictures of a Federal land-use plan?

Mr. Chairman, voluntary participation in this heritage area partnership program will do more to insure success in achieving the goals of the act than any other amendment. If landowners within the broadly drawn boundaries of an area are unilaterally forced to come within the confines of a Federal plan I think we will have created a recipe for revolt. Take it from someone with constituents who have to deal with a Federal landlord every day, the actions of the Federal Government—Congress and the executive branch—are the seeds of the sagebrush rebellion in the West, now known by the phrase "War on the West."

Could forced participation in Federal land use plans drive property owners in the areas designated by this bill into their own revolt? I don't know why not. Even without such a heritage area partnership program in place, we have recently witnessed the implied threat of the National Park Service to do whatever was necessary to stop the Disney Co., from building an historic theme park near Haymarket, VA, on private land.

Mr. Chairman, no matter how one may feel about the legitimacy of that site in Prince William County, VA, for such use, I think most Americans did not view it as a Federal case.

The senior Senator from the Commonwealth of Virginia said the Federal Government should butt out on the issue, and he's a nearby landowner who presumably didn't want the now defunct project. But, he had faith in the local and State regulatory process governing land-use to achieve the proper balance. A trust that apparently did not extend to bureaucrats in the Department of the Interior.

With that thought I will finish, Mr. Chairman, I ask my colleagues to support the Tauzin-Grams voluntary participation amendment. Send a strong signal to your constituents that you support legislation to protect private property interests.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, either I am missing something in this debate or the private property arguments that are being offered up here are a real red herring, and I just wanted to ask the gentleman from Minnesota [Mr. VENTO] a couple of questions to see if I am on track here.

Let us take a look, for instance, at the Hudson Valley area before and after the presumed designation as a heritage area. Will there be any impact on the rights of private property owners within that heritage area?

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Minnesota.

Mr. VENTO. Not by virtue of the designation. The local government authorities remain and in fact make the decisions.

Mr. SKAGGS. That gets to the 10th amendment argument, let us say. What is the difference, assuming we adopt the amendment offered by the gentleman from Ohio [Mr. REGULA] in the authority of local land use authorities before or after the designation of an area?

Mr. VENTO. Well, the Regula amendment maintains the existing authorities of local government to make decisions as to the land use and zoning decisions. In fact they could have a referendum on whether they wanted to be in the heritage area. They could have an election that people could advocate it or not. They would maintain their control. The Tauzin amendment would allow an individual landowner to opt out, so you would basically have local anarchy.

Mr. SKAGGS. Reclaiming my time, Mr. Chairman, I just cannot see under the circumstances any legitimate 5th or 10th amendment property rights argument to be brought to this debate. It is either ill-informed or an ill-intended effort to really distort the real issues presented by this legislation, and no amount of fulmination is going to make it otherwise. The Constitution and the Bill of Rights are not the private rhetorical property of any Member.

Mr. REGULA. Mr. Chairman, I yield 1½ minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from Ohio [Mr.

REGULA] for yielding this time to me. I want to go over two quick questions and then make a statement in response to whether or not we should trust local government.

First question is: Would private property owners lose their right under the amendment offered by the gentleman from Ohio [Mr. REGULA]? The answer is clear, and it has been discussed here at length. The answer is: Absolutely no.

Second question is: Does the bill give the Department of the Interior the power to control activities of other Federal agencies in heritage areas? The answer to that is: Unequivocally no.

Now the question about whether or not we should trust local government. My answer is: Please become involved in your local government, in your local community, all of you, whether you trust them or whether you don't trust them. Go to those planning and zoning commission hearings and meetings and become absolutely involved.

Listen and consider this: Do you want a toxic waste dump next to your property? Do you want or would you like a pornographic movie house next to an elementary school or next to your property? Would these two things next to your property devalue your property, and would you consider them taking some of your rights to use your property away?

Become involved at the local level in these land use decisions. The local government with community's support should make the decisions about local zoning, not us at the Federal Government. Let us not sterilize the diversity in the myriad of communities throughout our Nation by making one clear crystal law that seems to favor some property owners, but not all property owners.

I encourage strongly a vote for the Regula amendment.

Mr. GRAMS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. POMBO].

Mr. POMBO. Mr. Chairman, I thank the gentleman from Minnesota [Mr. GRAMS] for yielding this time to me, and I rise today in support of the Grams-Tauzin amendment and in opposition to the Regula amendment.

Mr. Chairman, what we are really talking about here today is the same battle that we have had in the House of Representatives and in Federal Government for many generations, and it is a matter of control.

□ 1420

Who is going to control local land use, who is going to control private property. In recent times, the emphasis has been on increased Federal control and decreased individual or local control, and this bill in and of itself is a mandate. This is a Federal mandate.

I would like to read out of title I of the bill.

(5) despite existing Federal programs and existing efforts by States and localities, the natural, historic, and cultural resources and recreational opportunities in these areas are often at risk; and

(6) the complexity and character of these areas distinguish them and call for a distinctive system of recognition, protection, and partnership management.

This is in a Federal bill. This is not in a county, State, or city council bill. This is a Federal bill. The Federal Government is stepping on the toes of local government in land use control. It is very clear.

I will turn to one part in the bill that involves South Carolina. It is on page 82 of the bill. "A primary responsibility for conserving, preserving, protecting and promoting the benefits of the region resides with the State of South Carolina and the various local units."

But it also goes on to say, "there is a national interest in protecting, conserving, restoring, promoting."

This is the Federal Government stepping in to control what happens in a locality. And if any locality accepts being part of a heritage area, they are accepting the Federal regulations that come with that. You are accepting those Federal regulations as part of this.

Now, I heard a speaker earlier say it is just a boundary. It is just a line on a map. Well, who is deciding who is on what side of that boundary? It is us in passing this bill. We are deciding who are the have's and who are the have-not's. We are deciding as the U.S. Federal Government who is going to be in the heritage area and who is going to be outside of the heritage area.

Now, if you did not pass this bill, there is nothing stopping a local county or a local city from adopting its own heritage area and protecting and preserving its own natural resources and its way of life. There is nothing stopping a local government from doing that now.

All this does is tells the localities that they are going to accept the regulations that we in our infinite wisdom decided were going to be put down on them.

Mr. Chairman, this whole bill is a bad idea. But the least we can do is protect the private property owners.

Mr. TAUZIN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise today in strong support of the Tauzin/Grams landowner consent amendment to H.R. 5044, the American Heritage Areas Partnership Act. This amendment ensures that the rights of private property owners will be protected and that additional unfunded mandates will not be passed onto State and local governments.

In its original form, H.R. 5044 would establish heritage areas, which would typically be large areas of land with a central theme or resource which would be managed or preserved. The program would be under the direction of the National Park Service, but require States, local governments and private organizations to impose management plans on heritage areas in order to receive funding. Unfortunately, the bill as written, provides no protection for individual private property owners, who may lose the right to use their property.

Proponents of H.R. 5044 proudly point to the bill's requirement that local governments within the heritage area voluntarily join the program. However, without protection for the individual property owners, the Federal Government has simply passed on the responsibility to the local governments without providing any funding. If a private property owner should seek compensation from a takings that occurs as a result of this program, the Federal Government is off the hook. The responsibility for compensation has been transferred to the local government, even though the Federal Government sets down the rules and regulations for the heritage areas. In fact, H.R. 5044 expressly forbids the use of Federal funds for compensation. Plain and simple, this is another unfunded mandate on local governments.

I've just spent the entire morning in the Government Operations Committee which is trying to develop legislation to address the problem of unfunded mandates, only to find that the House is passing another one with H.R. 5044. We have got to stop the practice of passing the costs of Federal programs onto local governments. They simply cannot afford to absorb these costs.

I believe that landowners should have the freedom not to have their land included in these heritage areas. The Tauzin-Grams amendment guarantees this freedom while preventing the passage of yet another unfunded mandate onto our local governments. I urge my colleagues to support this amendment.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. JOHNSON] to speak for local governments in his area.

Mr. JOHNSON of Georgia. Mr. Chairman, I rise to just make two or three points.

First of all, I think it is the exact opposite point just made, speaking, I thought, on the side of the Tauzin amendment. This is a question of are we going to allow the local government to make application for grants under this bill, that they will be able to manage themselves, come up with the plan themselves. They do not have to under this Regula amendment. They can operate out of it. Any local government can. This is not forcing anything on anybody.

Second, the Secretary may not as a condition of awarding a grant require any recipient to enact or modify land use regulations. And this even deletes the provision encouraging local governments to adopt land use policies consistent with the plan. So it has absolutely no mandate on local government.

You know, I have followed the efforts of the gentleman from Louisiana [Mr. TAUZIN] on property rights and voted with him most of the time, the most recent one being in the National Biological Survey. It is different. I voted for that because it required the consent of local property owners to give consent before a Federal agent could go on their property.

This amendment is different. His amendment would tell the local government that if they wanted to apply for funds under this bill, they have to in effect change their land use process. The fifth amendment and the due process clause protects people from abuse in this regard, and no amount of rhetoric changes that.

This is bad precedent. Are we going to now say for the Community Development Block Grants, when local governments come in and apply for Community Development Block Grants, that they have to get the consent of every property owner in the region that is making application? I think this is very bad precedent, and it changes local land use regulation.

Mr. GRAMS. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. ALLARD].

Mr. ALLARD. Mr. Chairman, I thank the gentleman from Minnesota for yielding.

Mr. Chairman, I stand in favor of the Tauzin amendment, and I stand strongly in opposition to the Regula amendment to the Tauzin amendment.

I believe that the bill places a huge burden potentially on private property owners as regulatory authority by the Secretary of the Interior. I think it is a burden that is too great for the individual and the private property owner.

I think the Tauzin amendment is not an unreasonable burden on local government. After all, I believe that it protects local control and authority. All it is asking for is a landowner's consent before you establish an American heritage protection area, and those land owners are to be brought in under the provisions of that American heritage area.

We have heard argument today that this is going to place too heavy a burden on local government, implying that perhaps maybe we are dealing with thousands of names and, by the time they track all these down and get the consent, it is going to be too great a burden.

I would point out that when it comes to tax collecting time, local government does not have a hard time running down their owners and getting in contact with them and dealing with them on important tax issues.

□ 1430

I also would bring up the point that if we are talking about open spaces and how it applies to the American Heritage Area, if we have to contact too many landowners that, perhaps, maybe it is inappropriate to set this up in an American Heritage Protection Area for the purpose of open space.

But the basic question is, why do we have to provide protection to the private property owner?

I see a fundamental change in the way the bureaucracy is doing business today as it was a number of years ago. They are assuming responsibility and powers and then telling the Congress, well, you deny us that assumption of responsibility. You tell us we cannot do it.

I think the Tauzin amendment is very important, because it clearly sets limits on the Secretary of Interior so that when it comes to private property rights, he is not assuming more power than perhaps was intended by the sponsors of this particular piece of legislation. I think the Tauzin amendment is very appropriate. I think it provides the clear and obvious limits that we need to place on the Secretary of Interior.

Mr. REGULA. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts [Mr. BLUTE], whose State is the home of the Minuteman, Paul Revere and liberty.

Mr. BLUTE. Mr. Chairman, I thank my good friend from Ohio for yielding time to me.

As a member of the Massachusetts state legislature for 6 years, I fought many private property battles in that body, and I have joined in many of those fights here to protect the private property rights of the citizens of our great country.

I think in this case, though, that we are talking about apples and oranges. The Regula language maintains private property rights by maintaining local zoning control. The best way, in my view, to protect property rights is to enhance local control, not to weaken it.

Local governments are closer to the people, and they are much more sensitive to these issues than are distant bureaucrats who do not live anywhere near where the property is located.

The Tauzin language supersedes local control. It overrides local jurisdiction, and it shifts power from local authorities and local people to the Federal Government. That is the exact opposite of what we want to be doing on private property rights.

I strongly support the Regula language. I urge its adoption. I strongly support the National Heritage Partnership bill, because I think it is a major step forward for the citizens of our country.

Mr. TAUZIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, someone alluded to the fact that they supported the Taylor amendment to the biological survey bill, but they do not want to support this Tauzin amendment for landowner consent. We should all ask, why not?

The Taylor amendment, which passed 291 and later on by 325 votes, simply said that a person had to get landowner consent before Federal and State Government agents walked onto their property.

What we are talking about here is not them walking onto it and visiting it, checking it out. We are talking here about them regulating it. Should we not want landowner consent here?

If we want landowner consent before they can come visit a person and look at their property, would we not want landowner consent before they came to take it away?

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, was not the Taylor amendment on a Federal agency whereas here we are talking local government?

Mr. TAUZIN. Mr. Chairman, reclaiming my time, we are talking about local government enforcing a plan approved by Secretary Babbitt of the U.S. Government. That is what we are talking about. We are talking about Federal agents and local agents in a partnership walking onto a person's property to take it away from them without their consent.

All we are saying, in the Tauzin amendment, is, get landowner consent.

All the gentleman from Ohio [Mr. REGULA] is saying, is, do not get landowner consent, just check with your local government.

I suggest to Members that the people that are closer to the people of the country than local government are the people of this country. If we depend upon them and check with them once in awhile, I do not think we will go wrong. We ought to pass the Tauzin amendment and depend upon landowners to give their own consent, just as we did in the Taylor amendment on the biological survey.

Mr. Chairman, I reserve the balance of my time.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL], a former local elected official from Massachusetts, the center of democracy in our Nation.

Mr. NEAL of Massachusetts. Mr. Chairman, we certainly practice it.

Mr. Chairman, I would just draw an interesting contrast. I came from local government. In fact, I was mayor of one of the largest cities in Massachusetts. And I happen to agree with much of what the gentleman from California [Mr. CONDIT] said earlier.

The truth of the matter is, I have a different interpretation of what the gentleman from Ohio [Mr. REGULA] has done here. Let me just draw a contrast for the House. That contrast is this.

You have the gentlemen from Massachusetts, Mr. BLUTE and Mr. TORKILDSEN, two of the more conservative members of the Massachusetts delegation. I would find myself generally in the middle of that delegation on most issues. The three of us happen to agree on this interpretation. We believe that it protects, as the gentleman from Ohio [Mr. REGULA] has submitted, private property rights. And that the proposal of the gentleman from Louisiana [Mr. TAUZIN] in fact subtracts from the rights of people at the local level to raise certain questions.

Indeed, in the end, the irony of this is that the Tauzin amendment is indeed unworkable, if applied as he has proposed it to all of us in this Chamber.

We have a remarkable opportunity here today to once again highlight the historic infrastructure of this Nation. Anthony Lewis at the Times reminded us once again that we are quickly becoming a Nation without a memory. Today we can honor the memory of America. Nowhere has that been better honored in this Nation than in the Commonwealth of Massachusetts. But most importantly, we can give a boost to those preservation groups and those historic commissions at the local level who, across this Nation every single day, make for a sense of living history.

Before I went to local government, I was in a classroom teaching high school history and government. Let me tell my colleagues something, this legislation proposed by the gentleman from Ohio [Mr. REGULA] and the gentleman from Minnesota [Mr. VENTO] today represents no threat to private property rights and, indeed, if anything, enhances private property rights and maintains local government intact.

I thank the gentleman for yielding time to me.

Mr. GRAMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to say that in talking about the Regula substitute, they are stressing that this would not infringe on individual property rights. If it would not, why are they so strongly opposed to the Tauzin-Grams amendment? They say that this amendment would gut this bill, H.R. 5044. It would gut this bill. So by saying that, they admit that they are ready and willing to trample on personal property rights.

They say that the Federal Government is not going to buy land or take land from individuals. But what this bill actually does, it says the Federal Government can take or it can use, it can mandate the use of private property for any way that the Interior Secretary deems that it should be used for and local governments then would have to set their regulations or their management plans in step with what the Interior Secretary says.

So I think this amendment is a clear infringement on personal property rights. The Tauzin-Grams amendment would protect those rights.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. GRAMS] has expired.

Mr. REGULA. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as the gentleman from California [Mr. MINETA] pointed out, this bill goes further toward providing and protecting local property rights than anything we have done historically. This time we start from the bottom up.

□ 1440

We let the local governments design what they want and submit it. Usually we have the Federal Government designing something for local government.

In the Tauzin proposal, you have an unfunded mandate. In the Regula-Rahall, there are no unfunded mandates. The local government is totally in control. A vote for Regula-Rahall is a vote for local control, it is a vote for local partnership.

It is a vote for the community, for all of these volunteers, to give them a chance to preserve their history, to preserve their open spaces, their public open spaces. Let me emphasize, there is no power to take anything. They cannot even spend the Federal dollars if the property owner wanted to sell his property, it is so tightly drawn.

It is totally local control. There is no change mandated in zoning or land use. We say to the communities "You do what will serve your people. You are there." The counties have to opt in. They have to say "Yes, we want to go in and be part of this historic corridor."

In contrast, Mr. Chairman, the Tauzin amendment would deny the local groups the ability to preserve their heritage. It would deny them the ability to preserve open spaces, deny the local groups who want to voluntarily make a difference in their community and preserve something for all time, for history, for generations to come. They would no longer have that ability, because under the gentleman from Louisiana's amendment, this thing will not help, it would be so burdensome on local government.

Mr. Chairman, I urge my colleagues to vote for the Regula-Rahall amendment to the Tauzin amendment.

Mr. TAUZIN. Mr. Chairman, I would inquire of the Chair how much time remains.

The CHAIRMAN. The gentleman from Louisiana has 2 minutes remaining.

Mr. TAUZIN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman let me clarify the record. I was a member of local government in Louisiana, too. I respect local government for all the good it does. I am a member of the Federal Government. I respect this Federal Government for all the good it does.

However, American citizens know that government can deprive them of their rights. That is why we wrote a Constitution and the Bill of Rights. That is what this fight is all about, individual rights under that Constitution.

Second, Mr. Chairman, I am for heritage and living history, too. I am for God, apple pie, and motherhood, too, but I know a bad deal when I see one. Everybody complains about those of us who write laws writing them with too much legalese. Let me scratch the legalese here and put it down in its basic elements for the Members and I and for all Americans to hear.

This is the deal in this bill, without the Tauzin amendment, or with the Regula amendment. Listen well, this is the deal. Here is the deal we give.

We will regulate your property, with Secretary Babbitt's permission, and we will take away its use and its value, and we promise you we will not pay you for it. Let me say it again. We will regulate your property, with Secretary Babbitt's permission, and we will possibly take away its use and value from you, and we promise you, take our word for it, we will not pay you for it. That is what this says.

I think Americans know a bad deal when they see it, too. Here is the deal I offer back: The Tauzin amendment says "Only with my consent will you give me that great deal. Only with my consent will you take my property and regulate it without paying me for it."

I think without the Tauzin amendment, without the landowner consent provision in this bill, this bill is a bad deal for Americans and most of our constituents would not take it. Landowner consent, the Tauzin amendment. Please adopt it. The Regula amendment takes that landowner consent away. Please vote against it, and then let us pass this good bill.

Mr. VENTO. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, the deal here is whether we are going to have a bill that is going to be workable or unworkable, reasonable or unreasonable. I want to credit my colleagues with great creativity and imagination, in conjuring up problems with regard to this.

All of a sudden, the inability of the Federal Government to buy land at the local level is an abomination. It is usually the other way around in terms of debates I have been in.

What this amendment does, Mr. Chairman, is create anarchy, or would create anarchy in these heritage areas.

I might add, Mr. Chairman, that the Members that are seeking these designations, and Congress would designate these areas, with the cooperation of local government, the Members that are in the areas that have these designations favor the Regula amendment. They oppose the Tauzin amendment, because they understand it would be unworkable.

It would be an unfunded mandate. It would be simply unworkable, We would have a patchwork quilt of individual landowners that decided to be in or decided to be out. It would not be workable. It would destroy the idea and the concept that is being advanced here in terms of partnership.

The question is, Mr. Chairman, should we arrogate onto ourselves, the Congress, this decision; in other words, should we take rights away from the local government with regard to these heritage areas. It would deny them the basic tools they need in order to do the job.

We have had a lot of demonizing going on here. There are a lot of unrelated concepts being attached to this American Heritage Partnership Act. Mr. Chairman, I would suggest this is not the biological survey, it is not the property rights issue. The property rights issues are not involved in this.

The Constitution remains inviolate. It is not affected. I urge the Members to vote for the Regula amendment. It goes as far as we can go. We take the good ideas that we get from the Tauzin amendment without killing the bill. I know it is the intention to be supportive of this, but there are many other groups that have the intention to destroy this bill, to stop this bill.

Mr. Chairman, I would urge the Members to defeat the Tauzin amendment, and to favor the Regula amendment, which will be voted on first.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VENTO. I would ask the Chair if he would announce the rotation of the vote with regard to what will come first.

The CHAIRMAN. The first vote will be the question on the amendment offered by the gentleman from Ohio [Mr. REGULA] to the amendments offered en bloc by the gentleman from Louisiana [Mr. TAUZIN].

Mr. VENTO. The first vote will be on the Regula amendment with regard to local government rights, is that correct, Mr. Chairman?

The CHAIRMAN. That is correct.

Mr. TAUZIN. Mr. Chairman, the first vote will be on the vote to strike the landowner consent provisions of the Tauzin amendment?

The CHAIRMAN. The first vote will be on the amendment offered by the gentleman from Ohio [Mr. REGULA].

The question is on the amendment offered by the gentleman from Ohio [Mr. REGULA] to the amendments en bloc offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VENTO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair announces that he may reduce to not less than 5 minutes the period of time within which a rollcall vote by electronic device may be taken on the amendments en bloc offered by the gentleman from Louisiana [Mr. TAUZIN].

The vote was taken by electronic device, and there were—ayes 222, noes 202, not voting 15, as follows:

[Roll No. 484]

AYES—222

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Darden
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hastings
Hinchey
Hoagland
Hobson
Hoyer
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lantos
LaRocco
Lazio
Levin
Levy
Lewis (GA)
Livingston
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Pickle
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Skaggs
Slaughter
Spence
Spratt
Stark
Stokes
Studds
Swift
Synar
Thompson
Torkildsen
Torres
Torricelli
Towns
Traficant
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—202

Allard
Andrews (NJ)
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Brewster
Brooks
Bunning
Burton
Buyer
Calvert
Camp
Canady
Carr
Castle
Chapman
Clement
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fawell
Fazio
Fields (LA)
Fields (TX)
Fowler
Frost
Gallegly
Gekas
Geren
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Hefner
Herger
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Laughlin
Leach
Lehman
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Long
Lucas
Manzullo
McCandless
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
Meyers
Mica
Miller (FL)
Minge
Montgomery
Moorhead
Murphy
Nussle
Ortiz
Orton
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quinn
Ramstad
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Strickland
Stump
Stupak
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Wilson
Young (AK)
Zeliff

NOT VOTING—15

Bachus (AL)
Bevill
Blackwell
Browder
Callahan
Cramer
Fish
Gallo
Hilliard
McDermott
Slattery
Sundquist
Tucker
Washington
Whitten

□ 1507

Messrs. POMEROY, ARCHER, FAWELL, HEFNER, GONZALEZ, BISHOP, and ROEMER changed their vote from "aye" to "no."

Mr. DEAL, Mr. BOUCHER, Ms. ESHOO, Mr. GILMAN, and Mr. COLEMAN changed their vote from "no" to "aye."

So the amendment to the amendments was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Louisiana [Mr. TAUZIN], as amended.

The amendments en bloc, as amended, were agreed to.

AMENDMENT OFFERED BY MR. TAUZIN

Mr. TAUZIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUZIN: Page 23, after line 24, insert the following:

(g) PROTECTION OF PRIVATE PROPERTY.—The management entity for an American Heritage Area shall publish procedures to ensure that the rights of owners of private property are protected. Such procedures shall include an administrative process to provide compensation to the owner of private property if the use or value of all or any portion of the private property is substantially diminished as a result of the designation of the American Heritage Area or the management plan for the American Heritage Area.

Mr. TAUZIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

□ 1510

Mr. VENTO. Mr. Chairman, reserving the right to object, I wanted to inquire as to the amendment being offered by my colleague, the gentleman from Louisiana. Is this the amendment printed in the RECORD that provides for a process for compensation of landowners that are significantly affected?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Further reserving the right to object, I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the gentleman has inquired as to whether the amendment at the desk is the amendment providing for compensation to a landowner whose property has been severely or substantially devalued.

Mr. VENTO. I think the word is significant.

Mr. TAUZIN. Significantly devalued.

Mr. VENTO. That is in the amendment, unless it is a different amendment that the gentleman is talking about.

Mr. TAUZIN. As a result of the regulations, and the answer is that that is the amendment at the desk.

Mr. VENTO. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

AMENDMENT OFFERED BY MR. RAHALL TO THE AMENDMENT OFFERED BY MR. TAUZIN

Mr. RAHALL. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The Clerk read as follows:

Amendment offered by Mr. RAHALL to the amendment offered by Mr. TAUZIN:

In the amendment offered by Mr. TAUZIN to page 23 of section 107 of H.R. 5044, on line 5, strike "an administrative" and all that follows through line 10 and insert the following: a process to provide information to the owners of private property with respect to obtaining just compensation due as a result of a taking of private property under the Fifth Amendment of the Constitution of the United States.

Mr. RAHALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

Mr. TAUZIN. Mr. Chairman, reserving the right to object, if I may engage the gentleman in a colloquy, I ask the gentleman from West Virginia [Mr. RAHALL], is this the amendment that would substitute for the compensation amendment, and would provide only a process to provide information to the landowner?

Mr. RAHALL. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. Further reserving the right to object, I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, my amendment reaffirms constitutional rights, I respond to the gentleman.

Mr. TAUZIN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The CHAIRMAN. The gentleman from West Virginia [Mr. RAHALL] is recognized for 5 minutes.

Mr. RAHALL. Mr. Chairman, it is unfortunate, but true, that we are faced with a situation where this particular bill is being used as a vehicle to advance a certain political agenda which, while on its face has a populist appeal, is in reality quite dangerous to some of the basic foundations of the Republic.

The pending legislation clearly provides that no Federal funds can be used to acquire property within a heritage area.

Let me repeat that, because there are some who have chosen to ignore the clear reading of the legislation.

The pending legislation clearly provides that no Federal funds can be used to acquire property within a heritage area.

Now, with that said, I find it hard to imagine why anybody would offer a so-called takings amendment to allegedly protect private property rights.

Moreover, we have gone so far in trying to address the concerns of Members like the gentleman from Louisiana as saying in this bill that if you own a historical property within a heritage area, and you want to sell it to a governmental entity to ensure its protection, you will not be able to do so if Federal funds are involved.

We are throwing out the window the concept of willing buyer/willing seller that has served us so well over the years.

Mr. Chairman, the fact of the matter is that the Constitution states that there shall be no taking of private property by the Government without just compensation.

Most of us learn this at least by the time we take our first civics class in school.

And what we also know is that only the courts can decide, on a case-by-case basis, whether a governmental action results in a takings and whether it is a compensable takings.

In my view, agendas are being pursued under this takings banner that do not necessarily have anything to do with private property rights.

And I say this especially within the context of the pending situation, where we have a bill that prohibits Federal funds from being used for land acquisition.

I would suggest to my colleagues that in light of these facts, if you find that you simply have to vote for some type of amendment, the proper course of action to take is to vote for the pending Rahall-Regula amendment.

Our amendment provides for procedures to be put into place within a heritage area to ensure that the rights of private property owners are protected, and that they are made aware of their constitutional rights. I urge the adoption of this substitute amendment.

□ 1520

Mr. TAUZIN. Mr. Chairman, I rise in opposition to the Rahall amendment and in support of the Tauzin amendment.

Mr. Chairman, on a very close vote, as we just saw, the House agreed not to require the written consent of the landowner to have his property wrapped into these heritage areas, and the regulations on land use that are going to flow from them. In short, the House voted for the Federal Government working with the State governments and local governments to regulate the use and value of people's property in these heritage areas without their consent. If ever there was an exercise of eminent domain, we just exercised it in the last vote.

Now, the Congress has provided through eminent domain, through easement procedures, laws to permit the Government to compensate landowners when the Government needed the land, needed the use of that property for a certain purpose. We have done that in many cases already.

The amendment I have offered simply says now that if we are going to have a bill that says that landowners do not have to consent to have their property brought under these regulatory regimes, if they do not have to consent to the loss of the value and the use of their property, that the least we ought to do under the Constitution is provide a remedy at home for small landowners who cannot afford to go all the way to the Supreme Court to find out if they have a remedy in compensation.

Now, the gentleman from West Virginia [Mr. RAHALL] offers a substitute to our amendment. I think it is important to look at that substitute very carefully. All that substitute does is to say that under this bill the landowner is going to be given information about what to do if he wants to get compensated.

Well, you do not need an amendment to do that; all you need is a road map and a designation as to where the courthouse is. If all you want to do is to send every landowner in America to the courthouse to find out whether or not he can get compensated, you have relegated every landowner, homeowner, rancher, farmer affected by this bill to a 10-year litigation process because that is the average right now for landowners contesting property right condemnations under regulatory takings.

Am I exaggerating? No. Look at the record.

Look at the case of Bowles versus the United States, a property owner in Texas who belonged to the Nature Conservancy, a good guy who actually was on a conservation committee to watch the Corps of Engineers that they did not overly allow development in his area.

In 1984 he was denied the right to build on his own subdivision lot in a subdivision in Brazoria County, TX. When he was denied that right, he did what Mr. RAHALL'S amendment does, he went to court, 10 years later the court of claims here in Washington, DC, finally awarded him compensation for the taking of his property. It took him 10 years.

Now, rich landowners can afford to do that, perhaps; rich companies can afford 10 years of litigation. Perhaps those of you who want to vote for Mr. RAHALL'S amendment because they will get information as to where to find the courthouse.

But if you have in your district, if you have in your State ordinary property owners, farmers, ranchers, homeowners who simply own a tract of land in America, a parcel that is going to come under these heritage corridors, some as long as six countries wide and as wide as the Mississippi River, look at the map. If you have small landowners who cannot afford a 10-year trip to the Supreme Court, maybe you might be interested in the Tauzin amendment. Maybe you want more information, maybe you want a process to compensate you when the value of that property has been substantially diminished without your consent.

Now, if ever there was a pernicious reading of the Constitution, it is the way this bill currently reads. What this bill says, if I may reword the fifth amendment, according to this bill, is that private property shall not be taken for public purposes unless it is in a heritage area.

The Constitution does not have an exception. It does not say unless it is in a heritage area or unless it is a wetland or covered by an endangered species. We had this debate on the Desert Protection Act. The House voted overwhelmingly to make sure the landowner got compensated.

I urge you, as you did in the Desert Protection Act, to recognize there are many small landowners in America who cannot afford a 10-year trip to the U.S. Supreme Court and whose justice and civil rights under the Constitution require us to pass a law, the Tauzin amendment, establishing a procedure for them to get compensated.

This is a basic right in America. We can argue about it all day and all night until the chickens come home, but it is basic. If you are going to take somebody's property without their consent, if you are going to substantially deprive them of the value or the use of their property, then we ought to provide a compensation mechanism. If you want to tell every small landowner in your district that you refuse to do that, that you refuse to provide them a remedy in law for their losses, then I suggest you vote for the Rahall amendment. But if you want to protect private property rights, vote for the Tauzin amendment.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the last word and rise in opposition to the Rahall amendment.

Mr. Chairman, the Rahall amendment is just a pawn to try to divert attention from the real issue here, and that is payment for the use and taking of private property.

Now, I have heard and you have all heard the argument that this bill now does not provide Federal funds to be used to acquire Federal property. That is part of the problem. What about the use of private property, Mr. Chairman and Members? In these heritage foundation areas they may well use your private property and reduce the value of it and therefore you have no ability of using your own private property to control it. So use is a very important part of this issue.

The Tauzin amendment provides that there be compensation if your land is either used or diminished in value. That is as simple as it is. Do not hide behind the fifth amendment to the Constitution.

Let me read to you 3 or 4 recent holdings by the U.S. Supreme Court.

In Hadacheck versus Sebastian, a 90-percent taking, the Supreme Court said no taking. Euclid versus Amber, the Supreme Court said no taking. Seventy five percent of the value of the land was taken.

The Keystone Coal case, where 50 percent of the value of the land was taken, the Supreme Court ruled no taking.

But in the latest Supreme Court decision, Dolan decision, Dolan versus Tigard, which, by the way, is in the State of Oregon, the city of Tigard, there the city was trying to take Mr. Dolan's opportunity to expand his laundry because the city wanted to store grain, and an additional 10 percent for a bike path. The Supreme Court said, after 10 years, said, "No, that is a taking." The city of Tigard had to back away.

The point remains here that if you hide behind the fifth amendment, you have extremely disadvantaged small people who have to spend years and literally thousands and millions of dollars to pick it up. What we are saying here, we say outright we want small people who have lost the use of their land, who have abused by either local government or Secretary Babbitt, the Secretary of Interior, they will have the right of compensation to restore them whole. What is wrong with that? That is basic private property rights. That is what we all stand for.

Support the Tauzin amendment and vote against the Rahall amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Rahall-Regula amendment to the Tauzin amendment and ask my colleagues to support it.

□ 1530

The fact of the matter is that the amendment offered by the gentleman from Louisiana [Mr. TAUZIN] sets up a radical concept in terms of how we ought to deal, or how local governments ought to deal, with any changes of value that might be attributed to some type of zoning activity at a local level. I want to know from the sponsor of this where does this procedure exist in the United States today? What local government has set up this particular process or procedure? What State government has set up this process or procedure—given this to bureaucrats to make these decisions about when property goes up or down in value without the consent of owner? Where does it exist? Where does it exist? Can the gentleman tell me where it exists?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Louisiana.

Mr. TAUZIN. It exists in every highway department in the country which has an eminent domain section. Every highway department in Oregon has such a section.

Mr. VENTO. Reclaiming my time, Mr. Chairman, that is not the point. The point is that every agency can negotiate for a willing seller, willing buyer. There is no eminent domain in this bill. There is no purchase by the Federal Government. There is no purchase necessarily by the local government. There is no procedure that exists administratively at the local or at the State level for this particular function. It does not exist. What this is is a wholly unique piece of policy to be superimposed on this bill. It is a radical concept. It is an unfunded mandate. If a local government opted into a heritage area, they would have to buy part and parcel this particular procedure for setting up and compensating so-called changes in significant value.

The fact of the matter, Mr. Chairman, is the procedure exists in law today, and it works pretty well in the U.S. Constitution, and that is why the Regula and the Rahall amendment is articulating and emphasizing that. It is the Constitution that these basic provisions exist in. This is the core of law, not something superimposed on it, some type of convoluted process which the gentleman from Louisiana [Mr. TAUZIN] is proposing here.

This would simply undermine the effect of local governments being able to deal with this. This would set up an experimental program with no funding at the local level. How could local governments possible deal with this particular procedure in terms of making these determinations? It is unworkable. It is unfair to those local governments to set this up, and in the end it would render the program moot, and it would pull the rug out from under the program and make it so it would not be workable. Providing the information is a positive step in terms of giving property owners affected knowledge of their rights to pursue a course through the tried and tested State and local courts and through the Federal Government, ultimately even the Supreme Court, and I might say that the Supreme Court has not been reluctant, or the other courts reluctant, to in fact assert the legitimate rights of property owners when they have been violated, and I endorse the proposals and the effort that they have made to protect those property owners.

Mr. Chairman, we need to be sensitive to this, and, if we need a new process, is this the place to develop it? Is this the place we are going to upset 200 years of jurisprudence by putting in place a procedure that is not defined, that is going to be different in every local jurisdiction that is impacted by this. How many administrative units are we going to create? What are we doing to the local governments? It is one thing to protect private property rights, but I think we ought to look before we leap, and I say to my colleagues, "I think that if you look before you leap, you vote for the Rahall-Regula amendment and you vote against the Tauzin amendment."

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, and members of the committee, let me make it clear by saying, "If you voted yes on the last amendment, you're a yes on this amendment because essentially the issue is the same," and let me also make clear that in this bill there is no public use of private property without compensation. This bill is for the local people to cooperatively and voluntarily put together these heritage corridors. The gentleman from Oregon gave us cases where there was a 90-percent taking, a 75-percent taking. Let me tell my colleagues that this is a zero percent taking. There is no taking, and so there is no relationship to what the court has done, and here it said we cannot use the courts. I say to my colleagues, "I believe that you can't repeal the Fifth Amendment to the Constitution by making a speech here today."

Mr. Chairman, it very clearly in the Rahall-Regula amendment says, and let me read it:

> . . . a process to provide information with respect to the owners of private property to obtaining just compensation due as a result of any taking of private property as provided in the Fifth Amendment to the Constitution.

The point is there is no taking. There is no change in zoning. It simply allows local people, with support from the Federal Government of a dollar-for-dollar match, to develop a heritage corridor with historic preservation of historic areas, environmental areas. It gives people an opportunity to do things locally.

And talk about unfunded mandates. Let me say to all of my colleagues that the Tauzin amendment would be the biggest unfunded mandate we have passed here in a long time because it would mandate to local governments, that they would be paying people that might have nothing to do with this, and the cost would be enormous, and, therefore, local governments could not, as a practical matter participate.

So, Mr. Chairman, I say to my colleagues, "If you're against unfunded mandates, you're a yes on the Rahall-Regula, and, if you believe in local control, you're a yes on Rahall-Regula."

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, my friend made an eloquent, passionate speech, but I caught an inconsistency. Perhaps he can help me with it.

I say to the gentleman, "At one point in your talk you said there are no takings under this bill, and at another point you said that if my amendment passed providing for compensation for substantial takings, that this would be a huge cost."

Which is correct?

Mr. REGULA. If there would be a taking by local government or a taking by anybody, there would be a cost. But the point is the gentleman is saying in his amendment that they have to go out to all of these people and provide compensation for a change in value. That is not a taking. The gentleman is talking about something entirely different. We are saying in our amendment that we protect the rights of the private property owner, as clearly set out in the fifth amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Minnesota.

Mr. VENTO. The fact is that what the Tauzin amendment would do is to place a cost on the legitimate and bona fide powers of local governments to make the decisions with regard to land use. There are within the context of our Constitution divided and delegated powers to the States. The States have those rights, and within the precepts of the Constitution, within the precepts of what the court has determined to be a legitimate and police power of the State, they have certain powers, and they ought to be able to exercise those. They ought to be able to exercise them without paying a premium to someone that is set up under a procedure here.

What the gentleman is doing is superimposing on local governments a new power, a new procedure. The gentleman from Louisiana is superimposing a new procedure in terms of what happens every time a land use changes, and the fact of the matter is that is a determination by the court to determine whether or not there is. But there certainly is zoning. There certainly are powers that the local governments have today, they have under this particular bill. There are certain powers the States have today that they have under this bill. Should they have to pay in order to exercise those legitimate and bona fide powers they have today that are recognized and not recognized in the court? And what this amendment intends to do and what the gentleman from Louisiana [Mr. TAUZIN] generally intends to do is to make both the Federal Government pay, to make State governments pay, to make the local governments pay every time they exercise a land use decision. That is the total effect of the advocacy that is being presented here, a radical new vote in terms of the government's role, in terms of what it does with land use, what it does with property.

Mr. Chairman, that is what is going on here, and we ought to be defeated. We ought to vote for and uphold the Constitution, not some radical interpretation.

Mr. REGULA. Reclaiming my time, Mr. Chairman, I say to my colleagues, "If you voted 'yes' on the last amendment, you vote 'yes' on this amendment. The same issue is before us."

Mr. MOLLOHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the gentleman from West Virginia [Mr. MOLLOHAN], my colleague, for yielding.

Mr. Chairman, I wish to respond to the gentleman from Oregon who earlier in this debate alleged that, although prohibiting the use of Federal funds in this legislation for the acquisition of private property, as we so clearly do, he says that in essence in effect what we are doing is affecting the use of private property. Again I say to the gentleman, as I did earlier in the use of Federal funds for the acquisition of private property, that look what we save, three different occasions as far as the use of private property in this legislation.

☐ 1540

On page 30, section (1)(a), the lack of effect on authority of governments, we say, "Nothing in this title shall be construed to modify, enlarge, or diminish any authority of Federal, State, and local governments to regulate any use of land as provided for by current law or regulation."

A second area, we say, "Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for American Heritage area."

On a third occasion, in the Vento en bloc amendments that we already adopted, we say, "No requirement for land use regulation as a condition for approval. No provision of this title shall be construed to require any change in land use regulation as a condition of approval of a compact management plan or revision of a compact management plan by the secretary."

So once again I say, read the legislation and see what we clearly prohibit in the bill already, to address the concerns of those like the gentleman from Louisiana.

Finally I will say, Mr. Chairman, in a question I posed to the question from Louisiana, who has championed this particular concern of his, and again I say myself perception as it relates to this bill, what if we were to adopt the gentleman's language to every highway bill that went through this body, to every dam that we built, to every public works project that we were to build across this country. What if we were to adopt the language of the gentleman from Louisiana?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Louisiana.

Mr. TAUZIN. The gentleman knows, I assume, that that is the law in every highway bill, that when the government takes your private property to build a highway, you are entitled to a procedure for compensation, and it is an eminent domain question, and you get compensated. The gentleman knows the current law provides for that.

Mr. RAHALL. Mr. Chairman, if the gentleman will yield further, that is not a taking in those particular issues. We are not talking about takings here in this particular piece of legislation.

Mr. TAUZIN. If the gentleman will yield further, I suggest when the Government comes along and demands 10 of your acres for a highway, that it is a taking, and that is what it is all about. That is when you get paid under eminent domain. When a taking occurs here, we are suggesting the same thing ought to happen. You ought to get compensated, and the House agreed with that provision on the Desert Protection Act.

Mr. RAHALL. Again I would say to the gentleman, there are no takings in this piece of legislation. If there were takings, I would totally agree with him. The Constitution protects us in those cases.

Mr. TAUZIN. If the gentleman will continue to yield, if the gentleman were correct that there are no potential takings in this bill, you are correct, that there would be no compensation required. So what is the harm of an amendment that says if a taking does occur, that you have a provision for compensation? You cannot argue there is no taking, and yet no need for compensation if there are takings.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from Minnesota.

Mr. VENTO. The gentleman's definition in his amendment does not necessarily suggest that there is a taking. It talks about, whatever it means, a significant diminution of the use, whatever that is. The fact is that flies smack into the face, and the gentleman ought to know, the gentleman is very learned with regard to this, it flies right into the face of the legitimate powers of local and State governments to regulate land. So this is the case. And what the gentleman seeks to do, and I think it is clear, is to expand the amount of liability that the State and local governments would have uniquely onto this heritage area. Not under any other.

Now, maybe if you want to do that, that ought to be applied to everything in general. But why we would begin and do it in this instance is beyond me. So it is not a taking. Takings, if the gentleman will continue to yield, are protected under the fifth amendment. We say there are no takings, and in order to order that, we say here are the procedures we are going to follow. Are we going to rewrite out of whole cloth new law with regard to property rights here on the House floor as represented, as is represented by my colleague from Louisiana's effort.

That is what this is; no more, no less.

Mr. TAUZIN. If the gentleman will yield further, I beg to differ with my friend from Minnesota. What this gentleman is doing is in fact offering an amendment that parallels the decision of the Supreme Court in the case of Doland versus Tigard and in the case of Lucas versus the United States. In both of those cases, the U.S. Supreme court said that where a substantial loss, which is what we have here, of the use of or value of property, results from a regulatory taking, such as this, that compensation should be provided.

What we are suggesting is that a procedure be set up for that, rather than requiring everybody to go to court. That is what we do in highway takings, that is what we do in public property takings for public purposes like public projects.

So the gentleman is incorrect in saying that we have written something out of whole cloth. Lucas versus the United States and Doland versus the city of Tigard is the language we depend upon.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, a lot of times we support something based on previous knowledge and history of the way things work. I know in the California desert plan, the Government, when it takes lands, and I know the gentleman from Minnesota [Mr. VENTO] fought against it, the Government is billions and billions of dollars behind in paying for land.

So what happens is that when a person's property is taken and goes on that list, the Government cannot pay for it. Then in the meantime, you cannot build or improve your property. So what happens? The value goes down. Then the Government comes in and says we want to give you fair market value.

That is not right, Mr. Chairman. I talked to a judge in San Diego this past weekend who teaches at the University of San Diego. He said the Government historically tries to beat down the price of private property so they can get it cheaper. He also said that the courts today across the country of the United States are tending to fight against this, because it is violating private property rights of individuals. Basically, it is stealing their land, and that is wrong.

I have a cousin that is in the district of the gentleman from Louisiana [Mr. TAUZIN]. He is a Republican, a solid Republican, and he supports the gentleman. Let me tell you why. Because the gentleman fights for the property rights and the rights of his constituents and those across America. I take a look at the gentleman's record in that area, and I look at the other gentlemen as far as the taking of lands, such as the California desert plan, Mr. Chairman, and I happen to believe in the gentleman and what he is trying to do.

I support eminent domain, but I also support the fair and equitable payment for land that you would own, Mr. Chairman, or I would own, or my mom or anybody else. And I think that when we take a look at it, I do not care if it is the Federal Government trying to steal my land or the State government trying to steal my land, or a city trying to steal my land. If they are going to take it under a taking, then they need to at least compensate me for it.

If there is no taking in this legislation, then the Members that are supporting this legislation should not be afraid to stand up and say hey, there is no taking in this. But if it does happen, then just compensation will be provided. And I do not think that is wrong.

Mr. ALLARD. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Colorado.

Mr. ALLARD. Mr. Chairman, on this point of administrative procedures, my understanding is that if there is a taking and we go through the administrative procedures, it costs an average individual about $250,000 and takes 10 years to resolve that. I thought I would bring that up and add it to the remarks of the gentleman from California.

Mr. CUNNINGHAM. In the meantime, the property value goes down and the Government wants to give him fair compensation at the reduced level. That concerns me, and I would ask at least the gentleman from Minnesota [Mr. VENTO] and the rest of you, if you are saying taking does not take place, but if it does, then I think we ought to give just compensation.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Minnesota.

Mr. VENTO. I appreciate the gentleman's yielding. My point is that is exactly what the Rahall-Regula amendment does. It refers back to the provisions in the Constitution. We cannot deny or suspend those rights by a speech on the floor, as Mr. REGULA said. The problem you have to understand, and I hope all Members do, is that what is being proposed here is not legislation dealing with the takings. That issue is decidedly and affirmatively in the Rahall-Regula amendment. But what is being proposed is if there is regulation, and regulation is a legitimate power of the local and State government in this case, there is no Federal Government involvement here. This is not a corollary to the California desert, which the gentleman and I debated on in the past.

Mr. CUNNINGHAM. Reclaiming my time, I would say, again, I do not care if it is a State or even a local district. If they wanted to take my land, all I am asking for is just compensation. If taking is not involved in this, then there should be no problem.

Mr. Chairman, I yield back the balance of my time.

□ 1550

Mr. PETE GEREN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Rahall amendment. Threats to our constitutional rights never come in announcing their intentions. They never come in like a whirlwind. They usually come in, they nibble around the edges. They never take a constitutional right head-on. They are like termites, Mr. Chairman. They chip away at the foundation of the principles on which our country was founded.

This initiative is no different. It claims it is no threat to our constitutional rights. It only nibbles around the edges of the rights of private property owners. It chips away just a little bit at a time.

Our Government has let loose too many of these termites on the rights of private property owners already. Mr. Chairman. I urge my colleagues to stand up for the rights of private citizens, private landowners in this country, and to vote "no" on the Rahall amendment.

Mr. GRAMS. Mr. Chairman, I move to strike the requisite number of words.

I just want to briefly also say that what the Rahall substitute would do to this amendment is they want the government to have the ability to use your property or any portion of it and that if the use happens to reduce its value, that they do not have to compensate the value to the owner for it.

In other words, they are saying that the government or this heritage area should be able to take this property or not take it, just to walk in and use it for whatever purpose they determine. And then if it happens to lower the value or restrict the use by the owner, so be it, that they have compensation recourse.

I would like to say that if in your own backyard in your homes, to the gentleman from Minnesota or the gentleman from Ohio, if the local government said, we want to use your backyard for a running path but we are not going to compensate you for it, but we will allow the public to run through it, would that be a similar situation as what we are asking for in this bill.

I just feel that if the government is going to use it, if it is going to reduce the value, that there should be just compensation ordered.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, if there is a taking of that property.

Mr. GRAMS. Mr. Chairman, no, not a taking. We just want to use it. That is what this bill is saying. Let us both use it.

Mr. VENTO. Mr. Chairman, would the gentleman from Minnesota advocate that anything a local government or State government made any modification to zoning, that they should have to have the purse out to pay back the money? Is that what the gentleman is advocating?

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I am happy to help the gentleman in this area, because I have researched the law in that area. The courts have said that where zoning is unreasonable, where it is unreasonable, that you can have a taking. But only where there is a shared burden and benefits is a zoning law reasonable and, therefore, not a taking.

You can have a zoning law that is not a taking, but you can have a zoning law that unreasonably restricts the use of property. And the Supreme Court has ruled in other cases that that is a taking compensable under law.

We are saying here is that this Heritage Act may create such unreasonable takings for the benefit of the public at the expense of one small landowner.

The court has said very clearly in Florida Rock and many decisions that when the public at large benefits by taking the use away from one single landowner or a small group of them, that that is a constitutional taking.

Our problem is that if all of us have to go to the Supreme Court to find that out, what an awful, awful condition we are in in America. If every black child had to go to the Supreme Court to go to school in America, what a terrible state of mind we would be in in this country.

We came to this legislative body and we passed a civil rights law to guarantee those civil rights, and the same thing ought to be true when it comes to civil rights of individuals in regard to property in this country.

If a taking occurs, provide just compensation. If no taking occurs, as the gentleman claims no taking will occur, then there will be no compensation.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the point is that we say there is no taking. Apparently, there is some confusion about that. Obviously, the Constitution would prevail.

Clearly, whenever there is a decision that is made, those decisions have to be followed by the lower courts and by the police of that local government. The fact here is that there is no taking in this particular bill.

The point is, the gentleman is mandating that they set up a procedure. The gentleman is mandating in this amendment of his that they set up such a procedure irrespective of what takes place. To have it sitting there for no purpose is another waste of money, another unfunded mandate. I would suggest that we resist the amendment.

Mr. GRAMS. Mr. Chairman, reclaiming my time, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I want to read the very simple, very straightforward language of our amendment that the Rahall amendment would destroy. It simply says that the procedures shall include an administrative process to provide compensation to the owner of private property if the use or value of all or any portion of his private property is substantially diminished as a result of the designation of the American Heritage Area or the management plan for the American Heritage Area.

That tracks very closely the language of the case law in this area, and it simply says that rather than condemning every one of us to spend 10 years in court to find out if we have this right, that we would establish that as a matter of law.

If the landowner in this process cannot establish that his property has been diminished in value, he will not be compensated. If he can make that determination, under our Constitution, he ought to, and under our amendment, he would be compensated. That is the clear choice before the House today. It was the same clear choice in the Desert Protection Act that 281 of my colleagues voted affirmatively for.

Mr. GRAMS. Mr. Chairman, I would just like to briefly conclude by saying that every Member should put himself in the position of one of these property owners that would lie within this designation. Ask themselves if they would be willing to open the doors to their back gates of their property and let anybody use it for any purpose without compensation or just recourse.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, very briefly, to let the Members know, in the language of H.R. 5044, it specifically states, "Nothing in this title shall be construed to grant powers of zoning or land use to any management entity." Again, "nothing in this title shall be construed to grant powers of zoning or land use to any management entity."

Even these local management entities will have no power of zoning and no power of land use. The Tauzin amendment would require them to compensate, even though they have no such power.

To me it just is not fair to say to a local entity, they are going to have to pay some specified money even though they do not have the power of zoning and they do not have the power of land use.

If a local community wants to change its zoning and change its property values, then the local community should have to pay whatever money is involved in the taking, and the Rahall-Regula substitute will provide for that, if there is an actual taking.

But under the bill, these management entities have no power to change zoning and no power to change or to require land use so they should not be held liable when they have no such power.

This vote is very similar to the last vote. If Members voted yes for the Rahall-Regula substitute before, they should vote yes on the Rahall-Regula substitute again. I hope that substitute is adopted.

Mr. NEAL of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be brief. I guess the question I would raise, at least rhetorically for the gentleman from Louisiana [Mr. TAUZIN], based upon how successful these historic corridors have been across the northeast, this might be a question of some legitimacy, I wonder if the gentleman from Louisiana [Mr. TAUZIN] thinks that those who have had their property value enhanced by being included in historic corridor projects ought to compensate the government for that enhanced value?

My argument here is that by and large, by and large, in my experience in totality, property values have been enhanced by the historic corridor projects. As one who has come from local government and one who was involved in zoning, which was a legitimate public purpose, and one who was involved in numerous land takings, I can state unequivocally that there is a process for settling amicably these issues. It is called the courts. And time and again, whether we like the decision that they come back with, they do a remarkable job in this instance of settling land use taking questions.

There is no effort here, other than a proposal that would make for a more intrusive Congress in having us suggest, having us suggest that local government ought to check with us before they take private property.

Mr. POMBO. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding to me, because the gentleman previously posed a rhetorical question and would not yield to allow me to answer it for him.

The answer is that in no eminent domain taking is there such a provision for adjacent landowners to claim appreciation value.

□ 1600

In fact, Mr. Chairman, when the government comes to take your property for a highway purpose, the added value to your adjacent property is discounted in the calculations of value. That is currently the law.

What we are talking about here, however, is a law that provides for your property to be wrapped into a management area without your consent, now, according to the last amendment, and without the chance for you to say "I would rather not have been there, because it will diminish the value of my property."

If you have the right to consent, and your property was going to be elevated in value, that is one thing. However, where you do not have the right to say "I don't want to be in that zoning area," and that heritage area may be six counties wide, as long as the Mississippi River, you ought to at least have the right to say "If you have taken it without my consent, at least compensate me for what I have lost."

That is what the fifth amendment is all about. If we think every citizen ought to go to the Supreme Court to find that out, vote with the gentleman from West Virginia [Mr. RAHALL]. His amendment gives directions to go to the court. It says "Go find the courthouse."

If Members want to protect the individual small landowners of their district, they have to vote against the amendment offered by the gentleman from West Virginia [Mr. RAHALL] and vote for the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

If the gentleman will continue to yield, one final point, Mr. Chairman. It is not the same amendment because the same fellow has his name on it. Do not let anybody kid you. Because the gentleman from West Virginia [Mr. RAHALL] and the gentleman from Ohio [Mr. REGULA] are the same sponsors of this amendment, it is not the same vote as the last vote.

The last vote was on the issue of consent by the landowner. We decided we did not want to give him that consent. What this amendment is all about is whether, having denied him the right to consent, are we also going to take his property away without giving him a process for compensation. That is a very different issue.

On that issue, Mr. Chairman, if Members are looking for guidance, look for the Tauzin amendment on the Desert Protection Act. Two hundred and eighty-one of the Members stood up in this Chamber and voted for fair compensation when property is taken by the Government for public purposes. That is what they Tauzin amendment is all about.

Mr. POMBO. Reclaiming my time, Mr. Chairman, I have heard different Members say that there is no local land use regulation in this, that there is no regulation in this.

This is the bill. It is all regulation. It tells where the borders are, how wide, how long, what can be done. It identifies what they want to protect in those areas. The only out that they give the local government in this is, because the previous amendment passed, it says that local counties have to buy into it, totally ignoring the local private property owners and whether they want to buy into it.

It is a Federal bill that now gives local counties or local cities the choice to opt out of it. It is all Federal land use regulation. That is what the bill is all about.

Mr. Chairman, let me just walk the Members through this very quickly as to what is going to happen. Ranchers are now going to wake up in the morning with a green spot on top of the map where their ranch used to be, and the Federal Government is now going to have adverse possession of their property. What they are doing is, they are regulating their ability to do something with their property, because if they do not happen to fit into the regulations that this outlines, they will not be allowed to do it.

Mr. Chairman, what the gentleman from Louisiana [Mr. TAUZIN] is attempting to do with this amendment is to say if the Federal Government is taking away the value of our property with this legislation, they have to compensate us for it.

Earlier in the discussion, in the debate, someone said "There is no money in here to buy property." That is one of the biggest things that is wrong with this bill. If the Government wants it, buy it. Do not regulate them out of existence.

We cannot afford to buy all the property that is included in this bill. We know we cannot afford to do it, so just say "There is no money to buy it." If the Government wants it, pay for it. If we are going to take it by regulation, we have to pay the property owner for what we are taking.

I have said this over and over on this floor. The Federal Government already owns a third of this country. What we are doing with the attempt is to take more property without having to pay for it. We are taking it by adverse possession. We are taking it by regulation, and in this, we are going to use the help of the local government.

The local government can install any kind of heritage plan, heritage corridor, they want. They can go to any county they want to and install these regulations. They do not need the Federal Government to step on their toes and tell them what they are going to do.

Mr. HINCHEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the point has been made this afternoon here over and over again that there are no provisions in this bill whatsoever which would empower the Federal Government to acquire or use any private property whatsoever. Nothing in this bill will enable the Federal Government to acquire or use in any way whatsoever any private property.

Furthermore, Mr. Chairman, it says "Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for an American heritage area." This bill makes it clear over and over and over again throughout its pages that the powers of zoning remain exclusively with the local government, with the village, the town, the localest level of government.

The amendment offered by the gentleman from Louisiana [Mr. TAUZIN], and by the way, I have a great deal of respect for my friend and colleague, the gentleman from Louisiana, for what he is, what he tries to do in terms of property rights; I think he is to be respected and encouraged in that regard.

Unfortunately, in this particular instance, he was off by just a little bit, because, since the bill stipulates that all the local powers of zoning remain with the local government, and no powers of zoning are in any way conveyed to the management entity or anyone else involved in the management of the heritage area, what the gentleman from Louisiana wants to do in his amendment is to require local governments to set up an administrative procedure for their own local zoning process, so that if a local government who happens to be within an American heritage area decides that it wants to zone an area residential, or it wants to keep an area around the school free of pornography, or pornographic bookstores, or movies, things of that nature, and they zone them out of existence, the effect of this amendment would require the local government to then set up an administrative procedure whereby they would have to pay the owner of that property not to establish a pornographic bookstore or a pornographic movie next to the theater pursuant to zoning regulations set up by the local government. That would be the practical, yes, the practical effect of the Tauzin amendment.

That is why the Regula amendment to the Tauzin amendment is so necessary, and ought to be adopted.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HINCHEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I would just point out that the local government, without this bill, has the right, power, and duty to zone out pornographic shops next to schools. They are doing it today. They have that right under the Constitution.

Mr. HINCHEY. Yes, that is true, Mr. Chairman. However, under the amendment of the gentleman from Louisiana, he would set up an administrative procedure which would have the effect of requiring them to pay the property owner for not being able to do that.

Mr. TAUZIN. If the gentleman will yield again, Mr. Chairman, the amendment does not affect current zoning authorities for those purposes. The amendment only affects the zoning authority used under this Federal act to create heritage areas.

If the local government wants to zone an area, right now, if this act never becomes law, as it may not in the waning hours of this session, the local government has the right to do that now.

This amendment would not require compensation for the exercise of that government authority, which currently exists without this bill.

Mr. HINCHEY. No sir, Mr. Chairman, I would tell the gentleman that he is mistaken about that. He is mistaken about that, because what he does is say that any local government involved in an America heritage area would have to set up that administrative procedure, because the effect of the gentleman's amendment is to require that whenever any zoning takes place, that administrative procedure has to then follow.

Since the only zoning that can take place has to be enacted by local government, the gentleman is imposing an unfunded mandate on every local government within the American heritage area to set up the administrative procedure that the gentleman wants to set up that would require people to be paid for not setting up pornographic bookstores and pornographic movies.

Mr. TAUZIN. Mr. Chairman, if the gentleman will yield further, I am so glad that the gentleman has such a great respect for me that he would make this argument. The fact of the matter is that our amendment only deals with substantial diminutions of value as a result of designation by the American heritage area. It has nothing to do with pornographic bookstores next to schools, which can and should be zoned out of existence under current law, without respect to this statute.

I will say it again, Mr. Chairman. My amendment does not in any way affect pornographic bookstores next to schools. I would appreciate it if the gentleman would just quit saying that.

Mr. HINCHEY. The gentleman would have us believe that, I know, Mr. Chairman. The fact of the matter is that when a local government enacts a zoning ordinance, and that zoning ordinance then restricts that kind of activity in a particular neighborhood, the gentleman's amendment would have the effect of requiring an administrative procedure to pay that property owner for not setting up that obnoxious activity in that neighborhood.

I am sorry to tell the gentleman that, but that is the effect of it.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are certain comments in this hallowed Chamber this afternoon that bear repeating. I want to make, first, a couple of quick comments. The gentleman from California [Mr. POMBO] said if this legislation passed, every ranch in the country would have a green dot on it.

Mr. Chairman, I am not sure if that is accurate. I respect the gentleman from California [Mr. POMBO]. The comment I want to make to the gentleman from California is that I respect his views, I respect his right as a property owner to own a ranch and be able to use that property as productively as possible, as far as his ancestors and his descendants want that property to be used.

☐ 1610

But I would just hope that the gentleman understands what is beginning to happen with the precedent of this particular amendment. I would like to see the gentleman use that ranch from now until the end of time and I hope with enough rain, that ranch remains green so the cattle have something to eat. But I want to make a comment about the amendment of the gentleman from Louisiana [Mr. TAUZIN] and the precedent that it may in my judgment, actually would, set.

Each jurisdiction in this country, a county, a town, has the right to have certain provisions for land use. There are residential areas, industrial areas, commercial areas, agricultural areas, all of these things. It is my judgment that under the Tauzin amendment, suppose in an agricultural area, a farmer decided that he wanted to use his farm for a rubble fill and bring in rubble or out-of-State rubble. That he could make—and this is not an exaggeration because it happens all across the country—$1 million a year bringing in rubble.

Then the local planning commission said that you cannot use that land for a rubble fill. And he said that is a takings, because under my regular agricultural use of this land, I can only make $50,000 off of those acres, but if I make it a rubble fill, I can make $1 million off of that land, so that in clear essence is a takings because you have now substantially reduced the value of my property as far as my economic income is concerned.

Suppose we have a residential area where someone decides that because of gasohol, they can now use their property in a residential area to set up a gasoline station and sell gas. They can make $100,000 a year with that gas station, with mechanic work or whatever, and the local jurisdiction said, "That is zoned residential, you can't do that." But the owner says, "You have substantially reduced the value of my property."

I want to make one other comment, and I do not want to really be an alarmist here and I do not want to overdo this issue because these things do happen around the country. They have happened in my district, they will happen in your district. Suppose somebody simply wants to set up a pornographic bookstore or they want to set up a little pornographic whatever and they want to put it in an area of town which will substantially reduce the value of somebody's restaurant, but they say, "I want that bookstore because I can make a lot of money and if you substantially reduce the value of my property, you owe me the money."

According to this amendment in my judgment, the precedent is that we have just, and we will, place a mandate on local government in areas that we would not even begin to imagine. This amendment has nothing to do with land use, it has nothing to do with regulation, it has nothing to do with the takings. This protects the fifth amendment as has been described here endlessly today.

I just want all the Members to consider the full ramifications of this precedent-setting amendment by the gentleman whom I have great respect for from the great State of Louisiana. He owns a little parcel of land on the Eastern Shore of Maryland from which I think he finds endless hours of enjoyment. I have full respect for this gentleman from Louisiana.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

I know it has been said over and over again, but there is no taking, no change of zoning, no power to do that. If you are against unfunded mandates, vote yes on Rahall-Regula, because it prevents an unfunded mandate that will be required if you were to support the Tauzin amendment. We are trying to avoid that.

Mr. ALLARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Tauzin amendment and rise in opposition to the Rahall amendment.

I would just like to make a point to the gentleman from Maryland who just finished speaking. Every one of the examples that he presented to the body today is a situation where there was a zoning change. What we are talking about here in this discussion is there is an established use of that particular piece of property and because of actions of the Federal Government, there is a potential of losing some of that use that that individual farmer or rancher has been relying on for years.

Mr. POMBO. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from California [Mr. POMBO].

Mr. POMBO. I thank the gentleman for yielding.

Mr. Chairman, he is correct in his assessment. As a former city councilman and someone who has spent countless hours working on local land-use decisions, the examples that the gentleman from Maryland points out are just dead-wrong, and we have gone back and forth on this. We come from different parts of the country and we have different ideas on protection of property. The point is, what they are doing to these properties is not telling them that they cannot put a rubble dump, that they cannot put a toxic waste dump, that they cannot build a gas station, that they cannot move in a pornographic bookstore. They are not telling them that they cannot do something. That is a local land-use decision.

What they are doing is telling them that possibly they cannot do something they are doing now with their property. That is the difference. I think that the two arguments that were made by the two previous speakers about local land use and about their fears of what the Tauzin amendment might do are a perfect example of why they ought to vote against this entire bill. Because anytime the Federal Government gets involved in local land use, we mess it up.

We have no business getting involved in local land use. It should be a local body's decision to decide whether or not they are going to put a rubble dump in their community, whether they are going to put a gas station in their community. That is a local land use decision. It is not up to the Federal Government.

What this is doing with these regulations is land use.

Mr. VENTO. They are not regulations. It is proposed law.

Mr. POMBO. It has borders in here of where they start, where they stop. It has what they are trying to protect in the areas. This is the Federal Government getting involved with the county and the city's business. That is what this whole bill is about.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, this has been a good debate. I just want to correct one point in the record here. We are not talking about the ordinary zoning laws of a city, county or municipality. The Court of Appeals clearly said in the Florida Rock case which cited other Supreme Court decisions that where there is a comparable reciprocity of advantage and disadvantage. There is no taking in ordinary zoning laws. We are talking here about a law that will create large greenway networks up and down river systems, huge networks. We are not talking about local planning or zoning. We are talking about a new Federal statute to create new huge regionally planned land use areas in

America. In these regionally planned huge land use areas, the notion of compensation is clearly defined in the Supreme Court takings law and it is one we ought to have in this bill.

We are about to wrap up this debate very shortly. I want to just put it down to what it comes down to. It comes down to whether or not you want to reaffirm as you did in the Desert Protection Act that you believe in compensation, just compensation fully for government takings of private property, for regulatory takings. In the Desert Protection Act, 281 Members voted that way. A vote for the amendment of the gentleman from West Virginia [Mr. RAHALL] is a vote to kill that same provision in this bill, because Rahall would simply provide information about how to go to court. That is all his amendment does. If you believe as you did in the Desert Protection Act that people ought to be compensated in a procedure whereby they get paid for the regulatory takings of the value of their property, the vote is no on Rahall and yes on the Tauzin amendment.

Mrs. UNSOELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think we have had a good debate. Obviously as Members know, I favor the Regula-Rahall amendment. I do not think local governments in heritage areas should have to pay to govern to make the decisions on zoning. They are protected by the fifth amendment. The Rahall-Regula amendment reiterates that. We do not need some sort of a new administrative procedure. What would that be?

□ 1620

What is better than the courts? Are we going to reinvent something here in every local government without any shape or form that is going to be unique in every local government? As the gentleman says, they already have structures to deal with where they have compensation issues, they already have land management offices. We do not need to tell them to do that. If there is an issue they need to respond to, they can do so. We cannot force this.

This amendment would have a very negative effect on these areas being established. We want the local governments to make the decision. That is what this bill says. I just hope that we can vote this up and be on our way. This is not the California Desert, we are not creating any new parks, this is not creating 8 million acres of wilderness area. This is inherently local partnership. Can the local government be a partner, can the local government take some pressure off of the Park Service and designate some of these new areas? I think we can.

Mr. Chairman, I thank the gentleman for yielding. There are other amendments that should be offered that we are willing to accept, so if Members are going to use time, I would ask that we end the debate in about 5 minutes. I do not want to cut anybody off. But I want to inform the Members that there is only about 10 minutes remaining so we need to come to a conclusion so that the noncontroversial amendments can be offered.

Mrs. UNSOELD. Mr. Chairman, I believe that the sponsor of the underlying amendment, the gentleman from Louisiana [Mr. TAUZIN], has a laudatory objective. But the way I read it, I think it goes beyond what he may be intending in a couple of ways.

No. 1, it is imposing by us Feds requirements on the local government. For many of us who have been saying we should be getting Government off the backs of local government we should not be imposing additional requirements on local government. The one that particularly bothers me, if I understand this correctly, currently if a highway is put through a community, the persons who give up their homes for the highway construction are compensated. That is a taking, and they are reimbursed, hopefully adequately. But the people who used to look at homes and are now looking at highway are not currently compensated under our system, and it would bankrupt the whole transportation system.

But under the gentleman's amendment, as I read it, the local governments would be required to set up a procedure to compensate those whose view had been altered, and I think that this would be creating a whole new type of entitlement that we Feds should not be imposing on the local government.

Mr. TAUZIN. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I just want to point out to the gentlewoman the amendment does not impose the obligation of compensation. That is under the fifth amendment, under the courts. For example, the Dolan decision said the local government had to pay Mrs. Dolan for taking the greenway and the bike path. All we are saying is there ought to be a local procedure to do that, and I think that is fair. That is all we are doing.

Mrs. UNSOELD. As I understand the partnership requirements, that can be achieved through the local partnership, and indeed that is the proper place to address this issue. I feel that although what the gentleman may be attempting to do and may have a legitimate purpose, I think that the attempt, the means of doing that goes way beyond anything we can contemplate today, and would open us up, and open local government up to such potential lawsuits that one no would dare tackle a heritage corridor.

Mr. VENTO. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, as a sponsor, the Member that represents those areas that are asking for this particular amendment, if this were just applied to the State of Louisiana, I might be able to accept it. But I do not know of any place that we have that type of a problem.

Mrs. UNSOELD. My chamber of commerce is not asking for it.

Mr. HOKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Regula-Rahall amendment on behalf of the people that I represent in northern Ohio.

Essentially what the Tauzin amendment would do in this case would be to place a liability, a potential liability, a real liability on the managers of the various corridors that are being proposed. In the case of the Ohio and Erie Canal American Heritage Area that consists of the Superintendent of the Cuyahoga Valley National Recreation Area, two individuals that have been appointed by the Governor, eight individuals that are appointed by county commissioners or the county chief executive of the counties of Cuyahoga, Summit, Stark, and Tuscarawas, and I happen to represent the western side of Cuyahoga County, Cuyahoga County has clearly stated from its planning commission, from the Cuyahoga County Commissioners that they are very much in favor of the bill as it stands, and that essentially what this amendment would do is eliminate their ability to go forward with the corridor.

The reason for that is that it creates personal liability to the individuals on the board, it creates corporate liability for the county, and what that essentially means is that it kills the corridor area.

My concern is that the issue here or that the real motivation here is to actually kill the ability to have the corridor completely. The fact is that right now anybody who actually had a real taking of property would and does have a very real, very real cause of action right now in State court and could pursue it that way.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, the gentleman has just made my point. The liability already exists. The person who suffers the taking under this bill will be able to go to the court. That exists today. The only difference between any amendment and the Rahall amendment is that he will point you to the courthouse. Our amendment will set up a procedure where local landowners can have that established at home without having to travel and litigate for 10 years. I think that is very fair.

Mr. HOKE. Reclaiming my time, I would have to tell the gentleman in that case that if that is all the amendment does, then it is very easy to be opposed to it, because all it does is set up a new bureaucracy. With respect to the people that I represent and the area that we are talking about in Cuyahoga County, they have to travel if it is in the Federal courthouse, they have to travel about 5 miles to the Federal courthouse in Cleveland. If it is the county courthouse, they have to travel the same amount of miles. They are across the street from each other. They have no place to travel. If that is what we are doing, is creating this bureaucratic entity that is going to be another layer of bureaucracy, for heaven's sake, there is no justification whatsoever for doing this.

Mr. TAUZIN. Will the gentleman yield further?

Mr. HOKE. I am happy to yield to the gentleman from Louisiana.

Mr. TAUZIN. My bill does not create another level of bureaucracy. It calls upon the local government to use its current land office, its current imminent domain offices to do at home on the local level what might be done in the court of claims up in here Washington after 10 years of litigation. That is the only change, only difference in my amendment. If you want justice at home, vote for the Tauzin amendment. If you want to go to court for 10 years, go with Rahall.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I am happy to yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, that is not the only thing in terms of setting up a new administrative panel or board. Most local governments are capable of dealing with that, and in fact do. But it also puts in a new definition of what is a property value, and that is the key here in terms of what is going on. That is where the court has come in and applied it. What the gentleman is asking is a substantial diminution of the right. He claims it follows the law, and if it follows the law, then there is no need for it again, and again it is redundant, and we do not need this redundancy.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the gentleman said it exactly right. Tauzin creates a whole plethora of administrative units, big, expensive, and you have the local Boy Scouts, the Kiwanis Club and the Boys Club trying to preserve something for their children and their grandchildren, and instead he wants to have a huge administrative burden.

Mr. HOKE. Mr. Chairman, I yield back the balance of my time.

□ 1630

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, most unusual debate; I was not going to get involved, but since everybody is talking about how you go to jail and what process it takes to get to jail and how supposedly Rahall is going to help you do all of that, I have gone through the process more than anybody else and been in jail more than anybody else. So I think I could probably, as a nonattorney, speak to what I consider to be the language in the bill.

I will not yield to the venerable chairman. I am hoping not to get into the details of the indictment and everything.

Page 30, section 110, "the lack of effect on land use regulation," subsection (b), from a nonattorney, "Lack of zoning or land use powers of entity. Nothing in this title shall be construed to grant powers of zoning or land use to any management entity for an American Heritage Area."

Now, I looked at the language. My neighbor does a great job, a Member of the other party, probably helped Ohio more than anybody else along with the gentleman from Ohio [Mr. STOKES], and we appreciate it, Chairman.

I looked at the language in concert with the chairman, the gentleman from West Virginia [Mr. RAHALL], and I think we are taking this constitutional thing a little out of context.

The Congress of the United States is going to spend all of this time in the last 2 days on all of these bills talking about the Constitution. My God, you should be talking about the World Trade Organization or that God-awful trade treaty.

I support the Regula-Rahall amendment. I support, though in principle, the continuing efforts of the chairman, the gentleman from Louisiana [Mr. TAUZIN], but I am going to vote, because I think the amendment by Regula-Rahall speaks to the constitutional issues, and I think that the fears that are being developed are just that.

Now, not everybody is an attorney who reads our laws, and one of the problems we have is interpretation. One of the things that, Congress, we might do is, in establishing legislative history, bring forward all of that dialog. The people of the United States are certainly getting tired of all of these attorneys, anyway.

So I am proud to say today that I am not a member of the bar. I am going to try to stay out of jail. And I am going to vote for Rahall-Regula.

And in closing, I would hope that the Speaker of the House may be listening, and he will not bring forward the rule on GATT that may cost the Democrat candidates to lose four or five seats in the upcoming election. I have seen some crazy things, and I think the Democrat responsible for bringing GATT on the floor today is making a serious blunder.

The White House is not up for election, and if Hulk Hogan cannot lift it and Albert Einstein cannot understand it, leave it in the closet, Mr. Speaker.

Mr. Chairman, I yield to the gentleman from Minnesota [Mr. VENTO], the venerable chairman, who wanted to try and say some nice things.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman's support for the Rahall-Regula amendment.

Mr. MINETA. Mr. Chairman, I rise today in strong opposition to the amendment by my colleague from Louisiana and in support of the Rahall-Regula substitute.

Mr. Chairman, I want to again stress that everyone agrees that the rights of private property owners in this country must be protected and preserved.

But once again, Mr. Chairman, the gentleman from Louisiana is making a disingenuous argument. As has been pointed out time and time again, the American Heritage Areas Protection Act does not diminish the rights of private property owners—it protects them.

This bill ensures that no decision on land management can be made without the express consent of the local community.

For more than 200 years the court has protected our private property rights under the fifth amendment to the Constitution. The amendment by Mr. TAUZIN would radically change our tradition by creating an administrative process—instead of a judicial process—to adjudicate takings disputes. We should not undertake such a fundamental change so lightly.

The Rahall-Regula substitute, which would ensure that all landowners are made aware of their rights under the fifth amendment, is a good and fair alternative to the Tauzin amendment.

Mr. Chairman. I encourage my colleagues to support the Rahall substitute and support the American Heritage Areas Protection Act.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. RAHALL] to the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAUZIN. Mr. Chairman, I demand a recorded vote.

PARLIAMENTARY INQUIRY

Mr. RAHALL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. RAHALL. Mr. Chairman, how long a time does one have after a vote has been declared one way or another?

The CHAIRMAN. There had been no intervening business when the gentleman from Louisiana, who was standing, asked for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2(c) of rule XXIII, the Chair announces that he may reduce to not less than 5 minutes the period of time within which a rollcall vote by electronic device may be taken on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN].

The vote was taken by electronic device, and there were—ayes 234, noes 187, not voting 18, as follows:

[Roll No. 485]

AYES—234

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Cantwell
Cardin
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Darden
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fawell
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Greenwood
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Hoyer
Hughes
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
Kreidler
Lantos
LaRocco
Lazio
Levin
Levy
Lewis (GA)
Lloyd
Lowey
Machtley
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDade
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Pickle
Porter
Portman
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Rogers
Romero-Barcelo (PR)
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Skaggs
Slaughter
Smith (NJ)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Swett
Swift
Synar
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Underwood (GU)
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zimmer

NOES—187

Allard
Andrews (NJ)
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Brewster
Brooks
Bunning
Calvert
Camp
Canady
Castle
Clement
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
Danner
de la Garza
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards (TX)
Emerson
Everett
Ewing
Fazio
Fields (LA)
Fields (TX)
Fowler
Frost
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoekstra
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Johnson, Sam
Kim
Kingston
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Laughlin
Leach
Lehman
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Long
Lucas
Manzullo
McCandless
McCollum
McCrery
McCurdy
McHugh
McInnis
McKeon
McMillan
McNulty
Mica
Miller (FL)
Minge
Montgomery
Moorhead
Murphy
Myers
Nussle
Ortiz
Orton
Packard
Parker
Paxon
Payne (VA)
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Poshard
Quinn
Ramstad
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Royce
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thurman
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Wilson
Young (AK)
Zeliff

NOT VOTING—18

Bachus (AL)
Bevill
Blackwell
Browder
Burton
Callahan
Carr
Chapman
Cramer
Gallo
Hilliard
Jacobs
Ridge
Slattery
Sundquist
Tucker
Washington
Whitten

☐ 1655

Mr. GUNDERSON, Mr. SAXTON, and Mr. McCOLLUM changed their vote from "aye" to "no."

Mr. ROWLAND changed his vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. TAUZIN], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Young of Alaska:

Page 35, after line 11, insert the following:

SEC. 115. FISHING AND HUNTING SAVINGS CLAUSE.

(a) NO DIMINISHMENT OF STATE AUTHORITY.—The designation of an American Heritage Area shall not diminish the authority of the affected State or States to manage fish and wildlife, including the regulation of fishing and hunting within such Area.

(b) NO CONDITIONING OF APPROVAL AND ASSISTANCE.—Limitations on fishing, hunting, or trapping may not be made a condition for the approval of a compact or management plan, the provision of assistance for early actions pursuant to section 106 (a)(4), the determination of eligibility for Federal funds, or the receipt, in connection with the American Heritage Area status of an area, of any other form of assistance from the Secretary or other Federal agencies.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

POINT OF ORDER

Mr. VENTO. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. VENTO. Mr. Chairman, I cannot hear what is being done.

The CHAIRMAN. The Chair states that there has been offered a new amendment, the amendment offered by the gentleman from Alaska [Mr. YOUNG].

Is there objection to the dispensing of the reading of this amendment?

Mr. VENTO. Mr. Chairman, is this the amendment that is printed in the RECORD of October 3, 1994?

The CHAIRMAN. Yes, it is.

Mr. VENTO. Is this the amendment that deals with the fishing and hunting savings clause to be offered by the gentleman from Alaska [Mr. YOUNG] and, I understand, the gentleman from Oklahoma [Mr. BREWSTER]?

Mr. YOUNG of Alaska. Yes, Mr. Chairman, it is.

Mr. VENTO. Mr. Chairman, I have no objection to dispensing with the reading.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Alaska will be considered as read and printed in the RECORD.

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, our amendment preserves the right of the State fish and game departments to manage fish and wildlife on lands designated as heritage areas which includes regulating hunting and fishing.

Mr. Chairman, does the gentleman from Minnesota [Mr. VENTO] accept the amendment?

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. VENTO. Mr. Chairman, I am trying to find out if all we have left is 5 minutes in total for this bill.

The CHAIRMAN. The gentleman is correct.

Mr. YOUNG of Alaska. Mr. Chairman, then if I take the 5 minutes, the gentleman from Minnesota [Mr. VENTO] has no more time to talk.

The CHAIRMAN. The Chair can divide the time, and the Chair will divide the time, equally between both gentlemen. The Chair will recognize the gentleman form Alaska [Mr. YOUNG] for 2½ minutes and the gentleman from Minnesota [Mr. VENTO] for 2½ minutes.

Mr. VENTO. Mr. Chairman, I ask unanimous consent to divide the time equally between the gentleman from Alaska [Mr. YOUNG] and myself.

The CHAIRMAN. Without objection, the Chair has divided the time already.

The Chair recognizes the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Chairman, the amendment also clearly states that Secretary Babbitt or his successors cannot require limits on hunting and fishing as a condition for approving any heritage area management plans or compacts. Furthermore, no Federal funds authorized by this act can be withheld because hunting is allowed on the affected lands.

Without our amendment, this legislation would be silent on the question of hunting. As a result, Code of Federal Regulations [CFR] 2.2(b) dealing with hunting on units of the National Park System would be the law of the land for all heritage areas.

This regulation states, "hunting shall be allowed in park areas where such activity is specifically mandated by Federal statutory law."

It goes on to state, "hunting may be allowed in park areas where such activity is specifically authorized as a discretionary activity under Federal statutory law if the superintendent determines that such activity is consistent with public safety and enjoyment, and sound resource management principles."

Our failure to authorize hunting in this legislation will either result in the National Park Service using their discretionary power to ban hunting or animal rights activists going to Federal court to stop it as they did with the Ozark National Scenic Riverway in Missouri several years ago.

One real world example of why our amendment is needed is illustrated by a proposal to create a heritage area two to six counties wide running the entire length of the Mississippi River, over 1,200 miles long. This area contains one of the largest waterfowl flyways on the entire North American Continent and provides millions of hours of enjoyment for hunters all over the Nation. Without our amendment, hunting in this entire area could be seriously jeopardized.

Our amendment is supported by the 3.7-million-member National Rifle Association. It is also strongly supported by the Safari Club International and the Wildlife Legislative Fund of America.

The issue is crystal clear: Do you want to allow unelected Federal bureaucrats in green uniforms or militant animal rights activists to stop you or members of your family from hunting on lands where you have hunted for generations? If so, then oppose our amendment.

If you want to allow hunting, under reasonable State regulation, to continue on lands designated as heritage areas, then support the Young-Brewster amendment.

□ 1700

Mr. YOUNG of Alaska. Mr. Chairman, all I have done is to extend my remarks. I thought my chairman had accepted the amendment. I do not want to argue the amendment at this time. All it does is simply preserve the right for the States to manage fish and game in these heritage areas, the same one you printed.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, this amendment, I understand, is offered by the gentleman from Oklahoma [Mr. BREWSTER]. I did not know if the gentleman wanted to speak on it or not.

Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Chairman, I thank the distinguished chairman for yielding.

Mr. Chairman, I do rise in support of the Young-Brewster amendment. I think the gentleman offers a very responsible amendment here aimed at protecting hunting. It preserves the right of our State wildlife areas to continue the management of wildlife, including hunting on lands designated as National Heritage Areas. The gentleman has crafted a very important piece of legislation in this amendment.

Mr. Chairman, the gentleman's amendment makes sense because in instances where enabling legislation of park units have not allowed, or expressly authorized, that is, hunting, anti-hunting groups have filed lawsuits to ban hunting on these lands. This means extensive legal fees. And by the preservation of the right of our State wildlife agencies to continue the management of this area, this amendment does help prevent the diversion of a lot of these monies to expensive legal suits.

So I appreciate the gentleman's amendment, and again rise in support.

Mr. VENTO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the concern that arose here, and I respect the gentleman from Alaska [Mr. YOUNG] and the gentleman from Oklahoma [Mr. BREWSTER] had suggested to me that this would not require hunting or fishing in areas that are urban. That is, the State and local laws that affect hunting and fishing would prevail in these instances. Because many of these Heritage Partnership Areas are in urbanized areas. There is no expectation that hunting would occur in these areas.

Mr. Chairman, I will yield to the gentleman from Alaska [Mr. YOUNG] for clarification on that point. It is my understanding if the State did not permit hunting in certain zones, because they are urban or because for any other reason, that this amendment would not require or permit hunting in those areas where hunting is not permitted today. Is that correct?

Mr. YOUNG of Alaska. Mr. Chairman, that is correct. The State would still manage as they did in the past. They would not allow hunting in areas where it is not allowed already.

Mr. VENTO. I thank the gentleman for his clarification.

Mr. Chairman, we have no objection to the amendment. I want to commend the gentleman from Alaska [Mr. YOUNG] and the gentleman from Oklahoma [Mr. BREWSTER] for their efforts with regard to this. I also want to commend my colleagues for the conduct of the debate. Momentarily we are going to be at the point where we can pass this bill, an important new bill, an important new issue, and I ask all of my colleagues to join together in support of that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska [Mr. YOUNG].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GRAMS

Mr. GRAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAMS: Page 18, after line 4, insert the following:

(3) MEMBERSHIP.—A management entity for an American Heritage Area should, to the fullest extent possible, consist of diverse governmental, business, and nonprofit groups within the geographic area of the American Heritage Area.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. There are 2 minutes left. The Chair will divide the time equally between the gentleman from Minnesota [Mr. GRAMS] and the distinguished chair, the gentleman from Minnesota [Mr. VENTO].

The Chair recognizes the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, I rise today to offer an amendment which improves the quality of management. My amendment simply offers nonbinding direction to the management entities to include representatives from local governments, businesses, and nonprofit groups, including environmental organizations, within the entity itself. I strongly urge adoption.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, we have no objection to this amendment. We think that this is not a harmful amendment. It may be somewhat helpful. We would be willing on this side to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

The amendment was agreed to.

Mr. SMITH of Oregon. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Oregon [Mr. SMITH] is recognized for 1 minute.

Mr. SMITH of Oregon. Mr. Chairman, this may be the last time I have officially to address the House of Representatives after 12 years of service here, and I think I am going out the way I came in, a little short. I had an amendment at the desk ready to be offered in proper order, yet the time ran out, so that my offering here to save the American taxpayers $50 million cannot be discussed or voted upon.

However, I want to say, finally, that it has been a good trip. I have enjoyed serving in this body with you most of the time. Issues like this one are contentious. I will not miss the last 2 days, I guarantee you. But it has been a privilege to serve in the people's House. Very few of us have that opportunity, and I consider it an honor to be with you and having served with you.

I am very optimistic about the future. I think help is on the way for some of us and some of our philosophy. A bill like this will never pass in another session of Congress. By the way, this one will not become law.

So I am delighted to be here. I love the battle. I am going to Oregon. I will think about you once in a while, and come see you from time to time. Good evening.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. MENENDEZ, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 5044) to establish the American Heritage Areas Partnership Program, and for other purposes, he reported the bill back to the House with sundry amendments adopted by the committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read the third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 281, nays 137, not voting 16, as follows:

[Roll No. 486]

YEAS—281

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Costello
Coyne
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dunn
Durbin
Edwards (CA)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hefley
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Schenk
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Shuster
Skaggs
Slaughter
Smith (NJ)
Snowe
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Tejeda
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NAYS—137

Allard
Andrews (NJ)
Archer
Armey
Baker (CA)
Ballenger
Barca
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Brooks
Bunning
Burton
Buyer
Calvert
Camp
Canady
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Edwards (TX)
Emerson
Everett
Ewing
Fields (TX)
Fowler
Gallegly
Gekas
Geren
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Gunderson
Hall (TX)
Hancock
Hastert
Hayes
Herger
Hoekstra
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson, Sam
Kim
Kingston
Klug
Knollenberg
Kyl
Laughlin
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
McCandless
McCollum
McHugh
McInnis
McKeon
Mica
Miller (FL)
Moorhead
Myers
Nussle
Orton
Parker
Paxon
Petri
Pickett
Pombo
Quinn
Ramstad
Roberts
Rohrabacher
Roth
Royce
Sarpalius
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Sisisky
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thurman
Upton
Valentine
Vucanovich
Walker
Wilson
Young (AK)
Young (FL)
Zeliff

NOT VOTING—16

Bachus (AL)
Bevill
Browder
Callahan
Carr
Cramer
Gallo
Hilliard
Machtley
Maloney
Ridge
Slattery
Sundquist
Tucker
Washington
Whitten

□ 1732

Mr. CHAPMAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, I inadvertently missed rollcall vote No. 486. Had I been present I would have voted "aye."

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5044, the bill just passed.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1420

Mr. PETERSON of Minnesota. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 1420.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

MODIFICATION OF MOTION TO SUSPEND THE RULES AND PASS S. 1614, HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the motion to suspend the rules and pass the Senate bill, S. 1614, as amended, be modified, and that the modification be considered as read and printed in the RECORD.

Mr. Speaker, this has been agreed on by all parties.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the modification is as follows:

(1) Page 11, line 12, after "subsection (a)(1)(A)(ii)", insert "and section 4(e)(1)".

(2) Page 47, line 23, strike "subsection" and insert "section".

(3) Page 47, line 24, strike "$1,700,000" and insert "$1,800,000".

(4) Page 47, line 24, strike "$2,400,000" and insert "$2,600,000".

(5) Page 47, line 25, strike "$2,900,000" and insert "$3,100,000".

(6) Page 48, line 1, strike "$3,300,000" and insert "$3,400,000".

(7) Page 56, line 6, strike "$375,000" and insert "$475,000".

(8) Page 56, line 7, strike "$425,000" and insert "$525,000".

(9) Page 74, beginning on line 8, strike ", $1,900,000" and all that follows through "1999" on line 11 and insert "and $2,000,000 for fiscal year 1996".

(10) Page 87, beginning on line 18, strike $150,000" and all that follows through "1998" on line 20 and insert "$200,000 for each of fiscal years 1995 and 1996, $150,000 for fiscal year 1997, and $100,000 for fiscal year 1998".

SUPPORT SOUGHT FOR S. 986, CORINTH, MISSISSIPPI, BATTLEFIELD ACT OF 1994

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute.)

Mr. MONTGOMERY. Mr. Speaker, there has been some confusion. We will be taking up a suspension vote in just a few moments on S. 986, the Corinth, MS battlefield bill.

That only covers Corinth, MS, and Stone River in Tennessee. No other battlefields are included. There was a mistake last night.

Mr. Speaker, this is bipartisan legislation. Its authorization will probably be the last bill in which the gentleman from Mississippi [Mr. WHITTEN] will be involved. This is in the district of the gentleman from Mississippi [Mr. WHITTEN]. As far as we know, there is no objection, but I did want to mention it because there was some confusion.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, Chairman WHITTEN is very concerned about this bill. For all his years in service, there has been a lot of antagonism at times and some partisan activity for strategies. I would hope that S. 986 has not become embroiled in that.

The gentleman from Mississippi [Mr. WHITTEN] is very concerned about that bill. I hope everybody will vote "aye" on S. 986.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 173

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 173.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3949

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 3949.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed on Monday, October 3, 1994, and then on each motion to suspend the rules on which further proceedings were postponed on Tuesday, October 4, 1994, in the order in which those motions were entertained.

Votes will be taken in the following order:

S. 986 by the yeas and nays;
H.R. 5116, de novo;
H.R. 4922, de novo;
S. 1457, de novo;
S. 922, de novo;
H.R. 5140, de novo;
H.R. 3059, de novo;
H.R. 5139, by the yeas and nays;
H.R. 2135, de novo;
S. 720, de novo;
Concurring in Senate amendment to H.R. 4653, de novo;
H.R. 4533, by the yeas and nays;
S. 1919, by the yeas and nays;
S. 1614, de novo;
S. 1225, by the yeas and nays;
H.R. 5155, de novo;
H. Con. Res. 302, de novo;
H. Res. 561, de novo;
H. Res. 560, de novo;
H. Con. Res. 278, de novo;
H. Con. Res. 216, de novo;
Concurring in Senate amendment to H.R. 2826, de novo; and
Concurring in Senate amendment to H.R. 3485, de novo.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

CORINTH, MISSISSIPPI, BATTLEFIELD ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 986, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 986, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 45, not voting 26, as follows:

[Roll No. 487]

YEAS—363

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Calvert
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Dreier
Dunn
Durbin
Edwards (CA)
Edwards (TX)

Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Herger
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Levy
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Michel
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (MN)
Petri
Pickett
Pickle
Pomeroy
Portman
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Wise
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zimmer

NAYS—45

Allard
Archer
Armey
Baker (CA)
Bliley
Boehner
Camp
Coble
Crane
DeFazio
DeLay
Doolittle
Duncan
Ehlers
Fawell
Fields (TX)
Goodlatte
Goss
Grams
Greenwood
Hancock
Hansen
Hefley
Hoekstra
Huffington
Inglis
Klug
Lazio
Manzullo
Margolies-Mezvinsky
Mica
Miller (FL)
Orton
Pombo
Porter
Pryce (OH)
Ramstad
Rohrabacher
Royce
Sensenbrenner
Taylor (NC)
Thomas (WY)
Upton
Williams
Zeliff

NOT VOTING—26

Bachus (AL)
Bentley
Bevill
Browder
Callahan
Carr
Cramer
Frank (MA)
Gallo
Hilliard
Lewis (CA)
McDade
Obey
Pastor
Peterson (FL)
Ridge
Sabo
Slattery
Stokes
Sundquist
Torres
Tucker
Washington
Wilson
Wolf
Yates

☐ 1759

Messrs. CAMP, ROYCE, DeFAZIO, and GREENWOOD, Ms. PRYCE of Ohio, and Mr. GOSS changed their vote from "yea" to "nay."

Mr. SAM JOHNSON of Texas and Mr. PAXON changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. VISCLOSKY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on each of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

BANKRUPTCY REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5116, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 5116, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT AND SUNDRY AMENDMENTS TO THE CODE AND THE COMMUNICATIONS ACT OF 1934

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4992, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 4922, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMENDING THE ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1457, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 1457, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

FULL FAITH AND CREDIT FOR CHILD SUPPORT ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 922.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the Senate bill, S. 922.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CHILD SUPPORT ENFORCEMENT FOR MEMBERS OF THE ARMED FORCES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5140.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. SKELTON] that the House suspend the rules and pass the bill, H.R. 5140.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NATIONAL MARITIME HERITAGE ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3059, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Washington [Mrs. UNSOELD] that the House suspend the rules and pass the bill, H.R. 3059, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

REEMPLOYMENT OF IMPROPERLY SEPARATED POSTAL SERVICE EMPLOYEES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5139.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 5139, on which the yeas and nays are ordered.

The Chair would remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 300, nays 117, not voting 17, as follows:

[Roll No. 488]

YEAS—300

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Berman
Bilbray
Bishop
Blackwell
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Brown (FL)
Brown (OH)
Bryant
Burton
Byrne
Calvert
Cantwell
Cardin
Chapman
Clay
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cunningham
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastert
Hastings
Hayes
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
King
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Levin
Levy
Lewis (GA)
Lipinski
Livingston
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCrery
McCurdy
McDade
McDermott
McHale
McInnis
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Porter
Poshard
Price (NC)
Quillen
Quinn
Rahall
Rangel
Reed
Regula
Reynolds
Richardson
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Snowe
Spence
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Zeliff

NAYS—117

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Buyer
Camp
Canady
Castle
Coble
Collins (GA)
Combest
Cox
Crane
Crapo
Danner
DeLay
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Fawell
Fields (TX)
Fowler
Gallegly
Gekas
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Hall (TX)
Hancock
Hansen
Hefley
Herger
Hoekstra
Huffington
Hunter
Hutchinson
Inglis
Inhofe
Istook
Kim
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Leach
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lucas
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McHugh
McKeon
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Nussle
Oxley
Packard
Paxon
Penny
Petri
Portman
Pryce (OH)
Ramstad
Ravenel
Roberts
Rogers
Royce
Santorum
Sensenbrenner
Shuster
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spratt
Stearns
Stump
Talent
Tanner
Taylor (MS)
Thomas (WY)
Upton
Valentine
Vucanovich
Walker
Young (FL)
Zimmer

NOT VOTING—17

Bachus (AL)
Bevill
Blute
Browder
Brown (CA)
Callahan
Carr
Clayton
Cramer
Frank (MA)
Gallo
Hilliard
Ridge
Slattery
Sundquist
Tucker
Washington

☐ 1816

Mr. SMITH of Texas and Mr. GRAMS changed their vote from "yea" to "nay."

Messrs. HOLDEN and ROHRABACHER changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended, and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIVE AMERICAN VETERANS' MEMORIAL ESTABLISHMENT ACT OF 1994

The SPEAKER pro tempore (Mr. VISCLOSKY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 2135, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri [Mr. CLAY] that the House suspend the rules and pass the bill, H.R. 2135, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

INDIAN LANDS OPEN DUMP CLEANUP ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 720, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and pass the Senate bill, S. 720, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 4653, MOHEGAN NATION OF CONNECTICUT LAND CLAIMS SETTLEMENT ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 4653.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Connecticut [Mr. GEJDENSON] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 4653.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

NATIONAL PARK SERVICE ENTREPRENEURIAL MANAGEMENT REFORM ACT OF 1994

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4533, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill. H.R. 4533, as amended, on which the yeas and nays are ordered.

The vote was taken by elecronic device, and there were—yeas 242, nays 174, not voting 18, as follows:

[Roll No. 489]

YEAS—242

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brooks
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Chapman
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Coppersmith
Coyne
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin
Edwards (CA)
English
Eshoo
Evans
Farr
Fazio
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Fowler
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gingrich
Glickman
Gonzalez
Goodlatte
Goss
Grams
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hefner
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoke
Horn
Houghton
Hoyer
Hughes
Hutto
Inslee
Jacobs
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lantos
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Lucas
Machtley
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
McMillan
McNulty
Meehan
Meek
Meyers
Mfume
Miller (CA)
Mineta
Minge
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Parker
Pastor
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Portman
Price (NC)
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rose
Rostenkowski
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schroeder
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs
Slaughter
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stenholm
Strickland
Studds
Stupak
Swett
Swift
Synar
Tanner
Tauzin
Tejeda
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Upton
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NAYS—174

Allard
Andrews (NJ)
Applegate
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Bentley
Bilirakis
Bliley
Boehner
Bonilla
Brewster
Bunning
Buyer
Calvert
Camp
Canady
Cardin
Castle
Clay
Clement
Clinger
Coble
Collins (GA)
Condit
Cooper
Costello
Cox
Crane
Crapo
Cunningham
Danner
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Edwards (TX)
Ehlers
Emerson
Engel
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Fish
Ford (TN)
Franks (CT)
Gallegly
Gekas
Geren
Gilman
Goodling
Gordon
Grandy
Green
Greenwood
Gunderson
Hall (TX)
Hancock
Hastert
Hayes
Hefley
Herger
Hoekstra
Holden
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jefferson
Johnson, Sam
Kim
King
Kingston
Klein
Klug
Knollenberg
Lancaster
LaRocco
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Maloney
Manzullo
McCandless
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
Menendez
Mica
Michel
Miller (FL)
Mink
Molinari
Moorhead
Murphy
Myers
Nadler
Nussle
Owens
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Peterson (MN)
Petri
Pombo
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Royce
Santorum
Saxton
Schaefer
Schiff
Schumer
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (IA)
Smith (NJ)
Solomon
Stearns
Stokes
Stump
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Torricelli
Valentine
Velazquez
Vucanovich
Walker
Walsh
Weldon
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Bachus (AL)
Bevill
Browder
Brown (CA)
Burton
Callahan
Carr
Clayton
Cramer
Frank (MA)
Gallo
Hilliard
McCurdy
Ridge
Slattery
Sundquist
Tucker
Washington

□ 1827

Messrs. KLEIN, PAYNE of New Jersey, ENGEL, and TAYLOR of Mississippi, and Ms. VELAZQUEZ changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

RIO PUERCO WATERSHED ACT OF 1994

The SPEAKER pro tempore (Mr. VISCLOSKY). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1919, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1919, on which the yeas and nays are ordered.

The Chair would remind Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 220, nays 196, not voting 18, as follows:

[Roll No. 490]

YEAS—220

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barca
Barlow
Barrett (WI)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bilbray
Bishop
Blackwell
Blute
Bonilla
Bonior
Borski
Boucher
Brooks
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Darden
de la Garza
Deal
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Dunn
Durbin

Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hefner
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Hughes
Inslee
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Pomeroy
Price (NC)
Rangel
Reed
Regula
Reynolds
Richardson
Ros-Lehtinen
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sawyer
Schenk
Schiff
Schroeder
Scott
Serrano
Sharp
Shays
Shepherd
Shuster
Skaggs
Skeen
Slaughter
Smith (IA)
Snowe
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tejeda
Thomas (WY)
Thompson
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (AK)

NAYS—196

Allard
Andrews (NJ)
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Bartlett
Barton
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Brewster
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Chapman
Coble
Collins (GA)
Combest
Condit
Cooper
Costello
Cox
Crane
Crapo
Cunningham
Danner
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Jacobs
Jefferson
Johnson, Sam
Kaptur
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kyl
Lambert
Laughlin
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Manzullo
Margolies-Mezvinsky
McCandless
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Minge
Molinari
Moorhead
Murphy
Myers
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Penny
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Ravenel
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schumer
Sensenbrenner
Shaw
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thornton
Upton
Valentine
Volkmer
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

Bachus (AL)
Bevill
Browder
Brown (CA)
Callahan
Carr
Clayton
Cramer
Frank (MA)
Gallo
Hilliard
McCurdy
Ridge
Sanders
Slattery
Sundquist
Tucker
Washington

□ 1834

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

HEALTHY MEALS FOR HEALTHY AMERICANS ACT OF 1994

The SPEAKER pro tempore (Mr. VISCLOSKY). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1614, as amended, as modified.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan [Mr. KILDEE] that the House suspend the rules and pass the Senate bill, S. 1614, as amended, as modified.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, as modified, was passed.

A motion to reconsider was laid on the table.

UNITED STATES-MEXICO BORDER HEALTH COMMISSION ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1225.

The Clerk read the title of the Senate bill.

The question is on the motion offered by the gentleman from Michigan [Mr. DINGELL] that the House suspend the rules and pass the Senate bill, S. 1225, on which the yeas and nays are ordered.

The Chair reminds Members, this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 308, nays 103, not voting 23, as follows:

[Roll No. 491]

YEAS—308

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Armey
Bacchus (FL)
Baesler
Baker (CA)
Barcia
Barlow
Barrett (WI)
Barton
Bateman
Beilenson
Bereuter
Berman
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Calvert
Cantwell
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Coppersmith
Costello
Coyne
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Dornan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hinchey
Hoagland
Hochbrueckner
Horn
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman
Levin
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Reynolds
Richardson
Roberts
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shays
Shepherd
Sisisky
Skaggs

Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (TX)
Snowe
Spence
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waters
Watt
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Young (FL)

NAYS—103

Allard
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Bentley
Boehner
Bunning
Burton
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Cooper
Cox
Crane
Crapo
Doolittle
Dreier
Duncan
Emerson
Everett
Ewing
Fawell
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Goodlatte
Goodling
Goss
Grams
Greenwood
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Houghton
Inglis
Inhofe
Inslee
Istook
Kasich
Kim
King
Kingston
Klug
Knollenberg
Lazio
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Linder
Manzullo
Margolies-Mezvinsky
McHugh
Meyers
Miller (FL)
Orton
Oxley
Packard
Paxon
Penny
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Regula
Rogers
Rohrabacher
Royce
Santorum
Sensenbrenner
Shaw
Shuster
Smith (NJ)
Smith (OR)
Solomon
Stearns
Stump
Swett
Taylor (NC)
Thomas (WY)
Upton
Valentine
Walker
Walsh
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOT VOTING—23

Bachus (AL)
Becerra
Bevill
Browder
Brown (CA)
Callahan
Carr
Clayton
Cramer
Farr
Frank (MA)
Gallo
Hilliard
McCurdy
Mica
Michel
Payne (NJ)
Ridge
Sanders
Slattery
Sundquist
Tucker
Washington

□ 1843

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BACHUS of Alabama. Mr. Speaker, earlier today I joined several of my colleagues in traveling to my home State of Alabama to attend the funeral services of our friend and former colleague, Claude Harris.

During my absence, my vote was not recorded on rollcall votes 484, 485, 486, 487, 488, 489, 490, and 491.

Mr. Speaker, had I been present and voting, I would have voted "no" on rollcall votes 484, 485, 486, 488, 489, 490, and 491 and "yes" on rollcall vote 487.

PERSONAL EXPLANATION

Mrs. CLAYTON. Mr. Speaker, I was unavoidably delayed and was unable to vote and missed three votes, the vote on S. 1225, S. 1919, and H.R. 4533.

Had I been present, I would have voted in the affirmative in all three cases.

PERSONAL EXPLANATION

Ms. DUNN. Mr. Speaker, because of a mechanical malfunction, my vote was incorrectly recorded on Wednesday, October 5, 1994 during the vote on S. 1225. My vote was electronically recorded as a "yea" vote when it should have been "nay".

AUTHORIZING THE TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

The SPEAKER pro tempore (Mr. VISCLOSKY). The unfinished business is the question of suspending the rules and passing the bill, H.R. 5155.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and pass the bill, H.R. 5155.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROMOTING POLITICAL STABILITY IN TAJIKISTAN

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 302.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 302.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE WITH RESPECT TO PROSPECTS FOR PEACE IN NORTHERN IRELAND

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 561.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 561.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONCERNING UNITED STATES SUPPORT FOR THE NEW SOUTH AFRICA

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 560.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the resolution, House Resolution 560.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS REGARDING UNITED STATES POLICY TOWARD VIETNAM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 278.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 278.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF CONGRESS REGARDING HUMAN RIGHTS IN VIETNAM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 216, as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 216, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 3485, EARTHQUAKE HAZARDS REDUCTION ACT AUTHORIZATION FOR FISCAL YEARS 1994, 1995, AND 1996

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 3485.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. BROWN] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3485.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2826, PROVIDING FOR INVESTIGATION OF WHEREABOUTS OF UNITED STATES CITIZENS AND OTHERS MISSING FROM CYPRUS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and concurring in the Senate amendment to the bill, H.R. 2826.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ANDREWS] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2826.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations and ordered to be printed:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, September 28, 1994.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted today by the Committee on Public Works and Transportation. These resolutions authorize studies of potential water resources projects by the Secretary of the Army in accordance with the provisions of section 4 of the Act of March 4, 1913, section 2 of the Act of June 15, 1955, and section 204 of the Flood Control Act of 1970.

Sincerely yours,
NORMAN Y. MINETA,
Chair, Committee on Public Works and Transportation.

There was no objection.

□ 1850

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. VISCLOSKY) laid before the House the following communications from the chairman of the Committee on Pubic Works and Transportation, which was read and, without objection, referred to the Committee on Appropriations and ordered to be printed:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
Washington, DC, September 28, 1994.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of two resolutions adopted today by the Committee on Public Works and Transportation. These resolutions authorize small watershed projects of the Soil Conservation Service in accordance with the provisions of section 2 of the Watershed Protection and Flood Prevention Act (Public Law 83-566).

Sincerely yours,
NORMAN Y. MINETA,
Chair, Committee on Public Works and Transportation.

There was no objection.

SENSE OF CONGRESS REGARDING U.S. POSITION ON DISINSECTION OF AIRCRAFT AT MEETING OF ICAO

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 77) expressing the sense of Congress regarding the U.S. position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. CLINGER. Mr. Speaker, reserving the right to object, and I will not object, but I yield to the gentleman from Minnesota [Mr. OBERSTAR], the chairman, to enable him to explain the purpose of the resolution.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, Senate Concurrent Resolution 77 expresses the sense of Congress concerning the position of the United States on the disinsection, or spraying, of aircraft, a position to be expressed at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization [ICAO].

The United States stopped spraying aircraft for insects way back in 1979, but 27 other countries still require aircraft to be sprayed prior to landing or by residual long-lasting pesticide treatment. This means flight attendants walk down the aisles spraying pesticide on passengers, or the aircraft is sprayed when it is empty with a long-lasting pesticide whose effects in the cabin can last up to 8 weeks.

In either case, unsuspecting passengers as well as flight attendants suffer the effects of toxic insecticides which can be devastating to their health.

The Department of Transportation has published a list of countries that still require this practice. The Federal Aviation Administration Authorization Act of 1994, passed last August, provides for passenger notification of those countries through customer hot lines under an amendment offered by our colleague, the gentleman from Oregon [Mr. DEFAZIO]. However, a new problem has arisen. The manufacturer of the pesticide now being used has ceased its production. In a matter of months, this pesticide, which at least is registered with the EPA, will no longer be available. Passengers and flight attendants traveling to countries that still require disinsection will be subjected to potentially more dangerous pesticides. We need to stop this worldwide practice as soon as possible, first, because it has little impact on insect pests, and, second, because it has had devastating effects on flight attendants who are routinely exposed to pesticides day in and day out in their workplace, the airliner cabin. And, of course, it has serious effects on passengers with varying degrees of sensitivity to such chemicals.

Mr. Speaker, the resolution before the House urges the U.S. delegation to the spring 1995 ICAO conference to lead the efforts to amend the Chicago Convention on International Civil Aviation to end aircraft disinsection practices. It urges the delegation to make every effort to gain support and cosponsorship of other countries in this amendment.

It is an important measure for the good health of passengers and of flight attendants and all who work onboard aircraft.

I want to express my appreciation to the gentleman from Pennsylvania [Mr. CLINGER], my colleague, who spent a great deal of time helping to craft this language working on this issue of airliner cabin quality. We have had a very successful outcome on a bill that passed the House just recently. This will take us a step further. I also want to thank the gentleman from Oregon [Mr. DEFAZIO] for his hard work and support on this issue, a splendid bipartisan initiative that has brought us to this point.

Mr. CLINGER. Further reserving the right to object, Mr. Speaker, I just want to commend the gentleman from Minnesota, the chairman, for bringing this legislation to the floor. It is an important piece of legislation.

Mr. Speaker, the Aviation Subcommittee held a hearing May 18, 1994, on the issue of cabin air quality of commercial jet aircraft. Testimony provided by several witnesses offered evidence, some anecdotal, of pulmonary illnesses suffered by crew members and passengers thought to be related to the enclosed environment of the commercial jet aircraft.

During our hearing, testimony also revealed that 25 foreign countries—some very popular with U.S. vacationers—require aircraft cabins to be sprayed with insecticides prior to deboarding passengers. Spraying generally occurs while the aircraft is still several minutes away from landing. All passengers and crew have no choice but to inhale the fumes that circulate throughout the cabin until they exit the aircraft.

The effectiveness of killing insects by spraying insecticides inside aircraft is questionable; there is no doubt in my mind, though, that forcing passengers and crew to inhale insecticide fumes is a potentially dangerous practice. Insecticides contain some very exotic chemical compounds that may cause long-term health problems for susceptible individuals.

Senate Concurrent Resolution 77 is a sense-of-the-Congress resolution urging the U.S. delegation at next year's meeting of the International Civil Aviation Organization to recommend abolishing the practice of spraying insecticides inside aircraft. Help insure the health and safety of all airline passengers by supporting this resolution.

Mr. Speaker, I again want to commend the gentleman from Minnesota, the chairman, and the gentleman from Oregon [Mr. DEFAZIO] who introduced this in the House, and urge its speedy resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 77

Whereas the United States has a responsibility to protect the health and safety of United States air travelers in the United States and abroad;

Whereas the United States ended the practice of aircraft cabin disinsection 15 years ago, after determining that the process was ineffective and posed a possible death risk to aircraft passengers.

Whereas 27 countries require disinsection of aircraft cabins by the spraying of an insecticide while passengers are on board the aircraft or by a residual pesticide treatment which is not registered for use in the United States.

Whereas the United States 10,000,000 people fly every year from the United States to countries that require disinsection of aircraft;

Whereas the United States pilots and flight attendants on flights to such countries are repeatedly exposed to the chemicals used in disinsection of aircraft;

Whereas approximately 53,000,000 Americans, more than 20 percent of the population, suffer chronic respiratory problems that put them at special risk to aircraft cabin disinsection procedures;

Whereas no tests have been conducted to determine whether insecticides used for aircraft cabin disinsection are safe for use in unventilated aircraft cabins or for people with chemical sensitivies or breathing conditions;

Whereas there has been a decrease in the number of insecticides registered for aircraft cabin disinsection by the Environmental Protection Agency by reason of the health concerns raised with respect to such insecticides, and there is no indication that insecticides produced in foreign countries which might serve to replace such insecticides present any less threat to health;

Whereas Annex 9 to the Convention on International Civil Aviation, done at Chicago, December 7, 1944, states that "Contracting States shall ensure that their procedures for disinsecting or any other remedial measure are not injurious to the health of passengers and crew and cause the minimum of discomfort to them";

Whereas the Facilitation Division of the International Civil Aviation Organization is scheduled to meet in the Spring of 1995 to discuss changes to the standards set forth in Annex 9 to the Convention; and

Whereas the United States will be a participant at that meeting: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the United States delegation to the Spring 1995 meeting of the Facilitation Division of the International Civil Aviation Organization—

(1) seek to amend the Convention on International Civil Aviation, done at Chicago, December 7, 1944, to end aircraft disinsection practices that threaten the health of aircraft passengers and crew; and

(2) make every effort to gain the support and cosponsorship of other member nations of the organization of that amendment.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on Senate Concurrent Resolution 77, the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2500) to enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object, but I yield to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the Committee on Agriculture, to explain the bill.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 2500, the Sheep Promotion, Research and Information Act of 1994 will allow our Nation's sheep producers and the sheep products industries to establish a single industry-funded market development and promotion program.

The need for this legislation arises from action taken last year when Congress voted to phase out and eliminate the taxpayer-funded incentive payments made to wool producers under the National Wool Act. An unintended consequence of that policy change is the imminent loss of the mechanism by which the industry has long collected funds from wool producers for its current lamb and wool promotion or checkoff fund.

The checkoff program that would be established by S. 2500 has been developed at the request and in consultation with our Nation's sheep, lamb, and textile industries. The bill would allow for the temporary continued operation of a restructured lamb and wool checkoff program, subject to an industrywide referendum in 1996.

This legislation is similar to the industry self-financed research and promotion programs that now exist for a number of other commodity sectors. S. 2500 would operate at no cost to the Federal Government. The checkoff funds collected on domestic and imported slaughtered lambs and on domestic wool and imported wool products will reimburse the Department of

Agriculture for the costs of the referendum, program administration, and compliance.

Mr. Speaker, I strongly support and commend our Nation's sheep and wool industries for their effort to enhance their economic well-being through the marketplace rather than through direct Government assistance. I urge the House to support their effort and pass S. 2005.

Mr. Speaker, I would also like to thank my colleagues Mr. ROBERTS, Mr. STENHOLM, Mr. GUNDERSON, Mr. ROSE, Mr. SMITH of Oregon, Mr. INSLEE, Mr. COMBEST, Mr. ALLARD, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. BONILLA, Mr. MCINNIS, Mr. CRAPO, Mr. BARLOW, Mr. HOLDEN, Mr. PENNY, Ms. VUCANOVICH, Mr. VOLKMER, Mr. WILLIAMS, Mr. SMITH of Texas, Mr. EDWARDS of Texas, and Mr. JOHNSON of South Dakota for their support in passing this legislation.

Mr. BONILLA. Mr. Speaker, I am proud to be an original cosponsor of Chairman DE LA GARZA's legislation. This bill, which the other body has already passed, will establish a national checkoff program to provide funds for promotion, research, and information programs that will benefit sheep and wool growers.

The program, if approved in an upfront referendum, would apply to both domestic and imported sheep and sheep products. Referendum approval will require a majority vote by producers, feeders, and importers voting in the referendum or at least two-thirds of the production represented by persons voting in the referendum.

These type of self-help programs are funded and run by producers who benefit from the research and marketing activities. This checkoff is similar to the 18 other commodity groups who have initiated a checkoff. The sheep industry should have an opportunity to vote on a self-help promotion similar to other agricultural industries like cotton, beef, and pork.

As my colleagues recall, this Congress passed a bill last year that phases out the Wool Act over the next 2 years. The death of the act will mean ranchers will be out of work unless they find a new way to do business. I am confident that the people in the sheep industry are determined, strong and hard workers and they will meet this challenge successfully.

This checkoff program is needed because incentive deductions that were included in the Wool Act incentive payments will be phased out by December 31, 1995. This new checkoff program would kick in on January 1, 1996.

This legislation would replace the current checkoff under the Wool Act. If adopted as proposed, the contributions of American growers will remain at the same level as now under the Wool Act.

I want to emphasize that the checkoff imposes no cost to the Government; the sheep industry checkoff reimburses the cost of referendum, administration, and compliance. This new program is needed to promote equity and fairness for American ranchers and help them compete in the global market.

More than 350,000 Americans in small communities exist on income generated by the sheep industry. Wool sales contributed approximately $70 million to rural communities in 1992, and the sheep industry contributes about $2 billion to the GNP.

The sheep industry is a vital cog in my district's economic engine since they own 86 percent of the sheep which produced 86 percent of the wool over the past 2 years in Texas. I am proud of this industry and proud of what they do to help the rural and Texas economy. This program is another tool to assist in building up and maintaining a strong domestic industry.

I want to compliment Chairman DE LA GARZA and Chairman LEAHY on their hard work and willingness to get this legislation passed. Fewer and fewer Members of Congress understand agriculture but these two men have devoted their public careers to advocating quality, sound, and cost-effective agricultural policy. I urge my colleagues to support this bill.

Mr. ROBERTS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sheep Promotion, Research, and Information Act of 1994".

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) sheep and sheep products are important goods;

(2) the production of sheep and sheep products play a significant role in the economy of the United States in that sheep and sheep products are produced throughout the United States and used by millions of people throughout the United States and foreign countries;

(3) sheep and sheep products must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of sheep products;

(4) the maintenance and expansion of existing markets and development of new markets for sheep and sheep products are vital to the welfare of sheep producers and persons concerned with marketing, using, and producing sheep and sheep products, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of sheep and sheep products;

(5) there exist established State organizations conducting sheep and sheep product promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of sheep and sheep products;

(6) the cooperative development, financing, and implementation of a coordinated national program of sheep and sheep product promotion, research, consumer information, education, and industry information are necessary to maintain and expand existing markets and develop new markets for sheep and sheep products; and

(7) sheep and sheep products move in interstate and foreign commerce, and sheep and sheep products that do not move in such channels of commerce directly burden or affect interstate commerce in sheep and sheep products.

(b) POLICY.—It is the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for developing, financing (through adequate assessments on sheep and sheep products produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, consumer information, education, and industry information designed to—

(1) strengthen the position of the sheep and sheep product industry in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for sheep and sheep products; and

(3) develop new markets and uses for sheep and sheep products.

(c) CONSTRUCTION.—Nothing in this Act provides for the control of production, or otherwise limits, the right of any person to produce sheep or sheep products.

SEC. 3. DEFINITIONS.

As used in this Act (unless the context clearly requires otherwise):

(1) BOARD.—The term "Board" means the National Sheep Promotion, Research, and Information Board established under section 5(b).

(2) CARBONIZED WOOL.—The term "carbonized wool" means wool that has been immersed in a bath, usually of mineral acids or acid salts, that destroys vegetable matter in the wool, but does not affect the wool fibers.

(3) CONSUMER INFORMATION.—The term "consumer information" means nutritional data and other information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, or use of sheep products.

(4) CUSTOMS SERVICE.—The term "Customs Service" means United States Customs Service of the Department of the Treasury.

(5) DEGREASED WOOL.—The term "degreased wool" means wool from which the bulk of impurities has been removed by processing.

(6) DEPARTMENT.—The term "Department" means the United States Department of Agriculture.

(7) EDUCATION.—The term "education" means activities providing information relating to the sheep industry or sheep products to producers, feeders, importers, consumers, and other persons.

(8) EXECUTIVE COMMITTEE.—The term "Executive Committee" means the Executive Committee established under section 5(g).

(9) EXPORTER.—The term "exporter" means any person who exports domestic live sheep or greasy wool from the United States.

(10) FEEDER.—The term "feeder" means a person who feeds lambs until the lambs reach slaughter weight.

(11) GREASY WOOL.—The term "greasy wool" means wool that has not been washed or otherwise cleaned.

(12) HANDLER.—The term "handler" means any person who purchases and markets greasy wool.

(13) IMPORTER.—The term "importer" means any person who imports sheep or sheep products into the United States.

(14) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to increased efficiency in processing and the development of new markets, marketing strategies, increased marketing efficiency, and activities to enhance the image of sheep or sheep products on a national or international basis.

(15) ORDER.—The term "order" means a sheep and wool promotion, research, education, and information order issued under section 4.

(16) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(17) PROCESSOR.—The term "processor" means any person who slaughters sheep or processes greasy wool into degreased wool.

(18) PRODUCER.—The term "producer" means any person, other than a feeder, who owns or acquires ownership of sheep.

(19) PRODUCER INFORMATION.—The term "producer information" means activities designed to provide producers, feeders, and importers with information relating to production or marketing efficiencies or developments, program activities, or other information that would facilitate an increase in the consumption of sheep or sheep products.

(20) PROMOTION.—The term "promotion" means any action (including paid advertising) to advance the image and desirability of sheep or sheep products to improve the competitive position, and stimulate sales, of sheep products in the domestic and international marketplace.

(21) PULLED WOOL.—The term "pulled wool" means wool that is pulled from the skin of a slaughtered sheep.

(22) QUALIFIED STATE SHEEP BOARD.—The term "qualified State sheep board" means a sheep and wool promotion entity that—

(A) is authorized by State statute or is otherwise organized and operating within a State;

(B) receives voluntary contributions or dues and conducts promotion, research, or consumer information programs with respect to sheep or wool, or both; and

(C) is recognized by the Board as the sheep and wool promotion entity within the State; except that not more than 1 qualified State sheep board shall exist in any State at any 1 time.

(23) RAW WOOL.—The term "raw wool" means greasy wool, pulled wool, degreased wool, or carbonized wool.

(24) RESEARCH.—The term "research" means development projects and studies relating to the production (including the feeding of sheep), processing, distribution, or use of sheep or sheep products to encourage, expand, improve, or make more efficient the marketing of sheep or sheep products.

(25) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(26) SHEEP.—The term "sheep" means ovine animals of any age, including lambs.

(27) SHEEP PRODUCTS.—The term "sheep products" means products produced, in whole or in part, from sheep, including wool and products containing wool fiber.

(28) STATE.—The term "State" means each of the 50 States.

(29) UNIT.—The term "unit" means each State, group of States, or class designation that is represented on the Board.

(30) UNITED STATES.—The term "United States" means the 50 States and the District of Columbia.

(31) WOOL.—The term "wool" means the fiber from the fleece of a sheep.

(32) WOOL PRODUCTS.—The term "wool products" means products produced, in whole or in part, from wool and products containing wool fiber.

SEC. 4. ISSUANCE AND AMENDMENT OF ORDERS.

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall issue orders under this Act applicable to producers, feeders, importers, handlers, and purchasers of sheep and sheep products. Any order shall be national in scope. Not more than 1 order shall be in effect under this Act at any 1 time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order under this Act, or an association of producers may request the issuance of, and submit a proposal for, an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal for an order under paragraph (1), the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDERS.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received, that includes provisions necessary to ensure that the order is in conformity with this Act. The order shall be issued not later than 180 days following publication of the proposed order.

(4) REFERENDUM.—The order shall go into effect only if the order is approved by producers, feeders, and importers in a referendum conducted under section 6.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this Act.

SEC. 5. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued under this Act shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a National Sheep Promotion, Research, and Information Board to administer the order. Members of the Board shall be appointed by the Secretary from nominations provided in accordance with this subsection. The cumulative number of seats on the Board shall be 120 and shall be apportioned as follows:

(A) PRODUCERS.—Producers shall be appointed to the Board to represent States, with each State represented by the following number of members:

Alabama	1
Alaska	1
Arizona	1
Arkansas	1
California	5
Colorado	4
Connecticut	1
Delaware	1
Florida	1
Georgia	1
Hawaii	1
Idaho	2
Illinois	1
Indiana	1
Iowa	2
Kansas	1
Kentucky	1
Louisiana	1
Maine	1
Maryland	1
Massachusetts	1
Michigan	1
Minnesota	2
Mississippi	1
Missouri	1
Montana	5
Nebraska	1
Nevada	1
New Hampshire	1
New Jersey	1
New Mexico	2
New York	1
North Carolina	1
North Dakota	2
Ohio	1
Oklahoma	1
Oregon	2
Pennsylvania	1
Rhode Island	1
South Carolina	1
South Dakota	4
Tennessee	1
Texas	10
Utah	3
Vermont	1
Virginia	1
Washington	1
West Virginia	1
Wisconsin	1
Wyoming	5

(B) FEEDERS.—The feeder sheep industry shall be represented on the Board by 10 members.

(C) IMPORTERS.—Importers shall be represented on the Board by 25 members.

(D) ALTERNATES.—The order shall provide that a unit represented by only 1 member may have an alternate member appointed to ensure representation at meetings of the Board.

(2) NOMINATIONS.—

(A) PRODUCERS.—The Secretary shall appoint producers to represent units established under paragraph (1)(A) from nominations submitted by eligible organizations certified under subsection (c)(3). An eligible organization may submit only nominations from the membership of the organization for the unit in which the organization is located. To be represented on the Board, each eligible organization shall submit to the Secretary at least 1.5 nominations for each appointment to the Board for which the unit is entitled to representation, as determined under paragraph (1)(A). If a unit is entitled to 1 appointment on the Board, the unit shall submit at least 2 nominations for the appointment.

(B) FEEDERS.—The Secretary shall appoint representatives of the feeder sheep industry to seats established under paragraph (1)(B) from nominations submitted by qualified national organizations that represent the feeder sheep industry. To be represented on the Board, the industry shall provide at least 1.5 nominations for each appointment to the Board for which the feeder sheep industry is entitled to representation, as determined under paragraph (1)(B).

(C) IMPORTERS.—The Secretary shall appoint importers to seats established under paragraph (1)(C) from nominations submitted by qualified organizations that represent importers, as determined by the Secretary. To be represented on the Board, importers shall provide at least 1.5 nominations for each appointment to the Board for which importers are entitled to representation, as determined under paragraph (1)(C).

(c) METHOD FOR OBTAINING NOMINATIONS.—

(1) INITIALLY ESTABLISHED BOARD.—

(A) PRODUCER NOMINATIONS.—The Secretary shall solicit nominations for each seat on the initially established Board to which a unit is entitled to representation from eligible organizations certified under paragraph (3). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(B) FEEDER AND IMPORTER NOMINATIONS.—The Secretary shall solicit nominations for each seat for which feeders or importers are entitled to representation from organizations that represent feeders and importers, respectively. In determining whether an organization is eligible to submit nominations under this subparagraph, the Secretary shall determine whether—

(i) the active membership of the organization includes a significant number of feeders or importers in relation to the total membership of the organization;

(ii) there is evidence of stability and permanency of the organization; and

(iii) the organization has a primary and overriding interest in representing the feeder or importer segment of the sheep industry.

(2) SUBSEQUENT APPOINTMENT.—

(A) PRODUCER NOMINATIONS.—The solicitation of nominations for subsequent appointment to the Board from eligible organizations certified under paragraph (3) shall be initiated by the Secretary, with the Board securing the nominations for the Secretary.

(B) FEEDER AND IMPORTER NOMINATIONS.—The solicitation of feeder and importer nominations for seats on the Board shall be made by the Secretary in accordance with paragraph (1)(B).

(3) CERTIFICATION OF ORGANIZATIONS.—

(A) IN GENERAL.—The eligibility of any organization to represent producers, and to participate in the making of nominations to represent producers under this section, shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this paragraph. An eligibility determination of the Secretary under this paragraph shall be final.

(B) BASIS FOR CERTIFICATION.—Certification under this paragraph shall be based, in addition to other available information, on a factual report submitted by the organization, that shall contain information considered relevant and specified by the Secretary, including—

(i) the geographic territory covered by the active membership of the organization;

(ii) the nature and size of the active membership of the organization, including the proportion of the total number of active producers represented by the organization;

(iii) evidence of stability and permanency of the organization;

(iv) sources from which the operating funds of the organization are derived;

(v) the functions of the organization; and

(vi) the ability and willingness of the organization to further the aims and objectives of this Act.

(C) PRIMARY CONSIDERATIONS.—A primary consideration in determining the eligibility of an organization under this paragraph shall be whether—

(i) the membership of the organization consists primarily of producers who own a substantial quantity of sheep; and

(ii) an interest of the organization is in the production of sheep.

(d) ADMINISTRATION.—

(1) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than 2 consecutive 3-year terms, except that an elected officer of the Board shall not be subject to this sentence while the officer holds office.

(2) COMPENSATION.—A Board member shall serve without compensation, but shall be reimbursed for the reasonable expenses of the member incurred in performing the duties of the Board.

(3) MEETINGS.—The order shall provide for at least an annual meeting of the Board and such additional meetings of the Board as may be required.

(e) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to elect officers of the Board, including a Chairperson, Vice Chairperson, and Secretary;

(2) to administer the order in accordance with the terms and provisions of the order;

(3) to recommend regulations to effectuate the terms and provisions of the order;

(4) to elect members of the Board to serve on the Executive Committee;

(5) to approve or reject budgets submitted by the Executive Committee;

(6) on approval, to submit the budgets to the Secretary for the approval or disapproval of the Secretary;

(7) to contract with entities, if necessary, to carry out plans or projects in accordance with this Act;

(8) to conduct programs of promotion, research, consumer information, education, industry information, and producer information;

(9) to receive, investigate, and report to the Secretary complaints of violations of the order;

(10) to recommend to the Secretary amendments to the order;

(11) to provide the Secretary with prior notice of meetings of the Board to permit the Secretary, or a designated representative, to attend the meetings;

(12) to provide, not less than annually, a report to producers, feeders, and importers accounting for funds expended by the Board and describing programs carried out under this Act, and to make the report available to the public on request;

(13) to establish 7 regions that, to the extent practicable, contain geographically contiguous States and approximately equal numbers of producers and sheep production;

(14) to employ or retain necessary staff; and

(15) to invest funds in accordance with subsection (k).

(f) BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall review budgets submitted by the Executive Committee, on a fiscal year basis, of anticipated expenses and disbursements by the Board, including probable costs of administration and promotion, research, consumer information, education, industry information, and producer information projects. On approval by the Board, the Board shall submit the budget to the Secretary for the approval of the Secretary.

(2) LIMITATION.—No expenditure of funds may be made by the Board unless the expenditure is authorized under a budget or budget amendment approved by the Secretary.

(g) EXECUTIVE COMMITTEE.—

(1) ESTABLISHMENT.—The order shall establish an Executive Committee to administer the terms and provisions of the order, as provided in this subsection, under the direction of the Board and consistent with the policies determined by the Board.

(2) MEMBERSHIP.—The Executive Committee shall be composed of 14 members, of which—

(A) 11 members shall be elected by the Board on an annual basis, of which—

(i) 7 members shall represent producers, with 1 member representing each of the regions established in the order;

(ii) 1 member shall represent feeders; and

(iii) 3 members shall represent importers; and

(B) 3 members shall be the Chairperson, Vice Chairperson, and Secretary of the Board.

(3) POWERS AND DUTIES.—

(A) PLANS OR PROJECTS.—The Executive Committee shall develop plans or projects of promotion, research, consumer information, education, industry information, and producer information, which shall be paid for with assessments collected by the Board. The plans or projects shall not become effective until the plans or projects are approved by the Secretary.

(B) BUDGETS.—The Executive Committee shall be responsible for developing and submitting to the Board, for the approval of the Board, budgets, on a fiscal year basis, of the anticipated expenses and disbursements of the Board, including probable costs of promotion, research, consumer information, education, industry information, and producer information projects. The Board shall approve or disapprove a budget submitted by the Executive Committee, and, if approved, shall submit the budget to the Secretary for the approval of the Secretary.

(4) TERMS.—A term of appointment to the Executive Committee shall be for 1 year.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Executive Committee.

(6) QUORUM.—A quorum of the Executive Committee shall consist of 8 members.

(h) EXPENSES, CONTRACTS, AND AGREEMENTS.—

(1) EXPENSES.—The order shall provide that the Board shall be responsible for all expenses of the Board and the Executive Committee.

(2) CONTRACTS AND AGREEMENTS.—A contract or agreement entered into by the Board under subsection (e)(7) shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project, together with a budget or budgets that provides estimated costs to be incurred for the plan or project;

(B) the plan or project, and the contract or agreement, shall not become effective until the plan or project has been approved by the Secretary; and

(C) the contracting party shall—

(i) keep accurate records of all of the transactions of the party;

(ii) account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities;

(iii) make periodic reports to the Board of activities conducted; and

(iv) make such other reports as the Board or the Secretary may require.

(i) ASSESSMENTS.—

(1) SHEEP PURCHASES.—

(A) IN GENERAL.—The order shall provide that each person making payment to a producer or feeder for sheep purchased from the producer or feeder shall, in the manner prescribed by the order, collect an assessment from the producer or feeder on each sheep sold by the producer or feeder.

(B) PROCESSING.—Any person purchasing sheep for processing shall collect the assessment from the seller and remit the assessment to the Board in the manner prescribed by the order.

(C) RATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the rate of assessment under this paragraph shall be 1 cent per pound of live sheep sold.

(ii) EXCEPTION.—The rate of assessment under this paragraph may be raised or lowered not more than 15/100 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 2.5 cents per pound of live sheep sold.

(2) WOOL PURCHASES.—

(A) IN GENERAL.—The order shall provide that each person making payment to a producer, feeder, or handler of wool for wool purchased from the producer, feeder, or handler shall, in the manner prescribed by the order, collect an assessment on each pound of greasy wool sold.

(B) PROCESSING.—Any person purchasing greasy wool for processing shall collect the assessment and remit the assessment to the Board in the manner prescribed by the order.

(C) RATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the rate of assessment under this paragraph shall be 2 cents per pound of greasy wool.

(ii) EXCEPTION.—The rate of assessment under this paragraph may be raised or lowered not more than 2/10 of a cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this paragraph shall not exceed 4 cents per pound of greasy wool.

(3) DIRECT PROCESSING.—The order shall provide that any person processing or causing to be processed sheep or sheep products of that person's own production and marketing shall—

(A) pay an assessment on the sheep or sheep products at the time of sale at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(4) EXPORTS.—The order shall provide that any person exporting live sheep or greasy wool shall—

(A) pay the assessment on the sheep or greasy wool at the time of export at a rate equivalent to the rate provided for in paragraph (1) or (2), as appropriate; and

(B) remit the assessment to the Board in the manner prescribed by the order.

(5) IMPORTS.—

(A) IN GENERAL.—The order shall provide that any person importing sheep or sheep product, and any person importing wool or products containing wool, into the United States shall pay an assessment to the Board in the manner prescribed by the order, except that this paragraph shall not apply to raw wool that is imported into the United States.

(B) COLLECTION.—The Customs Service shall collect the assessment required under this paragraph and remit the assessment to the Secretary for disbursement to the Board.

(C) RATE FOR SHEEP AND SHEEP PRODUCTS.—

(i) IN GENERAL.—Except as provided in subparagraph (B), the rate of assessment under this paragraph for sheep and sheep products shall be—

(I) in the case of a live sheep, 1 cent per pound; and

(II) in the case of a sheep product, the equivalent of 1 cent per pound of live sheep, as determined by the Secretary in consultation with the domestic sheep industry.

(ii) EXCEPTION.—The rate of assessment under this subparagraph may be raised or lowered not more than 15/100 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 2.5 cents per pound.

(D) RATE FOR WOOL AND WOOL PRODUCTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the rate of assessment under this paragraph for wool and products containing wool, shall be 2 cents per pound of degreased wool or the equivalent of degreased wool.

(ii) EXCEPTION.—The rate of assessment under this subparagraph may be raised or lowered not more than 2/10 cent per pound in any 1 year, as recommended by the Executive Committee and approved by the Board and the Secretary, except that the rate of assessment under this subparagraph shall not exceed 4 cents per pound of degreased wool or the equivalent of degreased wool.

(6) QUALIFIED STATE SHEEP BOARDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the order shall provide that 20 percent of the total assessments collected by the Board on the marketing of domestic sheep and domestic sheep products in any 1 year from a State shall be returned to the qualified State sheep board of the State.

(B) EXCEPTION.—No qualified State sheep board shall receive less than $2,500 under subparagraph (A) in any year.

(7) DE MINIMIS IMPORTS.—The Secretary may issue regulations that—

(A) exclude certain imported materials or products that contain de minimis content levels of sheep or sheep products; and

(B) waive the assessment due on the materials or products.

(8) USE OF ASSESSMENTS.—

(A) IN GENERAL.—The order shall provide that assessments received by the Board shall be used by the Board for the payment of expenses incurred in administering the order, with authorization for a reasonable reserve.

(B) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed for costs incurred in implementing and administering the order.

(j) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records as the Secretary may prescribe, which shall be available to the Secretary for inspection and audit;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDIT.—The Board shall cause books and records of the Board related to the order to be audited by an independent auditor at the end of each fiscal year. The Board shall submit a report of the audit to the Secretary.

(k) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board may invest, pending disbursement, funds the Board receives under the order, only in—

(A) obligations of the United States or any agency of the United States;

(B) general obligations of any State or any political subdivision of a State;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) USE OF INCOME.—Income from any investment under paragraph (1) may be used for any purpose for which the invested funds may be used.

(l) PROHIBITION ON USE OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation to the Secretary of amendments to the order; or

(B) the communication to appropriate government officials, in response to a request made by the officials, of information relating to the conduct, implementation, or results of promotion, research, consumer information, education, industry information, or producer information activities under the order.

(3) FALSE OR MISLEADING CLAIMS.—A plan or project conducted under this Act shall not make false or misleading claims on behalf of sheep or sheep products or against a competing product.

(m) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each person making payment to a producer, feeder, or handler for sheep or sheep products, each importer and exporter of sheep or sheep products, and each person marketing sheep products of the person's own production to maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information from the records or reports shall be made available to the Secretary for the administration or enforcement of this Act, or any order or regulation issued under this Act.

(B) OTHER INFORMATION.—The Secretary shall authorize the use under this Act of information regarding persons paying producers, feeders, importers, handlers, or processors that is accumulated under a law or regulation other than this Act or a regulation issued under this Act.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this Act, all information obtained under paragraph (1) or (2) shall be kept confidential by all officers and employees of the Department and of the Board.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a judicial proceeding or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this Act.

(C) GENERAL STATEMENTS.—Nothing in this paragraph prohibits—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order and a statement of the particular provisions of the order violated by the person.

(D) ADMINISTRATION.—No information obtained under this Act may be made available to any agency or officer of the Federal Government for any purpose other than the implementation of this Act or any investigatory or enforcement action necessary for the implementation of this Act.

(E) PENALTY.—Any person who willfully violates this paragraph, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if the person is an officer or employee of the Board or the Department, shall be removed from office.

(n) OTHER TERMS AND CONDITIONS.—The order shall provide such terms and conditions, not inconsistent with this section, as are necessary to carry out the order, including provisions for the assessment of a penalty for the late payment of an assessment due under the order.

SEC. 6. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Following the issuance of an order under section 4, the Secretary shall conduct a referendum among producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, or importation of sheep or sheep products for the purpose of ascertaining whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective only if the Secretary determines that the order has been approved by not less than a majority of the producers, feeders, and importers voting in the referendum or at least ⅔ of the production represented by persons voting in the referendum.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—After the initial referendum, on the request of a representative group comprising 10 percent or more of the producers, feeders, and importers who, during a representative period as determined by the Secretary, have been engaged in the production, feeding, importation, or processing of sheep or sheep products, the Secretary shall conduct a referendum of producers, feeders, and importers to determine whether the producers, feeders, and importers favor the termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If the Secretary determines that suspension or termination of the order is favored by a majority of the producers, feeders, and importers voting in the referendum or at least ⅔ of the production represented by the persons voting in the referendum, the Secretary shall suspend or terminate—

(A) collection of assessments under the order not later than 180 days after the determination; and

(B) the order in an orderly manner as soon as practicable after the determination.

(c) PROCEDURES.—

(1) REIMBURSEMENT—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Board shall reimburse the Secretary for any expenses incurred by the Secretary in connection with the conduct of any referendum under this section.

(B) FEDERAL EMPLOYEE SALARIES.—The Board shall not be required to reimburse the Secretary for the salaries of Federal employees under subparagraph (A) if the Secretary determines that the reimbursement would be overly burdensome and costly.

(2) DATE.—Each referendum under this section shall be conducted on a date established by the Secretary, under a procedure by which producers, feeders, and importers intending to vote in the referendum shall certify that the producers, feeders, and importers were engaged in the production, feeding, or importation of sheep or sheep products during the representative period and, on the same day, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda under this section shall be conducted at locations determined by the Secretary. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

(4) ALLOCATION OF PRODUCTION.—The Secretary shall determine a method of allocating, by a pro rata percentage of annual projected or actual assessments from importers, the volume of production represented by importers in referenda conducted pursuant to this section.

SEC. 7. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this Act may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition. The ruling shall be final if the ruling is in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States for any district in which a person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review the ruling on the petition of the person, if a complaint for that purpose is filed not later than 20 days after the date of the entry of the ruling by the Secretary under subsection (a)(3).

(2) PROCESS.—Service of process in a proceeding may be conducted on the Secretary by delivering a copy of the complaint to the Secretary, under such rules or regulations as are considered necessary by the Secretary to facilitate the service of process.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

SEC. 8. ENFORCEMENT.

(a) JURISDICTION.—Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, an order or regulation issued under this Act.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this Act, if the Secretary believes that the administration and enforcement of this Act would be adequately served by providing a suitable written notice or warning to the person who committed the violation or by an administrative action under section 7.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates an order or regulation issued by the Secretary under this Act may be assessed by the Secretary—

(A) a civil penalty of not more than $1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order, an additional penalty equal to the amount of the assessment.

(2) SEPARATE OFFENSE.—Each violation shall be a separate offense.

(3) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, the civil penalty, the Secretary may issue an order requiring the person to cease and desist from violating the order or regulation.

(4) NOTICE AND HEARING.—No order assessing a penalty or cease-and-desist order may be issued by the Secretary under this subsection unless the Secretary provides notice and an opportunity for a hearing on the record with respect to the violation.

(5) FINALITY.—An order assessing a penalty or a cease-and-desist order issued under this subsection by the Secretary shall be final and conclusive unless the person against whom the order is issued files an appeal from the order with the United States court of appeals, as provided in subsection (d), not later than 30 days after the person receives notice of the order.

(d) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—A person against whom an order is issued under subsection (c) may obtain review of the order by—

(A) filing, not later than 30 days after the date of the order, a notice of appeal in—

(i) the United States court of appeals for the circuit in which the person resides or carries on business; or

(ii) the United States Court of Appeals for the District of Columbia Circuit; and

(B) simultaneously sending a copy of the notice of appeal by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly in the court a certified copy of the record on which the Secretary has determined that the person has committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—A person who fails to obey a valid cease-and-desist order issued by the Secretary under this section, after an opportunity for a hearing, shall be subject to a civil penalty assessed by the Secretary of not more than $500 for each offense. Each day during which the failure continues shall be considered to be a separate violation of the order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay a valid civil penalty imposed under this section by the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States for any district in which the person resides or carries on business. In the action, the validity and appropriateness of the order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this section shall be in addition to, and not exclusive of, other remedies that may be available.

SEC. 9. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this Act; or

(2) to determine whether any person subject to this Act has engaged, or is about to engage, in any action that constitutes or will constitute a violation of this Act, or of any order or regulation issued under this Act.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—For the purpose of any investigation under subsection (a), the Secretary may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of any records that are relevant to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United

States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in order to require the attendance and testimony of the person or the production of records. The court may issue an order requiring the person to appear before the Secretary to produce records or to give testimony regarding the matter under investigation.

(d) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt of the court.

(e) PROCESS.—Process in any case under this section may be served in the judicial district in which the person resides or carries on business or wherever the person may be found.

SEC. 10. ADMINISTRATIVE PROVISIONS.

(a) CONSTRUCTION.—Nothing in this Act preempts or supersedes any other program relating to sheep promotion, research, or information organized and operated under the laws of the United States or any State.

(b) AMENDMENTS TO ORDERS.—The provisions of this Act applicable to an order shall be applicable to amendments to the order, except that the Secretary is not required to conduct a referendum on a proposed amendment to an order.

SEC. 11. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this Act.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1900

SENSE OF CONGRESS REGARDING CONSERVATION AND MANAGEMENT MEASURES FOR ATLANTIC BLUEFIN TUNA

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the concurrent resolution (H. Con. Res. 295) to express the sense of the Congress of the United States that the United States should actively seek compliance by all countries with the conservation and management measures for Atlantic bluefin tuna adopted by the International Commission for the Conservation of Atlantic Tunas, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, and I will not object, this piece of legislation has been cleared on our side, and I yield to the distinguished gentleman from Massachusetts [Mr. STUDDS], our chairman, for an opportunity to explain the legislation if he so desires.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for his cooperation.

Mr. Speaker, House Concurrent Resolution 295 expresses the sense of the Congress that the United States should actively seek compliance by all nations with the conservation and management measures for Atlantic bluefin tuna adopted by the International Commission for the Conservation of Atlantic Tunas [ICCAT].

During the past two decades, bluefin tuna stocks in the Atlantic Ocean have declined to 20 percent of their pre-1970 levels. Through ICCAT, the United States has assumed a leadership role in the development of conservation and management programs to rebuild bluefin stocks. Significant conservation and management measures have been adopted in the western Atlantic, resulting in substantial quota reductions for U.S. fishermen.

Unfortunately, other nations whose fishermen fish for bluefin have not been as responsible. ICCAT member nations that fish in the eastern Atlantic continue to flaunt the most basic ICCAT guidelines, exceeding target harvest levels and catching millions of undersized fish. In addition, many other countries that are not members of ICCAT also harvest bluefin in violation of ICCAT recommendations.

Last month, a National Academy of Sciences panel concluded that this one-sided conservation program will not rebuild bluefin stocks. It also found that previously reported declines in the abundance of bluefin in the western Atlantic were not supported by the scientific data and that further quota reductions could not be justified.

The United States has consistently demonstrated its commitment to the recovery of Atlantic bluefin. Now it is time for other nations to do the same. The results of the National Academy review confirm this. This resolution directs the United States to encourage all nations harvesting bluefin to adopt bluefin conservation programs comparable to the U.S. program. It also states that the United States should not even consider further quota reductions until foreign fishermen have done their fair share.

The current ICCAT program for bluefin, which focuses conservation efforts strictly in the western Atlantic, where only 12 percent of the bluefin harvest occurs, is unfair to U.S. fishermen and will not restore bluefin stocks. Instead all nations must play by the same rules. It is time for our Government to assume a leadership role on this issue comparable to the leadership position we have taken in the conservation of this magnificent fish.

Mr. FIELDS of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 295

Whereas Atlantic bluefin tuna are a valuable commercial and recreational fishery of the United States;

Whereas many other countries also harvest Atlantic bluefin tuna in the Atlantic Ocean and the Mediterranean Sea;

Whereas the International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as the Commission), was established in 1969 to develop conservation and management recommendations for Atlantic bluefin tuna and other highly migratory species in the Atlantic Ocean and the Mediterranean Sea;

Whereas the Commission adopted conservation and management recommendations in 1974 to ensure the recovery and sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and the Mediterranean Sea;

Whereas in 1981, the Commission adopted a management strategy for Atlantic bluefin tuna predicated on a hypothesis that two stocks of the fish existed; a western stock found in the Atlantic west of 45 degrees west longitude (hereinafter referred to as the 45 degree line), and an eastern stock found in the Atlantic Ocean east of the 45 degree line and in the Mediterranean Sea;

Whereas since 1981, the Commission has adopted additional, more restrictive conservation and management recommendations for Atlantic bluefin tuna for countries that harvest bluefin tuna west of the 45 degree line, including a 25 percent quota reduction since 1991 with an additional 40 percent quota reduction scheduled for 1995;

Whereas the United States and other Commission members that harvest bluefin tuna west of the 45 degree line have implemented all conservation and management recommendations adopted by the Commission for Atlantic bluefin tuna west of the 45 degree line;

Whereas many other Commission members do not comply with the conservation and management recommendations adopted by the Commission for Atlantic bluefin tuna east of the 45 degree line;

Whereas a recent National Academy of Sciences (NAS) review of the scientific data used by the Commission concluded that the available data is consistent with a one stock management strategy for bluefin tuna in the North Atlantic;

Whereas the NAS review also found that abundance of Atlantic bluefin tuna in the western Atlantic has remained stable since 1988, in contrast to the roughly 50 percent decline in abundance reported by the Commission;

Whereas the continued unrestricted harvesting of Atlantic bluefin tuna east of the 45 degree line and in the Mediterranean Sea will undermine the Commission's recommendations being implemented west of the line to rebuild Atlantic bluefin tuna; and

Whereas, in order to successfully rebuild the Atlantic bluefin tuna stock, conservation and management recommendations must be adopted and implemented throughout the Atlantic Ocean and the Mediterranean Sea: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the United States and the International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as the Commission) should continue to promote the conservation and management of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea and develop a program to rebuild Atlantic bluefin tuna that requires the participation of all nations that harvest this species;

(2) the United States should ensure that the scientific findings and recommendations of the National Academy of Sciences Atlantic bluefin tuna review panel are made available to and included in the considerations of the Commission's scientific advisory panel;

(3) the United States should oppose any further quota reductions for nations harvesting Atlantic bluefin tuna west of the 45 degree line until the impacts of recent conservation measures can be determined, and until all nations harvesting Atlantic bluefin tuna west and east of the 45 degree line share equally in conservation and rebuilding efforts for the Atlantic bluefin tuna resources;

(4) the continued harvesting by fishermen from any country which is a member of the Commission and which does not comply with the conservation and management recommendations of the Commission will be considered by the Congress to diminish the effectiveness of an international fishery conservation program and, as such, will be considered by the Congress to be subject to the embargo provision in section 6 of the Atlantic Tunas Convention Act;

(5) the United States should encourage other nations with significant markets for Atlantic bluefin tuna to prohibit the importation of that species from harvesting nations which did not comply with the conservation and management recommendations adopted by the Commission; and

(6) the United States should encourage the Commission to adopt recommendations authorizing the use of discretionary trade actions as enforcement measures when the actions of a nation are undermining the effectiveness of conservation and management recommendations of the Commission.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. STUDDS: Strike out all after the resolving clause and insert:

(1) the United States and the International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as the Commission) should continue to promote the conservation and management of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea and develop a program to rebuild Atlantic bluefin tuna that requires the participation of all nations that harvest this species;

(2) the United States should ensure that the scientific findings and recommendations of the National Academy of Sciences Atlantic bluefin tuna review panel are made available to and included in the considerations of the Commission's scientific advisory panel;

(3) the United States should oppose any further quota reductions for nations harvesting Atlantic bluefin tuna west of the 45 degree line and insist that all nations harvesting Atlantic bluefin tuna west and east of the 45 degree line implement comparable conservation and rebuilding programs for the Atlantic bluefin tuna resource;

(4) the continued harvesting by fishermen from any country which is a member of the Commission and which does not comply with the conservation and management recommendations of the Commission will be considered by the Congress to diminish the effectiveness of an international fishery conservation program and, as such, will be considered by the Congress to be subject to the embargo provision in Section 6 of the Atlantic Tunas Convention Act;

(5) the United States should encourage other nations with significant markets for Atlantic bluefin tuna to prohibit the importation of that species from harvesting nations which do not comply with the conservation and management recommendations adopted by the Commission; and

(6) the United States should encourage the Commission to adopt recommendations authorizing the use of discretionary trade actions as enforcement measures when the actions of a nation are undermining the effectiveness of conservation and management recommendations of the Commission.

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Massachusetts (Mr. STUDDS).

The amendment in the nature of a substitute was agreed to.

The concurrent resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. STUDDS

Mr. STUDDS. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. STUDDS: Amend the preamble to read as follows:

Whereas Atlantic bluefin tuna are a valuable commercial and recreational fishery of the United States;

Whereas many other countries also harvest Atlantic bluefin tuna in the Atlantic Ocean and the Mediterranean Sea;

Whereas the International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as the Commission), was established in 1969 to develop conservation and management recommendations for Atlantic bluefin tuna and other highly migratory species in the Atlantic Ocean and the Mediterranean Sea;

Whereas the Commission adopted conservation and management recommendations in 1974 to ensure the recovery and sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and the Mediterranean Sea;

Whereas in 1981, the Commission adopted a management strategy for Atlantic bluefin tuna predicated on a hypothesis that two stocks of the fish existed: a western stock found in the Atlantic west of 45 degrees west longitude (hereinafter referred to as the 45 degree line), and an eastern stock found in the Atlantic Ocean east of the 45 degree line and in the Mediterranean Sea;

Whereas since 1981, the Commission has adopted additional, more restrictive conservation and management recommendations for Atlantic bluefin tuna for countries that harvest bluefin tuna west of the 45 degree line, including a 25% quota reduction since 1991 with an additional 40% quota reduction scheduled for 1995;

Whereas the United States and other Commission members that harvest bluefin tuna west of the 45 degree line have implemented all conservation and management recommendations adopted by the Commission for Atlantic bluefin tuna west of the 45 degree line;

Whereas many other Commission members do not comply with the conservation and management recommendations adopted by the Commission for Atlantic bluefin tuna east of the 45 degree line;

Whereas a recent National Academy of Sciences (NAS) review of the scientific data used by the Commission concluded that the available data is consistent with a one stock management strategy for bluefin tuna in the North Atlantic;

Whereas the NAS review also found that abundance of Atlantic bluefin tuna in the western Atlantic has remained stable since 1988, in contrast to the roughly 50% decline in abundance reported by the Commission;

Whereas the continued unrestricted harvesting of Atlantic bluefin tuna east of the 45 degree line and in the Mediterranean Sea will undermine the Commission's recommendations being implemented west of the line to rebuild Atlantic bluefin tuna;

Whereas, in order to successfully rebuild the Atlantic bluefin tuna stock, conservation and management recommendations must be adopted and implemented throughout the Atlantic Ocean and the Mediterranean Sea.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Massachusetts [Mr. STUDDS].

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

CONSUMER REPORTING REFORM ACT OF 1994, CREDIT REPAIR ORGANIZATIONS, TRUTH IN LENDING ACT, AND DISASTER RELIEF

Mr. KENNEDY. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 5178) to amend the Fair Credit Reporting Act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—AMENDMENTS TO FAIR CREDIT REPORTING ACT

Sec. 101. Short title.

Sec. 102. Definitions.
Sec. 103. Furnishing consumer reports; use for employment purposes.
Sec. 104. Amendments relating to use of consumer reports for prescreening; prohibition on unauthorized or uncertified use of information.
Sec. 105. Consumer consent required to furnish consumer report containing medical information.
Sec. 106. Amendments relating to obsolete information and information contained in consumer reports.
Sec. 107. Amendments relating to compliance procedures.
Sec. 108. Amendments relating to consumer disclosures.
Sec. 109. Amendments relating to procedures in case of the disputed accuracy of any information in a consumer's file.
Sec. 110. Amendment relating to charges for disclosure.
Sec. 111. Amendments relating to duties of users of consumer reports and duties of affiliates sharing certain information.
Sec. 112. Amendments relating to civil liability.
Sec. 113. Amendments relating to responsibilities of persons who furnish information to consumer reporting agencies.
Sec. 114. Investigative consumer reports.
Sec. 115. Increased criminal penalties for obtaining information under false pretenses.
Sec. 116. Administrative enforcement.
Sec. 117. State enforcement of Fair Credit Reporting Act.
Sec. 118. Federal Reserve Board authority.
Sec. 119. Preemption of State law.
Sec. 120. Action by FTC and Federal Reserve Board.
Sec. 121. Amendment to Fair Debt Collection Practices Act.
Sec. 122. Furnishing consumer reports for purposes relating to child support.
Sec. 123. Disclosure of information and consumer reports to FBI for counterintelligence purposes.
Sec. 124. Effective dates.
Sec. 125. Relationship to other law.
Sec. 126. Sense of Senate.
Sec. 127. Technical correction to Depository Institutions Management Interlocks Act.

TITLE II—CREDIT REPAIR ORGANIZATIONS

Sec. 201. Regulation of credit repair organizations.

TITLE III—TRUTH IN LENDING ACT

Sec. 301. Treatment of delivery fees and intangibles taxes.
Sec. 302. Limitations on liability.

TITLE IV—DISASTER RELIEF

Sec. 401. Depository institutions disaster relief.

TITLE I—AMENDMENTS TO FAIR CREDIT REPORTING ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Consumer Reporting Reform Act of 1994".

SEC. 102. DEFINITIONS.

(a) ADVERSE ACTION.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(k)(1) The term 'adverse action' means the following:

"(A) A denial or revocation of credit, a denial of an application for an increase of an existing credit limit, an unfavorable change in the terms of an existing credit arrangement, or a refusal to grant credit in substantially the amount or on substantially the terms requested; except that the term 'adverse action' does not include—

"(i) a refusal to extend additional credit under an existing credit arrangement if the applicant is delinquent or otherwise in default as to that account, or

"(ii) a refusal or failure to authorize an account transaction at a point of sale which would exceed a previously established credit limit.

"(B) A denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of insurance.

"(C) A denial of employment or any other decision for employment purposes which adversely affects any current or prospective employee.

"(D) A denial or cancellation of, an increase in any charge for, or any other adverse or unfavorable change in the terms of, any license or benefit described in section 604(a)(3)(D).

"(E) An action taken or determination made—

"(i) in connection with an application which was made by, or a transaction which was initiated by, any consumer, or in connection with a review of account information under section 604(a)(3)(E)(ii); and

"(ii) which is adverse to the interest of the consumer.

"(2) For purposes of any determination of whether an action is an adverse action under paragraph (1)(A), all appropriate final findings, decisions, commentary, and orders issued under section 701(d)(6) of the Equal Credit Opportunity Act by the Board of Governors of the Federal Reserve System or any court shall apply.".

(b) FIRM OFFER OF CREDIT.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (k) (as added by subsection (a) of this section) the following:

"(l) The term 'firm offer of credit' means any offer of credit to a consumer that will be honored if the consumer is determined, based on information in a consumer report on the consumer, to meet the specific criteria used to select the consumer for the offer, except that the offer may be further conditioned solely on any combination of the following:

"(1) The consumer being determined, based on information in the consumer's application for the credit, to meet specific criteria bearing on creditworthiness that are established—

"(A) before selection of the consumer for the offer; and

"(B) for the purpose of determining whether to extend credit pursuant to the offer.

"(2) Verification—

"(A) that the consumer continues to meet the specific criteria used to select the consumer for the offer, by using information in a consumer report on the consumer, information in the consumer's application for the credit, or other information bearing on the creditworthiness of the consumer; or

"(B) of the information in the consumer's application for the credit, to determine that the consumer meets the specific criteria bearing on creditworthiness.

"(3) The consumer furnishing any collateral that is a requirement for the extension of the credit that was—

"(A) established before selection of the consumer for the offer of credit; and

"(B) described to the consumer in the offer of credit.".

(c) CREDIT TRANSACTION WHICH IS NOT INITIATED BY THE CONSUMER.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (l) (as added by subsection (b) of this section) the following:

"(m) The term 'credit transaction which is not initiated by the consumer' does not include the use of a consumer report by a person with which the consumer has an account, for purposes of—

"(1) reviewing the account; or

"(2) collecting the account.".

(d) STATE.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (m) (as added by subsection (c) of this section) the following:

"(n) The term 'State' means any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.".

(e) EXCLUSIONS FROM DEFINITION OF CONSUMER REPORT.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended in the second sentence in clause (A)—

(1) by inserting "(i)" after "(A)";

(2) by inserting before the semicolon at the end the following: ", (ii) any communication of that information among persons related by common ownership or affiliated by corporate control, or (iii) any communication of information from a credit application by a consumer among persons related by common ownership or affiliated by corporate control if it is clearly and conspicuously disclosed that the information may be communicated among such persons and the consumer is given the opportunity, prior to the time that the information is initially communicated, to direct that such information not be communicated among such persons";

(3) in clause (B) by striking "or" after the semicolon at the end;

(4) in clause (C) by striking the period and inserting a semicolon; and

(5) by adding at the end the following: "or (D) any communication of information about a consumer between persons who are affiliated by common ownership or common corporate control and in connection with a credit transaction which is not initiated by the consumer, or an insurance transaction which is not initiated by the consumer, if either of those persons has complied with section 615(d)(4)(B) with respect to a consumer report from which the information is taken and the consumer has consented to use of the report for the transaction, or with respect to existing customers, the consumer has not directed in writing that the report may not be used for the transaction, in accordance with section 615(d)(4)(C).".

(f) EXCLUSION OF CERTAIN COMMUNICATIONS BY EMPLOYMENT AGENCIES FROM DEFINITION OF CONSUMER REPORT.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681(a)) is further amended—

(1) in subsection (d), as amended by subsection (e) of this section, by adding at the end the following: "The term also does not include a communication described in subsection (o)."; and

(2) by adding at the end the following:

"(o) A communication is described in this subsection if it is a communication—

"(1) that, but for the 3rd sentence of subsection (d), would be an investigative consumer report;

"(2) that is made to a prospective employer for the purpose of—

"(A) procuring an employee for the employer, or

"(B) procuring an opportunity for a natural person to work for the employer;

"(3) that is made by a person that regularly performs such procurement;

"(4) that is not used by any person for any purpose other than a purpose described in paragraph (2) (A) or (B);

"(5) with respect to which—

"(A) the consumer who is the subject of the communication—

"(i) consents orally or in writing to the nature and scope of the communication, before the collection of any information for the purpose of making the communication;

"(ii) consents orally or in writing to the making of the communication to a prospective employer, before the making of the communication; and

"(iii) in the case of consent under clause (i) or (ii) given orally, is provided written confirmation of that consent by the person making the communication, within 3 business days after the receipt of the consent by that person;

"(B) the person that makes the communication does not, for the purpose of making the communication, make any inquiry that if made by a prospective employer of the consumer who is the subject of the communication would violate any applicable Federal or State equal employment opportunity law or regulation; and

"(C) the person that makes the communication—

"(i) discloses in writing to the consumer who is the subject of the communication, within 5 business days after receiving any request from the consumer for such disclosure, the nature and substance of all information in the consumer's file at the time of the request, except that the sources of information that is acquired solely for use in making the communication and actually used for no other purpose need not be disclosed other than under appropriate discovery procedures in the court in which an action is brought; and

"(ii) notifies the consumer that is the subject of the communication, in writing, of the consumer's right to request the information described in clause (i).".

(g) Consumer Reporting Agency That Compiles and Maintains Files on a Nationwide Basis.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is further amended by adding after subsection (o) (as added by subsection (f) of this section) the following:

"(p) The term 'consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' means a consumer reporting agency that regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing, or credit capacity, each of the following regarding consumers residing nationwide:

"(1) Public record information.

"(2) Credit account information from persons who furnish that information regularly and in the ordinary course of business.".

(h) Clerical Amendment.—Section 603(d) of the Fair Credit Reporting Act (15 U.S.C. 1681a(d)) is amended in the first sentence—

(1) by inserting "(1)" after "in whole or in part for"; and

(2) by striking "(1)" before "credit or insurance".

SEC. 103. FURNISHING CONSUMER REPORTS; USE FOR EMPLOYMENT PURPOSES.

(a) Furnishing Consumer Reports for Business Transactions.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended—

(1) by inserting "(a) In General.—" before "A consumer reporting agency"; and

(2) in subsection (a)(3) (as designated by paragraph (1) of this subsection) by striking subparagraph (E) and inserting the following:

"(E) otherwise has a legitimate business need for the information—

"(i) in connection with a business transaction that is initiated by the consumer; or

"(ii) to review an account to determine whether the consumer continues to meet the terms of the account.".

(b) Furnishing and Using Consumer Reports for Employment Purposes.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is further amended by adding at the end the following new subsection:

"(b) Conditions for Furnishing and Using Consumer Reports for Employment Purposes.—

"(1) Certification from user.—A consumer reporting agency may furnish a consumer report for employment purposes only if—

"(A) the person who obtains such report from the agency certifies to the agency that—

"(i) the person has complied with paragraph (2) with respect to the consumer report, and the person will comply with paragraph (3) with respect to the consumer report if paragraph (3) becomes applicable; and

"(ii) information from the consumer report will not be used in violation of any applicable Federal or State equal employment opportunity law or regulation; and

"(B) the consumer reporting agency provides with the report a summary of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

"(2) Disclosure to consumer.—A person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer unless—

"(A) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

"(B) the consumer has authorized in writing the procurement of the report by that person.

"(3) Conditions on use for adverse actions.—In using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report a person shall provide to the consumer to whom the report relates—

"(A) a copy of the report;

"(B) a description in writing of the consumer's rights under this title, as prescribed by the Federal Trade Commission under section 609(c)(3); and

"(C) a reasonable period (not required to exceed 5 business days following receipt of the report by the consumer) to respond to any information in the report that is disputed by the consumer and notice in writing of the opportunity for the consumer to respond in that period, except that such an opportunity to respond and notice are not required if the person takes the adverse action based on a reasonable belief that the consumer has engaged in fraudulent or criminal activity that is related to, or that could affect, the consumer's employment.

"(4) Limitation on purposes.—Subject to paragraph (1), a consumer reporting agency may furnish information bearing on the creditworthiness of a consumer, and a person may use such information, for employment purposes that do not relate to employment of an individual in an executive or administrative position, only if—

"(A) the employment requires or is expected to require a security clearance issued by an agency of the United States or any State as a condition for employment;

"(B) the employment requires or is expected to require the individual to be covered by a fidelity bond; or

"(C) the employment requires or is expected to require the individual, on a regular basis and as part of the normal duties of employment—

"(i) to handle or otherwise have access to substantial amounts of cash or other things of value of the employer: or

"(ii) to engage in any conduct or activity with respect to which the employee has a fiduciary duty.

"(5) Executive or administrative position defined.—

"(A) In general.—For purposes of paragraph (4), the term 'executive or administrative position' means any position—

"(i) for which compensation is on a salary basis and not an hourly basis; and

"(ii) having policy making, managerial, professional, or supervisory responsibilities.

"(B) Application of existing findings, etc.—For purposes of determining under subparagraph (A)(ii) whether a position has policy making, managerial, professional, or supervisory responsibilities, all appropriate final administrative and judicial findings, decisions, commentary, and orders issued under the Federal Election Campaign Act of 1971, or the regulations issued under that Act, shall apply.".

SEC. 104. AMENDMENTS RELATING TO USE OF CONSUMER REPORTS FOR PRESCREENING; PROHIBITION ON UNAUTHORIZED OR UNCERTIFIED USE OF INFORMATION.

(a) In General.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b), as amended by section 103, is further amended—

(1) in subsection (a) by striking "A consumer reporting agency" and inserting "Subject to subsection (c), any consumer reporting agency"; and

(2) by adding after subsection (b) (as added by section 103(b)) the following new subsections:

"(c) Furnishing Reports in Connection With Credit Transactions Not Initiated by the Consumer.—

"(1) In general.—A consumer reporting agency may furnish a consumer report relating to any consumer pursuant to subsection (a)(3)(A) in connection with any credit transaction which is not initiated by the consumer only if—

"(A) the consumer authorizes the agency to provide such report to such person; or

"(B)(i) the transaction consists of a firm offer of credit;

"(ii) the consumer reporting agency has complied with subsection (d); and

"(iii) there is not in effect an election by the consumer, made in accordance with subsection (d), to have the consumer's name and address excluded from lists of names provided by the agency pursuant to this paragraph.

"(2) Limits on information received under paragraph (1)(B).—A person may receive pursuant to paragraph (1)(B) only—

"(A) the name and address of a consumer;

"(B) an identifier that is not unique to the consumer and is used by the person solely for the purpose of verifying the identity of the consumer; and

"(C) information pertaining to a consumer that is not identified or identifiable with the consumer.

"(3) INFORMATION REGARDING INQUIRIES.—Except as provided in section 609(a)(5), a consumer reporting agency shall not furnish to any person a record of inquiries in connection with credit transactions which are not initiated by a consumer.

"(d) ELECTION OF CONSUMER TO BE EXCLUDED FROM LISTS.—

"(1) IN GENERAL.—A consumer may elect to have the consumer's name and address excluded from any list provided by a consumer reporting agency in connection with a credit transaction which is not initiated by the consumer, by notifying the agency in accordance with paragraph (2) that the consumer does not consent to any use of consumer reports relating to the consumer in connection with any credit transaction which is not initiated by the consumer.

"(2) MANNER OF NOTIFICATION.—A consumer shall notify a consumer reporting agency under paragraph (1)—

"(A) through the notification system maintained by the agency under paragraph (5), or

"(B) by submitting to the agency a signed notice of election form issued by the agency for purposes of this subparagraph.

"(3) RESPONSE OF AGENCY AFTER NOTIFICATION THROUGH SYSTEM.—Upon receipt of notification of the election of a consumer under paragraph (1) through the notification system maintained by the agency under paragraph (5), a consumer reporting agency shall—

"(A) inform the consumer that the election is effective only for a 2-year period if the consumer does not submit to the agency a signed notice of election form issued by the agency for purposes of paragraph (2)(B); and

"(B) provide to the consumer such a form if requested by the consumer, by not later than 5 business days after receiving the notification through the system in the case of a request made at the time the consumer provides notification through the system.

"(4) EFFECTIVENESS OF ELECTION.—An election of a consumer under paragraph (1)—

"(A) shall be effective with respect to a consumer reporting agency beginning on the date the consumer notifies the agency in accordance with paragraph (2);

"(B) shall be effective with respect to a consumer reporting agency—

"(i) subject to subparagraph (C), for the 2-year period beginning on the date the consumer notifies the agency of the election, in the case of an election for which a consumer notifies the agency only in accordance with paragraph (2)(A); or

"(ii) until the consumer notifies the agency under subparagraph (C), in the case of an election for which a consumer notifies the agency in accordance with paragraph (2)(B);

"(C) shall not be effective after the date on which the consumer notifies the agency, through the notification system established by the agency under paragraph (5), that the election is no longer effective; and

"(D) shall be effective with respect to each affiliate of the agency.

"(5) NOTIFICATION SYSTEM, GENERALLY.—Each consumer reporting agency which furnishes a consumer report in connection with any credit transaction which is not initiated by a consumer, shall—

"(A) establish and maintain a notification system, including a toll-free telephone number, which permits any consumer whose consumer report is maintained by the agency to notify the agency, with appropriate identification, of the consumer's election to have the consumer's name and address excluded from any list of names and addresses provided by the agency for such a transaction; and

"(B) publish by not later than 365 days after the date of the enactment of the Consumer Reporting Reform Act of 1994, and at least annually thereafter, in a publication of general circulation in the area served by the agency—

"(i) a notification that information in consumer files maintained by the agency may be used in connection with such transactions; and

"(ii) the address and toll-free telephone number for consumers to use to notify the agency of the consumer's election under subparagraph (A).

Establishment and maintenance of a notification system (including a toll-free telephone number) and publication by a consumer reporting agency on its own behalf and on behalf of any of its affiliates in accordance with this paragraph is deemed to be compliance with this paragraph by each of those affiliates.

"(6) NOTIFICATION SYSTEM BY AGENCIES WHICH OPERATE NATIONWIDE.—Each consumer reporting agency which compiles and maintains files on consumers on a nationwide basis shall establish and maintain a notification system for purposes of paragraph (5) jointly with other such consumer reporting agencies.".

(b) USE OF INFORMATION OBTAINED FROM REPORTS.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is further amended by adding after subsection (d) (as added by subsection (a) of this section) the following new subsection:

"(e) CERTAIN USE OR OBTAINING OF INFORMATION PROHIBITED.—A person shall not use or obtain a consumer report for any purpose unless—

"(1) it is obtained for a purpose for which the consumer report is authorized to be furnished under subsection (a); and

"(2) the purpose is certified in accordance with section 607 by a prospective user of the report through a general or specific certification.".

SEC. 105. CONSUMER CONSENT REQUIRED TO FURNISH CONSUMER REPORT CONTAINING MEDICAL INFORMATION.

Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b), as amended by sections 103 and 104, is further amended by adding at the end the following:

"(f) FURNISHING REPORTS CONTAINING MEDICAL INFORMATION.—A consumer reporting agency shall not furnish for employment purposes, or in connection with a credit transaction, a consumer report which contains medical information about a consumer, unless the consumer consents to the furnishing of the report.".

SEC. 106. AMENDMENTS RELATING TO OBSOLETE INFORMATION AND INFORMATION CONTAINED IN CONSUMER REPORTS.

(a) REPEAL LARGE-DOLLAR EXCEPTIONS.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended—

(1) in subsection (a) by striking "(a) Except as authorized under subsection (b), no" and inserting

"(a) INFORMATION EXCLUDED FROM CONSUMER REPORTS.—No"; and

(2) by striking subsection (b).

(b) CLARIFICATION OF REPORTING PERIOD.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(b) RUNNING OF REPORTING PERIOD.—(1) The 7-year period referred to in paragraphs (4) and (6) of subsection (a) shall begin, with respect to any delinquent account which is placed for collection (internally or by referral to a 3d party, whichever is earlier), charged to profit and loss, or subjected to any similar action, upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the collection activity, charge to profit and loss, or similar action.

"(2) Paragraph (1) applies only to items of information added to a consumer report on or after the date that is 455 days after the date of the enactment of the Consumer Reporting Reform Act of 1994.".

(c) ADDITIONAL INFORMATION ON BANKRUPTCY FILINGS REQUIRED.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (b) (as added by subsection (b) of this section) the following new subsection:

"(c) INFORMATION REQUIRED TO BE DISCLOSED.—Any consumer reporting agency which furnishes a consumer report which contains information regarding any case involving the consumer which arises under title 11, United States Code, shall include in the report an identification of the chapter of such title 11 under which such case arises if provided by the source of the information. If any case arising or filed under title 11, United States Code, is withdrawn by the consumer prior to a final judgment, the consumer reporting agency shall include in the report that such case or filing was withdrawn upon receipt of documentation certifying such withdrawal.".

(d) INDICATION OF CLOSURE OF ACCOUNT; INDICATION OF DISPUTE BY CONSUMER.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding after subsection (c) (as added by subsection (c) of this section) the following new subsections:

"(d) INDICATION OF CLOSURE OF ACCOUNT BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 623(a)(4) that a credit account of a consumer was voluntarily closed by the consumer, the agency shall indicate that fact in any consumer report that includes information related to the account.

"(e) INDICATION OF DISPUTE BY CONSUMER.—If a consumer reporting agency is notified pursuant to section 623(a)(3) that information regarding a consumer that was furnished to the agency is disputed by the consumer, the agency shall indicate that fact in each consumer report that includes the disputed information.".

(e) NOTATION ON CONSUMER REPORT.—Section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is further amended by adding at the end the following new subsection:

"(f) CERTAIN ACCOUNT INFORMATION.—A consumer reporting agency, upon the written request of a consumer, and subject to the submission of appropriate documentation by the consumer, shall include with any information regarding a failure of the consumer to make any payment on an account of the consumer, a statement (in such form as the Federal Trade Commission shall prescribe) that during the period when the account in question became due, the consumer was receiving assistance pursuant to a declaration of a disaster by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, or unemployment compensation under the laws of any State (or, but for the exhaustion of benefits, would be entitled to receive such compensation).".

(f) Clerical Amendments.—

(1) The heading for section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c) is amended by striking "**Obsolete information**" and inserting "**Requirements relating to information contained in consumer reports**".

(2) The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 605 and inserting the following:

"*605. Requirements relating to information contained in consumer reports.*".

SEC. 107. AMENDMENTS RELATING TO COMPLIANCE PROCEDURES.

(a) Disclosure of Consumer Reports by Users.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is amended by adding at the end the following new subsection:

"(c) Disclosure of Consumer Reports by Users Allowed.—A consumer reporting agency may not prohibit a user of a consumer report furnished by the agency on a consumer from disclosing the contents of the report to the consumer, if adverse action against the consumer has been taken, or is contemplated, by the user based in whole or in part on the report.".

(b) Notice to Users and Providers of Information To Ensure Compliance.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is further amended by adding after subsection (c) (as added by subsection (a) of this section) the following new subsection:

"(d) Notice to Users and Furnishers of Information.—

"(1) Notice requirement.—A consumer reporting agency shall provide to any person—

"(A) who regularly and in the ordinary course of business furnishes information to the agency with respect to any consumer; or

"(B) to whom a consumer report is provided by the agency;

a notice of such person's responsibilities under this title.

"(2) Content of notice.—The Federal Trade Commission shall prescribe the content of notices under paragraph (1).".

(c) Record of Identity of Users and Purposes Certified by Users of Reports.—Section 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e) is further amended by adding after subsection (d) (as added by subsection (b) of this section) the following new subsection:

"(e) Procurement of Consumer Report for Resale.—

"(1) Disclosure.—A person may not procure a consumer report for purposes of reselling the report (or any information in the report) unless the person discloses to the consumer reporting agency which originally furnishes the report—

"(A) the identity of the end-user of the report (or information), and

"(B) each permissible purpose under section 604 for which the report is furnished to the end-user of the report (or information).

"(2) Responsibilities of procurers for resale.—A person which procures a consumer report for purposes of reselling the report (or any information in the report) shall—

"(A) establish and comply with reasonable procedures designed to ensure that the report (or information) is resold by the person only for a purpose for which the report may be furnished under section 604, including by requiring that each person to which the report (or information) is resold and which resells or provides the report (or information) to any other person—

"(i) identifies each end user of the resold report (or information);

"(ii) certifies each purpose for which the report (or information) will be used; and

"(iii) certifies that the report (or information) will be used for no other purpose; and

"(B) before reselling the report, make reasonable efforts to verify the identifications and certifications made under subparagraph (A).".

SEC. 108. AMENDMENTS RELATING TO CONSUMER DISCLOSURES.

(a) All Information in Consumer's File Required To Be Disclosed.—Section 609(a)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended to read as follows:

"(1) All information in the consumer's file at the time of the request.".

(b) More Information Concerning Recipients of Reports Required.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended to read as follows:

"(3)(A) Identification of each person (including each end-user identified under section 607(e)(1)) who procured a consumer report—

"(i) for employment purposes within the 2-year period preceding the request; or

"(ii) for any other purpose within the 1-year period preceding the request.

"(B) An identification of a person under subparagraph (A) shall include—

"(i) the name of the person or, if applicable, the trade name (written in full) under which such person conducts business; and

"(ii) upon request of the consumer, the address and telephone number of the person.".

(c) Disclosure of Permissible Purposes.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is further amended by adding at the end the following:

"(4) The permissible purpose under section 604, by category, for which each person identified under paragraph (3) procured a consumer report.".

(d) Information Regarding Inquiries.—Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)) is amended by adding after paragraph (4) (as added by subsection (c) of this section) the following:

"(5) A record of all inquiries received by the agency in the 1-year period preceding the request that identified the consumer in connection with a credit transaction which was not initiated by the consumer.".

(e) Summary of Rights Required To Be Included With Disclosure.—

(1) In general.—Section 609 of the Fair Credit Reporting Act (15 U.S.C. 1681g) is amended by adding at the end the following new subsection:

"(c) Summary of Rights Required To Be Included With Disclosure.—

"(1) Summary of rights.—A consumer reporting agency shall provide to a consumer, with each written disclosure by the agency to the consumer under this section—

"(A) a written summary of all rights the consumer has under this title; and

"(B) in the case of a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, a toll-free telephone number established by the agency at which personnel are accessible to consumers during normal business hours.

"(2) Specific items required to be included.—The summary of rights required under paragraph (1) shall include—

"(A) a brief description of this title and all rights of consumers under this title;

"(B) an explanation of how the consumer may exercise the rights of the consumer under this title;

"(C) a list of all Federal agencies responsible for enforcing any provision of this title and the address and any appropriate phone number of each such agency, in a form that will assist the consumer in selecting the appropriate agency;

"(D) a statement that the consumer may have additional rights under State law and that the consumer may wish to contact a State or local consumer protection agency or a State attorney general to learn of those rights; and

"(E) a statement that a consumer reporting agency is not required to remove accurate derogatory information from a consumer's file, unless the information is outdated under section 605 or cannot be verified.

"(3) Form of summary of rights.—For purposes of this subsection and any disclosure by a consumer reporting agency required under this title with respect to consumers' rights, the Federal Trade Commission (after consultation with each Federal agency referred to in section 621(b)) shall prescribe the form and content of any disclosure of the rights of consumers required under this title.".

(2) Technical amendment.—Section 606(a)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681d(a)(1)(B)) is amended by inserting "and the written summary of the rights of the consumer prepared pursuant to section 609(c)" before the semicolon.

(f) Form of Disclosures.—

(1) In general.—Subsections (a) and (b) of section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) are amended to read as follows:

"(a) In General.—

"(1) Proper identification.—A consumer reporting agency shall require, as a condition of making the disclosures required under section 609, that the consumer furnish proper identification.

"(2) Disclosure in writing.—Except as provided in subsection (b), the disclosures required to be made under section 609 shall be provided under that section in writing.

"(b) Other Forms of Disclosure.—

"(1) In general.—If authorized by a consumer, a consumer reporting agency may make the disclosures required under 609—

"(A) other than in writing; and

"(B) in such form as may be—

"(i) specified by the consumer in accordance with paragraph (2); and

"(ii) available from the agency.

"(2) Form.—A consumer may specify pursuant to paragraph (1) that disclosures under section 609 shall be made—

"(A) in person, upon the appearance of the consumer at the place of business of the consumer reporting agency where disclosures are regularly provided, during normal business hours, and on reasonable notice;

"(B) by telephone, if the consumer has made a written request for disclosure by telephone;

"(C) by electronic means, if available from the agency; or

"(D) by any other reasonable means that is available from the agency.".

(2) Simplified disclosure.—Not later than 90 days after the date of enactment of this Act, each consumer reporting agency shall develop a form on which such consumer reporting agency shall make the disclosures

required under section 609(a) of the Fair Credit Reporting Act, for the purpose of maximizing the comprehensibility and standardization of such disclosures.

(3) GOALS.—The Federal Trade Commission shall take appropriate action to assure that the goals of comprehensibility and standardization are achieved in accordance with paragraph (2).

(4) CONFORMING AMENDMENTS.—

(A) Section 609(a) of the Fair Credit Reporting Act (15 U.S.C. 1681h(a)) is amended in the matter preceding paragraph (1) by striking "and proper identification of any consumer" and inserting "and subject to section 610(a)(1)".

(B) Section 610 of the Fair Credit Reporting Act (15 U.S.C. 1681h) is amended in the heading for the section by inserting "**and form**" after "**Conditions**".

(C) The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended in the item relating to section 610 by inserting "and form" after "Conditions".

SEC. 109. AMENDMENTS RELATING TO PROCEDURES IN CASE OF THE DISPUTED ACCURACY OF ANY INFORMATION IN A CONSUMER'S FILE.

(a) IN GENERAL.—Section 611(a) of the Fair Credit Reporting Act (15 U.S.C. 1681i(a)) is amended to read as follows:

"(a) REINVESTIGATIONS OF DISPUTED INFORMATION.—

"(1) REINVESTIGATION REQUIRED.—

"(A) IN GENERAL.—If the completeness or accuracy of any item of information contained in a consumer's file at a consumer reporting agency is disputed by the consumer and the consumer notifies the agency directly of such dispute, the agency shall reinvestigate free of charge and record the current status of the disputed information, or delete the item from the file in accordance with paragraph (5), before the end of the 30-day period beginning on the date the agency receives the notice of the dispute from the consumer.

"(B) EXTENSION OF PERIOD TO REINVESTIGATE.—Except as provided in subparagraph (C), the 30-day period described in subparagraph (A) may be extended for up to, but for no more than, 15 additional days if the consumer reporting agency receives information from the consumer within that 30-day period that is relevant to the reinvestigation.

"(C) LIMITATIONS ON EXTENSION OF PERIOD TO REINVESTIGATE.—Subparagraph (B) shall not apply to any reinvestigation in which, in the 30-day period described in subparagraph (A), the information that is the subject of the reinvestigation is found to be inaccurate or incomplete or the consumer reporting agency determines that the information cannot be verified.

"(2) PROMPT NOTICE OF DISPUTE TO FURNISHER OF INFORMATION.—

"(A) IN GENERAL.—Before the end of the 5-business-day period beginning on the date a consumer reporting agency receives notice of a dispute from any consumer in accordance with paragraph (1), the agency shall provide notification of the dispute to any person that provided any item of information in dispute, at the address and in the manner established with the person. The notice shall include all relevant information regarding the dispute that the agency has received from the consumer.

"(B) PROVISION OF OTHER INFORMATION FROM CONSUMER.—The consumer reporting agency shall promptly provide to the person that provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer after the period referred to in subparagraph (A) and before the end of the period referred to in paragraph (1)(A).

"(3) DETERMINATION THAT DISPUTE IS FRIVOLOUS OR IRRELEVANT.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), a consumer reporting agency may terminate a reinvestigation of information disputed by a consumer under that paragraph if the agency reasonably determines that the dispute by the consumer is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information.

"(B) NOTICE OF DETERMINATION.—Upon making any determination in accordance with subparagraph (A) that a dispute is frivolous or irrelevant, a consumer reporting agency shall notify the consumer within 5 business days of such determination, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency.

"(C) CONTENTS OF NOTICE.—A notice under subparagraph (B) shall include—

"(i) the reasons for the determination under subparagraph (A); and

"(ii) identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of such information.

"(4) CONSIDERATION OF CONSUMER INFORMATION.—In conducting any reinvestigation under paragraph (1) with respect to disputed information in the file of any consumer, the consumer reporting agency shall review and consider all relevant information submitted by the consumer in the period described in paragraph (1)(A) with respect to such disputed information.

"(5) TREATMENT OF INACCURATE OR UNVERIFIABLE INFORMATION.—

"(A) IN GENERAL.—If, after any reinvestigation under paragraph (1) of any information disputed by a consumer, an item of the information is found to be inaccurate or incomplete or cannot be verified, the consumer reporting agency shall promptly delete that item of information from the consumer's file. The information deleted shall consist solely of the information that was disputed by the consumer and shall not include any portion of the same item that was not disputed.

"(B) REQUIREMENTS RELATING TO REINSERTION OF PREVIOUSLY DELETED MATERIAL.—

"(i) CERTIFICATION OF ACCURACY OF INFORMATION.—If any information is deleted from a consumer's file pursuant to subparagraph (A), the information may not be reinserted in the file by the consumer reporting agency unless the person who furnishes the information certifies that the information is complete and accurate.

"(ii) NOTICE TO CONSUMER.—If any information which has been deleted from a consumer's file pursuant to subparagraph (A) is reinserted in the file, the consumer reporting agency shall notify the consumer of the reinsertion in writing within 5 business days after the reinsertion or, if authorized by the consumer for that purpose, by any other means available to the agency.

"(iii) ADDITIONAL INFORMATION.—As part of or in addition to the notice under clause (ii), a consumer reporting agency shall provide to a consumer in writing within 5 business days after the date of the reinsertion—

"(I) a statement that the disputed information has been reinserted;

"(II) the name, business address, and telephone number of any furnisher of information contacted, or of any furnisher of information which contacted the consumer reporting agency, in connection with the reinsertion of such information; and

"(III) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the disputed information.

"(C) PROCEDURES TO PREVENT REAPPEARANCE.—A consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in a consumer's file, and in consumer reports on the consumer, of information that is deleted pursuant to this paragraph (other than information that is reinserted in accordance with subparagraph (B)(i)).

"(D) FREE CONSUMER REPORT DURING 12-MONTH PERIOD AFTER DELETION OF INFORMATION.—Upon the request of a consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 without charge to that consumer at least once during the 12-month period after the consumer receives a notification under paragraph (6) or paragraph (8) of the deletion of information that is found to be inaccurate or cannot be verified.

"(E) AUTOMATED REINVESTIGATION SYSTEM.—

"(i) IN GENERAL.—Any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall implement an automated system through which furnishers of information to that consumer reporting agency may report the results of a reinvestigation that finds incomplete or inaccurate information in a consumer's file to other such consumer reporting agencies.

"(ii) NATIONWIDE CONSUMER REPORTING AGENCIES.—A consumer reporting agency that compiles and maintains files on consumers on a nationwide basis shall report the results of a reinvestigation initiated by a consumer under section 611 that finds in the consumer's file information that is incomplete or inaccurate or information that cannot be verified, to any other consumer reporting agency that compiles and maintains files on consumers on a nationwide basis and—

"(I) to which a consumer report on the consumer was provided within the preceding 2-year period for purposes of resale by that other agency; or

"(II) to which a consumer report on the consumer was provided within the preceding 7-year period for purposes of merging that report to that other agency's proprietary files.

"(iii) ACTION REQUIRED UPON RECEIPT OF REPORT.—If a consumer reporting agency receives a report under clause (ii), the agency shall—

"(I) change the data in its files in accordance with the report;

"(II) delete data from its proprietary files in accordance with the report; or

"(III) reinvestigate the disputed data that is the subject of the report in accordance with section 611, with the source of that data.

"(6) NOTICE OF RESULTS OF REINVESTIGATION.—

"(A) IN GENERAL.—A consumer reporting agency shall provide written notice to a consumer of the results of a reinvestigation under this subsection within 5 business days after the completion of the reinvestigation, by mail or, if authorized by the consumer for that purpose, by other means available to the agency.

"(B) CONTENTS.—As part of or in addition to the notice under subparagraph (A), a consumer reporting agency shall provide to a consumer in writing within the 5-day period referred to in subparagraph (A)—

"(i) a statement that the reinvestigation is completed;

"(ii) a consumer report that is based upon the consumer's file as that file is revised as a result of the reinvestigation;

"(iii) a description or indication of any changes made in the consumer report as a result of those revisions to the consumer's file;

"(iv) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the agency, including the name, business address, and telephone number of any furnisher of information contacted in connection with such information;

"(v) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information; and

"(vi) a notice that the consumer has the right to request under subsection (d) that the consumer reporting agency furnish notifications under that subsection.

"(7) DESCRIPTION OF REINVESTIGATION PROCEDURE.—A consumer reporting agency shall provide to a consumer a description referred to in paragraph (6)(B)(iv) by not later than 15 days after receiving a request from the consumer for that description.

"(8) EXPEDITED DISPUTE RESOLUTION.—If a dispute regarding an item of information in a consumer's file at a consumer reporting agency is resolved in accordance with paragraph (5)(A) by the deletion of the disputed information by not later than 3 business days after the date on which the agency receives notice of the dispute from the consumer in accordance with paragraph (1)(A), then the agency shall not be required to comply with paragraphs (2), (6), and (7) with respect to that dispute if the agency—

"(A) provides prompt notice of the deletion to the consumer by telephone;

"(B) includes in that notice, or in a written notice that accompanies a confirmation and consumer report provided in accordance with subparagraph (C), a statement of the consumer's right to request under subsection (d) that the agency furnish notifications under that subsection; and

"(C) provides written confirmation of the deletion and a copy of a consumer report on the consumer which is based on the consumer's file after the deletion, within 5 business days after making the deletion.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i(d)) is amended by striking "The consumer reporting agency shall clearly" and all that follows through the end of the subsection.

SEC. 110. AMENDMENT RELATING TO CHARGES FOR DISCLOSURE.

Section 612 of the Fair Credit Reporting Act (15 U.S.C. 1681j) is amended to read as follows:

"§612. Charges for certain disclosures

"(a) REASONABLE CHARGES ALLOWED FOR CERTAIN DISCLOSURES.—Except as provided in subsections (b), (c), (d), and (e), a consumer reporting agency may impose a reasonable charge on a consumer—

"(1) for making a disclosure to the consumer pursuant to section 609, which—

"(A) shall not exceed $8; and

"(B) shall be indicated to the consumer prior to making disclosure; and

"(2) for furnishing pursuant to section 611(d), following a reinvestigation under section 611(a), a statement, codification, or summary to a person designated by the consumer under that section after the 30-day period beginning on the date of notification of the consumer under section 611(a)(6) or (8) with respect to the reinvestigation, which—

"(A) shall not exceed the charge that the agency would impose on each designated recipient for a consumer report; and

"(B) shall be indicated to the consumer prior to furnishing such information.

"(b) FREE CONSUMER REPORT AFTER ADVERSE NOTICE TO CONSUMER.—Each consumer reporting agency that maintains a file on a consumer shall make all disclosures pursuant to section 609 without charge to the consumer if, within 60 days after receipt by such consumer of a notification pursuant to section 615 or of a notification from a debt collection agency affiliated with that consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609.

"(c) FREE CONSUMER REPORT UNDER CERTAIN OTHER CIRCUMSTANCES.—Upon the request of the consumer, a consumer reporting agency shall make all disclosures pursuant to section 609 without charge to that consumer if the consumer certifies in writing that the consumer—

"(1) is unemployed and intends to apply for employment in the 60-day period beginning on the date the certification is made;

"(2) is a recipient of public welfare assistance; or

"(3) has reason to believe that the file on the consumer at the agency contains inaccurate information due to fraud.

"(d) OTHER CHARGES PROHIBITED.—A consumer reporting agency shall not impose any charge on a consumer for providing any notification required by this Act or making any disclosure required by this Act, except as authorized by subsection (a).

"(e) ANNUAL CONSUMER REPORT UPON REQUEST AT SPECIFIED CHARGE.—

"(1) IN GENERAL.—Upon the written request of a consumer, a consumer reporting agency that maintains a file on the consumer shall make all disclosures pursuant to section 609 once in any 12-month period, at the charge specified in paragraph (2).

"(2) CHARGE SPECIFIED.—The charge for disclosures under paragraph (1) shall be an amount that does not exceed the lesser of—

"(A) the total cost incurred by the consumer reporting agency in making the disclosures; or

"(B) $3.".

SEC. 111. AMENDMENTS RELATING TO DUTIES OF USERS OF CONSUMER REPORTS AND DUTIES OF AFFILIATES SHARING CERTAIN INFORMATION.

(a) DUTIES OF USERS TAKING ADVERSE ACTIONS.—Section 615(a) of the Fair Credit Reporting Act (15 U.S.C. 1681m(a)) is amended to read as follows:

"(a) DUTIES OF USERS TAKING ADVERSE ACTIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER REPORTS.—If any person takes any adverse action with respect to any consumer which is based in whole or in part on any information contained in a consumer report, the person shall—

"(1) provide written notice of the adverse action to the consumer;

"(2) provide to the consumer in writing—

"(A) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) which furnished the report to the person; and

"(B) a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and

"(3) provide to the consumer a written notice of the consumer's right—

"(A) to obtain, under section 612, a free copy of a consumer report on the consumer from the consumer reporting agency referred to in paragraph (2), which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

"(B) to dispute, under section 611, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.".

(b) DUTIES OF USERS WHO MAKE CERTAIN CREDIT SOLICITATIONS.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is amended by adding at the end the following new subsection:

"(d) DUTIES OF USERS WHO MAKE WRITTEN CREDIT SOLICITATIONS ON THE BASIS OF INFORMATION CONTAINED IN CONSUMER FILES.—

"(1) IN GENERAL.—Any person who uses a consumer report on any consumer in connection with any credit transaction which is not initiated by the consumer and which consists of a firm offer of credit shall provide with any written solicitation made to the consumer regarding the transaction a clear and conspicuous statement that—

"(A) information contained in the consumer's consumer report was used in connection with the transaction;

"(B) the consumer received the offer of credit because the consumer satisfied the criteria for creditworthiness under which the consumer was selected for the offer;

"(C) if applicable, the credit may not be extended if, after the consumer responds to the offer, the consumer does not meet the criteria used to select the consumer for the offer or any applicable criteria bearing on creditworthiness or does not furnish any required collateral;

"(D) the consumer has a right to prohibit information contained in the consumer's file with any consumer reporting agency from being used in connection with any credit transaction which is not initiated by the consumer; and

"(E) the consumer may exercise the right referred to in subparagraph (D) by notifying a notification system established under section 604(d).

"(2) DISCLOSURE OF ADDRESS AND TELEPHONE NUMBER.—A statement under paragraph (1) shall include the address and toll-free telephone number of the appropriate notification system established under section 604(d).

"(3) MAINTAINING CRITERIA ON FILE.—A person who makes an offer of credit to a consumer under a credit transaction described in paragraph (1) shall maintain on file the criteria used to select the consumer to receive the offer, all criteria bearing on creditworthiness that are the basis for determining whether or not to extend credit pursuant to the offer, and any requirement for the furnishing of collateral as a condition of the extension of credit, until the end of the 3-year period beginning on the date on which the offer is made to the consumer.

"(4) LIMITATION ON APPLICATION.—Paragraph (1) does not apply to the use of a consumer report by a person if—

"(A) the person is affiliated by common ownership or by common corporate control with the person who procured the report;

"(B) the person who procured the report clearly and conspicuously disclosed to the consumer to whom the report relates, before the report is provided to the person using the report, that the report might be provided to and used by other persons who are affiliated in the manner described in subparagraph (A) to the person who procured the report; and

"(C) the provision and use of the report is—

"(i) consented to by the consumer in writing, or

"(ii) with respect to existing customers, the consumer has been afforded the opportunity to direct in writing that the report may not be provided to or used by persons who are affiliated in the manner described in subparagraph (A) and has not done so.

"(5) AUTHORITY OF FEDERAL AGENCIES REGARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES NOT AFFECTED.—This title is not intended to affect the authority of any Federal agency to enforce a prohibition against unfair or deceptive acts or practices, including the making of false or misleading statements in connection with credit transactions not initiated by the consumer.".

(c) DUTIES OF PERSON TAKING CERTAIN ACTIONS BASED ON INFORMATION PROVIDED BY AFFILIATE.—Section 615 of the Fair Credit Reporting Act (15 U.S.C. 1681m) is further amended by adding after subsection (d), as added by subsection (b) of this section, the following new subsection:

"(e) DUTIES OF PERSON TAKING CERTAIN ACTIONS BASED ON INFORMATION PROVIDED BY AFFILIATE.—

"(1) DUTIES, GENERALLY.—If a person takes an action described in paragraph (2) with respect to a consumer based in whole or in part on information described in paragraph (3), the person shall—

"(A) notify the consumer in writing of the action, including a statement that the consumer may obtain the information in accordance with subparagraph (B) and may contact the toll-free telephone number required by subparagraph (C);

"(B) upon a written request from the consumer received within 60 days after transmittal of the notice required by subparagraph (A), disclose to the consumer in writing the nature of the information upon which the action is based by not later than 30 days after receipt of the request; and

"(C) make available a toll-free telephone number at which personnel are available to communicate with the consumer regarding the action during normal business hours.

"(2) ACTION DESCRIBED.—An action referred to in paragraph (1) is—

"(A) an adverse action described in section 603(k)(1)(A) taken in connection with a transaction initiated by the consumer, or any adverse action described in section 603(k)(1) (B) or (C);

"(B) a denial of any other transaction initiated by the consumer for personal, family, or household purposes; or

"(C) an increase in any charge for a transaction described in subparagraph (B).

"(3) INFORMATION DESCRIBED.—Information referred to in paragraph (1)—

"(A) except as provided in subparagraph (B), is information that—

"(i) is furnished to the person taking the action by a person related by common ownership or affiliated by common corporate control to the person taking the action; and

"(ii) bears on the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living; and

"(B) does not include—

"(i) information solely as to transactions or experiences between the consumer and the person furnishing the information; or

"(ii) information in a consumer report.".

(d) CONFORMING AMENDMENT.—Section 615(c) of the Fair Credit Reporting Act (15 U.S.C. 1681m(c)) is amended by striking "subsections (a) and (b)" and inserting "this section".

SEC. 112. AMENDMENTS RELATING TO CIVIL LIABILITY.

(a) CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE, GENERALLY.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by striking "Any consumer reporting agency or user of information which" and inserting "(a) IN GENERAL.—Any person who".

(b) MINIMUM CIVIL LIABILITY FOR WILLFUL NONCOMPLIANCE.—Section 616(1) of the Fair Credit Reporting Act (15 U.S.C. 1681n(1)) is amended to read as follows:

"(1)(A) any actual damages sustained by the consumer as a result of the failure or damages of no less than $100 and no more than $1,000; or

"(B) in the case of liability of a natural person for obtaining a consumer report under false pretenses or knowingly without a permissible purpose, actual damages sustained by the consumer as a result of the failure or $1,000, whichever is greater;".

(c) CIVIL LIABILITY FOR NEGLIGENT NONCOMPLIANCE.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by striking "Any consumer reporting agency or user of information which" and inserting "(a) IN GENERAL.—Any person who".

(d) ATTORNEY'S FEES.—

(1) WILLFUL NONCOMPLIANCE.—Section 616 of the Fair Credit Reporting Act (15 U.S.C. 1681n) is amended by adding at the end the following:

"(b) ATTORNEY'S FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.".

(2) NEGLIGENT NONCOMPLIANCE.—Section 617 of the Fair Credit Reporting Act (15 U.S.C. 1681o) is amended by adding at the end the following:

"(b) ATTORNEY'S FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for purposes of harassment, the court shall award to the prevailing party attorney's fees reasonable in relation to the work expended in responding to the pleading, motion, or other paper.".

SEC. 113. AMENDMENTS RELATING TO RESPONSIBILITIES OF PERSONS WHO FURNISH INFORMATION TO CONSUMER REPORTING AGENCIES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by redesignating section 623 as section 624 and inserting after section 622 the following new section:

"§ 623. Responsibilities of furnishers of information to consumer reporting agencies

"(a) DUTY OF FURNISHERS OF INFORMATION TO PROVIDE COMPLETE AND ACCURATE INFORMATION.—

"(1) PROHIBITIONS.—A person shall not furnish any information to any consumer reporting agency if the person knows or should have known the information is incomplete or inaccurate.

"(2) DUTY TO CORRECT AND UPDATE INFORMATION.—A person who—

"(A) regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about the person's transactions or experiences with any consumer; and

"(B) has furnished to a consumer reporting agency information that the person determines is not complete or accurate;

shall promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains not complete or accurate.

"(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—If the completeness or accuracy of any information furnished by any person to any consumer reporting agency is disputed to such person by a consumer, the person may not furnish the information to any consumer reporting agency without notice that such information is disputed by the consumer.

"(4) DUTY TO PROVIDE NOTICE OF CLOSED ACCOUNTS.—A person who regularly and in the ordinary course of business furnishes information to a consumer reporting agency regarding a consumer who has a credit account with that person shall notify the agency of the voluntary closure of the account by the consumer, in information regularly furnished for the period in which the account is closed.

"(5) DUTY TO PROVIDE NOTICE OF DELINQUENCY OF ACCOUNTS.—A person who furnishes information to a consumer reporting agency regarding a delinquent account being placed for collection, charged to profit or loss, or subjected to any similar action shall, by not later than 90 days after furnishing the information, notify the agency of the month and year of the commencement of the delinquency which immediately preceded the action.

"(b) DUTIES OF FURNISHERS OF INFORMATION UPON NOTICE OF DISPUTE.—

"(1) IN GENERAL.—After receiving notice pursuant to section 611(a)(2) of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the person shall—

"(A) complete an investigation with respect to the disputed information;

"(B) review all relevant information provided by the consumer reporting agency pursuant to section 611(a)(2);

"(C) report the results of the investigation to the consumer reporting agency; and

"(D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information and that compile and maintain files on consumers on a nationwide basis.

"(2) DEADLINE.—A person shall complete all investigations, reviews, and reports required under paragraph (1) regarding information provided by the person to a consumer reporting agency, before the end of the period under section 611(a)(1) within which the consumer reporting agency is required to complete actions required by that section regarding that information.

"(c) LIMITATION ON LIABILITY.—Sections 616 and 617 do not apply to any failure to comply with subsection (a), except as provided in section 621(c)(1)(B).

"(d) LIMITATION ON ENFORCEMENT.—Subsection (a) may be enforced exclusively under section 621 by the Federal agencies and officials and the State officials identified in that section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by striking the item relating to section 623 and inserting the following:

"*623. Responsibilities of furnishers of information to consumer reporting agencies.*

"*624. Relation to State laws.*".

SEC. 114. INVESTIGATIVE CONSUMER REPORTS.

Section 606 of the Fair Credit Reporting Act (15 U.S.C. 1681d) is amended—

(1) in subsection (a)(1) by striking "or" after the semicolon at the end and inserting "and";

(2) by striking subsection (a)(2) and inserting the following:

"(2) the person certifies or has certified to the consumer reporting agency that—

"(A) the person has made the disclosures to the consumer required by paragraph (1); and

"(B) the person will comply with subsection (b).";

(3) in subsection (b) by striking "shall" the second place it appears; and

(4) by adding at the end the following:

"(d) PROHIBITIONS.—

"(1) CERTIFICATION.—A consumer reporting agency shall not prepare or furnish an investigative consumer report unless the agency has received a certification under subsection (a)(2) from the person who requested the report.

"(2) INQUIRIES.—A consumer reporting agency shall not make an inquiry for the purpose of preparing an investigative consumer report on a consumer for employment purposes if the making of the inquiry by an employer or prospective employer of the consumer would violate any applicable Federal or State equal employment opportunity law or regulation.

"(3) CERTAIN PUBLIC RECORD INFORMATION.—Except as otherwise provided in section 613, a consumer reporting agency shall not furnish an investigative consumer report which includes information which is a matter of public record and which relates to an arrest, indictment, conviction, civil judicial action, tax lien, or outstanding judgment, unless the agency has verified the accuracy of the information within the 30-day period ending on the date the report is furnished.

"(4) CERTAIN ADVERSE INFORMATION.—A consumer reporting agency shall not prepare or furnish an investigative consumer report on a consumer that contains information that is adverse to the interest of the consumer and that is obtained through a personal interview with a neighbor, friend, or associate of the consumer or with another person with whom the consumer is acquainted or who has knowledge of such item of information, unless—

"(A) the agency has followed reasonable procedures to obtain confirmation of the information, from an additional source that has independent and direct knowledge of the information; or

"(B) the person interviewed is the best possible source of the information.".

SEC. 115. INCREASED CRIMINAL PENALTIES FOR OBTAINING INFORMATION UNDER FALSE PRETENSES.

(a) OBTAINING INFORMATION UNDER FALSE PRETENSES.—Section 619 of the Fair Credit Reporting Act (15 U.S.C. 1681q) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".

(b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR EMPLOYEES.—Section 620 of the Fair Credit Reporting Act (15 U.S.C. 1681r) is amended by striking "fined not more than $5,000 or imprisoned not more than one year, or both" and inserting "fined under title 18, United States Code, imprisoned for not more than 2 years, or both".

SEC. 116. ADMINISTRATIVE ENFORCEMENT.

(a) AVAILABLE ENFORCEMENT POWERS.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a))—

(1) is amended in the second sentence by striking "Act and shall be subject to enforcement by the Federal Trade Commission under section 5(b) thereof with respect to any consumer reporting agency or person subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective" and inserting "Act. All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this title by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection and not subject to enforcement pursuant to section 8 of the Federal Deposit Insurance Act, irrespective";

(2) as amended by paragraph (1), is further amended by inserting before the 3rd period the following: ", including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule"; and

(3) as amended by paragraph (1), is further amended by adding after the 3rd period the following: "Notwithstanding the preceding sentence, a court may not impose any civil penalty on a person for a violation of section 623(a)(1) unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.".

(b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (a), by inserting "ENFORCEMENT BY FEDERAL TRADE COMMISSION.—" before "Compliance with the requirements"; and

(2) in subsection (b), by striking the matter preceding paragraph (1) and inserting the following:

"(b) ENFORCEMENT BY OTHER AGENCIES.—Compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information who are subject to section 615(e) shall be enforced under—".

SEC. 117. STATE ENFORCEMENT OF FAIR CREDIT REPORTING ACT.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) STATE ACTION FOR VIOLATIONS.—

"(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

"(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

"(B) subject to paragraph (5), may bring an action on behalf of its residents to recover—

"(i) damages for which the person is liable to such residents under sections 616 and 617 as a result of the violation;

"(ii) in the case of a violation of section 623(a), damages for which the person would, but for section 623(c), be liable to such residents as a result of the violation; or

"(iii) damages of not more than $1,000 for each willful or negligent violation; and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(2) RIGHTS OF FEDERAL REGULATORS.—The State shall serve prior written notice of any such action upon the Federal Trade Commission or the appropriate Federal regulator determined under subsection (b) and provide the Commission or appropriate Federal regulator with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Federal Trade Commission or appropriate Federal regulator shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, (C) to remove the action to the appropriate United States district court, and (D) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—Whenever the Federal Trade Commission or the appropriate Federal regulator has instituted a civil action or an administrative action under section 8 of the Federal Deposit Insurance Act for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission or the appropriate Federal regulator for any violation of this title that is alleged in that complaint.

"(5) LIMITATIONS ON STATE ACTIONS FOR VIOLATION OF SECTION 621(a)(1).—

"(A) VIOLATION OF INJUNCTION REQUIRED.—A State may not bring an action against a person under paragraph (1)(B) for a violation of section 623(a)(1), unless—

"(i) the person has been enjoined from committing the violation, in an action brought by the State under paragraph (1)(A); and

"(ii) the person has violated the injunction.

"(B) LIMITATION ON DAMAGES RECOVERABLE.—In an action against a person under paragraph (1)(B) for a violation of section 623(a)(1), a State may not recover any damages incurred before the date of the violation of an injunction on which the action is based.".

SEC. 118. FEDERAL RESERVE BOARD AUTHORITY.

Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), is further amended by adding after subsection (d) (as redesignated by section 117) the following new subsection:

"(e) INTERPRETIVE AUTHORITY.—The Board of Governors of the Federal Reserve System may issue interpretations of any provision of this title as it may apply to any persons identified under paragraph (1), (2), and (3) of subsection (b), or to the holding companies and affiliates of such persons, in consultation with Federal agencies identified in paragraphs (1), (2), and (3) of subsection (b).".

SEC. 119. PREEMPTION OF STATE LAW.

Section 624 of the Fair Credit Reporting Act, as redesignated by section 113(a) of this Act, is further amended—

(1) by striking "This title" and inserting "(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title"; and

(2) by adding at the end the following:

"(b) GENERAL EXCEPTIONS.—No requirement or prohibition may be imposed under the laws of any State—

"(1) with respect to any subject matter regulated under—

"(A) subsection (c) or (d) of section 604, relating to the prescreening of consumer reports;

"(B) section 611, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, except that this subparagraph does not apply to any State law in effect on the date of the enactment of the Consumer Reporting Reform Act of 1994;

"(C) section 615(a), relating to the duties of a person who takes any adverse action with respect to a consumer on the basis of information contained in a consumer report;

"(D) section 615(d), relating to the duties of persons who use a consumer report of a consumer in connection with any credit transaction which is not initiated by the consumer and which consists of a firm offer of credit;

"(E) section 605, relating to obsolete information, except that this subparagraph does not apply to any State law in effect on the date of the enactment of the Consumer Reporting Reform Act of 1994; or

"(F) section 623(b)(2), relating to the time by which a person must take any action required under section 623(b)(1) with respect to an investigation of information furnished by the person to a consumer reporting agency, except that this subparagraph does not apply to any State law in effect on the date of the enactment of the Consumer Reporting Reform Act of 1994;

"(2) with respect to the exchange of information among persons affiliated by common ownership or common corporate control, except that this paragraph does not apply to section 2480e (a) and (c)(1) of title 9, Vermont Statutes Annotated (as in effect on the date of the enactment of the Consumer Reporting Reform Act of 1994); or

"(3) with respect to the form and content of any disclosure required to be made under section 609(c).

"(c) DEFINITION OF FIRM OFFER OF CREDIT.—Notwithstanding any definition of the term 'firm offer of credit' (or any equivalent term) under the laws of any State, the definition of that term contained in section 603(l) shall be construed to apply in the enforcement and interpretation of the laws of any State governing consumer reports.

"(d) LIMITATIONS.—Subsections (b) and (c)—

"(1) do not affect any settlement, agreement, or consent judgment between any State Attorney General and any consumer reporting agency in effect on the date of the enactment of the Consumer Reporting Reform Act of 1994; and

"(2) do not apply to any provision of State law (including any provision of a State constitution) that—

"(A) is enacted after January 1, 2003;

"(B) states explicitly that the provision is intended to supplement this Act; and

"(C) gives greater protection to consumers than is provided under this Act.".

SEC. 120. ACTION BY FTC AND FEDERAL RESERVE BOARD.

(a) MODIFICATION OF REQUIREMENTS BY FTC AND FEDERAL RESERVE BOARD AUTHORIZED.—

(1) IN GENERAL.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s), is further amended by adding after subsection (e) (as added by section 118 of this Act) the following new subsection:

"(f) MODIFICATION OF REQUIREMENTS BY FTC AUTHORIZED.—

"(1) IN GENERAL.—If the Federal Trade Commission considers such action necessary for the protection of consumers, the Commission may, after consultation with appropriate State regulatory and law enforcement agencies, promulgate regulations in accordance with section 553 of title 5, United States Code, to impose, with respect to consumer reporting agencies and all other persons subject to this title other than any person described in paragraph (1), (2), or (3) of subsection (b), requirements—

"(A) that are more stringent than those imposed under—

"(i) section 611, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file;

"(ii) section 615(a), relating to the duties of a person who takes any adverse action with respect to a consumer on the basis of information contained in a consumer report;

"(iii) section 615(d), relating to the duties of persons who use a consumer report on a consumer in connection with any credit transaction which is not initiated by the consumer and that consists of a firm offer of credit; or

"(iv) section 623(b)(2), relating to the time by which a person must take any action required under section 623(b)(1) with respect to an investigation of information furnished by the person to a consumer reporting agency; and

"(B) with respect to the form and content of any disclosure required to be made under section 609(c).

"(2) FEDERAL RESERVE BOARD AUTHORITY.—If the Board of Governors of the Federal Reserve System determines such action to be necessary for the protection of consumers, the Board may prescribe regulations imposing on persons described in paragraph (1), (2), or (3) of subsection (b), or to the holding companies and affiliates of such persons, any requirement described in paragraph (1) of this subsection.".

(2) CLERICAL AMENDMENTS.—

(A) The heading for section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended to read as follows:

"§ 621. Administrative enforcement and authorities; State actions".

(B) The table of contents at the beginning of the Fair Credit Reporting Act is amended by striking the item relating to section 621 and inserting the following new item:

"621. Administrative enforcement and authorities; State actions.".

(b) DEADLINE TO PRESCRIBE MATTERS.—The Federal Trade Commission shall prescribe all matters required by this title (including the amendments made by this title) to be prescribed by that Commission, before the end of the 300-day period beginning on the date of the enactment of this Act.

SEC. 121. AMENDMENT TO FAIR DEBT COLLECTION PRACTICES ACT.

Section 807(11) of the Fair Debt Collection Practices Act (15 U.S.C. 1692e), relating to certain practices constituting prohibited representations, is amended to read as follows:

"(11) The failure to disclose clearly, in any written communication made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, except that this paragraph does not apply to a communication—

"(A) to acquire location information in accordance with section 804;

"(B) made solely to acknowledge receipt of monies or payments; or

"(C) that consists solely of information requested by the consumer or the consumer's attorney.".

SEC. 122. FURNISHING CONSUMER REPORTS FOR CERTAIN PURPOSES RELATING TO CHILD SUPPORT.

Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended in subsection (a) (as designated by section 103(a)(1) of this Act) by adding at the end the following:

"(4) In response to a request by the head of a department, agency, or office of any State or any political subdivision of any State that is responsible under law for enforcing child support orders (or an official authorized by the head of any such department, agency, or office), if the person making the request certifies to the consumer reporting agency that—

"(A) the consumer report is needed to establish an individual's capacity to make child support payments, or to determine the appropriate level of such payments;

"(B) the person has provided at least 10 days prior written notice to the consumer whose report is requested, by certified or registered mail to the last known address of the consumer, that the report will be requested; and

"(C) the consumer report obtained pursuant to this paragraph will be kept confidential, will be used solely for establishing child support payment obligations, and will not be used in connection with any other civil, administrative, or criminal proceeding or for any other purpose.".

SEC. 123. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 624, as redesignated by section 113(a) of this Act, the following new section:

"§ 625. Disclosures to FBI for counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power; and

"(B) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c) and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.), as amended by section 114(b) of this Act, is further amended by adding after the item relating to section 624 the following:

"*625. Disclosures to FBI for counterintelligence purposes.*".

(c) REPEAL OF PROVISIONS.—The following provisions of the Fair Credit Reporting Act, as amended by this section, are repealed:

(1) Section 625.

(2) In the table of contents at the beginning of the Fair Credit Reporting Act, the item relating to section 625.

SEC. 124. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments and repeals made by this title shall take effect 365 days after the date of the enactment of this Act.

(b) EXCEPTIONS.—

(1) The amendment made by section 121 shall take effect 90 days after the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) of section 123 shall take effect on the date of the enactment of this Act.

(3) Subsection (c) of section 123 shall take effect on the date that is 5 years after the date of the enactment of this Act.

SEC. 125. RELATIONSHIP TO OTHER LAW.

Nothing in this title or the amendments made by this Act shall be considered to supersede or otherwise affect section 2721 of title 18, United States Code, with respect to motor vehicle records for surveys, marketing, or solicitations.

SEC. 126. SENSE OF SENATE.

It is the sense of the Senate that—

(1) individuals should generally be judged for credit worthiness based on their own credit worthiness and not on the zip code or neighborhood in which they live; and

(2) the Federal Trade Commission after consultation with the appropriate Federal banking agencies shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate within 6 months as to whether and how the location of the residence of an applicant for unsecured credit is considered by many companies and financial

institutions in deciding whether an applicant should be granted credit.

SEC. 127. TECHNICAL CORRECTION TO DEPOSITORY INSTITUTIONS MANAGEMENT INTERLOCKS ACT.

Section 209(c)(1)(C) of the Depository Institution Management Interlocks Act (12 U.S.C. 3207(c)(1)(C), as added by section 338(b) of the Riegle Community Development and Regulatory Improvement Act of 1994) is amended by inserting “or institutions” after “newly chartered institutions”.

TITLE II—CREDIT REPAIR ORGANIZATIONS

SEC. 201. REGULATION OF CREDIT REPAIR ORGANIZATIONS.

Title IV of the Consumer Credit Protection Act is amended to read as follows:

“TITLE IV—CREDIT REPAIR ORGANIZATIONS

“*Sec.*
“*401. Short title.*
“*402. Findings and purposes.*
“*403. Definitions.*
“*404. Prohibited practices.*
“*405. Disclosures.*
“*406. Credit repair organizations contracts.*
“*407. Right to cancel contract.*
“*408. Noncompliance with this title.*
“*409. Civil liability.*
“*410. Administrative enforcement.*
“*411. Statute of limitations.*
“*412. Relation to State law.*
“*413. Effective date.*

“SEC. 401. SHORT TITLE.

“This title may be cited as the ‘Credit Repair Organizations Act’.

“SEC. 402. FINDINGS AND PURPOSES.

“(a) FINDINGS.—The Congress makes the following findings:

“(1) Consumers have a vital interest in establishing and maintaining their creditworthiness and credit standing in order to obtain and use credit. As a result, consumers who have experienced credit problems may seek assistance from credit repair organizations which offer to improve the credit standing of such consumers.

“(2) Certain advertising and business practices of some companies engaged in the business of credit repair services have worked a financial hardship upon consumers, particularly those of limited economic means and who are inexperienced in credit matters.

“(b) PURPOSES.—The purposes of this title are as follows:

“(1) To ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services.

“(2) To protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

“SEC. 403. DEFINITIONS.

“For purposes of this title—

“(1) CONSUMER.—The term ‘consumer’ means an individual.

“(2) CONSUMER CREDIT TRANSACTION.—The term ‘consumer credit transaction’ means any transaction in which credit is offered or extended to an individual for personal, family, or household purposes.

“(3) CREDIT REPAIR ORGANIZATION.—The term ‘credit repair organization’—

“(A) means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of—

“(i) improving any consumer's credit record, credit history, or credit rating; or

“(ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i); and

“(B) does not include—

“(i) any nonprofit organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

“(ii) any attorney-at-law who is a member of the bar of the highest court of any State or otherwise licensed under the laws of any State, with respect to services rendered which are within the scope of regulations applicable to members of such bar or such licensees; or

“(iii) any creditor (as defined in section 103 of the Truth in Lending Act), with respect to any consumer, to the extent the creditor is assisting the consumer to restructure any debt owed by the consumer to the creditor.

“(4) CREDIT.—The term ‘credit’ has the meaning given to such term in section 103(e) of this Act.

“SEC. 404. PROHIBITED PRACTICES.

“(a) IN GENERAL.—No person may—

“(1) make any statement, or counsel or advise any consumer to make any statement, which is untrue or misleading (or which, upon the exercise of reasonable care, should be known by the credit repair organization, officer, employee, agent, or other person to be untrue or misleading) with respect to any consumer's creditworthiness, credit standing, or credit capacity to—

“(A) any consumer reporting agency (as defined in section 603(f) of this Act); or

“(B) any person—

“(i) who has extended credit to the consumer; or

“(ii) to whom the consumer has applied or is applying for an extension of credit;

“(2) make any statement, or counsel or advise any consumer to make any statement, the intended effect of which is to alter the consumer's identification to prevent the display of the consumer's credit record, history, or rating for the purpose of concealing adverse information that is accurate and not obsolete to—

“(A) any consumer reporting agency;

“(B) any person—

“(i) who has extended credit to the consumer; or

“(ii) to whom the consumer has applied or is applying for an extension of credit;

“(3) make or use any untrue or misleading representation of the services of the credit repair organization; or

“(4) engage, directly or indirectly, in any act, practice, or course of business that constitutes or results in the commission of, or an attempt to commit, a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.

“(b) PAYMENT IN ADVANCE.—No credit repair organization may charge or receive any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform for any consumer before such service is fully performed.

“SEC. 405. DISCLOSURES.

“(a) DISCLOSURE REQUIRED.—Any credit repair organization shall provide any consumer with the following written statement before any contract or agreement between the consumer and the credit repair organization is executed:

“‘Consumer Credit File Rights Under State and Federal Law

“‘You have a right to dispute inaccurate information in your credit report by contacting the credit bureau directly. However, neither you nor any “credit repair” company or credit repair organization has the right to have accurate, current, and verifiable information removed from your credit report. The credit bureau must remove accurate, negative information from your report only if it is over 7 years old. Bankruptcy information can be reported for 10 years.

“‘You have a right to obtain a copy of your credit report from a credit bureau. You may be charged a reasonable fee. There is no fee, however, if you have been turned down for credit, employment, insurance, or a rental dwelling because of information in your credit report within the preceding 60 days. The credit bureau must provide someone to help you interpret the information in your credit file. You are entitled to receive a free copy of your credit report if you are unemployed and intend to apply for employment in the next 60 days, if you are a recipient of public welfare assistance, or if you have reason to believe that there is inaccurate information in your credit report due to fraud.

“‘You have a right to sue a credit repair organization that violates the Credit Repair Organization Act. This law prohibits deceptive practices by credit repair organizations.

“‘You have the right to cancel your contract with any credit repair organization for any reason within 3 business days from the date you signed it.

“‘Credit bureaus are required to follow reasonable procedures to ensure that the information they report is accurate. However, mistakes may occur.

“‘You may, on your own, notify a credit bureau in writing that you dispute the accuracy of information in your credit file. The credit bureau must then reinvestigate and modify or remove inaccurate or incomplete information. The credit bureau may not charge any fee for this service. Any pertinent information and copies of all documents you have concerning an error should be given to the credit bureau.

“‘If the credit bureau's reinvestigation does not resolve the dispute to your satisfaction, you may send a brief statement to the credit bureau, to be kept in your file, explaining why you think the record is inaccurate. The credit bureau must include a summary of your statement about disputed information with any report it issues about you.

“‘The Federal Trade Commission regulates credit bureaus and credit repair organizations. For more information contact:

The Public Reference Branch
Federal Trade Commission
Washington, D.C. 20580’.

“(b) SEPARATE STATEMENT REQUIREMENT.—The written statement required under this section shall be provided as a document which is separate from any written contract or other agreement between the credit repair organization and the consumer or any other written material provided to the consumer.

“(c) RETENTION OF COMPLIANCE RECORDS.—

“(1) IN GENERAL.—The credit repair organization shall maintain a copy of the statement signed by the consumer acknowledging receipt of the statement.

“(2) MAINTENANCE FOR 2 YEARS.—The copy of any consumer's statement shall be maintained in the organization's files for 2 years after the date on which the statement is signed by the consumer.

“SEC. 406. CREDIT REPAIR ORGANIZATIONS CONTRACTS.

“(a) WRITTEN CONTRACTS REQUIRED.—No services may be provided by any credit repair organization for any consumer—

"(1) unless a written and dated contract (for the purchase of such services) which meets the requirements of subsection (b) has been signed by the consumer; or

"(2) before the end of the 3-business-day period beginning on the date the contract is signed.

"(b) TERMS AND CONDITIONS OF CONTRACT.—No contract referred to in subsection (a) meets the requirements of this subsection unless such contract includes the following information (in writing):

"(1) The terms and conditions of payment, including the total amount of all payments to be made by the consumer to the credit repair organization or to any other person.

"(2) A full and detailed description of the services to be performed by the credit repair organization for the consumer, including—

"(A) all guarantees of performance; and

"(B) an estimate of—

"(i) the date by which the performance of the services (to be performed by the credit repair organization or any other person) will be complete; or

"(ii) the length of the period necessary to perform such services.

"(3) The credit repair organization's name and principal business address.

"(4) A conspicuous statement in bold face type, in immediate proximity to the space reserved for the consumer's signature on the contract, which reads as follows: 'You may cancel this contract without penalty or obligation at any time before midnight of the 3rd business day after the date on which you signed the contract. See the attached notice of cancellation form for an explanation of this right.'.

"SEC. 407. RIGHT TO CANCEL CONTRACT.

"(a) IN GENERAL.—Any consumer may cancel any contract with any credit repair organization without penalty or obligation by notifying the credit repair organization of the consumer's intention to do so at any time before midnight of the 3rd business day which begins after the date on which the contract or agreement between the consumer and the credit repair organization is executed or would, but for this subsection, become enforceable against the parties.

"(b) CANCELLATION FORM AND OTHER INFORMATION.—Each contract shall be accompanied by a form, in duplicate, which has the heading 'Notice of Cancellation' and contains in bold face type the following statement:

"'You may cancel this contract, without any penalty or obligation, at any time before midnight of the 3rd day which begins after the date the contract is signed by you.

"'To cancel this contract, mail or deliver a signed, dated copy of this cancellation notice, or any other written notice to [name of credit repair organization] at [address of credit repair organization] before midnight on [date]

"'I hereby cancel this transaction,

[date]

[purchaser's signature].'.

"(c) CONSUMER COPY OF CONTRACT REQUIRED.—Any consumer who enters into any contract with any credit repair organization shall be given, by the organization—

"(1) a copy of the completed contract and the disclosure statement required under section 405; and

"(2) a copy of any other document the credit repair organization requires the consumer to sign,

at the time the contract or the other document is signed.

"SEC. 408. NONCOMPLIANCE WITH THIS TITLE.

"(a) CONSUMER WAIVERS INVALID.—Any waiver by any consumer of any protection provided by or any right of the consumer under this title—

"(1) shall be treated as void; and

"(2) may not be enforced by any Federal or State court or any other person.

"(b) ATTEMPT TO OBTAIN WAIVER.—Any attempt by any person to obtain a waiver from any consumer of any protection provided by or any right of the consumer under this title shall be treated as a violation of this title.

"(c) CONTRACTS NOT IN COMPLIANCE.—Any contract for services which does not comply with the applicable provisions of this title—

"(1) shall be treated as void; and

"(2) may not be enforced by any Federal or State court or any other person.

"SEC. 409. CIVIL LIABILITY.

"(a) LIABILITY ESTABLISHED.—Any person who fails to comply with any provision of this title with respect to any other person shall be liable to such person in an amount equal to the sum of the amounts determined under each of the following paragraphs:

"(1) ACTUAL DAMAGES.—The greater of—

"(A) the amount of any actual damage sustained by such person as a result of such failure; or

"(B) any amount paid by the person to the credit repair organization.

"(2) PUNITIVE DAMAGES.—

"(A) INDIVIDUAL ACTIONS.—In the case of any action by an individual, such additional amount as the court may allow.

"(B) CLASS ACTIONS.—In the case of a class action, the sum of—

"(i) the aggregate of the amount which the court may allow for each named plaintiff; and

"(ii) the aggregate of the amount which the court may allow for each other class member, without regard to any minimum individual recovery.

"(3) ATTORNEYS' FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys' fees.

"(b) FACTORS TO BE CONSIDERED IN AWARDING PUNITIVE DAMAGES.—In determining the amount of any liability of any credit repair organization under subsection (a)(2), the court shall consider, among other relevant factors—

"(1) the frequency and persistence of noncompliance by the credit repair organization;

"(2) the nature of the noncompliance;

"(3) the extent to which such noncompliance was intentional; and

"(4) in the case of any class action, the number of consumers adversely affected.

"SEC. 410. ADMINISTRATIVE ENFORCEMENT.

"(a) IN GENERAL.—Compliance with the requirements imposed under this title with respect to credit repair organizations shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(b) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF FEDERAL TRADE COMMISSION ACT.—

"(1) IN GENERAL.—For the purpose of the exercise by the Federal Trade Commission of the Commission's functions and powers under the Federal Trade Commission Act, any violation of any requirement or prohibition imposed under this title with respect to credit repair organizations shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act.

"(2) ENFORCEMENT AUTHORITY UNDER OTHER LAW.—All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act shall be available to the Commission to enforce compliance with this title by any person subject to enforcement by the Federal Trade Commission pursuant to this subsection, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of any Federal Trade Commission trade regulation rule, without regard to whether the credit repair organization—

"(A) is engaged in commerce; or

"(B) meets any other jurisdictional tests in the Federal Trade Commission Act.

"(c) STATE ACTION FOR VIOLATIONS.—

"(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, whenever the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

"(A) may bring an action to enjoin such violation;

"(B) may bring an action on behalf of its residents to recover damages for which the person is liable to such residents under section 409 as a result of the violation; and

"(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

"(2) RIGHTS OF COMMISSION.—

"(A) NOTICE TO COMMISSION.—The State shall serve prior written notice of any civil action under paragraph (1) upon the Federal Trade Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

"(B) INTERVENTION.—The Commission shall have the right—

"(i) to intervene in any action referred to in subparagraph (A);

"(ii) upon so intervening, to be heard on all matters arising in the action; and

"(iii) to file petitions for appeal.

"(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, nothing in this subsection shall prevent the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(4) LIMITATION.—Whenever the Federal Trade Commission has instituted a civil action for violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this title that is alleged in that complaint.

"SEC. 411. STATUTE OF LIMITATIONS.

"Any action to enforce any liability under this title may be brought before the later of—

"(1) the end of the 2-year period beginning on the date of the occurrence of the violation involved; or

"(2) in any case in which any credit repair organization has materially and willfully misrepresented any information which—

"(A) the credit repair organization is required, by any provision of this title, to disclose to any consumer; and

"(B) is material to the establishment of the credit repair organization's liability to the consumer under this title, the end of the 2-year period beginning on the date of the discovery by the consumer of the misrepresentation.

“SEC. 412. RELATION TO STATE LAW.

“This title shall not annul, alter, affect, or exempt any person subject to the provisions of this title from complying with any law of any State except to the extent that such law is inconsistent with any provision of this title, and then only to the extent of the inconsistency.

“SEC. 413. EFFECTIVE DATE.

“This title shall apply after the end of the 6-month period beginning on the date of the enactment of the Credit Repair Organizations Act, except with respect to contracts entered into by a credit repair organization before the end of such period.”.

TITLE III—TRUTH IN LENDING ACT

SEC. 301. TREATMENT OF DELIVERY FEES AND INTANGIBLES TAXES.

(a) In General.—Section 106(a) of the Truth in Lending Act (15 U.S.C. 1605) is amended by adding at the end the following new paragraph:

“(6) Taxes levied on security instruments or on documents evidencing indebtedness if such taxes must be paid as a precondition to recording the instrument securing the evidence of indebtedness.”.

(b) Excluded Fees.—Section 106(e) of the Truth in Lending Act (15 U.S.C. 1605(e)) is amended by inserting “, if bona fide and reasonable” before the colon.

(c) Fees for Delivery Charges.—Section 106(e) of the Truth in Lending Act (15 U.S.C. 1605(e)) is amended by adding at the end the following new paragraph:

“(7) Fees for delivery charges imposed by third parties (including settlement agents, attorneys, and escrow and title companies) if the creditor does not retain the charges and the fees do not exceed $20 per delivery, or $50 per consumer transaction.”.

(d) Applicability.—The amendments made by this section shall apply to all consumer credit transactions consummated on or after February 1, 1995.

SEC. 302. LIMITATIONS ON LIABILITY.

(a) In General.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following new section:

“SEC. 139. CERTAIN LIMITATIONS ON LIABILITY.

“(a) In General.—For transactions consummated prior to February 1, 1995, a creditor or assignee shall have no civil or criminal liability under this title, nor shall a consumer have extended rescission rights under section 125, due to a creditor's improper disclosure of—

“(1) delivery charges actually and reasonably imposed by the creditor, or any delivery charges imposed by third parties (including settlement agents, attorneys, and escrow and title companies), if the creditor does not retain the charges; or

“(2) taxes levied on security instruments or documents evidencing indebtedness.

“(b) Applicability.—Subsection (a) does not apply to—

“(1) any individual action or counterclaim brought under this title filed prior to October 1, 1994, that alleged (prior to such date) improper disclosure of delivery charges or taxes;

“(2) any class action brought under this title in which a class was certified prior to October 1, 1994, that alleged (prior to such date) improper disclosure of delivery charges or taxes;

“(3) the named individual plaintiffs in any class action filed under this title prior to October 1, 1994, that alleged (prior to such date) improper disclosure of delivery charges or taxes; or

“(4) any consumer credit transaction in which a notice of rescission was sent to the creditor prior to October 1, 1994.”.

(b) Amendment to the Table of Sections.—The table of sections for chapter 2 of the Truth in Lending Act is amended by inserting after the item relating to section 138 the following:

“139. Certain limitations on liability.”.

TITLE IV—DISASTER RELIEF

SEC. 401. DEPOSITORY INSTITUTIONS DISASTER RELIEF.

(a) Truth in Lending Act; Expedited Funds Availability Act.—

(1) Truth in lending act.—During the 240-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after July 1, 1994, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1994 flooding in Georgia, Alabama, and Florida resulting from Tropical Storm Alberto, if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(2) Expedited funds availability act.—During the 240-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within any area referred to in paragraph (1) of this section if the Board determines that the exception can reasonably be expected to alleviate hardships to the public resulting from such disaster that outweigh possible adverse effects.

(3) Time limit on exceptions.—Any exception made under this subsection shall expire not later than July 1, 1995.

(4) Publication required.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(A) describes any exception made under this subsection; and

(B) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(b) Deposit of Insurance Proceeds.—

(1) In general.—The appropriate Federal banking agency may, by order, permit an insured depository institution to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(A) the institution—

(i) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after July 1, 1994, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1994 flooding in Georgia, Alabama, and Florida resulting from Tropical Storm Alberto, on the day before the date of any such determination;

(ii) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster;

(iii) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(iv) has an acceptable plan for managing the increase in its total assets and total deposits; and

(B) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(2) Time limit on exceptions.—Any exception made under this subsection shall expire not later than July 1, 1995.

(3) Definitions.—For purposes of this subsection, the following definitions shall apply:

(A) Appropriate federal banking agency.—The term “appropriate Federal banking agency” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(B) Insured depository institution.—The term “insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(C) Leverage limit.—The term “leverage limit” has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(D) Qualifying amount attributable to insurance proceeds.—The term “qualifying amount attributable to insurance proceeds” means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of any determination referred to in paragraph (1)(A)(i), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

(c) Banking Agency Publication Requirements.—

(1) In general.—A qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined, on or after July 1, 1994, that a major disaster exists, or within an area determined to be eligible for disaster relief under other Federal law by reason of damage related to the 1994 flooding in Georgia, Alabama, and Florida resulting from Tropical Storm Alberto, if the agency determines that the action would facilitate recovery from the major disaster:

(A) Procedure.—Exercising the agency's authority under provisions of law other than this subsection without complying with—

(i) any requirement of section 553 of title 5, United States Code; or

(ii) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(B) Publication requirements.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(i) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(ii) any similar publication requirement.

(2) Publication required.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

(A) describes any action taken under this subsection; and

(B) explains the need for the action.

(3) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this subsection, the term "qualifying regulatory agency" means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Comptroller of the Currency;

(C) the Director of the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Financial Institutions Examination Council;

(F) the National Credit Union Administration; and

(G) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

(4) EXPIRATION.—Any exception made under this subsection shall expire not later than July 1, 1995.

(d) SENSE OF THE CONGRESS.—It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions to meet the financial services needs of their communities and customers located in areas affected by the 1994 flooding in Georgia, Alabama, and Florida resulting from Tropical Storm Alberto.

(e) OTHER AUTHORITY NOT AFFECTED.—No provision of this section shall be construed as limiting the authority of any department or agency under any other provision of law.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FBI COUNTERINTELLIGENCE ACT OF 1994

Mr. KENNEDY. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 5143) to amend the Fair Credit Reporting Act to provide for disclosures by consumer reporting agencies to the Federal Bureau of Investigation for counterintelligence purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. BEREUTER. Mr. Speaker, this Member is pleased to rise in support of H.R. 5143, which this Member introduced. This Member would like to thank the distinguished gentleman from Texas [Mr. GONZALEZ], the chairman of the House Banking Committee, and the distinguished gentleman from Iowa [Mr. LEACH], the ranking member of the House Banking Committee, for bringing this measure to the House floor. This Member also extends his appreciation to the gentleman from Massachusetts [Mr. KENNEDY], the chairman of the Banking Subcommittee on Consumer Credit and Insurance, and the gentleman from California [Mr. MCCANDLESS], the ranking member of this subcommittee, for their support for this legislation. Appreciation is further extended to the distinguished gentleman from Kansas [Mr. GLICKMAN], the chairman of the House Select Committee on Intelligence, and the gentleman from Texas [Mr. COMBEST], the ranking member of the House Select Committee on Intelligence, for their assistance and cooperation in the negotiations regarding this measure.

Last week the House passed S. 783, the consumer reporting reform, by voice vote under suspension of the rules. A provision in the House-passed version of S. 783 authorizes the FBI to obtain credit reports for counterintelligence purposes. This Member appreciates the timely consideration of this measure on the House floor, as there is a possibility that the Senate will not take up the House-version of S. 783 prior to adjournment. Furthermore there is a need for the FBI to have this authority as this legislation will enable the FBI to conduct counterintelligence investigations in a more efficient manner while retaining important individual privacy interests.

H.R. 5143 permits the FBI to obtain limited information concerning a consumer if its Director determines that there are specific and articulable facts that show that such information is necessary for an authorized counterintelligence investigation. This limited information includes the names and addresses of all financial institutions at which a consumer maintains or has maintained an account, and identifying information respecting a consumer—limited to name, address, former addresses, places of employment, or former places of employment. In addition, the bill specifies that the FBI may obtain a consumer report on a consumer if the Director of the FBI obtains a court order that certifies that there are specific and articulable facts that show that such information is necessary for an authorized counterintelligence investigation.

Mr. Speaker, this Member would again like to thank Chairman GONZALEZ, Ranking Member LEACH, Chairman GLICKMAN, and Ranking Member COMBEST for their support and for the assistance their staffs gave me in preparing this legislation. This Member urges his colleagues to support this measure. It is clear from the Aldrich Ames espionage case that this legislation is needed.

The Clerk read the bill as follows:

H.R. 5143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "FBI Counterintelligence Act of 1994".

SEC. 2. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

"§624. Disclosures to FBI for counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(2) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power; and

"(B) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c) and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) PAYMENT OF FEES.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to the Department of Justice as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) REPORTS TO CONGRESS.—On a semiannual basis, the Attorney General of the United States shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) LIMITATION OF REMEDIES.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following:

"624. Disclosures to FBI for counterintelligence purposes.".

(c) REPEAL OF PROVISIONS.—

(1) REPEAL.—The following provisions of the Fair Credit Reporting Act, as added by this section, are repealed:

(A) Section 624.

(B) In the table of contents at the beginning of the Fair Credit Reporting Act, the item relating to section 624.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on the date that is 5 years after the date of the enactment of this Act.

SEC. 3. LIMITATION ON APPLICATION OF SECTION 2 AND REPEAL OF ANY AMENDMENTS MADE.

Section 2 shall not have any legal effect after the date of the enactment of the Consumer Reporting Reform Act of 1994. Any provisions of the Fair Credit Reporting Act that were added to that Act by the amendments made by section 2 of this Act are repealed effective on the date of the enactment of the Consumer Reporting Reform Act of 1994.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 21, CALIFORNIA DESERT PROTECTION ACT

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 103-839) on the resolution (H. Res. 568) waiving points of order against the conference report to accompany the bill (S. 21) to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, which was referred to the House Calendar and ordered to be printed.

OCEAN POLLUTION REDUCTION ACT

Mr. FILNER. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and the Committee on Merchant Marine and Fisheries be discharged from further consideration of the bill (H.R. 5176) to amend the Federal Water Pollution Control Act relating to San Diego ocean discharge and waste water reclamation, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HORN. Mr. Speaker, reserving the right to object, I will not object, and I yield to the gentleman from California [Mr. FILNER] for an explanation of the bill.

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this legislation would simply allow the city of San Diego to make an application under section 301(h) of the Clean Water Act section. The application would require the city to maintain current treatment levels, so that we ensure adequate protection of the marine environment. In addition, by continuing the city's commitment toward water reclamation, it would actually decrease the amount of solids dumped into the ocean.

This is legislation that is strongly supported by the city of San Diego and our local environmental organizations. It is cost-effective environmental protection based on good science. A Federal judge was almost begged for such legislative action.

This legislation would not be here today without a true bipartisan effort: chairman of the House Committee on Public Works and Transportation, NORM MINETA; chairman of the Committee on Merchant Marine and Fisheries, GERRY STUDDS; ranking minority member of the Committee on Merchant Marine and Fisheries, JACK FIELDS, and ranking minority member of the Public Works and Transportation Committee, BUD SHUSTER; as well as chairman of the Subcommittee on Water Resources and Environment, DOUG APPLEGATE, and ranking minority member of the Subcommittee on Water Resources, SHERWOOD BOEHLERT.

I thank these colleagues for being knowledgeable and concerned about the situation in San Diego.

I would also like to thank my two San Diego colleagues, Ms. SCHENK and Mr. CUNNINGHAM for their support. Ms. SCHENK has been extremely instrumental in the development of this bill, and I would like to thank her for all of her hard work, her leadership, and her dedication in helping to bring this legislation before us today.

Finally, I would also like to thank the committee staff, both minority and majority, for all of their hard work on this bill.

Mr. HORN. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from California [Ms. SCHENK] for her comments.

Ms. SCHENK. Mr. Speaker, I thank the gentleman for yielding.

First I want to commend my colleague from San Diego, BOB FILNER, for his diligent work on behalf of San Diego's wastewater treatment problems. It has been an honor to work with him as a team. It is a pleasure when we can, as we do tonight, take a giant step toward resolving these problems.

In addition, I want to express my appreciation to chairman STUDDS of the Merchant Marine and Fisheries Committee, my committee, and our committee's ranking member JACK FIELDS for their advice and assistance on this bill. I want to also express my deepest gratitude to Chairman MINETA and Mr. SHUSTER for their help and unfailing support.

I also want to recognize the help we have received from the staffs of our two committees, who have toiled with us to achieve legislation on which we can all agree.

San Diego is faced with a serious dilemma because of the secondary treatment standards in the Clean Water Act: If the city is forced to meet the secondary standards under present law, they will have to implement a wastewater treatment plan that will result in less desirable environmental impacts and will cost rate payers $1 billion more than if we implement an alternative plan which incorporates a combination of advanced primary treatment and wastewater reclamation and reuse.

At my request, the Environment and Natural Resources Subcommittee held a hearing on the issue in San Diego last July. We heard testimony that San Diego's solution will not weaken the Clean Water Act's standards and is in conformance with the findings of the National Research Council's 1993 study on "Managing Wastewater in Coastal Urban Areas."

The purpose of the legislation before us this evening is merely to give San Diego an opportunity to apply for a waiver under section 301(h) of the Clean Water Act. That waiver, if granted, would allow the city to implement an environmentally progressive wastewater treatment program and save our taxpayers billions of dollars! This is an important step in the right direction, and I want to thank again all those who have helped make it possible.

Mr. HORN. Mr. Speaker, under my reservation of objection I want to say that this does assure environmental protection. It is simply providing for the possibility of an exemption. This legislation allows the EPA to grant that exemption. They have to apply to EPA, and that requires the commitment to a wastewater program, and it requires meeting certain minimum levels of treatment.

This has been cleared with the Republican leadership on the Committee on Public Works and Transportation, and I hope we will approve it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CUNNINGHAM. Mr. Speaker, I rise in support of this bill that will amend the Federal Water Pollution Control Act relating to San Diego ocean discharge and waste water reclamation.

The intent of this legislation is to allow San Diego to treat its sewage in a cost-effective, as well as environmentally safe, manner.

Current law requires every city, no matter its environmental conditions, to handle sewage at the secondary level. However, study after study has concluded that sewage treated at advanced primary levels and released into ocean depths greater than 300 feet does not harm the environment. With this in mind, it seems senseless to appropriate billions of dollars to upgrade a system to secondary treatment when our ocean waters are protected at the primary levels.

I am encouraged that this bill would allow the city of San Diego to apply for a modification of the requirements regarding biological oxygen demand and total suspended solids in the effluent discharged into marine waters. This bill will ensure that such modifications will not alter the balance of our marine life and viability.

As a member of the Merchant Marine and Fisheries Committee, I have immense concerns for the proper treatment of our waters. San Diego is unique in its ability to discharge of its waste into deep waters. We are unlike so many cities that must discharge into lakes and rivers.

Mr. Speaker, I believe this is a matter of common sense. Under current law, San Diego would be required to waste money to alter a system that has proven successful.

The Clerk read the bill, as follows:

H.R. 5176

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ocean Pollution Reduction Act".

SEC. 2. SAN DIEGO OCEAN DISCHARGE AND WASTE WATER RECLAMATION.

Section 301(j) of the Federal Water Pollution Control Act (33 U.S.C. 1311(j)) is amended—

(1) in paragraph (1)(A) by inserting before the semicolon at the end the following: ", and except as provided in paragraph (5)"; and

(2) by adding at the end the following new paragraph:

"(5) EXTENSION OF APPLICATION DEADLINE.—

"(A) IN GENERAL.—In the 180-day period beginning on the date of the enactment of this paragraph, the city of San Diego, California, may apply for a modification pursuant to subsection (h) of the requirements of subsection (b)(1)(B) with respect to biological oxygen demand and total suspended solids in the effluent discharged into marine waters.

"(B) APPLICATION.—An application under this paragraph shall include a commitment by the applicant to implement a waste water reclamation program that, at a minimum, will—

"(i) achieve a system capacity of 45,000,000 gallons of reclaimed waste water per day by January 1, 2010;

"(ii) result in a reduction in the quantity of suspended solids discharged by the applicant into the marine environment during the period of the modification.

"(C) ADDITIONAL CONDITIONS.—The Administrator may not grant a modification pursuant to an application submitted under this paragraph unless the Administrator determines that such modification will result in removal of not less than 58 percent of the biological oxygen demand (on an annual average) and not less than 80 percent of total suspended solids (on a monthly average) in the discharge to which the application applies.

"(D) PRELIMINARY DECISION DEADLINE.—The Administrator shall announce a preliminary decision on an application submitted under this paragraph not later than 1 year after the date the application is submitted.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4129

Mr. BAESLER. Mr. Speaker, I ask unanimous consent to remove my name from the list of cosponsors on the bill, H.R. 4129.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

PROVIDING FOR CONSIDERATION OF S. 455, PAYMENTS IN LIEU OF TAXES ACT

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 565 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 565

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (S. 455) to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and the amendments made in order by this resolution and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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The SPEAKER pro tempore (Mr. VISCLOSKY). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. At this time I yield the customary 30 minutes for the purpose of debate only to the gentleman from Tennessee [Mr. QUILLEN]. Pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 565 provides for the consideration of S. 455, the Payment in Lieu of Taxes Act.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Natural Resources Committee.

All points of order are waived against consideration of the bill. The bill is considered as read.

The rule makes in order only those amendments printed in the report to accompany the rule, to be considered in the order and manner specified in the report. Each amendment is debatable for 20 minutes.

The amendments are considered as read, are not subject to amendment, and are not subject to a demand for a division of the question. All points of order are waived against the amendments in the report.

Finally, the rule provides one motion to recommit with or without instructions.

The Payment in Lieu of Taxes Program was originally established in 1976 to compensate local governments for property tax revenues which are foregone due to the tax exempt status of land owned by the Federal Government.

The Bureau of Land Management administrators the program and is responsible for setting the payment formula which is based on acreage, population and any other Federal payments received due to federally owned land.

For the past 15 years the Payment in Lieu of Taxes Program has been funded at the same level. S. 455 would gradually increase the program's authorization over the next 5 years. After the fifth year, the program would be adjusted annually for inflation.

Mr. Speaker, I urge my colleagues to adopt the resolution so the House can debate the merits of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague from Tennessee [Mr. GORDON] for yielding and I ask unanimous consent to revise and extend my remarks and to insert extraneous materials into the record following my statement.

Mr. Speaker, I strongly support enactment of this bill to increase the Federal payment in lieu of taxes. The Federal Government owns over 760 million acres of land in the United States—land which would otherwise generate property taxes for local government use. In my home State of Tennessee, approximately 1.16 million acres are owned by the Forest Service, the Park Service and the Corps of Engineers. Over 40 percent of this land, almost 471,600 acres, is located in my district in east Tennessee, which I am proud to say is the home of the Great Smoky Mountains National Park, the Cherokee National Forest and other forest lands.

Currently the Federal Government pays only 75 cents per acre owned to the local governments—this amount has not been raised since the program began in 1976, and the Federal Government should pay a fair price for this loss in revenue. I have been a supporter of legislation to increase the payment in lieu of taxes for several years, and I am glad to see this measure finally considered by the House.

However, I must oppose this restrictive rule and I urge my colleagues to vote against it. There is no justifiable reason that we should not have an open rule for the consideration of this bill.

I can accept the blanket waiver. I could accept a reprinting requirement or a time limitation. Only one amendment was offered during markup by the National Resources Committee. That amendment is made in order under this rule, along with one other amendment.

Under an open rule, we might see another two or three amendments offered—I may or may not support any particular amendment, but I support each Member's right to offer amendments and I think we have sufficient time to deal with this bill under an open rule on the House floor.

Again, I urge my colleagues to vote against this rule and send a message to the Rules Committee that we deserve the opportunity to participate in a fair and open legislative process in the House of Representatives.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	102	31	30	71	70

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 4, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A.	
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A.	
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A.	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. Speaker, I yield 2 minute to the gentleman from Florida [Mr. GOSS], a valuable member of the Committee on Rules.

Mr. GOSS. Mr. Speaker, as a former mayor and county commissioner who has struggled with making ends meet at the local level, and as a cosponsor of the House version of S. 455, I am pleased that this bill is coming to the floor today. I do wish that the chairman of the Natural Resources Committee had acted sooner on this legislation, so that we could have this debate under a genuine open rule. However, with perhaps fewer than 3 days remaining in the 103d Congress, we need to move quickly on this important bill. Senate 455 seeks to address a federally imposed catch-22: On the one hand a local government is required to meet environmental, educational, and other Federal standards; on the other, it loses the revenue needed to meet these requirements if the Federal Government owns land within its jurisdiction because the Federal Government does not pay property taxes. For example, I represent three counties in southwest Florida—all have Federal lands within their borders. The 728,866 acres of Big Cypress National Preserve alone are almost entirely contained within Collier County—the county cannot collect property taxes on any of this land. While the original 1976 legislation offset these losses to a small degree, the funding authorization has never been adjusted—meaning that fewer and fewer real dollars are available every year for this program. Today, PILT payments are worth less than half of their original amount. S. 455 would immediately adjust the authorized levels for PILT payments and provide that these levels are automatically adjusted in the future.

Mr. Speaker, while I do not like this rule, I urge my colleagues to support the bill, because, under the circumstances, we have run out of time, and I do not think it is the fault of the sponsors of this legislation.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in strong support of the rule and the passage of S. 455, the bill to increase Payments in Lieu of Taxes to Local Governments.

Mr. Speaker, if we are going to ask rural America to provide wildlife habitat, natural resource protection, and recreational opportunities, we have to protect these rural communities and their local economies. Basic fairness dictates that we make sure that these rural communities receive fair and just compensation for their loss of tax revenue.

The Payments in Lieu of Taxes Act of 1976 was put in place to compensate local government for the taxable revenues they forego by having tax-exempt Federal lands within their boundaries. Unfortunately, PILT has not been adjusted for inflation, leaving the program with spending power that is less than half of what it was in 1976.

This bill revises the per-acre formulas and population caps used to calculate payments in lieu of taxes to compensate these local communities for the loss value due to inflation and other factors since 1976. There is no question that the PILT program is a successful program, but it is time to bring the programs' budget into the 1990's.

Those of us who keep in close contact with our local elected officials know that the demands on local government have increased enormously over the last 18 years. In my county of Colusa, where many State and Federal wildlife refuges are located, this situation has become a terrible fiscal burden. PILT funds are used for critical services like road repairs and maintenance, emergency services, law enforcement, fire protection, health, education, and social services. In short, PILT payments are vital to the continued health of rural communities across the Nation.

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The Federal Government owns millions of acres of land in California. PILT payments are a critical tool for making up for the foregone revenues resulting from the Federal tax-exempt status of Federal lands.

With our current State budget crisis, it is absolutely essential we not short the counties any more than they have been shorted by those at the State level.

Time is short in this session for passage of this measure. That is why we are being asked to approve the Senate measure. I am proud to be a cosponsor of H.R. 1181 by my friend Mr. PAT WILLIAMS of Montana, the House version of the PILT reform legislation, but I realize the urgency of the situation and the need to provide some immediate relief for rural America. This bill passed the other body by a vote of 78 to 20 and enjoys broad, bipartisan support in both Houses.

So I ask my colleagues to put aside their concerns and differences and support the basic essence of what was in the Williams bill, support the Senate bill so that we can take action before we leave on Friday. It is absolutely essential to the small rural counties and communities of our country.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of S. 455 and of the rule and encourage all Members of the House to support this vital piece of legislation. It seems to me what we are talking here is fairness and equity. We are talking about States that have anywhere from 50 to 75 percent of their State surface owned by the Federal Government. These are payments in lieu of taxes that offset some of the losses that communities and counties have as a result of that kind of ownership.

This is an update. The bill has been in effect since 1976. Great increases in cost have occurred to the counties. This is something to make that more fair and equitable.

Mr. Speaker, I rise in strong support of the rule and in strong support of the bill.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is a companion bill from the Senate of legislation which I have introduced and had a good many of my colleagues cosponsor.

I first introduced this two Congresses ago, that is to say this is the third Congress that the House has had the bill before it.

I urge my colleagues to support this modified open rule so that we can get on with the consideration, with full consideration of the bill, payments in lieu of taxes, or PILT.

Mr. Speaker, PILT was first enacted in 1976, and county commissioners in this country have had not 1 penny of inflationary increase in those Federal dollars since the bill was first passed.

Consequently, the program's value has been cut in half during those years because inflation has gone on but PILT payments have not kept up with it, not only not kept up with it, they have not increased a penny because of inflation.

The other body passed the bill, as the gentleman from California [Mr. FAZIO] just noted, it passed the other body; that is, this bill passed the other body last April or this April by a vote of 78 to 20. It passed the Senate committee by a vote of 18 to 2.

This bill passed our committee, the Committee on Natural Resources, I guess now about a week ago, by a bipartisan vote of 31 to 10.

So this bill would provide your counties—if you come from any State in this Union, with the exception of Rhode Island—your counties get money under PILT. This bill would phase in an inflationary increase for your counties and your State during 5 years beginning next year end ending in 2001.

Of course, like all authorizations, increased funding for PILT will have to be weighted in the House and Senate Committees on Appropriation each year. They have to make tough choices, constantly, year after year. But if this authorization does not increase, the Appropriations Committee will have no choice but to not give your counties inflationary increases.

Finally, let me tell you how PILT monies are used by your counties. I think the Members of this House know this. They are used for road repair and maintenance, for emergency services, search and rescue and ambulance services on Federal lands; they are used for law enforcement, for fire protection. They are used for America's school children. They are used for health and human services. PILT monies are used for solid waste management.

Let me, in closing, tell you what some folks have said to us about PILT.

Mr. Speaker, the National Association of Counties executive director had this to say:

> The National Association of Counties, representing the Nation's 3,000 counties, fully supports this legislation and opposes any attempt to amend the measure when it reaches the floor of the House.

The director of the American Trucking Association has written this to us:

> We urge the Members of Congress to support S. 455 without amendment.

The director of legislation for the American Federation of State, Counties and Municipal Employees, Mr. Chuck Lovelace, has written this to us:

> On behalf of the 1,300,000 members of the American Federation of State, County and Municipal Employees, I strongly urge you to support S. 455, payments in lieu of taxes legislation, and oppose all amendments.

The mayor of Newark, who is the president of the National League of Cities, Mayor James, wrote us this:

> Amendments to this legislation at this late date could doom this legislation. Congress has had a version of this legislation before it for more than 5 years. There has been plenty of time to make changes in the bill. Please support S. 455.

Finally, the former Governor of the State of Arkansas, back in 1991, now President Clinton, said this:

> Achieving an appropriate and inflation-adjusted level of funding under the PILT program should be a priority among all the States involved.

I urge my colleagues to support this good modified open rule. And tomorrow when we finally vote on the bill, I urge you to oppose amendments and support this bill as the only way to get this needed inflationary increases to your counties.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, in 1976 I think people realized that the great areas that are owned by the Federal Government, that someone had to compensate them. As the gentleman from Montana pointed out, 49 States receive PILT payments.

I would like to tell you a little bit about out in my area. Seventy-three percent of the State that I represent is owned by the Federal Government. As you get down into the southern Utah area, you see areas like little old Garfield County, which is 93 percent owned by the Federal Government. What a lot of folks do not realize is that Garfield County has Bryce Canyon in it, it has part of Canyon Land, part of Zion. So people come from all over America because they want to see this gorgeous, beautiful area.

What do they bring in? They bring in garbage, they bring in a lot of people and create all kinds of problems. They go hiking up the canyon, and some, a 14-year-old boy, invariably falls and breaks his leg and he is up there so far no one can get at him.

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And so who do they turn to to come and get him? They do not turn to BLM, they do not turn to the Park Service, they do not turn to the Forest Service. They ask Garfield County to do it. So, Garfield County has to come out, send their sheriff out there, spend some time, and before long all they are doing is taking care of this impact of the people that are coming there.

The same time this body comes along, gives them wilderness areas, endangered species, all of these unfunded mandates that they are putting on them, and yet since 1976 these thousands of little counties have not had an increase.

It is most reasonable thing we have come up with in a long time, is to give them the opportunity to at least keep up with the cost of living and have some index to increase the money that is brought in.

Now, Mr. Speaker, we all know that this bill is not perfect. We all know it has got some problems with it, and everybody in this House would correct it somewhere, if they could. But that clock up there keeps spinning around. In a few more days someone is going to stand up and adjourn sine die, and it is all over. We strike the enacting clause on anything. If we ever had an opportunity now to help the people in these 49 States, and especially the West, now is the time to do it.

It really bothers me somewhat when I see people from all over the areas tell the folks in Utah, Nevada, California, Idaho, Montana, Wyoming how to run their show, but they do not want to do anything about it. They put bills in and never even seen our country. Now, if they are going to do that, let us ask them how they got their ground. Somebody came in and gave it to them before they had it. I say, "If you lived in Oklahoma, if you had the fastest horse, you got it," and now we are trying to just exist, and it will not come up and pay the amount of money to help us out when they own the ground. Now, if they wanted to fight their fires, they want us to rescue their people, they want us to take care of it, step up to the plate.

Mr. Speaker, that is all we are asking them to do, and I think it is a very reasonable piece of legislation, and I would strictly urge everyone to vote yes on this rule and also for the bill.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in opposition to this closed rule, and I rise in opposition to the bill, S. 455.

Now, Mr. Speaker, I must say that I am responsible for part of the problem in terms of the timing of this bill. I, we, had held up consideration of it based on many of the faults and problems that were demonstrated during the hearings with this bill that we held in the last two Congresses. Earlier this year we had a hearing. I pointed out that the public lands, the public lands council commission that was designated in the 1970's, pointed out—in the 1980's pointed out what the problems were with the bill, that there are 11 different programs that raised revenue off the Federal lands for mining, and timber and other programs that return revenues to local and State government, and this bill, notwithstanding the fact that you raise such revenue, notwithstanding the fact that such revenue goes back, and many counties receive significant amounts of money from that source, makes no differential between those counties that raised small amounts of money and those that raised large amounts of money. This bill, there is no response to that on the part of the sponsors.

Finally, of course, as the time is slipping away, we tried to provide for a temporary increase for 2 years that would put the counties and put the local governments that have these large public lands within their areas, their States, in the same position that this bill would. That amendment is permitted under the rule with only 20 minutes of debate. It is permitted under the rule, but the difference in my amendment is that it would be a temporary increase for 2 years to alleviate or to address the problem, whether we come back and take another look at that particular proposal. But we cannot do that, we cannot adopt that amendment, the advocates of this say, because it might go back to the Senate, and we know what happens in the Senate. In the Senate we got a single Senator that can veto a bill. It is a new power. It is one they invented and arrogated unto themselves.

Mr. Speaker, that is not in the rules of the House or the Senate. That is not in the Constitution. But that is the way they intend to operate. Nevertheless it seems like we are sending many things back, but for some reason this bill cannot go back. We cannot adopt the amendment that is going to be proposed that would limit the cost-of-living increase, the inflation adjustment, in this that would go on forever in perpetuity. We cannot address that because it might go back to the Senate, and one Senator might object. Again, Mr. Speaker, with the newfound rules that have locked the Senate into a position where it cannot do anything that some Members in this House, apparently, or others, do not want them to do.

Mr. Speaker, I have sought to offer additional amendments. We are not trying to delay the bill. We thought when the bill came out of committee that we would have a fair opportunity on the floor because we know in the committee with the Members from the West, the Members that are the big beneficiaries of this bill, could not, would not, listen to reason or accept amendments. They were operating under this goal of get it out at all expense and pass it without any modifications. We thought we would have a shot on the floor, but the third amendment we wanted to offer is, I thought, was a reasonable one, would not have delayed the bill. It simply would have said that we would not have had to pay payment in lieu of taxes on Federal lands that have been given to the State and sold to the private sector. This bill provides that we will continue to pay payment in lieu of taxes on lands that are private, lands that already are paying property tax.

Do we need an adjustment? The President says we need an adjustment. Did he mean that we need a 150 percent increase? As my colleagues know, it is not the 1970's anymore, Mr. Speaker. Today we have got a $4.4 trillion deficit. In the 1970's we had revenue sharing, we had other programs, were helping other municipalities and individuals across this country. It is not the 1970's anymore. This bill will increase spending by a half a billion dollars in just the first 4 years of the existence of this particular bill.

Mr. Speaker, I suggest this rule, because of its restrictions—I expect this bill because of—because of those shortfalls this bill should be defeated. This bill deserves to be closely analyzed and reviewed by the House.

As my colleagues know, those Members that have voted in this body, we voted for budgets, and we are doing a good job in terms of making progress on the budget. But this will be added in the discretionary spending authorization, and let me assure the Members that this becomes a No. 1 priority for those 11 Western States that are the major beneficiaries in terms of this bill. They are going to become the No. 1, the No. 1 priority in terms of what happens, in terms of the Interior appropriations bill, and it may just be an authorization in the minds and hearts of some of the Members that may be voting for it, but, believe me, these are authorizations that are going to turn into dollars in terms of our counterparts in the Senate and the Members in the House that are advocating. This will be their No. 1 priority.

I suggest they need an inflation adjustment, but I think it ought to be done in the context of reform. It ought not to be done in a vacuum. It ought not to be done with a rule that is unfair that does not permit the proper debate and consideration in an orderly manner for this subject on the floor today and tomorrow, Mr. Speaker.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 4 minutes to the gentleman from California [Mr. MILLER].

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. VISCLOSKY). All Members are cautioned relative to their remarks about Members of the U.S. Senate.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, this is a very unwise bill for Congress to be considering at this late date, and I hope every Member will think very carefully about voting for a huge increase—150 percent—in the Payment in Lieu of Taxes [PILT] Program—as well as an additional cost-of-living escalator to make sure costs continue to rise higher and higher.

This legislation would cost $484 million in new spending over the next 4 years, and over $1.3 billion in the next decade.

Once again, late in the session, we are being called on to pass legislation that will allow unlimited increases in a deeply flawed program that no longer serves the purposes for which it was designed. The vote on this legislation will be a good test of whether we are serious about controlling Government spending, or just spouting campaign rhetoric. And that is why the National Taxpayers Union opposes S. 455 as passed by the Senate.

The House Committee on Natural Resources reported this legislation last week with language identical to that contained in the Senate-passed bill. If S. 455 were to be approved by the House in its current form, therefore, the measure would go directly to the President.

I know that PILT is a highly popular program in several of the Western States; for all the rhetoric around here about cutting spending and reducing the deficit, few States or local communities oppose a big grant of Federal cash when it is offered to them. But that is not a sufficient reason to boost Federal spending by hundreds of millions of dollars.

I know that PILT funding has not increased since the program was created in 1976. That also is not a sufficiently compelling argument to justify passage of a huge spending increase.

We have cut, frozen, and eliminated dozens of programs since 1976. We eliminated general revenue sharing, which affected far more districts than PILT; we cut job programs, educational programs, military programs and bases, farm programs, all affecting more districts and more Americans than PILT. Why would we assume that PILT, unlike all others, is not only working fine, not only deserving of a 150-percent increase, but is also deserving of a permanent cost-of-living escalator that effectively ends hopes of reform?

Let us recall that PILT money is distributed very disproportionately to the number of citizens of a State. Of the $99.3 million distributed just last week, for example, Florida received just $1.3 million, Connecticut $25,000, Illinois $323,279, Indiana $225,433, and Massachusetts $51,554.

By contrast, Alaska received $4.4 million, Arizona $8.7 million, Colorado $6.2 million, Idaho $7.4 million, and Montana $8.2 million.

Michigan received $1.2 million, New Jersey received $48,442, New York $58,121, Ohio $249,079, and Pennsylvania $185,000.

By contrast, Nevada received $6.7 million, New Mexico $10.6 million, and Utah $8.9 million.

To get an increase of a few thousand dollars in your district, do you want to go on record voting for over a billion dollars in new spending and an uncapped authorization in the waning hours of the congressional session? I hope not.

Every dollar spent on a PILT increase is going to come out of one of the already strapped programs of the Department of the Interior: national parks, wilderness, forest programs, historic areas, heritage areas, and many more.

The issue is not whether PILT has increased since 1976, but whether an increase is warranted. Because of the many questions and uncertainties about the soundness of this program, a massive, uncapped increase at this time is profoundly unwise.

PILT, as originally proposed by the Public Land Law Review Commission, was supposed to replace streams of Federal funds for local governments derived from timber harvests, grazing, mining, and other activities. But instead of replacing the funds, Congress created a formula to add PILT to the existing payments and provided for the PILT payment to reflect some, but not all, of those other receipts.

PILT is also justified as compensation for services provided by local governments on Federal lands. But the PILT formula includes no consideration of whether counties that receive PILT funds actually are performing any services. Nor does it calculate the value of the services rendered or, conversely, the value of Federal services related to the Federal lands—for example, law enforcement, fire protection—that benefit local interests.

Other questions abound: Why are some Federal lands included among the definition of entitlement lands eligible for PILT while others are not?

Why are some Fish and Wildlife Service-managed acres carved from the public domain considered entitlement lands, but those on acquired lands are not?

In the East, mineral receipts from acquired lands are not eligible for PILT payments, but those from the public domain are.

And this legislation, far from answering these questions, ignores the problems and raises new ones. Under S. 455, which we are being asked to pass without change, we would continue to provide PILT funding to lands that are transferred from Federal ownership to State, or even private, ownership. The whole idea of PILT was to compensate for Federal lands; now we are compensating for State and private lands. Why stop there?

If we grant unlimited funding to PILT now, in the last hours of the congressional session, we will never get a handle on that spending because westerners, and especially Senators of Western States, will on their indexed PILT funding as a birthright.

I will be offering a reasonable compromise to the House: a 2-year increase, combined with a mandate for a GAO study, that will give States some needed funding, but also provide us with the accounting we need to determine what reforms are required. As I have said, enactment of S. 455, by granting permanent and uncapped increases will, for all intents and purposes, make it virtually impossible to enact needed changes in the future.

Should that amendment fail, I would urge you to vote for Congressman VENTO's amendment to eliminate the cost-of-living escalator in S. 455. I cannot believe that the Members who have voted against every other COLA are going to acquiesce in an unlimited COLA for PILT that will cost taxpayers hundreds of millions of dollars.

Do not fall prey to the argument that we cannot change a comma in S. 455 because the Senate does not have time to pass an amended bill. Have you been watching the television? Do not tell me they do not have time to pass a bill that saves us the embarrassment of voting for a sky's-the-limit spending bonanza for a few small States.

If the Senate wants a PILT bill, they will vote to take our responsible, limited expansion. But no House Member should accept the argument that we must vote unthinkingly for the precise language sent us by the Senate without expressing our own concerns and preferences.

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Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this motion will be postponed.

INVESTMENT ADVISER OVERSIGHT ACT OF 1993

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 423) to provide for recovery of costs and supervision and regulation of investment advisers and their activities, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a bill which is going to protect the investors of this country against unscrupulous investment advisers. It is a good bill, and I hope that the House accepts it.

Mr. Speaker, the amendment in the nature of a substitute that I am offering to S. 423 (the amendment) represents the fruits of countless hours of discussions and negotiations between House and Senate staff. It is important legislation that would, at long last, bring regulation to the most underregulated part of the securities industry. Investment advisers currently inhabit a Wild West of poorly funded regulation, where nearly 30 years can elapse before an adviser is ever subjected to a routine inspection by the Securities and Exchange Commission [SEC]. Nearly anyone—including convicted murderers and drug dealers—can become investment advisers by simply paying a $150 entrance fee. That leaves the millions of people who each year entrust their futures to investment advisers at the mercy of an industry that, while the majority of its members are honest and above reproach, nevertheless harbors many who regard investors as sheep to be shorn. And the most common way that investors are fleeced is through product-driven salespeople who get fat commissions from customers who mistakenly believe that their adviser is acting in their best interest.

Since 1981, the number of investment advisers has increased from 5,100 to 22,000, and assets under their management soared from $450 million to $9.3 trillion. That is four times the amount deposited today in U.S. commercial banks. At the same time as this explosive growth, SEC staff assigned to inspect these advisers has increased by only 15 inspectors—from 36 to 51. Unfortunately, those who are forced to depend on the kindness of strangers are almost entirely without the protection of the SEC—the securities cops on the beat. Both the SEC and the GAO have in fact concluded that investment adviser registration gives investors a false sense of comfort, and if regulation is not increased, investors would actually be better off with no registration of advisers at all. In other words, when your police force is massively outmanned and outgunned, you may be better off not even pretending that you have one. That is a sad commentary on the woeful state of affairs in an industry that touches nearly every household in this country. The amendment we are offering up today would justify investors' faith in SEC registration and regulation: it would add more cops to the beat and equip them with better weapons against fraudulent conduct. It would also arm investors with information so that they can better protect themselves. It is tough legislation that is nonetheless carefully crafted to avoid being burdensome to those advisers that are respectful of the law and their obligations to their clients.

To help address these problems, this amendment, which contains consensus language supported by a bipartisan group of colleagues in the House and Senate, would provide the SEC with the annual funds it needs in order to inspect investment advisers more thoroughly and more frequently than they are able to do with the limited resources they have now. It would also provide enhanced protection for investors by establishing a mechanism for the identification of unregistered advisers; by allowing the SEC to designate a self-regulatory organization to conduct periodic examinations of certain advisers; by improving disclosures of conflicts of interest and other pertinent information; by authorizing the SEC to require fidelity bonds of certain advisers; by making provision for the establishment of a readily accessible telephonic or other electronic process for finding out about the disciplinary history of advisers; and by mandating prominent up-front disclosure of the convictions of advisers that have been or that employ persons that have been convicted of felonies.

Last year, the House passed H.R. 578, the Investment Adviser Regulatory Enhancement and Disclosure Act—the original House bill—from which many of the provisions and concepts contained in the present amendment derive. The original House bill and the original Senate bill differed in numerous ways, and the present vehicle represents our successful attempt to bridge those differences without losing the focus of the original House bill. Thanks to the extraordinary efforts of the chief sponsor of the original House bill, Representative BOUCHER, to the persistence of Chairman DINGELL, and to the bipartisan cooperation and assistance of Representatives MOORHEAD and FIELDS, we have been able to arrive at a solid solution to the regulatory and other deficiencies in the investment adviser sector and to address the concerns of our colleagues in the Senate.

To the extent that the amendment contains provisions that are substantially similar to provisions contained in the original House bill, the language of the House report accompanying H.R. 578—the House report—that describes those provisions shall continue to obtain. The purpose of my statement at this time is to explain and interpret changes between the original House bill and the language we are voting on today.

The SEC staff is comprised of hard-working, committed men and women who, but for resources, would be able to clean up many of the outstanding compliance problems in the industry. In section 2, this amendment provides for the collection of new fees that will be used to fund an enhanced program of inspections. But more money will not, without properly targeted use, improve regulation, in part because even with the estimated $16 million annual increase in funding, the SEC will still have to perform regulatory triage and inspect the riskiest advisers first and most frequently. It is therefore critical that the SEC work to develop an inspection protocol that relies on an analysis of relative risk. It is clear that certain characteristics increase either the risk that an adviser is engaging in improper conduct or the temptation for an adviser to do so. For example, an adviser with custody of or broad discretion over funds has easier access to a client's assets. The receipt of commissions for the sale of investments recommended to a client likewise increases the risk that an adviser's recommendations may conflict with his fiduciary duties to his client. In addition, we expect that the SEC, in designing its inspection schedule and in developing a set of risk-based criteria for inspections, will take into account the conclusions and recommendations of the General Accounting Office [GAO]. The GAO, both in a 1990 report and in 1992 testimony before the Subcommittee on Telecommunications and Finance, argued forcefully that examinations of new registrants be conducted within a reasonable period of time following registration. It also made a compelling case for the SEC reinspecting advisers found to have deficiencies, rather than relying on the word of the adviser—whose word under the circumstances should be treated with skepticism—that any such defects have been corrected. Even a history of past deficiencies can represent in itself a risk factor for broader improprieties. In the notorious case, described at length in the House report, of Steven Wymer, the California investment adviser who bilked numerous cities and towns out of millions of dollars, the SEC conducted focused cause inspections in several instances before the fraud in which he had engaged came to light.

Section 3 of the amendment provides for the conduct by the SEC of surveys of unregistered investment advisers. This section is identical in its substance to that contained in the original House bill and its purpose and interpretation remain unchanged.

Section 4 of the amendment authorizes the SEC to designate an SRO to conduct inspections of certain advisers. This section is identical in its substance to that contained in the original House bill and its purpose and interpretation, like that of section 3, remain unchanged.

Among the changes to the original House bill that House Members agreed to in developing this consensus amendment was the deletion of a provision that would have expressly prohibited advisers from making unsuitable recommendations, as well as a requirement to make a reasonable inquiry about the financial circumstances of a client. The provision also included a record-keeping requirement designed to assist the SEC, in its inspections, in auditing for adherence to the suitability rule. The suitability provision contained in the House bill did not represent a new substantive requirement, but instead restated an existing requirement that is implicit in the antifraud provisions of the Advisers Act.

As a result of the inclusion of this provision in the House bill, the SEC, on its own initiative and because it has ample statutory authority to do so, embarked upon a rule-making proceeding designed to codify, in the same way as the House bill, the extant suitability requirement and to establish a recordkeeping requirement similar to that contained in the original House bill. To date, the SEC has proceeded apace with this rulemaking, and we expect that it will adopt a final rule, comparable in text and interpretation to that contained in the House bill, shortly.

Among the most important subjects of this bill is disclosure. The brevity of the provision set forth in section 5 relative to the more detailed provisions of the original House bill should not be interpreted as a lessened commitment to disclosure and the critical role it plays in equipping investors with the tools needed to protect themselves. From the outset of our efforts to ensure that the more rapacious elements of the investment adviser industry are not allowed to take advantage of investors, we saw conflicts of interest as perhaps the biggest obstacle. Advisers who receive commissions on the products they recommend, fees such as those paid by product sponsors or packagers in exchange for the sale of a unit of their product, or credits toward non-cash compensation such as trips or research have an interest in remuneration which conflicts with the interest of their client in receiving objective, disinterested advice. The magnitude of the conflict varies according to the extent or magnitude of the remuneration in question. If the remuneration is negligible, the conflict may be so minor as to be functionally nonexistent. If, however, it is not, and it may have an impact on the kind of advice rendered by the adviser, it is material. The nature and extent or amount of a commission or fee, or the value of a particular prize thus has a direct bearing on whether such conflict is material. A material conflict of interest conflicts with, among other things, the client's interest in receiving suitable investment advice, avoiding unnecessary or excessive transaction charges, and making informed investment decisions.

Accordingly, section 5 of the amendment requires the SEC, within one year from the date of enactment, to examine the nature of the conflicts of interest with an adviser's fiduciary duties that may arise when an investment adviser is compensated on the basis of commissions or fees from the sale of investment products to clients or receives credits toward non-cash compensation. Thus, the SEC must study all conflicts related to the receipt by an adviser of commissions, fees or other items of value paid in exchange for or as a result of the sale of investment products to clients. On the basis of this examination, the SEC must prescribe any rules that may be necessary and appropriate in the public interest or for the protection of investors and consistent with the purposes of the title to require that the existence and extent of any material conflicts of interest be fully disclosed.

Based upon the extensive hearing record in the House, compelling studies conducted by various groups such as the Consumer Federation of America, the American Association of Retired Persons, and the North American Securities Administrators Association, and based upon numerous media exposes, it is clear, even before detailed SEC examination, that grave deficiencies in current forms of disclosure exist. The House Report to accompany H.R. 578 cities examples of the kinds of disclosure problems that have plagued the industry. Some of the deficiencies in disclosure can and will be remedied in the SEC's revisions to the form required for the registration of investment advisers (Form ADV), part of which constitutes the brochure which is given to customers and prospective customers of an investment adviser. Other deficiencies, such as when clients are kept in the dark about the extent or magnitude of a conflict of interest—for example, the size of a commission—until after they make a purchase, will have to be addressed through SEC rulemaking. Full disclosure, as called for by this provision, would entail disclosure sufficient to permit a client to make an informed investment decision, a decision that does not subject him or her to unnecessary or excessive transaction charges, and a decision that is not influenced—without his or her knowledge of such influence—by the payment or promise of payment of prizes or other forms of non-cash remuneration to the recommending adviser.

Useful and relevant information is the touchstone of disclosure with respect to conflicts of interest. It is also critical with respect to pertinent information about an adviser's background. Some background information is provided in the Form ADV distributed to clients. Other important information—specifically, information pertaining to an adviser's disciplinary history—is not currently accessible to the average customer. This bill, therefore, requires that the entity designated by the SEC to create and operate a filing depository establish and maintain a readily accessible telephonic or other electronic process designed to provide such information. This electronic system would receive inquiries regarding the disciplinary and other information involving investment advisers and persons associated with investment advisers. Key to this provision are the twin concepts of ready access and low cost. Investors should be encouraged to find out about an adviser's disciplinary history, not discouraged through systems that are either difficult to use, costly, or not extensively available. Taking advantage of emerging technologies and on-line services is useful, but those should not be the exclusive means of obtaining such information unless all (or virtually all) households have ready access to them. Accessibility also has a cost component. Many of those most in need of protection, such as older investors, might be discouraged from making inquiry if they have to pay for the privilege. Making the system provider assume all reasonable costs associated with providing that service is therefore an important element of this provision. The system provider should establish a system for which the costs are unreasonable. Similarly, individual investors could not be charged a fee for obtaining written information responding to their inquiry, although other service users could be charged a reasonable fee.

Because this provision is analogous to a similar provision in the Penny Stock Reform Act, it is anticipated that it will be set up similarly and contain similar sorts of information as the system available with respect to registered broker-dealers. Specifically, it is expected that the toll-free telephone access investors are given through the NASD Hotline with respect to broker-dealers will be replicated for investment advisers. We see no reason to discriminate between these two types of securities professionals either on the basis of the type of information available about them or on the basis of the cost or means of obtaining such information. Indeed, the market distortion that could occur if there were disparate systems, containing dissimilar kinds of information and available at a different cost, would cause confusion to investors. As in the broker-dealer context, the system could also include other information, such as bankruptcy history, in addition to information about disciplinary history.

Section 6 of the amendment also requires the SEC to include in each of the first three annual reports submitted after the date of enactment a statement describing the status of the SEC's proposals for the revision of Form ADV; consultations with State securities and other regulators concerning the collection and dissemination of information contained on such form; and implementation of systems to collect and disseminate such information to enforce compliance with the title. In addition, those reports must include an analysis of the methods by which the revisions of Form ADV will result in, first, the timely and effective disclosure to investment adviser clients of material facts concerning the background, compensation, services, and practices of the adviser, and, second, the prominent disclosure to such clients of (a) any conflicts of interest, (b) methods available for securing additional information concerning the adviser and its employees, (c) remedies available with respect to disputes arising out of the advisory relationship, and (d) any conviction of the adviser or any person associated with the adviser within 10 years preceding the filing of any application for registration or at any time thereafter of any crime that is punishable by imprisonment for 1 or more years, or of a substantially equivalent crime by a foreign court of competent jurisdiction.

This provision derives from the brochure provision contained in the original House bill, in which the elements of an enhanced brochure were set forth in the statute. Because the SEC is well on its way to revamping Form ADV, it was deemed unnecessary to include that portion of the provision. Certain important elements of that provision have been retained, however, so that Congress can ensure that they be incorporated in a prominent manner into the brochure distributed to investment advisory clients. Prominence would require that each of these disclosures must be readily noticeable to the client. Disclosure of methods available for securing additional information concerning the adviser and its employees would entail setting forth the toll-free number to call and, in addition, any other supplementary means (e.g., the Internet address) through which such information is available. With respect to disclosure of remedies, we do not intend a recitation of all available causes of action but, rather, a general statement in the brochure that makes clear the existence of remedies under State and Federal law where wrongs have been committed against a client by an adviser. In the absence of an express private right of action in the Advisers Act, it is especially important to inform clients that they are not without remedies.

Section 7 of the amendment contains a requirement that certain investment advisers obtain a fidelity bond. As in the original House bill, the fidelity bond would provide a source of funds to make clients who have been defrauded through larceny or embezzlement whole. Unlike the original House bill, however, the SEC's authority in this section of the amendment is permissive, rather than mandatory. The authority given to the SEC would extend to advisers with custody of client funds or securities, that have discretionary authority to direct client investments, or that advise investment companies.

Paragraph (2) sets forth the considerations the SEC must take into account in implementing this section: The degree of risk to client assets that is involved; the cost and availability of fidelity bonds; existing fidelity bonding requirements; any alternative means to protect client assets; and the results, findings, and conclusions of a study, described in paragraph (3), on the availability of fidelity bonds and the impact of fidelity bonding on the competitive position of small-scale investment advisers. Finally, the SEC is given the authority to exempt any person or class of persons from any fidelity bonding requirements under such terms or conditions and for such period as the SEC determines. In addition, the SEC is required to exempt any investment adviser from any bonding requirement if the SEC determines that fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment adviser is located or the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment adviser's competitive position.

This provision is not meant to permit an investment adviser that is marginally profitable to claim an exemption because it cannot afford a fidelity bond. Nor is it intended to permit an investment adviser that is charged a premium for or is refused a fidelity bond because its background, business practices, or lack of controls suggest a high degree of risk. Rather, we read this provision as requiring the SEC to exempt from the bonding requirement any class or group of advisers that for some reason other than normal and customary underwriting considerations is denied a fidelity bond at a reasonable cost.

Deleted from this amendment is the provision in the original House bill requiring the SEC to analyze the risks to investors when an investment adviser is made the sole recipient of communications from the custodian or when an investment adviser or affiliate thereof serves as the custodian. The purpose of this provision was to address an anomaly that surfaced in the course of hearings held by the Subcommittee on Telecommunications and Finance on the massive fraud perpetrated by Steven Wymer. Testimony by Wymer made it clear that crucial to his fraudulent scheme was either the witting or unwitting cooperation of custodians in making Wymer the sole recipient of all confirmations, account statements, and other communications concerning client accounts. Because clients received no independent reports of account activities, Wymer was able to fabricate false account statements to hide losses, unauthorized transactions, and defalcation of clients' cash and securities.

Because the SEC currently has the statutory authority to promulgate rules directly to address this problem, it has initiated a rulemaking process designed to address these concerns. This provision of the House bill was therefore deleted in anticipation of adoption by the SEC of a strong rule that would make it impossible for a comparable fraud to be repeated by the same means. The rule would prohibit an investment adviser registered or required to be registered under the Advisers Act from exercising investment discretion with respect to a client account unless it reasonably believed that the custodian of the account is providing account statements to the client no less frequently than quarterly. An adviser would be deemed to have a reasonable belief that the custodian is providing account statements if the adviser has received copies of client account statements indicating that they were sent to clients. We applaud the SEC's initiative in this area and expect to see the rule adopted in final form soon.

Mr. FIELDS of Texas. Mr. Speaker, I strongly support the gentleman from Massachusetts' request and want to associate myself with the gentleman's remarks.

By providing additional funds to the SEC specifically targeted for enhanced oversight of the adviser industry, S. 423 will go a long way toward improving the present situation.

I want to emphasize that the Wymer scandal and the increased attention our committee has given the inadequacy of the SEC Adviser Examination Program should underscore for the commission the fact that Congress is not simply writing a blank check to the agency. We demand significant improvement in the regulation of financial planners. In enacting this legislation Congress tells the SEC to do more with its appropriation than increase the number of employees on its payroll. We need better regulation, not just more regulation.

Earlier in the first session of this Congress, I cosponsored and the House passed H.R. 578, an investment adviser bill similar to the bill we are considering here today. Since then, House and Senate staff have been negotiating the differences between bills passed by both Houses and S. 423 represents the outcome of that long and arduous process.

Mr. Speaker, I want to compliment Congressman RICK BOUCHER for his efforts over the years on behalf of this bill. I am happy to be an original cosponsor of the legislation and to see it enacted by the House today. I also commend Subcommittee Chairman ED MARKEY, as well as Committee Chairman JOHN DINGELL and Ranking Republican CARLOS MOORHEAD for their leadership.

Mr. DINGELL. Mr. Speaker, I rise in strong support of this legislation and urge its immediate adoption.

At present, approximately 22,000 investment advisers are registered with the Securities and Exchange Commission (SEC) under the Investment Advisers Act of 1940, with a total of over $9 trillion of public savings under management. However, the resources available to the SEC for inspecting and examining these advisers have remained seriously limited and totally inadequate to provide even minimally adequate deterrence against wrongdoing. At present, the SEC has a total of only 50 examiners nationwide to provide field examinations or other direct oversight of all investment advisers. Therefore, most advisers are examined only once every 25–30 years. This is an outrage. It is also very dangerous.

The General Accounting Office estimated in a June 1990 report (Investment Advisers: Current Level of Oversight Puts Investors at Risk, GAO/GGD–90–83) that investment adviser fraud costs investors between $90 million and $200 million a year. Since February 1993, the SEC has brought 53 fraud actions against investment advisers. This does not include the well-publicized case against a single adviser, Steven D. Wymer, who defrauded his clients, who were largely states, counties and municipalities, of more than $100 million.

Starting with the introduction of H.R. 4441 back in March 1990, Mr. BOUCHER has been doggedly pushing for legislation to improve investor protection in this area, and I commend him for his great leadership and perseverance. In the 102d Congress, the House passed comprehensive investment adviser reform legislation (H.R. 5776) only to see it die in the Senate under the weight of the nongermane-amendment demands of two Members of that body. This year we are back again because the stakes for American investors are very high and rising. We must pass this bill this year.

I also want to commend and thank Mr. MARKEY and Mr. FIELDS for their cosponsorship of H.R. 578 and for making it possible to put together and bring to the floor bipartisan legislation that is balanced and cost-effective.

On May 4, 1993, the House unanimously passed H.R. 578, the Investment Adviser Regulatory Enhancement and Disclosure Act, and, on November 20, 1993, the Senate passed S. 423, the Investment Adviser Oversight Act. Although no formal conference was convened to reconcile differences between the House bill and a Senate bill that was considerably more limited in scope, staffs from both bodies conducted extensive negotiations and ultimately reconciled the differences between the two bills. No formal conference was necessary due to the success of this process. I commend the staff for their hard work and diligence. The legislation before the House thus encompasses the amendments resulting from that process. In lieu of a conference report, our floor statements are intended to serve as the legislative history, along with House Report 103–75 (April 29, 1993) and CONGRESSIONAL RECORD (May 4, 1993) at H2212–2220, and Senate Report 103–177 (November 10, 1993) and CONGRESSIONAL RECORD (November 20, 1993) at S16861–16862.

The amendments before the House will provide additional resources for investment adviser supervision through user fees from registrants and applicants. The industry supports the fee schedule in this bill. The bill gives the SEC authority to designate one or more self-regulatory organizations [SRO] if necessary to conduct periodic examinations of the SRO's members and their affiliates that are registered or required to be registered as investment advisers. The bill requires surveys to be conducted to identify unregistered persons and requires SEC action to correct any patterns of noncompliance. The bill modernizes the Investment Advisers Act's disclosure requirements to provide better disclosure of conflicts of interest between investment advisers and their clients. The bill would authorize the SEC to develop a "one-stop" filing system that would reduce paperwork for advisers and regulators. The bill also provides for a toll-free telephonic or other electronic listing to provide investors with ready access to disciplinary and other information regarding investment advisers. The bill requires fidelity bonding to assure that, where losses from fraud do occur, there will be some source of compensation for defrauded clients.

Finally, I wish to express my support for the SEC rulemaking initiatives identified in Chairman Levitt's January 24, 1993, letter to the committee, a copy of which follows my statement. The SEC's current statutory authority encompasses these rulemakings (obviating the need for additional legislation on these subjects) and I encourage the SEC to complete action on these matters with all deliberate speed.

SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, January 24, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As the 103rd Congress prepares to return for the second session, I am writing to express my hope that the conference to reconcile House and Senate versions of legislation amending the Investment Advisers Act of 1940 ("Advisers Act") will convene and complete its work as soon as possible. Both H.R. 578 and S. 423 would, by imposing modest fees on investment advisers, raise revenues that are critically needed by the Commission to supervise the activities of over 20,000 investment advisers currently registered with the Commission.

As you know the House bill contains several amendments to the Advisers Act not include in the Senate bill. The amendments address a number of subjects that are of increasing concern to the Commission. We believe the Commission's current rulemaking authority is broad enough to address many of these subjects, and we have decided to go forward and develop the following rules:

Custody Rule. This rule would prohibit custodian arrangements under which only the investment adviser (and not the client) receives periodic account statements from the custodian. This type of arrangement facilitated the Steven Wymer fraud.

Suitability Rule. This rule would make explicit the requirement implicit in the general anti-fraud provisions of the Advisers Act that advisers must make a reasonable determination that the advice they give is suitable to their clients, based on a reasonable inquiry into the client's financial situation. Appropriate recordkeeping would also be required.

Improved Brochure. Under this proposal, the current disclosure brochure that an adviser delivers to its clients describing the adviser's business would be amended to place greater emphasis on the education, business background and business practices of the adviser, the means by which the adviser is compensated, and the conflicts of interest that may be created for the adviser in entering into various compensation arrangements (i.e., commission-based compensation). The "800" number contemplated by the House bill as a means by which clients may obtain adviser disciplinary information would be provided in the brochure.

Reports on Fees and Commissions. The rule would require an adviser to provide clients with periodic account statements that would include information concerning the sales commissions and other fees, if any, paid to the adviser or persons associated with or under common control with the adviser. These reports should provide clients with a better picture of the total cost of advisory services and the way compensation arrangements may affect investment advice.

The House bill, if adopted in its current form, would require the Commission to periodically conduct a survey to determine the extent to which persons fail to comply with the registration requirements of the Advisers Act. We are currently discussing with the North American Securities Administrators Associated the feasibility of conducting a joint inquiry of unregistered investment advisers in the states. We believe that their participation could be very helpful in enforcing the registration provisions of the Advisers Act.

We trust that the anticipated Commission rulemaking will assist the conferees in their efforts toward enactment of this important legislation. The resources the legislation will provide will permit the Commission to begin to examine the activities of the growing number of registered investment advisers on a more frequent and meaningful basis. Further, we believe the development of the rules described above will substantially enhance investor protection.

We appreciate your efforts in connection with developing this legislation, and we look forward to working with you toward final passage of a compromise bill. Please do not hesitate to contact us if we can assist you in any way.

Sincerely,

ARTHUR LEVITT.

Mr. FIELDS of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Adviser Oversight Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the activities of investment advisers are of continuing national concern;

(2) increased supervision of investment advisers by the Securities and Exchange Commission (hereafter in this Act referred to as the "Commission") is necessary to protect investors from fraud and other illegal conduct;

(3) additional resources are necessary to recover the Commission's costs of an enhanced program for the oversight of investment advisers and their activities, including the costs of registration and inspections; and

(4) because the direct beneficiaries of these activities are investment advisers, it is appropriate for investment advisers to pay fees for much activities.

SEC. 3. REGISTERED INVESTMENT ADVISER FEES.

(a) IN GENERAL.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"SEC. 203A. FEES FOR REGISTRANTS AND APPLICANTS.

"(a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of enhanced efforts to register all persons required to be registered under this title and enhanced supervision and regulation of investment advisers and their activities. Such fees shall be collected and shall be made available only to the extent provided in advance in appropriations Acts. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and shall remain available until expended. The costs covered by such fees shall be the costs of Commission expenses for the registration and inspection of investment advisers and related activities.

"(b) TIME FOR PAYMENT.—

"(1) APPLICANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee directed in advance in appropriations Acts to be collected as specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) INVESTMENT ADVISERS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay such fee to the Commission not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) SCHEDULE OF FEES.—The amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	*Fee Due:*
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000	500
$25,000,000 or more, but less than $50,000,000	1,000
$50,000,000 or more, but less than $100,000,000	2,500
$100,000,000 or more, but less than 250,000,000	4,000
$250,000,000 or more, but less than $500,000,000	5,000
$500,000,000 or more	7,000.

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds (after notice) that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalties due), if such suspension was based solely on the failure to pay the fee.

"(e) RULEMAKING.—The Commission may adopt such rules and regulations as are necessary to carry out this section.".

"(b) EFFECTIVE DATE.—This section (and the amendment made by this section) shall become effective upon the adoption by the Commission of implementing rules and regulations, under section 203A(e) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 4. FACILITIES FOR FILING RECORDS AND REPORTS.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by inserting "(a)" after "Sec. 204."; and

(2) by adding at the end the following:

"(b) The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for the purpose; and

"(2) to pay the reasonable costs associated with such filing.".

SEC. 5. BOND REQUIREMENT.

"(A) IN GENERAL.—Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.

"(4) the Commission shall not require investment advisers to obtain a fidelity bond if—

"(A) fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment advisers are located; or

"(B) the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment advisers; competitive positions.".

MOTION OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion.

The CLERK read as follows:

Mr. MARKEY moves to strike all after the enacting clause of the Senate bill S. 423, and to insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Investment Advisers Amendments of 1994".

SEC. 2. ADDITIONAL RESOURCES FOR INVESTMENT ADVISER SUPERVISION.

(a) FEES FOR REGISTRANTS AND APPLICANTS.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"FEES FOR REGISTRANTS AND APPLICANTS

"SEC. 203A. (a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of registration, supervision, and regulation of investment advisers and their activities. Any such fees shall be collected, and shall be available, only to the extent provided in advance in appropriations Acts. No appropriations Act may authorize fees to be collected under this section during any fiscal year after fiscal year 1995, unless the amount appropriated by such Act for such costs for such fiscal year equals or exceeds the aggregate amount that may reasonably be expected to be collected by such fees. Any such fees shall be deposited as an offsetting collection to the Commission's appropriation and may remain available for such purposes for the succeeding fiscal year. The costs covered by such fees shall be limited to the costs of Commission expenses for registration, examinations, and surveys of persons registered or required to register under this title.

"(b) TIME FOR PAYMENT.—

"(1) NEW REGISTRANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under subsection (c).

"(2) ONGOING REGISTRANTS.—Each investment adviser, the registration of which is effective on the last day of its fiscal year, shall pay the Commission the fee specified in subsection (c). Such payment shall be made not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) COST-BASED SCHEDULE OF FEES.—For any fiscal year for which fees are authorized to be collected by an appropriations Act, the amount of any fees due from investment advisers in accordance with subsection (b) shall be determined according to the following schedule:

"Assets under management	Fee due:
Less than $10,000,000	$300
$10,000,000 or more, but less than $25,000,000.	$500
$25,000,000 or more, but less than $50,000,000.	$1,000
$50,000,000 or more, but less than $100,000,000.	$2,500
$100,000,000 or more, but less than $250,000,000.	$4,000
$250,000,000 or more, but less than $500,000,000.	$5,000
$500,000,000 or more	$7,000.

"(d) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds, after notice, that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such registration upon payment of the fee (and any penalty due), if such suspension was based solely on the failure to pay the fee.

"(e) DEFINITION OF ASSETS UNDER MANAGEMENT.—As used in this section, the term 'assets under management' means the client assets with respect to which an investment adviser provides continuous and regular supervisory or management services.

"(f) RULEMAKING.—The Commission may adopt such rules as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective—

(1) in the case of section 203A(f) of the Investment Advisers Act of 1940 (as added by this section), upon the date of enactment of this Act; and

(2) in the case of subsections (a) through (e) of section 203A of the Investment Advisers Act of 1940 (as added by this section), upon the adoption by the Securities and Exchange Commission of implementing rules in accordance with section 203A(f) of such Act.

SEC. 3. SURVEYS.

The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 222 the following new section:

"SURVEYS

"SEC. 223. (a) SURVEYS OF UNREGISTERED PERSONS.—

"(1) IN GENERAL.—The Commission shall, not later than 3 years after the date of enactment of this section, and thereafter as appropriate, provide for the conduct of a survey to determine the extent of, and reasons for, the failure of persons to register as required by this title.

"(2) ACTIONS BASED ON SURVEY.—The Commission shall, on the basis of the results of the survey conducted under paragraph (1), establish objectives for the reduction or elimination of any failures identified therein and shall include in any annual reports to the Congress under section 23(b) of the Securities Exchange Act of 1934 submitted after completion of the first survey—

"(A) a statement of such objectives;

"(B) an evaluation of the success in attaining those objectives during the preceding year; and

"(C) such recommendations as the Commission considers appropriate to assist in the attainment of those objectives.

"(3) PATTERNS OF NONCOMPLIANCE.—If the survey conducted under paragraph (1) identifies any pattern of noncompliance with the registration requirements of this title and the rules issued under this title, the Commission shall undertake such rulemaking proceedings as may be necessary to correct such patterns of noncompliance.

"(b) PROVISIONS NOT LIMITATION.—The provisions of this section shall not be construed to limit the authority of the Commission to issue rules under this title, to conduct an examination or investigation at any time, or to institute proceedings under this title or any other provision of law.".

SEC. 4. DESIGNATION OF SELF-REGULATORY ORGANIZATIONS.

The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by inserting after section 223 (as added by section 3 of this Act) the following new section:

"DESIGNATION OF SELF-REGULATORY ORGANIZATIONS

"SEC. 224. (a) DESIGNATION TO CONDUCT EXAMINATIONS.—

"(1) IN GENERAL.—The Commission may by rule, consistent with the public interest, the protection of investors, and the purposes of this title, designate one or more self-regulatory organizations registered with the Commission under section 6 or 15A of the Securities Exchange Act of 1934, to conduct periodic examinations of its members, and affiliates of members, that are registered or required to register under this title, to determine compliance with applicable provisions of this title and the rules and regulations issued under this title. Any such rule shall specify the minimum scope and frequency for such examinations and shall, to the extent consistent with the protection of investors, be designed to avoid unnecessary regulatory duplication or undue regulatory burdens.

"(2) AUTHORITY OF ORGANIZATION.—Any self-regulatory organization designated under paragraph (1) may discipline the members and affiliates of members described in parargraph (1) for violations of the applicable provisions of this title and the rules and regulations issued under this title pursuant to the standards and procedures set forth in sections 6, 15A, and 19 of the Securities Exchange Act of 1934.

"(3) PENALTIES.—Any money penalties imposed by a self-regulatory organization for violations of this title shall not exceed those contained in section 203(i).

"(b) LIMITATIONS.—

"(1) PRIMARY BUSINESS LIMITATION.—The Commission shall not exercise the designation authority contained in subsection (a) with respect to a member or affiliate of a member if the primary business of the member and its affiliates is investment advisory activities.

"(2) LIMITATION WITH RESPECT TO AFFILIATES OF MEMBERS.—The Commission shall not exercise the authority contained in subsection (a) with respect to an affiliate of a member of a self-regulatory organization if—

"(A) the primary business of the affiliate is investment advisory activities;

"(B) the affiliate is an affiliate of the member solely as a result of the adviser's (or an associated person of the adviser's) registration with the member as a registered representative; and

"(C) the affiliate is a registered representative of the member solely to enable the adviser to execute transactions that are incidental to the investment adviser's primary business;

unless the Commission determines, in accordance with such other criteria as the Commission establishes by rule, that such exercise of designation authority is consistent with the public interest, the protection of investors, the purposes of this title, and the objectives of the Commission's investment adviser examination program.

"(3) LIMITATION WITH RESPECT TO SAVINGS ASSOCIATION AFFILIATES OF MEMBERS.—The Commission shall not exercise the authority contained in subsection (a) with respect to an affiliate of a member of a self-regulatory organization if the affiliate is a savings association, as such term is defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)).

"(4) DEFINITIONAL RULES.—For purposes of this subsection, the Commission may, by rule, establish criteria for defining the terms 'primary business' and 'incidental to the investment adviser's primary business'.

"(c) AUTHORITY TO IMPOSE FEES.—

"(1) IN GENERAL.—Any self-regulatory organization designated by the Commission to perform the examinations specified in subsection (a) shall have the authority to collect fees in accordance with this subsection.

"(2) LIMITATION.—The total fee paid by a registered investment adviser under this subsection shall not exceed an amount determined in accordance with rules prescribed by the Commission. Such rules shall require that the fees collected by a self-regulatory organization under this subsection—

"(A) cover only the costs of the self-regulatory organization's expenses for examinations conducted pursuant to subsection (a);

"(B) as to any investment adviser, bear a reasonable relationship to the costs of conducting an examination of that adviser pursuant to subsection (a); and

"(C) not exceed such portion of the fee authorized under section 203A as the Commission determines is allocable to the Commission's expenses for conducting such an examination.

"(3) REDUCTION OF SECTION 203A FEES.—The amount of any fee that a registered investment adviser is required to pay to the Commission under section 203A with respect to any fiscal year shall be reduced by the amount paid to a self-regulatory organization in accordance with this subsection with respect to such fiscal year.

"(d) EFFECTIVE DATE OF RULE.—A rule issued by the Commission under this section shall become effective not earlier than 90 days after the date on which the Commission submits to the House of Representatives and the Senate a report—

"(1) containing the text of the proposed rule and the reasons therefor;

"(2) describing the procedures to be used to coordinate the collection of fees by the Commission under section 203A and by a self-regulatory organization under the rule; and

"(3) containing such other information as may be necessary to describe the implementation and enforcement of the rule.

"(e) DEFINITION.—For purposes of this section, the term 'affiliate' means any person directly or indirectly controlling, controlled by, or under common control with a member of a self-regulatory organization.".

SEC. 5. ADDITIONAL DISCLOSURE OBLIGATIONS OF INVESTMENT ADVISERS.

(a) DISCLOSURE OBLIGATIONS.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking the section heading and inserting the following:

"PERIODIC REPORTS AND OTHER DISCLOSURE REQUIREMENTS";

(2) by inserting "(a) PERIODIC AND OTHER REPORTS.—" after "SEC. 204."; and

(3) by adding at the end the following new subsections:

"(b) REVIEW OF CONFLICTS OF INTEREST.—

"(1) EXAMINATION.—The Commission shall, not later than 1 year after the date of enactment of this subsection, examine the nature of the conflicts of interest with an investment adviser's fiduciary duties that may arise when an investment adviser is compensated on the basis of commissions or fees from the sale of investment products to clients or receives credits toward non-cash compensation.

"(2) RULES.—On the basis of the examination conducted under paragraph (1), the Commission shall prescribe any rules that may be necessary and appropriate in the public interest or for the protection of investors and consistent with the purposes of this title to require that the existence and extent of any material conflicts of interest between investment advisers and their clients be fully disclosed. Such rules shall take into account the rules applicable to registered brokers and dealers and their associated persons under the Federal securities laws (including the rules of self-regulatory organizations registered thereunder).

"(c) FACILITIES FOR FILING RECORDS AND REPORTS; ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

"(1) FILING DEPOSITORIES.—The Commission, by rule, may require any investment adviser—

"(A) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any entity designated by the Commission for that purpose; and

"(B) to pay all reasonable costs associated with—

"(i) such filing; and

"(ii) the maintenance of a process to receive and respond to inquiries under paragraph (2).

"(2) RESPONSE TO INQUIRIES.—

"(A) IN GENERAL.—An entity designated by the Commission under paragraph (1) shall—

"(i) establish and maintain a readily accessible telephonic or other electronic process to receive inquiries regarding disciplinary actions and proceedings involving investment advisers and persons associated with investment advisers; and

"(ii) respond promptly to such inquiries.

"(B) FEES.—An entity designated by the Commission under paragraph (1) may charge a person, other than an individual investor, reasonable fees for the cost of providing written responses to inquiries.

"(C) LIABILITY.—An entity designated by the Commission under paragraph (1) shall not be liable for any action taken or omitted in good faith under this paragraph.".

SEC. 6. COMPLETION OF RULEMAKING INITIATIVES REQUIRED.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4), as amended by section 5, is amended by adding at the end the following new subsections:

"(d) REGISTRATION FORM REVISIONS.—

"(1) STATEMENTS IN ANNUAL REPORTS.—The Commission shall include in each of the first 3 annual reports submitted pursuant to section 23(b) of the Securities Exchange Act of 1934 after the date of enactment of this subsection a statement describing the status of—

"(A) the Commission's proposals for the revision of the form required for the registration of investment advisers under this title;

"(B) consultations with State securities commissions and other State authorities concerning the collection and dissemination of information contained on such form; and

"(C) the implementation of systems to collect and disseminate such information to enforce compliance with this title.

"(2) ANALYSIS REQUIRED.—The first statement required by paragraph (1) shall include an analysis of the methods by which the revisions of such registration form will result in—

"(A) the timely and effective disclosure to investment adviser clients of material facts concerning the background, compensation, services, and practices of the adviser; and

"(B) the prominent disclosure to such clients of—

"(i) any conflicts of interest;

"(ii) methods available for securing additional information concerning the adviser and its employees;

"(iii) remedies available with respect to disputes arising out of the advisory relationship; and

"(iv) any conviction of the investment adviser or any person associated with the investment adviser within 10 years preceding the filing of any application for registration, or at any time thereafter, of any crime that is punishable by imprisonment for 1 or more years, or of a substantially equivalent crime by a foreign court of competent jurisdiction.".

SEC. 7. BOND REQUIREMENT.

Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-8) is amended by adding at the end the following new subsection:

"(e)(1) The Commission may require, by rules and regulations for the protection of investors, any investment adviser registered under section 203 that—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account;

"(B) has access to the securities or funds of a client; or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

to obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements;

"(D) any alternative means to protect client assets; and

"(E) the results, findings, and conclusions of the study required by paragraph (3).

"(3) Before implementing paragraph (1), the Commission shall study (and shall make such study and its conclusions and findings available to the public)—

"(A) the availability of fidelity bonds, both for large-scale and small-scale investment advisers, and also for investment advisers not located in urban areas; and

"(B) the impact of the provisions of paragraph (1) on the competitive position of small-scale investment advisers.

"(4) If the Commission adopts any rule or regulation pursuant to paragraph (1), the Commission may, by rule, exempt any person or class of persons from the requirements of this subsection and the rules issued under this subsection, under such terms or conditions and for such period as the Commission shall prescribe. The Commission shall exempt any investment adviser from the requirements of this subsection if—

"(A) fidelity bonds are not readily or reasonably available in the urban or rural areas in which such investment adviser is located; or

"(B) the cost of obtaining a fidelity bond would have a substantial adverse impact on such investment adviser's competitive position.".

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY].

The motion was agreed to.

The Senate bill, as amended, was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MOTION TO ADJOURN

Mrs. BENTLEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER pro tempore. The Clerk will report the motion

The Clerk read as follows:

Mrs. BENTLEY of Maryland moves that the House do now adjourn.

The SPEAKER pro tempore. Does the gentlewoman insist on her motion?

Mrs. BENTLEY. Mr. Speaker, I do.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland [Mrs. BENTLEY].

The question, was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mrs. BENTLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays are refused.

So the motion was rejected.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might inquire of the distinguished majority leader how we intend to proceed for the balance of the evening, and possibly the schedule for tomorrow.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

□ 1950

Mr. GEPHARDT. Mr. Speaker, it would be our intention to now go to the rule on the General Agreement on Tariffs and Trade and to go to a vote on that rule. We expect this to be the last vote of the night. The other vote that was called for here will be postponed until tomorrow.

We also would say to Members that there is an agreement between the leadership in a letter going to the President from the leadership on both sides calling for a postponement of the vote on the General Agreement on Tariffs and Trade, assuming the rule were to pass tonight, until November 29. No other business would be anticipated at that time other than that one vote and one issue on that one day.

We would then go tonight to general debate on the Haiti resolution, 4 hours under a unanimous-consent agreement and no vote.

Tomorrow we would meet at 10 a.m. We would recess until 11 a.m. for the Joint Session for the President of South Africa, Nelson Mandela.

We would reconvene after the speech at approximately noontime for resolution, which will take about 5 or so hours. And then go to the rule and conference report on the California Desert legislation.

We have the following matters which will be for the balance of the time that we will be here tomorrow and Friday: The conference report on the Nanny tax, the congressional reform resolution, congressional compliance coverage resolution, and payment in lieu of taxes complete consideration.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman. It is not our intention then to adjourn sine die by Friday night sometime?

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, that is our intention. Obviously, we would have to include in the adjournment resolution some language about coming back on November 29, only for the matter of the General Agreement on Tariffs and Trade.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 423, the Senate bill, just considered and passed.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5110, URUGUAY ROUND AGREEMENTS ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 564 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 564

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5110) to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations. The first reading of the bill shall be dispensed with. All points of order against the bill and against its consideration are waived. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed four hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Pursuant to section 151(d) of the Trade Act of 1974, after general debate the Committee shall rise and report the bill to the House. Pursuant to section 151(f)(2) of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 564 is a rule providing 4 hours of general debate, equally divided and controlled by the chairman and ranking minority member of the Ways and Means Committee.

All points of order are waived against the bill and against its consideration.

The rule provides that general debate shall proceed without intervening motion. The rule also provides, pursuant to section 151(d) of the Trade Act of 1974, that after general debate the committee shall rise and report the bill to the House.

Finally, the rule provides for no motion to recommit, pursuant to section 151(f)(2) of the Trade Act of 1974.

Mr. Speaker, H.R. 5110, the Uruguay Round Agreements Act, is the most comprehensive trade agreement ever considered by this body.

It is legislation which will benefit the American people and the American economy. The success of our domestic growth is intimately linked with the success of the world economy, and this legislation will give a boost to the world economy of unprecedented proportions.

The Uruguay Round Agreements will cut foreign tariffs on manufactured products by over one-third. This amounts to the largest global tax cut in history. This agreement, when fully implemented, should add $100 billion to $200 billion to the U.S. economy annually.

The Uruguay Round goes farther than any previous agreement by addressing areas of trade long ignored. For the first time, the intellectual property of U.S. entrepreneurs will be protected. For the first time, services are covered.

This means there will be open markets for U.S. exporters of accounting, advertising, computers, tourism and engineering and construction services.

In agriculture, it will greatly expand export opportunities for U.S. products by reducing the use of export subsidies and eliminating foreign government barriers.

Mr. Speaker, throughout my tenure in this body, I have fought to ensure fair trade policies for the textile and apparel industries, businesses which are important to my district and my State. This legislation includes vital provisions for the U.S. textile and apparel industries.

The agreement requires that, as of July 1, 1996, imported apparel items will be labeled as originating in the country in which they were assembled, rather than the country in which they were cut.

This provision is aimed at those countries which continuously by-pass reasonable rules of international trade—particularly countries like Hong Kong, which have their clothing exports assembled by cheaper labor in China. Until now, the United States has been the only major trading country with a rule of origin.

Textile and apparel companies will also benefit due to the greater market access provisions negotiated by U.S. negotiators. I would like to see these provisions strengthened—especially with regards to countries with strong protectionist policies like India and Pakistan—but this agreement is a giant step in the right direction.

Under the agreement, U.S. workers will gain major new employment opportunities. U.S. companies will gain major new export opportunities. And U.S. consumers will gain greater access to lower priced, high quality goods and services.

In brief, the Uruguay Round Agreement will benefit the U.S. by strengthening the trade rules of other nations.

Mr. Speaker, House Resolution 564 is a fair Rule that will allow us to adequately debate and implement H.R. 5110. I urge my colleagues to support the Rule and the Uruguay Round Agreement Act.

I reserve the balance of my time.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my very good friend from Edgefield for yielding time to me.

Mr. Speaker, I should say at the outset that this just may be the last rule under the management of my very good friend from South Carolina, and I would like to say how much I have appreciated the opportunity to co-manage rules with him over the past several years. He will sincerely be missed.

Mr. Speaker, I strongly support this rule. The Uruguay round is the largest and most comprehensive trade agreement in world history. I believe it should be called the GATT American Round.

The major initiatives of this agreement are the direct result of U.S. proposals originating in the prior two Republican administrations to reduce trade barriers that block our most competitive industries. This agreement protects the intellectual property rights of American artists, writers, musicians, software creators, and inventors.

Service industries, agriculture, and investment will finally be brought into the multilateral trade regime.

The United States is the international leader in all of these fields. The result is that more good jobs will be created right here at home in the United States. Make no mistake, the GATT Uruguay Round is a good deal.

□ 2000

However, as a strong advocate of free trade, I believe that H.R. 5110 is not as good as the trade agreement itself. The antidumping provisions could violate the Uruguay agreement. The textiles provisions are a step backwards that penalize American families. The administration made a number of deals with protected industries which are contrary to the spirit of free trade that is the hallmark of the Uruguay round.

Last year when we overcame the mountainous hurdles that obstructed the North American Free Trade Agreement, nearly every observer believed that passing GATT would be comparatively easy. We could have completed the GATT by the July 4 recess. Now we must redouble our bipartisan efforts to ensure victory.

Rather than quickly putting a bipartisan bill together that could move through both Houses this summer, the administration waited until September 27 to finally introduce the bill. Rather than line up the votes and get all the Democrat committee chairmen in order to ensure smooth sailing, they got bushwhacked in the other body by one of their own chairmen. That has fundamentally changed the schedule, and clearly thrown this House into a state of disorder.

Mr. Speaker, it appears that the administration's legislative strategy has been to confuse the opposition by having no discernible strategy at all. They have done it so well that friends and foes alike have been confused.

Mr. Speaker, I believe that many Democrats and Republicans want this operation to slow down. The other body is going to vote for GATT on December 1st. The Senators have 65 days to evaluate the bill. House Members have had only eight. No matter where one stands on GATT, it is very hard to argue that, although House Members are quicker studies, they do not deserve the same amount of time to review legislation as Senators.

Mr. Speaker, we have all heard the term "speed kills." My fear is that rushing the GATT bill itself onto the floor could have been one of those cases. Of all things, I do not want to see GATT defeated. That is why I strongly applaud the bipartisan leadership decision to pass this rule and then bring the GATT bill up in a special session after the election. GATT supporters can use some time to build stronger support for the GATT, as we did for the North American Free-Trade Agreement.

Mr. Speaker, I urge my colleagues to support this rule, and when we return later this year, I urge strong support for the GATT.

At this point, Mr. Speaker, I would like to share with my colleagues the letter which was just sent to the President by the Speaker of the House, the Majority Leader, the Republican leader, and the Republican Whip. It reads as follows, Mr. Speaker:

> As strong supporters of an expanding economy through free trade, we believe the GATT legislation currently before the Congress should become law. Because of problems in the Senate, the vote in that body will not be held until early December. The Senate decision to postpone the vote has quite frankly undermined our ability to guarantee strong bipartisan support for this effort in the House at this time.
>
> With the ultimate goal of GATT enactment in mind, we would prefer that consideration of GATT in the House be delayed until later this year. In our view, attempting to pass the legislation in the current atmosphere will weaken the strong bipartisan spirit we want to see for final passage.
>
> We, therefore, take this opportunity to urge that the GATT vote in the House be postponed until November 29th, just before the Senate acts. At that time, we will be working with you and with all those who believe in the importance of this legislation to assure that GATT overwhelmingly passes the House.

Mr. Speaker, I include for the RECORD the letter referred to:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1994.

President WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: As strong supporters of an expanding economy through free trade, we believe the GATT legislation currently before the Congress should become law. Because of problems in the Senate, the vote in that body will not be held until early December. The Senate decision to postpone the vote has quite frankly undermined our ability to guarantee strong bi-partisan support for this effort in the House at this time.

With the ultimate goal of GATT enactment in mind, we would prefer that consideration of GATT in the House be delayed until later this year. In our view, attempting to pass the legislation in the current atmosphere will weaken the strong bi-partisan spirit we want to see for final passage.

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Sincerely,

THOMAS S. FOLEY.
RICHARD A. GEPHARDT.
ROBERT H. MICHEL.
NEWT GINGRICH.

Mr. Speaker, as I have said, I strongly urge my colleagues to support this rule, and I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. I rise in support of this rule and to express my disappointment that we have deferred a vote on the underlying GATT legislation until after the election. I fear that delay will lose votes and increase partisanship around an issue that should be bipartisan.

Mr. Speaker, there is no excuse for allowing partisanship to sacrifice increasing American exports and creating new American jobs. The GATT bill is a good bill, one economists overwhelmingly agree will boost the American economy. Unfortunately, there are even GATT supporters who are seeking to delay final consideration tonight for political advantage. This is not our proudest moment.

I want to recognize the special contributions of a bipartisan group of Californians who are critical to this effort: Special Trade Representative Mickey Kantor, Mr. DREIER, and Mr. MATSUI. Their best efforts will continue to be needed to assure passage of the legislation, legislation which will be of enormous benefit to California, the largest exporting State.

California's $68.1 billion of exports in 1993—almost 15 percent of total U.S. exports—make the State the Nation's largest exporter. California is also the fastest-growing exporter in dollar terms, with $15 billion growth during 1989–1992.

According to the International Trade Administration, nearly 800,000 California jobs are supported by the State's export of manufactured goods. This includes both direct jobs and indirect employment in supporting sectors. Almost one in every five manufacturing jobs in the State were attributable to exports; and given the State's export growth since that time, export-related jobs have probably increased beyond that number.

As a result of the Uruguay round, California's key export sectors will benefit from reduced foreign tariffs, strong intellectual property protection and improved trade rules protecting United States industries against unfair trade practices and removing burdensome obstacles, including:

Producers of civil aircraft benefit from better protection against unfair subsidization by foreign governments;

The elimination of duties on beer, brown distilled spirits, furniture, pharmaceutical, medical instruments, and toys in key foreign markets;

Import tariff reductions greater than 50 percent on industrial machinery and electronic equipment, including the complete removal of tariffs by the European Union and Korea on semiconductor manufacturing equipment; and

Computer exports will benefit by significantly improved intellectual property protection for computer programs and databases for a minimum of 50 years.

The Uruguay round agreement is the product of the labor of three administrations. The process was initiated by President Ronald Reagan, negotiated by George Bush, and concluded by President Clinton. The agreement has wide bipartisan support here in the Congress. Across the country virtually every sector of American business supports GATT. So do the Los Angeles

Area Chamber of Commerce, the South Bay Area Chamber of Commerce, 41 State Governors including California's Governor Pete Wilson, numerous South Bay businesses such as Hughes, TRW, Dow, and Mattel, the California Council for International Trade, the National Association of Manufacturers, Biotechnology Industry Organization, and the American Electronics Association.

Mr. Speaker, during each session of the Congress there are a few pieces of legislation of unquestioned importance to the United States and other Nations of the world. The legislation addressed by this rule falls in that category.

The implementation of the Uruguay round of the GATT will have significant and far-reaching economic affects here at home and across the globe. GATT has the potential to move the world to the verge of a totally open market. The positive economic impact in the next decade in terms of jobs and economic growth will be substantial.

GATT's benefits—including a $36-billion tax cut over the next 10 years—are recognized in a recent editorial in the New-Pilot, a paper in my congressional district. I ask unanimous consent to insert its text in the RECORD following my remarks.

Unlike the NAFTA agreement which confers special rules that give Mexico unfair trade advantages, GATT opens markets to American products on an equal basis with our foreign trading partners. A vote for this rule and for GATT is a vote for America's workers, for a tax cut, and for bipartisanship. I urge an "aye" vote.

TRADE ACCORD IS TOP PRIORITY—CONGRESS SHOULD OK GATT

As the world's largest economy, the United States stands to gain more than any other country from the increased commerce that would be generated by a new global trade pact. That's why the No. 1 priority of Congress should be to approve the treaty before it adjourns.

The agreement, negotiated under the General Agreement on Tariffs and Trade (GATT), constitutes a huge tax cut for American consumers in the form of lower tariffs on imported products. It is the culmination of nearly a decade of bipartisan efforts to reduce trade barriers around the globe.

If the Senate and House approve the measure, it is projected to add $100 billion a year to America's gross domestic product over the next decade. That growth would churn out an additional 500,000 jobs for American workers.

Why, then, is the agreement a long way from being a done deal on Capitol Hill? The short answer is that an election is drawing near, and that means nothing can be taken for granted in Congress.

Senate Commerce Committee Chairman Fritz Hollings has erected the latest obstacle to the treaty. The South Carolina Democrat is promising to bottle up the accord in his committee in order to press for changes sought by textile producers in his home state.

Meanwhile, such Republican champions of free trade as Senate Minority Leader Bob Dole of Kansas and Sen. Phil Gramm of Texas have urged that the agreement be put off until next year. The obvious suspicion is that both Senators—who say they support the agreement—want to deny President Clinton and Democratic lawmakers a legislative victory just a month before the election.

It is essential that the treaty be approved by Congress this year.

The United States and other participating nations have agreed to implement the liberalized trade rules by Jan. 1. If lawmakers leave town without approving the deal, other countries almost certain will pull back their support, jeopardizing a complex and fragile agreement that took seven years to negotiate.

The long-term economic benefits to be gained from the global trade accord would magnify the surge in U.S. exports that have resulted from the North American Free Trade Agreement. Congress should not leave town until it is approved.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to my very good friend, the gentleman from Peoria, IL [Mr. MICHEL], our revered Republican leader.

Mr. MICHEL. Mr. Speaker, I rise in strong support of this rule, which will set the stage for a vote on GATT in November. Since we are all a bit weary as we engage in the usual end of Congress chaos, let me make my message as briefly and clearly as I can.

Mr. Speaker, I believe it is in the best interests of all the American people to pass the rule tonight with strong support on both sides of the aisle. I am not going to bore you with details of how we got to this moment. Members all know the pressures and the problems and the conflicts that have brought us to this particular point.

Suffice it to say that working with the Democratic leadership, we were able to come to an agreement as to the time when we would actually debate GATT and vote on it in November, just prior to its being considered in the other body.

Mr. Speaker, I specifically want to praise the gentleman from Missouri [Mr. GEPHARDT], the distinguished Majority Leader, and, of course, the Speaker, for their willingness to sit and listen to our concerns and discuss the issue as we did in calmness today.

Mr. Speaker, I want to commend them on their fine judgment and wisdom in agreeing to the compromise. This is neither a time nor place to debate GATT, but what I would like to say to my Members, Mr. Speaker, particularly, is that we oppose rules on occasion for several reasons. If we are absolutely opposed to the consideration of a bill, we vote against the rule to let it be known that that is what our feelings are. Other times we oppose rules because we feel they are probably too tightly structured and we would like to open them up for amendments.

However, I have to tell all Members that under the procedure for a trade agreement such as this, the rule will be the same today, tomorrow, next week, next year. It is not that it is a difference of a rule. It is going to be the same rule, so we would appreciate very much having the support of as many Members on our side of the aisle as feel comfortable in voting for the rule to make it a purely bipartisan approach.

Mr. Speaker, this does not commit a Member definitely in voting for the rule. You are voting to consider and debate it. I thought on our side we always countenanced full debate on any issue, as controversial as that may be. That is why I would urge Members to vote for the rule, take our chances when it comes up, then, the day before the Senate considers it over in the other body.

There will be that time, I hope, during the debate which normally might very well be a 4-hour stint. Those of us who feel strongly about GATT can make our case at that time.

Just one final point again, to our Members on the Republican side, because traditionally, traditionally our party has been for free and open trade, breaking down tariff barriers, and improving the commercial intercourse between countries to provide jobs, jobs, jobs. That is what this bill does do over a long haul.

Mr. Speaker, I would surely hope that having come to this agreement, as we have, in a bipartisan way, that we can assure our democratic counterparts and colleagues that there will be a significant body of support here on our side for the rule tonight.

I thank the gentleman for yielding such time that the leader might make these comments, hoping it will convince a sufficient number to carry the day.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I think there was an appropriate term used here on the floor. It was "intercourse." I think it really fits well with our trade policy. Forty years ago our factories were booming, our government invited the Japanese in. They took tours. We allowed them to take photographs. We let them take blueprints of our factories and machinery. Then we lent them money so they could build some factories. Then they could not repay, so we converted the loans to grants. Now Japan has factories, America has photographs, and we are going on with the same trade program.

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Mr. Speaker, I am for free trade, but how in God's name can you have free trade when they can make it for 10 cents an hour in China and send it over here?

If GATT is so great, why does Japan love it? If GATT is so great, why does China love it? This bill, it is projected, will cost 1 million textile and apparel jobs. All I want to say is this: This is not a General Agreement on Tariffs and Trade. This is a Great Ambush to Taxpayers. It is another God awful trade treaty. It is nothing special. You cannot separate our trade deficit from our budget deficit. We have record highs.

If this was a good trade program we had been practicing, we would be doing better. The Democrat Party is abandoning the American worker and the Democrat Party is going to send the American worker to the Republicans, because the Democrat Party is not standing up today for the American worker. In my district when American workers and our workers start questioning the leadership and the direction of our trade policy, the Democrat Party is beginning to turn their back on the average working man. I oppose this rule, I oppose these trade policies and I wish there could be some common sense around here because we will be lucky to have a damn job left.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to my good friend, the gentleman from Indianapolis, IN [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I agree with my colleague from California that this is the largest trade agreement that we have ever negotiated. I agree with him that we should not rush it because it is inadvisable to rush something of this magnitude through this body. But what I do not agree with is coming back in a lame duck session with probably 50 to 100 Members who will be voting on this no longer Members of this body and not answerable to the electorate. It is the same in the other body. This is a heck of a way to run a railroad.

There are questions about the impact of this trade agreement on U.S. sovereignty. There are questions about us being able to unilaterally impose trade sanctions against people who unfairly treat us in trade areas. There are questions about the constitutionality of the World Trade Organization. There are questions about the impact of this agreement on the patent system in this country. All of those questions need to be well thought out and voted upon by the people who are elected to represent the people of this country. To come back in a lame duck session when all the pressure is off and to vote on an issue of this magnitude is just simply wrong. Some of my colleagues have said that the fast track provisions run out and the Senate will not extend them if we wait until January. I say to that, baloney. Baloney. They will extend fast track if they know there is no alternative.

We must in my opinion, if we are going to hold this thing over and not vote on it before we adjourn, carry it over until the next session and let the newly elected representatives of Congress, the elected representatives of the people, vote on this, not 100 Members who are no longer Members, who do not have any accountability to the people, who can succumb to political pressure if they choose to do so, for whatever reason, without any accountability to the electorate in this country. It is just wrong.

If it was not something of this magnitude, if it was something that was relatively insignificant, I would say, well, maybe it is all right to have a lame duck session. But this is the most important piece of trade legislation that is ever going to come before this body. And to have 100 Members of the House of Representatives who are no longer in this House, who are no longer accountable to the people to vote on it, is just wrong. I think everybody here knows it. It is going to be the same in the other body. I would just like to say to my colleagues, whether you are for it or whether you are against GATT, if we are not going to vote on this before we adjourn sine die now, then let us wait until the newly-elected Congress and bring this up and debate it thoroughly and let the American people have some input and not have a lot of unelected, former Members of this body making major decisions for the people of this country when they have no accountability.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Mr. DeFAZIO. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Oregon.

Mr. DeFAZIO. Mr. Speaker, I have read most of this agreement, I think, more than most of my colleagues and I am unalterably opposed to it. I think it is going to be the death knell of the United States as a great trading power or industrial power and I am not going to be allowed to speak for more than 15 seconds tonight.

This is a gag rule, it is ridiculous, and I would urge people to vote down this rule.

Ms. KAPTUR. Mr. Speaker, I rise in strong opposition to this rule because a vote on this rule is the only real vote on GATT, because this rule means that fast track prevails and whatever comes down here in November will have the opportunity for no amendment. Think about it, my friends. Why the rush to pass a 4,000 page bill, plus supporting tariff schedule that was 7 years in the making and now is allowed only 1 hour of debate on the rule tonight and 4 hours, if we are lucky, in November? This vote tonight on the rule strictly sets the terms of debate. Fast track was supposed to mean 45 days of deliberation, not 45 minutes tonight, and maybe 4 hours in November. Think about it. GATT creates a new World Trade Organization. Nations that have consistently voted against us in the United Nations, like China, Cuba, India, North Korea, will have voting power in trade disputes equal to us as the United States and we will have no veto power. What does that mean? It means that under GATT, other nations will have the power to impose sanctions on us for our environmental, labor, and consumer protection laws already on our books including child labor laws. Under this proposed GATT, our laws protecting children could be challenged so that those who profit from child labor can continue to do so.

My friends, if you are not familiar with the recent softwood lumber dispute in Canada in which Canada subsidized their lumber industry, dumped their product in the United States and then stacked the dispute resolution panel with 2 jurists with proven ties to the Canadian lumber industry, you have a little idea of what is going to happen. There is more here than you might imagine at first blush. The World Trade Organization's secret dispute resolution process will not be open, nor will it be subject to American style appellate review. If other nations try to bribe panel members, who will defend the integrity of the process? Beyond this, if you have noticed that this bill weakens protections for U.S. patentholders and inventors, you cannot do anything about it once you vote for this rule tonight because you cannot amend the basic bill. This bill is too important to be passed without being thoroughly reviewed. In this post-cold war world, trying to pass massive trade agreements through the narrow eye of the needle of the House Committee on Ways and Means is antiquated. In a world where we see economic interests governing political relationships, the spillover effects of trade should be dealt with by the other important committees in this institution, like the Committee on the Judiciary, the Committee on Education and Labor, the environmental subcommittees, the budget and joint tax committees. Every one of them is effectively neutered in this process.

If you believe, as Michael Schrage from MIT states in the Washington Post, that "to talk about global economic development without addressing the challenges posed to the U.S. workforce is disingenuous, a marriage of bad policy to bad politics," then you will vote no on this rule tonight. For a change, stand up for American workers. Do not even swing at this fastball. Vote no on the rule.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, Florida [Mr. GOSS], my Committee on Rules compadre.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from the greater San Dimas metropolitan area for yielding me the time.

Mr. Speaker, it is clear Members harbor mixed feelings about taking up the GATT implementing language.

With the other body on hold for extended review and the House clock ticking down toward adjournment, there came an escalating drumbeat in favor of taking more time on this landmark legislation.

Many Members and many Americans still have serious, legitimate questions about this agreement that deserve thoughtful and specific answers.

I have been deeply troubled that this administration—which has shown itself willing to jam a highly unpopular and questionable military misadventure in Haiti down the throats of the American people—was again attempting to stomp out opposition to a policy, rather than take the time to educate and lead the public opinion.

There seem to be reasonable answers to most of the questions that have been raised by GATT. But the administration—and frankly this Congress—has not gotten the message out to the people we work for. That is one reason why this House has been so skittish on the subject of GATT—and that is why now is not the best time to force the issue.

Americans want a better idea of if and how our laws and trade policies might be constrained by GATT. They want to understand how this agreement came about and who will have a say over enforcing it down the road.

They want assurances that some international conglomerate is not going to be able to dictate American policy. And, having seen reports of giveaways to large corporations including apparently to the Washington Post, they are wondering if there are still surprises tucked into this 651 page implementing bill.

I know many Members have been dealing with the Uruguay round for more than 8 years, but most Americans have not had that type of detailed exposure to this complex process.

Mr. Speaker, I recognize the importance of world trade and drawing down barriers to free markets and am pleased to support this rule with the understanding that the leadership will hold further consideration until later this year.

I think that is a wise step to avoid risking the demise of the entire GATT process on a poorly timed effort to ram this thing through.

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Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the distinguished gentleman from Michigan [Mr. BONIOR] the majority whip.

Mr. BONIOR. Mr. Speaker, once again we are engaged in a debate about the trade policy of this Nation.

And once again, supporters of this agreement are trying to portray this debate in very simple terms: Are you for or against free trade?

But to portray this debate in those simple terms is to turn our backs on all this country has stood for, and to close our eyes to the real challenge we face in the global economy today.

We can never forget that the only reason we are able to bargain from a position of economic strength today is because of all the sacrifies made by the people who went before us.

People who had the wisdom to know that if we gave people the right to organize, and the fight to bargain for better wages, it would raise the standard of living in America.

And in doing so, in giving people the ability to make enough so they could afford to buy the products they made, we would create a middle class that would propel this Nation forward.

For over 100 years, we clung to that vision, and we succeeded.

But today, the rules have changed.

Our success as a nation today no longer depends solely on whether or not we can afford to buy the products we make, but whether or not other nations can afford them as well.

The challenge we face today is whether or not we can use our trade agreements to raise the standards of other nations to our level, rather than lowering ours to theirs.

But as I look over the list of the 123 nations that signed this GATT agreement, I see many nations where people work for a dollar an hour or less—where people work within arms reach of toxins and poisions—but yet they are denied the right to bargain for better wages and a better life.

We cannot continue to pretend that these conditions do not have a direct impact on our own families and businesses.

Mr. Speaker, it is naive to think that just opening the border to so-called free trade will fix these problems. Because history has shown us just the opposite.

History has shown us that if we do not address the environment, and wages, and working conditions directly in our trade agreements, they never get addressed at all.

But sadly, this agreement does not address them. On each and every one of these issues, GATT is silent.

Here we have an agreement that is over 20,000 pages long—signed by 123 other countries—that will affect every sector of our economy, and influence our trade policy for generations to come, and not one of these issues is addressed.

Mr. Speaker, by passing this agreement, we run the risk of seeing more companies pack up and move overseas, more Americans having their purchasing power eroded, and more nations unable to buy the products we make.

Yet we continue to ignore the stark reality facing us today. I believe this is the same mistake we made with NAFTA.

To this day, we continue to close our eyes on NAFTA, and only look at half of the story.

The Commerce Department tells us that United States exports to Mexico are up 17 percent. What they do not say is that imports from Mexico are up 21 percent, and that has cost us jobs.

They point out that the United States has exported 22,000 vehicles to Mexico through July. What they do not say is that we have imported 221,000 vehicles from Mexico, and that has cost us jobs.

What they don't say is that 35,000 workers from 224 firms in 37 States have already applied for benefits due to jobs lost from NAFTA, and that's just through August.

What they do not say is that Mexico continues to devalue its peso—making our products that much more expensive in Mexico, and Mexican products that much cheaper in the United States.

Yet we keep closing our eyes.

Last fall, many dismissed our warnings that Germany and Japan would use Mexico as a platform to export cars duty-free into the United States. Yet, since NAFTA passed, Honda, BMW, Nissan, Volkswgen, and Toyota have all announced plans to build new plants in Mexico—and have vowed to drastically increase their imports to America.

When you look at both sides of the story, it is easy to understand why our trade surplus with Mexico has dropped by over 30 percent in the past year alone—and continues to shrink.

That's the reality of NAFTA today.

Don't get me wrong—now that it's the law of the land, we all hope it succeeds. But it never will succeed until we open our eyes to both sides of the story.

It doesn't have to be this way. We can do better in our trade agreements—and we must.

I supported the Canadian Free-Trade Agreement. And I believe I will be able to support an agreement with Chile. Agreements that are carefully crafted, that achieve a real balance on wages, working conditions, and living standards. That is where our future lies.

But that is not what we have before us today.

I will support this rule. I believe we should have this debate. But I will be voting against this GATT.

I believe both NAFTA and GATT will come back to haunt us.

But regardless of what happens on GATT, I promise you this: We have not heard the last of this issue.

Not until we open our eyes and face the future with the same vision that built this great Nation.

In the end, unless we remember the rights that we fought for, unless we fight for those rights for others, we will lost those rights ourselves.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to my friend, the gentlewoman from Lutherville, MD, [Mrs. BENTLEY], who will also be retiring at the end of this term.

Mrs. BENTLEY. Mr. Speaker, let me say to my colleagues tonight, please read carefully the remarks of the gentleman from Indiana [Mr. BURTON], and the gentlewoman from Ohio [Ms. KAPTUR], before they vote.

Mr. Speaker, all of you who are voting on this rule tonight—whether for or against—must remember the golden rule of politics, "Never waffle!" I predict to anyone of you thinking of voting one way on the rule for political reasons and, then, voting another way on the GATT for PAC reasons, that you cannot have it both ways.

There are literally millions of Americans across this country who will know how you voted on both votes. As long as you are in politics those people will remember and your waffle will dog your campaign days.

It is a historic vote tonight. Every one of our names will forever be engraved on this watermark legislation—to our pride—or, ultimately, to our shame. If there is one Member, who like the Washington Post or the Atlanta Journal, has a vested interest in the passage of GATT—a future job with one of the companies heavily lobbying this legislation—large personal investments in companies that will be profiting from the opening of foreign markets—not the average American manufacturing company with 100 or less employees—I hope they will recluse themselves from the vote.

Mr. Speaker, the Clinton administration has changed the terms for patents in the general agreements on tariffs and trade [GATT] at the request of Japan. Clinton's deal shortens the lifespan of a patent, robs Americans of royalties, and robs Americans of jobs. With these patent changes in the GATT, we are giving away our technological lead for the next 100 years.

If for no other reason we should reject this rule and ask for more time because the whole world of inventors will effectively be shut down. The United States has the largest body of patents or intellectual property—but under the terms of GATT only the Federal Government can bring a lawsuit to protect our patents.

The fate of American inventors will be decided by foreign members in an international dispute panel, instead of being heard in American courts in front of American juries as guaranteed by the 7th amendment of the Constitution.

My friend, Prof. James Chandler, president of the Intellectual Property Law Institute states, "Without intellectual property there are no jobs." Save our patent system—save our jobs. Vote "no" on GATT.

A no vote states loudly and clearly that we the U.S. Congress will continue to legislate and carry out the will of the American people. Not the will of Sri Lanka, or Singapore, or Peter Sutherland, director general of the world GATT organization. We should not bow on our knee, or our head to Geneva!

A no vote tonight is a no vote against foreign interference in our national affairs.

America is watching.

I believe America will remember.

□ 2030

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Speaker, I rise in support of the rule and in support of GATT. This trade agreement represents the most significant opportunity in years for the U.S. economy to grow.

The benefits of GATT are clear. The U.S. Department of the Treasury estimates that 10 years after implementation of the Uruguay round agreement, United States total annual incomes should be greater by $100 to $200 billion. In California alone, estimates are that $10.1 billion in new manufactured goods exports will be generated between 1995 and 2005, creating as many as 200,000 more jobs. U.S. agricultural exports are expected to increase from $1.6 to $4.7 billion by the year 2000 and up to $8.7 billion in 2005.

The GATT agreement improves market access for U.S. products by requiring our trading partners to lower tariffs and other nontariff trade barriers. It expands protection for intellectual property, which will benefit the U.S. computer, entertainment and other industries. The agreement establishes an improved dispute resolution mechanism and new rules on import licensing that will benefit U.S. industries.

The United States provides the most open market in the world. Unfortunately, up to now, all we have received in return from our trading partners are increased tariffs and non-tariff trade barriers and increasing unfair government subsidies. The Uruguay round agreement puts in place specific reductions in all three of these areas, which will lead to a more level playing field for American exports.

I have no doubt that American farmers, manufacturers, and workers can compete and win in the world market, However, for too long we have had to compete in an unfair market. This GATT agreement represents a golden opportunity for U.S. exports to break into new markets and expand existing markets.

All of the criticism that has been leveled against this agreement pales in comparison to the benefits that will accrue to the United States. Don't let the scare tactics being used by the opponents of GATT obscure the concrete benefits of this agreement.

The Uruguay round does not increase taxes, as some opponents of the agreement will argue. Rather the agreement will lower global tariffs by $744 billion over the next 10 years. However, the budget rules require Congress to provide offsets for the $12 billion of lost tariff revenue to the U.S. Treasury—even though in reality GATT will increase the gross domestic product [GDP], and thus revenues to the Federal Treasury. The bipartisan financing package for GATT is more than 60 percent spending cuts. The remaining financing is primarily changes in current revenue and compliance items—not new taxes.

Opponents of the agreement have also misrepresented the role of the World Trade Organization [WTO] under the agreement. This is the organization that will be charged with oversight of the GATT agreement, and will replace the current GATT structure. The WTO is like a contract among member countries. Under the contract, a country found to be in violation of the agreement can choose to, first, pay compensation, second, negotiate a settlement with the complaining party, or third, take no action and allow the complaining government to withdraw some equivalent level of concessions. Under no circumstances would a country be required to change an existing law. In no way does the WTO threaten U.S. sovereignty.

The population of the United States will increase by 30 million over the next 20 years, and the world population will increase by 2 billion over that same period. Clearly, the U.S. must find ways to gain access to the international market. GATT will facilitate U.S. access to this fast growing world market.

I am alarmed by increased pressure to enact protectionism trade policies in the United States and around the world. Closing our markets is not the solution. Increasing productivity, improving quality and meeting international demands are the solutions. American business can meet this challenge, if given the chance. I believe the GATT agreement is a step in the right direction. Vote for the rule and for the implementing legislation.

Mr. DREIER. Mr. Speaker, there is no one in this House who is a stronger proponent of free trade than my friend, the gentleman from Arizona [Mr. KOLBE].

Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me this time. I appreciate the opportunity to talk to the House this evening about this. I rise in strong support of this rule, as I will rise in strong support next month when we debate the agreement itself.

I am disappointed, and I know many of my colleagues on both sides of the aisle are disappointed, perhaps some on both sides of the issue, that we will not debate this issue tonight or this week, that we will not have a vote on it now.

As my colleague from California explained, it is because of action in the other body, it is because of action of the Senators that they will not be voting on it before this election that compelled us to take the same action over here.

Ladies and gentlemen, the GATT agreement is important. Make no mistake about that. If you have any doubt about it, you only need to watch what has been going on the last 2 days on the markets to see the kind of indicators that we have seen and the drop in the market values. Make no mistake about it, whether you are for it or against it, the world is watching this debate and will be watching the debate that we have next month.

We live in a world that is interdependent economically, and we cannot take lightly the vote that we cast.

Why must we do this this year? Because we will lose much of the benefits of NAFTA if we do not act this year. We will lose the benefits, and we will lose the value, because we lose fast track, and we will not have the ability to debate it under the same circumstances.

This represents the biggest tax cut in history, $750 billion over the next several years. It will result in a 2- to 3-percent increase in the gross domestic product in the United States. It will put thousands of dollars in the pockets of every American. It will result in better jobs, more jobs, better-paying jobs. We need to have GATT.

Before I close, let me pay tribute to my distinguished leader, the gentleman from Illinois [Mr. MICHEL], for the role that he has played, the Speaker, and to the gentleman from Missouri [Mr. GEPHARDT] for the willingness to work out the arrangement that we have here tonight, and I want to especially pay tribute to my good friend and colleague on the other side of the aisle, the gentleman from California [Mr. MATSUI], whom I have had the privilege of working with on this issue, and, of course, to the gentleman from California [Mr. DREIER].

I look forward to coming back next month, debating this issue, and I look forward to the passage of GATT, the largest tax decrease in American history.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Washington [Ms. CANTWELL].

Ms. CANTWELL. Mr. Speaker, I rise to ask my colleagues to support this rule. The world economy has reached an historic juncture. The economic interdependence of countries throughout the world has grown dramatically. The old GATT rules, if not modernized and expanded, will soon be overwhelmed.

The new GATT agreement addresses the emerging trade issues of the future and readies us for the twenty-first century. Once in place, the new rules will lead to a vast expansion in world trade.

I wish we were voting tonight to ratify the agreement as well as the rule.

Washington State has embraced the opportunities international trade offers. It is the most trade dependent State in the Nation. The result has been $28 billion in exports and 600,000 jobs—more than one out of every five jobs in the State.

The computer software and aerospace industries in my State, in particular, will greatly benefit from the new GATT rules protecting intellectual property rights and controlling unfair trade practices.

Yearly losses from piracy of U.S. intellectual property are estimated to be a staggering $12 billion. The new GATT agreement will finally give U.S. copyright and patent holders a means to enforce and capitalize upon their legitimate intellectual property rights throughout the world.

The new GATT agreement is the right agreement for my State and the right agreement for America.

I urge my colleagues to support the rule tonight.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from Warren, PA [Mr. CLINGER], the ranking member of the Committee on Government Operations.

Mr. CLINGER. Mr. Speaker, I rise in strong support of this rule, and only regret that we have to wait until November to vote on the bill itself.

Mr. Speaker, the sooner we vote on opening markets worldwide, the sooner we quench the fires of protectionism now going out of control. Europe and the rest of the world are closely watching what we do tonight. Let us not flinch.

Mr. Speaker, my home State, Pennsylvania, ranked 10th among the States in exports of merchandise in 1993, with $13.2 billion worth of goods sold abroad.

Frankly, I think we can do better, and the Uruguay Round agreement will help Pennsylvania exporters by opening markets overseas—markets in which Pennsylvania products may have been uncompetitive because of a high tariff at the border or markets where our pharmaceuticals or software could not be sold due to weak or nonexistent protection for intellectual property rights. New sales there means more jobs here.

Lest the noise of the debate over peripheral issues drown out that fundamental truth, let me repeat it: by opening new markets to American products we will strengthen our own economy and put more of our own people back to work. This is an American jobs bill.

The opportunity we have today, to pry open markets across the globe, is rare and fleeting. Let us not squander this opportunity; indeed, seize it.

The General Agreement on Tariffs and Trade has provided an orderly and stable system for trade for the last 45 years. Our exports in this period have provided significant numbers of American workers with relatively high-paying jobs. Our economy is far stronger and more robust than it would have been if we had never joined GATT.

Too much is at stake for us to forget how these economic benefits came about or to take them for granted. In 5 or 10 or 50 years from now, as our children and grandchildren are enjoying the economic fruits of a healthy trading system, the superficial, petty disputes aired here today will be long forgotten. This vote, however, and the vote on the implementing bill that will occur later today, will have a place in history.

A vote to adopt this rule recognizes that the United States has spent nearly a decade negotiating, arguing, cajoling, and sometimes threatening our trading partners in order to secure an unfettered world trade system. A vote against this rule signals our trading partners that they need not heed us the next time we complain about the rules or about a country's failure to comply with those rules. A vote against this rule is a vote to weaken the position of future American presidents.

In sum, Mr. Speaker, a vote on this rule is a vote for jobs today, for strong underpinnings for the U.S. economy now and into the future, and to advise other nations of our trade policy with a strong, clear voice. For Pennsylvania workers today and tomorrow, I ask for a "yea" vote.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to my friend, the gentleman from Simi Valley, CA [Mr. GALLEGLY].

Mr. GALLEGLY. Mr. Speaker, I am normally very supportive of all of the issues that the gentleman from California [Mr. DREIER] brings before this body.

As a free-trader, I must speak out in strong opposition to this rule, because I think it is plain unconscionable that we bring this back in a lame-duck session. This important legislation should not be decided by Members who have no political stake in the outcome.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I rise in support of the rule.

If this GATT becomes law, it will produce an additional $100 billion–$200 billion worth of additional GDP to the American economy on an annual basis.

The GATT can basically be divided into four areas. First of all, it is a continuation of the existing world trade treaty that determines rules on goods and services that cross borders in the world today that has actually given a great rise in the world standard of living over the last 50 years since the end of World War II.

First, this new GATT will expand protection in the intellectual properties. As you know, when software goes across U.S. borders into countries right now, we do not have adequate protection of software and intellectual property. China, for example, steals $1 billion worth of U.S. intellectual properties on an annual basis. This, over a 10-year period, will give U.S. protection and protection worldwide to our copyrights, to our intellectual properties.

Second, the GATT will reduce tariffs worldwide by one-third, which will means there will be a tremendous increase in trade back and forth across the borders.

The third area, of course, is the first time we will have trade in the area of services such as financial services, such as insurance, such as securities. This is an area that will help expand the U.S. economy, because we are the leaders in these particular areas.

The fourth is for the first time we will have a World Trade Organization that will solve disputes, and as you know, since we will be dealing with less-developed countries, countries, that probably will have nontariff barriers, the United States will be the country, along with the countries of Europe and Japan, that will be using the World Trade Organization more than it will be used against us.

□ 2040

This agreement is in the interest of the United States, it is in the interest of progress and growth in our country.

Mr. Speaker, I urge a vote on the rule so that we can get to the point of voting on the GATT in November of this year.

Mr. DREIER. Mr. Speaker, I yield such time as he may consume to the gentleman from Millbrook, NY, Mr. FISH, the ranking member of the Committee on the Judiciary.

Mr. FISH. I thank my colleague for yielding time, and I rise in support of the rule for H.R. 5110, the implementing legislation of the General Agreement on Tariffs and Trade.

Mr. Speaker, I rise in support of the rule for H.R. 5110, the implementing legislation of the General Agreement on Tariffs and Trade [GATT] Uruguay Round Trade Agreement.

By passing this rule we will be able to consider legislation that will allow American companies to have access to foreign markets that will bring anticipated growth of $1.1 trillion to the U.S. economy over the next 10 years. This agreement will cut foreign tariffs on manufactured products by more than one third, the largest reduction in history.

I am also pleased with the intellectual property standards included in the legislation that will give new protections to American pharmaceutical, entertainment, and software industries. Without the intellectual property protections in this agreement, U.S. producers will continue to lose billions of dollars in U.S exports to piracy and counterfeiting.

Agriculture will also benefit from this agreement. By reducing export subsidies and by limiting the ability of foreign governments to block agricultural exports through quotas, subsidies, and tariffs, export opportunities for U.S. agricultural producers will increase.

Failure to approve the Uruguay round of GATT would serve a blow to the world leadership of the United States and our traditional commitment to free trade. We cannot allow the ever growing global economy to leave America and with it New York State behind, as other nations capitalize on the benefits of this agreement. We must realize our role as a world leader. We must not let the door to hundreds of thousands of new jobs for the people of this country close.

When you cast your vote on the implementing legislation of the Uruguay round of GATT look forward to the promise of increased economic growth and job creation offered by free trade. Do not deny the people of the United States the opportunity for a more prosperous future.

Mr. DREIER. Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from Palm Harbor, FL [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Speaker, I plan to vote against this rule. While I favor efforts to eliminate the trade barriers and other unfair trade practices, I have a number of questions regarding the implementing legislation which the originally planned rule would not have afforded me the opportunity to get answers to. While I am pleased that we are delaying votes on the basic bill, my constituents and I must get answers to the following questions and the answers thereto shall determine my vote on the bill.

Mr. Speaker, will the United States sovereignty be undermined by the creation of the World Trade Organization? Can the WTO dispute settlement panels strike down U.S. law? Does the fact that each country has one vote in the WTO mean the United States will be outvoted on important trade issues? Will unilateral action by the United States be prohibited under the WTO?

How will U.S. environmental laws be impacted by the GATT Agreement? Will the rules of the WTO promote the reduction of strong food safety laws to weaker international standards? Can U.S. food safety standards stronger than those of the WTO be challenged by other nations as illegal trade barriers?

How much will the Uruguay round cost the American taxpayers? How is the agreement financed and will it increase the Nation's budget deficit?

Does the implementing legislation weaken the Nation's patent system? Will U.S. competitiveness be weakened if we change our patent system? Is the change required under the GATT Agreement or was it added to H.R. 5110 by special interests?

Before Congress voted on NAFTA, the administration made a lot of side deals to secure votes in favor of that trade agreement. Are any similar deals attached to H.R. 5110?

These are just a few of the questions that my constituents and I have regarding the implementing legislation for the GATT Agreement, and I do not believe that 4 hours of general debate will be sufficient to provide adequate answers to our questions.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. I thank the gentleman for yielding, and I rise in opposition to the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from North Carolina [Mr. PRICE].

Mr. PRICE of North Carolina. Mr. Speaker, I rise in support of the rule governing debate on H.R. 5110, the implementing legislation for the General Agreement on Tariffs and Trade. My own preference would be to vote on this legislation this week. Delay could cost U.S. workers and firms billions of dollars in benefits and lost opportunities.

But in light of the situation in the other body and the various views that we must reconcile in this body, a vote in late November seems to be the best that is achievable. I urge passage of this rule to set the terms of that debate and to allow us to pass this legislation well in advance of January 1 of next year.

America needs the GATT Agreement, a bipartisan agreement negotiated by three administrations over a 7-year period. It will cut global tariffs by some $744 billion, it would create hundreds of thousands of high-paying American jobs, and it will contribute over $100 billion to the U.S. economy each year.

Mr. Speaker, H.R. 5110 contains provisions critical to the adjustment of the textile and apparel industry in this country during the 10-year phaseout period of the multifiber agreement. The so-called Cardin rule of origin amendment establishes that the country of origin for purposes of import, labeling, and other customs purposes will be determined by where apparel or other textile products are assembled rather than where they are cut. Secondly, the circumvention of textile and apparel quotas through illegal transshipments is addressed in this bill. Finally, authority is extended for the President to continue to regulate imports of textiles and apparel from countries that are not part of the World Trade Organization and to whom we do not grant Uruguay round benefits.

Mr. Speaker, the GATT implementation bill is a crucial step for our country and for the world economy, and I urge passage of this rule.

Mr. DREIER. Mr. Speaker, I am happy to yield 1 minute to my friend, a hardworking member of the Trade Subcommittee, the gentleman from Bakersfield, CA [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, as is usually the case in these matters, virtually all of the people who are opposed to this measure speak tonight and the vast majority who are in support of it are not down in the well talking.

To my friend from Florida, with whom I have worked long and hard on bipartisan legislation in the area of health care, all of his questions are answered "no." Is U.S. sovereignty affected? No. Is U.S. law affected? No. Are we to be outvoted? No. Unilateral change of U.S. laws? No, no, no, no, no. The fact of the matter is I agree with all my colleagues who say we should be voting on the substance of GATT now. But because of a single Member over in the other body, we are not.

Let me tell you, when you have 4 signatures on a letter 2 days before adjournment and those 4 signatures are TOM FOLEY, RICHARD GEPHARDT, ROBERT MICHEL, and NEWT GINGRICH, and all of them say vote for the rule, vote for the rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. I thank the gentleman for yielding this time to me.

Mr. Speaker, I just want to say that when we were standing here on the floor last year, we were talking about NAFTA, and everybody told us about all the wonderful things that were going to happen. But in my State of Pennsylvania we have been the number one State in applications for NAFTA trade adjustment assistance. Nearly 3 dozen companies have made that effort. I mention that because if NAFTA were an ant, GATT is an elephant. That is the difference between these bills.

Yet in the committees that I serve on in this Congress Committee on Banking, Finance and Urban Affairs, Committee on Education and Labor, Committee on Small Business we had hearings on NAFTA. We have not had hearings on GATT.

Yet in the committees that I serve on in this Congress Committee on Banking, Finance and Urban Affairs, Committee on Education and Labor, Committee on Small Business we had hearings on NAFTA. We have not had hearings on GATT.

Yet we are expected to come here tonight, coming from an area where in the past 2 decades in southwestern Pennsylvania we have lost 160,000 manufacturing jobs because of the investment and trade practices of this country, I am expected in 1 minute to make my plea against this rule. I make the plea, and I say do not have a continuation of this service.

We have people like the continuation of this service.

We have people like the CEO of Alleghany Ludlum, in a letter to MIckey Cantor, saying,

> I am extremely disappointed with the Administration's proposals to implement the weakening provisions contained in GATT. These measures are not required. It is even more alarming that the Administration has not attempted to address the balance of trade.

Ladies and gentlemen, do not keep this situation exacerbated, vote "no" on the rule and kill GATT.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, every shred of evidence that we have received has demonstrated a dramatic increase, even beyond our expectations, for exports and improved relations with Mexico as a byproduct of the North American Free Trade Agreement.

Mr. Speaker, I yield 1½ minutes to my good friend, the gentleman from California, [Mr. ROHRABACHER].

Mr. ROHRABACHER. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise with a heavy heart to oppose this rule. I voted for fast track, and, yes, I voted for NAFTA with all of this discussion.

When I voted for fast track, I thought we were going to get 45 days to examine the treaty. Instead, in a total breach of faith, this administration submitted the GATT implementation legislation in the final days of this session, hoping to force us to a vote without even consideration that such a vital issue requires.

Why the rush job? That is why I am opposing the rule even now and opposing GATT even now, because the administration snuck into this legislation items that should not be part of the implementation legislation, because they are not required by GATT, especially the item that would particularly reduce the patent protection now enjoyed by Americans.

□ 2050

The most disturbing of all of these provisions was that, but there are other things in GATT as well, the GATT implementing legislation, that are not required by GATT. This stealth rip-off of American patent rights hits directly at our competitiveness. Foreign competitors will now be able to use, if GATT passes and this remains in the bill, foreigners will be able to use our technology without paying royalties. They can use our technology against us. It is a crime that provisions like this are in the legislation in the first place.

Mr. Speaker, that is why I am voting against this rule. That is why I am going to vote against GATT unless they are taken out. I hope in the upcoming election every candidate is asked to oppose this crime by voting against GATT unless the provisions limiting American patent rights are taken out.

Mr. DREIER. Mr. Speaker, I yield 30 seconds to the gentleman from Mount Prospect, Illinois [Mr. CRANE], the ranking minority member of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague, the gentleman from California [Mr. DREIER] for yielding this time to me.

Let me just remind some of my colleagues on this side of the aisle that the one fundamental division between our parties historically from their inception was our positions on trade, and it was Grover Cleveland who reflected on the thought that, when we impose tariff barriers, we inflict the greatest injury on that man who earns his daily bread with the sweat of his brow, and it was the McKinley tariff in 1890, the biggest protectionist measure in history, that caused the panic in 1893, and Smoot-Hawley guaranteed the Depression went worldwide.

Support free trade.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my good friend and another member of the committee, the gentleman from Corning, New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, my colleagues, there are a million reasons why we should vote against this. I thought of them myself. I have anguished it myself. But the gut issue is whether it does good for the United States, and it does, and I do not care what sort of intellectual approach is being used over here. I do not know what the ghosts are that come out of the closet. From a business standpoint, Mr. Speaker, it makes sense, it creates jobs, it is good for my district, and I say to my colleagues, It's good for your district.

We ought to support this rule. Let us get at it.

Mr. DREIER. Mr. Speaker, I yield one minute and a half to the gentleman from Lincoln, Nebraska [Mr. BEREUTER], who is my former colleague on the Committee on Banking, Finance and Urban Affairs.

Mr. BEREUTER. Mr. Speaker, my colleagues, I had not planned to speak on this issue tonight, but for balance I think it is important that I have a chance to say I am strongly in support of this rule and the agreement, and I would like to see the GATT agreement voted on this evening, if possible.

There was a great deal of hyperbole about NAFTA, but let me tell my colleagues that the approval of the GATT agreement is the most important step we can take to stimulate the economy of this country. That is true of the world economy as well. The GATT agreement is ideally suited for the benefit of the United States.

In fact we achieved all of our primary Uruguay Round objectives. We were the country that initiated the Uruguay Round. Manufacturing, agricultural, service sectors; all of these sectors benefit from year one. We are going to generate more individual and corporate income tax from year one under the GATT agreement than we will lose in reduced tariffs; there is no doubt about that fact. When it comes to the improvement of intellectual property rights, we are the big beneficiary. When it comes to dispute mechanism settlements, change is here. The reforms that we have are going to benefit the United States; there is no question about it.

Now we are going to have a school of red herrings swimming out there, I suppose, in the time remaining, but it is important to remember this GATT agreement is good for the United States, every sector benefits, and I hope my colleagues will support this legislation. It is too bad we could not vote on the agreement tonight, but let us remember when we take up the agreement in late November, the basic arguments are for the United States to approve the GATT agreement produced in the Uruguay Round.

Mr. Speaker, this Member rises in strong support of legislation to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations. On deciding whether to vote for or against this historic trade agreement, it is not even a close call; this trade agreement (which took 7½ years to negotiate and which has been agreed to by in the history of the world. It is the single best economic stimulus for the United States and the 125 countries who have signed it and therefore is a good prescription for an ailing and stagnant world economy.

During the recent debate over the Uruguay Round trade agreement, many have forgotten that President Reagan led the call for the Uruguay Round trade negotiations, President Bush skillfully negotiated a majority of the provisions, and President Clinton concluded the arduous negotiations. This bipartisan effort has sustained itself over 7½ years for one simple reason; each and every citizen of the United States stands to benefit greatly from the opening of foreign markets to U.S. goods and services exports, the worldwide reduction of tariffs, the protection of intellectual property rights, and the systematic adjudication of international trade disputes.

The Uruguay Round Trade Agreement—the most ambitious and comprehensive trade agreement in history—attempts to remedy current world trade inequities by forcing foreign countries to open their markets to U.S. goods and services. In short, the Uruguay Round agreement would enhance export opportunities for agricultural products, manufactured goods, and many services, and it would create a World Trade Organization [WTO] to implement the agreement.

Specifically, the Uruguay Round Trade Agreement:

Adds a predicted $100–$200 billion annually to the United States Gross Domestic Product [GDP] according to the Office of the United States Trade Representative;

Requires the conversion of nearly all nontariff barriers to tariffs and significantly reduces these tariffs on nearly 85 percent of world trade;

Expands GATT rules to cover Government procurement of goods and services and export of many services. This expansion will enable United States service exporters to continue to dominate this fast growing, lucrative sector of the United States and world economy, and it will help United States service providers compete for billion dollar infrastructure projects in the world's fastest growing regions like India and China;

Expands protection of Intellectual Property Rights in the world's developing countries. This is especially beneficial to U.S. high-technology exports and to the U.S. entertainment industry which currently loses billions in annual exports because of piracy and copying.

Strengthens the WTO to arbitrate trade disputes between members and thus avoid costly and destabilizing bilateral trade conflicts among member nations.

Includes agricultural trade under world trade rules for the first time ever.

Mr. Speaker, for my home State of Nebraska, the Uruguay Round Trade Agreement is also overwhelmingly positive. For Nebraska's grain and livestock-dominated agricultural industry, the Uruguay Round is expected to boost export sales of these products from $3.5–$6.5 billion over 10 years. Additionally, it is expected to increase net farm section income by as much as $1.3 billion in 2000 and by as much as $2.5 billion in 2005. This could help to reduce Government spending on agricultural subsidies by roughly the same amount.

Immediately, this agreement will help Nebraska cattlemen sell their beef in Japan. Koreans will put more Nebraska pork and corn flakes on their breakfast table, and Nebraska grain producers will better be able to compete against European grain barons, who will find their government export subsidies greatly reduced. Additionally, Nebraska's small-town manufacturers, like Valmont Industries in Valley, NE, will be able to exploit lucrative markets in the developing world where the thirst for Valmont's irrigation equipment is immeasurable. Clearly, Mr. Speaker, the Uruguay Round Trade Agreement is good for Nebraska and it is good for the United States as a whole.

This Member acknowledges that there are many easy reasons to vote against legislation. In fact, this Member has objected to the Clinton administration's retreat on agriculture export subsidy reductions, its stubborn resistance to waiving pay-go rules, its decision to unnecessarily cut U.S. agriculture export subsidies, and its inordinate delay in submitting this legislation. Nevertheless, Mr. Speaker, this body's consideration of the Uruguay Round Trade Agreement, is simply too important to get sidetracked by the special interest groups who oppose this legislation.

The Clinton administration's, and frankly Congress' stubborn reluctance to not waive pay-go budget rules—despite the overwhelmingly acknowledged fact that this trade agreement will pay for itself through greatly increased revenues from corporate and individual Federal income taxes—has undoubtedly caused several questionable provisions and seemingly absurd additions to this legislation. Nevertheless Mr. Speaker, even with these unnecessary provisions, this trade agreement and this legislation should be approved by this body.

Mr. Speaker, those Members who believe they can take the easy way out by voting against this agreement, should strongly consider the implications of their actions today. Congress' seemingly benign neglect of the proposed International Trade Organization immediately after World War II defeated that organization and forced us to live with the interim GATT agreement, which has been largely ineffective in forcing countries to open their markets to U.S. goods and services for the past 40 years.

In closing Mr. Speaker, as a member of both the International Economic Policy and Trade Subcommittee and the Export Task Force, this Member has strongly supported efforts to liberalize world-trade rules because this Member believes American individuals and companies can effectively compete in world markets if they are permitted to compete under fair-trade rules. In principle and within reason, individuals and companies of different nations should be able to trade with one another without governmental interference. This type of free trade is the most efficient way to promote world-wide economic growth because it permits individuals—not bureaucrats—to make international trade decisions on sound business principles. Therefore, this Member strongly supports this legislation and urges his colleagues to overwhelmingly approve this historic and important trade agreement by adopting this legislation.

Mr. DREIER. Mr. Speaker, I yield 1 minute to my friend, the gentleman from El Cajon, CA [Mr. HUNTER], a true spokesman for what I am happy to say is a small minority of the Republican Party on trade.

Mr. HUNTER. I hope my friend, the gentleman from Illinois [Mr. CRANE], is still in the room because in the Teddy Roosevelt room across the street one can see this gentleman that he studied, Grover Cleveland, Democrat President of the United States, in a political cartoon flat on his back in a boxing ring holding those gloves which the gentleman from Illinois has labeled free trade, and the Republicans are standing over him with their boxing gloves labeled fair trade and reciprocity, so do not put too much behind Grover Cleveland's career and credibility with respect to where we are going, my Democrat friends.

Let me just say this is a bad business deal. We are going to talk about the substance later on. But this is a bad business deal because it gives away the most important American economic assets, which is our bilateral trading leverage, country to country, one on one, and it gives it away to a committee, and I say to my colleagues, "If you look at the roster of that committee, it's a committee that doesn't like us very much."

This is President Clinton's GATT. This is his international year. He is sending our troops to Haiti, our Government to the United Nations, and our jobs to Asia and Europe.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1 minute to the gentlewoman from New York [Ms. VELÁZQUEZ].

Ms. VELAZQUEZ. Mr. Speaker, I come before my colleagues today with reservations on both this rule and the implementation bill of the Uruguay round of GATT. This agreement will encourage companies to continue to exploit low-paid workers, and in the United States it will cost over a million jobs in the textile sector alone, and, according to both the Office of Management and Budget and the Congressional Budget Office, the agreement's price tag for the first 10 years is over $40 billion.

Mr. Speaker, are we really in a position to give away $40 billion? Or will the people of this country end up paying for this agreement—paying for it as they see important programs stripped away one by one? I ask you, will this be the real price of GATT?

Mr. Speaker, I ask and I urge my colleagues to think long and hard about their vote and then cast it against this constraining rule and this harmful implementation bill. It is up to us to show the American people that this Congress can work for them.

Mr. DREIER. Mr. Speaker, I yield 1 minute to the gentlewoman from New Britain, CT [Mrs. JOHNSON], another member of the committee.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in strong support of the rule.

Mr. Speaker, this country is at a crossroads, and the stakes are high. Today we decide whether to take the road of insularity and fear or the high road to greater growth and prosperity for our country.

My colleagues and I on the Committee on Ways and Means spent many months holding hearings and negotiating to bring forth a very good bill that creates a far fairer trading system, preserves American sovereignty fully, and protects our world-famous inventiveness, a bill that will guarantee successful American participation in international trade for decades to come.

Mr. Speaker, the GATT agreement means jobs for Americans. It means growth in personal income and our standard of living. It means greater certainty and fewer disputes with world neighbors.

For my own State, GATT means increases in the $5.4 billion in goods and services sold to other countries. It means we will add to the nearly 200,000 jobs in Connecticut that create speciality metals, jet engines, chemicals, and a host of other products.

I say to my colleagues, "I urge your support of the rule."

Mr. DREIER. Mr. Speaker, to close debate on our side, I yield 1½ minutes to the gentleman from Houston, TX [Mr. ARCHER], my good friend with whom I have been working over the last several months on the Uruguay round. No one has been more diligent on behalf of free trade.

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Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to speak to my colleagues, to tell them that there should be no controversy over this rule. There may be controversy over the substance of the GATT ratification implementing the legislation, but the rule clearly should not be controversial. Yes, it waives points of order, as I say to my Republican colleagues, but that is always the case under fast-track. It is the exception to prove the rule. It gives perhaps what some might think of as limited debate time of 4 hours, but after this debate on the rule, and after all the other discussion that is going to occur between now and November 29, there will be plenty of time for people to understand what they are voting on.

The rule should not be controversial. This rule should pass. This rule is important to the future of this country, to more and better paying jobs for Americans. Make no mistake about it. And it is destructive to this country as well as to the world if it fails to pass, because history teaches us that protectionism, no matter how seductive, inflicts a wound upon those who implement it on themselves. The one thing we seem to learn from history is that we never seem to learn from history and, as a result, we must relive it.

But history tells us that since the Industrial Revolution, every country that has been seduced into protectionism has seen a decline in the standard of living of its people, and every country that has reduced its trade barriers has witnessed an increase in the standard of living of its people.

America today is lean, strong, tough, competitive, to take advantage of a world marketplace which is willing to reduce its barriers to our products and our services as never before. We should not turn our back on this opportunity, not just for ourselves, but for our children and their children.

Mr. Speaker, I urge a vote for this rule.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from the State of Washington [Mr. KREIDLER].

Mr. KREIDLER. Mr. Speaker, I rise in support of the rule and the bill.

Mr. Speaker, it is time to pass the GATT bill. It is time to stop complaining about the timetable. It is time to stop pretending we can dictate the terms of trade to the rest of the world. It is time to stop listening to the paranoid fears of the far right and the far left.

Of course, every one of us thinks we could have written a better agreement. Every one of us would like to see something different in this bill. But every one of us knows that, in the end, this is the best agreement three Presidents could reach over 8 years of negotiating.

Make no mistake—trade is where our economic future lies. Half our economic growth in the last 5 years was in exports. Trade-related jobs have increased three times faster than overall jobs in the last 40 years.

In my State of Washington, one out of every four jobs depends on trade. This bill will help our exporting industries—aerospace, software, agriculture, forest products. It will open up markets and bring down world prices. It will be good for American industry, American workers, and American consumers.

We hear a lot about taxes in this body, especially from the other side of the aisle. Well, this is the biggest tax cut in history. It will bring down prices all over the world.

We hear a lot about over-regulation of business, especially from the other side of the aisle. Well, this is a massive deregulation bill, knocking down barriers to trade all over the world.

But instead of cutting tariffs and opening up world markets, instead of seizing this chance to expand trade, some of our friends across the aisle have apparently decided to go for gridlock one more time, even if it jeopardizes the trade agreement Ronald Reagan, George Bush, and Bill Clinton fought to achieve.

Some of us came to Congress to fight for change. Nobody said change would be easy, or happen overnight. Change means choosing hope over fear. This is such a choice.

Now is the time. This is the place. Vote "yes" on the rule and "yes" on the bill.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman from South Carolina is recognized for 2 minutes.

Mr. DERRICK. Mr. Speaker, I could not agree with the previous speaker more that the controversy is not the rule. I have heard a number of speakers get up tonight and say we need more time to consider it. My goodness gracious alive, we have been talking about the GATT Agreement for the last 6 years. If you do not understand the GATT Agreement tonight, you are certainly not going to understand it in another 2 months, if we have had it for 6 years.

The fact of the matter is do you believe in the economic might of this country? Do you believe in the future of this country? Do you believe that America can get out there in a free trade situation and compete with the rest of the world?

I believe that. I think most Americans believe that. All we are doing tonight is voting on a rule to give their elected representatives an opportunity to express the will of the people. And I firmly believe the will of the people is that we have what it takes to compete throughout the world in a fair trade situation that will be granted under the GATT Agreement.

Mr. KLECZKA. Mr. Speaker, I rise in strong support of the rule for the Generalized Agreement on Tariffs and Trade [GATT]. Since the Uruguay round was completed on December 15, 1993, opponents have brought waves of false criticisms against it. The most common target of these distortions is the World Trade Organization [WTO], which is the disputes settlement body. I would like to take this opportunity to set the record straight regarding the WTO.

The most often heard criticism of the WTO is that it threatens U.S. laws and U.S. sovereignty. Let me say, once and for all, this is simply not true. Nothing that the WTO does or says can affect Federal or State laws. Once GATT is on the books, what is true today will be true tomorrow: only the Congress or the

State legislature is empowered in our system of government to enact laws. Thus, there simply is no threat to our sovereignty.

When confronted with these facts, the naysayers respond that the WTO could require the United States to pay trade sanctions forever if a law is found to be a trade restriction. As is typical of their distortions of GATT, this is smoke and mirrors. U.S. laws based on scientific principles cannot be overturned. If there is a proven basis for the existence of a law, such as food product safety standards, other countries will not be able to successfully challenge it. In fact, under GATT, international health and food safety standards will rise. GATT even permits States to enact higher levels of protection than those specified by the Federal Government. What GATT does not let nations do is pass a law under the pretense of health and safety, but whose real purpose is to prohibit trade. Thus, contrary to what the critics say, GATT was negotiated with maintaining our Federal and State laws in mind.

Aside from the technical aspects of the law, it is no secret that the United States has the largest economy in the world. Under the present system, the United States can legally block unfavorable rulings, and while complaining countries can still retaliate, they are extremely unlikely to do so out of fear of triggering a self-destructive trade war with us. We will continue to command this economic might under the new agreement. With such a vast and strong economy, the United States could easily retaliate and do serious damage to the economies of other countries. Consequently, there is no reasonable basis for arguing that the United States is surrendering its sovereignty in fact or in practice.

In addition to considering one particular aspect of GATT, like the WTO, it is important to look at the larger picture. This agreement is really about a choice. A choice as to whether the United States will participate in the world economy or retreat to a position of isolationism. To my mind, the answer is clear. The benefits of participation far outweigh retreat. We should pass this rule and the agreement because it is good for my district, it is good for Wisconsin, and it is good for the United States of America.

For example, most economists estimate that GATT will create between $100 million and $200 million in U.S. economic growth each year for the next decade. It is also expected to create as many as 1.4 million jobs in this country over the same period. And, the global tariff reductions will benefit U.S. consumers in the form of lower prices. In my State of Wisconsin, GATT is likely to build on our success in exporting goods and services. Wisconsin has experienced a 98 percent rise in merchandise exports in the last 6 years, largely on the strength of growth in industrial machinery and computers, scientific instruments, and electric and electronic equipment. These sectors, and all businesses, will benefit from lower foreign tariffs and protection against intellectual property infringement.

In contrast, we know the results of a decision to isolate ourselves; economic depression. When the Smoot-Hawley Act of 1930 was enacted creating very high tariffs in an effort to protect domestic industries, the United States sank into the Great Depression, and for those of you old enough to remember, the average person paid an awful personal price. We must guard against the seductive charm of critics seeking to ply us with tales of the virtues of isolationism. Retreat will only sap our economic might and make us weak. Engagement in the world economy will make us strong, and participation with other nations will bring increased prosperity for all.

The importance of passing the GATT does not mean I did not have problems with the implementing legislation. I did. Perhaps my foremost concern about the GATT was that the WTO's dispute resolution process would occur behind closed doors and at the whim of international bureaucrats. I worked with the administration to amend the legislation so that the WTO's activities are more open to public view. One of my proposals which became part of the legislation requires the USTR to open any dispute before the WTO involving the U.S. to public scrutiny by printing it in the Federal Register. Another amendment I worked to include in the bill requires the USTR to take the public's written comments into account in preparing its submissions to the WTO.

I also sought to ensure that the USTR does not ignore public input during the dispute resolution process. Thankfully, a provision was included at my urging establishing a framework for close and continuing consultations between the USTR and interested U.S. parties. Finally, my proposal to require that the USTR make all U.S. written submissions to the WTO public was also included.

The GATT Agreement before us also made substantial progress on my two final areas of concern—the environment and financing. First, while the agreement will not end all environmental problems, it elevates environmental considerations to the highest levels of trade policy making for the first time. Second, despite the fact that GATT will generate tremendous new business revenue and the jobs that go with it, current budget rules cannot account for these expected economic benefits. Thus, $12 billion in revenue measures was found to pay for the reductions in U.S. tariffs in order for the legislation to be fully paid for within the 5-year estimating period required by the rules of the House.

Creating jobs and opportunities for businesses in Wisconsin and across this great Nation are two of my primary objectives, and GATT is expected to come through on both. While I never had doubts about the importance of the GATT, I did about the implementing legislation. However, I was able to get my leading concerns addressed during congressional consideration, which is why this GATT Agreement will receive my strong support.

Mr. HUGHES. Mr. Speaker, I rise in support of the rule on H.R. 5110, the Uruguay Round Agreements Act, a bill to approve and implement the Uruguay Round of the General Agreement on Tariffs and Trade [GATT]. The Subcommittee on Intellectual Property and Judicial Administration, which I chair, held hearings in August of this year, on the intellectual property component of GATT.

While I was disappointed that our negotiators were not able to eliminate some of the more blatantly discriminatory practices of European trading partners, especially those directed toward United States motion pictures, we should not overlook the significant gains made in the GATT/TRIP's text. The 123 signatories of GATT are now obligated to grant a high level of protection to intellectual property, an obligation that should assist U.S. patent and copyright owners in their worldwide fight for protection.

Piracy costs U.S. copyright owners hundreds of millions of dollars a year in revenue, revenue that would otherwise be spent in creating new works and new jobs in the United States, revenue which would reduce our foreign balance of payments.

H.R. 5110 contains a number of changes to U.S. copyright and patent laws, which I would like to explain.

COPYRIGHT

Computer software rental—H.R. 5110 repeals the sunset in the Computer Software Rental Amendments Act of 1990, scheduled to expire in October 1997. The repeal does not make any substantive changes in section 109 of the Copyright Act.

Bootlegging of live musical performances—H.R. 5110 also contains Federal antibootlegging provisions in order to comply with article 14(1) of the GATT agreement. In new chapter 11 of title 17, United States Code, a civil cause of action is provided to performers to prohibit the unauthorized fixation of their live musical performances. The remedies available are those under chapter 5 of title 17. The right is granted to "the performer or performers." This means that where there are multiple performers, permission to fix the live musical performance must be obtained from each and every performer.

Of course, normal agency principles apply, so that if the performers have authorized an agent to grant permission, that agent may do so. This no doubt will be important in large ensembles, such as orchestras, since the work-for-hire provisions of chapter 2 of title 17 do not apply.

The basic right granted is to prohibit the unauthorized fixation of "the sounds or sounds and images" of a live musical performance. This right covers individuals who use audio equipment or video cameras. The basic right to prohibit unauthorized fixations is supplemented by the right to prevent unauthorized reproduction of copies or phonorecords of live musical performances made from an unauthorized fixation, the right to prevent unauthorized transmissions or other communications to the public of the sounds or sounds and images of a live musical performance, as well as distributions, offers to distribute, sale or offers to sell, or trafficking in any copy of phonorecord of a live musical performance fixed without the authorization of the performer or performers involved.

The rights granted in new chapter 11 of title 17, United States Code do not preempt any civil State laws.

At the same time, title 18, United States Code, is amended by adding a new section 2319a, which makes it a felony to knowingly or for purposes of commercial advantage or private financial gain to engage in the same acts specified in new chapter 11 of title 17, United States Code.

RETROACTIVITY

Article 18 of the Berne Convention obligates members, when they join the Berne Union, to provide protection to works of already adhering members. The only exceptions to this obligation are when the work is in the public domain in the country of origin or in the country where protection is claimed through expiration of the term of protection. Because of the United States unique history of depriving authors of their copyrights for failure to comply with formalities, there are works of foreign Berne origin that are in the public domain in the United States for reasons other than expiration of term.

Section 514 of the Uruguay Round Agreements Act addresses the issue of retroactivity by granting, automatically, protection to works whose source country is a Berne or World Trade Organization country other than the United States, for the term of protection the work would have otherwise enjoyed in the United States but for the failure to comply with a formality, lack of national eligibility, or in the case of sound recordings, sound recordings published before February 15, 1972, the date Federal protection was first granted.

Protection vests initially in the author or right holder of the work. The term "rightholder" was inserted due to the treatment in most countries of sound recordings under neighboring rights regimes. The term does not refer to a transferee of a work. Where the author has transferred rights in a work that is restored under section 104A, it is an issue of contract law to determine the extent to which, if any, the transferee receives rights for the restored term of protection.

Unlike the retroactive protection provided in the North American Free-Trade Agreement Implementation Act, which was dependent upon filing a notice with the copyright office within a 1-year period, restored copyright under the Uruguay Round Agreements Act is automatic. However, in order to take into account the legitimate interests of individuals who had relied on the public domain status of a work, called reliance parties, section 104A establishes a number of safeguards.

Reliance parties are defined in section 104A(h)(4) as any person who:

First, before the restoration of protection, engaged in acts which would have constituted infringement if the work had been subject to copyright and who continued to engaged in such acts after the date of restoration. A key to the reliance party status under this provision is the requirement that the person has continued to engage in the described conduct. This requirement incorporates the continuing infringement doctrine and is also relevant to section 104A(4) concerning statutory damages and attorney's fees. Under this doctrine and section 104A, the defendant must have engaged in an ongoing series of acts. Cessation of that activity for an appreciable period of time will deprive one of reliance party status.

Second, before restoration of protection, made or acquired one or more copies or phonorecords of the work which was restored.

Also included within the definition of reliance party are certain assignees, successors, or licensees of reliance parties. Persons who acquire significant assets, a term that encompasses, for example, a book publishers' entire division and not merely a number of titles published by that division, of a reliance party or who acquire from a reliance party a derivative work based on a restored work, succeed to the reliance parties' selloff period. Such successors, assignees, or licensees, of course, acquire only the right to sell off copies or phonorecords for the duration of the period of the reliance party. Thus, where a reliance party sells off copies of a restored work 6 months into the selloff period, the successor, assignee, or licensee may sell off the copies only for the remaining 6 months of the selloff period.

The term "derivative work," as used in section 104A (d)(3) and (h)(4), has the same meaning as defined in section 101 of title 17. Thus, there must be a recasting, adaption, or transformation of a preexisting work in order to qualify as a derivative work. Uses such as reproduction of a photograph or poem in a textbook, or any use that does not involve a recasting, adaption, or transformation of the preexisting work itself, as opposed to inclusion of the preexisting work in a new work, will not result in reliance party status.

If a person is a reliance party, notwithstanding the fact that the copyright has been restored automatically, the reliance party may continue to exploit the restored work without liability until the restored copyright owner either serves actual notice on the reliance party under section 104A(e)(2), or the copyright office publishes in the Federal Register a notice of intent the restored copyright office filed pursuant to section 104A(e)(1). Once either of those events occurs, the reliance party has 1 year to sell off his or her stock. During that year, the reliance party may not make further copies of phonorecords of the work. If the reliance party continues to engage in acts that violate the restored copyright owner's rights, the reliance party is subject to the full remedies provided under the Copyright Act, although only for those acts that occur after the selloff period.

Section 104A(3) provides a special exception for existing derivative works. Where a reliance party, before the date of enactment of the Uruguay Round Agreements Act, created a derivative work based on a restored work, the derivative work owner may continue to exploit the derivative work for the duration of the restored copyright provided the reliance party pays to the owner of the restored copyright reasonable compensation for conduct which would be subject to a remedy for infringement but for the exception. Where the parties cannot privately agreed on the amount of compensation, either party may bring an action for declaratory relief in U.S. District Court. In determining the amount of reasonable compensation due, the court shall take into account the relative contributions of the author of the restored work and of the author of the derivative work.

The rationale for the exception is that persons who have contributed their own creativity to a restored work, as for example, where a motion picture is based on a short story, should be permitted to exploit their own contributions. At the same time, Congress recognizes that such continued exploitation is still an exploitation of the restored copyright for which payment should be made. Because of the wide variety in derivative and original works, it is impossible to establish a rule of thumb that can be applied to all cases. By directing the courts to weigh the relative contributions of both authors, a fair accommodation can be reached.

The courts are also directed to issue an award that reflects any harm to the actual or potential market for or value of the restored work from the reliance party's continued exploitation of the work. There may be cases, as where a compilation of greatest hits of a singer is slapped together as a single sound recording sold inexpensively, that the sale of that compilation will cause harm well beyond the price of the compilation, such as for one or more full-priced phonorecords of the restored sound recording copyright owner. In such a case, the court has authority to set compensation that takes into account the harm to the full-priced phonorecords.

To qualify for the derivative works exception, there must, of course, be a derivative work and a reliance party, the meanings of which were discussed above.

Section 104A will, when effective, replace current section 104A, which extended retroactive protection to motion pictures and works first fixed in motion pictures whose country of origin is Canada or Mexico and that fell into the public domain for failure to comply with the notice provisions of the 1976 Copyright Act.

PATENTS

The Uruguay Round Agreements Act, H.R. 5110, changes patent law in a way that will benefit American inventors and the public. The most significant change to U.S. patent law is a change in the term of a patent from the present 17 years measured from date of grant to a 20-year term measured from the date of filing of the patent application. The GATT agreement required that patent protection be at least 20 years measured from date of filing. This decision to change to a 20-year term of protection measured from the application filing date is the best patent policy. This change alone will benefit the vast majority of patent owners by providing a longer term of protection instead of a shorter term as claimed by opponents.

The Patent and Trademark Office [PTO], on the average, processes patent applications in less than 20 months. Under the new system, most patents would receive a term over 1½ years longer than the 17 years presently received.

Even for the more complex and difficult patent applications, such as biotechnology applications, the PTO is able to complete patent applications in less than 3 years. A General Accounting Office report on biotechnology patent pendency issued in September 1990, factored in the original application date to calculate pendency at the PTO from that date. The factor added approximately 9 months to the PTO pendency time which would mean that average pendency for biotechnology applications would be about 29.5 months. This means that even for biotechnology patents the term of protection will be longer.

The present system encourages applicants to deliberately delay the processing of patent applications by permitting the filing of unlimited continuations and changes to an original application. Such permissive delays under the present system frustrate the goal of bringing innovation to the American public on a timely basis.

The proposed changes in H.R. 5110 recognize that there will be delays beyond the control of the patent applicant as well as a need to develop the application. The legislation compensates for these potential delays in several different ways.

First, a provisional application is provided for the first time. The legislation allows for the filing of an application up to 1 full year before a complete application is filed. It will be a simple, low cost application. The year will not be counted against the 20-year patent term. Additional development and research can occur during this year as well as the search for investment capital.

Second, extensions of the patent term, for eligible patent holders, are included in the legislation. Delays caused by interference proceedings, secrecy orders, and appellate review by the board of patent appeals and interferences of Federal court may permit an extension of the patent term for up to 5 years.

Third, limited reexamination of pending applications is required. Applicants with patent applications that have been pending for a certain period of time will be guaranteed the right to submit additional information for review instead of a new application after final rejection, as required under present practice, to ensure that the PTO has considered all relevant materials in making its decision.

H.R. 5110 and the implementation of GATT will provide benefits to American patent owners and provide much greater protection abroad than that presently enjoyed by American inventors and industry. H.R. 5110 is in the public interest and provides better patent policy for the country.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 298, nays 123, not voting 14, as follows:

[Roll No. 492]

YEAS—298

Abercrombie
Ackerman
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Bishop
Blackwell
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Boehner
Bonior
Borski
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Brooks
Brown (CA)
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Bryant
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Calvert
Camp
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Combest
Cooper
Coppersmith
Cox
Coyne
Crane
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de la Garza
DeLauro
DeLay
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon
Dooley
Dreier
Dunn
Durbin
Edwards (TX)
Engel
English
Eshoo
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fish
Flake
Foglietta
Foley
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
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Gejdenson
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Gephardt
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Gibbons
Gilchrest
Gingrich
Gonzalez
Goodlatte
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Gutierrez
Hall (OH)
Hamilton
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Hayes
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Hoekstra
Hoke
Horn
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Huffington
Hughes
Hutto
Hyde
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kim
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Knollenberg
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Lambert
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Lewis (CA)
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Lightfoot
Linder
Lloyd
Long
Lowey
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
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McDermott
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McMillan
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Menendez
Meyers
Mfume
Michel
Miller (CA)
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Moakley
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Montgomery
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Morella
Murtha
Nadler
Neal (MA)
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Orton
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Packard
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Pastor
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Payne (NJ)
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Price (NC)
Pryce (OH)
Ramstad
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Reynolds
Richardson
Roberts
Roemer
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schroeder
Schumer
Serrano
Shaw
Shays
Shepherd
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (OR)
Solomon
Stark
Stearns
Stenholm
Studds
Swift
Synar
Talent
Tanner
Tauzin
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Torres
Torricelli
Towns
Unsoeld
Valentine
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Visclosky
Walker
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wolf
Wyden
Wynn
Young (FL)
Zimmer

NAYS—123

Allard
Andrews (ME)
Andrews (NJ)
Applegate
Barcia
Bartlett
Bentley
Bilbray
Bilirakis
Blute
Boehlert
Bonilla
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Brown (OH)
Burton
Buyer
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Canady
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Collins (GA)
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Costello
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Cunningham
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Ehlers
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Mica
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Moorhead
Murphy
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Payne (VA)
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Pombo
Quillen
Quinn
Rahall
Ravenel
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Sanders
Schaefer
Schiff
Scott
Sensenbrenner
Shuster
Smith (NJ)
Smith (TX)
Snowe
Spence
Spratt
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Strickland
Stump
Stupak
Swett
Taylor (MS)
Taylor (NC)
Thurman
Torkildsen
Traficant
Upton
Velazquez
Volkmer
Vucanovich
Walsh
Wise
Woolsey
Young (AK)
Zeliff

NOT VOTING—14

Carr
Clement
Edwards (CA)
Ford (MI)
Gallo
Martinez
Ridge
Sharp
Slattery
Sundquist
Tucker
Washington
Whitten
Yates

□ 2126

Mr. COBLE and Mr. QUINN changed their vote from "yea" to "nay."

Mr. THOMPSON of Mississippi changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 564.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

□ 2130

AFRICAN CONFLICT RESOLUTION ACT

Mr. JOHNSTON of Florida. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2475) to authorize assistance to promote the peaceful resolution of conflicts in Africa, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but I yield to the gentleman from Florida to explain the measure.

Mr. JOHNSTON of Florida. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of S. 2475, which I believe will make a lasting contribution to peace on the African continent.

Since the House is today considering the Senate version of the African Conflict Resolution Act and is waiving a conference, I am submitting the following to complete the legislative record in the House. The following language is slightly revised from Report 103–723, which accompanied H.R. 4541, to reflect minor changes made in the Senate bill.

The following is a detailed analysis of the provisions of S. 2475.

PURPOSE

In the last decade, between 2 million and 4 million Africans have died because of war. There are now nearly 7 million refugees and 15 million displaced people in Africa. This problem does not appear to be diminishing; looming or ongoing conflicts threaten millions more Africans. War and civil conflict have also caused untold damage to the economies of the nations of Africa. Economic development, even food production, is impossible in a nation at war.

The foreign affairs committee believes that conflict resolution and demobilization of African armies should be a priority for U.S. foreign policy in Africa. A relatively small U.S. investment in African conflict resolution and remobilization can help save lives and help the United States avoid huge future expenditures on war-related humanitarian disasters. The need for United Nations intervention in African conflicts will also diminish if African institutions develop the ability to resolve African conflicts. Reductions in the size of African armed forces will enhance political and economic stability and enable the reallocation of scarce African resources to development needs.

The purpose of S. 2475, as amended, is to help institutionalize conflict resolution capability in Africa. Toward this end, S. 2475, as amended, authorizes assistance for:

(1) the Organization of African Unity and subregional organizations established by countries of sub-Saharan Africa to strengthen their conflict resolution capabilities;

(2) Strengthening the mediation and reconciliation capabilities of nongovernmental organizations in Africa.

(3) demobilization and reintegration into civilian society of former military personnel;

(4) establishing a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel; and

S. 2475, as amended, draws almost exclusively on funds already allocated to Africa; no new funding is authorized by this legislation.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

Section 1 establishes a short title of the "African Conflict Resolution Act" for purposes of this act.

Section 2—Findings and statement of policy

Section 2 contains congressional findings regarding the need for improved African conflict resolution capabilities and declares that a key goal of U.S. foreign policy should be support for institutionalization of conflict resolution capability in Africa.

Section 3—Improving the conflict resolution capabilities of the Organization of African Unity

Section 3 authorizes the President to provide assistance, including technical assistance, to strengthen the conflict resolution capability or the Organization of African Unity (OAU). Assistance under this section may be provided to the OAU or may be used for the expenses of sending individuals with expertise in conflict resolution to work with the OAU. Section 3 also states that, of the foreign assistance funds allocated for sub-Saharan Africa, not less than $1.5 million in each of the fiscal years 1995 through 1998 should be used to carry out the purposes of this section.

The committee notes that the OAU, under the leadership of Secretary General Salim Salim, last year established new conflict resolution mechanism and approved an enhanced role for the OAU secretariat in conflict resolution. The committee is encouraged by these developments, and believes U.S. assistance is warranted.

Consistent with the committee's initiative of last year, the executive branch made $1.5 million available in fiscal year 1994 for assistance to the OAU. These funds will provide critical computer and communications equipment, negotiation support, and other assistance to the OAU's conflict resolution unit. The committee commends the executive branch for its efforts in this regard to date. The authorization in this section of funds for four additional years should enable the OAU to deal with conflict situations more effectively.

The committee believes that effective conflict resolution in Africa also requires coordination between the United States and multilateral institutions. The committee recognizes the United Nations Development Program's (UNDP) efforts in conflict resolution in Africa, especially in providing resources and technical assistance to the OAU.

Section 4—Improving conflict resolution capabilities of multilateral subregional organizations in Africa

Section 4 authorizes the President to provide assistance, including technical assistance, to strengthen the conflict resolution capabilities of subregional organizations in sub-Saharan Africa. Assistance under this section may be provided to such an organization or may be used for expenses of sending individuals with expertise in conflict resolution to work with such organizations. Section 4 also provides that of the foreign assistance funds allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be made available to carry out the purposes of this section.

In recognizing the potential of subregional organizations to contribute to conflict resolution, the committee notes the potential to strengthen the conflict resolution capabilities of the Economic Community of West African States (ECOWAS), the Intergovernmental Authority on Drought and Development (IGADD), and the Southern African Development Community (SADC). The committee recommends that the executive branch allocate up to $1.5 million for this purpose in each of the fiscal years 1995 through 1998.

Section 5—Improving Conflict Resolution Capabilities of Non-Governmental Organizations

Section 5 authorizes the President to provide assistance to non-governmental organizations (NGOs) that are engaged in mediation and reconciliation efforts in Africa. Section 5 also provides that of the foreign assistance funds allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out the purposes of this section.

In authorizing the use of such sums as may be necessary for the purposes of this section, the committee recommends that the executive branch allocate not less than $500,000 in each of the fiscal years 1995 and 1996 for this purpose.

The committee believes that in some cases crisis situations can be best addressed by non-governmental organizations or private mediation efforts. Africa has a long tradition of mediation by eminent figures acting informally. It is the committee's intention that assistance under this section build on that tradition. In addition to African organizations and initiatives, examples of relevant NGOs include, but are not limited to, the Carter Center, the Global Coalition for Africa, the Free Africa Foundation, the International Peace Academy, and the African-American Institute.

The committee also supports the establishment of an informal conflict prevention network in Africa. Such a network would link senior African and international statesmen, both active and retired, and non-governmental organizations that could provide trained mediation experts. This network could provide early warning and help prevent conflicts. The committee believes the proposed joint venture between the OAU and the Global Coalition for Africa—"Africa Reconciliation"—is a good example of this type of network. The network would coordinate its activities with the Secretary General of the OAU, and its purpose would be to provide early warning and conflict mediation.

Section 6—African demobilization and retraining program

Section 6 authorizes the President to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa by providing assistance for encampment and related activities for the purpose of demobilization of forces and for the reintegration of demobilized military personnel into civilian society. This section also authorizes the President to promote civilian involvement in the planning and organization of demobilization and reintegration activities. Section 6 states that of the foreign assistance funds allocated for sub-Saharan Africa, $25 million in each of the fiscal years 1995 and 1996 should be used to carry out the purposes of this section, if conditions permit.

The committee believes that demobilization, retraining, and reintegration activities are particularly important to the success of conflict resolution activities. These activities will require a close cooperative relationship between the Agency for International Development (AID), the Department of State, and the Department of Defense, and should be undertaken in conjunction with the United Nations, international financial institutions, and other bilateral donors.

Section 7—Training for Africans in conflict resolution and peacekeeping

Section 7 authorizes the President to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa. Section 7 also provides that of the foreign assistance funds that are available for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

The committee expects that training for African military and civilian professionals under this section will be conducted in both the United States and Africa.

To further build Africa's indigenous conflict resolution expertise, the committee also recommends that the United States Information Agency (USIA) fund a linkage program between an American university and an African university to develop a conflict management program in an African university. The program should help design curricula in the African institution, provide for lecturing and program consultation by American faculty, and provide conflict management training for African faculty. The committee believes that by institutionalizing Africa's ability to train African experts, the need for U.S. assistance will diminish.

Section 8—Plan for United States support for conflict resolution and demobilization in sub-Saharan Africa

Section 8 requires the President to develop an integrated long-term plan to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa. Section 8 requires the President to submit a report to the appropriate congressional committees containing a description of such a plan within 180 days of enactment.

Section 9—Reporting requirement

Section 9 requires the President to submit a report to the appropriate congressional committees within 180 days of enactment describing the efforts and progress made in carrying out the provisions of this Act.

Section 10—Consultation requirement

Section 10 requires the President to consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

Section 11—Appropriate congressional committees defined

Section 11 defines "appropriate congressional committees" for purposes of this Act to mean the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for his explanation.

Mr. BURTON of Indiana. Mr. Speaker, I rise in support of H. Res. 60, concerning United States support for the new South Africa. I join with my colleagues in welcoming President Nelson Mandela to the United States, and I too wish him the best in his endeavors to establish a nonracial, prosperous, free-market democracy.

I wish to clarify my position on the final provision of the resolution which was the subject of negotiation between majority and minority staff and among the Members. The final version reads: "Steps should be taken to increase trade, investment, and development in South Africa."

I would like to clarify my own understanding of the meaning of this phrase and to expound on the reasons why I was not prepared to support other formulations. My intent is to ensure that we do not open the door to giving away any more taxpayers' dollars to a country which we all support but which is very richly endowed with minerals and other resources.

South Africa is a country that deserves massive investment by business, and I support such investment wholeheartedly. It is an insult to the citizens of South Africa to imply, in the aftermath of apartheid—which we all opposed vehemently, albeit in different ways—that they can only succeed by being on the dole.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2475

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "African Conflict Resolution Act".

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(A) FINDINGS.—The Congress makes the following findings:

(1) It is in the national interest of the United States to help build African capability in conflict resolution. A relatively small investment of assistance in promoting African conflict resolution—

(A) would reduce the enormous human suffering which is caused by wars in Africa;

(B) would help the United States avoid huge future expenditures necessitated by Somalia-like humanitarian disasters; and

(C) would reduce the need for United Nations intervention as African institutions develop the ability to resolve African conflicts.

(2) Africa, to a greater extent than any other continent, is afflicted by war. Africa has been marred by more than 20 major civil wars since 1960. Rwanda, Somalia, Angola, Sudan, Liberia, and Burundi are among those countries that have recently suffered serious armed conflict.

(3) In the last decade alone, between 2,000,000 and 4,000,000 Africans have died because of war. There were 5,200,000 refugees and 13,100,000 displaced people in Africa in 1993.

(4) Millions more Africans are currently at risk of war-related death. Looming or ongoing conflicts in Zaire, Angola, Sudan, Rwanda, and other countries threaten Africa's future.

(5) War has caused untold economic and social damage to the countries of Africa. Food production is impossible in conflict areas, and famine often results. Widespread conflict has condemned many of Africa's children to lives of misery and, in certain cases, has threatened the existence of traditional African cultures.

(6) Conflict and instability in Africa, particularly in large, potentially rich countries such as Angola, Sudan, and Zaire, deprive the global economy of resources and opportunities for trade and investment. Peace in these countries could make a significant contribution to global economic growth, while creating new opportunities for United States businesses.

(7) Excessive military expenditures threaten political and economic stability in Africa while diverting scarce resources from development needs. Demobilization and other measures to reduce the size of African armies, and civilian control of the military under the rule of law are in the interest of international security and economic development.

(8) Conflict prevention, mediation, and demobilization are prerequisites to the success of development assistance programs. Nutrition and education programs, for example, cannot succeed in a nation at war. Billions of dollars of development assistance have been virtually wasted in war-ravaged countries such as Liberia, Somalia, and Sudan.

(9) Africans have a long tradition of informal mediation. This tradition should be built upon to create effective institutions through which Africans can resolve African conflicts.

(10) The effectiveness of U.S. support for conflict resolution programs requires coordination and collaboration with multilateral institutions and other bilateral donors.

(11) African institutions are playing an active role in conflict resolution and mediation utilizing the experience of elder statesmen. Groups such as the All African Council of Churches have assisted in defusing conflicts. The Economic Community of West African States (ECOWAS) has sought to address the conflict in Liberia by deploying an African peacekeeping force. The Southern African states have been working to prevent a crisis in Lesotho. The Intergovernmental Authority on Desertification and Drought (IGADD) has been engaged in attempting to resolve the conflict in Sudan.

(12) The Organization of African Unity, under the leadership of Secretary General Salim Salim, has established a conflict resolution mechanism and has been active in mediation and conflict resolution in several African countries.

(b) UNITED STATES POLICY.—The Congress declares, therefore, that a key goal for United States foreign policy should be to help institutionalize conflict resolution capability in Africa.

SEC. 3. IMPROVING THE CONFLICT RESOLUTION CAPABILITIES OF THE ORGANIZATION OF AFRICAN UNITY.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capability of the Organization of African Unity, as follows:

(1) Funds may be provided to the Organization of African Unity for use in supporting its conflict resolution capability, including providing technical assistance.

(2) Funds may be used for expenses of sending individuals with expertise in conflict resolution to work with the Organization of African Unity.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, not less than $1,500,000 for each of the fiscal years 1995 through 1998 should be used to carry out subsection (a).

SEC. 4. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF MULTILATERAL SUBREGIONAL ORGANIZATIONS IN AFRICA.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to strengthen the conflict resolution capabilities of subregional organizations established by countries in sub-Saharan Africa, as follows:

(1) Funds may be provided to such organizations for use in supporting their conflict resolution capability, including providing technical assistance.

(2) Funds may be used for the expenses of sending individuals with expertise in conflict resolution to work with such organizations.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 through 1998 may be used to carry out subsection (a).

SEC. 5. IMPROVING CONFLICT RESOLUTION CAPABILITIES OF NON-GOVERNMENTAL ORGANIZATIONS.

(a) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used to carry out subsection (a).

SEC. 6. AFRICAN DEMOBILIZATION AND RETRAINING PROGRAM.

(A) AUTHORIZATION OF ASSISTANCE.—In order to facilitate reductions in the size of the armed forces of countries of sub-Saharan Africa, the President is authorized to—

(1) provide assistance for the encampment and related activities for the purpose of demobilization of such forces; and

(2) provide assistance for the reintegration of demobilized military personnel into civilian society through activities such as retraining for civilian occupations, creation of income-generating opportunities, their reintegration into agricultural activities, and the transportation to the home areas of such personnel.

(b) FUNDING.—Of the foreign assistance funds that are allocated for sub-Saharan Africa, $25,000,000 for each of the fiscal years 1995 and 1996 should be used for the assistance described in subsection (a), if conditions permit.

(c) CIVILIAN INVOLVEMENT.—The President is also authorized to promote civilian involvement in the planning and organization of demobilization and reintegration activities.

SEC. 7. TRAINING FOR AFRICANS IN CONFLICT RESOLUTION AND PEACEKEEPING.

(a) AUTHORIZATION.—The President is authorized to establish a program to provide education and training in conflict resolution and peacekeeping for civilian and military personnel of countries in sub-Saharan Africa.

(b) FUNDING.—Of the funds made available under chapter 5 of part II of the Foreign Assistance Act of 1961, such sums as may be necessary for each of the fiscal years 1995 and 1996 should be used for the purposes of subsection (a).

SEC. 8. PLAN FOR UNITED STATES SUPPORT FOR CONFLICT RESOLUTION AND DEMOBILIZATION IN SUB-SAHARAN AFRICA.

(a) IN GENERAL.—Pursuant to the provisions of sections 3 through 7, the President should develop an integrated long-term plan, which incorporates local perspectives, to provide support for the enhancement of conflict resolution capabilities and demobilization activities in sub-Saharan Africa.

(b) CONTENTS OF PLAN.—Such plan should include:

(1) The type, purpose, amount, and duration of assistance that is planned to be provided to conflict resolution units in sub-Saharan Africa.

(2) The type and amount of assistance that is planned to be provided for the demobilization of military personnel of countries of sub-Saharan Africa, including—

(A) a list of which countries will receive such assistance and an explanation of why such countries were chosen for such assistance; and

(B) a list of other countries and international organizations that are providing assistance for such demobilization.

(3) The type and amount of assistance that is planned to be provided to nongovernmental organizations that are engaged in mediation and reconciliation efforts in sub-Saharan Africa.

(4) A description of proposed training programs for Africans in conflict resolution and peacekeeping under section 7, including a list of prospective participants and plans to expand such programs.

(5) The mechanisms to be used to coordinate interagency efforts to administer the plan.

(6) Efforts to seek the participation of other countries and international organizations to achieve the objectives of the plan.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report containing a description of the plan developed under this section.

SEC. 9. REPORTING REQUIREMENT.

(a) REQUIREMENT.—The President shall submit to the appropriate congressional committees a report describing the efforts and progress made in carrying out the provisions of this Act.

(b) DATE OF SUBMISSION.—The first report submitted under subsection (a) shall be submitted no latter than 180 days after the date of the enactment of this Act, and shall be submitted annually thereafter.

SEC. 10. CONSULTATION REQUIREMENT.

The President shall consult with the appropriate congressional committees prior to providing assistance under sections 3 through 7.

SEC. 11. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

For purposes of this Act, the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JOHNSTON of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2475, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM THE HONORABLE SAM FARR, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable SAM FARR, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1994.

Hon. THOMAS S. FOLEY,
Speaker of the House, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you that pursuant to Rule L (50) of the Rules of the House that my office has been served with a subpoena issued by the Municipal Court of the State of California, in and for the City and County of San Francisco, in connection with a criminal case involving constituent casework.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

SAM FARR,
Member of Congress.

LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI RESOLUTION

The SPEAKER pro tempore. Pursuant to the order of the House of today and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the joint resolution, House Joint Resolution 416.

□ 2136

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 416), providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, with Mr. MAZZOLI in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Pursuant to the order of the House of today, the first reading of the joint resolution is dispensed with.

The text of House Joint Resolution 416 is as follows:

H.J. RES. 416

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Limited Authorization for the United States-led Force in Haiti Resolution".

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) On September 18, 1994, the special delegation to Haiti succeeded in convincing the de facto authorities in Haiti to sign the Port-au-Prince Agreement under which such authorities agreed to leave power.

(2) On September 18, 1994, after the Port-au-Prince Agreement was reached, the President ordered the deployment of United States Armed Forces in and around Haiti.

(3) On September 21, 1994, the President submitted a report, consistent with the War Powers Resolution (50 U.S.C. 1541 et seq.), on the introduction of United States Armed Forces into Haiti.

(4) The Congress fully supports the men and women of the United States Armed Forces who are carrying out their mission in Haiti with professional excellence and dedicated patriotism.

(b) STATEMENT OF POLICY.—The Congress declares the following:

(1) The United States-led force in Haiti should use all necessary means to protect United States citizens, to stabilize the security situation in Haiti so that orderly progress may be made in transferring the functions of government in that country to the democratically-elected government of Haiti, and to facilitate the provision of humanitarian assistance to the people of Haiti.

(2) Transfer of operations in Haiti from the United States-led force in Haiti to the United Nations-led force in Haiti should be facilitated and expedited to the fullest extent possible.

(3) United States Armed Forces should be withdrawn from Haiti as soon as possible.

SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—Subject to subsection (b), United States Armed Forces are authorized to participate in the United States-led force in Haiti only—

(1) to protect United States citizens;

(2) to stabilize the security situation in Haiti so that orderly progress may be made in transferring the functions of government in that country to the democratically-elected government of Haiti; and

(3) to facilitate the provision of humanitarian assistance to the people of Haiti.

(b) LIMITATIONS.—

(1) TERMINATION OF AUTHORIZATION.—The authorization provided by subsection (a) shall expire on March 1, 1995.

(2) PROHIBITON ON FOREIGN COMMAND.—United States Armed Forces described in subsection (a) shall remain under the command and control of officers of the United States Armed Forces at all times.

SEC. 4. REPORTS TO CONGRESS.

(a) IN GENERAL.—The President shall submit to the Congress reports on—

(1) the participation of United States Armed Forces in the United States-led force in Haiti and the United Nations-led force in Haiti, including—

(A) the number of members of the United States Armed Forces that are participating in such United States-led force and such United Nations-led force;

(B) the functions of such Armed Forces; and

(C) the costs of deployment of such Armed Forces; and

(2) the efforts to withdraw United States Armed Forces from Haiti, including—

(A) for the purpose of achieving a transition from the United States-led force in Haiti to the United Nations-led force in Haiti, the status of efforts to implement the Port-au-Prince Agreement and to otherwise carry out the terms of Untied Nations Security Council Resolutions 917 (May 6, 1994) and 940 (July 31, 1994);

(B) the status of plans to accomplish such transition to the United Nations-led force in Haiti; and

(C) the status of plans to withdraw United States Armed Forces from Haiti.

(b) REPORTING DATES.—A report under this section shall be submitted—

(1) not later than November 30, 1994, covering the period since September 18, 1994;

(2) not later than December 31, 1994, covering the period since the report described in paragraph (1); and

(3) not later than February 1, 1995, covering the period since the report described in paragraph (2).

(c) WAR POWERS RESOLUTION REPORTING REQUIREMENTS.—The requirements of this section do not supersede the requirements of the War Powers Resolution (50 U.S.C. 1541 et seq.).

SEC. 5. REASSEMBLY OF CONGRESS.

It is the sense of the Congress that the Speaker of the House of Representatives and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House of Representatives and the minority leader of the Senate, respectively, should monitor closely events in Haiti in considering whether to exercise any authority that may be granted to reassemble the Congress after the adjournment of the Congress sine die, if the public interest shall warrant it.

SEC. 6. JOINT RESOLUTION PROHIBITING CONTINUED USE OF UNITED STATES ARMED FORCES IN HAITI.

(a) IN GENERAL.—If a joint resolution described in subsection (b) is enacted, the President shall remove United States Armed Forces from Haiti in accordance with such joint resolution.

(b) DESCRIPTION OF JOINT RESOLUTION.—For purposes of subsection (a), a joint resolution described in this subsection is a joint resolution the matter after the resolving clause of which is as follows: "Pursuant to section 6 of the Limited Authorization for the United States-led Force in Haiti Resolution, the Congress hereby directs the President to remove United States Armed Forces from Haiti not later than 30 days after the date of the enactment of this joint resolution, except for a limited number of members of the United States Armed Forces sufficient to protect United States diplomatic facilities and personnel.".

(c) PRIORITY PROCEDURES.—

(1) INTRODUCTION OF JOINT RESOLUTION.—Paragraph (2) shall only apply to a joint resolution described in subsection (b) and introduced on or after the date on which the President submits, or is required to submit, the report required by section 4(b)(3).

(2) CONSIDERATION OF JOINT RESOLUTION.—Only one joint resolution described in subsection (b) and introduced in accordance with paragraph (1) shall be considered in accordance with the procedures described in section 7 of the War Powers Resolution (50 U.S.C. 1546), except that, for purposes of such consideration, the term "calendar days" in such section shall be deemed to mean "legislative days".

SEC. 7. DEFINITIONS.

For purposes of this joint resolution, the following definitions apply:

(1) LEGISLATIVE DAYS.—The term "legislative days" means days in which the House of Representatives is in session.

(2) PORT-AU-PRINCE AGREEMENT.—The term "Port-au-Prince Agreement" means the agreement reached between the United States special delegation and the de facto authorities in Haiti on September 18, 1994.

(3) UNITED NATIONS-LED FORCE IN HAITI.—The term "United Nations-led force in Haiti" means the United Nations Mission in Haiti (commonly referred to as "UNMIH") authorized by United Nations Security Council Resolutions 867 (September 23, 1993), 905 (March 23, 1994), 933 (June 30, 1994), and 940 (July 31, 1994).

(4) UNITED STATES-LED FORCE IN HAITI.—The term "United States-led force in Haiti" means the multinational force (commonly referred to as "MNF" authorized by United Nations Security Council Resolution 940 (July 31, 1994).

The CHAIRMAN. The gentleman from Indiana [Mr. HAMILTON] will be recognized for 2 hours, and the gentleman from New York [Mr. GILMAN] will be recognized for 2 hours.

The Chair recognizes the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House tonight begins debate on one of the most serious foreign policy questions we have faced this year: United States intervention in Haiti.

It is vitally important that we have this debate, and that we act. Twenty-thousand United States troops are in Haiti tonight. The House has not yet voted on this question. Tomorrow Members will have an opportunity to vote.

Tomorrow, Members will have a chance to vote on House Joint Resolution 416, which was reported out by the Committee on Foreign Affairs. Tonight, I would like to spend a few minutes describing this resolution.

House Joint Resolution 416 is a straightforward piece of legislation. It does three things. It authorizes the United States military operation in Haiti until March 1, 1995. Second, it sets out the limited purposes of that operation. Third, for those who oppose the United States presence in Haiti beyond March 1, it guarantees a vote on a resolution directing the President to withdraw the troops.

I believe the House should act on this resolution because the United States has important interests in Haiti. I have consistently believed that force should be used in Haiti only as a last resort, after all diplomatic and political approaches had been exhausted. Now that the intervention has taken place, however, we want it to succeed.

U.S. STAKES IN HAITI

What are United States interests in Haiti today? First, a stable environment in Haiti will reduce the flow of refugees to the United States and elsewhere in the region, and secure our borders. Second, ousting the de facto military leaders and restoring Haiti's duly elected leaders protects democracy in the hemisphere. Third, the U.S. has a strong humanitarian interest in ending human rights abuses and alleviating suffering in Haiti.

Fourth, the United States has an interest in proving that we mean what we say. Two Presidents endorsed the objective of returning the legitimate government to power in Haiti. The intervention authorized by this resolution meets these objectives and promotes these interests.

CONGRESS SHOULD AUTHORIZE

Three weeks ago, just before the President sent United States troops to Haiti, Members said the President should not commit troops without an authorization.

In voting on this resolution, Members have an opportunity to exercise their constitutional responsibility. Congress should share responsibility any time U.S. troops are deployed abroad for possible combat purposes. Congress should be on the record. If Congress is to play a role in these very difficult decisions, Members must be willing to step up to the plate. We do that by voting on the question of authorization, not simply by expressing our views through a sense of Congress resolution.

The fact that we are authorizing after the operation has begun makes no difference. The House faces a clear choice: Do United States troops in Haiti continue to operate solely on the President's authority, or do they also have the support and authorization of Congress? I believe we ought to authorize.

MARCH 1 DEADLINE

Some of my colleagues believe that U.S. troops should come home immediately. Others say they ought to be home by the end of the year. I believe that is too soon. The President has committed the United States to an important mission: to bring stability to Haiti so that the Haitians can try to restore peace and civil order. We ought to give the Haitians some time to accomplish this. I believe March 1 is an acceptable deadline for this authorization.

Other says that March 1 is too soon, or that it is wrong to set any kind of deadline. I think most of my colleagues would oppose an open-ended authorization. They do not want the United States to get bogged down in Haiti. They want to see some limit to our presence there.

In short, the deadline in this resolution makes sense.

First, it should provide enough time. The Pentagon has said that the job of the United States-led mission can and should be completed within 6 months. This resolution provides the time our military has said they need to get the job done.

Second, the March 1 deadline provides some pressure to make sure the job gets done in that time frame. It is intended to provide incentive to avoid mission creep or any plans to keep the United States-led force in Haiti indefinitely.

Third, this resolution does not tie the President's hands. The authorization provided by the joint resolution expires March 1. The Congress can vote to extend that authorization, or take any other action at that time.

LIMITED MISSION IN HAITI

This resolution does make clear, however, that we are authorizing the deployment in Haiti for limited purposes: To protect United States citizens; to stabilize the security situation so that progress can be made in transferring the functions of government to the democratically elected government in Haiti; and to facilitate the provision of humanitarian assistance.

House Joint Resolution 416 does not authorize nation-building. It does not authorize U.S. troops to rebuild democracy. United States Armed Forces should not be running Haiti, or rebuilding it. That is the responsibility of Haitians themselves, with help and support from the international community.

EXPEDITED PROCEDURE

Finally, this resolution guarantees that Members of Congress will have the opportunity to vote again, after March 1, 1995, if they do not approve of the President's plans for a U.S. role in the United Nations-led force.

I know some of my colleagues wish the President had never committed troops to Haiti. But the troops are there and it is unwise to pull them out immediately. Passage of this resolution will guarantee a chance to vote on this issue again after Congress reconvenes early in 1995.

Specifically, this resolution provides expedited procedures for consideration of a joint resolution that would direct the President to withdraw all United States troops from Haiti, after March 1, 1995.

CONCLUSION

I urge my colleagues to support this resolution. It sets a responsible middle course for our policy in Haiti.

It supports United States troops in Haiti, while clearly defining the limited role they will play; it gives U.S. troops a reasonable period to accomplish their mission, while not tying the President's hands; and it puts Congress on record in support of the President's policy, while retaining our prerogatives to pass judgment on the continued wisdom of this operation at a later date.

□ 2140

Mr. Chairman, I reserve the balance of my time.

Mr. GILMAN. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, as we meet today, 25,000 United States troops are bearing the burden of an extremely difficult mission in Haiti, performing the mission in an outstanding manner with the excellence we have come to expect of them.

We often speak abstractly of "the use of force" or "American military might." But, we all know that those vague expressions boil down to our young men and women at the bottom of the chain of command, turning down blind alleys in Haiti, trying to police and restore order in a place that has never known it.

In the course of this debate, I ask my colleagues to search their consciences as to whether, on this day, we will concern ourselves with the security of those young men and women in our military who defend our interest each and every day.

Let us ask ourselves whether we will defend the constitutional prerogatives of this Congress. And, let us also consider, after all is said and done, whether we will just go along with a fateful decision to put U.S. lives on the line in a mission that most of us believe to be ambiguous and ill-conceived.

All of us support the ideals of constitutional democracy and the respect for human rights in Haiti. And I strongly support President Aristide's early return. He has become a powerful symbol to Haitians who hope that, at long last, representative democracy might be respected and the promise of economic stability and social justice might be kept.

However, along with many of my colleagues, I have not been convinced that the use of American military force was necessary to achieve those worthy objectives.

Mr. Chairman, the President should have come to the House before deploying troops in Haiti. Instead, he rushed to launch an invasion even while his own negotiators were in the clutches of potentially hostile elements.

Mr. Chairman, I oppose the proposal by the gentleman from New Jersey [Mr. TORRICELLI] House Joint Resolution 416, because it retroactively provides congressional authorization for the unilateral decision by the President to deploy United States Armed Forces in the occupation of Haiti. Moreover, like the policy that it blesses, this resolution ignores the will of the American people. Congress should move instead to call for the immediate, safe, and orderly withdrawal of United States troops from Haiti.

I cannot, as House Joint Resolution 416 would have it, sign onto any foolhardy strategy that neglects the bitter lessons of the fruitless United States occupation of Haiti from 1915 to 1934 or our recent costly experience in Somalia.

Let there be no doubt: By approving House Joint Resolution 416 we would be authorizing a mission and I quote from the Torricelli resolution, "to stabilize the security situation in Haiti" in the course of the transition back to a democratic government.

This language accepts President Clinton's definition of the United States mission in Haiti, despite the fact that ambiguous objectives, improvised rules of engagement, and ever-expanding tasks assumed by the United States military have rendered this definition virtually meaningless.

This vague authorization could lead our troops down a blind alley with unintended consequences.

Moreover, the President has made it absolutely clear that, in his view, he does not need congressional authorization to continue the occupation of Haiti.

The only real effect of the Torricelli resolution, therefore, is to authorize the mission through March 1, after which the President can be expected to proceed with his plan to deploy 2,000 to 3,000 United States troops in Haiti through February 1996 under a U.N. peacekeeping force. The March 1 date in this resolution, in sum, also is meaningless.

Also, under this resolution, Congress would not have an opportunity even to reconsider the long-term deployment of United States forces in Haiti until early April 1995.

If Congress were to move as quickly as possible, as provided for under this resolution, to disapprove the deployment of United States forces, those troops might still be in Haiti—with the implicit blessing of Congress—more than 7 months from now.

Moreover, this resolution does not ensure that United States forces in Haiti will remain under the operational command and control of United States military officers at all times, because it carefully exempts the planned U.N. peackeeping phase from its prohibition on foreign command.

Our colleague from California, Mr. ROYCE, has authored a worthy amendment to address that glaring defect.

Mr. Chairman, we have developed a substitute to the Torricelli resolution on Haiti with the following key provisions that better reflect the will of the House: It expresses the sense of the Congress that the President should not have ordered the occupation of Haiti. It says that the President should immediately commence the safe and orderly withdrawal of United States forces from Haiti and should conclude that withdrawal as soon as possible in a manner consistent with the safety of those forces.

It expresses the same of the Congress that the President should take diplomatic steps to set up a U.N. peackeeping operation in Haiti composed of military personnel from other countries.

In the event that the President has failed to respect the will of Congress by withdrawing the forces, this substitute also provides for House and Senate votes no later than January 21, 1995, on a resolution requiring the withdrawal of U.S. forces within 30 days.

This substitute also prohibits foreign command or operational control of United States forces in Haiti at all times. It also requires Presidential reports on the costs of all Haiti expenditures, on human rights, and on plans for withdrawing United States forces.

Mr. Chairman, President Clinton made a unilateral decision on Haiti. Now, we are each called upon to decide for ourselves whether the President's policy is worthy of our support. Of all the ambiguity about our mission in Haiti, there is one immutable fact before us today: A vote for Mr. Torricelli's resolution, House Joint Resolution 416, is a vote for the President's policy to put American lives on the line in Haiti.

My colleagues, I believe we can better respond to the will of the American people by supporting the substitute to the Torricelli resolution that I will offer during the course of this debate.

□ 2150

Mr. Chairman, I reserve the balance of my time.

Mr. TORRICELLI. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I have always believed, and I have said this many, many times, as a member of the House Committee on Foreign Affairs, that foreign policy ought to be bipartisan, and I do not believe we ought to use serious events in foreign policy to bash the President. I believe when the President is right, he is our President, and ought to be supported.

During the Persian Gulf war, I broke with my party and supported President Bush, because I felt that he was right, and let me just say I think we need to give credit where credit is due. President Clinton sent envoys to Port-au-Prince. They negotiated a settlement. As a result, our troops occupied Haiti without having to shoot their way through and, indeed, we have seen during the course of events that the Haitian people have welcomed our troops and that the President really has done a good job here.

Now, I wish that the President had come to Congress prior to sending the troops to Haiti, because I think that Congress does have ultimate authority in making these decisions. But the fact of the matter is that right now we are faced with the fact that we do have troops in Haiti who are performing a mission and who, so far, have performed it very admirably, and the mission has been successful.

I think it is very, very important that Congress now authorizies that mission, and that is what H.J. Res. 416 is doing. I think that it is very important to have this resolution. We can debate the merits of it. We can debate whether or not the March 1 deadline is something that ought to be there, and quite frankly, I have some doubts about that, because I think that we have gone into Haiti to do a job, and we ought to do the job, we want to get out as soon as possible, but I think that we need to stay until the job is done.

I believe that we do have vital interests in Haiti. Ask anybody in south Florida, ask anybody who has looked at our immigration policies that have fallen apart. We understand that when Haitian boat people come to this country trying to get into this country to flee tyranny and oppression in their country that certainly we do have a vital interest in who comes to our shore.

This is not something that is on the other side of the world. This is very close to us in our own Western Hemisphere, and what goes on in Haiti certainly affects us here in the United States.

Let me say to my colleagues that I think in some quarters of this Congress there is a dangerous attitude of isolationism, and while it might be very nice to say we have pressing problems at home, and we should take care of those problems first, and I do agree, I think as a superpower, we certainly have an interest in what goes on in the rest of the world, particularly when it is in our hemisphere right here at home.

I do not think we should cut and run or pass resolutions that say we made a mistake or the President made a mistake. I do not think the thing here is to score political brownie points. The thing here is to say we have our troops in Haiti who are doing a job, who have done it admirably; we support them; we want to continue the mission and then get out. That is what H.J. Res. 416 provides, continue the mission and get out, authorize the U.S. operation in Haiti, sets the limited presence in Haiti, provides for a resolution, if we need to stay beyond March 1. I think that what this Congress ought to do now is responsibly, in a bipartisan approach, support our forces in Haiti and say that we have a job to do, and when that job is completed we ought to get out.

I think that is in the best tradition of bipartisan foreign policy that Congress has done through the years, and I think that is what we ought to do now.

Let me again say the President should have come to Congress first, but let us also give credit where credit is due. The operation has been a success. It is continuing to be a success. This Congress needs to support our troops in Haiti.

I will certainly support H.J. Res. 416, and will look at any amendments, and I commend the gentleman from New Jersey, my friend, for putting forth this resolution.

Mr. GILMAN. Mr. Chairman, I yield 9 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, let me address some of the comments of the former speaker, and I am sure that the gentleman is sincere in his statements.

But I would like to take a look at what has happened in the past. I remember when George Bush wanted us to support Desert Storm, and the majority of the Members on the other side of the aisle turned their backs on our men and women in uniform in Desert Storm. It was not until after that mission was successful that we were forced to come back here and vote so that Democrats could have a cover vote on Desert Storm. Those are the facts.

When they talk about bipartisanship, let us make sure that we talk bipartisanship. Because when it fits the other shoe, that is not the case under this body.

Let me take a look at what has happened. The President had months to prepare. He scaled down two aircraft carriers, loaded helicopters, loaded Army, brought all the equipment on, went to the United Nations for approval, went to the U.N. How about the U.S.? How about this body?

□ 2200

How about this body? The gentleman stated he should have come to Congress. If the President even felt he was right in being able to invade Haiti, why did he bypass this body and yet go outside of it? So when you say we cannot say that the President made a mistake, let me tell you why the President made a mistake. Did you know that by not coming to Congress, our men and women do not fall under the Geneva

Convention? Just that little fact. If we had had anybody taken prisoner, just like in Vietnam, because it was not an act of Congress, they would not be covered; they would be called jailbirds, not prisoners of war.

I remember we wanted to look at domestic policies, Members on that side of the aisle every day look at the billions of dollars we spent in the extension of Somalia, and we got 22 Rangers killed and 77 wounded because we had an administration that would not give them the armament.

Now put yourself in those situations, put yourself in the situation of a father given the Medal of Honor by the President of one of those Rangers. When you talk about mistakes, when Dante Caputo, an emissary who wrote the memo on the 23d of May, saying that the President was doing this to boost his polls, on the 23d of May, gentlemen, he spelled out the whole thing. We want to bring Mr. Caputo back here and under oath have him testify about Strobe Talbott and the mission in Haiti.

So, yes, we do need to take a look at what happened.

What about the multinational force the President said was out there? Do you know that until day 5 we did not have a single multinational force? Where was that multinational force when our men and women were taking the risk going into Haiti? They were nowhere to be found.

Do you know how many there are today? Ten. Ten of them in a safe haven in Haiti.

We are out there taking the risk.

You say what about the Haitians, what about the boat people who are coming across? How about the Caribbean Nations we have been so good to and have taken care of? It would be less expensive until we can force a peaceful resolution in Haiti.

You say not to say the President made a mistake. I disagree.

I take a look at the commitment and the things we are trying to do in this Congress, and it is wrong. I do not like our troops under U.N. Control. President Bush in Desert Storm had our troops under Colin Powell, Schwarzkopf, and we had control of them, not the U.N., not the Boutros/Boutros-by-golly.

But we had control of our troops.

I will fight and do everything I can to take that control away.

So, yes, I think the President did make mistakes. I think we need to point it out so we do not make these same mistakes in the future.

Mr. ENGEL. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. ENGEL. I thank the gentleman for yielding.

Mr. Chairman, I want to remind the gentleman and point out the fact that I believe 87 Democratic Members did vote for the Persian Gulf support.

Mr. CUNNINGHAM. The gentleman is exactly right.

Mr. ENGEL. And I was one of those 87 Members.

I also remind my friend that I do not think any of the Republican Presidents came to Congress for the invasion of Grenada, for the invasion of Panama, or for the bombing of Libya.

Mr. CUNNINGHAM. Let me deal with the question. We were in a different time in the history of this world and of this Nation. In Grenada, you remember the Soviet Union was still the Soviet Union and Cuba was still a definite threat to the United States. You remember the Cubans in Grenada were building hardened runways for bombers that could reach the United States. To me that is a national security threat. And the Cubans themselves.

Then you look at Panama, there is a little thing called the Panama Canal, which was a national security threat. At the same time some Members of this body supported the Sandinistas, which we were afraid that the same individual in Panama was supporting, and at the same time the Panama Canal was a threat and a tie to the drug cartel. So I do not think you can draw any parallel.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Chairman, I want to identify myself with the gentleman's comments about the American forces remaining under American control. We have that right and responsibility to our Armed Forces.

Those of us who drafted the resolution felt so strongly about that point that we inserted the following: "U.S. Armed Forces described in section A shall remain in the command and control of the officers of the United States Armed Forces at all times."

I therefore suggest to the gentleman one way to make sure these forces are kept under U.S. control is to vote for the resolution.

Mr. CUNNINGHAM. I thank the gentleman.

Is this true during the peacekeeping forces? Second, who is going to pay for it? Who is paying for the guns, the buyback, who is paying the Haitian soldiers, how much is the United States going to pay in this peacekeeping force? All of these questions, when we take a look at and, in my opinion, we are in a place where we do not belong in the first place.

Haiti could sit there for the next two decades and not be a threat to the United States.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield further?

Mr. CUNNINGHAM. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. I thank the gentleman for yielding.

Mr. Chairman, the question of command under the peacekeeping forces of course is not addressed in our resolution or, in my understanding, in the gentleman's. Indeed if the gentleman, at a future time, wants to have a resolution dealing with that, I think many of us would be sympathetic. We have dealt only with U.S. forces in the occupation.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, in our resolution, the substitute resolution we address that issue and we demand that our U.N. peacekeeping forces, the U.S. part of that would be under U.S. command.

Mr. CUNNINGHAM. Let me just tell the gentleman sincerely, we look at Somalia and Bosnia and Haiti, and I look at the Navy. We have had to send back 35 ships for repair. We have had three air wings stand down because they do not have fuel or parts to fly. Top Gun, the famed Top Gun, did not fly all this month because it did not have fuel to fly against this one class.

This is what we are doing, we are cutting training, cutting readiness, taking money out of the budget to support things like this. When the President says he wants a well-trained force highly equipped, and you push out and beyond the year 2010 a new airplane, the inventory is going down. My problem is we have as many operations today as we had in Vietnam and in Desert Storm, but we are killing our troops.

Mr. TORRICELLI. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. I thank the gentleman for yielding this time to me.

Mr. Chairman, this is a nonpartisan debate. I want to emphasize that. It can be very useful in throwing light on the circumstances surrounding the liberation of Haiti. The debate can make an immeasurable contribution to the making of foreign policy for this hemisphere in the future. It is not partisan, because there are Democrats who disagree with the actions being taken in Haiti as well as Republicans.

We would like the American people to listen very seriously to the principles involved here, to the comparison of this particular action in Haiti with other actions that have been taken in this hemisphere; Grenada, Panama. It is very important because if we want to decide suddenly it is wrong to do it this way, it was wrong to do it that way in Grenada, Panama and maybe we will set some standards for the future that all Presidents will follow.

In setting those standards, I think we should consider very seriously the following: This is not an invasion of

Haiti. This is a liberation of the people of Haiti. It is not even an intervention because the head of state of Haiti, the democratically-elected President of Haiti, has been here in Washington for the last 2 to 3 years. We took back and are taking back the government that was elected by the people of Haiti, the democratically-elected government.

That is not an invasion. That does not compare to Grenada. Grenada is a little island with 100,000 people at that time. We moved in there overnight with something like 17,000 troops, for an island of 100,000 people.

You know, there was no discussion, there were no negotiations with the leaders of Grenada. Whether you like them or not, at least there should have been some kind of negotiations. There was no consultation with the United Nations. That is totally different from what happened in the case of Haiti. For 3 years, for 3 years negotiations have gone on, deliberations with respect to Haiti. The use of force was undertaken only after all other efforts had failed.

It was only as a last resort.

This is a liberation not an invasion, not an intervention. This is military assistance for a democratic ally in this hemisphere.

When we liberated Paris, we did not call that an invasion, when we liberated France, we did not call that an invasion. They were being held captive, an allied occupied nation. The greatest, riskiest undertaking was the landing at Normandy and that was undertaken to liberate a continent, to liberate Europe.

□ 2210

As my colleagues know, we did that because it was necessary to save democracy in Europe, because it had a bearing on our own Nation, a liberation of an occupied allied nation. This is a hostage rescue operation. We had hostages. Seven million people in Haiti were being held hostage by an armed forces of 7,000, but that armed forces had all the guns, they had all the armor, they had all the equipment. That armed forces had been trained.

Listen. It was trained by the United States of America. Most of the officers were trained at Fort Benning, GA. The Haitian army is a creation of the United States of America. General Powell said in a debriefing at the White House after the negotiations that on the walls of the military compound in Haiti there are the pictures of all the commanders of the Haitian armed forces, and the first two people on that wall are American Marines, white American Marines who commanded the first armies of Haiti. They established the army.

We cannot say that Haiti does not matter to us. We created the armed forces. We have dominated Haiti commercially, politically, militarily, since Haiti came into existence. That has been the history.

As we have always been concerned about any nations in this hemisphere, suddenly we cannot become unconcerned. We have to be concerned about Haiti also because of the large number of refugees that have come from Haiti in an attempt to get into this country. We cannot turn our back on refugees. We are party to international conventions. We have a long history of accepting refugees.

We have done things to the Haitians that were never done to anybody else, especially laws that have been erected in order to keep the Haitians out, in order to stop our country from behaving in a most inhumane way, in a totalitarian way. It was necessary to resolve the conflict in Haiti and allow a situation to exist in Haiti where the people of Haiti would want to stay at home and those who were outside would go back home, as they will now. They will go back home. This is not an invasion, and I say, You can look at your television sets and see that it's not an invasion. We're not an occupying army. We are a liberating army. The people have welcomed this liberating army. They are jubilant that they can again breathe free as human beings who are not under the domination of a set of military criminals. There wasn't an invasion, not a declaration of war.

The action in Haiti must not be compared to Korea, or Vietnam, or world War II. It must be compared to Grenada, to Panama, Nicaragua. We have a tremendous amount of military assistance we gave to the Contras in Nicaragua.

Actions taken by the United States in this Western Hemisphere is what we are talking about. Let us decide how we are going to behave. Are we going to go it alone in this hemisphere and not be concerned about all the other nations, and to what extent shall we be concerned? If criminals took over Puerto Rico tomorrow, and Puerto Rico is a part of the United States, but if criminals took over any island close to the United States tomorrow, are we just going to turn our backs and say the criminals can have the island? If they are using the island for the transshipment of drugs, are we going to turn our back and say that they can continue to transship drugs into this country? The great rationale for the invasion of Panama was the transshipment of drugs into our big cities going through Panama. We have not even talked about the extent to which they have gone through Haiti and the criminals who control Haiti, how they enrich themselves through the drug transshipment industry.

President Clinton has acted with the noblest of motivations. There was no political gain from going into a situation to liberate a people who can do nothing for him politically, to liberate a people when the polls showed that they were not in favor of it, to liberate a people when most of the Members of Congress were against it. There was no political motivation here. It was the noblest of motivation, the kind of motivation that Abraham Lincoln had when he set the slaves free. He had nothing to gain politically. he was criticized around it. Everybody else opposed it. When Abraham Lincoln acted to set the slaves free, it was the right thing to do.

A great nation like the United States should use its power, use its prestige, to help the least of the nations among us, and Haiti is the least, represents the least, of the nations among us. We have done the right thing in saving Haiti from a group of military thugs who are holding the people of Haiti hostage in order to set a good example for what we do in the future. It ought to be an example which will guide foreign policy in the future. We have more to fear from criminals now than we have to fear from Communists or any other people or ideologists. Criminals are a major force throughout the world. They are selling nuclear weapons into all kinds of activities, and who knows when they will next take over a nation somewhere near us and we will have to act.

So, let us proceed with a debate with the understanding that this is a new world order, we have an armed forces that is already there. What do they do in their spare time? You know, are the forces utilized here doing something they would not be doing on a training exercise? This is like a huge training exercise. Not a single soldier has been killed yet, not a serious casualty yet.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

The CHAIRMAN (Mr. MAZZOLI). The time of the gentleman from New York [Mr. OWENS] has expired.

Mr. GILMAN. Mr. Chairman, I yield an additional minute to the gentleman from New York [Mr. OWENS] to allow the gentleman from California [Mr. CUNNINGHAM] to address him.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I would say to my good friend that I would agree with him that, if Haiti were developing nuclear weapons, if there were a real threat, or some power went in there, I think the President would be fully within his rights. But the logic that the gentleman uses on drugs, on immigration and refugees, if that was the logic, Mr. Speaker, we would have invaded Mexico a long time ago just from California.

We spoke to Colin Powell, and he said, and I quote, "I have great, I have great, reservations about what we did in Haiti," and I take a look at why we need to go into different nations. There are a hundred different places we can go into, and my only point is; it is that they were not the same initiatives as far as national security in either of Grenada or in Panama and that Haiti could sit there for the next two decades and not be a threat to the United States.

Mr. OWENS. Panama was a drug problem.

Mr. CUNNINGHAM. It was a drug problem; I agree. But we also had a Panama Canal, and Panama was much more of a drug problem than ever in Haiti.

Mr. GILMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Chairman, what do the Washington Post, the New York Times, and 73 percent of the American people have in common? All of them agreed that we should not have invaded Haiti.

Even the liberal press that normally blesses any Clinton undertaking has agreed that Mr. Clinton should have sought congressional approval before invading Haiti.

Now, weeks after the fact, we are just getting around to debating this miserable policy. Congress should not be consulted as an after-thought when American troops are being put in harm's way.

While there are times when it is appropriate for a President to act first and seek the blessing of Congress later, this was not one of those cases.

There were no American lives in danger as there was in Grenada, where stealth was important to rescue American students.

There was no drug smuggling dictator who was violating United States law, as there was in Panama.

Haiti had not invaded a neighboring country which was in danger of being wiped off the map if the United States did not intervene immediately.

In short, there was no reason for the United States to commit troops to an invasion without Congress first expressing its will and the will of the American people.

In this Kentuckian's opinion, we had no reason for waging war on that tiny country.

Congress should speak loudly and clearly that we do not approve of Mr. Clinton's misguided attempt to meddle in the internal affairs of Haiti.

We should not give our retroactive support for an ill-conceived occupation of a country where we simply have no national interest.

Let us get our troops out as quickly and safely as possible.

□ 2220

Mr. Chairman, I yield back the balance of my time.

Mr. TORRICELLI. Mr. Chairman, I yield 7 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, amidst the gamesmanship that is being played by some leaders to gain political advantage out of our mission in Haiti, I want to state unequivocally that I support what our men and women in the Armed Forces are seeking to achieve just 700 miles from our border.

First and foremost, I support the principles behind this mission. Just as important as it is to return democracy to Haiti, it is vital to stop the brutality of the military regime that overturned the will of 70 percent of the Haitian people. The rule of the military leaders was a reign of terror, torture, and a climate of fear was used as a means of suppression.

It is within the interests of the United States to halt this pain in a nation so close to our borders. Every day that Cedras, Francois, and Biamby ruled the streets of Haiti was another day of embarrassment to our Nation, which is now the sole remaining world leader.

It is important that we halt the tyranny which was leading to an unacceptable influx of immigrants at a time when immigration is one of the most compelling issues confronting us.

It is also in our national interests to depose the unelected leaders of Haiti, who most believe are part of the Caribbean-South American drug trafficking axis. We believe that we do have a vital strategic interest in removing the military government that deposed President Aristide.

We believe that the end of our mission will occur as soon as is possible, but we must finish the job. It would be wrong to set an arbitrary deadline for withdrawing the troops in this mission, and it would be a dangerous precedent for future efforts.

If this legislation would be passed to set a date certain, we can just hear the whispers of the democracy foes in Haiti. "Let's just wait until March 1st. Wait it out until March 1st, and then we will be free to go back in to continue our rape, our murder, our slaughter."

We must not place handcuffs on our troops when they are out to perform a perilous mission.

Lieutenant General Shelton and all of our troops in Haiti deserve incredible credit for an overwhelmingly successful mission thus far. Thousands have landed without a single combat death, thank God. And as Anthony Lewis noted in the New York Times on Friday, the Haiti mission lacks the confusion of the Grenada effort and the excessive force of the Panama effort. Instead of the political rhetoric and whining, we should all be making speeches expressing pride in this mission.

In addition to being a model of military effectiveness, it is achieving clear milestones on the way to a goal, which is the restoration of democracy in that country. The Parliament has begun to meet and fairly consider the amnesty resolution, which is part of the Clinton-Carter agreement. The mayor of Port-au-Prince, an Aristide ally, has returned to his office. People in Haiti are feeling the shackles of repression removed and are taking part in peaceful demonstrations throughout that country. Democracy Is returning to Haiti.

In the same vein, we believe that order is the order of the day in Haiti, and we are distressed by the spin that news reports are putting on the state of civil affairs there. There is no chaos, and there are no riots. Rather, we are proud of the effectiveness of our troops in preserving the peace in understandably difficult conditions.

It is not antiseptic or perfect, but our troops are performing superbly. The attacks on the mission are unfair to them, and they should stop. The cynical commentary feeds American unease and distrust in this effort. Rather, they should be feeling a swell of pride that we are able to use our power to achieve this honorable purpose.

It is proper to return President Aristide to his office in Port-au-Prince. The propaganda campaign, unfortunately aided and abetted by our Central Intelligence Agency, has been effective, but has been mean-spirited and filled with lies. None of the stories are consistent with the facts or our familiarity with a man who many of us have gotten to know. He is a man of peace, of purpose, of quiet effectiveness. While we know he will not be a stooge, we believe he will be a friend to our Nation, and, importantly, will not be a coconspirator in drug trafficking, which is killing a whole generation of America's young people.

Moreover, he has been chosen by 70 percent of the Haitian people in a fair election, where participation surpassed that of even our most recent American elections.

We hope that our troops continue, with God's help, to make this a successful effort. Let us not tie their hands. Let us restore democracy to Haiti. Let us not set any date certain. Let us give our troops the time to do the job.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 14 minutes to the gentleman from California [Mr. COX].

Mr. COX. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we will shortly be debating the Torricelli-Hamilton resolution, which will authorize President Clinton's occupation of Haiti through March, 1995. It is critically important for Congress and the American people to understand why our troops were sent into harm's way, and on this point the Torricelli-Hamilton resolution is quite explicit.

According to the resolution, our forces are to be used to protect United States citizens, to facilitate the provision of humanitarian assistance, and, here is the ringer, to stabilize the security situation in Haiti.

The last purpose, of course, is the critical one, since our citizens in Haiti have never yet been in danger and there has never been any suggestion that 28,000 troops and two aircraft carriers are necessary to facilitate humanitarian assistance.

The American people need to know that the security situation in Haiti has never in two centuries been stabilized. They need to know that our soldiers' mission will not be to install a democratic government, but only to install Jean-Bertrand Aristide. That is a very different matter.

By voting for the Torricelli-Hamilton resolution, this body would be voting to authorize the use of United States forces for 6 months, to install and then prop up a murderous, bitterly anti-American, leftist demagogue, and we will be authorizing the kind of ill-fated nation building that President Clinton was forced to abandon just a year ago until Somalia.

The American public and the Congress deserve a closer acquaintance with Father Aristide, as President Clinton calls him. Father Aristide was suspended from the priesthood in 1988 for, and I quote, "incitement to hatred and violence." Father Aristide has reviled Pope John Paul II from the pulpit as nothing more than "the CEO of a multinational corporation whose job was to ensure company profits." And Aristide has not stopped at mere words. In 1991, Aristide's mobs destroyed the old cathedral of Port-au-Prince, the archbishop's house, and the Vatican Embassy, and tried to lynch the archbishop and the Vatican nuncio.

□ 2230

Archbishop Leanza, the Vatican envoy, was saved when one of his neighbors pretended to have orders from Aristide to spare him. The neighbor had, in fact, been pretending. Father Aristide never sent any reprieve.

Aristide's penchant for violence has been directed far beyond his own church. On the wall of his office in Haiti, Aristide had a painting of himself smiling down on a mob carrying tires, gasoline, and matches.

I have here a reproduction of that painting. Here is Father Aristide. Here are the flames. Here is the tires. Here is the gasoline, the matches, and the mob surrounding the capital.

This painting hung in Aristide's office when he was President. The grisly necklaces that his followers used to murder their opponents are referred to in slang as Pere Lebrun, Pere Lebrun being a noted tire dealer in Haiti, sort of the Michelin man of Haiti. This photograph of the painting shows that the painting itself that hung on Aristide's wall contained the following inscription: "If our power is threatened, little Aristide, if you have a problem, command us to march and solve it with necklacing."

This is the humanitarian democrat, Aristide, our troops are sending back to Haiti with his very interesting taste in art.

Mr. Speaker, this is what we would be voting to authorize. There is more.

In September 1991, Aristide told a crowd of supporters that they should give his opponents "what they deserve," the necklace. Let me quote exactly what he said of it, Mr. Speaker. This is what he said about necklacing.

> What a beautiful tool. What a beautiful instrument. What a beautiful device. It is pretty. It looks sharp. It is fashionable. It smells good. And wherever you go, you want to smell it.

A few days after delivering that speech, a mob of Aristide's supporters attacked Sylvio Claude, a Baptist minister, two-time Presidential candidate in Haiti and the head of the opposition Christian Democratic Party. Sylvio Claude had been jailed and tortured under the Duvalier dictatorship. He sought refuge in a police station but he was thrown to the mob which beat him to death and burned and mutilated his corpse.

Also, 3 months earlier, Father Aristide told another mob that, and I quote:

> The people have their little matches in their hand. They have their little gasoline not far away. Does the constitution tell the people they have the right to forget necklacing? No, you will learn to write necklacing. You will learn to think necklacing. You will learn to use it when you must.

Contrary to President Clinton's contentions, Aristide is a committed opponent of democracy and repeatedly subverted his own constitution during his tenure in power. As a priest, father Aristide's slogan was, "revolution, not elections."

Once installed in power, he repeatedly attacked the national legislature, which was as freely elected as he was. He packed the supreme court and refused to submit the names of his justices to the Parliament, as the constitution required. When the chamber of deputies sought to investigate Aristide's Prime Minister for gross corruption in August 1991, Aristide's mobs surrounded the Parliament with tires and gasoline in hand, dragging out and beating legislators and torching union offices and opposition headquarters.

In September, during a third attempt to question the Prime Minister, Aristide himself appeared in the Parliament with a vase of flowers to remind legislators that if they tried to question his fellow thug, the flowers would decorate their graves. The legislature was completely stymied. They adjourned, which touched off the constitutional crisis that led to Aristide's overthrow.

I would like to ask my colleagues how they would feel, if President Clinton, to pass this resolution to put pressure on Congress to pass the Torricelli-Hamilton legislation, called a mob of thousands of people armed with Molotov cocktails into in the streets of Washington to surround this capital; if armed thugs entered this building and dragged some of our colleagues from both parties away for a beating before then heading off to burn the AFL–CIO, the Chamber of Commerce, the RNC and the National Cathedral; if President Clinton named five so-called justices the Supreme Court and refused to allow the Senate to vote on them; what if he drove the Nation's religious leaders not just out of Washington but out of the country; and, according to substantially documented accounts, in the Haiti context, ordered the murder of one of his democratic rivals for the Presidential nomination. I would ask if my colleagues would regard this as the action of a sincere Democrat, however large his electoral majority in 1990; or if they think that the landslides enjoyed by Presidents Reagan or Bush in 1980, 1984, and 1988, gave them the right to subvert and brutally coerce the other two branches of our Government. It would appear that this is exactly what we are saying about the so-called democratic President of Haiti.

Mr. Speaker, the Congress should also know that the lives of United States soldiers are being put at risk to restore a man who has made his career denouncing the United States.

In 1986, in a speech to a huge mob, Aristide asked the crowd, and I quote:

> Who is Satan, we or the Americans? The Americans. Who is the most Satanic, the Americans or the American government? The American government, down with Satan. Down with imperialism.

In 1987, in an open letter to our embassy in Port-au-Prince, Aristide denounced the Reagan administration's efforts to promote democratization in Haiti, which had resulted in the flight of Baby Davulier Doc the previous year. He said, Aristide said, ironically enough, "The U.S. government has no right to stick its nose into Haitian elections."

More recent Aristide remarks and actions have been little better. For the 3 days after our troops went in, Aristide refused to express even a word of thanks to the soldiers who will apparently be protecting him. And to this day he has refused to sign a status of forces agreement for our forces in Haiti. This is a vital document that records the rights of troops in that country in an apparently successful effort to blackmail the administration into more extensive commitments to disarm his opponents and serve as bodyguards for his cronies.

Finally, Congress should know that Aristide hates economic freedom, too. He wrote a whole book entitled Capitalism Is a Mortal Sin. He has repeatedly excoriated capitalism, free enterprise in his writings and his speeches.

He modestly noted in his 1992 autobiography:

> I did not invent class struggle anymore than Karl Marx did. But who could avoid encountering class struggle in the streets of Port-au-Prince?

In the same volume he tells us of his admiration for the Castroite terrorist Che Guevara, who embodied, as Aristide says, "the values of beauty, dignity, respect and love."

We are now told that Aristide has grown, that in his 3 years of exile, this man of God has developed a deeper insight into the moral questions raised by burning people alive and destroying churches. It is true that he has already instituted a sweeping reform of his past.

He told me point blank in a meeting just a few days ago in the Capitol, there were no instances of necklacing during his tenure as President of Haiti.

The omens for the future are less promising. Aristide is recruiting a post-invasion security force from refugees at Guantanamo Bay using his former police chief, Lt. Col. Pierre Cherubin. Cherubin stand as accused of participating in drug trafficking and of ordering brutal human rights violations.

The most notorious of these brutal human rights violations was the execution style murder of five teenagers in Port-au-Prince during Aristide's tenure. A Clinton administration official gave the Washington Post classified reports detailing the evidence that Cherubin ordered the torture and killing of Aristide's political opponents in 1991. And Rene Preval, the corrupt thug who served as Aristide's Prime Minister, remains one of Aristide's closest confidants today.

In short, Mr. Speaker, we are being asked to authorize to give our congressional formal approval to using American soldiers to place in power an anti-democratic, anti-capitalist, anti-American, anti-religious demagogue.

I want to make clear that I am in no way apologizing for the military dictatorship that toppled Aristide. They are clearly as bad as he is or worse. To the contrary, my point is that the United States should not play favorites among such unsavory alternatives. We certainly should not attempt to deceive either the people of Haiti or the people of the United States about the nature of our protege.

□ 2240

Mr. Chairman, we are further told that this will not be another Somalia-style nation-building exercise. That is also not true. By restoring President Aristide; by committing tens of thousands of U.S. troops for half a year; by committing thousands of our personnel for a multi-year presence; and by assembling a huge aid package—the Clinton administration has made solving the problems of this chronically unstable nation, the problem of the United States.

Haiti has never had a democratic government in its long, difficult, and bloody history. Of Haiti's 6.7 million people, 75 percent live in absolute poverty. Per capita income is $280. The unemployment and malnutrition rates are 50 percent. The illiteracy rate is 64 percent. Infant mortality is 10 percent; life expectancy is 54 years. President Clinton's embargo, which he imposed after the collapse of the Governor's Island Accord in October 1993, has worsened this situation, has further impoverished the poorest country in the hemisphere. It has destroyed over 100,000 jobs, and produced rampant malnutrition. It has worsened infant mortality.

Virtually the only infrastructure that now exists in Haiti was created during the last American military occupation of Haiti. That temporary affair lasted almost 20 years. Clinton administration officials have said that a massive United States aid program is now required for Haiti. Enforcing the economic embargo and dealing with the resultant refugees has already cost the United States taxpayer over $200 million. The Defense Department estimates that its military operation will cost half a billion dollars more, just over the next 7 months. Having wrecked the already impoverished Haitian economy through sanctions, the Clinton administration is now preparing a huge economic reconstruction plan to pay off Haiti's overdue foreign debts, and rebuild Haiti's crumbling infrastructure. The State Department won't put a price tag on the total package, but states that it goes "well beyond" an earlier 5-year, $1 billion international plan. President Aristide, the man who wrote about the "deadly economic infection called capitalism," is said to be on board. And as for his conversion to "elections, not revolution," only time will tell. But the lives of our troops are, in a very real sense, on the line.

The Clinton administration has said that our troops will be replaced within months by a U.N. peacekeeping force, but they have not pointed out that fully half that U.N. force, some 3,000 troops, will be Americans.

The stated military purpose of the Clinton Haiti policy is to protect the civilian government and maintain civil order. These are goals that no Haitian Government has accomplished successfully in almost two centuries. Why, Mr. Speaker, would we want to buy this trouble? It is almost exactly 1 year after the debacle in Somalia. Why can't this administration learn?

President Clinton has given yet another reason for intervention: to stem the flood of Haitian immigration. But his own embargo has been the prime engine for immigration from Haiti. President Clinton's embargo has destroyed nine-tenths of Haiti's industrial jobs. It has created rampant malnutrition in an already impoverished country. And the surges in boat people are directly correlated to his own flip-flops on immigration policy. After the 1992 election, Haitian immigration surged because Haitians believe candidate Clinton's campaign promises about granting temporary asylum. Haitian immigration declined dramatically after Bill Clinton broke his promise. Haitian immigration has consistently ebbed and flowed with this administration's vacillating refugee policy. A clear policy, and an end to the embargo, would address this issue. We don't need an American occupation of Haiti to fix that.

Finally, Mr. Speaker, we are told that a United States occupation of Haiti is necessary to restore American credibility. Of all the arguments advanced by President Clinton for this mission, Mr. Speaker, this is the most galling. America—the United States of America—has no credibility problem except President Clinton. We won the cold war, broke the Soviet Union, and freed Eastern Europe. We defeated one of the largest, most lavishly equipped armies in the world, almost without loss of American lives. We are the only superpower in the world today. Our credibility isn't in question. And let me add, Mr. Speaker, it is too late in the day to say that President Clinton's credibility is in question, either. After backing down in Korea, after backing down in Somalia, after backing down in Bosnia, after backing down in China, and after 2 years and six or seven Haiti policies, I don't know of anyone, anywhere, who does not question President Clinton's credibility. They know the answer to that one, and that answer isn't going to change at this late date because we have finally, after 2 years of bluster and backtracking, run off three Haitian colonels. Plunging thousands of our troops neck-deep in this snakepit isn't going to convince Kim Jong-Il or Slobodan Milosevic of our credibility. Adopting—at long last—a clear, consistent policy keyed to our own national interest rather than the President's political interest, and focused on the very real threats to that interest that exist in places like Korea—that will provide Mr. Clinton with some badly needed credibility.

In closing, Mr. Speaker, I want to join all my colleagues on both sides of the aisle in expressing my relief that our troops are not facing immediate danger today. But make no mistake, the lives of our troops, and American credibility, are both being placed at daily risk in a cauldron of violence, for reasons that have nothing to do with our national interest, and everything to do with President Clinton's political viability.

From first to last this President's Haiti policy has reeked of the crassest political motivations. His defenders now argue that because his Haiti policy is so broadly unpopular around the country, it proves he can't be motivated by politics. I am afraid the answer to that, is that it proves the incompetence of the Clinton foreign policy. The evolution of the Clinton policy is reflected in memoranda sent to U.N. Secretary General Boutros-Ghali by Dante Caputo, his special representative. Caputo wrote, on May 19, based on his discussions with Clinton administration officials, that "Haiti represents a test case for which the United States has to have found a solution before November." On May 23, he wrote further that "the President of the United States' main advisers are of the opinion that [the invasion of Haiti] * * * is politically desirable. * * * The Americans see in this type of action a chance to show, after the strong media criticism of the administration, the President's decision-making capability and firmness of leadership in international political matters." The next day Caputo reported that the Clinton administration "will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something. They are going to try to intervene militarily," and intervene he did, without authorization of this Congress.

Mr. Speaker, the American people are mortally weary of a Haiti policy that, in every step, has been dictated by the necessity of maintaining Bill Clinton's political viability. We owe it to our troops, and to the very real threats to our national interest that do exist in the world, to end this nation-building adventure as swiftly as possible.

Mr. TORRICELLI. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I think it is important for the House to stop for a moment and understand what we are engaged in here. In that context, I want to express my appreciation to the committee and to the gentleman from New Jersey [Mr. TORRICELLI] for their efforts in fashioning House Joint Resolution 416.

Mr. Chairman, it is an awkward task for the committee to have performed, at best, given the circumstances that we faced, but it is better to deal with the situation after the fact than not at all with regard to the responsibilities of the legislative branch of Government.

Mr. Chairman, we had an extremely close constitutional call with respect to an invasion of Haiti. As Members are quite well aware, the planes had been launched and then were recalled. I think only by virtue of the success of former President Carter in negotiating an agreement at Port-au-Prince at that very time was the Nation spared a constitutional tragedy.

Mr. Chairman, it is essential now, even in retrospect, for this body to exercise our responsibility constitutionally, or risk letting it wither from disuse. It is for that reason that, again notwithstanding the after-the-fact posture we now find ourselves in, I have offered in committee and to the Committee on Rules explicit language even now putting Congress on record as to the constitutional reality that existed at the time the Port-au-Prince agreement was reached, and that is that absent that agreement, the Constitution of the United States would have required the President to obtain the approval of Congress before ordering our Armed Forces to invade Haiti.

Mr. Chairman, I believe that the Committee on Rules has proposed a rule that we will take up tomorrow incorporating that language into the committee's resolution. I look forward to the adoption of that rule and, therefore, to the affirmation by the Congress of this important constitutional principal.

Mr. Chairman, if we do not now assert that responsibility, I do not believe we can complain later when some President in the future acts in disregard of the important prerogatives of this body.

Mr. Chairman, I had and I still have many questions about the wisdom of this intervention. I believe the President would have been well advised and more to have forged a partnership with Congress before committing this country and its Armed Forces in Haiti. I was as outspoken about that point as I could be, and as I think any Member of this body was before September 18. I feel no less strongly about it tonight.

Mr. Chairman, the fact of the matter is that the President did act without us, and that action has changed the reality with which we must now deal. Now we must do our best in a very awkward set of circumstances, I think, to serve two very fundamental objectives. First, we must assert the profound constitutional responsibility and prerogative of the Congress, the legislative branch of our Government; Second, we must serve the real national interest as it now has to be defined—given the fact of the deployment of troops, given the fact that United States power and prestige are now fully implicated in Haiti, and given the fact that surely we must prefer this mission to succeed, however promptly it needs to be concluded.

Mr. Chairman, I think House Joint Resolution 416 deals effectively and responsibly with an inherently awkward situation in meeting these two objectives. Even now, Mr. Chairman, after an intervention, it is vitally important for us to be mindful of the proper role of Congress under these circumstances.

Mr. Chairman, for us to assert our responsibility here is not to indulge in some vain turf struggle with the executive branch of Government. Rather, I think this debate and the votes that will come tomorrow will serve to honor the profound wisdom of the Founders, who understood that on matters of such importance, the people have to be heard, and that that is to be accomplished through the debate and the vote of their Representatives in Congress.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 7½ minutes to the gentleman from New Jersey [Mr. SMITH], the ranking minority member of the Subcommittee on the Western Hemisphere.

Mr. TORRICELLI. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey [Mr. SMITH].

The CHAIRMAN. The gentleman from New Jersey [Mr. SMITH] is recognized for 11 minutes.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in the Committee on Foreign Affairs last week we had an extensive debate on House Joint Resolution 416 which eventually was approved on a party-line vote. The primary issues revolved around the fact that the bill provides a retroactive authorization for the President's decision to launch an invasion and occupation of Haiti, putting the lives of United States military personnel in danger, and the question remains whether or not the date for the so-called withdrawal by March 1 is actually binding.

Assistant Secretary Wendy Sherman testified last week, Mr. Chairman, that the March 1 date is nonbinding and has no legal teeth. I think that should be noted up front by Members. I, as did another member of our committee, had asked that the Assistant Secretary provide this information to us in writing. We are still waiting, and I think that is symptomatic of the kind of responses we have been getting throughout this entire process.

While we are waiting for the letter detailing the administration's position, as to whether or not the March 1 date is binding, we will hold our breath. Certainly her oral testimony put her on the record as saying it is nonbinding.

Mr. Chairman, I know my good friend, the gentleman from New Jersey [Mr. TORRICELLI], has very sincere and well meaning intentions in offering this resolution, but let me say at the outset that my opposition is to the deployment of our forces.

Let me make it very clear that I do not question the capability, the commitment, or the professionalism of our forces in Haiti. As in previous engagements and deployments, our forces are acting with great courage and with great distinction. That should be noted. I do not think there is any doubt on either side of the aisle that we are very proud of our men and women in uniform.

Mr. Chairman, my concerns, however, are for the health and well-being of our soldiers. Sending our forces into combat—or into any hostile territory—is the most serious decision that anyone can make. On September 18, absent a compelling national interest, our Commander-in-Chief put U.S. forces in danger of death and maiming, without first seeking authorization from those who directly represent them, their families, and their children; that is to say, the Congress.

□ 2250

Mr. Speaker, this is not some petty turf battle. The administration went to great lengths to procure U.N. authorization while utterly by-passing approval from the U.S. Congress. Even now House Joint Resolution 416 and the other amendments that will be offered are disregarded by the administration as superfluous and unnecessary. Members on both sides of the aisle, it seems to me, believe that this debate and a binding resolution justifying or turning down an invasion and occupation should have been held prior to, not after, the fact.

Mr. Speaker, I make no apologies for questioning the wisdom of Mr. Clinton's stewardship of foreign policy in general and policy toward Haiti in particular. One only has to look at the myriad of flip-flops and vacillations to know that this administration has not had a steady hand when it comes to foreign policy—and one might even make that charge domestically—but foreign policy has been constantly changing with the sand shifting from under. Flip-flops have been had in Somalia itself where there was mission creep. Originally the operation was a humanitarian mission which we all supported, but we started going after Mr. Aideed and others, and the whole policy in Somalia changed.

Look at the flip-flop on the People's Republic of China where Mr. Clinton as a candidate accused Mr. Bush of coddling dictators in Beijing.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. Would the gentleman comment on the peace initiative in the Middle East that our President is leading right now? Would the gentleman say that is an unsuccessful policy?

Mr. SMITH of New Jersey. I am glad to comment, then I will go back to my comments.

First, I am very happy with what has been happening in the Middle East. I think it also should be noted that there are many, many others involved, including foreign ministers from other nations, and we all support the progress. But, there have been some very notable foreign policy debacles, including Somalia and Bosnia. As ranking member of the Commission on Security and Cooperation in Europe, I have seen that Mr. Clinton has had many policies on Bosnia. Unfortunately, that lack of a steady hand has led to a lack of trust in our policy.

I led a delegation to China in January when it was the administration's position that human rights were inextricably wed to our trading policy and the most-favored-nation status. I was told by Chinese leaders that the administration in Washington would not live up to their threats. I could not believe my ears. Things had actually gotten worse in China, and this administration's bluff was being called. Sure enough, when the record was clear and the decision day came, this administration completely decoupled human rights from most-favored-nation status.

Again, people can have differences as to what is the best means to promote human rights. I happen to believe linkage is important. Mr. Clinton had issued an executive order clearly articulating the linkage of trade and human rights, only to completely trash that executive order when the time for decisions came. He completely decoupled the issues. We must be wary of this because that provides the backdrop for the administration's Haitian policy.

Who can forget Mr. Clinton on May 27, 1992, proclaiming, "I am appalled by the decision of the Bush administration to pick up fleeing Haitians on the high seas and forcibly return them to Haiti before considering their claim to political asylum." He said, "This is another sad example of the administration's callous response to a terrible human tragedy." Then he went on to say that if he were President, he would give them temporary asylum. That would be fine, I guess, if he meant it.

By January 14, 1993, President-elect Clinton had reversed his campaign policy and announced, "The practice of returning those who fled Haiti by boat will continue, for the time being, after I become President. Those who do leave Haiti by boat will be stopped and directly returned by the United States Coast Guard." Hopes were raised, Mr. Chairman, and then hopes were dashed.

In July 1993, the President's policy on Haiti was based on the Governor's Island Accord, and we all had high hopes for that accord.

The lack of foreplanning and resolve, however, displayed by the retreat of the U.S.S. *Harlan County* in early October 1993, only served to embolden General Cedras, the Haitian military thugs, and the paramilitary groups. A tightened fuel embargo was implemented and the Haitian economy gasped. President Aristide initially agreed to pursue a coalition government, at the encouragement of his Prime Minister Robert Malval, but Aristide backed off and Malval resigned by December, as planned.

A new effort to seek a political solution was undertaken between President Aristide and members of Parliament. Former opponents in the Parliament as well as leaders in the business community and labor unions joined the consensus, but these considered initiatives fell victim to domestic politics in the United States.

Mr. Chairman, the noose of sanctions was again tightened. At the insistence of the United States, in May 1994, the United Nations voted for a commercial embargo on Haiti, imposed a worldwide visa ban on supporters of the military regime, and urged a freeze of all assets held by the regime's supporters.

The United States made changes in its refugee processing policy, in accord with hunger-strike politics. The flood of refugees was unrestrained—the television images of thousands—more than 16,000 refugees—led to the President's changing his refugee policy yet again on July 5. Refugees had to demonstrate a "well-founded fear of persecution." Within a day, on July 6, safe haven would be available to refugees who simply said they feared persecution at home. The ever-changing policy sent mixed messages of hope, despair, and irresolute threats. The President failed to maintain any policy he set. In fact, all indicators pointed to the fact that the President had resigned himself to the use of troops to restore the democratically-elected government of Haiti. As our friend in the Senate [Mr. DOLE] reminded us, it was "an invasion in search of a rationale."

In closing, I agree with the gentleman from California [Mr. COX] who raised some very serious questions about President Aristide's past. At a meeting last week with the Committee on Foreign Affairs, I asked Mr. Aristide if he had ever embraced violence in general, or necklacing in particular. He said he had not, but the record clearly shows otherwise. I saw actual footage of his speech on Front Line, and I do not think they were playing games with the translation. President Aristide spoke about the smell and the graceful and dazzling sight of the heinous practice of necklacing.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. First it is important I think for Members to understand that while we would have welcomed it, indeed the administration is not supporting this resolution at the moment. This is a resolution that is brought from our committee. Indeed, with the unanimous vote of Democrats on the committee and some Republicans on the committee.

I would also like the gentleman to note that in section 6 of our resolution, there is an expedited procedure for the House to be able to vote after February 1 on the removal of United States forces from Haiti. We would have that available to us as we would in your own resolution.

I say that because the gentleman correctly notes that unfortunately, and in my judgment arrogantly, Assistant Secretary Wendy Sherman did note the administration might not comply with our request. However, we have put this in, in that instance.

I further want to note that while she testified to that extent, I believe it would be extraordinary and I would find it highly unlikely that after a vote of this Congress in that regard, the President would not comply with our wishes.

Mr. SMITH of New Jersey. Mr. Chairman, reclaiming my time, so the record is very correct on this, the vote was unanimous on the Republican side against the resolution. Not one Republican voted in favor of it.

Mr. TORRICELLI. I stand corrected. I though there were 2 who voted the other way.

Mr. SMITH of New Jersey. And, I agree with the sense as conveyed to us by Assistant Secretary Wendy Sherman that the deadline might have political force, but the March 1 deadline would not have a legally binding force. I think many people are under the mistaken view that somehow March 1 is etched in stone and the troops are out as per this resolution and that needs to be clarified.

Mr. TORRICELLI. If the gentleman would yield further, the gentleman is correct in his account of Wendy Sherman's testimony, but again I want to say that I cannot believe that indeed she was speaking for the President, that if this vote were held, that the President would not comply. But furthermore again after February 1 a member can come to this floor under expedited procedure to force a withdrawal under our resolution.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. I would like to ask the gentleman if I may, if he has ever read the speech, or the translation of the speech to which he refers for the necklacing allegedly stated by President Aristide.

Mr. SMITH of New Jersey. I have the speech. More importantly, I have seen the translation. I do not speak Mr. Aristide's language, but the translation I saw I believe is accurate. Let me say again, I first saw the actual visual depiction aired by Front Line.

Mr. FOGLIETTA. In reading the speech, does the word "necklacing" appear anywhere in that speech?

Mr. SMITH of New Jersey. The actual word does not, but everyone considers it to be that.

Mr. TORRICELLI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

□ 2300

Mr. OWENS. The gentleman, along with other speakers, has indicated that President Aristide's regime was a murderous regime or his followers were murderers. There is no documentation of this anywhere in the observations of the United States, in the observations of the OAS or in the observations of Amnesty International. All three groups, Amnesty International, the OAS observers, the U.N. observers, all agree that the criminal regime which overthrew President Aristide is responsible for at least 3,000 killings, at least 3,000 killings during the time that they have been in power.

What body does the gentleman cite that can document murders committed by the followers of President Aristide? What credible body can the gentleman cite as documentation?

Mr. SMITH of New Jersey. Let me say first of all that no one countenances what the Haitian military thugs have done. Everyone I think is agreed, and the President was right in depicting those individuals for the kind of atrocities they have committed.

Mr. TORRICELLI. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. OWENS].

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. The State Department's Country Reports on Human Rights Practices cites instances, and I will put this entire quote in the RECORD. The charge has been repeated that he incites mob violence. The speech at the palace is only one example where people are drawn by his speeches, and encouraged by his comments to do those kinds of things.

Mr. OWENS. The charge the gentleman makes, the charge other people have made, and we have heard it many times, there is no documentation of any people being killed by Aristide followers on the magnitude of those being killed by the people that overthrew him. You know we cite him as a murderous regime. Cedras's regime is the murderous regime.

Mr. SMITH of New Jersey. Let me read:

> President Aristide, however, appeared less concerned about prosecuting members of the military accused of human rights abuses if they were supporters or appointees of his Government. The police on July 26 tortured and murdered five young men who were in police custody, following an investigation, the Army recommended to President Aristide that a lieutenant and the enlisted men under his command at the time be brought to trial for the killings. The President attempted publicly to exonerate the officer, believed to be a militant Aristide supporter. President Aristide also failed to condemn categorically all recourse to popular justice through mob violence. The Aristide Government made no effort to identify and bring to justice those responsible for the wholesale killing, looting, and burning that occurred after the failed Lafontant coup in January. The only response to three official requests to the Aristide Government for information on the status of the investigation into the death of an American citizen, Richard Andre Emmanuel, who was killed by mob violence in late February, was that the investigation "was still in progress."

This is credible evidence from our own State Department.

Mr. OWENS. The police over there threw out Aristide.

Mr. SMITH of New Jersey. Let us not forget my friend, that General Cedras was put into his position by President Aristide.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentlewoman from Georgia [Ms. MCKINNEY].

Ms. MCKINNEY. Mr. Chairman, this administration's policy to return President Aristide to power is a right one. This is one of the few times that the United States has proposed the use of troops not for the purpose of installing a puppet regime, not for the purpose of installing a dictatorship, but for the purpose of reinstating a government fairly-elected by the people. We have been decisive and tireless in our efforts to ensure that democracy prevails in this hemisphere and elsewhere.

The administration should be commended for its dogged commitment to sustain peace, protect human rights, and end the atrocities in Haiti. The fruitful negotiations with the Haitian military leaders demonstrate our resolve to return Haiti to the path of democracy.

It is pivotal that Haiti emerge from the turmoil that has ensued since the forced departure of President Aristide 34 months ago. Our President's diplomacy has achieved this—thus ending the illegal control of Haiti from military dictators.

There always has been a link between Haiti's history and ours. The successful accords reached at the 11th hour on September 18 brought us from the brink of an invasion to the brink of peace and the orderly transfer of power. The 15th of October, when the military leaders step down, will be a hallmark day in the history of both Haiti and the United States. Most of all, however, October 15 will be a hallmark day for democracy and those who believe and live by its principles.

Peacekeeping and peacemaking always are the preferred solution to any conflict. The United States should never sit back and allow democracy to be hijacked.

Because of President Clinton, the transfer of power and the restoration of democracy in Haiti has begun.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 5 minutes to the gentlewoman from Maine [Ms. SNOWE] a member of the Committee on Foreign Affairs and the distinguished ranking member of the Subcommittee on International Operations.

Ms. SNOWE. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in opposition to this resolution because while our troops are in Haiti, America's interests are not. I oppose this resolution because it does give retroactive congressional approval to a mission we should not be leading and gives approval to the use of American troops in a nation we should not be occupying, and it gives approval to a mission whose objectives the administration is not defining.

What we should be debating today, in fact, we should have been debating weeks ago, is a resolution seeking Congress' and the American people's approval of the use of American troops in Haiti. It is important to point out the President is prepared to invade Haiti without the authorization of Congress or the approval of the American people. We know he would never have gotten such authorization at the time because he never clearly defined the goals or the national security interests that were at stake.

Perhaps what is more shocking, Mr. Chairman, is that the President decided to seek the opinion and the permission not of the American people and their elected representatives but rather the permission of the unelected bureaucrats at the United Nations. Somewhere this administration missed the boat on setting priorities with respect to consultation. In fact, this marks the first time a President sought permission from the United Nations for intervention in our hemisphere.

We are being asked to endorse a mission in which the administration has violated its very own criteria for the use of American military forces, criteria outlined last year by Secretary Christopher himself. He said the goal of the operation has to be clearly stated to the American people. He said the likelihood of success has to be very important, and that an exit strategy has to be clearly articulated, and lastly, the action has to have the sustained support of the American people.

When in fact we know that none of these objectives and criteria have been met, and while this resolution seeks to endorse the President's mission in Haiti, the reality is that the objectives of this mission are as vague today as the moment when our troops landed in Haiti. And as the rules for engagement of our troops are continually being improvised, their task and responsibilities are being expanded daily. But more importantly, when we commit men and women to risky situations we must clearly define and articulate our mission.

Have we so soon forgotten the horrible lessons of Somalia? I for one have not, because there were two brave men from my district who were killed in that exercise in the back alleys of Mogadishu.

We would hope that we would understand what our missions and responsibilities are in Haiti, unlike Somalia. We should not forget what happened in Somalia when we know that the mission changed. In fact, the President said he did not realize the mission had changed from a humanitarian mission to one of capturing Aideed. And then of course our troops were uninformed with respect to that, that it was a humanitarian mission and then it was a mission to capture Aideed. Then of course it changed back to more of a diplomatic solution, except that information did not reach our rangers, and we know what happened.

As Larry Joyce, father of one of the men who was killed in that ambush said, Haiti is Somalia with a Caribbean address. He said that, in fact, when we do not have clearly defined objectives, an end goal, it can end badly.

How can we let ourselves be trapped in the same situation in Haiti all over again? With each passing day when we see the ambiguity and the vagueness of the responsibilities and that they are changing with each passing day, the similarities become unfortunately much more evident. I think that it is important that we defeat this resolution and accept the substitute that will be offered tomorrow.

I think that we ought to be clear when we vote against this resolution what it is not. It is not a vote against the admirable goal of someday achieving a democratic Haiti. It is not a vote against using military force where it is necessary and when it is necessary. It is most certainly not a vote of no confidence in the ability of our American forces to get the job done quickly and well. But this is a vote to ensure that our men and women in uniform are never ever put at risk in a region where our vital national security interests are not at stake, and perhaps more critically, when our President has failed to define what our national security interests are and what is at stake for this country.

□ 2310

Mr. TORRICELLI. Mr. Chairman, I yield 6 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, let me say that I, too, am wanting to commend our President, President Clinton, for taking a bold stand to say that the Bill of Rights and the Constitution, the Statue of Liberty, those things this Nation was founded on, once again, are alive and well in this country.

I am just amazed at the speeches that I hear about we should never ever do things when our national security is not at risk. I do not understand what we mean by our national security. I think that anytime this great country has a goal that our national security is at stake, because the manner in which we live up to our word has a lot to do with the way we are perceived in the future; I have seen us talk to North Korean dictators where we are willing to send hundreds of thousands of troops, and perhaps so, because we feel that democracy must be preserved. We have seen us for 45 years fight the evil empire of the Soviet Union, spending billions and billions of dollars in that defense. As a matter of fact, in the 10-year period we spent $3.5 trillion to defend Western Europe against the Soviet threat, and we all are proud that we won the cold war.

Now here in our hemisphere we have a challenge to democracy. We have a country where we have been tied to ever since our revolution. As you know, the Battalion of Colored fought in the Battle of Savannah. Many Haitians died for our independence in the Revolutionary War. As a matter of fact, several of those men went back, and in 1804 Haiti became an independent nation. They fought for our independence. That was a long time ago, and you say, "Well, so be it."

There were many people who have been involved in the whole question of our growth and development. As a matter of fact, because the Haitian military defeated Napoleon's army, France was broke. They had the Louisiana Territory, and in fact, had to sell Louisiana Territory to the United States of America, therefore relieving the United States of the threat of France on its western borders.

There are so many incidents that we can cite as relates to Haiti's intervention and its history of being involved with our history.

In World War II, the President of the United States, President Roosevelt, asked, "How could this small country be of assistance to the United States?" Roosevelt replied that "The United States has suffered a loss of rubber supplies through the Japanese invasion of Southeast Asia," and suggested Haiti convert its agricultural economy to the production of rubber trees. Agreeing to the challenge, the mahogany trees and other plants indigenous to the island were cut down to make way for the Firestone plantations. New plants to produce latex were planted. None of this was successful, leading to soil erosion, leaving Haiti, the most densely populated country in the world in relationship to acres of arable land; yes, once again, our Marines in 1915 went into Haiti, but for the wrong reasons, to protect the interests of the United States sugar and fruit growers. We left in 1934.

But we have seen when people say why should we have any kind of intervention in Haiti, why do we have any involvement there, there are many reasons why we should.

When we talk about how mean and evil Aristide was, the number of people who left Haiti during his reign by boat was less than 300. In 1993 alone, 42,576 Haitians were picked up by the Coast Guard. Close to 80,000 Haitians have left that country since that time, and so what I am saying is that we have an interest. I think that we have a national interest.

I am very pleased that Lt. Col. Michel Francois has decided to leave. I hope Lt. Gen. Raoul Cedras, who Aristide put into that office at the insistence of our Ambassador, who said, "Let us expand your government," and he was not Aristide's choice, but in order to comply and to have this institution of the military involved in the new government, he agreed to do that. Brig. Gen. Philippe Biambi ought to also leave.

I was very pleased to hear Emanuel Constant, the Front for Advancement and Progress of Haiti, the FRAPH group, said we no longer should have violence in our country, and I think that this would be a victory for the United States and our policy to keep this Nation and this world free.

A world without laws is a world of chaos.

Our interests, our national interests, are at stake when we have a world where there are no laws.

And so once again, I congratulate President Clinton for stating the case, for doing the right thing, and I am very pleased that things are working out well, and I would hope that my colleagues would listen to what General Shelton has said, "Please, do not tie our hands. Please, do not tell us how to run our military operation. Please, let us complete the job like we know it should be done."

Let us not let politics and reelections put our men and women in harm's way, and so once again, I commend the President.

Mr. GILMAN. Mr. Speaker, I yield 12½ minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Speaker, we are about to adjourn the 103d Congress here in a couple of days, hours, and I find myself finally listening to a debate on an area of the world where American men, and now women, are in harm's way.

This is not under a bill that we are discussing this tonight, merely a unanimous-consent, like one big giant multihour special order. But that is great.

Tomorrow we will have a rule, a bill, and continued debate, and I hope that the average audience of the 1,200,000 Americans who are serious enough about their government, civic affairs, and world affairs who track the proceedings of this House, Mr. Chairman, are staying with us, particularly on the east coast where it is already 11:18 at night, and that they will follow the debate tomorrow, because this is important.

One of the worst killers in this hemisphere is the former chief of police, Michel Francois, who left his native land in disgrace, along with some thugs in a four-wheel vehicle. But he did not leave the island of Hispaniola. He merely crossed the border into the other two-thirds of the island, that is, the Dominican Republic. He is close. His evil presence is close, and now we find that maybe we are hoping General Biambi and General Cedras will follow him. Follow him where? To the Riviera, where somebody leaked our plan to give these people several million dollars, as we flew Jean-Claude Duvalier, "Baby Doc," out of that country in a big Air Force airplane to the Riviera where he lived off the stolen money of the dirt-poor people of Haiti for years, where his wife went on $50,000-a-day shopping sprees, outdoing even Imelda Marcos, has now left "Baby Doc" because he has run out of money in the French Riviera?

That plan was blown up. Somebody leaked it, a secret operation to try to save American lives and get a new start and get these people out of the country.

Now, if Cedras and Biambi do leave, they will undoubtedly just cross the border into Santo Domingo, and their evil presence will be hovering around.

Here is the problem we have: This self-excommunicated former priest, and I am a stumbling practicing Catholic. I know by the laws and rites of Melchizedek, once a priest, a priest forever, even if you are on death row, even if you are in prison for molesting altar boys where you should have been horsewhipped publicly, you are still a priest in prison.

□ 2320

But no powers of the priesthood, no saying mass, no hearing confessions, no burying the dead.

When Pat Buchanan calls him Father Aristide, he is wrong. When Rush Limbaugh calls him Father Aristide, he is wrong. And when Bill Clinton calls him Father Aristide, he is wrong. He is not a practicing Catholic priest.

As CHRIS COX said earlier, he was thrown out of the Selesians of Don Bosca with prejudice. I repeat what CHRIS said is accurate. I called Rome. I got the word. It is accurate.

For inciting mobs to violence and killing.

Yes, there are human rights groups that attribute the death of a former presidential candidate, pastor, Baptist minister Silvio Claude. They could not find any tires, so they did not get to necklace him. So they merely beat him to death, lynched his corpse, and then burned him. They did have gasoline available. I saw human rights groups ladies spokesmen from Haiti say the other night on the evening news, "Oh, yes, we attribute that human rights death directly to Jean-Bertrand Aristide."

Now let us get this speech. This will be a first on the House floor or the Senate floor. I did go to the Library of Congress, and I tried to get the speech, TOM, in Creole. Well, it was not in French, it was in Creole. And I did get from the Foreign Broadcast Information Service—and they are going to get me the exact Creole—the full translation. It is a long, fulsome speech. The buildup to the very clever references to the necklacing without using the word necklacing are blatantly apparent. I will give them to you. Any reasonable person—I do not think you have seen this.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. Yes, I yield.

Mr. FOGLIETTA. I thank the gentleman.

Mr. Chairman, would the gentleman also refer to the part of that speech where he starts to talk about the Constitution and then tries to draw an analogy between the Constitution and the air that is breathed?

Mr. DORNAN. I will be fair. I will not rebuff the pleas of the gentleman in whose district resides the Liberty Bell, of course not.

This address was about 3:30 in the afternoon. They give it as Greenwich mean time. It was all FEBIS statements put into this document available to all Members of the House and Senate. It was 3:30 in the afternoon. He had just returned from the United Nations. In New York, September 27, 1991. He had been in office since February 7. He said—there are some excerpts missing here, some words that are indistinct, but it is pretty carefully translated.

It starts out saying that the middle class must acknowledge, they must say, "I made this money, my money, through malpractice, and from now on watching the national pride dancing like a flag, I will cooperate by using the money," word indistinct, bracket, unbracket, "to create work opportunities and to invest in economic activities so more people can get jobs. If you," referring again to the middle class, "do not do so, I feel sorry for you, I really do." Laughter from the crowd. "It will not be my fault because this money you have is not really yours. You acquired it through criminal activity. You made it by plundering and embezzling, you got it through negative choices you made. You got it under repressive regime. "You acquired it under a corrupt system. You made this money through means that you know was—were wrong."

Today, 7 months after February 7, in a day ending in 7—September 27—I give you one last chance. I ask you to take this chance because you will not have 2 or 3 more chances, only 1. Otherwise it would not be good for you." Applause from the audience.

Now he goes on to talk about God's justice is slow. Did all of the middle class make their money through ill practices? His word is the French Creole, bourgeoisie. And the crowd shouts "no." But they are in the minority. Keep in mind that—you have been to Haiti and I have been to Haiti twice down there; I wandered through the poverty areas. I had a nun in City Soleil recognize my Montagnard bracelet from the central highlands of Vietnam. "Where were you?" This came from Khartoum. "Oh, we build hospital in Khartoum. North Vietnamese took me prisoner after the Americans left, very brutal, marched me down to Hanoi, 9 months I was a prisoner. Walked me all around there, showed me the contamination, the babies, the short lifespan." That poor City Soleil, the translation for us in Sun City. Not like Sun City in California or anywhere else in this hemisphere. City Soleil is the poorest place in the world.

But I got to walk, a little moped, and went through all the richer neighborhoods. All those people up in the hills. That tiny little upper class, the bourgeoisie middle class are listening on radio and watching them on television. I have seen the color clips of these. So he says, "Okay, some of you are honest, but not much. We are going to work with you." He calls the other false patriots. The French word is patripoch, patripoch, false patriots. Then he comes to this. However, if I catch a thief, a robber, a plunderer, or an embezzler, if I catch a fake lavalas, his political groups, and he changes his thought and he switches from "I" to "you." If you catch someone who does not deserve to be where he is, do not fail to give him what he deserves. The first time he uses that expression. Crowd cheers. Do not fail to give him what he deserves. He is talking about necklacing, my colleagues, there is no doubt about it. The crowd cheers. Do not fail to give him what he deserves.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. Yes.

Mr. FOGLIETTA. I thank the gentleman.

The gentleman talks about necklacing. Where does he get that from?

Mr. DORNAN. Well, if the gentleman will watch, he builds up to it, he uses code words in Creole, he uses a code word going back all the way to Toussaint L'Ouverture and where there had been amnesty before and where they killed 200 men that surrendered their arms in past Haitian history, the early 19th century. So when he says I will give them the amnesty, talking about expatriates that were all slaughtered, everybody knows what he means. So now comes the fourth time. This is—I am going to use rough words here—this is Mussolini-style. I have never heard a Member in this Chamber or the other or in my whole political life ever repeat himself more than once. You will see it in this well, I may have done it where you say this Member is not going to do that, that Member is not going to do that, I repeat.

But now he continues, a fourth time, do not fail to give him what he deserves. Fifth time, do not fail to give him what he deserves. All this time whipping up the crowd. This is why he is defrocked as a priest.

Then he says your tool is in your hands. Here comes the necklacing. Your instrument is in your hands, your constitution is in your hands. Do not fail to give him what he deserves. Louder cheers from the crowd. That device is in your hands. Your trowel is in your hands. The bugle is in your hands. The constitution is in your hands. Do not fail to give him what he deserves, sixth time.

I thought we had hours left. Does anybody know the name of the staff sergeant from the Green Berets back in Fort Bragg who was shot in the stomach? Anybody know that? I did not think so. I did not see a single hand go up there. His name is Don Holsted. Don Holsted took a bullet in his guts. And the triple draft dodger literally dodged that bullet because if Don Holsted was up at Dover tonight instead of arriving at Fort Bragg tonight at 5:00, married, two kids, I would have been on their floor burning his name into your brain. This self-excommunicated Catholic priest was not worth the death of a 25-year-old staff sergeant named Don Holsted. Every night I literally like a school boy get down on my knees and say "God help Bill Clinton. Do not let one American die in this policy. Give us a miracle." I believe it is a miracle because I got activated for the Santo Domingo crisis as a seaplane pilot. I went down there in 1965. We lost over 50—I will have the exact figure—men fighting in the streets when we went there on April 28. Do you know how long we were in Santo Domingo on April 28 of '65, a month after LBJ put the Marines on the beach at Danang on the other side of the world? Seventeen months, over 50 deaths. We left with somewhat of a civil situation there, but Santo Domingo has had a much higher standard of living. Let me finish this speech. Now he is talking about Macoutes here. Tonton Macoute thug killers. He says article 291 of the Constitution, our Constitution, which is symbolized—here is where he gets a little bizarre—which is symbolized by the center of my head. He has a little pattern baldness, like a tonsure. It symbolizes by the center of my head where there is no more hair, provides that Macoutes are excluded from the political game.

□ 2330

Macoutes are excluded from the political game. Macoutes are excluded from the political game. This guy loves repetition. Macoutes are excluded from the political games.

See the Mussolini style there?

Do not fail to give them what they deserve, seven times. Do not fail to give them what they deserve, eight times. You spent three sleepless nights in front of the national penitentiary. If one escapes, do not fail to give him what he deserves, No. 9. You all watch him all Macoutes activity throughout the country, we are watching and praying, we are watching and praying. If we catch one, do not fail to give him what he deserves. There is No. 10.

And then he goes into the direct description of smelling burning flesh.

I say to the gentleman, "TOM, this ain't no Catholic priest that you and I ever encountered in our lives."

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from Pennsylvania.

Mr. FOGLIETTA. Does the fact that I am standing here with the gentleman from New York [Mr. OWENS], the gentleman from New Jersey [Mr. PAYNE], the gentleman from New Jersey [Mr. TORRICELLI], and myself, the gentleman from Pennsylvania [Mr. FOGLIETTA], have anything to do with your combining the black priest with Mussolini?

Mr. DORNAN. I do not even look at it as black. Since I marched with Martin Luther King, I am colorblind. How does the gentleman like that?

I do not look at this as black.

The CHAIRMAN. The time of the gentleman from California [Mr. DORNAN] has expired.

Mr. DORNAN. Mr. Chairman, I will pick that up tomorrow. I say to the gentleman that in my heart and brain he is looking at a colorblind Congressman. I never think of it that way.

Cedras is black.

[From the Heritage Foundation, Sept. 16, 1994]

ARISTIDE IN HIS OWN WORDS

(By Lawrence T. Di Rita, Deputy Director of Foreign Policy and Defense Studies)

President Clinton intends to invade Haiti to "restore democracy" in a country which has known no democracy in nearly 200 years of independence. Clinton Administration officials believe that Haitian democracy today is embodied in the person of Father Jean-Bertrand Aristide. While it is true that he was elected in 1990 as Haiti's president, Aristide's controversial career, which led to his ouster in 1991, raises serious questions about whether the United States should be betting the lives of Americans and its international credibility on him.

A Roman Catholic priest, Aristide was dismissed from the Church's Salesian Order in 1988 for "incitement to hatred and violence * * * and profanation of the liturgy."[1] Aristide turned to politics in the fall of 1990. He was elected in December of that year. Although elected democratically, Aristide governed quite un-democratically. He established a reputation, in the words of New York Times correspondent Howard French, as "an insular and menacing leader who saw his own raw popularity as a substitute for the give and take of politics." The litany of anti-democratic actions he took to place in power members of his Lavalas movement—the loosely organized following he had developed as a parish priest—is long and has been well-documented.[2] He named Supreme Court justices, including the Chief Justice, without seeking the approval of the democratically elected Senate. He also replaced democratically elected mayors in key Haitian cities with Lavalas members. By the time of the coup on September 30, 1991, the New York Times' correspondent in Haiti observed that "Lavalas [was] perceived as both gatekeeper and ideological rudder of the administration, guiding everything from personnel decisions to the Government's increasingly disputatious relations in Parliament."[3]

Americans have a right to know more about the man for whom young Americans may soon have to die. What follows is a collection of statements that Aristide has made over the course of his professional life. They come from sermons, presidential speeches, and his two published autobiographies. As they will show, the true measure of Aristide is written in his own words.

IN HIS OWN WORDS: THE MUSINGS OF JEAN-BERTRAND ARISTIDE

Aristide on Democracy: "Revolution, not elections!"—1990 Campaign Slogan Cited in The Washington Post December 14, 1990, p. A1.[4]

Aristide's Anti-Americanism: "* * * [T]he U.S. Government has no right to stick its nose into Haitian elections * * *."

"* * * [T]he U.S. Government is responsible for the criminal acts of the * * * National Government Council—because the U.S. Government tolerates it, giving it money and weapons * * *."

"* * * [Y]our [the U.S.] government is responsible for this discouragingly miserable, holy mess and the inappropriate, schizophrenic policy from which we have never been able to free ourselves * * *."

"* * * [T]he [U.S.] government is blameworthy because it supports an Army which inspires fear and terror and which murders people both at night and in broad daylight * * *."

"* * * if your government is the cause of our death, the generations which will blossom on our corpses will not tolerate the U.S. imperialists' coming to sunbathe in the Haitian sun in order to corrupt us * * *."—Open Letter to Peter Whaley, Second Secretary, U.S. Embassy, October 17, 1987, Cited in Foreign Broadcast Information Service-LAT-87-203, October 21, 1987, pp. 2–3.[5]

"Now, what are the Americans' aims regarding Haiti? * * * America for Americans; the Caribbean, the Antilles for Americans too. They want to continue the exploitation through the assembly industry * * *."

"A government installed without American help might have the force of the people and could thus possibly resist possible future U.S. pressures. Thus, a government that does not have the people's support must be installed. There you have it. They [Americans] can thus obtain slaves who work in their factories for a mere song. They [Americans] also have Haiti as an example of people who are * * * incapable of leading themselves. One catches a glimpse of a superiority complex in this North American policy * * *."

"They [the Americans] want to hold our guts always in their hands. Thus, we will be economically, politically, and culturally dependent. For our part, we reject this * * *."

"Thus, after Nicaragua, they [the Americans] want to put an end to Cuba's policy. Thus their policy in the mid-term [is to] utterly spoil Castro's policy * * *."—Interview with Nancy Roc Radio Metropole, Port-au-Prince, April 3, 1990 Cited in FBIS-LAT-90-066, April 5, 1990, p. 21.[6]

"Haiti had to prove it was 'moving toward democracy.' Only if we elected a government would the cold country to the north [the U.S.], and its allies—other former colonizers—send us more money and food. Of course, that money and that food corrupt our society: The money helps to maintain an armed force against the people; the food helps to ruin our national economy; and both money and food keep Haiti in a situation of dependence on the former colonizers."—In the Parish of the Poor: Writings From Haiti, 1990, p. 47.

"The evildoers have always used the Army against the people, as did the cold country to the north [the U.S.] when it occupied Haiti from 1915-1934. They set up the Haitian Army, they trained it to work against the people. I say this in order to force Haitian soldiers of my time to face up to this truth; I say this so that in the midst of the Army itself, the men will recognize that they, the sons of the people, are being positioned against themselves, who are the issue of the people's womb."—Ibid., p. 59.

"Let the truth of the Lord be a purgative that cleans out all the old ways of the bourgeoisie, all the old ways of the Army that flatters and does the bidding of the Americans. We are tired of hearing the bourgeois leaders whispering in our ears with their little voices saying, 'Come on with us, come on,' trying to make us their accomplices. This old corrupt class is bathed in corruption. It has endured for two centuries and should not last any longer. Enough."—Ibid., p. 88.

"The U.S. government, along with its lackeys among the Haitian elite, has already begun to conspire to infiltrate Macoutes into the Army, to buy off soldiers, to sow corruption, to plant divisions, and to multiply spies."—Ibid, p. 97.[7]

"* * * [T]he Americans claimed that an outbreak of swine fever required the slaughtering of all the pigs in Haiti. This was not true, but those animals played a major role in the rural economy. An alimentary equilibrium that was already precarious was thereby destroyed, and a peasantry was assassinated without appeal * * *."

"The elimination of the pigs amounted * * * to burning the savings book. Its purpose was to draw into the cities the abundant and cheap labor force necessary for the [American] assembly plants."—Jean-Bertrand Aristide: An Autobiography, 1992, pp. 76–77.

"Uncle Sam wanted elections that looked like elections—like Canada Dry: the smell, the taste, but not the reality. Namphy did better—or worse—than Reagan demanded * * *. They wanted a responsible democracy led by people whom they could control * * *."—Ibid., p 87.[8]

Aristide on Justice: "Look at their machetes. The blades are rusted, the handles dirty. The peasants let the knives hang at their sides except then they are working in the field. But don't be fooled. A machete is useful in almost any situation. Those rusty blades are long and sharp. They remind me of Bolivar's sword."—In the Parish of the Poor, p. 15.[9]

EDITOR'S NOTE: In the following passages, Aristide was speaking to supporters a week after a political opponent was sentenced to life in prison because of an attempted coup. "Pere lebrun" [Father Lebrun] is the name of a popular Haitian tire dealer. The reference is a euphemism for the practice of "necklacing," a widespread method of political assassination in Haiti. The victim is bound, his arms hacked off, a gasoline-filled tire placed around his neck and ignited.

"When the people heard: life in prison, the people forgot their little gas and little pere lebrun. Was pere lebrun used on that day? [The audience yells no.] If it had not gone well, would the people have used pere lebrun? [The audience yells yes.] Therefore, when through education one learns how to write pere lebrun and think pere lebrun, one does not use it when it is unnecessary. One learns how not to use it; where not to use it."—Address to Youth Rally, Radio Metropole, Port-au-Prince, August 5, 1991, Cited in FBIS-LAT-91-153, August 8, 1991, p. 5.

"The people had their little matches in their hands. They had gas nearby. Did they use it? [The audience yells no.] That means that the people respect [The audience yells the Constitution] Does the Constitution tell the people to forget little pere lebrun? [The audience yells no] * * * The people are the law, meaning what they do is constitutional."—Ibid.

EDITOR'S NOTE: The following statement came from Aristide's speech to Lavalas supporters at the National Palace after returning from a visit to the United States. Coup rumors were widespread. The references to "a nice tool; a nice instrument" were interpreted at the time as another reference to "pere lebrun," or assassination by necklacing. The coup which deposed Aristide took place three days later.

"I ask you to take this chance, because you will not have two or three more chances, only one. Otherwise, it will not be good for you [the bourgeoisie] * * *" [applause].

"If I speak to you this way, it does not mean that I am unaware of my power to unleash public vindication * * *."

"If you catch someone who does not deserve to be where he is, do not fail to give him what he deserves. [The crowd cheers.] Do not fail to give him what he deserves * * *." [He repeats phrase 2 more times.]

"What a nice tool! [Necklacing] What a nice instrument! [Loud cheers from crowd.] What a nice device! [The crowd cheers.] It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it. [The crowd cheers.] It is provided for by the Constitution, which bans macoutes from the political scene * * *."

"Whatever happens to them is their problem * * * we will receive due respect—the type of respect I share with you—and fulfill common aspiration for justice. Words will thus cease to be just words and will instead be translated into action."—Address at National Palace, Radio Nationale, Port-au-Prince, September 27, 1991, Cited in FBIS-LAT-91-194, October 7, 1991, pp. 17-19.

Aristide on the Catholic Church and its Teachings: "We are reflecting on Jesus' situation * * *. He said: those who have food, take it. Those who have money, take it. Those who have no weapon must sell their garments and buy one. What does this mean to you, my friends * * *?"

"Further on they say to Jesus: Behold here two swords. That is like saying: Behold here two weapons * * * That is verse 38. If they handed Jesus two weapons saying: Here are two weapons—in your opinion, did he throw the weapons away or did he take them? * * * He took them. He took them * * *."

"Therefore, you yourselves who are in the church, for example, you yourselves inside

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Footnotes at end of article.

Haiti * * * Would it be a crime for us to have weapons at home * * *.—Lecture in Cap-Haitien, Port-au-Prince Domestic Service, August 17, 1987, Cited in FBIS–LAT, August 19, 1987, p. B4.[10]

"Ah, my little lamp. Its light of solidarity illuminates the darkest corners of all difficult questions. Just a man doing a job. Now I can see him more clearly. What is the paradigm for the pope in the secular world today? I ask myself. Why, it's all too clear. Of course. All the shadows around him, the smoke and mirrors, fall away. Who is this man? He is the chief executive officer of a multinational corporation * * *."

"His job is to ensure efficiency, continuity, and profit, while maintaining the status quo within the company * * *. United Fruit never had this weapon, nor did Gulf + Western or the National City Bank. That weapon is belief, the long-established belief of the people—the final consumer—the word of the Church. The man in Rome and his colleagues are able to wrap company policy up in the proud yellow and white of the Church. They can pronounce and prettify efficiency actions using the beautiful words of the Bible. They can dress up their officers and parade them around the Church as men of God."—In the Parish of the Poor, pp. 20–21.

"The Catholic church cooperated totally with slavery and exploitation * * * The priests were the real colonialists. Their guilt and complicity extends into the twentieth century * * * The church suffers because of its past."—An Autobiography, pp. 180–181.

"* * * [T]he Vatican should stand in the front rank among those countries that have made every effort to retard our return to democratic processes."—Ibid., p. 181.

"[The Haitian presidency] really is like a priesthood. Like the pastor, I accompany the sheep. I share the people's sufferings. Their claims are mine."—Ibid., p. 183.

Aristide on Economics: "Socialism in Haiti is not a new thing: its practice is rooted in the period of our first independence."—An Autobiography, p. 135.

"Europe owes us a debt * * * Sugar, coffee, and indigo enriched the merchants of Nantes or Rouen while the black people lived like beasts of burden * * * Once we had acquired our independence, we not only had to dress our wounds, but we were required to pay the old country, which simultaneously quarantined and exploited us. The colonial powers, including the United States, must make amends for the wrong inflicted on the on the colony or protectorate in those days. The debt experts, when they speak of our liabilities, need to add up the second column of their own accountability."—Ibid., p. 143.

"Economic efficiency is not compatible with justice, except at the price of a permanent struggle against all the seeds of corruption."

"The few large enterprises in the country were often found to be suffering from waste and mismanagement, and from a poor use of their resources; the most profitable had often been the prey or milk cows of social parasites who had little interest in development or reinvestment. Our move to put them in order did not always make the government highly popular. Stringency is sometimes a long term investment from those who want to escape from beggary: simplicity or clarity of administration are also good for public enterprises that are too often putrefying as a result of speculation or the squandering of their resources."—Ibid., p. 149.

"The ecological tragedy in Haiti is the consequence of anarchy, of laissez-faire."—Ibid., p. 151.

"Economic liberalism, which democrats and technocrats have made a panacea, I find intolerable."—Ibid., p. 178.

"Wealth, financial superiority, and arrogance all end in making one certain that one possesses the truth, and they generally predispose people to use repression or to compromise with dictatorial regimes. The wealthy have often become what they are by virtue of exploiting others * * *."

"Above all, the international rules are made to prevent those who are under the table from some day taking their place at the common feast. They can be made to wait for centuries. They need to shake the table, even to overturn it with all the risks that action implies."—Ibid., p. 179.

Aristide on Karl Marx, Che Guevara, and Christopher Columbus: "I did not invent class struggle, no more than Karl Marx did * * *. But who can avoid encountering class struggle in the heart of Port-au-Prince?"—An Autobiography, p. 106.

"* * * I welcome those ideas that rest on the values of beauty, dignity, respect, and love. Che Guevara, a bourgeois, a doctor, an internationalist, certainly incorporated some of those values, as did Allende. They were sincere men, like so many others; they made mistakes, just as I will do. Why should I deny it? I feel more affection and sympathy for them than I do for many others."—Ibid., p. 126[11]

"I see a big white man, a colonial; the man who, by 'discovering' America, stole it from those who were living there and exploited it * * * What comes to mind when I think of Christopher Columbus is the mutilation of many peoples and the beginning of a long chain of injustices * * *."

"But Christopher Columbus was only the first. The conquistadors * * * of the American occupiers at the beginning of the twentieth [century] yielded nothing at all to him in the realm of contempt and brutality * * * The year 1992 marks five hundred years of robbery and five hundred years of resistance"—Ibid., p. 180.

"There is no question that there are common denominators between us and the makers of the French Revolution: 1789 is an essential reference point, as is 1793. The memory of the heroes of the rights of humanity should always be in our minds, as their texts are in our hands. Robespierre himself denounced the 'patripockets.' From Saint Just to Abbe Gregoire, how much I owe to the makers of the French Revolution! Most of them had a global vision of human liberation."—Ibid., p. 184[12]

FOOTNOTES

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[1] Aristide quotes from his dismissal order in his book, Jean-Bertrand Aristide: An Autobiography (Maryknoll, N.Y.: Orbis Books, 1992), p. 105.

[2] The best pieces in English are Raymond Alcide Joseph, "Father Aristide and Other Myths," Forbes MediaCritic, Spring 1994, and Christopher Caldwell, "Aristide Development," The American Spectator, July 1994. Unless otherwise indicated, incidents occurring during Aristide's brief tenure have been drawn from these two sources.

[3] Howard W. French, "Ex-Backers of Ousted Haitian Say He Alienated His Allies," The New York Times, October 22, 1991, p. A11.

[4] The interview in which this comment is mentioned was conducted just four days before the Haitian presidential elections.

[5] Aristide was blaming the U.S. for its support of the provisional government (National Government Council) in the aftermath of Jean-Claude ("Baby Doc") Duvalier's departure from Haiti. This period was marked by exceptional turmoil, with one military leader after another assuming duties as the Haitian Head of State. Duvalier had fled after the Reagan Administration pressured him to leave and allow for a democratic transition. Haiti, along with the Philippines and Chile, was a target of President Reagan's second-term policy of withdrawing U.S. support for dictators of the right.

[6] At the time of this interview, Aristide was not a political candidate. Nicaragua had just held free and fair elections in which the Castro-supported Sandinista government was soundly defeated by Violeta Chamorro, a clear victory for U.S. policy in Central America. Elections in Haiti, strongly supported by the Bush Administration, were to be held at the end of the same year.

[7] "Macoutes" refers to the Ton-Ton Macoutes, the private security force established by long-time Haitian dictator Francois ("Papa Doc") Duvalier. Aristide's book "In the Parish of the Poor" is based in large part on sermons he gave while still a parish priest at St. Jean Bosco in the La Saline slum of Port-au-Prince.

[8] General Henri Namphy was head of the provisional government after the Reagan Administration convinced "Baby Doc" Duvalier to leave Haiti in 1986. Aristide's autobiography was written after the September 1991 coup against him. In it, he provides examples such as the swine fever epidemic to prove that the U.S. had a mercantilistic relationship with Haiti, by which it required urban, light manufacturing rather than agricultural production. This is evidently an oblique reference to Reagan's "Caribbean Basin Initiative," which offered incentives for U.S. business to establish production facilities in poor countries of the region.

[9] Aristide is writing about the Haitian peasants, whom he consistently held were being exploited by "imperialist" businesses from the U.S. and elsewhere. He is referring to their dormant defiance and alluding to the means they have to take control of their own futures, as had the Latin American revolutionary Simon Bolivar.

[10] These statements are excerpted from a lecture to the faithful by Aristide in Cap-Haitien. He is purportedly quoting from St. Luke's Gospel, Chapter 22, Verses 35–38. The actual citation, from the Saint Joseph Edition of the New American Bible, reads: "When I sent you on a mission without purse or traveling bag or sandals, were you in need of anything? "Not a thing," they replied. He said to them: "Now, however, the man who has a purse must carry it; the same with the traveling bag. And the man without a sword must sell his coat and buy one. It is written in Scripture, 'He was counted among the wicked,' and this, I tell you, must come to be fulfilled in me. All that has to do with me approaches its climax." They said, "Lord, here are two swords!" He answers, "Enough."

[11] Ernesto "Che" Guevara was Fidel Castro's closest confidant during the Cuban Revolution. His book "Guerrilla Warfare" became a primer for Latin American communist guerrilla movements in the 1960s and 1970s. He became a martyr for Latin American communism when he was killed by the Bolivian military while trying to incite a revolution in that country in 1967. Salvador Allende was the Marxist president of Chile who was killed in a military coup in 1973.

[12] Robespierre and St. Just were responsible for the worst abuses of the "Great Terror" of the French Revolution. Hundreds of people, including the French King and Queen, were guillotined at the order of Robespierre. He, too, was guillotined in the backlash that followed.

[From the Heritage Foundation, Sept. 20, 1994]

EXECUTIVE MEMORANDUM

Now Comes the Hard Part: The U.S. Occupation of Haiti

(By Lawrence T. DiRite)

Everyone can draw a sigh of relief now that U.S. forces will not be invading Haiti. The loss of American lives that would have resulted from an invasion has been avoided. Nonetheless, for the first time in 80 years, large numbers of American troops are landing in Haiti. Within several weeks, as many as 15,000 U.S. forces are expected to be dispatched to that poor, chaotic nation. Thus, while an invasion of Haiti has been avoided, an occupation has not.

And this is precisely Bill Clinton's—and America's—new problem. The actual invasion of Haiti to reinstall Father Jan-Bertrand Aristide to power was never the main reason for opposition to Clinton's Haiti policy. Secretary of Defense William Perry recently acknowledged that even an invasion that encountered resistance would have taken no more than "a few hours." Rather, people were against the invasion because of what would come afterward—a U.S. occupation of Haiti that they felt was unwise and unnecessary. Therefore, the original cause of opposition to Clinton's policy remains. With U.S. troops heading for Haiti, the easy part is over. Now the difficult task of pacifying and "restoring" democracy begins.

Public Wary About Clinton Policy. Having assumed responsibility for Haiti's future, the Clinton administration still has not convinced the American people that intervention in Haiti was necessary. Even after a speech to the nation on September 15, in which the President outlined his reasons for military action, more than 60 percent of Americans polled were against the use of U.S. force. In fact, as the hour of invasion drew closer, the more opposition to an invasion mounted. New reports reveal that Clinton was desperate for Jimmy Carter's peace mission to succeed. In the hours before the invasion was to begin, the President apparently began to realize that military action would be a big political mistake.

But the President may face an even bigger political headache in the future: managing the occupation of an extremely poor and divided Third World country. Clinton has yet to outline a convincing "exit strategy" for the U.S.—to define clearly the conditions that must be met in order to get the troops back home. Despite the President's assurances that U.S. troops will return soon, the Clinton Administration is underestimating the troubles U.S. forces will face in Haiti. Bringing Aristide back to Port-au-Prince will be easy. Keeping him there in power will not be.

Many Unanswered Questions. The precise terms of the agreement the Untied States and the Haitian military junta are unclear. According to the deal brokered by Jimmy Carter, by October 15, unless the Haitian parliament has acted sooner to offer them political reprieve, the junta must relinquish power to the elected government of Aristide. This poses a number of intriguing questions, including:

(1) To whom will the military and police forces owe their allegiance once their leaders have abdicated? Many of them were opponents of Aristide and his supporters. American peacekeepers may be left to contend with general lawlessness among thousands of armed forces whose leaders no longer control them. The U.S. troops will have to disarm these troops if they are to avoid becoming targets themselves. But the policy of disarming belligerents in Somalia failed, at the cost of more than three dozen American lives.

(2) What if General Raoul Cedras or other members of the junta refuse to leave Haiti they step down from power? In the press conference after the deal was announced, Secretary of State Warren Christopher said that "there will be no incentive for [the generals] to stay in Haiti" after October 15. But nothing in the agreement prevents them from staying in Haiti. Moreover, Cedras and his allies represent the most well-organized and determined opposition to Aristide. If Cedras stays and decides to run for parliament this year or for president next year, U.S. forces may find themselves caught between two diametrically opposed political factions. It is not inconceivable that Aristide, emboldened by the U.S. presence, might incite his followers to the same type of mob tactics he used as president to intimidate political opponents. In August 1991, he encouraged his supporters to surround the parliament building to prevent members from voting a motion of no-confidence against his government.

(3) How long before Aristide turns on his American mentors? The Clinton Administration has been able to extract promises of good behavior from Aristide as long as he has been living comfortably in Washington, D.C. Once he is back in Port-au-Prince, however, he could revert to the anti-Americanism that had been the hallmark of his political career. For example, in an April 1990 radio interview regarding U.S. support for the upcoming Haitian elections, Aristide claimed that "they [the Americans] want to hold our guts always in their hands. Thus, we will be economically, politically, and culturally dependent. For our part, we reject this . . ." If Aristide becomes unhappy with the United States—if aid is not enough or if he thinks the U.S. is equivocating in its support for him personally—this anti-Americanism is bound to resurface.

(4) What happens if Aristide decides not to step down at the end of his presidential term? In his September 15 address to the nation, President Clinton declared that "Aristide has pledged to step down when his term ends . . . [in 1996]." But that is a rather dramatic concession that may come as a surprise to Aristide's supporters in Haiti. Until now, Aristide has held firm to the belief that the period of his exile does not count as part of his five-year term in office. Will the U.S. blockade Haiti and impose economic sanctions if Aristide remains in office past 1996, in violation of the 1987 Haitian constitution?

(5) What happens when "democracy" fails to take root with Aristide's return? With the occupation of Haiti, the U.S. assumes responsibility for building "democracy" in a country where three-quarters of its presidents in nearly two centuries of independence have not completed their terms. The U.S. will soon be sending judicial, law enforcement, military, economic, and political advisers to help establish civil order there. Despite Clinton's claims to the contrary in his September 15 speech, this is nation-building pure and simple; it is a policy that failed miserably in Somalia last year with the unnecessary loss of some 40 American lives.

America's new venture into liberal colonialism has begun. The U.S. is about to occupy a country to install in power a left-wing priest who made a career out of denouncing America and everything it stands for. Meanwhile, a few hundred miles closer to U.S. shores, another Caribbean dictator abuses human rights, and rules undemocratically. Yet Fidel Castro is spared the fate of the Haitian generals. The reasons for this double standards are as mysterious as the reasons for occupying Haiti in the first place.

[From Port-au-Prince Radio Nationale, Sept. 27, 1991]

ARISTIDE ADDRESS 27 SEP AFTER VISIT TO UN

[Address by President Jean-Bertrand Aristide at the National Palace in Port-au-Prince on 27 September, on his return from the United Nations—live or recorded]

[Excerpts] [passage omitted including indistinct portions] to repent and say: I acknowledge that I made this money through malpractice and, from now on, watching the national pride dancing like a flag, I will cooperate by using the money [word indistinct] to create work opportunities, and to invest in economic activity so more people can get jobs.

If you [referring to bourgeoisie] do not do so, I feel sorry for you. Really I do. [laughter from crowd] It will not be my fault because this money you have is not really yours. You acquired it through criminal activity. You made it by plundering, by embezzling. You got it through the negative choices you made. You made it under oppressive regimes. You acquired it under a corrupt system. You made this money through means that you know were wrong. Today, seven months after 7 February, on a day ending in seven, I give you one last chance. I ask you to take this chance, because you will not have two or three more chances, only one. Otherwise, it will not be good for you. [applause]

If I speak to you this way, it is because I gave you a seven-month deadline for making amends. The seven-month deadline expires today. [applause] If I speak to you this way, it does not mean that I am unaware of my power to unleash public vindication, in the name of justice, against all these thieves, in an attempt to recover from them what is not theirs. A word to the wise is enough. You understand me because you and I speak Creole. [applause]

The saying goes: God's justice is slow. It appears that justice is going too slow. It is, however, a reasonable justice because seven months—during which people have been hungry and unemployed, while you had the power to reduce unemployment and hunger—have passed. As I told you, the deadline expires today. The ball is in your court. The 7 February ball is at your feet. If you want to shoot, go ahead. [applause]

Did all of the bourgeoisie make their money through ill practices? [crowd shouts "no"] [repeats sentence twice] Congratulations, intelligent people! [repeats sentence three times] [applause] We call the bourgeoisie who made their money through foul practices, and who refuse to invest in the country, false patriots [patripoch]. We call the bourgeoisie who earned their money through honest work, and who are cooperative, patriots. [applause] Congratulations to the patriotic bourgeoisie. Congratulations to the bourgeois patriots. They are few. Unfortunately, they are not the majority. Nevertheless they do exist. [passage omitted]

I want to use this very occasion to also address political parties. I want to hail and encourage them to walk on in unity—unity among them and with the entire population—to consolidate themselves so that, in accordance with the Constitution, we will build together a strong opposition on the basis of the law. We will thus foster democracy, unity in political pluralism, unity in political diversity.

Therefore, political leaders, I am passing to you the ball of understanding with great love as usual. If you do not catch the ball, dribble, and score goals, do not later accuse me because you will have failed to live up to expectations in order to gain in popularity that you [word indistinct]. [crowd cheers] I wish you all good luck, good luck to all the [words indistinct] parties.

I hope that deputies and senators will continue to work together with the people in order to personally feel the joy of working to satisfy the aspirations of the masses, because we prefer to fail with the masses than succeed without them, but with the masses, we cannot fail. [crowd cheers] I am encouraging all the ministers; [crowd cheers] I know, I know, all right! For those of you who are outside the palace, the brother here said that the deputies cannot do me any harm. I told them I know that. [loud cheers from crowd]

I am encouraging every minister to continue with the purge that we have already started. I am also encouraging each state employee [words indistinct] because you are the ones pressing on the economic pedal now, so that the economic car can run twice as fast. I am encouraging each state employee—please, I encourage you to realize that, as a state employee, you must work twice as much so that the job can be done well and fast. You will thus increase, if not double, the output of public administration. We will all benefit from the increased effort that you all make. I encourage you to do so in the provinces and in the capital, wherever state employees work. If you feel that your work goes slowly, speed it up. You do not need anyone to supervise you. Be you own supervisor. This is because contrary to the past, when people used to say that embezzling state money is not stealing, today we know very well that diverting state money is stealing, and thieves do not deserve to stay in public administration. [crowd cheers] [passage indistinct]

You must greet visitors in the same warm way that Haitians are greeted—with the type of welcome we received abroad. Greet people with a smile in state offices. Give people the information that they need with a welcoming smile of understanding. You too, address the state employee with great courtesy so that we will make double economic effort. [passage omitted]

However if I catch a thief, a robber, a swindler, or an embezzler, if I catch a fake lavalas, if I catch a fake . . . [changes thought] If you catch someone who does not deserve to be where he is, do not fail to give him what he deserves. [crowd cheers] Do not fail to give him what he deserves! Do not fail to give him what he deserves! Do not fail to give him what he deserves!

Your tool is in your hands. Your instrument is in your hands. Your Constitution is in your hands. Do not fail to give him what he deserves. [loud cheers from crowd] That device is in your hands. Your trowel is in your hands. The bugle is in your hands. The Constitution is in your hands. Do not fail to give him what he deserves.

Article 291 of the Constitution, which is symbolized by the center of my head where there is no more hair, provides that macoutes are excluded from the political game. Macoutes are excluded from the political game. Macoutes are excluded from the political game. Do not fail to give them what they deserves. Do not fail to give them what they deserve. You spent three sleepless nights in front of the National Penitentiary. If one escapes, do not fail to give him what he deserves. [loud cheers crowd]

You are watching all macoute activities throughout the country. we are watching and praying. we are watching and praying. If we catch one, do not fail to give him what he deserves. What a nice tool! What a nice instrument! [loud cheers from crowd] What a nice device! [crowd cheers] It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it. [crowd cheer] It is provided for by the Constitution, which bans macoutes from the political scene.

Whatever happens to them is their problem. They should not look for it. [crowd cheers] As such, under the same flag of pride, dignity, and solidarity, and hand in hand, we will encourage one another, so that starting today, we will all receive due respect—the type of respect I share with you—and fulfill common aspiration for justice. Words will thus cease to be just words and will instead be translated into action.

Action on the economic front required me to get the ball and pass it over to you. You should dribble and kick hard at the ball once you are in front of the goal, and make sure to score a goal because if the people do not see the ball in the nest, as I told you, it would not be my fault if you are given what you deserve, as provided for in the Constitution. Alone we are weak, together we are strong, tightly united we are an avalanche. Are you feeling proud? Are you feeling proud? Go home now as your hearts are full of happiness, energy, and joy and show that you are working for the progress of the country, and to make elegant, graceful, and dazzling, show that you want to restore it former image. [loud cheers from crowd]

Mr. TORRICELLI. Mr. Chairman, I yield 4 minutes to the gentleman from American Samoa [Mr. FALEOMAVAEGA].

Mr. FALEOMAVAEGA. Mr. Chairman, I thank the gentleman from New Jersey [Mr. TORRICELLI] as the author of this resolution, and our Chairman of the House Committee on Foreign Affair, the gentleman from Indiana [Mr. HAMILTON] who is the chief cosponsor of this legislation.

Mr. Chairman, the lives and welfare of some 20,000 of our men and women in the armed services are at stake. I have no doubt that President Clinton and his top military advisers, and even the Members of this body, are very concerned as the situation is volatile and things can turn for the worse or even better at any given day.

Mr. Chairman, the President has made a very important decision to commit our military forces for the purpose of stabilizing the Government of Haiti and to return President Aristide as the duly elected leader of that country. But this does not mean that the President has the absolute authority to commit our forces anytime he feels like it.

Under the Constitution, Mr. Chairman, the Congress must also do its part as a co-partner in this matter now before us. The resolution, I believe, before us should address the concerns of the Congress relative to the President's actions on Haiti. I believe, Mr. Chairman, that although the resolution does not address every issue, or every problem, or any solution that could be conceivably thought of, I do believe the resolution at least gives notice to the President that he cannot unilaterally put our military forces in harm's way without close consultations with the Congress.

Mr. Chairman, I will not repeat the arguments for or against the President's Haiti policy and I believe Members of both sides of the aisle have been quite eloquent in advocating their points of view on this matter. I will say, Mr. Chairman, in my humble opinion that without question President Clinton's current policy on Haiti, its success or failure, rests entirely now upon the lives of our soldiers and sailors who are currently in Haiti as a consequence of his policy in that country.

I believe the resolution of the gentleman from New Jersey [Mr. TORRICELLI] is a reasonable solution to the current crisis in Haiti, and let us never forget the lessons that we have learned from Vietnam and Somalia. Let us support House Resolution 416.

Mr. GILMAN. Mr. Chairman, I yield 10 minutes to our final speaker, the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman and my colleagues, I take to the floor again to speak on the issue of our failed policy in Haiti. Having been involved in Haiti prior to the fall of the Aristide government in an economic development project, I am familiar with some of the problems of that nation, and I think it is important tonight that we reflect on the history of the Clinton policy which, in fact, is a history of failure.

Mr. Chairman, it was a mistake when President-elect Clinton promised to reverse the Bush Haitian immigration policy.

It was a mistake when my State of Florida was left with 12,000 Haitians after 40,000 left that impoverished nation as a result of the change in the Clinton policy.

It was a mistake when President Clinton failed to hear the pleas of myself and 41 other House Members who asked him to appeal a court decision that would allow HIV-infected Haitians into the United States, and most of those people ended up in my State of Florida.

It was a mistake to ignore the Governors Island accord and international agreements.

It was a mistake to sail into Port-au-Prince harbor and then cut and run.

Mr. Chairman, it was a mistake to impose economic sanctions on a country with 53 cents per day per capita income.

Again it was a mistake, Mr. Chairman, to impose an economic embargo on the most impoverished nation in the Western Hemisphere, a policy that would kill thousands of Haitian babies, elderly and infirm.

Mr. Chairman, it was a mistake to destroy 60,000 manufacturing jobs in Haiti that fed nearly a third of the island's population.

Again, Mr. Chairman, it was a mistake to send our forces into Haiti and not consult with the United Nations and not consult with the United States Congress.

It was a mistake to have our troops stand by just recently while the balance of Haitian business was destroyed and decimated.

It is a mistake to think that by confiscating weapons and driving the military underground that all will be well in Haiti's future.

Mr. Chairman, it is a mistake to think that after October 15, when we have that great glorious parade when Aristide returns, all will be well in Haiti.

Mr. Chairman, it is a mistake that the U.S. taxpayers pay twice. They pay once for the United Nations peacekeeping force, and now we will end up paying billions to continue another mistake.

Mr. Chairman, it is a mistake not to have learned from the lessons of Somalia.

Mr. Chairman, I say to my colleagues, you know there is a movie called "The Groundhog Day." I don't know if you have ever seen that movie, my colleagues, but it's an interesting movie, and I recommend it to each of you. The movie "The Groundhog Day" is a movie about an individual who keeps repeating over and over the same day.

Now I have only been in this Congress for about 20 months, but sometimes I feel like I am part of that movie, "The Groundhog Day." The character there keeps repeating that day over and over, and that is what we are doing here, and that is what we did with Somalia.

I ask my colleagues, don't we remember the cost in American lives? Don't we remember the cost in dollars?

Mr. Chairman, when we cannot afford to provide economic assistance to our citizens, to our veterans, to our cities, we are spending hundreds of millions, billions, of dollars, and we have not learned this lesson. We are participating in another Groundhog Day. We are repeating that day over and over again.

As my colleagues know, what is sad is we will leave Haiti, and I can predict it, and it will be part of this CONGRESSIONAL RECORD without changing the deep social and civil differences that lie embedded in that country. I have seen this firsthand. It is a country in which there is a very small, rich population, and they have a very large poor population.

☐ 2340

We can send all the troops and we can spend all of our money; we can go again and destroy that country and pound it further into the ground; and then we can spend more American taxpayer dollars to try to raise it up.

Mr. Chairman, we will not solve that country's problems. We did not solve them in Somalia. We just left there, and we left the country in chaos.

So we do not have a defined mission. So we can set March 1, and March 1, my colleagues, I am afraid will be too late. We can set March 1, 1995, or 1996. It still may be too late. We are now being asked here in this Congress to legislate and authorize another mistake.

Mr. Chairman, again, I feel like I am part of that movie, "Groundhog Day," where we do not learn, where we keep repeating the same day over and over, where we keep making the same mistake, where we keep dragging the American taxpayer to pay for each and every one of these mistakes.

Somehow I wish, Mr. Chairman, that we would learn from the lessons of the past. Somehow I would hope that this body would learn that we cannot solve all the problems of the world, nor can the American taxpayer finance all of these mistakes.

So with these words, Mr. Chairman, for the RECORD, and I am sure these halls have heard all the different words and sermons, I caution my colleagues to think twice before they vote for this resolution, before they continue this legacy of mistakes, before they make another mistake.

Mr. Chairman, I yield back the balance of my time.

Mr. GILMAN. Mr. Chairman, how much time remains?

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] has 49 minutes remaining, and the gentleman from New Jersey [Mr. TORRICELLI] has 1 hour and 10 minutes remaining.

Mr. GILMAN. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. TORRICELLI. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, President Clinton sent 20,000 American soldiers to defend Haitian democracy. Tonight I rise in the interest of another democracy, that of the United States.

In any Democratic society, no one man can be vested with the power to send thousands of men and women in risk of their own lives, in pursuit of a policy that potentially consumes not simply millions, but indeed hundreds of millions of dollars. By definition in any Democratic society, that power must be shared and balanced with other Democratic institutions. In the constitutional framework that is the United States of America, this institution, the U.S. Congress, is designed to provide that balance.

This Nation has painfully learned on other occasions the cost of entering into foreign commitments, sending our sons and daughters to fight, when the Nation is divided and this Congress is not consulted in the exercise of our powers. Indeed, it is the principal lesson of this generation, from the painful experiences of Vietnam, that if in our constitutional framework there is one principal imperfection, it has been the Founding Fathers inability, indeed, their failure, to more precisely define the respective roles of the institutions of government.

House Resolution 416, which I offer with the gentleman from Indiana [Mr. HAMILTON] is an attempt in this instance to avoid the division and provide the balance that was not provided for by exercising good judgment by the administration in seeking the consent of this Congress, and perhaps with not too sufficient clarity previously provided for in the law.

We do so because it is not simply good law, not simply consistent with the intentions of the Framers of our Constitution, no matter how vaguely that intention may have been expressed, but because it is also good policy.

No foreign foe, no less the Haitian military, should ever believe that this country is divided. No one should ever face our forces in combat believing a President stands alone. This resolution is an opportunity to demonstrate not division or lack of resolve, but simply to provide President Clinton with a degree of support for our forces that he, unfortunately, did not seek, and therefore did not receive.

It is an opportunity to speak with a loud voice, in providing a congressional vote for unity of purpose. It is particularly critical, however, not simply because of Haiti, but because Haiti is not the last, and, indeed, may be the first of a long series of post-cold-war involvements, in which the United States will be called upon to defend democracy, advance our interests, further the resolutions of the United Nations, and serve other peacekeeping purposes and vital interests.

A model therefore must be established, and that model cannot be consistent with the best interests of this country and the operation of our Democratic system, a formula by which the President of the United States simply orders the expenditure of such enormous sums of money and places the lives of so many people in jeopardy in pursuit of his own policy, without the collective actions of the U.S. Government.

I seek to define these missions not because I want the United States to play less of a role in the world, but because I want us to play more of a role in the world, with credibility, with force, but recognizing that the United States can provide no example of democracy, ironically, indeed, tragically, cannot give meaning to the Democratic institutions of other nations, if we defy the Democratic meaning of our own Constitution and ignore our own Democratic institutions.

This resolution is an opportunity to avoid what is certainly before us, an opportunity of division, and replace it with a common voice. The Armed Forces of the United States today, indeed the President himself, have in the last days provided an example of effective intervention militarily. But I think we all recognize that there are difficult days ahead, days that will test unity of purpose, days that may well divide the American people. Without this resolution, we will be on this floor again and again. The Haitian military will doubt our intentions or our resolve. With it, we will appear as united in difficult days as we are in those days when the mission is succeeding.

The framework that is provided therefore in House Resolution 416 attempts to do each of these things.

□ 2350

First, it defines our mission precisely, that American forces that are in Haiti to assist the transition to the legitimately elected government, to provide for the distribution of humanitarian assistance and security for those purposes. By providing this definition, we avoid the difficulty of an ever-expanding obligation, where each day or each week, with each new crisis taking on new obligations that have not been made clear to the American people, their elected representatives or even our forces in the field.

Second, the length of this commitment, exclusively under American auspices and leadership, is defined by a limit of time. By March 1, the President of the United States must either come to this Congress and seek an extension of authorization or he must remove U.S. forces and transfer our obligations to a U.N. command. He must provide reports on four different occasions explaining the financial costs, precise obligations and what our forces are undertaking in their objectives.

Every Member of this institution, after February 1, having received these reports, will have the opportunity to come to this floor on an expedited basis and, by resolution, seek the removal of American forces if they deem it to be the interest of this country.

But in fairness to the President, this opportunity is not accorded to Members until February 1 and withdrawal is not ordered until March 1, because to do so at an earlier date has been suggested by a resolution offered by the minority. Neither gives our military forces a reasonable amount of time to complete their mission or this Congress an opportunity to produce such a resolution. Congress simply will not be in session in November or December or much of January.

But after February 1, the Committee on Foreign Affairs will be organized. The Congress will be in session. And we can produce such a resolution of withdrawal if we deem it to be in our interest.

Finally, the resolution provides that at all times, until the U.N. command assumes responsibility, our forces will be under the exclusive command of a commander in the U.S. Armed Forces.

I recognize, Mr. Chairman, that many Members of this institution, indeed many of the American people, do not believe in our mission in Haiti. They are sensitive to the support of democracy, sympathetic to the plight of the Haitian people, and angered by the actions of the Haitian military. I share each and every one of those sentiments. But there are doubts in this institution whether the vital interests of the United States were so threatened in such a manner that it was necessary or wise to engage the Armed Forces of the United States at the risk of the lives of young men and women who have gone into the service of our country for the defense of this Nation to pursue these objectives.

While I am sympathetic with some of those beliefs, I also believe it is necessary, whether we supported those objectives, interpreted events in this fashion or not, that we deal responsibly with the reality that 20,000 young Americans are in Haiti. The mission has been undertaken. We are not being asked whether it should be pursued but now, simply, how it should be achieved successfully, given the reality of their deployment.

Resolution 416 is an attempt to deal with that reality for those who believe that the mission was necessary, for those who question it, but nevertheless want it to succeed and who believe now a premature withdrawal before the U.S. military is given that chance is to simply compromise any opportunity to do justice to their mission or fairness to our forces.

Others are arguing that the resolution is ill-advised because it might compromise the safety of our forces to set a date of withdrawal. I would argue strenuously, on the contrary. Each and every day that American forces remain in Haiti without any deadline for their removal, any date of departure, is an invitation for terrorists and assassins, for the brutal thugs in the Haitian military and their accomplices to attempt to take the lives of our young soldiers, to break the will of our people and to seek a date of withdrawal.

I believe that if our opponents recognize that our presence in Haiti is to restore the Aristide government, to provide for its security and then, on a date certain, to transfer authority to the United Nations, they recognize that there is no advantage in bringing harm to our forces, because it will not change the reality of our presence or adjust the date or our departure.

I want, finally, Mr. Chairman, to express again the admiration that I know every Member of this institution feels, whether they would have initially supported this mission or not, whether they want to set a deadline for departure or not, the admiration that is felt for every man and woman and every branch of our Armed Forces, for the extraordinary skill and courage that is being exemplified by each and every member of our Armed Forces.

Never in my memory have they performed more professionally, more selflessly, when called upon by the President of the United States.

Tomorrow this institution, while expressing that admiration, will have before it three alternatives. The gentleman from Indiana [Mr. HAMILTON] and I have provided House Resolution 416, adopted by the House Committee on Foreign Affairs, to provide for the March 1 withdrawal providing for a post-February 1st vote to force withdrawal by the House, if it deems it so necessary, limiting the mission.

An alternate resolution will be provided by the minority, defined by the gentleman from New York [Mr. GILMAN] for at some point after January 3d, without having provided any authorization for the mission prospectively or retroactively, a resolution will come in order for immediate withdrawal. And a final resolution offered by the gentleman from Florida [Mr. HASTINGS] and the gentleman from Pennsylvania [Mr. MURTHA] to provide for an authorization without a specific date of withdrawal.

□ 2400

Those three alternatives provide this Congress with a real choice, and the chance for a meaningful debate.

Mr. Chairman, my own position is clear. However, beyond the crisis in Haiti, in each of these resolutions, I trust when the debate ends we will have established one point, a point we believed was clear after Vietnam, certainly after Lebanon, without question after Panama and Grenada, and we had reason to believe after the Persian Gulf and Somalia; that in this democratic society, this Nation will not take lives, will not engage in foreign commitments, and will not wage war while operating within the confines of our own Constitution with respect for the judgments of our own people and the operations of our own institutions of government.

Mr. Chairman, democracy is a fragile instrument. The United States of America has been blessed with this form of government for 200 years, but at its inception, we were advised that the greatest threat to our freedoms existed in no foreign nation, in no despot or king or invading army, but by the very excesses of executive power.

Mr. Chairman, through these two centuries we have been blessed by men in the Presidency who have respected democracy and did not exceed their authority, but with each and every precedent we establish for the concentration of executive power in the Presidency, the decline of balance of powers in this institution, we risk not simply the freedom of those we would violate abroad, but more critically, our own.

Mr. Chairman, when we debate tomorrow, I trust that it is the operation of his Government, the balance of these powers, that Members will bear in mind as we debate House Resolution 416.

Mr. Chairman, I thank my colleagues for a meaningful debate this evening and look forward to reviewing it tomorrow.

Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky [Mr. BARLOW].

TRIBUTE TO ROMANO L. MAZZOLI ON HIS RETIREMENT

Mr. BARLOW. Mr. Chairman, I ask for your own indulgence to speak out of order as I pay respects to you, sir.

Mr. Chairman, as a new Member from Kentucky in his first term in Congress, I, along with others in the delegation and others here in Congress, want to pay our respects to you for your many years of service as you come to your retirement from our institution here.

You were elected in 1970, and let me say that when I arrived here in January a year ago, Mr. Chairman, you reached out with friendship and with understanding at the process that I and every other freshman at that point was entering into as we come into the hall of reason which our forefathers consecrated for us as a nation.

Mr. Chairman, it is an amazing and wonderful institution that has been created. Every day that I serve here and serve with men of years of service such as you, men who show humility and dedication and strength of purpose and principle, I am constantly coming up against those principles that have served us as a nation so well down through the years.

When we have votes, I come home to my district, as I do every weekend, and talk with my constituents back in the district. Sometimes I am asked "Why are the votes so close, the numbers very evenly divided?" I often say that that is because, very purposefully, we have loaded them with very heavy, weighty issues, and the weightiness of those issues and the fact that we come up on that vote, and it so evenly divided, and yet, after that, when passions have cooled, we find that we are a stronger Nation, having stood the test of the heat of that moment.

You yourself, sir, in the years of your service, have brought your constituents and brought the House to the same type of weighted, heavily weighted, decisions of principle, and have come through elections by small margins.

Mr. Chairman, I would submit that that is not a sign of weakness, that is a sign of pushing yourself and your constituents and the State of Kentucky to very powerful limits of expansion, of moral purpose, of principle, and as we come out of those votes, we are stronger for it.

I pay my respects to you, Mr. Chairman, and the record of those votes will stand proudly the test of time as people look back.

Mr. Chairman, we are also in an institution where no one person is enabled to rise with ego, to dominate, to domineer. We have a wonderfully crafted set of rules which very wisely snares egos and winds them down, and wrings them out, so that reason can come to the surface.

You, in your years as chairman of the Subcommittee on International Law, Immigration, and Refugees of the Committee on the Judiciary, have labored hard to bring very difficult work to the force, to bring it in a progressive way forward. No matter how long any of us work and labor in this institution, we are always laying foundations for the future.

Mr. Chairman, you have laid very powerful foundations in the immigration law that you have brought forth in the 1980's and over the years of oversight for this whole area. It is an area that is going to be challenged in many powerful ways in coming years, because we as a nation are admired for our government, for the freedom, for our free enterprise.

We have triumphed over terror and institutions of terror in the world, governing structures which were very oppressive. Quite understandably, people will be wanting to come to the United States. As a measured process that you have established, we look forward to perfecting that so that our own institutions will prosper.

Mr. Chairman, my mother, her father was from Louisville, KY, and 40-some-odd years ago when I was very much a youngster I remember an old 78 record I played in my grandfather's living room. I do not know if you ever heard it. I am not going to sing the song, but I will recite it as I can from memory.

That is "Eight more miles to Louisville, the hometown of my heart. Eight more miles on this old road, I never more shall part. I knew some day that I would come back, I knew it from the start. Eight more miles to Louisville, the hometown of my heart."

Thank you, sir.

The CHAIRMAN. The Chair would take his prerogative to express thanks to the gentleman, and to all who have joined in that.

Mr. BROWDER. Mr. Speaker, I rise today to honor my colleague RON MAZZOLI of Kentucky who will be leaving this body at the conclusion of the 103d Congress.

As a freshman Member of Congress late in 1989, I faced the daunting prospect of having the major military installation in my district closed by a unilateral decision of the Department of Defense. Now, base closure is a fearsome challenge for any Member of Congress, but especially so for a Member only 9 months into his first term who succeeded a 21-year veteran who was a legendary senior member of the Armed Services Committee.

Base closure threw RON MAZZOLI and I into the same pot of trouble in 1990, and we quickly recognized that the 1990 closure list disproportionately targeted bases in Democratic districts and appeared to have no basis in military value.

Though not a member of the Armed Services Committee, RON MAZZOLI had a direct impact on the resulting legislation which established the Base Closure Commission and the current base-closure process because of his personal and professional support of me and my efforts on the committee. RON was one of the founding members of the Fairness Network which we established in the House originally to ensure that the defense establishment was not withholding funds from targeted bases while they are being evaluated for closure or realignment.

In his quite, unassuming and statesmanlike manner, RON MAZZOLI has had a profound impact on this House and on this Member in particular. His mentoring of my early efforts to slay the base-closure dragon have left me personally grateful of the contribution he has made to my career as the Representative to Congress from the State of Alabama and grateful as a citizen of this Nation for his contributions to what has become an effective, fair method for reducing military infrastructure.

While the military bases that RON and I represent have both emerged winners from the first three rounds of base closures, the House and our country will be the losers when he leaves this body in January for a much-deserved respite form the day-to-day political struggle. Mr. Speaker, I know you join me in thanking RON MAZZOLI for his service to America and in wishing him only the best in his future endeavors.

Mr. BRYANT. Mr. Speaker, while it is with much regret that we are here today saying farewell to one of our most distinguished colleagues, Congressman ROMANO MAZZOLI, I am pleased to be able to participate in recognizing him during this special tribute.

I am fortunate enough to be able to say that as a member of the International Law, Immigration, and Refugees Subcommittee, the subcommittee that Congressman MAZZOLI has so ably chaired for a number of years, I have worked with him on many issues.

Without pause, I can say that Congressman MAZZOLI has been a fair and fervent advocate in balancing the United States' interest to strengthen enforcement and illegal immigration, while at the same time recognizing the need to promote lawful immigration in furtherance of the United States interests as a heterogeneous and diverse society.

Congressman MAZZOLI has made many contributions to our society as a Member of Congress, and I am sure that I can speak for all of us in saying that his tenacity and responsiveness will be sorely missed, not only by his friends here in the U.S. Congress, but also by his constituents.

Mr. WOLF. Mr. Speaker, it is a pleasure for me to join with my colleagues in recognizing the outstanding service to Congress and our Nation of my friend and colleague, ROMANO (RON) MAZZOLI.

For the last 24 years, RON has distinguished himself as the representative of Kentucky's 3d District, which includes the city of Louisville and its suburbs. Without a doubt RON is one of the hardest working Members of this body; furthermore RON is a man of honesty and integrity. Millions of Americans who watch C–SPAN know RON as the fair and impartial Member who often moderates contentious House debates from the Speaker's chair. However, to all of us in the House, we know how deep RON's legacy runs.

RON was one of the authors of perhaps the most sweeping immigration reform legislation of our time, the Simpson-Mazzoli Immigration bill, which passed the House in 1986. I remember how hard RON worked over several years to shepherd this important landmark legislation through Congress, and know his perseverance is a major reason why this bill has been made into law. RON has also been a major force in the drive to reform campaign finance laws, and RON certainly backs up his talk with action—during campaigns he would accept campaign contributions of no more than $100. His forceful presence on both these issues will be sorely missed.

Another thing that will be missed not only by his colleagues in the House but also the people of Kentucky's 3d District is RON's independence and dedication to his constituents. One of the reasons RON is one of the most respected Members of Congress is his ability to make difficult choices to help his constituents. He will not shy away from controversy even if what RON thinks is the right thing to do is not the most popular. In this age of "sound-bite" politics and constant opinion polls, this is a refreshing characteristic. This devotion and sincerity has earned my respect and admiration for RON, and I know my opinion is shared by many colleagues as well as individuals in Kentucky and around the Nation. RON's leadership and honesty will be missed, and I am pleased to join today in wishing RON, his wife Helen, and his family all the best as he begins his retirement.

Mr. TORRICELLI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to join, too, in congratulating you at the conclusion of a remarkable career in this institution. You have served the people of Kentucky and the people of the United States with extraordinary distinction.

While the people of Kentucky had their own reason to be proud, the people of Louisville had a particular reason to be proud, so do some of us who have come to know you as a member of the Italian-American caucus in this institution. We have our own reasons to be very proud of you.

You will be greatly missed, and I want to identify myself with the remarks of the gentleman from Kentucky [Mr. BARLOW].

I would also like, in the conclusion of this debate, to thank the gentleman from New York [Mr. GILMAN] and the gentleman from New York [Mr. OWENS] for beginning this discussion. We look forward to continuing tomorrow.

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Mr. GILMAN. Mr. Chairman, before we conclude, I too would like to associate myself with the gentleman's remarks, to commend you for your outstanding service in the House. We will sorely miss you and miss your expertise in so many areas. We congratulate you for a job well done.

The CHAIRMAN. I thank the gentleman very much.

Mr. OWENS. Mr. Chairman, I also would like to associate myself with the remarks of the gentleman from Kentucky [Mr. BARLOW]. When the gentleman from Kentucky presides, we always have a very firm hand but a very fair hand. That is a demonstration to those of us who have not served with you on a committee of what a great contribution you have made to this body. We are going to certainly miss you.

Mr. HAMILTON. Mr. Speaker, I rise today to join my colleagues in recognition of Congressman RON MAZZOLI.

It has been a high privilege knowing RON MAZZOLI since he first joined the House in 1971. He has been a good friend and colleague, and I will certainly miss him.

I have had the good fortune over the years of working with RON on numerous issues and projects that affect the greater Louisville area. RON, of course, represents the city of Louisville and Jefferson County, KY; I represent the Indiana counties across the Ohio River. RON has been instrumental in promoting stronger ties between our States and communities and in working jointly to spur economic growth in the region. His retirement will be a loss not only to the people of his district and State, but to the Kentuckiana region in general.

I also want to recognize RON's contributions to this institution. Congress is not held in particularly high public esteem these days. Some of the criticisms are fair, some are unfair. It is especially unfortunate that in the rush to judge the institution, there is a tendency to overlook the outstanding efforts of individual members.

RON MAZZOLI has been a pillar of integrity in Congress. He is conscientious and hard-working. He is dedicated to serving his constituents and the nation. He has taken a leading role on some of the most important issues facing this country, including immigration reform and campaign finance reform, and has worked tirelessly to pass legislation that makes a difference in the lives of Americans. RON has been a model legislator, and should be saluted for his accomplishments.

I want to extend my congratulations to RON and commend him for his impressive record of service. His work in Congress is certainly a mark of distinction, and I want to join his friends and family in recognizing it. He has every right to look back on his service with a full measure of satisfaction.

I join all of my colleagues in wishing RON and Helen all the best. I know he will continue to apply the same dedication and energy to all his endeavors in the future.

Mr. EDWARDS of California. Mr. Speaker, I'm pleased to join in offering my appreciation for RON MAZZOLI's distinguished service over his 12 terms as a Member of this body.

I remember how pleased those of us opposed to the war in Southeast Asia were when RON was elected to the House in 1970. We applauded his courageous and principled stance and welcomed his involvement in efforts to end the United States' unhappy involvement in that conflict.

Although his original assignment was to the Education and Labor Committee, in 1975 he accepted a position on the Judiciary Committee. It has been my privilege since then to work with him on a wide range of issues, from his years-long effort to enact the 1986 Immigration Reform and Control Act, to more recent efforts to pass the Brady bill and the assault weapons ban legislation.

During the debate this year on the crime bill, I appreciated RON's stalwart support for the Racial Justice Act. Although this legislation was in the end dropped from the crime bill package, RON's support for ending racial bias in the imposition of the death penalty added greatly to the public debate on this important issue. His work on this was very much in keeping with RON's commitment to stand up for what's right, regardless of whether that is the popular position.

All of us know RON's diligence, his independence, and his genuine interest in the substance, not just the surface, of the issues. What I have especially appreciated in addition to these qualities is his fairness and genuine courtesy. He is a true gentleman, and the civility that he brings to his work is something that we could use more of around here.

As my colleagues know, I will also be leaving the Congress at the end of this session. I am looking forward to the pleasures of a more leisurely life, and I am sure RON is as well. I am happy to offer my best wishes to RON and Helen for a happy and productive future.

Mr. HUGHES. Mr. Speaker, it is a pleasure for me to join with my colleagues this evening in paying tribute to an outstanding Congressman and friend, RON MAZZOLI.

For the better part of my 20 years in office, I have sat next to RON on the Judiciary Committee. We also served together on the Subcommittees on Crime and Intellectual Property and Judicial Administration, which I had the privilege to Chair.

I have come to know RON as a fine lawyer, a good legislator, and a valued colleague.

RON is probably best known for his leadership in the field of immigration reform. Indeed, it is no accident that the landmark Simpson-Mazzoli immigration reform bill bears his name, since it was RON's hard work and dedication which enabled us to reach a compromise and enact this bill into law.

But immigration reform was only one of RON's many accomplishments in Congress. He and I have worked together for many years on a wide range of initiatives to improve our judicial and crime-fighting systems.

RON was one of my staunchest allies in the effort to develop some fair and reasonable gun laws, such as the Brady bill and the ban on armor-piercing ammunition. They were not easy votes in the face of fierce opposition.

We also worked together to enact the drug forfeiture and money laundering laws, and other important statutes dealing with child pornography, career criminals, arson, terrorism, computer crime and on and on.

There's no question but that RON MAZZOLI has left a lasting mark in the field of law enforcement and judicial reform. From a personal standpoint, RON brought to office the kind of honesty, integrity, and independence which his constituents have a right to expect. He never hesitates to vote his conscience, even when it put him in the difficult position of standing up to special interest groups such as the National Rifle Association, and even taking on his own party.

RON paid a price for his independence, but he never compromised his principles or his integrity. It's no wonder his constituents saw fit to put their trust in him for 12 consecutive elections.

RON will be truly missed in Kentucky and Washington. I want to wish him and his lovely wife Helen and their family my very best wishes for continued good health, happiness, and success in the years ahead. Godspeed my friend.

The CHAIRMAN. I thank the gentleman very much. I appreciate that.

Mr. TORRICELLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BARLOW) having assumed the chair, Mr. MAZZOLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 416) providing limited authorization for the participant of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Force from Haiti, has come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.J. RES. 416, LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI RESOLUTION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–840) on the resolution (H. Res. 570) providing for further consideration of the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION AMENDING THE RULES OF THE HOUSE OF REPRESENTATIVES

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–841) on the resolution (H. Res. 571) amending the Rules of the House of Representatives to apply certain laws to the House of Representatives, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

PERMISSION FOR MEMBERS TO INCLUDE EXTRANEOUS MATERIAL IN EXTENSIONS OF REMARKS ON CERTAIN DATES

Mr. PAYNE of New Jersey. Mr. Speaker, I ask unanimous consent that for October 5, 6, and 7 all Members be permitted to extend their remarks and to include extraneous material in that section of the RECORD entitled "Extensions of Remarks".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CHINESE FORCED LABOR

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, I very sadly rise today to call to the Members' attention these flowers, which are flowers which have been smuggled out of a Chinese prison labor camp to the United States for your attention.

Last night ABC news aired an alarming story about the continued export of forced labor products into this country from China in violation of U.S. laws, contrary to claims by the U.S. Government and the Chinese Government that this is not happening.

At great personal risk, a very courageous prisoner provided this evidence. His name is Chen Pokong, a young economics professor who is serving time for his pro-democratic activities in China. He sent a compelling appeal for help, relating the terrible tale of ill treatment and slave labor in a world where political prisoners labor 14 hours a day, are forced to haul stones all day, and make these flowers at night.

In his letter he says that when inmates do not work fast enough "Inmates are often brutally beaten until they are blood-stained all over. Nobody would believe such cruelty and barbarity."

Mr. Speaker, I call this to our Members' attention. I call upon you to protect the courageous Chen Pokong and call on our administration to stop the forced labor products coming into the United States, and the unfairness to American workers, as well.

Mr. Speaker, I include for the RECORD the following letter from Chen Pokong:

To: United Nations International Human Rights Organization, Voice of America, Asian Watch.

From: Chen Jingsong, Guangdong, China.

I am CHEN Jingsong, alias CHEN Pokong, formerly teacher, department of economics, Zhongshan University, Guangzhou. I was arrested as a "culprit" for participating, and leading, in the pro-democracy movement in Guangdong area in 1989, and sentenced to 3-year imprisonment on charges of "counterrevolutionary propaganda and instigation". In July 1992, upon completing my term, I was released. However, I continued engaging in political activities—disseminating ideas of democracy, creating progressive publications and disseminating them. In August 1993 I was again wanted by the authorities. I fled to Hong Kong and applied to the Hong Kong government for political asylum, but to no avail. On September 1, 1993 I was again arrested in Zhengcheng, Guangdong. 2 months later I was sent to reeducation through labor for a duration of 2 years.

To vent their bitter hatred on me, the Guangdong authorities sent me to a most vicious RTL—Guangdong No. 1 RTL, Quarry 1, Company 9 in Chini Town, Hua County, Guangdong Province, where I am engaged in long-hours and high-intensity slave labor.

Reeducation through labor is the darkest part of China's current political system. Ironically, RTL policy and regulations worked out by the Chinese government itself have been altered beyond recognition in their practical implementation. According to RTL policy and regulations RTL is lighter than LR (labor reform): inmates get their pays, have their benefits and holidays, enjoy the right of correspondence, cultural, recreational and sports activities, do not labor more than 8 hours daily, can visit their families on holidays, can be bailed for medical treatment, etc. In reality, RTL is hell.

Here, we labor over 14 hours daily. In daytime, we transport stone materials on a wharf and load them in boats. At night we make handicrafts: artificial flowers. On Sunday, and holidays we labor as usual (except for 3 days during the Spring Festival). We labor rain or shine. Inmates are just tools of labor, by no means "trainees", as we are called.

Here, Labor intensity is extremely high. "Production" quotas are heavy. Those who fail to complete have their "points" reduced (i.e., their RTL duration lengthened). To complete our quotas, we must often labor overtime, sometimes even through the night. Without the discreet assistance from my fellow inmates, I would have to labor almost always through the night. Inmates who labor slightly slower are brutally beaten and misused by supervisors and team leaders (themselves inmates). Inmates are often beaten until they are blood-stained all over, collapse or lose consciousness (shortly before I was sent here, one inmate was beaten to death). Nobody would believe such cruelty and barbarity, should he not see all this with his own eyes. Though discreetly taken care of by the company commander, several times I was beaten by the team leader. I am constantly exposed to terror.

Living conditions here are harsh. Every meal consists of coarse rice and rotten vegetable leaves. Hardly can we see any grease. We have a little bit meat only on major holidays (Spring Festival, for instance). We make our own daily arrangements: bedding, clothing, daily necessities, even medical treatment, which is a great burden for us.

Inmates are seldom given leave when they are injured on the job or sick, to say nothing of being bailed for medical treatment. Still, they have to labor. Many inmates, including myself, their hands and feet squashed by big stones, stained with blood and pus, have to labor as usual. As a consequence, many inmates were crippled for life.

There are almost no cultural, recreational and sports facilities. The only entertainment is watching TV series for ½ or 1 hour in the evening when production quotas are not too heavy. No books at all, very few newspapers, no broadcasts to listen in to. Complete cultural and press blockade. For me, there is something more: correspondence blockade, as I receive and mail almost no letters.

The artificial flowers we make are for export. The trade marks are in English, the prices in USD (see appendix). Even the company commander and the quarry director said the flowers are made in cooperation with a Hong Kong company that exports them. This is in serious violence of international human rights norms, international law, even the Chinese government's law.

As a matter of fact in the recent decade and more all products turned out by LR, RTL and detention facilities in Guangdong Province are almost exclusively for export (usually in cooperation with Hong Kong and Taiwan companies). For instance, Huanghua Detention Center in Guangzhou, at least since 1989, when I was there and experienced everything myself, has been forcing detainees to make artificial flowers, necklaces, jewelry (trade marks in English, prices in USD). This can be testified to by anybody who was there, including Hong Kongers.

What I testify to above is wanton trampling not only upon international human rights norms, but upon basic humanitarian norms as well. Here in RTL, the concept of human rights is zero!

I am thrown into this hell because the Guangdong authorities want to crush me spiritually and physically. This is political retaliation and persecution.

Being in this critical situation, I have no choice but to appeal to you. I strongly urge all progressive forces the world over to pay close attention to human rights conditions in China, to extend their assistance to the Chinese people who are in an abyss of misery. I strongly appeal to international progressive organizations to urge the Guangdong authorities to cease persecuting me politically!

I understand that once my letter is published, I might be persecuted even more harshly. I might even be killed. But, I have no choice!

Thank you!

CHEN POKONG.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the house, the following Members will be recognized for 5 minutes each.

TRIBUTE TO ROY ROWLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I congratulate my colleague and friend from Georgia on a distinguished and accomplished career in Congress and deeply regret he will retire. When ROY ROWLAND was elected to the House of Representatives, he was one of only three practicing physicians here. Later, he made history by being the only doctor in the House. It was clear from the start that ROY would make important contributions in the areas of medicine, health care, and on important social issues. I wanted him to serve on our committee and called him soon after the was elected to ask him to do so.

As a doctor with a friendly manner, ROY was nicknamed "Marcus Welby, M.D.," while serving in the Georgia State legislature. While he is courteous and soft-mannered, when tough health issues came before Congress, ROY ROWLAND rolled up his sleeves and tackled those subjects.

It is difficult to think of anyone in Congress who could match the efforts and talents ROY always has demonstrated on a number of issues. Whether it is AIDS research, education and prevention, health care for the unemployed, streamlining Medicare claims, reducing infant mortality or a number of other personal interests of his, ROY has shown valiant effort in developing solutions on Capitol Hill. He was a leader in drafting the bipartisan health care reform measure and made some of the most complicated health care reform issues understandable to other Members when national health care reform was being considered.

To borrow slightly, from a long-running television advertisement: "On Capitol Hill, when medical issues are mentioned—people listen to ROY ROWLAND." No other statement could be more true than at the Committee on Veterans' Affairs. We were fortunate to have ROY's expertise on health and medical issues and we relied on his insight and judgment to help us assist our Nation's veterans.

We counted on ROY when our committee considered and passed legislation to compensate veterans exposed to radiation during atomic bomb tests, the so-called atomic veterans. He also lead efforts promoting access for women veterans to health care, and mental health issues on our committee. And, more recently, ROY gave us his wise counsel on the Persian Gulf illness issue.

This institution and this Nation certainly will be missing an important voice when it considers national health care reform. Congressman ROY ROWLAND will not be here, but one thing we can be sure of, ROY ROWLAND will be active and very much involved in health care reform when the debate resumes in the next Congress. This Member and the membership of our committee will surely miss our friend and colleague in the coming years. Congratulations, ROY, we wish you, your lovely wife, Luella, and your family much happiness and all the best.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON THE BUDGET REGARDING CURRENT LEVELS OF SPENDING AND REVENUES FOR FISCAL YEARS 1995–99

(Mr. SABO asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SABO. Mr. Speaker, on behalf of the Committee on the Budget and pursuant to section 302 and 311 of the Congressional Budget Act, I am submitting for printing in the CONGRESSIONAL RECORD an updated report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period fiscal year 1995 through fiscal year 1999.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, October 5, 1994.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: To facilitate application of sections 302 and 311 of the Congressional Budget Act, I am transmitting a status report on the current levels of on-budget spending and revenues for fiscal year 1995 and for the 5-year period 1995 through fiscal year 1999.

The term "current level" refers to the amounts of spending and revenues estimated for each fiscal year based on laws enacted or awaiting the President's signature as of September 30, 1994.

The first table in the report compares the current levels of total budget authority, outlays, and revenues with the aggregate levels set by H. Con. Res. 218, the concurrent resolution on the budget for fiscal year 1995. This comparison is needed to implement section 311(a) of the Budget Act, which creates a point of order against measures that would breach the budget resolution's aggregate levels. The table does not show budget authority and outlays for years after fiscal year 1995 because appropriations for those years will not be considered this session.

The second table compares the current levels of budget authority, outlays, and new entitlement authority for each direct spending committee with the "section 602(a)" allocations for discretionary action made under H. Con. Res. 218 for fiscal year 1995 and for fiscal years 1995 through 1999. "Discretionary action" refers to legislation enacted after adoption of the budget resolution. This comparison is needed to implement section 302(f) of the Budget Act, which creates a point of order against measures that would breach the section 602(a) discretionary action allocation of new budget authority or entitlement authority for the committee that reported the measure. It is also needed to implement section 311(b), which exempts committees that comply with their allocations from the point of order under section 311(a). The section 602(a) allocations are printed in the conference report on H. Con. Res. 218 (H. Rept. 103–490).

The third table compares the current levels of discretionary appropriations for fiscal year 1995 with the revised "section 602(b)" suballocations of discretionary budget authority and outlays among Appropriations subcommittees. This comparison is also needed to implement section 302(f) of the Budget Act, since the point of order under that section also applies to measures that would breach the applicable section 602(b) suballocation. The revised section 602(b) suballocations were filed by the Appropriations Committee on September 21, 1994 (H. Rept. 103–735).

The aggregate appropriate levels and allocations reflect the adjustments required by section 25 of H. Con. Res. 218 relating to additional funding for the Internal Revenue Service compliance initiative.

Sincerely,

MARTIN OLAV SABO,
Chairman.

Enclosures.

REPORT TO THE SPEAKER FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1995 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 218

REFLECTING ACTION COMPLETED AS OF SEPTEMBER 30, 1994

[On-budget amounts, in millions of dollars]

	Fiscal year 1995	Fiscal years 1995–99
Appropriate level (as set by H. Con. Res. 218):		
Budget authority	1,238,705	6,892,705
Outlays	1,217,605	6,767,805
Revenues	977,700	5,415,200
Current level:		
Budget authority	1,235,319	(1)
Outlays	1,216,798	(1)
Revenues	977,699	5,393,061
Current level over(+)/under(−) appropriate level:		
Budget authority	−3,386	(1)
Outlays	−807	(1)
Revenues	−1	−22,139

[1] Not applicable because annual appropriations Acts for Fiscal Years 1996 through 1999 will not be considered until future sessions of Congress.

BUDGET AUTHORITY

Enactment of measures providing more than $3,386 billion in new budget authority for FY 1995 (if not already included in the current level estimate) would cause FY 1995 budget authority to exceed the appropriate level set by H. Con. Res. 218.

OUTLAYS

Enactment of measures providing new budget or entitlement authority that would increase FY 1995 outlays by more than $807 million (if not already included in the current level estimate) would cause FY 1995 outlays to exceed the appropriate level set by H. Con. Res. 218.

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)

[Fiscal years, in millions of dollars]

	1995			1995–99		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
House committee:						
Agriculture:						
Allocation	0	0	0	0	0	4,861
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	−4,861
Armed Services:						
Allocation	0	0	0	0	0	0
Current level	42	34	0	221	210	82
Difference	42	34	0	221	210	82
Banking, Finance and Urban Affairs:						
Allocation	0	0	0	0	0	0
Current level	−25	−25	0	−75	−75	0
Difference	−25	−25	0	−75	−75	0
District of Columbia:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Education and Labor:						
Allocation	0	0	309	0	0	5,943
Current level	0	−20	0	0	−20	0
difference	0	−20	−309	0	−20	−5,943
Energy and Commerce:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Foreign Affairs:						
Allocation	0	0	0	0	0	0
Current level	−4	−4	0	2	2	0
Difference	−4	−4	0	2	2	0
Government Operations:						
Allocation	0	0	0	0	0	4,861
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	−4,861
House Administration:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Judiciary:						
Allocation	0	0	0	0	0	0
Current level	2	2	0	20	20	0
Difference	2	2	0	20	20	0
Merchant Marine and Fisheries:						
Allocation	0	0	0	0	0	0
Current level	0	3	0	0	−2	0
Difference	0	3	0	0	−2	0
Natural Resources:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Post Office and Civil Service:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Public Works and Transportation:						
Allocation	2,161	0	0	64,741	0	0
Current level	2,161	0	0	6,545	0	0
Difference	0	0	0	−58,196	0	0
Science, Space, and Technology:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0
Small Business:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

DIRECT SPENDING LEGISLATION—COMPARISON OF CURRENT LEVEL WITH COMMITTEE ALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(a)—Continued

[Fiscal years, in millions of dollars]

	1995			1995–99		
	Budget authority	Outlays	New entitlement authority	Budget authority	Outlays	New entitlement authority
Veterans' Affairs:						
Allocation	0	0	340	0	0	5,743
Current level	2	2	−2	3	3	−8
Difference	2	2	−342	3	3	−5,751
Ways and Means:						
Allocation	0	0	0	0	0	214
Current level	0	0	−13	−10	−10	−884
Difference	0	0	−13	−10	−10	−1,098
Perm. Select Committee on Intelligence:						
Allocation	0	0	0	0	0	0
Current level	0	0	0	0	0	0
Difference	0	0	0	0	0	0

DISCRETIONARY APPROPRIATIONS FOR FISCAL YEAR 1995—COMPARISON OF CURRENT LEVEL WITH SUBALLOCATIONS PURSUANT TO BUDGET ACT SECTION 602(b)

[In millions of dollars]

	Revised 602(b) suballocations (September 21, 1994		Current level		Difference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
General purposes:						
Agriculture	13,397	13,945	13,396	13,945	−1	0
Commerce, Justice, State	24,031	24,247	24,001	24,247	−30	0
Defense	243,432	250,515	243,430	250,463	−2	−52
District of Columbia	720	722	712	714	−8	−8
Energy & Water	20,493	20,888	20,493	20,884	0	−4
Foreign Operations	13,785	13,735	13,634	13,735	−151	0
Interior	13,521	13,916	13,517	13,916	−4	0
Labor, HHS & Education	69,978	69,819	69,978	69,819	0	0
Legislative Branch	2,368	2,380	2,367	2,380	−1	0
Military Construction	8,837	8,553	8,836	8,525	−1	−28
Transportation	13,704	36,513	13,694	36,513	−10	0
Treasury-Postal Service	11,741	12,256	11,575	12,220	−166	−36
VA-HUD	70,418	72,781	70,417	72,780	−1	−1
Reserve	2,311	6	0	0	−2,311	−6
Subtotal	508,736	540,276	506,050	540,141	−2,686	−135
Violent crime reduction trust fund:						
Commerce, Justice, State	2,345	667	2,345	667	0	0
Labor, HHS & Education	38	8	38	7	0	−1
Treasury-Postal Service	40	28	39	28	−1	0
Subtotal	2,423	703	2,422	702	−1	−1
Total	511,159	540,979	508,472	540,843	−2,687	−136

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1994.

Hon. MARTIN O. SABO,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the on-budget current levels of new budget authority, estimated outlays, and estimated revenues for fiscal year 1995 in comparison with the appropriate levels for those items contained in the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218), and is current through September 30, 1994. A summary of this tabulation follows:

[In millions of dollars]

	House current level	Budget resolution (H. Con. Res. 218)	Current level +/− resolution
Budget authority	1,235,319	1,238,705	−3,386
Outlays	1,216,798	1,217,605	−807
Revenues:			
1995	977,699	977,700	−1
1995–99	5,393,061	5,415,200	−22,139

Since my last report dated September 12, 1994, Congress has cleared and the President has signed the following appropriation bills: Veterans, HUD, and Independent Agencies (P.L. 103–327), Treasury-Postal Service (P.L. 103–329), Agriculture (P.L. 103–330), Interior (P.L. 103–332), Labor-HHS-Education (P.L. 103–333), Transportation (P.L. 103–331), Defense (P.L. 103–335), and District of Columbia (P.L. 103–334). In addition, Congress has cleared for the President's signature the National Defense Authorization Act for 1995 (S. 2182), and the Uniformed Services Employment and Reemployment Rights Act (H.R. 995). These actions changed the current level of budget authority and outlays.

Sincerely,

JAMES L. BLUM
(For Robert D. Reischauer.)

PARLIAMENTARIAN STATUS REPORT 103D CONGRESS, 2D SESSION HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS SEPTEMBER 30, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			977,700
Permanents and other spending legislation	747,135	705,985	
Appropriation legislation		242,066	
Offsetting receipts	(203,681)	(203,682)	
Total previously enacted	543,454	744,371	977,700
ENACTED THIS SESSION			
Appropriation bills			
Emergency Supplemental, FY 1994 (P.L. 103–211)	18	(832)	

PARLIAMENTARIAN STATUS REPORT 103D CONGRESS, 2D SESSION HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS SEPTEMBER 30, 1994—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
1994 FHA Supplemental (P.L. 103–275)	(2)		
Agriculture (P.L. 103–330)	67,515	43,218	
Commerce, Justice, State (P.L. 103–317)	26,832	19,052	
Offsetting receipts	(158)	(158)	
Defense (P.L. 103–335)	243,628	164,182	
District of Columbia (P.L. 103–334	712	712	
Energy and Water (P.L. 103–316)	20,493	12,083	
Foreign Assistance (P.L. 103–306)	13,679	5,614	
Offsetting receipts	(45)	(45)	
Interior (P.L. 103–332)	13,198	8,873	
Labor, HHS, Education (P.L. 103–333)	213,377	176,469	
Offseting receitps	(38,233)	(38,233)	
Legislative Branch (P.L. 103–283)	2,367	2,174	
Military Construction (P.L. 103–307)	8,836	2,181	
Transportation (P.L. 103–331)	14,266	12,449	
Treasury, Postal Service (P.L. 103–329)	23,221	20,900	
Offsetting receipts	(7,340)	(7,340)	
Veterans, HUD and Independent Agencies (P.L. 103–327)	89,751	48,436	
Authorization bills:			
Federal Workforce Restructuring Act (P.L. 103–226)	443	443	
Offsetting receipts	(269)	(269)	
Foreign Relations Authorization Act (P.L. 103–236)	(4)	(4)	

PARLIAMENTARIAN STATUS REPORT 103D CONGRESS, 2D SESSION HOUSE ON-BUDGET SUPPORTING DETAIL FOR FISCAL YEAR 1995 AS OF CLOSE OF BUSINESS SEPTEMBER 30, 1994—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Marine Mammal Protection Act Amendments (P.L. 103–238)		3	
Independent Counsel Reauthorization Act (P.L.103–270)	2	2	
Independent Agency Act (P.L. 103–296)			(2)
Aviation Infrastructure Investment Act (P.L. 103–305)	2,161		
Crime Control Act of 1994 (P.L. 103–322)		(20)	1
Community Development Act of 1994 (P.L. 103–325)	(25)	(25)	
Total enacted this session	694,424	469,866	(1)
PENDING SIGNATURE			
National Defense Authorization Act, FY 1995 (S. 2182)	42	34	
Uniformed Services Employment and Reemployment Rights Act (H.R. 995)	2	2	
Total pending signature	44	36	
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted [1]	(2,603)	2,525	
Total current level [2] [3]	1,235,319	1,216,798	997,699
Total budget resolution	1,238,705	1,217,605	977,700
Amount remaining:			
Under budget resolution	3,386	807	1
Over budget resolution			

[1] Includes changes to baseline estimates of appropriated mandatories due to enactment of P.L. 103–296.

[2] In accordance with the Budget Enforcement Act, the total does not include $200 million in budget authority and $5,159 in outlays for funding of emergencies that have been designated as such by the President and the Congress, and $2,010 million in budget authority and $2,042 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

[3] At the request of Committee staff, current level does not include scoring of section 601 of P.L.102–391.

Notes.—Numbers in parentheses are negative. Detail may not add due to rounding.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CALLAHAN (at the request of Mr. MICHEL) for today from 12 noon to 7 p.m., on account of attending a funeral.

Mr. BACHUS of Alabama (at the request of Mr. MICHEL) for today from 12 noon to 7 p.m., on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GILMAN) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 5 minutes, on October 6.

Mrs. FOWLER, for 5 minutes, on October 6.

Mrs. MORELLA, for 5 minutes, on October 6.

Mr. THOMAS of California, for 5 minutes, on October 6.

Mrs. BENTLEY, for 5 minutes, today.

(The following Members (at the request of Mr. PAYNE of New Jersey) to revise and extend their remarks and include extraneous material:)

Mr. MCCLOSKEY, for 5 minutes, today.

Mr. BARLOW, for 5 minutes, today.

Mr. BRYANT, for 5 minutes, today.

Mr. EDWARDS of California, for 5 minutes, today.

Mr. LEHMAN, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. SABO, for 5 minutes, today.

Mr. FINGERHUT, for 5 minutes, today.

Mr. ROSE, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 927. An act for the relief of Wade Bomar, and for other purposes; to the Committee on the Judiciary.

S. 2341. An act to amend chapter 30 of title 35, United States Code, to afford third parties an opportunity for greater participation in reexamination proceedings before the United States Patent and Trademark Office, and for other purposes; to the Committee on the Judiciary.

S. 2457. An act for the relief of Benchmark Rail Group, Inc.; to the Committee on the Judiciary.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 810. An act for the relief of Elizabeth M. Hill.

H.J. Res. 389. Joint resolution to designate the second Sunday in October of 1994 as "National Children's Day."

H.J. Res. 398. Joint resolution to establish the fourth Sunday of July as "Parents' Day."

H.J. Res. 415. Joint resolution designating the week beginning October 16, 1994, as "National Penny Charity Week."

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 316. An act to establish the Saguaro National Park in the State of Arizona, and for other purposes.

S. 1233. An act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills of the House of the following titles:

On September 30, 1994:

H.R. 4649. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes.

On October 4, 1994:

H.R. 995. An act to amend title 38, United States Code, to improve reemployment rights and benefits of veterans and other benefits of employment of certain members of the uniformed services, and for other purposes.

H.R. 4543. An act to designate the United States courthouse to be constructed at 907 Richland Street in Columbia, South Carolina, as the "Matthew J. Perry, Jr. United States Courthouse."

H.R. 3694. An act to amend title 5, United States Code, to permit the garnishment of an annuity under the Civil Service Retirement System or the Federal Employees 'Retirement System, if necessary to satisfy a judgment against an annuitant for physically, sexually, or emotionally abusing a child.

H.R. 4299. An act to authorize appropriations for the fiscal year 1995 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ADJOURNMENT

Mr. PAYNE of New Jersey. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 15 minutes a.m.), the House adjourned until today, Thursday, October 6, 1994, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3908. A letter from the Director of Legislation, Department of the Navy, transmitting notice that the Navy intends to renew the lease of the *Albert David* (FF 1050), pursuant to 10 U.S.C. 7307(B)(2); to the Committee on Armed Services.

3909. A letter from the Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's fiscal year 1993 annual report on the operations of the Office of General Counsel, pursuant to 42 U.S.C. 2000e–4(e); to the Committee on Education and Labor.

3910. A letter from the Administrator, Environmental Protection Agency, transmitting a report on nitrogen oxide emissions and their control from uninstalled aircraft engines in enclosed test cells, pursuant to 42 U.S.C. 7521(a)(3)(E); to the Committee on Energy and Commerce.

3911. A letter from the Secretary of Energy, transmitting a report on barriers to the increased utilization of coal combustion, desulfurization byproducts by governmental and commercial sectors; to the Committee on Energy and Commerce.

3912. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions by Jerome Gary Cooper, of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States to Jamaica and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3913. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting certification that no U.N. agency or U.N. affiliated agency grants any official status, accreditation, or recognition to any organization which promotes, condones, or seeks the legalization of pedophilia, or which includes as a subsidiary or member any such organization, pursuant to Public Law 103-236, section 102(g); to the Committee on Foreign Affairs.

3914. A communication from the President of the United States, transmitting a report on sanctions on Vietnam, pursuant to section 522 of the Foreign Relations Authorization Act, fiscal years 1994 and 1995 (Public Law 103-236); to the Committee on Foreign Affairs.

3915. A letter from the Manager, Western Farm Credit Bank, transmitting the Bank's 1993 annual report on Federal Government pension plans, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3916. A letter from the Secretary of Transportation, transmitting the Department's annual report on relative cost of shipbuilding for fiscal year 1993; to the Committee on Merchant Marine and Fisheries.

3917. A communication from the President of the United States, transmitting notification of the intent of the Department of Defense to make purchases and purchase commitments, and to enter into cost sharing arrangements for equipment to develop manufacturing processes under the Defense Production Act of 1950, pursuant to 50 U.S.C. App. 2093 (H. Doc. No. 103-322); jointly, to the Committees on Appropriations and Banking, Finance and Urban Affairs, and ordered to be printed.

3918. A letter from the Administrator, Federal Aviation Administration, transmitting the FAA report of progress on developing and certifying the Traffic Alert and Collision Avoidance System [TCAS] for the period April through June 1994, pursuant to Public Law 100-223, section 203(b) (101 Stat. 1518); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Natural Resources. S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes (Rept. 103-838). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 568. Resolution waiving points of order against the conference report to accompany the bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes (Rept. 103-839). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 570. Resolution providing for further consideration of the joint resolution (H.J. 416) providing limited authorization for the participation of United States Armed Forces in multinational force in Haiti and providing for the prompt withdrawal of United States Forces for Haiti (Rept. 103-840). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules. House Resolution 571. Resolution amending the Rules of the House of Representative to apply certain laws to the House of Representatives, and for other purposes (Rept. 103-841). Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 3344. A bill for the relief of Lloyd B. Gamble (Rept. 103-836). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 3917. A bill for the relief of Arthur A. Carron, Jr., (Rept. 103-837). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FILNER (for himself, Ms. SCHENK, and Mr. CUNNINGHAM):

H.R. 5176. A bill to amend the Federal Water Pollution Control Act relating to San Diego ocean discharge and waste water reclamation; jointly, to the Committees on Public Works and Transportation and Merchant Marine and Fisheries.

By Ms. SNOWE (for herself and Mr. ANDREWS of New Jersey):

H.R. 5177. A bill to authorize the Secretary of State to deny passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support; to the Committee on Foreign Affairs.

By Mr. GONZALEZ (for himself, Mr. LEACH, Mr. KENNEDY, Mr. MCCANDLESS, and Mr. LAROCCO):

H.R. 5178. A bill to amend the Fair Credit Reporting Act, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Ms. NORTON:

H.R. 5179. A bill to amend title 5, United States Code, to strengthen child support enforcement orders through the garnishment of amounts payable to Federal employees, and for other purposes; jointly, to the Committees on Post Office and Civil Service, Government Operations, and Foreign Affairs.

By Mr. ANDREWS of New Jersey:

H.R. 5180. A bill to reform the child support enforcement system in order to maximize collections of child support payments on behalf of poor children in the United States; jointly, to the Committees on Ways and Means, the Judiciary, and Banking, Finance and Urban Affairs.

By Mr. BAKER of Louisiana:

H.R. 5181. A bill to amend section 18 of the United States Housing Act of 1937 to improve the program providing for demolition and disposition of public housing; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BARTON of Texas:

H.R. 5182. A bill to adjust the designation of controlled airspace around the Dallas/Fort Worth Airport, TX, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. DE LA GARZA (for himself, Mr. ROBERTS, Mr. STENHOLM, Mr. GUNDERSON, Mr. ROSE, Mr. SMITH of Oregon, Mr. INSLEE, Mr. COMBEST, Mr. ALLARD, Mr. SKEEN, Mr. THOMAS of Wyoming, Mr. BONILLA, Mr. MCINNIS, Mr. CRAPO, Mr. BARLOW, Mr. HOLDEN, Mr. PENNY, Mrs. VUCANOVICH, Mr. VOLKMER, Mr. WILLIAMS, Mr. SMITH of Texas, Mr. EDWARDS of Texas, and Mr. JOHNSON of South Dakota):

H.R. 5183. A bill to enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes; to the Committee on Agriculture.

By Mr. GUNDERSON (for himself and Mr. ROBERTS):

H.R. 5184. A bill to enable the Secretary of Agriculture to adjust the base period of milk production when calculating refunds of assessments made in calendar year 1994 under section 204(h) of the Agricultural Act of 1949 on milk producers affected by floods and excessive moisture during calendar year 1993; to the Committee on Agriculture.

By Mr. HERGER:

H.R. 5185. A bill to amend the National Historic Preservation Act to prohibit the inclusion of certain sites on the National Register of Historic Places, and for other purposes; to the Committee on Natural Resources.

By Mr. HUGHES (by request):

H.R. 5186. A bill to amend title 18, United States Code, with respect to the Bureau of Prisons; jointly, to the Committee on the Judiciary and Government Operations.

By Mr. KILDEE:

H.R. 5187. A bill to amend section 7(m) of the Fair Labor Standards Act of 1938 to eliminate the partial overtime exemption for employees that perform services necessary and incidental to the sale and processing of green and cigar leaf tobacco; to the Committee on Education and Labor.

By Mr. KIM:

H.R. 5188. A bill to authorize the export of medical devices to countries which have approved such devices; to the Committee on Energy and Commerce.

By Mr. LIVINGSTON:

H.R. 5189. A bill to amend title 28, United States Code, to provide that a reasonable attorney's fee shall be awarded as a part of the cost to prevailing defendants in Federal civil actions; to the Committee on the Judiciary.

By Mr. MINGE:

H.R. 5190. A bill to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility; to the Committee on Merchant Marine and Fisheries.

By Mr. MONTGOMERY:

H.R. 5191. A bill to amend the charter of the Veterans of Foreign Wars; to the Committee on the Judiciary.

By Mr. PAYNE of New Jersey (for himself, Mr. RUSH, Mr. EVANS, Mrs. JOHNSON of Connecticut, Mr. WOLF, Mr. MFUME, Mr. BONIOR, and Mr. MACHTLEY):

H.R. 5192. A bill to require the Secretary of the Treasury to mint coins in commemoration of black Revolutionary War patriots; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PETRI:

H.R. 5193. A bill to amend the Internal Revenue Code of 1986 to reform the earned income tax credit; to the Committee on Ways and Means.

By Mrs. SCHROEDER (for herself and Mrs. MORELLA):

H.R. 5194. A bill to amend title 13, United States Code, to require the Bureau of the Census to measure the status of women, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H.R. 5195. A bill to require the Federal Trade Commission to issue a trade regulation rule which requires the release of prescriptions for contact lenses; to the Committee on Energy and Commerce.

By Mr. TAUZIN:

H.R. 5196. A bill to suspend temporarily the duty on C.I. Pigment Yellow 139; to the Committee on Ways and Means.

By Mr. TAUZIN:

H.R. 5197: A bill to suspend temporarily the duty on nickel isoindoline pigment; to the Committee on Ways and Means.

By Mr. DEFAZIO:

H. Con. Res. 307. Concurrent resolution expressing the sense of Congress regarding the U.S. position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization; jointly, to the Committees on Foreign Affairs and Public Works and Transportation.

By Mr. HOYER (for himself and Mr. WOLF):

H. Con. Res. 308. Concurrent resolution concerning the removal of Russian troops from the independent nation of Moldova; to the Committee on Foreign Affairs.

By Mr. LEWIS of Kentucky (for himself, Mr. CALVERT, Mr. SAM JOHNSON, Mr. HUTCHINSON, Mr. CANADY, Mr. DOOLITTLE, Mr. TALENT, Mr. EHLERS, and Mr. LUCAS):

H. Res. 569. Resolution expressing the sense of the House of Representatives that the work of grassroots organizations should not be considered lobbying; to the Commission on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. WILSON introduced a bill (H.R. 5198) to authorize the Secretary of Agriculture to convey certain lands in the Sam Houston National Forest in the State of Texas to the current occupant of the lands, the Gulf Coast Trades Center; which was referred to the Committee on Natural Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. SAXTON.

H.R. 417: Mr. REGULA, Mr. LEWIS of California, Mr. DORNAN, Mr. HEFLEY, Mr. KLINK, Mr. MCINNIS, Mr. TUCKER, and Mr. GRAMS.

H.R. 1500: Mr. COYNE and Mr. REYNOLDS.

H.R. 2420: Mr. DIXON.

H.R. 2460: Mrs. CLAYTON.

H.R. 2898: Mr. OWENS.

H.R. 2959: Mr. HUTCHINSON.

H.R. 3059: Ms. DELAURO, Mr. CAMP, and Mr. MANTON.

H.R. 3247: Mr. BONIOR.

H.R. 3523: Mr. BROWN of California and Mr. COPPERSMITH.

H.R. 3949: Mr. WILSON.

H.R. 4260: Ms. KAPTUR, Mr. EVANS, Mr. PAYNE of New Jersey, and Mr. DEUTSCH.

H.R. 4271: Ms. DELAURO.

H.R. 4303: Mr. DARDEN.

H.R. 4416: Mr. HAMILTON, Mr. MCCLOSKEY, Mr. KINGSTON, Mr. SANDERS, Mr. POSHARD, Mr. EMERSON, and Ms. LONG.

H.R. 4491: Mr. FIELDS of Texas, Mr. DUNCAN, Mr. PORTER, and Mr. HEFLEY.

H.R. 4514: Mr. DIXON.

H.R. 4566: Mr. DREIER.

H.R. 4610: Mr. ROBERTS, Mr. COYNE, Mr. DE LA GARZA, Mr. HUGHES, and Mrs. JOHNSON of Connecticut.

H.R. 4636: Mr. SAWYER and Mr. HUGHES.

H.R. 4698: Mr. LEWIS of Georgia and Mr. EVANS.

H.R. 4786: Mr. BEILENSON.

H.R. 4789: Mr. MCDERMOTT.

H.R. 4809: Ms. ESHOO, Mr. MENENDEZ, Mrs. UNSOELD, Mr. SAWYER, Mr. BOUCHER, Mr. BARCA of Wisconsin, Mr. STUPAK, Mr. HOCHBRUECKNER, Mr. BEREUTER, Mr. MCHALE, and Mr. GINGRICH.

H.R. 4936: Mr. THOMPSON, Mr. VISCLOSKY, and Mr. KINGSTON.

H.R. 4955: Mr. LEWIS OF GEORGIA, MR. FINGERHUT, Mr. BERMAN, Mr. MINETA, and Mr. SANDERS.

H.R. 4994: Mr. SANDERS.

H.R. 5005: Mr. ENGEL and Mr. ACKERMAN.

H.R. 5033: Mr. CLINGER, Mr. BOEHNER, Mr. DICKEY, Mr. LIVINGSTON, Mr. COSTELLO, Mr. BACHUS of Alabama, Mr. TORKILDSEN, and Mr. MCCANDLESS.

H.R. 5037: Mr. EHLERS.

H.R. 5062: Mr. PETERSON of Minnesota, Mr. BONILLA, Mr. CLEMENT, Mr. SERRANO, Mr. TAYLOR of Mississippi, Mr. KINGSTON, Mr. CAMP, Mr. TUCKER, and Ms. MARGOLIES-MEZVINSKY.

H.R. 5071: Mr. APPLEGATE, Mr. VOLKMER, Mr. MCCURDY, Mr. JACOBS, Ms. PRYCE of Ohio, Mr. DINGELL, Mr. OXLEY, and Mr. WILLIAMS.

H.R. 5082: Mr. ZIMMER, Mr. KYL, Mr. STUMP, Mr. STEARNS, Mr. BARTON of Texas, Mr. SAWYER, Mr. GENE GREEN of Texas, Mr. SHAW, Mr. DE LA GARZA, Mr. MICA, Mr. GALLEGLY, Mr. KLECZKA, Mr. FINGERHUT, Mr. BUYER, Mr. FRANKS of Connecticut, Ms. WOOLSEY, Mr. LEWIS of Florida, Mr. FROST, Mr. SHAYS, Mr. STENHOLM, Mr. EHLERS, Mr. BARRETT of Wisconsin, Mr. SENSENBRENNER, Mr. OXLEY, Mr. SWIFT, Mr. HYDE, Mr. BURTON of Indiana, Mr. BONILLA, Mr. WILSON, Mr. BRYANT, Mr. BROOKS, Mr. SARPALIUS, Mr. LAZIO, Mr. COMBEST, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. VENTO, Ms. KAPTUR, Mr. HOAGLAND, Mr. CHAPMAN, Mr. PETE GEREN of Texas, Mr. TALENT, Mr. SMITH of Texas, Mr. EDWARDS of Texas, Mr. ORTIZ, Mr. TEJEDA, Mr. LAUGHLIN, Mr. COLEMAN, Mr. SAM JOHNSON, Mr. SKELTON, Mr. BAESLER, Mr. HAMILTON, Mr. HALL of Ohio, Mr. APPLEGATE, Mr. GOODLING, Mr. GEJDENSON, Mr. BROWN of California, and Mr. HOKE.

H.R. 5111: Ms. ENGLISH of Arizona, Mr. HAYES, Mr. ROBERTS, and Mr. HUTCHINSON.

H.R. 5141: Mr. DEUTSCH, Mr. BONIOR, Mr. GENE GREEN of Texas, Mr. BROWN of California, Mr. LANTOS, Mr. ABERCROMBIE, Mr. JOHNSTON of Florida, Mr. FILNER, Mr. STOKES, Mr. STARK, Mr. LAZIO, Mr. PENNY, Mr. SWETT, Mr. MORAN, Ms. WATERS, Ms. SCHENK, Mr. CALVERT, Mr. EVANS, Mr. BILBRAY, and Mr. GEJDENSON.

H.J. Res. 184: Mr. WYNN, Mr. RANGEL, Mr. JEFFERSON, Mr. CALLAHAN, Mr. CONYERS, Mr. KILDEE, Ms. BROWN of Florida, Mr. CALVERT, and Mr. CRANE.

H.J. Res. 332: Mr. MCHALE, Mr. HOBSON, Mr. LEVIN, Mr. ABERCROMBIE, Mr. ROWLAND, Mr. HOYER, Mr. DEUTSCH, Mr. SABO, Mr. FISH, Mr. CAMP, and Mr. OBERSTAR.

H.J. Res. 385: Mr. SWETT and Mr. GORDON.

H.J. Res. 400: Mr. PARKER, Mr. LEWIS of Florida, and Mr. MARTINEZ.

H.J. Res. 411: Mr. LANTOS, Mr. MINETA, Mr. FISH, Mrs. MALONEY, Mr. WYNN, Mr. UNDERWOOD, Mr. RICHARDSON, Mr. COPPERSMITH, Mr. DORNAN, Mr. PACKARD, Mr. HEFNER, Mr. TAYLOR of North Carolina, Mr. WATT, Mr. CLEMENT, Mr. ROWLAND, and Mr. SPRATT.

H. Con. Res. 20: Mr. MOORHEAD.

H. Con. Res. 148: Mr. HOLDEN and Mr. MOORHEAD.

H. Con. Res. 166: Mr. DREIER.

H. Con. Res. 262: Mr. CAMP and Mr. HOYER.

H. Con. Res. 281: Mr. DEUTSCH.

H. Con. Res. 297: Mr. STUMP.

H. Res. 234: Mr. COX, Mr. ROHRABACHER, Mr. SHAW, and Mr. ACKERMAN.

H. Res. 464: Mr. MARTINEZ.

H. Res. 525: Mr. ZIMMER and Ms. PRYCE of Ohio.

H. Res. 541: Mr. MFUME.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 173: Mr. HEFLEY.

H.R. 1420: Mr. PETERSON of Minnesota.

H.R. 3949: Mr. RANGEL.

H.R. 4129: Mr. BAESLER.

EXTENSIONS OF REMARKS

CHILD-CARE DEMONS

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. JACOBS. Mr. Speaker, I insert the following article from the first New Yorker edition of October of this year.

As a former police officer, I applaud this article's contribution to common sense.

To be sure, there are heinous causes of child abuse. But to be equally sure, children have vivid imaginations; and careful analysis of allegations; including other evidence, should be made of such charges where action is taken in order to avoid tragic injustice. .

CHILD-CARE DEMONS

(By Lawrence Wright)

In San Diego, in 1991, a physically deformed and mildly retarded former Sunday-school teacher's aide named Dale Akiki was charged with molesting, torturing, and kidnapping nine boys and girls, aged three and four, who had been entrusted to his care during church services two years earlier. The case arose four months after Mr. Akiki quit teaching, when a girl belatedly accused him of exposing himself to her on the job. At first, none of the other children supported her account, but eventually they produced stories that Mr. Akiki had slaughtered a giraffe and an elephant in the classroom, forced the children to drink blood, sacrificed a human baby, and cooked monkeys. Almost all the children's complaints were recanted or changed, but the district attorney decided to prosecute anyway. The trial took seven months; the jury took seven hours to acquit the defendant. Mr. Akiki, however, had by then spent two and a half years in jail. In June of this year, a grand jury investigating the prosecution of the case condemned the prosecutors for prodding therapists to act as investigators. "When children initially say that nothing happened to them, a misguided therapist labels them as being in denial," the grand jurors warned. "Then therapy is sometimes continued for months or sometimes years until the children disclose answers the therapists want to hear."

Certainly abuses occur in child-care situations, and no doubt pedophiles will be drawn to situations where children can be under their control. But since the first major case of this kind—the 1983 McMartin Preschool case, in Manhattan Beach, California, in which the longest and most expensive criminal trial in American history resulted in no convictions of any of the seven defendants—court doctors across the country have become congested with emotionally devastating, financially ruinous, and legally bewildering cases in which there is little or no physical evidence and the primary witnesses are children. The spawn of McMartin—Little Rascals, Wee Care, Breezy Point, and Fells Acres, among more than a hundred such cases—have typically included fantastic allegations of torture, ritual abuse, and animal sacrifice.

The controversy over the credibility of children's testimony has congealed into a debate between those who demand that we "believe the children" no matter how outlandish their allegations and those who maintain that children are inherently so suggestible that their testimony can never be relied upon. An interesting question that remains is why children are not believed when, as often happens, they specifically deny charges at the time they first arise.

In 1989, Kaare and Judy Sortland, a couple in Tacoma, Washington, were accused of sexually abusing three young boys in a day-care center that Judy operated in their home. The charge arose when a mother discovered a suspicious red substance in her child's diapers. The children in question repeatedly denied that anything had happened to them, but parents and therapists persuaded them to change their stories. "We'll talk to these kids until they're twenty years old, if necessary, to get a believable story to the jury," one parent vowed. When a jury nonetheless found the Sortlands not guilty in one case, the judge threw out the other charges and awarded the defense a hundred and thirty-five thousand dollars in sanctions. Despite their acquittal, the Sortlands were hounded for the next two years by anonymous vandals. On Halloween night in 1992, Kaare Sortland was shot to death in his front yard. His wife heard him cry "I didn't do it!" just before six shots were fired.

In the summer of 1985, Margaret Kelly Michaels, who was then a twenty-six-year-old day-care worker in Maplewood, New Jersey, was charged with a number of hideous, bizarre forms of abuse, such as making children eat her feces, raping and assaulting them with silverware, licking peanut butter from their genitals, and playing "Jingle Bells" on the piano in the nude. During the investigation, a social worker asked a child, "Do you think that Kelly was not good when she was hurting you all?"

"Wasn't hurting me. I like her," the child responded.

"I can't hear you, you got to look at me when you talk to me," said the social worker. "Now, when Kelly was bothering kids in the music room—"

"I got socks off," said the child.

As the interview progressed, the social worker asked, "did she make anybody else take their clothes off in the music room?"

"No," said the child.

"Yes," said the social worker.

"No," said the child.

What's going on here? Why isn't the child allowed to say no? A widening body of research shows that repeated questioning of children, especially by authoritative adults with a specific bias, will often lead to answers that conform to the interviewers' expectations. At Ms. Michaels' trial, which lasted for ten months, the bulk of the significant evidence of abuse that was presented consisted of the coerced testimony of children. A psychiatrist named Roland Summit explained to the jury that when children deny that sexual abuses happened the denial can be evidence that the abuses actually did occur. The name he gave to this Catch-22 logic was the Child Sexual Abuse Accommodation Syndrome. In part because of his expert testimony, a jury convicted Ms. Michaels of a hundred and fifteen counts of abuse against nineteen children. She spent five years in prison before being freed on appeal. This June, the Supreme Court of New Jersey ruled that the State would have to prove "by clear and convincing evidence" that children's testimony is credible—a ruling that sets what may become a welcome new standard in similar cases nationwide.

Why is there such a cultural bias toward stories of abuse—and especially toward grotesque and absurd tales, even when there is no reliable evidence that any crime occurred in the first place? The very people we count on to protect our society—prosecutors, police, social workers, jurors, even parents—are eliciting fantasies from children that express our worst collective fears. No doubt children are victimized. But the truth is that sexual abuse is far more likely to occur at home than in schools or nurseries. Scapegoats carry the burden of the guilt inside us all. They are presumed to be the incarnation of evil, the cause of every social ill. The libel that our society has imposed on child-care workers is a kind of projection of guilt for the damage that we ourselves have done, as parents and as a society. We have given our children to strangers to rear, and it makes us uneasy and fearful. Is it any wonder we have a bad conscience? Divorce, neglect, unsafe neighborhoods, bad schools—these primary social problems are not the fault of the people to whom we have entrusted our children. Forcing children to invent stories of abuse *is* abuse.

EVIDENCE OF SLAVE LABOR IN CHINA

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. WOLF. Mr. Speaker, I am submitting for the RECORD an appeal by Chen Pokong, a prisoner in China, to the international community concerning goods made with slave labor in Chinese prison camps.

[From the Laogai Research Foundation, Milpitas, CA]

BLOODSTAINED FLOWERS

(By Chen Pokong, Political Prisoner)

A COURAGEOUS APPEAL FROM A CHINESE PRISON

"I am thrown into this hell because the Guangdong authorities want to crush me spiritually and physically. This is political retaliation and persecution.

Being in this critical situation, I have no choice but to appeal to you. I strongly urge progressive forces the world over to pay attention to human rights conditions in China, and to extend their assistance to the Chinese people who are in an abyss of misery. I strongly appeal to international progressive organizations to urge the Guangdong authorities to cease persecuting me politically.

I understand that once my letter is published, I might be persecuted even more harshly. I might even be killed. But I have no choice!"

ARTIFICIAL FLOWERS MADE BY CHINESE POLITICAL PRISONERS

A Chinese political prisoner, Chen Pokong, in a document smuggled out of a re-education-through-labor (Laojiao) camp in southern China has provided evidence that artificial flowers made by prisoners are being exported to the United States. His appeal is being released following a four month investigation which included photographing the prison where Chen is being held.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

This is the first time a known dissident and political prisoner has communicated with the outside world about forced labor products being exported to the United States.

Chen, 30 years old, is a teacher and pro-democracy activist, who had previously served a three year prison term for his activities in Guangzhou during the 1989 pro-democracy movement, attached to his letter original labels the prisoners put on flowers. The three labels (See Appendix II) are for "Silky Touch" flowers distributed by Ben Franklin Stores, Inc., Carol Stream, Illinois; "Lady Bug Collection" flowers for Universal Sun Ray of Springfield, Missouri; and another "Universal Sun Ray-U.S. Flowers" label.

The Laogai Research Foundation purchased flowers with these labels on them at Ben Franklin Stores in Pleasanton, California and Reno, Nevada. (See Appendix I)

A Universal Sun Ray employee, visited by a Foundation representative at the company's showroom in Springfield, confirmed that the company supplies Ben Franklin, Inc. with its artificial flowers. Other large customers include Cotters, Inc., the parent of True Value Hardware stores; and the Rag Shops, a New Jersey based craft store chain. The employee also advised us that Universial Sun Ray provided Memorial Day flowers for sale at Wal-Mart stores in 1994. The Foundation has no evidence that any of the customers, or Universal Sun Ray itself, is aware that Chinese prisoners are involved in producing the flowers they sell.

It is illegal under U.S. law to import into the United States any product made in whole or in part by convict for forced labor.

CHEN POKONG—POLITICAL PRISONER

Chen Pokong, also known as Chen Jingsong, was a young teacher in the economics department of Zhongshan University, when he became involved in the pro-democracy movement which swept China in 1989.

Chen was sentenced to a three year term for his "counterrevolutionary instigation" according to a copy of a Guangdong People's Court ruling on his appeal of his sentence which has been obtained by the Laogai Research Foundation. (See Appendix V)

This document provides considerable detail on his arrest and the charges against him. Chen was first arrested on August 2, 1989 although the Chinese say "detained for investigation." Seven months later, on February 21, 1990 he was formally "arrested" and sentenced to three years imprisonment on March 1, 1991 by the Guangdong People's Municipality Intermediate Court.

Among Chen's "crimes" were charges he "instigated" the following statements as wall posters on the Zhongshan University campus: "Due to mishandling of the student movement, the Party has lost all its credibility and prestige as a ruling party * * *. Upon repeated consideration we have decided to declare earnestly that we are withdrawing from the Communist Party and the Communist Youth League * * *. The bloody violence began in front of the monument of the people's heroes the reactionary power has been revealed in its viciousness * * * undeniable proof of the communist power's bloody despotism * * * such a ruling party is hated by people the world over and is a shame for the Chinese people."

According to Chen, he completed his sentence and was released in July, 1992. He then resumed his political activities and which were "disseminating the ideas of democracy, creating progressive publications and disseminating them." Fearing arrest, he fled to Hong Kong in early August, 1993.

HONG KONG DENIES POLITICAL ASYLUM

After meeting with human rights activists in Hong Kong, Chen, following established procedures, turned himself in to the Hong Kong authorities and applied for political asylum.

Despite having considerable documentation about his previous arrest, imprisonment, and political activities, Chen's application was denied and he was deported to China on September 1, 1993 where he was immediately taken into custody.

Original documents obtained by the Laogai Research Foundation confirm his detention (See Appendix VI), and Chen's smuggled letter states that two months later he was sentenced by the Public Security Bureau to two years at the Guangzhou No. 1 Reeducation-Through-Labor camp.

CHEN'S APPEAL TO THE WORLD

Chen is an inmate at the Guangzhou No. 1 Reeducation-Through-Labor camp, a stone quarry in Chini Town, Huaxian County. At the time his letter was smuggled out of the prison he was in Company 9. Today he is believed to be in Company 6.

His appeal, addressed to the United Nations International Human Rights Organization (sic), the Voice of America, and Asian Watch (sic), was passed on later to the Laogai Research Foundation (See Appendix III), which possesses the original document.

He writes:

"I am thrown into this hell because the Guangdong authorities want to crush me spiritually and physically. This is political retaliation and persecution.

"Being in this critical situation, I have no choice but to appeal to you. I strongly urge progressive forces the world over to pay close attention to human rights conditions in China, and to extend their assistance to the Chinese people who are in an abyss of misery. I strongly appeal to international progressive organizations to urge the Guangdong authorities to cease persecuting me politically.

"I understand that once my letter is published, I might be persecuted even more harshly. I might even be killed. But I have no choice!"

TERROR, PRIVATION, AND SLAVE LABOR

Chen testifies that the inmates of the camp labor "over 14 hours a day" moving stones from the quarry to the wharf and then onto a boat. After working all day they are forced to make artificial flowers at night.

The only time off during the year is three days during the annual Spring Festival. If prisoners do not meet their production quotas they have their sentences lengthened.

He tells of prisoners who worked too slowly being "brutally beating and misused (sic) by supervisors and team leaders (themselves inmates.)" "Inmates" he writes, "are often beaten until they are bloodstained all over, collapse or lose consciousness."

"Several times I was beaten by the team leader," he says in his appeal, adding, "I am constantly exposed to terror."

Other prisoners told him that before he arrived one inmate had been beaten to death.

Privation in the camp is real. The food allotment is insufficient. "Every meal consists of coarse rice and rotten vegetable leaves. Hardly can we see any grease. We have a little meat only on major holidays."

Medical treatment appears to be non-existent. Chen tells of injured and sick prisoners being forced to labor despite their infirmities. "many inmates, including myself, their hands and feet squashed by big stones, stained with blood and pus, have to labor as usual. As a consequence, many inmates were crippled for life."

FORCED LABOR FLOWERS—THE AMERICAN CONNECTION

On a separate sheet of paper Chen placed the three labels mentioned in the beginning of this report (See Appendix II).

The following is Chen's text on artificial flowers:

"The artificial flowers we make are for export. The trademarks are in English, the prices in USD. Even the company commander and the quarry director said the flowers are made in cooperation with a Hong Kong company that exports them. This is in serious violence (sic) of international human rights norms, international law, even the Chinese government's law.

As a matter of fact, in the recent decade and more all products turned out by labor reform and reeducation-through-labor and detention facilities in Guangdong Province are almost exclusively for export (usually in cooperation with Hong Kong and Taiwan companies). For instance, Huanghua Detention Center in Guangzhou, at least in 1989 when I was there and experienced everything myself, has been forcing detainees to make artificial flowers, necklaces, jewelry (trademarks in English, prices in USD) This can be testified to by anybody who was there, including Hong Kongers."

Two of the three labels are for Universal Sun Ray of Springfield, Missouri. According to conversations with a company employee, Universal Sun Ray also imports flowers for Ben Franklin Stores, Inc., the name of the third label attached on the flowers by prisoners in the camp.

On July 8, and August 28, 1994 the Laogai Research Foundation purchased flowers with these three labels on them at two Ben Franklin stores in Pleasanton, CA and Reno, NV (See Appendix I).

Shipping records show Universal Sun Ray regularly receives substantial shipments of artificial flowers from Hong Kong and China. The company's showroom in Springfield has dozens of different types of flowers on display, all those from Asia are marked "Made in China." It is believed the shipments indicating Hong Kong as the port of origin are in reality produced in China and transported to Hong Kong by truck and loaded aboard ships destined for the United States.

Universal Sun Ray receives imports from a number of Hong Kong based companies, but one company appears to ship much more than the others. The names of these companies will be provided to the U.S. Customs Service for investigation.

The Foundation has received no evidence that any officer or employee of Universal Sun Ray has knowledge that some quantity of the flowers being manufactured for them are being made in part at the Guangzhou No. 1 Reeducation-Through-Labor camp by Chen Pokong and other prisoners. It is known, though, that at least one official of the company travels regularly to the region on Universal Sun Ray business.

Chen Pokong states that the prisoners "make" the flowers, but does not describe in detail the production process Given that the prisoners work in the quarry and transport stones during the day, the Laogai Research Foundation is presuming that the prisoners are used to assemble the flowers at night. This would entail connecting the polyester/silk flowers to the plastic stems and folding the self adhesive labels around the stem.

Production of the polyester/silk flower itself requires cutting machinery and workers with some dexterity. The heavy work with stones during the day is not, in our view, conducive to manual dexterity at night. Assembly, on the other hand, is much less difficult, although painful for the prisoners at the end of a harsh day of quarry labor.

This analysis would also support the likelihood that the assembly in the prison is being subcontracted by another facility, perhaps a legitimate artificial flower factory in the area.

While Chen's evidence is the first of a political prisoner being forced to labor producing artificial flowers for export to the U.S., it is not the first report of such flowers being made in the prisons and detention centers in Guangdong Province. In 1990, Lai Dexiong, a police officer in Shenzhen, escaped to Hong Kong after learning he was about to be arrested for helping student leaders active during the Tiananmen Square demonstrations escape the country. Lai told of seeing prisoners in 1987 in a number of detention centers and prisons making artificial flowers for export to England for Queen Elizabeth's birthday celebration. At that time, his testimony was not taken seriously.

REEDUCATION-THROUGH-LABOR (RTL)

The Chinese government does not consider Reduction-Through-Labor (Laojiao) to be judicial punishment, but rather, "high level government disciplinary action." This means that prisoners do not technically go through judicial procedures such as arrest, examination, or sentencing, and therefore local public security bureaus (police) do not have to submit reports to the courts or the Office of the Procuratorate.

But, arrest, detention, sentencing, and forced labor are part of the process, and the man or woman subject to reeducation through labor is still an inmate in a prison, even if the Chinese governmental and communist party choose not to call them prisons.

Chen makes this point clearly in his letter:

"Reeducation-through-labor is the darkest part of China's current political system. Ironically, RTL policy and regulations worked out by the Chinese government itself have been altered beyond recognition in their practical implementation. According to RTL policy and regulations RTL is lighter than LR (Labor Reform): inmates get this pay, have their benefits and holiday, enjoy the right of correspondence, cultural, recreational and sports activities, do not labor more than 8 hours daily, can visit their families on holidays, can be bailed out for medical treatment, etc. In reality RTL is hell."

His description of terror, privation and forced labor testified to the practice of reeducation-through-labor rather than its supposed theory.

STATEMENT ON RESOLUTION CALLING FOR REMOVAL OF RUSSIAN TROOPS FROM MOLDOVA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. HOYER. Mr. Speaker, on August 31, 1994, Russian active-duty military forces left Germany, Latvia, and Estonia. Their departure was one of the most visible steps in removing the vestiges of the cold war. But more steps are necessary.

We need only look at Moldova, where between 8,000 and 10,000 troops of the Russian 14th Army remain, against the will of the people and the government of that nation. Ever since Moldova became independent in 1991, its government has been negotiating with Moscow on a reasonable timetable for the removal of these troops. In 1992, many of these forces took part in the bloody secessionist movement in the Transdniestria area of Moldova where they are stationed.

A diplomatic mission of the Conference on Security and Cooperation in Europe posted in Moldova has submitted a commendable proposal aimed at resolving the Transdniestrian conflict. Among the provisions of the CSCE proposal is the accelerated withdrawal of the 14th Army.

Mr. Speaker, in early July I led a large U.S. delegation to the CSCE Parliamentary Assembly in Vienna, where I was honored to chair the Committee on Human Rights. Among the resolutions adopted by the assembly was one calling for a "continuing unconditional, and full withdrawal" of the 14th Army from Moldova.

I am pleased to report that some progress has been made. On August 10 of this year, negotiators of the Moldovan and Russian Governments initialed an agreement according to which Russia will withdraw its military forces from Moldova in 3 years. Unfortunately, the ink was hardly dry on the agreement when the Russian Minister of Defense, General Grachev, called for further drafting of the withdrawal agreement, and the commander of the 14th Army, General Lebed, publicly rejected the terms of the agreement. He called it "idiotic."

Under President Clinton's leadership, the United States has taken a strong position in favor of withdrawal of Russian troops from Moldova. During his recent visit to Moldova, our U.N. Ambassador, Madeleine Albright, stated that the United States considers the withdrawal of the 14th Army as "a matter of primary importance to U.S. foreign policy." Mr. Speaker, President Clinton has been justly credited, even by some of his political adversaries, for the perseverance and persuasiveness he employed in encouraging the Russian Government to remove its troops from the Baltics last month. U.S. leadership will be needed here as well.

Mr. Speaker, my distinguished colleague from Virginia, Mr. WOLF and I have introduced a concurrent resolution calling upon the government of the Russian Federation to adhere to the provisions of the withdrawal agreement initiated on August 10, 1994, and urging the administration to use every appropriate opportunity, including multilateral and bilateral diplomacy, to secure removal of Russian military forces from Moldova.

I believe that the Congress should join with the administration in reminding Russia of its commitment, stated by Foreign Minister Kozyrev and Defense Minister Grachev, to remove all of its active duty armed forces from foreign territory, as they have already done in Germany, Poland, and the Baltic States.

I urge the Russian Government to adhere to the provisions of the August 10 withdrawal agreement, and I urge my colleagues to join us in supporting this resolution.

THE FUTURE OF TRANSPORTATION IN THE NEW YORK-NEW JERSEY METROPOLITAN AREA

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, on October 3, I sponsored a conference on the future of transportation in the New York-New Jersey Metropolitan Area in 2020. This conference took place at the historic Central Railroad of New Jersey terminal at Liberty State Park in Jersey City, NJ. I hosted this conference with two of my colleagues from the House Public Works and Transportation Committee, Ms. MOLINARI and Mr. MENENDEZ, and New Jersey's junior senator, FRANK LAUTENBERG.

During this conference, my colleagues and I heard testimony from Stan Brezenoff, executive director, Port Authority of New Jersey; John Egan, commissioner, New York Department of Transportation; Sharon Landers, deputy Commissioner, New Jersey department of transportation; Lillian Liburdi, director of the port department, Port Authority of New York and New Jersey; David Plavin, director of aviation, Port Authority of New York and New Jersey, Shirley DeLibero, executive director, NJ Transit; Peter E. Stangl, chairman and CEO, Metropolitan Transit Authority; Richard Kelly, interstate transportation department director, Port Authority of New York and New Jersey; Arthur Imperatore, Jr., vice president of NY Waterway; and Richard DuHaime, chairman of the North Jersey Transportation Planning Board.

Mr. Speaker, our transportation infrastructure constitutes the veins and the arteries through which our economic lifeblood flows. In an increasingly competitive global economy, those regions having a second-rate transportation infrastructure will have a second-rate economy.

Nationwide, it is estimated that traffic congestion on our highways, bridges, and tunnels costs our economy $300 billion each year in lost productivity. The shipment of goods are delayed, schedules are disrupted, and otherwise productive time is wasted. In our area, there is little or no additional capacity during peak hours on our highways, bridges, or tunnels. They are simply incapable of absorbing any significant future economic growth.

Furthermore, congestion right here in our region is so bad that commuters to New York City waste 50 million hours each year in congested traffic. With traffic congestion worsening each year, viable alternatives must be offered to the motoring public. And under the strict guidelines of the Clean Air Act, the old solution of simply increasing highway capacity may no longer be an option.

For our seaports like Port Newark and Port Elizabeth, the future is now. Our ports annually contribute over $20 billion to our region's economy, and handle over 38 million tons of cargo a year. Unfortunately, our ports are currently risking the loss of trade with foreign countries largely because of the bureaucratic bungling in Washington over the issuance of dredging permits.

With new markets opening up all over the world, our ports must serve as the gateway for a surge in American exports. And for the 180,000 people who depend on the ports for their living, the decisions we make now will directly affect whether Port Newark and Port Elizabeth are bustling and vibrant or static and silent.

For our airports, among the busiest in the Nation, the challenges are great. During the last decade, our airports—Kennedy, LaGuardia, and Newark—have grown at an incredible rate. Newark Airport's international traffic alone increased by almost 200 percent since 1988, with growth expected to continue into the 21st century. Unfortunately, aircraft delays, aircraft noise, and the traffic getting to the airport have also grown at substantial rates. Looking at the next 25 years, one can only speculate on the health of our airports. Perhaps teleconferencing, or the advent of high-speed rail will decrease the pressures on our airports. Whatever the future may hold, our airports are an important link in our transportation web, and their vitality is crucial to our economic well-being.

Mass transportation will also face unique challenges in the next quarter century. We are already witnessing the comeback of light rail systems and ferries that were prevalent earlier this century. Back then, people used light rail and ferries as their primary means of transportation because cars were simply too expensive. I think it's safe to predict people will again embrace these time-honored modes of transportation not for want of a car, but because of environmental regulations and intolerable highway congestion.

I organized this conference with my colleagues in order to hear the thoughts and ideas of the people whose job it is to make sure the most complex transportation infrastructure in the world works for the people it was designed to serve. The New York City subway system, the Brooklyn Bridge, and the New Jersey Turnpike are but a few of the transportation marvels that have historically been the envy of the world. The stewards of our transportation infrastructure of yesteryear had the foresight and determination to build these magnificent structures; we must be equally bold today or risk losing our economic competitiveness.

Mr. Speaker, I was pleased that officials from both sides of the Hudson River could come together to discuss transportation problems common to our States. Hopefully, our discussion will help forge a closer partnership between New York and New Jersey as we seek to solve our common transportation challenges.

NATIONAL FAMILY LITERACY DAY

HON. KARAN ENGLISH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Ms. ENGLISH of Arizona. Mr. Speaker, I am pleased to announce that I have cosponsored House Joint Resolution 413. I strongly believe we must do all we can to promote literacy and support November 1, 1994 as National Family Literacy Day. It is important that we acknowledge the vital role reading plays in our daily personal and private lives.

To ensure that our children grow up with unlimited opportunities, we must pass on to them the gift of literacy. By teaching our children to read, we give them the means to choose their future. This is a critical first step in helping our children help themselves.

We must take control of the future and combat the problem of illiteracy. Designating November 1 as National Family Literacy Day is a positive move toward confronting the important issue of literacy.

ALABAMA IS PROUD OF OUR MISS AMERICA, HEATHER WHITESTONE

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BEVILL. Mr. Speaker, I rise today in honor of our new Miss America, Heather Whitestone of Birmingham, who already has made the people of Alabama and this Nation so proud.

In a press conference today on Capitol Hill, Heather outlined her plans for the coming year. I was very impressed with this extremely poised, beautiful young lady. At age 21, she is mature, polished and self-reliant beyond her years.

She will make an outstanding goodwill ambassador as she travels America in the coming year with her upbeat message of hope, courage, faith, and positive thinking.

Heather is an optimist and she conveys that optimism with a genuine, warm glow. She makes the excellent point, especially aimed at young people, that anything is possible.

She has coped magnificently with profound deafness since early childhood and serves as a tremendous role model not only for those who live with physical impairments, but for all of us. If we listen, we can all learn from her.

I wish Heather all the best in her reign as Miss America. I have a feeling that every life she touches, every community she visits will be made better by her presence and her message of encouragement.

I include her statement today and I encourage my colleagues to read it and share it with others. Her statement follows:

ANYTHING IS POSSIBLE

Many young people in America today are challenged. Some face unthinkable adversities and, despite the odds, enjoy healthy and productive lives. Yet those who are unable to overcome their obstacles and find a path of productivity often suffer, in part, from an overwhelming lack of self-esteem and the absence of positive environments in which they are challenged to try, fail, try again, and ultimately, succeed.

In facing my own life's challenges, I have discovered a unique approach that I call STARS: Success Through Action and Realization (of your DreamS). The five points of a star itself have continually reminded me that the essential elements to achieving success are: To have a positive attitude; To believe in your dream, especially education, which is a dream all Americans share; To face your obstacles, no matter how great; To work hard; and To build a support team.

As I travel this country in my role as Miss America, I will communicate the STARS approach to our nation's youth. I will teach them, through word and deed, the value of setting high goals, working hard and achieving their dreams and ambitions, reminding them that their actions speak louder than any words. I will also carry this message to parents, teachers, counselors, ministers and others who influence youth, imploring them to create the proper environments for young people to employ STARS and to serve as committed members of a young person's support team.

As a living example of a challenged person who has used a STARS approach to succeed, I will extend my hand to anyone in need of encouragement and love. I will ask them not to imitate me, but rather to believe in themselves and the power of their spirit. And I will reach out to specific groups with whom I share a special bond.

I will motivate all young people who are deaf or hard of hearing to pursue a broad range of communication and educational options in their lives, choosing those which best reflect their goals and encouraging them to choose the options that will build their self-esteem and, ultimately, ensure their success in life.

I will invite youth with disabilities to join me in reaching out to the nondisabled world—without fear or concern—to tear down the barriers of acceptance that still exist by demonstrating that their lives are about their abilities not their disabilities. In doing so, I know they will find their own paths to success.

I will encourage all young people facing challenges to confront their obstacles with determination and confidence, avoiding the epidemic of negative thinking that has swept our country and robbed them of their self-esteem. I will help them to realize their own success by setting very clear goals and working hard to achieve them.

And I will challenge opinion leaders and those who influence youth to work even harder at creating the proper environments for all young people—disabled and nondisabled—to confidently establish their own identity, helping them to find a productive place in our society, and inspiring them always to try, try again, and one day, to succeed.

To these young people and countless others, I will commit myself, speaking out on their behalf when they cannot. I will believe in their dreams. I will help them to work hard. And I will always be the very first member of their support team.

These promises I make today, the fifth day of October, 1994.

HEATHER WHITESTONE,
Miss America 1995.

MEDICAL DEVICE EXPORT PROMOTION ACT

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. KIM. Mr. Speaker, I rise today to introduce legislation which will create jobs in one of the fastest growing export industries in the United States.

As many of my colleagues know, the medical device industry is one of the fastest growing industries in the United States. In fact, according to the Department of Commerce, the three fastest growing sectors of U.S. industry in 1993 were all in the medical technology field.

The export success of the American medical device industry is phenomenal. At a time when the United States is facing huge trade deficits worldwide, the medical device industry is one of the few industries which actually enjoys a trade surplus with our trading partners. This surplus reached $4.5 billion in 1993—an 11.1 percent increase over 1992.

In short, the U.S. medical device industry is a clear example of an American success story. Unfortunately, unnecessary government regulation is putting that success story at risk.

Under current law, medical device manufacturers who wish to export a product to foreign countries are required to get partial FDA approval of their products—even if that product is only manufactured for export and has already been approved by the country where the product is being sold. In other words, the FDA requires companies to incur the cost and delay of getting U.S. Government approval of products that are not going to be sold in this country and which other countries have already agreed to accept.

As a result of this onerous regulation, many medical device manufacturers in this country are finding themselves at a substantial competitive disadvantage compared to their overseas competitors. Not surprisingly, many of these companies are deciding to move out of this country to more reasonable regulatory climates—and taking thousands of American jobs with them.

This legislation would eliminate this unnecessary regulatory burden. This bill would direct the Secretary of Health and Human Services—the agency which oversees the FDA—to annually prepare a list of countries which have adequate medical device approval procedures. Medical device manufacturers would then be allowed to export to any of the countries on the list without FDA approval, provided that the destination country approves the device for sale in its own market. The bill also prohibits circumvention of our domestic approval processes by prohibiting reimport of exported devices back into the United States.

In sum, I believe that this legislation would remove a significant regulatory burden from a major American export industry. In doing so, the bill will encourage the growth of this important industry and will save the jobs of hardworking Americans. For these reasons, I urge my colleagues to support this legislation.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Device Export Promotion Act of 1994".

SEC. 2. DEVICE EXPORTS.

In the administration of section 801 of the Federal Food, Drug and Cosmetic Act, the Secretary of Health and Human Services shall permit the export of a medical device which—

(1) is intended for export to a country which as determined by the Secretary has a medical device approval process which provides reasonable assurance of the safety and effectiveness of medical devices,

(2) has been approved under the laws of the country to which it is intended for export,

(3) is labeled on the outside of the shipping package that it is intended for export, and

(4) is not sold or offered for sale in domestic commerce.

A medical device which is exported under the authority of this Act may not thereafter be imported into the United States unless its importation has been approved by the Secretary of Health and Human Services.

SEC. 3. REVIEW.

The Secretary of Health and Human Services shall conduct an annual review of the medical device approval laws of countries not described in section 2(1) to determine if such laws provide reasonable assurance of the safety and effectiveness of medical devices.

SAGUARO NATIONAL PARK ESTABLISHMENT, S. 316

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. PASTOR. Mr. Speaker, I want to thank the distinguished chairman of the Natural Parks, Forests, and Public lands Subcommittee for his support of this bill. I also want to thank my friend and colleague, Mr. KOLBE, for all his efforts on behalf of the Saguaro National Monument. Finally, Senator DENNIS DECONCINI is to be commended for his work in crafting the legislation and working with the affected landowners.

This is a modest, yet important bill. It seeks to authorize the acquisition of only 3,640 acres of land to a National monument that contains 87,500 acres. Though relatively small, this 4 percent increase in size is crucial to the preservation of the Saguaro National Monument. The lands to be acquired, all of which are situated along the Tucson Mountain Unit's current boundaries, contain unparalleled stands of saguaro cacti and habitat for desert wildlife such as the gila monster, muledeer, coyote, javelina, and desert tortoise.

The additional lands will also provide crucial protection for the monument from the expanding Tucson metropolitan area. When the Tucson Mountain Unit of the Saguaro National Monument was established by President Kennedy in 1961, the Tucson metropolitan area contained 265,000 people. Today over 660,000 persons inhabit a rapidly expanding region that threatens the monument's biological integrity. Now, more than ever before, it is in the public's interest to protect and add to one of the Sonoran Desert's most beautiful treasures.

Finally, the bill will change the designation of the monument to a national park. Mr. Speaker, the lands contained in the monument would be a unique addition to our National Park System. The rough, untouched beauty of the Sonoran Desert is truly a national resource, and the monument is the crown jewel of the desert's lands.

I urge my colleagues to support the bill and help to preserve these desert lands for future generations.

PAKISTAN'S INTELLIGENCE AGENCIES INVOLVED IN EXPORT OF TERROR

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. DEUTSCH. Mr. Speaker, I would like to share with my colleagues my great disquiet on reading recent reports about Pakistan's deep involvement in terrorism. Last month, we saw a spate of news items about the arrest of Yakub Memon and others suspected for having planned and executed the 11 bomb blasts in downtown Bombay in March 1993. Documents seized from Memon, an Indian citizen, included a Pakistani passport, birth certificate, and driving license provided to him, by his own admission, by Pakistan's Inter Services Intelligence [ISI].

While we were still reflecting over the tremendous import of these reports linking an official agency with masterminding a carnage that left 317 dead and over 1,000 seriously injured, we now see the September 12, 1994, Washington Post report titled: "Heroin Plan by Top Pakistanis Alleged: Former Prime Minister Says Drug Deals Were to Pay for Covert Military Operations."

Mr. Speaker, ISI's murky role in running terrorist training camps in Pakistan to fuel insurgencies in the Indian States of Punjab and Kashmir has been extensively catalogued in the past. In 1992, it was placed on the State Department's watch list of countries sponsoring terrorism in the distinguished company of North Korea, Libya, Iran, and a few others.

The present story, however, goes a step further by exposing a seemingly incredible proposal made in 1991 by Pakistan's Army Chief Gen. Aslam Beg and head of ISI Gen. Asad Durrani to Mr. Nawaz Sharif, who at that time was the country's Prime Minister. The proposal, revealed by the former Prime Minister himself, involved a blueprint prepared by the two generals "for selling heroin to pay for the country's covert military operations." Referring to military sources the report says that following the end of the Afghan war:

> Foreign governments—chiefly the United States—stopped funneling money and arms through the ISI to Afghan mujahideen guerillas fighting the Soviet-backed Kabul Government. Without the foreign funds, the sources said, it has been difficult for the agency to continue the same level of operations in other areas, including aiding militants fighting Indian troops across the border in Kashmir. Such operations are increasingly financed through money raised by such private organizations as the Jamat-i-Islami, a leading fundamentalist political party.

The report also cites a Western diplomat who was based in Pakistan's capital, Islamabad, at that time and who had occasional dealings with Beg and Durrani saying that "it's not inconceivable that they could come up with a plan like this."

Mr. Speaker, these reports reflect a disturbingly consistent pattern of behavior. Over the years, ISI has systematically used gunrunners, religious fanatics, and other similar elements to foment subversion in states located on India's periphery. Its use of drug money for the same purpose is only the latest and, in my opinion, most dangerous element. It is a behavior pattern that no civilized society can accept. As the body of evidence pointing to Pakistan's involvement in the Bombay bombings steadily mounts, it becomes imperative for us to review the case for bringing Pakistan back to the watch list of state sponsors of terrorism.

[From the Washington Post, Sept. 12, 1994]

HEROIN PLAN BY TOP PAKISTANIS ALLEGED—FORMER PRIME MINISTER SAYS DRUG DEALS WERE TO PAY FOR COVERT MILITARY OPERATIONS

(By John Ward Anderson and Kamran Khan)

KARACHI, PAKISTAN.—Pakistan's army chief and the head of its intelligence agency proposed a detailed "blueprint" for selling heroin to pay for the country's covert military operations in early 1991, according to former prime minister Nawaz Sharif.

In an interview, Sharif claimed that three months after his election as prime minister in November 1990, Gen. Aslam Beg, then army chief of staff, and Gen. Asad Durrani, then head of the military's Inter-Services Intelligence bureau (ISI), told him the armed forces needed more money for covert foreign operations and wanted to raise it through large-scale drug deals.

"General Durrani told me, 'We have a blueprint ready for your approval,'" said Sharif, who lost to Benazir Bhutto in elections last October and is now leader of the opposition in parliament.

"I was totally flabbergasted," Sharif said, adding that he called Beg a few days later to order the army officially not to launch the drug trafficking plan.

Beg, who retired in August 1991, denied Sharif's allegation, saying, "We have never been so irresponsible at any stage. Our politicians, when they're not in office and in the opposition, they say so many things. There's just no truth to it."

Durrani, now Pakistan's ambassador to Germany, said: "This is a preposterous thing for a former prime minister to say. I know nothing about it. We never ever talked on this subject at all."

Brig. Gen. S.M.A. Iqbal, a spokesman for the armed forces, said, "It's inconceivable and highly derogatory; such a thing could not happen."

The interview with Sharif, conducted at his home in Lahore in May, was part of a broad investigation into narcotics trafficking in Pakistan. It marked the first time a senior Pakistani official has publicly accused the country's military of having contingency plans to pay for covert operations through drug smuggling.

Officials with the U.S. State Department and the Drug Enforcement Administration said they have no evidence that Pakistan's military is or ever has been involved in drug trafficking. But U.S. and other officials have often complained about the country's weak efforts to curtail the spread of guns, money laundering, official corruption and other elements of the deep-rooted drug culture in Pakistan, which along with Afghanistan and Iran lies along the so-called Golden Crescent, one of the world's biggest drug-producing regions.

In a scathing report two years ago, a consultant hired by the CIA warned that drug corruption had permeated virtually all segments of Pakistani society and that drug kingpins were closely connected to the country's key institutions of power, including the president and military intelligence agencies.

About 70 tons of heroin is produced annually in Pakistan, a third of which is smuggled abroad, mostly to the West, according to the State Department's 1994 report on international drug trafficking. About 20 percent of all heroin consumed in the United States comes from Pakistan and its northern neighbor, Afghanistan, the second largest opium producer in the world after Burma. The United Nations says that as much as 80 percent of the heroin in Europe comes from the region.

It has been rumored for years that Pakistan's military has been involved in the drug trade. Pakistan's army, and particularly its intelligence agency—the equivalent of the CIA—is immensely powerful and is known for pursuing its own agenda. Over the years, civilian political leaders have accused the military—which has run Pakistan for more that half its 47 years of independence—of developing the country's nuclear technology and arming insurgents in India and other countries without their knowledge or approval and sometimes in direct violation of civilian orders. Historically, the army's chief of staff has been the most powerful person in the country.

According to military sources, the intelligence agency has been pinched for funds since the war in Afghanistan ended in 1989 and foreign governments—chiefly the United States—stopped funneling money and arms through the ISI to Afghan mujaheddin guerrillas fighting the Soviet-backed Kabul government. Without the foreign funds, the sources said, it has been difficult for the agency to continue the same level of operations in other areas, including aiding militants fighting Indian troops across the border in Kashmir. Such operations are increasingly being financed through money raised by such private organizations as the Jamiat-i-Islami, a leading fundamentalist political party.

A Western diplomat who was based in Islamabad at the time of the purported meeting and who had occasional dealings with Beg and Durrani, said, "It's not inconceivable that they could come up with a plan like this."

"There were constant rumors that ISI was involved in rogue drug operations with the Afghans—not so much for ISI funding, but to help the Afghans raise money for their operations," the diplomat said.

In the interview, Sharif, claimed that the meeting between him and the generals occurred at the prime minister's official residence in Islamabad after Beg called one morning and asked to brief him personally on a sensitive matter.

"Both Beg and Durrani insisted that Pakistan's name would not be cited at any place because the whole operation would be carried out by trustworthy third parties," Sharif said. "Durrani then went on to list a series of covert military operations in desperate need of money."

Sharif, in the interview, would not discuss operational details of the proposal and refused to disclose what covert plans the intelligence agency wanted to fund with the drug money.

Sharif said he had "no sources" to verify that the ISI had obeyed his orders to abandon the plan but that he assumed the agency had complied.

"I told them categorically not to initiate any such operation, and a few days later I called Beg again to tell that I have disapproved the ISI plan to back heroin smuggling."

Embittered that his political enemies cut short his term as prime minister last year and helped engineer the return of Bhutto, Sharif has gone on an intense political offensive to destabilize her 10-month-old government. He claimed recently that Pakistan has a nuclear bomb and said he made the information public to prevent Bhutto from dismantling the program under pressure from the West. The government has denied possessing a nuclear bomb but repeated previous statements that it has the ability to build one.

Calling Sharif a "loose cannon," a second Western diplomatic source said, "I'd have a hard time believing" his allegations about the military's drug trafficking proposal. The official suggested that Sharif's disclosure might be designed to keep Bhutto and Pakistan-India relations off balance. "If anything should bring these two countries together, it is their common war against the drug problem, but this seems to fly in the face of that," he said.

D-DAY CELEBRATION SALUTE TO VETERANS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BILIRAKIS. Mr. Speaker, one of my constituents, Mrs. Harriet Coren sent me a copy of a speech her son-in-law, Kenneth Shear, delivered at a reunion. As our country commemorates the 50th anniversary of D-day, I want to share this patriotic speech with my colleagues. I urge my colleagues to pay special attention to the words of Kenneth Shear.

SPEECH FOR D-DAY CELEBRATION—SATURDAY, JUNE 4, 1994

I am personally honored and proud to be with you this evening in celebrating this reunion of the 228th Field Artillery Unit. I am also humbled by the fact that in this room are America's heroes.

In preparing for these remarks, I was reminded of those comments from our parents whenever we did something, usually acted out in a negative way: our parents would say and rebuke us severely, "Look what you've done, how could you do such a thing?"

In looking around this room, I have the temerity to ask you all the same question, only my intent is not to conjure up an image of discipline, but to ask the question with a true sense of wonder and awe. for in asking those questions, the answers become evident. In looking at what you've done, the words simply understate the true reality of our lives, the answer is simple. You followed through on the writings of Jefferson and Madison when they discussed the theories of American democracy. You took the theories and molded them and by your actions, made this country the democracy it is. More than that, you sitting here tonight, are able to see the results of your actions with a perspective of fifty years. And now you are entitled to lean back, smile at yourselves and say what a fine job you've done.

In the process, however, of providing that collective and well deserved pat on the back, we should pause to remember those who did not return from Europe and those who are not here with us tonight, who must equally share in the credit so richly deserved.

In a way, the roles set out for you and performed so well, were pretty cut and dried. While horrid and brutal, World War II was an easy war to understand and to follow through on. The enemy was clear; the dangers of failure readily apparent; and the mission was, therefore, truly a straightforward proposition. Dwight Eisenhower, a year later in June of 1945, laid out this proposition as clearly as anyone has ever tried. He said, "More than any other war in history, this war has been an array of the forces of evil against those of righteousness. It had to have its leaders, and it had to be won—but no matter what the sacrifice, no matter what the suffering, no matter what the cost, the war had to be won."

We've not always been so lucky in knowing the clear-cut ramifications of what we're all about when we fight our wars. This began to be seen six years later after D-Day with the Korean action and certainly, with our adventure in Vietnam. But you, and what you did, made us understand how important it was for our country to be united in its efforts and unwavering in our insistence that ruthless totalitarian regimes that threaten our democratic way of life, cannot and must not be tolerated.

Eisenhower, himself, again, made this clear in a letter to his wife, Mamie, He wrote: "This war is serious—we'll never preserve our accustomed ways of living in the United States—free speech, press, and the right to worship as we please—unless we all turn in now and fight and work!" and Finally, let's remember the tone that was set at the very beginning by President Roosevelt, when in 1941, he broadcast to the nation, and made every one feel, and recognize the stakes at hand. "We are now in this war. We are ALL in it—ALL the way. Every single man, woman and child is a partner in the most tremendous undertaking of our American history."

As America fought, the war became the great leveler. We were all in it and we all suffered its consequences—and we all reaped its benefits. Bullets, shrapnel and bombs did not care one whit who they fell on, who they entered and who they killed. They did not seek out blacks over whites, poor over rich, Jews over Christians. Everyone who fought on our side, fought for the preservation of this democratic state that insured an equal opportunity to life, liberty and the pursuit of happiness, as well equal opportunity to die in its wars, or come home a hero.

A half century later, we recognize the fact that if World War II was the turning point in American history, then the Normandy invasion was the turning point in World War II.

And what did we turn to? I ask you all now to stop and think. Think for a moment what the world would be like had you and your buddies not landed on the beaches, or scaled the cliffs, or dropped from the airplanes, or wandered through the hedgerows and meandered through the countryside to Saint Lo and other points in Europe on your way to defeating the tyrant.

Think.

Look around the room.

Picture, if you will, what our lives might be like had you not prevailed.

Let your thoughts, therefore, be our prayer.

Let your thoughts be our prayer of thanksgiving to all of those who made this land of freedom possible. A prayer of hope and peace for the future that such a horror may never be witnessed again.

Look what you've done!

How does it feel to be America's heroes? Was it the great cause that you fought for that was so extraordinary, or was it the men? Sure, we know the cause was right, but without the men, without YOU and YOUR BUDDIES—buddies such as Sal Peluso, Sid Fischer, Rocco Mandart, Saul Sherman, Joe Nigro, and Don Iseman—it would have remained just that—an idea.

These were the men who forged a new day through pure blood and guts. These were the men who permit us to sit, relax, reminisce and continue to build our lives and the lives of our children.

Without these men, there was no cause, and there would have been no tomorrows as we know it, only tomorrows each darker than the previous one.

As many granite monuments as there are to the men who landed at Normandy, they mean little when compared to the true monument to their dedication and sacrifice—a thriving democracy in which we can pray whenever we want—and whenever we want, speak our minds, print our thoughts and essentially live to our fullest capacities in this community we call America.

Look at what you've done! You've permitted us, through your efforts, to live a life of freedom.

Don't you think it's intemperate of me to tell you, our fathers, what you've done? We are the results of your success, yet we were not there, and we did not experience your pain, your terror, your loneliness, and your fear.

You know the story of your success, better than we. I've been amazed, however, at your personal reluctance to tell us your story. To get this information itself from you was a major effort. But, I think, in retrospect, it is that reluctance to convey the horror of war that is uniquely American.

We fly the flags, we play our anthems, but we don't like to—nor are we good at, making war appear to be a noble endeavor. There was nothing pretty about being in the midst of what hell must look like. For all of you here, notwithstanding the hundreds of thousands of comrades you fought with, your participation in the war was your own private affair. There are issues that you have been living with for at least fifty years as a result of this war, and some that will forever be your own secrets—and that's the way it should be.

On the other hand, these reunions provide you with an almost therapeutic safety valve type of experience. As you desire, you can release, and have released memories and issues you have kept all these years; and that, too, is the way it should be. You men have a bond and a set of shared experiences that we, as your children, perhaps, should never know, except as you want us to.

I feel humbled being among you and I am proud that you have asked me to give you some of my thoughts.

Finally, I am most proud that one hero here, for the past twenty-five years, has been my personal hero. When our GI's were collectively known as "Joe," they took that model from my personal "GI Joe"—Joe Coren. A man who wanted nothing more than to provide his wife and children, now that he completed his part of the deed in Europe, to live their lives to their fullest capacities.

After the war, he came back from Europe and began to pick up the pieces here in Philadelphia. He met Harriet at a dance, fell in love, got married, had two children (in those days—that was the way in which things were done) and lived in modest circumstances, pursuing the American dream that he helped to preserve. He was good to his family and unswerving in his loyalty to his country. He honored me by permitting me to marry his daughter, and I feel, made me his second son. He is our Joe, and he typifies all that was done and all that was right in our endeavors since World War II.

When God blessed America, it was only because you gave Him the opportunity to do so. And for that, your children and the rest of the world thank you.

GUNS, GANGS, AND GRAFFITI

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. DORNAN. Mr. Speaker, the city of Santa Ana, CA has been particularly hard hit by gang activity and the graffiti so often associated with it. Indeed, at one point, Santa Ana surpassed the entire Nation in damages done by graffiti by nearly $1.2 million. But thanks to outstanding programs such as Guns, Gangs and Graffiti, we have been able to make headway in the fight against gang violence and graffiti in our community.

Guns, Gangs and Graffiti was founded by a private marketing/public relations businessman, Robert Acosta, and his associate, Arlene Saralegui. Working together, they mobilized the entire outdoor billboard industry to join them in a public relations campaign to inform Orange County residents about the urgent need for action to combat gang violence and the defacement of public property by gang members. Bob and Arlene have also developed an innovative community park carnival program that will bring a little bit of Disneyland to the latino communities of Santa Ana while raising the necessary resources to fund their exemplary initiative.

As a result of the Guns, Gangs and Graffiti campaign, 100 billboards and 175 bus shelters in Orange County are now displaying the message. "Listen Orange County * * * If you ignore the plague of the County—Crime, our children will not have a future. Get involved now! Help reduce the causes of guns, gangs and graffiti."

Mr. Speaker, the Guns, Gangs and Graffiti campaign is an outstanding model for the entire Nation in the fight against gangs and gang-related violence and I commend them for their ongoing service to our community.

MISS AMERICA IS AN INSPIRATION TO US ALL

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. EVERETT. Mr. Speaker, today I had the pleasure of meeting a very inspiring young lady who hails from my congressional district. She is the new Miss America, Heather Whitestone of Dothan, AL.

Heather is an outstanding example of the triumph of the human spirit, having overcome deafness to pursue not only a normal life but to achieve national fame. I am proud of her accomplishments and know that she will be an outstanding representative of, as well as an inspiration for, America's handicapped.

In her much-deserved role as the new Miss America, I'm confident that Heather will pursuade corporate America to realize that people should be judged not by their disabilities but for their abilities.

Mr. Speaker, I would like to insert into the RECORD immediately following my comments a copy of "Anything is Possible," the platform of our lovely new Miss America, Heather Whitestone.

ANYTHING IS POSSIBLE

(By Heather Whitestone, Miss America 1995)

Many young people in America today are challenged. Some face unthinkable adversities and, despite the odds, enjoy healthy and productive lives. Yet those who are unable to overcome their obstacles and find a path of productivity often suffer, in part, from an overwhelming lack of self-esteem and the absence of positive environments in which they are challenged to try, fail, try again, and ultimately, succeed.

In facing my own life's challenges, I have discovered a unique approach that I call STARS: Success Through Action and Realization (of your Dreams). The five points of a star itself have continually reminded me that the essential elements to achieving success are: To have a positive attitude; To believe in your dream, especially education, which is a dream all Americans share; To face your obstacles, no matter how great; To work hard; and To build a support team.

As I travel this country in my role as Miss America, I will communicate the STARS approach to our nation's youth. I will teach them, through word and deed, the value of setting high goals, working hard and achieving their dreams and ambitions, reminding them that their actions speak louder than any words. I will also carry this message to parents, teachers, counselors, ministers and others who influence youth, imploring them to create the proper environments for young people to employ STARS and to serve as committed members of a young person's support team.

As a living example of a challenged person who has used a STARS approach to succeed, I will extend my hand to anyone in need of encouragement and love. I will ask them not to imitate me, but rather to believe in themselves and the power of their spirit, and I will reach out to specific groups with whom I share a special bond.

I will motivate all young people who are deaf or hard of hearing to pursue a broad range of communication and educational options in their lives, choosing those which best reflect their goals and encouraging them to choose the options that will build their self-esteem and, ultimately, ensure their success in life.

I will invite youth with disabilities to join me in reaching out to the nondisabled world—without fear or concern—to tear down the barriers of acceptance that still exist by demonstrating that their lives are about their abilities, not their disabilities. In doing so, I know they will find their own paths to success.

I will encourage all young people facing challenges to confront their obstacles with determination and confidence, avoiding the epidemic of negative thinking that has swept our country and robbed them of their self-esteem. I will help them to realize their own success by setting very clear goals and working hard to achieve them.

And I will challenge opinion leaders and those who influence youth to work ever harder at creating the proper environments for all young people—disabled and nondisabled—to confidently establish their own identity, helping them to find a productive place in our society, and inspiring them always to try, try again, and one day, to succeed.

To these young people and countless others, I will commit myself, speaking out on their behalf when they cannot. I will believe in their dreams. I will help them to work hard. And I will always be the very first member of their support team.

These promises I make today, the fifth day of October, 1994.

THE REPUBLIC OF CHINA CELEBRATES NATIONAL DAY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BOEHLERT. Mr. Speaker, on October 10, the 21 million people of the Republic of China will celebrate National Day, commemorating the date in 1911 when this brave, intrepid nation was founded by Sun Yat-sen as the first republic in Asia.

This should be a joyous time for our friends; they have toiled long and hard to become an economic leader. They engineered a political transformation from authoritarian rule to a working democracy with legalized opposition parties and a free press. The Republic of China (RoC) is the success story that the rest of the world's emerging democracies can learn from.

However, with all its economic and democratic success, the Republic of China is still treated like a virtual pariah in the international community. The RoC is not allowed to participate in the United Nations. Recently, our own President Bill Clinton refused RoC President Lee Teng-hui's request to stay overnight in Hawaii. All this, in hopes of not angering the People's Republic of China—mainland China. The people of the Republic of China need and want our support and hospitality, not a slap in the face and a "No vacancy" sign on the door.

American economic and political interests in Asia are served by the stability of the Taiwan straits. We must work with the President to forge a policy that enhances the RoC's legitimacy and international standing. We should no longer allow outdated and misguided political motives to tarnish the accomplishments this nation has worked so hard to earn and deny the international respect the RoC so richly deserves.

In closing, I would just like to bid farewell to a distinguished public servant and friend from the Republic of China, the Honorable Mou-shih Ding. He has been promoted to the post of Secretary General of the National Security Council in Taipei. During his last 6 years here with the Coordinating Council for North American Affairs, Mr. Ding honorably represented his country and worked tirelessly to foster good relations between our two countries. He will be missed greatly. However, I look forward to working with his successor, Mr. Benjamin Lu, the representative of the Taipei Economic and Cultural Representative Office in the United States.

TRIBUTE TO THE LATE CONGRESSMAN CLAUDE HARRIS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. GEPHARDT. Mr. Speaker: this weekend, America lost one of its most dedicated champions of justice and opportunity—former Congressman Claude Harris of Birmingham, AL.

Elected to this House in 1986, Claude Harris came to Congress with one mission—to improve the lives of the people of his community. Even as he rose to a position of prominence in Congress, he never forgot the people he was sent here to serve. He truly dedicated his career to them—and for that, he earned the respect and gratitude of all Americans.

Many of us remember Claude Harris for his keen legal mind, and his tough but scrupulously fair sense of justice. Throughout his three terms in the House, he established himself as a strong and independent voice, but also as a legislator who could build coalitions, and work with his colleagues to make real progress. He brought those same skills to his post as U.S. attorney in Birmingham.

I know I speak for all of my colleagues, on both sides of the aisle, when I say that we will miss Claude Harris very deeply. I offer my heartfelt condolences to his wife, Barbara, and to his sons Jeff and Trip at this difficult time.

TRIBUTE TO KATHLEEN VINCENT FOR WINNING PULITZER PRIZE

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. HALL of Texas. Mr. Speaker, it is an extraordinary privilege for me to pay tribute today to Kathleen Vincent of Heath, TX, who recently was awarded the 1994 Pulitzer Prize for International Reporting for her part in the Dallas Morning News 15-part series entitled "Violence Against Women: A Question of Human Rights."

The series was timed to end June 14, 1993, the first day of a United Nations Conference in Austria on human rights. Mrs. Vincent was responsible for page layout for the series and contributed to the art designs. This was only the second time the newspaper had included designers for consideration of a Pulitzer.

Mrs. Vincent worked on the project for more than a year. The staff of 20 included 9 reporters—6 women, 5 photographers—all women, 3 graphic designers—1 woman, and 3 editors—1 woman. The series explored violence against women in their homes, workplaces, and lives.

Mrs. Vincent, who recently was promoted to art director of the Morning News, holds a bachelor of fine arts degree in graphic design from the University of Texas at Arlington. She is a member of the Society of Newspaper Design and Association of Women Journalists and comes from an art-oriented family.

Mrs. Vincent's husband, Jerry, is director of the Rockwall YMCA. She finds time to work with the local YMCA and with the Texas YMCA Youth and Government Program.

Mr. Speaker, I join Mrs. Vincent's family and friends in congratulating her on this extraordinary achievement. The Pulitzer Prize, which is awarded annually, represents the highest level of accomplishment in the field of American journalism, as well as in literature and music. I take pride that someone from my hometown of Rockwall has achieved this level of distinction.

Thanks to Judy Thurmond of the Rockwall Texas Success, whose August 5, 1994, article provided the source for this text.

25TH ANNIVERSARY OF EL CHICANO NEWSPAPER

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BROWN of California. Mr. Speaker, today, I am pleased to note that 1994 marks the 25th anniversary of El Chicano Newspaper, the first Chicano bilingual publication to serve the Inland Empire.

El Chicano was first published in 1968 on a monthly basis under the auspices of the University of California, Riverside through funds made available by the UCR Extension Program.

In 1969, through the dedication and perseverance of local pioneers in the field of journalism, El Chicano Newspaper became independent and locally owned with Marta Macias Brown as its editor and her sister Gloria Macias Harrison as its first publisher, William B. Harrison as its first business manager and Lupe V. Gutierrez as its first advertising salesman.

Within 6 months of independent ownership, El Chicano Newspaper went from a monthly to a bimonthly, then a weekly publication and has made journalism history as the longest publishing Chicano owned publication in the State of California.

El Chicano Newspaper was originally staffed by six volunteers working from their homes, and eventually the operation expanded and has had offices in San Bernardino and Colton and today owns its 4,000 square foot office in the city of San Bernardino Hospitality Lane Business District.

El Chicano has become a self-sustaining, minority owned business with a current paid staff of over 16, using state of the art computer technology for all its production.

On June 1, 1987, El Chicano owners, Gloria Macias Harrison and Bill Harrison, formed a sister corporation with other minority investors to acquire the Colton Courier and the Rialto Record, two community newspapers serving the cities of Colton and Rialto. It became the second group of newspapers in the State of California owned by Hispanic investors.

Throughout its 25 years of service to the community, El Chicano Newspaper has been a vital link in the Chicano community, serving as a cohesive factor in keeping the community aware of current issues and encouraging a high level of community interest and involvement in local events. El Chicano serves the fastest-growing segment of the population as well as the entire Inland Empire.

ANN BROWN REVITALIZING CPSC

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. COLLINS of Illinois. Mr. Speaker, over the years, the Consumer Product Safety Commission [CPSC] has unfortunately gained the reputation of being "the little agency that can't." But under the leadership of Ann Brown, the Chairman appointed by President Bill Clinton, the agency has been revitalizing itself. Chairman Brown's efforts are detailed in the following column by Hobart Rowen, which appeared in the Washington Post last Sunday, October 2:

[From the Washington Post, Oct. 2, 1994]

CPSC'S ANN BROWN IS PRAGMATIC, PERSISTENT ON PRODUCT SAFETY

(By Hobart Rowen)

When Ann Brown, chairman of the Consumer Product Safety Commission, was a 12-year-old Washington schoolgirl in 1949, she took her homework to Erlebachers', her parents' F Street NW clothing store, instead of going directly home.

"I learned there how small business should work," Brown told me last week. Her father, Jules Winkleman, would demonstrate for his sales staff how to be as concerned in dealing with a customer who brought in a return, as in making the original sale.

"My father would play out the role of the customer. He wanted to make sure his sales force understood that consumer satisfaction came first," Brown recalled. And well ahead of his time, Winkleman encouraged his daughter to think of a business career. "He told me a woman could go ahead and do anything a man could do."

It was an easy progression for Brown to become a consumer activist by profession and—by her own evaluation—one who was an aggressive advocate who viewed most business people as too focused "on short-term profits" and not enough on consumer needs or safety.

Now, at 57, in her first-ever government job, she finds that "times have changed and I have changed." She sees her role as "a regulator for the '90s," who can work with industry groups for compromises that pay off. Business, too, has changed, she believes, because "many large and small companies have had to update and upgrade their own missions and strategic marketing plans."

Brown has gotten across her message that however tough an activist she was in her private incarnation, she has no horns; rather, she portrays herself as a pragmatist willing to work things out with private industry.

A case in point relates to drawstrings in the hood and neck portions of children's garments, long a hazard for small children. Yet, in 1993, 12 children were strangled and another 27 were injured by such drawstrings, easily replaceable by buttons, snaps or velcro. One of the first things Brown did as chairman was to get the industry to agree voluntarily to redesign 200 million garments to eliminate this hazard by next year.

Industry leaders agree that safety in children's garments must become a priority focus. Brown has started a national award program for a company's commitment to safety first, with the first coveted honor going to Procter & Gamble Co. for developing safety caps for drugs that are both child-resistant and easy for seniors to open.

For more than two decades, Brown had been a recognized leader in lobbying for consumer safety and consumer rights. From 1979 until this year, she was vice president of the Consumer Federation of America. From 1983 to 1994 she had also been chairman of Public Voice, a pro-consumer lobby aimed at improving consumer health and nutrition. In addition, from 1972 until joining the Clinton administration, Brown headed consumer affairs for Americans for Democratic Action.

In her Bethesda office, chock-full of consumer products—notably children's toys and garments—that have been modified to make them safe, Brown says: "I'm not trying to be a cop. I don't believe that you can regulate everything that moves, or that you can make every product absolutely safe." But she also knows that not even the most dedicated parents or most conscientious consumers can always guarantee their children's or their own safety.

As government agencies go, you could skip right over the CPSC in the federal budget unless you were using a magnifying glass. Before Bill Clinton appointed Brown in March 10, 1994 to chair the CPSC, it had become a moribund and almost disowned backwater under presidents Reagan and Bush. David Stockman, as director of the Office of Management and Budget, wanted to junk it altogether, but never quite succeeded. It dwindled under the Reagan-Bush years from 978 to 487 employees; Brown's budget for fiscal 1995 will be $41.3 million, down $1 million from 1994.

Occasionally, a startling event makes the headlines, as did the recent untimely death of tennis star Vitas Gerulaitis of carbon monoxide poisoning from a faulty heater. CSPC has accelerated its efforts to make carbon monoxide detectors as common in homes as smoke detectors.

All told, more than 15,000 consumer products come under CPSC's jurisdiction, excluding most forms of transportation or workplace-related equipment. A rising concern is sports-related injuries. For example, rollerblading accidents zoomed from 38,000 in 1993 to an estimated 83,000 in 1994.

In a recent pep talk to employees, Brown recalled an old Washington Post article that referred to the three-member commission as "the little agency that can't." Under her guidance, Brown pledged, the agency will become "the little agency that could."

"It's still a dangerous world out there," Brown says with conviction. "Unintentional injury is the leading cause of death in the nation." One-fourth of those 96,000 deaths annually are related to consumer products. With industry's help, Brown intends to get that number down.

TRIBUTE TO SARATOGA COMMUNITY HOSPITAL

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to Saratoga Community Hospital. Saratoga is commemorating its 60th anniversary next Friday, October 14, 1994.

Saratoga Community Hospital was founded by Dr. Ralph N. Tassie in a converted commercial building. Dr. Tassie's mission statement, "No person in need of medical assistance should ever be turned away," remains proudly displayed in the lobby.

The medical staff at Saratoga represent 33 medical specialties. They are known for their excellence in emergency care, physical rehabilitation, critical/intermediate care, diagnostic radiology and cardiology services, and senior services. With over 900 employees, Saratoga Community Hospital has become a world class medical facility.

Over the past 60 years, Saratoga has grown from a 45-bed to a 198-bed medical and surgical acute care hospital. Originally known as Saratoga General Hospital, the name was changed in 1984 to reflect the commitment to strengthening the community. By including input from residents and business owners, and its growing involvement in programs outside the hospital, Saratoga is more effectively meeting the health needs of our entire community at all stages of life.

Ultimately each individual must take responsibility for one's health. Saratoga is helping 2,500 people annually do so by providing over 50 educational programs a year. They have established partnerships with two local schools and are in the process of creating a third. The people at Saratoga participate in approximately 20 health and career fairs annually and are actively involved in more than 40 community groups.

Before a single patient enters the hospital, Saratoga is taking care of thousands of members of our community. With so many efforts to improve the health of residents, their commitment to caring for members of our community is truly commendable.

Saratoga Community Hospital has served the people of metropolitan Detroit for 60 years. On the occasion of the hospital's diamond anniversary, I am pleased to pay tribute to Saratoga Community Hospital. I ask that my colleagues join me in saluting a valued resource in southeast Michigan as it prepares for the next 60 years of service.

THE CONTACT LENS PRESCRIPTION RELEASE ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. STARK. Mr. Speaker, today I am introducing legislation that, if enacted, will enable consumers to purchase contact lenses at lower prices without any compromise in the quality of care received.

This legislation, the Contact Lens Prescription Release Act, requires the Federal Trade Commission to issue regulations mandating the automatic release of contact lens prescriptions after the fitting process has been completed.

Due to a combination of wide variations in State laws relating to the release of contact lens prescriptions and great differences in the practices of individual optometrists and ophthalmologists, consumers do not have consistent access to their contact lens prescriptions. Some consumers find that contact lens prescriptions are released immediately, enabling them to compare products, prices, and services. Other consumers are prevented entirely from obtaining their prescriptions even after the fitting process has been completed. This results in confusion on the part of consumers as to their rights and also results in unnecessary restrictions on consumers in obtaining vision care.

In 1989, the Federal Trade Commission [FTC] clarified Federal policy relating to the release of prescriptions for eyeglasses. The FTC again required optometrists and ophthalmologists to release eyeglass lens prescriptions to their patients upon completion of an eye examination. The Commission also reiterated the policy that there be automatic release of the prescription. Automatic release was deemed to be preferable to a requirement that prescriptions be released only upon request of the patient. Oftentimes, consumers were found to be unaware of their rights to the prescription. Requiring prescribers to take an active part in providing prescriptions to their patients serves to educate consumers of their rights.

In receiving comments on the release of eyeglass prescriptions, the FTC also requested comments on the issue of contact lens prescription release. More specifically, the Commission sought comments on whether significant numbers of consumers were refused copies of their contact lens prescriptions. The Commission found the following:

> While the record suggests that it is not uncommon for practitioners to refuse to give

patients copies of their contact lens prescriptions, and that the resulting costs to consumers could be significant, "we do not believe that the record contains sufficient reliable evidence to permit a conclusion that the practice is prevalent." (Emphasis added, Federal Register, vol. 54, No. 47, Monday, Mar. 13, 1989.)

In issuing their final rule, the FTC raised one other issue that prevented the FTC from requiring the release of contact lens prescriptions. The Commission commented that they lacked sufficient evidence to make a determination on the quality of care concerns raised.

As to the FTC's hesitancy to require release because of a lack of evidence that the problem to be remedied is prevalent, the experiences I am aware of in the 13th District of California counter the FTC's uncertainty and provide sufficient cause for action. I have received several letters stating that contact lens prescriptions are not being released. In my colleagues' districts, I am confident that they too could identify ample reliable evidence of nonrelease of prescriptions and, as a result, sufficient reason for taking the action called for in this legislation.

The second issue cited by the FTC in 1989 concerned the quality of patient care. Two factors relevant to the legislation I am introducing today eliminate these concerns. First, I have yet to see reports signifying that the quality of patient care has suffered in any of the 17 States that currently have some form of mandatory release of contact lens prescriptions in place. Second, to the degree the FTC identified concerns over the quality of care, the concerns applied only to early-release—the release of a prescription prior to the prescriber completing the fitting process. The FTC did not raise any concerns over mandating the release of contact lens prescriptions after the fitting of the contact lenses.

The primary benefit as a result of this legislation, as was the case with implementation of the requirement to release eyeglass prescriptions, will be the ability of consumers to purchase vision care goods at lower prices without compromising the quality of patient care. The findings in this regard are well-documented in the eyeglass market, and even with the difference in timing of the release requirement—upon the writing of the initial eyeglass prescription versus after the fitting of contact lenses is complete—there is no reason to believe that similar benefits to consumers will not result.

We are nearing the end of the 103d Congress. I do not anticipate that Congress will take action on this legislation this year. I have chosen to introduce this bill in the final days of this legislative session in order that interested consumers, providers, and regulators have an opportunity to review and provide comment on the bill prior to introduction in the 104th Congress.

Mr. Speaker, I submit the bill for the RECORD.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contact Lens Prescription Release Act".

SEC. 2. PRESCRIPTIONS FOR CONTACT LENSES.

(a) IN GENERAL.—The Federal Trade Commission shall amend its trade regulation rule on ophthalmic practice published at 16 C.F.R. 456 to require the release of a prescription for contact lenses after the contact lens fitting process is completed regardless of whether or not the patient requests the prescription.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) the term "prescription" means the specifications necessary to obtain contact lenses and includes data on the refractive status of patient's eyes,

(2) the term "contact lenses fitting process is completed" means the process which begins after the initial eye examination and includes an examination to determine what the lens specifications should be, the purchase of hard or soft lenses, and an initial evaluation of the fit of the lens on the patient's eyes and follow-up examinations over a period of approximately 6 months and is completed when the lens fitter is satisfied that a successful fit has been achieved.

SEC. 3. EFFECT ON STATE LAW.

The prescription release requirement of section 2 does not affect any State law which permits the release of prescriptions for contact lenses on terms which are not more restrictive than the terms of section 1 or regulates who is to be legally permitted to fit contact lenses.

SATELLITE HOME VIEWER ACT OF 1994

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. HUGHES. Mr. Speaker, I am pleased to note the passage yesterday by the Senate of H.R. 1103, the Satellite Home Viewer Act of 1994. The bill will now be sent to the President for signature.

H.R. 1103 will extend the statutory license for satellite carriers who deliver, by retransmission, television programming to areas which are largely unserved by over-the-air television broadcasting.

In addition to providing a 5-year extension of the authority for such retransmissions, the bill also contains important transitional provisions to help ensure that, at the end of this period of extension, compulsory licensing will end and free market conditions will control. Finally, the bill contains dispute resolution mechanisms which should help resolve conflicts between those who deliver satellite programming and local affiliates of the national television networks regarding satellite delivery of network television programming to households which cannot receive over-the-air signals.

On March 17, 1993, the Subcommittee on Intellectual Property and Judicial Administration, which I Chair, held a hearing on H.R. 1103.

A written statement submitted jointly by the three national television networks for the record of that hearing was inadvertently not included in the final record. I include it at this point so that our colleagues and others interested in this important legislation may have available to them the views of the three networks on this legislation. The statement is as follows:

STATEMENT OF CAPITAL CITIES/ABC, INC., CBS INC., AND NATIONAL BROADCASTING CO., INC. ON H.R. 1103

Capital Cities/ABC, Inc., CBS Inc., and National Broadcasting Co., Inc. (collectively "Networks"), hereby submit their comments about Title I of H.R. 1103.[1] That Title would extend the Satellite Home Viewer Act of 1988 beyond its current sunset date of December 31, 1994, and would also make certain technical changes to the Act.

Should the Committee decide to extend the Act beyond its sunset date, the Networks have several suggestions for improving it. We believe that these suggestions will help protect the network/affiliate distribution system, ensure equitable treatment for all copyright owners, and set the stage for the transition to a voluntary, marketplace solution that the 1988 Act envisioned. We look forward to working with you and other members of the Subcommittee on these issues.

First, the Networks wholeheartedly endorse the testimony of the Network Affiliated Stations Alliance about the need for more stringent enforcement procedures to ensure that satellite carriers in fact comply with the existing "unserved household" restrictions of Section 119.

Second, Congress should adopt a uniform rate for satellite carriage of all commercial television stations to home dish owners. The current pricing differential between independent and network stations is an irrational anachronism.

Third, when the arbitration panel adjusts the royalty fee in the future, it should set the new fee at a marketplace rate.

Finally, the bill should encourage copyright owners and satellite carriers to work out private contractual arrangements if possible, rather than relying on the compulsory license. To avoid stifling such arrangements, the bill should contain a relatively short "sunset" provision.

ENFORCEMENT OF "UNSERVED HOUSEHOLD" LIMITATION

The Networks believe that the provisions for enforcement of the "unserved household" restrictions of Section 119 need to be substantially strengthened. As Congress observed in enacting the Satellite Home Viewer Act, maintenance of the exclusivity of local network stations in their areas is a critical part of the network/affiliate relationship.[2] Yet compliance by satellite carriers with the unserved household restrictions has been disappointing at best.

The testimony of the Network Affiliated Stations Alliance contains extensive documentation of the need for stronger safeguards to ensure that satellite carriers comply with the unserved household restrictions. The Networks endorse that testimony.

EQUALITY OF PRICING

As Section 119 was originally drafted in 1988, it established a much lower rate for network stations than for independent stations (12 cents/month vs. 3 cents/month). An Arbitration Panel raised those rates slightly for 1993–94, but retained a large differential between the rates for independent stations and network stations. (The rate for independent stations is now either 17.5 cents or 14 cents/month, while the rate for network stations is 6 cents/month.)[3] As currently drafted, H.R. 1103 would adopt the Arbitration Panel's determinations for 1993–94, while providing for further adjustments in 1995 and at five-year intervals thereafter.

We respectfully submit that it would be a mistake for the Committee to perpetuate the existing discrimination against network stations. Consider the following undisputed (and indisputable) facts:

The ABC, CBS, and NBC stations that home dish owners receive under Section 119 carry by far the most popular programming available in the marketplace. These programs—such as Roseanne, Murphy Brown, Law and Order, Northern Exposure, 20/20, NFL Football, and the network evening news programs—are the main course of most families' television diets.

Under the "white area" restrictions of Section 119, the *only* families eligible to receive

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Footnotes at end of article.

ABC, CBS, or NBC programming from a satellite carrier are those who cannot obtain network programming over the air or through a cable system.

In other words, satellite carriers who deliver network station signals under Section 119 are providing their customers with their *only* access to the most popular programming available anywhere in broadcasting or cable. Yet as the law currently stands, satellite carriers pay much less to deliver a network station than to deliver an independent station, even though the network station's programming is *much more* popular with viewers.[4] This turns the market-place on its head.

Worse still, a recent CRT ruling about distribution of satellite carrier royalties creates a "double whammy" for the owners of programs carried on network stations. Based on the disparate statutory fees now paid into the royalty pool, the CRT divined a congressional intent (which we believe never existed) to create separate funds under Section 119 for network and independent stations.[5] Because of the CRT's ruling, the effect of the unfairly low rates charged for network stations is that the owners of all programs carried on network stations can share in only a tiny fraction of the overall satellite royalty payments, even though that programming commands the bulk of all viewership on satellite-delivered broadcast stations.

A single statistic will make the point: as illustrated on the attached charts, programs carried on network stations[6] accounted for 57.4% of all viewing of "Section 119 signals" in satellite households during a typical month; yet because of the discriminatory "pay-in" rates, the owners of those programs could collectively share (under the 1989-92 rates) only 9.0% of the royalties paid by satellite carriers for those signals.[7] This is obviously, and grossly, unfair.

The solution is simple: the rates paid by satellite carriers for network stations should be at least as high as those for independent station signals. If the Committee wishes to rely on the conclusions of the Arbitration Panel for the period 1993-94, the appropriate rate for all commercial stations should be at least 17.5 cents/month (if not "syndex-proof") or 14 cents/month (if "syndex-proof").[8]

MARKETPLACE RATES

As now written, Section 119 provides for a complex set of seven factors to be taken into account in adjusting the rates to be paid by satellite carriers. *See* §119(c)(3)(D). We respectfully suggest that this lengthy list of factors could better be replaced by a single factor: the rate that would be set in a free marketplace in the absence of a compulsory license.

The purpose of the compulsory license is to solve the problem of excessive transaction costs, not to provide a governmentally-mandated subsidy to satellite carriers. Yet the list of factors in Section 119 includes several that could lead future arbitration panels to vary—without sound justification—from a marketplace rate.

For example, the statutory directive to consider "any disruptive impact on . . . generally prevailing industry practices" (§119(c)(3)(D)(iv)) was read by the recent Arbitration Panel as a directive to ensure that rates not rise rapidly on a percentage basis—whatever marketplace conditions may be.[9] But if participants in the real-world market for similar programming face higher rates for similar programming, there is no reason why copyright owners should be saddled with a below-market rate here. Indeed, since the absolute amounts involved are tiny—a satellite carrier currently pays only 72 cents per household per year for a network station and a maximum of $2.10 per household per year for an independent station—the impact of even a large percentage increase is de minimis as a practical matter.

ENCOURAGING TRANSITION TO VOLUNTARY AGREEMENTS

As Chairman Hughes observed in introducing H.R. 1103, "some progress has been made toward private licensing of satellite service to unserved areas." We believe that the bill can be improved so as to encourage further progress in this direction. In particular, we suggest that the compulsory license for satellite carriers contain a sunset provision, under which the compulsory license would expire after a short period of years. A sunset was, of course, a critical feature of the 1988 Act. Absent such a provision, the satellite carrier industry is unlikely to come to the bargaining table to negotiate about a long-term voluntary solution.

CONCLUSION

ABC, CBS, and NBC strongly urge the Committee to: strengthen the enforcement mechanisms for the "white area" provisions of the Satellite Home Viewer Act; eradicate the unfair discrimination against network stations that is now embodied in Section 119's rate structure; direct future arbitration panels to apply a marketplace test in determining royalty rates, and add a sunset provision to encourage a rapid transition to a voluntary, marketplace solution.

FOOTNOTES

[1] Our comments here are limited to Title I of that bill.

[2] *See* H.R. Rep. No. 100-887, Part 1, at 14 (1988); H.R. Rep. No. 100-887, Part 2, at 19-20 (1988).

[3] *See 1991 Satellite Carrier Rate Adjustment Proceeding*, 57 Fed. Reg. 19,052 (May 1, 1992).

[4] As the satellite carriers admitted before the CRT, they charge as much or more for network signals as for independent station signals. *See 1991 Satellite Carrier Rate Adjustment Proceeding*, 57 Fed. Reg. 19,052, 19,060 (May 1, 1992) ("Carrier witness Hardy testified that the price charged in 1992 by PrimeTime 24 for network signals was about $12.50 per year per signal, while the price charged by Superstar Connection for superstation signals was $11.00 per year per signal.").

[5] *Consolidated 1989-91 Satellite Carrier Royalty Distribution Proceeding*, 57 Fed. Reg. 62,422 (Dec. 30, 1992).

[6] This includes programs distributed nationally by ABC, CBS, and NBC as well as local and syndicated programs carried on network stations.

[7] The rate adjustment adopted by the Arbitration Panel for 1993-94 would reduce this disparity slightly. Since the new rate continues to discriminate sharply against network stations, however, the disparity will continue to be very large. For example, if the current rates for carriage (14/17 cents for independent stations and 6 cents for network stations) had been applied during 1989-91, the network station share of total royalties would have been between 12.0% and 14.5%.

[8] A station is "syndex-proof," as defined in the Arbitration Panel's decision, if it does not carry programs that would be subject to the Federal Communication Commission's syndicated exclusivity rules if they were delivered by a cable system to the same household. 57 Fed. Reg. at 19,056 n.10.

[9] 57 Fed. Reg. at 19,059, 19,061.

CENTENNIAL ANNIVERSARY OF THE ARKANSAS BAPTIST HOME FOR CHILDREN

HON. JAY DICKEY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. DICKEY. Mr. Speaker, the Arkansas Baptist Home for Children in Monticello, AR, has been an integral part of the southern Arkansas community for 100 years. In 1894, a dream by a young woman named Hannah Hyatt became reality when she donated her inherited home and 80 acres of land to the Arkansas State Baptist Convention for the establishment of an Arkansas Baptist Home for orphan children. Ms. Hyatt, the daughter of early settlers in Arkansas, became very active and devoted to her church and community.

After the death of her parents, she opened her home to orphan children, and subsequently, in 1894, donated her home and land which became the Arkansas Baptist Home for Children. It has provided a great service to children and families in need of care and guidance by providing food and shelter, work and play, church and school. More than anything else, it's a place of love, care, and discipline for approximately 100 children each year.

The Arkansas Baptist Home for Children is celebrating its centennial year. Monticello mayor, Harold D. West, has proclaimed October 15, 1994, as Arkansas Baptist Home for Children Day, in Monticello, AR. I want to share with my colleagues this important centennial anniversary, and join with the citizens of southern Arkansas to extend congratulations and appreciation to the staff and children of the Arkansas Baptist Home for Children.

HONORING G. OLIVER KOPPELL

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ENGEL. Mr. Speaker, I would like to take this opportunity to recognize the accomplishments of my long-time colleague and dear friend, G. Oliver Koppell, the attorney general of the State of New York.

Oliver Koppell has always set the standard to which an elected official should aspire. His intellect, energy, integrity, commitment and decency have always been exemplary.

Mr. Koppell will be leaving elected office at the end of December after 24 years of public service. His career has been one filled with stellar achievement that is marked by an unparalleled dedication to his constituents. He was the author of New York's bottle bill that was years ahead of its time, and he is recognized as a leader on such issues as tenants' rights, Government ethics, minority opportunity, and domestic violence. I know of no other public official who can match the record of Oliver Koppell.

I met Oliver more than 20 years ago when we first worked together to reform the Democratic Party in the Bronx and in New York State. Oliver was elected to the New York State Assembly in 1970 in a special election, under the banner of the "Reform Party," defeating the entrenched political establishment. Seven years later, he helped me accomplish the same feat in a special election for my assembly seat.

Oliver Koppell and I served together as colleagues in Albany for 12 years, and I was fortunate to be able to work closely with him in both legislative and political affairs. He has been an ally and close personal friend, and we have always stood side-by-side during both good and bad times. We fought many political battles together in the Bronx, trying to reform the Democratic Party and supporting candidates whom we believed made a positive difference in people's lives.

During his tenure in the State assembly, Oliver Koppell rose to chair the Corporations Committee, and later the very powerful Judiciary Committee. After 23 years in the assembly, his legislative colleagues unanimously chose him to be New York's attorney general, filling a vacancy for that position. This appointment says a great deal about the high regard in which Oliver Koppell is held by his colleagues in government. Those that know him best selected him for this very important position. I am so proud of the job Oliver Koppell has done as State attorney general.

Wherever his career path takes him next, I know Oliver will never lose his feeling for public service that is so familiar to those of use who know him well. He will always be involved in the community and he will always speak out and act when he sees injustice.

I am proud to call Oliver Koppell my friend, and consider it an honor to have fought by his side for so many years. I wish him all the best as he embarks on a new phase of his life. On behalf of the local community, I thank him for all his efforts on our behalf. I also thank his wife, Lorraine Coyle Koppell, and his children, Carla, Jonathan, and Jacqueline, for sharing Oliver with us.

CONGRATULATING LT. COL. ROLLAN HARDY ON HIS RETIREMENT FROM THE AIR NATIONAL GUARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. MONTGOMERY. Mr. Speaker, I want to take this time to pay tribute to Lt. Col. Rollan E. Hardy of Waldorf, MD, who retired from the Air National Guard last month after more than 29 years of service to our country.

His professionalism, knowledge and experience in fiscal management matters made things run smoothly at the Air National Guard Readiness Center, where he served as accounting and finance officer and chief of plans and programs for more than a decade. He is a great American and I want to salute Colonel Hardy for a job well done.

LT. COL. ROLLAN E. HARDY

Lieutenant Colonel Rollan Hardy enlisted in the 140FW Colorado Air National Guard in May 1965. He served as a traditional guardsman in the Accounting and Finance section until January 1968 when he was called to active duty during the Pueblo Crisis. Lt Col Hardy served for sixteen months at 12AF Headquarters, Bergstrom AFB, Texas until being released from active duty on 30 May 1969.

Lt Col Hardy returned to Colorado and accepted a full-time Accounting Technician position with the Colorado Air National Guard in August 1969. He also held the positions of Accounting Superintendent and Accounting and Budget Superintendent. Lt Col Hardy was commissioned through the ANG Academy of Military Sciences commissioning program in February 1980.

After receiving his commission, Lt Col Hardy served for a short time as the Budget Technician and then as the Budget Officer for the 140FW. Lt Col Hardy accepted a position with the National Guard Bureau in February 1983, with an assignment to the Air National Guard Support Center as a Budget Staff Officer. He served as the Chief, Budget Execution, during this division's infancy stage, and went on to serve as both the Accounting & Finance Officer and the Chief of Plans and Programs during his 11-year tenure with the Air National Guard Readiness Center.

Lt Col Hardy has a Bachelor of Science Degree in Business Management from the University of Colorado and has completed Air Command and Staff College by seminar. Among his military decorations, he has been awarded the Air Force Meritorious Service Medal (2OLC) and the Air Force Commendation Medal (1OLC). Lt Col Hardy is married to the former Gloria Jean Adams and is blessed with three children and three grandchildren.

A TRIBUTE TO CIRCUIT JUDGE ZOE S. BURKHOLZ

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. UPTON. Mr. Speaker, I rise today to bring to your attention, and to pay tribute to, Circuit Judge Zoe S. Burkholz; a person who has dedicated her life to the people of Michigan and to the law of our great country.

A resident of Benton Harbor, MI for most of her life, Judge Burkholz received her A.B. degree from the University of Michigan in 1945 and her juris doctor degree from the University of Michigan Law School 2 years later.

In 1952 Judge Burkholz embarked on her life of service by winning an appointment from Governor G. Mennen Williams to the bipartisan Board of State Canvassers, the board which supervises and certifies State elections. Reappointed to this body by three successive Governors, Judge Burkholz was eventually made the board's chairman and served in this highly esteemed position for a total of 12 years.

In addition to the critical task of overseeing State elections, Judge Burkholz has donated her time and energy to the people of Michigan by serving as a delegate to the State Health Coordinating Council and by serving on Governor Milliken's Advisory Committee for State Correctional Health Care. Besides these activities, she has also been actively involved with the Girls Scouts, Boys Scouts and YMCA.

In 1972, Zoe Burkholz left her law firm of 25 years to be elected a probate and juvenile judge of Michigan for the county of Berrien. Judge Burkholz continued to interpret and uphold the law from the bench for another 22 years, highlighted by her 8 year service as chief circuit judge.

Mr. Speaker, Judge Burkholz has used her keen intellect, strong sense of values and deep commitment to public service to truly make a difference in the lives of so many in southwestern Michigan. Her efforts, dedication and self sacrifice are to be applauded and emulated. I feel honored to have her as one of my constituents and friends.

A TRIBUTE TO ALLEN TEMPLE BAPTIST CHURCH UNDER THE LEADERSHIP OF REV. J. ALFRED SMITH, SR., AND REV. J. SMITH, JR.

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. DELLUMS. Mr. Speaker, I rise today with pride and honor to share with you and my colleagues a tribute to Allen Temple Baptist Church in celebration of its 75th anniversary as a pillar and institution in Oakland, CA. Located in the heart of East Oakland and under the leadership of Rev. Dr. J. Alfred Smith, Sr., and Rev. J. Smith, Jr., Copastor, the church has grown from 21 members in 1919 to over 4,000 members. Allen Temple Baptist Church services thousands of citizens through numerous ministries and community services. The current church includes a 1,500 seat sanctuary with educational facilities and, through its development corporation, has constructed two senior citizen housing complexes with 126 apartments. Future plans include building a family life center.

Allen Temple's commitment to its community is long and deep. Church sponsored Scout and athletic programs minister to youth while social service programs provide help with food, housing, clothing, crisis assistance programs, and employment services. Health, education, and senior programs serve those with special needs. The church's broader ministries include the support of a school, church, and health clinic in Sierra Leone, West Africa. The four-star rated Allen Temple Federal Credit Union, with assets over $2 million, is the only financial institution serving the East Oakland community and Allen Temple members.

Allen Temple sponsors a drug and alcohol rehabilitation program. The members of the business and professional women committee raise over $50,000 in scholarships for students with a financial need. Under the leadership of Dr. Smith, a ministers-in-training program has been established for young ministers preparing for the ministry. Ten ministers from the program were ordained in July 1993.

Dr. J. Alfred Smith, Sr., has served Allen Temple for 23 years. Recipient of over 175 awards, Dr. Smith serves on community and corporate boards, including the chancellor's advisory board at the University of California at Berkeley. He is the founder of the Bay Area Black United Fund, and chairman of the public safety task force which recently sponsored a city-wide conference on violence prevention.

I pay tribute to the achievements of Allen Temple Baptist Church and its continued success as a stable, influential pillar of the community.

WELCOME TO REPRESENTATIVE BENJAMIN LU

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. LAZIO. Mr. Speaker, I rise today to extend my personal welcome to Representative Benjamin Lu of the Republic of China on Taiwan, who arrived in Washington on September 30, 1994. I wish him a most productive and pleasant stay.

The district I represent maintains a very close business relationship with Taiwan, which is not only a major customer of my district's products but is also an important market for United States exports. Last year, our two-way trade amounted to $41.3 billion, making Taiwan our 5th largest trading partner.

Over the past 2 years, I have enjoyed the friendship and support of Representative Moushih Ding, who worked diligently to strengthen the ties that bind our two countries. I now look forward to working with Representative Lu, who I understand is an expert on trade matters, to continue this good relationship.

I would also like to take this opportunity to extend my congratulations to Representative Lu, as the Republic of China's 83d National Day approaches.

TRIBUTE TO PLUM BROOK COUNTRY CLUB ON THE OCCASION OF ITS 80TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to the Plum Brook Country Club on the occasion of its upcoming 80th anniversary.

Originally organized in 1914 as the Sandusky Golf Club, with $600 invested for grass seed, the royal and ancient game of golf was introduced to the city of Sandusky. From its humble beginnings—one observer called it a "crow pasture"—the club has evolved into one of the most respected courses in the Midwest.

As membership grew, the board of trustees decided to upgrade the location. This resulted in the location and purchase of the land at Galloway and Hull Roads. This new location had rolling terrain and Plum Brook flowing through the property. Thus the change in location and new name for the club, Plum Brook Country Club, in 1916.

Over the years, additional land has been acquired and the layout expanded, to create the present sporty and challenging course. Many prestigious golfing names have played Plum Brook and commented favorably on the course. The club has hosted many tournaments in its history and is currently hosting the Ohio Senior Open. Plum Brook is also the permanent home of the Northern Ohio PGA Golf Hall of Fame. Plum Brook is a family club and places an emphasis on junior golf. In fact, it has the honor of having the first national caddy champion.

Mr. Speaker, anniversaries are a time to reflect upon a accomplishments. They are also a time to look toward new horizons. It is obvious that the Plum Brook Golf Club has greatly enhanced the quality of life for the Sandusky community and the members of the club since its humble beginnings in 1914. Today, I ask my colleagues to join me today in recognizing the growth and achievement of the Plum Brook Country Club and to wish them many more years of service and sportsmanship.

JOE LANG KERSHAW: AN AMERICAN HERO

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. MEEK of Florida. Mr. Speaker, in the 1930's a young black college student found a job as a janitor sweeping up cigarette butts off the floor of the all-white Florida Legislature In order to pay for his school expenses at Florida A&M University. Joe Kershaw did that job, and he received his bachelor's degree in history and social studies. He continued with his studies and earned his master's degree in administration and supervision. Joe Lang Kershaw has always worked hard to make a difference, and what a difference he's made.

Just a few years after his humble beginnings sweeping trash off the floor of the Florida Legislature, Joe Kershaw returned there, only this time as the first African-American elected to the legislature since Reconstruction.

Joe Lang Kershaw did not stop while he was a janitor, and would not stop as a legislator. He served as vice chairman of the House Committees on Health and Rehabilitative Services, as well as the Committee on Regulated Industries and Criminal Justice. As chairman of the Elections Committee, Mr. Kershaw hand-crafted the reform of the State's election code, and thereby created a system of increased representation and public participation in the electoral process.

Some of Joe Lang Kershaw's finest accomplishments have been in the field of education. He established the Black Archives Research Center and Museum at Florida A&M University, which today is one of the largest repositories of African and African-American artifacts and papers in the Nation.

This past August, Mr. Kershaw was awarded an honorary doctorate from Florida A&M, the very same university he worked so hard to attend so many years ago. It is a fitting way to thank an individual who has played such an important role in opening doors for citizens of all colors and origins, and who has consistently placed the wants of the community before his own personal needs. He is an inspiration to his community, his State, and to his Nation. We are proud of his accomplishments, and thank him for a job well done.

COMMENDING PAT RISSLER ON A DISTINGUISHED CAREER

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. SAWYER. Mr Speaker, I rise today to express my gratitude and appreciation to Pat Rissler, staff director of the House Education and Labor Committee, who will be leaving the Hill at the end of this year after a distinguished 30 year career.

For much of her career Pat has been the "eyes and ears" of BILL FORD who chaired both the Post Office and Civil Service Committee and the Education and Labor Committee. Actually, that is how Pat describes herself and her job. As most of us who know Pat well, that is a considerable understatement.

Pat has applied her steady hand and incisive political instincts, in two committees, to enactment of some of the most social legislation of the past three decades. That includes the Higher Education Act, the Civil Rights Act of 1990, the Family and Medical Leave Act, the Workplace Fairness Act and most recently the most far-reaching reform of America's aid programs to elementary and secondary schools since its enactment in 1965.

Most of these proposals, and a host of others that I have not mentioned, were the results of complex and difficult negotiations. Pat was always there, setting priorities, making the tough judgment calls and dispensing humor and good will to everyone. She is, in my view, the exemplar of grace under pressure.

I don't know how many people can claim with a straight face to do what Pat has done over the last 30 years, and that is, devote her professional life to advancing the rights and opportunities of the people of this Nation and making life more pleasant for the people around her.

I will miss her, everyone that has worked with her will miss her; but this institution will really miss her.

Mr. Speaker, thank you for providing me with this opportunity to join Pat Rissler's legion of admirers and to wish her good luck in her future endeavors.

CONGRESSIONAL RECORD INSERT SALUTE TO SIMI VALLEY ON THE CITY'S 25TH ANNIVERSARY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a place I have called home for nearly three decades—the city of Simi Valley, which this year is celebrating the 25th anniversary of its incorporation.

Like many other long-time residents, I was originally drawn to the area that would become Simi Valley because of its rural atmosphere and reasonable home prices. Back then, Simi Valley was a place where you could buy more home than you thought you could afford and enjoy a quality of life you didn't think was possible so close to a large metropolitan city like Los Angeles.

Housing prices have increased over the years as word of Simi Valley spread, but both new and established residents continue to enjoy the city's rural atmosphere and Western flavor. Even as the city has grown—now numbering more than 100,000 people—Simi Valley has retained its small-town feel and sense of community.

The city has also had success in building up its commercial and industrial base. As a former mayor, I am happy to have been able to play some small role in Simi Valley's transition from a bedroom community to one in which people can live, play, work, and shop.

As a result of this progress, Simi Valley today is a very different place than it was when I moved in nearly 28 years ago. Thankfully, the changes that have come have been positive and the qualities of the city that people enjoy most have been retained over the years.

In the face of higher crime rates around the country, Simi Valley continues to be a very safe place to live and to raise a family. It continues to be a physically beautiful place, a picturesque valley surrounded by scenic mountains. And it continues to be a place where you not only know your neighbors, you consider them friends.

With the recent opening of the Ronald Reagan Presidential Library, Simi Valley has become a destination point for both tourists from across the Nation and some of the leading figures from the political world.

When this wide variety of visitors converge on Simi Valley they will recognize what long-time residents already know, that this city in eastern Ventura County—now 25 years old—has made dramatic progress over its short history while still retaining the qualities that make it very similar to the sleepy bedroom community that newcomers such as myself found so alluring all those years ago.

U.J. BRUALDI, JR. AND ADT SECURITY SYSTEMS RECEIVE CARL M. LOEB, JR. AWARD

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. SAXTON. Mr. Speaker, on September 30 of this year, a truly outstanding businessperson, U.J. Brualdi, Jr. and the corporation which he leads, ADT Security System, Inc., were presented with the Carl M. Loeb, Jr. Award. This award was presented by the National Crime Prevention Council [NCPC] at its annual board meeting in New York City. It is fitting that in this, the company's 120th anniversary year, ADT be honored.

Mr. Brualdi, president and chief executive officer of ADT Security Systems, has long been a champion of corporate community involvement and has consistently stressed its importance to ADT Associates nationwide. While serving as the leader of this major international corporation, Mr. Brualdi has been a dynamic pacesetter in business and in spurring ADT to a remarkable record of corporate citizenship.

In 1986, ADT was an active partner in the funding, development, and distribution of more than 20,000 corporate action kits. This vital resource has provided tools for businesses large and small across the country which help make workplaces and employees safer both on the job and in the community.

A second major ADT initiative was the creation of the National Spotlight Awards luncheon series. Mr. Brualdi launched this program in 1987, which highlighted local citizen's extraordinary efforts in crime prevention at the grassroots. Initiated in Kansas City, the program was honored with great local acclaim, and as of this month, luncheons have been hosted by the mayors of 15 of America's largest cities. This ongoing spotlight series culminated in a White House ceremony.

ADT's most recent community effort is the creation of the nationally recognized AWARE [Abused Women's Active Response Emergency] program. The program places security systems and emergency pendants in the homes of battered and abused women. Started in 1992, this unique program features the cooperation of both public and private sectors of the community. AWARE has extended to more than 25 cities, and it is now credited with helping to save the lives of 14 women.

In 1990 Mr. Brualdi was elected to the NCPC board of directors in recognition of his longtime commitment, and that of ADT, to the prevention of crime, NCPC is a nonprofit educational organization best known for, McGruff the crime dog public education campaign and informative materials for community action.

ADT Security Systems is a leading provider of electronic security services and vehicle auction services with operations in North America, the United Kingdom, and continental Europe. ADT is the largest single provider of electronic products and services worldwide. ADT helps safeguard nearly 1 million customers, including more than a half million homeowners, as well as 493 of the Fortune 500 companies.

Mr. Brualdi and ADT are the fourth recipients of the Carl M Loeb, Jr. Award. ADT is the first corporation so honored with the Loeb Award.

Mr. Speaker, I am honored to recognize the efforts of Mr. Brualdi and ADT Security Systems, Inc.

TIMOTHY J. MORENCY, TWO DECADES OF OUTSTANDING LAW ENFORCEMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. SOLOMON. Mr. Speaker, Timothy J. Morency was born in Fort Edward, NY with law enforcement blood in his veins.

His father was Fort Edward police chief during the 1950's, and Mr. Morency always dreamed of being a police officer. And I and many others are glad that he pursued that dream, including a number of people who wouldn't be alive today without him. He worked for short periods of time with the New York State Department of Corrections and with the New York State Capital Police. But in 1973 he returned to Fort Edward and joined the Village Police Department. And now, nearly 21 years and many commendations later, Officer Morency is retiring.

Mr. Speaker, many days and nights of a law enforcement are routine, but when a crisis occurs, the officer involved must respond quickly and calmly. Lives may be at stake, or the apprehension of a dangerous felon may depend on the professionalism of the investigators on the scene. Officer Morency was tested a number of times and he always came through with flying colors.

On the bitterly cold night of December 27, 1980, Officer Morency was on patrol when he discovered a serious fire in progress. His quick response to the fire, sounding the alarm and leading residents of the building to safety, kept loss of life to a minimum and prevented the fire from spreading to adjoining buildings.

On another occasion, he discovered a fire in a barn close to the farmhouse. He alerted the sleeping family, all of whom most certainly would have perished.

On at least two occasions, his initial investigation at the scene of homicides led to the arrest and conviction of the perpetrators.

Mr. Speaker, I've written Officer Morency to commend him, and he has been cited by the Fort Edward village board and by the Washington County board of supervisors. But since it is people like Officer Morency who make this country the greatest in the world, and who make our smaller towns and villages such nice places to live, I wanted to share his story with you.

Officer Morency will be honored at an October 14 testimonial dinner. Let us pay our own tribute today. Please join me in saluting Officer Timothy J. Morency for more than 20 years of the highest professionalism in the field of law enforcement, and to wish him all the best in the future.

TRIBUTE TO HENRY MROZ

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. MEEHAN. Mr. Speaker, I rise to note the passing of Mr. Henry Mroz, a former school superintendent and school committeeman of Lowell, MA.

Henry Mroz will be remembered for many great attributes; his professionalism, intellect and dedication to name a few. But more than anything else, Henry Mroz will be remembered for spearheading a $131 million school building and renovation program that is scheduled for completion next year. Mr. Mroz was the prime mover in securing the Federal funding for these schools and is overseeing their construction. It is these schools that will serve as a lasting monument to him for generations to come.

A Lowell High graduate, Mroz held a master's degree in education from Fitchburg State College and a law degree from the New England School of Law.

In 1982 he became superintendent after serving as the director of Federal programs for the Lowell schools from 1969 to 1981 and the assistant superintendent of the Lowell schools in 1981. He previously taught math, history, and science in the classroom.

Henry Mroz will be remembered for leading the schools through the sometimes turbulent 1980's, when the system's populations of Southeast Asian youths skyrocketed from 1 percent to more than 25 percent. During this time, Mr. Mroz demonstrated his leadership skills, keeping the school system on track and guiding it through challenges it had never seen before.

His commitment to education in Lowell will never be surpassed. Mr. Mroz and his wife Theresa had no children of their own, but there was never any doubt that both regarded the 13,000 children of the Lowell public schools as their own.

Henry Mroz succumbed to a heart condition that he had struggled against with strength and courage. Friends and family, as well as the city of Lowell, will be forever in debt to the contributions that Henry Mroz made to the Lowell schools during his long tenure. I join in paying tribute to this distinguished man. He will be missed by all who knew him.

TRIBUTE TO WILLIAM E. WOODS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. PICKLE. Mr. Speaker, I rise today because I could not let my service to the 10th District of Texas conclude without making a few remarks in recognition of my good friend and schoolmate, William E. Woods. Bill and I have known one another since our days at the University of Texas, and although he has since retired to Maryland, I am proud to claim him as one of Texas' own.

Born in the small town of Ballinger, TX, in 1917, Bill Woods spent his high school years working in a local drug store. Under the positive influence of his employer and mentor, he went on to University of Texas to pursue degrees in both pharmacy and law. He practiced law in Corpus Christi, TX, and served as the first director of the University of Texas Pharmacy Extension Service. In 1964, Mr. Woods began a 20-year association with the National Association of Retail Druggists, serving as associate general council until 1976 when he was made CEO and executive vice president.

Bill Woods has been a tireless advocate of the independent retail pharmacists of this Nation, and defended small business as an essential component of the American economy. He also helped secure the survival of the independent pharmacist by focusing the Nation's attention on big business interests which threatened this vital industry.

In recent years, Bill Woods established the William Ellis Woods Endowed Presidential Scholarship in Law to benefit students with a special interest in health care law. In addition to his commitment to the pharmacy industry, this endowment is an indication to his civic pride and his appreciation for the opportunities he has been afforded.

In my years of association with Bill Woods, I have found him to be an admired colleague, an intelligent and dedicated advocate of the pharmacy industry, and a true friend. I am sure that all Members of the House join me in wishing him and his wife Martha many years of happiness in their well-earned retirement.

THE WOMEN'S PROGRESS ASSESSMENT ACT OF 1994

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. SCHROEDER. Mr. Speaker, the International Conference on Population and Development in Cairo was a turning point for the world's approach to population policy. For the first time, nations of the world agreed that women are the key to ensuring a livable world for our children and grandchildren.

The 160-plus countries involved agreed that we can only stabilize population by addressing women's needs in a holistic way, and improving women's health, women's jobs, and women's power over their own lives instead of simply promoting contraceptives.

U.S. Congress nor parliaments from around the world can give life to the document's words, however, unless we first understand the complexities of women's lives.

Timely and reliable data on women around the world is critical to understanding women's lives, and therefore, key to the effective implementation of the Program of Action and in evaluating the cost-effectiveness of U.S. domestic and foreign assistance programs.

Unfortunately, the information available is inadequate, and defies comparison between countries, and is not generally published or analyzed in a useful form. Because empowering women is the critical element for transforming the world in the 21st century, we need to know the whole story. Today, my colleague, Rep. CONNIE MORELLA and I are introducing the Women's Progress Assessment Act of 1994 to give us the tools we need to learn the whole story.

A SALUTE TO DANIEL M. ROSS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. WOLF. Mr. Speaker, I want to bring to the attention of my colleagues the annual Northern Virginia Community Foundation's Founders Award, which this year on October 21, at the Sheraton Premier Hotel in Tysons Corner, will be presented to an outstanding citizen of northern Virginia—Daniel M. Ross.

The Northern Virginia Community Foundation was established in 1978 by a group of northern Virginia residents seeking to improve the community in which they live. The foundation is a nonprofit community endowment which has provided grants totaling nearly $1 million to support the arts, education, health, youth, and civic improvement for the benefit of northern Virginia.

The foundation's Founders Award presented each year pays tribute to the vision and commitment of individuals for their outstanding community service and dedication to the betterment of northern Virginia and to promote awareness of the significance of individual action in improving the quality of life for all persons in the community.

Daniel M. Ross, the 1994 Founders Award recipient, epitomizes the meaning behind the award through his personal support of, dedication of, a variety of issues and community needs. As a long-time active member of the community, he is a trustee of the Marine Corps Command and Staff College Foundation and a member of the board of the Marine Corps Executive Association, the Marine Corps Scholarship Foundation, and the Northern Virginia Community Foundation. He has been a major supporter, both personally and through his major business holdings, of the Close-Up Foundation, No Greater Love, American Heart Association, American Cancer Society, and a host of other causes.

A practicing attorney and real estate developer, Daniel Ross moved to the Washington area from his native Pennsylvania to attend the George Washington University, where he received his bachelor of arts, masters, and law degrees following noteworthy service as a combat Marine during World War II and the Korean conflict. He began his legal career after being admitted to the District of Columbia Bar in 1954 and subsequently became involved in real estate investment. In addition to land holdings, he owns and operates five Washington area hotels and several office buildings.

Professional and community service achievements mark the life of Daniel Ross. His dedication to the betterment of northern Virginia serves as a reminder that each individual can make a difference. On behalf of all northern Virginians, I offer him sincere congratulations and best wishes as the 1994 Founders Award recipient.

AMNESTY INTERNATIONAL BARRED FROM TURKEY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. HOYER. Mr. Speaker, in what is becoming an all too frequent occurrence, I again rise to protest actions by the Turkish Government which raise serious questions about professed human rights commitments. Amnesty International's leading researcher on Turkey, Jonathen Sugden, has been declared persona non grata and is now barred from entering Turkey to look further into the deteriorating human rights situation of Turkey's Kurdish population.

Mr. Speaker, I do not need to detail for this body the excellent work Amnesty International does around the world. As cochairman of the Commission on Security and Cooperation in Europe, I know the value of Amnesty's human rights research and reporting. Its grassroots membership around the world often serve as the eyes, ears, and conscience of governmental and nongovernmental efforts to promote human rights protections, indeed to save lives.

Over the years, the Government of Turkey has understandably resented Amnesty's attention to widespread torture, political prisoners, and the brutality used to suppress Kurds. Yet through Turkey's leadership denounced Amnesty's findings as being politically motivated and often refused to meet with Amnesty officials, they nevertheless allowed Amnesty researchers access to the country. If leaders of Turkey now believe that by barring human rights investigators they will escape embarrassing scrutiny, they have again seriously miscalculated. Such action will only draw increased interest and attention to the very practices the Government seeks to keep out of view. This issue will surely be raised at the upcoming CSCE Budapest Review Meeting Conference and will likely contribute to calls by a number of states to invoke the Moscow Human Rights Mechanism to mandate a CSCE monitoring mission to Turkey.

Mr. Speaker, the Turkish Government continues to view its human rights problems as a result of terrorism employed by the Kurdish Workers Party [PKK]. For years Turkish Governments have vowed to crush the PKK militarily. And while this objective is understandable, in the process of combating the PKK, the Government has waged war upon its own citizens—razing Kurdish villages, destroying livestock and crops, and forcing over 1 million Kurds to become refugees in their own country. In effect, their actions have generated more recruits for the PKK than the PKK could have ever enlisted itself.

Mr. Speaker, I am coming to believe that despite our mutual strategic and economic interests we should express serious reservations about continuing to provide the weapons Turkey uses on its own citizens. The action taken by this Congress to condition 10 percent of Turkey's foreign assistance on human rights performance indicates growing concern, yet affects only a small amount of favorable loans. Turkey also receives billions of dollars of excess defense equipment and other assistance, and perhaps it is time that we consider conditioning this.

50 YEARS OF EDUCATIONAL EXCELLENCE

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. KIM. Mr. Speaker, it gives me great pleasure to recognize the scholastic excellence of the students, teachers, and administration of the Ontario Christian School.

In 1944, a small group of parents founded the Ontario Christian School in a rented garage which they renovated for $800 into a one room schoolhouse. Since that humble beginning, the school has continued to expand into the largest private K–12 system in the Inland Empire area of California.

The high school, which is accredited by the Western Association of Secondary Schools and Colleges, sends out its graduates into a variety of careers which helps serve the community as well as the State and the Nation.

Mr. Speaker, the school will be celebrating its 50th anniversary during the week of October 23, 1994. This celebration will reflect the historic Christian roots that the school was founded on and retains today.

Mr. Speaker, again I want to offer my congratulations on 50 years of educational excellence to the Ontario Christian School.

HENRY LUCE III HONORED FOR COMMITMENT TO THE ARTS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues an important event which will take place in my district on Tuesday, October 11. On that day, the American Association of Museums will present Henry Luce III, chairman and CEO of the Henry Luce Foundation, with the AAM Medal for Distinguished Philanthropy. The presentation will be given at the Metropolitan Museum of Art.

Mr. Speaker, no award could be more deserved. Henry Luce III, has spent a lifetime contributing to American art. Beginning in 1956, when he supervised the construction of the Time-Life building in Rockefeller Center, Mr. Luce's love and commitment to the arts has grown over the past four decades.

In 1982, the Henry Luce Foundation created its first formal support program for the arts. After considering where resources were most necessary, the foundation embarked upon a critically important quest to support art museums—perhaps the most important intellectual resource in the field of the arts.

And during the past 12 years, the foundation has provided a huge boost to American art. By giving over $30 million in support of catalogs and exhibitions at major and minor museums across the country, the Henry Luce Foundation has brought remarkable American art to those who otherwise would never have had the chance to see it.

It is, of course, particularly appropriate that Mr. Luce will be honored at the Metropolitan for his contributions. For it is at the Met that the Henry Luce Foundation made possible, by a gift of $3.5 million, the creation of the Henry Luce Center for the Study of American Art. The Luce Center has made available an entire collection of wondrous works which had never before been accessible to the public. And the center, with its high-technology computer system, represents a new step forward in the integration of art and technology.

Mr. Speaker, art gives our lives meaning. It uplifts our spirits, it challenges us; the need to express ourselves is, after all, our must unique human quality. When we support the arts, we make it possible for humanity to move forward. Henry Luce III, has truly earned recognition for his distinguished philanthropy, and I hope all of my colleagues here will join the American Association of Museums in congratulating him for his achievements.

RECOGNITION FOR MITCH KEHETIAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. LEVIN. Mr. Speaker, on September 21, 1994 at the annual meeting of the Michigan State Bar, the membership chose to recognize the efforts of Mitch Kehetian to focus attention on the need for truth in sentencing and ending early parole of violent criminals.

Mitch Kehetian has used his position as editorial page editor of The Macomb Daily to responsibly address serious problems facing Macomb County, the State of Michigan and the Nation as a whole.

It is for this service to our community that the Michigan State Bar chose to bestow upon Mitch the 21st Annual Wade H. McCree, Jr. Award for the Advancement of Justice.

I insert into the CONGRESSIONAL RECORD a story from the Macomb Daily detailing the award to Mitch and I join many people in congratulating him on his continuing achievement and well-deserved recognition.

The article follows:

MACOMB DAILY EDITORIAL PAGE EDITOR HONORED

Mitch Kehetian, editorial page editor of The Macomb Daily, will be recognized this week by the State Bar of Michigan as one of the winners of the 21st Annual Wade H. McCree Jr. Awards for the Advancement of Justice.

Kehetian, a former president of both the Detroit Press Club and the Society of Professional Journalists, Detroit Chapter, will be honored for a series of columns that called for the adoption of truth-in-sentencing guidelines in the criminal justice system.

Other print category winners include the Delta Reporter in Escanaba, and the Detroit Free Press.

Winning entries in the broadcast category include WKAR Radio in East Lansing and WEYI–TV in Clio.

The McCree Awards recognize Michigan's print and broadcast professionals whose works have made outstanding contributions to the advancement of justice by fostering greater public understanding of our legal system, exposing abuses and serving as a catalyst for change.

Kehetian's winning entry was a series of columns examining the need for truth in sentencing in Michigan and across the nation.

The series also called on the judiciary to enforce mandatory sentencing to help stop the early parole of felons convicted of violent crimes.

The veteran editor's series cited examples of homicides committed by felons who had been released on parole prior to having served the minimum of their sentences.

Thomas C. Oren, director of communication for the State Bar, said Kehetian's award marks the "first time editorials or opinion pieces have been so recognized" in the McCree Awards competition.

The winning print entry by the Delta Reporter, was a series that examined divorce cases in Delta County, its Friend of the Court and decisions reached by the Upper Peninsula court.

Two Free Press articles were chosen. "The Other Class of '93" pointed out that more young men in Detroit graduate into the adult criminal justice system than receive diplomas from the city's high schools, and the second winning entry took an in-depth look at the staff and office of Oakland County Prosecutor Richard Thompson.

The order in which the winners were selected will be announced Wednesday during a luncheon of the State Bar's 59th annual meeting at the Cobo Conference/Exhibition Center in Detroit.

For the Daily, this is the third Wade McCree award in the past five years.

Reporters Chad Selweski and Frank DeFrank twice won state honors for series on a Macomb County Jail furlough program and then on the plea bargaining practices of the Macomb County prosecutor's office.

The McCree Awards honor the late Wade H. McCree, Jr., an early supporter of the competition and a distinguished lawyer, judge, law professor and solicitor general of the United States.

HONORING THE SERVICE OF CHAIRMAN ROMANO MAZZOLI

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to an outstanding public official, good friend, and distinguished colleague who is retiring from this House after 23 years of service to the people of Kentucky's Third District and the people of the United States.

I have had the privilege of serving on the Immigration Subcommittee under the leadership of Chairman ROMANO MAZZOLI during my first term in this House. I have greatly appreciated his fairness in the conduct of the subcommittee, as well as his guidance and expertise in the fields of immigration and refugee law.

We are a nation of immigrants, coming here from every corner of the world, seeking freedom from oppression, a shelter from the ravages of war, and the promise of a better life in America. The work of the Subcommittee on International Law, Immigration and Refugees touches on this uniquely American phenomenon. We are Americans not so much because of where any of us or our parents were born, but because of where we are all going, our dreams, our aspirations and our values. To the extent that we share a common heritage, it is from the experience of our families seeking freedom, tolerance, peace and a better life. Although our subcommittee is not often in the headlines, we always deal with matters which go to the very heart of what this great country about.

I also want to reflect on Chairman MAZZOLI's encyclopedic knowledge of the subcommittee's subject area. It is an important ingredient in his success. Chairman MAZZOLI's views and observations have always proved enlightening and helpful.

Mr. Speaker, while many voters have become angry and cynical about our Government, I think we should all reflect on the retirement of the gentleman from Louisville. His personal decency, his collegiality, and his firm grasp of the often complex issues before the Congress, and his workmanlike approach to the job of Representative, typify what I think voters want to see in their elected officials from across the political spectrum. I want to join every Member of this body and the American people in thanking Chairman MAZZOLI for his career of outstanding service to this Nation.

SOUTH END LADIES DEMOCRATIC CLUB

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. KENNELLY. Mr. Speaker, this month, one of Hartford, CT's most cherished organizations will celebrate its silver anniversary—the South End Ladies Democratic Club of Greater Hartford.

This club of dedicated women has worked for 25 years on behalf of many worthy causes. The Leukemia Society of America, Save the Children, Big Brothers, St. Jude's Children's Hospital, and the Cooley's Anemia Society are but a few of the groups to benefit from the work of the South End Ladies.

All of its members throughout the years deserve our thanks, but one lady stands out in particular. Vinnie Russo, the club's founder and mentor, deserves special recognition. She, along with the entire Russo family, guided the club to reflect their concern for the city of Hartford and the entire State of Connecticut. Today, that family tradition of caring continues through the work of Linda Peterson Russo as president.

Many other South End women have shaped the club over the past 25 years. It was their vision, hard work, and commitment that enabled the club to grow and prosper, and that resulted in benefits for numerous organizations.

I am pleased to congratulate the South End Ladies on their silver anniversary and I wish them well as they continue their good works for Hartford and Connecticut.

A TRIBUTE TO MOU SHIH DING

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ACKERMAN. Mr. Speaker, Mou Shih Ding has recently completed 6 years of service as the Representative of the Coordination Council for North American Affairs, Taiwan's unofficial representative office in the United States. In his capacity as Taiwan's unofficial ambassador to Washington, Mou Shih Ding worked tirelessly to improve the level of dialog and understanding between the United States and its fifth largest trading partner, Taiwan. During his tenure, the Coordination Council for North American Affairs helped to facilitate an ever-growing relationship between the United States and Taiwan.

Many of our colleagues have traveled to this bustling island off the Chinese mainland, to learn, firsthand, how the 23 million residents have transformed Taiwan from a largely rural economy to an industrial and technological powerhouse in less than 50 years. Today, Taiwan is the world's 14th largest trading nation. Its annual per capita income exceeds U.S. $10,000. Its foreign exchange reserves are greater than U.S. $80 billion and it has become the world's seventh largest outbound investor. Taiwan is on the cutting edge of major industries such as steel, shipping, and computers.

Mr. Speaker, during the past 6 years Mou Shih Ding has worked to make certain that the bonds between the United States and Taiwan have grown even stronger. A thoroughly professional diplomat, Mr. Ding has guided the Coordination Council with an even-handedness and a quiet resolve which have yielded several important successes. Among these successes has been the growing movement in the U.S. Congress to change the nature and level of our Government's relationship with Taiwan to more accurately reflect Taiwan's increased economic stature in the world order, as well as its longstanding friendship with the United States.

Mr. Speaker, Mou Shih Ding is returning to Taipei to assume a new assignment as Secretary General to the National Security Council. I know my colleagues join me in wishing Mou Shih Ding and his lovely wife, MeiChange Shih, congratulations on a job well done and best wishes for continued success in his important new assignment. As chairman of the Asia and Pacific Subcommittee, I look forward to seeing Mr. Ding on a future visit to Taiwan and to welcoming him back to Washington on a future visit to our Capitol.

REINTRODUCTION OF THE REEMPLOYMENT ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. WILLIAMS. Mr. Speaker, I rise with Chairman FORD to introduce a new version of the Reemployment Act, H.R. 4050. The Subcommittee on Labor Management Relations held numerous hearings in this Congress both in Washington and across the United States on dislocated workers and the Reemployment Act. I expect that the committee will use this legislation as a starting point for consideration next year.

Many Members of the House of Representatives, as I did, cosponsored the Reemployment Act when it was introduced in March 1994. There was a broad-based concern with different parts of the legislation from Governors, mayors, county officials, unions, educators, and community-based groups. I cosponsored this legislation in order to move the debate further.

As a result of the concern expressed about the legislation and our own concerns, Chairman FORD and I redrafted the bill. We made a draft available in mid-August to all of the interested parties above and others who requested the opportunity to review the legislation. As a result of that review, we received numerous comments which we made every attempt to accommodate in the legislation we are introducing today.

The legislation that we are introducing today simplifies the original bill so that governance, program consolidation, money flow, one-stop centers, and conflict-of-interest rules are clarified.

We are introducing this bill today so that interested parties can review our legislation between now and the beginning of the 104th Congress. I join in this effort despite the fact that I remain concerned with the effectiveness of training programs and the lack of jobs in many labor markets.

MURPHY PARK HONORED AS URBAN SUCCESS STORY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. MALONEY. Mr. Speaker, the 103d Congress has brought many great victories. But today, I rise to bring to the attention of my colleagues a small victory for a neighborhood back home.

Quality of life in New York City faces many threats—crime, homelessness, air pollution, and the high cost of living are on the minds of New Yorkers every day. So it is inspiring when we can fix up a small parcel of land in New York City and reclaim it as our own.

Three years ago, when I served on the New York City Council, I visited a small park in my district called Murphy Park, officially called Murphy's Brother's Park. I was saddened by what I saw. The park was dilapidated, the basketball rims were gone, the play equipment was hazardous, and graffiti and drug use were prevalent. The park had been overrun by the destructive forces in our city which threaten to drive the middle class away.

As the mother of two daughters, one who is just 7 years old, I know that parents cherish places in New York where they can let their kids be kids. So I obtained capital funds to renovate the park. Thanks to outstanding work by the New York City Parks Department, Murphy Park is a sparkling gem that the entire community can be proud of. Tucked in the extreme east side of Manhattan adjacent to Stuyvesant Town and in the shadow of the FDR Drive, Murphy Park has been restored. It has a beautiful mini-baseball diamond where young children in the Peter Stuyvesant Little League play tee ball; a handball court, a basketball court, and all sorts of play equipment.

When I visited Murphy Park in August, parents and children were sprawled all over the park—using the swings, playing ball, rollerblading on the basketball court. One small, blighted parcel of this city has been transformed into a field of dreams, just like in the movies. There was one small imperfection, Mr. Speaker. Whoever chose the day equipment apparently did not share my political affiliation. There is a plastic statue that children climb on in Murphy Park. It is the statue of an elephant. But a statue of a donkey is nowhere to be found. Perhaps that is one small consequence of having a Republican mayor.

But I am happy to put partisan politics aside as long as the children benefit. If climbing on the elephant means having fun and staying out of trouble, then they can climb on the elephant all they want. For my part, I'll be shooting free throws. So I congratulate the Parks

Department and the residents of Stuyvesant Town and Peter Cooper Village for making New York City a better place to live, one acre at a time.

TRIBUTE TO MU CHAPTER OF ALPHA DELTA KAPPA

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. LEVIN. Mr. Speaker, I pay tribute today to the Mu Chapter of Alpha Delta Kappa in Hazel Park, MI. Alpha Delta Kappa is an international professional organization for women educators. The success of any international organization is dependent upon its local chapters, and Hazel Park's Mu Chapter continues to make a strong, substantive contribution. It is important to recognize the efforts of this chapter during October, Alpha Delta Kappa month.

As a parent of four children, I have been consistently aware of the positive influence teachers can have on the lives of America's youth. When teachers take their good deeds beyond the classroom, our children take obvious notice of their civic contributions and, hopefully, follow their lead.

The members of the Mu Chapter of Alpha Delta Kappa work tirelessly to contribute both their time and money to better the lives of their neighbors. With absolute selflessness, these volunteers work regularly with senior citizens groups, the Special Olympics, the Michigan Cancer Foundation, local libraries, and the South Oakland Shelter for the Homeless. As professional educators, some members offer free tutoring to develop the learning skills of our Nation's children. The Mu Chapter works with other local educators and school administrators, offering training workshops and fostering professional growth.

Mr. Speaker, I am pleased to have the opportunity to honor the women educators of the Mu Chapter of Alpha Delta Kappa. They exemplify the professionalism and dedication of purpose that has long been associated with America's teachers.

COMMENDING SIDNEY JONAS ON HIS 90TH BIRTHDAY

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. NADLER. Mr. Speaker, I rise to pay tribute to Sidney Jonas, a remarkable individual who will celebrate his 90th birthday on Sunday, October 9, 1994, at an affair in his honor at Temple Beth Abraham in Brooklyn's Shorefront.

Sidney, who emigrated from Poland in 1922, became a recognized union leader in the United States. He successfully organized numerous unions throughout New York, New England, and the Midwest.

Sidney is also a recognized leader in service to his community. He was a founding member and chairman of the Brighton division of the Brooklyn Arts and Culture Association, vice-president and culture chairman of the Oceanfront Coordinating Council, a former member of the Warbasse Houses board of directors, vice chairman of the executive board of Branch 1020–23 of the Workmen's Circle, member of the Jewish War Veterans Post No. 6, and the Histadrut. Sidney has also served for the past 25 years as the chairman of the Parks, Recreation, and Culture Committee of Community Board 13.

Sidney played an instrumental role in the building of a bandshell for Asser Levy/Seaside Park, and is actively involved in the summer concert series held there each year and attended by residents from all over New York City.

Sidney has remarkable energy and continues to work for the betterment of our community. Mr. Speaker, I ask my colleagues to join me and my neighbors in honoring Sidney Jonas on the occasion of his 90th birthday.

THANKS, DOC

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I want to take this opportunity to pay tribute to one of the last great oldtime country doctors, Dr. E.C. Holdship. Known simply as Doc to those in Ubly, MI, E.C. continues to touch the lives of those around him through his interminable commitment, dedication, and love for his patients.

Since 1951, Doc has continued a Holdship medical tradition spanning 90 years, mending countless sprains, breaks, aches, coughs, and fevers, as well as having delivered enough babies to populate the entire city of Bad Axe. Doc similarly impacts our community through countless hours of service in the Ubly Lion's Club, Community Club, and Thumb Veterans Organization. Not surprisingly, Doc's love for his Ubly neighbors is best represented by his move to provide needed uniforms for the Ubly High School band when the school budget could not.

Doc's good deeds and medical expertise have not, however, gone unnoticed. He is a recipient of the Fraternal Order of Police Distinguished Service Award, the Bad Axe Jaycees 1979 Outstanding Citizen Award, the Eunice Shriver Award for Special Olympics and Care of the Handicapped, and for his dedication, skill, and humanity, his peers have named him outstanding physician in the State of Michigan.

Doc continues to care for those in and around Ubly 5 days a week, and as such remains a fixture in our community. I urge my colleagues to wish Doc, his lovely wife Dian, his sons Bill and Barry, daughter Gigi, and grandsons Nicholas and Alexander our very best.

RESTITUTION FOR THE ALEUTIANS, A DEBT OF HONOR FOR GUAM

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. UNDERWOOD. Mr. Speaker, today the House of Representatives will consider, and is expected to pass, S. 1457, an act to amend the Aleutian and Pribilof Islands Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II. This act increases the authorization from $1.4 to $4.7 million.

This bill would bring closure to the unfortunate experience of the Aleutian islanders in World War II. The Aleutian islanders were evacuated from their homes just prior to the outbreak of hostilities between Japan and the United States, and their islands were subsequently captured by the Japanese forces. The restitution authorized by the original act is for damages occurring to homes and churches during this period.

I support S. 147 but I call the Nation's attention to another tragic occupation in World War II and a restitution issue that has yet to be addressed by the U.S. Congress. The occupation I am speaking of, that of Guam from December 10, 1941, to July 21, 1944.

Unlike the Aleutian islanders, however, the Chamorus—the indigenous people of Guam—were never evacuated, but were left to endure a brutal 32-month enemy occupation. Military planners who deemed that both Guam and the Aleutian Islands were vulnerable and were both likely to be attacked ensured two different fates for the Chamorus and the Aleutian islanders.

During the occupation of Guam, the Chamorus endured atrocities including death, personal injury, internment in concentration camps forced labor, and forced marches. An effort was made in 1945, under provisions of the Guam Meritorious Claims Act, to compensate the people of Guam for their wartime claims. The Guam Meritorious Claims Act was seriously flawed and poorly administered. The result was that many Chamorus were denied their just claims. Typical of the injustice is the claim paid to the family of Mr. Cruz, who was beheaded by the Japanese for saving the life of an American aviator who was shot down over Guam. Mr. Cruz's life was compensated at a mere $36.

Congress passed legislation in 1948, and again in 1962, to rectify the problems with claims of American citizens and nationals resulting from World War II. Guam's problems and the injustice of the claims administration on Guam, were not addressed in either corrective legislation.

That injustices occurred in the payment of just claims to the people by Guam by the United States Government is not in dispute. That the Guam Meritorious Claims Act was seriously flawed is not in dispute. And that Congress, in all the opportunities it had to correct these problems when it addressed wartime claims for all other American citizens and nationals, failed in its responsibility to address Guam's claims is not in dispute.

I introduced H.R. 4741, the Guam War Restitution Act, to correct these injustices and to provide for compensation for the just claims of the people of Guam. While it is not possible to pass H.R. 4741 in the remaining days of this Congress, I will reintroduce the Guam War Restitution Act in the 104th Congress. In a significant endorsement, on October 4, 1994, the Subcommittee on Insular and International Affairs reported H.R. 4741 favorably to the Committee on Natural Resources. I am also pleased that a companion bill has been offered by Senator Inouye and I applaud the Senator's efforts on behalf of the people of Guam.

I request that my colleagues bear in mind as they vote to approve restitution for the Aleutian islanders that the tragic story of the people of Guam and the injustices of their war claims must likewise be addressed by Congress.

JIM JOHNSON—CEO OF FANNIE MAE

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. SABO. Mr. Speaker, I rise to recognize the efforts and achievements of Jim Johnson, Chairman and CEO of the Federal National Mortgage Association, also known as Fannie Mae. Under Jim's leadership, Fannie Mae will open a partnership office in the Twin Cities that will create new opportunities to those who have been locked out of the mortgage finance system.

I applaud Fannie Mae's actions in Minnesota and across the Nation. We all are fortunate that Jim Johnson has chosen to focus his talent and energy on our Nation's housing finance system. Through Fannie Mae, he is revolutionizing mortgage finance and opening new opportunities to thousands of Americans. With Jim Johnson leading the way, there are few limits to what Fannie Mae can achieve in affordable housing.

I would like to share with you an editorial and article from the Minneapolis Star Tribune regarding Jim Johnson's accomplishments as CEO of Fannie Mae.

FANNIE MAE—A $1 TRILLION PROMISE TO HOUSE 10 MILLION

By now, periodic reports tracking bias in mortgage lending seem as common as a change in the seasons, suggesting that however unacceptable that bias is, rooting it out is a very difficult task. That's why a new, high-profile effort to end discrimination as an obstacle to homeownership is especially welcome.

Last Saturday, top brass from the Federal National Mortgage Association (Fannie Mae) joined some of Minnesota's congressional delegation and the two Twin Cities mayors to initiate a local chapter to a very ambitious plan aimed at helping Americans with homeownership. The Twin Cities will be among 26 U.S. metropolitan areas to host an office linking renters, minorities, recent immigrants and people with low to moderate incomes with $1 trillion in mortgage lending that targets these groups.

Make no mistake about the size of this effort; it's huge. If the six-year program is successful, about 10 million more Americans will become homeowners.

Apparently such a massive effort is needed to excise from the lending process the demons of racial discrimination, lack of information, inadequate homebuyer counseling and arbitrary barriers in the housing finance system. Those barriers remain formidable despite honorable attempts by some lenders in recent years to ensure approval of more loan applications from minorities and low-income people. Federal Reserve Board studies released each fall still describe persistent mortgage bias and make a case that even more needs to be done. For instance, a study last year showed that lenders rejected applications from blacks at more than twice the rate of those from whites in 1992.

Fannie Mae is a privately managed, shareholder-owned and profit-oriented corporation, not a government institution. It has become the nation's largest source of home mortgage funds by investing in mortgages originated by banks, thrifts and mortgage companies. Lenders are able to continually issue new loans by grouping old ones together and selling them to secondary market corporations like Fannie Mae, which buys only those loans that meet its underwriting criteria.

For years, lenders have asserted that they weren't responsible for mortgage lending biases. The problem, they said, was underwriting guidelines set by Fannie Mae and other secondary market agencies. Such excuses soon will become untenable as corporations such as Fannie Mae move to rewrite underwriting guidelines with an emphasis on mortgage access for home-aspiring members of minority groups, low-income people, renters and others who have suffered lending bias. Not only is that new emphasis on equity good mortgage business, it is good policy for building strong families and stable American communities.

Fannie Mae is providing a fresh opportunity for many whose dreams of homeownership had grown dim. They should take up Fannie Mae's offer by dialing 1-800-7FANNIE (732-6643). Call the number and find your way home.

FANNIE MAE TO OPEN TWIN CITIES OFFICE AS PART OF PLAN TO BOOST HOME-BUYING

(By Neal Gendler)

The Nation's largest source of home mortgage money will open a Twin Cities office as part of a national commitment to provide $1 trillion over seven years to help people of low and moderate incomes buy 10 million homes.

James Johnson, chairman of the Federal National Mortgage Association—known as Fannie Mae—is to announce plans for the "Partnership Office" today at a news conference after a bus tour of Twin Cities neighborhoods with public officials.

"Fannie Mae and the Twin Cities will work together to develop a five-year strategic plan to address the cities' major housing needs." Johnson said in a statement. "Our commitment . . . to the entire state is to make home ownership more accessible than ever before."

Johnson, who is from Benson, Minn., was Walter Mondale's executive assistant when Mondale was vice president. Fannie Mae is a congressionally chartered, shareholder-owned company that provides money for mortgages by purchasing them from lenders with funds raised by selling bonds or securities backed by the mortgages.

The Twin Cities office, the first to serve an entire state, will be the sixth of 10 to be announced this year and one of 25 to be opened by the end of 1996. It is to open in December in one of the two central cities, said Jack Hayes, Fannie Mae senior vice president and director of the Mid-west office, which serves 10 states from Chicago.

It will deal with members of the lending community, nonprofit organizations and state and local government people, but not directly with consumers.

But Fannie Mae hopes consumers will notice a difference, because the offices are intended "to expand the corporation's capacity to serve more people, especially minorities and new immigrants."

Hayes said the office is needed because "we have somebody from this office in the Twin Cities literally every week." Fannie Mae buys mortgages from more than 20 lenders in Minnesota, and through July of this year it bought about 32,000 home mortgages worth nearly $3 billion in the state. That includes 12.126 "affordable-housing" loans worth $848.1 million, he said.

He said that Minnesota is a leader in the development of affordable housing and that cooperation among city government, lenders and nonprofit agencies is uncommonly high.

Seventy-two percent of Minnesota households own their homes, ahead of the national figure of 64 percent, according to 1990 census data, but in St. Paul, the number is only 54 percent and Minneapolis is at 50 percent, Fannie Mae said. Hayes said economic data show good prospects for ownership here because the area has a strong and diverse economy, the state has per-capita income 16 percent above the national average and housing is considered affordable.

The Partnership Offices and the $1 trillion commitment are part of an 11-point program that is intended to help break down barriers for potential borrowers. Key goals include reducing origination costs for loans of $50,000 or less and using technology to reduce paperwork, speed loan origination and cut loan costs $1,000.

Among the other key points of the plan are national consumer outreach using multilingual television, radio and print advertising, direct mail and other techniques; working to "make elimination of discrimination the No. 1 priority of every participant in the mortgage finance system," and a multilingual "New Americans" campaign to reach the 8 million immigrants expected in the 1990s.

The $1 trillion is targeted at people at or below the median income in their communities; minority families; new immigrants; people living in central cities; and other underserved communities, perhaps rural areas that need more affordable housing, and people with special housing needs like the elderly, Fannie Mae spokesman Gene Eisman said.

Fannie Mae plans to begin advertising availability of such loans next year and will offer a toll-free number.

TO STAY OR NOT TO STAY

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ABERCROMBIE. Mr. Speaker, "To Stay or Not to Stay" is a video produced by the Hawaii Domestic Violence Clearinghouse and Legal Hotline describing the lives of four women in Hawaii who were victims of domestic violence. Two left and lived. Two left and died.

One woman stayed until her husband threatened to kill her baby. She left, struggled and eventually created a new life for herself and her child. One left her boyfriend after living with him for 4 months. He shot her when she gave him a ride home one night. Another woman stayed with her husband until her children witnessed the violence. Divorced for 2 difficult and dangerous years, she says her escape was worth the struggle. Another left her violent husband three times. Each time she left he pursued her relentlessly. Afraid for her life, she went into hiding and planned an escape from Oahu. Her estranged husband found her and shot her to death 3 days before she planned to leave.

Life circumstances and different realities make the question, we so often ask, "why did she stay" difficult to answer. We need to provide the resources and support for victims of domestic violence to make a choice clear and safe.

SALUTE TO MRS. ELIZABETH RILEY

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise to salute Mrs. Elizabeth Riley who will be turning 90 years old this Sunday. Mrs. Riley, a parishioner at the Enon Baptist Church, and a resident of the 5400 block of Market Street in West Philadelphia, was born in Elkridge, MD, on October 9, 1904, and was raised in Philadelphia, by her parents, Harry Gans and Elizabeth Walker Turtty. Mrs. Riley was married to the late Mr. Robert J. Riley, and is great aunt to my good friend, the Honorable Dwight Evans, chairman of the Committee on Appropriations in the House of Representatives of the Commonwealth of Pennsylvania. Mr. Speaker, I join Mrs. Riley's friends and family in wishing her a very happy and healthy 90th birthday.

SIDDHARTHA S. RAY COMPLETES 2 SUCCESSFUL YEARS

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. MCDERMOTT. Mr. Speaker, I call to the attention of our colleagues an article regarding Indian Ambassador Siddhartha Shankar Ray appearing in the September 23d edition of India West, one of the most influential Indian-American weekly newspapers in the United States. The article, written by India West's Washington correspondent, Vasantha Arora, reflects on Ambassador Ray's recently completed 2-year term as Indian Ambassador to the United States. As the article correctly notes, during the past 2 years Indo-U.S. relations have improved dramatically. Economic activity between India and the United States is up sharply. Diplomatic tensions have declined. Indian Prime Minister P.V. Narasimha Rao enjoyed a successful visit to Washington earlier this year, including being honored as the first foreign political leader invited to address the Congress during the Clinton administration. Energy Secretary Hazel O'Leary has just returned from a successful trade mission to India. Secretaries Bentsen, Brown and Perry all plan to make similar missions in the next 5 months. Divisive amendments to curtail foreign aid to India have been absent from the House and Senate floors.

Mr. Speaker, each of these successes is a tribute to Ambassador Ray's work here in Washington. Ambassador Ray's leadership has been duly recognized by Prime Minister Rao, who has shown excellent judgment in asking Ambassador Ray to continue his representation of India in the United States for a second 2-year term. Fortunately for the United States and for India, Ambassador Ray has accepted this offer and will continue his program to bring the Indo-U.S. relationship to an even higher plateau.

Mr. Speaker, I know my colleagues join me in congratulating Siddhartha Shankar Ray on a job well done. India's many friends in the Congress look forward to continuing to work with him during the next 2 years. I ask unanimous consent to have the India West article included in the RECORD and urge my colleagues to read the article closely.

[From India West, Sept. 23, 1994]

RAY ENSURES INDIA, U.S. TIES ARE ON EVEN KEEL

(Bay Vasantha Arora)

WASHINGTON—Ambassador Siddhartha Shankar Ray describes his first ever assignment as a diplomat in Washington a challenging one—"in fact, as challenging as being the governor of Punjab during the height of terrorism or chief minister of West Bengal when Naxalism ruled the roost."

During his long an distinguished innings of public life, the veteran Congress leader has held the office of the governor and the chief minister of these two troubled states respectively under trying circumstances.

In an informal chat with India-West here Sept. 2, he said he has to deal with a variety of issues ranging from nuclear nonproliferation to human rights, as well as anti-India propaganda by Kashmiri separatists and Pakistan.

The most daunting task of a diplomat is to ensure that New Delhi's relations with Washington are kept on an even keel, if not sailing smoothly.

In this Ray could certainly pat himself on the back as the Clinton administration, which came to power just nine months earlier than his own posting here, has taken India more seriously than any other U.S. administration in recent times.

According to Ray, Indo-U.S. relations have changed for the better not only qualitatively but also quantitatively. Not that "we do not have problems. We do have areas of disagreements but there is a desire to have them settled through a democratic dialogue. We have to learn to agree to disagree."

The Clinton administration wants to improve not only its economic ties, but also military cooperation with India. It is keen to share information, energy and other hi-technology provided India shakes off some of age-old prejudices.

Unless the two countries understood each others' problems, Ray pointed out, they could not have the kind of partnership that President Clinton and Prime Minister P.V. Narasimha Rao had visualized in their talks in May last.

In fact, Ray said the joint statement that was issued after the visit of Rao was testament to the slow cementing of bilateral ties between India and the U.S. There have been considerable narrowing down of differences and it could easily be said that it is now passing through a stage of stability.

Here Ray mentioned about how the sanctions against the Indian Space Research Organization have been lifted and the U.S. has signed an agreement for sharing data provided by Indian satellites at the EOSAT Norman facility in Oklahoma, marking a new era in Indo-U.S. space technology.

REMOVED

India, Ray said, has also been removed from the watch list of the Special 301 trade law.

Regarding security concerns, Ray said the U.S. is today much more aware of India's security concerns than it had ever seen before. In this context, he referred to Defense Secretary William Perry's forthcoming visit to India which could lead to greater defense cooperation between the two countries.

Asked about Kashmir, Ray said the U.S. has all along been consistent in its stand regarding Jammu and Kashmir state. It has always encouraged bilateral talks between India and Pakistan to solve the issue. It no more talks about third party intervention—which India does not want.

On the nuclear issue, Ray said when he first came here there as a lot of talk about India signing the Non-Proliferation Treaty. But no one talks about it now as NPT itself is being reviewed in about a week at Geneva. A kind of "wait and watch situation" prevails now in this regard, he added.

About the economic sphere, Ray said Indo-U.S. ties have been "better than expectations." The total U.S. investment in India in 1933 was larger than the total cumulative investments of U.S. since 1947, Ray said, adding that in 1994 the total investment currently stood at $5.3 billion.

Ray also spoke about better access on Capitol Hill, in the administration and good connections with the Pentagon. The White House and the Commerce Department.

In this connection he mentioned the India Caucus, which now has 40 supporters and is the second largest group after the Black Caucus. The India Interest Group, he says, has done a "tremendous job for India." The lobbyist firm has made communication easier with the administration and the Congress.

So it is not surprising that Ray has been asked to continue as envoy in Washington for another term by the Narasimha Rao government. It is a foregone conclusion though not yet officially announced.

SHAKY WICKET

However, it is common knowledge here that Ray did begin on a shaky wicket a little less than two years ago. Within two months of his coming here the Babri Masjid was pulled down in Ayodhya and the forces supporting the shameful act in the U.S. lost no time in condemning Ray for voicing his secular views on the incident.

A series of demonstrations were organized against him at every opportunity. His detractors, which included anti-India elements, worked overtime to ensure that he did not feel comfortable in his office.

The reason was not merely Ray's political background but also personal. Some in the media and in the Indian Embassy itself did not take kindly to Ray because they have been led by supporters of his predecessor Abid Hussain to believe that the former bureaucrat Hussain would get an extension.

Some even went to the extent of quoting unnamed officials in the State Department asking New Delhi to give an extension to Hussain, little knowing that the State Department does not interfere in the internal affairs of a sovereign nation.

It is relevant to point out here that it was during Hussain's tenure that the United States slapped sanctions against India for trying to get cryogenic engine technology from Russia. The second big blow for India also came during Hussain's tenure. New Delhi was placed on the Special 301 watch list and the Damocles' sword of trade sanctions was kept dangling over India throughout Hussain's term.

The same pattern of criticism, adverse publicity and a hostile press dogged Ray when he decided to hire a professional lobbyist and a public relations firm to look after India's image in the United States.

Credit here should go entirely to Ray who went about hiring the lobbyist against a steady tide of criticism. The move has paid rich dividends.

Ray says that "if I have to do any work for India, it should be first class work." Therein lies his strength as well as his success.

RULE ON GATT

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. FIELDS of Texas. Mr. Speaker, there has been a campaign of misinformation concerning one of the provisions in the GATT bill—title VIII—addressing the FCC's pioneer preference policy. Today, in response to a request by the Democratic and Republican leadership, the Subcommittees on Telecommunications and Finance and Oversight and Investigations held a hearing to clarify the confusion created by this campaign.

The subcommittees took testimony from Government witnesses, one of the pioneer companies, and critics of the policy. I want to take this time to report on the facts with respect to this issue so that members can make an informed decision on the issue rather than react to misleading newspaper advertisements.

We are all aware of the advertisement which ran in the Washington Post and the New York Times which charged that Congress was providing a loophole to give a billion dollar price break to certain companies for their licenses to provide PCS services. This advertisement is pure bunk.

The facts are that Congress, in title VIII of the GATT legislation, intended to ensure that a give away of these licenses did not occur and that the pioneer licensee pay a significant portion of the market value of a PCS license—without which they would likely pay nothing.

Let's review the history. The pioneer preference policy was established nearly 4 years ago by the FCC. This policy offers the guarantee of an FCC license to entrepreneurs who successfully developed important new communications services and technologies. This FCC policy is not unique to PCS services. For example, pioneer preferences have been awarded in other telecommunications cases such as to VITA, a nonprofit company offering low-earth-orbit satellite services; Suite 12, a company offering wireless cable services; and M-TEL, a company offering narrowband personal communications services.

Last December, the FCC awarded a pioneer preference to 3 PCS applicants—out of more than 100. In so doing, the FCC guaranteed these companies a license in 3 of the top 20 markets. The FCC awarded these preferences in recognition for their unique contribution to the development of PCS technology. They only received one of the two licenses to be awarded in each market.

American Personal Communications [APC] developed and demonstrated technologies which facilitated spectrum sharing by PCS and microwave at 2 gigahertz resulting in a more efficient use of spectrum.

Cox developed and demonstrated a PCS-cable interface technology and equipment which also improved spectrum efficiency for PCS.

Finally, omnipoint developed 2 gigahertz hand-held equipment utilizing advanced techniques known as spread spectrum which facilitated broader range of PCS services.

No one, not even their competitors who have taken out advertisements in the Post, denies the importance and benefit of these developments to the deployment of PCS services.

In addition to guaranteeing the pioneers' a license in three markets, the FCC also decided that these applicants should be awarded these licenses at no cost.

In response to concern that valuable spectrum was being given away, Chairman DINGELL and Congressman MOORHEAD introduced a bill, H.R. 4700, which would require the pioneers to pay 90 percent of the value of the license in their market.

The FCC then reversed their decision and required the three pioneer recipients to pay an amount comparable to that H.R. 4700. However, the committee was concerned that the FCC did not have the explicit legal authority under the Communications Act in which to require payment for a license that was given for free. If, as our legal experts advised us, the FCC's decision was overturned, the original FCC decision would remain and the pioneers would pay nothing for these valuable licenses.

At that point, the administration, Senate, and House entered into negotiations to determine the appropriate fee which should be charged for these licenses. After lengthy negotiations, it was agreed that the pioneers should pay 85 percent of the per capita average of the top 20 markets after adjusting for the anomolies created in the three award markets. The administration decided that the legislation should be placed in GATT in order to raise revenue.

Without this legislation, the Government will most likely receive nothing for these licenses. That result would be a terrible deal for the taxpayers.

CELEBRATING THE GREENPOINT-WILLIAMSBURG COLUMBUS DAY PARADE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. MALONEY. Mr. Speaker, I rise today in celebration of the eighth annual Columbus Day parade to be held in my district on Sunday, October 9. Conducted by the Federation of Italian-American Organizations of Greenpoint-Williamsburg, the parade will kick off from the St. Francis of Paola Church following the 11:30 Mass.

Founded in 1986, the federation is comprised of eight-member organizations from Greenpoint and Williamsburg areas of New York City. Its mission is to make Greenpoint-Williamsburg a richer place for its residents, and to help those who are in need. The federation also organizes services for legal immigrants who wish to be naturalized, organizes townhall meetings, and fosters and encourages pride in the achievements of Italians and Italian-Americans.

Sunday's parade will recognize the accomplishments of one of Italy's most famous native sons, Christopher Columbus. Convinced that there was a western route to Asia, Columbus convinced King Ferdinand and Queen Isabella of Spain to finance his historic voyage across the Atlantic. Setting sail in August 1492, it was only through his outstanding navigational skills and sheer determination that Columbus landed in the Bahamas almost 2 months later.

He would make three more trips across the Atlantic, trying desperately to find the Asian continent, which was actually thousands of miles to the west. Nonetheless, his expedition helped launch the Italian Renaissance, and changed the course of Western civilization forever.

The Columbus Day Parade will mark these accomplishments, as well as the achievements of all Italians and Italian-Americans. The grand marshal of this year's parade will be Vincent Abate. Mr. Abate is the head of community Board 1, and is a founding member of the federation. In addition to his work with the foundation, he serves as chairman of the School Settlement House, and is a leader of the American Legion.

Mr. Speaker, I have great admiration for the Federation of Italian-American Organizations of Greenpoint-Williamsburg, and its work toward bettering the community. I urge my colleagues to take time on this Columbus Day to salute the tremendous contributions of Italians, and Italian-Americans, in shaping this country's history.

TAIWAN'S NATIONAL DAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ACKERMAN. Mr. Speaker, October 10 marks the 83d anniversary of the founding of the Republic of China and is celebrated throughout the world as Taiwan's National Day. October 10 offers us the opportunity to acknowledge the dual achievements of the 23 million people of Taiwan. During the past 47 years, Taiwan has transformed itself from a largely agrarian economy into a modern and potent economic powerhouse. At the same time that Taiwan has undergone such a dynamic economic transformation, its Government has also become one of the most vibrant and democratic in the Pacific rim.

Mr. Speaker, this year's National Day celebration corresponds with the arrival of Taiwan's new Representative to the United States, Mr. Benjamin Lu. Mr. Lu, a trade expert and recently Taiwan's Representative to Belgium, will formally begin his term of service on October 10, when he presides over this year's National Day celebration in Washington. Previously, Mr. Lu served here in Washington as economic director of Taiwan's Coordination Council on North American Affairs.

Mr. Speaker, I am certain my colleagues join me in welcoming Benjamin Lu back to Washington in his new capacity as Representative. As chairman of the Subcommittee on Asia and the Pacific, I look forward to greeting Mr. Lu personally at the celebration and to working with him in furtherance of the important and valued relationship between the United States and Taiwan.

TRIBUTE TO 1ST LT. RON MATTIOLI ON THE OCCASION OF HIS RETIREMENT AFTER 25 YEARS OF SERVICE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today to pay tribute to 1st Lt. Ron Mattioli who is retiring from the Michigan State Police after 25 years of service.

First Lieutenant Mattioli graduated from Iron River High School in 1965 and then served his country in the U.S. Navy from 1965 to 1968. First Lieutenant Mattioli did a tour of Vietnam where he received the Vietnamese Service Medal and the Vietnamese Cross of Gallantry.

Ron enlisted with the Michigan State Police on September 14, 1969. His first post was

Ionia, then Bridgeport, and then he was promoted to desk sergeant at Flat Rock. From there Ron became a detective/sergeant at CID Livonia. East Tawas has had the good fortune of having First Lieutenant Mattioli as its post commander since 1992. Throughout his career the awards and commendations bestowed upon Ron are too numerous to mention, however, as a sampling he received three State Police Citations for Professional Excellence, two State Police Citations for Lifesaving, and the City of Highland Park Meritorious Service Award. Ron is also a past president of the Genesee County Detective's Association.

In addition to his professional career, Ron has given to the community by being a member of the Tawas Kiwanis and the Veterans of Foreign Wars as well as an active member of the Immaculate Heart Catholic Church.

Ron will be with his wife Julie and their children Ryan and Lauren upon his retirement. Ron is the son of Falio and Mary Mattioli and has two brothers Tom, a lieutenant in the Michigan State Police, and Jerry, a former Michigan State Police and DEA agent, as well as two sisters Ann and Catherine.

Mr. Speaker, I would like to thank 1st Lt. Ron Mattioli for all of his hard work and service to the people of Michigan and I would like to wish him a very happy, restful and well-deserved retirement.

HONORING THE INDEPENDENCE OF THE REPUBLIC OF PALAU

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. UNDERWOOD. Mr. Speaker, I rise to pay tribute to the people of the Republic of Palau on the occasion of the implementation of the Compact of Free Association between the Republic of Palau and the United States on October 1, 1994.

It was my honor to attend the ceremonies in Koror, the capital of the Republic of Palau as a representative of the Committee on Natural Resources. I was 1 of 4,000 people, including 300 foreign dignitaries, who had the privilege to witness the citizens of the Republic of Palau raise their national flag for the first time to the international community as an independent nation.

The United States has fulfilled its commitment to the Pacific peoples who were entrusted to its care after World War II by the United Nations. I commend Secretary Bruce Babbitt for his stewardship in completing this obligation.

After more than 40 years under the United Nations trusteeship administered by the United States, the new political status of the Republic of Palau is manifested in their Compact of Free Association. The Subcommittee on Insular and International Affairs, chaired by the Honorable RON DELUGO, deserves praise in being the primary supporter of the compact since 1987. Chairman DELUGO and the Honorable GEORGE MILLER, chairman of the Committee on Natural Resources, were instrumental in guiding the implementation of the compact through Congress. I commend them for their personal commitment and assistance to the people of Palau.

Through their respective compacts, the Republic of Palau joins the ranks of the Republic of the Marshall Islands and the Federated States of Micronesia as independent Pacific nations associated with the United States. Along with terminating the United Nations mandate and establishing Palau as a New Independent State, the compact provides for the mutual security of Palau and the United States, and assistance to the new Republic to ensure a viable economic future by investing in essential infrastructure.

The Honorable Kuniwo Nakamura, the first President of the Republic of Palau, declared to the world on October 1 that,

> Today Palau leaves behind the safe harbor of trusteeship and journeys forth as the newest member of the international family of nations. Our relationship with the United States has always been, and always will continue to be, based on mutual friendship, respect and trust.

I commend President Nakamura for his visionary leadership. The people of Palau, in choosing to be independent, have embarked on a journey destined to ensure their rightful place in the world and their place in history. As a small Pacific island nation of 15,000 people in an archipelago of 343 islands, the Palauans have linked their fate to their self-confidence in their ability to forge a republic that would, above all, ensure the cultural survival of a proud people.

The people of Guam, joins me today in extending our very best wishes and congratulations to the people of the Republic of Palau on this historic occasion. As island neighbors, we on Guam have been inspired by the persistence and fortitude of the Palauan people in achieving their new political status. In what has been a difficult, and often tumultuous path to independence, the people of Palau have shown great courage in reaching their goal.

We share the joy of the Palauan people on their independence, we share their confidence in their own abilities to forge a new nation, and we share their hopes for a prosperous and secure future for their children.

HONORING NATIVE AMERICAN VETERANS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in calling to the attention of the U.S. Postmaster and the Citizens Stamp Advisory Committee in work on Vera Allen, a young woman from Thoreau, NM.

Ms. Allen has been working very hard for the past 2 years to have the U.S. Postal Service issue stamps honoring the contribution made by modern native Americans. Ms. Allen has argued that native American World War II veterans deserve more respect and recognition. She has lobbied hard to have Clarence Tinker, a native American general, Ira Hayes, who was among the Marines who raised the flag at Iwo Jima, and Frank Billy Jealous of Him, an Army scout, to be honored by the people of the United States through a commemorative stamp series.

As chairman of the Native American Subcommittee I am very happy to recognize the remarkable achievement of Ms. Allen, a 17-year-old high school student in the Blessed Kateri Tekakwitha Academy, commonly known as St. Bonaventure. She is a marvelous role model for any teenager across the country on what can be achieved through hard work and perseverance.

Mr. Speaker, this is the very least we as a Nation can do to honor our Native American war heroes. I urge my colleagues to review an article and favorable editorial in the Albuquerque Journal and to help Ms. Allen in her proposal to honor Native Americans.

[From the Albuquerque Journal, Sept. 4, 1994]

STAMPING OUT INDIAN STEREOTYPES

(By Leslie Linthicum)

TOREAU—It started, like a few other important things, with Elvis Presley.

Eighty-year-old Alfred Becenti looked at the new Elvis postage stamp and was dismayed.

"That wiggly guy?"

His granddaughter brought up the subject of the stamp in history class at high school and asked, "Isn't that crazy?"

Elvis, never the rage in Navajoland, had accomplished one more thing from the grave. He had gotten sophomore Vera Allen thinking—about respect and about how the U.S. government shows it through the 1-inch squares it sells for postage.

That was two years ago. Now as then, Allen is like a tornado with a heart, stirring things up and then setting them down in a better place.

She was already busy organizing students to sit with kidney dialysis patients as the hospital in Gallup and cleaning up a drinking spot up at Castle Rock when she went to the local post office in 1992 and inquired about stamps depicting Indians.

Postmaster Dorothy English dug through her stamp registries and handed them over. Allen went through the books, line by line, looking for people who looked like her and her family.

There were Dakota chiefs Crazy Horse and Sitting Bull, who died at the end of the 19th century; Cherokee leader Sequoyah, who died in 1843; and Pocahontas, the Indian princess credited with saving colonist John Smith from execution. She died in 1617.

The newest Native American stamps were depictions of rugs and war bonnets.

"There nothing really modern about the Native American," says Allen. "It's like, 'Oh, they wore war bonnets. Oh, they make rugs.' There's nothing about us now."

Allen was 15 then. She is 17 now, a senior, and awaiting a decision by the Citizens Stamp Advisory Committee on whether her proposal for a series of Native American stamps will be accepted.

It has been a two-year journey through federal bureaucracy, American history as told by White authors and Allen's own experiences with racism as the daughter of a Navajo mother and Black father.

To be truthful, Allen says, "I'm kind of sick of it. I was hoping I could just send off a letter and they'd say 'Here's your stamp.'"

Allen is slumped dramatically in a chair in the lounge at Blessed Kateri Tekakwitha Academy, more commonly known as St. Bonaventure, where clusters of mobile homes and metal buildings house kindergarteners through seniors.

This is the school, in the eastern checkerboard of the Navajo reservation, that served as the murder scene in Tony Hillerman's newest mystery, "Sacred Clowns." Before it became a minor celebrity, the school had plugged along for 14 years, educating a couple of hundred students from the surrounding Navajo communities each year on the strength of donations and teachers who volunteer their time.

Allen has been a student at St. Bonaventure since she was in eight grade when she moved from Albuquerque to live with her mother's people six miles north of Thoreau in a community called San Antonio.

From the start, Allen and her brother, seven years younger, didn't fit in. They were city kids, used to seeing movies as soon as they came out and walking to the corner store.

And they were half Navajo and half Black, Allen didn't speak Navajo when she moved to the reservation, but she quickly learned the words for "blacks" and "baboon," uttered from the backs of pickup trucks and in the aisles of stores.

"If you're half Black out here," she says, "you're not Indian."

Allen concentrated on school and family, diving into science classes in preparation for a career in bio-chemistry and getting to know Boccnti, the maternal grandfather she had seen only on visits since she was a small child.

Allen's mother died three years after moving the children back to the reservation, and Allen and her brother now live with their grandfather and a cousin. Allen visits her father, a counselor for Health Care for the Homeless, in Albuquerque on weekends.

Allen also got involved in a summer leadership program through Futures for Children, a non-profit self-help organization based in Albuquerque. It was a leadership program assignment to work on a project that would help the community that got Allen started on her stamp crusade.

Allen asked the students in her history class to write letters to the U.S. Postal Service, suggesting a stamp honoring the Navajo Code Talkers. They got no response.

Then Allen began researching other Native American War heroes, quickly exhausting St. Bouaventure's small library and going on to the Albuquerque Public Library. What she found was precious little.

Most books made no mention of Indians' involvement in the armed services and other devoted only a sentence or two.

Allen was impressed by two World War II veterans, Clarence Tinker, a little-known Indian Army general, and by Frank Billy Jealous of Hirn, a Lakota Army scout.

Allen dropped the idea of a Code Talker's stamp in favor of Tinker, Jealous of Hirn and Ira Hayes, the Pima who was among Marines raising the American flag on Meatgrinder Hill in Iwo Jima in the famous 1945 victory photo.

She talked to Tony Abeyra, a Navajo painter, about doing the artwork for the stamps. And with the help of her mentor for the Futures for Children program, science teacher Christopher Pietraszewski, Allen sent more letters and waited.

She might have been waiting still if U.S. Postmaster General Marvin T. Runyon had not been shopping in the Santa Fe gallery that represents Abeyra and been told by gallery owner Sandy Green about Allen's stamp proposal. He drew his office's attention to Allen's quest and got her proposal before the advisory committee.

The committee should make its decision by the end of the year.

Although the process has consumed a lot of Allen's high school years, a trip she took to Atlanta to visit Emory University recently convinced her that the work has been necessary.

There, Allen encountered students who had never met a Native American before.

They wanted to know whether Navajos had toilet paper and TV's and whether they lived in teepees. Allen, who is comfortable in baggy jeans, T-shirts and high-tops, was asked where her feathers were.

"That really got me," Allen says. "We don't just sit around and weave all day and go out and butcher the sheep for dinner. We go to McDonalds's. I wanted something that showed that Indian people do modern things."

THOREAU TEEN'S PROPOSAL MERITS STAMP OF APPROVAL

American Indians have a rich, complex history that intrigues people around the world. Often, the greatest interest centers on great Indian chiefs and buffalo hunts from long ago.

But too many people—including considerable numbers of Americans—don't realize that contemporary Native Americans also have fascinating stories to tell. Among the stories are accounts of tribal members who have made history in this century, such as the Navajo Code Talkers who helped defeat the Japanese in World War II.

Now, thanks to a tenacious New Mexico teenager, more Americans may learn that Native Americans are a vibrant part of our nation's contemporary culture. Vera Allen, a student at Blessed Kateri Tekakwitha Academy in Thoreau, has waged a two-year campaign to have the U.S. Postal Service issue stamps honoring modern Native Americans.

Vera, who has a Navajo mother and Black father, researched contemporary Indian history and came up with some possible candidates for stamps. One is Ira Hayes, the Pima who was among Marines raising the American flag on Iwo Jima.

Now she is awaiting word from the U.S. Citizens Stamp Advisory Committee on her proposal for a series of Native American stamps. She and the nation's other Indians deserve this answer: Yes!

A stamp is a small piece of paper, but represents a big honor. If the committee goes along with the idea, no doubt some letters will be postmarked Thoreau—with the Native American stamp in the right hand corner and the name of one particular sender in the left hand corner: Vera Allen.

ALLAN M. KLUGER HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to a distinguished attorney, community leader, and close personal friend from my district in Pennsylvania, Allan M. Kluger. This week, Allan will be honored by the Ethics Institute of Northeastern Pennsylvania at their annual awards dinner.

The Ethics Institute award is bestowed on an individual who has demonstrated fairness, understanding, and exemplary ethical behavior in personal, civic, and professional life. Allan Kluger is unquestionably an excellent choice for this year's award.

Allan's involvement in the community is far-reaching. The list of his present and past board memberships is nearly endless. Currently, Allan sits on the board of Temple Israel, King's College, the F.M. Kirby Center for the Performing Arts, Greater Wilkes-Barre Partnership, Bloomsburg University Foundation, and the Valley Auto Club. He is committed to working with organizations dedicated to promoting ethical conduct including the Pennsylvania State Ethics Commission, and the board of the Ethics Institute of Northeast Pennsylvania. He is president and senior partner of the prestigious law firm of Hourigan, Kluger, Spohrer & Quinn.

Some of Attorney Kluger's past affiliations include, director, Continental Bancorp; director and vice president, First National Bank of Wyoming; director and secretary, Greater Wilkes-Barre Chamber of Commerce; chairman of the board, Temple Israel; director, United Way and executive committee, Luzerne County Bar Association. In 1982, Allan was the recipient of the B'nai B'rith Outstanding Citizen Award.

Mr. Speaker, in addition to being a good friend, Allan has been an outstanding citizen and role model because of his service and commitment to our community. I must add that Allan's community service is not unique in the Kluger family. His wife, Sue, has been recognized on several occasions for her selflessness as well. I am pleased to be able to join the many who are paying tribute to Allan and his accomplishments today .

CHILD SUPPORT ENFORCEMENT REFORM ACT OF 1994

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, today I am introducing a bill to maximize child support payment collections on behalf of poor children in America. This bill, the Child Support Enforcement Reform Act of 1994, will provide States more tools to use in establishing and enforcing child support orders. In turn, it will hold States more accountable for their performance in collecting on these orders.

Specifically, this bill will: establish a national network for registering child support awards; increase payment collectors' access to State and Federal databases for locating and tracking absent parents; require States to honor and enforce out-of-State child support orders; permit States to require that AFDC applicants cooperate in establishing paternity as a condition of AFDC eligibility; require States to meet a national minimum collection rate on child support orders; and reward States that exceed minimum collection requirements.

Our current child support enforcement system is grossly inefficient and ineffective. Less than 20 percent of the 17 million families relying on this system had collections made on their behalf in fiscal year 1993. The administration estimates that the total amount of child support payments that could be collected annually is $47 billion. To ensure the future of millions of American children, it is imperative that we do a better job collecting this money.

I believe that this bill will substantially increase the amount of money collected on behalf of poor children, and I look forward to working with you and my colleagues on this issue in the future.

AMERICAN LAW DIVISION RECEIVES HODSON AWARD

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ROSE. Mr. Speaker, as the chairman of the Joint Committee on the Library, I am pleased to be able to bring to my colleagues attention that the American Law Division of the Congressional Research Service within the Library of Congress is the 1994 recipient of the American Bar Association's Hodson Award. This prestigious award, presented last month by the Government and Public Sector Lawyers Division of ABA, is "in recognition of sustained extraordinary service and achievement in the field of public law."

The American Law Division provides objective, nonpartisan, and confidential research, analysis, and information services to a clientele of 535 House and Senate offices, over 250 committees and subcommittees, and congressional support offices. Over the last 10 years, the American Law Division, with a staff of 65 attorneys, paralegals, and library and support staff, has processed more than 147,000 legal inquiries, produced more than 3,200 reports and confidential opinions and analyses.

As chairman of the Committee on House Administration, I have come to rely on the expertise of the Division frequently for legal advice and information. Most recently, Vince Treacy, Jay Shampansky, and Charles Dale assisted in the markup of legislation that would apply various laws to the Congress and briefed Members on the potential implications of the proposed legislation. Their expertise was invaluable to the legislative consideration of this complex piece of legislation.

The Hodson Award recognized the outstanding public service provided by the American Law Division. Since the entire division—attorneys, paralegals, library and production staff—shares in the award and should be proud of this recognition, I think it appropriate to list them by name:

David Ackerman, Pamela Baldwin, Anita Basilio, Elizabeth Bazan, Frances Bufalo, Fay Butler, Robert Burdette, Thomas P. Carr, Jean Clark, Henry Cohen, John Contrubis, George Costello, Charles Dale, Charles Doyle, Diane Duffy, Thomas M. Durbin, Richard C. Ehlke, Larry Eig, Dana L. Ely, Ida Eustis, Harry Gourevitch, Kevin B. Greely.

Jeanne J. Grimmett, Mark Gurevitz, Robin Jeweler, Nancy L. Jones, Johnny Killian, Robin Lancaster-Campbell, Ellen Lazarus, Margaret M. Lee, Karen J. Lewis, John R. Luckey, Crystal Maiden-Thomas, George Mangan, Lavonne M. Mangan, Jack H. Maskell, Michael Materon, Robert Meltz, Paul L. Morgan, Marie B. Morris, M. Maureen Murphy, Ingrid Nelson, Thomas Nicola, Maria Pembrook.

Vastine Platte, Robert D. Poling, Mabel Reyes, Thomas B. Ripy, Kent M. Ronhovde, Morton Rosenberg, Janice E. Rubin, Michael Seitzinger, Jay R. Shampansky, Gina M. Stevens, Gloria P. Sugars, Kathleen S. Swendiman, Ken Thomas, Joyce Thorpe, Brenda Todd, Vincent E. Treacy, Mildred Washington, Douglas R. Weimer, L. Paige Whitaker, Carolyn Wilson, Mary Ann Wolfe, James A. Ziegler.

In congratulating the American Law Division, Librarian of Congress, Dr James Billington acknowledged that the staff of the Division "brings a unique honor to the Library" and that "their skill, diligence, and hard work have benefited not only Members and their staffs but have contributed greatly to the mission of the entire Library." Daniel Mulhollan, Director of CRS, echoed these sentiments in noting that the "American Law Division's tradition of service, and the skill by which it is delivered, is a priceless asset that has earned the Division well deserved respect, not only from our congressional clients but also from your colleagues in CRS and the Library."

It is with sincere gratitude for the extraordinary work in support of the legislative, oversight, and representative functions of the Members of Congress that, on behalf of the U.S. Congress, I commend and congratulate the American Law Division.

REINVENTING GOVERNMENT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. HAMILTON of Indiana. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 5, 1994, into the CONGRESSIONAL RECORD.

REINVENTING GOVERNMENT

Americans have traditionally been suspicious of big government, but in recent years this healthy skepticism has hardened into a corrosive cynicism—a belief among many citizens that government is inherently wasteful, intrusive, and arrogant. This attitude ignores many successful and popular government programs such as social security, medical research and the interstate highway system. But for government to confront the pressing social and economic problems of the day, steps must be taken to improve public confidence in government. The federal government today does need an overhaul. We simply have to make it work better and cost less.

BACKGROUND

One promising effort launched by the Administration is the National Performance Review (NPR), directed by Vice President Gore. After nine months of extensive study, the NPR outlined its agenda in September of 1993. The report provided an action plan to "reinvent" the federal government. Included among the 384 recommendations were proposals to phase out some 252,000 federal jobs over five years, which, along with other streamlining measures would save $108 billion. The Vice President's report also suggested ways to cut red tape and change the bureaucratic mindset of federal agencies to make them more service-oriented toward the public. At the same time, the proposed elimination of layers of middle management would encourage employees to take the initiative and assume greater responsibility.

Certainly such an ambitious agenda gives rise to skepticism that it can be pulled off. While there have been repeated efforts to reform the federal bureaucracy since the Truman Administration, the Vice President's reinventing government agenda is the most farreaching. Yet it has been largely ignored by the media and many citizens.

ACCOMPLISHMENTS

Of the 384 recommendations proposed by the NPR last year, 90% are under way, with about $47 billion in savings over five years already enacted. Another $16 billion in savings is pending before Congress. Most important, over the past year federal employment has been reduced by about 71,000 full-time positions. As the buyout and streamlining process continues, a total of 272,900 federal jobs will be dropped.

A proposal to overhaul the $200 billion per year federal procurement system has passed Congress with my support. The resulting streamlining will end government monopolies and subject federal purchases of goods and services to market mechanisms and competition, lowering costs and improving quality. Steps also have been taken to decentralize federal personnel policy. The infamous Standard Form 171, required of all federal job applicants, has been abolished, as has the 10,000-page Federal Personnel Manual. More flexible personnel procedures are being developed. Next year the Administration will send Congress legislation to overhaul the civil service system.

A number of agencies have been restructured to save money and promote more efficient service delivery. For example, the Department of Housing and Urban Development has closed its 10 regional management offices. Over the next few years, 21 of the overseas missions run by the Agency for International Development will be shut down. In addition, President Clinton signed an executive order creating a Community Enterprise Board, chaired by Vice President Gore, to reduce federal regulations. Another executive order prohibits the imposition of unfunded mandates on states and localities without full consultation.

To make government more responsive to the needs of ordinary citizens, the Administration has implemented an NPR recommendation requiring federal agencies to create formal customer service programs. As a result of another recommendation, the General Services Administration has weeded out over a billion dollars of possible savings from federal real estate and construction programs. And steps have been taken to promote greater accountability and initiative in the federal workforce. The National Partnership Council, made up of top government officials and federal union leaders, has been formed to recommend major changes in the civil service system and promote labor-management cooperation. A Presidential Management Council has been created to supervise the streamlining process governmentwide.

CONCERNS

Reinventing government has had some important successes during the first year, but some recommendations have stalled. And certain proposals already accepted have drawn criticism.

Among the proposals not yet implemented are recommendations to streamline the federal budget process by shifting it from an annual to a biennial process. A proposal to allow agencies to "roll over" funds from year to year (and thus curb last-minute spending binges) is still under consideration. Efforts to shift the Food Safety and Inspection Service to the Food and Drug Administration have been blocked, as have proposals to close 1,200 Agriculture Department field offices and several Army Corps of Engineers regional offices.

More generally, certain of the basic goals of the reinventing government effort have been questioned. Some critics suggest that the cuts taking place may lead to a deterioration in government service or higher costs. Others suggest that federal employee morale is suffering, particularly among mid-level managers whose positions are under fire. In addition, more follow-through from the Administration is needed to get its proposals through Congress. The key budget process reforms, for example, threaten the power of important Members. Agency office closures are often opposed by Members representing constituencies affected by what these offices provide.

CONCLUSION

Reinventing government is off to a good start. We are going forward toward a federal government that works better and costs less, has fewer layers of bureaucracy, and is less bound by excessively rigid rules and procedures. But the hard work has just begun. The greatest risk is that the effort will not be carried on. What is needed is sustained commitment and a higher level of intensity from the Administration and Congress, so that more of the laudable goals of the NPR can become reality, improving government performance and hopefully enhancing the public confidence in government.

THIRTY YEARS OF BROADCAST QUALITY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I take great pride today in saluting the outstanding work of Delta College Public Television, a mid-Michigan institution that has been educating and entertaining viewers for 30 years. October 12, 1964, marks the date when Delta College Public Television became the first community college to broadcast its own public television station, WUCM-TV Channel 19, in Michigan and only the second to do so nationwide.

Since its inception in 1964, Delta College Public Television has offered a diverse range of programming not found on other stations, including educational programs, news, and family entertainment. WUCM-TV has forged the way in public television by being one of the first stations to offer programming operated by enthusiastic and creative college students who are both learning their craft and enlightening the public on issues relevant to the local community.

In its 30-year history, WUCM-TV has continually sought to improve its broadcast capabilities and expand its coverage to reach the maximum number of people. In 1969, the station more than doubled its output power to 562,000 watts. Soon thereafter, WUCM-TV joined the public television Satellite Interconnection System and created WUCX-TV Channel 35 in Bad Axe-Ubly to serve residents of Michigan's thumb.

Delta College Public Television has received numerous accolades and awards during its 30-year tenure. A sampling of these include the School Bell Award and a certificate of achievement for membership activities, both from the Michigan Education Association. It has received the Focus Award for outstanding community service programming and outstanding support of literacy efforts from the Michigan State Board of Education.

Clearly, we owe this institution a great debt of gratitude for its outstanding work and service to mid-Michigan and the thumb. I want to personally thank the people of Delta College Public Television for their commitment to excellence and I am proud to pay tribute to their distinguished 30-year history.

VILLAGE VIEW TURNS 30

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. MALONEY. Mr. Speaker, I have spent much of my life working to preserve and create affordable housing in New York City. I have found that this struggle makes more of a difference for New York's quality of life than almost any other.

And Mr. Speaker, it is almost always an uphill battle. I know that many of my colleagues here share in my aspirations for their communities, and I know that they have found that there are often many forces which oppose the preservation of safe, affordable housing. Sometimes it seems easy to despair.

That's why I want to bring to the attention of my colleagues one particular place which is close to my heart and which has served as a great source of inspiration to me. That place is Village View.

Mr. Speaker, this year Village View turned 30. Since its creation in 1964 under the Mitchell-Lama program, Village View has maintained its commitment to affordable housing for thousands of families. Currently, it is home to over 1,600 families of all ethnic backgrounds. Truly, Village View is the very essence of the melting pot which we call America.

There are a number of individuals who deserve to be singled out for their leadership in seeing Village View through its first three decades and into the future. To begin with, I would like to acknowledge the efforts of the entire board of directors, who work so hard to keep Village View such a special place: Hyman Genee; Arlene Goldstein; George Hamila; Guy Impallomeni; Carolyn Kozlowsky; Sal Leone; Paul Nadel; Frank Saulevis; Max Schwartz; Martin Siegel; George Semus; David Stone; Henry Zdonowski, and Eva Zysk.

In addition, Elm Management should be commended for the way they labor to ensure that the grounds are properly maintained. And of course, Village View's manager, Kenneth Klinger, who has served the community for over 10 years, deserves special praise.

I also want to thank three particular community leaders for their commitment and support: Mollie Siegel, Linda Belfer, and Adam Silvera. It has been my pleasure to work with these three dedicated individuals, and I look forward to continuing our cooperation for many years to come.

But in truth, Mr. Speaker, a community is only successful when all of its members work together. That's why every resident should take satisfaction in the success of Village View.

On a sadder note, one man who was truly believed by the entire community and who gave so much of himself to Village View is not with us to mark this anniversary. Last year, Phil Wachtel passed away. He is greatly missed.

But Phil would not have wanted us to mourn his passing. He was a leader who always had his eye on the future. And in his spirit, as we celebrate the past 30 years, we must renew our resolve, we must redouble our commitment to preserving the special nature of Village View. So I hope colleagues will join me in congratulating Village View on its 30th anniversary and in wishing it another 30 years of success for the future.

GLENN JONES: CABLE VISIONARY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. MANTON. Mr. Speaker, I would like to call to the attention of my colleagues an article regarding Glenn Jones which appeared in the September 26 edition of Business Week. Glenn Jones is the chairman of Jones Intercable, our Nation's seventh largest cable operator.

Mr. Speaker, the Business Week article is extremely timely because the cable industry is in a state of rapid technological transformation. At the cutting edge of this transformation is Glenn Jones, who has been on the forefront of such important developments in cable technology such as using fiber optic backbones for cable systems, implementing joint cable telephone systems, bringing individual inventors into cable limited partnerships, and seeking telecommunications markets in other parts of the world.

As the Business Week article correctly points out, Glenn Jones has been very successful. His net worth has been pegged at $300 million. Glenn Jones, however, is an important visionary who has not chosen simply to acquire wealth, but rather to spend a sizable portion of his fortune to transform cable technology into a vehicle for raising the intellectual capacity of our Nation. For the past 5 years, Glenn Jones has put more than $30 million of his wealth into Mind Extension University, a long-distance learning project that permits Americans to obtain a college education without traveling to a college classroom. Mind Extension University has vast potential for every region of the country, from inner cities, where single-income parents struggle to find time to obtain a degree, to people in rural communities which are hundreds of miles from the nearest campus.

Mr. Speaker, Glenn Jones always is on the move. Even as Mind Extension University continues to evolve and grow, he is now hard at work in developing a new cable programming service devoted to computer science and leasing satellite transponder space through his Jones Spacelink subsidiary. During the past several years, critics of the cable industry, both in and out of Congress, have suggested the cable industry has become staid and complacent. While there are numerous important success stories within the industry that prove that charge is false, none is more compelling than the story of Glenn Jones. I urge my colleagues to read the Business Week article, and I ask that it be included in the RECORD at this point.

THE EXPANDING UNIVERSE OF GLENN JONES

Employee meetings at the Englewood, Colo., headquarters of Jones Intercable Inc. are hard to miss. "It's the sound of the bagpipes," says Robert Luff, the company's former chief technology officer. Summoned by kilted musicians, employees attend "state-of-the-fleet meetings."

That's fleet as in spaceships, reflecting the founder's fascination with the science fiction classic "Dune." There's also the company's Medallion of the Alliance, awarded to employees who have achieved the rank of "dragon slayer" by beating back the fire-breathing challenges of the day.

True north.—To the uninitiated it may sound less like a day at the office than one at a theme park. But to the faithful at Jones Intercable, the nation's seventh-largest cable operator, such corporate flamboyance is simply testimony to the entrepreneurial brilliance of founder Glenn R. Jones. The 64-year-old Jones, a onetime bomb-disposal expert for the U.S. Navy, is known as much for his offbeat enthusiasms as for making his $683 million-a-year cable-television empire one of the most innovative in the industry. "Glenn's a dreamer, and sometimes that makes him seem a little different," says Bill Daniels, a Denver-based investment banker who specializes in cable TV. "But his dreams have turned out pretty well."

Indeed, driven by what Jones calls his "own North Star," his company was among the first to replace old-style coaxial cable with high-performance optical fiber and to secure a European beachhead. Both moves have since paid huge dividends. In July, Intercable folded its six British cable franchises into a company controlled by Bell Canada International Inc., getting in return a 14% stake in Bell Cablemedia PLC, Britain's largest public cable and telephone company.

Now, Jones is again pushing the frontiers. With the launch of tests offering telephone services to its cable customers outside Washington D.C. and Chicago later this year, Intercable is rushing to become the first cable outfit to counter the wave of telephone companies that are moving to sell video services over phone lines. And Jones's ties to Bell Canada will soon grow exponentially. By yearend, federal approval is expected for BCI's December agreement to pay up to $400 million for a 30% stake in Jones Intercable. The deal would give Jones access to BCI technology he needs to expand into phone and data services, as well as provide the muscle to raise up to $1.6 billion to buy new cable systems.

Jones has long excelled at deft management of cable systems. Far ahead of competitors, he saw the advantage of building systems in close regional clusters, concentrating on upscale suburban areas such as Northern Virginia and outside Chicago. Clustering cuts down on administrative and other operational costs. Jones's systems are also among the most technologically advanced, with fiber-optic cabling beginning ahead of the pack in 1989. "When you talk about vision and getting somewhere first, Jones is usually at the top of the list," says Sharan Stover, vice-president at cable rival Tele-Communications Inc.

The son of a Pennsylvania coal miner, Jones labored briefly as a lawyer and found cable TV after an unsuccessful 1964 run for Congress as a Goldwater Republican left him $40,000 in debt. In an oft-repeated story, he borrowed $400 on his beat-up Volkswagen for the downpayment on a cable system that served 150 homes in Georgetown, Colo. Borrowing again, he bought two more systems.

Then, he started dreaming bigger. "I sat down and figured that it would take $10 billion to cable all of America, and I didn't have any way of getting that much," he says. So, Jones copied the deals common in oil and gas, becoming the first cable operator to finance growth through what became a widely popular vehicle, limited partnerships. The partnerships, which paid fees to his company for managing cable systems owned by investors, shielded Jones from heavy debt. As rising values brought new investors, shielded Jones from heavy debt. As rising values brought new investors, the network of cable systems Jones's companies own or manage has grown to 55, with 1.3 million subscribers.

Today, publicly held Jones Intercable and its sister company, Jones Spacelink Ltd., have combined revenues of $299 million, up 15% from $260 million in 1992, while the partnerships they manage have revenues of $386 million. Like most cable operators, however, they lose money. Intercable and Spacelink together lost $35 million in the fiscal year ended in May, while the partnerships lost $73.3 million.

But in the cable-TV industry, reported losses matter little. Cable companies have enormous capital costs—and the partnerships are designed to give tax losses to investors. More important than producing earnings has been Jones's ability to generate cash flow needed to fund expansion and upgrade systems with fiber-optic cable. Still, the complex web of partnerships and the relatively thin trading of its stock have hurt Jones's tightly controlled public companies on Wall Street. "It's just not worth the time it takes to understand it," says Kidder, Peabody & Co. analyst Alan Gould, who follows one of Jones's partnerships.

The complexity hasn't hurt Jones, however. He has amassed a fortune estimated at more than $300 million by holding huge blocks of both Intercable and Spacelink, as well as a controlling stake in Jones Space Segment, a private company that generates millions from the operating companies by leasing satellite transponder space. A few years back, Jones Intercable also paid its chairman $4.3 million for his stake in Jones Galactic Radio, which provides stereo music to cable subscribers, while other private companies owned by Jones provide data and financial services and arrange deals for the public cable companies.

Jones's deal with BCI is expected to simplify the structure, giving the company more allure on Wall Street. Intercable and Spacelink will be merged and many of the investment partnerships bought out. Although the deal will cut Jones's personal stake in the merged companies to 35%—he currently controls 86% of Spacelink and 48% of Intercable—it will give him the funds to go shopping for more cable systems. He'll also pour more money into his longtime infatuation, Mind Extension University. Jones spent $30 million of his own to launch the seven-year-old cable university, which offers college courses to some 26 million cable homes.

For Jones, a voracious reader who employs a full-time staffer to summarize books for him, education is a mantra. But he insists the money-losing Mind Extension University is also a business in the making; he is currently launching three new channels with courses in computers, foreign languages, and health.

Jones plots his empire's next move from a building just outside Denver that is designed to give employees a grand view of the Rocky Mountains. The waterfall in the atrium, he admits, was inspired by a scene from "Dune." His office suite includes a "war room" with a console of TV screens and electronic devices that would do that Starship Enterprise proud.

No question about it, there are few chief executives who do things quite like Glenn Jones. Writing as "Yankee Jones" in a series of books he has published called Briefcase Poetry, Jones might be talking of himself in a poem entitled "Entrepreneur": "The dreamer is a practical man, he can do things no one else can." And now he has the cash to turn more of his dreams into reality.

TAIWAN'S 83D NATIONAL DAY

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ORTIZ. Mr. Speaker, I rise to extend my best wishes and congratulations to President Lee Teng-hui and Ambassador Benjamin Lu of the Republic of China on the occasion of Taiwan's 83d National Day on October 10, 1994.

In recent weeks, we have seen the Republic of China's campaign to rejoin the United Nations. I believe we should give Taiwan our support.

The Republic of China is a full-fledged democracy and its government policies conform to those of other democratic nations.

The Republic of China is one of the most important economic powers in the world. Despite its small population of 21 million people, its gross national product ranks among the 20 largest in the world and its foreign reserve is one of the biggest in the world.

The Republic of China has established a program of economic assistance to many underdeveloped nations and has joined major international organizations such as the APEC—the Asian Pacific Economic Cooperation forum.

One of the most compelling reasons for us to support the Republic of China's aspiration for United Nations membership is Taipei's willingness to be a helpful partner in the international community.

In closing, I wish to take this opportunity to say my personal goodbye to Ambassador Mou-shih Ding, who has returned to Taipei to assume the post Secretary-General of the Republic of China's National Security Council. I look forward to working closely with Ambassador Ding's successor, Ambassador Benjamin Lu.

God bless the Republic of China on Taiwan.

TRIBUTE TO THE REPUBLIC OF CHINA AND THE UNITED NATIONS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BLACKWELL. Mr. Speaker, I rise today to congratulate the Republic of China on its forthcoming 83d anniversary. I commend President Lee Teng-hui, Vice President Li Yuan-zu, Premier Lien Chan and Foreign Minister Frederick Chien for their diligent efforts in campaigning for the return of this country to the United Nations. I am certain that many would agree that this country is deserving of such membership.

The Republic of China on Taiwan has been in total control over the Taiwan area from 1945 to the present. It governs 21 million Chinese on the island. Mr. Speaker, I was pleased to learn that the Republic of China has declared that its political authority does not extend over the Chinese mainland and that it looks forward to a peaceful settlement on the issue of reunification with the mainland.

No doubt, the Republic of China should have a reasonable international status and should be able to participate in U.N.-sponsored activities. Mr. Speaker, such exclusion from the United Nations leaves the rights and interests of 21 million Chinese citizens unprotected.

All nations large and small should enjoy membership with the United Nations. Mr. Speaker, I hope to see the day, real soon, when the Republic of Taiwan will once again be a proud member of the United Nations.

OPPOSITION TO FROSTING A BURNT CAKE IN REBUILDING MOSCOW EMBASSY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. GILMAN. Mr. Speaker, on a number of occasions over the years I have expressed my concerns about the construction plans for the Moscow Embassy. This is a highly sensitive post and warrants the most secure facility we can build. The State Department has advised Congress based on earlier budget decisions, that it intends to follow the so-called hard hat building plan. That option would reconstruct the Russian built, and Russian penetrated building, instead of tearing down the structure and starting anew. The distinguished Congresswoman from Maine [Ms. SNOWE] and I strongly oppose this approach because we do not believe such an important project should be decided on narrow budgetary grounds alone. The previous administration supported a complete tear down option, even though the cost was higher because it provided critically important security.

Today several of our colleagues have joined in signing a letter to Secretary of State, Warren Christopher expressing our disapproval of the ill-advised Moscow Embassy construction plan. They share our concern that we are taking needless risks with our national security with such an ill-conceived building plan.

Let us not put any frosting on a burnt cake.

HONORING THE EAST BAYSIDE HOMEOWNERS' ASSOCIATION

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents in the Fifth Congressional District in honoring the East Bayside Homeowners' Association [EBHA] as it celebrates its 20th anniversary. Initiated in 1974 by a group of determined residents and inspired by the dynamic leadership of its president, Frank Skala, the group undertook a broad and comprehensive program of initiatives that would eventually have the EBHA emerge as a yardstick by which all effective civic association would be measured.

Frank Skala, the EBHA's president, is a true representative of selfless dedication to the community. Upon graduation from Queens College, Frank began a career as a teacher of social studies in the New York City school system. He quickly gained recognition as a unique teacher who effectively challenged his students to learn, explore and grow. In addition, his faculty colleagues quickly recognized his leadership talents and elected him to serve as their chapter chairman to head the school's teacher organization.

Through Frank's efforts and insight, the EBHA has successfully undertaken major efforts of community concern that include zoning, utilization of police personnel, environmental issues, noise pollution and a comprehensive approach to maintaining the East Bayside community as an attractive community. This has been done through a well-established community desire to undertake any issue and devote any amount of time in addressing these concerns.

In a time when we search for heroes who undertake insurmountable hardships and reflect America's time-honored tradition of volunteerism, it is reassuring that the EBHA continues to successfully protect and enhance their neighborhood.

I urge my colleagues to join me in honoring the East Bayside Homeowners' Association.

TRIBUTE TO HOME-BASED BUSINESSES

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to the more than 24 million citizens who exemplify the American entrepreneurial spirit by establishing businesses in their homes.

Millions of men and women across America work at home. These dedicated professionals are consultants, word processors, writers, computer manufacturers, teachers, realtors, artists, entertainers, sign language interpreters, crafters, and farmers. Whether they were outplaced by new technology or fired up by a desire to bring their services and new ideas to the American marketplace, these home-based business owners continue to fuel the growth of some of this country's most important inventions, services, and ideas.

Home-based business owners are concerned about their families and the quality of their lives. They are concerned about road congestion and commuter pollution, and they are sincere in their convictions to live the American dream.

Home-based business owners serve other community needs. They provide safe harbors for latch-key children returning to empty houses after school, and they perform countless hours of volunteer service to schools and other community organizations because of their flexible work schedules.

Mr. Speaker, I also wish to pay tribute to the American Association of Home-Based Businesses, headquartered in Montgomery County, MD, which I am honored to represent in Congress. Their president, Beverly Williams, and their national directors, Jan Caldwell, Betty Stehman, and Ronald Wohl, community leaders and home-based business people themselves, are working to establish a national network of chapters which provide self-help seminars and workshops to encourage their members and help them stay in business by working for entrepreneurial education, business loans, financial support, health care for small businesses, and to lobby against restrictive local ordinances.

I am particularly proud to honor the American Association of Home-Based Businesses and their Montgomery County chapter. I might add that Gaithersburg, MD, in Montgomery County, has been named by Home Computing magazine as the Nation's top location for home-based business entrepreneurs.

In celebration of National Home-Based Business Week, October 9 to 15, 1994, I ask my colleagues to join me in commending all of the hard-working individuals who work at home for their contributions to their communities and to the economy, and wishing them and their association continued success.

HONORING THE OSSERS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. ENGEL. Mr. Speaker, I would like to take a moment to recognize two special residents of my district, Sidney and Lillian Osser, who this year are celebrating their 60th year of marriage.

The Ossers have been active members of the Co-op City community for a long time, and I am proud of the contributions they have made. Sid Osser is a former president of the Co-op City Arts Council, and he has also served as president of the Baychester Library Association. He was selected to the Governors Conference on Libraries and Educational Projects.

Sid Osser is also a former silent movie star, and the only surviving cast member of the 1919 film, "Humoresque." In 1985, Paramount Pictures flew him to Hollywood for a remake of the film.

There are many other interesting and important activities in which the Ossers have been involved, perhaps the greatest of which is the raising of their two children, Arlene and Leonard, and the joyous addition of their two grandchildren.

On behalf of all the people that know and care for the Ossers, I congratulate them on their long and fruitful relationship.

SUPERFUND AND THE DAVIS-BACON ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. RAHALL. Mr. Speaker, there has been a great deal of discussion in recent weeks over the Davis-Bacon Act amendment I sponsored to the Superfund Reform Act of 1994. It is now apparent that this legislation, unfortunately, will not be enacted by the 103d Congress. However, I did want to take this opportunity to set the record straight on my Davis-Bacon Act issue.

First, so that there is no confusion, let me make it perfectly clear that the Davis-Bacon Act has nothing to do with labor unions.

The act does not require that labor unions, or any particular labor union, conduct work at a federally assisted project.

Simply put, all that the Davis-Bacon Act requires is that where Federal funds are spent on a project, the contractor pays its workers the prevailing wage rate for the area where the project is located.

The prevailing wage rate is vastly different throughout the country.

For example, the Davis-Bacon wage rate for heavy construction—the type of construction applicable to a Superfund project—in Raleigh County, WV, which is located within the district I represent in the House, is $17.50 an hour.

Those who oppose the inclusion of my Davis-Bacon Act amendment in the reauthorization of the Superfund Act are, in effect, saying that workers at a Superfund project that may be located in southern West Virginia are not worth $17.50 an hour. I disagree with that premise.

Let us look at another locale, say, Whitfield County, GA, where the Davis-Bacon prevailing wage rate for heavy construction is $6.84 an hour.

Few would dispute that at the very least we should be willing to pay workers $6.84 an hour to engage in the risky business of removing hazardous and toxic wastes from Superfund sites.

The point is that under my amendment to the Superfund reauthorization bill, the prevailing wage rate in Raleigh County, WV, would continue to be $17.50 an hour and it would continue to be $6.84 an hour in Whitfield County, GA. As I mentioned, the prevailing wage rate is vastly different throughout the country and my amendment has no bearing whatsoever on what it happens to be.

The second point I would raise as a matter of clarification is that my amendment maintains Davis-Bacon Act coverage only where Federal funding exists. In the event no Federal funds are involved at a cleanup project, under the amendment the Davis-Bacon Act would not apply.

As such, this amendment is similar to some 60 other related Davis-Bacon Act provisions in current law where Congress has provided that federally financed and assisted construction projects are subject to prevailing wage standards. These provisions apply to a wide variety of Federal aid, grant, insurance, guarantee, and loan programs involving everything from the construction of housing to mass transportation and airport redevelopment projects.

Finally, I believe that in our efforts to reauthorize and reform the Superfund Act, we must not ignore one fundamental fact: environmental restoration without fair compensation to the workers is simply not enough.

In addition, by providing for the prevailing wage rate to be paid at federally assisted Superfund projects, we are ensuring that a well-trained work force will be employed.

And by using a well-trained work force, money will be saved because the project will be done right, the first time, and not have to be revisited time after time as is so often the case today.

In conclusion, it is my observation that the Davis-Bacon Act amendment has been used in recent weeks by certain interests as an excuse to scuttle the Superfund Act reauthorization bill for reasons that are totally unrelated to the issue of paying prevailing wage rates to workers. Perhaps next year, in the light of a new Congress, these agendas that are completely unrelated to the Davis-Bacon Act may be exposed and dealt with in a more forthright fashion so that the Nation can get on with the business of restoring the environment while providing for adequate compensation to those who engage in environmental restoration projects.

TRIBUTE TO IAN A. HOPKINS

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Ian A. Hopkins of Troop 44 in Glocester, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, 11 of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Ian made and installed duck boxes around Shingle Mill Pond in West Glocester, RI.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Ian A. Hopkins. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Ian A. Hopkins will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

POLIO ELIMINATED FROM THE AMERICAS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. RICHARDSON. Mr. Speaker, today brings us one of those rare moments when we can celebrate a very special human achievement and reflect, with pride, on the role the Congress played in making it possible. Today at the Pan American Health Organization, here in Washington, a formal declaration is being made that the Americas, from Alaska to Argentina, are free of polio.

Only a few short years ago the entire world was declared free of smallpox. That scourge was eliminated first here in the Western Hemisphere. It is the hope and expectation of the World Health Organization that polio can be eliminated throughout the world by the year 2000.

Mr. Speaker, this magnificent achievement represents what can be accomplished with vision, leadership, and dedication. Building on the historic discoveries of polio vaccines, further research succeeded in making these vaccines stable in conditions of arctic cold and tropical heat. Congress, and especially the efforts of Senator EDWARD KENNEDY, of DAVID OBEY, our colleague from Wisconsin who now chairs the Appropriations Committee, and of Chairman JOHN DINGELL, were key in getting funding for AID to support this critical research. It was the success of those efforts to have vaccines that could be successfully administered to people living in the remotest areas of two vast continents that made possible the very idea that polio could be eradicated, not just reduced.

Having the right vaccine was critical to success but that was only one part of the story. Implementing a strategy to eliminate polio in the Americas required unprecedented collaboration among numerous international organizations, national governments, non-governmental organizations, and millions of citizens. It also required resources. The total costs for eliminating polio are estimated at around $540 million, a small fraction of the costs this dreaded disease would incur medical care for polio's victims. But no financial estimate can account for the real costs this disease wrought in the pain and suffering of the victims and the anguish of their friends and families.

This is an achievement dependent on the efforts of so many, including our own taxpayers. There is not time to mention all those whose contributions deserve our applause. First, of course, is Albert Sabin whose achievements, along with Jonas Salk, made possible the eradication of polio. The roles of the Pan American Health Organization, the World Health Organization UNICEF, and our own U.S. Agency for International Development were key as were the efforts of the peoples and governments of every nation in the hemisphere. Also playing important roles were Rotary International, the Inter-American Development Bank, and the Canadian Public Health Association. To all those who played a part in this achievement, large and small, go our thanks and appreciation.

HONORING THE CASTROVILLE, TX, SESQUICENTENNIAL

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. BONILLA. Mr. Speaker, my colleagues, I would like to take this opportunity to share with you remarks delivered by Monseigneur Roy Rihn on the occasion of Castroville, Texas' Sesquicentennial. This statement eloquently recounts the history of this proud community and I strongly recommend it to all. I am also sharing a copy of a letter I sent Castroville Mayor McPherson on this historic occasion.

SEPTEMBER 3, 1994.

Hon. RON L. MCPHERSON,
1209 Fiorella,
Castroville, TX.

DEAR MAYOR MCPHERSON: I am honored to be here today and I would like to thank you, the Medina County Historical Commission and all of the citizens of Castroville for allowing my family and I to participate in Castroville's sesquicentennial celebration.

Upon my return to Washington, I will submit today's remarks to the Congressional Record as an official account of today's events celebrating the history of Castroville.

Mr. Speaker, I would like to recognize the warm and friendly community of Castroville Texas on its 150th anniversary. Known as the "little Alsace of Texas," Castroville's ancestors traveled from the Rhine provinces of France and settled on a scenic spot along the banks of the Medina River, fifteen miles west of San Antonio in 1844.

What is known as the old part of Castroville has been designated as a National Historic area, and today almost 100 original homes are still in use.

Henri Castro, a French citizen of Portuguese descent sought colonists to come to Texas from Europe. He proved to be quite successful attracting 485 families and 457 single men to the Republic of Texas. In fact, only Stephen F. Austin brought more settlers to the State.

I can think of no better example of a community committed to the preservation of its history and the prosperity of its future than Castroville, Texas.

This commitment will serve to benefit the citizens of Castroville for generations to come.

Congratulations, Castroville, on your sesquicentennial!

Sincerely,

HENRY BONILLA,
Member of Congress.

REMARKS OF ROY RIHN

It rained torrents all day in San Antonio de Bejar Sunday, September 1, 1844. But that was the date Henri Castro had set to begin the 25-mile trek westward to the site he had chosen for his first colony, so, rain or no rain, the 22 carts he had assembled finally got underway around 4:00 in the afternoon. The cavalcade included Castro, his trusted lieutenant, Louis Huth, 27 colonists, 8 hired helpers and a 20-man armed guard. (The women and children had stayed in San Antonio for safety.) By nightfall the following day, they reached the east banks of the Medina River where they encamped overnight. Early the next morning, Tuesday, September 3rd, under a now-clear and benign sky, the entire party crossed the Medina to the lush flatland bounded on the north, east and south by the river's horseshoe bend, on the west by gentle hills. Castro drew up the carts in a circle inside which, he reports, each man had by nightfall constructed a cabin of brush and reeds. That evening, made festive by a copious supply of stout red wine (compliments of the impresario), all the men savored a meal featuring wild turkey, deer and bear shot that day—in what was to prove the first of many "wild game dinners" in Castroville. This day, marked by hard labor and ending with hard partying, was the foundation-day of this storied town—exactly 150 years ago today. Thus September 3, 1844, is the date of the actual founding, though the formal founding ceremonies occurred September 12th—a momentous day which included the laying of the corner-stone of St. Louis church by Bishop Odin, the official adoption of Castroville as the name of the colony, and the first election of local county officials.

This may give the impression that developments had gone smoothly for Castro once he had signed a contract with the Republic of Texas on February 15, 1842, to settle, within 3 years, 1200 colonist-families on the 3 huge tracts of public lands between San Antonio and the Rio Grande. Not so! Indicative of the frustrations, disasters and treacheries which dogged Henri Castro from the outset is the fact that, even though he had recruited and transported across the Atlantic to Texas more than 700 persons in 7 ships between November, 1842, and May, 1844, only 27 hardy souls showed up that rainy Sunday to begin the hazardous venture into the wilderness. What happened? The heart-breaking story is too long to re-tell here, but let me mention only 2 details. The surrender of Santa Ana at San Jacinto in 1836 did not end the Texan-Mexican war—Mexican forces recaptured San Antonio twice in 1842: once in March and again in September. Those invading forces had marched through the heart of the Castro concession. This daunting news greeted the Castro recruits when they disembarked on Texas soil between January 1843 and July 1844. Many of them opted for the safer terrain of Victoria or Houston and never got even to San Antonio, let alone to Castroville. Some (who could afford it) sailed back to Europe. And those who did make it to San Antonio found themselves in a precarious limbo: not until Louis Huth arrived on the scene early in 1844 was there anyone there to meet them, to advise them, to help them. (Castro himself, busy recruiting more settlers in Europe, was not to arrive in San Antonio until July 1844.) Luckily, these bewildered immigrants did have one thing going for them upon arriving in San Antonio: housing was plentiful, since most of the inhabitants had fled in terror, leaving their houses vacant, when the Mexican army twice re-occupied the city in 1842. Then there were the native Americans—the Indians. Though generally friendly, they could at times be as savage as their European invaders. The news of the first massacre of one of Castro's colonists en route from Port Lavaca to San Antonio in August, 1844, shocked and terrified the remnant waiting in the San Antonio staging area. Ever fewer dared the risks of settling west of San Antonio where Indians were even more in control. All this (and much more) contributed to the embarrassing 27-out-of-700 response to Castro's clarion call to get the great adventure underway September 1st, 1844.

Except for a quirk of fate, we would be celebrating this sesquicentennial not here but in Quihi. The easternmost boundary of Castro's concession began some 7 miles west of here. On July 25th, 1844, just one week after Castro first arrived in San Antonio, he led a scouting party to inspect his concession for the purpose of selecting a suitable site for the first colony. Their unanimous choice was Quihi Lake, about 9 miles west-northwest of here. But when Castro got back to San Antonio July 31st, he learned that his competitor, Prince Solms, was negotiating with one John McMullen to purchase for colonization a 50,000-acre tract along the Medina River. Castro knew that if this deal were to go through, his own project would be doomed: few settlers would cross through available land much closer to San Antonio (and therefore much safer)—rich land with a clear river flowing through it—to get to his concession farther west. He immediately sought out McMullen, used all his charm and powers of persuasion, and within 3 weeks—on August 22nd, 1844—got McMullen to sign a contract selling him 25,000 acres of his Medina Valley tract for $2,000.00! Within less than 2 weeks Castro had his first colonists ensconced here on the banks of the Medina, busy building the town they were to name Castroville.

The dedication of a Texas Historical marker honoring Henri Castro will be highlight of today's observance. Books have been written about this colorful man, so I shall not attempt even to summarize the story of his remarkable life. Let me say only that the State of Texas is well advised to honor his memory, for he played a significant role in its history—both as a Republic and as a fledgling State. Of the several empresarios with whom the Republic of Texas contracted to colonize public lands, Henri Castro was the only one who followed that contract through to a successful conclusion—and did so in the face of incredible odds. Between 1844 and 1847 he was responsible for the founding of 4 frontier settlements in the vulnerable buffer zone between Texas and Mexico—2 of which, Dhanis and Castroville, flourished, and remain 2 of this county's major communities. And even though fewer than half the 2,134 colonists he brought from Europe to Texas actually settled on his concession lands, almost all of them put down roots somewhere in Texas at a time when settlers were desperately needed to populate its vast undeveloped spaces.

Henri Castro began recruiting colonists in 1842 in his native France. But he had scant success because the French government was at the time itself vigorously recruiting colonists to settle its African foothold, Algeria, and overtly sabotaged Castro's efforts. Scant success, that is, until his agents got to France's 2 easternmost departments, Bas-Rhin and Haut-Rhin—better known as Alsace. There the response was electrifying. For sheer wanderlust, the Alsatians are unrivaled—even by the Irish! Though their homeland is tiny, both in size and in population, you find Alsatian emigres everywhere. It was they who made up the bulk of Castro's colonists, though Germany's Saarland and Baden contributed their fair share. The outnumbered Germans, however, were no match for the "Elsassers" who quickly established theirs as the dominant culture: language, architecture, cuisine, traditions. This was especially true in Castroville which, throughout the first 100 of its 150 years, was an Alsatian enclave. As a boy growing up here I remember that when some unsuspecting family moved into town from elsewhere they were immediately ostracized. Word quickly got around in the village (in the language all villagers then spoke): "Sie sinnd Americawner!") Strange, but the irony of this never dawned on us: that here in this place in America, Americans were the outsiders! Most everyone's first language was the Alsatian dialect, not English. All that is now changed. Despite the last "Blackie" Tschirhart's valiant efforts to preserve the dialect, it's gone—except for a few rapidly dwindling "old timers". The unique architecture of the PCHs (Pioneer Castroville Houses) is the last visible link with the culture which 150 years ago was transplanted "lock, stock and barrel" from Alsace to the southwest Texas wilderness. Those original colonists were sturdy stock—enduring hardships, privations, dangers beyond belief. What magnificent witness they gave to that mysterious spark in the human spirit which is ready, whatever the cost, to leave the security of the status quo to begin again.

Today's observance would not be complete without at least a brief salute to the memory of Ferdinand Louis Huth, Castroville's unsung hero, without whom the infant colony would probably not have survived. Louis Huth was the hands-on head of the colony during the first two and most crucial years of its existence. Scarcely 2 months after Castroville's founding Castro had to return to Europe to meet the growing demands of his project. In a contract signed by both men, Castro placed Louis Huth in sole charge of the infant colony during his absence. Castro was unable to return to Castroville until September, 1846, and during those 22 critical months Huth not only proved himself an able administrator, as well as a compassionate and generous friend of the struggling colonists, he also established the second and third settlements (first and second on concession lands): Quihi in March 1846 and Vandenburg in September 1846. The Huth family's financial disputes with Castro led to Louis' dismissal by Castro in November 1846. Nevertheless, until Louis Huth moved his family to San Antonio in 1863, he was not only a respected citizen of Castroville, he was repeatedly elected to high public office in the newly-created Medina County and was co-founder of Castroville's historic Zion Lutheran Church.

There are many wonderful old Castroville stories. Let me share just one with you. It is no secret that Castroville's #1 industry during "Prohibition" (1918 to 1933) was bootlegging: selling home-brew beer. It was not an uncommon weekend sight to see beer flowing down the street where the "Revenooers" had sprung a surprise raid and smashed hundreds of bottles of home-brew. (Raids were always on weekends because that's when the bootleggers' patrons drove out from San Antonio.) One Saturday "Augueschty" Tschirhart was hosting a big poker party in his home, selling lots of home-brew to the players and the crowd of kibitzers. Dozens of cars were parked outside Augueschty's house—the telltale sign the Revenuers looked for. Word reached the house that the dreaded Revenooers were coming into town. Augueschty, whose avocation was coachman to drive the hearse for the town's funerals, got a bright idea. He hurried to the garage next-door where the hearse was kept, hitched up the horses, then parked the hearse in front of his house. When the Revenuers reached that part of town, out of respect for the dead, they passed up Augueschty's house. Two serious crimes—public gambling and selling home-brew—went on uninterrupted. Augueschty became a legend. (By the way, this elegant old carriage-hearse now graces San Antonio's Institute of Texan Cultures—one of its more prized exhibits.)

The Second Texas Legislative created Medina County on February 12, 1848, with Castroville as the County Seat. In 1880 the Southern Pacific was extending the railroad west from San Antonio to California, but the citizens of Castroville voted no on the $100,000 bonus demanded by the company to route the line through town, so the Southern Pacific chose a route several miles south of Castroville. The town's commercial activity began a steady decline, while the new town of Hondo, some 15 miles to the west and a regular stop on the "S-P", prospered and grew. In August, 1892, Medina County citizens voted to transfer the County Seat from Castroville to Hondo. By-passed by progress, the old town appeared to be dying on the vine. Around this time an anonymous author wrote the following obituary: "Castroville is no more . . . she is defunct . . . the light of her political life has gone out. . . The remains are now reposing in state under the spreading boughs of her once-loved pecan trees." (Quoted from Ruth Lawler's "The Story of Castroville".)

Well, Castroville might have said with Mark Twain, "The reports of my death are premature". From our vantage point we now see that losing the railroad and the County Seat were among the best things ever happened to our beloved old town. Had "progress" won the day, Castroville would have grown into just another stereotypical Texas town. The lovely old Alsatian homes and public buildings would have been razed to make room for more modern (and soulless) construction. What makes Castroville unique in these 50 States would have been lost forever.

I may well stand corrected, but I attribute Castroville's rebirth to an outsider, an "Amerikawner", who came to Castroville in 1927 but who refused to succumb to the usual ostracism. Her name: Ruth Curry Lawler. This well-bred New Orleans lady not only recognized the uniqueness of Castroville but fell in love with it. It was she, in her quiet but strong way, who convinced us that "Alsatian is beautiful". She taught us not only to save but to savor our precious heritage. She was the moving spirit behind the founding, in 1975, of the Castro Colonies Heritage Association, a co-sponsor of today's event, and the guarantor that our unique heritage will now never be lost.

I close by using this bully pulpit to make 3 recommendations to the City of Castroville and to the Castro Colonies Heritage Association. One: bring back the remains of Henri Castro from Monterrey, Mexico, for re-interment here where he belongs. Two: lobby the Texas Historical Commission to erect here in our town an historical marker to Ferdinand Louis Huth. Three: ditto for another to Ruth Curry Lawler.

NOISE ABATEMENT AND ENVIRONMENTAL DEGRADATION AT CHARLIE BROWN AND HARTSFIELD INTERNATIONAL AIRPORTS

HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. LEWIS of Georgia. Mr. Speaker, we all know how important the airlines are to our daily lives. For communities in close proximity to airports, they can be a source of jobs and essential to local economic prosperity. However, airports also negatively impact these communities. They bring increased traffic, noise pollution, and other forms of environmental degradation.

On September 8, 1994, I held a hearing in Georgia's Fifth Congressional District to examine how residents around Hartsfield International and Charlie Brown Airports are affected by these problems. Community representatives met with officials from the Federal Aviation Administration and the Environmental Protection Agency to discuss the adverse effects of these airports and to seek solutions to these problems.

The following are testimonies of some of the community representatives who participated in the hearing. I urge my colleagues and Federal officials to take heed to these testimonies, as they represent the concerns of people who must live with the roar of engines and the fumes from jet fuel.

The Fulton County Airport, Charlie Brown Airfield, is a major reliever airport for the Hartsfield International Airport. Our main problems with the Charlie Brown Airfield in the northwest and southwest quadrant of the city of Atlanta are, noise and air pollution and health and environmental concerns and issues.

We have major problems with airplanes flying over our homes at 3 a.m. and 4 a.m., 7 days a week; yet, the air traffic control tower is unmanned between the hours of 12 a.m. midnight, and 6 a.m. We would like a curfew for airplane flights at Charlie Brown Airport between the hours of 10 p.m. and 7 a.m., as is the policy of many major metropolitan cities. Our other concern is low-level jet aircraft flights in our area as a result of us being directly in the holding area for Hartsfield International Airport.

Occurrences of flights with fatalities need to be monitored closely and the risk to our community noted. The LDN—day-night average sound level has no relationship to the impact airplanes flying in the area bring to our area, or to the acquisition of homes in our area. All of Carroll Heights should be considered the clear zone, because we are impacted by air flights. However, 32 homes and 1 business were purchased almost 2 years ago, because they were in the clear zone. Fulton County purchased eight additional homes in the clear zone area, but four or five homes which are still directly impacted by the airport because our area is so densely populated. Airplane noise is unbelievably unbearable by day and night, but is even more unbearable when it rains because of low flying aircraft.

We are asking for a health and environmental study which would include our air, water, and soil. We would like a risk assessment of our health concerns because many residents have cancer and respiratory illnesses. We would like the entire area monitored, and data collected in a timely manner, over a period of time, not many many years, in order to draw a logical conclusion to incidences of disease in this area.

Our quality of life is not as good as it could be, we live in fear of airplanes falling daily, the air that we breathe reeks of fumes, the noise from aircraft that we hear is deafening, the environment is unclean and unsafe. We have complained to local and Federal authorities for years, but to no avail. From this hearing, we hope to attain a commitment for, and to set wheels in motion for a full environmental study of the air, water and soil. A health study to address the high incidences of cancer and respiratory illnesses and other health related problems. We also hope to attain and have put into action a noise study to determine the urgent need for a curfew of the late night flights at the Fulton County Airport, Charlie Brown Airfield.

GEORGE HIGH COMMUNITY CONGRESSIONAL HEARING PRESENTATION

The George High Community is located in extreme southeast Atlanta bordered on the east by the Dekalb County line, on the south by the Clayton County line, on the west by Jonesboro Road, and on the north by South River Industrial Boulevard.

Ours is a neighborhood of approximately 550 homes and 5 apartment complexes so secretly trucked away in this beautifully wooded area that most people don't know we are here. We are proud of our natural forest and historical background where artifacts have been founded that date back to the day of the Indian. The trees and shrubs provide an array of beauty that enhances the whole area and provide a quality of life lost to most metropolitan areas with the same quantity of commercial development.

Most of the houses in our community were built over 30 years ago. Most are brick ranch, split level or split foyer two-level homes. The medium length of time lived in the neighborhood is about 20 years. Most of the homeowners are over 40 years of age and a substantial number of those are elderly and retired—people who had planned to live out the remainder of their days in this community.

Over the years the beauty, safety and serenity of our neighborhood have been encroached upon by outside factors. It would be petty, but true, to say we were here first. Twenty years ago when I moved into the area we rarely heard an airplane fly over, landfills were unheard of, and the north end of our community was a nature park called Lake Charlotte.

Today, we are boxed in on the north by several low-end trucking companies, on the east by the multi-million-dollar Live Oak Landfill, on the south by Clayton County and its nude dance clubs, on the west by the Airport, and overhead by the mighty airplane with its noise and vibration.

Our homes are literally being shaken from their foundation and when we go out we can not hear and often can not bear the smell. Many of the younger residents have given up the battle and either put their homes up for sale or rented them under Section 8, when they did not sell.

We realize some of our environmental issues are not within your jurisdiction. However, we feel you can have a positive impact on the airplane noise and legislation regarding landfills.

The next page details our concerns/problems and our request for your assistance.

My name is Martha Wilson. I am Chairperson for the Normandy Home Owners Association.

The information which I will present summarizes some of the complaints made by our Members relating to noise from the Hartsfield Airport and other issues.

In the course of our many meetings, it was decided to do a physical check at random times of planes flying over the Normandy Subdivision. The results of this exercise for portions of 5 days—July 11 and 21 1994, and August 1, 22, and 24, are given at Appendix 1.

Although we get our worst problems (of very low flying airplanes) whenever the weather is inclement, there were no weather problems existing on the days of our Survey.

In addition to the Survey, we have had a video tape prepared by Mr. Jerome Williams, one of our Home Owners, which will give you a factual idea of the sort of noise levels we are subjected to.

Other Speakers from our Subdivision will also address the Panel on other aspects of our problems.

The items of complaint are summarized as follows:

1. The Noise we suffer is loud and constant as the survey and video tape will show.

2. Property has been depreciated. We have reports of driveways, decks and roofs which have been so discolored, that they have had to be replaced in less than 5 years.

3. Family life is disrupted. Noise is heard during breakfast, lunch and dinner time. There is interference during family viewing of Television Programs. Telephones develop static. There is little quiet time for children or adults.

4. People in positions, who could address the noise issues, have not done so. Instead they have pointed the finger. Of all the letters sent (Correspondence attached), and invitations to Meetings, the only two persons, so far, who have endeavored to assist, are Congressman John Lewis, and Commissioner Hightower.

5. Communities once inside the Noise Survey Limits are now outside of it at a time when the air traffic over our area is increasing, and the 5th Runway will bring traffic closer to us.

6. Natural barriers which existed when the original guidelines were developed, no longer exist. Several parcels of standing trees, have now been replaced by paving and building construction.

7. The Program has not been equitably distributed. Some areas which are farther from the Airport are now included, and areas much nearer have been excluded. In some instances houses almost adjacent to each other, have seen one included, and the other excluded.

8. We were told that Eastern Airlines had left and that quieter Aircraft are being used. This is just not so.

9. South Fulton is bombarded with Waste Treatment Plants, Land fills and noise. An Environmental Justice Act needs to be instituted.

We are recommending the following:

1. The EPA be requested to report on what they have done or will do, to protect our health, as it relates to the Airport noise and pollution.

2. That regulations which govern the LDN needs to be updated and rewritten.

3. That the administration of Federal Funding for the Noise Abatement Program be changed. It is suggested that a Regional Panel be formulated to disburse the funds, instead of the City of Atlanta. (See FAA letter to Congressman Lewis dated May 31, 1993, the second paragraph of which states "An audit found that the city of Atlanta overcompensated Property Owners by about $49m ($39m Federal Share), and would potentially overcompensate additional Homeowners an additional $179m ($14m Federal Share). After finding this out, I quote from the fourth paragraph "Atlanta opted to modify its Program by utilizing a new Noise Contour Map, which was prepared for the proposed Commuter runway. This new Map, which has not yet been approved by FAA, effectively removes 3000 homes from the Program by locating them outside the Noise affected area." (End Quote). A Regional Panel, including Fulton county Representatives, needs to be established, since most of the affected residents live in Fulton County, and this will ensure accountability.

We ask further that say within 30 days of this Hearing, a follow up report of action taken on these recommendations, be provided us.

I am Allan McDermott, a Retired Civil Engineer. Prior to retiring, I was for 5 months, Acting Commissioner of Public Works, for the City of Atlanta.

I have been a Home Owner in the Normandy Subdivision for the past 15 years.

For the past 5 years or so, our Neighborhood Association has unsuccessfully tried to have our area qualified for consideration under the Airport Noise Abatement Program. In August '93, I and others in the Subdivision, received letters from Max Walker, then Commissioner of Aviation for the City of Atlanta, which said in effect, that the existing Noise Level Contours (which presumably included us) had been declared invalid by FAA, because they exaggerated the current Noise Level; and that new Noise Contour Maps would now be required to attract additional Federal Funding. The suggested reasons for the exaggeration in the existing contours were quoted as (1) The demise of Eastern Airlines meant that there were fewer flights and (2) the projected use of quieter airplanes.

The actual facts as I personally can testify to are that (1) An estimated 150–200 (I base this on the fact that on a recent Sunday afternoon, between the hours of 5–6 pm, I counted 9 such flights; I conservatively estimate that there are at least 20 such instances per annum) pass over my house annually, seemingly at tree top level. Most such flights—but certainly not all—take place during inclement weather. During the few minutes that it takes for these flights to approach and pass over, conversation is impossible; TV Programs develop the jitters; if at night, one is suddenly awakened from the deepest slumber; and at times, there is a pervasive smell of Airplane Fuel, which, my wife tells me, blocks up her sinuses. Sometimes it is just plain frightening. (2) On a regular basis, mainly on a Sunday between midnight and day break, we suffer apalling noises, which I presume to be Jet Engines being tested at full throttle, and (3) On a regular basis, during the late night hours, airplanes, which I presume are Air Cargo planes, awakens everyone in the house with their take off noise.

Having read the Environmental Assessment Study relating to the 5th runway at Hartsfield, it appears that the Noise Level Contours were developed by averaging over a 24 Hour/Annual period, with some weighting given to nightime readings. This data is diluted by guesstimating the effect of quieter planes in the future. The resulting curves are not therefore rigidly factual, but contains some reasoned guess work and extrapolation. The Flight Pattern Diagrams show smooth Circular Segments radiating from the ends of the existing runways. None that I saw showed the flights over Normandy Subdivision—which, I assure you gentlement is no figment of my imagination.

Having administered the City's Noise Control Ordinance for many years, and having on occasion been dragged out of bed at 2 am to address the complaints of irate citizens to the noise from a Tunnel Shaft Exhaust Fan, or Contractors 250 cfm Compressor (examples which spring to mind), I have had some exposure to what constitures objectionale noise. In my opinion, the average 65 db extended period noise is likely to be more easily endured, than the 85–90 db (my guesstimate) intermittent noise, over a 1–2 hour period. In actual fact, I am familiar with cases of property—presumably in the Noise Contour Area—which are currently receiving treatment under the Noise Abatement Program, although they are twice as far from the Airport than our Subdivision, and had no special problem with Noise.

Having stated the above, I would submit the following for your consideration:

When the 5th Runway is added, our Subdivision will be less than 1000 meters away. In the past year or so, we have been a slew of "No Frill" Airlines, which use older, leased and refurbished plans, and whose noise levels are just as high as they ever were. There is also a great increase in Overseas flights requiring the construction of a new Concourse. I do not think that it requires much technical know-how to conclude that the noise problem is going to get a lot worse for the Normandy Subdivision.

I do not think that the FAA suggestion that the original Noise level Contours is invalid because of projected less flights and less noisy planes, has been proven. I think there is a strong case for the original Contours to be applied. If this view is not accepted, I urge the Authorities to formulate new guidelines to ensure that concerns such as ours, are equitably addressed.

I feel strongly that there exists a clear and compensible case for the 300 Home Owners in the Normandy Subdivision, where we have been denied the privacy and quiet which we should like to enjoy like other Citizens; this denial is due directly to the intrusive noise and pollution from Hartsfield Air Traffic.

I thank Congressman Lewis and the Panel for the opportunity provided us to present our case. I feel certain that we have a just and reasonable cause and will arrive at decisions which will be favorable to us.

Thank you all, very much

Congressman Lewis and Panel:

I am Louis Register, Home-owner at 2674 West Rugby Avenue, East Point, GA, My remarks to this panel will cover the experience that the East Point West Ruby Avenue Homeowners have encountered with the Atlanta Hartsfield Noise Abatement Program and the Federal Aviation Authority, Southern Region, Atlanta.

There has been Three to Five Delay, and Three Different Managers since the Noise Abatement program was initiated in the College Park—East Point area.

West Ruby Avenue, East Point was evidently confused with West Rugby Avenue, College Park and left off initial engineering area maps prepared for noise Abatement Program. Nearby streets that intersect West Rugby Avenue, East Point were included in the Noise Abatement program. (Mount Olive Road, Ross Drive, Dodson Terrace). Recently the 2400 Block, West Rugby Avenue, East Point was included in the Program and 2500-2600 Blocks excluded. We have been told by the current Manager of the Atlanta Hartsfield Airport Noise Program that was are not in the Noise Curve on the Contour Boundary Map. That sounds incredible with the house next door to my residence include with sound-proofing and Air-Rights Compensation received. There seems to have been some errors of judgement made in implementing this program on West Rugby Avenue, East Point. West Rugby Avenue homeowners have contacted the Noise Abatement Office, Federal Aviation Authority (FAA), and their elected Representatives in Congress to request fair and equitable treatment and Compensation as other homeowners have received.

I personally have contacted Senator Sam Nunn, and he has on two occasions requested information on behalf from the Federal Aviation Officials, Southern Region, Atlanta, but information on my behalf from the Federal Aviation Officials, Southern Region, Atlanta, but information furnished Senator Nunn was not satisfactory to resolve this matter. Maps of the impacted area are furnished for comparison on how the Noise Abatement Program was and is being administered. Homeowners received Noise Contractor letters in the initial phase of the program, but FAA Authorities state there was a misinterpretation of Contractor Letters.

EAST POINT

I am speaking on behalf of an East Point and College Park neighborhood south of Washington Road less than 5 miles from the Atlanta Airport. This neighborhood includes south Delowe Drive, Pollard Street, Farris Ave, and Harris Drive.

We are here tonight after three long years of phone calls, letters, and meetings, trying to obtain some symbolance of justice for our neighborhood. I'm not going to waste your time going over maps and sound studies. You all have access to that information. What we want tonight is for you to understand that there is a problem with these studies. Either the information gained from these studies is incorrect or the information is not being properly analysed.

We assumed our neighborhood would be one of the first to receive compensation for noise pollution. Unfortunately that is not the case. I believe the reason for our consumption will be quite evident after you listen to just a few minutes of this tape filmed by K at Sosby in her yard 3207 Delowe Dr, East Point.

PLAY TAPE

Can you imagine having a cook out or even trying to have a conversation outside over this nerve racking noise. We can't even leave our doors and windows open. Not only is it impossible to watch TV or listen to the radio with your window open but jet fumes are unbearable.

We have been told that noise monitors were put in place to determine what area would receive compensation. If that is the case the monitors in our area could not have been working properly. Some neighborhoods that are much farther away have received compensation. It is totally outrageous to believe air traffic created more noise a distance 8, 10 or even 15 miles farther away from the airport than we are. In the first place we hear every airplane that takes off or lands. In the second place the airplanes have not reached enough altitude to buffer any of the noise as they pass over our neighborhood.

We have also been told that the noise level from the airport is decreasing. I beg to differ with this. Our neighborhood has not felt any relief from airport noise. As a matter of fact with all the new upstart air carrier adding to the number of flights in and out of the Atlanta Airport we have had an increase from air traffic noise pollution.

We do not want to patronized. We are outraged because we have not been treated fairly or dealt honestly. It is well past time for our neighborhood to receive compensation.

We are awaiting your immediate positive response.

Good evening Congressman Lewis and Members of the Platform.

My name is Brenda Bethune-Colbert. We have lived in the Normandy Subdivision for almost sixteen years. When we first moved out their the airplane noise was not that bad because the old airport on Virginia Avenue was still in existence.

After the new airport was constructed the noise began to get bad. With construction on the new runways it has gotten progressively worst.

There are times when they have the different pushes, you can her the airplanes taxing on the runway. You can even smell the fumes. We can not attempt to sleep with our windows open on a pleasant spring or fall night. If you do, "no sleep will you get". Don't even think of trying to have a nice evening on your patio. You will not be able to have a decent conversation.

By the time the fifth runway is in place we will not be able to exist.

We live about five minutes from Hartsfield Airport. Yet, you skipped over our subdivision and went behind us to Old Bill Cook Road.

In 1988, 1989, 1990, we were promised by the Airport Abatement Office that we would be next in line for the noise abatement money. It never came. We deserve to have our homes noise proofed.

We are in between West Fayetteville Road and Old Bill Cool Road. How could you skip over us.

Is it because we did not raise enough "HELL". Is it because the majority of our neighborhood is now Black. Well we are here now and we do not plan to stop until we get what we deserve. Even if we have to march on Washington, to let the President and the world know. We plan to do just that.

EITC REFORM

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 5, 1994

Mr. PETRI. Mr. Speaker, today I am introducing legislation to reform and expand the Earned Income Tax Credit. As you know, the EITC was last expanded in the Omnibus Reconciliation Act of 1993. I believe those changes will help many low-income families who are struggling despite the presence of a full-time worker in the household. However, I believe we can do more, especially for larger working families and for those faced with day care expenses for children who are of preschool age. My bill would increase the maximum income amount to which the credit is applied, bringing it up to the equivalent of full-time, year-round minimum wage earnings. My bill also would increase the percentage of the credit for those with two or more children and provide an additional credit for families with preschool children.

As the welfare reform debate proceeds, we must remember that a major goal of reform is to move low-skilled people into jobs. Although most people want to work, many currently find that their skills do not enable them to earn as much as they could receive on welfare. Many of these people work anyway, hoping to improve their earnings over time, but they face great hardship in the meantime. Others remain caught in a welfare trap, facing financial penalties for trying to escape. Still others can earn slightly more than welfare would give them but not enough to pull them close to the poverty line. The basic problem is that economic need and, consequently, welfare payments vary by family size, but wages do not.

Under my bill, a larger low-income working family with preschool children could receive a maximum EITC of $5,270 which is equivalent to a raise, above current law, of $1.03 per hour, for a total EITC benefit equivalent to $2.84 per hour for a full-time worker. Even for those with just one preschool child my bill provides for a maximum credit of $2,975, up from $2,040 when the 1993 changes are fully phased in. This is equivalent to a $.50 per hour raise for a total EITC of $1.60 per hour. For those whose children are of school age, my bill also includes an increase to $2,550 from $2,040 for one child and from $3,370 to $3,570 for those with two or more. The credit is also indexed for inflation.

As family income rises above $10,000 per year, the credit phases down gradually with a slightly accelerated phaseout for the higher credit levels. For each type of family the credit is fully phased out at around $27,000 of family income, which is comparable to current law.

I know that we are all concerned about the budget deficit but, based on preliminary estimates, the bill will pay for itself. It does this in two ways. First, it eliminates the credit under current law for people without children. Since this credit phases out before one reaches full-time minimum wage earnings, it has the perverse effect of encouraging minimum wage workers to work only part-time. Furthermore, childless minimum wage workers who do work full-time, year-round, are already above the poverty line and don't need a credit. Eliminating it will save $800 million according to unofficial estimates by the Congressional Budget Office. My bill will also crack down on fraud in the program by requiring the IRS to verify the validity of social security numbers of those claiming the credit.

This legislation is designed to help low-skilled people support families by working rather than through welfare. By directly supplementing the wages of low-income workers with children, this legislation achieves the broader objective of providing general help to these families based on economic need as determined by family size. I urge my colleagues to join me in extending greater, more carefully targeted benefits to family heads through the Earned Income Tax Credit.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 6, 1994, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 7

9:30 a.m.

Joint Economic

To hold hearings to examine the employment-unemployment situation for September.

2359 Rayburn Building

10:00 a.m.

Foreign Relations

To hold hearings to review United States policy toward Cuba.

SD-419

Labor and Human Resources

Education, Arts and Humanities Subcommittee

To hold hearings to examine the need for parental involvement in the education of their children.

SD-430

OCTOBER 13

9:30 a.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold oversight hearings on the Navy's mismanagement of the sealift tanker program.

SD-342

CANCELLATIONS

OCTOBER 6

9:00 a.m.

Labor and Human Resources

Business meeting, to mark up S. 2467, to approve and implement the trade agreements concluded in the Uruguay Round of multilateral trade negotiations, and to consider S. Con. Res. 66, to recognize and encourage the convening of a National Silver Haired Congress, a committee resolution to authorize investigation pursuant to Committee Rule 17, and pending nominations.

SD-430

9:30 a.m.

Governmental Affairs

To hold oversight hearings on the General Accounting Office.

SD-342

SENATE—*Thursday, October 6, 1994*

(Legislative day of Thursday, October 6, 1994)

The Senate met at 8:30 a.m. on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.*—Romans 13:1.

Almighty God, sovereign Lord of history and the nations, we have no adequate language to express our respect and gratitude for the men and women whom Thou hast ordained for leadership. Thank You for their hard work, long hours, and faithful service, despite continual criticism and cynicism.

Gracious Father in Heaven, we pray for the Senators and their families. Grant them safety in travel, energy for their involvement in the election, relaxed time with spouse and children, rest and recreation, and restoration for themselves. Keep them in Thy love and grace, and may Thy blessing be constantly with them.

We pray in the name of Him who is love incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 6, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The Senator from Iowa [Mr. GRASSLEY] is recognized to speak for up to 15 minutes.

Mr. GRASSLEY. Mr. President, thank you very much.

REGULATION BURDEN REACHES NEW HEIGHTS

Mr. GRASSLEY. Mr. President, we are in an era of regulation. Every business person who is afraid of a bureaucrat coming to his place of business to shut him down knows how serious the regulation problem is. So I want to speak today about the regulation burden reaches new heights.

Mr. President, in 1980, 15 years ago, when I was a Member of the other body, I wanted to highlight the growing regulatory burden that the Federal Government has placed on the taxpayer and on businesses.

To do this, as you can see in the far left chart, I stacked up copies of the Code of Federal Regulations. That is all the regulations put out in 1 year by the Federal Government pursuant, presumably, to the laws that we pass or have passed.

You can see stacked there the regulations for the year 1970. And then you can see stacked beside it the regulations for the year 1980.

So you can see that thousands and thousands of pages were added to the burden of the business people through Federal regulation just in the 10 years between 1970 and 1980.

Recently, I decided to see what the story is now in 1994. So, once again, I stacked up copies of the Code of Federal Regulations from 1980 and compared it to the most recent edition, 1993.

Here is a picture of it. I should say, we have stacked here 1970, which is comparable to the pile there; 1980, comparable to the pile in that picture; and then here is 1993. I have to stand on a chair to be able to put the last volume up on the pile.

That is the picture. And, of course, you can see, Mr. President, that it is not good news.

Since 1980, the administrative branch of Government, aided and abetted by Congress passing so many laws, has added many more volumes of new regulations. These regulations come with a tremendous price tag. They cost the taxpayers, business, and even workers.

Mr. Thomas Hopkins, an economist at the Rochester Institute of Technology—he was also a former Deputy at OMB—estimated in 1992 that the gross cost of implementing these regulations was conservatively estimated by him at $392 billion per year. This translates, by his estimation, into $4,000 per household per year.

But Science magazine cites figures that the direct and indirect costs of regulation may be as high as $1 trillion per year. If that figure were the bottom line, that would be $9,000 per household.

Because of these costs, and because of the negative impact on productivity growth, you would think that we in Congress would closely review the regulatory burden imposed by the Federal Government and try to do more about it than what we are. Unfortunately, I do not think Congress pays much attention to this and I do not think we have done anything about it, as you can see from the growth of regulations over the past 23 years.

Congress and both Republican and Democratic administrations alike have imposed regulations with little or no concern as to the costs to the taxpayer or the impact upon the private sector. Bureaucrats have implemented regulations without consideration of more cost-effective means of achieving goals.

There are certainly regulations that provide benefits to the public, and which we all support. We acknowledge that. For example, every poll shows consumers, the public generally, wanting clean air and clean water. And regulations, to some degree, are required to ensure those public policies.

But care must be taken to achieve these desired results in the most sensible and the most cost-effective manner. And I am not sure all these regulations are a demonstration of our doing that before we write regulations.

The answer, of course, should be simple. We should weigh the benefits against the costs. This is no different than how, say, my constituents in the State of Iowa would approach his or her daily life. I think they would take the view then that Government should use the same common sense.

The administration has recognized that we must be smarter in imposing regulations on the taxpayers. And I want to compliment President Clinton for this statement. He has stated:

> Expanding regulations threaten to overwhelm the Nation's entrepreneurs and divert them from the task of building strong, innovative companies.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

More specifically, Vice President GORE's National Performance Review's report, entitled "Improving Regulatory Systems"—and this is part of the Vice President's reinventing Government program—states:

> [T]he Federal regulatory system is not working as well as it should. Many Federal regulations impose too many constraints on individuals and businesses while still failing to accomplish the goals for which they were imposed.

The report of the Vice President goes on to state:

> [R]egulators and Congress should employ regulations more selectively and sometimes use other approaches to accomplish their goals.

I think that this picture visualizes for us that we do not use regulations as selectively as the Vice President says we should.

The report makes a key recommendation, the reinventing Government report, on the subject of governmental regulation. It suggests that there should be a ranking of the seriousness of the environmental and the health and the safety risks. Such a task is essential if we are going to make a reasoned analysis of our priorities so we can reduce the amount of regulation.

I have been a strong supporter of the National Performance Review and the Vice President's efforts to reinvent government. But an ongoing report, a status report coming out September 1994 shows that the administration has still not provided a ranking of the seriousness of the environmental health and safety risks, as they implored was necessary a year ago. The administration has far to go in showing that we will see real reform, not just rhetoric, when it comes to improving regulatory systems.

The importance of reducing the regulatory burden is highlighted by the continuous horror stories that we hear about the impact regulations have on taxpayers.

I would like to describe a recent action that affects thousands of farmers in my State—in lots of States. The EPA has recently banned the use of the pesticide carbofuran on corn and sorghum. The concern is that up to 60 birds a year may be killed by this pesticide.

However, according to Grain Sorghum News, the EPA cannot point to one confirmed bird kill related to the use of carbofuran on sorghum. The unfortunate response to the banning of carbofuran is that farmers will have to turn to less effective substitutes, and use those less effective substitutes in increased amounts. Of course, this may cause greater health and environmental problems than the banned carbofuran.

My colleagues are familiar with the points I have made. They are familiar with the burdensome regulations and what they do to reduce productivity, what they do to burden business, and often do not address our Nation's most serious health risks. These are very familiar arguments.

However, in studying this issue of regulations, I am especially persuaded by another argument even more disturbing and even more convincing. Burdensome regulations may actually cost lives.

Let me repeat: The economic costs of implementing regulations may actually cost lives.

When I first read about this, I thought it must be some sort of a fringe argument. As I have explored this matter further, it has become clear that far from being outside the mainstream, the theory that costly regulations can actually lead to more deaths than they save has been widely accepted by academia. It is us in the political arena, including Congress, who are far behind the curve on this issue.

While the reasons are complicated, the simple fact is that regulations result in lower incomes and productivity, and in turn, then, lower incomes are directly related to a higher number of premature deaths.

For example, the Office of Management and Budget has reported that workers with reduced incomes will curtail their purchases of good nutrition, good medical care, and safe products. This fact of increased premature deaths due to regulatory costs is discussed in detail by Dr. Ralph Keeney at UCLA, in an article called "Mortality Risk Induced by Economic Expenditures," in the journal Risk Analysis.

Dr. Keeney's research was supported by the National Science Foundation. His finding is that:

> Results suggest that some expensive regulations and programs intended to save lives may actually lead to increased fatalities.

Think of that. We may well be implementing regulations, including maybe many in this stack for 1993, that do more harm than good. This view was echoed by Prof. Lester Lave of Carnegie Mellon University. He says:

> Regulations intended to prevent premature deaths may not do so—because they are ineffective or because they cause more deaths than they preserve.

Experts estimate there is one premature death for every $7.5 million to $17 million in regulatory costs because of lower worker wages.

In 1992, OMB respond to this research by seeking to adopt what has been coined as a "risk-risk" analysis. OMB sought to weigh the lives saved by a new regulation in comparison with the lives lost by the increased regulatory costs.

This approach, however, was denounced by our Congress. Congress rejected such cost analysis as cold and as harsh, because, critics said of the action by OMB, you cannot put a price on human life; and they argued compassion. They said we must be compassionate.

But the data are beginning to show that this traditional view may not be compassionate at all. It shows, in fact, that to be truly compassionate, we must have a complete analysis of all of the impacts caused by regulation. True compassion is when you weigh the total harm that will be done by new regulations, including the probability of lost lives due to those regulations.

Let me provide a specific example. According to OMB, regulations today cost $5.7 trillion—yes, that is trillion—for every premature death averted from regulations regarding wood-preserving chemicals, and $4.1 billion for each premature death averted under the hazardous-waste land disposal ban. Let me repeat how many premature deaths result from the economic burden of regulations: One premature death for every $7.5 to $17 million in regulatory costs. In other words, 335 people may prematurely die to save one person from wood-preserving chemicals.

Not only can our Nation's economy not afford to write a blank check, clearly, regulations which reduce the incomes of American working families result in loss of life. This is not just a monetary issue. Even more revealing is the negative impact that overregulation has on people's lives. It is an issue of compassion, as well.

The economic phenomenon here is that with less income, people live less healthy lives. It is because of this common-sense truth and our desire to be compassionate that we must consider the recommendations of groups as diverse as the Center for Risk Analysis at Harvard School of Public Health, and also the Heritage Foundation, on the other hand.

The Federal Government must prioritize our environmental, health, and safety concerns, and begin weighing all the costs before we call for additional regulations beyond what we have here.

Congress and the administration must understand that we should impose regulations only when they are cost effective and a net benefit to society.

We must also recognize that many regulations are so costly and so inefficient that what they seek to correct should be achieved through other means. I would like to see these stacks of regulations begin to get smaller in succeeding years.

In closing, the growing burden of Federal regulation is clearly shown in these pictures, from 1970 to 1980, to where we are now, in 1993.

These volumes represent a profound burden on our society. These volumes hurt businesses, they burden productivity, they hurt wages of our working people, and worst of all, they can be killers.

If we are going to ever see these regulations reduced, we must begin to take steps now.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from California [Mrs. BOXER].

GENERAL AGREEMENT ON TARIFFS AND TRADE

Mrs. BOXER. Mr. President, this morning I am going to announce my position on the General Agreement on Tariffs and Trade, known as GATT. I have been studying this issue and have come to a decision on it and would like to share it with my colleagues and with the people of California.

Mr. President, the California economy is beginning to show signs of life again. Jobs are being created. In fact, the UCLA Business Forecasting Project is projecting that California will have a net gain of 111,000 jobs by the end of this year, and this follows some very, very dismal job loss numbers.

Housing permits are up by 15 percent and sales of existing homes increased by 24 percent. Retail sales rose by 4.5 percent in the first half of the year, and new business incorporations are up 10 percent. Venture capital flows in Silicon Valley have hit record levels this year. The recovery in California has at long last begun, and it has been very, very difficult for us.

But our challenges are far from over. We need to ensure that this economic growth continues and that we keep creating jobs. We must be sure that we are truly building a solid economic base. And we must look to the future.

What will it take to compete and win in the 21st century? How do we provide our workers with not only jobs, but with good jobs?

What can we do to ensure that California's products and know-how are always one generation ahead of the cutting edge, as we have been in the past?

One way, Mr. President, is through expanding trade, breaking down foreign market barriers. California is a trading State; in fact, the largest trading State in the Nation. In 1993, exports totaled more than $100 billion in goods and services. Exports of goods alone are responsible for an estimated 1.4 million California jobs, and the importance of international trade has increased dramatically in recent years. California's exports grew by 107 percent between 1987 and 1993.

More trade will create more jobs. Trade will increase the competitiveness of our companies because a company that sells more abroad can invest more in better equipment, in training and in education of its workers at home. In the new global marketplace, a customer is as likely to be in Tokyo or Taipei as in Torrance or Tustin, CA.

So let me say, after carefully considering the economic challenges facing California and our Nation, I believe that, on balance, GATT will be good for California.

This agreement is not without problems, but I believe GATT will expand California exports, create jobs and strengthen our economic recovery. The GATT agreement will tear down many of the existing foreign barriers to California-made computers, semiconductors, electronics, medical devices, large equipment, toys, and other manufactured goods.

The GATT agreement will provide greater protection for California's world-class software and pharmaceuticals and music recordings and television shows. The strength of the California economy, Mr. President, and the promise of our future are the great ideas of our inventors and our entrepreneurs. Too often these ideas are stolen and sold by pirates in markets abroad. In fact, in 1992 alone, U.S. companies lost between $15 and $17 billion from piracy. With the GATT agreement, we will have more effective tools to attack these pirates. With the GATT agreement, we have promises from our trading partners to provide greater protection to American copyrights and patents.

The GATT agreement will also expand California's farm exports and create jobs in the agricultural sector, especially for growers of rice, grapes, almonds, walnuts, tree fruits, and vegetables. The GATT agreement will provide California companies with greater access to lucrative foreign government procurement contracts worth over $100 billion each year.

The GATT agreement may mean as much as $10.1 billion in new California exports in the first 10 years. According to the California Institute, California stands to gain as many as 200,000 jobs from increased exports of manufactured products alone, and exports of services and agricultural products will generate another 44,000 jobs for Californians.

I know, Mr. President, that this agreement is not perfect. It does not do enough to open markets for our entertainment industry, telecommunications companies and our aircraft makers. I also recognize that many are concerned that our strong Federal and State environmental health and safety laws could be vulnerable under new GATT rules.

I understand these concerns and I have thought about them very carefully. Anyone who knows me knows of my strong commitment to the environment and to the health and safety of consumers. I pride myself on a very long record on those issues. I have dedicated my public life to fighting for those issues. I would not and could not support any measure that would weaken it. I do not believe that the GATT agreement will threaten these laws. GATT rules or GATT panel decisions do not have the force of law. Not one single environmental health or safety law at the Federal or State level could be changed without action by Congress or the State Government in question. Nothing in this GATT implementation legislation, or nothing a GATT panel decides, can change any of our environmental or consumer laws. Yet, our trading partners could challenge these laws. That is true. But, no, our trading partners cannot change these laws, and anyone who says that our trading partners can change United States laws simply has not read the GATT record.

I have received specific assurances from U.S. Trade Representative Mickey Kantor on this very issue. Ambassador Kantor has assured me that "California's strong environmental and consumer protection laws cannot be overturned by WTO rules or dispute settlement panels."

Ambassador Kantor points out that section 102(a)(1) of the GATT implementing legislation states explicitly that no provision of the GATT agreement "that is inconsistent with any law of the United States shall have effect."

Ambassador Kantor has assured me that "any decision on how to respond to an adverse panel report would be a matter for State and Federal officials—not the WTO—to decide."

Ambassador Kantor also has assured me that the GATT agreement "protects the ability of governments to use more stringent standards" with respect to food safety. He says that, "Each country—and in the case of the United States—each State is free to establish the level of protection it deems appropriate."

With respect to environmental and health rules, Ambassador Kantor has assured me that the agreement "recognizes that countries may set standards for products in order to protect human life, health and safety or the environment." And that—and this is my last quote—"the agreement makes clear that the level of protection the Federal Government or a State seeks to achieve through standards of this kind is not subject to challenge."

Mr. President, I ask unanimous consent that the entire text of Ambassador Kantor's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC.

Hon. BARBARA BOXER,
U.S. Senate,
Washington, DC.

DEAR SENATOR BOXER: I want to address immediately some of the concerns you have voiced with respect to the implications of the Uruguay Round agreements for California and this nation.

1. SUPREMACY OF U.S. LAW

At the outset, let me assure you that California's strong environmental and consumer protection laws cannot be overturned by WTO rules or dispute settlement panels. Neither the WTO itself, nor any panels it establishes, can change U.S. law. Only the Congress and State legislatures can change U.S. laws.

To make the relationship between the new agreements and U.S. law crystal clear, section 102(a)(1) of the Uruguay Round implementing bill (S. 2467) states explicitly that:

"No provision of any of the Uruguay Round Agreements, nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States shall have effect."

The bill also makes clear that foreign governments and private parties cannot use the new agreements or WTO panel reports as a basis for suit against the States in U.S. courts. In fact, even the Federal Government is precluded under the bill from bringing a court challenge against a State law on the basis of a WTO panel report.

In the event that a California law were to be challenged in a dispute settlement proceeding in Geneva, S. 2467 commits the Federal Government to work together with California State officials in developing the U.S. response. The Administration is fully committed to working collaboratively with the State of California both during and after any WTO panel proceeding concerning California law. But I want to reiterate that any decision on how to respond to an adverse report would be a matter for State and Federal Officials—not the WTO—to decide.

2. FOOD SAFETY RULES

Our negotiators had strong environmental and food safety laws fully in mind in concluding the Uruguay Round agreements with our trading partners. As a result, the agreements recognize the right of each government to protect human, animal, and plant life and health, the environment, and consumers and to set the level of protection for health, the environment, consumers—as well as the level of safety—that the government considers appropriate.

Under the WTO, most food safety laws will be covered by the "Agreement on the Application of Sanitary and Phytosanitary Measures" (S&P Agreement). The Agreement will permit us to continue to reject food imports that are not safe. The S&P Agreement will not require the Federal Government or California to adopt lower food safety standards.

The S&P Agreement calls for food safety rules to be based on "scientific principles." That is important for California, our leading agricultural exporting State, because many countries reject our agricultural exports on non-scientific grounds.

As a general matter, the FDA and EPA (which participated directly in the negotiation of the S&P Agreement), as well as the State of California, base their food safety regulations on science. Thus, meeting the basic requirement of the S&P Agreement should pose no problem for U.S. food safety rules.

It is worth noting that the rule in the Agreement requiring a scientific basis applies to S&P measures. It does not apply to the level of food safety that those measures are designed to achieve. Each country and—in the case of the United States each State—is free to establish the level of protection it deems appropriate. That means, for example, that the "zero tolerance" level for carcinogens mandated by the Federal "Delaney clauses" are entirely consistent with the Uruguay Round agreements.

While the S&P Agreement contains a general obligation to use international standards, it protects the ability of governments to use more stringent standards if they have a "scientific justification." The S&P Agreement makes explicit that there is a scientific justification if California, for example, determines that the relevant international standard does not provide the level of food safety that California determines to be appropriate. Far from undermining California laws, this language serves to make clear that no "downward harmonization" is required for California's laws.

Under the S&P Agreement, food safety rules imposed by the States will be subject to the same rules as those for Federal restrictions. But the Agreement does not require that States use the same food safety standards as the Federal Government.

3. ENVIRONMENTAL AND HEALTH RULES

Most environmental and health based product standards for industial and consumer goods will be covered by the Agreement on Technical Barriers to Trade (TBT Agreement). The new TBT Agreement carries forward, with some clarifying and strengthening modifications, the provisions of the existing GATT TBT Code, which entered into force for the United States in 1980.

The TBT Agreement recognizes that countries may set standards for products in order to protect human life, health, or safety or the environment. U.S. regulations prescribing safety standards for infant clothing, or banning the presence of PCBs in consumer products, are the types of product oriented measures covered by the TBT agreement. The Agreement makes clear that the level of protection the Federal Government or a State seeks to achieve through standards of this kind is not subject to challenge.

In general, our State and Federal clean air and clean water laws and regulations are directed at controlling pollution generated in industrial operations. Not only do these laws generally not raise trade-related questions, they are generally not even covered by the new TBT Agreement since they do not set product standards. Where those laws do set product standards, as for automobile emission controls, they will be treated like the other product standards described above. Both the S&P and TBT provisions of the Uruguay Round agreements will allow each State to maintain stricter safety standards than the Federal Government in order to achieve the level of protection that the State considers appropriate.

On the question of environmental standards, let me point out that the GATT panel report released last Friday lays to rest fears that WTO panels will interpret the GATT in a way that challenges our ability to safeguard our environment. The panel report on our Corporate Average Fuel Efficiency (CAFE) rules explicitly upheld the sovereign power of governments to regulate their markets and their environments. The panel report confirms the broad discretion of governments to distinguish among products in order to achieve legitimate domestic policy objectives, such as progressive taxation, fuel conservation, clean air and water, and responsible energy use.

4. SECTION 301

As a result of the Uruguay Round agreements in general, and the WTO Dispute Settlement Understanding in particular, section 301 will be even more effective than it has been in the past in addressing foreign unfair trade barriers. We will continue to use section 301 to pursue vigorously unfair trade barriers that violate U.S. rights or deny this country the benefits to which it is entitled under international trade agreements. We will also use section 301 to combat unfair trade barriers that are not covered by these agreements.

Under the GATT as it has existed for the past 47 years, other countries have been able to violate their GATT obligations to us and then block the adoption of panel reports that found such practices illegal. Moreover, the GATT Council has typically been unwilling to authorize us to retaliate against such countries, even if they continue to violate their commitments long after the panel has issued its report. In 1988, Congress asked us to make changes in GATT dispute settlement procedures to ensure that they would be effective.

That is what we did in the Uruguay Round. Once the new agreements are in place, countries will no longer be able to block panel reports. If the violation persists and we are not able to settle the matter in another way, we will be able to take action under section 301 without risk of counter-retaliation. That could be particularly important when we are taking action against a large trading partner.

Furthermore, with the new agreements in effect we will be able to use section 301 more effectively to pursue unfair foreign practices in the areas of trade in services and the protection of intellectual property rights. As you know well, both of those sectors are vital components of California's economy. In addition, the implementing bill for the Uruguay Round agreements revises section 301 so that we will be better able to go after governments that tolerate systematic anticompetitive activities by private and state-owned companies that deprive our firms of access to their markets.

5. ECONOMIC BENEFITS FOR CALIFORNIA

The Uruguay Round agreements will provide tremendous economic benefits for California. Among California's industries most likely to benefit are those in the electrical, semiconductor, banking, aerospace, chemicals, and agriculture sectors. The new agreements will generate an enormous expansion of export opportunities by limiting the ability of foreign governments to impose tariffs, quotas, subsidies, and a variety of other domestic policies that have been used to block California's exports in the past.

Other industries, such as computers and software, will benefit from the enhanced protection of intellectual property rights required under the new agreements. The agreements also provide critical new safeguards against rampant piracy of films and sound recordings around the world.

Overall, the GATT agreement should add $100 billion to $200 billion annually to the U.S. Gross Domestic Product. California will receive a large share of that revenue, as California is a leader in rapidly expanding export sectors, such as services, and also enjoys a special trade relationship with the Pacific Rim nations. Many of these countries, as well as developing nations in Latin America and East Asia, will become full members of the world trading system under the new agreement. Developing nations buy nearly a third of U.S. exported goods and services—about $235 billion a year—and are our fastest growing export markets.

Californians will greatly benefit from the increased job opportunities and incomes that will flow from the new export opportunities created by the Uruguay Round agreements. California has experienced tremendous growth in exports over recent years (up over 100 percent from 1987 to 1992). That growth will only increase as a result of the agreements now pending before the Congress.

Sincerely,

MICHAEL KANTOR.

Mrs. BOXER. Mr. President, I note that it is important that I did not get verbal assurances from our Trade Representative, Ambassador Kantor. I asked he put it in writing. He did so in an unequivocal way.

I have looked closely at the concerns about our environmental, health and safety laws. I understand these concerns. But I am confident that our laws can and will be protected.

I believe that the GATT agreement is about California's economic future and about this country's economic future. We cannot turn back from the fact that it is now a global marketplace, Mr. President.

Times have changed, and I think that if America is going to lead in the world, we must recognize this change. It is about opening foreign markets to our competitive, export-oriented companies. It is about protecting the ideas of our inventors and entrepreneurs. California has always been ready to look forward and face new challenges, and so has America. Competition in the global marketplace is among the biggest of these challenges. We are ready with the best workers and bold new ideas. I say the time is right for this new and exciting chapter in the economic story of California and the entire Nation.

Mr. President, thank you very much, and I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

LOBBYING DISCLOSURE ACT OF 1993—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the conference report accompanying S. 349, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 349) to provide for the exposure of lobbying activities to influence the Federal Government, and for other purposes.

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The hour prior to the cloture vote will be equally divided and controlled by the majority and minority leaders, or their designees.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President. We are going to have a historically significant vote—and I think that is said without exaggeration—at 10 o'clock today. It is going to be the crucial vote which determines whether or not we are going to pass the last major reform bill that is still left standing after all the efforts by reform opponents to kill campaign reform and other legislation designed to overhaul the way we do business here in Washington.

Mr. President, this conference agreement on lobby and gift reform will make this process more accountable and more believable to people in the country. It has to do with whether or not we are going to end, really, the unacceptable practice of accepting gifts, free trips, and other perks from lobbyists and other special interests. It is just inappropriate. We do not need to do it. It gives people ample reason for the perception that there is too much access to influence by certain people who have lobbyists, and it is just wrong. I think for all of us who care about public service and do not want to see a denigration of public service, we should just decide once and for all to clean up this system.

I want to start out my remarks by dealing with two arguments that have been made. I do not know whether I even want to call them arguments, because I think that dignifies them, but two really untruthful statements that have been made.

I see Senator LEVIN, who is coming onto the floor, and I will be relatively brief since he is manager of the bill. I am sure he will want to address them at greater length by himself.

The first of those untruths is that ordinary citizens in Minnesota or Michigan, when they contact Senators and Representatives, will have to register as lobbyists. That is simply not true. But as one wag put it, a lie gets halfway around the world before the truth has time to put on its shoes.

The second untruthful statement that has been made over and over again, on talk radio and by lobbyists across the country, originating in wilful misinterpretations and distortions by House Republican Whip Mr. GINGRICH and his allies, is that if you belong to a grassroots organization, this reform bill will require you and all the contributors to your organization to register and publicly disclose contributor lists and other information.

Mr. President, that is simply not true. That is not true at all. In fact, an effort to require disclosure of contributor lists was defeated on the floor months ago, and with good constitutional reason. What is going on here is that smokescreen arguments, if you want to call them arguments, are being made so that people can duck for political cover. It is as simple as that. No one should be misled by what is happening here.

I say to my colleagues, you can duck for cover temporarily, but you cannot hide because what is really at issue is that there is an all-out effort to filibuster and to block and to obstruct, to make sure that we do not pass a gift ban, to make sure that Members of Congress do not end this egregious practice of accepting vacation trips and other special favors from lobbyists and others.

That is really what many people who will vote against this cloture motion are opposed to—those who are trying to block this and filibuster it. That is really what is at issue.

Mr. President, I ask unanimous consent to include in the RECORD right before the cloture vote the vote on this bipartisan lobby bill passed May 6, 1993. It was passed 95 to 2. I would like to have each Senator's vote included, and the vote on May 11, 1994, with a 95 to 4 vote in favor of this piece of legislation. I ask unanimous consent to have each Senator's vote included in the RECORD right before the cloture vote takes place.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—95

Akaka
Baucus
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Simon
Simpson
Smith
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—4

Bennett
Hollings
Murkowski
Wallop

NOT VOTING—1

Shelby

LOBBYING DISCLOSURE ACT OF 1993

The PRESIDING OFFICER. The hour of 4:15 having arrived, the question is on the passage of the bill, S. 349, as amended.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN], the

Senator from Texas [Mr. KRUEGER], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 116 Leg.]

YEAS—95

Akaka
Baucus
Bennett
Biden
Bingaman
Bond
Boren
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feingold
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—2

Smith
Wallop

NOT VOTING—3

Heflin
Krueger
Pryor

So the bill, S. 349, as amended, was passed as follows:

Mr. WELLSTONE. Finally, Mr. President, let me just simply say to my colleagues one more time, I do not believe that some Senators —I think relatively few—can hide behind these smokescreen arguments. They can seek the cover, the political cover, but they will not be able to hide forever. The reason they will not is it will become very clear to people what has happened here. This is an effort to block the reform bill, to block an egregious practice that should be ended, which is the acceptance of gifts and trips, which is just simply wrong. I say to my colleagues, let these perks go. Vote for the institution. We are here because we believe in public service. We do not want to see an across-the-board denigration and bashing of public service.

One of the ways we can begin to end that and one of the ways we can begin to restore confidence on the part of people in Minnesota and around the country in this process is to vote for this reform bill. Do not obstruct this. Do not block it. Do not filibuster it. Do not hide behind arguments that are simply not truthful. That is a huge mistake. I hope we will get a 95 to 4 vote again. I urge my colleagues to support the motion. I urge my colleagues to vote again for real reform.

I yield the floor.

Mr. LEVIN addressed the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. Mr. President, my understanding of the time situation is the following: That the time is equally divided between now and 10 o'clock under the control of the majority leader and the Republican leader or their designees. I assume that Senator COHEN will be designated, but I do not know that for sure. He is not in the Chamber so I am not able to confirm that. So I am not sure exactly how this time will be divided since Senator COHEN is a supporter of the conference report, and the opponents would want time under this hour as well. So with those uncertainties, I yield 5 minutes to the Senator from Wisconsin.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin [Mr. FEINGOLD].

Mr. FEINGOLD. I thank the Chair.

Mr. President, I would like to begin by commending my friend from Michigan, Senator LEVIN, for his tremendous effort in putting this conference report together. Senator LEVIN stood by the tough provisions that we passed here in the Senate, and the result is a conference report that I am convinced will begin to address public concerns about lobbying and the power of special interests in Washington.

It has now been over 4 months since the Senate passed gift reform legislation and over 16 months since the Senate passed S. 349, the Lobbying Disclosure Act. During consideration of S. 349, my friend from New Jersey, Senator LAUTENBERG, offered a resolution that expressed the sense of the Senate that the full Senate would consider during this congressional session changes in the way Members and staff are allowed to accept gifts, meals, and travel offered by certain individuals and organizations. This resolution passed by an overwhelming margin of 98 to 1. Yet here we are just days before this congressional session is to end and the original problem that we set out to address is still very much alive. The time has come to act on legislation that will finally reform the way Congress deals with the thousands and thousands of gifts and other perks that are offered to Members each year from individuals, lobbyists, and associations that seek special access and influence on Capitol Hill.

Before I discuss this particular bill, I think it is important to first examine why this legislation was originally proposed. As was stated numerous times during initial consideration of S. 1935, the original gift ban bill introduced by myself and Senators LAUTENBERG and WELLSTONE, we did not initiate this legislation because we believed that lobbyists and other interests were buying off Members of Congress, or conversely, that Members were somehow selling their votes for the price of a few nice meals or a weekend trip to some resort site. These were hardly the reasons why this legislation was pursued.

The fundamental problem that this legislation seeks to address is the problem of public perception. It seems that some Members of Congress are ignoring the fact that public approval of the performance of Congress as an institution is embarrassingly low. According to a recent Time/CNN poll, 84 percent—84 percent—of the American people believe that officials in Washington are heavily influenced by special interests and out of touch with the average person. The public is speaking with a very clear voice on this very fundamental issue, and it is time that we as an institution seek out the causes of the disenchantment and skepticism expressed by our constituents.

Also, during the debate on this issue last May, we heard the argument that the mere consideration of this legislation only fueled the dismal perceptions people back home have of this body. By banning these gifts, it was argued, we are sending a message to our constituents that our integrity and character is so vulnerable that we can be compromised by a nice dinner or a pair of theater tickets. It was apparent that some Members took our effort to ban these gifts personally and I regret this. I regret this, because if you look at these public opinion polls closely, you will see that—although respondents consistently give Congress as an institution low marks for qualities such as competence, integrity, and character—these same respondents consistently give their particular representatives much higher marks for the same attributes.

One interpretation of these differences is that our constituents are sending us a message—a message that says, "We may like our own representatives, but we don't like the system and the loose rules that Congress as an institution lives under."

Mr. President, when I decided to first run for political office, I recalled a term that Robert Kennedy had often cited when he referred to elected office as an "honorable profession." In recent years, elected office has taken on an everincreasing negative connotation, to the point where a sitting Member of Congress is often referred to disdainfully as a professional politician. The image that has permeated our society is the image of a Congress obsessed with power and an ignorance or lack of understanding of the problems that ordinary Americans face each and every day.

It may not be a fair perception but we have to recognize that the perception is out there and has perpetuated harmful images and beliefs. We have all seen the TV news programs with their hidden cameras showing pictures of legislators relaxing at a beach resort, all paid for by lobbyists or special interest groups. This sort of activity does have a damaging effect on this body—an effect that we can only hope is not irreparable.

Let me illustrate this point by once again referring to the Time/CNN poll taken just a few weeks ago. Perhaps the most striking result of this survey was the responses to a question that asked, "Which one of these groups do you think have too much influence in Government?" Respondents were given a list of choices, and which groups did the American people believe have too much influence in public policy decisions? The wealthy, large corporations, foreign governments, and special interest groups.

Now, we have all seen the large number of gifts that are delivered to our offices nearly every day. We receive—and I personally decline—fruit baskets, artwork, fine wine—you name it. And who do these gifts come from? The answer is, usually, the wealthy, large corporations, foreign governments, and special interest groups.

How often do we receive gifts from consumer advocates, middle-class individuals, and ordinary working Americans? Hardly ever, and it is no coincidence that respondents listed themselves as the group least likely to have a voice in their Government. I fined this something by which we should all be immensely troubled.

I was a member of the Wisconsin State Legislature for 10 years. During that period, I lived under a set of rules that have been in place for over 20 years in Wisconsin. Simply put, legislators and staff do not accept anything of value. That's it—the rule is that simple. And it should be noted that the Wisconsin Legislature is considered one of the most ethical government bodies in the country. The Wall Street Journal, in fact, described it as "squeaky clean." It is time to recognize and address the fact that this is an image that few people hold for the U.S. Congress. When I came to the U.S. Senate, I adopted those same Wisconsin rules for my U.S. Senate office. For the past 2 years, since I took office, my staff and I have lived under the Wisconsin ethics rules, and I believe we have been effective in carrying out our work, without taking free meals and gifts from lobbyists.

The conference report that is before us today takes a forceful step toward reversing the pessimistic and skeptical feelings the American public bears for this institution. First, new lobbying disclosure provisions will require lobbyists who spend at least 10 percent of their time lobbying Members of Congress or their staff to register with a new Office of Lobbying Registration and Public Disclosure. The current statute only requires registration of lobbyists who spend at least 50 percent of their time lobbying Congress, and this has resulted in nearly 70 percent, by some estimates, of the lobbying community failing to register with the Federal Government.

In addition, these disclosure requirements will be bolstered by what I see as the crown of this legislation: a stiff prohibition against the providing of free meals, travel, and entertainment to Members of Congress. Most of these stringent rules will apply to nonlobbyists as well. Like the Wisconsin law, there are exceptions to these tight restrictions that will allow legislators and staff to carry out the day-to-day official responsibilities of a Member of Congress. For example, these exceptions do allow Members to be reimbursed for certain expenses incurred in the attendance of programs, seminars, and conferences related to official business. Those exceptions aside, the gift ban provisions contained in this legislation will take a hard line against those offered items that are completely unrelated to official business and serve only to fuel the negative perceptions of Congress that have permeated our society.

In short, this is a well-balanced approach that is targeted enough to affect those who seek special access or influence with the U.S. Congress, but not excessively inclusive as to affect a Member's legislative duties.

In closing, I would like to say that the skepticism and pessimism that the public holds for this body is unfortunate. It would not seem too difficult to ask as part of an effort to restore the lost trust and confidence the public holds for Congress that we live by a set of rules that our constituents live by. In other words, you pay for your own meals, travel, and entertainment. This seems to me to be a small price for the immense benefits that such a simple action could produce—benefits that include a more optimistic and idealistic public and a system that doesn't suggest that certain individuals or groups retain special access or influence with the U.S. Congress.

I would like to thank those Senators that have worked tirelessly to see this legislation brought to the floor for final passage. Senators WELLSTONE and LAUTENBERG, whom I joined in introducing the original legislation that initiated this effort, and again, Senator LEVIN, who was able to craft an alternative measure that was able to incorporate our original principles, and then skillfully steered the measure through the sometimes torturous legislative process.

This legislation is long overdue and in many of our constituents' eyes is a significant piece of legislation.

I thank the Chair. I yield the floor.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank the Senator from Wisconsin. He and the Senators from Minnesota and New Jersey have been absolutely stalwart in this effort to try to reform the gift rules which so clearly need to be reformed if we are going to increase public confidence in this institution. I want to thank him and commend him for his strong and constant leadership in this battle.

Mr. President, I want to yield myself 10 minutes.

Mr. President, we are here today after 3 years of effort, after bills have passed both Houses of the Congress and a conference has resolved the differences between those bills. We have before us a conference report which is the product of lengthy committee consideration and hearings in both the House and the Senate. We are here after all that to do what the Congress has been unable to do for the last 50 years.

This bill would totally overhaul the patchwork of loopholes and exceptions that currently masquerade as lobbying registration laws. Efforts to reform these laws, to close these loopholes, and to end the charade that we have effective lobbying registration laws for paid lobbyists—have been made in the forties, in the fifties, in the sixties, in the seventies. They have failed for various reasons. Now, today, despite overwhelming votes for lobbying reform and for gift reform in both the House and the Senate, there is a tremendous last-minute effort to kill this reform the way it was stymied in the sixties and stymied in the seventies.

Our existing lobbying registration laws have been characterized by the Department of Justice as ineffective and unenforceable. These laws breed disrespect for law itself because they are so widely ignored. They have been a sham and a shambles for decades. At a time when the American public no longer believes that their Government really belongs to them or is responsive to them, our lobbying registration laws have become a joke leaving more paid professional lobbyists unregistered than registered.

The GAO estimates that fewer than 4,000 of the 13,000-plus individuals and organizations listed in the book "Washington Representatives" are actually registered as lobbyists even though at least three-quarters regularly lobby. This bill would change all of that and ensure that we will finally know, after decades of pretending, who is being paid, how much, by whom, to lobby what Federal agencies in Congress and on what issues.

This bill would close the loopholes in existing lobbying registration laws. It would cover lobbyists of foreign and foreign-owned companies. It would cover all professional lobbyists whether they are lawyers, nonlawyers, inhouse or independent, whether they lobby the Congress or the executive branch, and whether their clients are profit or nonprofit. It would provide for the first time effective administration and enforcement.

Senator COHEN and I introduced this bill. We had bipartisan support and still do have bipartisan support. Six Democrats and four Republicans were the original cosponsors of this lobby registration bill. The Senate approved the bill a year ago by a near unanimous vote of 95 to 2. The conference report before us was signed by all Senate conferees of both parties and passed the House last Thursday by a bipartisan vote of 306 to 112.

So why are we faced with a filibuster? One reason is because real reform, Mr. President, does not come easy. As long as special-interest lobbying organizations thought this bill was not really going to make it, they held their fire. But now in the final hours the lobbying organizations have unleashed their forces. We are being barraged by lobbying campaigns because we are trying to get them out in the sunshine.

This bill, Mr. President, is the work product of 3 years of committee consideration and deliberation. Many provisions which are now being attacked were in the original Senate bill that passed 95 to 2. Scare tactics are used, fictionalized versions are being promulgated to make the average citizen believe that this bill would require them to register when they express their opinion.

The only way this bill will affect the average citizen is by arming that average citizen with information on the amount and the purpose of the paid professional special interest lobbying in Washington so the public can know what is going on. The opponents say the average citizen will have to register and be regulated by a bureaucratic agency. That is not so. Only paid professional lobbyists would have to register. As a matter of fact, that is what the current laws on the books are supposed to require.

Because of the loopholes in them—for instance, one law excluding lawyers who are lobbyists—we do not have paid professional lobbyists who are registering now. At least most of them do not. Opponents say lobbying organizations will have to disclose their membership list. That is not so. Senator COHEN and I have consistently taken the position that disclosure of membership lists would be violative of the Constitution. We have successfully opposed efforts on this floor to require organizations to disclose their membership lists. Why is so much disinformation employed at this last minute to kill this bill? One of the reasons is because it is real reform. It bites. It bites the special interests and it bites us.

Let us take a quick look at each of the claims that have been made against this conference report and see just how erroneous each one is. Contrary to what opponents are representing, the bill would not require citizens who call Congress or come to Washington to express their own views to register as lobbyists. It would not require grassroots organizations to disclose their membership lists or their contributors. It would not require churches to register as lobbyists. No one who lobbies on his or her own behalf or on behalf of someone else as a volunteer would be required to register. You would not have to register if you call your Member of Congress. You would not have to register if you write your Member of Congress. You will not have to register if you meet with your Member of Congress. You would not have to register if you join an organization that lobbies Congress. You would not have to register if you contribute to an organization that lobbies Congress. You would not have to register if you sign a petition, join a picket line or march in a parade. You only have to register if you are paid by a client to lobby on behalf of that client. Again, that is what the existing laws that have been ignored and loopholed to death are supposed to require.

Second, this bill would not place any limitation on grassroots lobbying by citizens who organize to present their own views to the Congress. What this bill would do is require the disclosure if a registered lobbyist pays someone to organize grassroots lobbying and then the registered lobbyist would have to disclose who was hired and how much was spent.

The suggestion has been made, Mr. President, that section 105(b)(5) would require organizations employing lobbyists to disclose their membership lists or their contributors list. That is not true. No membership or contributors list would be required to be disclosed. The provision which is being used to make that argument does not refer to the contributors or members of an organization. It simply requires the disclosure of "any person or entity other than the client who paid the registrant to lobby on behalf of the client."

The question is, who paid for the lobbying? Was it the client, or was it someone other than the client? If the client paid for its own lobbying activities, the question ends there and the provision does not apply. The provision only comes into play if someone other than the client pays the lobbyist. In other words, the provision applies if the organization does not pay for its own lobbying activities and someone else pays the lobbyist instead. Then the organization would have to disclose who sent the check to the lobbyist. A member of an organization is not paying a lobbyist to lobby simply because the member contributes to the organization, by any commonsense meaning of these words.

Again, the subject of a membership and contributors list was discussed extensively in the Governmental Affairs Committee hearings on the bill, and a decision was made that no such disclosure should be required.

Mr. President, if that 10 minutes is up, I would at this point yield the floor.

Mr. NICKLES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES] is recognized.

Mr. NICKLES. Mr. President, I will make a statement, and I would like to discuss some of the statements made by my friend from Michigan as well as my friend from Minnesota. I believe we have some real disagreement on what the language says. First, let me say I do not doubt the intent of the sponsors of the legislation. I compliment them for much of what they have tried to do in this bill.

I totally disagree with some of the thrust of what they are saying and what its impact would be on grassroots lobbying. I am reading from the legislation here, and I hear their intent, and they are saying this legislation would not require disclosure of a contributor list.

Frankly, that is not what the legislation says. The legislation before us was changed between the Senate bill and the conference report—and I noticed that the comments that were made by the Senator from Michigan and others referred to Senate language and Senate debate, but not to the conference report. The conference report, very specifically, is going to require individuals who contribute to organizations which employ a lobbyist to have their names publicly disclosed to the Federal Government. Let me site some of the language, and I will put in some substantiating facts that deal with my points.

Mr. President, as you know, many concerns regarding coalitions and associations and grassroots efforts were raised on the House floor regarding this legislation. The rule on the bill narrowly passed the House by 216 to 205. A close reading of the legislation and its definitions and requirements validate these concerns. I might mention that just because the House had a close vote, it did not convince me they were right. It made me think we should look at the legislation. This was not raised as an issue when we debated this on the Senate floor. The Senate bill did not have the language we now have in the conference report.

Some of this is technical but I am going to read directly from the bill. Section 104(A)(2) requires organizations which employ one or more lobbyists to register with the Office of Lobbying Registration and Public Disclosure. Under section 104(B)(2), each registration must contain the name, address, and the principal place of business of the registrant's client along with other information. Similarly, under section 105(B)(1), the name of the client must be disclosed in semiannual reports by the registrants.

Who is defined as a client, whose name, address, and place of business are to be disclosed? The term "client" is defined in 103(2). It states that in the case of a coalition or an association of employees lobbyists, the organization itself is the client, providing the lobbying is paid for through regular dues and assessments.

However, in 103(2)(b), the client is defined as individual members of the organization if lobbying activities are financed by members outside of regular dues and assessments. Specifically, it states:

> In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is, (B), an individual member or members, when the lobbying activities are conducted on behalf of, financed separately by, one or more individual members and not by the coalition's or association's dues and assessments.

Think of all the organizations which, in addition to regular dues, call upon their members to help finance the organization's efforts. Under this bill, those individual Americans would have to be publicly disclosed by the Federal Government, basically because they stood up and spoke out for something they believed in.

Mr. President, that is the language in the bill. For proponents of this conference report to say this legislation does not require disclosure of names of people who contribute to these groups is just wrong. The bill states that a client is somebody outside the organization that contributes to a cause.

Let me give a couple of examples. I have a lot of organizations that I will read into the RECORD that are opposed to this bill for this very reason. Let us say an organization is opposed to or supportive of particular legislation—and I notice we have family groups, prolife groups, and proabortion groups, that are against this legislation.

Let us take an issue like the Freedom of Choice Act; it is a bill that deals with abortion. The Right to Life Committee is adamantly opposed to it, and Planned Parenthood of America is in favor of it. If these organizations write letters to their members and say, "This is a special effort and we have to defeat this bill or we have to pass this bill, please send in $20," then those individuals who send in money in addition to their dues are covered by this bill. If somebody contributes, and let us say they are not a member—or maybe they are a member—they are defined as a client on the second page of the bill. I will read it again:

> A client is an individual member or members, when the lobbying activities are conducted on behalf of, or financed separately by, one or more individual members and not by the coalition's or association's dues and assessments.

We are not talking about dues. Not everybody at Right to Life or Planned Parenthood will be disclosed because they are a member, I agree. But if they contribute over and above what their dues and assessments are, because they want to have special input and a special lobbying effort to defeat or pass legislation, then they are defined as a client under this bill. No question. That is not really even debatable. They are defined as a client, and a client under this bill has to be disclosed.

I have heard a couple of our colleagues say there is no disclosure. "We are not going to disclose people who contribute to causes if they want to affect legislation." That is not factual. It may not be the intent. That is not the way it passed the Senate, but it is the way it came back from conference. I regret that.

I might mention, Mr. President, again, my interest in this did not really even come up until I heard it on a radio program. A lot of people tend to blast those rightwing radio programs. Well, I was listening to "Focus on the Family", and Gary Bowers said that this would require his listeners, if they responded to our radio messages that they should be involved and contribute money, but not if they call. I will grant the authors of the legislation that if an individual simply calls their Congressman, they would not have to be disclosed. Or if they drop by the office, they would not have to be disclosed. But if they write a check over and above dues and assessments to an organization which employs a lobbyist, they are defined as a client under this legislation. Therefore, their names will have to be disclosed.

I do not think that is disputable. I do not think that is contested. I do not think there is any other interpretation of this language, despite the fact that the proponents may say, "That is not our intent." We are not talking about intent. We are talking about legislative language. And so if those names are disclosed, you are going to have a very chilling impact on grassroots organizations and their communication with their Representatives.

Mr. President, this is not just DON NICKLES' opinion. I asked my staff to look at the language in the conference report and the legal counsel that works with me over at the Republican Policy Committee. They came to the same conclusion. We have reviewed it. I have asked other people, and we have found organization after organization that concurs with this.

Let me read a very short letter that came to my attention, and again, made me say we have to look at this legislation a lot closer. This was addressed to all Senators and Representatives of the conference committee on this legislation:

> The undersigned nonprofit groups have very different memberships, represent a variety of viewpoints, and are often in opposite corners when debates on public policy get underway. Despite these differences, we find ourselves united in our concern over the Lobbying Disclosure Act of 1994 and the adverse impact it will have on our ability to convey our members' views to the Congress and the Executive Branch.
>
> As currently drafted, the lobbying reform legislation, S. 349 and H.R. 823, will place an undue and unnecessary burden on the exercise of our First Amendment freedoms. The legislation's registration and reporting requirements will jeopardize the fundamental right of all citizens to communicate with and lobby their government through associations by imposing time-consuming and costly recordkeeping and paperwork demands on all groups that inform their members or urge them to give the government their views on the issues. As organizations struggle to comply with the legislation's directives, the diversion of both manpower and financial resources to meet the recordkeeping and paperwork demands will undermine the ability of all groups to communicate with Congress and the Executive Branch on the important issues facing this country.
>
> The impact of this legislation will reach well beyond Washington, D.C. and will adversely affect organizations across the country. There is not an issue under discussion in Congress or the Administration today that does not elicit the views of organizations from all 50 States. The proposed lobbying disclosure reforms will make it extremely difficult for many of these organizations to continue to make their opinions known to their elected representatives. The problem is exacerbated for those nonprofit organizations impacted by the recently enacted tax law changes regarding nondeductibility of lobbying expenses, since that legislation also contained extensive recordkeeping requirements. The overall result is that fewer associations and, hence, fewer Americans, will get their voices heard in Washington, D.C.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 21, 1994.

Members of the House-Senate Conference Committee on the Lobbying Disclosure Act of 1993,
Members of the House and Senate Leadership,
U.S. Congress,
Washington, DC.

DEAR SENATORS AND REPRESENTATIVES:

The undersigned nonprofit groups have very different memberships, represent a variety of viewpoints, and are often in opposite corners when debates on public policy get underway. Despite these differences, we find ourselves united in our concern over the Lobbying Disclosure Act of 1994 and the adverse impact it will have on our ability to convey our members' views to the Congress and the Executive Branch.

As currently drafted, the lobbying reform legislation, S. 349 and H.R. 823, will place an undue and unnecessary burden on the exercise of our First Amendment freedoms. The legislation's registration and reporting requirements will jeopardize the fundamental right of all citizens to communicate with and lobby their government through associations by imposing time-consuming and costly recordkeeping and paperwork demands on all groups that inform their members or urge them to give the government their views on

the issues. As organizations struggle to comply with the legislation's directives, the diversion of both manpower and financial resources to meet the recordkeeping and paperwork demands will undermine the ability of all groups to communicate with Congress and the Executive Branch on the important issues facing this country.

The impact of this legislation will reach well beyond Washington, D.C. and will adversely affect organizations across the country. There is not an issue under discussion in Congress or the Administration today that does not elicit the views of organizations from all 50 states. The proposed lobbying disclosure reforms will make it extremely difficult for many of these organizations to continue to make their opinions known to their elected representatives. The problem is exacerbated for those nonprofit organizations impacted by the recently enacted tax law changes regarding nondeductibility of lobbying expenses, since that legislation also contained extensive recordkeeping requirements. The overall result is that fewer associations and, hence, fewer Americans, will get their voices heard in Washington, D.C.

We are concerned that much of the momentum for lobbying reform springs from the misconception that nonprofit organizations harm, rather than help, the policymaking process. Nonprofit groups provide information and resources that are both useful to and needed by Congress and the Executive Branch—information and resources which help to keep government officials in touch with the citizens of this country. An interactive democracy, such as ours, requires citizen participation, and nonprofit groups are essential in allowing Americans from every part of our nation to register their views with their government.

It is unprecedented for such a diverse array of groups to stand together in opposition to a single legislative proposal. Our doing so is evidence that we believe this legislation will seriously impair our ability to exercise our rights guaranteed under the First Amendment. We, therefore, respectfully urge that you oppose S. 349 and H.R. 823 as currently drafted, and consider revising the legislation by making the changes that are outlined on the attached page.

A similar letter has been sent to the other members of the House and Senate leadership and to the members of the conference committee on the lobbying disclosure bills.

Sincerely,

Alliance for Educational and Cultural Exchange, American Family Association, Americans United for Life, Center for Science in the Public Interest, Child Protection Lobby, Christian Legal Society's Center for Law and Religious Freedom, Citizens Committee for the Right to Keep and Bear Arms, CNP Action, Inc., Coalition Against Gun Violence, Doris Day Animal League, English First, Family Research Council, Federation of American Scientists, The Feminist Majority, Free Congress Foundation, Fund for an Open Society, Gun Owners of America, Humane Society of the United States, International Freedom Foundation, National Right to Life Committee, National Rifle Association, National Legal And Policy Center, National Association of Housing Cooperatives, Ohio Citizen Action, Safe Streets Coalition, Planned Parenthood of America, Population-Environment Balance, United Seniors Association, Inc., U.S. Chamber of Commerce.

[NOTE: The following was sent to the members of the conference committee on the Lobbying Disclosure bills and Members of the House and Senate Leadership.]

Mr. NICKLES. Mr. President, I might mention this letter is signed by a bunch of different groups with totally opposite philosophical bases: Alliance for Educational and Cultural Exchange, American Family Association, Americans United for Life, Center for Science in the Public Interest, Child Protection Lobby—and I will skip several of these—Coalition Against Gun Violence, Doris Day Animal League, English First, Family Research Council, which I alluded to, The Feminist Majority, Federation of American Scientists, Gun Owners of America, Humane Society of the United States, National Right to Life Committee, National Rifle Association, National Association of Housing Cooperatives, Ohio Citizen Action, Safe Streets Coalition, Planned Parenthood of America, Population-Environment Balance, United Seniors Association, U.S. Chamber of Commerce.

Mr. President, I have another list of organizations even more extensive which I ask unanimous consent to have printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS OPPOSED TO S. 349

Alliance For Educational and Cultural Exchange.
Alliance For America.
American Civil Liberties Union.
American Farm Bureau.
American Family Association.
Americans For Tax Reform.
American Land Rights Association.
Americans United For Life.
American Veterinary Medical Association.
Association of Concerned Taxpayers.
Center for Science in the Public Interest.
Child Protection Lobby.
Christian Coalition.
Christian Legal Society's Center for Law and Religious Freedom.
Citizens Committee for the Right to Keep and Bear Arms.
CNP Action, Inc.
Coalition Against Gun Violence.
Coalitions For America.
Concerned Women For America.
Defenders of Property Rights.
Doris Day Animal League.
English First.
The Environmental Policy Task Force.
Family Research Council.
Federation of American Scientists.
The Feminist Majority.
Free Congress Foundation.
Fund for an Open Society.
Gun Owners of America.
Humane Society of the United States.
Independent Insurance Agents/California.
International Freedom Foundation.
The National Center for Public Policy Research.
National Association of Realtors.
National Cotton Council of America.
National Federal Lands Conference.
National Restaurant Association.
National Right to Life Committee.
National Right to Work Committee.
National Rifle Association.
National Legal and Policy Center.
National Association of Housing Cooperatives.
Ohio Citizen Action.
Planned Parenthood of America (NY office).
Population-Environment Balance.
Project 21.
Safe Streets Coalition.
Small Business Survival Committee.
Traditional Values Coalition.
United Seniors Association, Inc.
U.S. Chamber of Commerce.

Mr. NICKLES. Mr. President, this list includes the American Farm Bureau, the National Association of Realtors, the Feminist Majority, the Environmental Policy Task Force, and on and on, because these groups have realized that if they send out a letter and they ask for money to defeat legislation or to pass legislation, those contributors are going to be listed as clients and those clients are going to have to be disclosed. Those are the facts.

That was not in the Senate bill. That is a new addition that came in the conference report. You can look on page 353 of the conference report for that explanation.

So, Mr. President, I just make the comment that this legislation will have a very chilling, negative impact on lots of individuals who want to participate and contribute to causes, to legislation, and I think it is a serious mistake.

I will just mention to the supporters of the legislation I heard most of the rhetoric that was directed against the legislation saying we need to ban gifts and Congress is on the take, and so on. Let us ban it. Let us pass legislation or let us pass the Senate rule—I think we can pass that overnight—and say, hey, let us not take gifts; let us ban gifts from lobbyists. Let us do it.

That is not my objective. My objective is to stop very intrusive governmental expansion that will really stifle the peoples' participation in the legislative process by telling them, if you contribute to these organizations, if you contribute to a cause outside of your dues to defeat or pass legislation, your name is going to be filed, your name is going to be registered, your name is going to be disclosed and probably abused by the fact that it is going to be out in the public record.

I think that is a serious mistake, and that is the reason why this legislation at this point needs to be defeated.

I hope that the sponsors of the legislation will work with me and other people and say, hey, let us get rid of this grassroots lobbying extension that was made in conference. Let us eliminate that. Let us pass the gift ban, or let us pass a rule change that would prohibit gifts to Members of Congress and do that and be done and not do harm to countless individuals who want to participate in this political process.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Oklahoma yields the floor.

Who yields time?

The Senator from Michigan.

Mr. LEVIN. I yield 3 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio [Mr. GLENN] is recognized for 3 minutes.

Mr. GLENN. Mr. President, let me just start out by saying that I find lobbying in the Congress valuable and useful. In the context of what we are discussing here today, that may be an unusual statement, but many times I have called some lobbyists to get detailed information about their industry or what they are doing. I find that a valuable resource. Lobbyists do not have to take me to free lunches or ball games or the opera, or anything else, to get access to my office. I welcome their views and by all means consider them.

But this legislation had already passed the Senate with a 95-to-2 vote, I believe it was, then went to conference with the House, and now we find ourselves with a proliferation of disinformation that Senator LEVIN already addressed in detail this morning along with the opinions being expressed by people all over this country about the problems with lobbying and what their perception of it is. I think Senators LEVIN and COHEN, who have been so diligent in the process, deserve a tremendous amount of credit for what they have been doing.

I say to Members who voted before, those who voted 95 to 2, to send this legislation through, I ask them now, if they are going to vote the other direction, why they have changed their minds. Do they just follow the winds out there? Do they follow what the talk show hosts are saying with their disinformation? Are they saying the lobbying in itself by the talk shows and the disinformation campaign that has been put forward is to prevail over their vote before? If they are going to vote against this today, why did they change their minds? If anything, it has been made better after it went through here and went to conference.

I was not in every conference meeting. I am a member of the conference committee though and I say Senators LEVIN and COHEN did an exceptionally good job.

Are Members of Congress up for sale? No. I think that is so far overdone I cannot believe it. Should we correct some perceptions that are common across the country about how the lobbyists work? Absolutely, we should. It does not hurt the lobbyists in doing their jobs to say there will be some limitations on lunches, and so on. These are the registered lobbyists we are talking about here now, people who have to register.

If we really wanted to attack the notion of special interest access and how it is tilting the Congress one way or the other on a particular issue, we would have passed campaign finance reform. I think we would have gone to Federal financing of campaign, obnoxious as that seems to be to many Members here. They do not want to vote for it. That would do more to clean up politics around Washington, DC, than anything else we can do with this legislation. While I think it is important, we are sort of nibbling around the edges. I find it a bit hypocritical to say that a Member could be bought for a $20 lunch and you turn around and ask that same person who took you to the $20 lunch for a $5,000 PAC contribution—$5,000. We are going to be bought for 20 bucks and turn around and ask the person for a $5,000 PAC contribution.

But, it goes without saying that the American people have lost their faith and confidence in government. If banning gifts and other lobbyists amenities is what it takes to begin restoring public trust and integrity, then act we must.

Do I think the gift ban will actually make a difference in how things are done around here? Most certainly. It puts everything above-board. In fact, we can do business the true old-fashioned way—by meeting concerned citizens, as well as special interest lobbyists—in the pleasant ambience of our own offices. We don't need the strolling violinists.

I recognize that in the world of politics we must deal with perceptions. It is high-time we owned up to those realities. This institution, which ought to be revered and respected by all Americans, is subject to daily scorn and ridicule. We're depicted as out-of-touch Members, being wined and dined by special interests, and caring not for the Nation or our State, but only for our own reelection. And we certainly deserve much of the blame for letting this happen. So it is a big step we take today, one which will hopefully show we are serious about improving this body's reputation and standing with the public.

Let me also just say that the main guts of this bill, in my book, is the Lobbying Disclosure Act, which Senator LEVIN has worked on so hard for so long. This—more than the gift ban—will probably have a greater impact in rebuilding the peoples' trust in their Government. Finally, everyone will be able to know who's paying what to lobby whom on which issue. Sunshine is always the best disinfectant. Or in some cases, repellant.

I am disturbed however, at the recent attack on this legislation based on a complete falsehood regarding its application to grassroots lobbying. Never would I be privy to anything that would inhibit the free exercise of religion or hinder the right of the citizenry to petition their Government.

This whole bill is about giving people the power of knowing who is really footing the bill for someone lobbying on behalf of a technical tax break or special pork-barrel project. In fact, I believe most of us would much rather listen to our own constituents rather than some smooth-talking Washington lobbyist. I was elected to represent the people of Ohio and it is them that I want to hear from and give top priority to.

I believe Senator LEVIN specifically addressed these concerns in a speech on the Senate floor the other day. But the following points should be made. First, only paid, professional lobbyists are required to register under this bill. No one who lobbies on their own behalf, or on behalf of someone else in a volunteer capacity, is required to register. Second, if a paid, professional lobbyist spends money on grassroots lobbying—that is, an effort to get individuals to contact Members of Congress or the executive branch—the lobbyist must estimate the money so spent and disclose the name of any person or group hired by them to conduct such a campaign. The names of unpaid individuals or volunteers involved in or contacted pursuant to such a grassroots effort are not required to be disclosed. Similarly, there are absolutely no requirements placed on any person who calls, writes, or just stops in to express his or her own views to Members of Congress or the executive branch. I wouldn't stand for such a patently unconstitutional measure.

In addition, there is a requirement for paid professional lobbyists to disclose the name of any person or entity who is paying for such services, if other than the client himself. It does not require organizations employing lobbyists to disclose their membership lists, which would raise serious first amendment concerns. Finally, the bill explicitly exempts religious organizations, such as churches or associations of churches, from having to register in the first place, even if they have paid professional lobbyists on their staff.

I would note that these issues were given the primary consideration they were due by the committee in developing its version of this legislation. No one, not in the committee's markup, nor on the Senate floor, suggested our constitutional safeguards infringed on either free speech or the exercise of religion. I recognize and appreciate the nature of these concerns, and it is my hope that they have been voiced—and addressed—in all sincerity and good faith. I would hate to see them misused by those who deep down do not really want this piece of legislation and hold out hopes of continuing business as usual. In that case, it would be a shame and a loss for the American people and those of us who have worked so hard to get here in the first place.

In closing, I want to thank again my colleagues, especially Senators LEVIN and COHEN for their leadership and indefatigable efforts. As an original cosponsor and chairman of the committee which originally passed these bills, I was both proud and pleased to lend my full support and help. And more importantly, to stand behind them and finally see the fruition of all our hard work.

The scorched earth policies or politics having to do with this I find deplorable. I think this is good legislation. I am glad to support it. It came through the committee. I thank Senators LEVIN and COHEN for the job they have done on this all the way through.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I thank very much Senator GLENN for his leadership.

I yield 5 minutes to my friend from Maine.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN] is recognized.

Mr. COHEN. Mr. President, I think we should begin this debate with the proposition that the current lobbyist registration laws which are on the books today are a joke. We have thousands of lobbyists in this town. Only a small percentage actually register according to the existing law, and of those few that do, the information they provide is meaningless.

If we are trying to find out why the American public is cynical about the political process, take a look at what happens outside, for example, when the Finance Committee takes up a tax bill. The streets of downtown Washington spring into action. It has been described as Gucci gulch. That corridor in downtown Washington is lined with paid professional lobbyists who are paid huge sums of money to lobby on behalf of their clients. The public, we feel, would like to know who is being paid how much to lobby whom on what issues. The public has a right to know.

That was exactly the intent for which Senator LEVIN and I, and others, set out some time ago to try to write legislation which offered, we hoped, simplicity and clarity in mind, as well as comprehensiveness.

A number of inaccurate statements have been made about this proposed law. For example, one statement brought to my attention indicated that this bill would require individual Members of Congress to be listed among the contacts of registered lobbyists. That statement is not true. This bill does not require lobbyists to disclose the names of the individual Members contacted by the lobbyist. We debated that issue earlier and discovered a number of legitimate concerns. Specifically, there was a concern that, if lobbyists were to file a public disclosure form that says "I contacted Senator X on this bill," it may raise more questions than it answers and could be misused for political purposes. For example, during an election the information in the disclosure could be distorted by suggesting that a brief meeting with a Member had an effect on a Member's vote or position on a particular issue. In fact, the disclosure would also have been entirely in the hands of the lobbyist. What if a disclosure was made in error, or a false disclosure was made specifically to embarrass a Member? These issues were debated and we came to the conclusion that adequate protections against errors and misuse could not be provided. Consequently, we did not require lobbyists to list their individual contacts with specific Members. Instead, lobbyists are only required to disclose the committee or House of Congress they contacted.

Mr. President, first let me state that I do not want to question nor do I question the motivations of any of the Members who oppose this legislation. In addition, there are some legitimate organizations who are also sincerely opposed to this legislation. I do, however, think that some groups are opposed because they are under a misapprehension about the terms of this legislation. I want to be clear that I do not question the motives of the opposition to this bill.

What I do suggest, however, is that a failure to invoke cloture on this bill is effectively going to kill lobbying reform in this Congress.

I do not think it is necessary to do that. I believe that by invoking cloture, we can take whatever time is necessary under that 30-hour period and debate whatever ambiguities, perceived or real, exist in the law and see if we cannot correct them through compromise.

I find it somewhat ironic or unfortunate that the Senate rules in this particular case call for a two-thirds majority to invoke cloture as opposed to the a three-fifths majority, especially in light of the fact, as my colleague from Oklahoma just mentioned, that no one is taking issue with the rule change. And yet here we are having to invoke cloture with a two-thirds vote, when, in fact, no one is challenging the rule change. Some are arguing that we should just take up the rule change and pass it in order to satisfy the public that we are not being unduly influenced by the personal largess of these lobbyists.

Let me say, on behalf of the proponents of the bill, which I consider myself, that there is at least one statement made by some opponents to the bill which I believe to be completely inaccurate. Specifically, the suggestion that the bill would require religious organizations to register as lobbyists is simply wrong. We wrote in a specific exemption for religious organizations. In fact, the Baptist Joint Committee, the U.S. Catholic Conference, and the Religious Action Center of Reform Judaism have all provided letters endorsing the language.

So we tried to accommodate the religious groups to make sure there was no question about their being covered by this law. But, nonetheless, we have a number of groups that now maintain our language is inconsistent with our intent.

Let me say, on behalf of the opponents of this legislation, that the grassroots lobbying provision was not in the Senate version of the bill. It was added because of the House insistence on its addition. And there may be some question, as raised by my friend from Oklahoma, in terms of what the words actually mean and what the intent is. I think it is clear what our intent is, and the intent is not to require the listing of all the clients who may be contributing to organizations outside of dues and assessments. I think that could be corrected. If it is indeed a problem, it could be corrected easily. All we have to do is add two words to section 103(2)(A) of this bill—"or contributions." That would clarify the language to ensure that it is consistent with our intent and, I believe, remove the objections the Senator from Oklahoma is raising.

So we can deal with this issue.

May I have 1 more minute?

Mr. LEVIN. I am happy to yield an additional minute to my friend.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. COHEN. Mr. President, we can remove, I believe, the challenge to the law based upon the question as to grassroots lobbying. What we need to do is invoke cloture in order to do that.

I believe if we take just a few hours of debate to raise the questions and provide the answers to our colleagues, we can address these concerns and, in fact, pass this legislation which is badly needed. It is long in the making. I think our failure to do so is only going go solidify the cynicism that is out there today that Congress really, when it comes down to measuring up to our responsibilities, is not willing to do so. I think we can clear this issue up and if necessary make minor modifications to the language to ensure that it is consistent with our intent.

I know the courts are somewhat insistent on ensuring that the intent is stated in the language of the law itself. Justice Scalia, for example, will hold us to the language of the bill and not to our intent. Others will do the same. So we can clarify any inconsistencies if we need to and do so in a very short period of time. It may also require asking the other body to adopt the same changes, but it can be done. First, we need to invoke cloture to begin this debate and address these concerns. I urge my colleagues to do that.

The PRESIDING OFFICER. Who yields time?

Mr. NICKLES. Mr. President, I yield 4 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. McCONNELL] is recognized for 4 minutes.

Mr. McCONNELL. I thank my friend from Oklahoma.

Mr. President, what we have this morning is the marrying up of two separate measures: One, the Lobbying Disclosure Act, which would be a law passed by the House, passed by the Senate, and signed by the President; the other, rather awkwardly attached, is the Senate rule regulating gifts to Members of the Senate.

We had a very spirited debate last May about the appropriateness of the rules change with regard to gifts. I think the Senate fully understood what we were about to do, because I was engaged in that debate as vice chairman of the Ethics Committee, just pointing out some of the regulatory problems here in the Senate with the proposal. But we had a good debate. Everybody understood the issue. We voted on it and it is over. It would be my hope, Mr. President, that we would pass the Senate rule related to gifts to Senators.

The second portion that we are discussing today, the Lobby Disclosure Act, was studied in great detail, obviously, by the sponsors of the amendment, Senator LEVIN, Senator COHEN, and others. They understood it fully. But I think a lot of the rest of us did not focus on that portion of these two issues that were moving in tandem last May through the Senate. Now we have had a chance to focus on it.

I was particularly offended—somebody may have already mentioned this—by the Washington Post treatment this morning of the opposition to this bill. This is not just from conservatives, Mr. President. The American Civil Liberties Union, the Child Protection Lobby, the Doris Day Animal League, the Feminist Majority, the Humane Society of the United States, and Planned Parenthood are all opposed to this bill.

So the opposition to this bill is not being spurred by some kind of right-wing cabal here. There are a lot of groups out in America who feel that they ought to be able to influence us, ought to be able to petition the Congress, as the Constitution puts it, who do not find this is a very good bill.

Now I am not quite sure about all the dispute between what is in the plain meaning of the statute and what the sponsors of the bill want it to mean. We know the Supreme Court is increasingly not of a mind to deal with legislative intent. They read the thing. Their inclination is to read the plain meaning of the statute and interpret it in that way, rather than getting into what we might have meant, even though we did not say it specifically.

So the American Civil Liberties Union, which is certainly not an arm of the Republican Party, has taken a look at this, Mr. President, and their view is that the plain meaning of the lobby disclosure bill as written leads to some catastrophic consequences in terms of the rights of citizens to influence us, which is a perfectly legitimate process.

The American Civil Liberties Union has said:

> The extensive paperwork and reporting requirements may cause some groups not to participate in lobbying merely because they are likely to reach the reporting threshold sooner by virtue of their geographic location.

They have said further: "We are gravely concerned"—this is the American Civil Liberties Union.

> We are gravely concerned about requirements that lobbyists and their organizations disclose contributor information including name, address and principal place of business. Although Senator LEVIN said that contributor and membership lists would not be subject to disclosure, we believe that Section 105 will lead to such disclosure in violation of the constitutional protections against it recognized in the Supreme Court's landmark decision in NAACP v. Alabama.

Well, that is a rather lengthy opinion by the American Civil Liberties Union about the lobby disclosure measure. In short, I think I am not misrepresenting their views to say they find it fatally flawed in a lot of respects; not just a little bit bad, but fatally flawed throughout.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCONNELL. Will the Senator yield me 30 more seconds?

Mr. NICKLES. I yield the Senator an additional minute.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. McCONNELL. Mr. President, I wish we could get away from the notion that every time some so-called reform measure is proposed it is being opposed by conservatives in America.

This bill is hotly contested, deeply resented, and vigorously opposed by a variety of different organizations in this country across the political spectrum. The American Civil Liberties Union, it seems to me, a group with outstanding constitutional lawyers, speaks best on this issue.

I ask unanimous consent that their letter of October 5 that each of us received in opposition to the lobby disclosure portion of this package before us be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ACLU,
Washington, DC, October 5, 1994.

DEAR SENATOR: The American Civil Liberties Union urges you to reject the conference report on S. 349, the Lobbying Disclosure Act of 1994. In our view, this bill raises serious constitutional concern. While the goal of eliminating real and perceived corruption in dealing with Congress and the Executive Branch is laudable, this bill threatens important First Amendment rights and raises other constitutional concerns. We are very concerned that this legislation will impose far-reaching and substantial burdens on public policy advocacy that will make participation by grassroots organizations costly and thus unlikely. This will be especially true for small grassroots organizations whose voices are those heard least often in our national debates.

The authors of S. 349 implicitly recognize the burdens imposed by its reporting requirements by including an exemption for religious organizations as a class from some of these requirements. But the burdens imposed by this legislation will likely inhibit a wide range of groups, especially those that are under-resourced from exercising their right to lobby. In exempting only religious organizations, S. 349 unfairly favors religious groups and thereby violates the Establishment Clause.

This Establishment Clause problem is only one of our concerns. We believe this legislation merits further deliberation and analysis. Some of the ACLU's objections include, but are not limited to the following:

This legislation unfairly and unreasonably burdens those who engage in grassroots lobbying. The extensive paperwork and reporting requirements may cause some groups not to participate in lobbying merely because they are likely to reach the reporting threshold sooner by virtue of their geographic location. For example, a California based grassroots organization will have much higher travel-related expenses for direct lobbying contacts than a similarly situated organization in Northern Virginia. This unfairly discriminates in favor of locally based groups and against those that may have to travel to meet with a Member of Congress or an Executive Branch official. Likewise, non-profit organizations that can provide expertise on complicated legislation, may not choose to do so because their time and expenses will be greater than if they were to only make known their position on final passage. Congress risks losing valuable input during its deliberations prior to the adoption of legislation in committee or by the full House and Senate. Should complicated legislation such as health care reform or welfare reform receive a reduced level of public input because the paperwork requirements (and civil penalties for failing to report) inhibit such input? Whatever large scale corruption this bill seeks to address, surely there is a much reduced threat of that from small non-profit groups.

Churches, associations of churches and related organizations are exempted on the basis of their tax-exempt status, even though other tax-exempt organizations are not. If it violates the "free exercise of religion" to require lobbying reports by church lobbyists, then it violates the right "to petition the government," also contained in the First Amendment, to require it of others. If, on the other hand, the government has a compelling interest sufficient to overcome the petition right, the same interest is sufficient to overcome any free exercise claim. Thus, no special exemption is required. Moreover, the bill states that its purpose is to provide the public with information on "the efforts of paid lobbyists to influence the public decision making process" and to disclose "the identity and extent of the efforts of paid lobbyists to influence" federal policy. To exempt some organizations, which may in fact outspend those required to report, is to provide a distorted picture to the public of who is involved in lobbying, thereby undermining the very purpose of the legislation.

Finally, by providing special favorable treatment of religious lobbyists, the legislation impermissibly advances religion, thereby violating the Establishment Clause. In *Walz v. Tax Commission*, 397 U.S. 664 (1970), the Supreme Court upheld the property tax exemptions for church property *only* because the same tax exemptions were available as part of a general taxation scheme exempting all nonprofit or socially beneficial organizations. This legislation may not constituionally treat churches specially.

We are gravely concerned about requirements that lobbyists and their organizations disclose contributor information including name, address and principal place of business. (See Section 105(b) 1-5.) Although Senator Levin said that contributor and membership lists would not be subject to disclosure, we believe that Section 105 will lead to such disclosure in violation of the constitutional protections against it recognized in the Supreme Court's landmark decision in *NAACP* v. *Alabama* 357 U.S. 449, (1958). In this case, a unanimous Court ruled in 1958 that members of the NAACP had a right of association that would be jeopardized by such a governmental intrusion and that their list was protected from the state.

Given that the Lobbying Disclosure Act will not eliminate a number of current federal laws affecting advocacy by non-profits, unclear and conflicting definitions of lobbying will result. Moreover, confusing jurisdictional issues are created between the Office of Lobbying Registration and Public Disclosure, the Select Committee on Ethics and the Internal Revenue Service (IRS). We believe the lack of clarity as to agency jurisdiction combined with the threat of civil penalties up to $200,000 for ordinary citizens creates an environment that will have a chilling impact on the rights of citizens to lobby. In particular, charities that now have to comply with complex IRS rules issued in 1990 will still be forced to comply with additional and conflicting federal rules required by this Act outlining the conditions of their contact with Congress and the Executive Branch.

We believe that information collected by the Office of Lobbying Registration and Public Disclosure is not subject to adequate privacy protections. It is a long standing principle of the Privacy Act of 1974 that information collected by the government for one purpose should not be available to other government agencies for use for other purposes. The Privacy Act was based on a congressional finding that the right to privacy, a personal and fundamental right protected by the United States Constitution, was "directly affected by the collection, maintenance, use and dissemination of personal information by federal agencies." S. 349 contains no such safeguards consistent with Privacy Act principles. Thus, information could be used by the Internal Revenue Service or the Federal Bureau of Investigation, for example.

Congress is correct to be concerned about actual and perceived corruption, for public mistrust of government can seriously undermine a democracy. But, overregulating individuals or organizations, especially small organizations, who engage in core political speech is not the answer. Lobbyists enrich and invigorate the legislative process, providing a wealth of information and technical expertise to Congress.

While we appreciate the efforts by Senator Levin and others to develop a workable disclosure scheme, and to address the concerns of the ACLU and others, for the reasons stated above we urge your opposition to S. 349. These issues require more deliberation than is possible under current circumstances.

Thank you for your consideration of our views.

Sincerely,

LAURA MURPHY LEE,
Director.

Mr. McCONNELL. I yield the floor and I thank my friend from Oklahoma.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. How much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma has 11 minutes 3 seconds.

Mr. NICKLES. Mr. President, how much time remains for the other side?

The PRESIDING OFFICER. Forty seconds.

Mr. NICKLES. Mr. President, I yield the Senator from Wyoming 5 minutes.

The PRESIDING OFFICER. The Senator from Wyoming [Mr. WALLOP], is recognized.

Mr. WALLOP. Mr. President, I thank the Senator from Oklahoma. I would say to my friend from Kentucky that I, too, was offended by the Washington Post article because I know we supplied them the list of organizations opposing this legislation, and they chose to editorialize in their report. I do not know why that comes as a surprise. I guess in truth it does not.

Mr. President, I already spoke pretty significantly yesterday on this legislation, so let me only take a moment to respond to the "Dear Colleague" from the sponsor of this legislation, the Senator from Michigan.

I discussed this yesterday. The main concern of grassroots organizations is section 105(B)(5). The "Dear Colleague" of the Senator from Michigan says that the suggestion that these groups would have to expose their membership lists is untrue. The letter goes on to reference language from a CONGRESSIONAL RECORD statement of May 5, 1993, to support this assertion.

The language that is quoted in the "Dear Colleague" from May 5, 1993, may reflect the Senate bill, but this language was changed. That is the point of the debate we engage in today. The Senator from Michigan is quoting from the Senate report which had applied to lobbying firms. But page 53 of the conference agreement, the relevant bill before this body, states:

> The conference amendment would adopt the Senate language with a clarifying amendment. Under the conference amendment, all registrants, (regardless whether they are lobbying firms or use in-house lobbyists) would be required to identify any person other than the client who paid the registrant to lobby on behalf of the client.

Let me repeat the operative words: "Regardless whether they are lobbying firms or use inhouse lobbyists."

It is clear the language was changed in conference and has a much broader meaning than that contained in the approved Senate bill. I find it ironic that the Senator from Michigan attempts to justify new language in a conference agreement by referencing the obviously very different Senate language.

Mr. President, I ask unanimous consent that page 53 of the conference report be printed in the RECORD.

There being no objection, the page was ordered to be printed in the RECORD, as follows:

> In the case of in-house lobbying, a good faith estimate, by category of dollar value, of all expenses incurred by the registrant and its employees in connection with lobbying activities.
>
> Section 5(b) of the House amendment contains similar reporting requirements, which differ from the Senate bill, in that the House amendment would: (1) require a list of all specific issues upon which the registrant engaged in lobbying activities; (2) require the identification of the specific issues on which an outside firm retained by the registrant engaged in grass roots lobbying communications on behalf of the client; (3) require a separate good faith estimate, by category of dollar value, of the total expenses that the registrant and its employees incurred in connection with grass roots lobbying communications (including any amounts paid to an outside firm retained to make such communications); and (4) delete the requirement in the Senate bill to identify any person other than the client who paid for the lobbying activities (while adding such persons to the definition of "client").
>
> On the first issue, the conference amendment would strike a compromise between the Senate bill and the House amendment. The conference amendment, like the House amendment, would require a listing of all specific issues that were the subject of lobbying activities; unlike the House amendment, however, the conference amendment would limit this list to issues on which lobbyists employed by the registrant engaged in lobbying activities. Under this compromise approach, lobbyists would be required to identify all of the issues on which they lobbied, but registrants would not be required to list the issues on which employees other than lobbyists may have engaged in incidental lobbying activities.
>
> On the second and third issues, the conference amendment would adopt the House language, requiring the disclosure of grass roots lobbying issues and expenses.
>
> On the fourth issue, the conference amendment would adopt the Senate language with a clarifying amendment. Under the conference amendment, all registrants (regardless whether they are lobbying firms or use in-house lobbyists) would be required to identify any person other than the client who paid the registrant to lobby on behalf of the client.
>
> Section 105(c): Estimate of Income or Expenses.—Section 5(d) of the Senate bill would establish the categories of dollar value for estimates of income or expenses; authorize registrants that are required to report lobbying expenses to the Internal Revenue Service under section 6033 of the Internal Revenue Code to report the same amounts to the Office of Lobbying Registration and Public Disclosure; and provide that estimates of lobbying income or expenses need not include the value of volunteer services or expenses provided by independent contractors who are separately registered and separately report such income. Section 5(c) of the House bill contains similar provisions, with minor

clarifying changes. The conference amendment would adopt the language of the House amendment, with a further amendment to clarify the treatment of * * *

Mr. WALLOP. Even if the Senator from Michigan believes that the intent is not to require disclosure of membership lists, the language of the conference report can be interpreted very differently. The ACLU has indicated its grave concerns with the disclosure of membership lists. In fact, "They believe that section 105 will lead to such disclosure in violation of the constitutional protections against it recognized in the Supreme Court's landmark decision in NAACP versus Alabama." Obviously grassroots organizations believe their rights are being violated or why else would such a diverse group of these organizations be opposed?

Today's New York Times has a interesting article talking about what took place in a recent Supreme Court argument. The question before the court was, should the Court save the Congress from itself by reading the law in the way that Congress almost certainly intended, but did not quite say. The Court generally was unmoved by the argument. Justice Scalia said, "Don't you think it might be useful in causing Congress to be more careful" in the future, he said, if the Court showed lawmakers it would "read the law the way it's written."

"What the legislative history proves to me is that Congress made a mistake." No matter Congress' intent, he said, what the law actually says is that "all a person has to know is that he is shipping a visual deception ."

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 6, 1994]

WHICH COUNTS, CONGRESS' INTENT OR ITS WORDS?

(By Linda Greenhouse)

WASHINGTON.—A Supreme Court argument today in a child pornography case provoked a spirited debate among the Justices over how the Court should respond when faced with a carelessly written law that if taken literally may well be unconstitutional.

Should the Court save Congress from itself by reading the law in the way that congress almost certainly intended but did not quite say? Or should the Court teach Congress a lesson by holding the legislators to their poor choice of words?

At issue was a 1977 Federal law, the Protection of Children Against Sexual Exploitation Act. Under the law, "any person who knowingly transports or ships" a "visual depiction" of a minor engaged in sexually explicit conduct faces up to 10 years in prison and a fine of up to $100,000.

The United States Court of Appeals for the Ninth Circuit, in San Francisco, overturned the conviction of the owner of a Los Angeles adult video store for mailing pornographic films starring a 15-year-old actress. In its 1992 ruling, the appeals court held that the law violated the First Amendment because it did not require the Government to prove that a defendant knew that the explicit films showed performers under the age of 18.

The appeals court found that from its placement in the statute, the word "knowingly" applies only to transporting or shipping a "visual depiction," and not to the succeeding clauses about the nature of the films and the age of the performers. The court then based its conclusion that the law was unconstitutional on the Supreme Court's obscenity precedents, which require proof that defendants are aware of the obscene nature of the material they are accused of possessing.

Trying to salvage the law, Solicitor General Drew S. Days 3d argued today in the Government's appeal that the word "knowingly" should be understood as applying also to the age of the performers, not just to the act of shipping the films. But several Justices were skeptical. "We're not in the business of rewriting statutes," Justice Antonin Scalia said.

When Mr. Days said that the legislative history showed that Congress meant "knowingly" to apply to the age of the performers, Justice Scalia replied: "What the legislative history proves to me is that Congress made a mistake." No matter what Congress's intent, he said, what the law actually says is that "all a person has to know is that he is shipping a visual depiction."

Mr. Days said the Court should "help Congress avoid moving into an unconstitutional realm" by interpreting the law according to what Congress meant to say. "Congress wanted to move within the boundaries of the Constitution," the Solicitor General said. "It was not trying to test the boundaries."

Justice Scalia was unmoved. "Don't you think it might be useful in causing Congress to be more careful" in the future, he said, if the Court showed lawmakers that it would "read the law the way it's written." Solicitor General Days replied that while the Court could take that view if it wished, it would be abandoning its historic approach of interpreting statutes in light of Congressional intent.

Justice Sandra Day O'Connor, calling the statute "peculiar," also appeared inclined to take it literally. "The most natural reading of the statute may be the one the Ninth Circuit adopted, isn't that so?" she asked.

Taking the other side of the argument, Justice David H. Souter said that if all Congress had meant to criminalize was "knowingly shipping," the law would be a "waste of ink" as well as incomprehensible, because most "visual depicitions" are entirely innocent. "Surely Congress had a serious purpose in mind," Justice Souter said, as well as a desire to follow the Constitution.

Stanley Fleishman, the lawyer for the defendant in the case, Rubin Gottesman, argued that the appeals court had given the correct interpretation to a "badly drawn statute." Justice Souter replied that this "grammatical point doesn't answer the problem of meaning."

Mr. Fleishman, who argued several landmark obscenity cases in an earlier era when the Court dealt regularly with obscenity, addressed the Justices in a breezy manner that they appeared to enjoy. When Chief Justice William H. Rehnquist asked him, "What if we didn't agree with you that the law is unconstitutional?" Mr. Fleishman answered, "Well, then, you wouldn't say that."

He told the Court that the law was so broadly written that "it's a statute that endangers all of us." Referring to a section of the law that also criminalizes receipt of child pornography, Mr. Fleishman said to the Justices: "You're all child pornographers. I don't mean to say it quite that way, but you've all received this material." Earlier, Justice O'Connor had observed that the clerk of the Supreme Court might be convicted under a literal reading of this section for opening pornographic material sent to the Court in connection with a case.

Among the Justices, Stephen G. Breyer is perhaps the Government's most obvious ally in the case, U.S. v. X-Citement Video, No. 93–723. Last February, as a judge on the Federal appeals court in Boston, he wrote an opinion in an unrelated case interpreting the same law to require knowledge of the age of the performer.

"Without such a requirement, the statute would severely punish purely innocent conduct," Judge Breyer wrote in that case, U.S. v. Gendron. "Congress could not have intended these results." As an appeals court judge, he took part in several lively debates with Justice Scalia before audiences of lawyers over how judges should interpret statutes, and came down on the side of considering intent.

Mr. Gottesman, the defendant in today's case, in 1987 sold an undercover agent more than 100 videotapes featuring Traci Lords, a well-known pornographic movie actress whose career began when she was a minor. He can pursue several other challenges to his conviction even if the Government wins this round at the Court.

Mr. WALLOP. Mr. President, what the ACLU said in its letter to the Senate is that there is nothing so good in this legislation that it justifies trampling on the rights of Americans. And it also listed the number of concerns it has with the bill, aside from section 105, that raised significant constitutional questions. They believe it has a chilling effect on the first amendment rights of Americans. Let me quote again.

The PRESIDING OFFICER. The Senator has spoken for 5 minutes.

Mr. NICKLES. I yield the Senator an additional 1 minute.

Mr. WALLOP. The ACLU said:

> Congress is correct to be concerned about actual and perceived corruption, for public mistrust of Government can seriously undermine a democracy. But, overregulating individuals or organizations, especially small organizations, who engage in core political speech, is not the answer.

It is the opinion of the Senator from Wyoming that this Congress, knowing that this bill raises constitutional questions, should not pass the obligation to prove them wrong to the people of the United States and to the pocketbooks of individual Americans. When we know a constitutional question has been raised and has not been answered, we have an obligation not to say to Americans, "Dig it out of your own hip pocket. You go do it and prove us wrong." We have an obligation to try to do right and to try to do what we know to be constitutionally correct.

The public's mistrust and fear of Government generated by this legislation could itself undermine our democracy more than perceived fears about corruption in the Senate. And I know of no Senator here who believes—or will name any colleague that he believes or she believes to have been corrupted.

I urge my colleagues to vote against cloture and to protect the constitutional rights of Americans.

The PRESIDING OFFICER. Who yields time? The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Oklahoma has 4 minutes 20 seconds.

Mr. NICKLES. Mr. President, I wish to compliment my colleagues from Kentucky and Wyoming for their statements. I hope, again, people would look just a little bit beyond some of the rhetoric and say: What is at stake? We are talking about passing a bill that does infringe upon the rights of thousands if not millions of Americans who want to participate in the political process by becoming a part of that process. If they contribute, under this bill they are going to be listed as a client. If they contribute, if they are a member of an association and they contribute in addition to their dues outside of their dues, they are going to be listed as a client. They are going to be registered. Their name is going to have to be disclosed.

That is not what the Washington Post reported this morning. That is not what some of our colleagues stated on the floor. But it is a fact. It is what the bill says.

The Senator from Wyoming talked about the New York Times article, "Which Counts, Congress's Intent or Its Words?" Clearly, the Supreme Court, as mentioned by Senator WALLOP, is ruling by what the law says, by legislative language not intent or legislative history. And the legislative language states if a person contributes outside of their dues they are a client and therefore their names have to be disclosed. So these groups, which cover the entire spectrum philosophically from conservative to liberal, say: We do not want that to happen. That suffocates free speech. That inhibits free speech.

Then I have to touch on section 105, where people said: No, this would not be required because of contributions. If you read section 105 it says that any person or entity who makes a contribution, their names will have to be disclosed twice a year, any person. So if they contribute, not because they happen to be a member of a group, but if they contribute to a cause to defeat legislation or to pass legislation, then their names are going to be listed. That is not really in dispute. It says "shall." Their names will be listed. It is not really, in my opinion, there are no ifs, ands, or buts about it. Their names shall be disclosed.

So I urge my colleagues, let us take out this prohibition. Let us pass rule changes. If we want to prohibit gifts, let us pass some rule changes. Those of us who are objecting to this will support that. I have just cosponsored a resolution by Senator DOLE that says let us pass a rule change and ban gifts. We can pass that. We do not even have to pass an act of Congress. We can do that in the Senate. We do not have to wait on the House. We can do that today and I think we will have bipartisan support in the Senate to make that happen. But to go so far as to say we are going to go in and hit grassroots lobbying, which was not in the Senate bill—that came in extraneously, in the conference report—I think is a serious mistake.

When we see this entire list of organizations that are opposed to this, from the American Civil Liberties Union to the Right To Work Committee to the Right To Life Committee to the Planned Parenthood of America, these groups are opposed to it because they see this as stifling free speech of their members. They see this as inhibiting their ability to be able to write letters and say, "Please contribute $20 to pass legislation or defeat legislation." Because they know under this legislation their members' names will be reported.

That is a serious mistake. We should not pass this legislation as it is. Let us defeat this, let us vote against cloture, and then let us pass a Senate rule to prohibit gifts to Members. And let us go home.

Mr. President, I yield the floor.

Mr. HEFLIN. Mr. President, I rise today with a mind troubled by the difficulties of the Lobbying Disclosure Act. I commend the sponsors of this bill, particularly the Senator from Michigan, for making an effort to restore the public's confidence in the political process and in our governing structures. However I am troubled by many of the provisions included in this bill.

I served as chairman of the Ethics Committee for several years and on the committee for several more. During my tenure, I had the unfortunate duty of prosecuting one of our colleagues in connection with ABSCAM. My duties on this committee strained personal relationships and working alliances, but I served in such a capacity because I felt it was part of our constitutional responsibility regardless of how unpleasant it might be in the short term.

So I have some background in working to rid our body of unethical and inappropriate behavior. In fact I dare say that, as much as any Senator here today, I have had the unfortunate responsibility of sitting in judgment of my peers. Because of this, I refuse to accept the suggestion that the only reason to oppose this legislation is because one is trying to take inappropriate and influence-buying gifts and trinkets.

With all this in mind, I rise today to present some of the concerns I have about the conference report's provisions.

I have listened to the arguments made in regard to the impact of the bill on grassroots lobbying activities. The rhetoric has been exaggerated; however, I do worry that individuals who are only slightly involved in lobbying will be forced to engage in costly and tedious recordkeeping if it is to contact the Federal Government and exercise their right to free speech. They will do this, if for no other reason, than to prove that they are not required to report their activities.

Some may not agree with me, but we cannot forget that the size of the penalties for violating this law can be $200,000. That is $200,000 for not being precise enough in accounting for one's speech activities. I will admit that at first I was not sure if this concern was well founded, but I know that the Director of this new Federal agency will be the one laying out the fine print for the implementation of this law. Having worked against some of the misguided proposals of the EEOC earlier this year, I do not feel safe in saying to my constituents that they will never be forced to pay an enormous penalty because of some ludicrous lobbying law lapse.

I recall that during the Base Closure Commission's decisionmaking process many communities in my State worked very hard to keep the bases in their communities open. Americans should not have to worry that if they exercise their right to participate in the Commission's deliberations that they will be responsible for exhaustive recordkeeping or the possibility of an enormous penalty. I acknowledge that by some interpretations of the law they may not be effected, but many will see the size of the penalties and decide that the threat of being fined $200,000 is just too much to take.

I am also concerned about provisions, well intentioned though they may be, that could adversely impact organizations in attempting to maintain the privacy of their membership lists. Here again, there has been some exaggerated rhetoric, but I do see some sincere concerns with regards to provision 105(b)(5). Given the methods used by some groups for fundraising, I think many organizations could be effectively required to disclose large numbers of their participating members, issue by issue. This may not happen, but the law is vague and needs to be corrected.

I am also concerned about the impact this law will have on nonprofit organizations. Groups such as the March of Dimes Birth Defects Foundation, the Lupus Foundation, and the Leukemia Society of America, have through their representative associations, voiced concern that this bill does not address concerns that they made known with regard to the paperwork burdens that such organizations face. Organizations as divergent as the ACLU and the Christian Coalition and the Family Research Council oppose this bill; groups as divided as Planned Parenthood and the National Right to Life Committee oppose this bill.

Our Nation is founded on institutions ranging from the local to the national level. Part of the activity of these institutions in a participatory democracy is the dialogue and communication that groups do on behalf of their membership. While this bill certainly does not prohibit such communications, it could have what some, including the ACLU, have called a chilling effect on activities that have long been protected in our society.

Relative to charitable organizations, I have for many years, long before I came to the Senate, worked to raise money for groups that assist in worthy causes. I regret that charitable work is seen in some way as tainted by the suggestion that undue influence is being bought when an organization gives to a university scholarship fund or a homeless shelter. I wonder what the impact of this bill will be on many groups. I have to think that this bill may end up being the "Grinch Who Stole Christmas." I just hope we all realize that before voting.

Mr. President for these reasons I will oppose this legislation and support the reworking of this bill at the earliest possible time. I regret this because I have a good idea of how the failure of this bill will be portrayed in the media and how that could worsen the public's already grim view of Congress.

The public's anger over the way business is done in Washington could be lessened with a lobbying reform bill. However, in trying to achieve this goal, we cannot unfairly restrict free speech even indirectly, nor should we require organizations that petition the government to disclose their membership in whole or part.

Mr. SIMPSON. Mr. President, I rise briefly to express my opposition to the conference report in its current form.

This legislation started out with the best of good-faith intentions. Its purpose was to combat the perception that Congress is too influenced by big time lobbyists. Therefore, the authors reasoned, we should draft legislation which requires greater public disclosure of lobbying activities. We should eliminate the perception that Congressmen can be influenced by lobbyist lunches by cutting them out entirely.

I am a bit offended with the premise of the so-called gift-ban legislation. Eating lunches or dinners with lobbyists is really not a part of my life. These provisions will not affect me. The votes I cast here are based on what I believe is the best policy for the country, determined with particular consideration to the views of the people of my State. I form my opinions based on Wyoming town meetings, letters, and phone calls from constituents, testimony presented in committees, and floor debate. There is not a sandwich made in this world which some lobbyist might offer me that would affect my vote. Nevertheless, perception is often reality, and I have no objections to the gift-ban portion of this legislation. At least that section of the conference report was true to the purpose of this legislation because it addressed a concern of the average American.

I also believe in greater disclosure of certain lobbying activities. Let's face it. The real reason for this portion of the legislation is to provide some greater level of disclosure to the American public of what exactly the high-rolling, Gucci-wearing, French restaurant-eating, best country club-schmoozing lobbyists in this town are really up to. Once again, that's fine with me.

But just like so many pieces of legislation which passed the Senate overwhelmingly and were true to their purpose when they left this body—a completely different brew was concocted in the cauldron of the conference committee.

It was never the purpose of this bill to limit or chill the political activities of average Americans. The target here was the so-called fat cat lobbyist, not the local political activist who is more visible in our neighborhoods than in Washington. The reason I believe that this administration and the Democrats who control both Houses of Congress have been enduring bad polling numbers lately is that the average American doesn't believe they are really listening to their concerns. They want a health care bill, but not one that would be controlled by a huge new Federal bureaucracy. They want Federal funds to support local school board initiatives, not with huge Federal strings attached to the money which limits local control. And they don't want the Federal Government to maintain a registry of their political activities. And that's what will happen here. They want less Federal intrusion into their lives, not more.

When groups as diverse as Planned Parenthood, the National Right to Life Committee, the National Rifle Association, the ACLU, and the feminist majority tell me that this legislation will seriously impair our ability to exercise our rights guaranteed under the first amendment, I intend to listen. Like everyone else, I have also been inundated by letters, faxes, and phone calls from my constituents. Not one person has expressed support for this conference report as long as it contains the provisions which would increase the regulation of lobbying at the grassroots level.

Last night, Senator DOLE sent to the desk a portion of this conference report which I am willing to vote for today. It would change Senate rules in exactly the way this conference report provides. Gifts from lobbyists to Members and staff would be eliminated. The Senate could pass that internal rule without obtaining the approval of the House. Let's do that one today.

The lobbying disclosure title of the conference report would not have gone into effect until January, 1996 anyway. We will have proper time to craft a better product next year, and make it effective at the same time that this law would have taken effect.

Unless changes are made to the limitation of grassroots lobbying provisions in this conference report, I will vote against cloture. That is the only way we shall be able to achieve the laudable goal of getting rid of these provisions.

Mr. GORTON. Mr. President, after listening to the views expressed by many people in my home State of Washington, investigating the issue and carefully considering this legislation, I have decided to vote against cloture on the conference report to S. 349, the Lobbying Disclosure Act of 1994. I came to this decision after the majority party made clear that it will not let us pass the type of bill that the Senate passed earlier with my full support.

My vote against this conference report has absolutely nothing to do with the gift ban contained in it. When the Senate considered S. 1935, the Gift Ban bill, earlier this year, I joined with an overwhelming majority of my colleagues and voted for final passage. I support a strong gift ban and do not object to the gift ban language in the conference report. My support of S. 1935 proves that point.

I also support tightening up the disclosure and reporting requirements for paid lobbyists. Under current law, many lobbyists who should be reporting are not. The laws need to be changed. And again on this issue, I joined an overwhelming majority of Members in voting for final passage of the Senate version of S. 349.

But what does concern me greatly is the product of the conference committee, and specifically the provisions relating to grassroots lobbying. My constituents are understandably in an uproar over what has been termed the "grassroots gag rule."

The clearest indication that the conference committee failed in its endeavor to craft an acceptable bill is the strong opposition coming from all sides of the political spectrum. Groups like the American Civil Liberties Union, the Family Research Council, the Feminist Majority, the National Right to Life Committee, Planned Parenthood, the Christian Coalition and the U.S. Chamber of Commerce have all expressed opposition to this bill.

To that list I add, from my home state of Washington, the Washington State Grange, the Okanogan County Commissioners, the American Land

Rights Association, the Washington Society of Association Executives, the Washington State Medical Association and countless constituents who have flooded my office with calls and faxes. All of these groups and people stand united in their opposition.

They are concerned with the overbroad definition of the term "grassroots lobbying." This term, which comes from the House bill and not the Senate, is defined to include almost anything, including communications that try to influence a government-related matter by attempting to influence general public opinion.

They are concerned with the requirement that organizations employing a grassroots operation would have to reveal the names, addresses and principal places of business of those retained in conducting grassroots lobbying. This could include even volunteers. Here again, this provision was not in the Senate bill.

They are concerned that the bill could require any organization that sponsors a legislative weekend in Washington, DC, to register and report to the Government if the legislative weekend involved what could be interpreted as a lobbying contact. They are concerned that the bill includes a great deal of vague and unclear language that can be interpreted in a manner damaging to grassroots lobbying.

And in one of the most compelling reasons to oppose this bill, many groups are concerned that it will require them to turn over their entire membership or donor list to a political appointee every time they file a report. While proponents of this bill argue that this exact provision was included in the Senate-passed bill, this is not true. The original Senate language pertained only to lobbying firms. The conference committee significantly broadened this language to include "any person other than the client who paid the registrant to lobby on behalf of the client." This has my constituents rightly worried.

The conference report we are debating today is very different from the bill I voted in favor of earlier this year. Provisions were added to the Senate-passed bill that I believe are real problems for my constituents. When you add all these provisions together, the result is a chilling effect on grassroots communication and on the exercise of first amendment rights. By imposing onerous disclosure and reporting requirements, this conference report jeopardizes our constituents' rights to petition their government through associations.

Mr. President, I want to go back and pass the bills that earlier cleared this Chamber, the bills for which I voted. That is why I supported the call to open up this conference report to amendments—amendments limited to grassroots lobbying only. In that way, we could pass legislation to provide for strong lobbying disclosure and a strict gift ban. I had hoped the majority party would let us do that, but it did not.

It did not let us pass legislation that enjoys broad bipartisan support, and has forced us to vote on a bill that my constituents find unacceptable. I therefore must vote against cloture. But let me say that I have always stood ready to work with Senators on both sides of the aisle to craft an acceptable lobbying disclosure bill, including a gift ban. I had hoped that we could accomplish that goal today. It is my regret that we did not.

Mr. ROTH. Mr. President, I intend to vote for cloture on S. 349 in order to move forward on what may be our last and best chance at congressional reform in this Congress. I am concerned, however, that certain provisions relating to grassroots lobbying, some of which were written very recently in conference, are not as clear as they should be.

However, one must understand that this reform legislation covers a broad range of issues. It creates for the first time a rational scheme for informing the American people about how much paid, professional lobbyists are spending to influence policy in both the legislative and the executive branches. It also promulgates a tough and comprehensive ban on gifts to Members of Congress and their staffs from lobbyists and other persons. These reforms taken as a whole are a step forward, a step that I support.

Are the concerns with grassroots lobbying that have been discussed this morning valid? Are opponents pretending there are problems to bring down this reform legislation? Are proponents pretending not to see problems that exist in order to save this product of a 2-year effort? We have all received letters of concern from grassroots organizations from all shades of the political spectrum. I find it difficult to believe that such diverse organizations contrived phony problems at the last minute in order to kill this broad reform.

If the problem is real, how do we address it? What is the responsible thing to do?

The Lobbying Disclosure Act does not take effect until January 1996. Rather than vote against cloture and bring down this entire reform, I believe the better course to be to pass the bill and then amend it to take care of the grassroots problem. This could be done in either of two ways. A joint resolution could be passed in both Houses changing the language of the bill to be sent to the President for signature. Or if there is not sufficient time in this Congress, legislation could be passed in 1995 to eliminate this problem before the Lobbying Disclosure Act takes effect in January 1996.

Mr. BYRD. Mr. President, recently, I have heard from a number of West Virginians who are sincerely concerned about certain provisions contained in the conference report on S. 349, the Lobbying Disclosure Act of 1994—provisions specifically dealing with grassroots lobbying.

These West Virginians who have contacted me—most certainly members of grassroots organizations of one kind or another—believe that the reporting provisions of the bill unduly burden their fundamental right to "petition the government for redress of grievances."

Let me make clear that my concerns about this measure do not center on the gift-ban provisions of S. 349—provisions that were approved by the Senate by an overwhelming majority last spring. I do not play golf. I do not play tennis. And I certainly enjoy my wife's cooking more than the cuisine of any elegant restaurant in Washington. While I do not believe any Member of this body can be "bought with a cup of coffee," I would certainly support efforts that might eliminate the misperception that our votes are on sale for a good filet mignon. However, the conference report accompanying S. 349 goes far beyond the laudable goal of eliminating gustatory lobbying.

The West Virginians from whom I have heard have heartfelt concerns regarding the disclosure requirements for those people who contribute to grassroots organizations. The West Virginians from whom I have heard fear that once information on contributions to grassroots organizations is obtained by the newly created Office of Lobbying Registration and Public Disclosure, the privacy of the contributors—who are American citizens—will not be adequately protected. I do not believe that these concerns are warranted. Further, I believe that they are based on a deliberate campaign of misinformation. However, my constituents sincerely are concerned and for that reason, I voted against the motion to invoke cloture on the conference report on S. 349, the Lobbying Disclosure Act.

The right to "petition the Government for a redress of grievances"—or lobby our government—is a right specifically enumerated in article I of our Bill of Rights. The input that the legislative process receives from lobbyists can be invaluable. Many lobbyists are experts in their fields, some provide information that we in the Senate would not have the resources to gather. However, the most important "lobbying" input that we receive is from our constituents. No matter how much proponents of the disclosure requirements in S. 349 may defend the provisions in S. 349, perception is sometimes overpowering. Marie Antoinette may have never actually said, "Let them eat cake," but the people of Paris in 1793 *believed* that Marie Antoinette did say, "Let them eat cake." Perception matters. To dampen substantially the enthusiasm that grassroots organizations from across the political spectrum engender would be a loss to this institution and a loss to our Nation.

Next year when this legislation is again before the Congress in some altered form, which I believe it will be, I may well be able to give it my support.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent I be permitted to use 5 minutes of my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President and Members of the Senate, lobbying disclosure legislation passed the Senate by a vote of 95 to 2.

The gift reform legislation passed the Senate by a vote of 95 to 4. Now a conference report returns to the Senate in a form nearly identical to that which passed originally by overwhelming margins. And all of a sudden, a fictional objection has been raised over changes that were made in the conference which now are used to construct an argument that will enable Senators to reverse their positions previously taken and claim there is some rational basis for doing so.

There is, of course, no such rational basis. The arguments made this morning and over the past few days against this bill are really fictional: Exaggerated claims, exaggerated fears, trying to whip up a segment of the public with suggestions of hostility to religious organizations, embarking on the recent technique of urging one's supporters to call and then citing the calls as the reason for reversing one's position, a most transparent political technique with which anyone involved in politics is familiar.

Mr. President, this is a good bill. The votes in the Senate earlier to which I alluded makes that clear. No bill passes the Senate by 95 to 2 or 95 to 4 unless there is overwhelming support for it.

I strongly urge my colleagues to support this motion to end this filibuster. We ought to be permitted to vote on this bill. We ought not to be deterred by the fictional arguments being presented today about the extreme hypothetical consequences that might occur under certain circumstances.

This bill involves real reform—disclosure of lobbying activities, gift reform. It ought to pass. It has passed the Senate already by an overwhelming margin, and there is no rational or logical basis for any Senator to now reverse his vote. Those who voted for this bill when it was before the Senate ought to vote for this bill now. If not, they are simply reversing their positions based upon some fictional concern that is without merit or substantiation.

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. No; I will not. I am going to complete my remarks. I did not interrupt the Senator when he was speaking.

So, Mr. President, I strongly urge my colleagues to reject the appeals of those who simply want to prevent reform from being enacted and have put out this huge smokescreen of religious organizations and activities as a way to cover their objection to the genuine reforms that are included in this bill.

This passed the Senate by a large margin before. It ought to pass the Senate by a large margin now. And I hope the American people will keep that in mind.

I urge my colleagues to vote for the motion to end the filibuster and let the Senate pass this bill.

Mr. NICKLES. Will the Senator yield?

Mr. MITCHELL. I ask unanimous consent that the Senator may have 1 minute to respond.

The PRESIDING OFFICER (Mr. MATHEWS). The Senator from Oklahoma.

Mr. NICKLES. Mr. President, just to comment, the majority leader used the word "fictional" about half a dozen times, and "smokescreen." I ask him, when this passed the Senate it did not apply to grassroots lobbying. It does now. That is not fictional. That is not a facade. That is a significant change that was made in conference, was not in the Senate bill and is now in the conference report.

I do not see that as fictional. I see the definition of client as being anybody who contributes to an organization outside their membership to affect legislation as a massive expansion and prohibition on grassroots lobbying. And my question to the majority leader is, is that not an expansion? That was not in the Senate bill, it is now in the conference report; is that not correct?

Mr. LEVIN. I have 40 seconds left.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield myself that 40 seconds. There are always provisions which are changed in conference. That is what conferences are for. These are principally the same bills that passed the Senate before. I ask unanimous consent that the answer to the points of my friend from Oklahoma which is contained in a letter from Senator COHEN and myself to Senator DOLE of yesterday be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC, October 6, 1994.

DEAR BOB: We welcome the opportunity to answer your questions about the application of the conference report on S. 349, the Lobbying Disclosure Act of 1994. As you know, there has been much speculation regarding the effects and applicability of the bill which may have been based on inaccurate information. We share your desire to answer these questions. Hopefully, our responses will shed some light on these important issues.

Your first question involves Section 103(2)(b). We believe that this Section does not require the disclosure of individual members of an organization unless the lobbying activities were specifically conducted on behalf of those individual members, (rather than on behalf of the organization as a whole) and the lobbyist was paid by those individual members. We wrote the provision to require disclosure of individual members only if the lobbying activities are "conducted on behalf of, and separately financed by" an individual member or members (emphasis added). It is our intent that this provision would only apply if both criteria are met.

Your second question concerns the definition of the word "retained" as it is used in Section 104(b)(5). Throughout the debate on this legislation we stressed that "retained" would mean that compensation for services would be involved. Our intent is that no disclosure of any kind is intended in the absence of compensation. Specifically, we stated in the Senate Report that "it is the element of pay that justifies the disclosure requirements" (S. Rep. 103–37, page 25). This point is also reiterated by the provision in Section 103(6), which specifically excludes from consideration "volunteers who receive no financial or other compensation" for their services.

We understand your concern, and the concern of a number of grassroots groups, about any requirement to disclose membership or contributors' lists. Although a number of groups have questioned whether Section 105(b)(5) would require such disclosure, we do not believe that it would. This provision does not refer to, and therefore in our view, require the disclosure or identification of contributors or members of an organization. The provision requires the disclosure of "any person or entity other than the client who has paid the registrant on behalf of the client." In other words, if the client did not pay the lobbyist, the lobbyist will be required to disclose who did send the check to the lobbyist. We believe that it is a misinterpretation to suggest that disclosure is required if a member simply contributes to the lobbying organization.

With regard to your fourth question, we do not believe that designating a contribution to offset a particular expenditure would constitute significant participation in the planning, supervision, or control of a lobbying effort for the purpose of Section 104(b)(3). In fact, the Joint Explanatory Statement of the Conference states that even an organization that is represented on the governing board would not be considered to exercise "significant participation or control" over the lobbying activities unless it has a "disproportionate vote in the decisions of the board." An organization that limits its control by requesting that a contribution be used for a specific purpose exercises far less participation or control than an organization that is represented on the governing board.

We also share your desire to provide protection for religious groups. That is why during the formulation of the language of this bill we solicited comments form a variety of religious groups. In fact, the United States Catholic Conference, the Center for Reform Judaism, and the Baptist Joint Committee requested the specific language of Section 103 (10)(B)(xviii) to ensure that lobbying such as the you describe in your question would be exempt. These three groups believe that lobbying on the issues of religious belief constitute the "free exercise of religion." We share this belief and for this reason incorporated their suggested language in the Conference Report.

You may recall that it was the view of the Senate, as expressed in the Committee Report, that no express exemption was needed because such lobbying constituted free exercise of religion and would enjoy Constitutional protection. (S. Rept. 103-37, page 45). The provision that was added in conference formalizes that position and was requested by the religious organizations themselves.

Regarding your question as to who makes the determination if the Director of the Office of Lobbying Registration and Public Disclosure were ever to question the applicability of the religious exemption, the constitutionality and statutory issues would ultimately be decided in the courts. As the Senate Report states, the position of the Senate is that the issue would be decided in favor of the churches.

As you know, we have worked for over three years on this legislation, inviting comments and input from all affected and interested parties. One of our primary goals has always been to close the loopholes in the current lobbying disclosure laws while leaving the constitutional rights of our citizens to petition the government. We hope this response answers your questions and we hope to work together to ensure passage of this legislation in the next few days.

Sincerely,

WILLIAM S. COHEN.
CARL LEVIN.

Mr. LEVIN. Mr. President, the fiction that the Senator is using is that somehow or another, if somebody makes a contribution to an organization that a lobbyist represents that, therefore, that person's name is going to have to be disclosed. That is not the language in this conference report.

The lobbyist is not conducting lobbying on behalf of members of the organization. The lobbyist is hired by the organization and is lobbying on behalf of the organization, not on behalf of each individual member of the organization.

So, sure, you can use a strained construction of any language. But this language is clear. This language is clear and our intent is clear and our letters are clear. There is no ambiguity, but if you want to try to create one, it is wiped out by our statement of intent.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. NICKLES. Mr. President, I ask unanimous consent that a "Dear Colleague" letter from myself be printed in the RECORD. I think this clearly, plainly shows the definition of client includes people or is expanded to include people above their assessments or dues.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 5, 1994.

DEAR COLLEAGUE: The Senate will soon consider the conference report on S. 349, the Lobbying Disclosure Act of 1994. This is not the same bill that many of us supported when it originally passed the Senate.

It is important to note several conference provisions expanding the thrust of bill will affect thousands and perhaps millions of individual Americans who, by most definitions, could hardly be characterized as "lobbyists."

As you know, many concerns regarding coalitions, associations and grassroots efforts were raised on the House floor regarding this legislation. The rule on the bill narrowly passed by a vote of 216 to 205. A close reading of the legislation, its definitions and requirements validate these concerns.

Sections 104(a)(2) requires organizations which employ one or more lobbyists to register with the Office of Lobbying Registration and Public Disclosure. Under 104(b)(2), each registration must contain "the name, address, and principal place of business of the registrant's client" along with other information. Similarly, under Section 105(b)(1), the "name of the client" must be disclosed in semiannual reports by the registrant.

Who is defined as the client and thereby has their name, address and place of business disclosed? The term "client" is defined in 103(2). It states that in the case of a coalition or association that employs lobbyists, the organization itself is the client provided the lobbying is paid for through regular dues and assessments. However, in 103(2)(B), the client is defined as individual members of the organization if lobbying activities are financed by members outside of regular dues and assessments. Specifically, it states:

> "* * * In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—(B) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or associations's dues and assessments."

Just think of all of the organizations which, in addition to annual dues, regularly call on their members to help finance the organization's efforts. Under this bill, those individual Americans would have their names, addresses and place of business submitted to and publicly disclosed by the federal government because they stood up and supported something in which they believe.

Equally concerning is a provision in Section 105(b)(5). While Section 104 requires registration, Section 105 requires semiannual reports. Section 105(b)(5) requires the reports to contain—

> "the name, address, and principal place of business of any person or entity other than the client who paid the registrant to lobby on behalf of the client."

This provision would have a profound effect on many coalitions and associations which are supported by individual donors but do not have memberships, dues or assessments. The donors became the "person or entity other than the client" and, again, unsuspecting Americans end up with their name, address and place of business submitted to and publicly disclosed by the federal government for standing up and supporting something in which they believe.

For such organizations, the individuals are not members; they are simply donors and do not fall within the "client" definition in 103(2)(B). In this case, the organization is both registrant and client. The resulting confusion is emblematic of the problems throughout this bill.

Senator Levin, in a September 30 floor statement came to the defense of the Section 105(b)(5) provision, citing a Senate floor amendment and the Senate report. Note, however, that it is the conference report that presents the problems. In the Senate-passed bill, this provision applied only to lobbying firms. The provision was expanded in conference to also affect organizations which use in-house lobbyists, as noted on page 53 of the conference report.

The registration and reporting provisions I have outlined will serve to stifle and suppress the rights of individual Americans to stand up and be counted, to participate in the American democratic system. The conference agreement is poorly constructed. The end result may not have been the intent but it is certainly the effect.

I hope you will join me in working to address these serious concerns which I trust you share. This bill should not pass in its present form.

Sincerely,

DON NICKLES,
U.S. Senator.

Mr. LEVIN. Mr. President, I ask unanimous consent that a document that has been prepared to answer the various concerns which have been raised—the fictional concerns—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFERENCE REPORT ON LOBBYING DISCLOSURE PORTION OF LOBBYING DISCLOSURE BILL

The Lobbying Disclosure Act would—

Close loopholes in existing lobbying registration laws;

Cover paid, professional lobbyists, whether they are lawyers or non-lawyers, in-house or independent, and whether their clients are for-profit or non-profit;

Cover, for the first time, lobbying of policy-making officials in the executive branch;

Require disclosure of who is paying whom how much to lobby what federal agencies and congressional committees on what issues;

Streamline reports and eliminate unnecessary paperwork;

Provide, for the first time, effective administration and enforcement of disclosure requirements by an independent office.

REPONSE TO MISLEADING CLAIMS ABOUT THE CONFERENCE REPORT

False statement about the bill: The bill would require citizens who contact or call Congress or come to Washington to express their own views to register as lobbyists.

What the bill actually does: Only paid, professional lobbyists would be required to register under this bill, as with current law. Like the bill that passed the Senate, the conference report specifically defines a lobbyist as an individual who is "employed or retained by a client for financial or other compensation" to make lobbying contacts (subject to de minimis exclusions).

False statement about the bill: The bill would place a "gag rule" on grassroots lobbying.

What the bill actually does: the bill would not place any limitations or disclosure requirements on grassroots lobbying by citizens who organize to present their own views to the Congress. What the bill would do is to require paid, professional lobbyists to estimate how much they have spent to stimulate lobbying at the grassroots.

False statement about the bill: Section 104(b)(5) of the bill would require paid, professional lobbyists to disclose the names of unpaid individuals or volunteers involved in grassroots lobbying whom they contact as part of a lobbying campaign.

What the bill actually does: Section 104(b)(5), by its terms, requires the disclosure only of a person who is hired by a lobbyist to stimulate a grassroots lobbying campaign. The bill expressly states, in Section 103(6) that only the paid, professional lobbyist must be disclosed under the bill and not "volunteers who receive no financial or other compensation" for their work.

False statement about the bill: Section 105(b)(5) would require organizations employing lobbyists to disclose their membership or contributors' lists.

What the bill actually does: No provision in the bill requires disclosure of membership or contributors' lists. Section 105(b)(5), which was added on the Senate floor, requires paid, professional lobbyists to disclose the name of "any person or entity other than the client who paid the registrant to lobby on behalf of the client." As Sen. Levin explained when this provision was adopted by the Senate, it would require only that "if a lobbyists's bills are paid by somebody other than a client, the identity of the person who pays the bills would have to be disclosed." [Congressional Record, May 5, 1993, page S5492].

False statement about the bill: The bill would require religious organizations to register as lobbyists.

What the bill actually does: Sections 103(9)(B) and 103(10)(B)(xviii) expressly exempt religious organizations, such as churches and associations of churches, from having to register. The Baptist Joint Committee, the U.S. Catholic Conference and the Religious Action Center of Reform Judaism have all provided letters endorsing the language in the bill.

False statement about the bill: The bill would require journalists, talk show hosts, and people who call talk shows to register as lobbyists.

What the bill actually does: Journalists are not covered by the bill, because they are not paid to contact government officials on behalf of clients. Moreover, the bill contains two applicable exemptions: one specifically excluding journalists (section 103(10)(B)(ii)) and one excluding any communication "through radio, television, cable television, or other medium of mass communication." (Section 103(10)(B)(iii)).

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 349, the Lobbying Disclosure Act:

Carl Levin, Daniel K. Akaka, D. Inouye, Byron L. Dorgan, Harry Reid, J. Lieberman, Patty Murray, Dianne Feinstein, Frank R. Lautenberg, Russell D. Feingold, Tom Harkin, Paul Simon, Paul Wellstone, Howard Metzenbaum, Claiborne Pell, Chris Dodd, Herb Kohl.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report accompanying S. 349, the Lobbying Disclosure Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. SASSER] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—52

Akaka
Baucus
Biden
Boren
Boxer
Bradley
Brown
Bryan
Bumpers
Chafee
Cohen
Daschle
DeConcini
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Simon
Specter
Wellstone
Wofford

NAYS—46

Bennett
Bingaman
Bond
Breaux
Burns
Byrd
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Faircloth
Gorton
Gramm
Grassley
Gregg
Hatch
Heflin
Helms
Hollings
Hutchison
Kassebaum
Kempthorne
Lott
Lugar
Mack
Mathews
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Shelby
Simpson
Smith
Thurmond
Wallop
Warner

NOT VOTING—2

Sasser
Stevens

The PRESIDING OFFICER. If there are no other Senators desiring to vote, on this vote, the yeas are 52, the nays are 46. Two-thirds of the Senators voting, not having voted in the affirmative, the motion is rejected.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 2 p.m. the Senate proceed to the consideration of a joint resolution relating to Haiti notwithstanding rule XXII, which I now send to the desk on behalf of myself, Senators DOLE, NUNN, and WARNER; that when the Senate considers the joint resolution, there be a time limitation of 4 hours and 20 minutes for debate, with 20 minutes under the control of Senator WARNER; 1 hour under the control of Senator BYRD; and 3 hours equally divided, and controlled between myself and Senator DOLE or our designees; that no amendments or motions be in order to the resolution and preamble; that when the time is used or yielded back, without intervening action the Senate vote on passage of the joint resolution; that upon adoption of the joint resolution, the preamble be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, reserving the right to object, and I do not intend to object. I would like to know or ask the majority leader or minority leader, how do I get 10 minutes to speak on this subject matter? Can I have some guarantee I would have that?

Mr. MITCHELL. The Senator has just obtained it.

Mr. DECONCINI. Thank you.

Mr. MITCHELL. Mr. President, I ask that the request be withheld momentarily.

I modify the request to add 15 minutes for the senior Senator from Arizona and 15 minutes for the junior Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now send the joint resolution to the desk.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the Senate will shortly go into recess, and those Senators who wish to do so are invited and encouraged to attend the address by South African President Mandela at a joint meeting of the Congress which will occur in the House Chamber at 11 a.m.

The Senate will remain in recess until 2 p.m., at which time the Senate will begin consideration of the Haiti resolution, which has just been introduced on behalf of myself, Senator DOLE, Senator NUNN, and Senator WARNER. Pursuant to that agreement, a vote will occur at approximately 4 hours 55 minutes after debate begins, if all time is used.

However, Senators should be aware that it is possible that not all time will be used, so a vote could occur prior to the expiration of that time. But there will be a vote today on that resolution.

Mr. President, I note the presence of the distinguished Republican leader on the floor and I yield the floor at this time.

Mr. DOLE. Mr. President, I want to just reaffirm that there will be a vote on the resolution and the debate—what time did the leader say debate will start?

Mr. MITCHELL. The debate will start at 2 p.m. Under the order, there is a total maximum time of debate 4 hours 55 minutes. So the vote will occur at approximately 6:50, or prior to that if not all time is used.

Mr. DOLE. I thank the Chair.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Vermont be permitted to address the Senate as in morning business for 3 minutes, and that at the conclusion of his remarks, the Senate stand in recess as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont is recognized.

SPRAYING PESTICIDES IN AIRPLANES

Mr. LEAHY. Mr. President, last night the Senate passed a resolution regarding the spraying of pesticides in airplanes. Many times, people who fly in airplanes to other countries find that somebody walks through spraying insecticides as they arrive in these countries. What they do not know is that this is something called Black Knight Roach Killer, and it says "avoid breathing, avoid contact with skin and eyes" on it. But they never tell us this.

We have now passed a resolution calling on countries to stop this. People have literally died from this, and people have been injured by it. And what we have now is a resolution passed calling on countries to stop this dangerous practice. I applaud the Senate for doing it. It is time for it to end.

I ask unanimous consent that statements and letters be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF FLIGHT ATTENDANTS,
Washington, DC, September 28, 1994.

Hon. PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition and Forestry, Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: The Association of Flight Attendants, AFL-CIO, representing 35,000 flight attendants at 22 carriers, strongly supports the Sense of the Senate Resolution concerning the dangerous practice of disinsection of aircraft.

Passengers on international flights are often unaware that upon arrival to their foreign destination, their cabin will be sprayed with pesticide while they are still on board. Pesticide spraying required by some governments is subjecting flight attendants and passengers to pesticide inhalation and skin absorption.

This problem is particularly acute for our members who regularly fly to such destinations. Despite warning labels that the disinsective is hazardous if inhaled or absorbed through the skin, flight attendants are required on each flight to spray several cans of such disinsective.

Because the airplane cabin is our workplace, we are also very concerned with the practice of treating cabins with a residual disinsective that has not even been registered with the Environmental Protection Agency.

This resolution is an important step forward in our mutual goal to eliminate the practice of disinsection of aircraft cabins. AFA urges all members of the Senate to support this Sense of the Senate Resolution. For the health and safety of flight attendants and passengers, it is time for the United States to take a leadership role to end this hazardous practice.

Sincerely,

DEE MAKI,
National President.

AIR TRANSPORT ASSOCIATION
OF AMERICA,
Washington DC, September 30, 1994.

Senator PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: We understand that you are considering a sense of the Senate resolution calling upon the United States to advocate, at the Spring 1995 meeting of the Facilitation Division of the International Civil Aviation Organization, the amendment of the Convention on International Civil Aviation to end the practice of disinsection of aircraft cabins and to make every effort to gain the support and cosponsorship of other member nations of ICAO.

As you know, the Air Transport Association has vigorously supported the efforts of the United States Government to get foreign governments to rescind their requirements that aircraft be disinsected prior to arrival. We firmly believe that the practice is not in our passengers' best interest, but carriers are powerless to unilaterally breech governmental requirements.

The course you have proposed, bringing the United States position to ICAO, should further the best interests of our citizens and ensure equal treatment of passengers flying on the airlines of all nations.

Therefore, we wholeheartedly support your efforts to obtain passage of this sense of the Senate resolution.

Sincerely,

JAMES E. LANDRY,
President.

Mr. LEAHY. I yield the floor.

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF SOUTH AFRICA

The PRESIDING OFFICER. Without objection, in accordance with the previous notice, the Senate will now stand in recess until 2 p.m. for the purpose of attending a joint meeting with the House of Representatives to hear the very distinguished President of South Africa, Nelson Mandela.

Thereupon, the Senate, at 10:38 a.m., recessed, and the Senate, preceded by its Secretary, Martha S. Pope, and its Sergeant at Arms, Robert L. Benoit, proceeded to the Hall of the House of Representatives to hear an address delivered by His Excellency, Nelson Mandela, President of South Africa.

(For the address delivered by the President of South Africa, see today's proceedings in the House of Representatives.)

At 2 p.m., the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer [Mr. CAMPBELL].

UNITED STATES POLICY TOWARD HAITI

The PRESIDING OFFICER. The hour of 2 p.m. having arrived, under the previous order the Senate will now proceed to consideration of Senate Joint Resolution 229, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 229) regarding United States policy toward Haiti.

The Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Rhode Island [Mr. PELL] is recognized.

Mr. PELL. Mr. President, I am designated for the moment to manage the time, and I have a statement I want to make.

The PRESIDING OFFICER. The Senator may proceed.

Mr. PELL. Mr. President, I travelled to Haiti this weekend on a bipartisan delegation exceedingly well-led by Senator DODD. The trip helped me make some important judgments about the situation in Haiti as the Senate considers this resolution on the Haiti operation. During the visit, the danger of setting a date certain for the withdrawal of U.S. troops was brought home to me in my discussions with our military commanders, our troops, business leaders, and Government officials. Accordingly, I am particularly pleased the pending resolution does not fix an end-date. General Shelton told us in no uncertain terms that setting a date certain at this time would jeopardize the lives of our troops and their mission.

I believe the United States mission in Haiti has been very successful thus far, and I believe our troops, under the exceptional leadership of General Shelton, are doing a tremendous job. Morale was high among the troops and the Haitian population warmly welcomed their presence. Our troops have accomplished a great deal in just 2 weeks: Parliament has reconvened; the mayor of Port-au-Prince with whom we met was reinstalled this week after 3 years in hiding; the de jure government has regained control of TV and radio; widespread repression and political killings have ceased, and the paramilitary groups are being disarmed.

There have been scattered incidences of violence in recent days, but based on what I saw and heard, I believe press coverage greatly exaggerates the situation giving the public the impression of widespread chaos and violence. As we drove through Port-au-Prince, I did not see looting or shooting, but rather Haitians going about their normal business.

Many naysayers—eager to criticize—have begun to warn against mission creep. I would remind my colleagues that the goal of the U.S. operation is to establish a stable and secure environment for the return of the democratically elected Government. Disarming the paramilitary groups is, of course, critical for providing security for the transition of power and for creating an environment in which democracy can flourish. More importantly for the United States, we have a great stake in disarming the paramilitary groups to ensure the continued safety of our troops.

Since our visit, there have been some new developments which bode well for the success of the mission. Col. Michel Francois, the Haitian police chief and one of the three coup leaders who must step down under the United States-negotiated settlement, has fled to the Dominican Republic and United States troops have arrested dozens of members of the paramilitary groups and disarmed numerous others. Moreover, the leader of the paramilitary group FRAPH that has been responsible for much of the recent violence, called for peace yesterday and endorsed the return of President Aristide. And, police monitors from other countries are arriving in Haiti this week, easing the task of the United States troops.

Like many of my colleagues, I had been opposed to the use of military force in Haiti and so advised the President. Fortunately, an invasion was averted thanks to President Clinton's decision to make one last effort at reaching a diplomatic solution. We now have more than 20,000 troops on the ground, however, and our full support is key to ensuring both their safety and the success of the mission.

While this issue has stirred much discussion in Congress, I hope today's debate will not be divisive or partisan. Division at home will only jeopardize the lives and safety of U.S. troops. The anti-Aristide forces are astute observers of Washington and they are hoping that opposition in Congress will force an early withdrawal of U.S. troops. If they believe Congress is trying to pull the plug on the mission, they will try to incite disorder in Haiti—perhaps by attacking some of our soldiers in order to force an early withdrawal. If the anti-Aristide forces understand that the United States is committed to the mission and will not be frightened off by a gang of thugs, the risks to our troops will be enormously reduced. I would ask my colleagues, why should be breathe new life into the opposition movement as it is crumbling?

Mr. President, I urge my colleagues to support the pending resolution. Incidentally, I would like to thank Senator FEINGOLD for his contributions to its consideration.

The PRESIDING OFFICER. Who yields time?

The Senator from New Hampshire.

Mr. GREGG. Mr. President, as I understand the unanimous consent agreement, we have 1½ hours allocated to a side. Is that correct?

The PRESIDING OFFICER. The minority designee has 1½ hours.

Mr. GREGG. I yield myself such time as I may consume of that period.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, we are here today to discuss again the issue of Haiti, and we have before us a joint resolution which has been worked out after considerable negotiation between both sides, and I wish to add my name.

I ask unanimous consent to add my name as a cosponsor of that resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, this resolution outlines some of the concerns which we as a Congress have relative to the activities in Haiti and what we believe and hope the administration will do in order to address the issue of Haiti.

First and foremost, it commends our troops in Haiti for the superb job they have done in what amounts to an extraordinary difficult, if not impossible, situation.

We have put on the ground in Haiti 20,000 American soldiers, and we have asked them to pursue a mission for which they have not sufficiently been trained. Our soldiers, who are the best in the world, are trained to fight a designated enemy. They have not traditionally been trained to occupy a country and police and run that country. That is what we are being asked to do today in Haiti right down to the issue of when the electricity gets turned on, when people are told to go out and when they go out and how they can walk the streets. Those are the rules that our soldiers are being asked to enforce.

So it is a difficult task for them, but they are doing it extraordinarily well, and we congratulate them in this resolution and appropriately so.

The resolution also points out that it is appropriate that the leadership of Haiti over the last 3 years leave, that Mr. Cedras and his group give up power and turn the power over to the elected government.

The resolution also calls for the lifting of unilateral economic sanctions, which only makes sense. Of course, if we are going to militarily occupy a country, it makes no sense that we should have sanctions against that country.

Equally important, and I would read this section specifically, section (e) of the resolution says:

> Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

That is a key element of this agreement. In addition, the agreement calls for a full accounting of the cost of this undertaking, of the number of American military, and other individuals who will be involved on the ground there, and of the various commitments which this country has made in order to pursue this undertaking, including arrangements which were made with other nations in order to obtain the votes in the United Nations in order to effect the authority to pursue this policy in Haiti so that we will find out what the agreements were behind the understandings which were reached.

Why is all this important? It is obviously important because up until this time, in my opinion, this administration has not defined a national interest which justifies us being in Haiti in the first place. It has not defined a national security interest and has not been able to define a mission which justifies the huge expenditure of cost and the risk to which our troops are being put.

Therefore, this resolution is an attempt to encourage the administration to give us such a definition.

I am not sure that they can, having seen the situation on the ground and having observed it now for a considerable amount of time. But at least they should attempt to do so in a manner which makes it clear to the American people why they are being asked and why our soldiers are being asked to take this risk.

This is important because the mission appears to be evolving daily. In fact, it appears to be in the process of almost a minute-to-minute change in its definition of what is being asked to be done.

For example, on October 2, we heard the Deputy Secretary of Defense on a national news show saying, "The mission has not changed one bit. We have had a consistent policy."

I am not sure he said that with a straight face, but at least he said that. But then he added, "We are not going to provide a police function."

And today we read in the Washington Post, 4 days later, a statement by a U.S. official:

> Clearly, the United States has been drawn into doing more traditional police work than originally intended. There was a real assumption the Haitians would carry out this function. We were naive? I guess to some degree.

The fact is that we are not only doing a police job down there, we are actually in a military occupation of the nation of Haiti, much the same as we militarily occupied Germany or Japan after World War II. And as part of that military occupation, we are, in a de facto manner, running the government in the day-to-day operation of that country, including the police function. And we are being drawn by different factions within the Haitian population to do things to benefit this faction versus that faction.

Granted, there are a lot of black hats in Haiti who need to be dealt with aggressively. But there are also a lot of gray hats and, in my opinion, there are virtually no white hats. What we are seeing is that this element and that element drawing us this way and that way. One element wants us to disarm their enemies, another element wants us to disarm their enemies, and it just happens that the two elements conflict with each other and our soldiers are being put in the impossible situation of almost being asked to take weapons away from the people.

And they are saying, "If we give you our weapons, then our families will be at risk of mob violence," because that is the way this nation has worked in the past. They are saying, "We do not want to put our families at risk." And if they risk mob violence, then we are putting our troops at risk in a domestic conflict, such as if you had a fight within a family. And they are not trained to do that. They are trained to fight an enemy, a clear, definable enemy. And in Haiti it is hard for them to find such an enemy or define such an enemy. So they are in a very, very precarious situation.

This resolution attempts to define more clearly what their role is, how long they will be there, and what it is going to cost. And that is appropriate and important.

And we also have to ask: Why have we risked so much in the way of American lives and American dollars in order to reinstitute the government of Mr. Aristide? Because that appears to be the underlying action.

Once again a bit independent of this resolution, but I must raise that question, because we continue to see issues which are raised around the operation and the activities of this gentleman which call into question what his motives are and what his intentions are.

We now find from our DEA that he may have been involved in bribery activity with the Columbia drug cartel. That is one representation made in the news media.

Second, we find that he has refused, or his people have refused, his lawyers have refused to sign a status-of-force agreement, which would allow our troops to know a little bit better what we are doing down there, a traditional agreement you reach when you put troops down on the ground in some other country. Yet the lawyers say they will not sign the status-of-force agreement until they get an agreement from us that we will go out and protect Aristide and his people first, hopefully with our troops, and, secondly, disarm the Aristide opponents as they are picked and chosen by the Aristide faction. And thus they are negotiating with us for this status-of-force agreement.

We find, in taking over this country with our troops and putting at risk our military people in order to put him back in power and get rid of this thug Cedras, that Mr. Aristide was angry with our action, angry with the agreement. "Angry and disappointed" is the term used in the reports by Mr. Carter, and he reflected that anger by refusing to acknowledge the action and thank the American people for what has been done for a period of time. And we find that is a major question as to just what this administration has been saying to Mr. Aristide we will do.

In fact, it appears that, under this most recent report in the Washington Post yesterday by Mr. Graham, that "U.S. officials have shared with Aristide's representatives a number of papers outlining American plans and intentions in Haiti."

And what I hope is that, using this resolution, the administration will also be inclined to share those papers and intentions with the Congress and with the American people, for it would be nice for us to know what the intentions are here.

We know that there is a plan floating around out there somewhere that says we are going to get into infrastructure rebuilding, that we are going to maybe go as far as hire 60,000 Haitians in a make-work program, that we are going to rebuild the police force, rebuild the court system. All of this is going to be very expensive and involve a fair amount of American military personnel and then private support personnel through our AID development program. We need to know how long we are going to be there, how many people are going to be involved and how much the cost is. And that is what the goal of this resolution is.

The purpose, therefore, of the resolution is really to get some definition from the administration as to what it has cost us to date, what the plans are for the future, and to also encourage the administration to move as quickly as possible to remove all American troops from Haiti.

What the resolution does not do is set a specific date. And that, I think, is an appropriate decision. Setting a specific date, according to our commanders on the ground, would, in their opinion, put at risk our military personnel, and that is the last thing we want to do. So we have not asked for a specific date.

Obviously, many of us feel that as soon as Mr. Aristide returns to power—and we hope that he will go back to Haiti sooner rather than later—that at that point we can see our troops begin to be drawn down and drawn down quickly. But I do not know that that is going to be the attitude that this administration takes.

In fact, my sense is that the commitment that they are making is for a fairly long haul, with a lot of dollars and a lot of people involved; maybe not military people, but at some level AID-types involved.

And so if that is their decision, if they are going to be involved there for a long time, if that is the intentions and plans as outlined and given to Mr. Aristide, then the American people need to know that.

What this resolution essentially calls for is not a disclosure to Mr. Aristide what we plan to do down there, but to the American people of what we plan to do down there.

So I think it is an appropriate decision to go forward with this resolution at this time. I think it is obviously good that it has received bipartisan support, and I am certainly hopeful that the administration will follow the terms of it and by doing that inform the American people more fully of what is happening in this very significant foreign policy area.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, I yield myself such time as I may consume.

Mr. President, I hope today that we can bring to a close, at least temporarily, this extensive debate on Haiti. I think we have now had some eight different proposals that have come before this body in the last several months regarding Haiti and our involvement in it.

Let me say at the outset how much I happen to support what President Clinton has done. I realize, Mr. President, that I may be in a minority in this body making that statement, but I think the facts and the events of the last almost 3 weeks prove that statement to be accurate.

It is miraculous indeed—and there is no other word to use to describe it than miraculous—that we have not lost a single service man or woman in Haiti in almost 3 weeks through violence on the ground in Haiti. There have been, I gather, two of our men in uniform who have taken their own lives, but those were circumstances, obviously, that did not relate to their duties or presence in Haiti.

It is, I think, evidence of the fact that the overwhelming majority of people in Haiti have welcomed, in fact have embraced warmly, to put it mildly, the presence of these United States forces. Without them I do not think there was much hope that we would have seen the demise and the disarming of the paramilitary forces that have terrorized that nation—not just over the past 3 years since the coup ousted the democratically elected President of that country but, frankly, this is the second and third generation of terrorists in Haiti who have deprived that nation of even an ounce of decency in the conduct of their normal daily activities.

Just to listen to some of the stories and to now bear witness to some of the places where Haitians have been held and tortured is horrifying. These are a people who have been gripped with fear because of the malicious and violent conduct of a handful of people who for their own self-interests have decided to terrorize their people.

I have heard it said on this floor there is no mission for the United States in Haiti. I could not disagree more, nor could General Shelton and the other senior military people who are there on the ground, going through the daily exercise of disarming the elements who have terrorized that nation. This is a country that does not exist thousands of miles from our shores. It is within a couple of hundred miles of our shores. Some 150,000 people in that nation of 7 million, over the past number of months, have fled Haiti seeking asylum and freedom. Many have gone to the Dominican Republic because that is the easiest route of departure, since the two countries share the island of Hispaniola. But we also know that some 14,000 Haitians departed in the flimsiest, ricketiest, if you will, of craft, jeopardizing their lives trying to make it to the shores of our own country in ships and boats you would not want to trust on the calmest of lakes in this Nation. They knew full well their lives were in jeopardy, but faced with a choice of staying where they were and the horrors they faced there, they were willing to take that risk of their own lives and the lives of their families in order to seek freedom.

It is not an exaggeration to say that it would probably be likely, had action not been taken, that 200,000 to 400,000 people in that nation would have done what any normal-thinking person would have done and that is to seek freedom and asylum and to leave Haiti, given the repression that existed.

Unfortunately—or fortunately—these refugees were not going to go to Colombia or to Venezuela or to Brazil or Spain or Cuba. They were going to try to come to the United States of America. And there is a significant cost associated with that.

I point out, just with the refugee population that exists in Guantanamo, the estimates are of a price tag exceeding $200 million a year to handle that refugee population. If I am correct in my estimate that those numbers would have exploded beyond the present level over the next year or more, then the cost to the American taxpayer of trying to handle these people faced with the problems they had, the decision to try to remove the dreaded FRAPH and attachés and military elements that were engaged in this behavior was in the interests of our own country.

I argue as well it was in the interest of Haiti and its neighbors, as reflected by the unanimous vote at the U.N. Security Council, the unanimous support of the Organization of American States.

This is not the United States acting alone. At times we have done that in the past. We did that in Grenada. We did that in Panama. I stood in this very Chamber and supported the Reagan and Bush administrations when they took those actions, even though we acted alone, because I thought there was a justification. Others disagreed. I did not. I thought there was a good cause.

I also happen to believe in this case there is a good cause, the immediate threat of a wave of humanity coming to our shores, seeking refuge here. And we, because of our tradition and because of our history, do not sit idly by while people are suffering. We try to reach out with a hand to make a difference. I suspect that is what we would continue to do.

So, deciding to step in here to eliminate the cause for these thousands of people seeking a safe harbor, I think was justified.

But on another level I think there is a justification as well. We just heard, a few moments ago, Nelson Mandela speak in the Chamber of the House of Representatives as the President of the Republic of South Africa. I sat in this Chamber and participated in the debates on South Africa. Much of the language that is today being used to describe President Aristide was used to describe Nelson Mandela in this very Chamber. Some of the same language that has been used to describe this democratically elected President of Haiti was used to describe Nelson Mandela and his efforts. Today we applaud him with a standing ovation in our own Chambers of Congress because of the success of democracy. We were ridiculed, we were criticized, we were told we were unrealistic, that we ought to be thinking in stark economic terms and not be overly concerned, to allow our economic interests to be overcome by human rights.

Yet we heard Nelson Mandela in the Chamber of the House of Representatives, as did those who were present just a few moments ago in Statuary Hall, deeply thank the U.S. Congress because in his darkest hour a majority of the American Congress stood up and fought for the human rights and decency and freedom of all South Africans. That ought to be a badge of honor, a moment in which all of us can take collective pride. Of all the free nations in the world, we stood most firm in trying to support the freedom of all South Africans.

Today, in a nation 200 miles from our shore, another people are seeking their freedom, their justice, their opportunity. I do not think anyone in this Chamber ought to be embarrassed, or feel somehow it is not a justifiable cause, for us to try to stand up for another people who were seeking their freedom. That more than anything else is what this is about.

I fully understand there are conflicts raging all across the globe and in every instance you do not necessarily send military forces. We did not in the case of South Africa. We took strong action. And when the Congress of the United States speaks, people listen all over the globe. The moral authority and the weight of our words and our actions has significance. We should not underestimate that.

My strong hope would be we would pass a resolution that would not shy away from fighting for democracy, fighting for those who were duly elected in their country, fighting for those who have been terrorized and worse over the last 36 months by dreaded military elements and their paramilitary supporters in the island nation of Haiti. In the next few days we will witness the return of the duly elected President of that country. Never before that I know of in modern history has a duly elected President of his country been returned to that nation when that President has been subjected to a coup.

People will say we should not be engaging in unprecedented actions. But we have witnessed over the past several years, unprecedented actions. We watched the collapse of the Soviet Union. We watched a leader of Israel and a leader of the Arab world speak just a few weeks ago in the very Chamber from which Nelson Mandela spoke a few moments ago, a sight I do not think many of us ever thought we would see in our lifetime. And we heard just a few moments ago, Nelson Mandela, who spent 27 years in jail, incarcerated in his own nation without the privilege of even seeing, except on rare occasions, his own children and family. His photograph could not be used. Anyone who associated with him was a banned person.

Yet we have witnessed through, in part, our own actions here, not only the liberation of that individual but democracy and freedom at last being given a chance in South Africa.

I believe, while the return of President Aristide may be unprecedented, it is something we ought to take great pride in, take great pleasure in seeing occur, because in no small measure it will have occurred because this country stood up. In this case, military forces have made a difference. It is the proper exercise of the use of force counterbalanced with diplomacy.

Listen to the words, if you will, of Evans Paul, the mayor of Port-au-Prince—who has been in hiding for the last 3½ or 4 years because he was a marked man, marked by the very elements we are disarming today—as he stood on the steps of city hall in Port-au-Prince the other day, returning to his post as duly elected mayor of that city. Never before, he said, in recorded history has the greatest power on Earth reached down to help one of the weakest nations on Earth to achieve democracy and freedom.

That is not a U.S. Congressman talking. This is not a mayor in one of our own cities. This is the mayor of Port-au-Prince describing the actions of this Nation. And yet, to listen to some of the debate over these past several weeks, there is almost this sense that we are somehow doing something terribly wrong in Haiti and, yet, overwhelming voices are applauding our action, not only in that nation but across the globe.

Why is there this sense of shame? Why is there this sense of disappointment that somehow we are not doing something right, and because it is this President who took the action. The rest of us, during other crises, whatever disagreements we may have had, once the decision was made, we rallied behind, with rare exception, whether it was the Persian Gulf, Panama, Grenada, to cite most recent events where United States military forces have been used.

Can we not in this Chamber today come together, whatever disagreements there may have been—and legitimate they were, to express concern about injecting U.S. forces in a hostile situation. Today, those forces are doing a magnificent job. We are about to see the unprecedented action of the return of a democratically elected president in that nation. Can we not applaud that now? Can we not say, despite our legitimate worries, our legitimate concerns, in fact it has worked; it is doing the job? And that this small nation, while it has not achieved pure democracy and is a long way from it, has one thing, Mr. President, it did not have 3 weeks ago? It has a chance. It has a chance for a better future for its Government and, more important, its people.

We cannot guarantee freedom. We cannot guarantee justice. We cannot guarantee that there will be no violence. But we are, at least, through our actions, diplomatically, politically, and militarily creating the opportunity for that freedom, creating the opportunity for that justice, creating the opportunity that these people may just have a chance to live without the threat and fear of violence and torture and murder of innocent civilians that was the case in Haiti for these past 3 years.

Mr. President, I applaud what President Clinton has done. I think history will judge him well for the decision he took. It is a tough decision. It was a decision not without its problems and risks, and we all know that. But instead of now decrying that, I think we ought to express some support for his action and a willingness to get behind it and see if we cannot even make it work better.

So, Mr. President, we will have an opportunity later this afternoon to vote on a resolution. It is not a resolution that, frankly, I am overly enthusiastic about because it was crafted to try to accommodate a lot of different opinions around here that existed 3 weeks ago.

There is a new day in Haiti. The new day is upon us. Whatever the criticisms may have been over previous actions, as I said a moment ago, the policy is working, working far beyond the expectations of anyone, even those like myself who supported it. But we ought to get behind it and express our determination to do what we can to try to make it work. That is what we did in South Africa, and today we bore witness to the fruits of that effort.

I believe just as truly, Mr. President, that in time, we will also look back on this decision, this decision of this President, as a proper, a correct, and a courageous one that has served not only our own interests but the interest of a people in our neighborhood, in our hemisphere, who are seeking freedom and justice and democracy.

Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I just want to yield myself a minute to respond, and I will not respond to the entire argument set forth by the Senator from Connecticut. But I think one point needs to be addressed, and that is this attempt to wrap Mr. Aristide in the cloak of Mr. Mandela. I believe that to be most inappropriate.

Nelson Mandela is truly one of the great men of this century. Mr. Aristide has some serious problems. By our own representations of our own Drug Enforcement Agency, he has been named, or alleged to have been named, as taking a bribe from the Colombian drug cartel. He refused to thank the American people for a period of 4 days for the action we took out of peace. That is not the sign of a great leader. He has refused to sign the status of force agreement, and he continues to pursue a policy or has pursued a policy over the years of using mob violence to suppress his opponents.

To compare Mr. Mandela with Mr. Aristide is to compare George Washington with Huey Long. There is no comparison. I do think it is inappropriate to attempt to do that.

I yield 8 minutes to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized for 8 minutes.

Mr. COVERDELL. Thank you, Mr. President.

Mr. President, I did not support the invasion and expressed that many times on the floor of the Senate. Nor did I support what I guess we could best characterize as a military occupation of Haiti. I have great respect for my colleague from Connecticut, but I think he has made an argument in many ways in his remarks that he just gave that raised the very central theme of our grave concern, those of us who are concerned in the Congress, when he compared South Africa and the human crisis that was occurring in South Africa to a human crisis, indeed, that is happening in Haiti, the two very distinct precedents and statements made by this Nation about how to manage this dilemma.

Obviously, there is nobody in the Chamber that takes any heart from the suffering that was occurring in Haiti or any other place in our world, whether it is Somalia, Rwanda, or South Africa, and many other countries. In fact, about 75 of the 200-some-odd nations are having circumstances not unlike Haiti.

It is absolutely appropriate for the Congress of the United States to be engaged, as we are, in the precedents that we set as a nation about how we are going to manage these kinds of issues. I would say that the precedent that we set in South Africa comes very close to the kind of proper exercise of power of a nation such as the United States. It was diplomatic, it was forceful, and it was economic. But I do not believe it ever crossed anyone's mind that we would park the U.S.S. *Eisenhower* off the shores of South Africa and land thousands of highly armed military personnel to determine the outcome of that crisis.

Nor do I believe we should set that precedent in our own hemisphere. Each time there is an internal crisis that we do not agree with, the resolution will be the use of military armed power to resolve either the human crisis or the philosophical crisis. To be honest, the U.S. Treasury—setting aside the philosophy—the U.S. Treasury cannot nor should it be asked to resolve all these types of crises—economic, diplomatic, perseverance, pressure, regional, international—yes. Armed intervention where there is not an immediate national threat is the improper use of a highly trained, sophisticated military apparatus.

I join my colleague from Connecticut in commending the execution. I know I stand with all my colleagues in support of those troops while they are on the ground, but I think it is entirely appropriate that we are engaged in the process to remove that kind of force from this process in the appropriate way.

Should we set a date? I do not believe so, as yet. We are too early in the process, and it affects the security of our own personnel.

Mr. President, this situation is one of decades of suspicion and insecurity and disagreement. This is a nation without infrastructure and resources and leadership. You can only conclude, therefore, that only a long haul can come to terms with this. There is no short-term solution. And now you have 20,000 military on the ground, and you can only be confronted with the muddling question about what happens when they are removed, because there is no short-term answer. And so this Congress, as the eloquent Senator from West Virginia has alluded to, and I suspect he may again, will come to terms as it must with the limits on its resources. It is entirely appropriate for us to do so. Nor should that be contrived to mean that somehow we are politicizing the issue.

Mr. President, I ask unanimous consent to be added to the resolution as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COVERDELL. Mr. President, I yield back my time.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I yield such time as he may consume to the distinguished senior Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia [Mr. NUNN], is recognized for such time as he may consume.

Mr. NUNN. I thank my colleague from Connecticut.

I thank him for his leadership on this resolution and this important subject.

I rise today in support of the joint resolution on Haiti, of which I am a cosponsor, having worked on it with others, particularly with the leadership.

I wish to express my appreciation to the majority and minority leaders and a number of other Senators on both sides of the aisle who worked hard to work out this bipartisan resolution.

Mr. President, I believe that the resolution is self-explanatory. I do want to make a few brief observations, however, and I will also make a few remarks about the situation in Haiti as we find it today.

First of all, the resolution ensures that the Congress is formally notified by the President of our strategic objectives, of U.S. policy, the military mission, and the rules of engagement.

The resolution also ensures that we are kept informed on at least a monthly basis of the situation in Haiti. Many of us on the Armed Services Committee, Foreign Relations Committee, and Intelligence Committee will be following it, of course, on a daily basis.

Second, the resolution may be most notable for what it does not include. It does not include a fixed date for the withdrawal of United States forces from Haiti. It also does not attempt to narrowly and rigidly limit the mission of our forces there. In my view this is a welcome result as it gives our military commanders the flexibility to do what they have to do in a dynamic, complex, unpredictable, and still very dangerous environment.

Mr. President, as to the situation on the ground in Haiti, first and foremost, I commend the men and women of our Armed Forces for the skill and professionalism with which they are carrying out their duties. Their efforts in Haiti merit the support of all Americans, whether one supports our Government's policies relating to that unfortunate country or not. And I am confident the people of America in overwhelming proportions do support our military men and women in Haiti, and I am also confident that is true of an overwhelming number of Members of the Senate and the House.

I encourage the administration and the leaders of these nations that are cooperating with us to accelerate their efforts to bring relief to the people of Haiti. If the lot of the Haitian people is not improved and improved very soon, in terms of both food and security, the mission of our forces will be increasingly more difficult.

I was disappointed that the U.N. Security Council did not immediately lift the economic sanctions on Haiti rather than delaying the lifting until President Aristide returns to Haiti, despite the fact that President Aristide himself called for the immediate lifting of most of the embargo.

Mr. President, I must say that I have been informed that our own organization, AID, is not moving boldly in the direction of bringing relief, waiting instead for the return of President Aristide. I am also disappointed in that. I think it is a mistake, and I think it makes our military mission there more difficult. I believe it is essential that we do what we can each and every day before October 15 and after October 15 to alleviate the suffering of the Haitian people. Without that alleviation of suffering, the troops in Haiti will be in more danger and their mission will be more difficult.

VISIT TO THE SENATE BY NELSON MANDELA, PRESIDENT OF SOUTH AFRICA

Mr. DODD. Mr. President, I ask the Senate stand in recess, with the permission of the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. I will be glad to yield.

I believe the request is that the Senate stand in recess for 5 minutes to greet Nelson Mandela, the President of South Africa.

Thereupon, at 2:46 p.m., the Senate recessed until 2:59 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CAMPBELL).

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I thank the Chair.

Mr. President, as we all know, this is a very special day where we have heard the wonderful comments, inspiring comments, of the President of South Africa, and I think it gives us a great deal of hope, not only in South Africa but everywhere in the world where people are divided by race or religion or by culture or by economic class, as we see in the situation in Haiti.

Mr. President, the days and months ahead will require much in the way of alleviating the suffering of the Haitian people from the other departments and agencies of the United States Government, including especially AID, our allies from the United Nations, and especially from President Aristide and his supporters. I will be watching their performance very closely and will not hesitate to speak out if I think their actions are inappropriate and are endangering the safety of American military forces.

Mr. President, I want to note that although, as I have already pointed out, this resolution does not state a fixed or even a target date for the withdrawal of our forces at this time, the Senate through the power of the purse and the House through the power of the purse retain the power to do so in the future if such proves necessary.

Finally, although as I have noted on the Senate floor several times, I did not support an invasion of Haiti, I am pleased that the Haitian people now will have an opportunity to build democracy in their own country. I said very specifically "build" not "restore" or "reestablish" democracy because there has never really been a functioning democracy in Haiti. The United States has taken the lead now in giving the Haitian people that opportunity. It will require hard work and determination by the citizens of Haiti if they are to succeed. It cannot be done for them. It cannot be done by military force. It cannot be done by U.S. or international occupation. It must be done by the Haitian people themselves. It will not happen overnight, but it will require a long, step-by-step process, as the fundamental institutions of a democracy are being built. These institutions include a freely elected and functioning parliament—and those parliamentary elections taking place pursuant to this Haitian Constitution this year are enormously important—a police force separate from the army that is trained and disciplined and under civilian control; a small professional army under civilian control; and an independent judicial system. Success will also require the cooperation and assistance of many other nations acting in concert with the United Nations and the legitimate government of Haiti.

Finally, I want to mention my strong belief that a broad amnesty law must be enacted by the Haitian Parliament if the reconciliation that President Aristide supports is to take place. In that connection, I want to note that there have been some incorrect media reporting about the terms of the Carter-Jonassaint agreement, the Port-au-Prince agreement, with respect to amnesty and retirement of General Cedras, General Biamby, and Police Chief Francois.

First, it should be noted that the Governors Island Agreement that was signed by President Aristide and General Cedras in June 1993 called for, quoting from that agreement, "an amnesty granted by the President of the Republic within the framework of article 147 of the National Constitution and implementation of the other instruments which may be adopted by the Parliament on this question."

President Aristide only has the authority under the Haitian Constitution to grant political amnesty. I noted a headline yesterday morning that said President Aristide refuses to grant broad amnesty. President Aristide has only limited power as to what he can grant—namely political amnesty. He does have enormous influence over the Parliament, however, and I think it is important for him to take this lead in terms of what the Parliament may do. But a general amnesty or a broader amnesty is within the discretion of the Haitian Parliament.

The Governors Island Agreement also provided that General Cedras "has decided to avail himself of his right to early retirement." The Carter-Jonassaint agreement called for Cedras, Biamby, and Francois to retire "when a general amnesty will be voted into law by the Haitian Parliament, or October 15, 1994, whichever is earlier." There was no guarantee of amnesty in the agreement negotiated by President Carter, by General Powell, and by myself. Anyone reading that agreement can determine that there was no guarantee of amnesty.

I have seen several media reports talking about a guarantee of amnesty. That simply is incorrect. There was no guarantee. The question of amnesty is up to the Haitian Parliament. But I do believe it is essential that amnesty be granted if democracy is going to be restored and if the pattern of retribution and violence that has been too long in the Haitian culture is to be stopped.

Thus, both the Governors Island Agreement and the Carter-Jonassaint agreement call for the same thing; that is, for General Cedras to retire and for the Haitian Parliament to exercise its discretion in deciding whether to grant a broader amnesty for him. Additionally, it is interesting to note, despite a lot of media comment—particularly editorial comment that did not seemingly understand the Governors Island Agreement—that neither the Governors Island Agreement nor the Carter-Jonassaint agreement required Cedras and company to leave Haiti.

Finally, Mr. President, I want to serve notice that if there is no amnesty, if the cycle of retribution and violence that has plagued Haiti for decades is not broken, and if the step-by-step process of building democratic institutions does not begin, I for one will not support the extended presence in Haiti of the men and women of the Armed Forces of the United States. I believe that our role there should be limited, in any event. We are talking about a matter of months, not years. But if we see a pattern of retribution, if we see no amnesty granted by the Parliament, if we do not see leadership by President Aristide in regard to breaking this pattern of retribution, then I think that the U.S. Senate and U.S. Congress will take a different view in the months to come relating to this resolution.

There will be other resolutions, I am sure, next year depending on the situation on the ground in Haiti. The people of Haiti have an opportunity, what we call a window of opportunity, to begin to build democracy. A resumption of the historic pattern of retribution and violence would not only result in my view in an early withdrawal of United States forces from Haiti, but it would also doom democracy in Haiti.

I am hopeful that President Aristide and the leaders of the Haitian Parliament, as well as the citizens of Haiti, will avail themselves of this window of opportunity for beginning a democracy that can bring peace and prosperity to that country that has too long suffered under dictatorship and under a pattern of violence and retribution that must be broken.

Mr. President, I thank my friend from Connecticut. I now yield the floor.

Mr. GREGG. Mr. President, I yield 10 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. MCCONNELL] is recognized.

Mr. MCCONNELL. Mr. President, first I want to thank the distinguished Senator from New Hampshire for his leadership on the Haiti issue going back to the debates that we heard here in this body on amendments to the foreign operations bill earlier this summer. I think his efforts have been truly outstanding.

Mr. President, I want to talk about a little different aspect of this issue. The Senate and the American people are bearing the cost of the occupation of Haiti in terms of the danger to our military personnel, and the cost in dollars of the occupation of a country with 20,000 of our troops.

Mr. President, there is a hidden cost as well and it is this: It seems perfectly clear that in return for Russian acquiescence to our invasion of Haiti—or, shall I say, occupation of Haiti—by virtue of their support for the U.N. resolution, the administration has said in effect to the Russians, maybe even said it openly, you do what you will in the New Independent States. In other words, the hidden cost of the occupation of Haiti is that we are in effect saying to the Russians you go ahead and do what you will in Ukraine or Georgia or Armenia, as Azerbaijan, or anywhere else in the former Soviet Union and we will utter not a peep.

This policy, Mr. President, is extraordinarily distressing to many Americans, Americans of Eastern European descent who are quite concerned about the reemergence of the Russian empire in what the Russian Foreign Minister calls the near abroad.

This is sort of a "Russian Monroe Doctrine," Mr. President, in which the Russians essentially lay down the policy that it is their prerogative to intervene at any time, with or without concurrence, in the internal affairs of any of those countries that used to make up the Soviet Union. And many of us suspect that their view may well be that that Russian preeminence also applies to what used to be the Warsaw Pact.

So suffice it to say, Mr. President, the policy of this administration with regard to Russia, which it hails as one of its great foreign policy achievements is, in fact, just the opposite. Our policy in that part of the world is: Whatever Russia wants, Russia gets, whether it is funneling all of our foreign assistance through the Russians, or whether it is attempting to defeat earmarks, as we experienced in the foreign operations conference last summer.

We, in the Senate bill, earmarked assistance for Ukraine, earmarked assistance for Georgia, earmarked assistance for Armenia, and had an amendment offered with regard to Russian troop withdrawals from the Baltics. We went to conference with the House, and the administration in concert with the House conferees, stripped out all of those earmarks, and a message was perfectly clear. It was this: We do not want to offend the Russians. We do not want to offend the Russians.

So what we are saying in effect, Mr. President, is that whatever the Russians want in that whole area of the world, which clearly is in our national interest—we fought a war in Europe 50 years ago, and the European political ideology dominated that part of the world. It is the reason that we had the cold war.

We may argue about whether or not we have any national interest in Haiti. Most of us think we do not—national interest nor national security interests—but nobody would argue that we do not have national interests in Central Europe. That was what the cold war was all about. Yet, here, we are essentially acquiescing to the reemergence of the Russian empire by just rolling over and saying to the Russians: Whatever you want to do in that part of the world, fine. So the administration, in effect, asked the Russians for permission to go into Haiti, and the quid pro quo for that was: You do what you will in your part of the world, and we will utter not a peep.

Mr. President, I think that is a major, if you will, hidden cost of the occupation of Haiti—a hidden cost of the occupation of Haiti. Why in the world we would want to go into Haiti and referee this internal dispute is beyond me, Mr. President. I do not know anybody in the Senate, certainly not on this side of the aisle, and I suspect most on that side, who can state convincingly an argument that Haiti is in our national interests, and certainly not our national security interests.

What is particularly disturbing about the Russian aspect of this is the blatant nature of the administration's quid pro quo. For example, the administration's "Russia-first" policy, to which I referred, was underscored last month by our U.N. Ambassador Madeleine Albright. She concluded a swing across Europe just last month with a September speech in Moscow in which she said: "Russia is an empire where the mother country and the colonies"—the colonies—"are contiguous." "Is an empire," she said, not "was" an empire. A slip of tense? Well, maybe. But the speech went on to assert an equivalent status between the United States and Russia conceding "Russia's mandate and activities in the near abroad were appropriate."

This is the American Ambassador to the United Nations in Moscow saying openly and publicly: You do what you will in what used to be the Soviet Union. It is no concern of ours.

Fortunately, Mr. President, a Danish journalist in the audience reminded Ambassador Albright that history and human psychology made Russia's emerging role more unsettling than the activities of a Nation like ours with a 200-year tradition of political pluralism and freedom.

Some might ask why this Russia-first approach should matter. After all, important progress has been made in internal and economic reform in Russia, and we are happy about that. None of us needs reminding that the last summit was held in the wake of a near overthrow of the Yeltsin government, a violent attack on parliament, and a defeat of key economic reforms. There is no doubt that Russia has changed for the better.

But, Mr. President, there is an important difference between supporting Russian internal reforms and supporting Russian external ambitions. And that, Mr. President, is clearly one of the hidden costs of the Haiti invasion. We have said, in effect, to the Russians: Do not object to what we do in Haiti, and you have a free hand, as far as we are concerned, in all of the areas that used to make up the Soviet Union.

Mr. President, there are a number of insertions I would like to make in the RECORD.

I ask unanimous consent some attachments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 4, 1994]

WILL U.S. PAY 'HIDDEN COST' FOR HAITI?

(By Mitch McConnell)

In a recent interview, Foreign Minister Andrei V. Kozyrev was asked to respond to critics in the Clinton administration who questioned Russian regional ambitions. "The president should fire them immediately," he replied.

Fortunately, for Kozyrev, Boris Yeltsin and Russia, their critics within the administration are few, and even those have limited access to senior policy makers. But is that in American interests? By seeking immediate improvement in our relationship with Russia, are we sacrificing longstanding and long-term interests in regional European stability? Are we risking our economic and national security interests for the perception of cooperation?

There has been widespread speculation in Washington policy circles, supported by commentary from Moscow, that Russia agreed not to veto the United Nations resolution on our use of force in Haiti in exchange for broader latitude for their activities in the new independent states of the former Soviet Union. This latter prospect chills the political souls of emerging democracies from Estonia to Ukraine. As well it should.

Strong evidence confirms their collective cause for alarm. Our ambassador to the United Nations concluded a swing across Europe with a September speech in Moscow. "Russia is an empire where the mother country and the colonies are contiguous," Madeleine Albright noted. A slip of tense? Perhaps. But the speech went on to establish an equivalence between the U.S. and Russia, conceding Russia's "mandate . . . and activities in the near abroad (were) appropriate." A Danish journalist reminded Ambassador Albright that history and human psychology made Russia's emerging role more unsettling than the activities of our nation with its 200-year tradition of political pluralism and freedom.

So far, largely with American consent, Russia is exercising its options in the neighborhood. Its foreign intelligence service issued a report arguing the merits of political and economic reintegration of the former Soviet republics under Russian leadership. Western opposition to the idea was characterized as "dangerous" by the agency's chief. The argument endorsed Russian-led reunification; it left no room for the voluntary, independent decisions of sovereign nations to seek a common course.

Reintegration has been echoed by senior Russian defense officials who have urged the creation of a unified security zone. With Russian troops in Moldova, Georgia and Tajikistan, many of the new republics publicly wonder whether these calls aren't commands.

Just as the recent intelligence report offered an interesting preview of Russia's summit agenda, last year a similar report was released in advance of the annual NATO conference. That report opposed any expansion of NATO unless and until Russia was accorded special status. Even the vague terms of the Partnership for Peace were challenged unless Russia was offered premier standing.

Moscow's view prevailed then as now. Due to strident Russian opposition, bilateral exercises between the U.S. and Poland were canceled just before Clinton arrived in Warsaw; no nation could be permitted joint exercise in advance of those scheduled with Russia.

A year ago, the administration held up Partnership for Peace as a road map to NATO. Now, it is clear that Russia has been accorded sweeping rights of first refusal. That is a devastating blow to an alliance that has guaranteed European security for 45 years.

Why should any of this matter? After all, important progress has been made in advancing political reform and building the private sector in Russia. No one needs reminding that the previous summit was held in the wake of a near overthrow of the Yeltsin government exacerbated by the parliament's defeat of key economic proposals. No doubt, on many fronts, Russia has changed for the better.

But there is a significant difference between American support for Russia's internal process of change versus their extra-territorial pursuit of national interests. To date, the U.S. has committed nearly $3 billion in direct support for Russian political and economic reform because it serves our mutual interests in expanding global trade and markets and advancing democracy.

In contrast, U.S. consent to the involuntary reintegration of the new independent states, recognition of a Russian sphere of influence over the so-called near abroad or allowing Russia a veto over defense policy in Europe directly undermines American national security interests in regional peace and security.

We have not yet reached a point where U.S. and Russian goals, let alone principles are one and the same. While there certainly are overlapping interests, there are also starkly divergent, if not competitive, global agendas.

Advancing common interests and protecting American interests are not mutually exclusive. We can pursue a verifiable arms control agenda with Russia, as we limit their unilateral peacekeeping operations in the region. We can encourage the expansion of Russian free markets, as we oppose their continued sales of lethal technology to Iran. We can support their active participation in United Nations decisions, and still object to their recent effort to open a commercial dialogue with Iraq in violation of the spirit, if not the letter, of international sanctions.

We should remember Yeltsin will not live forever, and in fact, is due to leave office by 1996. A Russia in Vladimir Zhirinovsky's chokehold is a different nation to be reckoned with. While the Clinton administration may hold a benign view of Yeltsin's aggressive international pursuit of Russian interests, democracy does not foretell nor guarantee his successor.

The summit offered Clinton and Yeltsin, the U.S. and Russia, an opportunity to continue to define and pursue common ground. We can and should offer Russia support to establish itself as a successful international economic and political power. But that success must not come at the expense of the political sovereignty, security or economic independence of any other nation.

Our license to act in Haiti is not worth the freedom which has swept Europe. Our invasion should not cost us European stability and security.

[From the Washington Post, July 24, 1994]

YALTA II

(By Lally Weymouth)

Recently, the Russian ambassador to the United Nations, Yuli Vorontsov, asked the world body to bless the Russian deployment of peace-keepers to the Abkhazia region of Georgia. Informally, Vorontsov has said that without some sort of U.N. endorsement of Russian peace-keeping in Georgia, Moscow would veto a resolution authorizing the dispatch of troops to Haiti.

Verontsov got his wish. This week, as a consequence, the Clinton administration entered into a cynical deal with Russia that at least one U.N. diplomat compares with the controversial 1945 "spheres of influence" Yalta pact. In exchange for a Russian promise not to veto a U.N. resolution on Haiti, Washington gave Moscow the green light to conduct its own "peace-keeping" operation in Georgia.

What this really means is that the United States has given Russia the right to reoccupy the Caucasus and other former Soviet republics in return for Russian acquiescence in U.N. Security Council resolutions on Haiti.

In supporting, albeit tacitly, Russian "peace-keeping" in Georgia, the United States appears to have redefined the U.N. peace-keeping mandate. For example, under the U.N. Charter, no more than one-third of a peace-keeping force can come from any one country. But the "peace-keepers" in Georgia are almost exclusively Russian.

How did Georgia become a pawn in an international power game? Back in January 1991, civil war broke out between South Ossetia—an autonomous region in Georgia—and ethnic Georgians. The South Ossetians had previously declared their intent to secede from Georgia.

Four months later, Georgia's then leader, Zviad Gamsakhurdia, proclaimed that Georgia was seceding from the Soviet Union. This act sparked civil strife in Abkhazia, an autonomous republic of Georgia. In the fighting that ensued, Abkhazia initially gained the upper hand—thanks in part to help from Moscow.

Just one year later, Gamsakhurdia was ousted from power in a coup orchestrated by local warlords. Shortly thereafter, in March 1992, former Soviet foreign minister Eduard Shevardnadze became the leader of Georgia. Shevardnadze, however, found himself in a difficult position. During the summer of '93, Gorbachev's former emissary to the West—a man who'd helped end the Cold War—discovered that the Abkhazian secessionists were beating back the Georgian army, thanks to Russian help. Moreover, many Northern Caucasians had come to the aid of the Abkhazian secessionists. To complicate matters, Gamsakhurdia, the former president, suddenly mounted a powerful challenge to Shevardnadze. Gamsakhurdia's forces actually began to march toward Tbilisi. Suddenly, victory for the deposed leader looked certain.

At this key moment, an isolated Shevardnadze reversed policy and turned to his former Russian tormentors—the anti-Gorbachev element led by Boris Yeltsin—for assistance. At Moscow's urging, Georgia agreed to join the Commonwealth of Independent States (CIS), while Shevardnadze signed a collective security agreement that allowed Russia to establish bases in Georgia. Moscow responded in July and August '93 by dispatching 900 marines to Georgia: They enabled Shevardnadze to defeat Gamsakhurdia quickly. This deployment marked the first official Russian involvement in a conflict in the Caucasus.

Russia subsequently deployed so-called "peace-keepers" to Georgia and Abkhazia—but not in the manner envisaged by Shevardnadze. The ex-Soviet foreign minister had hoped to use the Russian troops to occupy Abkhazia. Instead, the Russians stationed their troops along the Ingur River—effectively partitioning Georgia.

Trapped in Moscow's embrace, Shevardnadze came to Washington last March seeking American support and funding for a U.N. peace-keeping force. The former Gorbachev deputy begged Washington not to leave him alone to face Moscow. But he secured little or no help from the Clinton administration; Congress was similarly unresponsive. Indeed, at a press conference ostensibly held in his behalf, reporters focused on Whitewater.

A few months ago, CIS demanded and got "observer status" in the U.N. General Assembly. Russia's aim was to equate the CIS with other regional bodies, such as NATO. This week at the United Nations, Russia tried but failed to secure international recognition of this equivalency. A senior Clinton administration official insists that the United States deserves credit for refusing to equate the CIS with other regional bodies like NATO or the Organization of American States: The latter have a presumptive right to conduct peace-keeping operations in their areas without Security Council approval. But a foreign diplomat argues that this week's U.N. resolution effectively means that "CIS is being welcomed de facto as a regional arrangement."

In the past, Russia has insisted its interest in Georgia and the rest of the "near abroad" turned on a desire to protect Russians living in the republics. Now that claim no longer withstands scrutiny. There aren't many Russians in Abkhazia. Currently, Russia asserts that it desires to bring peace to embattled regions. Close study of the situation in Georgia doesn't support Moscow's claim. The Russians, after all, supported the Abkhaz separatists against Shevardnadze—the man who helped bring down the "Evil Empire."

Thanks to Clinton's eagerness to invade Haiti, Russia—with U.S. support—has been granted U.N. backing to begin to reconstitute its empire. Georgia will likely prove only the first step toward a new Russian assertiveness. Moscow is also seeking to amend the Treaty on Conventional Forces in Europe so it can move troops and armaments to its Caucasus region—just across the border from Georgia.

According to well-informed experts, Russia will move next on Nagorno-Karabakh, an Armenian-populated enclave, where the government of Azerbaijan is already under pressure to permit Russian peace-keepers and/or a "separating" force. Abkhazia will probably be the model: Russia will in all likelihood freeze Armenian gains in place and then sign an agreement permitting it to establish bases.

STATEMENT OF U.S.-RUSSIAN RELATIONS

The member organizations of the Central and East European Coalition are alarmed at the direction Russian foreign policy has taken and United States reaction to that policy. On September 21, Russia's foreign intelligence agency released a disturbing report which outlines the recreation of a Russian empire. The headline for this story in The Wall Street Journal was "KGB Successor Wants Rebirth of Old Empire;" The Washington Post entitled it "Russia's Spy Chief Warns West: Don't Oppose Soviet Reintegration." Regardless how the story is titled, the fact is that this report confirms a pattern of dangerous Russian activity.

In January 1992, The New York Times reported that then Russian Vice President Aleksandr Rutskoi said he would "seek a redrawing of borders that would reflect a 'glorious page' in the nation's past." Russia has indeed pursued such a course of action using political and economic intimidation as well as military force.

In Tajikistan, the Russian military assisted Tajik, communists in overthrowing the democratically elected government. In Moldova, the Russian 14th Army, under the leadership of General Lebed, has assaulted the territorial integrity of Moldova with the creation of the illegal Trans-Dniestr Republic. In Georgia, it was the Russian military which armed the Abkhazian rebellion against the Georgian Government.

Political threats and intimidation have been a chief weapon in Russia's arsenal. The Russian Parliament enacted legislation illegally annexing Sevastopil from Ukraine. Until the United States Senate passed legislation threatening a cut off of economic assistance, Russia refused to withdraw its troops from the Baltic Nations on the schedule it originally set. After publicly stating that he does not oppose Polish membership in NATO, President Yeltsin sent letters to the United States, Germany, Great Britain, and France warning against allowing Poland, Hungary, and Czechoslovakia to join NATO.

Russia's main weapon against its neighbors, however, has been economic warfare, especially the wielding of its energy sword. While Russia claims to have raised oil prices to world market levels, it has, in fact, been selling oil at different prices to different nations depending on the level of the country's subservience to Moscow. Ukraine has been a principle target of this effort.

In addition, Moscow has wielded the oil weapon in reverse. In the case of Kazakhstan and Turkmenistan, Russia has refused to allow their oil to pass through Russian pipelines until these nations granted Russia a percentage share in their oil industries. Just last week, Russia publicly refused to recognize an oil agreement between Azerbaijan and Western oil companies.

Russia's interference in the internal affairs of its neighbors has been justified as either peacekeeping or the protection of ethnic Russians in these countries, the so-called "near abroad." In virtually all the areas of Russian "peacekeeping" however, Russia is responsible for either starting or exacerbating the conflict. In the case of protection of the "near abroad" it should be noted that we are not talking about protecting Russian citizens; we are talking about foreign nationals who happen to be of Russian heritage. This principle, if accepted, is a dangerous precedent. Fifty-five years ago, Nazi Germany justified its aggression on this basis; today, Serbia is doing likewise.

One must also consider that there are about 25 million non-Russians living in the Russian Federation. Is Russia prepared to accept the right of Ukraine or Germany, for instance, to intervene in Russian internal affairs to defend Russian citizens of Ukrainian or German heritage? This is not idle speculation. There are, in fact, as many ethnic Ukrainians in Russia as there are ethnic Russians in Ukraine. This principle can, indeed, be a slippery slope!

The information packet which we provided you expands on these issues in greater detail. It contains disturbing quotes from both Russian President Boris Yeltsin and Foreign Minister Andrei Kozyrev as well as a partial chronology of what is internationally unacceptable Russian behavior toward its neighbors.

For the Coalition, however, the more disturbing issue is United States acceptance of this pattern of Russian behavior. When Russia helped overthrow the democratically elected government of Tajikistan, Washington was silent; when Russia dismantled the nation of Moldova, Washington was silent;

when, one year ago, Chairman Eduard Shevardnadze pleaded for U.S. condemnation of Russia's actions to destabilize Georgia, Washington was silent; when the economies of Kazahkstan and Turkmenistan were threatened by Moscow, Washington was silent; when Ukraine's territorial integrity was threatened by Russia, Washington was silent.

When President Yeltsin objected to the membership of Poland, Hungary, and Czechoslovakia in NATO, the Clinton Administration acquiesced. America was embarrassed when, in Naples, President Clinton said Russian troops would be out of the Baltic Nations by August 31 and President Yeltsin countered with a firm "nyet." Yet, the Clinton Administration strongly opposed the actions of the United States Senate which adopted, by a vote of 89 to 8, legislation suspending aid to Russia if the troops were not withdrawn on the schedule originally set by Russia.

While continuing to express concern about ethnic Russians outside of Russia, the Administration has yet to defend ethnic non-Russians in Russia, whose rights are routinely violated. If the United States accepts Russia's right to protect ethnic Russians outside of Russia, as it appears it has, then it must also accept Russia's right to protect the three million ethnic Russians living in the United States. In the not too distant future we may see Russian troops in Brighton Beach!

Most disturbing of all, however, was U.S. Ambassador Madeleine Albright's September 6th speech in Moscow. Ambassador Albright equated Russia, an empire for six hundred years, with the United States, a democracy for over two hundred years and justified Russia's interference in its neighbors' internal affairs under the guise of "peacekeeping." In her justification, she stated that Russia "is an empire where the mother country and the colonies are contiguous." It is troubling to the Coalition that the Clinton Administration not only accepts but justifies a behavior by the Russian empire that we would oppose if pursued by any other nation.

In her speech, Ambassador Albright referenced Chairman Shevardnadze's request, under duress, for Russian assistance but failed to mention Shevardnadze's plea, just one year ago, for U.S. condemnation of Russia's campaign to destroy Georgia. While praising Russian actions in Georgia, she ignored her own June 21 statement where she said: "although Russia desires stability, there have been troubling aspects to its policy towards the new republics. Russian military units in Georgia and Moldova have exacerbated local conflicts."

And, finally, she admitted that the United States worked to insure a United Nations mandate for Russian "peacekeeping" in Georgia. Many have suggested that the Clinton Administration had, in fact, traded Georgia for Haiti at the U.N.

On September 6, *The Washington Times* reported the existence of a State Department policy paper which states: "It is understood that a Russian sphere of influence is being recognized with Europe extending to the eastern border of Poland, leaving the Baltics somewhat up for grabs . . ." At the same time, in a State Department reorganization, the nations of the former Soviet Union are being consolidated in one bureau, thereby giving legitimacy to a Russian "sphere of influence."

The Coalition is concerned about this pattern of United States policies which cedes the nations of Central and Eastern Europe to a Russian "sphere of influence." Fifty years ago this February, the United States made similar concessions to Russia at Yalta. That was followed by a fifty-year cold war. We feel that the policies being pursued by the Clinton Administration are morally and politically wrong, dangerous, and will result in a new cold war.

FOREIGN POLICY STATEMENTS BY PRESIDENT YELTSIN AND MINISTER KOZYREV

1. "Russia's economic and foreign policy priorities lie in the countries of the Commonwealth of Independent States . . . Russia's ties with them are closer than traditional neighborhood relations; rather, this is a blood relationship. . . . We can't stay indifferent to the fate of our countrymen. I do not mean special rights or privileges. But the people of Russia will not understand if I don't say now [that] the independent states have to prove through their actions that guaranteeing the human rights of national minorities is indeed the cornerstone of their foreign policy. And here neither selective approaches nor double standards are permissible. . . . The main peacekeeping burden in the territory of the former Soviet Union lies upon the Russian Federation. . . . Attempts by others to use the tensions between the commonwealth states for one's own advantage are extremely short-sighted." Boris Yeltsin (address to the United Nations), The Washington Post, September 27, 1994

2. "Nobody and nothing can free Russia from the political and moral responsibility for the fate of countries and peoples which for centuries have moved forward together with the Russian state." Boris Yeltsin (address to graduates of the military academies), RFE/RL Daily Report, June 28, 1994

3. "A strong and powerful Russian state, is also in the interest of our closest neighbors. A strong Russia is the most reliable and real guarantor of stability on the entire territory of the former Soviet Union.

"It is our duty to make the year 1994 the year of close attention to the problems of people of Russian extraction living in neighboring states. . . . It is Russia's duty to secure and to (implement) this practice in reality, not in words. When it comes to the violations of the lawful rights of people of Russia, this is not an exclusive internal affair of some country, but also our national affair, an affair of our state . . . Russia has the right to act firmly and toughly when it is necessary to defend the national interests." Boris Yeltsin, "State of the Nation" Address before the full session of the Federal Assembly, February 24, 1994

4. "The countries of the CIS (Commonwealth of Independent States) and the Baltics—this is a region where the priority vital interests of Russia are concentrated.

"We should not withdraw from those regions which have been the sphere of Russian interests for centuries and we should not fear these words (military presence)." Andrei Kozyrev, *Reuter*, January 18, 1994

5. "Dear fellow-countrymen! You are inseparable from us and we from you. We were and will be together. We are defending and will defend your and our common interests, using the law and our solidarity. In the new year of 1994 we will do so with greater energy and decisiveness.

"We are so indissolubly bound by history, economics and our joint fate that we simply cannot live separately. Our peoples just would not allow it." Boris Yeltsin (New Year's message to ethnic Russians living outside of Russia), *Reuter*, December 31, 1993

6. "Russia considers itself a great power and a successor to the Soviet Union and all its might." Boris Yeltsin, *Itar-Tass*, December 8, 1993

7. "We are a great power by reason of our destiny and normal good relations are in our interests . . . both in the economic and military sense, we are a superpower. There is no use getting angry over the perceptions of (Russia) by near abroad. Anyhow, everything will get back to its old place." Andrei Kozyrev, *Rossiskaja Gazetta*, December 7, 1993

8. "Russia has made the peacemaking, and the protection of human rights, particularly that of national minorities, the priority of its foreign policy, first of all in the territory of the former USSR.

"Russia realizes that no international organization or group of states can replace our peacekeeping efforts in this specific post-Soviet space . . . peacemaking cannot be separated from the protection of human rights." Andrei Kozyrev, Address before the United Nations Organization, September 28, 1993

9. "The world community is increasingly coming to understand Russia's special responsibility in this difficult task. I think the moment has come when responsible international organizations, including the United Nations, should grant Russia special powers as a guarantor of peace and stability in the region of the former union." Boris Yeltsin, *The New York Times*, March 1, 1993.

10. "Our principal task is to . . . give effect to the concept of a successor state, enabling Russia as a whole painlessly to take the place of the former USSR in the United States and its specializing institutions, and in the whole system of international relations . . . (and to) create a distinctive zone around Russia of good neighborly relations and cooperation . . .

"It should not be forgotten that the Commonwealth of Independent States (CIS) brings together peoples who have been linked to Russia for centuries. It is also obvious that the entire geographic area of the former USSR is a sphere of vital interest to us . . .

"The situation of the Russian-speaking population in states of the former USSR presents a considerable and complex problem for the Russian Federation's foreign policy and diplomacy. We are counting on support from the NATO member nations to help ensure protection for the rights, life and dignity of the Russian minorities . . .

"In relations with the nations of Eastern Europe, it is vital for us to achieve a fundamentally new level of political and economic links, making use of previously acquired positive experiences in practical aspects of collaboration. The future of Eastern Europe lies in its transformation—not into some kind of buffer zone, but into a bridge linking the East and West of the continent . . .

"It is essential to achieve greater practical efficiency in the use of force to put out 'brush fires.' Russia has undertaken peacemaking operations in a whole range of regions—Moldova, Georgia, Tadjikistan—providing forces and resources in accordance with agreements with the appropriate countries. We recognize our responsibility for stability in that part of the world . . ." Andrei Kozyrev, *NATO Review*, Vol. 41, #1, February 1993.

A PATTERN OF DANGEROUS RUSSIAN POLICIES

1992

In January, *The New York Times* reported that Russian Vice President Aleksandr Rutskoi said he would "seek a redrawing of borders that would reflect a 'glorious page' in the nation's past." *The New York Times, January 31, 1992.*

On April 4, vice President Rutskoi travelled to Crimea and told naval officers in Sevastopol that Crimea must once again be part of Russia. *RFE/RL Daily Report, April 6, 1992.*

Russian waged a campaign to undermine the political and economic independence of Ukraine. *RFE/RL Daily Report, June 10, 1992 & June 11, 1992.*

On May 21, 1992, in violation of numerous treaties, the Russian Parliament enacted legislation declaring void the 1954 Treaty transferring Crimea to Ukraine. *The Washington Post, May 22, 1992.*

Russian documents demonstrate the Russia views the Baltic nations as their property and has no intention of withdrawing troops. *Financial Times, June 15, 1992.*

As early as June 5, there were reports that Russia's 14th Army was transferring arms and ammunition to the "Dniester" Russian insurgent forces in Moldova. *RFE/RL Daily Report, June 5, 1992.*

In a June 5 story, *The Financial Times* quoted Sergei Stankevich, as adviser to President Yeltsin, as saying: "It is important for Russia to defend the legal and other rights of Russians outside of Russia," a remark reminiscent of statements made by Milosovic and Hitler. Stankevich was referring to ethnic Russians and not Russian citizens. *Financial Times, June 5, 1992.*

On June 19, President Eduard Shevardnadze accused Russia of military intervention in Georgia. *The Washington Times, June 20, 1992.*

On June 21, Russian forces attacked the Moldovan police who were responding to Russian insurgent activity. *Financial Times, June 1992; The Washington Post, June 22, 1992.*

Evgenii Ambartsumov, chairman of the Russian Supreme Soviet's Committee on International Affairs, stated that he agreed with Vice President Rutskoi's threats against Moldova and Georgia. *RFE/RL Daily Report, June 24, 1992.*

Sergei Stankevich stated in an article that Russia should be more aggressive toward its neighbors. RFE/RL Daily Report, June 24, 1992.

President Shevardnadze of Georgia and President Mircea Snegur of Moldova accused Russia of imperialism. RFE/RL Daily Report, June 24, 1992.

Referring to Crimea, Vice President Rutskoi stated that he does not recognize any agreements that gave Russian land to other countries. The Washington Times, August 8, 1992.

On December 7, the Russian Congress of People's Deputies questioned the status of Sevastopol as a Ukrainian city. RFE/RL Daily Report, December 8, 1992.

1993

Russia will open a consular office in the Trans-Dniester region which will grant Russian citizenship to local citizens desiring it, said General Aleksander Lebed, commander of the 14th Russian Army in Moldova. RFE/RL Daily Report, January 7, 1993.

Marshal Evgeniy Shaposhnikov, head of the CIS, again claimed all ex-Soviet nuclear weapons as belonging to Russia. RFE/RL Daily, January 26, 1993.

Russia demanded world prices from Ukraine for oil and gas. Russian Deputy Prime Minister Viktor Shokin said Ukraine could have subsidized energy if it made concessions over the Black Sea fleet, allowed Russian military bases to be established in Ukraine, and allowed Russia to export energy supplies through Ukraine's pipelines. The Financial Times, February 19, 1993.

President Boris Yeltsin declared Russia must be given the freedom to act as a guarantor of peace in the former Soviet bloc with special powers granted by the United Nations. The Financial Times, March 1, 1993, Christian Science Monitor, March 2, 1993.

Ukraine attacked President Yeltsin's remarks as seeking international endorsement for dominance in the region. The Washington Times, March 2, 1993.

Sergei Stankevich, political advisor to President Yeltsin, warned Poland against developing foreign and military ties with Ukraine. Other senior Russian officials told East European officials not to build embassies in Kyiv, since they will be downgraded to consular section in 18 months." The Financial Times, March 17, 1994.

Eduard Shevradnadze asserted that Georgia was forced into war within the Abkhazian region. "Separatism has taken root over several decades thanks to the special interests of a third force." The continued presence of Russian troops is preventing a peaceful settlement in Abkhazia. The Financial Times, April 13, 1994.

Over one-third of the Black Sea fleet ships raised Russian flags, further adding tension to the dispute between Russia and Ukraine over ownership of the fleet. The New York Times, The Washington Times, UPI, May 31, 1993.

Russian President Boris Yeltsin said Estonia's citizenship law was a verison of apartheid and ethnic cleansing. "Yielding to the pressure of nationalists [the Estonian leadership] forgot about some geopolitical and demographic realities. The Russian side has the ability to remind them of it." The Christian Science Monitor, June 6, 1993.

Russian Defense Minister Pavel Grachev bluntly ruled out the U.S.'s offer to mediate the Russian-Ukrainian dispute over nuclear weapons with Ukraine. Grachev said the only appropriate role for the U.S. is to put pressure on Ukraine to force Ukraine to turn over her nuclear weapons to Russia. *The Star Ledger, June 7, 1993.* Grachev also refused to accept a plan which would place Ukraine's nuclear weapons under international supervision. The Washington Post, June 7, 1993.

Russia's Foreign Ministry dismissed suggestions that the U.S. would play a more active role mediating disputes in the former Soviet Union and said that Russia considers itself the key player for "maintaining stability in the region." The Washington Post, August 14, 1993.

Russian Foreign Minister Andrei Kozyrev declared in his address before the U.N. General Assembly, that no other group of nations "can replace our peace-making efforts" along the borders of the former Soviet Union. The Washington Post, September 29, 1993.

Turkish Prime Minister Tansu Ciller warned the Clinton Administration of Russian dominance in Central Asia, suggesting Western aid to Russia should be linked to Russian support for democracy inside and outside of Russia. A series of advances by Russia across the southern belt of the former Soviet Union alarm Turkish officials and businessmen in the region. The Washington Times, September 25, 1993.

Russian Foreign Minister Andrei Kozyrev admitted Russian peacekeeping was a method to retain Russia's sphere of influence. "There is a danger of losing a geopolitical position that has been gained over centuries," he wrote in *Isvestia*, October 8, 1993. The Christian Science Monitor, October 22, 1993.

President Boris Yeltsin adopted a more aggressive military doctrine sanctioning the use of Russian troops beyond Russian borders. It rejects the longtime Soviet promise not to use nuclear weapons first, promising only not to use them against non-nuclear states. *The Washington Post, November 4, 1993.*

President Yeltsin warned NATO Secretary Manfred Woerner against enlarging NATO saying that early attempts to incorporate Eastern Europe would damage Russia's strategic interest and damage reconciliation with the West. *The Washington Post, December 10, 1993.*

Two days before Russian elections, Polish Foreign Minister Andrzej Olechowski urged the West to allow Poland to join NATO. The West is "too optimistic about Russia," he said, and "is playing into Russia's hands by not seeing the signals of imperial thinking." *The New York Times, December 12, 1993.*

Newly-elected Vladimir Zhirinovsky said "he would not allow Russia's borders to be shrunk further," but instead, Russia should be recreated within its former borders. He also insisted that the former Soviet Republics in Central Asia, the Caucuses and the Baltics must be brought back into Russia's orbit. *RFE/RL Daily December 14, 1993.*

Polish Foreign Minister Andrzej Olechowski, pleading for admittance into NATO, said "We cannot disregard the results produced by Zhirinovsky . . . his agenda includes restoration of the former Soviet Empire, and given how many votes he got we can no longer write his opinions off as a bad joke." *The Washington Times, December 16, 1993.*

1994

Polish President Lech Walecsa warned that the world risks the reemergence of the Soviet bloc and communist regimes if Western powers do not admit Poland, Hungary, and the Czech Republic into NATO. Such a refusal of the West to issue a clear directive and timetable for admittance would be "a major tragedy" that could lead to another Yugoslavia in Europe. *The Washington Post, January 4, 1994.*

President Yeltsin's press secretary, Vyacheslaw Kostikov, declared President Yeltsin was alarmed by the prospect of East European nations joining NATO. The Foreign Ministry said Lithuania's application was "odd" and "counterproductive" and that the Baltics are a "part of the near abroad" "a sphere of Russia's vital interest." *RFE/RL Daily, January 7, 1994.*

Foreign Minister Andrei Kozyrev announced that complete withdrawal of troops from the Baltics would be against Russia's interest because it would create a security vacuum and it would leave ethnic Russians undefended. "We should not withdraw * * *.

Russia began cutting off natural gas supplies to Ukraine and Belarus, forcing metallurgical and chemical plants to consider shutting down. A Ukrainian official said the effect of the decision would be "like a bomb exploding on Ukraine." The Washington Post, March 4, 1994.

Russia is using its vast economic leverage to reassert political power in Central Asia, acquiring percentages of lucrative Western energy deals in the republics surrounding the Caspian Sea. "Russia is holding Kazakhstan hostage," said an oil executive in Almaty. The Washington Post, March 18, 1994.

Russia has decided to join NATO's Partnership for Peace, using rape as an analogy. A Russian Security Council official said that only by joining can Russia help shape the program "according to Russia's national interest." The Washington Post, March 18, 1994.

Russia's demand for a special status in NATO before signing the Partnership for Peace plan has angered its former Warsaw pact allies who worry about a repeat of the

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post-World War II division of Europe. The Washington Times, May 22, 1994.

Turkish leaders warned that because of Western neglect, the choices for the region's countries were between renewed Russian domination and an Islamic resurgence, which they say is being supported by countries like Iran, Saudi Arabia and Pakistan. The New York Times, June 19, 1994.

The Russian Parliament approved sending 3,000 peacekeeping troops to Georgia's breakaway province of Abkhazia in a move intended to assert Moscow's role in the former Soviet Union territory. The Washington Post, June 22, 1994.

U.N. Ambassador Madeleine Albright said that there have been troubling aspects to Russia's policy towards her neighbors. "Russian military units in Georgia and Moldova have exacerbated local conflicts." The Washington Post, June 21, 1994.

Kazakhstan accused Russia of cutting off most of the republic's oil exports, paralyzing its most lucrative industry. *The Financial Times, June 28, 1994.*

Hungarian Foreign Minister Geza Jeszensky, reflecting disappointment in the U.S.'s policy towards East European membership in NATO, said that a dangerous power vacuum has been created in Eastern and Central Europe, which may attract "new imperialists" from Russia. The Washington Times, July 6, 1994.

President Boris Yeltsin, during a meeting with President Clinton, when asked whether he would comply with the August 31 target date for withdrawal of Russian troops from Estonia answered, "Nyet." The New York Times, July 11, 1994.

President Yeltsin tied Russia's economic and political transformation to Moscow's status in the world community and its ability to conduct "a vigorous foreign policy . . . above all in the CIS." Recent Russian diplomatic successes have turned Moscow into a "nerve center of world change." *RFE/RL Daily, July 21, 1994.*

A five-page Russian document establishes Russia's desire to re-establish a sphere of influence in Europe by gutting NATO. This proposal calls for making the CSCE the primary international organization in Europe, rather than NATO. One diplomat said, "Russia's objective is to go for the complete dissolution of NATO." *The Washington Times, August 16, 1994.*

Ranked as Russia's 13th most popular leader, General Alexander Lebed of the Trans-Dniester's 14th Army enclave, rejected the idea of Russian democracy during a recent interview. "Our leaders have said 'for centuries our state has been totalitarian but starting this minute we will be a democratic state.' That is just not possible. After all we are still the Soviet people." *The Financial Times, September 6, 1994.*

The largest deal between foreign oil companies and Azerbaijan was signed—but Russia refused to recognize the $8 billion dollar deal, demanding that the pipeline route should pass through its territories, giving it a stranglehold over energy exports from Azerbaijan. *The Financial Times, September 21, 1994.*

The head of Russia's foreign intelligence service, Yevgeny Primakov warned the West that it must accept the re-integration of most of the former Soviet Union or face the return of the Cold War. He released a report "Russia—CIS Does the West Need to Change Its Position?" which calls for a reintegration of the former Soviet Union and says an economic union is inevitable and a defense and political union is desirable. *The Wall Street Journal, The Financial Times, September 22, 1994.*

Foreign Minister Andrei Kozyrev urged the United States to expand bilateral economic relations with Russia in order to stabilize the CIS. He said those U.S. advisors who oppose Russia's role in CIS economic integration and conflict resolution "are giving very bad, incorrect, and irresponsible advice." *RFE/RL Daily, September 22, 1994.*

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Mr. DODD addressed the Chair.

The PRESIDING OFFICER (Mr. DORGAN). The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, I will just take a couple of minutes, if I can, here. First of all, with regard to the resolution before us, I think the Senator from Georgia has properly characterized the resolution. I am pleased that the resolution does not have any fixed date here for the reason articulated, I think rather clearly, by General Shelton and others: that such a target date or a fixed date would be counterproductive and, in fact, could pose a threat to our own forces by requiring some acceleration of activities as they try to complete their mission there.

I would secondly point out that as I read this resolution, it looks more like an OSHA regulation, in some ways, than a resolution on Haiti, since there are more reporting requirements in here than one might normally expect. Nonetheless, the burden will fall on those who have to write the reports. I hope there is as much attention paid by those who are insisting upon these reports when they are prepared, as when they required them. It is usually just a taxpayer cost and ends up on the shelf someplace. That has been my experience. If this is what is needed in order to get some consensus around here, I accept it. While I am not enthusiastic, as I said, about the resolution, I will nonetheless support it.

Let me point out that we were pleased a few minutes ago to have the visit of Nelson Mandela here in the Chamber of the U.S. Senate. It was truly an honor for all of us that the President of the Republic of South Africa would be joining us. I will not belabor the point. I have made the point that not too many years ago, when we were debating the issue of sanctions on South Africa in this Chamber—which I recall vividly as one who participated in that debate—there was some rather interesting rhetoric used to describe the person that we so warmly welcomed in this Chamber, which is worth, I think, just referencing, because some of the same language has been used to describe President Aristide.

I refer interested colleagues to the congressional debate of October 1, 1986, if they are interested in reading some of the language used to describe Mr. Mandela.

And I quote here.

> We also have heard repeated comments by those who favor the intrusion of the U.S. Government into the affairs of South Africa that Nelson Mandela is a hero. The fact is that Mr. Mandela pleaded guilty to conspiracy to murder. That is why he was jailed. The fact also is that Mrs. Mandela boasted that they had enough automobile tires and bicycle tires to create enough "necklaces" to impose their will upon those in the majority who have the courage to stand up and say "We don't want sanctions."

If I took away Mandela, you will find similar remarks have been made about President Aristide. The debate goes on with numerous references to Mr. Mandela's communism, his strong support for Lenin and Marx ideals.

Those are hardly the remarks we heard earlier today from the President of South Africa talking about democracy and the fight for it.

I merely point out the mere coincidence of events that on the day that we welcome, and properly so, and welcome as warmly as we have, Nelson Mandela for his courageous effort over the years, 27 of them spent incarcerated in his country, that we are debating a resolution regarding Haiti, another nation seeking its freedom and its democracy, in this case not thousands of miles from our shores in South Africa but a mere 200 or so from our shores where they have also faced repression of a similar kind in their own nation. And that much of the same language used to describe Nelson Mandela some 8 years ago is being used today too frequently to describe President Aristide.

In my view, the time will come when President Aristide will be received as warmly for his struggle and his fight for democracy in his country as Nelson Mandela is, properly so, today in his nation.

Again, I would hope that we can adopt this resolution, that our troops will get out of Haiti as soon as possible, that there will be a restoration of civilian government, a new police force and a military in that country that will respect civilian government. And that small country will have a chance for freedom, just as South Africa had never had a chance of true democracy and freedom for itself until President De Klerk, who in my view deserves in many ways as much credit for the achievements in South Africa—it is remarkable what he did as the President of that nation—and accompanied now by President Mandela, such as has been in Haiti for these last number of years where they have also never known freedom and democracy but are on the brink of having a chance at it.

The hard work will be ahead in trying to provide economic opportunity for people—jobs, decent housing, and so forth—that makes democracy thrive and succeed. But they ought to be given first a chance to speak freely, elect their chosen leaders without fear of intimidation. In the next week or so we will see unprecedented action of a duly elected President, thrown out of his nation in a military coup, going back to his nation to be received warmly by the overwhelming majority.

I might point out that in a recent visit, including a group which I took to Haiti last year, even members of the business community who forcibly told us they had not supported President Aristide, politically urged his immediate return to the country so they will have a chance of stability and the restoration of democracy.

Again, after this resolution, which I am confident will be adopted, we will adjourn, and the military force will withdraw and the multilateral forces will assume the lion's share of the responsibility. And we will all look back on this, despite our disagreements of how the military ended up in Haiti, supporting the overall outcome and the results that I am hopeful will occur in Haiti in these coming weeks and months.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition.

Mr. GREGG. Mr. President, I yield 7 minutes to the senior Senator from New Hampshire.

The PRESIDING OFFICER. The senior Senator from New Hampshire [Mr. SMITH] is recognized for 7 minutes.

Mr. SMITH. Mr. President, I thank my colleague for yielding.

Before the Senator from Connecticut leaves the floor, it would be interesting after Mr. Aristide has assumed power to look ahead 10 years and see how much democracy there is in Haiti.

I think most of us would agree that the past track record does not bode too well for the future of democracy in Haiti, which really brings me to the point.

I do support this resolution, but in doing so I want to point out that the administration policy, in my opinion, toward Haiti is an unmitigated disaster. We do not have any national security interests in Haiti. We have no economic interests in Haiti. We do not have a clear military objective in Haiti. And rather than training to fight and win wars, our Nation's premier rapid deployment forces are serving as police officers in a foreign land with no clear rules of engagement. Their mission is unclear to the American people, and that mission, if there is one, seems to evolve and change on a daily basis. They are risking their lives every day, every minute as we speak, and they already have been risking their lives, for a cause that is suspect and a policy that is undefined. That is simply wrong.

Perhaps most outrageous is the fact that the President never sought the approval of the American people, through their elected officials, for this reckless endeavor. It is ironic and, frankly, offensive to me, speaking personally, that the President would tout the authorization of the United Nations for his Haiti policy, yet not seek congressional approval. In effect, the President is saying that his action is justified because Boutros Ghali approved it, and at the same time he did not seek the approval of the U.S. Congress, the elected representatives of the American people. The last time I read the Constitution it vested these authorities in the Congress, not the United Nations.

There was no emergency in Haiti, no United States citizens in imminent danger, and no requirement to act prior to congressional approval. In fact, it is clear that the reason President Clinton did not seek congressional endorsement was because he knew that this policy would have been rejected by the Congress. That is hardly a legitimate reason, Mr. President, to commit U.S. military forces, the best of America, in harm's way.

Is that legitimate reason to do that? I think not. It was not a reason to commit them, and it is not a reason to keep them there any longer.

Mr. President, the resolution before the Senate is very clear. It is a rejection of the Clinton policy, pure and simple. It states that the President should have sought congressional approval prior to deploying troops to Haiti and that they should be brought home as soon as possible. It is responsible in the sense that it does not put a specific date which could, in fact, risk the lives of American troops. Importantly, it also requires the President, once and for all, to go on the record in a report to Congress and outline what the national security objectives are, what is it that he is pursuing in Haiti, what is he trying to do. As Senator NUNN has so eloquently said, how can you restore democracy where there has never been democracy. There has to be democracy at some point in the past before you can restore it in the future.

The truth is all we have heard so far from the administration is the excuse that we had to occupy Haiti because the President had threatened to invade so many times that we would lose face if we failed to deliver on that threat. That is a pretty pathetic and unacceptable rationale for risking American lives. I reject it categorically, and based on the abundance of mail and telephone calls I have received from New Hampshire and, frankly, from around the country, so do the American people reject it.

No one ever said that conducting foreign policy would be simple or easy. It is not. We do not need 535 Secretaries of State. But as a Presidential candidate, the President sought to trivialize his inexperience and disinterest in foreign affairs. Now we are living with the consequences. They are disastrous. Our credibility throughout the world is in question. Our troops are being stretched to the limit to implement the agenda of the United Nations and some humanitarian interest rather than the national security interests of our Nation.

The American military, I say to our colleagues, is a national treasure. It is the thing that works the best in all of the U.S. Government. Think of any other Government agency, any other Government entity that works better than the military. It is not a law-enforcement agency to be contracted out wherever or whenever the United Nations sees fit. Mr. President, it is time to bring our troops home.

I want to close by commending those troops. They are the best. I have been out there in the field with them on many occasions, not in Haiti as my colleague was, but I have seen the job they do. I have witnessed it firsthand. I have been a member of the military, and I express my absolute commitment to do everything possible to secure their safe and expeditious return. But while they are in harm's way we should provide them with whatever they need.

I adamantly oppose the occupation of Haiti by American troops, and I oppose the policy of sending them there and offering them up as policemen without clear objectives. But they are there—they are there, and they need our unequivocal support. We do not need another situation as we had in Vietnam.

As Americans, we have an obligation to do every single thing we can to give them the maximum support, encouragement and equipment they need to defend themselves and to get home safely. That is what I want to happen.

I would just say, Mr. President, if any American soldier were to lose his or her life I would have to say, for what? For what?

Mr. President, let us bring the troops home and bring them home quickly. I urge my colleagues to support this resolution.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, will the Chair advise me how much time is remaining?

The PRESIDING OFFICER. The Chair advises the Senator from New Hampshire that he controls 54 minutes and the Senator from Connecticut controls 50 minutes.

Mr. GREGG. I thank the Chair.

Mr. President, I yield 10 minutes to the Senator from Arizona.

Mr. MCCAIN. Mr. President, under the unanimous-consent agreement, I believe I have 15 minutes.

The PRESIDING OFFICER. The Senator from Arizona controls 15 minutes in his own right under the unanimous-consent agreement.

Mr. MCCAIN. The Senator does not have to yield me any time. According to the unanimous consent agreement, I have 15 minutes. I appreciate the generosity of the Senator from New Hampshire.

Mr. President, I state emphatically, I did not support the President's proposal to intervene in Haiti. I do not support his policy now.

If the Democratic leadership had given the Senate an opportunity to vote on this matter before our troops landed in Haiti, I would have voted against it. A majority of this body, in my view, would have voted against it. The American people would have voted against it. I found it extremely distressing that when the Senate found an opportunity to offer an amendment on this issue before our troops were dispatched to Haiti, we were prevented from voting.

Mr. President, I have ventilated that situation often enough that I will not review how that transpired.

But the fact is that I believe the administration made a very, very serious error in committing American troops to an enterprise in which the American people did not give significant or at least majority support.

Years ago, after the Vietnam war, Mr. President, Gen. Maxwell Taylor, who was Chairman of the Joint Chiefs of Staff under President Kennedy, and later as Ambassador to South Vietnam, said, in the review of that tragic chapter in American history, that there are certain criteria that need to be met before sending American troops overseas in a military engagement. Among those were a clear strategy for prosecuting that enterprise, a clear exit strategy, and most importantly the support of the American people.

Because we found out during the Vietnam war that, over time, that no matter how efficiently the performance of our men and women in the military, no matter how overwhelming our military superiority may be, without the support of the American people, as soon as casualties mount, public support will dissipate. By the way, the time for the information on the number of casualties becomes less and less as we get instantaneous information. I can remember during the Vietnam war that it was incredible to many Americans that we would receive information from the battlefields of Vietnam as short a time as 24 hours after the recording of those events took place. Now, as we know, we receive that information instantaneously.

In fact, if it was not rather tragic, it would be a little amusing, as we see as many cameramen as troops in some incidents that have transpired during our occupation of Haiti.

But the fundamental premise remains, Mr. President, that you have to have the support of the American people.

Now, there are various precedents that we can look at in citing the need for this support. I suggest that Vietnam is one where that support was not secured and the Persian Gulf engagement was one in which the support of the American people was obtained.

In fact, at the time of the invasion of Kuwait, only 37 percent of the American people supported sending United States troops to liberate Kuwait. The President of the United States then went to the United Nations, he went to the American people, and he went to the Congress, the representatives of the American people, both here and in the other body. He did, in my view, a superior, in fact, a superb job of convincing the American people that our vital national security interests were indeed at stake in the Persian Gulf.

In that previous poll that I mentioned, where only 37 percent of the American people supported our engagement in the Persian Gulf, at the end of the debate and vote here in the U.S. Senate—which some, I was not one of them, but some called perhaps the Senate's finest hour in recent years, where this issue was ventilated in spirited debate and, frankly, extremely insightful discussion—then the American people did support it, as did a majority of this body and a majority of the other body. So that when later American lives were placed at risk, where American casualties were sustained, we saw an outpouring of patriotism, of support, of concern, and love that perhaps we had not seen since World War II.

We certainly did not see this kind of support during the Vietnam war, and there was very little of it manifested in the Korean war.

At the conclusion of the engagement in the Persian Gulf, we greeted those men and women who served with such distinction with parades and with an upsurge of patriotism that was heartening to all Americans.

Mr. President, I am sorry to predict to you today that none of that will happen in Haiti, because the majority of the American people today do not believe that our vital national security interests are threatened in Haiti.

The American people do believe, as I do, that we have an interest in Haiti. We have an interest in stopping human rights abuses in Haiti. We have an interest in restoring President Aristide. We have an interest in trying to uplift the grinding poverty that afflicts most of the citizens of that unhappy and tragic land.

We also have an interest in stopping the killing in Rwanda. We have an interest in stopping the killing in Liberia. We have an interest in stopping the killing in Bosnia, which many predict will get worse as this winter wears on.

Many of us have an interest in stopping the killing in Azerbaijan. Many of us have an interest in stopping conflicts in some 47 places in the world where armed conflicts are taking place today, as I speak.

However, the people of the United States have not made the profound and difficult decision that our interests in Haiti are so compelling that we risk our treasure and our most precious blood, that of America's youth. I believe that since the occupation of Haiti, the President of the United States and his administration have still not made, or even attempted to make a case, to the American people that our vital national security interests are involved and that the problems of Haiti require our military involvement.

Mr. President, I do not pretend to be a military strategist or even tactician. I once served, obviously, as is well known. But that does not mean that I pretend to have the talents of so many enlightened and educated people who spend their lives in this business. But I do pay attention to their opinions and their views. And I have yet to meet a person who is a military historian, who is a tactician or a strategist, who can tell me how this situation can end beneficially either for the people of Haiti or the people of the United States.

One of the reasons many of these experts are convinced that this situation is one which is increasingly difficult to solve is because of the fact that we were there once before. We were there once before. We were supposed to be there for a few months and we stayed 19 years. Admittedly, there were significantly different circumstances. But the motivation to maintain order was fundamentally the same on the part of President Woodrow Wilson as it is today on the part of President William Clinton.

I believe this bipartisan solution should have made clear that we should not have intervened in the first place, but this resolution does make two very important points in a manner which will not undermine the safety of our troops or their performance of the mission they have been ordered to perform.

First, the President should have sought congressional approval before employing United States Armed Forces to Haiti. Second, the resolution offers support for the withdrawal of United States Armed Forces as soon as possible. In my view that does not mean as soon as order is restored to Haiti. It does not mean as soon as democracy is flourishing in Haiti. It does not mean as soon as we have established a viable nation in Haiti. As soon as possible means as soon we can get out of Haiti without losing any American lives.

There may be different interpretations of this resolution on the other side of the aisle because I think clearly this resolution will be approved overwhelmingly in the upcoming vote. But it is my view, and I think the majority of the American people's view, and I want to make it clear, that as soon as possible means as soon as possible, exactly what those words say.

In addition, the provisions of this resolution require the President to report to Congress on the policy objectives, mission, and rules of engagement in Haiti. This information will help Congress to keep track of the evolution of our mission, otherwise known as mission creep.

This resolution will not, however, prevent mission creep. Congress may monitor the situation and encourage the President to limit the mission of our troops in Haiti. But it is ultimately the Commander in Chief's responsibility.

I am deeply concerned that the mission has already begun a Somalia-like evolution. Our original mission in Haiti was based on cooperation with the Haitian military and police—a very unsound basis, I will admit, but it was the stated mission upon the arrival of American troops. The Haitians were to police themselves. But the cooperation that was to prevent mission creep has not materialized and United States troops have assumed a greater and greater responsibility for policing Haiti. Despite the obvious shift in the mission, administration officials reassure us constantly that our troops are not involved in police work. Yet we all see on CNN what they are doing. Day by day their mission expands. American military personnel have been tasked with preventing looting, stopping Haitian on Haitian violence, protecting private property, and arresting attaches.

Perhaps my definition of policing is very different from that of the administration, but I would call all of this police work, and I would call it all very, very dangerous.

Our success in limiting Haitian on Haitian violence and United States casualties are at best tactical successes. It will be months or years before we can evaluate any progress toward accomplishing the loosely stated mission of establishing order and democracy.

I also want to point out the practical problems we are already hearing from our military people in Haiti. They are supposed to prevent violence, but only too much violence. They are supposed to stand aside if something happens, but if someone's life is in danger then they are supposed to intervene. It is very, very difficult for an American military person on the spot, viewing a disturbance, to know when that fight or beating or whatever it is, crosses a line between harassment and a life-threatening situation. What our people on the ground there are telling us is they are faced with decisions that have to be made at the moment on the scene. Clearly their mission and role there is very ill-defined.

There is an aspect of this I want to discuss again that has the American people confused and I believe is a very, very significant contribution to the lack of support for this effort. One night not too long ago the President of the United States comes on national television and says to the American people: These are thugs, these are murderers, they are rapists, these are human rights abusers; their time has come. "You must go."

That is a clear-cut, unequivocal statement on the part of the President of the United States that unless these people leave power, and indeed leave the country as was later elaborated by administration people on national talk shows the following Sunday, then we are going to invade.

Much to the astonishment and amazement of many Americans, the next day we did not invade. We sent a delegation—which is certainly laudable. But the results of that delegation were that it came back to tell the American people that these murdering, raping thugs are now honorable military men who need to have honorable military retirements—that these are men whose rights under international law would be violated if they were forced to leave the country. And the chief negotiator, former President Carter, said he was ashamed of the President's policy.

Not only are the American people confused—I keep track of these events and I am confused. Are these people murdering thugs or are they honorable military people? I would like to know, which is which? Are they going to be forced to leave Haiti or are they going to have an honorable retirement? Frankly, one of the most respected persons I know is saying: Well, you can say what you want. Once you get there and you have taken over the country it does not matter. What happens the next time we face a problem and we send people down to negotiate? Are they going to look back and say: You told them in Haiti certain things would happen, but once you got there they did not happen?

Who are these people? Who is President Aristide? I suggest his autobiography ought to be read. It is full of Marxist ideology and liberation theology. I have seen films where he extolls the virtues of necklacing. Who is the enemy in Haiti and who is the friend? The American people, I think, need to know that. Who are we supporting and who are we opposing?

Mr. President, has my time nearly expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. I support the resolution and appreciate the indulgence of the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, I yield 10 minutes to the Senator from North Carolina, the ranking member of the Foreign Relations Committee.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS], is recognized for 10 minutes.

Mr. HELMS. Mr. President, at this moment more than 21,000 U.S. service men and women have been sent to occupy Haiti. They have no business being there and we should get them out right away.

I am deeply concerned when at any time and for any reason United States troops are placed in harm's way and I am especially concerned because the United States has absolutely no vital interest at stake in Haiti.

I heard a report which was on television, and followed up by a report in the New York Times, about apprehensions about the venereal disease AIDS. The astonishing percentage of people in Haiti who have AIDS is enough to make the President and all the rest of us who had anything whatsoever to do with sending those troops down there think again about what we have done to our own people.

I am especially mindful that many thousands of these troops in Haiti today come from 29 separate military units, and they reside in my home State of North Carolina. Tonight, from Fort Bragg to Camp Lejeune, the loved ones are waiting and wondering and praying for the husbands and fathers and mothers and wives and sons and daughters to come home safely.

Many Senators have spoken about the morale of our troops in Haiti, commenting that they appear well prepared and that they are in good spirits. And of course they do and they are. Notwithstanding the vigorous efforts of liberals in the Congress of the United States to destroy it, the American military remains the finest fighting force on Earth. Our troops are, indeed, well trained and well equipped because under the vision and leadership of Ronald Reagan the United States made a commitment to rebuild our military, a military which had been allowed to fall into a state of such deep disrepair the soldiers could not fight and ships could not sail and airplanes could not fly. So it should be no surprise that our troops are well prepared for their mission in Haiti, thanks to Ronald Reagan.

But Senators need to be reminded that the central question is not the morale of those splendid men and women whom we have sent to Haiti. The question is, why are they there in the first place? I will repeat what I have said on this floor since the issue was first debated in October of last year, 12 months ago.

The United States has no national security interest in Haiti, and removing the warlords who have run Haiti for the past 3 years is not worth one American life, nor is installing into power on the shoulders of 21,000 U.S. servicemen and women, a sworn enemy of America, Jean Bertrand Aristide. It just does not make any sense.

I also find it intriguing that many of the Senators who are showering praise today upon Gen. Hugh Shelton and the rest of our military personnel in Haiti are, in many instances, the very same Senators who have unfailingly voted to slash defense spending. If they had had their way, our armed services today would be so hollow that we might find it difficult to mobilize a force to occupy even a defenseless island like Haiti. So it is ironic, when you stop to think about it, that liberals who attempted during the past 12 years to weaken the readiness of our armed services are so committed to our occupation of this tiny island.

By way of example, perhaps I should mention that when Communist guerrillas threatened to destroy democracy in El Salvador where our Nation's security was truly at risk, liberals prohibited more than 55 U.S. military advisers—55 people—to go inside that country. They would not let them go. Today, many of these same liberals argue that we must keep 21,000 servicemen and women indefinitely in a nation which is of no security interest to the United States whatsoever.

In addition to the cost in U.S. personnel lives, which may be high, the financial cost of restoring Mr. Aristide to office is an abuse of American taxpayers' money. Last week, I submitted in the CONGRESSIONAL RECORD a list of 17 separate categories of U.S. expenditures totaling more than $891 million, and these costs continue to skyrocket. The Pentagon now believes its mission alone will cost more than $1 billion, and that does not include more than $300 million in foreign aid that the President intends to give to Haiti over the next 12 months. Nor does it include at least $70 million which U.S. taxpayers will be expected to cough up as our contribution to the U.N. force involved in Haiti. And with a national debt of $4,692,749,910,013.32, as of yesterday afternoon, our Nation can ill-afford to take on new debt, additional debt to install Mr. Aristide to power.

So the situation now in Haiti is an accident waiting to happen. President Clinton has failed to provide our troops and the American people with anything remotely appearing to be a definition of our mission there. When our troops entered Haiti about 2 weeks ago, we were told that the Haitian military alone would be responsible for disarming the Haitian thugs. Now American troops serve as the policemen of Haiti, intervening in fist fights among the looters and the raiders and they are trying to disarm the thugs.

I am not going to dwell further on these points because I, and many other Senators, have made them before, but allow me to say that the President and his advisors have made a grave mistake by placing United States troops in Haiti. We simply cannot afford the cost of this occupation financially, but far more important, the President will never be able to justify the cost of this occupation in terms of American life and American dollars.

Mr. President, please get our troops out of Haiti now before they begin coming home in body bags.

Finally, Mr. President, I ask unanimous consent that a listing of all North Carolina based military personnel be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

NORTH CAROLINA-BASED MILITARY PERSONNEL ORDERED TO INVADE HAITI

Marine Corps Forces:
1. Special Purpose Marine Air Ground Task Force—Caribbean of approx. 1,800 Marines, Camp Lejeune.
Army Forces:
1. 1st Corps Support Command, Ft. Bragg.
2. 16th Military Police Brigade, Ft. Bragg.
3. 503rd Military Police Battalion, Ft. Bragg.
4. 2-159 Medium Lift Helicopter Battalion, Ft. Bragg.
5. 20th Engineer Brigade, Ft. Bragg.
6. 27th Engineer Battalion, Ft. Bragg.
7. 37th Engineer Battalion, Ft. Bragg.
8. 525th Military Intelligence Brigade, Ft. Bragg.
9. 319th Military Intelligence Battalion, Ft. Bragg.
10. 519th Military Intelligence Battalion, Ft. Bragg.
11. 2nd Material Movement Center, Ft. Bragg.
12. 330th Material Movement Center, Ft. Bragg.
13. 46th Corps Support Group, Ft. Bragg.
14. 264th Corps Support Battalion, Ft. Bragg.
15. 18th Finance Group, Ft. Bragg.
16. 18th Personnel Service Battalion, Ft. Bragg.
17. 44th Medical Brigade, Ft. Bragg.
18. 55th Medical Group, Ft. Bragg.
19. 28th Combat Support Hospital, Ft. Bragg.
20. 261st Area Support Medical Battalion, Ft. Bragg.
21. 32nd Medical Logistic Battalion, Ft. Bragg.
22. 56th Medical Battalion, Ft. Bragg.
U.S. Army Reserve:
1. 422nd Civil Affairs Battalion Support Element, Greensboro.
Air Force Units:
1. 4th Wing, Seymour Johnson AFB.
2. 23rd Wing, Pope AFB.
Air Force Reserve:
1. 53 Aerial Port Sq., Fayetteville.
2. 916 ARG, KC-10A, Goldsboro.
National Guard Units:
1. 145 AG, C-130, Charlotte.

Mr. HELMS. If I have any time remaining, I yield it back and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator suggests the absence of a quorum. Does either Senator yield time at this point?

Mr. HELMS. I withdraw, unless——

Mr. DODD. Mr. President, I suggest the absence of a quorum and ask that the time be charged to both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I want to thank my colleague from New Hampshire and also my colleague from Connecticut for putting forth this bipartisan resolution. I think it is very important that those of us who believe that the mission to Haiti should never have been embarked on speak out loudly and clearly so that the President and the administration know that this mission must come to a close at the earliest possible moment.

I originally opposed the invasion of Haiti because I was simply not convinced that there is any threat to our national interest that is significant enough to warrant the loss of even one American life. Administration officials have suggested that we are prepared for casualties in Haiti during this occupation. Mr. President, I am not. I was not prepared to accept United States casualties resulting from an invasion of Haiti, and I am certainly not prepared for casualties resulting from the occupation of Haiti.

On September 24, in the first firefight of the American intervention in Haiti, a United States Navy interpreter was wounded and 10 armed Haitians, policemen or attaches, were killed by Marines outside a police station in the north coast city of Cap-Haitien. We have had the first United States casualty and the first Haitians killed as a result of our intervention.

Since then, Haitian-on-Haitian violence has escalated rather than abated. Looting has become widespread, and the tension between our troops and parts of the populace have increased. One American soldier has been shot in the abdomen. This is a very similar pattern, Mr. President, to what took place in Somalia. At first, the Somalis welcomed us. Then they took up arms against us, with disastrous results.

On September 29, an explosion at a political rally killed five Haitians and wounded many more. U.S. soldiers were in close proximity to the explosion and luckily none were killed or injured.

On September 30, two U.S. photographers were injured by mob violence. The President has yet to report to Congress and answer our serious concerns and questions regarding this mission.

I am becoming increasingly troubled by the apparent mission creep which characterized our involvement in Somalia and is becoming apparent in Haiti as well. Originally, administration officials briefed the Senate that United States forces would be routed around Haitian-on-Haitian acts of violence. Now the violence is finding our troops much as it did in Somalia. In addition, the policy regarding our troops' intervention in acts of violence between Haitians has been changed. The new policy puts our troops between the two opposing sides. The only outcome of this can be more American casualties.

Mr. President, I believe it is important to reiterate this point. The President chose not to seek congressional approval prior to sending combat troops into Haiti when there was absolutely no national security interest and no reason to do that. There was no U.S. citizen being threatened.

Then the President's representatives briefed the Congress that we would not involve our troops in violence between Haitians. Now the President has said, again without seeking congressional approval, that this policy is altered and our troops are directly in harm's way. Let us not forget that President Bush ordered United States troops into Somalia for the purely humanitarian purpose of ending a politically imposed famine. It was the Clinton administration that changed the mission to one of nation building.

We are all familiar with the tragic outcome of that intervention. We lost precious American lives. It appears that our military is once again being plagued by mission creep as part of a misguided cause of nation building. I think that nation building is a term that reflects the arrogance of many in this country who think that Haiti or Somalia can have democracy imposed upon them at the point of a bayonet.

I am sure my office is not unique in the Senate. I have received hundreds of thoughtful letters, phone calls, and telegrams since President Clinton addressed the Nation. The one theme which predominates is that the President has simply failed to present a clear and convincing case that there is, indeed, a vital national security interest in Haiti.

Advocates of an interventionist foreign policy have always advanced lofty goals, but in the final analysis these goals must be achievable and they must be worth the price we pay.

Even if democracy in Haiti were achievable at the point of a bayonet, is it worth the life of one American soldier or marine? This is an internal decision that must be made by the Haitian people. Is it worth the estimated 500 million to 850 million taxpayer dollars that will be added to our deficit for this intervention?

One of the many thoughtful letters that came into my office was from a retired colonel, Richard Platt, of Universal City, TX. He wrote:

> I have served my country as a soldier for 35 years, including two tours of duty in Vietnam. I had hoped that we as a nation had learned from our mistakes. Apparently I was wrong. It appears that we have again committed brave young Americans in a disastrous mission in support of inept political policies. The United States has absolutely no vital national interests in Haiti, and it is not worth a single American life. It is time to speak up—loudly.

That is what he wrote to me. Mr. President, I am taking Mr. Platt's advice, and I am speaking. I am going to speak loudly, as I have in the past, because I think that is the best way to send the message to the President.

This mission must be defined. It must be defined clearly and narrowly. And the American people must understand it. Most of all, Mr. President, I hope by speaking out, we will shorten this mission to the very briefest possible time that our troops would be in harm's way. I am going to speak to try to make that happen.

Thank you, Mr. President.

I thank the Senator from New Hampshire.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. With the consent of the floor leader, Senator DODD, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, the Senator is recognized for 10 minutes.

Mr. FEINGOLD. I thank the Chair.

As we debate the Mitchell-Dole resolution regarding the United States policy toward Haiti, I would like to discuss an issue that goes beyond the specific military operation and calls attention to the disturbing institutional process by which we arrived at this point.

Today, there are over 19,500 United States troops in Haiti. This is a U.S.-led mission with phenomenal contributions from other nations and is scheduled for transition to a U.N. peacekeeping force for phase 2, which is to be responsible for maintaining public order, professionalization of the police force, and assisting in the legislative election.

Mr. President, simply speaking, the United Nations authorized this mission, but the U.S. Congress never did.

We have debated and voted on the issue of United States troops in Haiti on several occasions in the past year. We have also voted on a series of haphazard and ad hoc resolutions relating to the United States troops in several other conflicts such as Haiti, Bosnia, and the Golan Heights.

Mr. President, it has been a sloppy and ineffective approach to war powers.

I believe that Congress should have had a central role in authorizing the Haiti mission because it is a large military operation where our troops may face imminent hostility. For that reason, I introduced a resolution 2 weeks ago, shortly after our troops went into Haiti, calling for an up or down vote on the deployment of United States forces in Haiti on or before October 15, 1994, when the mission in Haiti can obviously become more perilous. I strongly believe that Congress has a responsibility to vote up or down on this particular mission.

I compliment the House Foreign Affairs Committee for taking up a resolution which did take a position on this issue. They voted to authorize the mission until March 1, 1995. Now, Mr. President, I am not at all sure I agree with the authorization or the withdrawal date chosen, but at least that committee faced the issue head on.

There, Chairman Lee Hamilton noted:

> The presence of more than 15,000 U.S. troops in Haiti is a significant foreign policy action. It is important for Congress to vote to authorize the deployment of U.S. troops overseas whenever they are placed in situations where there is the potential for combat.

Obviously, Mr. President, the Haiti situation is such a situation.

Despite what has turned out to be a political battle, war powers should not be a partisan issue. The underlying issue is not simply whether Members of this Congress support or oppose President Clinton's decision on Haiti. It is what power we would have if a different President in the future would decide to deploy 50,000 troops, for example, to Costa Rica for inappropriate or obscure reasons. That is why I am focusing on this issue. With the precedent we are setting in Haiti, such abuse by a less well-meaning President could well occur.

Our Founding Fathers did not leave these kinds of decisions to one person. The Constitution mandates a balance of powers, in most cases, of the use of Armed Forces. In this case, though, only the Chief Executive ordered the deployment of 19,000 Americans into combat. He also unilaterally decided that he did not have to seek congressional authorization to do it.

Mr. President, I was particularly troubled by the legal rationale the administration offered for the President's deployment of forces to Haiti. In a letter from Walter Dellinger in the Office of Legal Counsel at the Department of Justice to Senators DOLE, COHEN, THURMOND, and SIMPSON, the administration cited some legal justification for this unilateral action, including an argument that the deployment was in accordance with a sense-of-the-Congress resolution attached to the Department of Defense appropriations bill in October 1993.

Mr. President, I ask unanimous consent that that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, DC, September 27, 1994.

Hon. ROBERT DOLE,
Hon. ALAN K. SIMPSON,
Hon. STROM THURMOND,
Hon. WILLIAM S. COHEN,
U.S. Senate, Washington, DC.

DEAR SENATORS, I write in response to your letter of September 15, 1994, in which you requested a copy or summary of any legal opinion that may have been rendered, orally or in writing, by this Office concerning the lawfulness of the President's planned deployment of United States military forces into Haiti. After giving substantial thought to these abiding issues of Presidential and congressional authority, we concluded that the President possessed the legal authority to order that deployment.

In this case, a combination of three factors provided legal justification for the planned deployment. First, the planned deployment accorded with the sense of Congress, as expressed in section 8147 of the Department of Defense Appropriations Act, 1994, Pub. L. No. 103–139, 107 Stat. 1418, 1474 (1993). That resolution expressed Congress's sense that the President would not require express prior statutory authorization for deploying troops into Haiti provided that he first made certain findings and reported them to Congress. The President did make the required findings and reported them. We concluded that the resolution "evince[d] legislative intent to accord the President broad discretion" and "'invite[d]' measures on independent presidential responsibility." Dames & Moore v. Regan, 453 U.S. 654, 678 (1981) (quoting Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 637 (1952) (Jackson, J., concurring)). Second, the planned deployment satisfied the requirements of the War Powers Resolution. Finally, after examining the circumstances, nature, scope and duration of the anticipated deployment, we determined that it was not a "war" in the constitutional sense. Specifically, the planned deployment was to take place with the full consent of the legitimate government, and did not involve the risk of major or prolonged hostilities or serious casualties to either the United States or Haiti. For those reasons, which are set out in detail below, we concluded that the President had legal and constitutional authority to order United States troops to be deployed into Haiti.

I.

First, the Haitian deployment accorded with the sense of Congress, as expressed in section 8147 of the Department of Defense Appropriations Act, 1994, Pub. L. No. 103–139.[1] That provision was sponsored by, among others, Senators Dole, Simpson and Thurmond. *See* 139 Cong. Rec. S14,021–22 (daily ed. Oct. 20, 1993).

Section 8147(b), 107 Stat. 1474, of the Act states the sense of Congress that "funds appropriated by this Act should not be obligated or expended for United States military operations in Haiti" unless certain conditions (including, in the alternative, prior Congressional authorization) were met. Section 8147(c), 107 Stat. 1475, however, added that

> [i]t is the sense of Congress that the limitation in subsection (b) should not apply if the President reports in advance to Congress that the intended deployment of United States Armed Forces into Haiti—
>
> (1) is justified by United States national security interests;
>
> (2) will be undertaken only after necessary steps have been taken to ensure the safety and security of United States Armed Forces, including steps to ensure that United States Armed Forces will not become targets due to the nature of their rules of engagement;
>
> (3) will be undertaken only after an assessment that—
>
> (A) the proposed mission and objectives are most appropriate for the United States Armed Forces rather than civilian personnel or armed forces from other nations, and
>
> (B) that the United States Armed Forces proposed for deployment are necessary and sufficient to accomplish the objectives of the proposed mission;
>
> (4) will be undertaken only after clear objectives for the deployment are established;
>
> (5) will be undertaken only after an exit strategy for ending the deployment has been identified; and
>
> (6) will be undertaken only after the financial costs of the deployment are estimated.

In short, it was the sense of Congress that the President need not seek prior authorization for the deployment in Haiti provided that he made certain specific findings and reported them to Congress in advance of the deployment. The President made the appropriate findings and detailed them to Congress in conformity with the terms of the resolution. *See* Letter to the Speaker of the United States House of Representatives from the President (Sept. 18, 1994). Accordingly, this is not, for constitutional purposes, a situation in which the President has "take[n] measures incompatible with the expressed or implied will of Congress," *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. at 637 (Jackson, J., concurring). Rather, it is either a case in which the President has acted "pursuant to an . . . implied authorization of Congress," so that "his authority is at its maximum," *id.* at 635, or at least a case in which he may "rely upon his own independent powers" in a matter where Congress has "enable[d], if not invite[d], measures on independent presidential responsibility." *Id.* at 637.

II.

Furthermore, the structure of the War Powers Resolution (WPR) recognizes and presupposes the existence of unilateral Presidential authority to deploy armed forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." 50 U.S.C. §1543(a)(1). The WPR requires that, in the absence of a declaration of war, the President must report to Congress within 48 hours of introducing armed forces into such circumstances and must terminate the use of United States armed forces within 60 days (or 90 days, if military necessity requires additional time to effect a withdrawal) unless Congress permits otherwise. *Id.* §1544(b). This structure makes sense only if the President may introduce troops into hostilities or potential hostilities without prior authorization by the Congress: the WPR regulates such action by the President and seeks to set limits to it.[2]

To be sure, the WPR declares that it should not be "construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances." 50 U.S.C. §1547(d)(2). But just as clearly, the WPR *assumes* that the President already has such authority, and indeed the WPR states that it is not "intended to alter the constitutional authority of the . . . President." *Id.* §1547(d)(1). Furthermore, although the WPR announces that, in the absence of specific authorization from Congress, the President may introduce armed forces into hostilities only in "a national emergency created by attack upon the United States, its territories or possessions, or its armed forces," *id.* §1541(c), even the defenders of the WPR concede that this declaration—found in the "Purpose and Policy" section of the WPR—either is incomplete or is not meant to be binding. *See e.g.*, Cyrus R. Vance, *Striking the Balance: Congress and the President Under the War Powers Resolution*, 133 U. Pa. L. Rev. 79, 81 (1984).[3]

The WPR was enacted against a background that was "replete with instances of presidential uses of military force abroad in the absence of prior congressional approval." Presidential Power to Use the Armed Forces Abroad Without Statutory Authorization, 4A Op. O.L.C. 185, 187 (1980). While Congress obviously sought to structure and regulate such unilateral deployments,[4] its overriding interest was to prevent the United States from being engaged, without express congressional authorization, in major, prolonged conflicts such as the wars in Vietnam and Korea, rather than to prohibit the President from using or threatening to use troops to achieve important diplomatic objectives where the risk of sustained military conflict was negligible.

Footnotes at end of article.

Further, in establishing the funding a military force that is capable of being projected anywhere around the globe, Congress has given the President, as Commander in Chief, considerable discretion in deciding how that force is to be deployed.[5] *See Johnson v. Eisentrager*, 339 U.S. 763, 789 (1950); *cf. Maul v. United States*, 274 U.S. 501, 515–16 (1927) (Brandeis and Holmes, JJ., concurring) (President "may direct any revenue cutter to cruise in any waters in order to perform any duty of the service"). By declining, in the WPR or other statutory law, to prohibit the President from using his conjoint statutory and constitutional powers to deploy troops into situations like that in Haiti, Congress has left the President both the authority and the means to take such initiatives.

In this case, the President reported to Congress, consistent with the WPR, that United States military forces, together with units supplied by foreign allies, began operations in Haitian territory, including its territorial waters and airspace. The President stated in his report that he undertook those measures "to further the national security interests of the United States; to stop the brutal atrocities that threaten tens of thousands of Haitians; to secure our borders; to preserve stability and promote democracy in our hemisphere; and to uphold the reliability of the commitments we make, and the commitments others make to us, including the Governors Island Agreement and the agreement concluded on September 18 in Haiti." Letter to the Speaker of the United States House of Representatives from the President, at 2 (Sept. 21, 1994). We believed that the deployment was fully consistent with the WPR, and with the authority Congress reserved to itself under that statute to consider whether affirmative legislative authorization for the continuance of the deployment should be provided.

III.

Finally, in our judgment, the Declaration of War Clause, U.S. Const., art. I, §8, cl. 11 ("[t]he Congress shall have Power . . . [t]o declare War"), did not of its own force require specific prior congressional authorization for the deployment of troops at issue here. That deployment was characterized by circumstances that sufficed to show that the operation was not a "war" within the meaning of the Declaration of War Clause.[6] The deployment was to have taken place, and did in fact take place, with the full consent of the legitimate government of the country involved.[7] Taking that and other circumstances into account, the President, together with his military and intelligence advisors, determined that the nature, scope and duration of the deployment were not consistent with the conclusion that the event was a "war."

In reaching that conclusion, we were guided by the initial premise, articulated by Justice Robert Jackson, that the President, as Chief Executive and Commander in Chief, "is exclusively responsible" for the "conduct of diplomatic and foreign affairs," and accordingly that he may, absent specific legislative restriction, deploy United States armed forces "abroad or to any particular region." *Johnson v. Eisentrager*, 339 U.S. at 789. Presidents have often utilized this authority, in the absence of specific legislative authorization, to deploy United States military personnel into foreign countries at the invitation of the legitimate governments of those countries. For example, during President Taft's Administration, the recognized government of Nicaragua called upon the United States to intervene because of civil disturbance. According to President Taft, "[t]his led to the landing of marines and quite a campaign. . . . This was not an act of war, because it was done with the consent of the lawful authorities of the territory where it took place." William Howard Taft, *The Presidency* 88–89(1916).[8]

In 1940, after the fall of Denmark to Germany, President Franklin Roosevelt ordered United States troops to occupy Greenland, a Danish possession in the North Atlantic of vital strategic interest to the United States. This was done pursuant to an agreement between the United States and the Danish Minister in Washington, and was welcomed by the local officials on Greenland.[9] Congress was not consulted or even directly informed. *See* James Grafton Rogers, *World Policing and the Constitution* 69–70 (1945). Later, in 1941, the President ordered United States troops to occupy Iceland, an independent nation, pursuant to an agreement between himself and the Prime Minister of Iceland. The President relied upon his authority as Commander in Chief, and notified Congress only after the event. *Id.* at 70–71. More recently, in 1989, at the request of President Corazon Aquino, President Bush authorized military assistance to the Philippine government to suppress a coup attempt. *Pub. Papers of George Bush* 1615 (1989).

Such a pattern of Executive conduct, made under claim of right, extended over many decades and engaged in by Presidents of both parties, "evidences the existence of broad constitutional power." Presidential Power to Use the Armed Forces Abroad Without Statutory Authorization, 4A Op. O.L.C. at 187.

We are not suggesting, however, that the United States cannot be said to engage in "war" whenever it deploys troops into a country at the invitation of that country's legitimate government. Rather, we believe that "war" does not exist where United States troops are deployed at the invitation of a fully legitimate government in circumstances in which the nature, scope, and duration of the deployment are such that the use of force involved does not rise to the level of "war."

In deciding whether prior Congressional authorization for the Haitian deployment was constitutionally necessary, the President was entitled to take into account the anticipated nature, scope and duration of the planned deployment, and in particular the limited antecedent risk that United States forces would encounter significant armed resistance or suffer or inflict substantial casualties as a result of the deployment.[10] Indeed, it was the President's hope, since vindicated by the event, that the Haitian military leadership would agree to step down before exchanges of fire occurred. Moreover, while it would not be appropriate here to discuss operational details, other aspects of the planned deployment, including the fact that it would not involve extreme use of force, as for example preparatory bombardment, were also relevant to the judgment that it was not a "war."

On the basis of the reasoning detailed above, we concluded that the President had the constitutional authority to deploy troops into Haiti even prior to the September 18 agreement.

Sincerely,

WALTER DELLINGER.

FOOTNOTES

[1] In speaking of the deployment, we should be understood to include, not only the actual deployment begun on September 19, but the military operation that was planned, and in part initiated, before an agreement with the Haitian military leadership was negotiated on September 18 by former President Jimmy Carter, Senator Sam Nunn and General Colin Powell (the "September 18 agreement"). As the President noted in his televised address of September 18, that agreement "was signed after Haiti received evidence that paratroopers from our 82nd Airborne Division, based at Fort Bragg, North Carolina, had begun to load up to begin the invasion which I had ordered to start this evening." Text of Clinton's Address, The Washington Post, Sept. 19, 1994, at A17.

[2] It should be emphasized that this Administration has not yet had to face the difficult constitutional issues raised by the provision of the WPR, 50 U.S.C. §1544(b), that requires withdrawal of forces after 60 days involvement in hostilities, absent congressional authorization.

[3] The WPR omits, for example, any mention of the President's power to rescue Americans; yet even the Comptroller General, as agent of Congress, has acknowledged both that "the weight of authority" supports the position that "the President does possess some unilateral constitutional power to use force to rescue Americans," and that §1541(c) "does not in a strict sense operate to restrict such authority." 55 Comp. Gen. 1081, 1083, 1085 (1976). *See also* Peter Raven-Hansen and William C. Banks, Pulling the Purse Strings of the Commander in Chief, 80 Va. L. Rev. 833, 879 (1994) ("[a] custom of executive deployment of armed force for rescue and protection of Americans abroad has developed at least since 1790"); id. at 917–18 ("since 1868 the so-called Hostage Act has authorized and required the President to 'use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate [the] release' of American citizens 'unjustly deprived of [their] liberty by or under the authority of any foreign government.' . . . [T]he Hostage Act lends further support to custom and may constitute congressional authorization for at least this limited defensive war power.").

[4] Even though the President has the inherent power to deploy troops abroad, including into situations of hostilities, Congress may, within constitutional limits, regulate the exercise of that power. See, e.g., Santiago v. Nogueras, 214 U.S. 260,266 (1909) (President had power to institute military government in occupied territories until further action by Congress); The Thomas Gibbons, 12 U.S. (8 Cranch) 421, 427–28 (1814).

[5] We recognize, of course, that the WPR provides that authority to introduce the armed forces into hostilities or situations where hostilities are clearly indicated may not be inferred from an appropriation act, unless that statute "states that it is intended to constitute specific statutory authorization within the meaning of this chapter." 50 U.C.S. §1547(a).

[6] *See* Note, *Congress, The President, And The Power To Commit Forces To Combat*, 81 Harv. L. Rev. 1771, 1790 (1968) (describing other limited interventions and suggesting conclusion that "'war' in the sense of article I, section 8, requiring congressional sanction, does not include interventions to maintain order in weak countries where a severe contest at arms with another nation is likely to result"). Here, of course, there is still less reason to consider the deployment a "war," since it was undertaken at the request of the recognized, democratically-elected government, and not merely to "maintain order."

[7] Moreover, the deployment accorded with United Nations Security Council Resolution No. 940 (1994). There can thus be no question but that the deployment is lawful as a matter of international law.

[8] President Grover Cleveland had also opined that a "military demonstration" on the soil of a foreign country was not an "act of war" if it was "made either with the consent of the [foreign] government . . . or for the *bona fide* purpose of protecting the imperiled lives and property of citizens of the United States." 9 *Messages and Papers of the Presidents 1789–1897* 466 (James Richardson ed., 1898).

[9] The Danish King and ministers were in German hands at the time.

[10] Although the President found that the deployment would not be without risk, he and his senior advisers had also determined that the United States would introduce a force of sufficient size to deter armed resistance by the Haitian military and thus to hold both United States and Haitian casualties to a minimum. The fact that the United States planned to deploy up to 20,000 troops is not in itself dispositive on the question whether the operation was a "war" in the constitutional sense, since the very size of the force was designed to reduce or eliminate the likelihood of armed resistance.

Mr. FEINGOLD. I thank the Chair.

Now, while Mr. Dellinger cites an escape clause for the President to act in dire circumstances, he seemingly ignores the fact that the principal purpose of the resolution passed by this body was to ensure that "funds should not be obligated or expended for United States military operation in Haiti" unless authorized in advance by Congress or under certain limited emergency situations where there was not time to seek and receive congressional authorization.

I have to say that I am dismayed at the line of reasoning propounded by the administration. A sense-of-Congress resolution which was clearly designed to limit the use of appropriated funds for a military operation in Haiti without prior congressional approval was intentionally interpreted to authorize an unauthorized expedition.

The language cited by Mr. Dellinger in his September 27 justification refers to an exception to the general limitation in the resolution which allowed such deployment if the President reported in advance to the Congress on a number of conditions.

What, in fact, happened is that the President ordered the invasion on Sunday, September 18, and sometime close to midnight—well after the decision had been made and implemented—he transmitted to Congress a report advising Congress of the objectives and charter of the deployment. To argue that a report submitted after an invasion order had been issued was compliance with the advance report requirement makes a mockery of congressional intent.

Mr. President, Mr. Dellinger's letter makes two other arguments for the legal justification for the deployment without congressional authorization which I would like to touch on briefly.

First, he refers to the War Powers Resolution and states that its structure makes sense only if the President has authority introduce troops into hostilities or potential hostilities without prior authorization by Congress. He argues that the War Powers Resolution simply regulates such action by the President and seeks to set limits to it. The letter goes on in my view to minimize the War Powers Resolution by suggesting that while Congress obviously sought to structure and regulate unilateral deployments, "its overriding interest was to prevent the United States from being engaged, without expressed congressional authorization, in major prolonged conflicts such as the wars in Vietnam and Korea." I found it astounding that the administration does not recognize the link between the evolution of both Korea and Vietnam from limited actions to major wars.

The final argument that article I, section 8 of the Constitution does not require specific prior congressional authorization for the deployment of troops at issue here must also be challenged. I believe that when the United States deploys almost 20,000 troops, combat-ready, in the circumstances at hand, it is a word-game to assert that congressional authorization under article I is not at issue.

Given that the invasion of Haiti contained no pretense of an element of surprise, there was no reason to circumvent the original intent of the resolution: That the President should seek congressional authorization prior to an invasion such as the one conducted in Haiti. I voted for the resolution invoked by Mr. Dellinger, but since the administration has demonstrated that it does not recognize a fundamental role for Congress in the use of force, I will be far more reluctant in the future to vote for any other resolutions on specific missions which provide or will be construed to provide a mechanism for the administration to circumvent the need for congressional approval of military deployments.

Mr. President, we should not let this action go unchallenged. A provision in the Mitchell-Dole resolution we are considering today, which states that "It is the sense of the Congress that the President should have sought congressional approval before deploying U.S. Armed Forces to Haiti," acknowledges the problem.

However, the resolution does not go ahead and authorize the deployment. The resolution also avoids the opportunity to authorize phase II, the UNMIH mission. Another provision explicitly states that "Nothing in this resolution should be construed or interpreted to constitute congressional approval or disapproval of the participation of the U.S. Armed Forces in the United Nations Mission in Haiti." Obviously, Mr. President, if we are going to authorize United States participation in the UNMIH mission, now is the time to do it.

However, with the circumstances before us today—when United States Forces are already deployed—it appears that the Senate is going to sidestep a direct up or down vote on the United States mission in Haiti. This is precisely the reason we are in dire need of an overhaul of the War Powers Resolution, which has proven unworkable.

To conclude, Mr. President, I am hopeful that next Congress, when we have finally grown tired of the seat-of-the-pants amendments on the use of force, our committees will delve into this issue and we will be able to develop a process where, in concert with the administration, the use of force is a shared decision, as envisioned under the Constitution, between the executive and legislative branches, not just the decision of one person, the Commander in Chief.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore, Senator BYRD.

Mr. BYRD. Mr. President, how much time does Mr. BROWN wish?

Mr. BROWN. Ten minutes.

ORDER OF PROCEDURE

Mr. BYRD. I ask unanimous consent that I may yield the floor, without losing my right to the floor, to Mr. BROWN for not to exceed 10 minutes, and then to Mr. DORGAN for not to exceed 10 minutes, that I then be recognized, and that the intervening time not be charged to the time under my control.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado is recognized for up to 10 minutes on time chargeable to the Senator from New Hampshire.

Mr. BROWN. Mr. President, let me thank the distinguished Senator from West Virginia. I appreciate his courtesy, and I want to also commend the distinguished Senator from Wisconsin for his thoughtful comments. He has been consistent on this subject. He is one who has spoken out both on the floor and in the Foreign Relations Committee on which we both serve. I commend him for not only a consistent but a thoughtful approach.

Mr. President, as one Republican who supports the War Powers Act, I share his concern about the procedures that have been followed in the deployment of United States combat forces into Haiti. Specifically, Mr. President, I think it is unfortunate, even tragic that the President refused to seek the approval of the U.S. Congress before this deployment was made—this in spite of the fact that this Senate made it quite clear that they expected to be consulted and involved in the decision to commit U.S. forces to combat.

Moreover, Mr. President, let me be specific. It is my belief that the timing of the sending of those forces was partly associated with an effort to avoid votes which were scheduled that following week in both Houses of Congress. In other words, part of the rationale for deploying forces without prior congressional approval was an attempt by the executive branch to circumvent the President's responsibility to consult Congress. Making the circumvention even more deplorable was the fact that the Congress had clearly expressed its wish to be involved in any decision to commit U.S. forces.

Some will say the War Powers Act allows the Commander in Chief to deploy forces in a variety of situations, and that is quite true. But one should not think about these War Powers provisions without noting what made the Haitian adventure different. It did not involve an emergency or an unexpected circumstance. As a matter of fact, this invasion has been talked about by the

President for many, many months. Clearly, one cannot justify the deployment of forces on the basis that it involved emergency action. It did not. The deployment cannot be justified on the basis that there was an urgent need for secrecy or that the secrecy of the operation would be jeopardized by going to Congress. Clearly, it would not. No secret was made of the plan to invade.

The simple fact is that the deployment of forces was completed in such a manner as to avoid congressional involvement. Mr. President, I think it was a mistake. I think it was a mistake because the Constitution is quite clear in giving Congress the power to declare war. The War Powers Act is quite clear in setting forth responsibilities. Furthermore, the Congress has been quite clear in its resolve and its interest that the President seek prior authorization from Congress before we deploy our forces in the field of combat in Haiti.

Mr. President, I am concerned about the decision to deploy United States forces to Haiti for two additional reasons. One, we did not have a clear mission, and deployment in Haiti was not vital to our national security interests. If we have learned one thing from our experience in Vietnam, in Lebanon, in Somalia, it is that it is a mistake to deploy United States combat forces around the world without a commitment to win, without clear objectives, without a clear purpose. How many tragedies do we have to endure before we learn that about U.S. overseas deployments?

The second issue is one that should concern all Americans. That is, the administration's implied message that the authorization by the United Nations Security Council was adequate for the deployment of U.S. forces, and the implication that the approval of the U.S. Congress was not needed.

Mr. President, this is a dangerous precedent. The forces that serve the United States are not only paid for by the U.S. taxpayers, but fall under the purview of the U.S. Constitution and the system of government we have established. We do not have American forces subject to United Nations authorization. They are subject to American authorization. To use the United Nations to circumvent the Congress of the United States is a mistake—a mistake for this President, and for other Presidents who might do so.

There are two parts of this resolution that are very important and are part of the reason why I will support the final text. Section 1, subparagraph (b) says this:

> The President should have sought and welcomed congressional approval before deploying U.S. Armed Forces in Haiti.

I believe that is absolutely correct. Is it a tough criticism of the President? Yes, I think it is. Hopefully, however, it is a policy the President will learn to adopt.

There is a separate section, section 5, that is helpful:

> Report on U.S. agreements. Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all the agreements of the United States entered into with other nations, including any assistance pledged or provided in connection with the United States efforts in Haiti. Such reports shall include information on any agreements or commitments relating to the United Nations Security Council actions concerning Haiti since 1992.

Mr. President, we have not had full disclosure from the administration as to what commitments and agreements were made in ancillary discussions to secure the support and participation of other nations. The American people are entitled to know what commitments were made or what verbal understandings were reached, and this resolution makes it clear that all of this information is called for. As one of the chief authors of this section, it is particularly important that the Congress receive effective reporting on all verbal or written agreements entered into by the executive branch to secure other nations support.

Finally, I would like to express my disappointment that this resolution comes to the floor without the ability to amend it. A strong effort was made in this body to avoid amendment in the original resolution after United States forces were deployed to Haiti. The implication was that if we insisted on amendments, no resolution would have been brought forth. That was the case when we first considered a Haiti resolution, and it is the case this time.

It is a mistake to prevent amendments and to coverup the deep feelings of many Members on this issue. Members of this body, I think, should have a chance to offer amendments. I had hoped to offer one that added to the sense of the Congress: The United States does not have vital national security interests which justify the military occupation of Haiti.

Mr. President, the fact is the Deputy Secretary of State, in a writing in 1992 in Time Magazine, said the following:

> Once a country utterly loses its ability to govern itself, it also loses its claim to sovereignty and should become a ward of the United Nations.

Mr. President, I do not agree with Deputy Secretary of State Strobe Talbott. I do not think we ought to have countries all over the world who become the ward of the United Nations. The United States, the United Nations' largest financier, should not have to pay the bill for all of those countries. Secretary Talbott suggests in those articles that making Somalia and similar anticountries, as he describes them, U.N. protectorates or trust territories is a good idea.

It would be a disaster. The American population should not have to pay the bills for all those other countries that "loses [their] ability to govern" themselves. Should we help? Certainly, under circumstances where we can.

Second, Mr. President, asking the approval of Congress before we send our men and women into harm's way is not just an issue that deals with the powers of Congress or the powers of the President. Perhaps we think about it in those terms. Nonetheless, I am convinced that it deals with the very heart and fiber of the commitment we have to the American fighting men and women who put on the uniform in this country.

We should not put our people in harm's way. We should not put them in combat without making sure we are committed to the objective they are risking their lives for. To put them in harm's way as has been done in Haiti, and in Somalia, shows a callous disregard for the commitment and the devotion of the fighting men and women of this country.

We owe them a clear commitment. We owe them a clear objective. We owe them our resolve and support. One of the tragedies of Vietnam is that the men and women who served in the uniform of this country in Vietnam served with a great deal more commitment than our Congress did. Our Congress never laid out a clear commitment to win in that combat. The Presidents of both parties who directed our country during that time period never made a final commitment to the objectives they were willing to risk the lives of American soldiers for.

I think it is wrong for politicians to send young men and women to war without clear objectives, without the clear support of the Congress and without any indication that the country is committed to them and to their mission. Avoiding a vote in Congress is a way of avoiding putting Congress on the line. We should never do it again.

Let us pray that the commitment and the courage displayed by our men and women in Haiti, and in service around the world, is matched in the future by our political leaders, who seem so willing to risk their lives.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from North Dakota [Mr. DORGAN] is recognized for up to 10 minutes.

Mr. GREGG. Mr. President, parliamentary inquiry. Is this time to be charged to Senator DODD.

The PRESIDING OFFICER. The time is to be charged to the majority leader or his designee.

Mr. GREGG. Thank you.

Mr. DORGAN. Mr. President, I do not think this is so much a debate as it is a discussion, because I do not think there is great disagreement on the floor of the Senate on this issue.

I felt that we should not have committed armed forces to an invasion of

Haiti. I wrote the President to tell him this in early August. I still feel that way. I feel now that we ought to find a way to withdraw our forces from Haiti as quickly as possible.

I do not think there is much disagreement on this point. This resolution really moves in that direction and, frankly, I think most Members would agree with me when I say that our troops should come home soon.

However, I came to the floor to talk not so much about the use of military strength, or about vital security and national interests, but about life in Haiti. I am not an expert on Haiti, but I have been there.

I want to tell you that before we began this debate today, and after this debate will end this evening, and 5 months ago, and 5 months from now, the dominant condition affecting the lives of the people who live in Haiti is gripping, wrenching poverty. This debate will not change that. American troops will not change that.

I went to an area in Haiti with my late friend, Congressman Mickey Leland, on a hunger trip. We viewed a project that the U.S. Agency for International Development was sponsoring. Briefly, it was a project dealing with hogs. It came about because Haitians had had to kill all the hogs in Haiti because of disease. All the hogs in Haiti had been eradicated.

So the Agency for International Development was reintroducing hogs in Haiti, and they had a hog project. And they would bring together little groups of about 15 to 20 families, who collectively would receive a sow and own it. Their responsibility was to feed it, and then they would take it walking over the island to where they could get this sow bred, and they would continue to feed the sow, and the sow would have piglets.

The promise was that if you and other people like you, a number of families, get together, and you take this sow that we will give you, if you get the sow bred and feed it, you will have a dozen other pigs, and you will increase the stock of wealth for food, for sustenance, for the future. USAID showed us this project, and they were very proud of it.

They showed us a Haitian who had this pig. After we saw this pig, a woman took me aside, and she said to me, "You know, they want us to feed this pig because they tell us that if we do that we will get more piglets. We will all be better. But I cannot feed my children." With tears in her eyes, she said: "I do not have food for my children. But to be better off in the future, I should feed this pig now."

This was a wonderful project, but it demonstrated the gripping problem of Haiti. You will find people, with tears in their eyes, who cannot get food to eat, who cannot get medical treatment for their children. Congressman Leland and I went to some of the few neonatal clinics in Haiti. We held in our arms children who were dying.

Now, I represent a part of the country that produces more food than we need. Yet if I get on a plane today, I can fly to Haiti as quickly as I can fly to Bismarck, ND, in my State. When we talk about Haiti, we are talking about a neighbor.

I hope the debate here today is not whether we care about a neighbor, whether we care about Haiti. The debate is about the use of military force and vital security interests. I understand all of that.

As I said before, I think the introduction of troops in Haiti is not going to change a bit the dominant feature of Haitian life, which is that people are desperately poor. They will be desperately poor unless we decide that that condition of human poverty in our neighborhood can be remedied. We can do a much, much better job, all of us, through the multilateral agencies, the World Bank, and the IMF, and the Agriculture Department, and other means, to try to improve the human condition in Haiti. The Haitian people are neighbors of ours.

People say let us deal with things here at home first. Yes, I agree with all of that. But we cannot stand here and say it does not matter to us that in our hemisphere close to our borders live people in some of the most gripping, wrenching poverty anywhere in the world.

We can change that. The interesting thing in Haiti, as my friend from Connecticut will know, is when you fly into Haiti, you see an island that looks from the air to be about half brown and half green. The green part of the island is the Dominican Republic and the brown part is Haiti. In Haiti, they cut down much of the vegetation for fuel.

You wonder to yourself: if you were in charge of Haiti, how on Earth could you get out of this? How can you deal with these problems on your own? These problems require America's attention. Our military force, no, not in my judgment, but our attention, yes.

We need to understand that when our forces leave, there will still be ways to help people in our neighborhood who very much need our help.

Does anyone here understand what kind of courage it must take for a group of people, including children, to get in a small boat, which may not be seaworthy, and put out to sea and try to sail to America? I know many people consider the Haitian boat people a nuisance. They do pose a problem for our country, but they are in many, many cases very brave people risking their lives to try to better their condition.

The best way to improve the lives of Haitians is for us to find ways to help Haiti, not with military force, but in other ways.

I would say to my colleagues that all of this relates to hunger. Hunger in the world creates instability.

My friend, the late Harry Chapin, the wonderful singer, used to say if you could solve the hunger problems of the world you would correct most of the problems that now require military action.

Hunger creates instability. It is in our own enlightened self-interest to tackle this problem.

When I began, I noted that it is a paradox that we are the bread basket of the world, and we produce all of this wonderful food, yet we have in our neighborhood people dying, people in Haiti with children who do not have enough to eat. In Cite Soleil, near the Port-au-Prince airport, a slum of 250,000 people, children were playing in garbage dumps, in open sewers. Haiti has some of the worst poverty you see anywhere around the globe.

We talk about national security interests and the use of force. There is not much debate about that because most of us feel we ought to withdraw the troops very quickly. Those who say that we have a national security interest in Haiti have a pretty thin case. But it is not a thin case to suggest that we, all of us, have a responsibility to look out for our neighborhood, to help people who desperately need it, and to decide there are some things we can do through the aid agencies that exist.

I would make one other observation. We have enacted an embargo around Haiti, an embargo that now has been lifted. Embargoes, by and large, strangle the poorest people in the countries where embargoes have been imposed. And that is certainly true in Haiti.

But let me tell my colleagues what just happened this morning. A missionary friend of mine, who is now in Haiti, called to tell me there are a million and a half pounds of desperately needed food and medicine in a ship sitting at the pier in Port-au-Prince. The missionaries cannot get it off loaded for various reasons. So I spent some time on the phone trying to figure out how to get that million and a half pounds of food and medicine off the ship that is now at the pier.

This is the sort of thing that we must speed up if we are to help the human condition in Haiti.

I am not a foreign policy expert. The foreign policy experts here will discuss a lot of higher sounding things. But in the final analysis, the question for the people of Haiti is what will their life be like tomorrow or the next day? What will life be like, for themselves and those they love?

The answer to that question will largely be determined by whether the Haitian people have enough to eat, and whether the hospitals and clinics in Haiti are able to treat those who are sick.

We, and others in the world in our situation, can and should help the Haitian people out of this terrible, terrible predicament in which they find themselves.

Let me thank the Senator from West Virginia for the patience and courtesy he has extended to me.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Under the most recently adopted unanimous-consent agreement, the President pro tempore is recognized, and under the previous order the President pro tempore controls up to 1 hour.

Mr. BYRD. Mr. President, I thank the distinguished Chair.

I understand that Mr. GORTON wishes to speak for 5 minutes and Mr. DECONCINI wishes to speak for 7 minutes.

I ask unanimous consent that my rights to the floor may be protected while I yield a total of 12 minutes, not against my time, but I yield 12 minutes of our time so that those two Senators may be recognized and they will get time from my own side appropriately and then I may then be recognized again.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from New Hampshire, Senator GREGG.

Mr. GREGG. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. GORTON. Mr. President, the resolution before us is a fairly good response to a terrible solution. The majority leadership prohibited this body from taking effective action before the occupation of Haiti, almost certainly because that kind of occupation would have been repudiated by the vast majority of the Members here. Today, however, we are faced with a profoundly different set of challenges. We are faced with an occupation in being. Domestic discord under circumstances like this will almost inevitably damage the morale of our armed services in Haiti, perhaps eventually our effectiveness, and may itself result in American casualties. It should, therefore, be avoided.

I have expressed my strong objections to our mission in Haiti on a number of occasions, but those objections in no way reflect upon my admiration for the troops we have there today. They have done a remarkable job, and they certainly have my full support and I believe that of all of the Members of this body.

Since the President plans to keep them there until at least March, however, I believe it most appropriate that we now turn our attention to returning those troops safely and as promptly as possible.

The first part of any such effort is implicit in the resolution before us now. While many Senators, including this one, want to see the troops brought home as soon as possible, our senior military commanders warn that a mandated, date certain withdrawal might well jeopardize soldier, sailor and marine lives. I defer, therefore, and am willing to let the military determine the manner and the date on which the troops can best be removed.

I also consider it important that we help the administration clarify its goals. The objective that it has offered—the creation of an environment in which democracy can be restored—is at least a moving target. It is highly questionable that there has ever been a democracy in Haiti which could be restored.

First, our military had originally considered the de facto military forces in place to be their greatest obstacle, but it is now the pro-Aristide forces hungry for quick justice that occupied attention. In a similar vein, our military has been forced to relinquish its plan to work with the Haitian military and has intensified the search for guns by buy-back or confiscation. Each of these policy shifts could possibly endanger American lives, and may still do so. If we can clarify our overall goals, therefore, and what is required of our armed services precisely, we can minimize the danger to our troops.

Finally, even when we do clarify these goals, it may very well be left to this body to decide whether we can ever reach the apparent goals that this administration has laid out for our military.

Some 75 percent of Haiti's population is unemployed and a third relies on aid for food and health care. After 200 years of despotic government, featuring coups, assassinations, and corruption, there is little civil society to rebuild in Haiti. Congress may need to intervene, as it did with Somalia, to prevent our soldiers from pursuing a mission that can only be achieved at unacceptable cost, if, indeed, it can be achieved at all. Bayonets are not generally a good foundation for a new democracy.

Since these three issues cannot be effectively addressed as most of the Senate would have hoped—through a debate over a Presidential request for congressional authorization—we are left to do what we can now that the occupation is in place. On the whole, I consider the resolution we have before us helpful: It will demonstrate this body's support for the troops, express our disappointment with the administration for not seeking congressional authorization, and demand that the administration clarify its goals in Haiti. I certainly will vote in its favor. But, as this occupation continues into its third week, I stress to this administration that we have placed our troops in danger in order to pursue a probably unattainable goal, one not in the vital interests of the United States, and that if our troops linger too long in Haiti it will be difficult to sustain bipartisan support for their presence there. Clear goals and a prompt removal are very, very much in order.

I thank the distinguished Senator from West Virginia for yielding.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona, Senator DECONCINI, is recognized for up to 7 minutes, with time chargeable to the majority leader or his designee.

Mr. DECONCINI. Mr. President, I believe I have time under the unanimous consent agreement for up to 15 minutes. I suggest the time be charged against that time.

The PRESIDING OFFICER. The 7 minutes that the Senator has requested will be chargeable to the Senator. And the Senator is recognized under the order in his own right.

Mr. DECONCINI. I thank the Chair and I thank the distinguished President pro tempore for this time.

Mr. President, I have listened to some of the debate here. I am pleased to see that there is going to be, I believe, unanimous support for the resolution before us concerning Haiti.

What disturbs me, Mr. President, is the tremendous amount of rhetoric and I think politicking that has gone on here directed towards President Clinton and his policy in Haiti.

Mr. President, I do not need to remind anybody that President Clinton is our Commander in Chief and deserves the support of this body and the support of the American people.

We cannot both stand up and praise our troops and then run down the President of the United States for his policy in Haiti. That only serves to undermine our troops. Our men and women serving in Haiti deserve our strongest praise and support. That they have performed their mission with tremendous professionalism is reflected in the great warmth with which they have been received by the Haitian people.

The mission in Haiti, by any assessment, has been highly successful. It is clear that the criticism is purely and simply a political attack against this President. Despite all evidence of the success of the mission, opponents continue to exploit the issue for the November elections.

I support this resolution. It is very reasonable and does not set a time certain, but expresses the concern of all of us, No. 1, that Congress should be involved; No. 2, that we should get out as soon as we can; and, No. 3, as I read it, that the policy of the Clinton administration is succeeding. It is an important issue that merits the reasonable discussion that we are having today. But, Mr. President, I believe we jeopardize our mission and our approximately 20,000 troops that are in Haiti if we let this continue to be politicized.

I understand what the Democratic leadership had to agree to in order to ensure that no date certain for the withdrawal of our troops was included in this resolution. However, I must point out that the Republicans would never have tolerated this type of micromanaging resolution with a Republican in the White House. And I have been here long enough to experience exactly what I just said.

The distinguished Republican leader, Senator DOLE, when he was speaking of the failed coup attempt against Noriega, said:

> A good part of what went wrong did not happen last weekend. It started happening many years ago when Congress first decided to start telling the President how he ought to manage a crisis.

Yet, many of our colleagues continue to tell this President how he ought to manage this situation, as if they were President. Well, some of them will run for President. Let them then make those decisions.

It is President Clinton's leadership which allowed our troops to go into Haiti, not as an invasion force but peacefully. It is President Clinton who has begun to achieve what was sought by the Bush administration—the restoration of a legitimately elected President of Haiti and the building of democratic institutions in that country.

It was President Bush who said, in September of 1991, after the coup in Haiti:

> This constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States.

After 3 years of negotiations and other peaceful attempts to get General Cedras and the other leaders of the coup to step aside, President Clinton made a decision that it was time to bring an end to the terror and impoverishment that the military in Haiti were perpetrating against the Haitian people.

He was prepared to send in troops to restore democracy, a policy articulated by President Bush and then Secretary Baker.

The coup by Cedras and Co. snuffed out overnight the democracy that the Haitian people were beginning to build for the first time in their history. Efforts to peacefully restore the democratically elected Government of Haiti were met with lies, broken promises, and arrogant disregard by Cedras and his groups.

During the debate in this Chamber before our troops went into Haiti, many Republicans claimed that the President was motivated by a desire to bolster his numbers in the polls. That, of course, did not happen. So the continued harping on this policy is surely, in part, motivated by a desire to affect the November election this year.

The 180-degree turn made by those Republicans attempting to tie the hands of a Democratic President, after they argued that two previous Republican occupants of the White House should remain unfettered, is astounding.

Where were these Republicans during the Panama, Grenada, and Persian Gulf operations? If Senator DOLE's comments during those debates are any indication, they were arguing that the Democrats should not interfere in the President's foreign policy.

During that debate, the distinguished minority leader said:

> I think my own view is the President of the United States has to make the final decision.

Continuing with the quotation:

> . . . the primary thing is not pleasing all Members of Congress, it's protecting American lives in that area and restoring democracy. You can't please every Member of Congress, whatever you do, though I think in this case it should be almost unanimous.

While I think it is appropriate to debate the issue of congressional participation on such issues, it should not be made a political issue, once a decision has been made, as a decision has been made here.

After the debate and the vote in the Persian Gulf, every Senator voted—I believe every Senator, except maybe one—to support the President completely, as we did during the Grenada and Panama invasions. And that is the proper role of this body and that is what we ought to do now.

Mr. President, the President's policy in Haiti deserves praise, not politically motivated criticism. The military thugs who forced the democratically elected government from power are no longer terrorizing Haitian citizens, and great progress has been made toward restoring civil order, building the foundations for democracy, and monitoring and training the Haitian police.

While I want our troops to come home as soon as possible, a fixed date for their return, in my view, would be unsound. It is the generals who need to be consulted and the President who has to make the final decision.

I thank, again, the distinguished President pro tempore for permitting the 7 minutes that he so graciously did, as he always does, in giving time to Senators and putting their preferences before his own.

The PRESIDING OFFICER. The Senator's time has expired. Under the previous order, the President pro tempore is recognized for up to 1 hour.

Mr. BYRD. Mr. President, I thank the Chair. Mr. President, I cannot support the joint resolution offered by the majority leader and the minority leader.

Mr. President, some 20,000 American troops are now deployed in Haiti. This formidable force is intended to maintain order during the transition of power and return of the democratically elected Government of Haiti. According to current plans, lesser numbers of United States troops, perhaps 2,000 to 3,000, will remain in Haiti after the peacekeeping mission shifts to a U.N.-run operation. And the United Nations mission will remain in Haiti until the next democratically elected President of Haiti is inaugurated in February 1996. So, the President and the administration have committed the United States to a substantial and long-term operation. This commitment is not risk-free, either, as the events of Saturday, September 25, proved, when one American soldier was wounded and 10 Haitians were killed, or on Sunday, October 3, when a United States soldier was wounded in a deliberate attack.

Creating a stable environment in Haiti that allows for the return of the migrants now housed at Guantanamo, Cuba, and which allows Haitians to live in peace in Haiti, is a result that they, and we, should hope for. But, inevitably, there are costs involved. The military costs of intervening in Haiti are estimated at about $120 million for the remainder of fiscal year 1994 and about $300 million in fiscal year 1995, according to the Department of Defense. U.S. reconstruction and humanitarian assistance in fiscal year 1995 will total some $200 million, according to preliminary figures provided by the Office of Management and Budget. Some estimates of the combined cost of United States actions in Haiti from different think tanks have ranged as high as $1.5 billion through 1996—that is billion spelled with a "b"—including costs already incurred for sanctions enforcement and migration-related costs.

These are substantial sums, and are yet another reason why the Congress should be actively involved in these decisions. Thus, this commitment in Haiti raises important questions, not only about our actions toward that nation, but also about the way this body and the executive branch make decisions on matters of war, peace, intervention, foreign policy, and coalition-building.

In my view, regarding the matter of Haiti, prior to the military action ordered by the President on Sunday, September 18, there were far too many mixed signals, far too much overblown rhetoric, and far too many threats to take military action without the full force of congressional and public support behind them. And then in the end, with an invasion that was launched on a Sunday and pulled back, the Congress was faced with a fait accompli, an invasion ordered to begin at midnight on a Sunday night, when Congress was not in session, before expected congressional action early in the following week. While last minute negotiations fortunately altered the invasion and transformed it into an agreed-to, and relatively trouble-free, occupation, the fact remains that U.S. troops were committed to an action in a sovereign nation without the authorization of Congress.

But for those last minute negotiations there would have been an invasion.

I now read from a letter written by Abraham Lincoln on February 15, 1848, addressed to a friend, William H. Herendon. The letter is to be found in the collected works of Abraham Lincoln.

> * * * Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such purpose, and you allow him to make war at pleasure. Study to see if you can fix any limit to his power in this respect, after having given him so much as you propose. If today he should choose to say he thinks it necessary to invade Canada to prevent the British from invading us, how could you stop him? You may say to him, "I see no probability of the British invading us"; but he will say to you. "Be silent: I see it, if you don't."

The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it—this is what Lincoln is saying to his friend—by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

The invasion of Haiti was launched when Congress was not in session, near the close of the fiscal year, near the close of the session of Congress.

My problem with this pending resolution is not that I disagree with its provisions. In fact, I agree with them. I certainly agree that the President should have sought and welcomed congressional approval before deploying United States Armed Forces into Haiti. I believe, of course, that it is unlikely that such authorization would have been given by the Congress.

And what would that tell you? That would say that the American people were not behind such an invasion. This is the "people's branch" and the administration well knew that the people's branch would not give it authorization, would not authorize an invasion because the people's branch accurately represented the opposition of the people to such an invasion.

The President, having chosen to deploy forces without such authorization, is in the difficult position of having not secured congressional support for the commitment he has undertaken for the Nation. I believe this is politically unwise for any President, because if unexpected calamities occur, such as happened in Somalia last year and in Beirut a decade ago, then the commitment of forces can become politically untenable overnight, forcing an embarrassing withdrawal.

I also agree that our forces should be withdrawn from Haiti in a "prompt and orderly" manner. In fact, I voted for an earlier resolution offered by the two leaders on this matter, with identical language, on September 21, 1994. Further, I believe the resolution before us contains very useful reporting requirements as regards costs, the planned follow-on U.N. operation, security, duration, and other matters. But resolutions such as this one, and the one on September 21, are not binding, and they do not substitute for the constitutional role that the Congress has with regard to matters of war.

In fact, there is much in the pending resolution that I agree with. My concern is that it does not go far enough. The resolution does not include the setting of specific parameters on the duration and scope of this operation, which was done in the cases of both Somalia and Rwanda, and done in both instances at my urging and on my amendments. I believe that we should stand and take the responsibility to fund this operation, if we support it, and for a specific timeframe. Afterward the operation would transition to the United Nations, or end entirely, or be extended if the President requested such an extension and appropriate funding, and Congress approved the request and the funds. I believe that is the way to discharge our responsibilities and our constitutional role, and it would serve as a mechanism for the President to develop what support he can for his policy.

The President sought the United Nations' support, but not the Congress' support, not the elected representatives of the American people. Go to the United Nations, yes; get their OK, get their approval, get their blessing. But do not ask the Congress for its approval or for the funds. That was the course that was followed.

Madison wanted the power of the Commander in Chief to be kept separate from the power to take a nation to war. In "The Writings of James Madison," volume VI, page 148, Madison states as follows:

> Those who are to conduct a war cannot in the nature of things, be proper or safe judges, whether a war ought to be commenced, continued, or concluded. They are barred from the latter functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

Jefferson praised the transfer of war power, as we find in "The Writings of Thomas Jefferson," volume V, page 123:

> We have already given an example, one effectual check to the Dog of war by transferring the power of letting him loose from the executive to the legislative body, from those who are to spend to those who are to pay.

Section 2 of article II of the U.S. Constitution—Mr. President, we ought to read that document once in a while. Alexander the Great, who was a friend of Aristotle and a student of Aristotle, admired most, of all literature, the "Iliad," written by Homer. Alexander asked Aristotle to correct a copy of the "Iliad" for him. Plutarch tells us that Alexander the Great slept always with his dagger and a copy of Aristotle's corrected version under his pillow—under Alexander's pillow.

Mr. President, I do not sleep with a copy of the Constitution under my pillow, nor do I sleep with a copy of the "Iliad" under my pillow, but I always keep a copy of the Constitution near, if not in my pocket—and it is not always there—but nearby, along with the Bible and a copy of "Plutarch's Lives." I try to retire to that Constitution, as I do to the Bible, and other books, from time to time, and each time I find something in them I did not find before.

Section 2 of article II of the U.S. Constitution I am well acquainted with. It is not something I discovered yesterday or the day before. Here is what it says:

> The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States * * *

But the actual calling of the militia into service is done by the Congress, not by the President. As we note in paragraph 15 of section 8 of article 1, the Congress shall have the power "to provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions; * * *."

We are accustomed to the now familiar pattern of most recent chief executives; namely, that of invoking the title "Commander in Chief" and descriptions of him as being the sole organ of foreign relations or chief of administration, to suggest a conclusion of constitutional invulnerability. No statutory or court decision of authority is ever volunteered in support of the conclusion. At its heart, this issue is a separation of powers issue.

Then, at the heels of any introduction of forces, comes the cry not to legislate any timeframe or other criteria governing the scope or duration of the operation, or invasion, on the claim that we have to "support our troops on the ground." "Don't jerk the rug out from under our troops; we have to support them." So the administration gets them in on a Sunday and then they are in. We heard that for nearly a decade in Vietnam, some of my colleagues will recall. It is as if the introduction of forces somehow somehow, somehow, suspends the operation of our constitutional distribution of powers.

The Constitution divides governmental powers into three areas; legislative, executive, and judicial. And distributes these powers among three coequal branches: Congress, the President, and the Courts; and it provides a system of checks and balances to keep the powers separate and the branches equal. Underlying this scheme of government in the area of immediate concern is the desire to establish interdependence between Congress and the Executive in hopes of fostering cooperation and consensus in the supersensitive areas of national security and foreign affairs. As Commander in Chief, and the chief spokesman in the field of foreign relations, the President has independent powers, not simply those conferred on him by statutes. But, at the same time, by virtue of its power over the purse and its powers to raise and support armies, and its powers to provide and maintain a navy, and its power to regulate both, Congress has broad constitutional powers implicating both national security and foreign affairs.

The separation of powers principle is not intended to benefit me, or this branch in particular, or any other Members who temporarily hold this high office. It is meant to protect individual liberty—the individual liberty of the people who come here and visit in the galleries, who walk the streets and toil in the mines, and who sweat in the fields of this country.

The purpose of the separation of powers and checks and balances is to protect the individual liberty of every man, woman, and child in this great country. That is why the Framers separated those powers. That is why the Framers wrote into that great document the checks and balances, the main balance wheel of which is the power over the purse.

The separation of powers principle is intended to prevent one branch of government from enhancing its position at the expense of another branch and, thus, disturb the delicate balance of powers that the Framers assumed as the best safeguard against autocracy. The President certainly has command of the army and navy and the militia, and he may respond to an attack upon the United States or deal with a sudden and unexpected emergency without any previous authorization by the Congress. He has that inherent power to act in a sudden, unexpected emergency to protect this country against an invasion. There is also authority for the proposition that he has inherent power to act to safeguard American lives and property abroad. It should be noted, however, that Congress is under no legal obligation, Congress is under no constitutional obligation, to fund any foreign or military policy advocated by this President, the last President, or any President of the United States, and the President is totally dependent upon Congress for authority or money, and usually both, to implement any policy. Congress is under no legal obligation or constitutional obligation to supply either or both. While Congress cannot deprive the President of command of the army and navy, only Congress can provide him with an army, or a navy, or a militia, to command.

The Constitution in article I, section 1, states, "all legislative powers"—not just a few, not just some, not many, not most but all, all legislative powers—"herein granted"—here—"shall be vested"—not may be vested, shall be vested—"in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Now, I know around here in many instances it depends on whose kettle is calling the pot black, and we will rise in indignation if it is the President of the other party doing something but few will rise in indignation and support this Constitution when it is a President of one's own party. It is a great tendency to point the finger, stand on the sideline and be the first to criticize if something goes wrong. Why not read the Constitution. We take an oath to support and to defend it, to live by that Constitution. The Constitution is always there. It does not sleep. It does not rest. It does not take recess. And it is for me, it is for our President, whether he is a Republican or Democrat, and it is for this Congress now, yesterday, and forever to abide by.

The Constitution in section 9, article I, paragraph 7 states, "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law." This provision is a restriction upon the disbursing authority of the executive branch, and it means that no money can be paid out of the Treasury unless it has been appropriated by an act of Congress. Accordingly, the absolute control of the moneys of the United States is in Congress—that is what this Constitution says—and Congress is responsible for its exercise of this great power only to the American people—not to any political party, but to the American people; not to any President, not to any general but to the American people; not to any newspaper but to the American people.

The power to make appropriations includes the authority not only to designate the purposes of the appropriations, but also the terms and conditions under which the executive department of the Government may expend appropriations. The terms and conditions under which appropriations are made are solely in the hands of Congress, with the President allowed one thing—the right to veto a bill in its entirety—and it is the plain duty of the executive branch of the Government to comply with those terms and conditions set forth by the Congress. The power of the purse provides the most effective basis for ensuring compliance by the executive branch.

Now we have before us another nonbinding measure in the form of a joint resolution offered by the majority leader and the minority leader. This language in this resolution neither defines the mission of the United States operation in Haiti nor places any limits on how long it may last, nor how may troops might be committed, nor how much money might be spent.

The administration has stated that United States forces should help stabilize the security situation in Haiti so that orderly progress can be made in transferring the functions of government to the democratically elected Government of Haiti. This joint resolution does not help to keep the mission limited to this reasonable goal. It simply requires the President to prepare and submit to the Congress within 7 days a statement on the administrative policy on Haiti, the military mission, and on the general rules of engagement. Any changes to the policy, the military mission, or to the rules of engagement are to be reported to the Congress within 48 hours. And so, if the Congress were to disapprove of the policy, or to any changes in the policy, mission, or rules of engagement, additional extraordinary effort would be necessary to register disapproval or to legislatively limit the administration after the fact.

The administration's stated goal is a reasonable one, given the situation in Haiti, but I believe that unless it is linked to a definite termination point, and a funding cutoff, this mission could keep United States troops in Haiti for a very long time, as they were earlier so engaged for 19 years in this century, trying to stabilize the situation. There is nothing in this joint resolution to stop the administration from leaving U.S. troops there indefinitely. I do not believe that the President intends to mire the United States in an indefinite nation-building exercise—in fact, I am sure he does not—nor am I saying that the democratically elected Haitian Government cannot smoothly take over the functions of government and maintain order. Indeed, I pray that they can, but we cannot predict what problems might arise. Karl von Clauswitz astutely observed in 1832 that, "War is the province of uncertainty; three-fourths of the things on which action in war is based lie hidden in the fog of a greater or lesser degree of certainty." If the mission that has been outlined by the President cannot be accomplished within a reasonable amount of time, then I think the Congress, the administration, and the American people ought seriously to consider the long-term prospects for success in this operation.

Linking a defined mission to a definite end, enforced by a funding cutoff, can be a positive tool. As we have learned from previous United States military missions abroad, most recently in Somalia and Rwanda, it prevents mission creep, the gradual expansion of a mission from one of limited and well defined tasks to one that gradually expands to all-inclusive and long-term nation-building. Having committed the prestige of the United States to this mission in Haiti, it becomes all too easy to keep gradually expanding our mission there in an attempt to guarantee the long-term success of the operation. I believe that it would be useful for the administration, and for the Congress, to exercise the tool of restraint in regard to the Haiti operation.

We must take care to prevent the United States military mission in Haiti from expanding into nation-building. Defining, and thereby limiting, the mission and duration of the operation effectively prevents mission creep. Our mission is not democracy-building. We heard all this talk in the beginning about restoring democracy. We are not restoring democracy. One cannot restore that which does not already exist.

Our mission is not democracy building.

I hope the people of Haiti can build a strong, sound democracy. The early success of the operation in Haiti bodes well for this difficult effort. But it is not a job for the U.S. military, and not the job of the Department of Defense.

This joint resolution before us also requires monthly reports on the progress being made toward a transition to the U.N. mission in Haiti. I agree with this goal of a speedy transition to the United Nations. But without the possibility of a firm date for the U.S. mission to end, what incentive is there for the United Nations to take over? The mission in Haiti now is paid for exclusively by the nations participating in the operation, which means that the United States is paying nearly all of the costs. When the United Nations assumes its role in Haiti, if it ever does, the United Nations must not only find the troops for the mission, but it must find the funds. The United States pays just over 30 percent of the prospective U.N. operation in Haiti. So what incentive is there for the United Nations to move quickly to take over in Haiti? If they can stall long enough, the United States could remain in Haiti, almost alone, until the inauguration of the next President of Haiti, in February 1996. That is the target day for the end of the U.N. mission in Haiti. Anything less than a fixed date for a United States withdrawal risks keeping far larger numbers of United States troops in Haiti than would otherwise be the case.

The lack of any definitive date for an end to the United States operation in Haiti puts our troops there at greater, not lesser, risk. I know that the Chairman of the Joint Chiefs of Staff and the Secretary of Defense, among others, have argued that setting a fixed date for the end of the U.S. mission "puts our troops on the ground at risk." Well, a fixed date for withdrawal did not have that effect in Somalia, and it did not have that effect in Rwanda. I do not believe it will in this case, either. In fact, the lack of a foreseeable end to what virtually amounts to a United States occupation of Haiti may actually put our troops at greater risk. Elements in Haiti that want to see us pull out in a panic know that all they have to do is to stage a bloody and vicious attack on our troops, as happened in Somalia. That would change the mood on this floor pretty dramatically, and there would be lots of support for an amendment to withdraw immediately. Although there seems to be little support for such a measure now, I believe that it would be much better to act reasonably and calmly to establish limits now, rather than to wait for panic later.

In addition to "putting our troops on the ground at risk," opponents of a date certain for a U.S. withdrawal argue that setting a date hurts the morale of the troops.

Of all of the laughable excuses that I have seen trotted out by the administration in support of the action that has been taken, it is this one. Setting a date might hurt the morale of the troops. That is nonsense.

I have difficulty understanding how active duty troops sitting in the hot sun in Haiti, far from their families, or reservists called away from their families and from their jobs, could fault their elected representatives for demonstrating concern about keeping their mission limited in scope and concern about bringing them home as quickly as possible. I do not think they want to be in Haiti forever, any more than I think the people of Haiti want United States forces in Haiti forever. I think the families of American troops in Haiti also want to know that the Congress is keeping a watchful guard on their loved ones, as well as on their tax dollars.

Mr. President, we have heard a lot of concern expressed here for the threats to military readiness, and how all these peacekeeping missions are eating into the military's operations and maintenance accounts, and into military training accounts and the like. On many occasions, Senators from both sides of the aisle have come to the floor to warn against anything that would threaten our readiness or let the military slip back into a "hollow force." In the fiscal year that just ended, the need to divert funds from training, operations, and maintenance accounts to cover the incremental costs of unbudgeted peacekeeping, humanitarian, and other crisis operations left many military units too short of funding to continue training, keep up flying hours, or to maintain their equipment. Secretary of Defense Perry was forced to invoke the venerable Feed and Forage Act. That act, dating back to 1820, allows the Department of Defense to incur funding deficiencies to continue basic support for the military.

The Senate Appropriations Committee has tried to assist the Department of Defense in dealing with these funding shortfalls by including supplemental funding in the foreign operations and defense appropriations bills to replace funds expended for the incremental costs of operations in Rwanda, Cuba, and Korea. Yet, here we are, in this resolution, accepting an open-ended military operation over which the Congress exerts no control, where the Congress accepts a commitment of troops for an indefinite period—and that is why I will not vote for this resolution—and where the administration—given so much flexibility in terms of mission and duration—is merely directed to report on its plan for "financing the costs of the operation and the impact on readiness without supplemental funding." Let me repeat that: "without supplemental funding." In an era of sharply declining budgets, it seems highly unlikely that this administration—or any administration—can pay for the incremental costs of a substantial military operation without either supplemental funding or more cuts in training, operations and maintenance, or R&D and procurement programs. This is true for other Government agencies and departments as well. Without supplemental funding for new initiatives in Haiti, for reconstruction and development aid that will keep Haiti on the path toward long-term stability and dissuade "economic refugees" from again seeking United States shores, other priority programs will suffer. Without supplemental funding for the Department of State, the Department of Justice, or the Agency for International Development, important counterproliferation and counternarcotics programs, and aid to Russia and the former Soviet States, might all suffer.

If we are serious in this body about our constitutional prerogatives and our responsibilities, we have got to exert our authority and fulfill those responsibilities. We cannot hide behind what are virtually toothless, hortatory resolutions and claim that we have, thereby, lived up to our constitutional duties. A failure to do so merely opens the door for the "mission creep" we all claim that we so worry about, particularly in missions of this type which are nontraditional and which call upon our fighting men to perform tasks to which they are unaccustomed.

Destroy their morale? Impair their morale? Well, I will laugh all the way home. I would not want one of my grandsons or granddaughters in Haiti this afternoon. I do not think it would destroy or hurt their morale to have a cutoff date, or a cutoff of funds. Let me say parenthetically that I would not support cutoff dates, or a cutoff of funds if our military forces were engaged in any military conflict that involved the security interests of this country—never. I would not be a party to drawing the line and cutting off funds where the security interests of this country were engaged. But the security interests of this Nation are not involved in Haiti. Haiti is not a threat to the security of this country. There is no sudden unanticipated emergency requiring the use of troops, without the approval of Congress.

I have no doubt that President Clinton fully intends to try to remove our troops in a timely fashion, but there is always the tendency to want to stay just a little longer in missions such as this, as we stayed too long in Somalia.

Once our troops are in a country, then you can be sure that this administration, or any administration—I have been here through several administrations and they are all alike in that respect—will find some reason, some excuse to go further, or some excuse as to why Congress should not act. Well, do not jerk the rug out from under our President, they say. Do not jerk the rug out from under our troops. Do not do anything to hurt the morale of our troops. Do not do anything to put them at great risk.

I believe a time certain for withdrawal would be a constructive act by this body, and one which would reassure the mothers and fathers of our service men and women about the length of time we will ask their children to remain in harm's way.

We in the Senate often like to have it both ways on matters pertaining to war and foreign policy. Not too many days ago dozens of Senators took to this floor to excoriate the administration on the proposal to commit troops to Haiti. The rhetoric was hot—oh, sweet rhetoric—hot, heavy, and angry, and the warnings of doom reverberated throughout the rafters of this Chamber. Now, only weeks later, because no lives have yet been lost in combat, the heat of the moment has become the warm glow of complacency about this matter. How magically the passion cools here. How quickly things change.

But constitutional responsibilities do not change, and our duty to act in the people's best interests never alters. And the words of Members in this Senate must confuse and confound when we excoriate on one day and shrug shoulders on the next.

That, in my view, is what this resolution amounts to, in terms of any real assertion of the constitutional role of the Congress—a shrug of the shoulders.

I would find little comfort in reports and mission definitions if one of my fine grandsons or granddaughters were in Haiti today. This resolution—this piece of paper would bring me little comfort—little comfort. No wonder the American people are disgusted with the men and women who run away from their constitutional duties. Reports are useful, but they are no guarantee of a speedy return home for our young men and women like an end date certain, backed up by a cutoff of funds, enforced by a vote in this body.

The President can always come back, state his case, make a good justification for our extending the date, ask for more funds, and if a good case has been made, Congress can vote to provide the moneys, undoubtedly.

I believe that the setting of such a date is our solemn responsibility. I believe that the setting of such a date is a constructive act which would help focus and tighten the scope of the mission.

I believe that the setting of such a date will help the United Nations to get its act together and prepare to move into Haiti as quickly as possible.

My amendment on Rwanda helped the military to focus and to complete that mission ahead of schedule and with considerable savings in cost. I believe that my amendment on Somalia ended a situation wherein the original stated mission had not only crept beyond its boundaries but galloped totally out of control. Both of those measures contained certain end dates with a cutoff of funds on those dates.

To me our duty is clear. While I opposed a United States invasion of Haiti, and so stated well in advance, I do not propose to hamstring our troops in the field or the rest of the Department of Defense by supporting language that could clearly undermine our readiness, and that is what this language in this resolution can do—undermine our readiness, because we continue to draw down funds that are needed by our military forces to keep our military forces ready. Nor do I want to support language that might cause other important foreign policy or Justice Department initiatives to be robbed to pay for programs in Haiti. I remain consistent in my belief that the Congress has a greater role to play in this matter than the feeble one—the feeble one outlined in this resolution.

Madam President, I yield whatever time remains to the two sides, and I ask unanimous consent that it be divided equally among the two sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The 7 minutes will be equally divided.

The Senator from New Hampshire.

Mr. GREGG. May I ask how much time remains?

The PRESIDING OFFICER. The Senator has 22 minutes remaining.

Mr. GREGG. Madam President, I yield 7 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Madam President, I wish to thank the able Senator for his kindness.

Madam President, I am proud to be an original cosponsor of this resolution.

Many Members of the Senate worked hard, in a bipartisan manner, to develop the resolution we are considering today. The resolution contains all the elements I believe to be necessary.

The resolution commends the men and women of the Armed Forces who are performing a difficult mission in an outstanding manner. Our young men and women are once again demonstrating to the world that they can accomplish the most complex missions and do them very well. Every day we, and the world, see disciplined military personnel who understand their jobs and perform those jobs under adverse circumstances. I am proud of these young Americans. I know the American people are proud of them too. I hope our friends and enemies around the world are also watching. Both should be confident of America's capabilities.

Madam President, these magnificent young people of our military forces deserve to know why they are there and what they are to accomplish. The American people deserve this as well. That is why we have asked the President to clearly define the national security objectives and the military mission of our forces in Haiti. These markers must be established for all to know. I am concerned that we are already witnessing mission creep. We were told that only 15,500 U.S. Forces would be necessary in Haiti. Today there are about 25,000 and some Marines have been redeployed. We were told that U.S. Forces would not become Haiti's police force. Yet we see American soldiers arresting Haitians, patrolling streets and performing crowd control duties. We were told U.S. Forces would not be an occupying force. We see our military taking over radio stations and running electric power plants. This sounds like an occupation to me.

Our troops also deserve to know they have the full backing of the American people whenever they are committed to a difficult and dangerous mission. This backing is most clearly manifest by a congressional resolution prior to committing U.S. Forces to a nonemergency situation. Such a resolution demonstrates the support and resolve of the American people and helps to sustain the national commitment if the situation becomes more difficult than anticipated. The administration passed up the opportunity for such a resolution. Today, we express the sense of the Congress that the President should have sought congressional approval.

Madam President, we have not established a specific date for the withdrawal of our forces. We do, however, express the sense of the Congress that all U.S. Forces should be withdrawn from Haiti in a prompt and orderly manner as soon as possible. This is an important point. Our military commanders need the flexibility and latitude to conduct their operations. Military commanders should be working toward accomplishing their mission, not against an arbitrary time table. At the same time, I think the resolution is very clear that we do not intend to have U.S. Forces in Haiti for a protracted time. If there is not significant progress toward withdrawal by the time Congress returns in January, I am sure we would consider more stringent measures.

As I have said before here on the floor of the Senate, I urge the President to work with the Organization of American States to develop a plan for the humanitarian, economic, and political recovery in Haiti. This resolution recognizes the lifting of the economic embargo and the President's efforts to persuade the United Nations to lift their sanctions. These are positive steps. I hope to see more positive initiatives on the political and economic fronts from the United States unilaterally and from our regional partners.

The resolution also requires detailed monthly reports as long as our forces are in Haiti. The most important of these reports are the costs and sources being used to fund the operation. The longer we are involved in Haiti, the more scarce resources needed for military readiness are consumed. Even if there is a supplemental appropriation later next year, Army, Navy, Air Force and Marine units will have missed critical training opportunities and readiness will have begun to erode. Money alone cannot bring back the lost training or degraded readiness.

In conclusion, Madam President, Joint Resolution 229 is a good resolution which preserves the flexibility of the military commanders and expresses, in a clear, concise manner, the sense of the Congress on the withdrawal of U.S. Forces; the necessary departure of the de facto government; and the orderly transition to the legitimate government of Haiti. I urge my colleagues to support the resolution.

The PRESIDING OFFICER. Who yields time?

Mr. DODD. Madam President, we have no Senators over here at this moment. We expect several to arrive momentarily.

In the meantime, if my colleague from New Hampshire does not object, I suggest the absence of a quorum and ask unanimous consent that the time be charged against both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Madam President, I ask the manager of the bill on this side of the aisle to yield me 5 minutes.

Mr. DODD. Madam President, I am happy to yield to my colleague from Nebraska 5 minutes, or some additional time if he so needs it.

Mr. EXON. I thank my friend from the great State of Connecticut, and I thank the Chair.

Madam President, I am going to be very brief on this because I think probably most of the issues from almost every perspective have been addressed already on this matter.

I wish to associate myself with the remarks just made by my great friend and colleague from South Carolina. I think Senator THURMOND summed up the whole situation very, very well.

I would also say that I think there has been a very good debate on this matter. Many important things have been brought out. Certainly, the very well put remarks by the President pro tempore, the senior Senator from West Virginia, should be listened to and understood by all.

I was very much impressed by the remarks made by Senator DECONCINI, the Senator from Arizona. I thought some excellent points were made earlier in the debate, and I have been able to listen to most of it, by the junior Senator from North Dakota.

I think that there has been some good input on the matter that confronts us.

From the very beginning of this controversy, though, Madam President, I would simply like to say that this Senator from the State of Nebraska did not feel that troops should have been sent to Haiti in the first instance, but that is by the boards. The Commander in Chief made that decision. The Commander in Chief's decision may turn out to be right. But we have an obligation to express our views on this matter.

I am particularly impressed by the fact that with all of the other controversy and rancor that we have had in this body in the last few days, and especially the last few weeks of this session, the majority leader and the minority leader, with the assistance of many other Senators, have come to what I think is the right and proper action in the nonamendable joint resolution that is before us.

From the very beginning of some of the actions that have been suggested on this matter, I was shocked and amazed of what I thought was an inappropriate, ill-timed, ill-conceived resolution that came out of the House of Representatives on this. And I hope that a little more cautious look by the Members of the House of Representatives will see the wisdom of the very laborious, the very detailed, joint resolution that has been presented by the majority and the minority leaders.

Among anything else, it indicates to me that we can get together on some things that are most important. I do not know of anything more important than backing the troops that are there now, who are doing a truly outstanding job. And I believe that this Senate previously, and the people of the United States as a whole, while they do not always agree with the actions that are taken, are fully committed to the great men and women who are carrying on that action in Haiti today.

Let us pray, let us hope that they will be successful; that things can be worked out. And if that happens without bloodshed, then I think we can look back on this as, once again, the U.S. Senate doing its proper action by bringing this matter up for debate.

The whole war powers situation confronts us time and time again. We have never solved that to the satisfaction of this Senator. However, I think it would be very unwise for us to do anything more than what we are doing with this resolution.

By and large, I think that the leadership that we have seen from many of our senior Members of this body, especially including the senior Senator from South Carolina, who I think summed up my situation as about as well could be summed up in the remarks that he made a few minutes ago on the floor of the Senate. I congratulate Senator THURMOND once again. It has been a pleasure to work with him over the years. Here was a case where I think he was right on point.

I simply hope that we would overwhelmingly pass this bipartisan joint measure that has been hammered out by the majority leader and the minority leader and get on with other pressing business that we have to face.

Once again, I thank the hard work of all that made it possible to come to this bipartisan compromise. I hope it will receive resounding support when we vote on it in about an hour in the Senate.

I thank my friend from Connecticut for yielding me this 5 minutes.

I yield back any remaining time.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Madam President, I ask unanimous consent that Senator MCCAIN be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, I suggest the absence of a quorum, with the time being charged against both sides.

Mr. EXON. Will the Senator withhold?

Mr. GREGG. Yes.

Mr. EXON. I would like to be allowed to continue for 1 more minute, on the time of the of the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. At the close of my statement, I had intended to give some additional remarks, but I was afraid I was running out of time. Therefore, I asked for an additional 1 minute.

Madam President, there has been no harder worker than Senator CHRIS DODD from Connecticut on this whole matter. He has gone down to Haiti. Before he went down there and since he came back, his advice, his counsel, his carrying the ball on this measure has been very impressive to this Senator from Nebraska.

Among those that I wish to single out for special commendation and for a job well done, it is my friend and colleague from Connecticut, Senator DODD.

I yield back any remaining time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair would advise the Senator from Nebraska that he cannot technically put in a quorum call.

The Chair would ask the Senator from Connecticut if he wishes to do so.

Mr. DODD. Madam President, I suggest the absence of a quorum and ask that the time be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GREGG. Madam President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 19 minutes left.

Mr. GREGG. Madam President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Madam President, I want to begin by agreeing with several things said by the distinguished Senator from West Virginia, Senator BYRD. I guess it was inevitable in writing a sense-of-the-Senate resolution related to Haiti that if we were going to get most Members of this body to agree with it, if we were going to have bipartisanship, it was ultimately going to be what the distinguished Senator from West Virginia called it, and that is a toothless resolution.

I am in agreement with the Senator from West Virginia. I never supported sending American troops into Haiti. I want to get them out as quickly as possible, and I would like to set a time limit on their stay in Haiti. I would like to say to the President that as of a certain date, we want our troops out of Haiti.

There are those who argue that to set a time limit is to endanger American lives and, based on that argument, though it is an argument I do not agree with, I have withheld my support for an effort that would set a deadline for withdrawing American troops. But in reality exactly the opposite is true. I agree with the Senator from West Virginia. I believe that terrorist elements in Haiti on both sides of this conflict clearly understand that engaging in terrorist acts against Americans will affect our policy.

I have watched what is going on in Haiti, and I have visited with Members of the Senate who have gone to Haiti and who have brought us back reports. I have concluded the same thing that the American people concluded before we ever went into Haiti; that we have put American troops into an unwinable situation.

I am also deeply concerned that we are slowing down training functions all over America, as we siphon off money to pay for this police action in Haiti. I am concerned about it for two reasons. First, I want to maintain our readiness and our training. But, second, it tells you something about the level of defense cuts that the Clinton administration has imposed on the Nation, when routine training missions must be sliced to pay for an operation consisting of but 20,000 troops sent into Haiti.

I can remember during the Carter administration when our planes did not fly and our ships did not sail because we did not have the money. I am concerned that not only do we have President Carter setting foreign policy in Haiti, but more ominously, are also adopting President Carter's defense policy.

I am concerned that what we are witnessing, and what many Members of this body have participated in, is the destruction of the greatest defense that the world has ever known. I urge my colleagues who have voted to cut defense in order to fund social programs to look at the training missions we are canceling in order to pay for a 20,000-person police action in Haiti. If that does not tell you something about where we are in defense, if that does not send up a red flag or set off an alarm, then I do not think Members of the Senate are awake.

In terms of Haiti, I believe each of us, in carrying out our constitutional responsibilities, have to ask one—and really only one—relevant question when we are talking about whether or not America ought to intervene militarily. There are many ways you can express it. You can talk about America's dominant interest. You can talk about whether or not the President has a plan to get out at least as detailed as the plan he is using to get in. You can ask the question of whether or not things are going to be permanently different once you leave compared to when you got into this action. I think the answer to each and every one of those questions is no.

But there is a more fundamental question, and for those of us who have children, as I do, it is probably an easier question to understand. I have a son 21 and a son 19. I think the relevant question, in sending 20,000 American troops into Haiti to basically be police officers, is: Would I be willing to send one of my own sons?

It seems to me, when we know with virtual certainty that if we stay in Haiti long enough, floundering around without a workable policy, in the midst of what clearly is going to become a crossfire, Americans are going to be killed. And the question is, if our sons or daughters were there, would we be satisfied with the mission? Would we be satisfied with what we are trying to achieve? Would it be worth the risk? Would it be worth the potential sacrifice?

I think the answer to these questions was "no" long before the President sent in our troops. I think it is "no" today. I am reluctantly going to join my colleagues in voting for this sense-of-the-Senate resolution. But the bottom line is, it does not change policy and I want this policy changed.

I do not want to try to play President when somebody else was elected President. There is no doubt about the fact that President Clinton, as Commander in Chief, has the authority to send American troops into Haiti. That is not the question. The question is, is it a wise policy? Is it a workable policy? Can we change things in Haiti?

I think the answer in each case is no.

I want to get American troops out of Haiti as quickly as we can get them out. I would like to set a time limit on American involvement in Haiti. But because members of our military have urged us not to do it, because so many in the administration believe it is a mistake, I am going to withhold. The Congress is going to adjourn tomorrow. The President will then, obviously, not have Congress around to second-guess his decisions. But when we come back in January with a new Congress, and I hope a dramatically different Congress, if we are still in the same situation in Haiti, I want to go on record as saying at that point I am going to support an effort to set a time limit on this involvement. I urge the President to get American troops out of Haiti.

I have watched the television pictures of what is happening in Haiti. I was stunned, as I am sure other Americans were, at the recent newspaper photo where a Haitian protester with a knife in his hand grabbed a dove away from a person who was marching for peace, and bit the bird's head off. Are we going to sell that person on democracy using American military power?

I am not sure if there are good guys in this struggle. I do not believe what we are going to achieve in Haiti is worth the loss of a single American life. I want American troops out of Haiti. I did not support sending them there. The President cannot get them out too soon to suit me. But if we come back in January and American troops are still in Haiti, the President can be prepared for the United States Senate to vote on setting a time limit to pull our troops out.

If our troops are still in Haiti in January, the President can expect a vote at some point to cut off funds for this operation. The President had a right to start the involvement; we have a right and an obligation, in my opinion, to terminate it. If the President does not make the decision to bring our troops home, at some point we are going to make that decision for him.

Madam President, I reserve for our ranking member the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from New Hampshire has 7 minutes 20 seconds remaining.

Mr. GREGG. Madam President, I suggest the absence of a quorum and ask that the time run against both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GREGG. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

Mr. GREGG. Madam President, I ask unanimous consent that 5 minutes of the time under the unanimous-consent agreement which was yielded to Senator WARNER be yielded to Senator FAIRCLOTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina may proceed.

Mr. FAIRCLOTH. Madam President, before coming to the Senate, I spent 45 years of my life in the private sector meeting a payroll as a businessman and farmer. The private sector is a world that rewards common sense and hard work. But I learned very quickly, coming into Washington, ideas which make absolutely no sense to the working people of America seem perfectly reasonable to career bureaucrats in Washington who have become further and further removed from the realities of the understanding of everyday American working people.

Madam President, I can think of no better example of an utter lack of common sense than Bill Clinton's decision to send our troops to Haiti. The people of America know that it does not make common sense to say that you want to restore democracy by occupying an island nation with a history of being ruled by voodoo priests, witchdoctors, and blood-thirsty dictators.

The American people know that it does not make common sense to put the lives of young American men and women at risk in order to install a Haitian President who encourages his followers to put burning tires around the necks of his political opponents.

The American people know that it does not make common sense to think that this occupation will permanently change anything about Haitian society. They know that we have occupied Haiti before, and the last time we were there it took us 19 years before we could withdraw our troops. They know that despite that earlier occupation, Haiti is a squalid, wretched place that only the Haitian people themselves can ever hope to fix.

The common sense possessed by the American people seems to elude their Commander in Chief, Bill Clinton.

To him, and to his fellow Rhodes scholar elitists at the State Department, the world is a geopolitical chess game, and American soldiers, sailors, marines, and airmen are pawns in the game. Bill Clinton believes that it makes common sense to try to control the fate of everything from America's health care system to the future of backward island nations with a history of voodoo worship makes perfect sense.

It does not matter to Bill Clinton that the American people do not want this occupation. It does not matter to Bill Clinton that Congress was blocked from having a vote as he led us to the brink of war. He actually believes that he should be able to impose his will on the lives of individuals whenever he pleases, and Congress and the American public have no choice but to follow blindly along, like lemmings into the sea. That is wrong!

Mr. President, an administration with a Commerce Secretary, Ron Brown, who was a lobbyist for the bloody Duvalier dictatorship in Haiti, has no moral authority to now pontificate about human rights in Haiti.

An administration that will not repudiate Marion Barry, the crack cocaine-smoking candidate for Mayor of the Capital of the United States of America, has no moral authority to preach about drug dealing in Haiti.

And an administration with a Surgeon General, Joycelyn Elders, who has insulted and demeaned the Catholic Church, has no moral authority to now piously invoke the term "Father Aristide" to try to legitimize the mentally unbalanced man they want to install in power.

As a young man I visited Haiti on several occasions. I saw first hand the violence and death that has plagued that island nation for hundreds of years. On one occasion I saw two people brutally gunned down in the street by the ton-ton macoutes—the savage band of killers and thugs that are the traditional enforcers for the dictators, witchdoctors, and voodoo priests that have long controlled this tiny island nation.

The United States has absolutely no reason to be in Haiti. We have no vital interests in Haiti. Our National security is not at stake. We have no guarantee that an invasion will curtail immigration to the United States, or solve Haiti's political problems.

All we have gotten so far for the millions of American tax dollars spent, and the thousands of American lives put at risk, is the sight of United States that are forced to stand by and watch Haitians being beaten in the streets.

All we have gotten so far is the specter of the mentally unbalanced Mr. Aristide complaining about the American President who has tried to put him in office in Haiti, and of Jimmy Carter telling Mr. Cedras on Haitian soil that he was ashamed of America's foreign policy.

We now learn that the American taxpayers are going to be actually paying the Haitian military that Bill Clinton was going to wage war against only days ago. Is there any wonder that the world has lost confidence in an American foreign policy that changes every day?

I can tell you, Madam President, that Haiti is not worth one drop of American sweat, much less American blood. I will support American troops as long as they are in Haiti, but I will not support the decision to send them there in the first place.

The tragedy of Haiti will not end until the Haitians, themselves, end it. Until that happens, no amount of American intervention will make a bit of difference in the long run. Let us hope that the tragedy of Haiti does not become an American tragedy as well.

I yield my time.

I thank the Senator from Virginia.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia now controls 13 minutes.

Mr. WARNER. Madam President, first, I ask unanimous consent that among those listed as cosponsors on this resolution, the name of the Senator from Virginia follow that of the distinguished ranking member of the Armed Services Committee, Senator THURMOND. Senator THURMOND worked very hard on this resolution together with his staff under the direction of General Reynard.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Now, Madam President, I first wish to commend the leadership of the Senate reaching a consensus on this very important resolution. I was privileged to work with them in that effort. I also wish to commend the codel leader, Senator DODD, of Connecticut, joined by Senator PELL, Senator LEVIN, myself, Senator COVERDELL, and the current manager of our time, Senator GREGG, in our work down there. It was a pleasure to be with these gentlemen.

Now, Madam President, I am going to be fairly reserved in my remarks even though I have some very strong feelings on this issue. I do so because I wish to put myself at this very moment into the combat boots of several thousand United States soldiers patrolling the dangerous streets and villages and towns of Haiti. We must regard the remarks we make here as such that they can be heard and perhaps even misinterpreted by some in Haiti. So let us use a measure of caution, that we not in any way through this debate raise the level of risk to a single United States soldier or, indeed, others trying to bring about some resolve of this crisis in Haiti.

As I mentioned, I traveled to Haiti with our codel, which enabled me to gain some valuable perspectives about this problem.

At the outset, I want to say what pride I take as an American in those wearing the uniform of our Nation, carrying out the orders of the Commander in Chief, whether it be on land, on sea, or in the air.

Every American can take pride in the manner in which they are carrying out a mission, a mission which has really no textbook or manual precedent. Throughout our 200-year military history, many books have been written on how to conduct various military operations. I studied them myself. But the manual—the textbook for this mission—is still being written. Fortunately, we have excellent troops, well trained, well disciplined, good morale. Whatever we do here has to be supportive of that. And they are under the leadership of very able senior officers. We should take pride in what they are trying to do. General Shelton, commander of the U.S. forces, multinational forces in Haiti; Vice Admiral Johnson, commander of the naval forces in the joint task force; and, Major General Meade, commander of the 10th Mountain Division.

Mr. President, I support this resolution. I appreciate having had the opportunity to work on it. The resolution most significantly does not contain a date certain for withdrawal of our troops. I do not say that as criticism to the distinguished Senator from West Virginia and others. I respect their views. But my opinion on this was gained from talking with our military commanders, not just General Shelton, but right down to the lieutenants and the sergeants and the troops themselves, that the members of the codel had the opportunity to visit with on a one-on-one basis. We do not want to say anything here, nor do we want to put anything in the resolution which would raise that risk. And there are certain dynamics generated by a date certain which could raise that risk. So I am pleased that this resolution does not have a date certain. And if it did, I could not support it.

Also a date certain could have complicated General Shelton's plans to carry out this mission as best he can in what he views as the time available to him. We all want our troops to come home safely as soon as possible. Many of us, including the Senator from Virginia, stood on this very floor and said in a respectful way to the Commander in Chief, the President, do not send U.S. troops to Haiti. But that has been done through the exercise of the President's powers under the Constitution. So we start from that point of how best to address that situation. Our first priority is the safety of our men and women. And then the mission must be carried forward in such a manner that will enhance, I repeat enhance, not discredit the foreign policy of this country.

This mission is not clearly defined. It changes from day to day. We are fortunate that we have had only two casualties insofar as I know as of this moment. But the President has the authority under the Constitution and he has put the troops there.

I say that the second consideration is our foreign policy. If for any reason the world perceives—and particularly those other nations who are now committed to joining us in this operation—if the world perceives that we carried this policy out in a manner other than showing leadership and resolve, then what will the North Koreans say when we go and lay down a set of conditions to resolve that problem, a problem I regard a hundredfold more serious than Haiti?

All along I have joined with those that questioned whether we have any vital security interest in Haiti. But that debate is for a later day from where we are now.

So those are the two reasons that guide me in supporting this resolution. First, to keep our troops safe; and, second, I want our Nation to be viewed by the world as a credible working partner in resolving those problems where hopefully henceforth we have a vital national security interest.

While we were there in Haiti, we met with General Cedras. I am sure Senator DODD has outlined in detail the groups with whom we met. We were assured by the general that he would leave office—I stress office, not the country—by October 15. And all of us are hopeful that the return of President Aristide will be conducted in a spirit of reconciliation to the extent it can be achieved. Reconciliation—that is the atmosphere in which we can bring our troops back with the least amount of risk and harm.

The parliament has been working throughout the day. I do not know what they may or may not have resolved. In my own judgment, they will probably have a resolution which will not be clearly specific, which will not perhaps meet the objectives and goals that many of us would like to see. Perhaps it is going to be left vague and ambiguous on purpose so they can be interpreted in many ways. Perhaps, so that a spirit of reconciliation can be achieved to avoid further loss of life and injury, not only to the troops of the United States but the troops and police of other nations, and, of course, to the people of Haiti.

I would like to address another issue. This word "disarmament" should never have been used in the context of the province of Haiti. You go to the dictionary, go to the history books. Disarmament relates to the conferences primarily after World War I when the Nation's sat down and tried to figure out how to disarm themselves—the Naval Conference on Disarmament, the Disarmament Conference, and to get rid of mechanized weapons. You are never going to disarm Haiti totally. There are weapons under almost every bed, hand grenades squirreled away here and there. And to think that our troops should ever be given the mission to go into a house for search and seizure is absolutely wrong. We learned that lesson in Somalia. Our troops are doing the best they can to remove the weapons where they have good intelligence to know there are caches and repositories of some magnitude. That they can do, although the risk is great. Never underestimate the risk to our troops down there.

Our delegation traveled through the streets. On one street corner they would wave. On the next corner they would shake their fists. And if you did a U-turn, when you passed by the corner where they waved their hand, they would raise the fist and those that raised their fist would wave. It changes that quickly. It is a situation where anything can erupt at any time.

So let us be very careful in the use of the word "disarmament" and not convey the impression to the people of Haiti or to the people of that hemisphere or to the people in this country that our troops are going to be able to withdraw these weapons and make this a tranquil land. It is not achievable. But—our troops, to the extent they can—will provide an orderly means perhaps through the weapons buy-back program, or otherwise, to get the weapons out of the hands of people. Every weapon seized, every weapon bought back in some manner diminishes the risk to our people.

Then, Madam President, we have to turn to the question of the cost estimate. It is incalculable at this time. The Senate Armed Services Committee received estimates of perhaps more than $1 billion. We do not know. But that is a cost we have to watch and watch carefully. It is a cost that should be borne by other nations of the world, because we have problems here at home. We have pockets of poverty and despair here in the United States which parallel, in many respects, what we saw in Haiti last Saturday. These dollars are needed here at home as badly as they are needed abroad.

Mr. President, I remain concerned about a number of issues which are as yet unsettled. The Haitian Parliament has not yet agreed on the type of amnesty to be granted or the form it will take. This is key to an orderly transition in Haiti.

What will be the extent of the United States role in the United Nations mission in Haiti [UNMIH] and how long will the United States forces be involved? I recall well that it was after the United Nations took over the operation in Somalia that much of the risks to our troops began there: The mission creep, the hunt for Aideed and finally the battle of October 3-4 1993, where 18 United States soldiers were killed and 83 were wounded. While we were supplying humanitarian relief with one hand, the other was entrapped into combat operations.

The latest cost estimates indicate that our efforts in Haiti will cost upward of $1 billion. I am not optimistic that the long-term outcome of our endeavor to instill democracy in Haiti, where it never has existed, will prove worthy of the cost in dollars as well as the efforts and sacrifices of our men and women in uniform and their families. Many of our troops in Haiti were in Somalia last year. We are asking a lot of these brave soldiers. I hope and pray for the rapid and safe return of all those we have committed to the operation in Haiti.

Mr. President, in closing, I am compelled to make one final observation. I fear that we have focussed a disproportionate level of our attention on Haiti, where we have no clear national security interests. Now that we have committed our Armed Forces, however, we must focus our attention there in the interests of the safety of the men and women we have committed to that effort.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has just expired.

Mr. WARNER. Madam President, that is a very dramatic announcement. I accept that, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida, Mr. GRAHAM, is recognized.

Mr. GRAHAM. Madam President, I yield myself 10 minutes.

Mr. DECONCINI. If the Senator will yield. If I am correct, the Senator from Arizona has 7 minutes, or something like that, remaining in his time and he is prepared to yield that back, unless the leadership would like to have that time.

I will yield my time to the Senator from Iowa, from the 7 minutes reserved for the Senator from Arizona. I ask unanimous consent that that occur.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Madam President, I support this resolution. Although it is not the resolution which I would have written, it represents a fair consensus on an issue of great national importance.

Principally, I support this resolution because of what it does not say. What it does not say is a specific time for withdrawal of our troops from Haiti. The safety of our troops depends upon the restraint of not establishing in advance a specific date for their withdrawal. If our enemies knew that we had a date certain for withdrawal, they would take advantage of that deadline and endanger the security of our men and women in uniform.

The safety of our troops must be our principal priority. We should be proud as a Nation of what our troops are accomplishing in Haiti. They are doing their jobs in a professional and efficient way.

Frankly, I am disturbed and surprised by the comments of some of my colleagues this afternoon, who seem to be disappointed by the success that our troops have had in Haiti. Obviously, this is a mission which is fraught with difficulties and uncertainties. Gratefully, we are appreciative for the treatment of our troops to date, and that we have been able to accomplish this difficult, complex and, as the Senator from Virginia stated, almost unprecedented mission, with minimal casualties. But we understand that no one should underestimate the jeopardy of the circumstances in which our troops are placed in Haiti.

Madam President, many of us today, and millions around the world, heard the President of the Republic of South Africa, Nelson Mandela. He stated that we—and particularly the United States of America, with its special responsibility—are embarked on a principled and courageous endeavor to support democracy in the world. Haiti is another example of that principled and courageous endeavor to support democracy.

Our United States national interests are clearly at stake in the circumstances of Haiti. Some of those interests include the signal that we are sending to the hemisphere and to the world that we are ready to stand by our commitments in support of democratic principles. I fear that had we vacillated in Haiti, it would have become the first of a series of attacks upon democratic regimes, particularly the new and fragile regimes of the Western Hemisphere.

Madam President, as in South Africa, we are standing by the principles that are older than our Nation itself, in support of human rights around the world. One of the fundamental principles of Thomas Jefferson, in writing the Declaration of Independence, was that he was not writing a statement for only those colonialists who lived on the Atlantic shore of North America; rather, he was writing a document of universal principles. We stood by those universal principles of human rights in South Africa. We are doing so again in Haiti and, when we do so, we are standing for the very best in our Nation's tradition. Because Haiti is part of the neighborhood of the Western Hemisphere, we are standing by our own self interests in protecting democracy and human rights in Haiti. As we have tragically learned, when conditions deteriorate in our neighborhood, we are not immune to the adverse consequences, whether they be in the form of persons fleeing from persecution and abject poverty, seeking to reach this country, to the sale and sovereignty of the country, to the drug traffickers, to the endangerment of the United States citizens in that country. All of those, and more, become at risk when democracy and human rights are challenged in the Western Hemisphere.

So, Madam President, I am disappointed that some of my colleagues continue to criticize the President while our troops are on the ground in a vulnerable circumstance, while they are taking all the risk. I want to be recorded in full support of the courageous decision by the President. I want to be recorded in full support of our courageous, highly professional, and patriotic men and women who are carrying out this mission. It is at times like this that we should come together as Americans, beyond partisan bickering, and fashion our support for our troops who are committed to this mission and to some of the most fundamental principles, the protection of democracy, and a commitment to universal human rights.

I am proud of what America is doing in Haiti. And tonight I look forward to our continued contribution toward building in that nation institutions that will make it a peaceful, human rights-respecting country with a sense of future and prosperity for its people.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, I am about to yield 5 minutes to our colleague from South Dakota. I am confident he will express strong support for the present situation in Haiti.

Before I do so, let me just commend my colleague from Florida for an excellent set of remarks. He is very knowledgeable about the situation in Haiti, and his comparison to the situation in Haiti and what transpired in South Africa—coincidently, this resolution occurring on the very day that Nelson Mandela addressed a joint meeting of Congress—I think is appropriate.

I also commend our colleague from Virginia, Senator WARNER, who accompanied Senator GREGG and me on our trip last week to Haiti. While I disagree with a couple of points, I think he properly and carefully identified the appropriate military questions and issues as well as the foreign policy issues, and I commend him for his remarks.

I am glad to yield 5 minutes to the distinguished Senator from South Dakota.

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes remaining.

Mr. GREGG. I yield the remainder of my time to the Senator from South Dakota also, and I thank the Senator from Connecticut for his courtesy in yielding to the Senator from South Dakota 5 minutes.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. PRESSLER. Madam President, I thank the accommodation for 7 minutes. I thank the Senator from Connecticut for his kindness.

Madam President, I have been very, very concerned about an issue recently reported in the New York Times. President Clinton said on June 8 that one of the reasons for possibly invading Haiti was because of that country's involvement in the drug trade. I ask unanimous consent to insert this article in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.S. SAYS HAITI'S MILITARY RUNS COCAINE

(By Howard W. French)

PORT-AU-PRINCE, HAITI, June 7.—Haiti's military leaders have been working with Colombian traffickers for the past four years to help move hundreds of pounds of cocaine each month from South and Central America to the United States, American diplomats and other officials say.

In their first detailed account of the role of the Haitian armed forces in international narcotics traffic, American officials said that much of Haiti's military leadership, including its commander, Lieut. Gen. Raoul Cédras, either has been actively involved with Colombian drug dealers or has turned a blind eye to their trafficking in cocaine, accepting payments for their cooperation.

For months, United States officials have discounted reports of drug trafficking by senior Haitian officers, and some see the sudden turnabout as an attempt to lay the groundwork for a possible invasion to restore the exiled Haitian President, the Rev. Jean-Bertrand Aristide.

The American officials are now saying that the Haitian officers are earning hundreds of thousands of dollars each month for allowing their country to be used as a transshipment center by the main Colombian drug rings in Cali and Medellin.

HAITIAN MILITARY INFORMERS

The officials who discussed the role of Haitian Army leaders said that their information had been developed in recent months in large part thanks to cooperation from members of the Haitian military itself.

"These sources have been very specific about the dates, the sources and the quantities of narcotics involved, and we have this first hand now," said one American official, who spoke on the condition of anonymity. Asked if the evidence against Haiti's military was sufficiently strong to take legal action against them, the official said, "We are pretty close."

The disclosure of the investigation comes three weeks after President Clinton cited Haiti's involvement in the narcotics trade as one of the national security concerns that had convinced him that international military action might be required in Haiti.

In recent days, as speculation has grown about a possible United States-led military action to oust the country's military leaders, members of the Haitian high command have begun consultations here with lawyers who represented Manuel Antonio Noriega, the former Panamanian leader who is serving a 40-year sentence in a Federal penitentiary.

General Noriega, who was accused by the United States of involvement in international narcotics trafficking and money laundering, was captured in an American military intervention in 1989 and brought to the United States for trial.

GENERALS 'R' US

Two of General Noriega's lawyers, Frank Rubino and John May, acknowledged today that they had recently been in Haiti for talks with the military. Refusing to discuss further any details of their involvement here, Mr. May, who was contacted by telephone in Miami, said, "Generals are our business."

CONGRESSMEN SKEPTICAL

Haitian military officials have denied any involvement in the narcotics traffic. Following a recent cocaine seizure, Col. Antoine Atouriste, the officer in charge of Haiti's antidrug force, said that reports about the drug running role of the Haitian military were part of an international campaign to destroy it.

Father Aristide has long asserted that his country's army had been kept in power by narcotics profits.

Members of Congress who are opposed to the use of American force to reinstate Father Aristide say that they are skeptical of the case being put together against Haiti's military leaders and say they suspect political motives lie behind the charges.

"There is less true concern over the narcotics problem that there is to lay a foundation for some kind of military action in Haiti," said Robert Torricelli, Democrat of New Jersey, who heads the House Foreign Relations subcommittee on Western hemisphere affairs. "There is a problem with narcotics in Haiti, but it is no larger than any number of other places."

Officials who discussed details of the Haitian military's role in cocaine trafficking said that until the recent embargo was placed on the country, cocaine was regularly air-dropped into Haiti or delivered by ships from Panama and Colombia.

The role of the Haitian military, the officials said, was to provide protected landing strips and ports, assuring that the unloading of the cocaine was undisturbed.

"Then it is taken to other locations by waiting vehicles, distributed to other points around the country and held until it can be shipped onwards in loads of 50 to 100 kilograms," an official said.

Because of the international embargo against Haiti, officials said they believed the country had an unusually large stockpile of cocaine on hand, which it was unable to export.

Mr. PRESSLER. This allegation about Haiti was repeated by the President and other administration officials several times. Then suddenly they stopped saying it and there was no further discussion of it.

I would like to know what they found out or why they have dropped that subject. Maybe they found out that Haiti did not have any involvement in the drug trade. Or maybe they found out that the door led to some embarrassing places.

Madam President, I am concerned that the reason the administration suddenly stopped citing Haitian drug trafficking as a justification for invading Haiti was because of reports that, while President of Haiti several years ago, Jean-Bertrand Aristide may have taken bribes from Colombian drug dealers to permit drug smuggling routes to operate through Haiti. These serious allegations have not been thoroughly investigated by the U.S. Government. At a time when United States troops are putting their lives on the line in Haiti preparing to restore Aristide to power, these allegations must be thoroughly examined.

Madam President, today I have written to President Clinton expressing my concerns. Yesterday, in the Judiciary Committee I asked Lee Brown, the drug czar about this matter. He said he did not know anything about it, that it would not be his office's concern.

Someone in the White House must know because they were citing the drug trade in Haiti as a reason to invade that country earlier this year. They were investigating Haitian drug trafficking, then suddenly they became silent. Is it possible that one of the doors—one of the paths of corruption led someplace that they did not wish?

Again, I have written to the President today expressing my concerns. I have previously written to Janet Reno and others about it as well. Included with the letter is a list of questions which I think deserves to be fully disclosed.

I ask unanimous consent that a copy of my letter to the President be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, October 6, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I am deeply disturbed by recent allegations that, while President of Haiti, Jean-Bertrand Aristide accepted payments from foreign drug traffickers. It is my understanding that the Drug Enforcement Agency (DEA), acting on orders from the White House or the Justice Department, recently investigated drug trafficking in Haiti. During the course of the investigation, the DEA ostensibly uncovered information linking Mr. Aristide to Colombian drug money. If true, these charges pose serious questions about American involvement in the effort to return Mr. Aristide to power.

I have previously written to Attorney General Janet Reno asking her to provide any information concerning the allegation that the Justice Department denied a request from DEA field agents to interview Mr. Aristide. I have also asked Senators Biden and Hatch, as Chairman and Ranking Member of the Senate Judiciary Committee, to hold hearings on this matter.

Let me say that I was not the first to raise the issues I am discussing today. These allegations first appeared in the press and they need to be addressed publicly by the Administration. Cloaking any of this information under a heavy blanket of top secret security clearances is not acceptable. The American public has the right to know. They are paying for the Haiti operation. Their sons and daughters are serving there. Enclosed is a list of questions which I think deserve to be answered. I would greatly appreciate a prompt response from your Administration.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

Enclosure.

SENATOR LARRY PRESSLER—QUESTIONS TO PRESIDENT CLINTON REGARDING THE DEA INVESTIGATION INTO DRUG TRAFFICKING IN HAITI

(1) Was an investigation of drug trafficking in Haiti conducted by the DEA, FBI, CIA, State, or Justice Departments?

If so, who ordered the investigation and when? Who in the Justice Department or the White House was involved? Was it the result of a classified memo drafted in early April by Deputy Assistant Attorney General Mark Richard directing federal agencies to investigate rumors of Haitian drug trafficking?

(2) Is the investigation ongoing or has it been concluded? If it has been concluded, why was this done?

(3) What was the original purpose of the investigation? Has the purpose changed over time? If so, why?

(4) Whom did the investigation target? Who in the Haitian government or military have been or are now the subject of this investigation?

(5) What have been the results of the investigation, to date?

Was any evidence uncovered that suggested that Jean-Bertrand Aristide, or those closely associated with him, accepted payments from foreign drug traffickers?

If so, who in the Administration was informed of the results of the investigation to date? When was each person informed? Was anyone in the White House or the Justice Department informed, and if so, who and when?

(6) During the course of the investigation, was there a request from DEA field agents conducting the investigation to interview personally, or otherwise question in any form, Jean-Bertrand Aristide regarding these accusations? If the request was made, explain fully the circumstances surrounding the request.

Who made the request? To whom was it made? When was the request made?

In what form was the request made? If in written or electronic form, please provide a copy of the request and any notes or memorandum concerning it which the DEA has in its possession.

(7) Who within the Administration, both inside and outside the DEA, was aware of the request to question Aristide?

(8) Was the request to question Aristide ultimately denied? If so, who denied it. When was the denial made? Why was the denial made? Was the denial based on political factors?

Prior to the final decision not to question President Aristide, was the request submitted to an "oversight committee" composed of members from the DEA, the Justice Department and/or others? If so, who were the members of the "oversight committee"? On what dates did they meet to discuss the request? What was the committee's determination?

Prior to the final decision not to question President Aristide, was any Administration official in the Justice Department, the White House, or any other government agency consulted or contacted regarding the request? If so, who was consulted? On what dates did the consultations occur?

At any time during the consideration of the request to question President Aristide, did any Administration official suggest reasons for denying the request based, in whole or in part, on political considerations. If so, which Administration officials made the suggestion? When was the suggestion made?

(9) In the course of the investigation, did DEA field agents, or other law enforcement officials interview a Mr. Molina, a former lieutenant of the Medellin drug cartel regarding an allegation that Aristide, while in power, accepted drug money from the cartel?

What did Molina tell DEA field agents? Did he allege that Jean—Bertrand Aristide accepted money from the Medellin drug cartel?

Was Molina ever given a polygraph or other lie detector test? If so, who administered the test? What were the results? Who in the Administration was informed of the results?

Did the DEA agents, under the direction of the Justice Department, offer a deal to Molina in return for his cooperation?

If so, who in the Administration authorized the deal? What were the precise details of the deal offered to him? Were drug charges against Molina, pending in the U.S., dropped as a result?

Was Molina ever brought to the United States for questioning? If so, is Molina still in U.S. custody? If not, where is he and why was he released? Was Molina allowed to leave the U.S. as a condition of the deal offered to him?

(10) Did the DEA, or other U.S. law enforcement agency, ever interviewed any other individual who substantiated the allegation that Aristide, or those close to him accepted, payments from foreign drug traffickers?

If so, who was interviewed? What was said? When did the interview or interviews occur?

Mr. PRESSLER. Madam President, let me say I am not the first to raise the issues I am discussing today. These allegations first appeared in the press, and they need to be addressed publicly by the administration. Cloaking any of this information under a heavy blanket of top secret security clearance is not acceptable. The American public has a right to know. They are paying for the military operation in Haiti. Their sons and daughters are at risk there.

Let me briefly outline my concerns. On May 21 of this year, the Washington Post reported that Deputy Assistant Attorney General Mark Richards drafted a classified memo directing Federal agencies, including the DEA, CIA, FBI, State and Justice Departments to investigate narcotics trafficking in Haiti.

I ask consent to insert this article in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 21, 1994]

U.S. INVESTIGATES ALLEGATIONS OF HAITIAN DRUG TRAFFICKING

(By Pierre Thomas)

The Justice Department is investigating allegations that top Haitian military officers have been heavily involved in cocaine trafficking since the mid-1980s, administration sources said yesterday.

Federal law enforcement officials have received tips that the officers protected or allowed cocaine shipments to enter and leave the country freely, federal sources said. The sources described the inquiry as being at a preliminary, "fishing expedition" stage.

"There have been rumors for years, and now given the current heightened concern, this has emerged as a priority," said one high-ranking administrator who asked not to be named.

The Haitian military has come under increasing scrutiny since its overthrow of democratically elected President Jean-Bertrand Aristide in September 1991. The military has repeatedly ignored international calls for the restoration of Aristide to power.

Deputy Assistant Attorney General Mark M. Richard drafted a classified memo in early April requesting that federal agencies, including the FBI, the State Department, Drug Enforcement Administration and CIA, comb their files for information about Haiti drug trafficking, sources said.

The investigation is centering on Max Paul, Haiti's director of ports, and more than a dozen military officials including: Lt. Col. Michel Francois, the head of police in Port-au-Prince, the capital city; Brig. Gen. Jean-Claude Duperval; and Col. Antoine Atouriste. Francois previously has strongly denied any involvement in drug trafficking.

But several administration sources stressed there is little concrete evidence so far tying these Haitian officials to any specific wrongdoing.

"We are a long way from confirming any of this," said one official. "We are a long way from indicting these people and having enough evidence to present to a court. We think that some of these people are dirty. So far we just don't have it."

Other administration sources also pointed out that drug trafficking in Haiti is small compared to the volumes of drugs moved through other transshipment points in the region.

A recent State Department report on international drug trafficking said: "Haiti continues to be used by Colombian trafficking organizations as a base of operations and transshipment point for the movement of South American cocaine to the United States. The government of Haiti has had little success in attacking the problem and clearly has an inadequate interdiction and enforcement capability."

While noting that Haitian officials are "susceptible" to corruption—presumably because of the country's impoverished condition—the State Department report said the "United States government does not have evidence directly linking senior [Haitian] officials to drug trafficking." The report also said that "compared to trafficking indicators in other areas such as the Bahamas or Mexico, the current level of detected air and maritime drug-related activity in Haiti is low."

Mr. PRESSLER. During the course of this investigation, it is my understanding the DEA uncovered allegations that Jean-Bertrand Aristide accepted payments from Colombian drug traffickers while President of Haiti. The allegations were made by an informant interviewed by the Drug Enforcement Agency and deemed credible by the Miami DEA office.

I further understand that the Miami office of the DEA requested an interview with Aristide to substantiate the charges. This request was denied by officials in Washington on the advice of an interdepartmental oversight committee composed of officials from the DEA, Justice Department, and other Federal agencies.

The decision to not question Aristide disturbs me deeply. In effect, the decision prevents DEA investigators in the field from doing their job.

I want to know why this decision was made by the Justice Department and the DEA. Was the decision based on political factors? Is the administration attempting to suppress an investigation which could prove embarrassing to Mr. Aristide?

Why has the administration stopped citing Haitian drug traffic as a reason to invade Haiti? They did earlier this year.

A New York Times article dated May 20, 1994 quoted President Clinton as citing drug trafficking as one of the reasons why the United States might have to invade Haiti.

I ask unanimous consent to print this article in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 20, 1994]

PRESIDENT LISTS REASONS TO USE FORCE IN HAITI

(By Douglas Jehl)

WASHINGTON.—President Clinton today offered the clearest explanation yet of why his Administration is considering the use of military force in Haiti while resisting it elsewhere in the world.

"It's in our backyard," the President said at a White House news conference as he ticked off the first in a list of six reasons why he is weighing military action to oust Haiti's leaders if economic sanctions do not force them to step down.

He said Haiti's proximity to the United States and the danger that more of its citizens could seek refuge in southern Florida meant that his Administration had an obligation to force an end to the military dictatorship there.

Mr. Clinton's comments, in response to a question at a joint appearance with India's Prime Minister, also represented a response to Republican critics who say it would be wrong to risk American lives to restore the exiled President, the Rev. Jean-Bertrand Aristide.

With a tighter United Nations embargo on Haiti to take effect at midnight on Saturday, aides to Mr. Clinton emphasized that no American military action there was imminent. After facing criticism on past occasions in which the Administration has appeared to back away from tough talk on Bosnia, the aides said no decision on whether to use military force in Haiti will be made until the sanctions have been given time to work.

But with opinion polls showing mounting public dissatisfaction with his conduct of foreign policy, the aides say that Mr. Clinton has grown concerned that he has failed to cast the challenges he faces in proper context and that, in particular, he has not adequately explained why his Administration is suddenly devoting so much attention to Haiti after 32 months of military tyranny there.

A senior White House official who said Mr. Clinton had planned his answer described it as part of an effort to build public support for military action in Haiti that would allow him to act even if other countries remain opposed to such a mission.

Among the six reasons Mr. Clinton mentioned today as adding up to a "significant" American interest in restoring democracy to Haiti were its proximity and the fact that Haiti had been used as a staging area for drug shipments bound for the United States. In addition, he said Haiti was now the only country in the Western Hemisphere where military leaders have seized power from an elected leader, making it and Cuba the hemishere's only remaining non-democracies.

MASSIVE OUTFLOW FEARED

He also mentioned the several thousand Americans who live in Haiti and the one million Haitian-Americans who live in the United States as reasons Americans should be intent on restoring democracy there.

But Mr. Clinton saved his strongest warning for what he described as "the continuous possibility" that Haitians left poor and desperate under military rule would join in a "massive outflow" and seek refuge in the United States.

Mr. Clinton spoke after a meeting with Prime Minister P. V. Narasimha Rao of India on a day in which he devoted unusual attention to security issues. He had back-to-back meetings with his top foreign policy advisers and with American military commanders from around the globe.

His meeting with Mr. Rao was the first between an American President and an Indian Prime Minister in seven years, a lag emblematic of the uneasiness between the two countries after successive Administrations have spoken disapprovingly of India's human rights record and its development of nuclear weapons.

Outside the White House today, hundreds marched in opposition to India's policies in Kashmir and other northern regions, and Mr. Clinton acknowledged that the United States and India still had differences over human rights and the spread of nuclear weapons.

But the President praised India for having overcome internal strife and remaining the world's second largest democracy, and he said of the disagreements that "in the content of our common interests and our common values, we believe they can be managed in a constructive way."

The yearlong American standoff with North Korea over nuclear weapons still has the potential to become the Administration's biggest foreign policy crisis. But Mr. Clinton and his aides have made clear in recent weeks that they are looking with more impatience at the intransigence of Haiti's military leaders, who seized power in September 1991 from Father Aristide, the democratically elected President, and have refused since last fall to honor an agreement in which they pledged to step down.

The strict United Nations sanctions that are to be imposed on Saturday represent a new effort by the United States and other powers to force Lieut. Gen. Raoul Cédras and his fellow commanders from power. But the President has been forthright in saying he would consider using military force to oust them if the sanctions fail, and Administration officials say the misery the embargo may inflict means that the White House could reach that point of decision as soon as this time next month.

TIME FOR THEM TO GO

Mr. Clinton said recently of the military commanders that "it's time for them to go," and aides have described him in recent weeks as increasingly determined to see democracy restored.

The President's new special adviser on Haiti, William Gray, held a well-publicized meeting here today with Father Aristide in a sign of the White House's commitment to stepping up its efforts on his behalf.

Asked today why he appeared to be putting Haiti in a different category from Bosnia and Rwanda, where he has ruled out putting United States forces in ground combat roles, Mr. Clinton said he was not prepared "to discuss hypothetical uses of force." But he went on to make clear that he believed that the American interests in Haiti set that country apart from more distant trouble spots.

His remarks seemed intended in part as an answer to critics like Senator Bob Dole of Kansas, the Republican leader, who this week said an American invasion of Haiti "would be the wrong act at the wrong time for the wrong reason." Senator Dole and other Republicans have called on Mr. Clinton to seek a compromise with Haiti's military leaders that would restore democracy without providing for Father Aristide's return, but that is a step the White House has been unwilling to take.

Mr. PRESSLER. In fact, during this past spring, other members of the administration were using drug trafficking as an excuse to intervene in Haiti. Then suddenly, we heard no more from the administration about drug trafficking in Haiti. It was as if the stage went dark. Was this because of information uncovered by the DEA investigation? Did information come to light implicating Jean-Bertrand Aristide?

Allegations to this effect were made by a Colombian national, a Mr. Molina, reputedly a major lieutenant of Pablo Escobar, the former head of the Medellin, Colombia, drug cartel. Mr. Molina allegedly named Haitian generals among those who accepted cash payments from the Colombian drug cartel. More importantly, Mr. Molina also allegedly named Mr. Aristide. I understand that when Mr. Molina provided this information, he was given a lie detector test by the DEA. He passed.

In return for his cooperation, I understand Mr. Molina was offered a deal by the Justice Department. Apparently, Mr. Molina was facing at least one indictment in the United States for operating a "continuing criminal enterprise." If convicted, he would have faced life in prison. Instead, the charges against Mr. Molina were dropped and he was allowed to return to Colombia.

I have also received information alleging that a second informant has substantiated the allegations against Jean-Bertrand Aristide. This case is still pending.

Such cases are frequently murky. Nevertheless, allegations having been made, the U.S. Government has the responsibility to pursue them. Mr. Molina has been described as being "reliable" in other DEA cases. Would it not be better to put to rest allegations against Mr. Aristide by allowing him to be interviewed by the DEA? Instead, the Government has decided not to allow Mr. Aristide to be questioned.

As each day passes, more information comes to light. The allegations against Mr. Aristide have been the subject of two ABC news stories, as well as articles which have appeared in the Wall Street Journal and the Washington Times.

I ask unanimous consent to print these articles in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TRANSCRIPT OF ABC NEWS REPORT ON "GOOD MORNING AMERICA," SEPTEMBER 18, 1994

ABC News has learned that Federal law enforcement officials have been investigating a report that Haitian President Jean Bertrand Aristide may have been involved in Payoffs to Haitian officials by Colombian drug traffickers. The allegations came from a Colombian drug dealer cooperating with the Drug Enforcement Agency. ABC'S Jim Angle has more:

As the U.S. pushed to return Aristide to power, administration officials were wrestling with a potential public relations disaster. The DEA had uncovered allegations that Aristide, while in office, took payoffs from a cocaine cartel. Law enforcement sources told ABC News that when Agents asked to question Aristide, Washington squelched the idea.

That was denied by Defense Secretary William Perry on "This Week with David Brinkley:

"There have been uncorroborated Allegations made by an informant about President Aristide. Those were investigated by the Justice Department. Nobody was told that they couldn't do it."

The informant a former member of Pablo Escobar's cartel, told the DEA that payoffs were going not only to Haiti's top three military leaders—President Raoul Cedras, Army Chief of Staff Phillipe Biamby, and chief of Police, Michel Francois . . . but also to President Aristide himself. Justice Department sources say there is no other information to back up the claims and Aristide supporters were outraged:

"There is no truth to any allegations that President Aristide has been involved in drug trafficking or drug payoffs or anything of the kind. This is absolute garbage."

Justice Department officials say the investigation has not been closed but now that Haiti's military leaders have agreed to depart, allegations about the past are likely to be far less important than questions about Haiti's future.

TRANSCRIPT OF ABC NEWS REPORT ON "WORLD NEWS TONIGHT," SEPTEMBER 19, 1994

With the United States on the verge of invading Haiti to return President Aristide to power, there was one last-minute embarrassment—the DEA had recent information that Aristide, while in office, took payoffs from the Pablo Escobar cocaine cartel.

And law enforcement sources told ABC that when agents asked to question Aristide, Washington killed the idea. That was denied by Defense Secretary William Perry on "This Week with David Brinkley":

"There have been uncorroborated allegations made by an informant about President Aristide. Those were investigated by the Justice Department. Nobody was told that they couldn't do it."

The informant was one of Pablo Escobar's lieutenants who is now cooperating with the DEA * * *. He said that payoffs were going to Haiti's top three military leaders—President Raoul Cedras, Army Chief of Staff Phillipe Biamby, and Chief of Police, Michael Francois.

But the Colombian informant also said his Haitian connection, Franz Biamby, a cousin of the Army Chief of Staff, saw Aristide take a suitcase filled with several hundred thousand dollars in payoffs.

Franz Biamby, now in jail in Miami, admitted to authorities that he smuggled cocaine. And he implicated other Haitian officials—but not the top three military leaders * * *. or President Aristide.

The administration was hoping to do to Haiti's military leaders * * * what the United States did to Panamanian leader Manuel Noriega—arrest them and put them in jail.

The administration had cast a wide net in an effort to build a drug case against the military leaders * * * The last thing it wanted to hear were new allegations against Aristide.

Defense Secretary Perry said today the matter is closed:

"The Justice Department made a very detailed investigation of this. They concluded that the evidence did not support this allegation by one informant."

But other sources tell ABC News the investigation is still open.

Justice Department officials met last Thursday, even as the United States was preparing Haitians for an invasion, to decide how to handle this political hot potato.

This evidence was flimsy * * * but officials couldn't stop the investigation without appearing to interfere * * * just as the United States was preparing to put lives on the line to return Aristide to power.

[From the Wall Street Journal, Sept. 22, 1994]

U.S. FACES DILEMMA ON RESTORING HAITI'S LEADER, AS AMERICANS WONDER IF ARISTIDE IS GOOD OR EVIL

(By Robert S. Greenberger)

WASHINGTON.—When President Jean-Bertrand Aristide returns to Haiti, the question here is will he go back as the good guy or the villain?

The Clinton administration policy is anchored on restoring President Aristide as Haiti's elected leader by Oct. 15. But four days into the U.S.'s peaceful occupation of the Caribbean nation, support for that goal is in danger of eroding.

President Aristide finally delivered a belated "thank you" to the U.S. yesterday for its efforts to restore him to power. But his three-day delay in doing so has only fueled concerns in the U.S. that the administration is saddled with an unreliable and temperamental partner.

ARISTIDE IS CRITICIZED

Democrats in the past few days have begun attacking the Haitian leader as an ingrate. "The proper response from Mr. Aristide is not to second guess or nitpick. The proper response is two words: 'thank you,'" Rep. David Obey of Wisconsin, one of the few members of his party who had advocated an invasion of Haiti, said earlier this week.

Meantime, critics from the right are pressing a campaign to demonize the Haitian priest, circulating stories about his involvement in violence and unfounded rumors about drug payoffs and even murder. On the night President Clinton gave his nationally televised speech on Haiti, the American Conservative Union aired a TV ad showing a 1991 Aristide speech—in Creole—that appeared to encourage "necklacing," or putting a tire around a political opponent's neck and setting the tire on fire.

Efforts to tar Mr. Aristide in the public mind could prove critical to the long-term success of the U.S. mission in Haiti. Americans only support such military endeavors when they have a clear sense of battling evil. Former President Carter fogged that distinction by extolling the "bad guy,"—Lt. Gen. Raoul Cedras—as a patriot and a man of honor just a few days after President Clinton had labeled the same general a thug and a murderer. An effective attack on President Aristide, the supposed "good guy" in this international melodrama, could push public patience over the edge.

"It's my impression that the events of the last few days have really changed the way Aristide and Cedras are viewed as hero and villain," says Christopher Caldwell, assistant managing editor of the American Spectator and author of a scathing attack on President Aristide in that conservative magazine's July issue. In response, President Aristide's defenders, and paid publicists, are pressing to polish his image among Americans and counter the attacks.

EXAGGERATION OR TRUTH?

Many of the charges surfacing against Mr. Aristide from Mr. Caldwell and others on the right clearly are the product of innuendo and exaggeration. Reed Irvine, who heads Accuracy in Media, a conservative watchdog group, passes on a "tip" that President Aristide ordered the killing of a Haitian priest earlier this summer, to put the spotlight back on Haiti instead of the Cuba crisis. Mr. Irvine concedes he heard the story from someone he doesn't know, who claims to have Pentagon connections. Nevertheless, a small Washington newspaper ran the story.

But the 41-year-old President Aristide also has given his opponents plenty of material to work with. He is a radical Roman Catholic priest who has fought with his church and often spewed anti-American statements. His stubbornness and independence continue to drive U.S. officials to distraction. Although his human-rights record during his short tenure as Haiti's elected president was vastly superior to what came before and after, he clearly encouraged, or in some cases didn't act to prevent, mob violence. In one instance, he stalled an investigation of the murders of five jailed youths.

TARGETING LEGISLATORS

Much of the anti-Aristide efforts are directed toward Congress, a fertile field for anti-interventionist sentiment. When House leaders were negotiating the language of a resolution praising the negotiated agreement in Haiti, Republicans insisted that the document wouldn't praise President Aristide. Democrats agreed. On the Senate floor, GOP Sen. Phil Gramm of Texas, citing descriptions of President Aristide as a "anti-American Marxist demagogue," declared, "I don't see a good guy in Haiti."

President Aristide isn't unarmed in this battle of perceptions. A bevy of highly paid aides has been peppering the airwaves, noting that President Aristide was democratically elected with nearly 70% of the vote and was beginning to bring real reform to Haiti's impoverished masses when he was ousted by the military in September 1991.

The public-relations firm of McKinney & McDowell received $191,000 during a seven-month period that ended in April, according to the most recent filing with the U.S. Justice Department. And the Miami law firm of Kurzban Kurzban & Weinger, P.A., acting on behalf of President Aristide, dispersed $594,500, to several law firms and individuals. Among the most prominent spokespeople is former Democratic Rep. Michael Barnes, whose law firm receives a monthly retainer of $27,500. The money comes from Haitian government bank accounts in the U.S. that were frozen following the military coup and that now are controlled by President Aristide.

FAVORABLE HUMAN-RIGHTS RECORD

Beyond the public relations, President Aristide had a generally favorable human-rights record during his seven months in office, says Kenneth Roth, executive director of Human Rights Watch, a private group. Nevertheless, he adds, President Aristide has one "large blight on his record." In July 1991, five youths were arrested by police and later murdered; President Aristide blocked an investigation of a leading suspect, the police chief, who was a strong Aristide supporter.

The State Department's human-rights report for 1991 concluded that, "although there were few institutional advances made to improve respect for human rights during the Aristide government, there were fewer instances of abuse by soldiers, which resulted in a greater sense of personal security."

President Aristide's history with his church is also somewhat mixed. According to a spokesman for the National Council of Catholic Bishops, he was expelled from his order, the Salesians of Don Bosco, in November 1988 because he no longer was living up to the principles and the restrictions of the order, which primarily is focused on the needs of the poor. Prior to the expulsion, which later was approved by Rome, he was given several warnings by his superiors for preaching violence. The Salesians, however, say President Aristide chose to leave because of the order's restriction against mixing religion and politics.

ALLEGATIONS OF DRUG TIES

Another recent attack on President Aristide involves allegations of ties to the drug trade. In a letter to Attorney General Janet Reno, written the day after the U.S. reached agreement with Gen. Cedras in Haiti, Sen. Larry Pressler, a South Dakota Republican, citing an ABC News report, called for an investigation of charges that President Aristide received money from drug dealers.

Carl Stern, a Justice Department spokesman, says the charges, which weren't new, had been investigated and "there was no basis found for going further."

But such charges are kept alive by a network of conservatives that includes talk-radio shows. Armstrong Williams, host of "The Right Side," says he receives hundreds of calls from listeners who characterize President Aristide as a criminal and unfit for U.S. support. Mr. Williams, in turn, passes on tidbits that buttress that perception. "Aristide," he says, "is my favorite subject these days."

[From the Washington Times, Oct. 4, 1994]

Pressler Urges Panel to Probe Claim That Aristide Took Bribe, Asks Why DEA Interview of Ousted Leader Was Barred

(By Jerry Seper)

Sen. Larry Pressler wants the Senate Judiciary Committee to investigate accusations that deposed Haitian President Jean-Bertrand Aristide and his top aides took payoffs from Colombian drug dealers to keep Haitian smuggling routes to the United States open.

In a letter to Senate Judiciary Committee Chairman Sen. Joseph R. Biden Jr., Delaware Democrat, and Sen. Orrin G. Hatch of Utah, the ranking Republican on the panel, the South Dakota Republican described the accusations as "extremely serious."

"Such allegations, if true, are extremely troubling given the administration's strong support for President Aristide and his return to power," Mr. Pressler said.

In a separate letter to Attorney General Janet Reno, Mr. Pressler sought information on the Justice Department's role in an ongoing Aristide investigation and asked if the department had refused to allow U.S. Drug Enforcement Administration agents in Miami to question the ousted president.

"I also wish to know whether the Justice Department refused DEA permission to interview President Aristide, the department's reasons for denying such a request and the name of the department official responsible for that decision," said Mr. Pressler, himself a Judiciary Committee member.

The Aristide accusations surfaced this year when a former member of the Medellin drug cartel in Colombia told the DEA Mr. Aristide and several aides took bribes from cartel leaders to guarantee cocaine smuggling routes through Haiti to the United States.

The former Medellin lieutenant and top aide to Pablo Escobar, the cartel's late boss, told DEA agents in Miami that the payoff was given to Mr. Aristide in the months before his ouster in September 1991 by a military coup.

The informant, now a government witness, described the suspected Aristide payoff and payment of bribes to key aides during interviews earlier this year, first reported last month by ABC News.

An investigation is under way, although a request by DEA agents in Miami to question Mr. Aristide in the probe was rejected last month by a Justice Department oversight committee. The Undercover Review Committee challenged the informant's credibility but did not stop the investigation.

Justice Department sources said the informant could not provide specific corroboration and showed "some deception" in a polygraph test administered by the DEA. Some department officials said the polygraph findings were "mixed" but not disqualifying.

Although the decision not to question Mr. Aristide came at a time the Clinton administration was considering using military force to return him to power, Miss Reno has denied that politics played any role.

Mr. Aristide has denied the accusations. A spokesman described statements by the informant as "nonsense."

The informant, the sources said, told the DEA that the Aristide payoff was delivered by Franz Biamby, the Medellin cartel's Haitian connection. Mr. Biamby, a suspected drug smuggler, is a cousin of Brig. Gen. Philippe Biamby, chief of staff to Lt. Gen. Raoul Cedras, Haiti's military leader.

The sources said Mr. Biamby told the informant he personally delivered a money-filled suitcase to Mr. Aristide. The information came during an investigation of Mr. Biamby's suspected ties to Haitian drug smugglers, along with that of other former and current Haitian civilian and military leaders, they said.

"It's hard to believe the Clinton administration would seek an investigation of Haiti's military leadership and their roles in drug smuggling and not know the DEA would also come up with the Aristide connection," said one source close to the investigation.

In his letter to Miss Reno, Mr. Pressler said he understood the DEA discovered Mr. Aristide's suspected ties to the Medellin cartel after the White House had directed the agency to "investigate allegations of profiteering from drug trafficking" by military officials in Haiti, including Gen. Cedras.

"During the course of this investigation, the DEA ostensibly uncovered information linking not only Haitian military officials to drug money, but also President Aristide," he said.

In May, the Justice Department confirmed it was investigating drug trafficking by the Haitian military, naming 14 top military officers, Haiti's port director and the Haitian National Intelligence Service as investigative targets.

[From the Washington Times, Oct. 3, 1994]

Escobar Aide Tells DEA of Aristide Bribe

(By Jerry Seper)

A former member of a Colombian drug cartel, now a government informant, has told the U.S. Drug Enforcement Administration that ousted Haitian President Jean-Bertrand Aristide personally took a bribe from cartel leaders to guarantee that cocaine smuggling routes through Haiti to the United States would remain open.

The unidentified informant, according to Justice Department sources, told DEA agents in Miami that the cash—several thousands of dollars stuffed in a suitcase—was given to Mr. Aristide in 1991 by members of the Medellin drug cartel, headed at the time by Pablo Escobar.

The informant is deemed "credible" by Justice Department officials in other pending cases, the sources said.

A former Medellin cartel lieutenant and top Escobar aide, the informant described the suspected Aristide payoff and the payment of bribes to other Haitian officials, including key Aristide aides, during several interviews this year with DEA officials.

An investigation into the accusations is continuing, although a request by DEA agents in Miami to question Mr. Aristide in the probe was rejected last month by a Justice Department oversight committee. The Undercover Review Committee challenged the informant's credibility but did not stop the probe.

The sources said the informant could not provide specific corroboration and showed "some deception" in a polygraph test administered by the DEA. Some Justice Department officials said the polygraph findings were "mixed" but not disqualifying.

The informant told agents in Miami that the Aristide payoff was delivered by Franz Biamby, the Medellin cartel's Haitian connection, the sources said. Mr. Biamby, a suspected drug smuggler, is a cousin of Brig.

Gen. Philippe Biamby. Gen. Biamby is chief of staff to Lt. Gen. Raoul Cedras, Haiti's military leader.

According to the sources, the informant said Mr. Biamby told him he had personally delivered the money-filled suitcase to Mr. Aristide. The information, they said, came during an investigation of Mr. Biamby's suspected role in drug smuggling in Haiti, along with that of other former and current Haitian civilian and military leaders.

The sources said the informant often served as a "bagman" for Escobar, the notorious Medellin boss who was killed in a shootout with Colombian police last year.

At one time, Escobar headed a drug trafficking operation out of Medellin, Colombia, and had a net worth of more than $2.5 billion. He was blamed for the deaths of hundreds of people—including presidential candidates, judges and police—in a series of assassinations and car bombings.

Justice Department officials have denied that politics played any role in the decision to turn down the interview request, although it came at a time when the Clinton administration was considering using military force to return Mr. Aristide to power.

Attorney General Janet Reno said last week the decision to reject the Aristide interview was made by the department's undercover review committee. She said committee members, including criminal division lawyers who are assigned to the panel, were "participating in a DEA structure, and I've tried to do it the way it's always done to make sure that there is no political interference."

DEA spokesman Bill Ruzzimenti has declined comment, saying that, as a matter of policy, the agency will neither confirm nor deny that anyone is the subject of an active investigation.

Mr. Aristide has denied accusations that he was involved in drug payoffs. A spokesman described statements by the informant as "nonsense."

White House spokesman David Levy did not return calls to his office last week seeking answers on what and when administration officials knew about the Aristide investigation.

The DEA informant accused Mr. Aristide and his aides of using Haitian military officers and others to protect incoming drug flights and outgoing shipments, the Justice Department sources said.

Haiti has long been a suspected transshipment point for cocaine headed to the United States from South America. Haitian officials and military leaders, according to law enforcement authorities, have long been involved in an international smuggling network that uses freighters, small boats, commercial airliners and smaller aircraft to smuggle drugs to the United States. Its remote landing strips are easily accessible to small planes flying too low to be detected by radar.

The DEA has estimated that a ton of cocaine is smuggled through Haiti to the United States each month. A 1992 State Department report described Haiti as a "transshipment point of illegal narcotics, especially cocaine, into the United States."

Mr. Aristide is a Roman Catholic priest who was expelled in 1988 from the Salesian order, one of the church's largest, for using religion to incite hatred and violence. He was elected president in December 1990 and overthrown nine months later in a military coup. He is expected to return to Haiti after coup leaders step down Oct. 15.

As president, he repeatedly used implicit threats of mob violence to intimidate his opponents in the business class, the National Assembly and the military.

In September 1991, shortly before his ouster, he invoked "God's justice" in urging his followers to "necklace" opponents—hang discarded, gasoline-filled tires around their necks and set them ablaze. He did not mention burning tires explicitly but referred to the smell of something burning.

Mr. Aristide is still a priest in the eyes of the church because he never officially received a dispensation from his vows. Church law bars priests from holding elected office, except in unusual circumstances.

[From the Washington Times, Sept. 30, 1994]

DEA Probes Report of Aristide Drug Link—Colombian Smugglers Said to Use Haiti

(By Jerry Seper)

U.S. Drug Enforcement Administration agents are investigating accusations that deposed Haitian President Jean-Bertrand Aristide took bribes from Colombian drug dealers to ensure that longstanding Haitian smuggling routes into the United States remained open.

The DEA probe, according to Justice Department sources, has focused on the ousted president and several top aides. They are suspected of accepting payoffs during the Aristide presidency to guarantee Haiti's use as a transshipment point for millions of dollars in cocaine bound for the United States.

Mr. Aristide and his aides, some of whom stayed in Haiti after the Aristide government was overthrown in September 1991, were accused by a DEA informant of using Haitian military officers and others to protect incoming drug flights and outgoing shipments, the sources said.

The probe is continuing despite a department decision last month rejecting a DEA request to question Mr. Aristide in the case. The sources said the department's Undercover Review Committee, which oversees high-profile cases, rejected the request after challenging the informant's credibility.

The interview request was rejected as the Clinton administration was considering using military force to return Mr. Aristide to power, although Attorney General Janet Reno yesterday denied that politics played a role in the decision.

A militant Roman Catholic priest, Mr. Aristide was elected president in December 1990 and overthrown nine months later in a military coup. He is expected to return to Haiti after coup leaders step down Oct. 15.

The Aristide investigation began after information on the suspected payoffs was given to DEA agents by the informant, who has been described as reliable in other cases. The sources said the unidentified informant was unable to provide specific corroboration and showed "some deception" in a polygraph test administered by the agency.

"We get allegations, we pursue them in every way we can without any political interference," Miss Reno said during her weekly press briefing yesterday. "DEA has a structure for making informed decisions . . . to ensure there is no political interference, and I insisted that it be done that way."

Initially, she said the DEA made the decision not to question Mr. Aristide: "DEA made a decision; it was not made by the department." Later, however, she acknowledged the decision had been made by a committee within her department.

DEA spokesman Bill Ruzzimenti declined comment yesterday, saying that, as a matter of policy, the agency will neither confirm nor deny that anyone is the subject of an active investigation.

White House spokesman David Levy did not return a call to his office yesterday seeking answers on what and when administration officials knew about the Aristide investigation.

Haiti has long been a suspected transshipment point for cocaine headed to the United States from South America. Haitian officials and military leaders, according to law enforcement authorities, have been involved in smuggling since the 1980s.

The DEA investigation, according to Justice Department officials, has focused on a suspected Haitian-Colombian smuggling network established by Haitian Col. Jean-Claude Paul, who died in 1988 under suspicious circumstances.

Col. Paul, who at one time provided protection for Mr. Aristide during the priest's rise to political prominence in Haiti, was suspected by U.S. drug agents of making $40 million by facilitating cocaine shipments for the Medellin cartel between December 1986 and his death in November 1988.

Indicted in March 1988 by a federal grand jury in Miami on charges of aiding drug traffickers, Col. Paul died nine months later of poisoning at his home in Port-au-Prince. He had been accused of conspiring to import 200 pounds of cocaine into the United States. Also indicated were his brother, Antonio Paul, and his ex-wife, Marie Merielle Delnois.

As commander of the powerful Dessalines Barracks in Port-au-Prince, he was accused of using one of his personal airstrips in Haiti to ferry Colombian cocaine into the United States. The indictment came after a DEA informant, Osvaldo Quintana, outlined the suspected smuggling operations to a grand jury.

The 49-year-old colonel became one of the most powerful army officers in Haiti after the fall of the Duvalier family dictatorship in February 1986. He remained a key figure after being forced into retirement and managed to avoid being sent to the United States for trial.

Col. Paul died Nov. 6, 1988, after eating a bowl of soup containing a "toxic substance," which was not identified. A maid and gardener were arrested but not charged.

Fritz Pierre-Louis, a former Haitian army lieutenant who later defected, told a Senate subcommittee in 1988 that he personally turned over confiscated cocaine to Col. Paul only to have it disappear. Mr. Pierre-Louis said 70 percent of the colonel's Dessalines Barracks forces was involved in the drug trafficking.

Haiti is a key part of an international smuggling network that has long used freighters, small boats, commercial airliners and smaller airplanes to smuggle drugs to the United States. Its remote landing strips are easily accessible to small planes flying below radar level.

The DEA has estimated that a ton of cocaine is smuggled through Haiti to the United States each month, although shipments have been slowed by the recent U.S. embargo. A 1992 State Department report described Haiti as a "transshipment point of illegal narcotics, especially cocaine into the United States."

Mr. Aristide has denied any involvement in drug trafficking and has publicly condemned suspected trafficking within the Haitian military leadership that overthrew him. During his exile in Washington, he said the military leaders who deposed him were responsible for $500 million in smuggling annually.

Seizures of cocaine in Haiti, however, dropped from 3,812 pounds in 1990, the year before Mr. Aristide assumed power, to 415 pounds in 1991, after he took over as president.

In May, the Justice Department said it was investigating drug trafficking within the Haitian military. It said prosecutors had evidence that military officers were continuing to protect incoming and outgoing cocaine shipments.

A six-page memo named 14 top military officers. Haiti's port director and the Haitian National Intelligence Service as targets of the Justice Department probe. The memo said authorities had established "that the Haitian military have been closely involved in the facilitation of drug trafficking since at least the early 1980's."

The memo, which said indictments were not expected in the immediate future, said drugs confiscated from smugglers often were sold to other traffickers for delivery in the United States. It also said Haitian officers were closely involved with Colombian smugglers, although it did not identify the dealers.

According to the memo, the key target was Lt. Col. Michel Francois, chief of police in Port-au-Prince. Col. Francois, not the nation's military chief, Lt. Gen. Raoul Cedras, was identified as the most powerful figure in the regime that overthrew Mr. Aristide.

The memo does not mention Gen. Cedras as an investigative target. A confidential Senate report last year said the general's role in smuggling was not clear.

Mr. PRESSLER. Madam President, this decision not to interview Mr. Aristide is even more disturbing since American military forces are currently occupying Haiti and, according to a recent New York Times article, we are spending $5 million on covert activities to restore Aristide to power.

I ask unanimous consent to print in the RECORD the New York Times article at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Sept. 27, 1994]

C.I.A. REPORTEDLY TAKING A ROLE IN HAITI

(By Elaine Sciolino)

WASHINGTON, Sept. 27.—In a move that some lawmakers believe could subvert the democratic process in Haiti, President Clinton has approved a secret contingency plan that authorizes unspecified political activities to neutralize the opponents of President Jean-Bertrand Aristide, senior Administration officials said today.

In addition, the $5 million plan authorizes the Central Intelligence Agency to spend $1 million on propaganda activities to help ease Father Aristide's return and to use covert means to protect American forces there from hostile military groups, the officials added.

To avoid charges that the United States is interfering, the C.I.A. does not have the authority to undertake political activities on its own, the officials added. But the vague nature of the term "political actions" has alarmed some lawmakers who fear that money could be used to corrupt politics in Haiti.

Administration officials briefed key lawmakers last Wednesday about Mr. Clinton's order, known as a finding, as required by law. Since then, the C.I.A. has begun to use some of the $1 million earmarked for propaganda for covert radio broadcasts and to penetrate military groups that might seek to harm American troops.

The officials briefing Congress told lawmakers that one of the goals was to "create a political climate" that would help put into effect the agreement that former President Jimmy Carter reached with Lieut. Gen. Raoul Cédras, Haiti's military leader, on Sept. 18.

Under that agreement, General Cédras and other military leaders must relinquish power after the parliament approves a general amnesty, or by Oct. 15, whichever comes earlier. The Clinton Administration supports an amnesty so that it does not have to forcibly remove the Haitian leaders if they refuse to leave.

A number of lawmakers said they were convinced that under the covert operation, pro-military legislators elected under disputed circumstances could be paid off to step aside, and that the C.I.A. had the authority to pay expenses, provide security or give other incentives to parliamentarians who do not want to vote for amnesty.

"I cannot discuss intelligence matters, but it would not be uncommon for the United States to get involved in some manner in promoting free and fair elections," said Senator Dennis DeConcini, Democrat of Arizona. "To me this could be done in many ways. I would think an open overt way would be the best. The institutions are there."

Senior Administration officials familiar with the Presidential finding insisted that it did not authorize the C.I.A. to bribe officials or try to influence the vote on amnesty.

"We have specifically excluded paying people off or getting involved in the political process in an intrusive way," said one senior Administration official. "We took those activities out. We have done absolutely zero in this domain, and I seriously doubt whether we will pursue this at all."

But a number of Administration officials conceded that there could be circumstances in which the United States might want to take action to stop the military from paralyzing Haitian politics, as it did last year in blocking the Governors Island accord, under which the military was to step down.

"Our concern is that the bad guys are going to bribe people, intimidate people, keep people away from the parliament," said one senior United States official. "On a limited basis, we may have to do things to counter that."

For example, if the United States uncovered a coup plot against Father Aristide, Washington could take measures to thwart it, officials said. And although, on paper at least, payments to deputies are not allowed, officials said they could be offered protection, transportation to and from parliament and other help.

Some lawmakers familiar with the plan also expressed concern about spending $1 million on C.I.A.-generated propaganda when Washington is already supporting an overt program, including two radio stations that broadcast messages from Father Aristide and the distribution of millions of pro-Aristide leaflets.

Administration officials countered that the covert propaganda program gives the Administration maximum flexibility and provides funds for activities like newspapers.

The secret order renders invalid an earlier $12 million secret plan to offer Haiti's three top military leaders a comfortable life in exile and to conduct covert activities that might undermine them.

Administration spokesmen officially refused to confirm or deny the existence of the secret programs. "Consistent with this Administration's steadfast practice, we do not comment one way or another on alleged intelligence activities," said Michael McCurry, the State Department spokesman.

As part of the plan, Mr. Clinton authorized the C.I.A. to introduce agents inside Haiti to detect plots to assassinate American soldiers or take them hostage.

In a formal review after the mission in Somalia, where 18 American troops were killed last October while trying to capture a clan leader, the President's Foreign Intelligence Advisory Board concluded 'that there was not sufficient support by the C.I.A., and that authority for covert operations should be in place whenever American forces were deployed in a potentially hostile environment, senior officials said.

Mr. PRESSLER. Apparently, we are spending millions of dollars in overt and covert aid to get rid of opponents of Mr. Aristide in order to return Mr. Aristide to power. Some of his opponents are alleged to have been involved in drug smuggling activities, and now there are allegations about Mr. Aristide as well.

It is unsettling to me that we are investing such large sums of money and putting U.S. servicemen in possible jeopardy on behalf of Mr. Aristide, yet the U.S. Government decides not to interview him about the allegations of an informant who is considered reliable.

I had hoped to appear before the Committee on Government Operations in the other body tomorrow to ask questions of the DEA Administrator, Tom Constantine. Regrettably, the chairman of that committee has refused my request to ask questions at the hearing.

Therefore, I have submitted my questions to the President. I want to know the results of the investigation into Haitian drug trafficking. What information has been uncovered? Who in the White House was notified of this information and when? Did the White House or the Justice Department make the decision not to question Mr. Aristide? Was the decision based on political factors?

Did the DEA interview Mr. Molina? Did the Justice Department cut a deal with him? If so, what were the details of the deal? Did he pass a lie detector test? Where is Mr. Molina now?

Madam President, what I want is simple. I want the administration to give a clear strong, unreserved statement that they know of no evidence that Jean-Bertrand Aristide, or anyone closely associated with him, accepted money from foreign drug traffickers.

The PRESIDING OFFICER. The Presiding Officer wishes to advise the Senator from South Dakota his time has expired.

The Senator from Connecticut.

Mr. DODD. Madam President, I want quickly, if I can, before yielding to the colleague from Iowa, to say with all due respect to my friend and colleague from South Dakota, that this is nothing new. Every day there was some new allegation raised about President Aristide.

Let me just inform my colleagues that we have received very credible evidence that the so-called source that our colleague from South Dakota refers to is totally unreliable, has been unreliable in dozens of cases before; that the major source of paid information that was received by our Government regarding Mr. Aristide came, in fact, from the very people who we are now trying to disarm in that country; that, in fact, a careful reading of the information from our Embassy in Haiti between January or February 1991 and the end of September 1991, when President Aristide was ousted in the coup, points to a clear, strong cooperation between the Aristide government and our Drug Enforcement Agency, and officials; that, in fact, the problem has resided in the very people we are trying to get rid of.

Colonel Francois, the head of police, the only job he had as a police officer, just moved into a $250,000 home in the Dominican Republic. He did not buy the place with a policeman's salary.

The problem is with the element we are trying to get rid of. I believe had there been further and serious allegations involving President Aristide and drugs, you would have heard of them a long time ago, given the effort to try and assassinate the character of this individual.

So I want the record to be clear for my colleagues.

Mr. PRESSLER. Will my colleague yield?

Mr. DODD. I will not yield.

There is absolutely no truth whatsoever to these 11th hour allegations regarding President Aristide and anyone who spends 5 minutes looking at it will draw the same conclusion.

Madam President, I am glad to yield 10 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

The Senator from Connecticut has 2 minutes. The Senator from Iowa has 7 minutes.

Mr. DODD. I yield 9 minutes to the distinguished Senator from Iowa.

Mr. HARKIN. I thank the Senator for yielding.

Again, Madam President, there has been more disinformation and character assassination and rumor mongering about President Aristide than anybody I have ever seen.

This latest allegation of President Aristide and drug running has been leveled before. I am surprised by my friend and colleague from South Dakota, who is a good individual and an intelligent individual, to keep this kind of rumor mongering going. In fact, the article in the Washington Times dated October 3, to which my colleague refers, says that the information really came from Francois Biamby, who is the cousin of, guess who, Brig. Gen. Philippe Biamby. General Biamby is one of the heads of the military junta along with General Cedras. He is the one saying he delivered the money-filled suitcase to Mr. Aristide

Mr. PRESSLER. Will the Senator yield?

Mr. HARKIN. The Senator had his time. I will finish my statement.

I remember a year ago up in the secret office in room 407 when the CIA came in to give a briefing. I think the Senator from South Dakota may have been in on that briefing. At that time it was alleged that Mr. Aristide had taken drugs.

Well, guess where we got that information? After President Aristide was overthrown in the coup, Cedras and the military turned over to our people what they said were drugs that they had taken from President Aristide's residence. Based on that, the CIA gives us this information that he takes drugs.

Then we heard that President Aristide had been treated in a mental hospital in Canada. Well, it took me probably 45 days to 2 months to track that down. I finally did. This allegation has been totally, totally shown to be false. We had a person with an affidavit from President Aristide saying he could get any and all information from any hospital in Canada regarding any treatments he ever received. Armed with that, this individual went up to Canada to the hospitals and, of course, they said they had absolutely no record of ever treating him.

Just to show you the amount of disinformation the CIA can disseminate, when they first told us the year President Aristide had been in a mental hospital in Canada, it turned out that President Aristide was not even in Canada. He was studying biblical history in Israel. So you have to take this all into account.

I will tell you, there has been a campaign against President Aristide the likes of which I have never seen.

Mr. PRESSLER. Will my friend yield?

Mr. HARKIN. Madam President, there has been a lot of talk today about President Clinton. I want to say, Madam President, that President Clinton has done the right thing, the honorable thing, the good thing, and he has done it correctly.

President Clinton went the extra mile after he came into office to carry forward the policies of President Bush regarding Haiti. He went the extra mile to seek a peaceful solution. We had the Governors Island Accord. General Cedras signed it. Then there was the Harlan County incident. Rather than send our unarmed troops in there in harm's way, President Clinton sent them back and tried to seek a peaceful solution.

The PRESIDING OFFICER. Would the Senator from Iowa withhold?

It is difficult to hear the Senator from Iowa because of other conversations in the Chamber. The Presiding Officer would ask that other conversations cease.

Mr. HARKIN. President Clinton continued the negotiations. Then we put on the embargo. And then when it was clear that the Haitian generals would not leave, did President Clinton go off Lone Ranger-like to take care of Haiti? No. He went to the United Nations. He went to get other countries to support us. And, in fact, we have more nations supporting what we are doing in Haiti than we did in the Gulf war. So President Clinton went the extra mile.

And then, finally, he said, "Enough is enough, they have to go." And then, at the last minute, he sent a negotiating team down to Haiti for one last chance. And the negotiating team succeeded.

You know, Madam President, memories are short around here. I remember when Ronald Reagan went into Grenada. He did not go to the U.N. He did not go to seek any help. He went down there Lone Ranger-like; a country of 100,000 people. We lost 19 troops when we invaded Grenada. No one talks about that.

When we went after Noriega in Panama, we lost 24 U.S. soldiers. No one talks about that. I happened to have supported that. The day after Grenada, I got on the floor and supported it. I supported President Bush when he went to Panama.

And yet, while we are here in Haiti, while we are disarming the military and paramilitary Forces, while we are bringing Aristide back, we have not lost one American soldier and hope to God we do not lose any. Yet, for all of that, people get on the floor today and castigate President Clinton as though he did something wrong.

I want you to know I am proud of this President and I am proud of what he has done. We have finally taken steps to root out one of the worst dictatorships, terrorist organizations in this hemisphere and to stick up for the people of Haiti.

You do not have to take my word for it. Read the newspapers. Every day wherever our troops are in Haiti, the people come out and treat them as liberators, embrace them, turn over their guns to them.

As long as our troops are on the side of the Haitian people, they will not be harmed. The only harm that could possibly come to our troops would be from FRAPH and other paramilitary entities that are down there.

Finally, Madam President, I also want to praise President Aristide. His entire life has been one of fighting for the poor, those without power, those who suffered under the dictator Duvalier, the Tonton Macoutes and the repressive military. Here is a man who was elected in a free election with 67 percent of the vote. Under Aristide, human rights abuses dwindled precipitously in the 8 months he was in office.

There was not one case of necklacing during his entire tenure in office. Oh, we always hear about that, but the fact remains, there was not one case of necklacing when President Aristide was in office. That happened before he assumed office.

Under his brief tenure, President Aristide stopped the drug trafficking, he halted abuses by the military, he paid off their foreign debts, he took away Government enterprises and turned them over to the private sector.

It was the military and the elite that said, "No, he had to go," and 8 months later he was overthrown in a coup. Since that time, a disinformation campaign the likes of which we have never seen has been continuing, trying to discredit him and tear him down.

The closest I can come to what has happened to President Aristide is Nelson Mandela. Today, President Mandela addressed a joint meeting of Congress. We all stood and applauded, wildly enthusiastic. But just a few years ago he was branded by some people here as a Communist terrorist, someone who, if let out and got power would unleash bloodletting throughout South Africa to seek vengeance. Madam President, it did not happen then.

President Aristide has vowed reconciliation without vengeance and that is what he will do.

Mr. DODD. Will my colleague from Iowa yield?

Mr. HARKIN. I am delighted to yield.

Mr. DODD. I just got off the phone with someone in the Deputy Attorney General's office, who called because he was disturbed over some of the comments made on the floor regarding the Justice Department's alleged interference with the Drug Enforcement Agency's handling the allegations regarding President Aristide's involvement with narcotics. He told me that at the briefings with Senator HATCH of Utah and Senator BIDEN of Delaware, the chairman of the Judiciary Committee, they are satisfied that the Drug Enforcement Agency made the decision on their own based on the fact there was no merit whatsoever to the allegations not to interview President Aristide. The Justice Department was not involved. Two of our colleagues, senior members of the Judiciary Committee, have been briefed on this point.

Mr. PRESSLER. Will my friend yield?

Mr. DODD. And, in fact, as to the allegations raised by our colleagues, for three times attempts have been made to communicate the same information and the calls have not been returned.

Mr. PRESSLER. Will my colleague yield?

Mr. HARKIN. How much time do I have remaining?

The PRESIDING OFFICER. One minute and 30 seconds.

Mr. PRESSLER. Will my colleague yield?

Mr. HARKIN. I do not have the time to yield.

Madam President, there is story that will come out in The Nation magazine tomorrow that paints a terrible picture of FRAPH, the right wing terrorist organization in Haiti, and the fact that it has close ties to our Central Intelligence Agency and Defense Intelligence Agency.

Madam President, if these charges are indeed true, it raises very serious questions as to what our CIA is doing in Haiti right now. I raised this issue here on the floor a week ago. Well, certain elements of the CIA who have been spreading disinformation about President Aristide are now back in Haiti again.

Madam President, I ask unanimous consent that this article from The Nation magazine be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BEHIND HAITI'S PARAMILITARIES: OUR MAN IN FRAPH

(By Allan Nairn)

Emmanuel Constant, the leader of Haiti's FRAPH hit squad, is a protege of US intelligence. Interviews with Constant and with U.S. officials who have worked directly with him confirm that Constant recently worked for the C.I.A. and that U.S. intelligence helped him launch the organization that became the FRAPH. Documentary evidence obtained from other sources and confirmed in part by Constant also indicates that a group of attaches—some of them implicated in some of Haiti's most notorious crimes—have been paid for several years by a U.S. government-funded project that maintains sensitive files on the movements of the Haitian poor.

In my October 3 Nation article ["The Eagle Is Landing"] I quoted a U.S. intelligence official praising Constant as a "young, pro-Western intellectual . . . no further right than a young Republican" and saying that U.S. intelligence had "encouraged" Constant to form the group that emerged as FRAPH. Reached at his home on the night of September 26, Constant confirmed the U.S. official's account. He said that his first U.S. handler was Col. Patrick Collins, the U.S. Defense Intelligence Agency attache, who he described as "a very good friend of mine" (Constant spoke of dealing later with another official he called "[the US's] best liaison," but he refused to give a name). Constant said that colonel Collins had first approached him while Constant was teaching a training course at the headquarters of the CIA-run SIN (National Intelligence Service) and was also (at the Bureau of Information and Coordination [BIC] in the General Headquarters of the Haitian coupe regime) building a computer data base for Haiti's notorious rural Section Chiefs.

Giving an account that dovetailed closely with that of the US official, Constant said that Collins began pushing him to organize a front "that could balance the Aristide movement" and do "intelligence" work against it. He said their discussions had begun soon after Aristide fell in September 1991, They resulted in Constant forming what later evolved into FRAPH, a group that was known initially as the Haitian Resistance League.

Constant at first refused to go beyond his usual public statements on the FRAPH, but opened up after I told him that I understood that he knew Col. Collins. Our initial interview took place on the first day of the bold anti-FRAPH protests on the streets of Port au Prince. Constant said that he wanted to offer his men as "guides" for the occupation force, saying that "I've participated in the stabilization of this country for the past three years, and the US knows it very well, no matter what agency you talk to."

Two days after that, as a crowd marched past FRAPH headquarters, FRAPH gunmen opened fire killing one of the demonstrators. Five days later, in the wake of embarrassing coverage about both continued mayhem by the FRAPH and a US raid on a supposed pro-Aristide terrorist camp (that was actually—as it turned out—a world-famous dancing school). US occupation forces raided FRAPH's downtown Port Au Prince headquarters, carting away two dozen street-level gunmen (and women) as live cameras and cheering crowds looked on. Some US reporters proclaimed that this was the death of the terror system, and CNN's Richard Blystone, announcing that there was more crackdown to come, said that Constant was now "at large" (a claim also made by the next morning's New York Times).

Five minutes after Blystone's CNN broadcast, I reached Constant by telephone at his Port-au-Prince home. He said that the arrests had only been of low-level FRAPH people, and that he still intended to put his men at US disposal. He said that there were no US troops outside his house and worried that it might be set upon by mobs. Then he said that he had, just then, to leave for a meeting (on the street, he said) with a US Embassy staffer who was hitherto unknown to him but who he thought might be from the CIA.

He said that he would call back after the meeting, but he didn't, and I couldn't reach him again. But the next day Constant appeared in public guarded—for the first time—by US Marines, and stated his fealty to the occupation and his support for the return of Aristide.

Much of the US press played this as a stunning about-face, but, in fact, Constant had been saying those things in public and to me all week. He had told me that the Carter/Powell/Nunn-Cedras pact, was "the last chance for Haiti," and had expressed no worry about the return of Aristide, saying that the new Parliament, to be chosen in December, would be constituted in a way that would hem him in.

Col. Collins is now back in Haiti (his last tour ended in 1992). The Clinton administration has brought him back for the occupation, and he has refused to comment on the record. But a well-informed intelligence official (speaking before the FRAPH furor broke) confirmed that Collins had worked with Constant and had, as Constant says, guided him and urged him on. Collins has, in recent weeks, spoken quite highly of Constant and has said that Constant's mission from the United States was to counter the "extreme" of Aristide. Collins has also said that, when he first approached him, Constant "was not in position to do anything . . . [but] things evolved and eventually he did come up, [and] what had been sort of an idea and technically open for business—all of a sudden, boom, it takes on national significance."

When the relationship started, Constant was working for the CIA, teaching a course at the Agency-run SIN on "The Theology of Liberation" and "Animation and Mobilization." The SIN, at that time, was engaged in terrorist attacks on Aristide supporters, as were Constant's pupils, army S—2 field intelligence officers. The targets included, among others, popular church cathecists. Constant says that the message of the SIN course was that though communism is dead, "the extreme left," through *ti legliz*, the grass-roots Haitian "little church," was attempting "to convince the people that in the name of God everything is possible" and that, therefore, it was right for the people to kill soldiers and the rich. Constant says he taught that "Aristide is not the only one: there are tens of Aristides."

Collins has recently acknowledged that FRAPH has indeed carried out many killings, but he has said that they have not been as numerous as the press and human rights groups claim. He has said that one approach is that "the only way you're going to solve this is . . . [that] it'll all end in some big bloodbath and there'll be somebody who emerges from it who will establish a society of sorts and a judicial system and he's going to say: O.K., you own the land, you don't—that's it, whether it's fair or not."

Though most U.S. officials would never speak that way, it's universally acknowledged that FRAPH is an arm of the brutal Haitian security system, which the US has built and supervised and whose leaders it has trained, and often paid. When I asked Constant, for example, about the anti-Aristide coup, he said that as it was happening Col. Collins and Donald Terry (the C.I.A. Station Chief who also ran the SIN) "were inside the [General] Headquarters." But he insisted that this was "normal;" the CIA and DIA were always there.

A foreign diplomat who knows the system well says that it is from those very headquarters that Haiti's army, with the police and the FRAPH have run a web of clandestine torture houses (one of them in a private home at #43 Fontamara), some of which are said to still be working as this article is written on the occupation's 17th day. According to the diplomat—who quoted internal documents as he spoke—the walkie-talkies of house personnel are routinely monitored by the U.S. Embassy, which, he said, also listened in on those of the U.N. Civilian Mission. Some interrogators wear shirts marked "Camp de Aplicacion" (an army base). The diplomat also detailed a structure of seven chief attaches who have run killings and brought victims to the torture houses.

Four of those senior attachés (as well as other, lower-ranking ones), according to documents and interviews, appear to have worked out of the Centers for Development and Health (C.D.S.), a large multiservice clinic funded mainly by the U.S. Agency for International Development. One of them, Gros Sergo (who was killed in September, 1993), listed C.D.S. on his résumé, writing that he worked in the archives and was a "Trainer of Associates" there. Another, Fritz Joseph—who, Constant says, is the key FRAPH recruiter Cité Soleil and who, according to official records, has been a chief attaché since the coup—is acknowledged by the C.D.S. director to have worked at C.D.S. for many years. The two others, Marc Arthur and Gros Fanfan (implicated by the UN in the murder of Antoine Izmery), have been named in sworn statements as having regularly received cash payments from C.D.S. Constant confirms that FRAPH leaders and attachés are working inside C.D.S. (and says specifically that Marc Arthur has worked there) and says he speaks often on the phone with the clinic's director, Dr. Reginald Boulos. Boulos denies that he speaks to Constant, says that Sergo's résumé is wrong, says he does not knowingly employ attachés, and says that he did not know until recently that Fritz Joseph was a FRAPH leader but that he fired him when critics pointed out that he was. Boulos said that C.D.S. files track "every family in Cité Soleil" but insisted that, as far as he knows, attachés don't have access to the archives. Boulos said he hadn't seen Sergo in years, and when told of an entry from Sergo's calendar that appeared to contradict that, he said it was mistaken. He also downplayed the fact that Sergo had listed him as a personal reference, along with coup leader General Raoul Cédras (Another AID-funded unit Haiti, Planning Associates, has also said, in AID meetings in Washington, that it employs FRAPH personnel).

Sergo's papers indicate that he reported to Police Chief Michel Francois (he has a pass, written on the back of Francois' card, authorizing him and Marc Arthur "to see the Chief of Police at all hours of the day and night"), that he and his squad organized anti-Aristide demonstrations, that, just before C.D.S., he was in the Interior Ministry's "intelligence police," and that he had appointments to meet with the CIA's SIN chief, Col. Sylvain Diderot, and with members of the Mevs. one of Haiti's ruling families.

Though some Haitian officials claim that Francois was on the CIA payroll, this is denied by Lawrence Pezzullo, the former US Special Envoy in Haiti, but Pezzullo did reveal that the CIA paid Francois' brother, Evans, now a Haitian diplomat in the Domincian Republic (Pezzullo joked, as to the Colonel himself, "you couldn't pay him enough to buy him.")

FRAPH emerged as a national force in the latter months of 1993 when it staged a series of murders, public beatings, and arson raids on poor neighborhoods. In one attack, Mrs. Alert Belance had her right hand severed by FRAPH machetes.

President Clinton, when it was convenient, later used photos of these macabre assaults to (accurately) brand Haiti's rulers as "armed thugs [who] have conducted a reign of terror." But, in the moment when that terror was actually at its height, Clinton used the FRAPH killings to harshly pressure Aristide to "broaden" his already-broad cabinet in a "power-sharing" deal. Pezzullo, in part echoing Collins' original vision for Constant (though he denies any knowledge of the arrangement), says that FRAPH was "a political offset to Lavalas" and that as the "bodies were starting to appear" "We said [to Aristide]: the only people seen operating politically now are the FRAPHistas," and that they had to "fill that gap with another force with the private sector, otherwise these FRAPH people will be the only game in town."

It is often pointed out that FRAPH embarrassed the US by chasing off the Harlan County, but in that case, US officials could not agree about whether the ship should even be there. Constant says he got no US guidance, but he openly announced his dockside rally the day before and he apparently did not get any US warning to call it off.

On the fundamentals, though, US officials have been united in pressing Aristide from the right. Constant said, in our first interview (well before his Marine press conference), that he might now be "too high profile" for the US. But even if he is, US intelligence is a system. And—as Constant once taught about Aristide—there are others in the wings.

Mr. HARKIN. I also ask unanimous consent that a paper, entitled "Background on FRAPH," also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the International Liaison Office for President Jean-Bertrand Aristide]

BACKGROUND ON FRAPH

FRAPH (Haitian Front for Advancement and Progress) is a right-wing, extremist, paramilitary organization comprised largely of current and former members of the security forces and their civilian collaborators. Members of FRAPH have carried out numerous illegal "arrests," beatings, torture, intimidation and murders of supporters democracy, often taking the victims to the local military barracks for incarceration. In most parts of the country, local FRAPH organizations work in very close collaboration with the military, and at times are better armed than the military. Military officials often claim that "FRAPH is we, we are FRAPH."

The acronym FRAPH sounds like the French and Creole words for "hit" and the group's symbol is a fist. The organization first came to international attention in October of 1993, when it organized to oppose the planned return of President Aristide under the Governors Island Accord. Since then FRAPH has worked to consolidate itself as a political front organization for the military coup regime. It recruits members through intimidation, seeking to convince Haitians that democracy will never return and that the only way to survive is to join FRAPH. FRAPH revives Duvalier's Tonton Macoute organization to fit the current political needs of coup leaders.

FRAPH'S LEADERSHIP:

FRAPH is "loyal primarily to the nation's shadowy police commander, Lt. Col. Michel Francois." (Douglas Farah, Washington Post, 1/26/94).

Emannual Constant, FRAPH leader, is the son of a former army commander under Francois Duvalier. (Bella Stumbo, Vanity Fair, 2/94)

FRAPH's secretary general Jodel Chamblain is a former Tonton Macoute. (Pamela Constable, Boston Globe, 1/22/94; Stumbo, 2/94). He reportedly participated in the massacre of voters in the election of November 29, 1987, as well as in Roger Lafontant's failed coup d'etat of January 1991.

Lynn Garrison, an advisor to Lt. Gen. Cedras and the Haitian military, a Canadian who also reportedly holds a U.S. passport and owns a Haitian art gallery in Los Angeles, claims he helped to found FRAPH. (Stumbo, 2/94).

FRAPH'S ORIGINS

FRAPH was consolidated when it organized a small group of thugs and turned back the U.S.S. Harlan County, arriving with an international mission as specified under the Governors Island Accord. To quote Emannual Constant: "I still can't believe we succeeded * * * We were all so scared. My people kept wanting to run away. But I took the gamble and urged them to stay. Then the Americans pulled out! We were astonished. That was the day FRAPH was actually born . . . now we know (Aristide) is never going to return." (Stumbo, 2/94).

FRAPH'S FUNDING AND ARMS

Michel Francois controls black market in gasoline and funnels resources into FRAPH. (Farah, 1/26/94).

FRAPH "receives funding from Francois and a few ultraconservative members of Haiti's elite." (Farah, 1/26/94).

The military supplies FRAPH with weapons (an obvious point, given that there is no other source of weapons in Haiti). (Farah, 1/26/94).

Many members of FRAPH (section chiefs, paramilitary attaches, and former Tonton Macoutes), now reportedly carry i.d. cards signed by army officers. (Haiti Info. Feb. 6, 1994).

FRAPH'S ACTIVITIES AND TACTICS

The U.N. International Civilian Mission to Haiti has identified FRAPH as being involved in extensive human rights violations. For example, in reference to repression of a youth group the Mission states: "Other members of the organization were reported to have been illegally arrested by members of the Duvalierist political organization *Front pour l ' advancement et le progress haitien* (FRAPH) on the day of their general strike, 7 October, and taken to . . . the site of a mass grave during the Duvalier era where bodies have regularly been discovered since the *coup d'etat*. One person . . . was questioned about the activities of supporters of President Aristide and shown photographs of several people . . . whom his interrogators said they were going to kill; he also saw some 20 bodies at the site." (Supplementary Report of the International Civilian Mission, Nov. 18, 1993).

FRAPH is responsible for burning down an estimated 250 homes in Cite Soleil, a large slum in Port-au-Prince, on December 27, 1993. Haitian human rights groups estimate 70 people murdered. According to the Boston Globe, "Driving residents out with clubs, they torched shacks with gasoline and grenades." (Constable, 1/22).

FRAPH members prevented the fire department from putting out the fire. After the fire, FRAPH members have been alleged to be present at offices where aid was being distributed to victims. (Report by the National Justice and Peace Commission, January 1994.)

FRAPH members gather intelligence for the military. (Farah, 1/26/94).

FRAPH organizes violent public demonstrations against democracy. (Stumbo. 2/94; Farah, 1/26/94).

FRAPH members make explicit death threats against President Aristide and his followers. For example: FRAPH leader Berniche Elysee of Jeremie stated "If Aristide comes back . . . I personally will kill him;" FRAPH member Joel Avril of Jeremie stated "If (Aristide) comes here, he is dead." Also, FRAPH member Frenel Jean stated, "It is better that 1,000 Aristide supporters die than one Macoute." (Farah, 1/26/94).

FRAPH uses U.S. flags at demonstrations and often chants pro-U.S. slogans. Constant has a large U.S. flag in his house. (Farah, 1/26/94).

FRAPH'S POLITICAL STRATEGY

FRAPH is expanding and consolidating its membership through the use of terror. "FRAPH has been opening dozens of offices around the country and signing up members with fear, free food and promises to end Haiti's crisis." (Susan Benesch, Miami Herald, 3/7/94) As one resident of Cite Soleil stated; "If you don't become a member of FRAPH, you had better leave or you'll be dead," (Haiti Info, Feb. 6, 1994)

FRAPH's political strategy appears to be: (1) prevent the return of President Aristide; (2) establish a reign of terror and wipe out democratic organizations in civil society; (3) consolidate itself as an organization; (4) attempt to take on the appearance of a legitimate political party in order to institutionalize its hold on power and gain international acceptance, probably through elections.

FRAPH is now beginning to attempt to portray itself as legitimate, civilian organization not directed by the military in "a bid to clean up its thuggish image." (Benesch 3/7/94). Emmanuel Constant "said the days of holding rallies surrounded by men with automatic weapons had passed, but that in the beginning 'people needed to feel a little fear.'" (Farah, 1/26/94).

Constant also said that "FRAPH's first goal was to do 'whatever is necessary' to keep Aristide out" and that "now the organization of the population is the second objective." (Benesch, 3/7/94).

To appear less violent "Constant said he recently obeyed Francois' request that FRAPH keep its weapons hidden." (Benesch, 3/1/94).

FRAPH is pushing for elections. Emmanuel Constant "would like to run for president and thinks he can win." (Farah. 1/26/94).

Mr. HARKIN. Madam President, what we are considering here is a resolution supporting our President and supporting our troops in Haiti. This troubled land needs some time. It needs our help. It needs our military there to make sure that violence is not wreaked upon the people of Haiti by the paramilitary groups. If we can not stick up for democracies in our own hemisphere, God help us. If we cannot stand on the side of the Haitian people who have welcomed us as liberators, to help them throw out the yoke of repression and to help them build a functioning democracy, then we have no right to claim leadership in the world or in this hemisphere.

Madam President, this resolution deserves the support of everyone here. We hope and pray that our troops will continue to do the same kind of work that they are doing in disarming and dismantling these groups. We hope and pray that the paramilitary groups in Haiti will not resort to the violence to which they have become accustomed in the past.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. This resolution deserves overwhelming support and approval by the Senate.

HAITI

Mr. JEFFORDS. Mr. President, events in Haiti continue to unfold amidst great uncertainty and danger for U.S. troops there. Although the United States-led United Nations effort offers hope to the people of Haiti that peace and democracy can come to their troubled homeland, the success of our current effort is by no means assured. I know I state the obvious, and voice the feelings of many in this Chamber, when I say we must take great care not to be drawn into a protracted and largely unilateral effort to achieve noble but ill-defined goals of stability and democracy in Haiti.

I welcomed the agreement reached by President Carter and his delegation with the military authorities in Haiti and commend President Carter, General Powell, and Senator NUNN. Clearly, United States Forces faced a much less threatening situation in Haiti upon arrival than they would if they had to fight their way ashore. While the agreement is not perfect, it may prove to be a basis for an orderly transition from authoritarian rule back to democracy.

The political stability and economic progress of our hemisphere are, in my view, solidly in our national interest. Our own domestic prosperity depends on having democratic societies with which to trade and which do not threaten our shores with massive waves of immigrants.

Three years ago, Haitian President Aristide was overthrown by a military junta. No matter what one thinks of Aristide personally, he was overwhelming elected president and still has the support of the majority of the Haitian people. Following the coup, the military government brutally suppressed Aristide supporters while human rights abuses on the island skyrocketed.

I supported the intensive diplomatic efforts by the United States and the international community to convince the unlawful military-led government in Haiti to step aside and allow a peaceful return to democracy. Unfortunately the Haitian military leaders refused to implement the Governor's Island Accords they signed last summer and have stonewalled all diplomatic efforts since then.

The United Nations has threatened and sanctioned the use of force to remove the illegal government from Haiti. And having made that threat, we—the United States and the international community—had to be willing to carry it out.

The on-going violence in Haiti is deeply troubling to me, and one of our objectives must be to see that it does not continue. Clearly the task of gaining concrete operational control over the Haitian police force is well underway. This process must be completed and these functions must be turned over to a U.N. force as soon as possible.

We need look no further than the immediate region to see an example of how this approach to ending a civil war can be successful. El Salvador, while different from Haiti, in many significant ways, provides a guide for successful demilitarization and separation of military and police forces. We can also look to Honduras, traditionally the second poorest country in the hemisphere after Haiti, for encouragement that a poor country, when it has a commitment to democracy, can make great progress in asserting civilian control over the military. The economy of Honduras is slowly, steadily gathering strength and attracting investment as the stability of democracy creates a more healthy economic environment. With some assistance, this too, could happen in Haiti.

As we look to the swift completion of the United States military mission in Haiti and a replacement of U.S. soldiers with U.N. forces, I propose that we pause for a moment to look beyond Haiti, to think for a moment about what our national priorities and goals really are. Many of my colleagues do not see reinstatement of democracy in Haiti as in our vital national interest. I have argued that if we take the long-range view, it certainly is. This disagreement points up the need for better formulation and then clearer articulation of our vision of our place in the world. In the absence of a clear understanding of our role, it is impossible to sort out which trouble spots should get our attention and where we should expend our limited resources. I urge the President and the Congress to take up the challenge that this debate—as well as discussions of the tragedy in Bosnia—has so poignantly illuminated and begin the very difficult work of formulating a new expression of our national goals and priorities for the coming years.

Mr. BRADLEY. Mr. President, I would like to take a moment to explain why I am compelled to vote against the leadership's resolution on Haiti.

There is much in this resolution I agree with. For example, it states that, "the men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended." I could not agree more.

It also says, "the President should have sought and welcomed Congressional approval before deploying United States Armed Forces to Haiti." Again, I fully agree.

This resolution also asserts that, "the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy, and the rule of law are in the best interests of the Haitian people." Who could argue with that?

However, the heart of this resolution is the statement that, "Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible."

Mr. President, this is not good enough. Our troops must come home by a specific date, not at some indefinite future time. As our experience in Somalia demonstrated, we need to set a legal deadline for United States withdrawal if this is to be anything more than a warm and fuzzy statement of good intentions. Without a legal deadline, U.S. decisionmaking will not develop and implement a plan for withdrawal. A sense of Congress that the troops should come home "as soon as possible" is not enough.

This is not a question of rushing the United States out of Haiti, leaving it to descend back into chaos. It is a question of setting the clock ticking so that the administration will have to formulate and implement a plan to turn over the job of policing Haiti to police.

In Somalia, our military went in with one mission, then saw it transformed into something very different. The result was tragedy. In Haiti, we are seeing the same phenomenon. Our troops were initially trained as invaders, then told they were partners with the Haitian authorities, and now have been transformed into police. Every day in Haiti brings an unforeseen circumstance which leads to a change in the mission.

Let me just list a few examples:

September 18: The Carter-Cedras agreement states, "the Haitian military and police forces will work in close cooperation with the U.S. Military Mission."

September 20: After U.S. soldiers watched Haitian police beat a pro-Artistide demonstrator to death, General Shalikashvili said, "We are not in the business of doing day-to-day law and order."

September 21: An unnamed "senior administration official" is quoted by the Washington Post describing a new approach: "Where a military personnel observes grave abuses by the Haitian police or military that threatens the life of a victim * * * he may be authorized to intervene by the senior United States commander on the ground."

September 22: U.S. troops seize the Haitian army's heavy weapons.

September 24–26: After a firefight in Cap Haitien and the resulting chaos, U.S. troops seize police stations, assume police responsibilities in the north of the country. General Shalikashvili announces that U.S. troops will intervene "if mob violence begins to threaten the overall stability of the country."

September 27: U.S. forces assume responsibility for security at the Parliament building.

September 30: Administration officials announce that the troop ceiling will be raised from 15,000 to 19,600.

October 1: U.S. forces move to disarm paramilitary groups. An unnamed senior official says the decision whether or not to intervene is tactical; that is, to be taken on a case-by-case basis.

October 2–3: U.S. forces seize paramilitary leaders.

October 5: The Washington Post quotes a United States official in Port-au-Prince as saying, "clearly, the United States has been drawn into doing more traditional police work than originally intended. There was a real assumption the Haitians would carry out their functions. Were we naive? I guess to some degree."

I opposed the use of American troops in Haiti absent a compelling rationale. Without a clear definition of the goals, means, contingency plans, and exit strategy, the administration should not deploy American troops. From the continuing mission creep we are witnessing in Haiti, it is clear that the administration does not have a clear goal, means, contingency plans, or exit strategy.

Mr. President, combat troops should not be turned into police. The two roles are totally different. One uses overwhelming force to crush a uniformed enemy; the other uses minimal force to control a civilian population. One requires fury, the other restraint.

History is filled with examples of the difficulty of using combat troops to try to impose civil order. We need look no farther than Israel's experience with the Palestinian intifada. The early days of the uprising in 1987 and 1988 were marked by high Palestinian casualties, in large part because Israel's magnificent combat troops were unsuited to the task of civilian riot control. Only after Israel deployed border police and other units trained in police functions did the casualty numbers drop.

Mr. President, I will vote against this resolution because I support our troops. I support them too much to go on record favoring their continued use as policemen in Haiti.

Mr. LAUTENBERG. Mr. President, I intend to vote for this resolution. But that vote is not a vote for, or an endorsement of, our policy in Haiti.

I should begin by observing that I agree with the resolution's claim that the President should have come to Congress for authorization prior to committing American troops to an invasion or long-term mission in Haiti. Frankly, Mr. President, I would not have authorized such action. I am not persuaded that vital national security interests were at stake in Haiti. Nor am I persuaded that the military can succeed, in the long run, in restoring and preserving democracy in Haiti for the long term.

Admirable as our motives for wanting to see democracy restored are, in my mind they do not justify the use of military force. Military force is not just an extension of diplomacy; it is the ultimate response to a direct and significant threat to our national security interests. Much as I despise what the dictators did in Haiti, I do not believe that their actions were a direct and significant threat to America's national security.

One of the reasons I would not have authorized our action in Haiti is the ambiguity that continues to surround our mission there. We have seen American soldiers standing by while Haitians slaughtered each other, and we have been appalled by that image. But when American soldiers intervene to prevent such action, they inevitably become involved in keeping civil order. This is not a military mission, it is a civilian mission. And when our military performs civilian missions, they also become bogged down in civilian political disputes. Hopefully the multiple reporting requirements mandated by this resolution will help us avoid a gradual expansion of our mission into the sort of ill-fated nation building exercise which ended so tragically in Somalia.

Now, Mr. President, I have been pleasantly surprised by our success in Haiti so far. Things seem to be moving in the right direction. That is, in my mind, a sound reason to get out while the getting is good, not a reason to stay there until things turn sour. I want our men and women out of Haiti as soon as possible. This resolution does not accomplish that goal but it at least brings us closer to it. And in that spirit, I will support it.

One final point, Mr. President, I am disturbed by the possible precedent that is being established by our decisions to intervene militarily. In Haiti, despite a brief bow at the United Nations and none to the United States Congress, and a sustained effort to create a facade of multilateral support, the United States essentially decided to go in because we were disturbed by what was happening there and by the failure of diplomacy to achieve the results we wanted. Mr. President, if we adopt that as a rationale for military action, how can we prevent other countries from using it as well? If Russia objects to the behavior or internal politics of the New Independent States surrounding her and decides to intervene, how can we object? How will we distinguish our justification for using force from theirs?

That is not to suggest, of course, that unilateral American military action can never be appropriate. It is. But since it is a recourse of the state, it ought to be a last recourse, one which is used sparingly and only when the central interests of the United States hang in the balance. That is not the case in Haiti. And even if, as we all hope, things turn out well there, that ought not be the lesson we learn from our involvement in Haiti.

RESOLUTION ON UNITED STATES INVOLVEMENT IN HAITI

Mr. HATCH. Mr. President, I rise today to express my full support for the resolution that is now before us. This resolution is not restrictive in nature or an attempt to undermine, in any way, the efforts of our military forces who are carrying out their orders with impeccable skill. Rather, this resolution is clearly a request for essential information to be provided to the U.S. Congress on a matter of supreme importance.

Members from both Houses of Congress, Republican and Democrat alike, have been demanding a clearer explanation from the Clinton administration for the commitment of United States troops to resolve the Haitian situation.

Public opinion polls and media analysis throughout this ordeal have reflected frustration with what appears to be the development of American foreign policy and the commitment of U.S. Armed Forces without defined parameters. The questions posed by this resolution are an attempt by Congress to assist the Clinton administration in more clearly setting forth its goals in Haiti.

It would be troubling indeed if the administration were unable to respond to these questions publicly to Congress and to the American people. If such explanations could not be provided, it would be a disturbing indication that the administration is itself unclear about the foreign policy it is pursuing in Haiti and about the correct use of military power. I do not think, therefore, that the Clinton administration should view this resolution as unreasonable or onerous.

Mr. President, along with the great majority of my fellow Utahns, I was strongly opposed to employing United States troops to resolve the political and social problems of Haiti. I do not believe that U.S. troops should be used for nation building. Our painful experiences with mission creep and nation-building attempts in Somalia surely have not been erased or forgotten in such a short time. We cannot correct history, but we certainly can learn from it.

We find ourselves the biggest world power at a time of worldwide uncertainty. But certain principles remain fast. The administration is accountable to the American people and to their Representatives in Congress. The administration must communicate its policies promptly and is obligated to explain the rationale for its single-handed commitment of U.S. forces and, as of yet, untold hundreds of millions of dollars.

What precisely is the plan in Haiti? Our troops have been there nearly a month, and what do we know?

Vague generalities of a generic mission statement have been published. Unknown amounts of taxpayer funds have been committed. What is our explicit obligation to President Aristide? What is President Clinton's criteria for calling the mission completed and bringing our U.S. troops home?

You can't expect to run a successful business without a business plan. The American people want to know exactly what President Clinton's plan is for Haiti. Their money and their sons and daughters are the collateral for this U.S. investment, and it is understandable that they want to know both the risks and the returns.

Mr. President, I urge my colleagues to support this resolution.

THE CLINTON ADMINISTRATION'S POLICY ON HAITI—MORE QUESTIONS AND STILL NO ANSWERS

Mr. DURENBERGER. Mr. President, since September 19, 1994, 10,000 U.S. ground forces have been engaged in peacekeeping in Haiti—with another 10,000 or more members of the armed services on board ships in waters off the Haitian coast.

We are all extremely proud of the way that our men and women in uniform are conducting themselves in Operation Uphold Democracy. We were also proud of their conduct most recently in Somalia and in Rwanda.

There is nothing missing with respect to the dedication and loyalty of the United States forces now in Haiti. What is missing is leadership at the top.

This absence of leadership was evident in the Clinton administration's failure to consult with Congress before going to Haiti. As the Clinton administration failed to consult with Congress before turning what was a successful humanitarian mission in Somalia into a manhunt for Aideed and a disastrous nation-building project.

Failure to consult with Congress has deprived the American people of a full discussion of what the United States' interest is in Haiti and why we are there—if the Clinton administration knows.

If there is a present administration policy toward Haiti—both in the short term and the long run—it certainly has not been articulated to Congress or to the American people.

President Clinton's actions with respect to Haiti raise numerous question but provides no answers.

However, you can be sure that the United States will be feeding over one million Haitians a day. By next February or March the Clinton administration will be submitting a supplemental appropriation request for hundreds of millions of dollars just for food and other humanitarian assistance.

As has been the budgetary strategy in the past, there probably will be a huge supplemental appropriation to pay for the cost of our military presence in Haiti. But will the American people be willing to pay the bill next year?

What is happening now in the Pentagon is that money is being taken from accounts intended for other purposes and used to pay for our military presence in Haiti. This is an approach reminiscent of robbing Peter to pay Paul.

A Department of Defense estimate provided to Congress set the cost at $427 million over normal operating expenditures for the first 7 months of the operation.

Another estimate—apparently based on Department of Defense internal documents but not officially confirmed by DOD—estimated that it would cost $1.5 billion to invade Haiti and to maintain United States forces in Haiti through 1995.

However, these are only estimates. When have estimates of this nature ever been correct? The final bill will probably be millions or billions of dollars more than any estimate provided by the present administration.

What the peacekeeping budget of the United Nations? About one third of that budget is paid by the United States. How much is the United Nations going to contribute to nation-building in Haiti?

And what is the international community doing to provide money and personnel to support the return of democracy to Haiti? We are told that 21 nations are expected to provide troops as well as law enforcement and technical personnel.

If what we are told actually happens, then some time in the near future there will be a U.N. force in Haiti comprised of persons from Bangladesh, Jordan, Poland, and Argentina as well as other countries.

Will these nations be willing to participate on a long/term basis in Haiti in support of what are basically United States domestic immigration interests?

What will the implications of our presence in Haiti be for other leaders in other parts of the world?

For instance, Boris Yeltsin says that he is now forced to have a sphere of Russian influence in the republics of the former Soviet Union since we have declared one through the United Nations in the Caribbean.

The American people and their elected representatives in Congress deserve answers to the many unanswered questions involved in the forcible return of Aristide to power.

We need to know what assurances we have that the Aristide regime will respect human rights and democratic values.

If the preservation of human rights is an issue of vital importance to the Clinton administration, why are we placing out trust solely in one man—Aristide? The past human rights record of the Aristide government was dismal.

The last time the United States occupied Haiti, United States troops were stationed in that country for almost two decades.

What plan does the administration have for bringing the U.S. troops home?

And what plan does the administration have for maintaining democracy and economic stability in Haiti over the long haul? And will the American taxpayers be willing to pay the bill?

United States aid to Nicaragua and El Salvador has dramatically decreased with the return of democracy to these countries.

Our total aid to Nicaragua in fiscal year 1990 was $262.2 million—the year Violeta Chamorro was elected president of that country. Our total aid to Nicaragua in fiscal year 1994 had dwindled to $56.7 million.

The same pattern is true for El Salvador. Total United States aid to El Salvador in fiscal year 1990 was $326.4 million and the total United States aid in fiscal year 1994—after the peace was restored—had declined to $97.3 million.

It looks as though our total aid to Haiti will drastically increase with the return of Aristide—the democratically elected president. This is in contrast to our severely declining assistance for democratic governments in Central America. This important paradox needs some explanation.

Can the United States afford to undertake the rebuilding of one of the poorest and most economically backward countries of the Western Hemisphere?

The answer to that question is clear. We cannot afford to rebuild Haiti at the expense of neglecting our many other obligations throughout the world.

The establishment of a true democracy in Haiti cannot occur immediately by force of arms. As is the case with other nations in the region, the nurturing of democracy takes time and will require broad-based support of the Haitian people.

It is Haitians that must rebuild Haiti. Not the United States.

Thank you, Mr. President. I yield the floor.

HAITI

Mr. DORGAN. Mr. President, I would like to talk briefly about my concerns about our mission in Haiti.

My colleagues will recall that I opposed a full-scale invasion of Haiti. I wrote President Clinton to express my concern that violent intervention may not help solve the difficult problems that Haiti faces. I told him that I did not support an invasion.

I did this because I do not believe that we have a national interest at stake in Haiti, American citizens are not in danger. The Haitian military threatens the Haitian people, but it does not threaten anyone else. Haiti does not control any resources that we depend on, and we don't have any bases there. So I did not see the rationale for an invasion, and I do not see a rationale for our current involvement.

However, now that almost 20,000 of our troops are in Haiti, I am glad that they have faced little violence or combat so far. But I want to say for the record that I think our troops should return home as soon as possible.

Let me just discuss briefly why I feel this way.

We have seen from bitter experience in Lebanon and Somalia that it is a lot easier to send troops into a chaotic country than it is to limit their mission while they are here. It goes without saying that the more deeply we get involved, the more dangerous our mission becomes.

The media reports clearly show that a climate of violence exists in Haiti. It is almost a climate of mob rule. If more looting and disorder occur, our troops may be forced by circumstances to protect one side or another. We have already had one casualty on this mission; taking sides among Haiti's factions will cause more bloodshed.

It also looks as if we might get bogged down in chasing people and weapons. I am very concerned that we are now trying to disarm Haiti's thugs and attaches. We are conducting searches for arms. To those of us who remember what led, a year ago, to the tragic deaths of 18 American Rangers in Mogadishu, these reports are troubling. While our intentions may be honorable, the consequences of our actions may be fatal.

Another lesson we learned in Somalia is that it is difficult to try to rebuild a shattered nation. The task might be easier in Haiti; Haiti has not suffered the civil war that Somalia did. Yet we are setting ourselves the challenge of reforming Haiti's military and police force, safeguarding Haiti's democratically elected leaders, and ensuring that next year's elections in Haiti are free and fair. The problem with all this is that when our mission involves reforming a nation's institutions, or any other nation-building activities, we are on a slippery slope to long-term involvement in that nation's affairs.

For all of these reasons, we should withdraw our troops and make way for a multinational or United Nations force as soon as possible. I might add that during that transition, the lines of communication and command must be extremely clear, so that there is no confusion at the operational level.

In closing, let me just say to my colleagues that our military will have virtually no role in solving Haiti's worst problem—its crushing, grinding poverty. I have toured these slums. I have seen how awful the poverty in Port-au-Prince can be. This poverty, which is the root of all of Haiti's troubles, cannot be addressed by an invasion. We can alleviate the poverty in Haiti only through a long effort of providing assistance through multinational development banks and private voluntary organizations.

The World Bank and other development and lending institutions should be providing the economic development experience, training and equipment that Haiti needs. Our military does not have any of these capabilities. The fact speaks volumes about who should be in Haiti, and who should not.

Mr. President, I thank the Presiding Officer and I yield the floor.

HAITI

Mr. KEMPTHORNE. Mr. President, I will support the pending resolution but I do so with some reluctance. I would have preferred to vote for a resolution that stated clearly that the United States of America has no national security interest in Haiti. In fact, the only vital national interest we have in Haiti today is the 20,000 American troops sent to that poor country.

I find the pending resolution a bit confused. Let me be clear. The resolution now before the Senate states, "the President should have sought and welcomed congressional approval before deploying United States Armed Forces to Haiti." At the same time, the resolution concludes with the statement, "Nothing in this resolution should be construed or interpreted to constitute congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti."

It seems as though the U.S. Senate is willing to criticize the President for not seeking prior approval but we are not willing to take a stand, yes or no, regarding this deployment of U.S. Armed Forces. Mr. President, this is shameful.

A number of my colleagues have already come the floor of the Senate to make the point that it is not worth the life of one American soldier to try to bring democracy to Haiti. I concur with this view because I believe Haiti has no history of democracy and it is naive to think that the temporary presence of American occupation forces and American economic aid will change the violent culture of Haitian politics.

I am also very troubled by the situation the President of the United States has put us in. To begin with, the invasion of Haiti that was averted by the courage and diplomatic skill of former President Carter, Senator SAM NUNN and General Powell was clearly timed to prevent the Congress from voting to disapprove of this act. Then, after thousands of United States troops have occupied Haiti, we are told we cannot vote to limit this occupation because we will endanger the lives of the American military personnel in Haiti. So the President prevented the Congress from voting to stop this invasion and now he says we can't vote to end this dangerous occupation. I completely reject this view.

As we saw in Somalia, the Congress can vote to force the withdrawal of United States troops from a situation in which our men and women in uniform are needlessly put at risk. In the case of Somalia, Senator BYRD's amendment forced the administration to bring our troops home and that act of Congress did not endanger our troops. I believe we can and should do the same thing in Haiti.

I will support the pending resolution to affirm my support for the brave American military personnel currently serving in Haiti. I will, however, continue to work to bring our troops home as soon as possible. In my view, that is what we should be voting on today.

Mr. President, I yield the floor.

HAITI

Mr. LIEBERMAN. Mr. President, the sons and daughters of America find themselves on foreign soil today in an effort to create the conditions which might make possible the development of democracy in the troubled land of Haiti. The people of Haiti deserve the opportunity to establish a democratic government which will respect the rights of all Haitians and give the much-oppressed people of Haiti a chance to live in peace.

But I continue to believe it is wrong to use the young men and women in our armed forces to carry out this mission. In that sense and many others, I want to associate myself with the remarks of the distinguished Senator from West Virginia [Mr. BYRD]. Are American national interests at stake in Haiti? I do not believe they are. Should we send our troops to each of the many countries in the world where there is not democracy? Certainly not.

I commend the men and women of our military services who have answered the call of their Commander in Chief as they always have in the past. I want to do nothing today or in the days ahead which might put our soldiers, sailors, marines, and airmen at any greater risk than they already are in Haiti. I applaud the authors of this resolution for making the very first element of it a commendation of our men and women who are serving with distinction in and around Haiti today.

I also applaud the authors for noting that "the President should have sought and welcomed congressional approval before deploying United States Armed Forces to Haiti." I have made this argument in the past months and the RECORD will note that I made the same argument to President Bush in 1990 and 1991 before the Persian Gulf War. When the American people are about to engage in war, unless the circumstances demand immediate action to protect American personnel or interests, the President owes it to the American people, the Constitution and the brave men and women he is prepared to commit to combat to come to the Congress and seek approval. I regret that the President did not come to us before he deployed our forces to Haiti. I hope that he will respond to this resolution promptly and ensure that the reports required in the resolution do, in fact, give us the full benefit of his thinking on the missions our people are supposed to perform.

I am also concerned, as the authors of the resolution are, with the costs of this operation. There will be real costs—at least one-half a billion dollars—for the deployment, the operation, and other forms of aid which we will provide in the days ahead. There are also real and potential costs in the readiness of our forces and their ability to respond to the next crisis which involves our national interests. We cannot continue to reduce the size and capabilities of our forces while simultaneously increasing their involvement in operations around the world. Ultimately, something must give. Equipment will wear out and we will not be able to replace it. Modernization—the essential means of ensuring our forces are ready to fight and win in the next decade and the next century—will continue to be underfunded. The men and women of the Armed Forces will be run into the ground and they will begin to ask, as many already have, is it really worth it for me to deprive my family and risk my life with deployment after deployment and little time at home in between? Ultimately, we will be unprepared when a genuine threat to American security occurs.

Operation Uphold Democracy is underway. I thank God that our forces did not have to confront hostile forces as they entered Haiti and that casualties and losses have thus far been very low. But I worry about their safety next week and next months and their ability to do all that they have been, and perhaps will be, asked to do. I would like our forces not to have been sent in the first place. But they are there now and I will give them the support they need to come home quickly and safely with their heads held high and their fellow countrymen appreciative of their efforts.

Mr. President, I am going to vote for this resolution because it supports our troops who are in Haiti today, reinforces the constitutional authority of the Congress to declare war, and calls for a prompt withdrawal of our forces as soon as possible.

We must recognize the dangers inherent in the course we are on in Haiti and around the world today. All of us in this country must address the question of our role as a world power and when we should use our military forces. There are other ways to support democracy than with American soldiers.

We can support democracy through economic sanctions as we did in South Africa, or through political aid as we did via the National Endowment for Democracy in Eastern Europe, or even through the provision of military equipment and training as we did for the anti-Communist freedom fighters in Afghanistan.

We need not and cannot send American troops to every country in the world where democracy is under siege. That, I hope, is the lesson we will learn from Haiti as we move quickly, according to this resolution, to bring our troops home.

Mr. BAUCUS. I rise in opposition to this resolution

The President did not seek my approval for occupying Haiti. And he will not get my approval now.

The American soldiers involved in this mission have performed admirably. They have shown themselves, and our country, as skilled in military tactics and noble in goals. They have carried this mission out brilliantly. But every day carries the same risk President Reagan ran in Lebanon, and the same risk Presidents Bush and Clinton ran in Somalia. Haiti is full of armed, violent people. Snipers who shoot out of warehouses. Murderers with grenades that they toss into crowds. Thugs who may at any minute turn their weapons on a jeep full of 18- and 20-year-old marines. It is unacceptable.

And I do not believe this mission has a chance to succeed in the long run. Even if we suffer no disaster or casualty at any point in our occupation of Haiti, the problem in Haiti is a political issue which Haitians themselves must solve through a national reconciliation. That will not happen as long as American troops are enforcing order and government. The longer we stay, the longer any true solution to Haiti's problems will be delayed.

Every day we remain in Haiti is a day in which we continue placing our soldiers in a dangerous and explosive situation. And I think the mission should come to an end not "as soon as possible," as the resolution says, but on a certain, specific and imminent date. the only thing this resolution will accomplish is to force people at the State Department to fill out paperwork reports to Congress. It is not good enough.

Instead of voting on this, we should be setting a date certain to withdraw from Haiti. And we should back that up by withdrawing funds for the operation the day afterward.

I will vote "no," and I thank you, Mr. President.

Ms. MOSELEY-BRAUN. Mr. President, the United States mission in Haiti has two core objectives: First, to meet our commitment to restoring democracy to Haiti, and second, to meet that commitment peacefully, if possible. I support that policy and those commitments.

While it is still premature to assess the success of our actions in Haiti, the results so far are at least somewhat encouraging. Let's take a look at the facts.

United States troops have entered Haiti peacefully. Only one of our soldiers has been wounded to date.

American soldiers have begun to take arms off the streets through selective raids at locations arms have been stockpiled, and through a buy back program.

American soldiers are making substantial headway toward ending the indiscriminate violence and terror that ruled the streets in Haiti, and had sown fear among pro-democracy activists. Freedom is being restored.

Democracy, however, is more than the absence of violence. Democracy means that different voices have a forum to be heard. Democracy means that people with different ideas and views about how to govern agree to disagree. Democracy provides the rule of law and access to justice.

As Senator NUNN said to the Haitian generals, democracy is much more than the return of one man, President Aristide.

Because American forces entered Haiti, parliamentarians who had fled the country returned to their jobs.

Evans Paul, the mayor of Port-au-Prince, has been able to come out of hiding, and has returned to city hall.

We all know that for the fledgling democracy in Haiti to succeed, the streets must be safer, there must be greater stability, and the Haitian economy must begin to function again.

The United States has lifted the trade embargo against Haiti, and is allowing money transfers to resume, and the United Nations has followed suit.

The Haitian people have begun to hope again. People dance and march in the streets. Two weeks ago, ordinary Haitians through their only chance was to leave their country, even if that meant taking the terrible risk of going to sea in very small boats and rafts.

Now, that has begun to change. Two thousand Haitian refugees at Guantanamo Bay have volunteered to return to their homeland.

But much work remains to be done. The peaceful entry of our military forces into that country does not end our job.

The agreement negotiated by President Carter, General Powell, and Senator NUNN, has a number of points that will require future interpretation.

I share the view of General Powell, who said when he returned from Haiti, That all of the details "will be worked out in due course."

With our troops on the ground, I am confident that the agreement will be interpreted and implemented in a manner fully consistent with the United States view of that agreement. That is what we have seen so far, and there is good reason to believe that is what we will continue to see.

I also agree with General Powell's statement that we should "not lose sight of the overall achievement". While there will continue to be difficult moments in Haiti, and while there are still substantial risks that we must continue to be aware of, we should not forget that the U.N. resolutions are being implemented. President Aristide will soon return. And, as General Powell noted, we do have the opportunity for a future of peace and democracy in Haiti and a better relationship between our two countries.

General Powell's analysis is a good one. The agreement and the peaceful entry of our forces into Haiti was a real achievement. It does open real opportunities, and it does enhance the prospects for the future success of our policies in Haiti.

Our military leadership has set out two phases for operation uphold democracy. In the first phase, the Americans will establish order. Then in phase two, the forces of 28 nations will join us to maintain order and hold elections.

This first phase will only end when three conditions are met: No organized resistance remains, President Aristide returns, and a police force is present.

At that point, phase two will introduce a U.N. force with a much smaller American contingent, but one that is under American command.

But it is important to do the job properly. General Shalikashvili has said that setting a date certain for withdrawal will put our troops at risk, because it would change the dynamics on the ground. I am pleased, therefore, that the resolution before the Senate today does not set a specific date for the withdrawal of our forces, although I share the view expressed in the resolution that our forces should leave Haiti as soon as possible.

I would very much like to avoid putting any U.S. forces at risk. No one wants to see young American soldiers, sailors, or air force personnel wounded or killed.

In this situation, however, backing up our diplomacy with our Armed Forces was essential, not just to have any hope of achieving our objective or restoring democratic government to Haiti, but also because U.S. credibility was at stake. Failure to honor the commitments made by both this administration and the Bush administration would have repercussions for the United States around the world.

But the U.S. has kept its commitment, and in so doing, we have once again renewed our commitment to the principles that make the United States so unique on the world stage. In Haiti, we are demonstrating that we mean what we say, and that we are prepared to act based on our principles and our core values.

I want to commend the President for his leadership, for sending President Carter, Senator NUNN and General Powell, for their successful negotiations, which no doubt saved many lives of both Haitians and Americans.

But mostly, I want to commend the men and women of the U.S. military for the fine job they are doing in Haiti. We must allow them to complete their mission.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Madam President, is leader time reserved?

The PRESIDING OFFICER. The Senator has the right to use his leader time.

Mr. DOLE. I yield 2 minutes of that time to the Senator from South Dakota, Senator PRESSLER.

Mr. GREGG. Madam President, may we have order, please?

The PRESIDING OFFICER. The Senator is correct; the Senate is not in order.

The Republican leader has yielded 2 minutes of his time to the Senator from South Dakota.

We ask the Senate be in order.

Mr. PRESSLER. Madam President, the question I was trying to ask earlier is to invite my friends on the other side of the aisle to join with me in the letter to the President so we can lay this investigation out in the open. The Senator from Connecticut said that the ranking member of the Judiciary Committee was satisfied. I am told by staff, he has not necessarily said that. There is a very serious question about Mr. Aristide's involvement with drug traffickers that needs to be answered. The DEA's office in Miami was investigating this issue. Apparently, one of the roads, one of the paths they investigated led to the allegation that President Aristide himself took a bribe from Colombian drug traffickers.

I think we should have a definitive statement from the administration on that. They keep telling me to "take a classified briefing." Yesterday, administration officials gave a briefing to the chairman and ranking member of the Judiciary Committee. According to the Senator from Connecticut, the administration told him that the ranking member, the Senator from Utah [Mr. HATCH], was totally satisfied. I believe that is a mischaracterization of his view. Perhaps he will come to the floor and speak for himself.

But I still do not understand why my colleagues on the other side of the aisle will not join me in my letter to the President, asking these basic questions. They would not even yield to me several minutes ago. The administration wants me to take a classified briefing because they know that if I do, I will not be able to repeat what was said. The American people need to know if Jean-Bertrand Aristide took a bribe regarding drugs when he was in office. Earlier this year, the administration cited Haitian drug trafficking as one of the reasons for invading Haiti. Then all of a sudden they stopped talking about it. And I want to know why. Why will not the administration discuss the DEA investigation in public? Where did the investigation lead? What did they find? Who was involved in it? If it was the Haitian generals, say so. If it was President Aristide, say so. Instead, the administration says, "This is all classified; you can get a classified briefing." The American people want a public briefing.

My point is our troops are in Haiti. The American people need to know if they are being asked to restore a drug trafficker. Did Jean-Bertrand Aristide ever take a bribe for drugs when he was President or thereafter, or in any relationship? Did DEA field agents in Miami want to question Aristide and the White House prevented them? These are important questions which deserve to be answered.

The PRESIDING OFFICER (Mr. BRYAN). The time allocated to the Senator has expired.

Mr. DOLE. Mr. President, I thank the Chair and I thank my colleague from South Dakota for raising what I consider to be a very important question that should be answered, if not today, then tomorrow or very soon, by someone who—if anyone has the information. If not, there should be an investigation.

Let me say, first of all, this is a bipartisan resolution. It took a lot of doing by Members on both sides of the aisle. It can be interpreted by Members on either side of the aisle in a different way.

It is this Senator's opinion that we have no security interest in Haiti, no national interest in Haiti, and we should not be in Haiti. We made a mistake. And I do not think a careful reading of this resolution will give the administration much comfort.

But I must say I did not support setting an arbitrary withdrawal date, with which I think the President agreed we should not have a date. Members on both sides agreed we should not have a date.

First of all, it might increase the risk to young men and women there. But, second, it might imply, if some of us agreed on a date, say March 1, that we were buying into this policy for the next several months, and that is not the case. I am not buying into any of this policy. It is a mistake. It is a bad policy. We should not be there and we ought to come home. It is going to cost hundreds of millions of dollars. We are risking American lives every day. I just suggest maybe when Aristide goes back next week would be a good time for American troops to get out.

He has been restored. That is what it has been all about. Let us restore Aristide, and when he is restored, let us go home. Let us come home. Let us not risk any additional American lives.

We have heard administration officials say the last few days the mission in Haiti has not changed. I guess it is no surprise the American people are confused about United States policy toward Haiti when the administration denies the obvious. Everyone with access to a television knows U.S. policy in Haiti changes as fast as you can change the channel.

First, the policy was that police and army are allies in keeping order. Then we arrest and gag Haitian police. We were told that United States policy will be to stay neutral in Haitian violence. Then we were told American soldiers will intervene in certain cases of Haitian violence in certain circumstances. We were told United States Armed Forces would not be Haiti's police force, and then we see Americans patrolling streets, detaining Haitians, and stopping looters. This week, American forces added disarming Haitians to their mission.

If this is not a mission change, I do not know what it is. It is not just mission creep, it is mission leap. The only exit strategy in Haiti is for United States troops to change helmets from American green to United Nations blue, and that sounds more like a shell game than an exit strategy.

I have serious doubts the United Nations peacekeepers will be able to perform any better in Haiti than they have in Somalia or Bosnia. I stand second to no one in supporting American Armed Forces. The young men ordered to occupy Haiti have a difficult task. Some have called it Mission Impossible, bringing stability and democracy to a country that has little of either. American troops should not be used on missions that cannot be achieved in places where America does not have a vital interest.

It is ironic to hear some opponents of the United States policy in Central America defend the occupation in Haiti. We never sent more than 55 Americans to El Salvador, for example. Now we have 20,000 Americans in Haiti, and nobody says a word on the other side. I remember the arguments day after day after day on this Senate floor. It seems to me they used to say El Salvador is Spanish for Vietnam. Fortunately, they did not have their way, and El Salvador is peaceful and democratic today.

But, unfortunately, the occupation of Haiti shows the lessons of Somalia have not been learned. Like Somalia, our objectives are vague. Our mission is constantly changing. Like Somalia, we have embarked on nation building and we are relying on the United Nations to call the shots down the road. It is hard to avoid the observation that "Haiti is Creole for Somalia."

The President chose not to come to Congress before sending American troops to occupy Haiti. In fact, if you read this week's Time magazine, it was all designed. The President wanted to get the troops in there before Congress came back on a Monday, because we might possibly vote up or down. He chose to send troops without the support of the American people. It is a high-risk course to jump into a military adventure without the parachute of the public and congressional support.

But having said that, let me end where I started. This resolution has been worked out on a bipartisan basis. It can, as this Senator said, be interpreted by different Members on either side in different ways. But I must say I think it is a pretty fair resolution. It does not answer every argument somebody might have. It does not have in there that it is not in our national interest. Some of us would like to have had that inserted in the resolution.

But overall, it seems to me it is a statement that needs to be made and should be made and should have the full support of our colleagues in the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent to use the remainder of my leader time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I encourage all Senators to vote for this resolution. It is, in large measure, repetitious of that which the Senate has previously voted in favor of. I expect and hope that most Senators will vote for the resolution, so I will not address myself to that directly at this moment.

But I would like to express my disappointment, indeed my dismay, at many of the remarks that have been made during this debate. There seems to be almost a sense of sadness by some of our colleagues that things have gone so well in Haiti.

There seems to be almost a sense of disappointment that things have gone so well in Haiti. A few weeks ago, the illegal government had unlimited prospects and the democratically elected government had no prospects. As a result of President Clinton's decisive leadership and swift action by the United States, that situation has been reversed.

The argument is made that the President should have sought the approval of Congress. I believe he should have. I felt that way with respect to Panama, and I felt that way with respect to Grenada. But none of the three Presidents involved agreed with my view.

President Bush ordered the invasion of Panama without prior congressional approval. More than 20 Americans were killed. There was not a single bit of second-guessing and nitpicking about that from the people who are here today doing the second-guessing and nitpicking about President Clinton.

President Reagan ordered the invasion of Grenada without any prior congressional approval. Several Americans were killed in that operation. There was not a single bit of second-guessing and nitpicking about that by the same people who are here second-guessing and nitpicking about President Clinton.

If ever there has been a double standard at work here in the Senate, it has been in the reaction of those events, and very few Democrats—very few—if any, engaged in the kind of nitpicking and second-guessing on Presidents Bush and Reagan in those two incidents that our colleagues have engaged in here today.

Let us face it, this thing has worked. Not a single American has been killed as a result of this action, and we are going to have a democratically elected government restored. Is it so hard for our colleagues to acknowledge that something has worked and say a decent word about the President? Is it so difficult to refrain from this kind of nitpicking and second-guessing and trying to find fault?

This has been an instructive debate, Mr. President, not about the resolution, not about the Haiti operation, but about an attitude that has become so ingrained it seems virtually impossible for some of our colleagues to do anything except second-guess, nitpick, find fault, and try to criticize the President, whatever the circumstance. I regret it. I believe that all Americans, or at least most Americans, regret it.

I hope that this resolution will pass and this debate will conclude.

I yield the floor. I believe all time is up, and we are prepared to vote.

The PRESIDING OFFICER. All time having expired, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. DODD. Mr. President, I ask for the yeas and nays on the resolution.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall the joint resolution, regarding United States policy toward Haiti, pass?

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Alaska [Mr. STEVENS] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—91

Akaka
Bennett
Biden
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Dorgan
Durenberger
Exon
Faircloth
Feinstein
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Heflin
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Thurmond
Warner
Wellstone
Wofford

NAYS—8

Baucus
Boxer
Bradley
Byrd
Feingold
Hatfield
Pressler
Wallop

NOT VOTING—1

Stevens

So the joint resolution (S.J. Res. 229) was passed, as follows:

S.J. RES. 229

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.

It is the sense of Congress that—

(a) The men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

(b) the President should have sought and welcomed Congressional approval before deploying United States Armed Forces to Haiti;

(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people;

(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

(e) Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

SEC. 2. PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.

The President shall prepare and submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives (hereafter, "Congress") not later than seven days after enactment of this resolution a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of United States policy, the military mission and the general rules of engagement under which operations of United States Armed Forces are conducted in and around Haiti, including the role of United Armed Forces regarding Haitian on Haitian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

SEC. 3. REPORT ON THE SITUATION IN HAITI.

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including—

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 1(e) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993 in and around Haiti, including but not limited to—

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the

other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including—

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections;

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including—

(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

(2) troop commitments by other nations to UNMIH;

(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;

(4) proposed or actual participation of United States Armed Forces in UNMIH;

(5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and

(6) the anticipated duration of UNMIH.

SEC. 4. REPORT ON HUMAN RIGHTS.

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990 to December 15, 1994.

SEC. 5. REPORT ON UNITED STATES AGREEMENTS.

Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

SEC. 6. TRANSITION TO UNITED NATIONS MISSION IN HAITI.

Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator HARKIN be recognized to address the Senate for up to 5 minutes in morning business, and following the completion of his remarks Senator SMITH be recognized to address the Senate in morning business for up to 5 minutes, and then at the conclusion of his remarks that I be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. I thank the Chair.

(The remarks of Mr. HARKIN pertaining to the introduction of S. 2526 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

TRIBUTE TO TROOPER JAMES NOYES

Mr. SMITH. Mr. President, I rise to pay tribute to a brave and dedicated New Hampshire State Trooper, Sgt. James Noyes, who was killed tragically in the line of duty at Gilford on this past Monday, October 3. Sergeant Noyes was the first State trooper to be killed by gunfire in the 47-year history of the New Hampshire State Police.

Mr. President, Sergeant Noyes was off-duty, at home with his family in Madison, when he learned of a stand-off in Gilford in which a despondent man who had lost his wife earlier this year was barricaded inside his home with a rifle, threatening to harm himself and others. True to his life-long sense of duty, Sergeant Noyes responded to the situation by rushing to the scene to help.

An expert hostage negotiator and a long-time leader of the State police swat team, Sergeant Noyes spent many hours patiently attempting to persuade the distraught man to lay down his weapon. Tragically, those efforts did not succeed and Sergeant Noyes, age 40, was shot to death. Sadly, the bullet that killed him passed behind the bullet-proof vest that he was wearing.

As grief-stricken as they are at his untimely death, the family of Sergeant Noyes can take justified comfort and pride in the fact that he lived his life so well. Reared in Massachusetts, James Noyes joined the New Hampshire State Police soon after graduating from the University of Massachusetts in 1976. Not long after that, he became a member of the State Police's Special Weapons and Tactics [SWAT] team. He became a leader of that elite corps of troopers, who handle hostage situations and other crises that require officers who have special training and the proper temperament.

Remembering how well-suited Sergeant Noyes was to his duties, Conway Police Lt. David Bennett said that he "had a natural presence—he could defuse most situations. He was unique in law enforcement." Moreover, Lieutenant Bennett remembered, Sergeant Noyes "was a dynamic trooper. He was in a learning mode continuously—he wanted to know how to do a better job."

Mr. President, the many tributes that I have read emphasize the degree to which Sergeant Noyes kept his priorities straight. As dedicated as he was to his career, he remained uncommonly devoted to his wife, Debra and their children, Nathan, Daniel, and Brianna. "He was a family man first," said Kenneth High School Athletic Director Ken Girouz. "He was with his sons and daughter as much as possible, and this is something that is difficult to do in his profession. "

Sergeant Noyes also dedicated himself to his community, coaching local team sports and assisting with an anti-drug program in the schools. "One of the children said that when (Sergeant Noyes) coached, he cheered for his own team and the other team as well," said Madison Elementary School Principal Pat Durgin.

In its fine editorial paying tribute to Sergeant Noyes, the Manchester Union-Leader offered a profound insight. In the wake of the fatal shooting of Sgt. James Noyes * * *," the editorial said:

> Citizens should reflect on the risks faced daily by all law enforcement officers. And when one dies in the line of duty, it is important that we remember that "he" is "we", that he put himself in harm's way as our surrogate so that we did not have to do so.

Mr. President, my heart goes out to Debra, Nathan, Daniel, and Brianna Noyes as they mourn the tragic loss of their husband and father. I know what it is like to lose a father in the line of duty. May God bless them as they lay to rest a good and brave man who lived a life of service to others and who died a hero so that others might be safe.

Mr. President, I ask unanimous consent that the full Manchester Union-Leader article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Manchester Union-Leader Oct. 4, 1994]

DOUBLE TRAGEDY

ACCEPTANCE DOES NOT COME EASILY

(By Jim Finnegan)

Given the grave risks of the profession, it was inevitable that a New Hampshire State Police officer would one day be gunned down while performing his duty.

But what makes especially tragic Monday's shooting death of State Police Sergeant James Noyes—the first such occurrence in the agency's 57-year history—is the circumstances in which it occurred.

The Madison man and other members of the SWAT team were not trying to flush out some hardened criminal when they approached a home at 119 Morrill Street in Gilford at 5:45 Monday morning. On the contrary, Sergeant Noyes' killer, James Monsante, was a respected member of the community who by all accounts was depressed to the point of complete despair by the death of his beloved wife and apparently seeking ways to end his own life.

Sunday night's attempt by the police to negotiate with him had failed.

Monsante fatally shot Noyes and then died after he fired on police officers who had tossed a gas canister into his barricaded home. Theirs was a failed attempt to disorient the distraught man, whose family sought to have him undergo treatment through involuntary emergency admission to a mental hospital.

It is the very unpredictability of domestic violence cases that renders them so dangerous.

Sergeant Noyes, a much-respected family man and promoter of sports in his home town of Madison, was a skilled 17-year veteran of the SWAT team. Yet, he and his State Police comrades had no reason to anticipate tragedy when, responding to a request for assistance from the Gilford Police Department, they attempted to perform inherently dangerous duty that, to them, probably seemed almost routine.

So, what we have here obviously is a double tragedy, attested to by the fact that SWAT team members, although brought to tears by the loss of one of their own, embraced the Monsante family members who offered them heartfelt apologies.

In the wake of the fatal shooting of Sergeant James Noyes, who wanted to live, by James Monsante, who wanted to die, citizens should reflect on the risks faced daily by all law enforcement officers—faced, that is, regardless of how well they are trained. And when one dies or is injured in the line of duty, it is important that we remember that "he" is "we," that he put himself in harm's way as our surrogate so that we did not have to do so.

To be sure, we all appreciate their sacrifice. But shouldn't we make a special effort to tell them so, individually . . . before it is too late? A simple "thank you" will suffice.

Tragedies such as the one that occurred in Gilford are almost beyond human comprehension. We are told on such occasions that we must not forget the deceased, but that we must accept the fact of his or her death, and that is true. That acceptance, of course, does not come easily.

But it will come.

In the meantime, The Union Leader extends its sympathies to the Noyes and Monsante families in this their shared time of grief. May their departed loved ones rest in peace.

Mr. SMITH. Mr. President, I will conclude by saying that today was the funeral for James Noyes, and it is with deep sadness that I report this to my colleagues here in the Senate and to the country. He was, as many law enforcement officers are around the country, dedicated to his profession, and fully prepared to accept the risks. He died much too young.

Thank you, Mr. President. I yield the remainder of my time.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, one of the measures which I believe is of importance, and which the Senate should address, is legislation designated as H.R. 4822, an act to make certain laws applicable to the legislative branch of the Federal Government. This is the so-called congressional compliance legislation—legislation which would subject Congress to compliance with those laws that are applicable to others.

It was reported by the Committee on Governmental Affairs. I had earlier today notified the distinguished Republican leader and all of my colleagues of my intention at this time to seek consent to proceed to that legislation.

Accordingly, I now ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 710, H.R. 4822, an act to make certain laws applicable to the legislative branch of the Federal Government.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, I object on behalf of another member on this side of the aisle.

The PRESIDING OFFICER. Objection is heard.

Mr. MITCHELL. Mr. President, I regret the objection and will comment on it at a later time.

UNFUNDED FEDERAL MANDATES

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, another bill which I believe should be addressed by the Senate and should be passed by the Senate is S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the cost incurred by those governments in complying with certain requirements under Federal statutes and regulations.

I understand that that matter is on the calendar. The report has duly been filed and, therefore, consent is not required to move to proceed to that legislation.

Accordingly, I now move that the Senate proceed to consider Calendar Order No. 551, and that is S. 993.

The PRESIDING OFFICER. Is there debate?

If not, the question occurs on the motion.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I have two amendments that I would like to propose.

The PRESIDING OFFICER. If the Senator will suspend, the question occurs on the motion to proceed.

Mr. SIMON. I have no objection to proceed.

The PRESIDING OFFICER. The Senator from Connecticut.

THE CONGRESSIONAL COMPLIANCE BILL

Mr. LIEBERMAN. Mr. President, I take this opportunity on this motion to proceed to register my profound disappointment that objection was heard to the majority leader's request for unanimous consent to go to the congressional accountability or congressional compliance bill. I was unable to debate that motion at that time.

I want to say very simply and briefly that this is a bill that passed the House of Representatives with only four votes against. It is a bill that adopts a pretty basic and fundamental principle which is that laws that we pass here in Congress that cover every other employer and employee in America ought to cover us, ought to cover Congress, in our role as employer and all of our employees.

What is good for the goose is good for the gander. If these laws are important enough and fair enough for the employers and employees across America, they are important and fair enough for us and our employees to follow.

UNFUNDED FEDERAL MANDATES

MOTION TO PROCEED

The Senate continued with the motion to proceed.

Mr. LIEBERMAN. Mr. President, I need not belabor the next point I am going to make because it is in the air and it is in the media. Congress is at an all-time low in public esteem. This is not just a matter of politics and elections. This is a matter of the vibrancy of our form of government.

In a democracy, when you endanger the trust that exists between those who govern and those for whom we work and govern, the country is in some significant trouble.

I must say that one of the arguments, one of the points that I hear repeatedly in Connecticut when I talk to people about this skepticism and cynicism about Government is that "you in Congress do not even live by the laws that you apply to everybody else. You create special privileges for yourself."

Mr. President, in so many ways that contention is wrong. But when it comes to this particular set of laws, nondiscrimination laws, fair labor standards, OSHA, the whole host of laws that we place on employers across America, the public is right. We have created a double standard, and it is an intolerable one, and it is time we ended it.

Mr. President, I deeply regret that it appears that on a matter of process, which is to say that the report on this bill coming out of the Governmental Affairs Committee has just been filed today and under the rules requires 2 days to lay over, unanimous consent would be required to take this measure up now. This is a bill that is not only right but the American people want it, demand it, and it is an opportunity for us to help restore the fabric, the strength of the relationship of trust between us and the people we work for.

The fact that it is going to be prohibited from being taken up on a procedural point I think will create more skepticism, more cynicism, more frustration, more fury directed toward Congress.

It has been my pleasure to cosponsor this measure with the distinguished Senator from Iowa, Mr. GRASSLEY, who has really been a leader and pioneer on this, and this is a strong bipartisan group. I am convinced if this bill came to a vote here, it would pass by an overwhelming majority.

Once again, the rules have been used to frustrate what is the will of not only the American people but the will of the great majority in this Chamber. I regret it, and I certainly will consult with the Senator from Iowa and see if it is possible, though not the preferable course, to attach this bill as an amendment to the next amendable vehicle—perhaps it is the unfunded mandates bill—that comes up.

Mr. President, I see my colleague from Iowa on the floor. I yield to him.

The PRESIDING OFFICER. Is there further debate?

The Senator from Iowa [Mr. GRASSLEY].

Mr. GRASSLEY. Mr. President, I reserve the right to object as well, but for the same purpose. As the Senator from Connecticut knows, I, too, join him in an expression of profound regret that presumably, under the guise of a late filing of a committee report, we are prevented at the last minute from taking this bill up.

People out in the grassroots do not understand these shenanigans. They are going to wonder why we put off the inevitable, because there is nothing more inevitable than this legislation.

The dam broke on this 3 years ago, when the Grassley-Mitchell amendment to the civil rights bill was passed. Now we have to go all the way and apply to the Congress all the laws that we exempted ourselves from. We are employers like the businesses of America are employers. There is no reason why we should be exempt from those laws if the people of the country cannot be exempt.

It is inevitable, because you can look at the vote in the other body this year, 427 to 4. That is an expression of how simple and concise this issue is to our constituents.

You cannot hold a town meeting, or give a rotary club speech, or attend any function where you have interaction with the public that this issue does not come up. They sense how wrong it is to we have two sets of laws;, one for Pennsylvania Avenue and the other one for main street America. We have two sets of laws, one for Capitol Hill and one for the rest of the Nation.

It just does not add up. We have worked hard, the Senator from Connecticut and I. So have a lot of other people in this body as well. We worked hard to make sure that this bill could go through, satisfying all but except the most extreme opposition. And we have done it. We have done it to a point where it is bipartisan. We have done it to a point where it is bicameral, Republicans and Democrats in the House, Republicans and Democrats in this body, working together to craft a policy that applies to Capitol Hill the same way it applies to the rest of the Nation.

The people are not going to tolerate this. It is just a question of when this bill passes. If it does not pass in the midnight hours of this Congress, it is going to pass early next year. It will pass.

I join my colleague from Connecticut. I join him in hoping that we can get this on some other legislation yet this year, because it is something that must be done. It is something that will be done. Most importantly, it is something that should be done and will be done because the people demand it. There is nothing more easily understood. There is no way you can camouflage this issue with any sort of tactics at the closing hours of this session.

I yield the floor and withdraw any objection.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, in regard to the motion before us, which is S. 993, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KEMPTHORNE. Mr. President, I would like to address that motion before us, and I would like to do so and making as part of the RECORD two letters that were issued today. The first letter is from the President of the United States to the majority leader in the U.S. Senate. It says:

Dear Mr. Leader: As you know, this Administration supports the adoption of the "Federal Mandate Accountability and Reform Act of 1994," as drafted by Senators GLENN and KEMPTHORNE.

I urge you to schedule a vote in the Senate tomorrow on this important piece of legislation. I believe that it is important for the Senate to consider this matter and encourage the Senate to adopt this legislation without amendment.

Thank you for your consideration of this request.

Sincerely,

BILL CLINTON.

The next letter Mr. President, that I would like to make part of the RECORD is a letter with a letterhead that reads, the National Governors Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, dated October 6; and it is to all Senators.

The nation's state and local elected officials strongly urge the U.S. Senate to pass the State and local mandate relief bill, S. 993, before adjournment. Passage of this bill is our top legislative priority.

Not only will we oppose any amendment not supported by the bill managers, Senator John Glenn, William Roth and Dirk Kempthorne, but we view all amendments as an attempt to defeat our legislation. We urge the defeat of all partisan and extraneous amendments. Please stand with your State and local officials in support of this crucial legislation.

The PRESIDING OFFICER. Does the Senator from Idaho wish to place those two letters in the RECORD?

Mr. KEMPTHORNE. Mr. President, I do. I ask unanimous consent that they be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 6, 1994.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: As you know, this Administration supports the adoption of the "Federal Mandate Accountability and Reform Act of 1994," as drafted by Senators Glenn and Kempthorne.

I urge you to schedule a vote in the Senate tomorrow on this important piece of legislation. I believe that it is important for the Senate to consider this matter and encourage the Senate to adopt this legislation without amendment.

Thank you for your consideration of this request.

Sincerely,

BILL CLINTON.

NATIONAL GOVERNORS' ASSOCIATION; NATIONAL CONFERENCE OF STATE LEGISLATURES; NATIONAL ASSOCIATION OF COUNTIES; NATIONAL LEAGUE OF CITIES; U.S. CONFERENCE OF MAYORS

OCTOBER 6, 1994.

TO ALL SENATORS: The nation's state and local elected officials strongly urge the U.S. Senate to pass the state-local mandate relief bill, S. 993, before adjournment. Passage of this bill is our top legislative priority.

Not only will be oppose any amendments not supported by the bill managers, Senators

John Glenn, William Roth, and Dirk Kempthorne, but we view all amendments as an attempt to defeat our legislation. We urge the defeat of all partisan and extraneous amendments.

Please stand with your state and local officials in support of this crucial legislation.

Sincerely,

GEORGE V. VOINOVICH,
Governor of Ohio, Co-Lead Governor on Federalism, National Governors' Association.

KAREN MCCARTHY,
Missouri House of Representatives, President, National Conference of State Legislatures.

RANDALL FRANKE,
Commissioner of Marion County, Oregon, President, National Association of Counties.

SHARPE JAMES,
Mayor of Newark, New Jersey, President, National League of Cities.

VICTOR ASHE,
Mayor of Knoxville, Tennessee, President, U.S. Conference of Mayors.

Mr. KEMPTHORNE. Mr. President, this is an opportunity. We have a bill, S. 993, that is a bill of State and local governments. Literally you have advocates in every community in America that want us to pass this bill. In their letter today, they have stated that they want us to pass this bill without amendments, because this is a bill that has been through 18 or 19 months of tough fights, both in the Senate and the House. But it is bipartisan. That is evidenced by the fact that we have 64 Senate sponsors.

Mr. President, just to show you that the support for this bill continues to grow, I ask unanimous consent that Senators EXON and LAUTENBERG be added as cosponsors of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, we will have the opportunity to discuss in great detail the bill, the mechanics of the bill.

But I have to ask, why is it that in contradiction to what our State and local partners are asking for, why is it, in contradiction to what the President of the United States is asking for, do we wish to now delay this with a series of amendments?

Why are we afraid to go forward with S. 993, so uncertain of the positions that we cannot stand the scrutiny of having mandates and identifying mandates, identifying the cost of those mandates so that we make the best decisions possible, and knowing full well that the mechanics of this legislation——

Mr. SIMON. If my colleague would yield, let me just respond to the question very briefly.

I would consider not to put an amendment on his bill, but I have two bills that have been approved unanimously—in the one case unanimously, and in the other case I frankly do not know whether it was unanimous. But I cannot call them up, because a Senator has a hold on them.

The only option I have is to put an amendment on a bill that I am a cosponsor of. I am for this bill. I do not have any other real option.

So I say to my colleague, I understand his concern and his preference for not having any amendments. I hope he understands I want to get a vote on my bill. The Presiding Officer and I have discussed this.

Thank you.

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. KEMPTHORNE. In just a moment, if I may. I would like to respond to the senior Senator from Illinois.

I appreciate what the Senator has stated. I know we are at that point now where there are only hours remaining in this session and he needs to find a vehicle for some of these things to happen; the fact that his amendments do not in any way impact this legislation; this is simply a vehicle to allow him to go forward.

I think that is something that can be discussed with the managers of this bill.

Now I would be happy to yield, as long as I retain the right to the floor, to the junior Senator from Illinois

Ms. MOSELEY-BRAUN. I thank the Senator very much and I thank him for his courtesies.

I would like to second the remarks of my senior Senator from Illinois. Really, as a cosponsor of this legislation also, as the Senator from Idaho is aware, this was my first bill. The first bill I filed in the U.S. Senate was a bill to end the practice of unfunded mandates, to call for disclosure with regard to unfounded mandates. I came to his committee, Senator GLENN's committee, to discuss the issue, to raise the point.

I come from a background in local Government. I am fully aware of how important this matter is to people in State and local government.

So I concur and encourage this legislation. I support it. I want to work hard for it. I would like to see it passed.

I find myself, however, in the same situation as my senior Senator, having an amendment that should be unobjectionable, yet it was subject to a hold in the process. This is the last train out of the station. This is the last vehicle. This is the last opportunity to raise a matter that I think is very important to police and firemen all over this country.

So, I would very much like to have the opportunity, I would like to see this bill go out, but I would very much appreciate the assistance of all of my colleagues, frankly, in working through this. Perhaps we can get an agreement that some of the single holds that have been put on legislation that otherwise would be noncontroversial, can be lifted so that we can get this legislation passed, so we can do the job we were sent here to do.

Again, I thank the Senator for his courtesy, except to say I would very much appreciate his assistance in working through a process whereby we can achieve the objective that we all want to achieve with regard to this important piece of legislation regarding unfunded mandates, but that we can also attend to some of the other issues that, because of the peculiarities of our procedure, will not have another opportunity to be passed into law in this session.

Mr. KEMPTHORNE. Mr. President, in response to the comments by the two Senators from Illinois, I fully appreciate the dilemma they are in, and I imagine a number of Senators are in that same dilemma. I hope they will appreciate the dilemma I am in, in trying to help our State and local partners get this legislation through in these last remaining hours, that any of these extraneous amendments that we do allow does complicate the bill when it gets to the House. With just a few hours left, I have to tell my colleagues I will be doing everything I can to keep this as narrowly focused as possible because this is what our State and local partners have asked for. This is what the President of the United States has asked for.

With that, I would like to yield the floor to the chairman of the Governmental Affairs Committee, the Senator from Ohio, who will be the floor manager of this issue. He has been a leader in helping us get here to this bipartisan position on stopping unfunded Federal mandates.

The PRESIDING OFFICER. Does the Senator yield to the Senator from Ohio? The Senator from Idaho has yielded the floor?

Mr. KEMPTHORNE. Yes, Mr. President, I yield.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in support of the Senator from Idaho. This issue, as the distinguished Senator from Illinois said a few moments ago, was the subject of some of her first legislation. It was the subject of some six different pieces of legislation proposed that were directed to the Governmental Affairs Committee. We have considered this legislation all this year, worked out the compromises on it, worked out the compromises with the House, and have what I think is a very important piece of legislation.

I am sure there is not a Senator in this Chamber who has not been approached by either Governors, their mayors, associations, their county and municipal government representatives, who have been complaining bitterly for several years about the fact that we pass all sorts of legislation here and we require them to do all sorts of things at the State and local level. But we in turn do not provide the money to do those things.

In times past, up until about 8 or 9 years ago, the States could assimilate this and did. Some of the programs voted out of here were very expensive, but they assimilated these programs, put them in their budgets, and had enough taxing power that they could in fact cope with it.

But what started along about 1985 was the fact we had, between 1985 and right now, some I believe it is over 200 pieces of legislation that put so many billions of dollars' worth of requirements on the States and local communities that they could not cope. So there has been a rising tide of not only indignation —I will not say revolution, quite, but it has come close to that, I think, with some of the things expressed from some of the Governors, in particular. And I do not blame them. They are right. They are absolutely right. And their cry was, "No legislation without the bucks, without the money to go along with it." They came to Washington here, and they made the rounds of the offices. They have done this repeatedly over the last year, and for very good reason—they are being dealt with unfairly.

What we tried to do is redress that with this legislation by putting into effect a procedure requiring that an estimate be made of what the impact is going to be when we pass a piece of legislation, giving that job to the Congressional Budget Office so it will be able to tell the Congress how much it is going to cost the States and local governments and, in certain cases, estimate how much it is going to cost the whole country, the general population at large. We put limits on that. It is just to make sure everybody knows exactly what we are passing.

We say if we do not provide the money, if it is not a bill on which we also authorize the money to go along with whatever it is we are requiring, that if we do not provide the money, then a point of order would lie against the bill and we would have to have a second vote on it to say, regardless of the money, we want to see a vote on this bill.

But it would be a majority point of order. In other words, it would just be a tap on the shoulder to say: "Look, are you sure you want to do this to everybody? Here is the estimate on it." And that is all it is. That is all it is. It requires us to have better information, better estimates of what the financial impact is going to be on the State and local governments. And with the amendment that Senator DORGAN put on the bill in committee, it would also require estimates in certain cases of the impact on the regular civilian population. That is what this does. I do not think there are many people in here who would disagree—it is a good idea to pass something like this because it gives us more information to pass intelligent legislation, at the same time making certain we do not pass something here without due consideration of what the cost is going to be.

That is so fundamental, it seems to me, it is just hard to think we are having any problem with it. But the problem is this. We got it finally pretty well worked out. What we are trying to do, since it was so late in the session and since we did not have agreement on it until late, was to bring it up on a unanimous consent request and we hot lined that to make sure there was not any objection to bringing it up on a unanimous consent request, and to pass it by acclamation, which I think is, in effect, what everybody here would agree should be done with this piece of legislation.

We had it down on both sides to where we only had one amendment where we could not get the particular person involved to say yes, we will not put this on that bill.

So what has happened now is, on both sides, we now have a whole raft of bills being proposed, already brought up here, that in effect are going to come up and kill this whole thing. That is what it is going to come down to. The President realizes this. That is the reason for his letter. We had one notice out of the Office of the Press Secretary at the White House yesterday. But this one is from the President, who addressed it directly and has signed the letter that Senator KEMPTHORNE mentioned a moment ago. He is asking that this bill go through without amendment.

I know that is a big order. I know people have their individual bills that they have not been able to get through, and I appreciate that. But this is one of them, also. And I am afraid what is going to happen here if we cannot get agreement to let this go through without amendment is it will become a Christmas tree. We will pull it down tonight and no bill will go through this year for unfunded mandates. I do not want to see that happen. It is not going to deal fairly with the people out there in the State and local governments.

I am sorry the other bills have not been able to get through this year. But I think at this point for this to become a Christmas tree for amendments for other bills or proposals is going to kill it. And I would hate to see that happen.

The letter from the President was addressed to our majority leader and reads as follows. It was written today.

DEAR MR. LEADER: As you know, this Administration supports the adoption of the "Federal Mandate Accountability and Reform Act of 1994," as drafted by Senators Glenn and Kempthorne.

I urge you to schedule a vote in the Senate tomorrow on this important piece of legislation. I believe that it is important for the Senate to consider this matter and encourage the Senate to adopt this legislation without amendment.

Thank you for your consideration of this request.

Sincerely,

BILL CLINTON.

The President knows the importance of this because, as he has told the Governors, he was a Governor. He knows the impact and he is firmly behind what it is we are trying to do here.

But I am afraid this whole thing will be killed at this late time. I am sorry that we do not have days to look ahead to where we can take up every amendment, vote it up or down and use this as a Christmas tree for all sorts of considerations.

We do not have germaneness rules in the Senate, unfortunately, something I think we have to consider one of these days. But any bill, any amendment for any purpose whatsoever, can be attached to this legislation. I know that.

So I think the only way we are going to get this unfunded mandates bill through is if people agree that we will not have amendments, or our only option other than that would be to let each one be brought up and, at the appropriate time, move to table and hope we will be successful in that and still get the bill passed. But that itself can be a long and tortuous process this late in the session.

I do not know whether we can get agreement of people to hold off. If people are not willing to hold off their amendments, I do not have much doubt this thing is going to be dead, and that those who insisted on their amendments will be the ones who killed the bill. I hate to see that happen. That is a blunt statement of the facts.

I see the Senator from Idaho nodding his assent. There are so many amendments that people would like to have on any piece of legislation they can hook something onto right now. If this becomes the attachment point for all these things, then I doubt that it is worthwhile even wasting the Senate's time. We ought to pull it down. I hate to see that happen.

Mr. SIMON. Will my colleague yield?

Mr. GLENN. I will yield.

Mr. SIMON. I will just point out the two bills I have, I believe, are both supported by the administration.

Again, the one on the African-American museum has been approved unanimously by the Rules Committee, chaired by Senator FORD; the other one by the subcommittee chaired by Senator BUMPERS. I would be willing to, on my amendments—the African-American museum might have some controversy—I would be willing to say let us do it in 10 minutes, 5 minutes each side. The other one we do not even need to take any time on at all.

Mr. GLENN. If we can be assured those were the only things that would be attached to this, why, obviously that would be quite acceptable to me. But we have a list that grew even during the day today. Every time we sent out a hot line, their people had other things they wanted to attach, and the list grew longer. I am afraid if we open this up——

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. GLENN. I will yield.

Ms. MOSELEY-BRAUN. You mentioned germaneness. The amendment that I would propose has to do with allowing State and local governments to set retirement ages for police and firefighters. It is legislation that has passed the House before and has been subject to a single individual's hold on the Senate side.

Frankly, it seems like it would be one of the least controversial amendments possible, except that, again, under our rules, in spite of the fact it is germane, in spite of the fact it is something that just about every police and fire organization in the country has endorsed, the House of Representatives has endorsed, we have not had a chance to vote on it because of the operation of our rules.

My senior Senator has made a proposal. If there is any way possible we can work out an opportunity, I think this is an amendment that would have the support of just about everybody in this body. The National Conference of State Legislatures that worked so hard on the unfunded mandates bill supports this; the Conference of Mayors supports this amendment; the Association of Counties supports this amendment; the National League of Cities supports this amendment. I have a list that might take 10 minutes to read off who supports the amendment in behalf of police and firefighters.

Again, because of the vagaries and peculiarities of our rules, a single individual has been able to stop this amendment from being heard in the Senate. This is our only opportunity. I do not think it is a matter of wanting—I want to see this legislation passed, as the Senator from Ohio is well aware. I do not want to kill this bill. It is too important a piece of legislation. I want to see it passed. I want to see it supported.

At the same time, we have a matter of germaneness that is important to working people, police and firemen all over this country. It seems to me I would not be doing my job, fulfilling my responsibilities, if I were to let such opportunity, given the technicalities—this is an opportunity to get this matter passed into law. I would very much appreciate the help and assistance of the Senator from Ohio in getting this legislation added as an amendment to this important bill on the mandates.

Mr. GLENN. Mr. President, I do not question the desirability of all the legislation. I am not arguing against the proposals by either of the distinguished Senators from Illinois. I think these are probably very desirable things.

My problem is the fact that if the bill is once open, then we have a whole string of amendments on this, and it will probably go long enough that we just have to pull the bill down. At least that has been the indication from the hot lines we have sent out on this. We can start down that road. I hate to do it.

Before we decide exactly what direction we will go with this, I know the distinguished Senator from Delaware would like to make some comments on this. Mr. President, I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, let me start out by saying that I agree as to the importance of this piece of legislation, and I share very much the concern expressed by Chairman GLENN.

This legislation offers a significant reform in the relationship between the Federal Government, and State and local governments. In fact, it represents no less than a fundamental shift in the basic attitude of the Congress toward our cities, our counties, and our States.

Under this legislation, we are for the first time acknowledging, in a meaningful way, that there must be limits on the Federal Governments propensity to impose costly mandates on other levels of government.

As the representatives of those governments have very effectively demonstrated, this is a real problem. Cities, for example, generally are fortunate if they have sufficient resources just to meet their own local needs. Unfunded Federal mandates have put a real strain on those resources. This has been a practice of the Federal Government for the past 2 or 3 decades, but it has mushroomed in recent years to an intolerable level.

This has been, at least in part measure, a result of the Federal Government's own budget difficulties. In the past, if this government felt that a particular problem warranted a national solution, it would fund that solution itself. Mandates imposed on State and local governments could generally be off-set with generous Federal grants.

But the Federal Government no longer has the money to fund every governmental action it wishes to see accomplished throughout the land. In fact, it hasn't had the money to do that for many years. Instead, it borrowed for a long time, to cover these costs. But now the Federal deficit is so large, that the only alternative left for imposing so-called national solutions is to impose unfunded mandates. That is, the Federal Government has increasingly enacted requirements on State and local governments, requiring that they spend their own money on the priorities of the Federal Government. In all likelihood, without some mechanism to restrain it, this practice of the Federal Government will continue for years to come.

A parallel concern affects the private sector. The Federal Government—both Congress and the Executive Branch agencies—impose costly laws and regulations on the business community. It does this often with little understanding of the amount of these costs, or of their impact. This habit of the government, like that of the unfunded mandates on State and local governments, shows little likelihood of abating. Here, too, Congress needs to devise a mechanism that brings about some restraint.

Now, the difficulty in devising such restraining mechanisms lies in the recognition that we do, in fact, have a national responsibility to protect the environment, guard civil rights, and promote other important values. A flatout prohibition on any and all Federal requirements that impose costs on non-Federal entities, is probably impractical. It is likely unwise.

So the question has been, how best can we strike the right balance? How can we preserve certain important Federal responsibilities, while ensuring that these responsibilities are exercised cautiously? How can we do it, while being mindful that cities, counties, and States—and, indeed, the private sector—are not simply subdivisions of the Federal Government?

It is here that I must recognize the extraordinary leadership of my colleagues—the Senator from Idaho, in rallying broad support in the Congress for action on this issue, and the senior Senator from Ohio, in overseeing the development of this important bill that is now before us. It has been my great pleasure to work with my two colleagues in the shaping of this effective, but balanced legislation. I believe it will go a long way toward bringing restraint to Congress in the imposition of mandates.

Senator KEMPTHORNE, as a former Mayor himself, has truly been the champion of bringing relief to State and local governments. And he did so in a tenacious, yet reasoned way, that is the hallmark of an effective legislator. And when I requested last June, that Senator GLENN, as Chairman of the Governmental Affairs Committee, hold hearings on the issue, he responded favorably. He then made a sincere commitment to work with Senator KEMPTHORNE and me to see that a meaningful solution to this challenging problem would be developed and brought before the Senate. In his persistence, he has honored that commitment.

As I said, it has been my pleasure to have worked with both of them to get us this far. I also want to acknowledge the hard work, and good faith bargaining, of the major State and local government organizations—the so-called "Big Seven". Their involvement was vital, and their support crucial, in bringing us to this point.

I now call upon the rest of my colleagues to join us in supporting this important legislation, and to not stand in the way of its enactment. Our governors, our State legislators, mayors, and county officials are watching us tonight, so let us not let them down.

Mr. President, I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. Is there further debate on the motion?

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I would just like to——

Mr. SIMON. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Idaho has been recognized.

Mr. KEMPTHORNE. Mr. President, I would just like to ask a question of the Senator from Delaware. I know that the Senator from Delaware realizes how critically important this is to our State and local partners. This is the legislation that they helped craft. They have asked that there be no amendment; the President has asked there be no amendment. The question is to the Senator from Delaware, the ranking member of the committee that is dealing with it: Is it accurate to say that among the Republicans, all Republican Senators who did have amendments they wished to offer to this bill have withdrawn those amendments in the spirit of this agreement?

Mr. ROTH. Yes. I say to my distinguished colleague, that is the situation as I now understand it. I applaud and appreciate the fact that there were a number of our colleagues on this side of the aisle who had amendments they wished to offer. But in the spirit of compromise and willingness to move ahead on an important piece of legislation, a piece of legislation, as I said, of critical importance to our State and local governments, they have agreed not to offer those amendments. So I hope that the same approach, the same willingness to cooperate and work together, will be true of our friends on the other side.

And so, yes, that is my understanding. Again, I want to congratulate the distinguished Senator for his leadership role in developing this piece of legislation.

Mr. KEMPTHORNE. Mr. President, I thank the Chair. I thank very much the Senator from Delaware.

The PRESIDING OFFICER. Is there further debate on the motion?

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Reserving the right to object.

Mr. CRAIG. It is for the purpose of debate on this legislation.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CRAIG. Mr. President, I thank the Senator very much.

I am pleased to join with the chairman and my colleague from Idaho, Senator KEMPTHORNE, this evening in debating a piece of legislation that has been a long time overdue in the Halls of this Congress.

To address the issue of Federal mandates is without question one of the most important issues with which this Congress can deal. We have seen for well over a decade across this country the growth of Federal policy that places on local units of Government an obligation to fulfill a certain Federal responsibility, a Federal requirement that ultimately costs that unit of government a great deal of money, and yet the Federal Government and the Congress of the United States pass on no Federal dollars by which to assist the local unit.

I remember very well when I was in high school and my father became a county commissioner. He came home one night grumbling because the Idaho Legislature had just passed a piece of legislation that was going to require Washington County, my home county, to expend a certain amount of money to fulfill a State responsibility, and the county simply did not have the money. And so that commission of county commissioners had spent all day deciding how much they would increase the levy on the taxpayers of the county to fulfill a responsibility that the Idaho Legislature said was important to the State, but the county commissioners and the citizens of the county had not yet deemed it so.

That is a perfect example of what the Congress of the United States, as a big brother to State and local units of government, has been doing now for nearly three decades, especially since the days of the Great Society legislation of the Johnson administration. But unlike now, when they required State and local units of government to do something, at that time they sent along a little money, whether it was in the form of direct grants in the total amount or whether it was sharing amounts in which State and local units of government had to participate.

At least at that time, when the Federal Government deemed it was important to do a certain thing at the local level, they sent along a little money to help do it. But you, Mr. President, and I know what began to happen in the early 1980's. As budgets became very difficult around here, as we began to sort out the public resources of this country to make a decision over expenditures for defense, which we all knew were important, and, of course, which helped win the cold war and change dramatically, my guess is, the landscape and the history of the world, it was during those debates and our desire to stimulate the economy of our country through tax reduction and therefore a general reduction in the rate of increase in Federal revenues that we began to progressively cut back on moneys that would flow to State and local units of government where there was a requirement to fulfill an obligation, whether it was a drinking water requirement, whether it was a curbing requirement, whether it dealt with handicapped people, or whether it dealt with areas of safety in transportation.

All of them began to tumble out to State and local units of government, and you and I began to hear the hue and cry from city councils and county commissioners and State legislatures saying: Do not do this to us. If you are going to ask us to participate in a certain way, please send a little money along with it, because what you are forcing us to do in essence at your mandate, at your bequest, is to tax our citizens. We get the blame for the taxation. You can go around—and I am talking about your being the Federal legislator—taking great credit for a certain piece of legislation but with no obligation or, in some instances, no wrath from the taxpayer.

Senator KEMPTHORNE, when he served as mayor of our capital city in Boise, clearly saw firsthand these kinds of problems. He began to recognize that if he was going to fulfill the responsibility of the city—and that was to address the obligations of the Federal Government in areas of transportation, recreation, public safety, and all of those kinds of things—he then would be caught up as a mayor and city council in raising levies for the purpose of taxation to fulfill the responsibility of the Federal mandate.

Clearly, at that time it becomes the responsibility to ask the question: Is this the right thing to do? Is this going to make the world better? Will it improve the condition under which our people live? Or is it clearly a form of taxation with not the kind of representation that our Founding Fathers intended?

So I watched as my junior colleague came to the Senate with a great sense of determination that has produced and brought to the floor this evening S. 993, the Federal Mandate Accountability and Reform Act. Not only has he tugged our coats and brought us an awareness but he went out across the country to deal with the national mayors group, the U.S. Conference of Mayors. He spoke to them. He brought them along. He got their endorsement because they were the ones that were experiencing firsthand the problem and the nagging frustration of the Federal mandate. He spoke and brought along the National Association of Counties and the National League of Cities, and the National Governors Conference and the National Conference of State Legislators, and the Council of State Governments, and the National School Boards Association, and the U.S. Chamber of Commerce. And I have never seen such a cadre of support from such a broad base of the citizenry of this country on an issue of such concern.

I found it interesting because I know what some of my colleagues told Senator KEMPTHORNE. Well, that is an important issue. That is an issue that if you bring it up now we can spend several years debating. This is an issue that is really important and we really ought to talk about it. What they were saying to this freshman legislator was in a polite way you are a freshman and that is a good idea. Why do you not work on it? I do not think many realize—but I do—the determination of this freshman Senator that this is something you do not play around with. This is an issue whose time has come. This is an issue where the American people and all of these public servants across this broad array of associations and organizations that I just spoke to are beginning to say to their Federal Government, stop it. Let us govern our citizenry. Let us decide what is good for our people. Let us with our ability both to determine and their ability to pay make the decision on what is good for public safety, what is good in the area of transportation, what makes sense in water quality and all of those kinds of things that local and State units of government must address for their citizenry but were being forced to address in many instances well beyond their capability because of the requirement of a Federal mandate.

The bill you have before you and the one that I so strongly support is a very straightforward and simple piece of legislation. I am sure that both Senator GLENN, who has been very cooperative in working with Senator KEMPTHORNE in moving this legislation through, will spend a good deal more time discussing it this evening. But it is without question an unprecedented protection from unfunded mandates at State and local levels that we have not seen before. And it is going to be a fundamental and critical tripwire to all of us, a tripwire that will force us to stop and analyze the legislative process we are in to determine whether in fact the public policy we are advocating is going to be a Federal mandate to a local unit of government. And it will then require us to determine what kind of cost is involved.

We all love to talk about the good things that will flow from the public policy, how we are helping people and causing a better world to exist. But most of us do not really like to talk about the cost of it, and as a result we have not very often. It gets put into the base, it gets put into the broad funding mechanism, or in this instance it gets passed through to the city councilman or to the State legislator or to the county commissioner. And it says, you do it. It is a requirement. It is the law. It is a Federal law. And you pay for it. And you levy the tax. Then of course, the national politician is not faced with that very unpopular task of raising a tax to pay for a Federal program, an underfunded Federal mandate that we passed back through to a local unit of government.

The legislation imposes that mandates greater than $50 million in any fiscal year on a State or local unit of government can be considered by the Senate if a certain process goes forward. An estimation of the cost—my, a simple idea, is it not? But it has not been done before because we do not worry about it if we do not have to pay for it. It authorizes funds in the bill and it requires that they fully be paid for if it reaches a certain threshold level. In other words, it puts the burden back on us. If it is such a good idea, then why do we not pay for it? Why should we not ask the taxpayers to do it? Why should not we face the burden and responsibility of the impact of the public policy that we so anxiously and excitedly push forward to the American people so that we can claim credit and we can be reelected?

This is a very important piece of legislation. For us, it is accountability. But for the American people it is a realization of the fact that for the first time in well over 3 decades this Federal Government is going to turn to them and suggest the novel idea of asking their permission in certain instances or not doing it at all if we cannot bear the heat of the fiscal responsibility that is required in the legislation that we pass.

There are a variety of other tests. But the entire amount of the mandate for the life of the bill must be included, the cost, not just the amounts over $50 million. A lot of important steps and processes have been put into this bill—a simple test that we as a Government and as legislators are going to be required to use or ask of the Congressional Budget Office when we produce a piece of legislation that will have an impact or a responsibility for a State or local unit of government to carry out.

So once again, let me praise the work of my colleague, DIRK KEMPTHORNE for not only the tremendous energy that he has put forth over the year in moving this legislation along here in the Halls of Congress, and working both sides of the aisle as successfully as he has, but the tremendous energy he put forth to rally a Nation, to rally all of these national organizations, to focus them on a single piece of legislation and to bring them to support it. It is clearly a statement of a quality legislator at work to resolve this issue.

I ask my colleagues this evening to support this legislation. While I know we are in the final hours of this Congress, I think it is important to move this bill as far as we can this year. I hope the House could address it also. Clearly, to pass it through the Senate is a very real statement, not just for this Senator but for this Congress to begin to say to the American people and to the units of government that we believe are the most important, those that are the closest to the people, that we are going to stop handing down these kinds of Federal edicts unless we send money with them. We are going to attempt a method of measuring it and it is embodied within this legislation.

And I congratulate both Senator KEMPTHORNE and Chairman GLENN for their work on this issue to bring this to the floor.

Mr. President, with that, I suggest the absence of a quorum.

The PRESIDING OFFICER. If the Senator will withhold the quorum call, the Senator from Illinois has requested the floor. Does the Senator insist on his quorum call?

Mr. CRAIG. I do not.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President. I thank the Senator from Idaho.

I would like to point out that the substance of my amendment is to require information, and it is an important amendment that I care deeply about. I also care deeply about the issue in the underlying legislation. Again, as I said earlier, I was one of the people on this side of the aisle who came to this Senate concerned about the impact of Federal decisions on State and local government.

My legislation called for the disclosure aspect of this bill. It was not as broad as the current legislation worked out by the committee, but it was in that direction. So I recognize how important this issue is to State and local governments. I support that.

I support the legislation and I want it to get passed. It is in that vein, Mr. President, that I would like to propose or suggest to my colleagues the following: I would be willing to withdraw my intention, or withhold my intention to file the Age Discrimination Employment Act as an amendment, assuming no other amendments are accepted or pending on this bill. That is to say, if there is a unanimous consent agreement achieved that allows this bill to go forward without any amendment at all, then I will withhold and not persist in attempting to filing the Age Discrimination Employment Act. I would not want to see the unfunded mandate bill imperiled in any way, even though this is a very important issue.

I point out further that, again, it is a difficult call for me to make at this time. This legislation has the support—and I would like to put this in the RECORD—of the Fire Department Safety Officers Association; the Fraternal Order of Police; the International Association of Fire Fighters; the International Association of Chiefs of Police; the International Brotherhood of Police Officers; the International Society of Fire Service Instructors; the International Union of Police Forces; AFL–CIO; the National Association of Police Organizations; the National Sheriffs Association; the National Troopers Coalition; AFSCME, the American Federation of State and County Municipal Employees; the National Public Employee Labor Relations Association; the New York State Association of Chiefs of Police; City of Chicago Department of Police, along with the National League of Cities; the U.S. Conference of Mayors; the National Association of Counties; and the National Conference of State Legislatures.

As you can imagine, this legislation would be consistent with the whole notion of giving State and local governments the capacity to make decisions with regard to local issues. That is all this legislation would do.

I think it would be something that this body would support if given an opportunity to do so. However, the sponsors, as you can see from the little meeting occurring on the floor, there is a sense that any amendment on this bill imperils the entire bill.

As a result, again, in the event that we fail to reach a unanimous consent agreement regarding a bill, without amendment, in the event that fails, I will present my amendment, and it is my intention to present it if we cannot achieve a unanimous consent agreement. On the other hand, if a unanimous consent agreement is achieved, then I will withdraw this amendment and wait until the next session to submit it as freestanding legislation.

But I have to tell you that I am greatly disappointed. This was something that were it not for the vagaries of the Senate rules that allows one individual to hold up what would otherwise be in the public interest or in the interest of the other Members of this body, this legislation would have passed by now. I regret being in this position, and I would not want any misconceptions to arise that there was any reticence on this side of the aisle, or by this Senator, to the passage of the underlying legislation.

I yield to my colleague.

Mr. SIMON. Just so there is no misunderstanding, I will object to any unanimous consent agreement to no amendments. I respect my colleague from Illinois for what she has said. I have two amendments that are genuinely—with the exception of, I believe, one Senator—noncontroversial, that the administration can accept. I hope we can get it worked out. I am going to insist on my right to offer an amendment.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, I think we all know we are in, hopefully, the last 24 hours of this session. It does not take but one Senator to block anything. Sometimes it is frustrating, particularly if it is blocking something you have an interest in.

I have just visited with the distinguished majority leader and suggested maybe there would be a way. We have two major pieces of legislation—unfunded mandates and congressional coverage. We have interests on both sides who want to offer amendments. It seems to me that there may be some way that we could reach an agreement between now and tomorrow morning where each of those bills could be passed without amendment. They are both very important. I think we have Members on this side who may have amendments on congressional coverage, and if unfunded mandates is going to have a turkey shoot, I assume we will have people over here who want to add a few amendments to unfunded mandates.

I must say, having met with a group this afternoon, along with Senator KEMPTHORNE, who feels very strongly about unfunded mandates—and these were mayors and counties' and Governors' representatives, a bipartisan group—they feel very strongly about it, and they very much applaud the efforts of Senator KEMPTHORNE and Senator GLENN. It is not a partisan issue. It affects every county, every city, every Governor in America, and a lot of people are beginning to understand what unfunded mandates really mean.

So it would be my hope—and we on the Republican side are always accused of blocking legislation. We are making a proposal now that we think has great merit. We would have to do our work on our side, and there would be work done on the other side. But we can just say, OK, let us pass congressional coverage without amendment and unfunded mandates without an amendment. Unfunded mandates have to go back to the House. They are going out some time late tomorrow night, or early Sunday morning, or Saturday morning. So there is an opportunity here that may slip away on both these issues until sometime next year.

So I want to thank both Senator KEMPTHORNE and Senator GLENN for their efforts to bring a bipartisan bill to the floor. I think we should act on it before we leave. But everybody knows if there are going to be 12 amendments—and that is the last count I had—on the other side on unfunded mandates, you can forget it, it is not going to happen. I assume the Senator from Idaho or the Senator from Ohio put in the RECORD the letter from the President, along with a letter from other groups I have referred to, indicating the importance of this and the President himself indicating that it is important to proceed on this legislation without amendment.

So if we can be helpful on this side and work out such an arrangement, we are prepared to do that. But if people are going to insist on their amendments, I assume we will do that on this side—and I do not see anything wrong with that; it happens every year about this time—then I assume unfunded mandates will not pass this year, and congressional coverage will not pass this year.

So there is an opportunity to pass them both, and do it very quickly, before we complete our business either tomorrow night, Saturday, or Sunday of this week.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts [Mr. KERRY] is recognized.

Mr. KERRY. I do not know if the majority leader is seeking recognition.

Mr. MITCHELL. No.

Mr. KERRY. Mr. President, I was not here for the whole statement of the distinguished minority leader but enough of it to understand what the proposal is with respect to the possibilities of moving forward.

I want to make it very clear to the colleagues who are proposing to adopt the unfunded mandate bill as it is that there are many of us who share a very commonly felt, broadly felt feeling in the country—that unfunded mandates are unacceptable. I accept that. And I want an unfunded mandate bill to pass. I would like that to happen. But it is unfair to suddenly hold this bill up in the closing hours of the Senate debate to not necessarily be subject to some refinement. I mean, after all, it was friends on the other side of the aisle who, on health care, talked about this huge piece of legislation that needed refinement. So we worked at it. There were countless other bills that came up where we needed refinement.

There are problems, definitionally, in some of the articles, some of the sections of this bill.

For instance, I do not believe that my colleagues on the other side, or any of those—even Senator GLENN here, who I respect greatly and I know wants to pass a good unfunded bill, I do not think he wants to tear apart every aspect of Federal-State partnership with respect to funding for programs where we may decide that we want to have a 20 percent contribution by the States or a 30 percent contribution or a 50 percent contribution.

The language, as it is defined currently in the bill, would in fact in many people's judgment make it dubious as to whether or not that would continue. So you would, in effect, wipe out all current relationships between the Federal Government and the State where we can mandate that there be a match. I do not think we want to do that. I do not think my friends intend to do that.

If they do not intend to do that, for instance, on water treatment facilities, are we about to say here in the U.S. Senate tonight in the span of just a few hours that the entire relationship of the sixties, seventies, and eighties, continuing to the present, where the Federal Government says we are willing to put up a few dollars, but we think the States ought to also put up a few dollars, are we about to say that is just wiped out?

I do not think that is what my colleagues want to do. I think we want to be permissive enough to suggest that we ought to understand the costs. I absolutely agree with that.

The days of the Federal Government suggesting that we ought to pass something and requiring the States to participate, and nobody even knows what the cost is are over. They ought to be over.

So I am not here to slow this down. I am absolutely not here to stop it. We should not pass a lot of the kinds of unfunded mandates that we pass. We should not mandate States to do X, Y, and Z where there is no partnership from the Federal Government, and all we are doing is suggesting that they pick up the entire cost and there is no mechanism or even judgment as to how much that would be and the mayors and the Governors are left holding the bag. I do not want that to continue. My colleagues do not want that to continue.

Now, I am convinced, in the same spirit with which we approach a lot of legislation around here, that in the next hours those of us who want to meet in sort of a commonality of spirit here to try to pass something ought to be able to find some amendments that are acceptable. I would like to see this passed. I do not want the Federal Government continuing to irresponsibly press on to the States a whole set of mandates that have no sense of what they cost, no end game, no basis that is rational or fiscally responsible, or otherwise.

But I do not also want to end forever the ability of the Federal Government to demand responsible activity by the States in which we are also willing to participate with a sufficient level of match.

I think there are a number of areas in this legislation as it is currently designed which would prohibit that. I do not think it is intended. I hope it is not intended.

So if we were to get together in the next hours—my suggestion is we try to do that—I am sure we could work out an acceptable number of amendments and hopefully pass the other legislation which apparently is being offered up as a quid pro quo. I will not personally be put in a position where the quid pro quo of the other bill that most of us want and think is a good idea is going to become the hostage taker of a piece of legislation that is not ready to be passed.

I know my colleagues on the other side of the aisle understand that, as well as any people here, because we have heard those arguments an awful lot on this floor over the course of the last months.

So I think if we get to work and take a look at these amendments, we ought to hopefully be able to come to some rational agreement and reach a compromise.

The PRESIDING OFFICER (Mr. HARKIN). The majority leader.

Mr. MITCHELL. Mr. President, I was not aware of the remarks of the distinguished minority leader, but I have just been told approximately what he proposed, which he had discussed with me a few minutes before that privately.

I favor the congressional compliance bill. I favor the unfunded mandates bill. I also favor the lobbying disclosure and gift reform bill. Now we have three reform measures that are pending here. I hope we can pass all three.

We have been told in the last 2 days that the objection to the lobbying disclosure and gift reform bill was the provision which affected grassroots lobbying organizations and membership issues.

So we have proposed this evening to simply drop those provisions from the bill. That is what our colleagues say is an objection, and that is what they have said is the objection over and over again. Well, we do not agree with their characterization of the issues but we accept the fact that we cannot pass the bill with that provision in there. So even though a majority of the Senate favors it, then we ought to pass it without those provisions in there.

My hope is that we can pass all three measures. Let us make this a reform session of the Senate. Let us pass congressional compliance. Let us pass unfunded mandates. Let us pass lobbying disclosure and gift reform.

Now, all of this discussion is not going to get us anywhere until we get started on the bill. I attempted to bring up earlier this evening the congressional compliance bill. Objection was made by a Republican colleague, and we could not do that.

So I made a motion to proceed to the unfunded mandates bill. Why do we not now adopt the motion to proceed and start on the bill? If we are ever going to pass it, we have to start on it. In the meantime, perhaps we can get an agreement from our colleagues, since they have said over and over again their objection to the lobbying disclosure and gifts reform bill are those provisions which deal with grassroots lobbying and membership issues. Since they have said over and over again that is not a smokescreen to obscure other provisions, time and time again it was said here when some on our side, myself included, suggested that that was a smokescreen to obscure other issues; no, no, we were told that is not a smokescreen.

Well, we accept the fact that we cannot pass the bill with those provisions in it. So let us take them out, as our Republican colleagues have suggested, and if that is in fact the reason for the opposition, as our colleagues have said it is, let us pass that bill.

So why do we not do all three, and as a way to get started, why do we not now adopt the motion to proceed to the unfunded mandates bill and get on the bill? Senators will then want to talk about it. Debate it. If the Senator wants to offer an amendment, the Senator has a chance to do that while we are trying to work this thing out and get all the bills passed.

Mr. President, I ask my colleagues to let us proceed now. I have made a motion to proceed to the bill. I hope we can simply adopt it right here and now. Then we will be on the bill.

Mr. WELLSTONE. Mr. President, I would very much like to proceed, but I would like to have the majority leader call for the yeas and nays on the motion to proceed.

The PRESIDING OFFICER. Does the majority leader yield for that purpose?

Mr. MITCHELL. If the Senator wants a vote, then we have to give Senators notice of that.

So, Mr. President, what I suggest is that we have a vote on the motion to proceed at 9:30, which is 20 minutes, and it will give Senators a chance to be notified and to come back before the vote, since I believe not all Senators are present on the floor. That way we can proceed to the bill.

So I will present the request.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that at 9:30 this evening the Senate vote on the motion to proceed to consideration of the unfunded mandates bill.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object, I think all of us want to move ahead as the leader has expressed. I think there is some concern about some of our Members who may well be farther away than the 20-minute time factor he has suggested. I would suggest some greater flexibility. I am told it will be important before we can agree on a time certain for a vote.

Mr. MITCHELL. Mr. President, I understand it is a 20-minute vote. So that gives people 40 minutes to get here. We have been told that our colleagues want to proceed, and I know the distinguished junior Senator from Idaho has been anxious to proceed on this. So what would the Senator like; 30 minutes?

We cannot act on the bill until we proceed to it. I am trying to get us to proceed to it.

Mr. CRAIG. I say to the leader, I appreciate his expression earlier about the lobbying reform legislation. I must suggest to him, as I think he knows, that that legislation, in the form that was very acceptable to the Senate and that this Member voted for, passed the Senate by a very large vote some months ago until it was changed significantly by the House.

And so, I am one who welcomes that opportunity.

I would suggest that the argument of the smoke screen does not serve this side at all; that we were concerned truly about the grassroots provisions that were put in in the House and in the conference. And if we can do that and move these other two pieces of legislation, I think we could solve that.

I am told that a time of 9:45 would accommodate a good many more Senators than the 9:30 time.

Mr. MITCHELL. Mr. President, I just want to say, this is the last night before the stated target date for adjournment. I do not know what Senators are thinking, when every 5 or 10 minutes over the last few days I have had a Senator—Democrat and Republican —come up to me and say, "Now, we want to get out of here Friday night."

We have not had late nights. Every night, I have tried very hard to accommodate everyone. Now here we are, the next to the last night, and we are told that Senators are not here, cannot be here for a vote. And yet, at the same time, we are hearing, "Oh, we have to pass this bill; we have to take this bill up."

Well, a Senator can object to any vote other than at 9:45, so we have no choice.

Mr. President, I ask unanimous consent that the vote on the motion to proceed to the unfunded mandate bill be at 9:45 this evening.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. MITCHELL. Mr. President, a Senator here has requested the yeas and nays, as he has a right to do.

So I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Is there a sufficient second?

Mr. MITCHELL. Mr. President, I have now been notified by the distinguished Senator from Idaho that he is prepared to accede to my original request of 9:30, and I appreciate that. Five minutes have elapsed since I made that initial request, so why do I not now ask that the vote be at 9:35. We want to keep as many people as we can happy around here.

Mr. CRAIG. Mr. President, reserving the right to object, I appreciate the leader's accommodation here. The signals got crossed here; 9:35, as he proposed in his unanimous consent request, is acceptable to our side.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I will not object.

The PRESIDING OFFICER. Hearing none, the vote will occur at 9:35.

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to say to my colleagues on the other side, if we could get together now and perhaps try to work through some of these amendments, it might save us a lot of time.

For my part, I want to make it clear: I do not intend to talk a long time or tie these amendments up. I am willing to have 51 votes decide what we do.

But I would like to see if we cannot reach some agreement. We may save the Senate a lot of time.

Ms. MOSELEY-BRAUN. Mr. President, I would just want to associate myself with the remarks of the Senator from Massachusetts. I think that, in the interest of the process, it would be very helpful if we could get together and try to work through some of these proposed amendments. It does now appear that we will proceed to the legislation and we will, therefore, have amendments to it.

So I again associate myself with the remarks of the Senator from Massachusetts and look forward to working with my colleagues in the time between now and the vote.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I would like to acknowledge what the junior Senator from Illinois stated earlier in her suggestion that she would withdraw her amendment based on certain conditions. I think that is in the spirit of what we are trying to accomplish. I know that all the State and local partners will appreciate that gesture.

I would just ask that she consider the modification, being that she said no amendments. But there are some managers' amendments just to correct some of the provisions of this. So that it would be no amendments, other than the managers' amendments.

Ms. MOSELEY-BRAUN. Again, I would like to visit with the Senator from Idaho and have a discussion in this regard.

Mr. KEMPTHORNE. Also, Mr. President, I say to the Senator from Massachusetts, I would like to respond to a point that was raised, if I may.

Mr. President, I would like to respond to my friend from Massachusetts concerning a couple of points that he made. He said, for example, if we have an existing system that is currently a matching format, 20 percent is offered by the State or local government; 80 percent is paid for by the Federal Government, that under this new provision that would no longer exist, that it would require 100 percent funding.

We need to be aware that the process, as it is laid out, it is not retroactive. So an existing—in this case—80 to 20 split would continue until such time as that legislation may be up for reauthorization.

At the time that it is up for reauthorization, then CBO would do a complete analysis of the mandate, come up with the cost of that mandate. The germane committee would include in its legislation the cost that has been identified by the Congressional Budget Office. It would also identify the funding source.

But if the committee determined that it felt it was still equitable to maintain an 80 to 20 split, it could so. That legislation would come to the floor of the Senate. Because it does not comply with providing 100 percent of the funds, then a point of order is proper. A point of order would be raised saying this is not in compliance with provisions of S. 993.

But the committee chairman, members of the committee, at that point on the floor of the Senate on that bill, that specific bill, would say to our colleagues, "We believe that an 80 to 20 split is appropriate." They would make their arguments. There would be debate. Then a vote would be called on that point of order and a majority would rule.

If the majority of the Senate said that we ought to continue the 80 to 20 split, so be it—majority rule.

I cannot think of anything that is more fair, more tailored. But, finally, we are operating with numbers that mean something and we are no longer just saying to our State and local partners, "Well, we do not know what it is going to cost you, but your going to pay it."

So, on a case by case, I say to my friend from Massachusetts, using the point of order that is now contained in this legislation, we can have those sorts of debates.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me say, I appreciate the comments of my friend.

What I would like to do is sit down and discuss this. I think his intent has been well described and I do not question what he has set out as the intent.

I think the language that was set out raises sufficient questions as to whether or not what the Senator described would happen. And maybe I can sit down with him and we will go through it.

I assure him there is no larger agenda here, there is no push in trying to delay this if we can arrive at an agreement or understanding so that we are both clear that the mutual interests are protected, the prospective capacity of legislating an appropriate Federal-State partnership with a match, and also the interest of guaranteeing that the U.S. Congress is responsible for the kind of mandate and the level of contribution that it is requiring.

I just want to make sure—that language, as I currently read it, raises some problems—I would like to make sure those problems are not there. I appreciate what the Senator is saying.

Again, points of order, I think, are subject normally to 60 votes, not a majority vote. So you wind up with a majoritarian—supermajority, rather than a simple majority, which is one of the complications of the current construct under which we are legislating in the U.S. Congress. So, again, that is also a concern.

So, let us try——

Mr. KEMPTHORNE. Will the Senator yield?

Mr. KERRY. I will be happy to yield.

Mr. KEMPTHORNE. This legislation does provide for a majority vote, not for 60-vote margin. That was done deliberately so a majority would rule on that type of point of order.

Mr. KERRY. I appreciate the Senator's answer on that. I think what is advisable here—I will have the language of the three amendments momentarily—if we can discuss those we can either agree to disagree or perhaps agree that they might be acceptable. And, hopefully, we can proceed forward.

I would like to see the unfunded mandate legislation passed. I assure my colleagues, if we can work through this reasonably, there is certainly going to be no delay from the Senator from Massachusetts.

Mr. KEMPTHORNE. I thank the Senator from Massachusetts very much.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to say a few words about this bill until we vote. Or if anyone else wants to be recognized, I am happy to yield. But I would like to say a few words.

I am a cosponsor of this bill because I think it is so very important that Congress take one step in the right direction to say to the State and local governments in our country, we are no longer going to pass laws that create regulations that are going to cause you to have to raise taxes in your State or at your local government level.

I cannot walk through an airport in my State, or through a restaurant, that a mayor or city councilman does not stop me and say: Senator, we just cannot take—fill in the blank—regulation anymore. Some cities are telling me they are spending 20 percent of their entire budgets on unfunded mandates from the Federal Government.

Of course their local taxpayers are saying, why are we increasing taxes? Why can't you balance your budget in the city of Odessa or Midland or Lubbock? Of course they are balancing their budget, but they have an unfunded mandate they cannot do anything about, and it is causing the city of Abilene to have to put a clay liner in their landfill. They already have a clay liner in their landfill in the city of Abilene, but they are having to spend $1 million to put in another clay liner.

Then I talked to the city of San Antonio where they are having to spend $1 million to test the surface water runoff. Then I talked to another city that is having to allocate money now, for covering up their landfill when they are finished using it 10 years from now.

The fact of the matter is the environmental mandates and regulations are being used to such a degree that it is causing a great hardship on the cities of this country. When I just multiply what I am hearing in Texas for the rest of America, I know it is time for Congress to do something. I commend my colleague, the junior Senator from Idaho, for taking this first step and for really getting on top of this. He is a former mayor. In fact the cosponsors of this bill are former mayor, DIRK KEMPTHORNE; a former Governor, JUDD GREGG; a formerly State Treasurer, KAY BAILEY HUTCHISON; a former State Senator, CAROL MOSELEY-BRAUN—people who have dealt with the Federal Government from another vantage point and that is State and local government. We know what these unfunded mandates are doing to our States and our local governments.

What are our State and local governments? They are the taxpayers of America. But it is not a Federal income tax they are paying, it is a local property tax or State sales tax. Yet our Governors and our mayors and our county judges are having to bear the brunt of the wrath of the taxpayers when it was not their fault. It was an unfunded Federal mandate that caused the clayliners in the landfills and the water runoff legislation that we are passing here. And we have to give them relief.

That is what Senator KEMPTHORNE's bill is going to do. I hope in these last few hours that we will take the responsibility—let us take the responsibility for the local taxpayers of America and say enough is enough. Because I really believe if the Senators know what that unfunded mandate is going to cost we will pass a lot fewer laws and regulations through here that are going to hurt our State and local governments. And that is the point.

If we just had the information we can make a rational decision. I think we will be more responsible in our actions. But to say we do not want the information, to say we do not care how much it costs, is just not rational. It is not responsible. And it is abdicating our responsibility.

The Heritage Foundation estimates the indirect costs of Federal regulation added to the direct cost of compliance equals $900 billion. That is $900 billion on the taxpayers of America in addition to the $1 trillion that is now taken in, in Federal income taxes. It doubles the Federal income tax payment that citizens are paying for other Federal laws that we just do not take responsibility to say we are doing.

So I appreciate what Senator KEMPTHORNE is doing, and Senator GLENN has joined forces with him. This is a very important bill. We should not delay it. If we can have it go into effect early next year, perhaps some of these cities that are struggling with 20 percent budget increases will be able to say maybe there is relief on the way.

I commend Senator KEMPTHORNE, I commend Senator GLENN and the cosponsors of this bill. I just hope very much the Senate will proceed to this very important bill. We could cut the overall tax burden on the people of this country 50 percent, if we can just get control of this situation.

Mayors from across the Nation are in an uproar because the financial burdens of environmental mandates on towns and cities resulting from Federal environmental laws and regulations may soon be intolerable. According to a 1992 survey of the National Council of State Legislatures, there are at least 172 major, unfunded Federal mandates on the books.

The Heritage Foundation estimates that the indirect cost of Federal regulation added to the direct cost of compliance equals at least $900 billion. That puts the cost of Federal regulation on par with the $1 trillion in Federal income taxes paid each year.

There are major shortcomings in the way Congress and the executive branch make decisions on environmental protection:

Environmental issues are addressed in a vacuum, without examining the impacts mandates have on local government costs, personal incomes, private property rights, and the economy in general.

Mandates often respond to preconceived rather than real risks and benefits. For example, in order to meet requirements of the Safe Drinking Water Act, residents of Plano, TX, are paying to have their water tested for a chemical banned 20 years ago that was used to grow pineapples. Pineapples were never grown in Plano, why do they have to test this chemical?

Federal funding for its mandates has decreased, leaving communities with the responsibility of raising tax revenues to meet the requirements.

By EPA's own admission, its share of total environmental spending its expected to decrease from 18 percent in 1981 to 8 percent in the year 2000. Correspondingly, in 1981 local governments paid 76 percent of environmental costs, but will be responsible for 87 percent in 2000.

Texas cities will spend more than $25 billion on Federal environmental mandates during the 1990's. An estimated $7 billion over just the next 5 years will be spent to meet Federal clean water standards alone. That is money being taken away from schools, health care, housing, law enforcement, and fire protection that hard-working, tax-paying citizens want and need.

Federal mandates are enacted with a "one size fits all" mentality. Here are only a few of the many examples brought to my attention during my trips throughout the State:

LUBBOCK

The city of Lubbock, with a population of 190,000, is located in an arid area. It receives less than 20 inches of rain a year. Here are two examples of the problems they are having:

Subtitle D regulations, governing landfills, require landfills to have, among other things, clay liners to protect from ground water contamination. Because it is an arid area, there is little threat of ground water contamination due to rains which might cause landfill leaching. Over the next 8 months, it is going to cost Lubbock $500,000 for a clay liner for one cell in the landfill. It is being paid for by an increase in garbage rates.

The Clean Water Act requires municipalities with a population of 100,000 or more to obtain National Pollutant Discharge Elimination System [NPDES] permits. Due to staff limitations, and the real need to conduct other city business, to meet the deadline for submitting the permit application, Lubbock had to spend $750,000 to contract an outside consultant to prepare the voluminous documentation required for a permit application. Once the permit is issued, they can expect additional compliance costs of between $500,000 and $900,000.

BROWNWOOD

In April 1990 and again in December 1991, the city of Brownwood experienced floods. Brownwood is in the area where it is only expected to flood once every 100 years. The EPA, under its effluent discharge regulations, requires storm water treatment plants to make plans to upgrade when they reach 75 percent of capacity, and be under construction to upgrade when plants reach 95 percent of capacity. Because of the back-to-back floods, Brownwood exceeded 95 percent of plant capacity for 3 months in a row. That's how the EPA makes its determination that additional construction is necessary—exceeding 95 percent of capacity for 3 months in a row, regardless of natural disasters, such as floods.

Brownwood is being required to spend $8.1 million to accomplish this. This is on top of the $2.5 million spent in 1982 and the $3.6 million spent in 1986 to upgrade the plant. Brownwood is still paying debt service on the 1982 and 1986 construction.

On subtitle D landfill regulations, Brownwood is required to be bonded for $300,000 per landfill cell for a 30-year period.

Over the next 5 years, the citizens of Brownwood will spend $7.2 million to comply with landfill regulations. To accomplish this, landfill use rates will increase 28 percent this year, an additional 28 percent in 1994, and another 10 percent in 1995. Sewer charges will increase 17 percent this year and another 17 percent next year.

Brownwood city officials estimate that 37.5 percent of the budget for the water department, the sewer department, and the landfill is directly related to unfunded Federal mandates.

Brownwood has a population of 18,300.

ABILENE

Abilene is spending $1 million for a clay liner for their landfill. Abilene has clay soil and no problem with leaching.

COLLEGE STATION

College Station is being required to set aside $500,000 per year for 13 years to assure that the landfill will be covered when it is no longer in use.

ODESSA

In Odessa, 18 percent of the $65.7 million 1994 budget is allocated to pay for unfunded State and Federal mandated projects. Perhaps one of the most costly items is the $1.2 million that the city must spend to install a clay liner and monitoring wells at the municipal landfill in order to comply with tough environmental regulations.

SAN ANTONIO

In order to meet its EPA mandated water requirements, San Antonio tacked $1.99 per month onto every household water bill and hundreds per month onto every commercial water bill. To affect the increase, the city council of San Antonio had to pass a bill, which it appropriately titled, "The Federal Storm Water Fee."

Of the 10 most costly unfunded mandates, 8 deal with environmental matters. This is what these mandates cost some selected Texas cities:

Town	Cost	Population
Amarillo	$27,092,500	157,615
Bryan	984,284	55,002
Plano	6,642,015	149,188
Nacogdoches	1,257,564	30,872
Waco	2,894,039	107,000
Lubbock	11,199,789	186,206
Brownsville	1,633,435	102,000
Corpus Christi	5,674,303	273,677
Grand Prairie	4,263,036	102,557
San Marcos	1,266,133	28,173

These towns are put in a position of paying for unfunded Federal mandates while sacrificing the things they want and need most: Local police and fire protection, schools and the like.

States and municipalities must be given the flexibility to ensure good environmental quality through rational, logical, and affordable approaches. There must be a way to address legitimate environmental concerns without bankrupting our towns and cities. S. 993 goes a long way toward doing that.

I want to applaud the Senator from Idaho for his diligence in getting this bill to the Senate floor and I urge my colleagues to vote for it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I thank the Senator from Texas, Senator HUTCHISON, for her comments. We are very fortunate to have her perspective from the State government, to be here in the U.S. Senate, helping us with these types of issues. She has been one of the prime movers, also, on bringing about the end to unfunded Federal mandates. So I thank her for her leadership. Again, we are fortunate to have her insight and perspective to help us deal properly with our partners, the State and local officials.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to ask the Senator from Texas—not at all other than out of curiosity, following through on the last statement—I wonder if the Senator from Texas would tell me, I am rather stupefied by the notion that this bill is going to save the taxpayers of the country more than 50 percent of their tax burden. Is there some analysis that articulates that? Can the Senator share with me how much money we are actually going to save with this and why? That may raise a few more alarm bells that we thought existed in this bill.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I was referring to a Heritage Foundation report that estimates that the indirect costs of Federal regulation added to the direct cost of compliance, equals $900 billion. The intake of our income taxes is about $1 trillion. So it is about the same.

Not necessarily will we not have any more regulations to cut it back to 50 percent. But I certainly think, if we had the information on what it is costing us in indirect costs to comply with Federal regulations, it is going to help us put this in perspective.

Let me just reemphasize a few examples. In College Station, they are being required now to set aside $500,000 per year for 13 years to assure that the landfill will be covered, when it is no longer in use—which is 13 years from now.

When I am in College Station, TX, they tell me that they cannot afford to add this much to their local sewage treatment garbage fees.

Mr. KERRY. If I could interrupt the Senator? I share that feeling and I understand what the Senator is saying.

I share that and understand what the Senator is saying. I do not dispute the existence of those kinds of regulations and burdens. I am just trying to understand how the specific figure of savings is arrived at, because clearly there is no way to predict with specificity what the Congress is going to wind up rejecting or accepting. It is exactly hard to say what your savings is going to be, is what I am getting at.

Mrs. HUTCHISON. Mr. President, I think the Senator from Massachusetts is absolutely right. We do not know how much of that $900 billion will actually be saved, but we can certainly take one step in the right direction by having the information about the added costs, because if you add up the costs of the added regulation for landfills, or the added regulation for water runoff it does, indeed, begin to approach the amount that we are also paying in income tax. When someone is paying their tax bill, they do not differentiate on what the total taken out of their paychecks or their property tax bills are going to be. So we may not save $900 billion.

But I think we are going to start in the right direction toward having an accountability about all of these hidden taxes that we are causing to the local taxpayer that we are not really getting credit for right now. So the point of the Senator from Massachusetts is well taken. We cannot say for sure that it will save $900 billion, but I do think that we will be able to cut back on these hidden taxes and help the taxpayers of this country, and this is certainly a step in the right direction to do that.

Mr. KERRY. Mr. President, I appreciate the answer of the Senator from Texas, which I think clarifies it a little bit. I think we have to realize that we ought to be understanding a lot better and entering an entire new age of responsibility in the relationship between the Federal Government and States. There is no question about that.

I agree with the Senator from Texas; passing this would significantly increase the level of responsibility that we are exercising in what we demand of others who are going to pay and of what the amount that they are going to pay is going to be. There has really been a rather remarkable disconnection between the level of bureaucracy and regulation that is required to implement many of the things that we look for.

So we take these very good intentions and turn them into absolutely horrendous bureaucratic nightmares that wind up giving a bad name, not just to Government itself, obviously, but to the good intentions which I think most people on both sides of the aisle would support.

Again, I think the basic thrust of this legislation is obviously very good and very strong. But I just want to understand exactly what the implications are going to be. And within a very few minutes, I will have the language available so I can sit down with the appropriate people to be able to pursue that.

I thank the Senator from Texas for the clarification.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, how much time do we have left before the vote?

The PRESIDING OFFICER. We have 30 seconds left.

Mr. GLENN. In that case, I will resist the temptation to speak.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, a few of my colleagues have taken the time. I ask unanimous consent that I be allowed 3 minutes to speak on this subject.

Mr. BRADLEY. Reserving the right to object, will this be the last 3 minutes?

Mr. THURMOND. As far as I am concerned.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I want to commend the able Senator from Idaho for the stand he has taken on this matter, and also the able junior Senator from Texas for the stand she has taken, and all those who have taken that position.

After all, I wonder sometimes if we really follow the Constitution in our dealings. When this Constitution was written, the idea was to make the States the main agencies of Government. As time has passed, we are shifting more and more power to the Federal level.

Article I, section 8, and the 26 amendments adopted since the adoption of the Constitution mainly comprise authority of the Federal Government under this Constitution. All other powers are reserved to the States. Unless a power has been specifically delegated to the Federal Government, it is reserved to the States.

It certainly is not right for the Federal Government to place mandates and demands on the States. They have no authority under the Constitution to do it, and I certainly hope this bill will pass.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed to S. 993.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Colorado [Mr. CAMPBELL], the Senator from Arizona [Mr. DECONCINI], the Senator from California [Mrs. FEINSTEIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Rhode Island [Mr. PELL], and the Senator from Arkansas [Mr. PRYOR], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP], are neccessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 0, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—88

Akaka
Baucus
Bennett
Bingaman
Bond
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Ford
Glenn
Gorton
Graham
Gramm
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Jeffords
Johnston
Kassebaum
Kempthorne
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
Mathews
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Thurmond
Warner
Wellstone
Wofford

NOT VOTING—12

Biden
Boren
Campbell
DeConcini
Durenberger
Feinstein
Inouye
Kennedy
Pell
Pryor
Stevens
Wallop

So the motion was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL MANDATE ACCOUNTABILITY AND REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 993) to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulation,

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs, with an amendment to the title; the title was amended so as to read "To strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates of State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; to better assess both costs and benefits of Federal legislation and regulations on State, local and tribal governments; and for other purposes."; and an amendment to strike out all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Mandate Accountability and Reform Act of 1994".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate before the Senate votes on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instances;

(5) to establish a point-of-order vote on the consideration in the Senate of legislation containing significant Federal mandates; and

(6) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) FEDERAL INTERGOVERNMENTAL MANDATE.—The term "Federal intergovernmental mandate" means—

(A) any provision in a bill or joint resolution before Congress or in a proposed or final Federal regulation that—

(i) would impose a duty upon States, local governments, or tribal governments that is enforceable by administrative, civil, or criminal penalty or by injunction (other than a condition of Federal assistance or a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B)); or

(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty; or

(B) any provision in a bill or joint resolution before Congress or in a proposed or final Federal regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority (as defined in section 3(9) of the Congressional Budget Act of 1974 (2 U.S.C. 622(9))), if—

(i)(I) the bill or joint resolution or regulation would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the bill or joint resolution or regulation.

(2) FEDERAL PRIVATE SECTOR MANDATE.—The term "Federal private sector mandate" means any provision in a bill or joint resolution before Congress that—

(A) would impose a duty upon the private sector that is enforceable by administrative, civil, or criminal penalty or by injunction (other than a condition of Federal assistance or a duty arising from participation in a voluntary Federal program); or

(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of complying with any such duty.

(3) FEDERAL MANDATE.—The term "Federal mandate" means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (1) and (2).

(4) DIRECT COSTS.—

(A) FOR A FEDERAL INTERGOVERNMENTAL MANDATE.—In the case of a Federal intergovernmental mandate, the term "direct costs" means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend in order to comply with the Federal intergovernmental mandate, or, in the case of a bill or joint resolution referred to in paragraph (1)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

(B) FOR A FEDERAL PRIVATE SECTOR MANDATE.—In the case of a Federal private sector mandate, the term "direct costs" means the aggregate amounts that the private sector will be required to spend in order to comply with the Federal private sector mandate.

(C) NOT INCLUDED.—The term "direct costs" does not include—

(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations adopted before the adoption of the Federal mandate; or

(II) to continue to carry out State, local governmental, and tribal governmental programs, or private-sector business or other activities established at the time of adoption of the Federal mandate; or

(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

(I) their compliance with the Federal mandate; or

(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

(D) ASSUMPTION.—Direct costs shall be determined on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations.

(5) AMOUNT OF AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL FINANCIAL ASSISTANCE.—The term "amount" with respect to an authorization of appropriations for Federal financial assistance means—

(A) the amount of budget authority (as defined in section 3(2)(A) of the Congressional Budget Act of 1974 (2 U.S.C. 622(2)(A))) of any Federal grant assistance; and

(B) the subsidy amount (as defined as "cost" in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(a))) of any Federal program providing loan guarantees or direct loans.

(6) PRIVATE SECTOR.—The term "private sector" means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

(7) OTHER DEFINITIONS.—

(A) AGENCY.—The term "agency" has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

(B) DIRECTOR.—The term "Director" means the Director of the Congressional Budget Office.

(C) LOCAL GOVERNMENT.—The term "local government" has the same meaning as in section 6501(6) of title 31, United States Code.

(D) REGULATION OR RULE.—The term "regulation" or "rule" has the meaning of "rule" as defined in section 601(2) of title 5, United States Code.

(E) SMALL GOVERNMENT.—The term "small government" means any small governmental jurisdiction as defined in section 601(5) of title 5, United States Code, and any tribal government.

(F) STATE.—The term "State" has the same meaning as in section 6501(9) of title 31, United States Code.

SEC. 4. EXCLUSIONS.

This Act shall not apply to any provision in a bill or joint resolution before Congress and any provision in a proposed or final Federal regulation that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the United States Government;

(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of any of them;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations; or

(6) the President designates as emergency legislation and that the Congress so designates in statute.

SEC. 5. AGENCY ASSISTANCE.

Each agency shall provide to the Director of the Congressional Budget Office such information and assistance as he may reasonably request to assist him in performing his responsibilities under this Act.

TITLE I—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 101. DUTIES OF CONGRESSIONAL COMMITTEES.

(a) COMMITTEE REPORT.—

(1) REGARDING FEDERAL MANDATES.—

(A) IN GENERAL.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of public character that includes any Federal mandate, the committee shall issue a report to accompany the bill or joint resolution containing the information required by subparagraphs (B) and (C).

(B) REPORTS ON FEDERAL MANDATES.—Each report required by subparagraph (A) shall contain—

(i) an identification and description, prepared in consultation with the Director, of any Federal mandates in the bill or joint resolution, including the expected direct costs to States, local governments, and tribal governments, and to the private sector, required to comply with the Federal mandates; and

(ii) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandates (including the enhancement of health and safety and the protection of the natural environment).

(C) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report required by subparagraph (A) shall also contain—

(i)(I) a statement of the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable for activities of States, local governments, or tribal governments subject to the Federal intergovernmental mandates; and

(II) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and if so, the reasons for that intention;

(ii) any existing sources of Federal assistance in addition to those identified in clause (i) that may assist States, local governments, and tribal governments in meeting the direct costs of the Federal intergovernmental mandates; and

(iii) an identification of one or more of the following: reductions in authorization of existing appropriations, a reduction in direct spending, or an increase in receipts (consistent with the amount identified clause (i)(I)).

(2) PREEMPTION CLARIFICATION AND INFORMATION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on the extent to which the bill or joint resolution preempts any State, local, or tribal law, and, if so, an explanation of the reasons for such preemption.

(b) SUBMISSION OF BILLS TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee shall promptly provide the bill or joint resolution to the Director and shall identify to the Director any Federal mandates contained in the bill or resolution.

(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 102(c), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available soon enough to be included in the printed report.

(2) IF NOT INCLUDED.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

SEC. 102. DUTIES OF THE DIRECTOR.

(a) STUDIES.—

(1) PROPOSED LEGISLATION.—As early as practicable in each new Congress, any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall request that the Director initiate a study of the proposed legislation in order to develop information that may be useful in analyzing the costs of any Federal mandates that may be included in the proposed legislation.

(2) CONSIDERATIONS.—In conducting the study under paragraph (1), the Director shall—

(A) solicit and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

(B) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

(C) consult with the relevant committees of the House of Representatives and of the Senate.

(b) CONSULTATION.—The Director shall, at the request of any committee of the House of Representatives or of the Senate, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

(1) a significant budgetary impact on State, local, or tribal governments; or

(2) a significant financial impact on the private sector.

(c) STATEMENTS ON NONAPPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or of the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) DIRECT COSTS AT OR BELOW THRESHOLD.—If the Director estimates that the direct costs of all Federal intergovernmental mandates in the bill or joint resolution will not equal or exceed $50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(B) DIRECT COSTS ABOVE THRESHOLD.—

(i) IN GENERAL.—If the Director estimates that the direct costs of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(ii) ESTIMATES.—The estimate required by clause (i) shall include—

(I) estimates (and brief explanations of the basis of the estimates) of—

(aa) the total amount of direct costs of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

(bb) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates;

(II) estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

(aa) future direct costs of Federal intergovernmental mandates to the extent that they significantly differ from or extend beyond the 5-year time period referred to in clause (i); and

(bb) any disproportionate budgetary effects of Federal intergovernmental mandates and of any Federal financial assistance in the bill or joint resolution upon any particular regions of the country or particular States, local governments, tribal governments, or urban or rural or other types of communities; and

(III) any amounts appropriated in the prior fiscal year to fund the activities subject to the Federal intergovernmental mandate.

(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or of the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) DIRECT COSTS AT OR BELOW THRESHOLD.—If the Director estimates that the direct costs of all Federal private sector mandates in the bill or joint resolution will not equal or exceed $200,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective

or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(B) DIRECT COSTS ABOVE THRESHOLD.—

(i) IN GENERAL.—If the Director estimates that the direct costs of all Federal private sector mandates in the bill or joint resolution will equal or exceed $200,000,000 (adjusted annually for inflation by the Consumer Price Index) any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state and shall briefly explain the basis of the estimate.

(ii) ESTIMATES.—Estimates required by this subparagraph shall include—

(I) estimates (and a brief explanation of the basis of the estimates) of—

(aa) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

(bb) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by the private sector for activities subject to the Federal private sector mandates;

(II) estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

(aa) future costs of Federal private sector mandates to the extent that they differ significantly from or extend beyond the 5-year time period referred to in clause (i);

(bb) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

(cc) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of American goods and services; and

(III) any amounts appropriated in the prior fiscal year to fund activities subject to the Federal private sector mandate.

(C) FAILURE TO MAKE ESTIMATE.—If the Director determines that it is not reasonably feasible for him to make a reasonable estimate that would be required by subparagraphs (A) and (B) with respect to Federal private sector mandates, the Director shall not make the estimate, but shall report in his statement that the reasonable estimate cannot be reasonably made and shall include the reasons for that determination in the statement.

(3) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared a statement that includes the determination described in paragraph (1)(B)(i) for a bill or joint resolution, and if that bill or joint resolution is passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the language of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director prepare a supplemental statement for the bill or joint resolution. The requirements of section 103 shall not apply to the publication of any supplemental statement prepared under this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Congressional Budget Office to carry out the provisions of this Act $6,000,000, for each of the fiscal years 1995, 1996, 1997, and 1998.

(e) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended—

(1) in subsection (a)—

(A) by striking paragraph (2);

(B) in paragraph (3) by striking "paragraphs (1) and (2)" and inserting "paragraph (1)";

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively;

(2) by striking "(a)"; and

(3) by striking subsections (b) and (c).

SEC. 103. POINT OF ORDER IN THE SENATE.

(a) IN GENERAL.—It shall not be in order in the Senate to consider any bill or joint resolution that is reported by any committee of authorization of the Senate unless, based upon a ruling of the presiding Officer—

(1) the committee has published a statement of the Director in accordance with section 101(c) prior to such consideration; and

(2) in the case of a bill or joint resolution containing Federal intergovernmental mandates, either—

(A) the direct costs of all Federal intergovernmental mandates in the bill or joint resolution are estimated not to equal or exceed $50,000,000 (adjusted annually for inflation by the Consumer Price Index) in the fiscal year in which any Federal intergovernmental mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, or

(B)(i) the amount of the increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates is at least equal to the estimated amount of direct costs of the Federal intergovernmental mandates; and

(ii) the committee of jurisdiction has identified in the bill or joint resolution one or more of the following: a reduction in authorization of existing appropriations, a reduction in direct spending, or an increase in receipts (consistent with the amount identified in clause (i)).

(b) WAIVER.—The point of order under subsection (a) may be waived in the Senate by a majority vote of the Members voting (provided that a quorum is present) or by the unanimous consent of the Senate.

(c) AMENDMENT TO RAISE AUTHORIZATION LEVEL.—Notwithstanding the terms of subsection (a), it shall not be out of order pursuant to this section to consider a bill or joint resolution to which an amendment is proposed and agreed to that would raise the amount of authorization of appropriations to a level sufficient to satisfy the requirements of subsection (a)(2)(B)(i) and that would amend an identification referred to in subsection (a)(2)(B)(ii) to satisfy the requirements of that subsection, nor shall it be out of order to consider such an amendment.

SEC. 104. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 101, 102, 103, and 105 are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 105. EFFECTIVE DATE.

This title shall apply to bills and joint resolutions reported by committee on or after October 1, 1995.

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted in law, assess the effects of Federal regulations on States, local governments, and tribal governments (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal intergovernmental mandates in those regulations, and seek to minimize those burdens that uniquely or significantly affect such governmental entities, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOVERNMENT INPUT.—Each agency shall, to the extent permitted in law, develop an effective process to permit elected officials (including their designated representatives) and other representatives of States, local governments, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates. Such a process shall be consistent with all applicable laws.

(c) AGENCY PLAN.—

(1) IN GENERAL.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, agencies shall have developed a plan under which the agency shall—

(A) provide notice of the contemplated requirements to potentially affected small governments, if any;

(B) enable officials of affected small governments to provide input pursuant to subsection (b); and

(C) inform, educate, and advise small governments on compliance with the requirements.

(2) AUTHORIZATION.—There are hereby authorized to be appropriated to each agency to carry out the provisions of this section, and for no other purpose, such sums as are necessary.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal intergovernmental mandates that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, of $100,000,000 or more (adjusted annually for inflation by the Consumer Price Index) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, and tribal governments of complying with the Federal intergovernmental mandates, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future costs of Federal intergovernmental mandates; and

(B) any disproportionate budgetary effects of the Federal intergovernmental mandates upon any particular regions of the country or particular States, local governments, tribal governments, urban or rural or other types of communities;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal intergovernmental mandates (such as the enhancement of health and safety and the protection of the natural environment); and

(4)(A) a description of the extent of any input to the agency from elected representatives (including their designated representatives) of the

affected States, local governments, and tribal governments and of other affected parties;

(B) a summary of the comments and concerns that were presented by States, local governments, or tribal governments either orally or in writing to the agency;

(C) a summary of the agency's evaluation of those comments and concerns; and

(D) the agency's position supporting the need to issue the regulation containing the Federal intergovernmental mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as a part of any other statement or analysis, provided that the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall collect from agencies the statements prepared under section 202 and periodically forward copies of them to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative, and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposed rules, or a combination thereof.

TITLE III—BASELINE STUDY

SEC. 301. BASELINE STUDY OF COSTS AND BENEFITS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Bureau of the Census, in consultation with the Director, shall begin a study to examine the measurement and definition issues involved in calculating the total costs and benefits to States, local governments, and tribal governments of compliance with Federal law.

(b) CONSIDERATIONS.—The study required by this section shall consider—

(1) the feasibility of measuring indirect costs and benefits as well as direct costs and benefits of the Federal, State, local, and tribal relationship; and

(2) how to measure both the direct and indirect benefits of Federal financial assistance and tax benefits to States, local governments and tribal governments.

(c) AUTHORIZATION.—There are authorized to be appropriated to the Bureau of the Census to carry out the purposes of this title, and for no other purpose, $1,000,000 for each of the fiscal years 1995 and 1996.

TITLE IV—JUDICIAL REVIEW; SUNSET

SEC. 401. JUDICIAL REVIEW.

Any statement or report prepared under this Act, and any compliance or noncompliance with the provisions of this Act, and any determination concerning the applicability of the provisions of this Act shall not be subject to judicial review. The provisions of this Act shall not create any right or benefit, substantive or procedural, enforceable by any person in any administrative or judicial action. No ruling or determination under this Act shall be considered by any court in determining the intent of Congress or for any other purpose.

SEC. 402. SUNSET.

Title II shall expire September 30, 1998. Title I shall expire on October 1 of the fiscal year for which the fiscal year appropriation to the Congressional Budget Office is not adequate to carry out the requirements of title I, or September 30, 1998, whichever occurs earlier. The requirements of section 101(a)(2) are exempt from the terms of this section.

Amend the title so as to read: "To strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; to better assess both costs and benefits of Federal legislation and regulations on State, local, and tribal governments; and for other purposes.".

Several Senators addressed the Chair.

AMENDMENT NO. 2621

(Purpose: To authorize the establishment of the National African American Museum within the Smithsonian Institution)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. MCCAIN, and Ms. MOSELEY-BRAUN, proposes an amendment numbered 2621.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I ask that the clerk finish reading it.

The PRESIDING OFFICER. The clerk will resume the reading of the amendment.

Mr. HELMS. Mr. President, we cannot hear in here.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Illinois asked unanimous consent to dispense with further reading of the amendment.

Is there objection to that unanimous consent request?

Mr. GRAMM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the reading of the amendment.

The legislative clerk resumed reading as follows:

At the end of the pending amendment, insert the following:

DIVISION 2—NATIONAL AFRICAN AMERICAN MUSEUM ACT

SECTION 1. SHORT TITLE.

This division may be cited as the "National African American Museum Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities are inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restrict the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture include the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 3. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 4. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

SEC. 5. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge

of African American art, history, and culture appointed by the Board of Regents, of whom 9 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (b), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 6. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

SEC. 7. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees of the Museum, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 5(a).

(3) The term "Museum" means the National African American Museum established under section 3(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary only for costs directly relating to the operation and maintenance of the Museum.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Illinois,

Mr. SIMON. Mr. President, I am offering this amendment in behalf of Senator MCCAIN, Senator MOSELEY-BRAUN, and myself.

This is an amendment that is supported by Smithsonian. They have $475,000 that has been set aside for planning for this from 1994 appropriations. They have assured the Appropriations Committee that in the next 5 years it will take no additional funding. They are going to use existing space and existing budget.

Now, why do we have an African-American museum?

There are two American groups that have had very distinctive histories. One is the American Indians, native Americans, and Smithsonian does have a museum for native Americans, and it is universally applauded.

They believe and I believe, and the Rules Committee, which unanimously supported this—and I might add this passed the United States Senate here 2 years ago. I do not think there was a vote against it. I cannot recall. It was by voice vote.

But it was stopped in the House by someone who felt we were not doing enough.

I think Smithsonian makes sense in their request. The funds are there for the planning. I think we ought to go ahead.

This is something that is universally applauded, with the exception of my friend, and he is my friend, from North Carolina, Senator JESSE HELMS, who strongly opposes it.

Today, the Washington Post had an editorial endorsing it along with many others. But that is the sum and substance of this.

I yield the floor to my colleague from Illinois who will offer an amendment in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 2623 TO AMENDMENT NO. 2621

(Purpose: To authorize the establishment of the National African American Museum within the Smithsonian Institution)

Ms. MOSELEY-BRAUN. Mr. President, I send to the desk an amendment in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the substitute.

The bill clerk read as follows:

The Senator from Illinois [Ms. MOSELEY-BRAUN] proposes an amendment numbered 2623 to Amendment No. 2621.

Ms. MOSELEY-BRAUN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all in the amendment and insert the following:

2—NATIONAL AFRICAN AMERICAN MUSEUM ACT

SECTION 1. SHORT TITLE.

This division may be cited as the "National African American Museum Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities are inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restrict the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture include the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 3. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 4. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

SEC. 5. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

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(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American art, history, and culture appointed by the Board of Regents, of whom 11 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (b), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

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(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

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(i) research fellowships; and

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(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

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(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

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(1) appoint the Director and 5 employees of the Museum, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

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(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary only for costs directly relating to the operation and maintenance of the Museum.

Ms. MOSELEY-BRAUN. Mr. President, I rise in support of the objective of the amendment of the distinguished Senator from Illinois.

This is a project that has been around for at least 2 years. It has been the subject of a great deal of discussion and planning and certainly fills a need in terms of our capacity to communicate a rich and diverse cultural history of our country.

I urge my colleagues' support for this amendment.

I yield back the remainder of my time to the distinguished Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois still has the floor.

Mr. MCCAIN addressed the Chair.

Mr. KERRY. Point of order.

The PRESIDING OFFICER. Is the Senator seeking recognition?

Mr. MCCAIN. I am seeking recognition.

The PRESIDING OFFICER. The Senator from Arizona had sought recognition.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I urge the Chair and urge my colleagues to proceed with this very simple piece of legislation. It is something, in my view, that reflects credit on this entire body.

I believe this is an important issue. I would not want anyone to believe that any individual in this body would be opposed to this very simple, much needed, and frankly inexpensive piece of legislation which will serve, I think, a very important purpose for the millions of people who come here every year to receive the kind of understanding and appreciation of the background of African Americans in this country.

I applaud my friend from Illinois for attempting this, and I hope we will not seek further objection.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there any further debate on the amendment?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2624

(Purpose: To strike the 1993 tax increase on Social Security benefits)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2624.

At the appropriate place, insert:

SEC. . REPEAL OF 1993 TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 13215 of the Revenue Reconciliation Act of 1993 (relating to tax on social security and tier 1 railroad retirement benefit) is hereby repealed.

(b) APPLICATION OF INTERNAL REVENUE CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if the provisions of, and the amendments made by, section 13215 of the Revenue Reconciliation Act of 1993 had not been enacted.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1993.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, parliamentary inquiry. Is that amendment in order at this point?

The PRESIDING OFFICER. The amendment is in order as an amendment to the underlying text of the bill.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, the argument for this amendment is very, very simple. We have had a yearlong debate about whether the Clinton tax bill raised taxes on working Americans, whether it raised taxes on middle-class Americans. People on this side of the aisle have said that it does, because it taxes people making $34,000 a year on 85 percent of their Social Security benefits. What we would like to do is to make an honest man out of the President by repealing that tax and therefore I have submitted it and I would be happy to vote on it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Is there further debate on the amendment?

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. An objection is heard.

The clerk will continue calling the roll.

The legislative clerk continued with the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. FORD. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll and we will have order as the clerk calls the roll so we can hear what is being requested of the Chair.

The legislative clerk continued with the call of the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING PRESTON TOWNLEY

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to one of the most important contributors to the life of the State of Minnesota. Preston Townley, chief executive officer and president of the Conference Board, died suddenly last week at the age of 55.

Preston Townley had been a mainstay of two of the most important institutions in Minnesota—General Mills and the University of Minnesota. As a corporate executive, he earned the respect of the business community; as dean of the Carlson School of Management, he was a major force shaping the next generation of Minnesota business leaders.

He was equally successful in his most recent challenge. Six years ago, he signed on as leader of the Conference Board—and transformed it into a flourishing think tank.

He was a trusted member of the community and a dear friend. I ask my colleagues to join me in sending our warmest condolences to his widow, Marcia Townley, and the Townley family on this sad occasion.

I ask unanimous consent that an article from the Minneapolis Star Tribune about the late Preston Townley be included in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FORMER GENERAL MILLS EXECUTIVE PRESTON TOWNLEY DIES AT AGE 55

(By Anne O'Connor)

Preston (Pete) Townley used to tell his daughter that it's better to be really good at a few things than to be average at a lot of things.

Townley took his own advice: He was anything but average.

He rose through the ranks at General Mills to become a highly respected executive. He left that position and went to the University of Minnesota, where, as dean of the Carlson School of Management, he was responsible for getting one of the largest donations to the institution.

He left the university six years ago for New York City, where he took over the Conference Board, a 72-year-old nonprofit think tank, and turned it from a stumbling organization into a flourishing one.

"He was a brilliant man," said his daughter, Alison, of New York City. "He did a lot for Minneapolis. He raised millions for the University of Minnesota. He just dedicated his life to the community."

Townley, 55, chief executive officer and president of the Conference Board, died suddenly Friday in Amelia Island, Fla., while he was playing tennis. Family members said they are unsure of the cause of death.

Townley was born in Minneapolis and graduated Harvard University with bachelor's and master's degrees in business administration.

His daughter said it was his strong sense of community that brought him back to the Twin Cities.

He started at General Mills in 1964 and worked in positions ranging from assistant to the vice president of advertising to executive president of the consumer foods division.

While at the university, Townley persuaded Curt Garlson to donate $25 million—then got the business school named for him.

After leaving the university in September 1988 he went to work at the Conference Board, which has offices in New York, Washington, D.C., and Brussels, Belgium. Its 3,000 members and benefactors are a who's who in business, including American Express, Dow Chemical, Honeywell, Monsanto, PepsiCo and 3M.

When Townley took over the organization, it was sagging financially and the research that it was producing was out of touch with its customers, said Austin Sullivan, who worked with Townley at General Mills.

"There were huge staff problems. They were in the middle of lawsuits," Sullivan said. "He got it back on solid financial shape in a year and a half."

Townley expanded the idea of councils, groups that meet two or three times a year to discuss their specific industries.

"It's a great opportunity to talk shop with people that do what you do. He understood that this was a unique value for conference members. The councils were so valuable to people that that was one of the ways that Pete got the Conference Board back on its feet," Sullivan said.

Townley is survived by his wife, Marcia, and two sons, Michael, of New York City, and Patrick, of Minneapolis. Services will be announced later.

TITLE IV, H.R. 6

Mr. MATHEWS. Mr. President, I rise today to comment on findings contained in title IV of H.R. 6, the Improving America's Schools Act of 1994, which the Senate approved yesterday. The methodology used to make these findings deserve the question: Is it fact or fiction?

The finding is found in section 4002 and states that the "* * * average age for the first use of smokeless tobacco is under the age of 10." Mr. President, I am all too aware, as a Senator from a State where tobacco is a vital part of the economic life of many people, that being critical of tobacco products is fashionable. Anti-tobacco groups are doing all they can to infringe on adult choice with respect to tobacco products. No one, Mr. President, including this Senator from Tennessee, the Congress, or the tobacco industry, wants those under the age of 18 to purchase or use tobacco products. But statements like the one found in section 4002 are designed to mislead and encourage regulation of adult choice.

What is the source of this finding on the age of initiation? While no source is given in the conference report, it likely comes from a 1992 HHS inspector general report entitled "Spit Tobacco and Youth" which reports that "the average age of initiative of our 1992 users was 9.5 years old." Mr. President, the problems with this report are so numerous that I must question the rationale for its use in the congressional finding. First, the inspector general's survey collected information from only 54 reported users of smokeless tobacco. I think everyone must agree that this is an exceptionally small sample upon which to base any conclusions. Furthermore, the survey participants were—in the words of the inspector general's report—"selected judgmental." This means that the participants had to fit a preconceived profile: under 21 at the time of the survey; claimed to have initiated use of smokeless tobacco before age 18; claimed to have used smokeless tobacco on a regular basis for 2 years or more; claimed to have used smokeless tobacco nearly every day during the last year of use. How credible is a survey and its findings if bias is built into the methodology? Are we to believe that such a survey has application to the general population of smokeless tobacco users? Moreover, is it reasonable to legislate on concocted studies? Again, I have to ask is it fact or fiction?

Mr. President, every State has enacted legislation that restricts the sale of tobacco products to persons over the age of 18. Failure to enforce the minimum age on the sale of tobacco products subjects States to forfeiture of Federal funds under legislation that was passed in 1992 with the support of the tobacco industry. These are facts, Mr. President.

The fact of the matter is that according to a recent HHS report, use of smokeless tobacco by males under 18 is low, decreasing and very close to HHS's target or goal for the year 2000. The 1992 Healthy People 2000 Review, which provisions of H.R. 6 are designed to implement, reflects that the reported use of smokeless tobacco products—defined as use on at least one occasion in the last 30 days—by 12- 17-year-old males decreased from 6.6 percent of that group in 1988 to 5.3 percent in 1991. Moreover, a National Institute on Drug Abuse survey published in October 1993 reported that use of smokeless tobacco by 12-17-year-old males had further declined in 1992 to 4.8 percent, which is very close to the 4.0 percent target for the year 2000 set in the Healthy People 2000 Review. Furthermore, the reported usage of smokeless tobacco by the total 12–17 year old population—male and female—was 2.6 percent in 1992 according to the NIDA survey.

Mr. President, the 1992 Healthy People 2000 Review was compiled by the National Center for Health Statistics—Center for Disease Control and Prevention—and submitted by HHS Secretary Shalala to the President and Congress as required by law. These are the findings that should have been included in H.R. 6. I thank the chair.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE ABOUT THAT

Mr. HELMS. Mr. President, before we contemplate today's bad news about the Federal debt, let us have a little pop quiz: How many million dollars would you say are in a trillion dollars? And when you have arrived at an answer, just remember that Congress has run up a Federal debt exceeding $4½ trillion.

To be exact, as of the close of business yesterday, Wednesday, October 5, the Federal debt stood—down to the penny—at $4,692,972,690,839.51 meaning that every man, woman, and child in America owes $18,000.67 computed on a per capital basis.

Mr. President, to answer the pop quiz question—how many million in a trillion?—there are a million million dollars in a trillion, for which you can thank the U.S. Congress which owes more than $4½ trillion.

REGARDING THE CITIZENSHIP OF MARY BOISVENUE

Mr. COATS. Mr. President, I rise today to both recognize and honor Mary Boisvenue, a proud new American from my home State of Indiana who understands that it is never too late to do something as important as becoming a citizen of the United States of America.

Mary's parents arrived at Ellis Island in 1924, from Riese, Italy, a town 20 miles south of Venice. They then moved to Windsor, Ontario, Canada, where they settled down to raise a family. Mary was born in June 1929.

Mary's mother died shortly after she was born; her father died in 1934. Raised by her oldest brother, and four other brothers and sisters, she quickly learned that she would have to work hard. Like other immigrant families they were poor, but unlike the others, this family without parents had to survive on their own.

In the fifties, Mary moved to America with her new husband, Rudy, and for almost a decade she helped him through college, and struggled to raise a family and make ends meet.

Finally, after a lifetime of hard work, a family of five children and eight grandchildren, Mary decided to do something for herself.

Last month, she passed the test given by the Immigration and Naturalization Service to people applying for citizenship.

Later this month she, and other new Americans, will be sworn in as citizens of the United States in a ceremony in Indianapolis.

Mr. President, this ceremony is important—for Mary Boisvenue, and for us.

It is important because it reminds us that the spirit of opportunity and freedom continues to survive.

It is important because it reminds us of the contributions of millions of immigrants, from all over the globe, who have chosen to make this land their own.

And, Mr. President, it reminds us that it is people like Mary Boisvenue who have made our country great.

Mr. President, I join my fellow Americans and Hoosiers in congratulating Mary Boisvenue on a job well done.

I am particularly honored to commend her as I have had the opportunity to observe first hand the kind of character she has instilled in her family. Her son, Mike, has been an invaluable member of my staff, serving the U.S. Senate with talent, hard work, integrity, and good cheer.

We are proud of all she has done for herself, for her family, and for our country. And proud that she may now enjoy all the rights and privileges America has to offer.

TRIBUTE TO SENATOR DONALD W. RIEGLE, JR.

Mr. HEFLIN. Mr. President, when Senator DON RIEGLE announced his retirement from the Senate effective at the end of the 103d Congress, it came as a great shock to me and all Members of this body. He has certainly been one of our most dedicated and colorful Members, having one of the most unconventional political careers of any Member of Congress. Over the years, he has emerged as a tenacious leader on trade and banking issues, as well as a forceful advocate for his constituents and the interests of his State of Michigan.

In watching Senator RIEGLE in action over the years, it strikes me that we on this side of the aisle are fortunate that he switched to our camp 20 years ago. We often forget that DON began his career as a Republican, beating an incumbent Democratic Congressman in 1966. He was a freshman in the same class as former President George Bush, and quickly became a fierce critic of the Vietnam War. He ultimately won his Senate seat in 1976 as a Democrat, and has remained an energetic, loyal, and fierce partisan ever since.

As we all know, it is somewhat of an understatement to say that the senior Senator from Michigan fights passionately for those issues in which he believes. At the same time, he has fought just as bitterly against those he has opposed. Indeed, he has been one of the most persistent critics of Republican economic and foreign policies. He was a leader in the fight against the North American Free Trade Agreement.

There will definitely be a void left by the retirement of Senator RIEGLE, for this body and for the people of Michigan. He is a hard worker, an intelligent and energetic debater, and a skilled legislator: it will be hard, if not impossible, to ever really replace him. I salute him for all his years of service.

TRIBUTE TO SENATOR JOHN C. DANFORTH

Mr. HEFLIN. Mr. President, this body has truly been enhanced by the work and presence of Senator JOHN C. DANFORTH since 1977. His service here has been a case study in honesty, integrity, and political courage.

JOHN C. DANFORTH has sponsored numerous legislative measures important to the Nation. Among these are laws encouraging long-term economic growth; strengthening America's world trade policies; improving the protections accorded under existing civil rights laws; increasing the development of affordable housing; and enhancing transportation safety. His service to his home State of Missouri and as a U.S. Senator has set a high standard of effectiveness and accountability of Government.

The accolades given to JOHN C. DANFORTH over the course of his distinguished career in the Senate have come from many points along the political and ideological spectrum. The newsmagazine U.S. News and World Report singled him out as an example of excellence in government; The Washington Post's David Broder identified him as a conspicuous example of hard work, commitment to principle, and overall effectiveness; and the National Journal described him as one of the 31 outstanding Members of Congress. Of course, many of his friends here in the Senate refer to him affectionately as "Saint JOHN." He is an ordained clergyman of the Episcopal Church, and in many ways has been looked to as the conscience of the Senate.

JACK is the only Republican in the history of the State of Missouri to be elected to three terms as a U.S. Senator. His last election marked the record in Missouri Senate races for the number of counties carried in a statewide race.

As a principal author of the 1991 Civil Rights Act, JACK's leadership was crucial to the passage and enactment of one of the Nation's most important statutes for fairness in hiring, promotion, and other employment practices.

JACK DANFORTH has been an important Member of this body for nearly 18 years, and will be sorely missed by his colleagues and constituents. I commend and congratulate him for his many accomplishments as a public servant and wish him all the best for a bright future.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. HEFLIN. Mr. President, during his brief tenure in this body, our friend HARLAN MATHEWS has distinguished himself in many ways—particularly as a frequent presiding officer. As we all know, presiding is no easy task, but I've been impressed by his willingness to assume the chair and by his knowledge of parliamentary procedure.

HARLAN is one of the most good-natured and down-to-earth Members of the Senate with whom I have ever served. He has strong ties to my home State, having been born in Alabama and having attended Jacksonville State University there. We live in the same apartment building and it has been a pleasure to travel some with he and his wife Patty. It has been a pleasure getting to know them over the last couple of years.

I must say that while I respect HARLAN's decision not to run for the Senate this year, I am greatly saddened by his retirement. The Senate and the Nation need people like him, people who display the highest standards of honesty and integrity. I know that this body, the people of Tennessee, and the Nation would have benefitted greatly from his continued service. I commend him and wish him all the best for a bright future.

TRIBUTE TO SENATOR DAVID BOREN

Mr. HEFLIN. Mr. President, I rise today to pay tribute to a great public servant. Senator DAVID BOREN's retirement from the U.S. Senate will leave a tremendous void in the institution.

DAVID's service in this body has been one that will be remembered for many years to come. DAVID will soon take over as president of the University of Oklahoma, where he will influence and shape the lives of our youth. As he says, "If we get everything else right but fail to provide the education and nurturing needed by the next generation, we will lose our place as a great nation and our strength as a society." With people like DAVID controlling the education of our young people, the United States will be assured of its position as a great nation, and our society will remain strong.

DAVID leaves many lasting legacies. From his commitment to service and education, to his dedication to the grassroots revitalization of our country through community involvement, DAVID's presence is felt in much of what makes this country great.

DAVID distinguished himself through his service on intelligence matters. He was chairman of the Senate Select Committee on Intelligence, and served with me on the House-Senate Iran/Contra Committee.

DAVID also distinguished himself through his financial prowess. As a member of the Finance Committee and the Joint Committee on Taxation, DAVID has had a hand in crafting Federal budgets. As we all know, he has been our foremost expert and leader on the campaign finance reform issue.

DAVID has also been committed to our agricultural community through his service on the Committee on Agriculture, Nutrition, and Forestry. I have had the pleasure of serving with DAVID on this committee. His thoughts and ideas have always contributed to the important work of the committee.

As sorry as I am to see DAVID go, I am happy that he will be shaping the young minds of America. I had the pleasure of coming into the Senate with DAVID, and I have been honored to serve with him these 15 years. I wish him the best as president of the University of Oklahoma, and I look forward to serving with him until the end of this Congress.

TRIBUTE TO SENATOR DAVID DURENBERGER

Mr. HEFLIN. Mr. President, I want to take a moment to salute our friend and colleague, Senator DAVID DURENBERGER, who announced that he will be retiring from the Senate at the end of the 103d Congress. DAVE and I came to the Senate together in 1979, and he has always been warm, friendly, and pleasant to work with.

He has been an effective leader on a wide range of issues, including health care reform and financial management. I dare say that there are few of us in this body who understand health care and doctors better than DAVE DURENBERGER. His is a unique perspective, because his State of Minnesota has been a progressive innovator in the health care field. It was one of the States that experimented early on with Health Maintenance Organizations and other reforms that are getting close attention today.

DAVE's has often been a moderate, reasoned voice within his party on important legislation. He has served the people of Minnesota and the Nation well, and has been a true Senate leader and shining light within the Republican Party. He will be missed when the next Congress convenes in January 1995. I congratulate and commend him for his many years of public service.

TRIBUTE TO SENATOR MALCOLM WALLOP

Mr. HEFLIN. Mr. President, I want to commend and congratulate retiring Wyoming Senator MALCOLM WALLOP, who has been a proven leader in foreign and defense policy during his tenure in this body. I came to know MALCOLM very well during our service together on the Select Committee on Ethics in the 1980's.

I am told that MALCOLM is a descendant of 19th century Englishmen who went to Wyoming to ranch and breed horses. He does, in many ways, resemble the early adventurers and explorers who tamed remote corners of the continent. He is proud of his heritage, which has given him a keen interest in world affairs.

MALCOLM WALLOP always took a hard line against communism, even before President Reagan talked of the "Evil Empire." He has been one of the Senate's strongest and most outspoken supporters of the strategic defense initiative and other weapons systems that helped to hasten the collapse of expansionist communism. We was also a key leader in the passage of the 1992 energy bill, having become the ranking Republican on the Energy and Natural Resources Committee the year before.

MALCOLM WALLOP has been an important leader in the Senate for nearly 18 years, and he will be missed by his friends here and his constituents in Wyoming when Congress convenes early next year. It has been a pleasure to serve with him, and I wish him all the best for a bright future.

TRIBUTE TO SENATOR DENNIS DECONCINI

Mr. HEFLIN. Mr. President, the 104th Congress and the State of Arizona face a void next year in light of the retirement from the Senate of our friend, Senator DENNIS DECONCINI.

I have had the pleasure of working with DENNIS on many issues over the years, including the balanced budget amendment legislation and other Judiciary Committee matters. He has served this year as a forceful chairman of the Intelligence Committee.

Like I have been myself in the past, DENNIS has been called a swing vote on key legislation before the Judiciary Committee and the Senate. His instincts on many issues are conservative. He takes the time to examine issues thoroughly and sometimes makes his decisions based on details that the rest of us might not have considered. We saw an example of DENNIS' analytical approach to tough legislation when he provided a crucial and courageous vote in support of the deficit reduction package last August.

I think this approach on the part of Senator DECONCINI is an asset that has served him and the Senate well over the years. It suggests a judicious approach to important issues that come before us that often helps to cool the passions that seem to guide us so much of the time.

He has always put the interests and well-being of his constituents at the top of his agenda. He has worked diligently for his State, and Arizonans have always had a friend in DENNIS DECONCINI. Never one to actively seek the spotlight or promote himself in the media, he has done much of his work quietly on committee, just as have other moderate Democrats from his region of the country. Those of us who know how hard he works also know that he has never been given the proper credit he deserves as a true Senate leader.

I think the way DENNIS has run his Senate offices is reflective of the kind of person he is and the kind of loyalty he inspires. His staff members speak very highly of him and obviously have a great deal of affection for him, not only as a boss, but as a friend. There is little turnover among his staff and he is good about promoting from within. DENNIS also has a proven record of hiring women and minorities for important policy positions like legislative director.

I am proud to commend Senator DECONCINI for his many years of distinguished years of service to Arizona and to the Nation as a U.S. Senator.

TRIBUTE TO SENATOR HOWARD METZENBAUM

Mr. HEFLIN. Mr. President, as was the case with virtually all of my colleagues in this body, I greeted the recent retirement announcement by our friend from Ohio, Senator METZENBAUM, with a variety of emotions and sentiments. For those of us who have known and served with him over the years, he has come to symbolize many of the ideals upon which the Senate was founded. Whether we agreed with him or not—and like most, I have had my share of disagreements with him—there was never a doubt that he always approached issues armed with the courage of his convictions and the dictates of his conscience.

For that reason, there will be a void in the Senate when the 104th Congress convenes that will be hard—if not impossible—to fill.

At the same time, who can begrudge him wanting to spend more time with his wife Shirley and their wonderful family? The Senate places demands on its Members that cannot be viewed as family friendly, and sometimes when attempting to balance these often competing demands, it comes down to a decision about priorities. Senator METZENBAUM has chosen to make his family his priority at this stage in his life, and for that, we applaud him.

If anyone has ever earned his retirement, it is Senator METZENBAUM, who has served this body with distinction for 18 years. I have had the pleasure of serving with him on the Judiciary Committee for a number of years. He has been a loud and clear voice for those in our society who often have had to struggle to find a voice—working families, the middle class, minorities, laborers, and women. He has performed as a true champion of the rights of all Americans, regardless of their status or position in society. He does his homework, he knows his facts, and he stands his ground. He has always adhered to the principle, "Always let your conscience be your guide."

Many congressional staffers and members of the public were probably surprised to learn that Senator METZENBAUM is only in his third Senate term. He is one of those who has become such an integral part of the daily business of the Chamber and is so closely identified with the Senate that it is hard to imagine a time when he was not here. But indeed, he has only been here since 1977. And I say only because we have Members like Senators THURMOND, KENNEDY, and BYRD who do make him and many of us seem like new kids on the block.

Senator METZENBAUM touched upon something in his retirement announcement that is instructive. He said, "I know that the Members of this body have the wisdom, talent, and experience to accomplish more than we now do. We seem somehow to fall short of our considerable potential, and as a result have a less positive impact than might otherwise be possible. We do not look beyond one day's news cycle. We find ourselves ducking tough choices, postponing the inevitable, passing the buck, and pointing fingers."

Mr. President, I have also noticed, over the last several years or so, an increasing tendency on the part of the Senate to avoid open, direct debate on some of the most critical issues facing our Nation. Avoidance of difficult issues only violates the trust that is supposed to exist between the governed and their Government. Senator HOWARD METZENBAUM has consistently worked to ensure and preserve that trust.

I wish Senator METZENBAUM and his wife Shirley a happy and healthy retirement filled with lots of relaxation and visits from their grandchildren. He has served his constituents and indeed all Americans well, and will be sorely missed when he officially retires in January 1995.

TRIBUTE TO CONGRESSMAN JAMIE WHITTEN

Mr. HEFLIN. Mr. President, I want to take a moment to salute an exceptional man who has had a highly distinguished career as a legislator. The retirement of Congressman JAMIE WHITTEN of Mississippi after 53 years in the House will mark the end of an era in politics.

JAMIE was elected to the House in 1941, and has served with 11 Presidents in his career as a lawmaker. He is the last sitting legislator to have seen FDR give his famous "Day of Infamy" speech in 1941. He has the longest tenure in the history of the House of Representatives. He has served for nearly a quarter of the entire history of the House.

Nevertheless, JAMIE WHITTEN always said, "It is not how long you serve, it is how well you serve," and he has served his district and country very well. Throughout JAMIE's long career, he has been deeply committed to serving the people of the First District of Mississippi. His dedication to his constituents is one of his lasting legacies.

Another one of JAMIE's lasting legacies is his commitment to America's farmers through his involvement in agricultural issues. JAMIE took over the Appropriations Agricultural Subcommittee in 1949. He used this post to control national agricultural policy for three decades until he was made chairman of the committee in 1979.

Throughout his five decades of service, JAMIE has distinguished himself through his longevity and his leadership. During his 27 terms, JAMIE has witnessed many major world events. From Pearl Harbor to the Persian Gulf war, JAMIE has steadfastly served through it all.

I have had the pleasure of serving in Congress with JAMIE for the relatively short 16 years that I have been on Capitol Hill. I have worked with him on a number of projects. Now, as JAMIE goes into a well-earned retirement, I want to wish him well in his future undertakings. Capitol Hill will not be the same without him.

TRIBUTE TO WALTER J. "JOE" STEWART

Mr. HEFLIN. Mr. President, the Senate, and indeed the entire 103d Congress, has lost a great friend with the retirement of Walter J. "Joe" Stewart.

Joe Stewart was elected and sworn in as Secretary of the Senate for the 100th Congress on January 6, 1987. Previously, he was the secretary to the majority from 1979–81 and secretary to the minority from January to August 1981 when he was elected as vice president of government affairs of Sonat, Inc.

Joe was born in Waycross, GA, but grew up in Jacksonville, FL. He attended George Washington University and received his law degree from American University. He passed the District of Columbia bar in 1963. He chaired the developmental committee of the American University Law School for 5 years and was named a distinguished alumnus in 1986.

As Secretary of the Senate, Joe had a multitude of responsibilities. He served as the principal administrative and financial officer of the Senate. He was also responsible for the entire Senate floor staff such as the Parliamentarian, the legislative clerk, the journal clerk, and the bill clerk. His jurisdiction also included the Office of Printing Services, the Senate Historical Office, the Office of Captioning Services, and the Office of Conservation and Preservation. He was in charge of the Senate library, the document room, and the stationery room.

Joe also is an ex officio member of the Federal Election Commission and presently works with four other commissions around Capitol Hill including the U.S. Senate Commission on the Bicentennial and the Senate Commission on Art.

Joe leaves many legacies as Secretary of the Senate. His most lasting legacy is his overriding interest in U.S. Capitol preservation efforts. He worked closely with the House and Senate leadership to develop the U.S. Capitol Preservation Commission and presently serves as executive secretary of the advisory board of the Preservation Commission.

Joe Stewart's dedication to service is something that he will always be remembered for by the Members of this body. He is a great American and has served this institution well. He served with distinction and dignity. I have had the pleasure of knowing Joe Stewart since I came to the Senate in January 1979. It is strange not to have him around here anymore. I wish him the best in all of his future endeavors.

CONGRATULATIONS TO WALTER B. SLOCOMBE

Mr. PRYOR. Mr. President, I rise today to congratulate Mr. Walter B. Slocombe, who was recently confirmed by the Senate to be Under Secretary of Defense for Policy. Mr. Slocombe brings a wealth of experience and public service to this position.

Mr. President, this is an historic period for the Department of Defense. The instability and uncertainty of the post cold war world is presenting new challenges to our Nation's military at a time of internal downsizing and budget cuts. Given this environment, I was very pleased to vote in support of an individual with Mr. Slocombe's credentials.

Walter Slocombe has spent a great deal of his career working on defense policy. From November 1979 to January 1981, he was Deputy Under Secretary of Defense for Policy Planning, serving concurrently as Director of the Department of Defense SALT Task Force. In 1969 and 1970, Mr. Slocombe was a member of the Program Analysis Office of the National Security Council staff, focusing on long term security policy planning and intelligence issues.

A graduate of the Woodrow Wilson School of Public and International Affairs at Princeton, and Harvard Law School, Mr. Slocombe is the author of numerous papers on both defense policy and tax law. He has also served as an advisor or consultant to a number of our Nation's most prestigious think tanks, including RAND and the Center for Strategic and International Studies.

Mr. President, I am pleased that Walter Slocombe is bringing his energy and keen intellect to the Department of Defense. I know my colleagues join me in both congratulating him, and wishing him good luck in this important position.

TRIBUTE TO COL. TRUMAN W. CRAWFORD, USMC, DIRECTOR, U.S. MARINE CORPS DRUM AND BUGLE CORPS

Mr. NUNN. Mr. President, the Senate Armed Services Committee reported to the Senate and the Senate has approved the nomination of a very unique military officer—Truman W. Crawford—to the rank of Colonel in the U.S. Marine Corps.

Truman Crawford is currently director of the U.S. Marine Corps Drum and Bugle Corps—The Commandant's Own—which has played for audiences around the globe.

Colonel Crawford has been a Marine for 27 years. He preceded this with a highly successful career in the Air Force. During his service, he has been known for his exceptional credibility, unwavering integrity, and strong leadership—all of which allow him to direct one of the finest military musical organizations anywhere.

Musically, Colonel Crawford has earned the reputation of being one of the Nation's premier musical instructors, arrangers, and adjudicators. He has been compared to John Philip Sousa and has received numerous presidential promotions and awards for his talent.

I have enjoyed listening to the U.S. Marine Corps Drum and Bugle Corps for many years. Mr. President, the Drum and Bugle Corps not only puts out a remarkable sound but the members perform this music while meeting the highest standards of close order drill and marching at standards unique to the Marine Corps. Each time I listen, I feel great pride for the Marine Corps and a tremendous sense of patriotism. Colonel Crawford has captured the spirit of the United States within his music, and I would like to thank him for it. And I want to commend the Commandant of the Marine Corps, General Mundy, and President Clinton for making this promotion and recognition possible.

Mr. President, I know my colleagues on the Armed Services Committee and in the Senate join me in congratulating Colonel Crawford on his promotion and for his service to our Nation. We extend our best wishes to him and his family for continued success.

I ask unanimous consent that his official biography be included in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

[From The Public Affairs Office, Marine Barracks, Washington, DC.]

COLONEL TRUMAN W. CRAWFORD, DIRECTOR, U.S. MARINE DRUM AND BUGLE CORPS

Colonel Truman W. Crawford is presently serving as Commanding Officer and Director of the 80-member U.S. Marine Drum and Bugle Corps, home based at the historic Marine Barracks, Washington, D.C. Prior to assuming command of "The Commandant's Own," Col. Crawford served as musical arranger and instructor of these elite Marine musicians.

Born April 1, 1934 in Endicott, New York, Col. Crawford began his musical career at the age of eight, playing the fife in a colonial fife and drum corps. Later years found him studying all of the brass and percussion instruments, while majoring in music education and studying privately with noted music educators. It was while he was in high school that he was first introduced to the drum and bugle corps. He immediately launched his career in that facet of music not only as a performer, but subsequently is an arranger, scoring arrangements for local units at the age of 17.

During his senior year in high school he witnessed a performance of the U.S. Air Force Drum and Bugle Corps from Washington, D.C. Shortly after graduation he auditioned for, and was accepted into the unit in February 1953, as an instrumentalist. In just two short years he was appointed Musical Director of the Drum Corps, and in 1957, at the age of 23, had risen to the rank of master sergeant, non-commissioned officer in charge of the entire unit.

During his 10-year career in the U.S. Air Force, he traveled extensively with the Drum Corps throughout the United States and abroad, completing six tours of Europe and Great Britain, as well as two tours of the Far East. Throughout his tour he spent considerable time studying privately with noted arrangers and conductors, taking every opportunity to enhance his own musical career.

In 1963 Col. Crawford left the U.S. Air Force to pursue a career in private enterprise, specifically a music store catering needs of civilian bands and drum and bugle corps from throughout the United States and Canada. From 1963 through 1967 he enjoyed a distinguished career, and was recognized as one of the premier musical instructors, arrangers and adjudicators in the entire nation. In 1965, every major Drum and Bugle Corps title holder in the United States and Canada was instructed by, or performed music arranged by Col. Crawford.

Colonel Crawford initiated his third career in March 1967, having been selected by the Commandant of the Marine Corps for special assignment as the arranger/instructor of "The Commandant's Own," The U.S. Marine Drum and Bugle Corps. Entering the Marine Corps as a staff sergeant, he quickly rose to the rank of master sergeant prior to his subsequent commissioning as warrant officer in December 1973. Crawford was awarded a Presidential appointment to the rank of captain in April 1977. In August 1982, he was awarded his second Presidential appointment to major. On March 1, 1989 Col. Crawford was awarded the Navy Commendation Medal for his exemplary performance as Director of "The Commandant's Own". He was awarded the Meritorious Service Medal in October 1982, in recognition of his exceptional record of meritorious service in his continuing role as Commanding Officer and Director of this world-renowned military musicl organization.

Col. Crawford is married to the former Lucille E. Ellis of Johnson City, New York. They have four sons: Robert, David, Truman Jr. and Canaan, as well as two daughters: Cynthia and Lisa. The Crawford's presently reside in Stafford, Va.

NATIONAL SERVICE AND CITIZENS FINANCIAL GROUP, INC.

Mr. PELL. Mr. President, as the 103d Congress comes to a close, I would like to stress once again the importance of this session's national service legislation. As one who has been a longtime advocate of national service, I am pleased, indeed, that Congress has finally authorized a large-scale program of service which includes an educational reward. Citizens who participate in national service programs often accomplish immeasurable good for the people and neighborhoods they serve, as well as gain a better understanding of their connection to the community at large, the benefits of which can be reaped for years to come. After many years of discussion, I am excited to see that there is now a great deal of national attention focused on the community service concept.

I would like to highlight one particular example of this new commitment to service from my State of Rhode Island. Citizens Financial Group, based in Providence, began a program last year called the Citizens Corporate Service Sabbatical. Each year two full-time employees will take 3-month paid leaves of absence to perform direct, hands-on community service. Since the company considers the opportunity to serve an honor, the sabbaticals will be highly competitive, thus assuring dedicated volunteers. The program is also structured so that employees will not have to make any career sacrifices in order to perform community service. They will be guaranteed the same salary and level of responsibility upon their return.

This program, to my mind, is a wonderful example of how the private sector should view service, and how businesses can encourage and accommodate their employees' participation in service programs. I commend Citizens Financial Group for their effort in this regard and I would ask that a description of the Citizens Corporate Service Sabbatical program immediately follow my remarks in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITIZENS CORPORATE SERVICE SABBATICAL

DESCRIPTION

The Citizens Corporate Service Sabbatical is a three-month paid leave available to qualified employees who apply to perform community service. The company seeks to reward eligible employees and the opportunity to provide direct, hands-on community service with opportunities for client contact at places such as AIDS hospices, shelters for battered and abused women, homeless shelters, food banks/kitchens, housing rehabilitation agencies, youth counseling centers, and the like.

What the Sabbatical IS NOT is traditional corporate volunteerism that emphasizes board membership, planning, development, and fund raising, although each is valued and important and Citizens will continue to encourage and support those kinds of activities by our employees.

Two sabbaticals will be granted annually and they will be available to employees of Citizens Financial Group, Citizens Bank of Rhode Island, Citizens Bank of Connecticut, Citizens Bank of Massachusetts, and Citizens Mortgage Corporation. Since Citizens considers the opportunity to perform community service an honor, the sabbaticals will be highly competitive. To ensure that the sabbatical does not cause a professional or career sacrifice to employees, those employees selected for the Corporate Service Sabbatical are guaranteed their same salary and level of responsibility upon completion of the sabbatical.

ELIGIBILITY

The sabbatical is available to any full time employee of Citizens Financial Group or its subsidiaries who has at least five years of service.

APPLYING

To apply for a Citizens Corporate Service Sabbatical, qualified employees must submit a one-page essay describing the kind of service they would provide to the community, their view of what they might accomplish and what their service would mean to Citizens, where they would provide their service, and why they want to devote three months of the year to community service. Applicants should NOT seek out agencies here they would perform their service, but instead describe the kind of service they wish to perform.

SELECTION

A selection panel with representation from the holding company, the banks and the mortgage company will be formed to review all applications. The panel will be comprised of the Director of Corporate Affairs (chairman), President of CBRI, President of CBM, President of CMC, Corporate Director of Community Relations, a VP of Human Resources (Ellen Sheil), and the heads of Retail Banking and Corporate Banking in Rhode Island and Massachusetts.

The panel will forward the names of three finalists to the chairman of Citizens Financial Group, who will interview each finalist before choosing the recipient of the sabbatical.

SABBATICAL REQUIREMENTS

Employees awarded sabbaticals will be assigned a community service program that fits the goals of their application. Employees are required to work a standard full time schedule at their community service appointment and be supervised regularly by agency personnel. At the conclusion of their sabbatical, employees will be asked to critique their specific service opportunity. Agency directors, in turn, will be asked to provide Citizens with a review of the Citizens employee's contribution to their program.

POST-SABBATICAL REQUIREMENTS.

On returning to Citizens after completion of their sabbaticals, employees will be asked to serve for one year as members of the internal Corporate Contribution/Sponsorship Committee in their state. The committees include the CFG chairman and CEO, respective bank presidents, and the directors of Corporate Affairs, Community Relations, and the Public Relations.

THE STATE VISIT OF SOUTH AFRICAN PRESIDENT NELSON MANDELA

Mr. PELL. Mr. President, it was my distinct pleasure to welcome Nelson Mandela back to the Foreign Relations Committee, this time as President of South Africa. When President Mandela was last with us on July 1, 1993, he came to our Committee as president of one of the most prominent opposition parties in Africa. Today I, along with my Senate and House colleagues had the honor of welcoming him as President of one of the most powerful countries in Africa. South Africans have definitively ended apartheid by holding their first multiracial elections and electing our distinguished guest as President to lead a government of national unity. Freedom and democracy have triumphed in South Africa.

In addition to visiting the Foreign Relations Committee today, President Mandela addressed a Joint Session of Congress and spoke with me and my colleagues at a luncheon. Our discussions were fruitful. I applaud the steps he has taken to ensure reconciliation in South Africa by bringing members from a wide spectrum of the opposition into the government. I remain hopeful that this endeavor and the economic reconstruction of South Africa will progress further this year.

In his speech this morning, President Mandela declared himself deeply moved by the commitment of the people of the United States to stay the course with South Africans as they strengthen democracy and attempt to banish poverty and deprivation in their land. The United States government—as well as its individual citizens have lent their support to South Africa. Last spring, the Clinton administration doubled its assistance package to South Africa; an augmentation that I supported. And with the new democratic climate and relative decline in violence there is a new willingness by United States investors to return to South Africa. Twenty-two United States companies returned to South Africa during 1993–1994. President Mandela told me this afternoon that the environment for investment in South Africa is ideal. In 1994, money has been flowing into, rather than out of, the country because internal and external investors have confidence in the political stability of the country—a political stability which the people of South Africa have guaranteed.

It was through economics that the United States did its part to help end apartheid. This time, through trade and expansion of the ties once cut, the United States can help the people of South Africa on their path to reconciliation and reconstruction. Let us follow President Mandela's call to join them as they walk along that road.

THE FOREIGN RELATIONS COMMITTEE'S ACTIVITIES IN THE 103D CONGRESS AND ITS AGENDA FOR THE 104TH CONGRESS

Mr. PELL. Mr. President, the last 2 years have been a period of rapid change, marked by profound dislocation for millions as people and governments struggled to adapt to the post-cold-war era. The effort to achieve a framework for a new world order has proved more difficult than anticipated.

Multilateral instructions constructed during the cold war have suffered their own crises of confidence as a result of accelerated demands on their resources. These demands have ranged from the proliferation of humanitarian disasters, such as in Rwanda and in the former Yugoslavia, to other crises affecting international stability, such as the development of nuclear weapons by North Korea. Rejuvenating these institutions and developing new means for coping with the world's problems, particularly in the environmental and social area, have proved onerous, their difficulty exacerbated by a dearth of financial resources and consensus among developed nations.

Today, I would like to report on the significant activities of the Foreign Relations Committee during the past 2 years of the 103d Congress and outline some of my objectives as chairman for the next session.

Foremost among the committee's concerns during this Congress were the need to ensure a stable framework for democracy in the successor states to the former Soviet Union and the need to contain direct threats to American security from the proliferation of weapons of mass destruction.

SECURING STABILITY IN EUROPE AND THE NIS

During the previous Congress, many of the committee's activities focused on the immediate effects of the breakup of the Soviet Union and the end of the cold war. For example, the committee enacted the Freedom Support Act, the legislative framework for the entire U.S. assistance program to the former Soviet Union. The process of securing democracy in the successor states of the former Soviet Union and in Eastern Europe remains the greatest challenge for American diplomacy in the remainder of this century and has been the focus of much of the committee's attention during the 103d Congress.

In the 103d Congress the committee, through hearings and legislation, took a longer-term view of the breakup of the Soviet Union. First, the committee supported the normalization of the U.S. relationship with the countries of the former Soviet Union by enacting the Friendship Act in November 1993. That act reflected the fact that the Soviet Union has dissolved and repealed provisions of cold war law that were no longer relevant. The committee was actively engaged in oversight of the assistance program created by the Freedom Support Act, issuing a staff report and conducting numerous hearings on the status of the aid program and the future of U.S. relations with the New Independent States.

I am pleased that the Clinton administration has given a high priority to our relationship with the New Independent States. The Vancouver summit was a great success in reaching a meeting of minds on mutual economic and political goals and on security issues. In January 1994, the presidents of the Ukraine, Russia, and the United States reached an agreement to destroy nuclear weapons and control the export of nuclear technology—a major achievement. The Washington summit between President Yeltsin and President Clinton which focused on trade and investment further solidified the American-Russian partnership.

The task of building a lasting framework for peace in Europe, however, will not be complete unless questions concerning NATO's role and membership are resolved. The committee is involved in the ongoing discussion about NATO issues. In January 1994 the NATO summit adopted the Clinton administration's Partnership for Peace proposal, opening the way for all of our friends in Europe, and the New Independent States, to engage in a productive association with NATO. Soon after the summit, Senator BIDEN'S Subcommittee on European Affairs held joint hearings with Senator LEVIN'S Armed Services Subcommittee on Coalition Defense and Reinforcing Forces and the future of NATO that included a through examination of Partnership for Peace. In the next Congress, NATO, its future, and America's role in Europe will continue to be a priority issue for committee consideration.

The importance of retaining an effective security framework in Europe is driven home each day by reports of intra- and inter-state conflict in Eastern Europe and the New Independent States. Tension is high in all the successor states to the Soviet Union and violence continues in Azerbaijan, Armenia, Tajikistan, and Georgia. The intractability of these conflicts and the potential for U.S. involvement is readily apparent in the former Yugoslavia where a contingent of American peacekeepers has taken up position in Macedonia.

While activities in the rest of Europe focused on consolidating new post-cold-war relationships, in Bosnia the international community's goal has been to end the fighting and suffering and to bring to justice those responsible for war crimes. The Foreign Relations Committee has been actively involved in monitoring the Yugoslav situation through close contact with officials from former Yugoslavia, the United Nations, Europe, and the U.S. administration. Several member and staff trips to the troubled region, including inside Bosnia, helped to further inform the committee.

In one of its more important efforts, the committee has been active in efforts to establish a War Crimes Tribunal for the former Yugoslavia. With the full support and urging of the committee, the Clinton administration played a leading role at the United Nations in the creation of the Tribunal, which is scheduled to issue its first indictments later this year. Eventually the Tribunal's jurisdiction may be extended to reviewing genocidal crimes in Rwanda, establishing a precedent and hopefully acting as a deterrent.

CONTROLLING THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

The demise of the former Soviet Union has dramatically changed the strategic environment faced by the United States. Nevertheless, as the former Soviet Union has become less of a challenge in the arms control area, other challenges to our national interests have emerged. In particular, the proliferation of chemical, biological, and nuclear materials remains an acute problem central to our national security.

Last year, on the basis of several reports and our own investigations, Senator SIMON and I concluded that the Arms Control And Disarmament Agency was sorely in need of strengthening and revitalization if it were to be equal to the promise of 1961 when it was created.

Fortunately, President Clinton and Secretary of State Christopher agreed and the administration came to support legislation we offered, the Arms Control and Nonproliferation Act of 1994, which was approved by the Committee on Foreign Relations and the Senate. It was enacted earlier this year and should serve to get the Arms Control and Disarmament Agency back on track and in the forefront of those seeking strong and effective arms control.

Also in this Congress, with committee leadership, a major step forward in the area of nuclear nonproliferation was taken with enactment of the Omnibus Nuclear Proliferation Control Act. This legislation, authored by the Senator from Ohio [Mr. GLENN], incorporated an amendment which I developed, together with the Senator from North Carolina [Mr. HELMS]. This legislation targets persons and firms that contribute to the efforts by any individual, group or any nonnuclear-weapons State to acquire unsafeguarded weapons-grade uranium or plutonium or to use, develop, produce, stockpile, or otherwise acquire a nuclear device. This legislation also sets forth new sanctions to be applied against any nation giving the wherewithal for a nuclear device to a nonnuclear-weapons State.

This year, the committee held several hearings to explore the administration's proposal that the 1972 Anti-Ballistic Missile Treaty be changed to permit the development and deployment of a Theater High Altitude Air Defense System [THAAD]. The committee will be assessing this new concept further in the next session and reaching judgments as to the implications of the proposal for the ABM Treaty, the likely benefits and risks for U.S. national security and potential costs in a time of shrinking defense budgets.

In addition, also this year, the committee held a series of hearings on the Chemical Weapons Convention, signed by the Bush administration in January 1993, and strongly endorsed by the Clinton administration. As this session of the Congress comes to a close, we anticipate receipt of a report on the intelligence aspects of the convention from the Select Committee on Intelligence and on the military implications from the Senate Armed Services Committee. We also will receive and assess a report from the executive branch on its efforts to ensure Russia's compliance with chemical weapons commitments, as well as obligations under the Biological Weapons Convention ratified in 1975.

I wish that I could report to you that we would be able to complete action this year on the Chemical Weapons Convention, which has the most complex and intrusive verification provisions of any treaty yet agreed to in the arms control field. This convention requires the most careful study and assessment to make sure that the Senate's judgment is correct. I anticipate that we will develop a mutually acceptable resolution of ratification for consideration by the committee and the full Senate early next year. That resolution will take into account the advice of both the Intelligence and Armed Services Committees and the best judgment on certain key issues from the executive branch.

Mr. President, next year could be a very exciting period in the field of arms control. In April, the nations of the world will meet to consider whether to extend the Nuclear Nonproliferation Treaty—a critically important undertaking which has been central to efforts to prevent the spread of nuclear weapons throughout the world. The Clinton administration is properly seeking an indefinite extension of this Treaty.

The Clinton administration is attempting to negotiate a comprehensive ban on nuclear explosions. Success in this endeavor would be a fitting end to the long saga of efforts to curb and end nuclear explosions begun when President Kennedy negotiated with the Soviet Union and Great Britain the Limited Test Ban Treaty of 1963. I would hope that it is possible to achieve a complete ban on nuclear explosions, with no exceptions, that would be of indefinite duration. Now that the cold war is a receding memory, we have an unprecedented opportunity to step away from that unfortunate reliance on nuclear weapons that was a centerpiece of this protracted period of continued confrontation.

RESOLVING REGIONAL CONFLICTS

While areas of continued tension deserve great attention, it is equally important to acknowledge movement toward resolving some of the world's conflicts.

One of the most dramatic developments that occurred during the 103d Congress was the rapid advancement of the Middle East peace process. Within 4 days of the surprise announcement of the conclusion of an agreement between Israel and the Palestine Liberation Organization [PLO], Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasir Arafat were shaking hands on the While House lawn. That ceremony—as moving as any I've ever witnessed—captivated the world and changed the entire political landscape in the Middle East.

The Israel-PLO agreement broke the gridlock in the bilateral talks between Israel and its neighbors, as evidenced by the subsequent agreement by Prime Minister Rabin and King Hussein to end the formal state of war between Israel and Jordan, and by the indications of serious progress in Secretary Christopher's shuttle diplomacy between Tel Aviv and Damascus. It present trends in the peace process continue, the Middle East will be a priority issue for the Committee in the coming session of Congress.

While harboring no illusions about the difficulty of the issues that remain to be resolved, the committee moved quickly to consolidate gains made in the peace process. Just a few short weeks after the signing of the Israel-PLO agreement, the committee approved the Middle East Peace Facilitation Act, which was enacted into law as a short-term measure to enable the administration to help both Israel and the PLO. In the following months, after committee-led consultations among a broad, bipartisan group of Senators, the Middle East Peace Facilitation Act was refined, extended, and enacted into law as a section of the biannual State Department authorizing legislation. The Act, authored by Senator HELMS and myself, ensures that the PLO will abide by commitments to end terrorism and revise its charter, and provides the administration with sufficient flexibility to deal with the PLO well into the coming year. In doing so, the committee in my opinion has helped significantly to advance the prospects for the successful implementation of the Israel-PLO agreement.

The Committee also built upon efforts begun in prior years to enhance the safety and security of Israel, a cornerstone of U.S. policy in the middle East. The committee strongly supported maintaining current levels of U.S. assistance to our Camp David partners, Egypt and Israel, and approved several legislative provisions drafted by committee members, subsequently enacted into law, to hasten the dismantlement of the Arab League boycott of Israel. While there has been substantial progress in reducing compliance by Arab states with the boycott, in the next session the committee will seek additional means to encourage outright termination of the boycott.

Elsewhere in the Middle East, the committee remained active in the development of post-Persian Gulf War policy towards Iraq, including drafting a law to establish a blueprint for U.S. policy to counter a potentially resurgent Iraq. The committee also continued its efforts begun during the last Congress on the Iraqi Kurds, including sending two staff missions to Iraqi Kurdistan to retrieve Iraqi Secret Police files captured by the Kurds during their 1991 uprising against Saddam Hussein. The committee staff brought back an additional 5 tons of documents to add to the 14 tons already in the United States, all of which are now being prepared for use in a genocide case against the Iraqi government. The committee looks forward to working with the U.S. administration and other outside parties to initiate such a case in the coming year.

In the South Asia region, the committee focused on promoting democratic development, improving the human rights situation, and halting the spread of nuclear weapons and delivery systems, addressing these issues in hearings, legislation, and in meetings with distinguished visitors from the region. As part of an ongoing effort to raise the profile of South Asia issues in U.S. foreign policy, the committee was pleased to oversee the first-ever Senate confirmation of an assistant Secretary of State for South Asian Affairs.

From the newly democratic South Africa, the Foreign Relations Committee received both Nelson Mandela and former President de Klerk in 1993 and was delighted to welcome President Mandela at the end of this session. After performing a crucial function in the 1986 initial passage of sanctions against South Africa, the Foreign Relations Committee was pleased these last 2 years to watch the fruition of its efforts. By passing S. 1493, the South African Democratic Transition Act, the committee acted swiftly last summer to lift sanctions at the behest of the newly empowered majority of the country. This rapid response allowed for the timely lifting of State and local sanctions against South Africa and pave the way for U.S. businesses to explore new business and investment opportunities in South Africa. In addition, the committee supported this spring's expanded foreign aid package for South Africa and plans to continue to assist the administration in ensuring that this program reaches the most needy while increasing economic opportunities internally and externally.

In response to the crisis in Somalia and Rwanda, the Foreign Relations Committee played an active role, holding a series of hearings involving administration, United Nations and Non-Governmental Organization experts to look at how to keep the U.S. role in Somalia constructive. The committee played an important oversight role with the administration on Somalia and continued to inform the administration of its concerns as the United States phased its final mission out this fall.

In early reaction to the horrific events in Rwanda, the committee severely condemned the mass killings, initiating and passing S. Res. 207 in April 1994. This legislation urged that the international community consider immediate multilateral action to ensure the safety of innocent civilians. In May and July, experts in peacekeeping and humanitarian interventions were called to testify before the committee on workable solutions to the tragedy. When the Central African crisis evolved into a humanitarian disaster of unprecedented proportions, the committee supported the President's request for emergency funding for disaster assistance and refugee relief. The committee will continue to monitor the crisis in Central Africa very closely. Under the leadership of Senator SIMON, chairman of the Subcommittee on African Affairs, the committee successfully complete action on the African Conflict Resolution Act, a bipartisan bill that will strengthen the capacities of African states to mediate their conflicts. Chapter VIII of the U.N. Charter envisioned a broad role for regional organizations in conflict resolution. Although the United States cannot be the world's policeman, we can strengthen the role of regional international organizations in resolving conflicts.

Closer to home, the committee has been deeply engaged in efforts to restore the democratically elected government to power in Haiti. We held critical hearings and briefings on our policy earlier in the year that contributed to a change in American policy which will culminate later this month in the restoration of President Aristide's government. With the deployment of United States troops in Haiti, the committee will continue to closely monitor the United States mission and our efforts to facilitate the transition to the Aristide government, assist in the creation of a new police force, the professionalization of the military and the economic development of this impoverished nation. President Clinton is to be commended for successfully negotiating an agreement to restore President Aristide to power while minimizing the initial risks to U.S. forces.

Also of great interest to the future of American relations in Latin America is the American trade embargo on Cuba. I believe that a comprehensive review of United States policy toward Cuba is long overdue. To that end I am holding hearings later this week and will work to broaden discussion of this topic in our next session. I believe that a gradual lifting of the embargo could give us leverage over a Cuban Government fearful of the openness brought by closer relations with the United States.

In another region, the danger of an imminent conflagration was avoided after President Clinton enlisted former President Carter to negotiate directly with North Korean President Kim Il Sung. The committee has been deeply engaged in monitoring North Korean nuclear developments since the Bush administration. Open hearings and frequent closed door briefings have kept Members intimately apprised of the issue. A solution has not yet been found. I believe that negotiations with the North Koreans will be difficult and attenuated, particularly since Kim Il Sung's death. But clearly, negotiations by President Clinton's able Ambassador Robert Galucci, for the moment, prove the wisdom of Winston Churchill's adage that "jaw, jaw" is preferable to "war, war." A Cold War "peace dividend" can only be banked if there is peace.

STRENGTHENING MULTILATERAL INSTITUTIONS

The committee has been busy working to strengthen international institutions to advance peace and prosperity. Without a doubt, this has been the most contentious, yet most critical, subject of our deliberations. The legitimacy of multilateral approaches to resolving world problems has been brought into severe question as a result of the debacle in Somalia and the frustration over the ongoing conflict in the former Yugoslavia. On the eve of its 50th anniversary, the United Nations and its specialized agencies are being buffeted by intense criticism. One of the greatest challenges for the Congress and the administration in the next session is constructive reform of international institutions.

A detailed staff report of U.N. peacekeeping operations was prepared earlier this session, containing recommendations similar to those later acted on in the administration's long awaited Presidential decision directive on peacekeeping. As a result of pressure from the committee, especially Senator PRESSLER, action was finally taken by the United Nations to establish an Inspector General. Additional reforms with U.S. support are now underway in the United Nations office responsible for peacekeeping. In cooperation with the Armed Services Committee, we have been working with the administration to develop an effective means to ensure congressional oversight of peacekeeping operations. In this regard, the Clinton administration has been extremely cooperative.

STRENGTHENING INTERNATIONAL HUMAN RIGHTS

Another challenge has been to strengthen international respect for human rights. I have already mentioned the War Crimes Tribunal for the former Yugoslavia. The committee also reported favorably to the full Senate the Convention Against Racial Discrimination and the Convention To Eliminate All Forms of Discrimination Against Women. The convention to eliminate race discrimination was ratified by the Senate earlier this year while the convention to eliminate discrimination against women should be ratified shortly. Both conventions are extremely important to ensuring universal guarantees of human rights protection. In addition, I am pleased that the Clinton administration has agreed to review the issue of ratification of two protocols to the 1949 Geneva Convention.

Protocol I is the leading codification of the rules of international armed conflict for the protection of civilians. It addresses such important abuses as direct attacks on civilians, indiscriminate shelling, siege warfare, starvation of civilians as a weapon of war, and interference with the delivery of humanitarian assistance. Protocol II codifies fundamental provisions of the rules of war governing noninternational armed conflicts. Both of these protocols have taken on intense new importance as a result of the proliferation of ethnic conflict.

American concern about human rights conditions in other countries has long been attacked by our foes as efforts to impose "American values." International human rights treaties are extraordinarily important in demonstrating that the debate is not over imposing our values but whether or not States are living up to universally accepted values. I believe such agreements will in the future been seen as the firm cornerstone of the new world order.

STRENGTHENING THE INTERNATIONAL ECONOMY

The economic basis for world order is being laid by the new international trading agreements. With the end of the cold war and the expansion of international trade and investment, international economic issues have taken on greater importance in U.S. foreign policy. The committee held hearings on the North American Free-Trade Agreement and the World Trade Organization reviewing the foreign policy implications of those important trade agreements. In the upcoming Congress, the committee will examine how the United States should proceed with future trade agreements working towards the long-term goal of creating a free-trade area throughout the Western Hemisphere.

The committee also held hearings on and reported favorably bilateral tax treaties with Russia, the Netherlands, Mexico, Barbados, Israel, the Czech Republic and the Slovak Republic. These treaties will help Americans avoid double taxation and will facilitate international business. The committee and the Senate also approved bilateral investment treaties with Romania, Moldova, Kyrgyzstan, Kazakhstan, Ecuador, Bulgaria, Armenia, and Argentina. Next year the committee plans to take up seven new tax treaties and several new bilateral investment treaties.

STRENGTHENING AMERICAN FOREIGN POLICY CAPABILITIES

The committee also disposed of its regular legislative responsibilities. Under the leadership of Senator KERRY, we enacted authorizations for the State Department, USIA, and the Board for International Broadcasting. That legislation contained a number of important provisions that will benefit the operation of the U.S. Government and the taxpayer.

First, the authorization provided the legislative basis for the administration's reorganization of the Department of State to meet the many new challenges that face our Nation in the post-cold war era. Most notably, the legislation established the new position of Under Secretary of State for Global Affairs with broad responsibility for transnational issues. It also contained a number of provisions of streamline the Department's bureaucracy.

In addition, the legislation consolidated U.S. Government non-military international broadcasting. The consolidated broadcasting will reduce duplication in programming and engineering services resulting in significant savings for U.S. taxpayers. Equally important, it should result in more efficient use of our scarce resources to provide broadcasting where it is most needed. A continuing critical issue for the committee is reorienting the instruments of American foreign policy to handle more effectively post-cold war crises.

Of special note in the authorization legislation was the bipartisan initiative led by Senator KERRY to lift our trade embargo on Vietnam. The expression of support by the Senate, 62–38, I believe, was instrumental in convincing the administration to end this barrier to American business and to more productive relations with Vietnam. I believe that a more extensive American presence in Vietnam will ultimately resolve remaining issues concerning POW/MIA's and will also encourage Vietnam's democratization. I would hope that full diplomatic relations with Vietnam will be established during the next Congress.

During this Congress, the committee began, under the leadership of Senator SARBANES, the difficult process of rewriting the Foreign Assistance Act of 1961. Extensive hearings were held during 103d Congress and an original draft bill, the Peace, Prosperity and Democracy Act of 1994, was prepared. This draft restructures, streamlines, and reorients the foreign assistance program to necessities of the post-cold war world. Building on it, the committee intends to take up foreign aid reform early in the next Congress. In addition to rewriting the statutes that govern the bilateral aid program, the committee looks forward to reviewing the Bretton Woods institutions as they complete their 50-year anniversary.

STRENGTHENING PROTECTION OF THE ENVIRONMENT

We also continued to strengthen and broaden the framework of international environmental law. In 1993, the Senate granted its advice and consent to ratification of the Copenhagen amendment to the Montreal Protocol. The amendment further strengthens international efforts to protect the ozone layer by adding new ozone-depleting substances to be controlled.

The committee reported several treaties designed to strengthen international efforts to conserve and manage the world's fisheries. As recent articles have indicated, this is a major challenge facing the United States and other nations that rely on the ocean for its living resources.

Last year, the committee and Senate approved the protocol to the International Convention for the Conservation of Atlantic Tunas. The protocol will put the Convention on a more sound financial footing, and through that we hope strengthen the organization's ability to contribute to the sound management of Atlantic tunas.

More recently, the committee approved the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. I am hopeful that this agreement will strengthen implementation of the many conservation and management agreements to which the United States is a party, including, for example, the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, and the Convention for the Conservation of Salmon in the North Atlantic Ocean.

Recently, the committee ordered reported the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, commonly referred to as the Donut Hole Convention. The convention addresses a very serious problem facing U.S. fishermen in the Pacific Northwest and Alaska: depletion of the central Bering Sea stock of Aleutian pollock. The convention also highlights the general problem of uncontrolled fishing on the high seas, particularly for stocks that straddle the high seas and our country's exclusive economic zone. The committee benefited from the intense interest and expertise of Senator MURKOWSKI on these issues.

I expect marine issues to be a major concern for the committee in the 104th Congress as well. I would note that both the Reflagging Convention and the Donut Hole Convention build upon the foundation established by the U.N. Convention on the Law of the Sea. As my colleagues know, I have a very strong interest in the Law of the Sea Convention. I was extremely pleased when the United States recently signed an agreement in New York that resolves U.S. concerns with the Law of the Sea Convention. I expect that the convention and the agreement will be transmitted shortly to the Senate for its advice and consent. I intend to make action on the convention one of my highest priorities in the coming Congress.

In addition, I anticipate that negotiations currently underway on the U.N. Convention on Highly Migratory and Straddling Fish Stocks will be transmitted to the Senate for its advice and consent next year. This convention is intended to provide a framework for the effective management of stocks that migrate the exclusive economic zones [EEZ] of two or more countries as well as fish stocks that straddle a country's EEZ and the high seas. As a coastal state with major fisheries the United States has a strong interest in the outcome of these negotiations.

Finally, during the 103d Congress the committee approved the nominations of 268 ambassadors and executive branch officials, as well as 1,704 well deserved promotions in the Foreign Service.

I wish to thank all members of the committee for their cooperation and commend their industry. Our successes are due to their hard work and assistance. I thank in particular Senator HELMS, the ranking minority member, for his help during the course of this Congress. In the coming Congress I look forward to his kind support. Our agenda is already full.

THE BAHAIS

Mr. PELL. Mr. President, earlier this year, the Congress passed legislation calling attention to the plight of the Bahai community in Iran. Senate Concurrent Resolution 31, introduced by Senators DODD, LIEBERMAN, KASSEBAUM, MCCAIN, myself and others was passed unanimously by both the House and Senate. In taking this step the Congress chose for the sixth time since 1982 to express its concern about the Government of Iran's persecution of the Bahais.

The Bahais are the largest minority faith in Iran. The Iranian Government, however, refuses to acknowledge that the Bahais represent a legitimate sect of Islam. Simply because the Bahais choose to practice their faith, the Government of Iran has branded them heretics and has officially sanctioned their mistreatment, harassment, and outright persecution.

Today, Mr. President, I wish to reaffirm my strong opposition to Iran's unconscionable treatment of the Bahais. I wish also to inform my colleagues that President Clinton, in a recent letter to the Senate co-sponsors of Senate Concurrent Resolution 31 expressed his deep concern about the persecution of the Bahais. In one of the strongest statements to emerge from a U.S. administration concerning the Bahais in Iran, President Clinton stated that, "We must continue to be vigilant in calling attention to the plight of the Bahais." The President added that, "We will continue to urge the leadership of Iran to improve its treatment of religious minorities and to do more to protect the basic human and civil rights of its citizens."

Mr. President, I ask unanimous consent that the full texts of Senate Concurrent Resolution 31, a letter to the President from the Senate cosponsors of that resolution, and the President's reply all be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, July 21, 1994.

The PRESIDENT
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The purpose of this letter is to commend to your attention recent legislative action on Senate Concurrent

Resolution 31, a measure we introduced last year that calls on Iran to end its persecution of the Baha'i community. This legislation, which gained 52 Senate cosponsors and passed the Senate by a unanimous vote in November, was adopted by the House of Representatives by a 414-0 vote on April 19th.

We are pleased that the Congress has chosen, for the sixth time since 1982, to convey its deep sense of concern over the officially-sponsored repression that has been directed against Baha'is since the Iranian Revolution. While this repression has been less violent in recent years, we remain concerned that the Baha'is—Iran's largest religious minority—continue to be singled out for persecution based on their religious beliefs. Indeed, this policy was made explicit in an official Iranian Government document that was revealed last year.

We know that you are committed to the cause of human freedom and civil liberties in Iran and that you are determined to take actions which serve to promote these important goals. To this end we urge the administration to continue its leadership and diplomatic efforts on the issue of the Baha'is and to continue to speak out in support of the cause of tolerance and freedom in Iran through the Voice of America and other appropriate public channels.

We welcome all you have done on behalf of the Baha'i community of Iran and we look forward to continuing to work with you in the future on this very important issue.

Sincerely,

JOSEPH I. LIEBERMAN,
CHRISTOPHER J. DODD,
NANCY LANDON KASSEBAUM,
CLAIBORNE PELL,
JOHN MCCAIN.

THE WHITE HOUSE,
Washington, August 23, 1994.

DEAR MR. CHAIRMAN: Thank you for writing to me about the recent efforts of the Congress to call attention to the persecution of Baha'is by the Government of Iran. I am deeply concerned about the situation that faces the Baha'is, as well as other religious minorities, in Iran. My Administration will continue to work to create an international consensus to influence Iran to change its behavior on human rights.

Senate Concurrent Resolution 31 is a useful reminder that we must continue to be vigilant in calling attention to the plight of the Baha'is. I can assure you that we will continue to urge the leadership of Iran to improve its treatment of religious minorities and to do more to protect the basic human and civil rights of its citizens.

Sincerely,

BILL CLINTON.

Hon. CLAIBORNE PELL,
U.S. Senate, Washington, DC.

S. CON. RES. 225

Whereas in 1982, 1984, 1988, 1990, and 1992, the Congress, by concurrent resolution, declared that it holds the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i Faith, Iran's largest religious minority;

Whereas in such resolutions and in numerous other appeals, the Congress condemned the Government of Iran's religious persecution of the Baha'i community, including the execution of more than 200 Baha'is, the imprisonment of additional thousands, and other repressive and discriminatory actions against Baha'is based solely upon their religious beliefs;

Whereas in 1992, the Government of Iran summarily executed a leading member of the Baha'i community, arrested and imprisoned several other Baha'is, condemned two Baha'i prisoners to death on account of their religion, and confiscated individual Baha'is' homes and personal properties in several cities;

Whereas the Government of Iran continues to deny the Baha'i community the right to organize, to elect its leaders, to hold community property for worship or assembly, to operate religious schools and to conduct other normal religious community activities; and

Whereas on February 22, 1993, the United Nations Commission on Human Rights published a formerly confidential Iranian government document constituting a blueprint for the destruction of the Baha'i community, which document reveals that these repressive actions are the result of a deliberate policy designed and approved by the highest officials of the Government of Iran: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) continues to hold the Government of Iran responsible for upholding the rights of all its nationals, including members of the Baha'i community, in a manner consistent with Iran's obligations under the Universal Declaration of Human Rights and other international agreements guaranteeing the civil and political rights of its citizens;

(2) condemns the repressive anti-Baha'i policy adopted by the Government of Iran, as set forth in a confidential official document which explicitly states that Baha'i shall be denied access to education and employment, and that the government's policy is to deal with Baha'is "in such a way that their progress and development are blocked";

(3) expresses concern that individual Baha'is continue to suffer from severely repressive and discriminatory government actions, solely on account of their religion; and that the Baha'i community continues to be denied legal recognition and the basic rights to organize, elect its leaders, educate its youth, and conduct the normal activities of a law-abiding religious community;

(4) urges the Government of Iran to extend to the Baha'i community the rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights, including the freedom of thought, conscience, and religion, and equal protection of the law; and

(5) calls upon the President to continue—

(A) to emphasize that the United States regards the human rights practices of the government of Iran, particularly its treatment of the Baha'i community and other religious minorities, as a significant factor in the development of the United States Government's relations with the Government of Iran;

(B) to urge the Government of Iran to emancipate the Baha'i community by granting those rights guaranteed by the Universal Declaration of Human Rights and the international covenants on human rights; and

(C) to encourage other governments to continue to appeal to the Government of Iran, and to cooperate with other governments and international organizations, including the United Nations and its agencies, in efforts to protect the religious rights of the Baha'is and other minorities through joint appeals to the Government of Iran and through other appropriate actions.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

REGARDING THE RETIREMENT OF SENATOR HOWARD METZENBAUM

Mr. PELL. Mr. President, very soon the 103d Congress will end. And while we look forward to the new faces and ideas that will be part of it, we must also say goodbye to colleagues with whom we have worked closely for many years. And so I would like to bid adieu to a Senator who I have worked with, learned from and sat next to for 18 years in the Senator Labor and Human Resources Committee—Senator HOWARD METZENBAUM—who is retiring after 18 years in the Senate.

Mr. President, few Senators have ever been more passionate spokespeople for their causes than the Senator from Ohio, and his fire and determination will be a great loss to the Senate. And while Senator METZENBAUM and I have occasionally disagreed—whether on a particular bill or on legislative strategy—I have always admired his outspoken honesty and his resolve to see every matter through.

Nuala and I value the warm friendship we have had with HOWARD and his lovely wife Shirley over the years, and we wish them both a future filled with the very best of health and happiness. We hope that life after the Senate is as full and productive—or as quiet and relaxing—as the Metzenbaums want.

I might also add that Senator METZENBAUM has been fortunate to have—throughout his tenure in the Senate—a very fine and dedicated staff. His current staff is no exception, and I want to wish them well and express my hope that they will use their talents on behalf of some other worthy Senator in future Congresses.

THE REPUBLIC OF CHINA'S 83D ANNIVERSARY AND THE UNITED NATIONS

Mr. D'AMATO. Mr. President, congratulations to President Lee Teng-hui and Foreign Minister Fredrick Chien of the Republic of China on Taiwan as they celebrate the tenth of October, the 83d anniversary of the founding of their nation. I wish Taiwan the best of luck in all its future endeavors and especially in its bid to re-enter the United Nations. The Republic of China richly deserved U.N. membership.

Throughout its history, the Republic of China on Taiwan, has been playing an active international role, despite its lack of U.N. membership. In the early 1970's the Republic of China was active in the International Monetary Fund [IMF], the World Bank, the Asian Development Bank, and the International Council of Scientific Unions. Also, the ROC has stepped up its technical aid to needy countries, a program which the ROC started in the 1980's. At the moment, the ROC has more than 43 teams of technical experts working in 31 countries. In addition, to increase its overseas aid program, the ROC has established a $1.2 billion International

Economic Cooperation and Development Fund to help developing countries promote economic and industrial growth. Already, more than $250 million has been given to Panama, Costa Rica, and the Philippines and additional funds will be made available for projects in the Pacific, Latin America, Eastern Europe and Africa. By 1998, the ROC expects to spend $400 million a year on foreign aid, roughly a quarter of 1 percent of its GNP.

There is no question that the ROC is committed to playing an even larger international role, if allowed to participate in the United Nations. I believe that now is the time for all nations to look at the Republic of China's contributions of international aid and I believe that the Republic of China on Taiwan deserves to be invited back to the United Nations.

In closing I wish to take this opportunity to say my personal goodbye to Ambassador Mou-shih Ding, who has returned to Taipei to assume the post of Secretary-General of ROC's National Security Council. I look forward to working closely with Ambassador Ding's successor, Ambassador Bonjamin Lu.

TURKEY'S RELEVANCE IN WORLD ORDER

Mr. COCHRAN. Mr. President, I would like to call my colleague's attention to a recent column by Turkish Ambassador Nuzhet Kandemir which appeared in the Washington Times.

The relationship between the United States and Turkey is one of the most important bilateral relationships in the world. Turkey was a valuable ally and NATO partner when the free world was united in resisting Soviet expansionism, and Turkey's importance has not diminished in the changing and uncertain world we face today. On the contrary, friendship between our two countries may be more important today than it was in the bipolar world we leave behind.

Turkey is located where Europe, Asia, the former Soviet Republics in the Caucasus and the Middle East converge. To the extent that the United States has vital interests at stake in each of these regions, a friendly and stable Turkey is essential to the protection of those interests.

Ambassador Kandemir provides valuable insights into Turkey's perspective in this transitional era. As with any friend, we might not always agree with Turkey, but its views are always relevant to our foreign policy deliberations. I commend his column to the attention of the Senate and ask unanimous consent that Ambassador Kandemir's column be inserted in the RECORD.

There being no objection, the article was ordered to printed in the RECORD, as follows:

TURKEY'S RELEVANCE IN WORLD ORDER

Five years after the end of the Cold War and three years after the end of Operation Desert Storm, the international community continues to struggle with the myriad problems confronting it; identifying new priorities, resolving regional conflicts, dealing with humanitarian disasters, stabilizing the international economic system, allocating foreign assistance, and halting the proliferation of weapons of mass destruction and the spread of terrorism and violent Islamic fundamentalism. This is particularly true of two areas of critical interest to Turkey and the United States—Southern Europe and the Middle East.

Turkey is more relevant to the important interests of the United States and Turkey's other friends in the international community than it was during the less complex, but no less threatening, Cold War. Turkey straddles both Southern Europe and the Middle East and is a position to exert a positive influence on events in each. This is the reality with which Turkey's friends and critics should assess the prospects for regional peace and stability, or conversely, the danger of a destabilized Turkey.

Turkey wants to make it clear that in an era in which a shrinking U.S. foreign aid and an emphasis on domestic matters calls for more self-reliance by America's friends, Turkey remains prepared to shoulder its share of the burden. Further, my government can assure the U.S. that there are no fundamental differences in our respective foreign policies on the key issues of peacekeeping, human rights, economic stabilization, and humanitarian assistance.

I would like to clarify certain issues that have led to misinformation that could tarnish the relations between the United States and Turkey.

First, on the controversial issue of human rights, the Turkish government introduced an additional package of democratic reforms in 1994 that will further ensure there are no possible abuses of the rights of Turkish citizens of Kurdish origin.

Second, on the issue of terrorism, my government is engaged in a conflict with the Kurdistan Workers Party (PKK), an organization often misportrayed as a band of romantic nationalists, representing all Kurds. This is the same PKK singled out in the U.S. State Department's most recent report on terrorism. Turkey is engaged in a conflict with the PKK, not "the Kurds," and makes no apologies for attempting to safeguard democracy for all elements of Turkish society.

Just as recent acts of terrorism in London, Panama and Buenos Aires demonstrate the intent of some to derail peace in the Middle East, it was the PKK that blew up all initiatives by my government to resolve the conflict. Within the democratic process, Turkey has always maintained a constructive dialogue with those segments of society who reject violence and dismemberment of the Turkish state.

Finally, my government's stance has been clear from the outset on the recently concluded debate on U.S. foreign aid. Recently, we announced that Turkey would not accept the 10 percent portion of assistance linked to the administration's report on Cyprus and human rights. Still, my government, though puzzled and dismayed, wants to get past the misinformation and emotion of the debate and focus on Turkey's future. Looking ahead, it is important for U.S. decision-makers and taxpayers to recognize that foreign assistance advances the causes of regional peace, economic stability and growth. Turkey provides peacekeeping forces in Europe and Africa and grants humanitarian assistance in Europe, Africa and the Middle East. Assistance to Turkey and the country's economic stability has a direct impact on developments in Southern Europe and the Middle East.

In this regard, my government implemented a series of domestic economic reforms that led to a new accord with the International Monetary Fund, created jobs for all Turkish citizens, and enabled Turkey to re-establish itself as an emerging market. These reforms will allow Turkey to serve as an engine of economic growth in the region in cooperation with several nations, including Israel.

However, I trust that decisionmakers will recognize that a measure of the economic instability afflicting Turkey today is a result of its unwavering support for sanctions against Iraq since 1991. This support terminated trade with one of Turkey's largest trading partners—an action comparable to the United States ending trade with Canada. During this time, foreign aid was reduced dramatically, resulting in a shortfall that had an obvious impact on Turkey, but did not undercut our commitment as a reliable partner.

In the spirit of future cooperation, there could soon be an opportunity in the United Nations to rescue a significant economic asset for the international community, the Turkey-Iraq pipeline, which was shut down as part of the sanctions. Turkey hopes that a U.N. resolution will soon be approved to flush the pipeline; it would prevent further damage to that asset and provide revenue that would fund humanitarian assistance to all Iraqis, but would not violate any U.N. sanctions regime. The passage of a new resolution would also illustrate the ability of Turkey and the international community to negotiate a solution to delicate diplomatic and economic problems.

Turkey is struggling with the difficult tasks of defining its diplomatic, security and economic roles in the new world order, as well as combating terrorism and the expansion of violent Islamic fundamentalism. Turkey welcomes its friendship with the United States. Turkey also would welcome a balanced examination of the facts as the United States copes with instability in Europe and the former Soviet Union, monitors future events in Turkey and considers the unpalatable alternatives to a stable, friendly Turkey.

APPOINTMENT OF NOMINEES TO THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Mr. DURENBERGER. Mr. President, I rise today to discuss briefly the nominations the President has sent to us for confirmation to the Board of the new Corporation for National and Community Service.

I have some serious concerns about some of the nominees, concerns I have expressed directly to the administration. In particular, I believe the President left out some very important perspectives in making these appointments. And, I believe there are several nominees whose perspectives would be more appropriately considered by the Corporation's Board—in the course of its work—rather than directly represented on that Board.

As members of this body know only too well, my commitment to this law and the programs it authorizes stems largely from my own personal experiences and from the leadership on community service and service learning that has come from my own State of Minnesota.

Mr. President, I've said many times before that I came to this issue several years ago with a much narrower vision of what we've traditionally called "volunteerism."

My vision was limited by my own experience as a community volunteer, as president of the South St. Paul Jaycees, as president of the Burroughs Elementary School PTA, as an active participant in the Citizens League, as a leader in youth sports activities, county and regional park agencies, and a mile long list of other community projects and community organizations—all beginning many years before I even thought of running for public office.

My vision was also defined as "volunteerism" by my years as a director of volunteers, the National Center for Voluntary Action, and by my work in the 1970's on the National Study Commission on Volunteering in America.

I did my own "volunteering" out of a strong sense of public service and civic duty. And, I still believe that promoting what President Bush called a thousand points of light is an important part of what promoting national and community service is all about.

But, from people like Jim Kielsmeier at the National Youth Leadership Council, Mary Jo Richardson at the Minnesota Department of Education, and a lot of teachers and students in Minnesota, I've also learned that integrating community service into the school curriculum, often known as "service learning, must be an essential element in preparing our children for a lifetime of good citizenship. It is also a critical aspect of education reform.

I'm especially indebted to my Minnesota mentors on this subject—individuals like Dan Conrad, a teacher at Hopkins High School and one of the Nation's leading experts on service learning—and Wayne Meisel and Reatha Clark King, two of the four Minnesotans who were appointed several years ago by President Bush to the first Commission on National and Community Service.

And, finally, I've learned a great deal from Minnesotans like Larry Fonnest of the Minnesota Conservation Corps that service corps and other forms of stipended service can be an effective education alternative for students who are not well-suited for more traditional forms of schooling based only on textbooks used in the classroom.

This growing awareness of the links between community service and education is one reason I became the first Republican to cosponsor the National and Community Service Act when it was introduced in 1989.

And, it was a major factor in my decision to become the lead Republican cosponsor of President Clinton's national service proposal, as well as the Wofford-Durenberger Service Learning Act of 1993.

I mention all of this personal history—and what I've learned about national and community service from Minnesotans—as a back drop for expressing the very serious concerns I've had about at least some of the President's nominees now before us. I should also note that my general approach as a Senator over the past 16 years has been to give considerable deference to whomever the President nominates to positions of responsibility like the Board of this new corporation.

Absent real evidence of incompetence or ethical or legal improprieties, I have generally supported the nominations of all four Republican and Democratic Presidents with whom I have served.

But I leave the Senate this month. If 16 years means anything, I must say I don't want endorsing the status quo to be my last act. Let me say first, Mr. President, that a Board that oversees and manages the operation of a program that is supposed to serve young people, should without question reflect two critical things—a personal commitment to service and the views of young people, themselves. That clearly was the intent of Congress in writing the law. But, I'm sorry to say that taken as a whole, this slate of nominee falls short on both those counts.

In Minnesota we have what one might call a service ethic that begins at a very early age, at a point when young people have the opportunity to develop a sense of responsibility, citizenship, and leadership that can last a lifetime.

In order to reinforce that service ethic on a national level, I believe that the membership of this Corporation Board should reflect the interests of youth, both in terms of age and service experience, as well as a variety of perspectives. Unfortunately, Corporation Board with a few exceptions, is exactly what this board looks like.

The relevant statutory language requires, and I quote:

> There shall be in the Corporation a board of directors that shall be composed of 15 members, including an individual between the ages of 16 and 25 who has served in a school based or community-based service learning program or was a participant or a supervisor in a program.

The statute continues:

> To the maximum extent practicable, the President shall appoint members, who have extensive experience in volunteer or service activities, which may include programs funded under more than one of the national service laws and in State government; who represent a broad range of viewpoints; who are experts in the delivery of human, educational, environmental or public safety services; so that the Board shall be diverse according to age, ethnicity, gender and disability characteristics and so that no more than 50 percent of the appointed members of Board, plus one additional appointed member, are from the same political party.

Mr. President, I have carefully examined the biographies of President Clinton's nominees. And, while most have impressive backgrounds that clearly show a commitment to service, some do not meet the requirements set forth in the statute as I believe they should be interpreted.

In addition, there are no current or retired local government officials; no one living, volunteering or teaching service in a nonurban setting, much like the small rural towns that all of our Presidents have come from; no native Americans; no service deliveries.

The list does include one very qualified young woman—age 19—who fulfills the youth slot. However, she is the only young person, the next youngest person is 29. The average age of this group of nominees is 51 years.

Let me acknowledge, Mr. President, that it's my understanding that four other nominees will be brought before us later on this or perhaps even next session. That group includes a 38- and a 40-year-old who, when added to the others, bring the average age of the group down to 50. I'm particularly disappointed at the lack of youth representation on this Board in light of the many young people the President has hired and appointed to lead in other parts of his administration. Nobody has a greater stake in addressing all the challenges we face as a nation than our children and our youth. As a nation that thrives on tough challenges, we can't afford to leave this tremendous resource untapped.

It seems to me that the National and Community Service Board should at the very least, include the same healthy representation of young people that is so prevalent in this administration.

Again, a number of these nominees are well qualified. I'm extremely pleased that one of those individuals is Reatha Clark King—a long-time educator and current president of the General Mills Foundation. As I noted earlier, Reatha Clark King was appointed to the board of the Corporation's predecessor. She is an outstanding asset to the youth and community service movement in Minnesota and throughout the entire country.

Mr. President, I will not be around in future years to comment on or impact the work of the Corporation. While it is not my intent to hold up the ability of the Board to begin its business, I hope that President Clinton will take my comments and recommendations seriously. I care very deeply about this program and believe that it has the potential to achieve some truly remarkable things.

But, realizing that potential depends in large part on the ability of the Board to define the Corporation's mission, set priorities and work toward a realistic and focused course for the future.

Part of that course includes defining what this program is and is not. And, I continue to strongly believe that national service should not become a huge new program to pay for college. I'm also concerned that national stipended service will get a disproportionate share of the Corporation's attention and that too little value continues to be placed on non-stipended service and service learning.

The law itself, Mr. President, includes strong links between community service and education, better known as service learning. And, the law provides flexibility for those at the State and local level to carry out the program as they see fit and allows for a stipended service program that won't grow faster than its support system. The Corporation needs to make sure that these aspects of its law—backed up by strong support in Congress—get their fair share of attention and financial resources.

Let me say finally, Mr. President, that I continue to be pleased that Eli Segal was selected to head the Corporation. He has earned this opportunity. From the very beginning, he has demonstrated a very healthy willingness to compromise and to include the views of others without losing sight of where he is headed.

I especially appreciate the numerous opportunities he has given me to provide input and advice as the Corporation begins its work. I can only hope that the new Corporation's board will take advantage of his leadership, experience and thoughtfulness in carrying out its important and challenging responsibilities.

I ask unanimous consent to include in the RECORD at this point a letter to Mr. Segal and his response in reliance on which I recommend confirmation of these candidates.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON LABOR
AND HUMAN RESOURCES,
Washington, DC, Oct. 4, 1994.

Mr. Eli Segal
Chief Executive Officer, The Corporation for National and Community Service, Washington, DC.

DEAR ELI: During the past couple of weeks we have discussed my concerns regarding the slate the President has nominated to serve on the Board of Directors of the new Corporation for National and Community Service. And, as you know, I am now prepared to allow the proposed list of nominees to go forward with the following stipulations.

First, I request that future appointments to the Board include individuals who at a minimum, fulfill the statutory requisites for service. The particular section I have in mind states that: "the President shall appoint members who have extensive experience in volunteer or service activities, which may include programs funded under more than one of the national service laws and in state government; who represent a broad range of view-points; who are experts in the delivery of human, educational, environmental or public safety services * * *".

Second, it is my understanding that the current nominees and the four in progress, will be appointed to terms lasting one, two or three years. Based on our conversation about a number of the nominees, I request that the President appoint the individuals about whom I have expressed concerns regarding statutory qualifications to one-year terms.

Third, I request that when the terms of the one-year board members expire, you will actively work to increase the diversity of the Board. Most urgent is the need to appoint more young people with current or recent service experience. I also strongly believe the board would benefit from stronger representation from rural America and from state or local government.

As my own service in the United States Senate now draws to a close, I want to again affirm my strong support for the Corporation, for its enabling legislation, and for the inspiration and leadership you have personally given to this exciting new initiative.

With a clear focus on service and its links to education—and with the direct and active involvement of young people themselves—I'm confident that our common goals for the Corporation can and will be realized.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

CORPORATION FOR NATIONAL SERVICE,
Washington, DC, Oct. 5, 1994.

Hon. DAVID DURENBERGER,
U.S. Senate,
Washington, DC.

DEAR SENATOR DURENBERGER: Thank you for yesterday's letter. I have enjoyed our recent conversations and am appreciative of your abiding interest in national service. As you know, we share many beliefs about the evolution of the Board of the Corporation for National and Community Service. In particular, we will pay increased attention to the statutory guidance you have quoted, regarding service experience.

I also concur that future vacancies on the Board should be filled with an eye toward further expansion of the diversity of backgrounds and experiences available to that body. I share your belief that this goal would be advanced by reflecting the involvement of young people and rural residents in service, and I will actively work toward that result. One of the President's nominees offers the state government experience you have also called for in your letter, and we would try in the future to bring the additional perspective of mayors to bear on our work. And regarding your central desire that national service be informed by the views of young people, who will be the largest age cohort in AmeriCorps, you will be pleased to know that we have energized our youth advisory board, and I am regularly meeting with our young program staff, the gain the benefit of their experiences and insights.

We will achieve your objectives with respect to the individuals about whom you have expressed concerns.

We look forward to your continuing counsel in the years ahead; without your commitment and guidance, national service would never have become a reality, and we hope you will stay close to your dream as AmeriCorps and our other community service programs grow. This coming year offers particularly exciting opportunities, as we can focus on building the links between service and education that you have so eloquently championed during your distinguished career in public life.

Sincerely,

ELI J. SEGAL,
Chief Executive Officer.

HUD SECTION 8 PROGRAM

Mr. BRYAN. Mr. President, I rise to address the Senate on some of the problems with the Department of Housing and Urban Development's Section 8 project-based assisted housing program.

The section 8 program was established in 1974 to help low-income families obtain safe, decent, and sanitary housing. The program has two components: tenant-based rental assistance and project-based rental assistance. Section 8 certificates and vouchers are referred to as "tenant-based" assistance; the other types of assistance such as new construction and substantial rehabilitation are known as "project-based" assistance.

According to HUD's inspector general, over 20,000 properties are currently receiving section 8 project-based assistance. These properties serve approximately 1.5 million low-income families. HUD has provided approximately $131 billion budget authority to support its section 8 project-based subsidy programs over the past 20 years. Many section 8 projects are also FHA insured.

HUD's inspector general issued a report in April 1993 on the results of an audit conducted from 1991–1993 on 28 troubled multifamily housing projects under the jurisdiction of six HUD field offices. The audit determined that the physical condition of 23 projects, or 82 percent, was unsatisfactory or below average. It is inexcusable that a disturbing number of projects are experiencing deterioration and neglect by their owners. Tenants, with their rent subsidies tied to these projects, are essentially trapped in deplorable living conditions.

Unfortunately, two of these troubled projects are in southern Nevada. Sierra Nevada Arms Apartments in Las Vegas and Carey Arms Apartments in North Las Vegas received about $2.8 million in Federal subsidies last year. In particular, Sierra Nevada Arms received about 86 percent of rental income from the Federal Government. To say that the Federal Government should be concerned about the investment in this property is an understatement.

Sierra Nevada Arms Apartments is a 353-unit complex consisting of 82 two-story buildings. Currently, 113 units are vacant. A two-bedroom unit in this apartment complex rents for $468 a month. The rent for a two-bedroom unit in a well-maintained unsubsidized property in the same neighborhood is $600 a month.

According to a General Accounting Office [GAO] report released in July, HUD's Las Vegas field office considers Sierra Nevada Arms to be the worst project the office manages. GAO reports that field office inspections have revealed many vacant units stripped of kitchen appliances, bathroom fixtures, air conditioning and heating units, and electrical fixtures.

GAO's own site inspection revealed interior units with soiled, stained, and torn carpet and linoleum; inoperative appliances, smoke alarms, air conditioning and heating systems; damaged kitchen cabinets with loose and missing drawers; severely damaged bathroom vanity tops and commodes; missing closet doors; torn and missing window screens; filthy walls; leaking toilets, bathtubs and sinks; and roach, rat and mice infestation. GAO's inspection of the project's exterior revealed faulty sprinkler systems with numerous leaks causing flooding throughout the grounds. They also found that many vacant units were missing door, windows, and screens. The laundry room was filthy and in poor condition, with extensive graffiti and garbage strewn throughout.

In June, the Senate Banking, Housing, and Urban Affairs Committee favorably reported the Housing Choice and Community Investment Act of 1994. This bill included significant reforms of the section 8 problem.

The bill would have allowed HUD to reuse section 8 project-based assistance, recaptured when housing assistance payments contracts are terminated, to relocate tenants currently living in distressed properties. The bill provided HUD with the choice of relocating tenants using either certificates or vouchers or providing alternative section 8 project-based housing. This protects tenants who might be displaced if HUD terminates the section 8 housing assistance payments contract for a property.

The bill would have authorized the Secretary of Housing and Urban Development to levy civil money penalties against owners—including general partners of a partnership owner—and managing agents who violate provisions of a section 8 project-based contract. Violations include failing to provide decent, safe, and sanitary housing and knowingly submitting false statements for housing assistance. Payments of the penalty were prohibited from coming out of project income. Unfortunately, in the crush of the end of the legislative session, this bill did not reach the Senate floor.

These reforms are so important that I pledge to work vigorously in the next Congress, to introduce and pass legislation to compel owners of troubled section 8 projects to improve conditions and to give HUD the tools to ensure that its subsidized housing is maintained according to housing quality standards.

However, this is just one step in a process to deal with troubled projects. Much more needs to be done. In addition to providing HUD with the tools to discipline owners of troubled projects, HUD must carry out its monitoring responsibilities so that projects do not advance to this level of deterioration. HUD's inspector general said in July that HUD suffers from some major systemic weaknesses that significantly impact its ability to turn around these troubled projects and improve its management and oversight of section 8-assisted multifamily housing stock. Prior inspector general reports have questioned HUD's capacity to manage and monitor its huge portfolio of insured and assisted multifamily properties. This must be corrected so that tenants can live in safe and decent housing and the Federal Government recovers misspent funds.

We need to reverse this trend in the section 8 program of piecemeal response to deplorable conditions and waste. We need a comprehensive plan to improve the section 8 program and I will continue to work toward that end.

THE SITUATION IN NORTHERN IRELAND

Mr. BRADLEY. Mr. President, it has been over a month since the IRA answered the challenge posed by the Downing Street Declaration and announced "a complete cessation of military operations." Since then, discussions among the parties to the conflict have continued, and representatives of Northern Ireland's divided community have visited the United States. Now that the political process is well underway, it makes sense to step back and place these developments in context. In this way, we can better understand how we in the United States can help foster the process leading to reconciliation and peace.

I believe that a viable peace process must be based on four principles: rejection of violence, respect for human and civil rights, encouragement of political negotiations, and support for economic development. While there has been progress in each of these areas, more is needed to support the fragile political process now underway.

The IRA's August 31 announcement is a challenge to all parties to halt the violence and give negotiations a chance. The IRA did not have a monopoly on violence, and the IRA alone cannot end it. Indeed, over the past year, more victims have been killed by loyalist paramilitaries than by the IRA.

These loyalist paramilitaries must now halt their violence. This will require courageous political leadership in the Unionist community. As Irish Foreign Minister Dick Spring stated in his address before the United Nations General Assembly, "We hope that responsible political leaders in the Unionist community will make their voices strongly heard on this issue, as many have done already, and that a complete cessation of violence will ensue on the loyalist side also."

The peace process will not propser without respect for human and civil rights. The people of Northern Ireland have been subject to emergency regulations restricting their rights to counsel and jury trials. These have inevitably resulted in miscarriages of justice.

We all know of Paul Hill, whose story is told in the movie, "In the Name of the Father." I have also been following the case of the "Ballymurphy Seven," in which seven young men were charged for a crime on the basis of confessions taken while the boys were being held incommunicado, a practice ruled illegal last month by the European Commission for Human Rights.

Human rights must be accompanied by civil rights. While anti-Catholic discrimination in employment and other areas of life has been reduced, it has not been eliminated. Catholic unemployment rates are still double those of Protestants, stoking resentment and widening cleavages in society.

As long as all the people of Northern Ireland lack legal safeguards and full civil rights, these kinds of issues will arise to undermine the process of reconciliation that must underlie the peace process.

Reconciliation is even more important now because, for the first time in decades, there is a peace process to support.

John Hume took the first courageous step to launch the process when he entered into dialogue with Gerry Adams. Indeed, John Hume is the hero behind the current hopes. Espousing a message of nonviolence, reconciliation, and economic development, he has opposed the forces of terror on both sides of the sectarian divide. He has worked tirelessly to build bridges and take the gun out of Northern Ireland's politics.

When Adams asked to come to the United States, I believed that granting him a visa would advance the cause of peace that Hume had launched, so I supported his request in a letter to President Clinton. The President's decision to admit Adams became a central part of this administration's constructive involvement in fostering this fragile peace process.

The divided community of Northern Ireland does not exist in a vacuum. Without cooperation from the governments of the Irish Republic and the United Kingdom, the political process would be stillborn. In the Downing Street Declaration, the Irish and British Governments provided the framework for building on the Hume-Adams opening. They are now working on a

Joint Framework Document setting out their views on the substance of an accommodation which can be used to stimulate the process, without trying to impose a solution. That is for the divided people of Northern Ireland to determine for themselves.

Now that they have come this far, all the parties must negotiate creatively, and in good faith, to develop a vision for the future and a blueprint to implement that vision.

Now that politics is replacing violence as idiom for politics in Northern Ireland, it is time to turn to the task of economic reconstruction. Peace brings opportunity, and once it is clear that negotiations have replaced violence as the currency of political discourse, there will be there is no shortage of business people in New Jersey and elsewhere ready to invest, not out of sentiment, but for sound business reasons.

The administration is moving ahead to work with the inhabitants of Northern Ireland to lay the economic underpinning for peace. John Hume came to Washington with a number of creative ideas for involving American business in the development of Northern Ireland and the border counties of the Irish Republic. I hope the administration will respond creatively to Hume's proposals and look for innovative ways, within our tight budget, to respond to his ideas.

Economic development is doubly important because it is an integrating force. Economic development requires and creates cooperation among all the people of Northern Ireland, and across the Border, regardless of religion or communal ties. As Hume wrote in the September 23, 1994, Washington Post, "reconstruction goes hand in hand with reconciliation."

The road to reconciliation is paved with security, human and civil rights, political negotiation, and economic development. The people of Northern Ireland, along with the governments of the United Kingdom and Ireland, have taken the courageous first steps down this road. They deserve our full support—governmental and private—as they choose peace.

JAPAN'S REFUSAL TO MEET REICHSBANKNOTES OBLIGATIONS

Mr. HELMS. Mr. President, earlier this year, Mr. Ye-Shin Lin, an American citizen and the U.S. representative for the Taiwanese Reichsbanknotes Creditors Association, gave me a compelling account of the Japanese Government's continued refusal to redeem notes that Japan issued to residents of Taiwan in 1924, during the period of Japanese rule.

I wrote to the Japanese Ambassador to the United States, Mr. Takakazu Kuriyama, on June 3 about this matter; I inquired as to how the Japanese Government intended to meet its financial obligations to these people—some of whom are American citizens.

Knowing the Japanese—especially Japanese diplomats—to be very mannerly and respectful, I am surprised that, to date, I have received no reply to my letter. I do hope that this is just an oversight.

However, Mr. President, based on these circumstances, I am inclined to assume that the Japanese Government is unwilling to acknowledge the existence of this outstanding Reichsbanknotes issue. This is puzzling because the Japanese Government had previously acknowledged its obligation to redeem these Reichsbanknotes; this was in August 1965, when the Japanese retired similar notes held by citizens of South Korea.

It has been my experience that the Japanese people consider the fulfillment of their commitments a matter of honor. That is why I cannot understand Tokyo's indifference toward this 60-year old unmet obligation. I raise this issue today in the hope that the Japanese Government will recognize its responsibilities and resolve the unpaid Reichsbanknotes issue expeditiously.

Mr. President, I ask unanimous consent that the text of my letter to Ambassador Kuriyama be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE, COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 3, 1994.

His Excellency TAKAKAZU KURIYAMA,
Embassy of Japan, Massachusetts Avenue, NW., Washington, DC.

DEAR MR. AMBASSADOR: There is an issue of great significance to many people in both the United States and Taiwan relating to a matter of unmet obligations for reparations by the Japanese government. I am confident that this is an oversight by your government because it is my experience that the Japanese people, hence their government, regard commitments to be a matter of honor.

Let me identify a specific case: Mr. Ye-Shin Lin, an American citizen and the U.S. representative for the Taiwanese Reichsbanknote Creditors Association, has provided me with a compelling account of the government of Japan's continued refusal to redeem notes issued by Japan to residents of Korea and Taiwan in 1924 during the period of Japanese rule. I am astonished that the government of Japan is not making every effort to meet its legal responsibility to repay these people.

Mr. Lin has provided me with many examples in which Taiwanese citizens were forced to accept Reichsbanknotes as payment. In numerous instances, Japanese colonial police and military police in Taiwan were mobliized to force the Taiwanese to sell their farm lands and other properties to raise cash to buy the Reichsbanknotes in question.

Further, Mr. Lin states that Japanese Government enterprises—including the Taiwan Sugar Company and the Taiwan Tobacco and Wine Monopoly Bureau—paid a portion of employee salaries to their employers by the transfer of Reichsbanknotes.

In each instance, the Japanese government promised to retire these Reichbanknotes within ten years—a promise that was ultimately kept to the South Korean note leaders in 1965 but which has yet to be consummated to the Taiwanese holders.

My admiration for the people of Taiwan is no secret. Therefore, I wish to inquire of you any information that the government of Japan might provide regarding this 60-year-old dispute and how your government intends to meet its obligations to these people. This information will be helpful in determining whether a hearing before the Senate Foreign Relations Committee will be necessary and appropriate.

Sincerely,

JESSE HELMS.

OFFICE OF GOVERNMENT ETHICS

Mr. COHEN. Mr. Chairman, I am pleased that today the Senate will pass a very important piece of legislation—the reauthorization of the Office of Government Ethics [OGE]. The subject of this legislation—ethics in government—brings to mind a quote by John Caldwell Calhoun:

> The very essence of a free government consists in considering offices as public trusts, bestowed for the good of the country, and not for the benefit of an individual or party.

That is the way in which we expect our government officials to conduct themselves. Government service is a privilege and with that privilege comes tremendous responsibilities. Public servants in all three branches of government have an important obligation to the citizens who have put their faith and trust in them. We expect our government officials to abide by a certain code of conduct and to adhere to high ethical standards so that our citizens will have confidence in the integrity of their government.

Unfortunately, however, many Americans are disenchanted with their elected officials. As a result, the need for strict ethical standards, and vigilant oversight of compliance with our ethics laws, is as great as ever. Almost daily headlines purport allegations of unethical or inappropriate conduct by government officials in one form or another. These stories further erode the public's confidence in the integrity of their government officials which is already at one of the lowest points in our recent history.

Senator LEVIN and I have long been proponents of strong ethics laws. We serve as the chairman and the ranking minority member on the subcommittee on Oversight of Government Management which has jurisdiction over ethics matters within the executive branch. Senator LEVIN and I have made many changes to strengthen the ethics laws since the Ethics in Government Act of 1978, which created OGE, was passed. We also authored the independent counsel provisions of the Ethics in Government Act which provides for the appointment of an independent counsel to investigate allegations of criminal activities by top level executive branch officials. We worked together to strengthen the revolving door laws and, more recently, Senator LEVIN and I worked to develop legislation to strengthen our lobbying disclosure laws. Moreover, Senator LEVIN and I have consistently sought to aid OGE in its mission of providing overall direction to the executive branch in developing policies to prevent conflicts of interest and ensure ethical conduct by executive branch officers and employees.

Each executive branch agency has primary responsibility for the administration of its ethics program. Strong leadership must, therefore, start at the top of every agency. Agency heads must demonstrate their firm commitment to high ethical standards and send a clear message that ethics violations will not be tolerated.

The reauthorization bill we are about to pass, which I introduced with Senator LEVIN last year, would reauthorize OGE for 8 years. This is a slightly longer reauthorization than we have sought in previous years. as in the past, we want to avoid the need to reauthorize OGE in the midst of a Presidential election, or during the first year of a Presidential term when a large potion of OGE's resources are devoted to the nominee clearance process.

The bill would also, for the first time, grant OGE gift acceptance authority to address the problem that arises when Federal Government facilities are not adequate either in terms of size or equipment resources to accommodate OGE's ethics education and training programs which are held around the country. This authority is intended to enable OGE to accept the use of certain non-federal facilities, such as an auditorium that might be offered by a State or local government or a university, which may be better suited for OGE's needs.

As I have often noted in the past, the Office of Government Ethics is a small office with large responsibilities. Over the years, we have imposed more responsibilities on OGE and we haven't always provided the necessary staff or resources to carry out those responsibilities. Specifically, I would note the additional functions OGE had to perform when it became an independent agency in 1989 and in complying with the Ethics Reform Act of 1989. While OGE's budget has increased rather significantly since we last reauthorized OGE in 1988, OGE still has a lean budget with which to operate when you consider the critically important responsibilities the agency has. That said, in light of looming budget deficits, OGE, like all agencies will undoubtedly be called upon to meet its responsibilities in the most cost-effective manner possible. The bill also contains a number of technical changes to the ethics laws.

Restoring the public's trust and confidence in the integrity of their government is not an easy task. I commend Senator LEVIN for his continued efforts to ensure strict ethical standards in government and for getting this important legislation before the full Senate for consideration. I urge the House of Representatives to move expeditiously to pass its version of the reauthorization bill so that we may complete action on this measure in these final days of the 103d Congress.

A TRIBUTE TO MAJ. GEN. HARRY W. JENKINS, JR., USMC, ON HIS RETIREMENT

Mr. NUNN. Mr. President, I would like to congratulate an outstanding military officer, Maj. Gen. Harry W. Jenkins, Jr., on his retirement from active duty. General Jenkins served for over 34 years with distinction in the Marine Corps. General Jenkins graduated from San Jose State College in 1960, whereupon he was commissioned as a Marine Corps second lieutenant. To cap off his fine career, General Jenkins has served as the first Director, Expeditionary Warfare in the staff of the Chief of Naval Operations.

Congress established this office in an effort to focus additional attention within the Navy Department on important expeditionary warfare areas that take on additional significance in the new world we face today. General Jenkins was chosen to fill the important role of establishing this office because of his extensive qualifications in leading the landing forces in Operations Desert Shield-Desert Storm. His unique qualifications were exactly those needed to set this office and its operations on the right course. The Armed Services Committee has relied heavily on General Jenkins' advice on matters pertaining to expeditionary warfare and the changes that the Navy Department should be making to enhance its capabilities in this area.

General Jenkins has received numerous awards and decorations, including the Legion of Merit, Bronze Star Medal with Combat V and three gold stars, and the Defense Meritorious Service Medal.

I want to thank General Jenkins for his outstanding career of dedicated service to the Marine Corps and the Nation. I know my colleagues join me in wishing all the best to General Jenkins, his wife, Sue, their daughter, Anne Elizabeth, and their son, Thomas Jonathan.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

[From Headquarters Marine Corps, Division of Public Affairs]

MAJ. GEN. HARRY W. JENKINS JR., USMC

Major General Harry W. Jenkins Jr., is currently serving as the Director, Expeditionary Warfare Division (N85), on the staff of the Chief of Naval Operations, Washington, D.C.

General Jenkins was born on November 29, 1938 in Oakland, California. Upon graduation from San Jose State College with a B.A. degree in June 1960, he was commissioned a second lieutenant in the Marine Corps. He also holds an M.S. degree from the University of Wisconsin (1972).

After completing The Basic School at Quantico, Va., in January 1961, he served as a weapons platoon commander with the 1st Battalion, 5th Marines at Camp Pendleton, Calif., and then as a weapons platoon commander and rifle platoon commander with the 1st Battalion, 9th Marines, 3d Marine Division on Okinawa. He was promoted to first lieutenant in January 1962.

He transferred back to the U.S. in March 1962, and was assigned to Marine Barracks, San Francisco Naval Shipyard, San Francisco, Calif., where he served as the barracks Executive Officer until December 1964. From January 1965 to February 1967, he was assigned to the Marine Corps Mountain Warfare Training Center, Bridgeport, Calif., serving as a Senior Instructor in Mountain Operations, in the survival School and as the Assistant Operations Officer of the Training Center. He was promoted to captain in June 1965.

In February 1967, General Jenkins returned to Quantico for duty at the Officer Candidate School, and then was a student at the Amphibious Warfare School. Upon graduation in January 1968, he was transferred to the Republic of Vietnam, where he served as the Commanding Officer, Company M, 3d Battalion, 26th Marines, and later served as the Operations Officer and Executive Officer of the battalion. Promoted to major in November 1968, he was then assigned as the Civil Affairs Officer for the 1st Marine Division in January 1969.

Returning from overseas in April 1969, he was assigned to the NROTC Unit, University of Wisconsin, where he was the Marine Officer Instructor until June 1972. Following that tour, General Jenkins was ordered to Headquarters Marine Corps, Washington, D.C., where he served in the Officer Assignment Branch, and later in the Office of the Commandant as the Plans Officer in the Special Projects Directorate.

In August 1975, he returned to Quantico as a student at the Marine Corps Command and Staff College. Following graduation in June 1976, he returned to the 3d Marine Division as the Regimental Operations Officer of the 9th Marines. While overseas, he was promoted to lieutenant colonel in July 1977.

General Jenkins was next assigned to the Office of the Assistant Secretary of Defense (Public Affairs) in August 1977. There he served in the National Military Command Center and as a special plans officer in the Directorate for Community Relations.

From August 1979 until June 1980, he attended the Naval War College, Newport, R.I. Upon graduation he was reassigned to Headquarters Marine Corps where he served in the Officer Assignment Branch as the Ground Lieutenant Colonel Monitor, the head of the Ground Officer Assignment Section and as the Head of the Officer Assignment Branch, respectively. He was promoted to colonel in July 1982.

During August 1983, General Jenkins was assigned to the 2d Marine Division, Camp Lejeune, N.C., where he served as the Division G-3 until May 1984, and then as the Commanding Officer of the 2d Marine Regiment. He served in this capacity until June

1986, when he assumed the position as the Chief of Staff for the Division. While serving in this capacity, he was selected for promotion to brigadier general in December 1986. He was assigned duty as the Legislative Assistant to the Commandant of the Marine Corps on Oct. 5, 1987, and was advanced to brigadier general on Oct. 1, 1987. General Jenkins was assigned additional duties as the Director of Public Affairs on May 18, 1988. On Aug. 22, 1989, he was assigned as Commanding General, 4th Marine Expeditionary Brigade/Commanding General, Landing Force Training Command, Atlantic/Deputy Commander, Marine Strike Force Atlantic, NAB, Little Creek, Va. General Jenkins was promoted to major general on Aug. 1, 1990. Following that tour, General Jenkins returned to Headquarters Marine Corps on July 15, 1991, where he served as the Assistant Chief of Staff, Command, Control, Communications, Computer and Intelligence (C4I)/Director of Intelligence. In October 1992, he was chosen for the position of Director, Expeditionary Warfare Division (N85) on the staff of the Chief of Naval Operations at the Pentagon. He served in both assignments until April 16, 1993, when he relinquished the duty as Assistant Chief of Staff, C4I/Director of Intelligence.

General Jenkins' decorations include: the Legion of Merit; Bronze Star Medal with Combat "V" and three gold stars; the Defense Meritorious Service Medal; Navy Commendation Medal with Combat "V"; Combat Action Ribbon; Presidential Unit Citation with two bronze stars; Navy Unit Commendation; Meritorious Unit Commendation; National Defense Service Medal with one bronze star; Vietnam Service Medal with one silver star; Southwest Asia Service Medal with two bronze stars; Sea Service Deployment Ribbon with one bronze star; Arctic Service Ribbon; Republic of Vietnam Cross of Gallantry with bronze star; Republic of Vietnam Meritorious Unit Citation (Gallantry Cross Color); Republic of Vietnam Meritorious Unit Citation, (Civil Actions Color 1st Class); the Vietnam Campaign Medal; and the Kuwait Liberation Medal.

Major General Jenkins and his wife, the former Sue Gilbert of Richlands Virginia, have a daughter, Anne Elizabeth, and a son, Thomas Jonathan.

Mr. FORD. Mr. President, since receiving new C–130H aircraft, the Kentucky Air National Guard has been involved in every major world contingency where tactical airlift was required.

Kentucky's Guard was in the air within 72 hours of being called on to assist in Rwanda. Our crews logged 303.2 flying hours, flew 147 sorties, carried 652.5 tons of cargo, and transported 604 passengers.

It is my understanding that the Kentucky Air Guard is being considered for the Air Force Outstanding Unit Award. I believe the attached list of achievements will make them top contenders.

Mr. President, let me close by saying the achievements of the Kentucky Air National Guard should make every American confident that equipment, like the C–130H's, is being used effectively by highly qualified, competent crews.

I ask unanimous consent that the following be included in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The 123d Airlift Wing capped one of the most impressive periods in its history with the acceptance of two highly acclaimed national awards. The 1993 National Guard Association of the United States Distinguished Flying Plaque recognizes the 123d Airlift Wing as one of the top five outstanding Air National Guard flying units. Additionally, the unit earned the 1993 National Guard Bureau's Curtis N. "Rusty" Metcalf Trophy, presented to the Tactical/Strategic Airlift or Air Refueling flying unit which demonstrated the highest standards of mission accomplishment over a sustained period.

The 123 AW earned an overall excellent rating during a 9th Air Force Stan/Eval inspection. Every measurable category was rated excellent which is exceptional considering the units extensive real world tasking. Five wing crew members were recognized as "exceptionally qualified."

The 123 AW epitomized the quality of the Total Force by its extraordinary performance in regional contingencies and humanitarian relief efforts throughout the world. Once aircrew conversion training to the H model aircraft was well on its way to completion, the unit aggressively volunteered its services to whatever missions were required of C–130 aircraft. When Hurricane Andrew devastated southern Florida the 123d answered the call. A 123 AW C–130H was credited as being the first cargo aircraft on the scene at devastated Homestead AFB, Florida, transporting critically needed security police to secure the area. This was then followed by numerous sorties manned by volunteers to help begin the recovery process.

When the world situation in Africa and Eastern Europe turned critical 123d volunteers again stepped up to the line. At first, individuals from the combat control team and aircrew members, supplementing short handed units answered the call to Operation Restore Hope (Somalia). Shortly thereafter the unit responded to tasking sending both aircraft, flying and support personnel to the Horn of Africa to aid in the critical and dangerous humanitarian operation. 123d citizen soldiers, dubbed by the regional media in Kentuckiana "the Guardians of Hope" provided 150 sorties over 263 flying hours and transported 720 tons of supplies and 1144 passengers to the effort, while members of the wing's combat control team operated runways at several austere locations. Additionally, the 123d Services Flight, operating out of Cairo West, Egypt, managed contract commercial hotels, food service and laundry; established and operated MWR activities; provided mortuary support for the region; and aided in the drawdown of personnel and operations for the installation . . . supporting an average of 500 people rotating through the site daily. The unit was commended for their exceptional service.

As the world's geopolitical attention switched to Eastern Europe the 123 AW took focus on Operation Provide Promise where the unit's all volunteer force, many arriving directly from Africa flew humanitarian missions into Bosnia-Herzegovina February through April and again from July through the end of September 1993. In December 1993 the unit returned and continued to fly missions through May of 1994. 123d AW aircraft amassed 1082 sorties over 2220 hours and delivered 2215 tons of food and supplies. Lieutenant Colonel Rick Ash, a flight commander and traditional guardsman became the first Air National Guard commander of the reactivated Delta Squadron, part of the 435th Airlift Wing, Rein Mein AB Germany, where he served with great distinction.

In July 1994, given only 72 hours to respond, the 123 AW quickly answered the call to Operation Provide Hope in Rwanda. Operating from Mombasa, Kenya, unit personnel and aircraft flew 147 sorties and over 303.2 hours including 652.5 tons of relief supplies and transported 604 passengers to the beleaguered Rwandan refugees.

The 123 AW also participated in many other unique deployments and exercises. The wing supported six rotations for Phoenix Oak where missions into Central and South America tested aircrews, war readiness capability in a real world setting. During these deployments the wing provided 223 sorties, almost 500 hours and transported 920 tons of supplies and 720 passengers. Security Police participated in Phoenix Ace—an exercise designed to test the unit's air base ground defense capabilities—and were noted by instructors as "the best squad seen to date." Additionally, Civil Engineers received many favorable comments for work performed for the U.S. Border Patrol and on active Air Force installations.

The unit was able to meet the challenge of the heavy deployment schedule and maintain its combat readiness status in spite of having to ground its C–130H fleet in June and July of 1993 after detecting a manufacturing defect in 38 of its 48 engines. Maintenance technicians analyzed the problems, and removed the engines in minimum time while maintaining a 73.7 mission capable rate for the year. The rate has steadily risen to an average of 81.7% for 1994 which is well above the ANG goal. This is exceptional considering that the unit has exceeded 1,000 hours over the programmed flying time for the last two years without increasing maintenance manning.

Wing members established an "around the clock command post", coordinated shifts and personnel, and supported community agencies when the city was paralyzed with an 18-inch snowfall and below zero temperatures. Both full-time and traditional guardsmen, in a volunteer status, transported medical personnel to hospitals, assisted law enforcement agencies, and responded to hundreds of calls from citizens in dire need of assistance.

The 123 AW's humanitarian efforts extended into the local community as well. The wing's Annual Bean Soup Feast and Open House netted nearly $8,000.00, with the proceeds being donated to children's programs in the region. In addition, the wing collected $3,700.00 for Easter Seals and raised $35,000.00 for numerous charities through the Combined Federal Campaign. The 205th Combat Communications Squadron collected food, money, and clothing to provide family Christmas gifts through the Salvation Army's "Angel Tree" program. The 205 CCS also became involved in the Jefferson County public schools Community Board Education Program. Together with the local school system the 205 CCS provided a myriad of services to the county's mentally disabled enrolled in the program.

The 123 AW's exemplary record of achievements is reflected in numerous group and individual awards. The 123d Mission Support Squadron captured the Outstanding ANG Social Actions Office of the Year and the FY 92 Zero BMT Elimination's Rate Award. The 123d Mission Support Flight garnered the Outstanding ANG Base-Level Information management organization Award. The 123 AW earned it's third championship win in the 30th Annual ANG Bowling Tournament.

Individual recognition included the Outstanding ANG Field Grade Officer Information Manager.

The unit has flown over 88,000 hours and almost 20 years, through three aircraft conversions, with only one command controlled Class A mishap for a rate of 1.12 percent. This is remarkable considering the perilous conditions in which the unit has operated during the past two years—free of any command controlled mishaps.

The 123 AW achieved a rare honor for an air guard unit when it was selected by the state department to serve as "hermano" or brother unit to Chile. The program promotes an international exchange of flying techniques and training between the units.

Since becoming operational in the C–130H, September 1992, the 123d had logged 64% of its total flying hours in "real world" missions. Fifty-two percent of those missions, 34% of the total missions have been flown outside the continental United States.

The 123 AW is proud of its distinctive accomplishments, many of which have been achieved at the focal point of national and world attention. Volunteers from the 123d have been willing to forsake their own comforts and conveniences to aid the desperate needs of others. They have sought out the most demanding missions, accomplished them superbly, and asked for more. The members of the 123d Airlift Wing stand in the forefront of airlift operations. The unit is truly deserving of the Air Force Outstanding Unit Award.

THE 40TH ANNIVERSARY OF KCTS

Mrs. MURRAY. Mr. President, I am pleased today to commemorate the 40th anniversary of KCTS, Community Television Service—channel 9, which serves the people of the greater Puget Sound region in the State of Washington. As television is increasingly blamed for the ills of our society, KCTS has consistently set an example for programing which is intelligent, entertaining, and socially responsible.

Examples of the many fine programs produced by KCTS abound, but let me take this opportunity to highlight just a few:

First and foremost, in the interest of educating as well as entertaining our children, KCTS not only carries PBS staples such as "Sesame Street" and "Mister Rogers' Neighborhood," but also broadcasts popular new programs like "Bill Nye the Science Guy" and "Where in the World is Carmen Sandiego?" But KCTS goes one step beyond simply putting its shows on the air; the station also provides training and curriculum projects for caregivers and teachers, so that they can build upon the lessons taught on the television programs, at home and in the classroom. KCTS has a firm grasp on the value of television, as well as the importance of activities away from it. The "Know-It-All-Club," for example, suggests fun, educational activities for kids who are home all day during school vacations, and actually encourages them to turn the TV off to go try them out.

For adults, KCTS programing is no less stimulating or useful. Examples include valuable series such as "Healing and the Mind," "Menopause: Living the Change," and "The Breast Care Test." Just as important as the specials themselves, however, were KCTS's extra efforts to make sure that its audiences were provided with additional information, so that they could directly benefit from each program. In this way, KCTS was able to facilitate participation in valuable breast cancer research being conducted at the Fred Hutchison Cancer Research Center, in conjunction with the broadcast of "The Breast Care Test." It is this sort of effort which distinguishes KCTS as a responsive, integral member of the Puget Sound area community.

The station and its employees have also proven to be dedicated public servants, whose work merits both thanks and recognition. From staff volunteer projects at a neighboring elementary school, to the Golden Apple Awards it sponsors for local teachers who set admirable examples for our children, to the production of the award-winning, nationally broadcast "Over" series, KCTS is genuinely involved in our community.

Earlier this year, when it appeared that Federal funding for public television may have been significantly reduced, that grateful community rallied to support its local station. My office alone received hundreds of letters expressing overwhelming support for KCTS. In the words of its viewers:

> We are supporters of our local KCTS/9 in Seattle and find we view that more than all the others combined. Someone once said, "You are what you eat." I feel that applies also to our minds and hearts. A higher proportion of wholesome fare is made available on the public radio and television stations.—Belfair, WA
>
> PBS offers innovative, creative, thoughtful programing not available on commercial TV. While the programing is at times admittedly provocative and controversial, it offers the intelligent viewer an opportunity to confront issues in a meaningful way, and to continue to learn about the modern world in which we live. There is simply no other TV programing which does this as well.—Bainbridge Island, WA
>
> Public broadcasting should be funded at its current level or (better yet) more. I feel this is so important that I am writing this letter to you at 1 a.m. even though I am way behind on paperwork.—Issaquah, WA
>
> I am writing to express our family's view that Congress should continue to support funding for public television and radio as an important national resource. Our children were helped in their early years by such programs as "Sesame Street," "The Electric Company," and "Mister Rogers." My son, a biologist who is a graduate of the Evergreen State College, was encouraged in part by the excellent nature programs we had watched on KCTS–9 over the years.—Federal Way, WA

KCTS has long been a part of the lives of families who live in the Puget Sound area. I and my family certainly benefited from the fine programing which KCTS provides every year, and the tradition has continued for each generation. Even the youngest members of my staff, my interns, expressed a touch of nostalgia for their KCTS childhoods. Their contribution to this commemoration should bring back memories for everyone:

ODE TO OUR PBS CHILDHOOD

This poem is brought to you by the number three,
As well as the letters A through Z.
We'll always remember Mr. Rogers' King and Queen,
And How Snuffleupagus couldn't be seen.
Zoom was always the "coolest" show,
And it taught us things every kid should know.
Rubber Duckie, you were the one,
Watching Ernie and Bert was so much fun.
While Zoomers and the Electric Co. gang can never be replaced,
Bill Nye the Science Guy does a great job in their space.
It's a pity that some of those shows are now gone,
But, like them, we too have moved on.
Now we watch the Frugal Gourmet,
and the Joy of Painting on Saturdays.
For public TV, you're always the best,
So we'll keep on watching KCTS.

My staff and I would like to thank KCTS for enriching our lives, and for all of the wonderful memories that it has provided for us and for our families. We congratulate them for 40 years of service to our community, and look forward to the next 40 with great anticipation.

CONSOER TOWNSEND CELEBRATES 75 YEAR ANNIVERSARY

Mr. SIMON. Mr. President, On October 18, Consoer Townsend, the largest Chicago-based consulting and engineering firm, is celebrating its 75th anniversary .

I would like to offer my congratulations to Consoer and its president and CEO Bob Fisher on this milestone. Mr. Fisher has been with Consoer Townsend for the past 22 years, the last 4 as president and CEO.

Consoer Townsend is responsible for many of Chicago's major transportation and environmentally related projects in the last 25 years, including the O'Hare International Airport, the Deep Tunnel project, and all interstate highways.

Employing over 500 people, Consoer Townsend is one of the Chicago's largest employee-owned firms, and one of the Nation's major players in environmental control projects.

It is my pleasure to recognize Bob Fisher and Consoer Townsend, on this 75th anniversary, for Consoer's role as a leading infrastructure consulting engineering firm.

AMERICAN-UKRAINIAN ADVISORY COMMITTEE

Mr. DECONCINI. I wish to invite my colleagues' attention to an important initiative launched by the Center for

Strategic and International Studies [CSIS], a world renowned policy research institute.

One year ago, on the strong recommendation of its distinguished counselor, Dr. Zbigniew Brzezinski, CSIS established the American-Ukrainian Advisory Committee, comprising 19 truly prominent Americans and Ukrainians, for the purpose of initiating a broader and deeper dialogue between the two nations and fostering a stronger, enduring relationship. Meeting twice a year, once in Washington and once in Kiev, the committee is addressing major security and economic issues and is communicating its policy recommendations to the highest levels of the American and Ukrainian Government.

The committee held its inaugural meeting in Washington last February and its second meeting in Kiev on September 24. The Kiev meeting produced a communique which provides a coherent strategic framework for the American-Ukrainian relationship as well as a sense of conceptual direction for Ukraine's place in Europe and in the world. The communique was issued at a pivotal juncture for Ukraine in its long and difficult tasks of consolidating its independent statehood, building democratic institutions, and establishing a genuine market economy that will benefit its citizens. The recommendations contained in the communique deserve serious consideration by the leadership of our two governments.

Mr. President, Ukraine's President Leonid Kuchma and our President Bill Clinton have welcomed the formation of the American-Ukrainian Advisory Committee. As Chairman of the Helsinki Commission and one who has had a longstanding interest in Ukraine and recognizes Ukraine's critical importance to peace and stability in Europe, I salute the Center for Strategic and International Studies, Dr. Brzezinski, who originated this initiative, and the members of the American-Ukrainian Advisory Committee for their significant contributions to the United States-Ukraine relationship.

I ask unanimous consent to insert into the RECORD the Kiev communique of the American-Ukrainian Advisory Committee as well as the membership list of the committee.

AMERICAN-UKRAINIAN ADVISORY COMMITTEE

The American-Ukrainian Advisory Committee, at its second plenary meeting in Kyiv, Ukraine, on 24 September 1994, reaffirms its conviction that a strong, stable, and secure Ukraine serves the interest of peace and stability in Europe and is a critical factor in the post-Communist transition. Since such a Ukraine will contribute to a peaceful and democratic redefinition of Russia, the Committee also notes with favor the recent indications of improvement in Ukrainian-Russian relations.

In order to further these important transformations and to help the consolidation of Ukraine's independent statehood, the Advisory Committee, in its deliberations:

1. Regards the territorial integrity of Ukraine, in its existing frontiers, as an important element of European peace and stability, and affirms its opposition to any concepts and actions which would entail a new division of Europe into spheres of influence.

2. Notes that in any discussion concerning the enlargement of European and North Atlantic economic and security institutions, the interests of Ukraine, as an integral part of Central and Eastern Europe, must be adequately addressed and Ukraine's progressive association with these institutions facilitated.

3. Favors the expansion of U.S.-Ukrainian cooperation in the training of military officers and in the civilian retraining of retiring Ukrainian officers; recommends joint American-Ukrainian military exercises as part of enhanced Ukrainian participation in NATO's Partnership for Peace program, and urges U.S. assistance to Ukraine for the implementation of PFP.

4. Advocates increased U.S. political support for Ukrainian cooperation with other countries of Central and Eastern Europe as a means to enhance the stability and prosperity of the region.

5. Applauds Ukraine's progress in the dismantling of nuclear weapons and Ukraine's intention to accede to the nuclear Non-Proliferation Treaty [NPT], and, in that context, urges the implementation of commitments made by the other parties of the Trilateral Accord, in particular those provisions regarding national security assurances.

6. Welcomes the recent G-7 initiatives which confirmed the importance of Ukrainian statehood and committed the industrialized global powers to assist Ukraine in its reform programs. It also welcomes the courageous decision of President Kuchma to take charge of economic policy.

7. Endorses Ukraine's request to convert $200 million of unused technical assistance to financial assistance. It calls upon the Ukrainian government to implement a coherent privatization program without which reform cannot succeed.

8. Urges the rapid removal of tax, monetary, and regulatory obstacles that stand in the way of the vibrant expansion of the Ukrainian economy.

9. Advocates the exploration, with Western assistance, of alternative energy sources.

10. Endorses the calling of a conference of donors, including Russia, on Ukraine's behalf.

AMERICAN-UKRAINIAN ADVISORY COMMITTEE

AMERICAN MEMBERS

William M. Agee, Chairman and CEO, Morrison-Knudsen Corp.

Mr. Dwayne O. Andreas, Chairman and CEO, Archer-Daniels Midland Co.

The Honorable Zbigniew Brzezinski, Counselor, The Center for Strategic and International Studies.

Hon. Richard R. Burt, Chairman, International Equity Partners.

Hon. Frank C. Carlucci, Chairman, Carlyle Group.

Mr. Malcolm S. Forbes, Jr., Chairman and CEO, Forbes Magazine.

Gen. John R. Gavin, Distinguished Visiting Policy Analyst, Ohio State University.

Mr. Michael H. Jordan, Chairman and CEO, Westinghouse Electric Corp.

Hon. Henry Kissinger, Chairman, Kissinger Associates.

Mr. George Soros, Chairman, Soros Foundations.

UKRAINIAN MEMBERS

Hon. Dr. Anton Denysovych Buteiko, People's Deputy, Parliament of Ukraine.

Hon. Volodymyr Borysovych Hrynyov, Cochairman, Inter-Regional Reform Bloc & Presidential Advisor on Regional Issues.

Hon. Volodymyr Timofiyovych Lanoviy, People's Deputy, Parliament of Ukraine & Chairman of the Board, Market Reforms Center.

Hon. Kostyantyn Petrovych Morozov, Director, Ukrainian Statehood Research Center & Former Minister of Defense.

Hon. Dmytro Vasylyovych Pavlychko, Chairman, Ukraina Democratic Coalition.

Hon. Dr. Viktor Mykhaylovych Pynzenyk, People's Deputy, Parliament of Ukraine.

Hon. Roman Vasylyovych Shpek, Minister of Economics, Cabinet of Ministers.

Mr. Volodymyr Oleksandrovych Sumin, Chairman, Council of Entrepreneurs of Ukraine & President, Lawyers Association of Ukraine.

Hon. Borys Ivanovych Tarasyuk, Deputy Minister of Foreign Affairs.

TRIBUTE TO GEN. MERRILL A. McPEAK, USAF, ON HIS RETIREMENT

Mr. NUNN. Mr. President, as the Air Force undergoes a change in its top military leadership, I want the Senate to recognize the outstanding service of Air Force Chief of Staff, Gen. Merrill A. McPeak upon his retirement from the Air Force after 37 years of devoted service to his country. As Air Force Chief of Staff, General McPeak was responsible for organizing, training, and equipping of a combined active duty, Guard, Reserve, and civilian force of over 850,000 people serving at over 1,300 locations in the United States and overseas.

General McPeak entered the Air Force through Reserve Officer Training Program in 1957. He graduated from San Diego State College and earned a masters degree from the George Washington University. He is a graduate of the Armed Forces Staff College, the National War College, and the Executive Development Program of the University of Michigan Graduate School of Business.

General McPeak has been a very successful pilot, as recognized by his 2 year tour as a solo pilot for the elite Air Force aerial demonstration team, the Thunderbirds. He also flew as an attack pilot and high-speed forward air controller in Vietnam. General McPeak has also been a successful leader. He has commanded Air Force units at all levels, including the 20th Tactical Fighter Wing, the 12th Air Force, and Pacific Air Forces.

He has been awarded numerous medals and decorations, including the Distinguished Service medal, the Silver Star, the Legion of Merit with oak leaf cluster, and the Distinguished Flying Cross with oak leaf cluster.

General McPeak has led the Air Force through very difficult times as we restructure the Defense Department and the military services to meet the new challenges and realities of the post-cold war world. As Air Force Chief of Staff, General McPeak implemented a major reorganization of Air Force headquarters and subordinate command structures that reduced layering and resulted in a more responsive organization. It has also been under his direction that the Department of the Air Force has published its strategy statement, "Global Reach, Global Power," an outline of how the Air Force can contribute to dealing with the challenges the United States faces in the new world environment.

General McPeak has been a champion of the innovative composite wing concept. This arrangement allows aircraft and people to train together daily as an integrated combat force that will allow them to operate more effectively as part of a joint warfighting team.

In addition, General McPeak worked to preserve the rich heritage and tradition of key Air Force units. I was privileged to attend an Air Force dinner recently where General McPeak's efforts to underscore the legacy and heroism of Air Force personnel were readily apparent.

General McPeak was also instrumental in opening up lines of communication and contacts with Air Force counterparts in Russia and Eastern Europe. He recognized the tremendous value in exposing our former adversaries to our Nation's professional military, and to reducing tensions.

I want to take this opportunity to recognize General McPeak's selfless service and to thank him for his life of service to the U.S. Air Force and the Nation. We wish him, his wife, Elynor, and their family Godspeed and all the best in the future.

IONA SENIOR SERVICES

Mr. GLENN. Mr. President, as a member of the Senate Special Committee on Aging since 1977, I am well aware of the challenges presented by our aging population. Action is needed now to benefit older Americans and their families, and to plan ahead to ensure a better life for today's workers and their children and grandchildren.

Due to our spectacular increase in longevity during this century, the number and proportion of elderly people is increasing and the 85 and older group is growing fastest of all. A major policy issue related to this growing older population is how to provide the community-based support that will enable us to continue to live in our homes rather than institutions as we age and need health and social services. Most people prefer to remain in their own homes, and in most cases this is a less expensive alternative than nursing home care.

Here in our Nation's capital, we have an excellent example of what the future will bring and of how to provide for an aging population. Northwest Washington, DC, where nearly 20 percent of the population is already 60 and older and 2.5 percent is 85 or older, has a headstart on the national phenomenon of population aging. Many of these older people have chronic illnesses, live alone, have no one to help during an emergency, and some have no regular daily contact with other people.

Fortunately, IONA Senior Services makes it possible for many Washingtonians to continue to live with independence and dignity in their own homes. IONA, which stands for Independence, Opportunities, a Network for Aging, accomplishes this through a cooperative effort which ties in religious and community institutions, businesses, schools, apartment managers and the professional community. IONA is an excellent example of the importance of local, neighborhood-based programs in providing services which enable the elderly to remain in their homes and communities.

Recently, Elizabeth S. Fox, executive director of IONA Senior Services, told me the story of Mrs. Jones, who has lived in an apartment on Connecticut Avenue for 40 years. She is 87 years old and is seriously disabled by arthritis and osteoporosis. Bent double at the waist, she can maneuver slowly around her apartment and uses a mobile wheel chair to go out.

She has very limited use of her hands so that preparing meals and cleaning are extremely difficult. Mrs. Jones has no relatives in the area and many of her friends and former colleagues from a Federal Government job have died, but she loves conversation and has made friends with the staff and residents of the apartment building.

The apartment manager put Mrs. Jones in touch with IONA last year when she confessed she was worried about not being able to take good care of herself and her apartment and not having any savings left to pay for extra services like taxi cabs, delivery services, and cleaning help. She was afraid she would have to move to a nursing home, knowing that after all her savings were gone she would qualify for Medicaid which would pay indefinitely.

IONA Senior Services now provides or arranges for these services for Mrs. Jones: home-delivered meals 7 days a week, a weekly volunteer visitor, subsidized homemaker services twice a week, a daily volunteer telephone caller, twice yearly special cleaning and repair by high school students, and free transportation to medical appointments. In addition, a neighborhood coalition, organized under the leadership of an IONA community organizer, the apartment manager, and other local leaders, has established outreach and volunteer activities throughout the large apartment complex. Mrs. Jones is an inspiring speaker for the coalition. Mrs. Jones feels safe, less threatened by financial drain, and much, much happier.

IONA Senior Services estimates that the monthly cost of these services to Mrs. Jones is $365, not counting the enormous value of volunteer service. A portion of funds are provided through the U.S. Administration on Aging, Older Americans Act funds, the D.C. Office on Aging and the rest through private fundraising. If these services were not available to Mrs. Jones, it is likely she would end up in a nursing home at a cost of over $4,000 per month in Washington, DC. After a very few months in a nursing home, Mrs. Jones' care would be reimbursed under Medicaid, with the Federal and D.C. governments splitting the cost.

Mrs. Jones' story has a lot to teach us about policies and programs which will help our country cope with its growing older population. The Government alone cannot give Mrs. Jones the quality of life she deserves—or the quality of life that we would want for ourselves and our loved ones. Rather, the Federal Government needs partners to mobilize volunteers and neighborhood coalitions to be part of the solution.

IONA Senior Services is an outstanding example of this partnership. It is a community-based agency begun on a shoestring to respond to a need. After 20 years, it is on the verge of establishing a permanent comprehensive service center in Washington, DC which will be the hub of the cooperative network IONA has built over the last 20 years.

IONA's new center—Isabella's Center—has my enthusiastic support. I believe it will be a national model from which we can all benefit and it will help other communities that want to follow IONA in forging a dynamic approach to the challenges brought about by our aging population.

STATEMENT OF JACOB K. JAVITS GIFTED AND TALENTED EDUCATION PROGRAM

Mr. BRADLEY. Mr. President, I am very pleased that the conference report on the Improving America's Schools Act, which passed last night by an overwhelming margin, included a reauthorization of the Jacob K. Javits Gifted and Talented Students Education Act.

The Javits Program has had an extraordinary record of success, not only by ensuring that gifted and talented students receive the attention and challenging schoolwork they need but also by broadening the universe of students who are identified as talented beyond those who do well on standardized tests. Programs like the Apogee Program developed at the Education Information and Research Center in Sewell, NJ, or the Rutgers Program that received funding just this week, have developed new methods to identify gifted minority and low-income students who have traditionally been overlooked.

Some of the best Javits-funded programs have been so successful at reaching a broad range of students that their methods have been broadened to the entire school. I would cite in particular the work of Dr. Joseph Renzulli, whose National Research Center on the Gifted and Talented at the University of Connecticut is funded under this act, for developing curricula that can work for all students, not just those identified as gifted. Last year, the administration took this insight to heart in proposing a thorough revamping of the Javits Program, to focus on programs that would serve the whole school. While I agree with the Department of Education that these methods can serve all students, and should inspire and inform all classrooms, I would not want to lose the one initiative that focuses clearly on students with special gifts. With only about $10 million in appropriations each year, the funds cannot be spread across entire schools. Instead, other programs should continue to borrow from Javits to improve title 1 services, the Eisenhower Program, and even initiatives that receive no Federal funding. I believe the committees in both the House and the Senate took the right approach by maintaining the clear focus of Javits while requiring applicants to specify how their program can be adopted for all students.

I thank my colleagues Senators KENNEDY, PELL, and JEFFORDS, and Senator DODD in whose state the National Research Center is based, for their longstanding support of the Javits Program.

FISCAL YEAR 1995 LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION APPROPRIATIONS BILL

Mr. NUNN. Mr. President, I rise to discuss language included in the conference report accompanying the fiscal year 1995 Labor, Health and Human Services, and Education Appropriations Act. The report language addresses the use of extramural construction funds provided under the National Center for Research Resources [NCRR].

The mission of the NCRR is to develop and support critical technologies and shared resources for research. One of the projects cited by the Labor/HHS conference report as deserving NCRR consideration is the National Center for Primary Health, a project at the Morehouse School of Medicine in Atlanta.

The Morehouse School of Medicine is a unique medical institution. Morehouse has distinguished itself among medical schools nationally in its attention to reaching minorities and medically underserved populations. Morehouse also leads the Nation in the percentage of graduates entering primary health care fields.

The Center for Primary Health at Morehouse will serve as a national resource for sponsoring and conducting academic, clinical, and health services research. More specifically, the Center will serve to increase the number of primary care physicians and create a national health and social policy center. The Center will also augment outreach and community-based clinical networks and construct new collaborative linkages focused on medical education, health and social policy, and the dissemination of research.

Under the leadership of Dr. Louis Sullivan, the Morehouse School of Medicine already possesses the elements necessary to ensure that the National Center for Primary Health's objectives will be achieved. Morehouse has an outstanding program in medical education and a proven track record in the provision of primary health care services to disadvantaged populations. Morehouse also has long-standing relationships with private and public health related institutions, including the agencies of the U.S. Public Health Service and historically black colleges and universities. Finally, Morehouse is recognized for its excellent program of basic and applied research, particularly in research relating to the effect of the environment, economics, and social conditions on health. All of these factors identify Morehouse as a leader in the field of primary health care.

I thank Senators HARKIN and SPECTER for recognizing the contribution that the Morehouse School of Medicine has made in the area of primary health care. The inclusion of report language is testimony to the School's success and the respect that its achievements have elicited among the Nation's health professionals.

CONFERENCE REPORT ON LOBBYING REFORM BILL

Mr. MATHEWS. Mr. President, in May, Mr. President, when the Senate first considered the lobbyist gift ban bill I expressed my reservations about the bill (Congressional Record, May 4, 1994, page S5165). Yet, like the majority of our colleagues, I voted to send the bill to conference because we hoped it would return with our reservations rectified.

Since that time, Mr. President, I have had the opportunity to consider this issue more carefully. I took a look at my calendar for the last 10 months and found that had this proposal been law a number of Tennessee groups and associations would not be able to conduct business with their Congressional Delegation in their chosen manner. It is unusual that a week passes without an invitation from some Tennessee group to attend an early morning breakfast or a luncheon, less frequently dinner invitations are extended. And yes, the subject matter of these meetings is normally matters before Congress.

Many of these members I have known for years. The Tennessee Press Association comes to Washington once a year where all the Tennessee delegation sits around a dinner table and discusses matters of importance, this year the telecommunications legislation was the main subject. The Tennessee Humanities Council and the Allied Arts Council of Chattanooga at separate times had me to a breakfast to talk about Federal contribution to the arts in Tennessee. The Lower Mississippi Valley Flood Control Association invited me to a reception to discuss wetlands issues and erosion problems in West Tennessee. The Farm Bureau and State Farm Insurance have an annual breakfast for the whole delegation. Various insurance and health care associations in Tennessee visited my office to discuss health care reform. All of these groups were here to lobby, but I don't think anyone could perceive them to be the well-heeled, high-powered, Gucci-wearing lobbyist which the general public is being led to believe influence our voting.

Over the last several days, my office phones have been ringing off the hook with concerned constituents who believe that this bill is dangerously vague and that it would prohibit contacts such as this. Yesterday, a constituent from Hohenwald faxed me a plea to oppose S. 349 because he believes that "* * * in its present form, it's poorly written, badly motivated and would be a nightmare to enforce or to try and comply." Additionally, I received calls and letters from a myriad of national associations, but I believe this constituent best summed up the concerns which I shared with this body in May.

I believe now as I did in May: that the people of Tennessee aren't outraged about my having meals with people who discuss the businesses and communities and workers and interests of Tennessee.

I believe they expect me and my staff to meet with these people, a good majority of whom are Tennesseans, after all.

I believe they expect me to set standards of decorum about gifts and gratuities, not erect a wall of inaccess and impenetrability out of a preoccupation with propriety.

Most of all, I believe that the biggest part of my constituents' concern is in knowing exactly who I'm dealing with, who gives me what, and being able to determine whether my votes and my advocacy have been influenced. Along these lines, I have encouraged disclosure as a remedy to the perceived problems.

I make public my weekly schedule so that the people of Tennessee can make fair judgments about my votes because I tell them whom my duties bring me into contact with. Additionally, my colleagues and I all fill out lengthy personal disclosures which are made available to the public.

I regret, Mr. President, that this measure has not returned from conference in a form that addresses this critical element. What's worse, the language of the conference report has made it more difficult for Tennesseans to know what this measure means for their contacts with me. Judging by calls to my office, too many Tennesseans now believe this measure prevents them from contacting their Senators and Congressmen at all.

Clearly, the intent of the original measure has backfired. We wanted to correct the impression of improper access. We wanted to banish uncertainty about boundaries governing contact with advocacy groups. Instead, we've multiplied the uncertainty.

Mr. President, we don't need more deliberation, because what we have before us won't benefit from deliberation. Let's stop trying to legislate propriety and stop trying to replace judgment with commandments. I firmly believe the people of Tennessee are capable of making this judgment.

NATIONAL BIBLE WEEK

Mr. NUNN. Mr. President, I rise today to call the attention of the Senate to the approach of National Bible Week November 20–27. That week is especially appropriate because it includes America's only nonsectarian religious holiday, Thanksgiving.

National Bible Week is sponsored by the Laymen's National Bible Association, an interfaith, nonsectarian organization of business and professional men and women formed for the sole purpose of encouraging Americans to appreciate our Nation's religious heritage. The association has no formal ties with any religious body, but enjoys the support of prominent Americans from all fields and from a wide range of denominations and faith groups, as well as secular groups.

While our people include adherents of most of the faith groups from around the world, the Bible is the primary sacred text of the majority of religious Americans. It has had a significant impact on our culture and our beliefs in equal justice and equal opportunity for all, and on the lives and thought of many of our wisest leaders.

This will be the 54th annual National Bible Week. Out of respect for the Constitution and the separation of church and state, the association has never sought a Presidential proclamation or a resolution from Congress. Over the years, many of our local, State, and national leaders have strongly supported National Bible Week, however. President Clinton, as Honorary Chairman, has issued a statement encouraging all Americans to read the Bible often and to make it an important part of their lives.

I am honored to serve as congressional co-chairman this year—Congressman JAMES INHOFE serves with me from the House. Governor Evan Bayh of Indiana is serving as chairman of the Governors and Mayor P.J. Morgan of Omaha is chairman of the mayors. Public service announcements and special observances in 7,500 communities mark National Bible Week.

Many Americans are concerned about violence, religious intolerance, and family breakdown, and feel there is a general erosion of our moral and ethical standards as a nation. The Bible reminds us of the challenges others have faced since ancient times, and of the ageless principles of courage, compassion, integrity, and steadfast faith that have guided and sustained them. I encourage my colleagues, and all Americans, to drink deeply from the fountain of its wisdom during National Bible Week in November.

TRIBUTE TO ADM. PAUL DAVID MILLER, USN, ON HIS RETIREMENT

Mr. NUNN. Mr. President, I want the Senate to recognize the retirement of a fine naval officer, Adm. Paul David Miller. Admiral Miller is retiring from the position of Supreme Allied Commander, Atlantic and Commander in Chief, U.S. Atlantic Command. This position has also made him responsible for the training of more than one million U.S. servicemen and women.

Admiral Miller has been an outstanding leader in steering a new course for the military services after the end of the cold war. His foresight in thinking about the post-cold-war world in new ways led to such innovative ideas as the adaptive force package concept which is being employed in our recent operations in Haiti. He has been a leader in ensuring our military has the proper doctrine, training, and interagency approach essential for peacekeeping.

Admiral Miller entered the Navy through Officer Candidate School in 1964. He graduated from Florida State University and earned a masters degree from the University of Georgia. He is a graduate of the Naval War College and the Harvard Business School executive management program. I am sure that Admiral Miller's education was no small contributor to his successful naval career. Admiral Miller has received numerous awards and decorations, including the Distinguished Service Medal, Defense Superior Service Medal, and the Legion of Merit.

Admiral Miller served at sea aboard U.S.S. *Parsons* as operations officer, and aboard U.S.S. *McCloy* and U.S.S. *Luce* as commanding officer. He was Commander, Cruiser Destroyer Group III, and Commander, U.S. 7th Fleet. Admiral Miller served in Washington as administrative assistant to the Vice Chief of Naval Operations, executive assistant to the Secretary of the Navy, and Deputy Chief of Naval Operations for Naval Warfare. Admiral Miller brought tremendous operational and staff experience to the challenges of reorganizing and reorienting the new USA Command.

As Commander, USACOM, Admiral Miller has served as the unified commander for Operation Uphold Democracy, the first real-world test of the adaptive force package concept. Admiral Miller was an innovator in other ways:

He established the Joint Training and Simulation Center to improve future training of joint task forces by permitting joint task force staffs and subordinate commanders to exercise comprehensively before actual deployments.

He formulated doctrine for integrating capabilities of multiple government agencies in an interagency action group. This doctrine proved effective in dealing with counterdrug operations and handling Haitian and Cuban migration problems.

He improved force effectiveness by having his command leverage new technology. For example, under his direction, the Department has improved support for warfighting commanders in chief by standardizing Tomahawk cruise missile targeting procedures and, thereby, improved strike accuracy. He also advanced the use of unmanned aerial vehicles [UAVs] through development of structure, procedures, and exercises to exploit UAV capabilities.

I am sure that I speak for the entire Senate in thanking Admiral Miller for his life of outstanding service to the Nation. We wish him, his wife, Becky, and their two sons, Chris and Colby, Godspeed and all the best for the future.

TRIBUTE TO DR. J. ROY ROWLAND, A REPRESENTATIVE IN CONGRESS

Mr. COVERDELL. Mr. President. I rise today to honor a very distinguished colleague of mine from Georgia in the U.S. House of Representatives, Dr. J. ROY ROWLAND. The people of Georgia have been aware of ROY's dedication to his work as a physician for more than 40 years and as a elected official for 18 years. I have had the distinct pleasure of working with ROY in the Georgia State Legislature and again here in Congress.

I know ROY to be a physician of great knowledge and compassion, and a legislator of unequalled vigor and character. During his tenure in Washington, ROY has championed the causes of veterans' affairs, the environment, fiscal responsibility and health care among others. But it is for his efforts on health care during this, his last year in the House, that will be his legacy to the people of Georgia and the United States.

ROY has worked tirelessly on health care since his graduation from medical school in 1952, and he made major inroads in the health care reform debate. The debate will be renewed next year and ROY's effort will be the building block for a health care bill that suits all Americans.

I have always admired ROY's ethics and principles as a legislator. A doctor is asked to take the Hippocratic oath and live by the standard set forth by Hippocrates, the father of medicine, to "follow a system of regimen, which according to his ability and judgment, he considers for the benefit of his patients, and abstain from whatever is deleterious and mischievous." ROY ROWLAND applied that standard not only to his medical practice but also to his role as a legislator. Although we will miss his voice in Congress, I know he will continue to fight for his beliefs and the people of Georgia as he returns to our State.

NANNY TAX—PROTECTION FOR FARMERS

Mr. MCCONNELL. Mr. President, I wanted to take a moment to discuss the so-called nanny-tax legislation now before us.

You may recall that the nanny-tax issue received national attention when it was discovered that President Clinton's nominee for Attorney General, Zoe Baird, had failed to properly file the necessary paperwork and pay adequate Social Security, Medicare, and unemployment taxes for a domestic worker in her employ.

While I am pleased that the Congress was able to make life a little easier for those citizens who employ household domestic help, I have to wonder a bit about our priorities. I understand why it was important to adjust the archaic income threshold from $50 a quarter to $1,000 a year. I appreciate the fact that it will relieve all those who hire maids, housekeepers, and nannies of needless paperwork and administrative burdens.

But I still find it faintly amusing that Congress decided to favor this particular group of people first with legislative relief from bureaucratic tax laws. Of all the groups in America who are crying out for help with time-consuming, irrational—not to mention expensive—tax requirements, we have decided to put the employers of nannies, maids, and housekeepers at the top of our list.

Of course, you don't necessarily have to be rich to employ domestic help; in fact, many financially disadvantaged families rely on such services because the parents absolutely must work. But in considering this legislation, I am reminded of many other deserving individuals and groups who desperately need relief from the tangle of tax and reporting requirements foisted upon them by their Federal Government.

So let me urge my colleagues, as they cast their votes on this bill, to make this the start of a careful reassessment of our tax laws and their consequences on all American citizens.

In particular, I hope we can focus some effort in the next Congress on the employment-related tax burden that is placed on America's farmers. As fewer and fewer people earn a livelihood from farming, there is an increasing need for seasonal help to harvest crops. This is true in Kentucky, where farmers rely on large numbers of seasonal workers to plant, pick, and process a variety of crops, including tobacco. Some of these workers are migrants; others are local college students in need of a summer job.

Nevertheless, the tremendous paperwork and expense involved in hiring seasonal workers is making this option more and more difficult for small farmers in my State. In the long run, this will mean a loss of farm productivity, higher prices for food, and fewer jobs for those who depend on seasonal employment for income.

To put it in a context related to the legislation before us, if we cannot easily use seasonal labor in the agriculture sector, then the food served by the housekeepers and maids now protected under this legislation would soon become prohibitively expensive.

It simply does not make sense that those who employ maids and nannies should be given what amounts to a $850 annual tax exclusion, while farmers must comply with a much lower earnings threshold of $150 per year. In the next Congress, I intend to work with my colleagues to ensure that farmers receive the same kind of tax relief accorded by this legislation to that group of Americans who employ nannies and maids and housekeepers. Until that time, this legislation can be considered only a partial victory for tax fairness and simplification.

The respected chairman of the Senate Finance Committee said earlier that we have decriminalized baby sitting. I share that view, but we need to decriminalize the use of seasonal labor in farming as well.

Mr. President, you may recall that the position of Secretary of Agriculture is currently vacant. Wouldn't it be ironic if the President's nominee was a farmer who had inadvertently neglected to file the proper paperwork and taxes for temporary farm labor? Perhaps that would be a blessing in disguise. My guess is that farmers would finally get the necessary attention they deserve.

Mr. President, I yield the floor.

PROGRAM

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. The next vote will occur at 11:05 a.m. tomorrow, unless an agreement to the contrary is reached. But in any event, there will be no vote prior to 11:05 a.m. tomorrow morning. I thank my colleagues for their patience and cooperation. I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. Mr. President, we are now in the morning hour?

The PRESIDING OFFICER. We are in morning business, with Senators permitted to speak 10 minutes therein.

NATIONAL AFRICAN-AMERICAN MUSEUM

Mr. HELMS. Mr. President, first off, the Washington Post, which some people call the 'Washington Compost,' had another editorial this morning, saying: "Another Congressional Casualty?" And I find something inaccurate about the editorial.

Mr. LEVIN. Will the Senator from North Carolina yield for a unanimous-consent request?

Mr. HELMS. Of course. Certainly.

PRINTING OF CONCURRENT RESOLUTION

Mr. LEVIN. Mr. President, I ask unanimous consent that a concurrent resolution be printed in the RECORD at the appropriate point. It is a concurrent resolution which I am introducing on behalf of myself, Senators COHEN, MITCHELL, and WELLSTONE. It would eliminate the provisions which were objected to in the bill that was debated earlier today on lobbying activities and make other corrections to address some of the concerns which were raised —in fact, address all of the major concerns which were raised today. And even though we did not think they were necessary to be changed, we did not have the votes and so this concurrent resolution would in fact make the changes which have been requested, we hope address the concerns, and allow us then to proceed to adopt that conference report on lobbying reform and gifts disclosure. My unanimous-consent request, however, is that it simply be printed in the RECORD and that a copy be kept at the desk so that people can read this concurrent resolution tonight and tomorrow morning.

(The text of the concurrent resolution is printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. LEVIN. I thank my friend from North Carolina.

Mr. HELMS. The Senator is quite welcome. Now I imagine the chair will allow me to have 10 minutes.

The PRESIDING OFFICER. The Senator is correct. The Senator from North Carolina is recognized.

NATIONAL AFRICAN-AMERICAN MUSEUM

Mr. HELMS. Mr. President, I have been in the news business for much of my life, and I have written many editorials. I certainly know an ad homonym attack when I see one, but this morning's Washington Post editorial was laughable. I am trying to find at least one statement in it that is factual. But before I get to the specific errors in the editorial—and I bring it up so that Senators will not be misled about this issue—let me make a general statement with respect to the Simon amendment.

With a $4.6 trillion Federal debt, Congress is now being asked by the Senator from Illinois to give an unlimited—I repeat, an unlimited—authorization for an unlimited number of years for a new museum where the Smithsonian, by the way, does not have sufficient funds to maintain the exhibits it currently has.

Now, Smithsonian has refused to provide us with any estimate as to how much this museum, its operations, its activities, and its staff will cost the American taxpayers. The Smithsonian refuses to tell us how many employees the museum will have, or what their salaries will be, and who will pay these salaries.

Now back to the Washington Post editorial. It falsely portrays a provision added to the Simon bill by the Senator from West Virginia [Mr. BYRD]. The editorial reads: "an amendment by Senator ROBERT BYRD makes clear that the new museum cannot ask for public money for at least 5 years."

That is ridiculous. The Simon amendment, Simon bill, makes no such stipulation. In fact, Mr. BYRD's amendment says the opposite. It provides that "there are authorized to be appropriated such sums—of the taxpayers money—as may be necessary" for operating and maintaining the museum. And that shows you the accuracy, or the inaccuracy, of the Washington Post.

The Washington Post editorial then lamented that certain collections of African-American artifacts will, the editors contend, not be lost should the taxpayers not fund this proposed museum. But these collections can be received by other Smithsonian museums already in existence, including the Anacostia Museum of African-American History and Culture. The proposed museum duplicates, do you not see, other museums and other exhibits currently in the Smithsonian.

By the way, Mr. President, the Post did not mention how this museum will utilize tax dollars to take exhibits on the road and to promote itself in the media and to provide training for African-American museum professionals. But the Smithsonian refuses to tell anybody how much this will cost.

Then there is the certainty that once the Congress approves this museum and the President has signed the bill, which he surely will, we will be approached by other minority groups wanting museums for themselves, and we will be in a position where we cannot say no. So everybody will win except the taxpayers who will have to foot the bill for all of this.

Now, getting back to the Post editorial. It attacks this Senator for what it calls "dark hints" that the Nation of Islam will also want a museum. I have flatout, never said or even hinted such a thing. It is not so and the editorial writer knew it when he wrote it. It is an ad homonym attack.

I do question however whether Hispanics and other minorities will justifiably want museums, and I believe that to be true. In fact a Smithsonian report has already recommended a museum especially for Hispanic-Americans.

Now, Mr. President, let me say again, once we approve this museum, open ended in terms of financing, we will be called upon by other minority groups—and they will be justified in doing so—to provide museums for their particular groups. We cannot say no to them, not justifiably. And I repeat that everybody is going to win on this proposition except the taxpayers and future generations who are already going to have to assume the burden of a Federal debt of more than $4.6 trillion run up by this Congress after having done just such things as the Senator from Illinois has proposed.

Mr. President, I will reserve further comments until the next time this amendment becomes the pending business in the Senate. And I wish to say that if the Senate goes ahead and considers this amendment, then I have at least 15 amendments that I am going to expect to be considered by the Senate and voted on.

So I yield the floor, and I thank the Chair.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I shall not take 10 minutes here. I would like to enter into the RECORD a letter sent by the Smithsonian to Senator HELMS in response to 29 questions, I believe it is, that he had. But let me just point out in answer to the first question in response to what the Senator said,

> it would result in no increase to the institution's operating budget.

They underline that.

> Regardless, over the next 5 fiscal years, no additional requests for Federal funds will be made to support the establishment of the museum. Actual costs for the establishment of the museum are not available until we can proceed with detailed planning for the museum. However, as is directed by the legislation, any and all funds used for the establishment of the museum will derive from non-Federal sources.

We are talking about Smithsonian planning and going out and getting private funding to establish an African-American museum so that all of us can understand our heritage a little more, and that includes obviously African-Americans who can look at their heritage and have some pride in that heritage as well as the rest of us having some pride in that heritage.

I ask unanimous consent to enter this in the RECORD.

There being no objection, the letter was ordered to be printed in the Record, as follows:

SMITHSONIAN INSTITUTION,
Washington, DC, Sept. 29, 1994.

Hon. JESSE HELMS,
Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR SENATOR HELMS: This is in response to your letter of September 19, 1994, in which you requested additional information regarding H.R. 877, the National African American Museum Act, which is pending before the Senate. I am pleased to provide the following responses to the 29 questions enumerated in your letter.

1. Question.—Please provide a copy of the proposed budget for the National African American museum for each of the first five years after enactment, including but not limited to costs for its establishment, operation, maintenance and activities. Please indicate the total estimated amount of federal funds involved and funds expected to be contributed by private sources.

Answer.—The Smithsonian Institution presently has approximately $475,000 in its base budget for general planning money which has already been appropriated and will be used for the initial planning stage for the museum. The goal of this planning process would be to identify non-Federal sources of funds which can be raised to support the programs of the museum. Additionally, some funds presently expended by the Institution in support of African American programming and collections could be shifted to support the development of the museum, but would result in no increase to the Institution's operating budget. Regardless, over the next five fiscal years, no additional requests for Federal funds will be made to support the establishment of the museum. Actual costs for the establishment of the museum are not available until we can proceed with detailed planning for the museum. However, as is directed by the legislation, any and all funds used for the establishment of the museum will derive from non-federal sources.

2. Question.—You have indicated that no federal funds beyond the $475,000 for general planning money already set aside by the Smithsonian will be used "to support the establishment of the museum." How much of this $475,000 is federal funds?

Answer.—Approximately $475,000 in base resources is available in support of the museum project, $266,000 is Federal funds.

3. Question.—How much in federal funds do you project that the museum will spend for each of the next five fiscal years for all other aspects of the museum—e.g., its maintenance, operation, programs and other costs.

Answer.—It is the intention of the Smithsonian Institution to develop a strategy which will rely on non-Federal sources of funds to support the establishment of the museum. The museum will use the $266,000 in Federal funds for other aspects of the museum and make efficient use of centralized Smithsonian services and staff with unique expertise.

4. Question.—Vice President Gore in his "Reinventing Government" report called for

government agencies to "consolidate", "streamline", and "reduce number of offices." Is the proposed creation of another Smithsonian museum consistent with the Vice President's recommendation?

Answer.—The loss of essential employees as a result of the recent buy-outs has forced the Institution to consider a variety of strategies geared towards consolidation and streamlining. The National African American Museum could enable us to achieve these goals.

5. Question.—Please provide a complete listing of museums currently associated with or proposed by the Smithsonian which have "unique" funding relationships (e.g., private funds donated for building of the particular museum, artifacts donated to a particular museum with the expectation of the Smithsonian establishing a museum, museums established with private funds with the understanding that the Smithsonian would provide maintenance and operation.)

Answer.—The following museums are currently associated with the Smithsonian Institution: Anacostia Museum, Archives of American Art, Cooper-Hewitt Museum, Freer Museum, Hirshhorn Museum and Sculpture Garden, National Air and Space Museum, National Museum of African Art, National Museum of American Art, National Museum of the American Indian, National Museum of American History, National Museum of Natural History, the National Portrait Gallery, the Sackler Gallery and the National Zoological Park. The National African American Museum has been proposed and endorsed by the Regents. All of our museums are funded by the public and by private donors. They all acquire collections as gifts or purchases.

6. Question.—In the mission statement for the proposed National African American museum, the Smithsonian states that the museum will also "disseminate information, encourage scholarship and train African American museum professionals." How much in federal funding do you estimate will be spent annually on these programs?

Answer.—The Smithsonian has a long history of training museum professionals through its internship and fellowship programs. African Americans seeking training will be encouraged to apply to these existing programs.

7. Question.—In the mission statement for the proposed museum, the Smithsonian also states that the museum "will actively travel exhibitions and public programs." What is your estimate of the amount to be spent annually for such travel activities?

Answer.—The Smithsonian has historically traveled exhibitions through the Smithsonian Institution Traveling Exhibition Service (SITES). SITES staff also assist museum professionals in program planning. The museum will take advantage of this resource. Funds for traveling exhibitions are raised.

The museum will also work with the Smithsonian Associates program to take programs to other communities.

8. Question.—Will the travel referred to in question 7 be limited to the United States, or do you contemplate international travel as well?

Answer.—While the majority of the Museum's work will be in the United States; libraries, archives, and museums throughout the world have collections which relate to the African American experience.

9. Question.—In this same mission statement, the Smithsonian proposes that the African American museum will assume the "responsibility" to "provide the scholarly community and the general public physical and intellectual access to the collections through exhibitions, media, publications, programs, symposia, library, and archival materials." What is your estimate of the annual cost to the taxpayers of these activities?

Answer.—The activities described are intrinsic to the mission and goals of all museums. The scope of work is determined by a museum's budget and staff size. Program planning when authorized, will indicate the incremental growth needed if the museum is to achieve these goals.

10. Question.—In the mission statement, I note that "through an aggressive acquisitions program, based on pledges already made, the collections will grow . . ." Please provide a list of all such pledges.

Answer.—The museum has not acquired formal "pledge" letters. We have engaged in a collections identification effort and we have a potential donor list of approximately 3,000. Though some potential donors have requested confidentiality, please find attached some letters of intent.

11. Question.—Can the aforementioned pledged items be acquired for other Smithsonian museums, including the Anacostia Museum, the American History Museum and the African Art Museum. Or have these pledges been made conditioned on the creation of a separate National African American museum?

Answer.—The staff of the National African American Museum project have only approached potential donors who have contacted our offices, or those who have been referred to us by other collectors. Most are aware of other Smithsonian Museums and indeed they are familiar with museums in their regions, but they would like to place their collections in a National African American Museum at the Smithsonian.

12. Question.—Is it correct that in the mission statement, the Smithsonian indicates that the African American museum will be a place for assemblage of materials relating to "history and culture of African American."

Answer.—It is correct that the African American Museum will be a place for assemblage of materials relating to history and culture of African Americans.

13. Question.—Is it correct that the Smithsonian advertises the Anacostia museum as "A Smithsonian Museum of African American History and Culture?"

Answer.—The Smithsonian describes the Anacostia Museum as a "Museum of African American History and Culture" which deals with the geographic area of Washington, D.C. and the Upper South.

14. Question.—If there already exists a Smithsonian "Museum of African American History and Culture," why is another one needed.

Answer.—The National African American Museum has a broader mission. It will also work collaboratively with the Anacostia Museum.

15. Question.—A Smithsonian shuttle bus carries the sign, "Take a Journey into History: Free Shuttle Service to the Anacostia Museum, A Smithsonian Museum of African American History and Culture." How long has this shuttle service been in operation?

Answer.—For ten years, the Anacostia Museum requested federal funds for the acquisition of a shuttle bus because visitors to the Smithsonian museums on the Mall were having difficulty getting to Anacostia. The shuttle service has been in operation for 2½ years.

16. Question.—Please supply a) the average number of visitors using this shuttle service on any given day; b) the average number of total visitors visiting the Anacostia museum on any given day; c) the total number of visitors who have used the shuttle service for each month the service has been in operation.

Answer.—The Anacostia Museum has broadened the use of the bus in order to facilitate access to their site. It picks up school groups, senior citizens and community groups who cannot afford transportation. Mall use is most successful during the Folklife Festival and well publicized Mall events. In 1993, 47,542 visitors visited the Anacostia Museum. As of the end of August 1994, 29,244 visitors visited the Anacostia Museum.

17. Question.—In response to question #5 in my letter of June 8, 1994, you note that "At present, 4 full-time permanent Federal employees are involved in the African American museum project. In addition, 4 temporary employees are involved in planning activities." Regarding these employees: a) how long have the full-time permanent Federal employees been involved with the African American museum project? b) how long have the temporary employees been involved with the African American museum? c) what is the total of federal funds spent on compensation for these individuals? And, d) what is the total of privately-donated funds, if any, used for this purpose?

Answer.—a) The 4 current full-time permanent Federal employees have been involved with the National African American Museum project since March 1992, July 1992, January 1994, and March 1994 respectively. b) Temporary employees have been involved with the National African American Museum project since its inception. The current full-time permanent Federal employees all started out as temporary employees. c) For fiscal year 1994 the total projected compensation for the full-time permanent Federal employees is $266,000.00. d) No privately donated funds have been used for employee compensation.

18. Question.—In as precise detail as possible, what have these employees accomplished while working towards the establishment of the National African American Museum?

Since 1991, the National African American Museum Project (NAAMP) staff members have traveled around the country—to New York, Vermont, Georgia, California, Virginia, South Carolina, Colorado, Illinois, Ohio, Tennessee, Florida, Minnesota, and West Virginia—meeting with collectors and artists. About 100,000 objects and documents have been identified, including: personal and professional papers, diaries, nineteenth and twentieth century studio portraits, art works, first edition books, playbills and broadsides, costumes, furniture, folk art, textiles, musical instruments, ceramics, images and documents from the Civil Rights Movement, as well as film, video, and audio recordings, and professional film and recording artists' collections. The staff maintains a correspondence with these collectors, continually updating them as to the project's status, as well as a computerized collection database and research files.

NAAMP has come to be seen as a resource center for matters relating to African American culture and history. Since 1992, more than 2000 people, from the United States and abroad, have called for information about research material, collections, and other African American institutions. The staff provide information and make appropriate referrals.

In February 1993, NAAMP established a series of public programs, including lectures, book readings, and films, which continue with in conjunction with the new exhibition (see below). Orator, NAAMP's quarterly newsletter, began publication in March 1993, providing information about the museum project, collectors we've identified, hints for preserving collections, and African American museum events around the country. NAAMP staff write, assign and edit articles, locate photographs and illustrations, update timely information, negotiate with printers and designers, and distribute the newsletter (in-house). Newsletter readership has grown from 2500 to 15,000 in less than two years.

On August 15, 1994, NAAMP opened its first exhibition, Imagining Families: Images and Voices. Though the staff is small, the exhibition was produced in a mere seven months. NAAMP staff conceptualized and wrote the exhibition script, contacted the artists, arranged for shipment of materials, supervised the exhibit designer and laborers, wrote and produced the catalogues and brochures, and devised educational and public programs to accompany the exhibition. Imagining Families has received enthusiastic response from both the press and the public.

NAAMP has completed most of the content planning for the proposed museum. In 1992, NAAMP began a series of task forces—composed of museum professionals, educators, and community representatives, from across the country. Working with the staff, the committees define the museum's research, collecting, and exhibition objectives in the ares of media, art history, history, performing arts, diaspora issues, biography, and the literary arts. Meetings were also held to discuss collections management, education and interpretation, research, administration and budget, marketing and development, and facilities planning. The staff continues to collaborate with the task force members; one result of this collaboration—the development of an expansive mission statement for the future museum.

19. Question.—What is the total projected number of employee positions the National African American Museum will be required by the Smithsonian to have during the first five years of the museum's operation?

Answer.—The types of projects which will need to be undertaken during the next five years will be identified by program planning. We anticipate hiring temporary and or contractual staff with specialized skills on a short-term basis.

20. Question.—Please identify as precisely as possible projected salary levels (in individual annual dollar amounts) for positions the National African American Museum will have during its first five years of operation.

Answer.—We cannot identify positions and salaries until the planning process reveals the task which we will have to undertake.

21. Question.—Please identify the amount of federal funding for salaries which can be reasonably expected during each of the museum's first five years of operation.

Answer.—Programming planning will reveal the amount of trust and federal salaries needed for the first five years of the museum operation. The staff is prepared to fund-raise for private monies and employees with specialized skills might be detailed to the museum to assist with planning efforts.

22. Question.—In your letter of June 8th you refer, on several occasions, to current African-American programming and collections. Please identify all such current African-American programming and collections.

Answer.—The National African-American Museum Project has recently produced "Imagining Families: Images and Voices," a photographic exhibition featuring 15 artists and how they interpret the relationship that exists between themselves, their families and the broader American society. The works that compose "Imagining Families" represent a sample of what could possibly be included in the proposed Museum's collections. In concert with "Imagining Families," installed in the south gallery of the Arts and Industries Building, Smithsonian Institution, we have developed a series of educational and public programs to enhance the public's understanding of the exhibition's over-arching themes. (See Attachment 22–A).

The National Museum of American History, American Art, the Portrait Gallery, the Air and Space Museum, Cooper-Hewitt, and Hirshhorn especially include African Americans and other ethnic Americans in their interpretations of history and art.

23. Question.—Will all current African-American programming and collections be consolidated in the proposed African-American museum? If not, what collections and programs will be housed or handled separately?

Answer.—The Institution currently anticipates that the National African-American Museum will collaborate and share resources with all of its other museums.

24. Question.—Will the National African-American Museum be subject to the same oversight by the Board of Regents as are all other museums and activities of the Smithsonian?

Answer.—The National African-American Museum will be subject to the same oversight by the Board of Regents as are all other museums and activities of the Smithsonian.

25. Question.—I sense that you misunderstood question #8 in my letter of June 8th. Let me restate it: The Smithsonian report (issued in May of this year, entitled, "Willful Neglect: The Smithsonian Institution and U.S. Latinos") recommended, among other actions, the establishment of one or more museums portraying the achievements of Americans of Hispanic descent. What are the Smithsonian's plans in regard to meeting this group's goals—especially in the sense of establishing a separate museum?

Answer.—The Smithsonian is engaged in a study that will provide a variety of strategies to address the issues raised in "Willful Neglect: The Smithsonian Institution and U.S. Latinos." The Regents are not currently entertaining a proposal to establish "one or more museums portraying the achievements of Americans of Hispanic descent."

26. Question.—In your response of June 8th, you made only partial response to question #11. Let me restate that question: How will the Smithsonian deal with requests by other groups—e.g., the Nation of Islam, or other "black separatist" groups, or members or adherents to such groups, who may desire to participate in the museum's planning, operation, programs or activities? What problems will you encounter when these groups seek to use the museum to honor any of its leaders?

Answer.—The National African American Museum is committed to telling the whole story of African American History. That story includes the issues of public and private citizens of all ethnicities. The current planning which resulted in the mission statement quoted herein was developed with the cooperation of scholars throughout the country advocating broad and diverse positions. Groups will not control the content of the museum's programs and exhibitions. The Smithsonian Institution will have the final say on any and all programs.

27. Question.—Will the Smithsonian permit any taxpayer funds, allocated to this museum, to go directly or indirectly to the Nation of Islam or any other "black separatist" group?

Answer.—Taxpayer funds will be used to develop balanced exhibitions and programs. There are no plans for the Smithsonian to fund any groups for any purpose.

28. Question.—In the 102nd Congress, your proposal for a National African American Museum was approved by the U.S. Senate, but then killed by the U.S. House of Representatives. In your judgement, why did the House kill this legislation?

Answer.—The National African American Museum legislation stalled in the Public Works Committee because some members advocated the construction of a new facility as opposed to use of the Arts and Industries Building. There was however, agreement that there should be a National African American Museum.

29. Question.—Please provide a copy of the Smithsonian budgets for 1993 and 1994, including budgets for each museum under the purview of the Smithsonian, and the total amount of federal funds involved in each.

Answer.—Please see attachments.

Senator Helms, I am hopeful that this information will helpful to you.

Sincerely,

CONSTANCE B. NEWMAN,
Under Secretary.

Mr. SIMON. We are not talking about Federal dollars here. We are talking about whether or not we want to go ahead and have a museum that Smithsonian says we should have. I believe in their judgment on this. I think they are right. I hope we do the right thing.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from North Carolina.

Mr. HELMS. I do not believe I used all my time. Let me ask the Chair to do me the favor of having the clerk to read the lines 10 through 12 on page 11 of Senator SIMON's bill.

The PRESIDING OFFICER. The clerk will read that portion of the amendment.

Mr. SIMON. I understand that is standard.

Mr. HELMS. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Will the Senator repeat the section of the bill he would like read?

Mr. HELMS. Pardon me.

The PRESIDING OFFICER. Will the Senator repeat the section of the bill he would like read?

Mr. HELMS. Lines 10, 11, and 12 on page 11.

The PRESIDING OFFICER. The clerk is informing the Chair that he is unable to find the section designated by the Senator from North Carolina.

Mr. HELMS. I acknowledge that I am in fact reading from Senator SIMON's bill rather than the amendment. So the lines in the bill would not necessarily match those in the amendment. Let me read the last 3 lines of the Senator's amendment:

> There are authorized to be appropriated such sums as may be necessary only per

> costs directly relating to the operation and maintenance of the museum.

Senators know what that means.

> Such sums as may be necessary only for costs directly relating to the operation and maintenance of the museum.

I have a proposal for Senator SIMON. I will read it into the RECORD and then pass the proposed modification of his amendment to him and maybe we can do business. I propose that he add this to his amendment:

> Notwithstanding any other provision of law, no funds not previously appropriated shall be available for the operation of, maintenance of, activities of, programs of, or the salaries and expenses of the personnel of the National African American Museum.

I do not expect him to answer now. But I will pass this proposal to him. We can talk about it tomorrow.

Mr. President, I yield the floor.

Mr. SIMON. Mr. President, since I did not use all of the time, let me respond very briefly. Obviously, they are going to use the money they have now to cover their entire operation, and they are not asking for any additional sums. The amendment offered by the Senator, as I heard it, would apparently preclude that.

If my colleague from North Carolina will yield so I may respond, if we were to knock out those last three lines, I assume you would be a supporter of this amendment. I ask my friend from North Carolina.

Mr. HELMS. Mr. President, I will say to the Senator that you would be going some way toward working out the problem by accepting my modification to assure that only private funds will be used to operate this museum. But I am not in a position to say right now at 3 minutes past 11 that this one modification will make the amendment totally satisfactory. But it will go some way.

The modification I proposed will permit the museum to use previously appropriated funds. But, after that, only private funds shall be used.

Mr. SIMON. They have $475,000 already appropriated, and I think they should use that for planning—for planning how they finance it. We are not asking that the Smithsonian get additional funds for the operation of the museum.

Mr. HELMS. If the Senator will yield—is the Senator trying to dispose of my proposed modification?

Mr. SIMON. It sounded like the modification went beyond that. But maybe we can work something out. I would love to work something out and have a Helms-Simon amendment tomorrow joined by Senator CAROL MOSELEY-BRAUN.

Mr. HELMS. Mr. President, if that happens, a lot of people will faint. Well, in any case, as to the Washington Post editorial, it is something akin to being flogged with a wet noodle to have the Washington Post criticize me, particularly when they do not know how to get the facts straight.

I thank the Chair. I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, thank you. Thank you very much.

I would just encourage the Senator from North Carolina and my senior Senator from Illinois to get together. We can all get together and work on this. I think that there would be joy in the hearts of people to see a Simon-Helms-Moseley-Braun amendment as opposed to fainting. I would encourage the Senator from North Carolina to work with the Senators from Illinois in behalf of a consensus on this bill. It is an important piece of legislation. I would like very much—I think this Chamber would like very much—to have an amenable resolution of it.

I yield the floor.

Mr. SMITH. What is the order—much business?

The PRESIDING OFFICER. The Chair will say to the Senator that the Senate is in morning business with Senators permitted to speak for up to 10 minutes each.

Mr. SMITH. I ask to be recognized under morning business.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Chair.

(The remarks of Mr. SMITH pertaining to the introduction of S. 2533 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT OF 1994—CONFERENCE REPORT

Mr. MOYNIHAN. Mr. President, I submit a report of the committee of conference on H.R. 4278 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 6, 1994.)

Mr. MOYNIHAN. Mr. President, I am pleased to bring to the floor today the conference report on H.R. 4278, the Social Security Domestic Employment Reform Act of 1994. Earlier today the House voted to approve the report by a recorded vote of 423 to 0.

Let me begin by thanking the distinguished ranking minority member of the Finance Committee, Senator PACKWOOD, for his assistance in bringing this bill to enactment.

Indeed, I would be remiss if I failed to note that there has been remarkable support for this legislation on both sides of the aisle. Senators will recall that on May 12 of this year H.R. 4278 was passed by the House of Representatives by a recorded vote of 420 to 0. It passed the Senate on May 25 by unanimous consent.

This conference agreement, which the House and Senate conferees concluded just late yesterday, updates and increases the $50 wage threshold used since 1951 to determine whether an employer must pay Social Security taxes on wages paid to domestic employees.

It repeals the current requirements for quarterly filing of domestic employment taxes. Henceforth, employers will be able to file annual reports of the domestic wages they have paid during the year at the same time they file their personal income tax returns.

Finally, this legislation exempts from Social Security taxes the wages paid to domestic workers under the age of 18, with the exception of a young worker whose principal employment is domestic service. Thus it completely exempts wages paid to the teenager who is the occasional babysitter or who mows the neighbor's lawn.

As events of the last 2 years have shown, these changes are long overdue. The Department of the Treasury estimates that fewer than one-quarter of employers report the wages they pay to their domestic employees. This widespread problem of noncompliance in payment of Social Security taxes for domestic employees was brought to the attention of the public by the unhappy experience of several nominees for high government office.

But the most unfortunate effect of the current law is the fact that many thousands of domestic workers have not been receiving the Social Security wage credits they have rightfully earned. This is a most serious denial of fairness that cannot go untended.

The $50-per-quarter threshold for domestic employees was adopted in 1950, some 44 years ago. At a hearing by the Committee on Finance on July 21, 1993, every witness who appeared supported increasing the threshold and simplifying the wage reporting requirements. Among those testifying was Robert J. Myers, Chief Actuary of the Social Security Administration for 23 years, who told the committee that legislation to this effect would greatly improve coverage compliance for domestic workers. The committee heard similar testimony from the Department of the Treasury.

Under the conference report, beginning in 1995 the threshold will increase to $1,000. In subsequent years the threshold will be adjusted for growth in wages, with increases occurring in $100 increments.

In addition, the conference report simplifies the way employers can pay the taxes they owe on wages they pay to domestic employees. Currently, these employers must sit down every 3 months, figure their payroll taxes, and write a check to the IRS for the amount due. Under the conference report, for 3 years—1995, 1996, and 1997—employers will be able to pay the payroll taxes they owe on wages paid to their domestic employees at the end of the year, when they file their personal income tax returns. In subsequent years, employers will be allowed either to increase the rate of withholding from their own salaries to cover their anticipated payroll tax liability on wages paid to domestic employees or to make quarterly estimated tax payments.

The conference report includes other improvements in the Social Security program.

It prohibits payment of Social Security benefits to individuals who are found to be not guilty of an offense by reason of insanity, but who are, as a result of such a verdict, confined in a public institution. This extends to these individuals the same rule that applies to Social Security beneficiaries who are confined in correctional facilities after having been convicted of a felony offense.

There are also two provisions concerning overpayments. One will help prevent them from happening in the first place, and the second will allow the Social Security Administration to use additional procedures to recover overpayments after they have been made.

More specifically, nursing homes will be asked to help prevent overpayments that sometime occur when Supplemental Security Income recipients are first admitted by requiring the nursing home to report the admission of these recipients within 2 weeks of the date of admission. Under the law, a SSI recipient's benefit is reduced to $30 per month while in a nursing home, because the cost of care is being paid by Medicaid.

The conference report also strengthens SSA's ability to recover overpayments by giving the agency the same authority to use certain debt collection tools that are currently used by other Federal agencies. Under this provision, the Social Security Administration will be able to recover debts owed by former Social Security beneficiaries by withholding other Federal payments to which the debtor is entitled, by reporting delinquent debtors to credit reporting agencies, and by hiring private debt collection agencies to recover outstanding obligations.

The conference report assures the solvency of the disability insurance program by allocating a greater portion of Social Security taxes to the Disability Insurance Trust Fund. This reallocation was necessitated by the recent growth in the disability rolls, a phenomenon which is not yet fully understood. The conferees agreed to require the Commissioner of Social Security to conduct a study of the rising costs of the disability program and to report to the Congress by October 1, 1995, on the findings of the study and any recommendations for legislative changes.

Mr. President, passage of this legislation is long overdue. I ask that my colleagues join me in supporting the conference report on H.R. 4278.

Mr. President, I ask unanimous consent that the conference report be agreed to; that the motion to reconsider be laid on the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

Mr. MOYNIHAN. Mr. President, may I say, indeed, at long last, after 44 years, we have decriminalized babysitting.

JOBS THROUGH TRADE EXPANSION ACT OF 1994—CONFERENCE REPORT

Mr. SARBANES. Mr. President, I submit a report of the committee of conference on H.R. 4950 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 4, 1994.)

Mr. SARBANES. Mr. President, I want to thank my colleagues on both sides of the aisle for allowing us to take up and pass this conference report. H.R. 4950, the Jobs Through Trade Expansion Act of 1994, is a bill we can all support, although it has taken a good deal of work to steer it through the procedural hurdles that have faced us over the last few days. I think the fact that we have managed to get to this point in a very short time is a testament to the broadly recognized importance and value of this piece of legislation.

Let me explain briefly what this bill would do. First, and perhaps most urgently, it would extend the operating authority of the Overseas Private Investment Corporation for another 2 years. As many of you know, OPIC is one of the most cost-effective instruments for promoting private investment in developing countries and transitional economies. Attracting foreign business investment is one of the highest priorities of countries like South Africa and the New Independent States of the former Soviet Union, and OPIC is a key player in that area. OPIC's authority to issue insurance and guarantees expired on September 30, however, and without this legislation they would not be able to continue their much-needed mission.

A second major provision of this conference report authorizes appropriations for the Trade and Development Agency. By funding feasibility studies and other development-related activities that would involve the use of U.S. exports, the TDA simultaneously promotes economic development and the export of U.S. goods and services to developing countries It is estimated that the TDA returns to the U.S. economy $25 for every dollar disbursed. In carrying out its mission the TDA has received a well-deserved reputation for effectiveness and success.

Title III of the conference report reauthorizes export promotion programs within the International Trade Administration of the U.S. Department of Commerce, while title IV establishes new mechanisms for the promotion of U.S. environmental technologies. Such mechanisms will not only promote U.S. jobs by expanding U.S. exports, but also will assist foreign countries in protecting and cleaning up their natural environments, which of course benefits all of us.

Finally, the conference report directs the United States Agency for International Development [USAID], in conjunction with the Department of Commerce's Patent and Trademark Office and other Federal agencies, to establish a program of training and technical assistance in intellectual property protection. This would be yet another program that benefits the United States while contributing to international economic development.

Mr. President, I want to underscore the importance of this legislation and once again to thank my colleagues for their assistance in seeing it through to final passage. I would particularly like to commend my colleague in the House, Republican SAM GEJDENSON, for all his hard work inputting this package together. The bill he introduced on the House side was broader in scope than the measure we were able to move through the Senate, and I am pleased that we were able to accept many of the House provisions in conference.

Mr. President, I ask unanimous consent that the conference report be agreed to; that the motion to reconsider be laid on the table; and that statement thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the conference report was agreed to.

Mr. MCCAIN. Mr. President, I rise today to offer my strong support for the amendment offered by Senator SIMON to establish a National African-American Museum within the Smithsonian. The amendment before us today represents the culmination of many years of hard work on the part of many people both in and out of Congress. I am very proud to have the opportunity to be a part of this important effort.

Throughout our Nation's history African-Americans have made enormous contributions to every aspect of American life. While African-Americans have made vast contributions to our society, many of those contributions have gone unrecognized or ignored.

Today, we have a unique opportunity to correct this injustice and properly acknowledge and celebrate the vast contributions of African-Americans who have made contributions to our Nation's military, politics, law, religion, education, and many other areas which have a bearing on our daily lives. With the enactment of this legislation, we have an opportunity today to fully recognize the many contributions of African-Americans to our Nation. I urge my colleagues not to let this opportunity pass.

Some may argue that this museum will highlight the differences among the people of our Nation harming our efforts to create a more harmonious society. Mr. President, we are one Nation made up of many parts. The diversity of our Nation is its strength. The history of the African-American is the history of America. The two are inseparable. Through the establishment of this museum we are celebrating our Nation's history as a melting pot of different peoples. This museum will ensure the preservation of an important aspect of American history.

I believe this is an extremely worthy effort. Nevertheless, I share my colleagues concerns about the cost of this or any other Federal legislation. Our $4 trillion deficit demands that we exercise prudent fiscal judgment in all of our legislation.

Mr. President, I believe that the effort we are pursuing today not only meets the goal of recognizing the achievements of a people whose contributions to our society are immeasurable but it also meets our goal of fiscal responsibility.

It should be noted that it is the intention of the sponsors of the legislation, it supporters outside of Congress and the Smithsonian to seek private donations to fund as much of the museum's activities as possible. In fact, the legislation restricts the use of appropriated funds to operation and maintenance only. There is strong public support for this museum and we must draw upon this support to make the museum a reality.

Opponents of this legislation have argued that if most of the activities of the museum will be privately funded, then why is it necessary to authorize any Federal funding for the museum. These arguments are misleading and false.

Mr. President, no museum within the Smithsonian is wholly operated by private donations. While proponents of this bill intend to do everything possible to raise private funds for the museum, it should not be forced to meet a higher standard than any other museum on the mall. Such arguments are at best are spurious and at worst harken back an inequality which African-Americans have been fighting against for hundreds of years.

In one form or another this bill has been reported by the rules committee twice, passed the Senate once and the House once. Throughout this process there has been little or no opposition to the bill. It has 30 cosponsors and enjoys broad bipartisan support.

The truth is that this museum is not controversial and this bill should be passed immediately. Those who truly have cost in mind should realize that the longer we stall this bill the more expensive it will be to establish the museum later. As we delay passage of this bill, the museum will lose valuable collections and costs will increase. More importantly, we as a nation will continue to lose our history which is irreplaceable.

Dr. Carter G. Woodson a noted African-American historian said "that History is being daily made, but it ceases to be history unless it is recorded and passed on to coming generations." This museum will ensure the words of Dr. Woodson were not pointless.

Museums play an important role in educating our society. This museum will serve to better educate all Americans as to the diversity and richness of our history. Lately, there has been an increased focus on race relations.

Racism is a concern of every member of this body. I sincerely believe that racism exists in an atmosphere where people are unaware of the contributions that others have made to our society. While I am not so naive as to believe that this museum will end racism, I believe it offers us a great opportunity to help dispel one of its root causes—ignorance.

Mr. President, I don't claim that this legislation will resolve the problems facing the African-American community in our Nation. But if we cannot enact legislation to establish a simple museum, how can we ever be expected to resolve the difficult and more contentious issues which beset minority communities throughout our Nation. I urge my colleagues to join me in supporting this legislation.

MORE THAN MANDATES ARE UNFUNDED

Mr. LAUTENBERG. Mr. President, there has been a lot of talk about unfunded mandates here in the Congress and throughout the country. It's a serious problem and I have cosponsored legislation designed to address it.

But more than mandates are unfunded in this country. Pension funds for public employees, especially those who so successfully serve State and local governments, are certainly underfunded and may become unfunded if we fail to deal with this problem.

A Wall Street Journal article of April 6, 1994 quantified the problem: "State and local pension plans across the country are more than $125 billion short of the money they will need to meet their pension promises." The article goes on to suggest that various States are adopting various strategies to deal with the problem through tax increases or benefit cuts or some combination of the two. Neither of those are very desirable options but they are better than the alternative: "In some dilatory States, the underfunding problem may worsen," the article warns. The article then goes on, I'm afraid, to identify my own State as an offender, saying that "a prime example is New Jersey, where Gov. Christine Todd Whitman is hoping to save about $660 million through July 1995 by tinkering with retirement-plan funding."

My point, Mr. President, is that no State is doing an adequate job of protecting the pension interests of its employees. More than that, I do not believe the Federal government has done a good job of protecting the integrity of those State pension funds either. There is a national interest operating here and we have to step up to it. Just as we created ERISA to deal with the problem of private pension underfunding, we need to look at legislation to protect public employee pension rights through PERISA, the Public Employees Retirement Security Act.

We can't break the promise that has been made to the people who make government function. We can't allow dedicated public servants to risk financial ruin because their pensions aren't there when they are ready to retire. We can't endanger the fiscal stability of governments throughout this country by allowing unfunded pension liabilities to continue to mount.

So, Mr. President, I am going to urge my colleagues in the Congress and my friends in the administration to make this a high priority next year. Working together, we should evaluate both the scope of the problem and the viability of various proposals to fix it. This is a problem we can and should and must address.

UNITED STATES POLICY TOWARD HAITI

Mr. WELLSTONE. Mr. President, I rise to express my support for this resolution. I believe it provides responsible, thoughtful policy guidance to the administration, and effectively signals congressional authorization for the U.S. military effort there.

I have said consistently that I believe the administration should have sought prior congressional authorization for military action in Haiti. I believe President Clinton made a mistake in not seeking such an authorization, and that Federal law and the Constitution require it. This resolution notes that the President should have sought and welcomed congressional approval before deploying United States forces in Haiti. That is true. But now that we are there, and have made a firm commitment to restore President Aristide to power, we must support our congress and professional troops in this historic effort.

I believe the detailed report required of the administration regarding the mission and rules of engagement of our troops, and the human rights situation there, along with an analysis of aid being provided to Haiti by the United States and other western donors, will help us in setting standards for postregime United States policy there. The human rights and security situation must be monitored carefully during the frustration, and requiring that these reports be made will help us enormously in that effort.

I urge my colleagues to support the resolution.

HAITI

Mrs. BOXER. Mr. President, I intend to vote against the pending resolution concerning Operation Uphold Democracy. I believe strongly that any legislation approved by the Senate should include a date certain for military withdrawal. While I support many aspects of this resolution, I feel compelled to oppose it as a matter of principle.

I support our troops in Haiti and am extremely relieved that the operation to date has been so successful. However, the situation in Haiti remains a dangerous one, and every military analyst I have heard agrees that the longer our troops stay, the greater the likelihood that they will suffer casualties. I do not want that, and the people of California do not want it either.

I am also concerned about the growing financial cost of Operation Uphold Democracy. Some estimates of the total cost range as high as $1 billion. But with an open-ended troop commitment, we have no way of accurately calculating the total cost of the operation. If this occupation lasts month after month, costs could soar well into the billions.

I urge my colleagues to oppose the resolution.

EXPLANATION OF ABSENCE

Mr. SASSER. Mr. President, I would like to submit a statement to the Senate regarding the vote for which I was absent earlier today.

Unfortunately, I was unable to make the vote today because of long-standing commitments to meet with law enforcement officials in Tennessee.

I supported this legislation when it passed the Senate.

It is an important step in the reform of our system of lobbying. S. 349 would ban gifts to Members of Congress and their staffs and would require disclosure of lobbying activities.

It was clear, though, that cloture would not be achieved today. In addition, it was clear that even if it had been the debate would have been extended over most, if not all, of the available 30 hours.

I would have welcomed that opportunity to fully discuss the important questions that have been raised over the provisions which were added in the conference—particularly registration requirements. It is important that in efforts to revise lobbying activities we must also be mindful of the need to permit full expression of citizen opinion through a wide variety of grassroots organizations.

I am very proud of my record of attendance, which was the last time I checked just about 99 percent.

RESEARCH AND EDUCATION PROVISIONS IN H.R. 4217

Mr. LEAHY. In the absence of a conference report accompanying H.R. 4217, I would like to clarify the Senate's intent in regards to the agricultural research and education provisions in this legislation.

Sections 251 and 252 of the bill give the Secretary broad authority to reorganize the Department's research and education programs. The only limitation on the Secretary's authority is the mandated establishment of a new Cooperative State Research, Education, and Extension Service.

Section 252 instructs the Secretary to streamline the research program staff in order to minimize duplication and maximize coordination of State and Federal research and extension programs. The bill neither mandates a particular plan for streamlining staff nor places any limits on the Secretary's authority to proceed.

The Senate, in S. 1970 and the accompanying report language, made clear its expectation that the Secretary will streamline the research staff by creating a single program policy and coordination staff.

Nothing in the language of H.R. 4217 would prevent the Secretary from creating such a staff. In fact, section 252 clearly gives the Secretary that authority. Furthermore, the objectives described in section 252 closely mirror those found in the report language accompanying S. 1970 (p. 23–24).

As the Secretary moves forward to meet these objectives, the Senate expects that the Department will maintain strong local and State participation in priority setting and program development decisions.

EXPANDING THE BOUNDARIES OF THE RED ROCK CANYON NATIONAL CONSERVATION AREA

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 657, H.R. 3050, relating to Red Rock Canyon National Conservation Area, that the bill be read a third time, passed, the motion to reconsider laid upon the table, any statements to appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3050) was ordered to a third reading, was read the third time, and passed.

NATIONALITY AND NATURALIZATION AMENDMENTS OF 1994 IMMIGRATION AND NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 783) entitled "An Act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration and Nationality Technical Corrections Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NATIONALITY AND NATURALIZATION

Sec. 101. Equal treatment of women in conferring citizenship to children born abroad.
Sec. 102. Naturalization of children on application of citizen parent.
Sec. 103. Former citizens of United States regaining United States citizenship.
Sec. 104. Intent to reside permanently in the United States after naturalization.
Sec. 105. Terminology relating to expatriation.
Sec. 106. Administrative and judicial determinations relating to loss of citizenship.
Sec. 107. Cancellation of United States passports and consular reports of birth.
Sec. 108. Expanding waiver of the Government knowledge, United States history, and English language requirements for naturalization.
Sec. 109. Report on citizenship of certain legalized aliens.

TITLE II—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

Sec. 201. American Institute in Taiwan.
Sec. 202. G-4 special immigrants.
Sec. 203. Clarification of certain grounds for exclusion and deportation.
Sec. 204. United States citizens entering and departing on United States passports.
Sec. 205. Applications for visas.
Sec. 206. Family unity.
Sec. 207. Technical amendment regarding one-house veto.
Sec. 208. Authorization of appropriations for refugee assistance for fiscal years 1995, 1996, and 1997.
Sec. 209. Fines for unlawful bringing of aliens into the United States.
Sec. 210. Extension of visa waiver pilot program.
Sec. 211. Creation of probationary status for participant countries in the visa waiver pilot program.
Sec. 212. Technical changes to numerical limitations concerning certain special immigrants.
Sec. 213. Extension of telephone employment verification system.
Sec. 214. Extension of expanded definition of special immigrant for religious workers.
Sec. 215. Extension of off-campus work authorization for students.
Sec. 216. Eliminating obligation of carriers to detain stowaways.
Sec. 217. Completing use of visas provided under diversity transition program.
Sec. 218. Effect on preference date of application for labor certification.
Sec. 219. Other miscellaneous and technical corrections to immigration-related provisions.

TITLE I—NATIONALITY AND NATURALIZATION

SEC. 101. EQUAL TREATMENT OF WOMEN IN CONFERRING CITIZENSHIP TO CHILDREN BORN ABROAD.

(a) IN GENERAL.—Section 301 of the Immigration and Nationality Act (8 U.S.C. 1401) is amended—

(1) by striking the period at the end of paragraph (g) and inserting "; and", and

(2) by adding at the end the following new paragraph:

"(h) a person born before noon (Eastern Standard Time) May 24, 1934, outside the limits and jurisdiction of the United States of an alien father and a mother who is a citizen of the United States who, prior to the birth of such person, had resided in the United States.".

(b) WAIVER OF RETENTION REQUIREMENTS.—Any provision of law (including section 301(b) of the Immigration and Nationality Act (as in effect before October 10, 1978), and the provisos of section 201(g) of the Nationality Act of 1940) that provided for a person's loss of citizenship or nationality if the person failed to come to, or reside or be physically present in, the United States shall not apply in the case of a person claiming United States citizenship based on such person's descent from an individual described in section 301(h) of the Immigration and Nationality Act (as added by subsection (a)).

(c) RETROACTIVE APPLICATION.—(1) Except as provided in paragraph (2), the immigration and nationality laws of the United States shall be applied (to persons born before, on, or after the date of the enactment of this Act) as though the amendment made by subsection (a), and subsection (b), had been in effect as of the date of their birth, except that the retroactive application of the amendment and that subsection shall not affect the validity of citizenship of anyone who has obtained citizenship under section 1993 of the Revised Statutes (as in effect before the enactment of the Act of May 24, 1934 (48 Stat. 797)).

(2) The retroactive application of the amendment made by subsection (a), and subsection (b), shall not confer citizenship on, or affect the validity of any denaturalization, deportation, or exclusion action against, any person who is or was excludable from the United States under section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)) (or predecessor provision) or who was excluded from, or who would not have been eligible for admission to, the United States under the Displaced Persons Act of 1948 or under section 14 of the Refugee Relief Act of 1953.

(d) APPLICATION TO TRANSMISSION OF CITIZENSHIP.—This section, the amendments made by this section, and any retroactive application of such amendments shall not effect any residency or other retention requirements for citizenship as in effect before October 10, 1978, with respect to the transmission of citizenship.

SEC. 102. NATURALIZATION OF CHILDREN ON APPLICATION OF CITIZEN PARENT.

(a) IN GENERAL.—Section 322 of the Immigration and Nationality Act (8 U.S.C. 1433) is amended to read as follows:

"CHILD BORN OUTSIDE THE UNITED STATES; APPLICATION FOR CERTIFICATE OF CITIZENSHIP REQUIREMENTS

"SEC. 322. (a) A parent who is a citizen of the United States may apply to the Attorney General for a certificate of citizenship on behalf of a child born outside the United States. The Attorney General shall issue such a certificate of citizenship upon proof to the satisfaction of the Attorney General that the following conditions have been fulfilled:

"(1) At least one parent is a citizen of the United States, whether by birth or naturalization.

"(2) The child is physically present in the United States pursuant to a lawful admission.

"(3) The child is under the age of 18 years and in the legal custody of the citizen parent.

"(4) If the citizen parent is an adoptive parent of the child, the child was adopted by the citizen parent before the child reached the age of 16 years and the child meets the requirements for being a child under subparagraph (E) or (F) of section 101(b)(1).

"(5) If the citizen parent has not been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years—

"(A) the child is residing permanently in the United States with the citizen parent, pursuant to a lawful admission for permanent residence, or

"(B) a citizen parent of the citizen parent has been physically present in the United States or its outlying possessions for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years.

"(b) Upon approval of the application (which may be filed abroad) and, except as provided in the last sentence of section 337(a), upon taking and subscribing before an officer of the Service within the United States to the oath of allegiance required by this Act of an applicant for naturalization, the child shall become a citizen of the United States and shall be furnished by the Attorney General with a certificate of citizenship.

"(c) Subsection (a) of this section shall apply to the adopted child of a United States citizen adoptive parent if the conditions specified in such subsection have been fulfilled.".

(b) CONFORMING AMENDMENT.—Subsection (c) of section 341 of such Act (8 U.S.C. 1452) is repealed.

(c) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 322 is amended to read as follows:

"Sec. 322. Child born outside the United States; application for certificate of citizenship requirements.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 103. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

(a) IN GENERAL.—Section 324 of the Immigration and Nationality Act (8 U.S.C. 1435) is amended by adding at the end the following new subsection:

"(d)(1) A person who was a citizen of the United States at birth and lost such citizenship for failure to meet the physical presence retention requirements under section 301(b) (as in effect before October 10, 1978), shall, from and after taking the oath of allegiance required by section 337 be a citizen of the United States and have the status of a citizen of the United States by birth, without filing an application for naturalization, and notwithstanding any of the other provisions of this title except the provisions of section 313. Nothing in this subsection or any other provision of law shall be construed as conferring United States citizenship retroactively upon such person during any period in which such person was not a citizen.

"(2) The provisions of paragraphs (2) and (3) of subsection (c) shall apply to a person regaining citizenship under paragraph (1) in the same manner as they apply under subsection (c)(1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 120 days after the date of the enactment of this Act.

SEC. 104. INTENT TO RESIDE PERMANENTLY IN THE UNITED STATES AFTER NATURALIZATION.

(a) IN GENERAL.—Section 338 of the Immigration and Nationality Act (8 U.S.C. 1449) is amended by striking "intends to reside permanently in the United States, except in cases falling within the provisions of section 324(a) of this title,".

(b) CONFORMING REPEAL.—Section 340(d) of such Act (8 U.S.C. 1451(d)) is repealed.

(c) CONFORMING REDESIGNATION.—Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), and (h), respectively; and

(2) in subsection (d) (as redesignated), by striking "subsections (c) or (d)" and inserting "subsection (c)".

(d) CONFORMING AMENDMENT.—Section 405 of the Immigration Act of 1990 is amended by striking subsection (b).

(e) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to persons admitted to citizenship on or after the date of enactment of this Act.

SEC. 105. TERMINOLOGY RELATING TO EXPATRIATION.

(a) IN GENERAL.—Section 351 of the Immigration and Nationality Act (8 U.S.C. 1483) is amended—

(1) in the heading, by striking "EXPATRIATION" and inserting "LOSS OF NATIONALITY";

(2) in subsection (a)—

(A) by striking "expatriate himself, or be expatriated" and inserting "lose United States nationality", and

(B) by striking "expatriation" and inserting "loss of nationality"; and

(3) in subsection (b), by striking "expatriated himself" and inserting "lost United States nationality".

(b) CLERICAL AMENDMENT.—The item in the table of contents of such Act relating to section 351 is amended to read as follows:

"Sec. 351. Restrictions on loss of nationality.".

SEC. 106. ADMINISTRATIVE AND JUDICIAL DETERMINATIONS RELATING TO LOSS OF CITIZENSHIP.

Section 358 of the Immigration and Nationality Act (8 U.S.C. 1501) is amended by adding at the end the following new sentence: "Approval by the Secretary of State of a certificate under this section shall constitute a final administrative determination of loss of United States nationality under this Act, subject to such procedures for administrative appeal as the Secretary may prescribe by regulation, and also shall constitute a denial of a right or privilege of United States nationality for purposes of section 360.".

SEC. 107. CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH.

(a) IN GENERAL.—Title III of the Immigration and Nationality Act is amended by adding at the end the following new section:

"CANCELLATION OF UNITED STATES PASSPORTS AND CONSULAR REPORTS OF BIRTH

"SEC. 361. (a) The Secretary of State is authorized to cancel any United States passport or Consular Report of Birth, or certified copy thereof, if it appears that such document was illegally, fraudulently, or erroneously obtained from, or was created through illegality or fraud practiced upon, the Secretary. The person for or to whom such document has been issued or made shall be given, at such person's last known address, written notice of the cancellation of such document, together with the procedures for seeking a prompt post-cancellation hearing. The cancellation under this section of any document purporting to show the citizenship status of the person to whom it was issued shall affect only the document and not the citizenship status of the person in whose name the document was issued.

"(b) For purposes of this section, the term 'Consular Report of Birth' refers to the report, designated as a 'Report of Birth Abroad of a Citizen of the United States', issued by a consular officer to document a citizen born abroad.".

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 360 the following new item:

"Sec. 361. Cancellation of United States passports and Consular Reports of Birth.".

SEC. 108. EXPANDING WAIVER OF THE GOVERNMENT KNOWLEDGE, UNITED STATES HISTORY, AND ENGLISH LANGUAGE REQUIREMENTS FOR NATURALIZATION.

(a) IN GENERAL.—Section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended—

(1) by inserting "(a)" after "312.",

(2) by striking "this requirement" and all that follows through "That",

(3) by striking "this section" and inserting "this paragraph", and

(4) by adding at the end the following new subsection:

"(b)(1) The requirements of subsection (a) shall not apply to any person who is unable because of physical or developmental disability or menial impairment to comply therewith.

"(2) The requirement of subsection (a)(1) shall not apply to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, either—

"(A) is over fifty years of age and has been living in the United States for periods totalling at least twenty years subsequent to a lawful admission for permanent residence, or

"(B) is over fifty-five years of age and has been living in the United States for periods totaling at least fifteen years subsequent to a lawful admission for permanent residence.

"(3) The Attorney General, pursuant to regulations, shall provide for special consideration, as determined by the Attorney General, concerning the requirement of subsection (a)(2) with respect to any person who, on the date of the filing of the person's application for naturalization as provided in section 334, is over sixty-five years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence.".

(b) CONFORMING AMENDMENTS.—Section 245A(b)(1)(D) of such Act (8 U.S.C. 1254a(b)(1)(D)) is amended by striking "312" each place it appears and inserting "312(a)".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for naturalization filed on or after such date and to such applications pending on such date.

(d) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall promulgate regulations to carry out section 312(b)(3) of the Immigration and Nationality Act (as amended by subsection (a)).

SEC. 109. REPORT ON CITIZENSHIP OF CERTAIN LEGALIZED ALIENS.

Not later than June 30, 1996, the Commissioner of the Immigration and Naturalization Service shall prepare and submit to the Congress a report concerning the citizenship status of aliens legalized under section 245A and section 210 of the Immigration and Nationality Act. Such report shall include the following information by district office for each national origin group:

(1) The number of applications for citizenship filed.

(2) The number of applications approved.

(3) The number of applications denied.

(4) The number of applications pending.

TITLE II—TECHNICAL CORRECTIONS OF IMMIGRATION LAWS

SEC. 201. AMERICAN INSTITUTE IN TAIWAN.

Section 101(a)(27)(D) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(D)) is amended—

(1) by inserting "or of the American Institute in Taiwan," after "of the United States Government abroad,"; and

(2) by inserting "(or, in the case of the American Institute in Taiwan, the Director thereof)" after "Foreign Service establishment".

SEC. 202. G-4 SPECIAL IMMIGRANTS.

Section 101(a)(27)(I)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(I)(iii)) is amended by striking "(II)" and all that follows through "; or" and inserting the following: "(II) files a petition for status under this subparagraph no later than six months after the date of such retirement or six months after the date of enactment of the Immigration and Nationality Technical Corrections Act of 1994, whichever is later; or".

SEC. 203. CLARIFICATION OF CERTAIN GROUNDS FOR EXCLUSION AND DEPORTATION.

(a) EXCLUSION GROUNDS.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)(A)(i)(I), by inserting "or an attempt or conspiracy to commit such a crime" after "offense)",

(2) in subsection (a)(2)(A)(i)(II), by inserting "or attempt" after "conspiracy", and

(3) in the last sentence of subsection (h), by inserting ", or an attempt or conspiracy to commit murder or a criminal act involving torture" after "torture".

(b) DEPORTATION GROUNDS.—Section 241(a) of such Act (8 U.S.C. 1251(a)) is amended—

(1) in paragraph (2)(C)—

(A) by striking "in violation of any law," and inserting ", or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry,", and

(B) by inserting "in violation of any law" after "Code)"; and

(2) in paragraph (3)(B), by inserting "an attempt or" before "a conspiracy" each place it appears in clauses (ii) and (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions occurring before, on, or after the date of the enactment of this Act.

SEC. 204. UNITED STATES CITIZENS ENTERING AND DEPARTING ON UNITED STATES PASSPORTS.

(a) IN GENERAL.—Section 215(b) of the Immigration and Nationality Act (8 U.S.C. 1185(b)) is amended by inserting "United States" after "valid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to departures and entries (and attempts thereof) occurring on or after the date of enactment of this Act.

SEC. 205. APPLICATIONS FOR VISAS.

(a) IN GENERAL.—The second sentence of section 222(a) of the Immigration and Nationality Act (8 U.S.C. 1202(a)) is amended—

(1) by striking "the immigrant" and inserting "the alien", and

(2) by striking "present address" and all that follows through "exempt from exclusion under the immigration laws;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to applications made on or after the date of the enactment of this Act.

SEC. 206. FAMILY UNITY.

(a) IN GENERAL.—Section 301(a) of the Immigration Act of 1990 is amended by inserting after

"May 5, 1988" the following: "(in the case of a relationship to a legalized alien described in subsection (b)(2)(B) or (b)(2)(C)) or as of December 1, 1988 (in the case of a relationship to a legalized alien described in subsection (b)(2)(A))".

(b) Effective Date.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

SEC. 207. TECHNICAL AMENDMENT REGARDING ONE-HOUSE VETO.

Section 13(c) of the Act of September 11, 1957 (8 U.S.C. 1255b(c)) is amended—

(1) by striking the third sentence; and

(2) in the fourth sentence, by striking "If neither the Senate nor the House of Representatives passes such a resolution within the time above specified the" and inserting "The".

SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR REFUGEE ASSISTANCE FOR FISCAL YEARS 1995, 1996, AND 1997.

Section 414(a) of the Immigration and Nationality Act (8 U.S.C. 1524(a)) is amended by striking "fiscal year 1993 and fiscal year 1994" and inserting "fiscal year 1995, fiscal year 1996, and fiscal year 1997".

SEC. 209. FINES FOR UNLAWFUL BRINGING OF ALIENS INTO THE UNITED STATES.

(a) In General.—Section 273 of the Immigration and Nationality Act (8 U.S.C. 1323) is amended—

(1) in subsections (b) and (d) by striking "the sum of $3000" and inserting "a fine of $3000" each place it appears;

(2) in the first sentence of subsection (b) by striking "a sum equal" and inserting "an amount equal";

(3) in the second sentence of subsection (d) by striking "a sum sufficient to cover such fine" and inserting "an amount sufficient to cover such fine";

(4) by striking "sum" and "sums" each place either appears and inserting "fine";

(5) in subsection (c) by striking "Such" and inserting "Except as provided in subsection (e), such"; and

(6) by adding at the end the following new subsection:

"(e) A fine under this section may be reduced, refunded, or waived under such regulations as the Attorney General shall prescribe in cases in which—

"(1) the carrier demonstrates that it had screened all passengers on the vessel or aircraft in accordance with procedures prescribes by the Attorney General, or

"(2) circumstances exist that the Attorney General determines would justify such reduction, refund, or waiver.".

(b) Effective Date.—The amendments made by this subsection shall apply with respect to aliens brought to the United States more than 60 days after the date of enactment of this Act.

SEC. 210. EXTENSION OF VISA WAIVER PILOT PROGRAM.

Section 217(f) of the Immigration and Nationality Act (8 U.S.C. 1187(f)) is amended by striking "ending" and all that follows through the period and inserting "ending on September 30, 1996".

SEC. 211. CREATION OF PROBATIONARY STATUS FOR PARTICIPANT COUNTRIES IN THE VISA WAIVER PROGRAM.

Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2)(B) by inserting before the period "or is designated as a pilot program country with probationary status under subsection (g)";

(2) by adding at the end the following new subsection:

"(g) Pilot Program Country With Probationary Status.—

"(1) In general.—The Attorney General and the Secretary of State acting jointly may designate any country as a pilot program country with probationary status if it meets the requirements of paragraph (2).

"(2) Qualifications.—A country may not be designated as a pilot program country with probationary status unless the following requirements are met:

"(A) Nonimmigrant visa refusal rate for previous 2-year period.—The average number of refusals of nonimmigrant visitor visas for nationals of the country during the two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

"(B) Nonimmigrant visa refusal rate for previous year.—The number of refusals of nonimmigrant visitor visas for nationals of the country during the previous full fiscal year was less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

"(C) Low exclusions and violations rate for previous year.—The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 1.5 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(D) Machine readable passport program.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(3) Continuing and subsequent qualifications for pilot program countries with probationary status.—The designation of a country as a pilot program country with probationary status shall terminate if either of the following occurs:

"(A) The sum of—

"(i) the total number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(ii) the total number of nationals of that country who were admitted as visitors during the preceding fiscal year and who violated the terms of such admission,

is more than 2.0 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during the preceding fiscal year.

"(B) The country is not designated as a pilot program country under subsection (c) within 3 fiscal years of its designation as a pilot program country with probationary status under this subsection.".

"(4) Designation of pilot program countries with probationary status as pilot program countries.—In the case of a country which was a pilot program country with probationary status in the preceding fiscal year, a country may be designated by the Attorney General and the Secretary of State, acting jointly, as a pilot program country under subsection (c) if—

"(A) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during the preceding fiscal year as a nonimmigrant visitor, and

"(B) the total number of nationals of that country who were admitted as nonimmigrant visitors during the preceding fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such preceding fiscal year."; and

(3) in subsection (c)(2) by striking "A country" and inserting "Except as provided in subsection (g)(4), a country".

SEC. 212. TECHNICAL CHANGES TO NUMERICAL LIMITATIONS CONCERNING CERTAIN SPECIAL IMMIGRANTS.

(a) Panama Canal Special Immigrants.—Section 3201 of the Panama Canal Act of 1979 (Public Law 96-70) is amended by striking subsection (c).

(b) Armed Forces Special Immigrants.—Section 203(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(6)) is amended by striking subparagraph (C).

SEC. 213. EXTENSION OF TELEPHONE EMPLOYMENT VERIFICATION SYSTEM.

Section 274A(d)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)(4)(A)) is amended in the second sentence by striking "three" and inserting "five".

SEC. 214. EXTENSION OF EXPANDED DEFINITION OF SPECIAL IMMIGRANT FOR RELIGIOUS WORKERS.

Section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)) is amended—

(1) in subclause (II) by striking "1994," and inserting "1997,"; and

(2) in subclause (III) by striking "1994," and inserting "1997,".

SEC. 215. EXTENSION OF OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS.

(a) In General.—Section 221 of the Immigration Act of 1990 (Pub. Law 101-649; 104 Stat. 4978) as amended by section 303(b)(1) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (Pub. Law 102-232; 105 Stat. 1747) is amended—

(1) in the heading for subsection (a) by striking "3-Year" and inserting "5-Year";

(2) in subsection (a) by striking "3-year" and inserting "5-year"; and

(3) in subsection (b) by striking "1994," and inserting "1996,".

SEC. 216. ELIMINATING OBLIGATION OF CARRIERS TO DETAIN STOWAWAYS.

The first sentence of section 273(d) of the Immigration and Nationality Act (8 U.S.C. 1323(d)) is amended to read as follows: "The owner, charterer, agent, consignee, commanding officer, or master of any vessel or aircraft arriving at the United States from any place outside the United States who fails to deport any alien stowaway on the vessel or aircraft on which such stowaway arrived or on another vessel or aircraft at the expense of the vessel or aircraft on which such stowaway arrived when required to do so by an immigration officer, shall pay to the Commissioner the sum of $3,000 for each alien stowaway, in respect of whom any such failure occurs.".

SEC. 217. COMPLETING USE OF VISAS PROVIDED UNDER DIVERSITY TRANSITION PROGRAM.

(a) Extension of Diversity Transition Program.—Section 132 of the Immigration Act of 1990 (Public Law 101-649) is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: "and in fiscal year 1995 a number of immigrant visas equal to the number of such visas provided (but not made available) under this section in previous fiscal years"; and

(2) in the next to last sentence of subsection (c), by striking "or 1993" and inserting ", 1993, or 1994".

(b) Administration of 1995 Diversity Transition Program.—

(1) ELIGIBILITY.—For the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), applications for natives of diversity transition countries submitted for fiscal year 1995 for diversity immigrants under section 203(c) of the Immigration and Nationality Act shall be considered applications for visas made available for fiscal year 1995 for the diversity transition program under section 132 of the Immigration Act of 1990. No application period for the fiscal year 1995 diversity transition program shall be established and no new applications may be accepted for visas made available under such program for fiscal year 1995. Applications for visas in excess of the minimum available to natives of the country specified in section 132(c) of the Immigration Act of 1990 shall be selected for qualified applicants within the several regions defined in section 203(c)(1)(F) of the Immigration and Nationality Act in proportion to the region's share of visas issued in the diversity transition program during fiscal years 1992 and 1993.

(2) NOTIFICATION.—Not later than 180 days after the date of enactment of this Act, notification of the extension of the diversity transition program for fiscal year 1995 and the provision of visa numbers shall be made to each eligible applicant under paragraph (1).

(3) REQUIREMENTS.—Notwithstanding any other provision of law, for the purpose of carrying out the extension of the diversity transition program under the amendments made by subsection (a), the requirement of section 132(b)(2) of the Immigration Act of 1990 shall not apply to applicants under such extension and the requirement of section 203(c)(2) of the Immigration and Nationality Act shall apply to such applicants.

SEC. 218. EFFECT ON PREFERENCE DATE OF APPLICATION FOR LABOR CERTIFICATION.

Section 161(c)(1) of the Immigration Act of 1990 (Public Law 101–649) is amended—

(1) by striking "or an application for labor certification before such date under section 212(a)(14)"; and

(2) in subparagraph (A)—

(A) by striking "or application"; and

(B) by striking ", or 60 days after the date of certification in the case of labor certifications filed in support of the petition under section 212(a)(14) of such Act before October 1, 1991, but not certified until after October 1, 1993".

SEC. 219. OTHER MISCELLANEOUS AND TECHNICAL CORRECTIONS TO IMMIGRATION-RELATED PROVISIONS.

(a) Section 101(a)(27)(J)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by striking "and has" and inserting "or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State and who has".

(b)(1) The second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting "(and each child of the alien)" after "the alien".

(2) The second sentence of section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)) is amended—

(A) by inserting "spouse" after "alien", and

(B) by inserting "of the alien (and the alien's children)" after "for classification".

(c) Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by striking "TARGETTED", "TARGETTED", and "targetted" each place each appears and inserting "TARGETED", "TARGETED", and "targeted", respectively.

(d) Section 210(d)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(d)(3)) is amended by inserting "the" before "Service" the first place it appears.

(e) Section 212(d)(11) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(11)) is amended by striking "voluntary" and inserting "voluntarily".

(f) Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended in subsection (d)(3)(B) by striking "subparagraph (A)" and inserting "subparagraph (A)(iii)".

(g) Section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(c)) is amended by striking "or (3)(A) of subsection 241(a)" and inserting "and (3)(A) of subsection (a)".

(h) Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended by striking "Parole,," and inserting "Parole,".

(i) Section 242B(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1252b(c)(1)) is amended by striking the comma after "that".

(j) Section 244A(c)(2)(A)(iii)(III) of the Immigration and Nationality Act (8 U.S.C. 1254a(c)(2)(A)(iii)(III)) is amended—

(1) by striking "Paragraphs" and inserting "paragraphs", and

(2) by striking "or (3)(E)" and inserting "and (3)(E)".

(k) Section 245(h)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1255(h)(2)(B)) is amended by striking "or (3)(E)" and inserting "and (3)(E)".

(l)(1) Subparagraph (C) of section 245A(c)(7) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(7)), as added by Public Law 102–140, is amended—

(A) by indenting it 2 additional ems to the right; and

(B) by striking "subsection (B)" and inserting "subparagraph (B)".

(2) Section 610(b) of Public Law 102–140 is amended by striking "404(b)(2)(ii)" and "404(b)(2)(iii)" and inserting "404(b)(2)(A)(ii)" and "404(b)(2)(A)(iii)", respectively.

(m) Effective as of the date of the enactment of this Act, section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amended by striking the first 3 sentences.

(n) Section 262(c) of the Immigration and Nationality Act (8 U.S.C. 1302(c)) is amended by striking "subsection (a) and (b)" and inserting "subsections (a) and (b)".

(o) Section 272(a) of the Immigration and Nationality Act (8 U.S.C. 1322(a)) is amended by striking the comma after "so afflicted".

(p) The first sentence of section 273(b) of the Immigration and Nationality Act (8 U.S.C. 1323(b)) is amended by striking "collector of customs" and inserting "Commissioner".

(q) Section 274B(g)(2)(C) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(C)) is amended by striking "an administrative law judge" and inserting "the Special Counsel".

(r) Section 274C(b) of the Immigration and Nationality Act (8 U.S.C. 1324c(b)) is amended by striking "title V" and all that follows through "3481)" and inserting "chapter 224 of title 18, United States Code".

(s) Section 280(b)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1330(b)(1)(C)) is amended by striking "maintainance" and inserting "maintenance".

(t) Effective as if included in the enactment of Public Law 102–395, subsection (r) of section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as added by section 112 of such Public Law, is amended—

(1) in the subsection heading, by striking "Breached Bond/Detention Account" and inserting "BREACHED BOND/DETENTION FUND";

(2) in paragraph (1), by striking "(hereafter referred to as the Fund)" and inserting "(in this subsection referred to as the 'Fund')";

(3) in paragraph (2), by striking "the Immigration and Nationality Act of 1952, as amended," and inserting "this Act";

(4) in paragraphs (4) and (6), by striking "the Breached Bond/Detention" each place it appears;

(5) in paragraph (4), by striking "of this Act" and inserting "of Public Law 102–395"; and

(6) in paragraph (5), by striking "account" and inserting "Fund".

(u) Section 310(b)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1421(b)(5)(A)) is amended by striking "District Court" and inserting "district court".

(v) Effective December 12, 1991, section 313(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1424(a)(2)) is amended by striking "and" before "(F)" and inserting "or".

(w) Section 333(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1444(b)(1)) is amended by striking "249(a)" and inserting "249".

(x) Section 412(e)(7)(D) of the Immigration and Nationality Act (8 U.S.C. 1522(e)(7)(D)) is amended by striking "paragraph (1) or (2) of".

(y) Section 302(c) of the Immigration Act of 1990 is amended by striking "effect" and inserting "affect".

(z) Effective as if included in the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991—

(1) section 303(a)(7)(B)(i) of such Act is amended by striking "paragraph (1)(A)" and inserting "paragraph (1)(A)(i)";

(2) section 304(b)(2) of such Act is amended by striking "paragraph (1)(B)" and inserting "subsection (c)(1)(B)";

(3) paragraph (1) of section 305(j) of such Act is repealed (and section 407(d)(16)(C) of the Immigration Act of 1990 shall read as if such paragraph had not been enacted);

(4) paragraph (2) of section 306(b) of such Act is amended to read as follows:

"(2) Section 538(a) of the Immigration Act of 1990 is amended by striking the comma after 'Service'.";

(5) section 307(a)(6) of such Act is amended by striking "immigrants" the first place it appears and inserting "immigrant aliens";

(6) section 309(a)(3) of such Act is amended by striking "paragraph (1) and (2)" and inserting "paragraphs (1)(A) and (1)(B)";

(7) section 309(b)(6)(F) of such Act is amended by striking "210(a)(1)(B)(1)(B)" and inserting "210(a)(B)(1)(B)";

(8) section 309(b)(8) of such Act is amended by striking "274A(g)" and inserting "274A(h)"; and

(9) section 310 of such Act is amended—

(A) by adding "and" at the end of paragraph (1);

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and by striking "309(c)" and inserting "309(b)".

(aa) Effective as if included in section 4 of Public Law 102–110, section 161(c)(3) of the Immigration Act of 1990 is amended—

(1) by striking "alien described in section 203(a)(3) or 203(a)(6) of such Act" and inserting "alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(6) of such Act (as in effect before such date)"; and

(2) by striking "this section" and inserting "this title".

(bb) Section 599E(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167) is amended by striking "and subparagraphs" and inserting "or subparagraph".

(cc) Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by striking "year 1993 the first place it appears" and inserting "years 1993".

(dd) Except as otherwise specifically provided in this section, the amendments made by this section shall be effective as if included in the enactment of the Immigration Act of 1990.

(ee)(1) Section 210A of the Immigration and Nationality Act (8 U.S.C. 1161) is repealed.

(2) The table of contents of the Immigration and Nationality Act is amended by striking the item relating to section 210A.

(ff) Section 122 of the Immigration Act of 1990 is amended by striking subsection (a).

(gg) The Copyright Royalty Tribunal Reform Act of 1993 (Public Law 103–198; 107 Stat. 2304) is amended by striking section 8.

Mr. FORD. Mr. President, I move the Senate concur in the amendment of the House with further amendments which I now send to the desk en bloc, on behalf of Senators SIMPSON, SIMON, and BROWN.

The motion was agreed to.

The amendment en bloc (Nos. 2626, 2627, 2628) are as follows:

AMENDMENT NO. 2626

(Purpose: To waive the foreign country residence requirement with respect to international medical graduates)

At the end of the matter proposed to be inserted by the House amendment, add the following:

SEC. ___. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) WAIVER.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent)" after "interested United States Government agency"; and

(2) by inserting after "public interest" the following: "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent the waiver shall be subject to the requirements of section 214(k)".

(b) RESTRICTIONS ON WAIVER.—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(k)(1) In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

"(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

"(2)(A) Notwithstanding section 248(2) the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of a contract with a health facility shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(H), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 1996.

AMENDMENT NO. 2627

(Purpose: To ensure that the President of the Republic of China on Taiwan can enter the United States on certain occasions)

At the appropriate place in the bill, add the following new section—

"SEC. . VISAS FOR OFFICIALS OF TAIWAN.

"Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

(ii) Prevention of nuclear proliferation;

(iii) Threats to the national security of the United States;

(iv) The protection of the global environment;

(v) The protection of endangered species; or

(iv) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

AMENDMENT 2628

(Purpose: To add provisions relating to the treatment of criminal aliens under the immigrational laws of the United States)

Proposed by Mr. FORD for Mr. SIMPSON.

At the end of the matter proposed to be inserted by the House amendment, add the following:

SEC. ___. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(M) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(N) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(O) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(P) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(Q) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. ___. SUMMARY DEPORTATION.

(a) EXPEDITED PROCEDURES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (b)(4)(D), by striking "the determination of deportability is supported by clear, convincing, and unequivocal evidence and"; and

(2) in subsection (b)(4)(E), by striking "entered" and inserting "adjudicated".

(b) TECHNICAL CORRECTION.—Section 106(d)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by striking "242A(b)(5)" and inserting "242A(b)(4)".

SEC. ___. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A), if such an order has been requested by the United States Attorney with the concurrence of the Commissioner and if the court chooses to exercise such jurisdiction.

"(2) PROCEDURE.—

"(A) The United States Attorney shall file with the United States district court, and serve upon the defendant and the Service, prior to commencement of the trial or entry of a guilty plea a notice of intent to request judicial deportation.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 30 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and identifying the crime or crimes which make the defendant deportable under section 241(a)(2)(A).

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under this Act, the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial without a decision on the merits of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. ___. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

Mr. FORD. Mr. President, I ask unanimous consent that the amendments be agreed to en bloc and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc (Nos. 2626, 2627, 2628) were agreed to.

CENSUS ADDRESS LIST IMPROVEMENT ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to immediate consideration of H.R. 5084, the Census Address List Improvement Act of 1994, just received from the House, the bill be read three times, passed, the motion to reconsider be laid upon the table, that any statements relating to this matter be in placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5084) was ordered to a third reading, was read the third time, and passed.

Mr. LIEBERMAN. Mr. President, I support of H.R. 5084, the Census Address List Improvement Act of 1994. This bill amends title 13 to allow the Census Bureau to share its nameless address list with state and local governments in preparation for taking the decennial census. The bill provides safeguards for the privacy of the information and forbids any use by local official beyond census activities. It is endorsed by the Conference of Mayors, the League of Cities, and the administration. The House bill was jointly introduced by Representatives SAWYER and PETRI H.R. 5084 was scored by CBO as saving $33 million over 5 years. It should be noted that those savings do not include any savings in conducting the census. Were those included the savings would be much greater.

In preparing for the census the Bureau develops a list of all addresses in the U.S. to which census forms will be mailed. In the past, disputes over how many addresses or households were in a particular jurisdiction were settled by the Census Bureau. This left many jurisdictions believing they did not get a fair hearing. The problem was as common in major metropolitan cities like Detroit with million of households as well as small communities like Lincoln, Wisconsin with 254. Although the town clerk of Lincoln argued that it should be 275 not 254.

H.R. 5084 provides a mechanism for a local jurisdiction to appoint an individual to be sworn in by the Census Bureau as a "census liaison". That would give the local official the authority to look at the address list—without names—the Bureau intends to use for the Census and make any corrections. Local officials are provided only with information for their jurisdiction, or in the case of problems with the Census Bureau's boundaries, adjacent jurisdictions. The census liaison is subject to the same fines and penalties as Census Bureau employees for violating the confidentiality of the information.

H.R. 5084 requires the Chief Statistician of the United States to establish a procedure for adjudicating disputes between the Census Bureau and local jurisdictions. The only restriction the bill puts on this process is that it must be completed prior to the day the census is conducted. The Chief Statistician was chosen for this role to assure that a fair and unbiased hearing was given to all disputes, and that local jurisdictions be assured their case is heard by an impartial party not subject to the dispute. It is the intent of the drafters of this bill that Office of Management and Budget be the independent party to develop the process, and that the process take place outside the Department of Commerce. It is not our intent that the Chief Statistician be the arbitrator of these disputes nor is it our intent that the dispute resolution take place within the Office of Management and Budget.

The intent is not to impugn the integrity of the Department of Commerce. In fact, it is just the opposite. No matter how fair and reasoned a judgment the Department may make, its vested roll in the process will leave some with the impression that a fair hearing was not given. In structuring the bill we have given the Chief Statistician wide latitude to design a process which assures a fair hearing. We are confident in her ability to do just that.

H.R. 5084 will benefit both federal and local governments. The Census Bureau will save money both in preparing its list and, because of the improved quality of the list, in conducting the census. Local governments will have the opportunity to make sure the census is done correctly and that they receive credit for all of the households in their jurisdiction.

I urge my colleagues to support this bill for the benefit of the local jurisdictions within their state, and to assure the most accurate census possible.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2372) entitled "An Act to reauthorize for three years the Commission on Civil Rights, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Commission Amendments Act of 1994".

SEC. 2. AMENDMENT OF 1983 ACT.

That the portion of the United States Commission on Civil Rights Act of 1983 which follows the enacting clause is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Civil Rights Commission Act of 1983'.

"SEC. 2. ESTABLISHMENT OF COMMISSION.

"(a) Generally.—There is established the United States Commission on Civil Rights (hereinafter in this Act referred to as the 'Commission').

"(b) Membership.—The Commission shall be composed of 8 members. Not more than 4 of the members shall at any one time be of the same political party. The initial membership of the Commission shall be the members of the United States Commission on Civil Rights on September 30, 1994. Thereafter vacancies in the membership of the Commission shall continue to be appointed as follows:

"(1) 4 members of the Commission shall be appointed by the President.

"(2) 2 members of the Commission shall be appointed by the President pro tempore of the Senate, upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

"(3) 2 members of the Commission shall be appointed by the Speaker of the House of Representatives upon the recommendations of the majority leader and the minority leader, and of the members appointed not more than one shall be appointed from the same political party.

"(c) Terms.—The term of office of each member of the Commission shall be 6 years. The term of each member of the Commission in the initial membership of the Commission shall expire on the date such term would have expired as of September 30, 1994.

"(d) Chairperson.—(1) Except as provided in paragraphs (2) and (3), the individuals serving as Chairperson and Vice Chairperson of the United States Commission on Civil Rights on September 30, 1994 shall initially fill those roles on the Commission.

"(2) Thereafter the President may, with the concurrence of a majority of the Commission's members, designate a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

"(3) The President shall, with the concurrence of a majority of the Commission's members, fill a vacancy by designating a Chairperson or Vice Chairperson, as the case may be, from among the Commission's members.

"(4) The Vice Chairperson shall act in place of the Chairperson in the absence of the Chairperson.

"(e) REMOVAL OF MEMBERS.—The President may remove a member of the Commission only for neglect of duty or malfeasance in office.

"(f) QUORUM.—5 members of the Commission constitute a quorum of the Commission.

"SEC. 3. DUTIES OF THE COMMISSION.

"(a) GENERALLY.—The Commission—

"(1) shall investigate allegations in writing under oath or affirmation relating to deprivations—

"(A) because of color, race, religion, sex, age, disability, or national origin; or

"(B) as a result of any pattern or practice of fraud;

of the right of citizens of the United States to vote and have votes counted; and

"(2) shall—

"(A) study and collect information relating to;

"(B) make appraisals of the laws and policies of the Federal Government with respect to;

"(C) serve as a national clearinghouse for information relating to; and

"(D) prepare public service announcements and advertising campaigns to discourage;

discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.

"(b) LIMITATIONS ON INVESTIGATORY DUTIES.—Nothing in this or any other Act shall be construed as authorizing the Commission, its advisory committees, or any person under its supervision or control, to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, or any religious organization.

"(c) REPORTS.—

"(1) ANNUAL REPORT.—The Commission shall submit to the President and Congress at least one report annually that monitors Federal civil rights enforcement efforts in the United States.

"(2) OTHER REPORTS GENERALLY.—The Commission shall submit such other reports to the President and the Congress as the Commission, the Congress, or the President shall deem appropriate.

"(d) ADVISORY COMMITTEES.—The Commission may constitute such advisory committees as it deems advisable. The Commission shall establish at least one such committee in each State and the District of Columbia composed of citizens of that State or District.

"(e) HEARINGS AND ANCILLARY MATTERS.—

"(1) POWER TO HOLD HEARINGS.—The Commission, or on the authorization of the Commission, any subcommittee of two or more members of the Commission, at least one of whom shall be of each major political party, may, for the purpose of carrying out this Act, hold such hearings and act at such times and places as the Commission or such authorized subcommittee deems advisable. Each member of the Commission shall have the power to administer oaths and affirmations in connection with the proceedings of the Commission. The holding of a hearing by the Commission or the appointment of a subcommittee to hold a hearing pursuant to this paragraph must be approved by a majority of the Commission, or by a majority of the members present at a meeting when a quorum is present.

"(2) POWER TO ISSUE SUBPOENAS.—The Commission may issue subpoenas for the attendance of witnesses and the production of written or other matter. Such a subpoena may not require the presence of a witness more than 100 miles outside the place wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process. In case of contumacy or refusal to obey a subpoena, the Attorney General may in a Federal court of appropriate jurisdiction obtain an appropriate order to enforce the subpoena.

"(3) WITNESS FEES.—A witness attending any proceeding of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

"(4) DEPOSITIONS AND INTERROGATORIES.—The Commission may use depositions and written interrogatories to obtain information and testimony about matters that are the subject of a Commission hearing or report.

"(f) LIMITATION RELATING TO ABORTION.—Nothing in this or any other Act shall be construed as authorizing the Commission, its advisory committees, or any other person under its supervision or control to study and collect, make appraisals of, or serve as a clearinghouse for any information about laws and policies of the Federal Government or any other governmental authority in the United States, with respect to abortion.

"SEC. 4. ADMINISTRATIVE PROVISIONS.

"(a) STAFF.—

"(1) DIRECTOR.—There shall be a full-time staff director for the Commission who shall—

"(A) serve as the administrative head of the Commission; and

"(B) be appointed by the President with the concurrence of a majority of the Commission.

"(2) OTHER PERSONNEL.—Within the limitation of its appropriations, the Commission may—

"(A) appoint such other personnel as it deems advisable, under the civil service and classification laws; and

"(B) procure services, as authorized in section 3109 of title 5, United States Code, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS–15 of the General Schedule under section 5332 of title 5, United States Code.

"(b) COMPENSATION OF MEMBERS.—

"(1) GENERALLY.—Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Executive Schedule under section 5315 of title 5, United States Code, prorated on an daily basis for time spent in the work of the Commission.

"(2) PERSONS OTHERWISE IN GOVERNMENT SERVICE.—Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from such member's usual place of residence, under subchapter I of chapter 57 of title 5, United States Code.

"(c) VOLUNTARY OR UNCOMPENSATED PERSONNEL.—The Commission shall not accept or use the services of voluntary or uncompensated persons. This limitation shall apply with respect to services of members of the Commission as it does with respect to services by other persons.

"(d) RULES.—

"(1) GENERALLY.—The Commission may make such rules as are necessary to carry out the purposes of this Act.

"(2) CONTINUATION OF OLD RULES.—Except as inconsistent with this Act, and until modified by the Commission, the rules of the Commission on Civil Rights in effect on September 30, 1994 shall be the initial rules of the Commission.

"(e) COOPERATION.—All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated, to carry out this Act $9,500,000 for fiscal year 1995. None of the sums authorized to be appropriated for fiscal year 1995 may be used to create additional regional offices.

"SEC. 6. TERMINATION.

"This Act shall terminate on September 30, 1995."

Amend the title so as to read: "An Act to amend the United States Commission on Civil Rights Act of 1983.".

AMENDMENT NO. 2629

(Purpose: To extend the reauthorization period for an additional year)

Mr. FORD. Mr. President, I move the Senate concur with the House amendments with a further amendment I now send to the desk on behalf of Senator SIMON.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. SIMON, proposes an amendment numbered 2629:

On page 10, line 12, strike "September 30, 1995" and insert "September 30, 1996".

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION TO MAKE APPOINTMENTS

Mr. FORD. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 276) providing that notwithstanding the sine die adjournment, the President of the Senate, the Senate President pro tempore, the majority and minority leaders, are authorized to make appointments to commissions, committees, boards or conferences.

Mr. FORD. This is a standard Senate resolution submitted and agreed to at the end of each session to authorize the making of appointments notwithstanding the sine die adjournment of the present session of the Congress.

The PRESIDING OFFICER. Is there further debate on the resolution?

Without objection the resolution is agreed to.

The resolution (S. Res. 276) was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN CHILD PROTECTION FAMILY VIOLENCE PREVENTION ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar No. 707, S. 2075, a bill to amend the Indian Child Protection Family Violence Prevention Act; that the committee substitute amendment be agreed to; that the bill, as amended, be passed and the motion to reconsider be laid upon the table; further, that any statements on the measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2075), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

OUTER CONTINENTAL SHELF LANDS ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3678, relating to use of sand and gravel on the Outer Continental Shelf, just received from the House; that the bill be read a third time, passed, the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 3678) was deemed read the third time and passed.

UNITED NEGRO COLLEGE FUND WEEK

NATIONAL HEALTH INFO MANAGEMENT WEEK

NATIONAL MILITARY FAMILIES RECOGNITION DAY

NATIONAL MAMMOGRAPHY DAY

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Judiciary Committee be discharged en bloc from further consideration of the following Senate joint resolutions: 181, 208, 209, 220, and from further consideration of House Joint Resolution 271; that the Senate proceed to the immediate consideration en bloc of the joint resolutions; that the joint resolutions be read three times and passed en bloc; that the preambles, where appropriate, be agreed to en bloc; and that the motions to reconsider be laid upon the table en bloc; further, that any statements on these measures appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolutions (S.J. Res. 181, 208, 209, and 220 and H.J. Res. 271) were deemed read the third time and passed.

The preambles were agreed to.

(The text of the joint resolutions (S.J. Res. 181, 208, 209 and 220) will be printed in a future edition of the RECORD.)

NATIONAL SILVER HAIRED CONGRESS

Mr. FORD. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress; that the Senate proceed to its immediate consideration; that the resolution and preamble be agreed to, the motion to reconsider be laid upon the table en bloc; and that any statements thereon appear at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolution (S. Con. Res. 66) was agreed to.

The preamble was agreed to.

(The text of the concurrent resolution will be printed in a future edition of the RECORD.)

Ms. MIKULSKI. Mr. President, I rise to thank you for support for Senate Concurrent Resolution 66, a resolution to establish a national silver-haired congress. I am grateful to all of the 42 cosponsors of this legislation for their support.

The national silver-haired congress is the vision of a truly inspirational group of seniors. Beginning back in 1973, a group of Missouri seniors got together and decided to get involved. They formed a silver-haired legislature. They modeled their legislature after their States legislature and reviewed pieces of legislation that affected seniors.

That was 1973. Today, nearly half the States have a silver-haired legislature. Seniors all over the country have set up mock State-legislatures. Some of the States which have silver-haired legislatures are Alabama, Arkansas, California, Georgia, Hawaii, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, North Dakota, Ohio, Oklahoma, Rhode Island, Texas, Utah, Virginia, West Virginia, and Wyoming.

The silver-haired legislatures have helped in the passage of many programs: from consumer protection and crime prevention to health care, housing, and long term care.

Senate Concurrent Resolution 66 will create a national silver-haired congress based on the experience of the silver-haired legislatures in the States. A silver-haired congress will provide a national forum for aging issues—a forum patterned after the U.S. Congress. It will be completely staffed by older Americans, and serve to address a broad range of seniors issues. Like us, a silver-haired congress would be comprised of 100 Senators and 435 Representatives. But unlike us, all the members will serve without pay and convene in Washington at their own expense.

Older Americans across the country are anxious to volunteer themselves in an effort to provide nationwide visibility of aging issues and to promote intergenerational issues. A national silver-haired congress provides this wonderful opportunity. Many of you have probably met with silver-haired congress representatives from your State. They have been walking the Halls of Congress to ensure the passage of this legislation. I applaud their hard work and perseverance. We would not have 42 cosponsors in the Senate and it would not have already passed the House without them. I would also like to thank Wilhelmina Waldman, of my staff, for all of her work on this bill.

With no cost whatsoever to the American public, a national silver-haired congress will provide a national forum for issues of concern to older Americans. I think that this will be invaluable to us all.

TIMBER-DEPENDENT COMMUNITIES

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4196, a bill to ensure that timber-dependent communities qualify for loans and grants from RDA, just received from the House; that the bill be read three times, passed and the motion to reconsider be laid upon the table; that any statement relating to the matter be placed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4196) was deemed read the third time and passed.

Mrs. MURRAY. Mr. President, I have spoken on the Senate floor many times about the great changes overtaking the management of Federal forests in the Pacific Northwest. These forests have been the subject of bitter debate for years and years. Management decisions have been imposed by every branch of Government, from the Federal Government to Congress to the U.S. Court of Appeals. Finally last year, the Clinton administration decided to end the conflict by proposing a comprehensive new strategy for forest management. This plan does not come without pain, or without additional controversy. But it does chart a course for bringing an end to conflict, and it is now in the process of implementation.

I made one central point then, and I'll reaffirm again it now. When government decides to change policy, it has an obligation to help people adjust to the change. In this case, it has meant providing stability, economic diversification incentives, retraining choices, and new forest management initiatives that will provide local governments, small businesses, and individuals with options for the future. When President Clinton announced his new forest management strategy, I committed to my constituents to doing everything I could to steer the accompanying economic package through Congress.

Today I join my colleagues from the Pacific Northwest, Senators HATFIELD and GORTON, in support of legislation that will put one of the important pieces in place. This bill is important to my State and region because it makes an existing program work better for people there.

One of the centerpieces of the Northwest Economic Adjustment Initiative is the Rural Development Administration. This agency administers many programs tailored specifically to foster small business growth and community development in small town America. There are three programs in particular—essential community facilities loans, business enterprise loans, and business enterprise grants—that have been targeted on the Pacific Northwest. Unfortunately, these programs are tailored in such a way that some communities fall through the cracks. Some towns, such as Aberdeen and Pt. Angeles on the Olympic Peninsula, are not eligible for funds under these programs because of arbitrary population standards.

This bill, H.R. 4196, repairs this flaw in the law. It does this by requiring special consideration of communities having populations of not more than 25,000. If this bill is enacted into law, Pt. Angeles and Aberdeen, as well as other towns in the region, will be eligible for grants and loans under the programs I mentioned above.

The Clinton administration has been working diligently since last year with the governors of Washington, Oregon, and California to identify existing programs, improvements to such programs, and other initiatives that communities can use to help chart an economic course for the future. As part of his economic diversification program, he proposed, and the Senate has approved, significant increases for RDA programs. But the joint Federal-state working group also identified changes that could make the program work better. Today we propose to make such a change.

I note here for the RECORD that I have introduced companion legislation, S. 2492, in the Senate. H.R. 4196 as passed by the other body contains only one change: It includes a 5-year sunset clause that keeps the proposed changes in effect only during the period the Northwest Economic Adjustment Initiative is in effect.

Under these amendments to the Rural Development Act, towns and counties in rural areas adjacent to national forests, and people within them, will have access to needed resources. These programs make sense: It puts resources in the hands of people who know what to do with them; it minimizes overhead; and focuses narrowly on the problem without a lot of red tape.

Mr. President, I would like to commend the excellent work of Senator LEAHY of Vermont, the chairman of the Agriculture Committee, and his staff in helping put this bill together. I would also like to thank Senator HATFIELD for his leadership and sensitivity in this time of challenge for our region. This is a good bill, and I urge all my colleagues to support its passage.

YEAR OF THE GIRL CHILD

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from and the Senate proceed to the immediate consideration of S.J. Res. 188, a joint resolution celebrating the Year of the Girl Child; that the joint resolution be read a third time and passed; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (S.J. Res. 188) was deemed read the third time and passed.

The preamble was agreed to.

UNLISTED TRADING PRIVILEGES ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 4535, the Unlisted Trading Privileges Act of 1994; that the Senate then proceed to its immediate consideration; that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that any statement appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4535) was deemed read the third time and passed.

NURSING EDUCATION CONSOLIDATION AND REAUTHORIZATION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 623, S. 2433, a bill to amend the Public Health Service Act to consolidate and reauthorize nursing education programs under such title; that the committee substitute be agreed to; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2433), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calender No. 511, H.R. 1348, relating to the National Heritage Corridor in the State of Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

(The text of the amendment will be printed in a future edition of the RECORD.)

AMENDMENT NO. 2630

Mr. FORD. Mr. President, on behalf of Senators WALLOP, DODD, and LIEBERMAN, I send an amendment to the desk and I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2630) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. FORD. Mr. President, I ask unanimous consent that the committee substitute, as amended, be agreed to; that the bill be read a third time, passed, the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 1348), as amended, was deemed read the third time and passed.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar 523, S. 1413, the Office of Government Ethics Authorization Act of 1994.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1413) to amend the Ethics in Government Act of 1978, as amended, and so forth, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2631

(Purpose: To propose a manager's substitute)

Mr. FORD. Mr. President, on behalf of Senators LEVIN and COHEN, I send a substitute amendment to the desk. I ask for its immediate consideration; that the amendment be agreed to and the motion to reconsider be laid upon the table; that the bill as thus amended be read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements relating to this item be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2631) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Authorization Act of 1994".

SEC. 2. GIFT ACCEPTANCE AUTHORITY.

Section 403 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended by—

(1) inserting "(a)" before "Upon the request"; and

(2) adding at the end thereof the following:

"(b)(1) The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

"(2) No gift may be accepted—

"(A) that attaches conditions inconsistent with applicable laws or regulations; or

"(B) that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Office of Government Ethics.

"(3) The Director shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money, services, use of facilities, or personal property under this subsection would reflect unfavorably upon the ability of the Office of Government Ethics or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.".

SEC. 3. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

The text of section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this title and for no other purposes not to exceed $14,000,000 for fiscal year 1995 and for each of the next 7 fiscal years thereafter.

SEC. 4. ASSISTANCE FROM OTHER AGENCIES.

Section 403(a) of the Ethics in Government Act of 1978 (5 U.S.C. App. 5), as designated by section 2, is amended—

(1) in paragraph (1) by striking "under this Act; and" and inserting "of the Office of Government Ethics; and"; and

(2) in paragraph (2) by striking "duties." and inserting "duties under this Act or any other Act.".

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

"(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

"(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

"(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

"(C) For purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 6. REPEAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF DISPLAY REQUIREMENT.—The Act entitled "An Act to provide for the display of the Code of Ethics for Government Service", approved July 3, 1980 (Public Law 96-303; 5 U.S.C. 7301 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) FDIA.—Section 12(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1822 (f)(3)) is amended by striking ", with the concurrence of the Office of Government Ethics,".

(2) ETHICS IN GOVERNMENT ACT OF 1978.—(A) The heading for section 401 of the Ethics in Government Act of 1978 is amended to read as follows:

"ESTABLISHMENT; APPOINTMENT OF DIRECTOR".

(B) Section 408 is amended by striking "March 31" and inserting "April 30".

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, except section 5 shall take effect and apply to communications or appearances made on and after the date of enactment of this Act.

Mr. LEVIN. Mr. President, Senator Cohen and I, in our capacities as ranking minority member and chairman of the Subcommittee on Oversight of Government Management, which has jurisdiction over ethics matters in the executive branch, introduced S. 1413, a bill to reauthorize the Office of Government Ethics, back in August 1993. OGE's current authorization expires on September 30th of this year, so this bill is necessary to ensure that the agency can continue to perform its mission. We do that by reauthorizing OGE for 8 years, 2 years longer than its last reauthorization in 1988.

The Oversight Subcommittee held a hearing on S. 1413 in April 1994, with Stephen Potts, the Director of OGE, as the witness. The bill was then reported out by the Oversight Subcommittee and the full Governmental Affairs Committee with strong bipartisan support. Before describing the provisions of the bill in detail, let me first put this legislation in perspective.

OGE was created in 1978 as part of the Office of Personnel Management. Over the years, Congress has given OGE more authority and autonomy, making it a separate agency as of October 1, 1989. That's probably the biggest change since the last reauthorization. In addition, through Executive Order, President Bush and President Clinton have given OGE new responsibilities for guiding and implementing an effective ethics program throughout the executive branch.

In the process of developing this bill, the Oversight Subcommittee scrutinized OGE's budget, its personnel, and its accomplishments. Based on that effort, we are satisfied that OGE has improved in areas where weaknesses have been identified in the past and that it is on track in performing its duties in an effective, professional manner.

Let me discuss the specifics of S. 1413. The first issue presented is the appropriate time period for reauthorization. The bill calls for 8 years, which is what OGE itself proposed. The problem with reauthorizing for 6 years, like last time, is that it would place reauthorization in a presidential election year, and we wanted to avoid that as well as the year after, given the large number of nominations coming through the system at such times and OGE's job in helping to review them. Based on OGE's 15-year history, we are confident that this longer period of time is appropriate, since the bugs have been worked out in terms of the agency's structure and operations.

Another issue we address in the bill is whether there ought to be a cap on the authorization of appropriations for OGE. There used to be a cap on OGE's appropriations, but it was problem because the money wasn't sufficient to keep up with OGE's expanding responsibilities under the Ethics Reform Act and other legislation and Executive Orders. So, we raised the cap in 1990 and then removed it in 1992. In the course of developing this reauthorization bill, however, the committees of jurisdiction in the House—the Judiciary Committee and the Post Office and Civil Service Committee—both included caps in their bills. In deference to the House's position, we are now incorporating an annual cap of $14 million in S. 1413. We believe, after consulting with OGE, that this will be enough to allow the agency to perform its duties over the next 8 years.

S. 1413 also gives OGE gift acceptance authority for the first time. Under federal law, an agency can't accept gifts from non-federal sources without specific statutory authority. Many agencies have this authority, but up to now, OGE hasn't been one of them. OGE has asked for gift acceptance authority to assist it in its training mission. OGE regularly conducts multi-agency training sessions for federal employees around the country, and sometimes there is no federal facility nearby that is appropriate in terms of size and services. The gift acceptance authority in S. 1413 would allow OGE to accept donated non-federal facilities—such as an auditorium and related services such as projectionists and custodians—which might be offered by a state or local government or a university. Proper safeguards would protect against potential conflicts in the exercise of this authority.

The bill also includes several provisions that are essentially technical. It corrects a misleading heading in OGE's enabling statute which was not conformed when OGE was made an independent agency in 1989; moves the date of OGE's biennial report from the end of March to the end of April to give OGE more time to incorporate year-end statistics; strikes a 1980 requirement for the display of out-dated ethics posters in all federal buildings with 20 or more employees; and strikes out a reference to OGE in the Resolution Trust Completion Act that calls for OGE to consult on ethics standards for non-government employees who have contractual relationships with the government.

On this last point, let me explain that OGE's mission and expertise is the conduct of government employees, not private persons who may do business with the government. Under this bill, OGE will continue to consult with the FDIC on the ethics rules applicable to its employees.

Finally, the bill includes a provision to correct an unintended effect of the 1989 Ethics Reform Act with respect to the post-employment rules applicable to executive and legislative branch employees. Under current law, senior executive and legislative branch employees (paid $108,000 or $102,000, respectively) are subject to 1-year cooling-off periods during which they cannot contact their former offices on behalf of another party. There are some enumerated exceptions to the current ban—for example, if a federal employee leaves to work for a state or local government or for an international organization like the United Nations, it is permissible for the employee to contact his or her former employer on behalf of the new boss. However, there is no exception for employees who leave to go work for a political campaign. So, if an administrative assistant or legislative director takes a leave of absence from a Senator's staff to work on the Senator's reelection campaign, the former staffer is prohibited from contacting the Senator or his or her staffers to discuss positions on particular issues on behalf of the campaign.

There is a broad bipartisan consensus that the current situation doesn't make sense and that including people who go to work on campaigns in the revolving-door rules was a mistake. In drafting the post-employment rules, no one had the campaign example in mind, and no one intended to prohibit campaign personnel from contacting their former offices. It does not implicate the kind of abuse we are worried about with respect to the revolving-door—that is, trading on Government information and access for private gain. Moreover, this law carries criminal sanctions, and while no one has been prosecuted so far, we need to correct the law to avoid any future prosecutions.

In 1991, there was a major effort to fix this problem by adding a new exception to the post-employment law for staff who leave government to work for campaigns. The Bush administration supported this legislation, and it passed the House as part of the honoraria reform bill. A companion amendment was circulated in the Senate, but the provision never became law because honoraria reform at that time got stalled.

This bill revives the effort to correct this problem, and it is closely based on the 1991 House version. It provides that executive and legislative branch employees who would otherwise be subject to the 1-year cooling-off period are not barred from communicating with their former offices on behalf of a candidate, political committee, or political party. It also includes a few qualifications to this exemption. First, it doesn't apply to FEC employees because their duties in overseeing the campaign process make such an exception for them inappropriate. Second, to guard against potential abuse of the exception or the appearance of impropriety when former employees represent multiple clients (e.g., when someone works for a consulting firm rather than directly for a campaign), the exception would apply only to individuals who work (i) solely for candidates, campaigns, or political parties, or (ii) the entities whose only clients are candidates, campaigns, or political parties.

This correction to the revolving-door rules applies to any communication or appearance that takes place on or after the date of enactment. So, an employee who left a government job within the last year—and who is still subject to the 1-year cooling-off period—can take advantage of this amendment with respect to future activities. Of course, the new rule also applies to anyone who leaves government after the date of enactment. Since we think the lack of an exception was a mistake from the start, we actually contemplated making it retroactive to January 1, 1991—when the Ethics Reform Act became effective—but the Justice Department generally opposes the retroactive repeal of criminal statutes. In deference to their wishes, we agreed to limit the retroactive effect of the provision, but that should not be interpreted to suggest we think past contacts on behalf of candidates or campaigns warrant criminal prosecution.

I hope the House will act quickly to reauthorize OGE and include the other important provisions contained in S. 1413.

So the bill (S. 1413), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THE PAPERWORK REDUCTION ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of calendar No. 704, S. 560, the Paperwork Reduction Act; that the committee amendment be agreed to, the bill, as amended, be deemed read three times and passed, and the motion to reconsider be laid upon the table; further, that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, it gives me great pleasure to rise before my colleagues today and urge their acceptance of bipartisan legislation to reauthorize the Paperwork Reduction Act. As chairman of the Governmental Affairs Committee, I am offering this bill as an amendment in the nature of a substitute to S. 560, the Paperwork Reduction Act of 1994.

I offer this amendment on behalf of myself and Senators NUNN, ROTH, LEVIN, SASSER, DORGAN, COHEN, LIEBERMAN, PRYOR, AKAKA, and BENNETT—all members of the Governmental Affairs Committee. The amendment was reported favorably by a unanimous vote of the committee on August 2, 1994.

This legislation is very important, and should be acted on now. We should not let this Congress end with the Paperwork Reduction Act still-unreathorized. The reauthorization and amendments of the legislation are needed for two simple reasons.

First, the Paperwork Reduction Act is vital to reducing Government paperwork burdens on the American public. Too often, individuals and businesses are burdened by having to fill out questionnaires and forms that simply are not needed to implement the laws of the land. Too much time and money is wasted in an effort to satisfy bureaucratic excess. The Paperwork Reduction Act of 1980 created a clearance process to control this Government appetite for information. The Paperwork Reduction Act of 1994 strengthens this process and will help the public break through the continuing waves of red-tape.

Second, the act is key to reducing the costs and improving the efficiency and effectiveness of government information activities. The Federal Government is now spending over $25 billion a year on information technology. The new age of computers and telecommunications provides many opportunities for improvements in Government operations. Unfortunately, as oversight by our Committee and others has shown, the government is simply wasting millions of dollars on poorly designed and often incompatible systems. This must stop. The Paperwork Reduction Act of 1980 took a first step on the road to reform when it created information resources management [IRM] policies to be overseen by OMB. The Paperwork Reduction Act of 1994 strengthens that mandate and establishes new requirements for agency IRM improvements.

In these and other ways, this legislation strengthens the Paperwork Reduction Act and reflects the concerns of a broad array of Senators, as is seen in the origin of the Committee substitute. It is a compromise between S. 560—introduced by Senator NUNN, for himself, Senators BUMPERS, ROTH, DANFORTH, and 22 other Senators; and S. 681—which I introduced, along with Senators LEVIN and AKAKA. We arrived at our bi-partisan, consensus compromise after a year-long consultative effort, including a committee hearing on May 19, 1994. The result is strongly endorsed by the administration and the General Accounting Office.

As my colleagues know, I have been working for several years to reauthorize this important law. Other members of the committee have, too—particularly, Senator NUNN, Senator ROTH, and Senator LEVIN. We are all very pleased with the compromise we now have. We offer the substitute as an amendment to S. 560 in recognition of the support that bill has obtained, both in the Senate and the House. With that support, we hope our consensus legislation can now move quickly.

Reflecting our support for this amendment, I ask unanimous consent that the following Senators who cosponsored the amendment in committee, be included as original co-sponsors to S. 560: Senators GLENN, LEVIN, DORGAN, LIEBERMAN, PRYOR, AKAKA, and BENNETT.

With this amendment, we have the best of both S. 560 and S. 681:

We reauthorize the act for 5 years;

We overturn the Dole versus United Steelworkers Supreme Court decision, so that information disclosure requirements are covered by the OMB paperwork clearance process;

We require agencies to evaluate paperwork proposals and solicit public comment on them before the proposals go to OMB for review;

We create additional opportunities for the public to participate in paperwork clearance and other information management decisions;

We strengthen agency and OMB information resources management [IRM] requirements;

We establish information dissemination standards and require the development of a Government information locator service [GILS] to ensure improved public access to Government information; especially that maintained in electronic format; and

We make other improvements in the areas of Government statistics, records management, computer security, and the management of information technology.

These are important reforms—and I ask unanimous consent that a more detailed summary of the legislation be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Even with these reforms, reaching agreement on this legislation has involved considerable compromise. There has been give and take on both sides. The result, like most compromises, may well displease some. It may also not completely resolve conflicting views on many of the OMB paperwork and regulatory review controversies that have dogged congressional oversight of the Paperwork Reduction Act. But again, the committee substitute is a compromise that addresses many real issues and moves the Government forward toward the reduction of paperwork burdens on the public and improvements in the management of Federal information resources. I believe this is a very good compromise that can and should pass both the Senate and the House. I urge my colleagues to support the committee substitute.

EXHIBIT 1

SUMMARY OF GLENN-NUNN-ROTH GOVERNMENTAL AFFAIRS COMMITTEE SUBSTITUTE TO S. 560, THE PAPERWORK REDUCTION ACT OF 1994

The committee substitute to S. 560 would reauthorize appropriations for the Paperwork Reduction Act and amend the Act to strengthen its paperwork reduction and information resources management [IRM] purposes. Its most important provisions are:

1. Agency responsibilities—Detailed agency responsibilities for paperwork clearance (e.g., early agency evaluation and public comment) and IRM (e.g., coordinating systems planning with budget and financial management review).

2. Third-Party paperwork—Overturns the Supreme Court decision, Dole versus United Steelworkers, by including 3rd-party "disclosure" requirements in the definition of "collection of information," to ensure OMB paperwork review.

3. Burden—Adds detail to the definition and strengthens references to reducing burden in order to maintain the Act's primary focus on reducing paperwork burdens on the public.

4. 5 percent goal—Maintains the 5% annual paperwork reduction goal from current law.

5. Public disclosure—In addition to consolidating the Act's public disclosure requirements (i.e., for paperwork clearance, not regulatory review), adds a limitation to protect "whistleblowers" by withholding from public disclosure any communications from people about unauthorized "bootleg" paperwork, if they fear retaliation (e.g., from an agency).

6. Requests for OMB review—Allows public requests for an OMB determination of whether agency paperwork is covered by the Act and properly cleared.

7. Dissemination—Details OMB and agency information dissemination management responsibilities.

8. Information technology and IRM planning—Links IT/IRM decision-making to program performance and budgetary/financial management consistent with GAO "Best Practices" studies.

9. Years of authorization—5-year $8 million annual authorization.

The Committee substitute was offered at the Governmental Affairs Committee markup on August 2, 1994, by Chairman Glenn, on behalf of himself, and Senators Nunn, Roth, Levin, Sasser, Dorgan, Cohen, Lieberman, Pryor, Akaka, and Bennett. The committee voted unanimously to favorably report S. 560, as amended by the substitute.

Mr. ROTH. Mr. President, I rise in support of S. 560, the Paperwork Reduction Act of 1994. This legislation was reported out of the Committee on Governmental Affairs unanimously, reflecting the bipartisan efforts of Senators GLENN, NUNN, and myself. Senator NUNN and I were cosponsors of S. 560 while Senator GLENN had sponsored S. 681. While the two bills had many differences of substance, emphasis, and form, the major difference in my opinion concerned the 1990 Supreme Court decision in Dole versus United Steelworkers of America, which held that certain paperwork requirements were not within the jurisdiction of the Paperwork Reduction Act.

I am pleased that the reported legislation overturns the Dole case, so that all paperwork falls under the act and is thereby subject to review by the Office of Information and Regulatory Affairs. The legislation also authorizes appropriations for OIRA for 5 more years, strengthens OIRA and agency responsibilities for the reduction of paperwork burdens on the public, and improves policies for information resources management.

The paperwork burden produced by Government's enormous appetite for information is an ever increasing problem. The fact that the problem is growing does not mean that efforts under the Paperwork Reduction Act of 1980 have not been worthwhile. The problem would have been much worse without such efforts. The mechanism for reducing burdens cannot be faulted because Congress passes more laws that generate more paperwork.

The legislation before us recognizes that an information collection may be problematic not only because the collection has no public utility but also because the collector may already have access to the information and need not bother our citizenry with a request for the same information. I applaud the efforts of GAO to underscore this simple truth by highlighting the benefits of information resources management. This legislation effectuates the principle that information resources management and reduction of paperwork burdens are two sides of the same coin. While some may view the two aspects as competing for scarce OIRA resources, that view is mistaken. The two aspects are inextricably linked.

This legislation enjoys widespread support among the business community, both big and small, as well as among State and local government paperwork collections. They all will be pleased to see that this legislation strengthens the paperwork reduction aspects of the Act and that, in particular, it retains the direction to OIRA that it manage the paperwork burden on the public to achieve a 5 percent reduction.

Paperwork burdens, like other regulatory burdens, are a hidden tax on the American people—a tax without measure, a tax unrestricted by budgetary or constitutional imitations, but a tax no less real.

Unfortunately, there are some liberal interest groups who have never been happy with the Act and who are even less happy with this improved amendment. For the last 14 years, whenever such groups were displeased by the exercise of authority that the Act placed upon OIRA to deny clearance to a noncomplying information collection, they complained that OIRA's action was "substantive" in its effect and in violation, therefore, of section 3518(e) of the Act. That provision states that:

> (n)othing in this chapter shall be interpreted as increasing or decreasing the authority of the President * * * with respect to the substantive policies and programs of departments, agencies, and offices * * *.

These liberal interest groups never seemed to notice the "or decreasing" language in section 3518(e). Thus they sought to transform a "savings clause" regarding the President's authority to oversee the departments and agencies of Government into a limitation on that authority. As both the Reagan and the Clinton regulatory review executive orders exemplify, Presidents have constitutional authority—and, I would add, a constitutional duty—to take care that administration policies are being properly implemented. It is that authority the Act leaves intact—neither increased nor decreased.

The reason I note this argument by liberal interest groups is that it has had a way of insinuating itself into Governmental Affairs Committee reports on the Paperwork Reduction Act, such as in 1990 and 1994. I take exception to its insinuation, as I believe others may as well. The authority given to OIRA under the Act is not mechanical but discretionary. All of the discretion given to OIRA in the words of the Act is actually given and is not contradicted or overridden by section 3518(e). The fact that OIRA exercises is discretion in a different way from what I might prefer does not mean that OIRA has violated the Act, acted outside its authority, or misinterpreted Committee intent, so long as OIRA has weighed the appropriate factors under the Act in reaching its judgment.

In reviewing an information collection under the Act, Sally Katzen of the Clinton administration and Wendy Gramm of the Reagan administration might well give different weight to the appropriate factors in reaching a judgment. That one or the other conclusion may be more agreeable does not make the less agreeable judgment inconsistent with the Act.

This legislation, it should always be remembered, is an overlay on the President's constitutional authority to oversee the departments and agencies of government. That the President has such authority is the key to the correct interpretation of this legislation.

Finally, I would like to underscore a point to which Senators GLENN, NUNN, and I gave considerable attention. This legislation is a rewrite of the 1980 Act. Its form is necessitated by the number of technical and other changes made. This form is in no way intended to start a new legislative history with the 1994 Act. Rather, this legislation is only a pro tanto modification intended to carry on the legislative history of the 1980 Act. The report, at page 17, makes this very same point. It is an important point, and it should be noted by anyone interested in the legislative history that guides the interpretation of the Paperwork Reduction Act.

In closing, I wish to commend my colleagues, Senator GLENN and Senator NUNN, for their co-operation and patience in fashioning legislation on a very complex subject. This legislation merits the support of every Member.

Mr. NUNN. Mr. President, I rise in strong support of the committee substitute for S. 560, the Paperwork Reduction Act of 1993, which I sponsored. I complement my good friend from Ohio [Mr. GLENN], the chairman of the Governmental Affairs Committee, for his skillful leadership and tenacity in making this possible. The agreement embodied in the committee substitute has garnered unanimous support within the committee, the support of the administration, and the support of the broad-based Paperwork Reduction Act Coalition as well that of elected officials, and many in the educational and non-profit communities.

The committee substitute is a skillful blending of S. 560, as introduced, and the chairman's bill S. 681. Both had the same basic objectives—to reauthorize appropriations for the Office of Information and Regulatory Affairs [OIRA] at OMB and to strengthen the Paperwork Reduction Act of 1980. Each bill, however, reflected substantially different perspectives on how the Paperwork Reduction Act should be strengthened. The committee substitute reflects the core of both bills.

We could not have successfully reached this point without the assistance of our Republican colleagues on the committee, led by my friend from Delaware [Mr. ROTH], whose steadfast assistance was invaluable. S. 560, the Nunn-Bumpers-Danforth Paperwork Reduction Act of 1993, enjoys strong bipartisan support with Members outside the membership of the Governmental Affairs Committee.

Given the importance of this issue to the small business community, S. 560, as introduced, has many original cosponsors from the ranks of the Committee on Small Business. My friend from Arkansas [Mr. BUMPERS], the chairman of the Small Business Committee, is the principal cosponsor of S. 560 on the Democratic side. Senator PRESSLER, the committee's ranking Republican member, was also among the original cosponsors of S. 560. In all, fully a quarter of the membership if the Senate cosponsored S. 560, as introduced. I believe that the committee substitute is equally worthy of their support.

Mr. President, as was described by my friend from Ohio [Mr. GLENN], the committee substitute includes the many valuable provisions of S. 681 relating to improving information resources management [IRM] by the Federal Government. The smart use of information by the government, and its potential to minimize the burdens placed on the public, is a core concept of the 1980 act. The IRM provisions of the committee substitute clearly build upon the foundation laid more than a decade ago by our former colleague from Florida, Lawton Chiles, the father of the Paperwork Reduction Act.

The committee substitute being considered today also reflects most of the provisions found in S. 560, as introduced. Taken together these provisions reaffirm the fundamental objective of the Paperwork Reduction Act—to minimize the Federal paperwork burdens imposed on individuals, businesses, especially small businesses, educational and non-profit institutions, and State and local governments.

Mr. President, let me highlight several provisions. The committee substitute adopts the provisions of S. 560 which emphasize the fundamental responsibilities of each Federal agency to minimize new paperwork burdens by thoroughly reviewing each proposed collection of information for need and practical utility, the act's fundamental standards. The committee substitute emphasizes the responsibility of each Federal agency to conduct this review itself, before submitting the proposed collection of information for public comment and clearance by OIRA.

The bill before us reflects the provisions of S. 560 that further enhance public participation in the review of paperwork burdens, when they are first being proposed or when an agency is seeking to obtain approval to continue to use an existing paperwork requirement. Strengthening public participation is at the core of the 1980 act.

The committee substitute reflects the provision of S. 560, as introduced, which requires the establishment of a Government-wide goal, and individual agency goals, for the reduction of paperwork burdens on the public. Given past experience, some question the effectiveness of such goals in producing net reductions in Government-wide paperwork burdens. The proponents believe that such agency goals, if taken seriously, can become an effective restraint on the cumulative growth of Government-sponsored paperwork burdens.

Mr. President, the bill before us also includes amendments to the 1980 act which further empower members of the public to help police Federal agency compliance with the act. I would like to describe two of these provisions, both of which are derived from provisions contained in S. 560, as introduced.

One provision would enable a member of the public to obtain a written determination from the OIRA Administrator regarding whether a Federally-sponsored paperwork requirement is in compliance with the act. If the agency paperwork requirement is found to be non-complaint, the Administrator is charged with taking appropriate remedial action. This provision is based upon a similar process added to the Office of Federal Procurement Policy Act in 1988.

The second provision encourages members of the public to identify paperwork requirements that have not been submitted for review and approval pursuant to the act's requirements. Although the act's public protection provisions explicitly shield the public from the imposition of any formal agency penalty for failing to comply with such an unapproved, or "bootleg", paperwork requirement, individuals often feel compelled to comply. This is especially true when the individual has an on-going relationship with the agency and that relationship accords the agency substantial discretion that could be used to redefine their future dealings. Under the committee substitute, a member of the public can "blow the whistle" on such a bootleg paperwork requirement and be accorded the protection of anonymity.

Finally, Mr. President, I would like to highlight that the committee substitute clarifies the 1980 act to make explicit that it applies to Government-sponsored third-party paperwork burdens. These are recordkeeping, disclosure, or other paperwork burdens that one private party imposes on another private party at the direction of a Federal agency. In 1990, the U.S. Supreme Court decided that such Government-sponsored third-party paperwork burdens were not subject to the Paperwork Reduction Act. The Court's decision in Dole versus United Steelworkers of America created a potentially vast loophole. The public could be denied the act's protections on the basis of the manner in which a Federal agency chose to impose a paperwork burden, indirectly rather than directly. It is worthy of note that Lawton Chiles went to the trouble and expense of filing an amicus brief to the Supreme Court arguing that no such exemption for third-party paperwork burdens was intended. Given the plain words of the statute, the Court decided otherwise. The bill before us makes explicit the act's coverage of all Government-sponsored paperwork burdens. Once this bill is enacted, we can feel confident that this major loophole will be closed. But given more than a decade of experience under the act, it is prudent to remain vigilant to additional efforts to restrict the act's reach and public protections.

Mr. President, rather than taking any more of the Senate's time to discuss the provisions of the committee substitute and how they change the 1980 act, I would ask unanimous consent to insert in the RECORD some views regarding how the bill we are about to consider affects the Paperwork Reduction Act of 1980 and prior amendments to it.

The PRESIDING OFFICER. Without objection its so ordered.

(See exhibit 1.)

Mr. NUNN. Mr. President, the committee substitute, like S. 560, as introduced, enjoys strong support from the business community, especially the small business committee. It has the support of a broad Paperwork Reduction Act Coalition, representing virtually every segment of the business community. Participating in the coalition are the major national small business associations—the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], and National Small Business United [NSBU] as well as the many specialized national small business association, like the American Subcontractors Association, that comprise the membership of SBLC or NSBU. Other participants represent manufacturers, aerospace and electronics firms, construction firms, providers of professional and technical services, retailers of various products and services and the wholesalers and distributors who support them. I would like to identify a few other organizations that comprise the coalition's membership: the Aerospace Industries Association [AI], the American Consulting Engineers Council [ACEC], the Associated Builders and Contractors [ABC], the Associated General Contractors of America [AGC], the Chemical Manufacturers Association [CMA], the Computer and Business Equipment Manufacturers Association [CBEMA], the Contract Service Association [CSA], the Electronic Industries Association [EIA], the Independent Bankers Association of America [IBAA], the International Communications Industries Association [ICIA], the National Association of Manufacturers, the National Association of Wholesalers and Distributors, the National Security Industrial Association [NSIA], the National Tooling and Machining Association [NTMA], the Printing Industries Association [PIA], and the Professional Services Council [PSC]. Leadership for the coalition is being provided by the Council on Regulatory and Information Management [C-RIM] and by the U.S. Chamber of Commerce. C-RIM is the new name for the Business Council on the Reduction of Paperwork, which has dedicated itself to paperwork reduction and regulatory reform issues for more than a half century.

The coalition also includes a number of professional associations and public interest groups that support strengthening the Paperwork Reduction Act of 1980. These include the Association of Records Managers and Administrators [ARMA] and Citizens for a Sound Economy [CDE], to name but two very active coalition members.

Mr. President, I ask unanimous consent to have printed in the RECORD following my remarks a listing of the organizations that comprise the Paperwork Reduction Act Coalition.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. NUNN. Mr. President, given the regulatory and paperwork burdens faced by State and local governments, legislation to strengthen the Paperwork Reduction Act is high on the agenda of the associations representing elected officials. The Governor of Florida, my friend Lawton Chiles, has worked hard on this issue within the National Governors Association. During its 1994 annual meeting, the National Governors Association adopted a resolution in support of S. 560.

Mr. President, in addition to the broad support I have just described, the committee substitute for S. 560 has won the support of the Clinton administration. This legislation will advance the administration's broad initiatives to improve the delivery of services to the public, while minimizing the paperwork burdens that Government imposes in fulfilling its functions. With its emphasis on information resources management and the smart use of technology to undertake Government activities while imposing the least burden, the committee substitute for S. 560 can be an effective tool for advancing the administration's reinventing Government initiatives. Having available to the President the tools provided by a strengthened Paperwork Reduction Act can only help advance the implementation of the recommendations of the Vice President's National Performance Review.

Mr. President, I again congratulate my good friend from Ohio [Mr. GLENN] for his leadership in getting us to this point. I urge my colleagues to join me in supporting passage of the committee amendment to S. 560, the Paperwork Reduction Act of 1994.

EXHIBIT 1

COMMENTS OF SENATOR NUNN ON S. 560, AS REPORTED BY THE COMMITTEE ON GOVERNMENT AFFAIRS

The Committee substitute for S. 560, the "Paperwork Reduction Act of 1994", reflects an agreement that combines provisions of S. 560, as introduced, with S. 681, the "Paperwork Reduction Reauthorization Act of 1993", introduced by Chairman Glenn. Both bills made numerous amendments to the Paperwork Reduction Act, often from a different perspective. Given the number of changes to be made, it was decided that the substitute text of S. 560 would be in the form of a complete substitute for text of Chapter 35, of title 44, United States Code, in which the Paperwork Reduction Act is codified. This raised substantial concerns about the report to accompany the reported text of S. 560 and whether the legislative history of the 1980 Act and subsequent Congressional action could be adequately preserved.

These concerns about preserving the Act's existing legislative history prompted a very detailed review of the Committee's proposed report in light of previous Committee actions. Detailed comments were provided on the draft report.

Committee reports are a "touchstone" for those who are charged with implementing statutes in consonance with Congressional intent, for future Congresses when engaging in oversight, and for the courts. Accordingly, I want to make several points regarding the Committee Report (S. Rpt. 103-392) accompanying the bill:

1. The Report's section on "Implementation of the Paperwork Reduction Act of 1980" is presented as an historical account of what

has happened as a result of the 1980 Act. I do not share this understanding of past events. There are factual inaccuracies, omissions, and interpretations of the Committee's past actions with which I do not agree. Taken together, they could well lead to a future interpretational result that would be contrary to my understanding of the intent underlying the Committee substitute for S. 560, as introduced.

For example, President Carter, not President Reagan, initiated linking the President's Constitutional authority to review regulations to the information clearance authority delegated by Congress by the Federal Reports Act and its successor, the Paperwork Reduction Act. The origins of the issues associated with this linkage did not begin with the Reagan Administration. Moreover, they were well known to the Committee during its work on the legislation that became the 1980 Act. Acknowledging the Committee's long understanding of this core relationship is necessary to recognizing my understanding that S. 560, as reported, is a reaffirmation of a complementary relationship between the President's authority to review regulations and the specific responsibilities assigned to the Director of OMB by Congress in the Paperwork Reduction Act.

Contrary to the impression left by the Report's recitation of past events, the Committee passed and reported a bill in 1984 to reauthorize appropriations and amend the 1980 Act. In my view, concerns over "regulatory review" was not the reason the full Senate was unable to act on that bill.

The Report's account also could be read to suggest that the Committee reached a position regarding the Supreme Court decision in *Dole* v. *U.S. Steelworkers* when it states that the "Committee's report accompanying its 1990 legislation . . . describes these contentious issues and reveals the accompanying divisions within the Committee." I believe it important to acknowledge that in 1990 the Committee chose not to deliberate upon a legislative response to the Dole decision. My recollection is that based on a bipartisan request from a majority of the Members of the Committee on Small Business deliberations on the appropriate response to the Dole decision were reserved for consideration by the full Senate. The Senate was unable to engage in that deliberation.

There are other examples which leave the impression that problems with the Act's implementation rest largely with OMB. I would maintain that concern with agencies efforts to evade or undermine the 1980 Act have been as important to the Committee's deliberations. The 1982 Justice Department Opinion and agency reactions to it, for example, were central to the Committee's deliberations and actions in 1983, 1984, and 1986.

2. A major objective of my effort to pass Paperwork Reduction Act legislation has been to clarify the Act to overcome the confusion caused by the Court's reasoning in *Dole* v. *United Steelworkers of America*. The bill makes clear, particularly in its amendments to the terms "collection of information" and "recordkeeping requirements" that the scope of the Act's provisions apply to all federally sponsored collections of information, including disclosure requirements which involve one private party providing information to a third party.

In the Section-by-Section Analysis of the amended definition for "collection of information", the Report states:

> To the extent that the debate over the Dole decision has involved charges that overturning the decision would amount to legislatively authorizing substantive regulatory review, the Committee notes that the Act, as stated in section 3518(e) of current law, is not to be "interpreted as increasing or decreasing the authority . . . [of OMB] with respect to the substantive policies and programs of [agencies]".

This Committee notation comes in the context of discussing an amendment intended to overturn the Dole decision's impact on the scope of the Act's provisions. Plaintiffs in that case, as they have done as witnesses before the Committee on several occasions, make much of how the language of section 3518(e) limits the authority of the Director of OMB under the Paperwork Reduction Act. Their concern, as I interpret it, is more the scope of the Director's authority, than it is the scope of what the Act's provisions cover.

The above referenced Committee notation needs to quote section 3518(e) in its entirety. The provision is a savings provision rather than a limitation. Further, it is not applicable solely to the Director of OMB, but was designed not to impair the President's authority under the Constitution and other statutory law. This meaning is not affected by the Committee's amendments to overturn the Dole decision or interpretations of it. Section 3518(e) reads:

> (d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws. (Emphasis added)

Vital to an understanding of this savings provision is the clause "increasing or decreasing the authority of the President . . .". For example, the Paperwork Reduction Act should not be read to decrease the authority or prohibit the President from exercising authority he could otherwise assert or appropriately delegate to the Director of OMB under the Constitution or other laws.

3. The Section-by-Section Analysis for Section 3508 needs to make clear that the Director's standard of review contained in Section 3508 is unchanged and continues to apply to all collection of information clearance decisions, including all such decisions set forth in Section 3507(d). Under S. 560, as reported, Section 3507(d) continues to describe how the Director will apply this standard of review for collections of information specifically contained in proposed rules subject to notice and comment rulemaking. The same Section 3508 standard of review applies when the Director makes a determination pursuant to the use of term "unreasonable" in Section 3507(d)(4)(C). (See, S. Rpt. 96-930 at 49 and Congressional Record Dec. 15, 1980 at page S-16700, Kennedy Statement)

4. A final, additional comment relates to the Report's treatment of the relationship between the Act's objective to improve "information resources management" and the objective to reduce regulatory paperwork burdens on the public. I see these objectives as mutually reinforcing. These two objective have more in common than they are separate and distinct. The implementation of these two objectives of the 1980 Act are fundamentally linked and intertwined, and effective implementation should reflect this understanding. I believe that this point needs to be further emphasized.

A unequivocal recognition of fundamental linkage of these two objectives of the 1980 Act is, furthermore, complementary to ongoing Administration efforts to "reinvent" government and its delivery of services to the public through the implementation of the recommendations contained in the Report on the Vice President's National Performance Review. The extent to which the bill's annual goals of reducing the cumulative paperwork burden on the public are met will be a measure of performance in implementing these amendments to the Act.

The linkage between regulatory and information management reforms is what distinguishes the Paperwork Reduction Act from other such reforms. Better "information resources management" amounts to a strategy on how to be smart about the consideration and use of alternative information technologies in reducing the burdens of the regulatory process upon the private sector, state and local governments, and the public. The practical benefits of implementing this fundamental concept of linkage is at the heart of this bill's broad support.

EXHIBIT 2

THE PAPERWORK REDUCTION ACT COALITION

Aerospace Industries Association of America.
Air Transport Association of America.
Alliance of American Insurers.
American Consulting Engineers Council.
American Institute of Merchant Shipping.
American Iron and Steel Institute.
American Petroleum Institute.
American Subcontractors Association.
American Telephone & Telegraph.
Associated Builders & Contractors.
Associated Credit Bureaus.
Associated General Contractors of America.
Associated Records and Managers Association.
Association of Manufacturing Technology.
Automotive Parts and Accessories Association.
Biscuit and Cracker Manufacturers' Association.
Bristol Myers.
Chamber of Commerce of the United States of America.
Chemical Manufacturers Association.
Chemical Specialties Manufacturers Association.
Citizens Against Government Waste.
Citizens For A Sound Economy.
Computer and Business Equipment Manufacturers Association.
Contract Services Association of America.
Copper & Brass Fabricators Council.
Council on Regulatory and Information Management.
Dairy and Food Industries Supply Association.
Direct Selling Association.
Eastman Kodak Company.
Electronic Industries Association.
Financial Executives Institute.
Food Marketing Institute.
Gadsby & Hannah.
Gas Appliance Manufacturers Association.
General Electric.
Glaxo, Inc.
Greater Washington Board of Trade.
Hardwood Plywood and Veneer Association.
Independent Bankers Association of America.
International Business Machines.
International Communication Industries Association.
International Mass Retail Association.
Kitchen Cabinet Manufacturers Association.
Mail Advertising Service Association International.

McDermott, Will & Emery.
Motorola Government Electronics Group.
National Association of Homebuilders of the United States.
National Association of Manufacturers.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of the Remodeling Industry.
National Association of Wholesalers-Distributors.
National Federation of Independent Business.
National Food Processors Association.
National Food Brokers Association.
National Foundation for Consumer Credit.
National Glass Association.
National Restaurant Association.
National Roofing Contractors Association.
National Security Industrial Association.
National Small Business United.
National Society of Professional Engineers.
National Society of Public Accountants.
National Tooling and Machining Association.
Northrop Corporation.
Packaging Machinery Manufacturers Institute.
Painting and Decorating Contractors of America.
Printing Industries of America.
Professional Services Council.
Shipbuilders Council of America.
Small Business Legislative Council.
Society for Marketing Professional Services.
Sun Company, Inc.
Sunstrand Corporation.
Texaco.
United Technologies.
Wholesale Florist and Florist Suppliers of America.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Nurserymen.
American Bus Association.
American Consulting Engineers Council.
American Council of Independent Laboratories.
American Floorcovering Association.
American Gear Manufacturers Association.
American Machine Tool Distributors Association.
American Road & Transportation Builders Association.
American Society of Travel Agents, Inc.
American Sod Producers Association.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
American Warehouse Association.
American Wholesale Marketers Association.
AMT-The Association for Manufacturing Technology.
Apparel Retailers of America.
Architectural Precast Association.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Automotive Service Association.
Automotive Recyclers Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
Christian Booksellers Association.
Council of Fleet Specialists.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Helicopter Association International.
Independent Bakers Association.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Communications Industries Association.
International Formalwear Association.
International Television Association.
Machinery Dealers National Association.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
Mechanical Contractors Association of America, Inc.
National Association for the Self-Employed.
National Association of Brick Distributors.
National Association of Catalog Showroom Merchandisers.
National Association of Home Builders.
National Association of Investment Companies.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Private Enterprise.
National Association of Realtors.
National Association of Retail Druggists.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of the Remodeling Industry.
National Association of Truck Stop Operators.
National Association of Women Business Owners.
National Chimney Sweep Guild.
National Coffee Service Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Fastener Distributors Association.
National Food Brokers Association.
National Grocers Association.
National Independent Flag Dealers Association.
National Knitwear Sportswear Association.
National Limousine Association.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tire Dealers & Retreaders Association.
National Tooling and Machining Association.
National Tour Association.
National Venture Capital Association.
Opticians Association of America.
Organization for the Protection and Advancement of Small Telephone Companies.
Passenger Vessel Association.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Plant Growers Association.
Promotional Products Association International.
Retail Bakers of America.
Small Business Council of America, Inc.
SMC/Pennsylvania Small Business.
Society of American Florists.
The Council of Growing Companies.
United Bus Owners of America.

So the bill (S. 560), as amended, was deemed to have been read three times and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

INTRASTATE TOW AND WRECKER TRUCK TRANSPORTATION TECHNICAL CORRECTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 706, H.R. 5123, the Intrastate Tow and Wrecker Truck Transportation Technical Corrections Act of 1994.

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 5123) to make a technical correction to an Act preempting State economic regulation of motor carriers.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2632

(Purpose: To amend 49 U.S.C. 11501 with respect to preemption of State economic regulation of motor carriers)

Mr. FORD. Mr. President, on behalf of Senators FORD, MURRAY, BINGAMAN, GORTON, and HUTCHISON, I send an amendment to the desk and ask for its immediate consideration; that the amendment be agreed to and the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed and the motion to reconsider be laid upon the table; further, that any statement relating to this item be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2632) was agreed to, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. TECHNICAL CORRECTION OF 1994 FFA AUTHORIZATION ACT.

(a) IN GENERAL.—Section 11501(h)(2) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and insert in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(C) does not apply to the transportation of garbage and refuse;

"(D) does not apply to the transportation for collection of recyclable materials that are a part of a residential curbside recycling program; and

"(E) does not restrict the regulatory authority of a State, political subdivision of a State, or political authority of 2 or more States before January 1, 1997, insofar as such authority relates to tow trucks or wreckers providing for-hire service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1995.

Mr. FORD. Mr. President, today, the Senate is about to consider H.R. 5123, the Intrastate Tow and Wrecker Transportation Technical Corrections Act of 1994, which was passed by the House on September 29, 1994. My friend, Chairman RAHALL of the House Public Works Subcommittee on Surface Transportation worked hard to craft a limited technical correction to P.L. 103-305, the Federal Aviation Administration Authorization Act, which preempted state regulation of trucking as of January 1, 1995.

The amendment I am offering to H.R. 5123 is also a technical correction. It builds on Chairman RAHALL's bill, and also adds two clarifications. First, let me explain the difference in the tow truck provision. The House bill would enable states to regulate tow trucks and wreckers for-hire. My amendment would provide the status quo for such services, whether regulated by a state or local jurisdiction. In any event, the ability to regulate tow trucks and wreckers for-hire would expire on January 1, 1997.

The two technical clarifications relate to what I would consider "garbage". Under the FAA Act, the transportation of property by motor carrier can no longer be regulated by state and local jurisdictions. The definition of property apparently has created some work for a few lawyers. The concern is that "garbage" could be construed as property", and thus states and local jurisdictions would be unable to regulate garbage collections, and recyclable collections at residences.

I know we all know what "garbage" is, but unfortunately, sometimes the lawyers need absolute certainty. I should add that the lawyers from the ICC and DOT have been very helpful and agree that a common sense definition of garbage exists. Letters from both agencies suggest that no amendment is needed. Yet, other lawyers want more certainty. Well, to those lawyers, the amendment I am offering will help them understand that "garbage" is "garbage". Once you or I put it out on the curb for the garbageman, it is garbage—not "property". If the lawyers want it, its all theirs! While the FAA Act of 1994 does not restrict state or local authority to regulate the transportation of garbage, refuse or recyclable material collected at residences, the amendment lays to rest any uncertainty as to what is garbage and what is property.

Mr. BINGAMAN. Mr. President, let me ask Senator FORD a question concerning section 601 of the recently enacted Federal Aviation Authorization Act of 1994 (P.L. 103-305).

Mr. FORD. I would be delighted to engage in a colloquy with my friend from New Mexico. I know he has a number of concerns with the impact of section 601 on his State.

Mr. BINGAMAN. Section 601 states that no State or political subdivision can regulate the price, route or service of the transportation of property by motor carriers and private motor carriers. Is it the Senator's understanding that the term "property" does not include "garbage"?

Mr. FORD. Yes, the Senator is correct. In fact, I have made sure that all understand that States can continue to regulate the collection of garbage and refuse under the amendment I offered to H.R. 5123, the Intrastate Tow and Wrecker Truck Transportation Technical Corrections Act of 1994.

Mr. BINGAMAN. I wanted to make sure that the term "property" did not include, what in my State are commonly called "water haulers", companies that haul water from an oil or natural gas well. The water carried is worthless—it either is dumped into the well or into a disposal area.

Mr. FORD. Assuming that the water being transported is worthless, I would believe that it could be construed as garbage or refuse. In addition, I might point out that section 601 does not affect a State's right to regulate safety or the routing of hazardous materials.

Mr. BINGAMAN. I thank the Senator for discussing the provision.

Mr. GORTON. Mr. President, I am pleased to lend my support to this legislation which makes technical corrections to a bill enacted into law earlier this year. I especially appreciate Chairman FORD's willingness to work with me and other members of the Washington delegation in accepting a provision clarifying that States are not preempted from regulating the transportation for collection of recyclable materials that are a part of a residential curbside recycling program.

Washington State leads the Nation in efforts to encourage residential recycling and resource conservation as part of our overall waste management strategy. Programs throughout the State are up and running and achieving remarkable results. For instance, in Pierce County alone, over 100,000 households participate in programs that have achieved the diversion of 42 percent of the waste stream away from disposal and into recycling. Local programs rely on integrated financial incentives for garbage and recycling to keep costs for residential customers under control.

Mr. President, I think it is important to note that this provision simply clarifies existing law. It was never congressional intent to preempt the States ability to regulate curbside residential recycling and many experts have told me that we did not do so in enacting title VI of the FAA Act earlier this year. In fact, I have a letter dated September 30, 1994, from Henri F. Rush, the General Counsel of the Interstate Commerce Commission which states, "You have requested my opinion as to whether Title VI of the Federal Aviation Authorization Act of 1994 preempting State regulation in intrastate truck transportation can be interpreted as foreclosing a State or municipality from regulating curbside collection of recyclables in connection with the provision of curbside trash collection service. In my view it cannot." While I agree with Mr. Rush's views, due to the importance of recycling programs and to address any concerns that anyone may have with regard to Congressional intent, I am pleased that Chairman FORD saw fit to clarify this issue.

I have also heard from cities within my State over the issue of the regulation of tow trucks and wreckers. I also appreciate Chairman FORD's willingness to include a provision relating to this matter. This provision will give Congress time next year to examine the legitimate concerns raised by cities like Bellevue, WA, over issues of consumer protection and public safety as it relates to towing services.

So the bill (H.R. 5123), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TECHNOLOGY INVESTMENT ACT

Mr. FORD. Mr. President, I ask unanimous consent, the Senate proceed to the immediate consideration of calendar No. 605, S. 1881, the NASA Technology Investment Act of 1994; that the committee amendment be agreed to, the bill as amended be deemed read three times, passed, and the motion to reconsider be laid upon the table; further, that my statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, on August 11, 1994, S. 1881, the National Aeronautics and Space Administration [NASA] Technology Investment Act of 1994, was approved by the Committee on Commerce, Science, and Transportation. As chairman of the Commerce Committee, I support S. 1881 and its passage by the Senate.

This year, our Nation celebrated the 25th anniversary of the Apollo 11 mission to the Moon. Many technologies needed for that historic mission were subsequently "spun-off" and used for commercial products or processes. Today, with diminishing Federal dollars available to fund important national priorities, NASA can no longer afford the luxury of developing technologies solely for its own missions.

Continued Federal investment in aeronautics and space demands closer links with industry's technology requirements and greater returns to the U.S. economy.

S. 1881 provides the framework for NASA to work more closely with industry to identify and pursue the development of technologies but requires no increase in spending. It is a small but important step in reassessing our funding priorities in the post-cold war era. I urge my colleagues to join me in passing this bill.

Mr. ROCKEFELLER. Mr. President, the Senate is taking an important step forward today in approving a bill designed to produce more dividends for Americans from our investment in the Nation's space program. This represents the kind of change we need to make to strengthen our economy, generate jobs, and thrive as a society in the future. This legislation sends a very clear signal to NASA, and I urge its leadership and personnel to rise to the challenge.

As chairman of the Subcommittee on Science, Technology and Space, I am pleased to have the Senate consider this bill, S. 1881, the National Aeronautics and Space Administration [NASA] Technology Investment Act of 1994.

With Senator BURNS, I introduced S. 1881 on March 1, 1994. Working with NASA, industry, and our cosponsors, Senators MIKULSKI, PRYOR, INOUYE, LOTT, JEFFORDS, ROBB, GLENN, FEINSTEIN, and GORTON, S. 1881 was approved without objection by the Committee on Commerce, Science, and Transportation on August 11, 1994. The legislation before the Senate today is the reported version of S. 1881.

A great deal of thought and work was spent to develop this legislation, because of our interest in providing clearer direction to NASA on the priorities that reflect the public's needs. Certainly, I am hopeful that the people and industries of my own State will benefit from a space program that uses its tools and mission to serve the Nation more effectively.

The purpose of S. 1881 is to make NASA's existing investment in aeronautics and space as useful as possible to important commercial sectors in the United States, such as aircraft, communications satellites, remote sensing, and launch vehicles. With important national initiatives competing for scarce funding, continued Federal investment in NASA's aeronautics and space programs require more tangible contributions to economic priorities.

In developing this legislation, we were impressed with NASA's efforts to work more closely with industry to advance aeronautics in areas of high speed research and advanced subsonic technologies. Working with industry in these two areas to identify and develop high risk technologies may help U.S. airframe and engine manufacturers in existing markets and capture the future high speed civil transport market. However, the lion's share of NASA funding—about 90 percent—goes to its space programs, not aeronautics. S. 1881 would require NASA to work with industry to identify and develop high risk space technologies. As NASA developed technologies for its own missions, it would also advance technologies and equipment useful to industry.

Recognizing the important role that aeronautics research and technology plays in the competitiveness of U.S. industry, S. 1881 also requires an assessment of wind tunnel testing capabilities and a strategy for joint industry/government funding of new wind tunnel facilities. Our national wind tunnel facilities are aging and, with few exceptions, cannot be modified to simulate adequately the flight conditions that will be required for highly productive aircraft design and development.

Finally S. 1881 as reported includes amendments to the Commercial Space Launch Act of 1984 that (1) extend the authority of the Department of Transportation to cover commercial re-entry spacecraft and (2) incorporate the intent of S. 1145 to prohibit the launch of outer space advertisements. S. 1145 was introduced by Senator JEFFORDS and cosponsored by Senators AKAKA, BUMPERS, CONRAD, DORGAN, GLENN, KOHL, and WARNER.

S. 1881 calls for better use of existing dollars at NASA, not new spending. NASA, the administration, professional associations, and aerospace industries support this legislation, and I thank all of them for their counsel and input. I also thank Elizabeth Inadomi of the Senate Commerce Committee staff, who provided valuable assistance in developing this measure.

I urge my colleagues in the Senate to join me and pass this bill. I ask that the NASA Technology Investment Act of 1994, as reported, be reprinted in its entirety and accompany my statement for the RECORD.

Mr. BURNS. Mr. President, I am pleased to express my support for passage of the National Aeronautics and Space Administration Technology Investment Act of 1994. This bill is designed to encourage the National Aeronautics and Space Administration [NASA] to strengthen the link between their programs and economic growth and jobs for Americans, and in my case, Montanans.

The bill provides a framework for NASA to move in the direction of a more business-like approach with the aerospace industry. The bill does two basic things: gives NASA a direction for its role in technology investment and requires the United States to prepare a strategy for developing world class aeronautics testing facilities.

It is important to support our aerospace industry because of its key role in offsetting deficits in U.S. trade with other countries. One of the areas the industry lacks is adequate facilities to test new concepts.

My work with a company in Butte, MT, revealed to me that the United States does not have adequate wind tunnels and must rely on foreign wind tunnels for our Nation's future aeronautics testing. Our aerospace companies' reliance on these foreign wind tunnels could result in advances to other countries' aircraft competing directly with U.S. commercial aircraft.

The bill establishes a competitive, cost-sharing technology program for eligible companies. It is designed to work with existing Federal policy to encourage industry-led groups to develop new technologies on a more efficient basis.

I commend my good friend Senator ROCKEFELLER, chairman of the Science, Technology, and Space Subcommittee of the Commerce, Science, and Transportation Committee, for his leadership on this legislation.

I yield the floor.

So the bill (S. 1881) was deemed to have been read three times and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

INDEPENDENT SAFETY BOARD ACT AMENDMENTS OF 1994—MESSAGE FROM THE HOUSE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 2440) to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 2440) entitled "An Act to amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes.", with the following amendment:

In lieu of the matter proposed by said amendment, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1994".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 1118(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There is authorized to be appropriated for the purposes of this chapter $37,580,000 for fiscal year 1994, $44,000,000 for fiscal year 1995, and $45,100,000 for fiscal year 1996. Such sums shall remain available until expended.".

SEC. 3. APPLICABILITY OF CERTAIN REGULATIONS AND REQUIREMENTS TO THE OPERATION OF PUBLIC AIRCRAFT.

(a) DEFINITION OF PUBLIC AIRCRAFT.—Section 40102(a)(37) of title 49, United States Code, is amended by striking subparagraph (B) and inserting the following:

"(B) does not include a government-owned aircraft—

"(i) transporting property for commercial purposes; or

"(ii) transporting passengers other than—

"(I) transporting (for other than commercial purposes) crewmembers or other persons aboard the aircraft whose presence is required to perform, or is associated with the performance of, a governmental function such as firefighting, search and rescue, law enforcement, aeronautical research, or biological or geological resource management; or

"(II) transporting (for other than commercial purposes) persons aboard the aircraft if the aircraft is operated by the Armed Forces or an intelligence agency of the United States.

An aircraft described in the preceding sentence shall, notwithstanding any limitation relating to use of the aircraft for commercial purposes, be considered to be a public aircraft for the purposes of this part without regard to whether the aircraft is operated by a unit of government on behalf of another unit of government, pursuant to a cost reimbursement agreement between such units of government, if the unit of government on whose behalf the operation is conducted certifies to the Administrator of the Federal Aviation Administration that the operation was necessary to respond to a significant and imminent threat to life or property (including natural resources) and that no service by a private operator was reasonably available to meet the threat.".

(b) AUTHORITY TO GRANT EXEMPTIONS.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may grant an exemption to any unit of Federal, State, or local government from any requirement of part A of subtitle VII of title 49, United States Code, that would otherwise be applicable to current or future aircraft of such unit of government as a result of the amendment made by subsection (a) of this section.

(2) REQUIREMENTS.—The Administrator may grant an exemption under paragraph (1) only if—

(A) the Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and

(B) the Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

(c) INVESTIGATIVE AUTHORITY OF BOARD.—

(1) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—Section 1131(a)(1)(A) of title 49, United States Code, is amended by inserting before the semicolon at the end the following: "or an aircraft accident involving a public aircraft as defined by section 40102(a)(37) of this title other than an aircraft operated by the Armed Forces or by an intelligence agency of the United States".

(2) DUTIES AND POWERS.—Section 1131 of title 49, United States Code, is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following:

"(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall take effect on the 180th day following the date of the enactment of this Act.

SEC. 5. RELEASE OF RESERVATIONS AND RESTRICTIONS ON CERTAIN PROPERTY LOCATED IN RAPIDES PARISH, LOUISIANA.

(a) RELEASE.—Notwithstanding any other provision of law, and except as provided in subsections (b) and (d), the United States releases without consideration all reservations, restrictions, conditions, and limitations on the use, encumbrance, or conveyance of certain real property (together with any improvements thereon and easements appurtenant thereto) consisting of approximately 1,991.53 acres of land and located in Rapides Parish, Louisiana, the location of Esler Field, as identified in the deed of conveyance from the United States to the Parish of Rapides, Louisiana, dated January 23, 1958, to the extent such reservations, restrictions, conditions, and limitations are enforceable by the United States.

(b) EXCEPTIONS.—The United States reserves the right of reentry upon or use of the property described in subsection (a) for national defense purposes in time of war or other national emergency without charge. The release provided by subsection (a) does not apply to any conditions or assurances associated with (1) the continued nonexclusive use without charge of the airport and use of space at the airport, without charge, by the Louisiana National Guard, (2) the nonexclusive use of the airport by transient military aircraft without charge, or (3) the nonexclusive use of the airport by transient military aircraft without charge during periods of maneuvers.

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the disposition or ownership of oil, gas, or other mineral resources either in or under the surface of the real property described in subsection (a).

(d) FEDERAL AVIATION ADMINISTRATION.—

(1) NONAPPLICABILITY OF RELEASE TO GRANT AGREEMENTS.—The release described in subsection (a) does not apply to any conditions and assurances associated with existing airport grant agreements between the Rapides Parish Airport Authority/Esler Field and the Federal Aviation Administration.

(2) AGREEMENT.—Notwithstanding any other provisions of law, the Administrator of the Federal Aviation Administration shall enter into an agreement with the Airport Authority of Rapides Parish, Louisiana, to provide for the terms and conditions under which the real property described in subsection (a) may be used, leased, sold, or otherwise disposed. The agreement shall be concluded not later than 180 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—This section shall take effect on the 180th day following the date of the enactment of this Act.

Mr. FORD. Mr. President, today, the Senate will consider the authorization of the programs of the National Transportation Safety Board (NTSB). The bill will provide a 3 year authorization for the NTSB and enable the agency to continue its work protecting the travelling public. With the recent aviation crashes, the NTSB once again has demonstrated its professionalism and dedication to protecting the travelling public.

Last Friday, this body confirmed a new chairman of the NTSB, Jim Hall. I know that Jim is looking forward to his stewardship and I wish him and the NTSB well. H.R. 2440 will send him and the NTSB a message—go out and continue your investigations, make those tough recommendations, and help us ensure a safer transportation system.

As many of my colleagues know, the NTSB is comprised of 5 members, who are responsible for investigating accidents and making recommendations on how to improve the transportation system. The NTSB's work is recognized around the world, and when a tragic accident occurs, the entire nation instantly becomes aware of the work of the NTSB. By the end of this year, the NTSB will need at least two new members. I would hope that the nominees are available for consideration by the Senate when the 104th Congress convenes.

I want to mention one final point with respect to H.R. 2440, concerning public aircraft. Much time has been spent reviewing how best to address the question of what constitutes a public aircraft. The provision in H.R. 2440 will exclude aircraft used for passenger transportation from the definition of public aircraft. Airplanes used for executive transport, such as transporting a Governor to meetings, would not be considered a "public aircraft". On the other hand, using aircraft for firefighting and law enforcement would continue to be considered "public aircraft."

Mr. HOLLINGS. Mr. President, with the passage of H.R. 2440, the Senate will reauthorize the programs of the National Transportation Safety Board [NTSB].

The Senate version of the bill, S. 1588, was reported by the Commerce Committee on November 17, 1993. The Senate considered S. 1588 on May 12, 1994. The House revised the bill with a number of non-controversial and technical changes.

We all have witnessed the work of the NTSB sifting through the wreckage of transportation accidents. Each of us has been affected by the NTSB, whether it is because of a train wreck in South Carolina, an aircraft accident in North Carolina, or some other tragic event.

Discussions with the NTSB and recommendations by the NTSB have led to safety improvements throughout the country and the world. I appreciate the hard work and dedication of the members and staff of the NTSB. What many of my colleagues may not know is that at the end of this year, the NTSB will lose the valuable services of John Lauber. He has served two terms and has been an NTSB member since 1985. I thank him for his many years of service on the Board.

I have some concerns about the future of the NTSB. At the end of this year, it is possible that the Board may have only two members. At a minimum, three members are needed for a quorum, and absent a quorum, no recommendations can be made. The investigations into the two aviation accidents in Pittsburgh and Charlotte, for example, may be completed in the next 6 to 9 months, and we must ensure that the NTSB is able to complete these and other pending investigations. I know the Administration is seeking to fill these positions so that the vital work of the NTSB will continue.

Mr. GORTON. Mr. President, I am pleased to lend my support to legislation to reauthorize the National Transportation Safety Board. His agency provides invaluable expertise in their role as independent investigators in transportation accidents. Tragically, we have had to call on their skills too often this year but the public should be reassured by the dedication and the professionalism of the men and women of this important Federal agency.

In addition to providing the authorization for NTSB, I am pleased that language was included in this bill to address the issue of commercial purposes as it relates to public helicopters responding to emergency situations.

As we all know, the summer wildfires of 1994 had a drastic impact throughout the State of Washington. Local governments were frustrated that although fires were burning, all available resources could not be utilized. Emergency or not, it is presently prohibited for public agencies to reimburse one another for the use of helicopters.

The language in this bill will now give authority to local governments to respond immediately to emergency situations without having to cut through the bureaucratic redtape. In certain cases where an imminent threat is looming and private operators are not readily available, public agencies will be allowed to use each other's helicopters.

This language helps ensure that when an emergency breaks out, all aircraft—public and private—will be available to respond without delay.

I have worked with other members of the Washington delegation, representatives from Federal, State, and local public agencies, and the private sector on this issue and feel comfortable that the end result is balanced and fair. I feel this language adequately addresses the problems that public agencies have faced while at the same time protecting the interests of the private sector.

Mr. PRESSLER. Mr. President, the Senate is about to take final action on H.R. 2440, a measure to reauthorize the National Transportation Safety Board [NTSB] for 1994 through 1996. This bill contains a provision I authored. It is designed to advance the safety of public use aircraft. This bill is very important to promoting transportation safety. I urge its prompt approval.

Mr. President, this reauthorization bill has gone through several changes during this legislative session. It was originally approved by the House of Representatives last November. The Senate's alternative version, which included my public aircraft safety provision, was passed by the Senate in May 1994. Earlier this week, the House agreed to the Senate-passed version, with some additional provisions. Today, the Senate is ready to pass the measure and send it to the President. The final bill is a well-crafted product.

I would like to explain briefly my provision in this legislative measure. Its purpose is to advance the safety of travel on public aircraft; that is, aircraft used exclusively in the service of Federal, State, and local governments. Under current law, public use aircraft are not subject to Federal Aviation Act [FAA] safety regulations to the extent imposed on civil aircraft.

My provision would amend the definition of public use aircraft to mandate that FAA safety regulations, directives and orders issued for civil aircraft be made applicable to all government-owned, nonmilitary aircraft engaged in passenger transport.

Further, the Administrator would be allowed to waive FAA requirements for public aircraft provided an equivalent level of safety has been established by the governmental entity responsible for the aircraft. I am pleased the House incorporated some additional language with my exemption provision, providing specific criteria which the Administrator must consider in order to grant such an exemption. That should help the Administrator ensure that any exemption from this provision would not compromise safety.

Finally, my provision would grant the NTSB authority to investigate accidents involving all public, nonmilitary aircraft. This last point is very important because it will allow for an accurate data base to be established. In turn, it should enable us to assess more conclusively public aircraft safety standards and procedures.

Mr. President, I am pleased to report that Jim Hall, who became a member of the NTSB last year and was confirmed by the Senate last week to serve as NTSB Chairman, also recognizes the importance of expanding the NTSB's authority to investigate public use aircraft accidents. Upon enactment of this provision, Chairman Hall will face the challenge of ensuring that the NTSB carries out this new mandate and, in the long term, advances public use aircraft safety. I will do my part in working to ensure adequate congressional oversight in this area.

Mr. President, some additional background on my provision may be helpful. I first became aware of the regulatory exemptions for government-owned aircraft soon after last year's tragic plane crash that claimed the lives of Governor George Mickelson and seven other South Dakotans. While the exemption for public use aircraft from FAA safety regulations and directives had no bearing on the cause of that particular crash, such exemptions could greatly jeopardize the safety of passengers on public use aircraft. Therefore, I introduced legislation to remedy this potential problem.

My original legislation would have mandated that all FAA regulations issued for civil aircraft relating to airworthiness, and other safety related orders, be made applicable to all public, nonmilitary aircraft. I agreed to alter my original provision only after the FAA and several other Federal agencies raised operational concerns that merited consideration. While the resulting compromise is not as far reaching as I think it should be, it is an important step forward in advancing public use aircraft safety.

Mr. President, I also want to point out that the topic of public use aircraft is gaining increased public awareness. In fact, several news articles regarding this issue were printed recently. I ask unanimous consent that articles by David Eisnstadt from the October 2 and 3, 1994, issues of the Times Union be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. I want to commend the journalist, David Eisenstadt, and the Hearst Newspapers, for recognizing the importance of this aviation issue. These articles provide a great deal of insightful information that merits the attention of all levels of government, from State and local governments to Congress and the administration. I urge my colleagues to read them and become more aware of the potential problems that could result without necessary regulatory action. Let's not wait for more aviation accidents and lost lives to spur necessary policy considerations. Again, I urge my colleagues to read the articles.

As ranking member of the Senate Aviation Subcommittee, I believe Congress is obligated to do its utmost to advance air travel safety wherever a problem exists. This measure narrows greatly the areas in which public use aircraft are exempted from FAA compliance. I urge my colleagues to support the bill.

EXHIBIT 1

UNREGULATED PILOTS TAKE THEIR TOLL

(By David Eisenstadt)

WASHINGTON.—As soon as they learned that a U.S. Energy Department airplane had slammed into a school warehouse near Billings, Mont., killing all eight people aboard, air traffic controllers across Montana suspected that they knew who was piloting the jet.

At 39, pilot Curt Schwarz had earned a reputation for flying dangerously. Pilots and mechanics gossiped that Schwarz gambled with takeoffs and landings and often sneered at basic airplane safety.

"He was always in a rush, trying to cut corners," said Bob Chopko, a colleague of Schwarz at the Energy Department.

For his last flight, the government pilot had falsified his medical certificate, one of the basic credentials of flying, and was relying on a co-pilot, 32-year-old Dan Arnold, who was not licensed to fly the sophisticated Cessna 550, according to documents on the 1992 crash.

Robert Machol, the FAA's former chief scientist who helped investigate the Billings crash, said of Schwarz, "This pilot, it was very clear, was reckless and stupid."

Schwarz was also not covered by many of the FAA's regulations for private and commercial pilots.

Two former National Transportation Safety Board officials—Ira Furman and Herb Bates—think its crazy for government airplanes to escape regulation.

"It's worth remembering that a government plane is just as capable of killing as any other plane," says Furman.

Bates expresses his agreement, "What you have is a large group of flying people who are truly not monitored. It costs so many people their lives," he says.

A Hearst analysis of the available information on government aircraft accidents since 1983—272—reveals a history marked by crashes involving reckless government pilots, poorly trained government pilots and others who were loosely supervised and monitored by managers who were not pilots and lacked other aviation experience.

The General Accounting Office, the investigatory arm of Congress, found a similar pattern in its 1986 examination of Alaska's state flying operation. The GAO, relying on special data provided them by the FAA, found that government aircraft in Alaska crashed more often than general aviation planes and helicopters.

"Our review disclosed no persuasive reason why (government) aircraft should not be expected to meet at least the minimum maintenance and crew standards expected of civil aircraft," the GAO reported to Congress.

In the Schwarz case, the pilot's failure to follow routine aviation maintenance and safety practices was blatant.

For example, he failed to undergo periodic "checkrides" with independent observers to assess his flying ability. He didn't verify that operating procedures on the airplane were safe. He didn't prepare a flight manifest listing his passengers and crew. And he didn't update his flight plan when he took off for his last leg that day.

"The pilot conducted unorthodox and nonstandard operating techniques and procedures," according to the Energy Department's crash study.

It's impossible to know whether Schwarz would have crashed his government plane if he and the aircraft had been subject to government safety rules.

However, Pamela Charles, a helicopter pilot, an FAA-certified mechanic and aviation executive, speculated that the chances were very good that Schwarz would not have been flying that day had he been subject to federal oversight. Her reasoning: FAA spot checks probably would have discovered the altered health certificate.

"If the FAA had known, he (Schwarz) would have been cited and may have had his certificate suspended," she said. "By virtue of having a review process, these things get caught."

Other cases raise similar questions about the scant oversight and few binding rules imposed on government aviation.

In 1982, the city manager of Portsmouth, Va., was flying to Baltimore to inspect the development of that city's harbor. The police pilot flying the Beech D-95A airplane was licensed but had not logged any time in airplanes in six months. Instead, he'd been flying helicopters.

The pilot overloaded the plane and, in rain and fog, crashed into an apartment building in Columbia, Md., about 20 miles from Baltimore. Five people died, including one person in the apartment building.

Had he been subject to federal aviation rules, the pilot would have broken regulations that require those carrying passengers to have flown recently. It also violates federal flying rules to exceed an airplane's carrying capacity.

"Even though this crash involved a pilot who was not fresh on airplane flying, he did nothing illegal because he was a public pilot," says former NTSB Chairman James Burnett.

In 1983, an Alaska Fish and Wildlife officer who would have been banned from flying at night by federal flying rules because he couldn't see well in the dark, took off after dusk. He crashed and died.

This pilot also would have broken the rule that forbids using an aircraft after sunset that's unequipped to fly at night.

A CRASH WAITING IN THE WINGS

(By David Eisenstadt)

WASHINGTON.—Aircraft pilots and mechanics don't mince words describing the airplane used to transport Gov. Mario M. Cuomo and other top state officials.

They call it the "death plane."

The aircraft—a 13-passenger Grumman G–1 built in 1966—was tagged with the name in 1988 when the pilot made a forced landing at an airport near Williamsport, Pa., after radio equipment began burning, filling the cabin with smoke. Cuomo, returning to Albany from the Democratic National Convention in Atlanta, was not hurt.

The plane made another emergency landing in 1990 with Lt. Gov. Stan Lundine aboard. When an instrument panel light began flashing to warn of an engine fire, the pilot quickly found a runway near Utica for an emergency landing. It turned out to be a false alarm.

These emergency findings illustrate the consequences of a bizarre anomaly in the elaborate American system of aviation safety: Aircraft and pilots for local, state and federal governments are exempt from almost all—54 of 63—key federal aviation safety regulations that apply to commercial and private aviation.

Cuomo and Lundine aren't the only state executives with white-knuckle tales about flying on state-owned aircraft.

In Graefenburg, Ky., in 1992, Gov. Brereton C. Jones and four others were injured when their state helicopters crashed in a ravine. The Sikorsky S–76A went down after an engine compartment door flew open, overheating the engine and causing the aircraft to stall.

Scouring the debris, National Transportation Safety Board, or NTSB, investigators discovered that two clamps on the left-side engine door had been left unsnapped. The investigators concluded that the governor's helicopter crashed partly because the state flight crew did not properly inspect the aircraft before takeoff.

In 1993, South Dakota Gov. George Mickelson and several other state officials were killed when their state airplane, a Mitsubishi MU-2, crashed into a grain silo during an emergency landing near Dubuque, Iowa. The plane crashed after a blade broke off a cracked propeller hub.

Crash investigators later discovered that the Federal Aviation Administration had been warned by the manufacturer and its own scientists about flaws in the MU-2's propeller system. The FAA did not react to those warnings, however, because it was unsure how frequently the problem occurred.

There's no way to determine if these episodes would have been avoided had the aviation operations of New York State, Kentucky and South Dakota been subject to federal safety rules.

However, these cases spotlight government aviation's unique status in the skies, creating a separate class of approximately 4,000 aircraft flying for local, state and federal governments across the country.

An examination by The Hearst Newspapers has found:

Government aircraft have higher crash rates than airplanes in commercial and general—or private—aviation. (See accompanying chart.)

Since 1983, at least 181 people have died in 272 crashes of government aircraft. Experts say the number of crashes is underreported and that many of them could have been avoided if the planes and pilots had been subjected to the same oversight that apply to private and commercial aviation.

In 1992, the year with the most recent data, more people died in government air crashes (51) than in commercial air travel (33), although there were about twice as many airliners and commuter jets flying many times the miles and passengers of government aviation.

Even the FAA, which enforces safety regulations on the aviation industry, is exempt. It has 53 aircraft and about 2,000 pilots.

The United States treats government aviation far more casually than countries such as Canada and the United Kingdom.

Government agencies fiercely oppose moves to bring them under safety rules that apply to commercial and general aviation.

The Hearst inquiry shows that government aviation has bucked the trend in aviation safety over the past decade: While commercial and private aircraft are crashing less, government aircraft are crashing more and killing more people than 10 years ago.

"The safest way to fly in government airplanes is not to fly in them," says Ira Furman, a former NTSB official who now is an independent aircraft accident investigator and aviation consultant based in Long Island.

The Hearst examination did not include military aircraft because the Defense Department has a comprehensive set of aviation safety regulations and accident investigation programs tailored to the difficulty, hazard and special requirements of flying military missions.

Sparse data conceal the safety problems of government aircraft.

For example, until 1989, local, state and federal authorities were not required to report crashes of government aircraft to federal aviation safety officials. Furthermore, there is no requirement that federal safety officials investigate crashes of government airplanes.

For example, federal aviation safety authorities will have no role in the investigation of the Aug. 27 crash in Peru of a federal Drug Enforcement Administration plane that killed five DEA agents. The DEA will handle its own investigation.

By contrast, federal law requires the NTSB to investigate any crash of a commercial aircraft or a private plane involving a death. (The International Civil Aviation Organization investigates crashes of flights that cross international boundaries.)

Former NTSB Chairman James Burnett believes that the actual number of crashes of government-owned airplanes is vastly understated. He estimates such crashes at "several hundred a year"—far higher than the 272 since 1983 tabulated by the NTSB at the request of The Hearst Newspapers.

At any time, Burnett says, the 4,000 largely unregulated government aircraft are an aviation disaster waiting to happen.

"One of these days, we will see a big accident as a result of (government aircraft)," Burnett warns.

Pamela Charles, a commercial helicopter pilot, FAA-certified mechanic and National Guard pilot, also suspects that the crash rate of government aircraft is far higher than official records show.

"There are lots of crashes that aren't reported, which means we don't know what's really happening out there," she says. "It's really quite scary—we're setting ourselves up for more and more accidents."

Unlike government aviation, commercial and private flying operations are subject to federal regulations covering three main categories: pilots and crews, operational safety, and maintenance and certification. Violators face penalties ranging from license revocation to fines reaching into six figures.

Arthur Wolk, a Philadelphia-based lawyer and pilot who specializes in aviation law calls the exemption for government-owned aircraft a blatant double standard.

"Our governments, flying the same airplanes with our money, act above the law; create a hazard and set a bad example," says Wolk.

Giffen Marr, a Bell Helicopter-Textron Inc. executive and former military test pilot, said the lack of regulations for government aircraft has created high-altitude anarchy.

"I just can't believe that we—as a large civilized nation—allow a portion of the aviation system to go uncontrolled," he said.

"You'd think governors and others who fly would be allowed the same protection as everybody else—but most people don't realize there are no requirements for these aircraft nor how much jeopardy they are in."

Richard Xifo, an aviation consultant based in Centreville, Va who has worked for the FAA, points out one of the weird consequences of the immunity granted government aircraft and pilots.

"The situation is so ludicrous that you don't even need a pilot's license to fly a government airplane," he said.

As FAA lawyer Gregory Walden wrote in a 1990 internal memo obtained through the Freedom of Information Act:

"A person without a pilot's certificate legally may operate a public aircraft, and without an airworthiness certificate, as far as the FAA is concerned."

A pilot's certificate informally is called a pilot's license. That and a medical certificate are the two essential credentials of flying in the United States.

Small commercial operations and aviation safety experts see the government's exemption from its own regulations as a free ride given government-owned aircraft.

The idea of voluntary compliance smacks of a "do as I say, not as I do" attitude from the federal government, they say.

Michael Pangia, a pilot and former top trial lawyer for the FAA now in private aviation law practice in Washington, said: "The federal government is passing regulations all the time to get me to inspect my plane and other things. If it's that important for me, it should be important for all."

The experience of other aviation experts backs up Pangia.

Of the 272 government aircraft accidents over the last decade that were reported to federal officials, as compiled by the NTSB at the Hearst Newspapers' request, 57 might have been avoided if the planes and pilots had been subjected to federal aviation regulations, according to Xifo, Charles and others who reviewed the NTSB crash data at the request of The Hearst Newspapers.

Sloppiness runs like a plot through the records of the 57 crashes.

In some cases, the pilots, mechanics and their supervisors were not qualified for the work they were assigned to do; in other cases, the pilots had histories of careless flying.

In some instances, the government aircraft crashed after key parts had been installed improperly, going unnoticed due to insufficient inspection. In many cases, pilots were unlicensed and flew in aircraft unequipped for the task.

Defenders of the current double standard argue that governmental bodies would need more tax money to spend on their aviation operations if all public aviation were subject to FAA regulations.

Others point out that some governmental units get high marks for keeping their airplanes in top shape and making sure their pilots get top training.

For example, the Los Angeles County Sheriff's Department is among those often cited for its professional flying operations. The Los Angeles sheriff's aviation operation—and other government units singled out for praise—exceed federal government safety requirements in crucial areas like aircraft inspection and maintenance.

Los Angeles County has a legion of aviation safety officials, for example, and New York state toughened its safety and flying standards after the incidents involving Cuomo and Lundine.

"After the Williamsport incident, we reassessed our whole aviation system. We looked at what needed to be improved," said Ben Marvin, a spokesman for the state Department of Environmental Conservation, which oversees New York's aviation operation. The result: The state is requiring its planes to meet the same kind of FAA safety rules that would apply to commuter airlines, he said.

"In all fairness, some of these operations are quite professional," said William Dvorak, a vice president of quality assurance for California Helicopters Inc., based in Ventura, Calif. "But anything can happen with a lot of others, and that's the worry."

CANADA, BRITAIN SUBJECT AIRCRAFT TO STRICT RULES

(By David Eisenstadt)

WASHINGTON.—When it comes to safety regulation of government-owned aircraft, U.S. skies are in anarchy compared to countries such as the United Kingdom and Canada.

Both Britain and Canada enforce standards at least as high for government fliers and aircraft as for private and commercial operations. By comparison, government planes in the United States are exempt from 54 of 63 key federal safety regulations overseeing private and commercial aviation.

Canadian aviation officials chuckle when discussing the U.S. practice.

"It's a little bit of a joke up here, what you do down there in the States," says William Peppler, general manager of the Ottawa-based Canadian Aircraft Owners and Pilots Association. "All people are entitled to the same safety standards, aren't they?"

It's a different story in Canada.

There, government-owned airplanes must meet the same safety, maintenance and flying rules that apply to commercial and private pilots and aircraft, according to Peppler.

"We try to make government aircraft conform to a high standard," says Peppler. "Believing that everyone is important, we maintain the same safety standards for all airplanes."

The British standards for government aircraft are even more rigorous.

In contrast to U.S. practices, the more difficult or dangerous a flying operation, the stiffer the rules a British pilot is required to follow.

For example, U.S. police aviators are exempt from most federal aviation laws. In Britain, by contrast, police flying operations are subject to the same rules as commercial ones.

"It's a different picture here," says Ron Campbell of the United Kingdom Aircraft Owners and Pilots Association. "The more rigorous the role, the more rigorous the oversight and inspection."

In the United States, Canada and Britain, government regulations require a private pilot to have an annual aircraft inspection as well as an airworthiness certificate for the aircraft.

But if a British aircraft and pilot are engaged in government flying work, government aviation inspectors check the airplane more frequently—every 50 hours of flying.

The Canadian government aircraft would face inspection every 100 hours of flight.

The American government flier doesn't have to do either.

GOVERNMENT AVIATION: JUST THE FACTS

Government aircraft have higher crash rates than airplanes in commercial and general (private) aviation.

Since 1983, at least 181 people have died in 272 crashes of government aircraft. Experts say the number of crashes is underreported and that many of them could have been avoided if the planes and pilots had been subjected to the same rules that apply to private and commercial aviation.

During the year with the most recent data—1992—more people died in government aircrashes (51) than in commercial air travel (33) although there were about twice as many airliners and commuter jets flying many times the miles and passengers of government aviation.

More than 200 pilots and aviation technicians have reported incidents of risky and dangerous flying and poor safety practices by government aircraft and aviators since 1986 to an airplane safety hot line run by the National Aeronautics and Space Administration.

Even the FAA—which enforces safety regulations on the aviation industry—exempts its 53 aircraft and 2,000 pilots from many of the very rules it requires others to obey.

The United States treats government aviation far more casually than countries like Canada and the United Kingdom.

Government agencies fiercely oppose moves to bring them under safety rules that apply to commercial and general aviation.

AGENCY PROBE UNDER WAY

(By David Eisenstadt)

The Federal Aviation Administration—the regulatory agency responsible for enforcing airplane safety—can get closemouthed when questions are raised about government flying operations.

When The Hearst Newspapers last February began checking the safety records of unregulated government aircraft, the FAA wasn't eager to shed light on the question.

"There's really nothing I can give you about (government) aircraft because we don't have anything to do with them," said Frasier Jones, and FAA spokesman.

As interviews with National Transportation Safety Board officials and other federal officials progressed in May and June, the FAA rejected four requests to speak with its top official, David R. Hinson, about why the FAA opposes efforts to end the exemption from federal regulation the government aircraft have.

In late June, the FAA changed its tune.

While declining to allow Hinson to be interviewed, the FAA permitted a reporter to talk with Anthony Broderick, its chief of aviation regulations.

Broderick let drop the news that the FAA had just launched its own investigation of government aircraft safety and would release its findings in "about six months."

"One of the things we just started, literally within days, is a project to try and assess the magnitude of that issue and get a better feel for what's going on out there (in government aircraft)."

Private, Commercial Skies Full of Regulations

(By David Eisenstadt)

WASHINGTON.—The good news is that the U.S. government has 63 key safety regulations to make sure private and commercial pilots are well trained and the aircraft they fly are safe.

The bad news is that 54 of the rules don't apply if the pilots or the aircraft work for the federal or any local or state government in the country.

Although some government aviation units set high safety standards for their pilots and planes, the only federal aviation rules that apply to government aircraft pertain to regulating aircraft in flight, such as the requirement that planes keep a safe distance from each other.

The reactions by a commercial operation and a government operation to a new safety rule illustrate the differences.

Bell Helicopters issued a warning in 1992 to owners and pilots of their 205 series helicopter—a civilian version of the military Huey UH-1. After several crashes and accidents, Bell told the 205 owners of to replace the main yoke, a critical part that holds the main rotor blades onto the helicopter.

Under federal aviation rules, a private or commercial owner of a Bell 205 series helicopter had to obey Bell's warning and replace the old steel yoke with a stainless steel model by Dec. 1, 1993, or face FAA penalties.

"I'd have hell to pay if I didn't replace mine," says Rod Qvuaam, owner of Helijet Inc., a Eugene, Ore., commercial helicopter operation. "I'd have my certificate pulled. It would put me out of business."

However, a government operation using the same helicopter—in many of the same tasks—could ignore the warning.

For example, the Washington state Department of Natural Resources and the California Department of Forestry chose not to replace the main yokes on any of their Bell 205s, according to the agencies.

This isn't the only time government flying operations have ignored a safety requirement imposed on commercial and general aviation.

For example, Washington state has skipped these safety practices that federal regulations require of commercial aviation:

The state does not subject its pilots to drug or alcohol tests.

None of Washington's five aircraft has been certified as airworthy by the FAA.

None of the state's aircraft has fire-control equipment, such as extinguishers on board, or first-aid kits.

In other areas, Washington state has elected to follow federal aviation standards.

Its mechanics are FAA-certified, its pilots are FAA-certified, and some maintenance practices are more rigorous than the FAA requires.

Still, George Kerr, operations chief for the Washington Department of Natural Resources, concedes that the state's work is not always up to federal standards.

"To be quite honest, they don't have the expertise for what they're doing," Kerr says in reference to the state's aircraft mechanics.

It's a different universe for private and commercial aviation.

To oversee those who fly for hire or fun and to protect the public, the FAA requires private and commercial flying operations to obey three sets of key safety regulations. These cover pilots and crews, maintenance and safety, and flying itself.

Private or commercial pilots, mechanics and aviation supervisors who violate these federal rules face FAA penalties that range from fines to license revocation. By contrast, under federal aviation rules, a government pilot is not subject to any outside authority.

Caution: FAA Rules Do Not Apply Here

Federal regulations that apply to private or commercial pilots and aircraft but not to government aircraft and their pilots include:

Mandatory drug tests.

A pilot's license.

A pilot's medical certificate, which is intended to minimize the risk of a pilot being crippled by a health problem in flight.

Flight training requirements.

Flight test requirements.

An instrument certification to fly in certain weather conditions.

Required hours of flying experience to ensure a pilot can safely handle the mission.

FAA annual aircraft inspections.

FAA spot checks, termed "surveillance inspections."

Inspections are required to be completed by an FAA-certified mechanic.

An FAA-approved maintenance program.

An FAA-approved maintenance manual.

An after-maintenance inspection by the FAA or its representatives to ensure the plane is safe to fly.

An accurate maintenance log.

Commercial operators and those carrying people and cargo are required to have an aircraft inspection every 100 flying hours.

Certain failures, like a false warning light in flight, are required to be documented.

An aircraft airworthiness certificate, issued by the FAA that testifies a plane or helicopter can fly as billed and is without mechanical defect.

Fire-control equipment on board.

Operating aircraft within allowable weight limits.

A requirement on commercial operations that transport people or cargo specifies that the FAA assess the carrier's operations management structure and qualifications.

Commercial aircraft must have cockpit voice recorders and flight data recorders.

Load manifests are required of commercial operations that carry cargo.

Fatal FAA Crash Shows a Lack of Accountability

(By David Eisenstadt)

LINDEN, VA.—After nine years as a pilot for the Federal Aviation Administration, the flying skills of 55-year-old government aviator Donald Robbins had achieved a kind of notoriety within the agency.

Three other FAA pilots had refused to fly with Robbins, who liked to brood at the controls and play tricks in flight on his crew members, FAA documents show. A favorite Robbins' game was to "communicate as little as possible" with co-pilots, meaning he often wouldn't tell them where they were going even after being asked several times, according to the documents obtained by The Hearst Newspapers through the Freedom of Information Act.

During the time I flew with Robbins, there was never a crew meeting. He did not like oral communication * * * and did not want to see a checklist," according to one internal FAA memo detailing complaints from fellow FAA pilots about Robbins. "If he was flying, he would not allow the (co-pilot) to read (the checklist); it appeared to me that Robbins thought this proved he was a better pilot."

Robert Pearce, an FAA safety worker, wrote in one complaint, "Mr. Robbins has had an attitude in the office during the last month and a half. He has not talked to anyone because of the poor performance appraisal he received."

The anxiety about Robbins among his FAA pilots peaked last September, prompting the FAA to dispatch an "internal audit team" to see what was going on with Robbins and his supervisors in FAA offices in Atlantic City, N.J., and Oklahoma City, according to an FAA official.

The team's report, said to be critical of Robbins, was never made public. The FAA kept Robbins in the cockpit.

Almost exactly a month late, Oct. 26, 1993, Robbins and two FAA colleagues were killed when their government plane crashed into the Blue Ridge Mountains.

After inspecting runway equipment at the Winchester Regional Airport, Robbins was weaving in and out of fog about 1,800 feet above the Virginia countryside when the plane slammed into High Knob mountain.

At the crash site in the woods about a mile from here, the plane's sheared tail poked above other pieces of bent, metal, its sharply detailed blue-and-white U.S. Transportation Department logo identifying its owner:

After rummaging through the debris, National Transportation Safety Board investigators accused the FAA of laxity toward the safety of its own aviation program.

"The oversight the FAA routinely performs over commercial carriers was not being conducted over its own operations," safety board Chairman Carl Vogt said in a statement after the crash.

The Hearst Newspapers' inquiry learned that Robbins' personnel file contained a major personal blemish that the FAA had disregarded even though it would have caused troubles had he been a commercial pilot: Robbins failed to tell the FAA promptly about a conviction for drunken driving—a violation of federal flying rules as well as the FAA's own policies.

When he later received a second drunken-driving conviction, Robbins also delayed reporting it. At the time of his death, Robbins' New Jersey driver's license had been revoked because he had failed to comply with the alcohol rehabilitation program required by state law.

Federal law doesn't require a pilot convicted of drunken driving to forfeit his flying license. However, federal regulations require such convictions to be reported to the FAA; a second such conviction prompts a special FAA investigation into the circumstances and requires FAA-certified rehabilitation.

The FAA did not launch an investigation into Robbins' case or penalize him but did ask him to document his past history of traffic violations. Said an AA official familiar with the events: "Despite all this stuff, we just did not do anything with him at all."

The events surrounding Robbins and his 1993 crash are especially surprising because concerns about the FAA's ability to police itself were raised after a 1988 FAA plane crash. That crash in western Pennsylvania killed three agency employees, two of whom—the pilot and co-pilot—had traces of alcohol in their blood.

An FAA internal audit after the 1988 crash showed that the agency violated federal aviation rules in 159 instances in its own flying operations in 1988.

After the crash, the FAA gave assurances that it would start regulating itself by the same standards it sets for the airlines.

The goal is to foster and achieve the highest degree of aviation safety in all facets of the flight inspection mission," William Williams, the FAA's aviation standards director, wrote in a 1992 internal memo almost a year before Robbins died.

"In order to realize the highest level of aviation safety, we have prescribed a program that adheres to standards set forth for the aviation industry."

However, The Hearst Newspapers inquiry found that the FAA still has not met this goal.

As the Robbins crash suggests, the FAA makes weaker demands on its aviation employees than it requires of the airline industry in these areas;

The FAA performs drug tests on only a random selection of its pilots. By contrast, commercial airline pilots have to undergo at least annual drug tests.

The FAA often waives licensing requirements for some senior FAA officials.

Under federal law, the airline officials responsible for flight operations and their assistants are required to have an airline transport pilot's license. Some of the FAA's equivalent personnel, however, have been excused from this requirement even though the safety board chided the FAA after Robbins crashed last year for having unqualified flight supervisors.

"We do not waiver this under any circumstances for the airline industry nor would an airline want to do it anyway because it's not very smart—it raises substantial liability questions," said an FAA official, who spoke in an interview on condition of anonymity.

The FAA's own rulebook for its pilots is vague compared with the detailed manuals it mandates for airline pilots.

The FAA has no approved training program for its aviators to maintain proficiency. On the other hand, federal aviation regulations clearly spell out that an airline without a training program won't get off the ground. The FAA even has 2,000 flight standards inspectors to ensure that airline pilot-training programs are up to speed.

In the Robbins' case, the FAA's only move to discipline him took the form of a reprimand letter after he damaged the engine of another FAA plane in an earlier incident.

"As far as many of us are concerned, someone should have acted to ground Robbins, that we at the FAA really are to blame for the crash," said one FAA official.

Reflecting on Robbins' death in an interview in August, Anthony Broderick, the FAA's chief of aviation regulation, said the FAA is trying to shape up.

"We are saddened by the tragic loss of lives and are determined to make sure it doesn't happen again," Broderick said.

On his last flight, Robbins ignored routine safety procedures—such as not following a filed flight plan, a violation of the FAA's internal code and federal safety regulations.

After Robbins crashed last year, FAA spokeswoman Marcia Adams said the agency had improved its practices since the 1988 crash. The FAA had "adopted most" of the recommended changes to its flight operation urged by the safety board to bring its practices in line with the airline industry, she said, including spot checks of its own operation, filing flight plans, moving forward on alcohol testing for pilots and publishing maintenance and training manuals for FAA flights.

However, a March 1994 crash of an FAA plane outside Williamson, Ga., shows that some FAA pilots and supervisors are having a hard time adapting to the rules.

Just two months earlier, in a January letter to the safety board, FAA Administrator David R. Hinson assured the NTSB that all FAA pilots would submit flight plans showing the expected route, destination, mileage and fuel.

Noted safety board investigators after the Georgia crash, which injured two: "No flight plan was filed."

A veteran FAA flight inspector who declined to be named said: "I have been involved with the FAA for more than 20 years and there really is a double standard, one that lets us ignore the standards we impose on the rest of the aviation community.

"That's why some of us here say the FAA leads the industry in deaths."

Ultimately, this FAA official said, events like the death of Robbins and his two colleagues challenge the FAA's ability to regulate the skies.

"If we can't control our own organization, how can any citizen reasonably expect us to be able to keep them safe when they fly?" the official said.

OPPONENTS GROUND LEGISLATIVE REGULATION OF GOVERNMENT FLIGHTS

(By David Eisenstadt)

WASHINGTON.—Ask those daredevil pilots who fly firefighting airplanes and helicopters for a living if they and their aircraft should be subject to federal aviation safety laws.

But be prepared to hear the sound of grinding teeth and listen to predictions of more redtape instead of more lives saved.

"If you want to handcuff us, if you want to prevent us from putting out the next fire at Barbra Streisand's mansion, regulate!" barks Rob Harrison, former safety director of the U.S. Forest Service's Flying operation.

Harrison is not a lonely voice.

George Flanagan, No. 2 man for Washington State's flying operations, has this to say about making his state's airplanes meet federal safety rules:

"If you want to put us out of business, that's the way to do it," says Flanagan.

Harrison and Flanagan are representative of the near-universal opposition to broadening federal safety standards to include government aviation among the nation's local, state and federal firefighters and police officers. They say more rules would make government flying operations more expensive, handicap fliers and cost some people their homes and perhaps their lives.

"Right now, we are already so burdened with nonsensical paperwork," says Harrison.

Opposition to greater safety regulation and oversight for government aviation isn't limited to those who risk their lives protecting the public. Paul Erway, a Federal Aviation Administration helicopter specialist, argues that more rules and laws would actually diminish safety in the sky because such a move would divert safety efforts from non-government aviation.

Erway says the relatively small number of government aircraft—4,000—doesn't merit the same scrutiny that is given large commercial operations which carry thousands of passengers a year. It would also force the FAA to scrimp in other areas, he says.

"There's no payoff for us to bust their chops," says Erway. "In a situation of limited resources, you try to get the most bang for the taxpayers' buck."

Still, these opponents face some spirited foes.

At least one U.S. senator and a vociferous crowd of aviation safety advocates contend that fewer rules for government aviation mean more government aircraft crashes and unnecessary deaths.

A Hearst Newspapers investigation into the lack of federal aviation safety regulations for government pilots or airplanes found that government aircraft have higher crash rates than do private and commercial aviation.

"We need to ensure that all aircraft be subject to stringent and rigorous safety standards regardless of who owns them," says Sen. Larry Pressler, a South Dakota Republican. "Government needs to sit up and take notice so that safety regulations are written and enforced—we owe that to the air-traveling public."

Pressler has tried for two years to require government aviation to obey the same safety rules that oversee commercial and private aviation. But with Congress on the verge of vacating Washington for the year, the senator's effort this year is going the same way as last year's: nowhere.

After South Dakota Gov. George Mickelson died in the crash of a state airplane in 1992, Pressler proposed legislation to subject government aircraft and fliers to the same rules as private and commercial aircraft and pilots.

Pressler's bill finally passed the Senate in June. Pressure from the FAA, other federal agencies and law enforcement groups moved other lawmakers to weaken the measure, the senator said.

"It's not my intention to obstruct law enforcement or firefighting operations," the senator said. "But all aircraft, whether commercial, private or government, should be required to maintain the highest level of safety."

This draft version, now awaiting approval in the House of Representatives, still would significantly expand federal oversight of government aircraft. Any government aircraft transporting passengers would be forced to meet the same FAA safety requirements as commercial or private aircraft.

The bill also would require the National Transportation Safety Board to investigate every government aviation accident. By comparison, the law requires the NTSB to investigate the crash of every commercial aircraft that was carrying people and every crash of a private aviation plane when there was a fatality.

But there is a gaping loophole, Pressler said—a result of the fierce lobbying against the measure by the FAA and others.

As now before the House, the bill contains a waiver to allow the FAA to excuse any government entity from the beefed-up rules if it has a good aviation record.

In addition, the diluted version of Pressler's bill provides the same special exemptions for some government agencies—such as firefighters—enjoyed under current law.

Steve Burns, a Senator committee investigator, said in a recent interview: "The status quo is pretty much indefensible in this area. People don't like the idea that the government holds them to a different standard than it holds itself."

Earlier efforts to bring government aviation under federal regulation also have failed—often because the FAA leadership has opposed the move, documents obtained by Hearst Newspapers through the Freedom of Information Act show.

In 1986, the General Accounting Office—the investigating arm of Congress—looked into the safety record of government aircraft in Alaska and concluded:

"Our review disclosed no persuasive reason why public aircraft should not be expected to meet at least the minimum FAA maintenance and crew standards expected of civil aircraft."

In 1991, the U.S. Senate Government Affairs Committee found that "government aircraft are held to a far lower standard than the private sector when it comes to operation, safety and maintenance specifications."

The committee reported that the federal government spent about $1.75 billion in 1991 to operate its non-military aircraft fleet, although the government lacked a "management system capable of preventing waste and abuse."

But after each attempt to close the loophole, top FAA officials have helped block it, concerned that accompanying costs could be too high, according to documents obtained through the Freedom of Information Act.

Rep. Norman Mineta, D-Calif., tried in 1987 to bring government fliers under the same rules as other pilots. His bill, Mineta said in an interview, was watered down in the House Transportation and Public Works Committee. In the end, Congress only required that government air crashes were to be reported to the NTSB, starting in 1989.

"That bill was killed from pressure by the FAA, the Energy Department and others," Mineta says. "Their objections had no substance because safety ought not to be compromised."

Another committee member, Rep. James Oberstar, D-Minn., chairman of its aviation panel, says the House so far has not addressed the matter because "no one has raised any concerns about public-use aircraft."

However, complaints about the use of so-called public use or government aircraft have been filed from single pilots and the Airline Pilots Association with the FAA and other government agencies for at least two decades.

T.J. Shepard, the owner of Gallup Flying Service in Gallup, N.M., framed the issue in a 1990 letter to his congressman, Rep. Joe Skeen, R-N.M.

The letter, obtained through the Freedom of Information Act, said: "As a public official, next time you fly, will it be by a qualified, currently checked pilot and aircraft?"

Mr. FORD. Mr. President, I move the Senate concur in the House amendment to the Senate amendment and reconsider and table that motion.

The motion was agreed to.

CORRECTION OF UNITED STATES CODE

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4777, a bill to correct the United States Code to reflect the current names of congressional committees just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; that any statement appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4777) was deemed to have been read three times and passed.

THE FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 669, S. 2132, the Federal Railroad Safety Authorization Act of 1994.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2132) to authorize appropriations to carry out the Federal Railroad Safety Act of 1970, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2633

(Purpose: To restructure the high risk drivers program incentives contained in title II of the bill)

AMENDMENT NO. 2634

(Purpose: To authorize appropriations for an Amtrak project)

Mr. FORD. Mr. President, I ask unanimous consent it be in order to send to the desk en bloc amendments on behalf of Senators EXON and MOYNIHAN; the Senate proceed to their consideration en bloc; that the amendments be agreed to, and the motions to reconsider be laid upon the table en bloc; that the bill, as amended, be read three times.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2633) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted")

The amendment (No. 2634) was agreed to, as follows:

SEC. . AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak $40,000,000 for fiscal year 1995 and $50,000,000 for fiscal year 1996 to be used for engineering, design, and construction activities to enable the James A. Farley Post Office in New York, New York, to be used as a train station and commercial center and for necessary improvements and redevelopment of the existing Pennsylvania Station and associated service bundling in New York, New York.

Mr. FORD. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 4545, the House companion; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken, and the text of S. 2132, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and the motion to reconsider be laid upon the table; that any statements be placed in the RECORD at the appropriate place as if read, and that S. 2132 then be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, today the Senate considers S. 2132, the Federal Railroad Safety Authorization Act of 1994.

Title I of this bill would improve railroad safety by enabling the Nation to begin to reduce the number of deaths at railroad crossings. Over the last several years, approximately 600 people have died and thousands have been injured each year in collisions with trains at railroad grade crossings. This bill establishes sanctions and penalties for violations of laws and regulations pertaining to railroad grade crossings. The bill also requires the appropriate Federal agencies, State organizations, and private organizations to work together to improve compliance with and enforcement of laws and regulations pertaining to railroad grade crossings. In addition, this legislation establishes, in conjunction with a college or university, an Institute for Railroad and Grade Crossing Safety. This institute will research and test measures for reducing the number of fatalities and injuries in railroad operations.

The bill also fosters a partnership among all levels of government to evaluate laws regarding trespassing on railroad property and to develop model prevention strategies and enforcement laws for the consideration of the States and local governments. Another 600 people are killed each year when they trespass on railroad property. The partnership in this bill can go a long way to stopping this carnage.

Finally, this bill requires the Secretary of Transportation to research, review, and recommend rules on railroad car visibility and to establish minimum standards for passenger car safety. Standards for passenger car safety are critically important. The tragic accident of Lugoff, SC, in 1991 resulted in the deaths and injuries of several people who were crushed by cars in which they were riding. This bill requires the Secretary to address crashworthiness of the cars, interior features that may affect passenger safety, and emergency response procedures and equipment. Again, at the Lugoff derailment, there was some criticism about the length of time that it took for emergency service personnel to be dispatched to the crash scene.

With this legislation such time lapses could be reduced or eliminated outright.

Title II of this bill, the High Risk Drivers Act of 1994, establishes a grant program to foster the development of policies and programs to improve the driving performance of younger and older drivers. It also establishes programs to inhibit alcohol impaired drivers. This measure is virtually identical to a measure that passed the Senate last year on a voice vote.

For these reasons, Mr. President, I urge my colleagues to support this measure and to pass it as quickly as possible.

Mr. DANFORTH. Mr. President, during this Congress, public attention was drawn to railroad safety by a series of highly publicized railroad wrecks involving Amtrak. Contrary to recent public perception, railroad safety has improved steadily in recent years. Accidents involving railroads fell, from a high of 11,300 in 1978 to 2,300 in 1993.

During this same period, the number of collisions involving trains and motor vehicles also dropped dramatically, from 13,400 to 4,800. There were 83 fewer collisions in 1993 than in 1992, despite record levels of freight traffic. The number of people injured in grade crossing accidents reached an all time low last year dropping 9 percent, from 1,969 in 1992 to 1,792 in 1993.

Grade crossing safety has been the unfortunate exception to the positive rail safety trend. Between 1992 and 1993, grade crossing fatalities increased from 579 to 614, a jump of 6 percent. Nine of the Amtrak accidents noted in the previous paragraph were the result of Amtrak trains striking trucks at rail-highway grade crossings.

In testimony during the Commerce Committee's June 14 hearing, FRA Administrator Molitoris noted that 49 percent of all railroad fatalities now occur at grade crossings. Trespassing incidents account for another 41 percent of all railroad fatalities. In total, grade crossing and trespassing incidents result in 90 percent of all railroad fatalities.

A vehicle and train collide every 90 minutes in the United States, at an average annual cost as high as $1.8 billion in terms of medical costs, insurance payments, legal fees, and damages to railroad property. The driver of the car or truck that collides with a train is 30 times more likely to be killed than in a crash involving 2 motor vehicles. The main cause of these deaths is not inadequate signage. Over 50 percent of collisions between trains and motor vehicles occur at crossing with active warning gates, lights, and bells. Most of the time, motorists simply fail to recognize that to race a train is to race death.

Earlier this year, in response to the grade crossing fatality trend, the Association of American Railroads [AAR] created a special task force, which developed and submitted to the FRA and the relevant House and Senate committees, 12 recommendations for improving grade crossing safety. On May 18, I introduced S. 2127, the Railroad Grade Crossing Safety Act of 1994, which addresses 10 of the 12 points raised by AAR's task force. S. 2127, which is limited to issues within the jurisdiction of the Commerce Committee, was discussed at the committee's June 14 hearing on rail safety reauthorization.

I am pleased that the provisions of S. 2127 were incorporated into S. 2132, as reported during the committee's September 23 executive session. Specifically, the version of S. 2132 that we are considering today includes the following provisions from S. 2127, modified as described below. These provisions would:

First, reduce public risk by including plans to close dangerous and redundant grade crossings and policies to limit the creation of new crossings in highway safety management systems that States are required to develop by October 1, 1996;

Second, explore ways to ensure that existing signs and warning devices are in working order by directing the Department of Transportation [DOT] Secretary to conduct a pilot program, involving at least two States, to demonstrate the potential effectiveness of establishing a national emergency notification system, which would use a toll-free telephone number for the public to use to report problems and malfunctions at grade crossings;

Third, improve awareness of grade crossing dangers by boosting FRA funding of Operation Lifesaver, a nonprofit organization created 22 years ago to reduce crashes, fatalities, and injuries at grade crossings;

Fourth, promote advanced technology development by directing the DOT to include at least two operational tests on grade crossing safety technologies in conducting intelligent vehicle highway system research;

Fifth, encourage public safety by establishing sanctions against repeat offenders of grade crossing laws; and

Sixth, improve compliance and enforcement by directing the DOT to encourage better cooperation between the National Highway Traffic Safety Administration [NHTSA], the Office of Motor Carriers in the Federal Highway Administration, the National Association of Governor's Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver.

These provisions have the endorsement of the railroads, railroad labor, and the administration. These initiatives will save lives.

Mr. President, this legislation also includes the provisions of S. 738, the High Risk Drivers Act. Four weeks ago we witnessed a terrible highway crash in which there was a deadly mix of alcohol and a teenage driver. The driver of the car was a 16 year old who had received her drivers license 3 weeks prior to the crash. According to a post crash autopsy, the driver's blood alcohol content [BAC] was 0.17 percent. The crash involved a high speed impact with a tree. The driver and a 16-year-old classmate from Walt Whitman High in Bethesda were killed. Two other classmates aged 16 and 15 remain hospitalized. The High Risk Drivers Act would encourage all States to adopt tough measures against teenage drinking and driving. These include a .02 BAC maximum for drivers under age 21 and a minimum fine of $500 for selling alcohol to a minor.

In conclusion, I urge my colleagues to vote for S. 2132, including the provisions of the Railroad Grand Crossing Safety Act of 1994 and the High Risk Drivers Act.

Mr. EXON. Mr. President, today, the U.S. Senate has an opportunity to save lives. I urge my colleagues to pass S. 2132 the Rail Safety Act of 1994.

This legislation includes authorization for appropriations, hours of service pilot project, technical amendments sought by the administration, and a reduction in the number of reports the Federal Rail Administration makes to the Congress, from annual to biannual. These provisions were from the rail safety bill as introduced and requested by the administration.

In addition to these important provisions, the Senate Commerce Committee added the first comprehensive grade crossing initiative to be considered by the Congress in recent memory. The grade crossing safety provisions of this bill combine initiatives taken from S. 2127, originally introduced by Senator DANFORTH, the Department of Transportation grade crossing action plan and S. 2399, which I introduced earlier this year. This legislation builds on several years of work and investigation by the Senate Surface Transportation Subcommittee into the ways of improving grade crossing safety.

This landmark legislation includes provisions:

First, requiring the inclusion of grade crossing closure plans in the annual highway management system plans filed by states with DOT;

Second, establishing a pilot program to test the use of a toll free 800 number to report grade crossing malfunctions;

Third, to increase authorization for operation lifesaver and add the Secretary of Transportation to the Board of Directors;

Fourth, to require that at least IVHS projects address grade crossing safety;

Fifth, to increase penalties against truckers who violate grade crossing laws;

Sixth, to increase safety enforcement cooperation between Federal and State law enforcement agencies;

Seventh, to create an Institute for grade crossing safety;

Eighth, to create a trespassing, and vandalism prevention strategy and to design model State legislation;

Ninth, encouraging railroads to post warnings of liability for trespassing and vandalism;

Tenth, to ban local whistle bans unless certain protections are taken;

Eleventh, to require a rule making on rail car visibility;

Twelfth, which give the Secretary the power to impose a grade crossing freeze and specific numeric targets for reduction for any state which has failed to make substantial, continued progress toward crossing reductions; and

Thirteenth, to require a research and technology strategy toward improving safety and reducing trespass and vandalism.

In addition to the comprehensive grade crossing safety initiative the Rail Safety Act also includes provisions to:

First, require the Secretary of Transportation to coordinate with the Secretary of Labor on rail worker safety;

Second, require the Secretary of Transportation to update the Congress on developments in positive train control technology and demonstration;

Third, require the Federal Rail Administration to issue safety standards for passenger rail cars; and

Fourth, give the Federal Rail Administration grant authority.

This bipartisan package of safety measures puts politics aside. Our goal is to reduce death and injury. I ask my colleagues to join the Senate Commerce Committee and swiftly approve this important legislation.

So the bill (H.R. 4545), as amended, was passed.

The title was amended so as to read:

To authorize appropriations to carry out certain Federal railroad safety laws, and for other purposes.

(The text of the bill will be printed in a future edition of the RECORD.)

INDIAN SELF-DETERMINATION CONTRACT REFORM ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 625, S. 2036, the Indian Self-Determination Contract Reform Act of 1994.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2036) to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 2. GENERAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended—

(1) in section 4—

(A) by redesignating subsections (a) through (l) as paragraphs (2) through (13), respectively;

(B) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) 'Construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project. Such term does not include any contract—

"(A) that is limited to providing architectural and engineering services, planning services, or construction management services (or a combination of such services);

"(B) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

"(C) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.";

(C) in each of paragraphs (2) through (12), by striking the semicolon at the end and inserting a period;

(D) in paragraph (2), as so redesignated, by striking "construction programs" and inserting "Construction programs";

(E) in paragraph (3), as so redesignated, by striking "contract funding base" and inserting "Contract funding base";

(F) in paragraph (4), as so redesignated, by striking "direct program costs" and inserting "Direct program costs";

(G) in paragraph (7), as so redesignated, by striking "indirect costs" and inserting "Indirect costs";

(H) in paragraph (8), as so redesignated, by striking "indirect costs rate" and inserting "Indirect cost rate";

(I) in paragraph (9), as so redesignated, by striking "mature contract" and inserting "Mature contract";

(J) in paragraph (11), as so redesignated, by striking "self-determination contract" and inserting "Self-determination contract"; and

(K) in paragraph (13), as so redesignated, by striking "tribal organization" and inserting "Tribal organization";

(2) by striking subsection (f) of section 5 and inserting the following new subsection:

"(f)(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this Act, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

"(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 102.";

(3) in section 7(a), by striking "of subcontractors" and inserting in lieu thereof "or subcontractors (excluding tribes and tribal organizations)";

(4) at the end of section 7, add the following new subsection:

"(c) Notwithstanding subsections (a) and (b), with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.";

(5) at the end of section 102(a)(1), add the following new flush sentence:

"The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities related to, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the department that carries out such functions.";

(6) in section 102(a)—

(A) in paragraph (2)—

(i) in the first sentence, by inserting ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review";

(ii) in the second sentence—

(I) by striking "The" and inserting "Subject to the provisions of paragraph (4), the";

(II) by inserting "and award the contract" after "approve the proposal"; and

(III) by striking "a specific finding is made that" and inserting "the Secretary provides written notification to the applicant that contains a specific finding (citing clear and convincing evidence or a controlling legal authority) that";

(iii) in subparagraph (A)—

(I) by inserting "by the tribal organization" after "rendered"; and

(II) by striking "not be satisfactory" and inserting "endanger the health, safety, or welfare of the beneficiaries";

(iv) in subparagraph (B), by inserting "by the tribal organization" after "resources";

(v) in subparagraph (C), by striking the period at the end and inserting the following: "because—

"(i) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a); or

"(ii) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor."; and

(vi) by adding at the end of the paragraph the following new flush sentence:

"Notwithstanding any other provision of law, the Secretary may extend or otherwise alter a 60-day or 90-day period specified in the first or second sentence of this subsection, if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period."; and

(B) by adding at the end the following new paragraph:

"(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

"(A) proposed in part to plan, conduct, or administer a program, function, service, or activity

that is beyond the scope of programs covered under paragraph (1), or

"(B) proposes a level of funding that is in excess of the applicable level determined under section 106(a),

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 106(a). If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.";

(7) in section 102(b)(3)—

(A) by inserting after "record" the following: "with the right to engage in full discovery relevant to any issue raised in the matter"; and

(B) by inserting before the period the following: ", except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 110(a)";

(8) in section 102(d), by striking "as provided in section 2671 of title 28)" and inserting "as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)";

(9) by adding at the end of section 102 the following new subsections:

"(e)(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3), the Secretary shall have the burden of proof to establish by clear and convincing evidence—

"(A) the validity of the grounds for declining the contract proposal (or portion thereof); and

"(B) that the tribe or tribal organization, would not be able after the Secretary has provided such assistance as the Secretary is required to provide, to overcome the reasons for the objections to the contract proposal stated in a notice of declination issued by the Secretary pursuant to subsection (b).

"(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the 'Department') that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) shall be made by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made.

"(f)(1) Notwithstanding any other provision of law, a tribal organization that is located in Alaska that is authorized by a tribal resolution to enter into a contract under this Act for the operation of a program, function, service, or activity that meets the requirements of this Act may redelegate the authority to enter into such a contract to another tribal organization.

"(2) The redelegation of authority referred to in paragraph (1) may be carried out by formal action of the governing body of the tribal organization to another tribal organization, if the tribal organization provides advance notice of such redelegation and provides a copy of the contract proposal to all tribes served by the tribal organization prior to submitting the contract proposal to the Secretary.

"(3)(A) A tribe that receives notice of a proposed redelegation of authority under paragraph (2) may—

"(i) not later than 60 days after the date of receipt of the notification, notify the tribal organization of its intent to adopt a limiting resolution prohibiting or conditioning the proposed redelegation; and

"(ii) during the 60-day period beginning on the date of termination of the period referred to in subparagraph (A), adopt and transmit such resolution to the tribal organization.

"(B) A tribal organization that receives notification of the intent of a tribe to adopt a limiting resolution pursuant to subparagraph (A)(i) shall not proceed with the redelegation that is the subject of the notification until the expiration of the period specified in subparagraph (A)(ii).

"(4) Nothing in this subsection may be construed as a limitation on the authority of a tribe to limit, restrict, or rescind a resolution to enter into a contract described in paragraph (1) at any time or in any manner.";

(10) by striking subsection (a) of section 105 and inserting the following new subsection:

"(a)(1) Notwithstanding any other provision of law, subject to paragraph (2), the contracts and cooperative agreements entered into with, and grants made to, tribal organizations pursuant to sections 102 and 103 shall not be subject to any Federal laws (including any regulations) of general applicability relating to contracts or discretionary cooperative agreements entered into or grants made by the Federal Government, except to the extent that such laws expressly apply to Indian tribes.

"(2)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

"(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

"(ii) directly related to the construction activity; and

"(iii) not inconsistent with this Act.

"(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

"(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law (including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this Act, unless expressly provided in such law.

"(ii) The laws listed in this paragraph are as follows:

"(I) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(II) Section 3709 of the Revised Statutes.

"(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

"(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288).

"(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479).

"(VI) Chapters 21, 25, 27, 29, and 31 of title 44, United States Code.

"(VII) The Work Hours Act of 1962 (40 U.S.C. 328 et seq.).

"(VIII) Section 2 of the Act of June 13, 1934 (48 Stat 948, chapter 483).

"(IX) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881).

"(X) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

"(XI) The Small Business Act (15 U.S.C. 631 et seq.).

"(XII) Executive Order Nos. 12138, 11246, 11701 and 11758.";

(11) by striking subsection (e) and inserting the following new subsection:

"(e) If an Indian tribe or tribal organization requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this Act, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

"(1) the earlier of—

"(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

"(B) the date on which the contract expires; or

"(2) such date as may be mutually agreed by the Secretary and the Indian tribe.";

(12) by striking paragraph (2) of section 105(f) and inserting the following new paragraph:

"(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

"(A) title to property and equipment (other than property and equipment described in subparagraph (B)) furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization; and

"(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, and if such property remains in use in support of the contracted program, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and";

(13) by adding at the end of section 105 the following new subsections:

"(i)(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall—

"(A) endeavor to minimize any adverse effect on the level of services to be provided to all affected tribes;

"(B) notify all affected tribes that are not a party to the contract, as soon as practicable after receipt of the contract proposal—

"(i) of the receipt of the contract proposal; and

"(ii) of the right of such tribes to comment on the best means of dividing the administration of the program to meet the needs of all affected tribes;

"(C) explore the feasibility of instituting cooperative agreements among the affected tribes that are not a party to the contract, the tribal organization operating the contract, and the Secretary; and

"(D)(i) identify the nature of any diminution in quality, level, or quantity of services to any affected tribe resulting from the division of the program; and

"(ii) submit a report to Congress that contains the identification, together with an estimate of the funds required to raise the quality, level, or quantity, of services to correct the diminution.

"(2) In determining whether to decline a contract under section 102(a)(2), the Secretary may not consider the effect that a contract proposal would have on—

"(A) tribes not represented by the tribe or tribal organization that submits such proposal; or

"(B) Indians who are not served by the portion of the program to be contracted.

"(3) The Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract.

"(j) Upon providing notice to the Secretary, a tribal organization that carries out a self-determination contract may redesign a program, activity, function, or service carried out by the tribal organization under the contract, including any program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 102.

"(k) For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

"(l)(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a beneficial interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this Act.

"(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable.

"(m)(1) Each construction contract requested, approved, or awarded under this Act shall be subject to—

"(A) the provisions of this Act, including sections 7, 102(a), 102(b), 103 (d) and (e), 105(f), 106(a), 106(f), 110 and 111; and

"(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

"(3) Prior to finalizing a construction contract proposal pursuant to section 102(a), and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

"(A) The provision of technical assistance pursuant to section 103 and paragraph (2).

"(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

"(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

"(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

"(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5, United States Code.

"(F) The submission to the Secretary by the tribe or tribal organization of a final contract proposal pursuant to section 102(a).

"(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall provide for the following:

"(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

"(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

"(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

"(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

"(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this Act and any other applicable law.

"(ii) The costs of preparing the contract proposal and supporting cost data.

"(iii) The costs associated with auditing the general and administrative costs of the tribal organization.

"(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

"(n) Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

"(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5, United States Code) to such employee, and

"(2) the circumstances under which such quarters and facilities are provided to such employee,

as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.";

(14) in section 106(a)—

(A) in paragraph (1), by inserting before the period at the end of the following: ", without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated";

(B) in paragraph (2), by inserting after "consist of" the following: "an amount for"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

"(i) direct program expenses for the operation of the Federal program that is the subject of the contract; and

"(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract.

"(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

"(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

"(A) be used to provide additional services or benefits under the contract; or

"(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

"(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

"(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

"(B) to ensure compliance with the terms of the contract and prudent management.

"(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.";

(15) in section 106(c)—

(A) in paragraphs (1) and (2), by striking "indirect costs" each place it appears and inserting "indirect costs and other negotiated contract support costs";

(B) in paragraph (4), by striking "and" at the end;

(C) in paragraph (5), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(6) an accounting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle to a different accounting cycle, as authorized by section 105(d).";

(16) in section 106(f), by inserting immediately after the second sentence the following new sentence: "For the purpose of determining the 365-

day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.";

(17) by striking subsection (g) of section 106 and inserting the following new subsection:

"(g) Upon the approval of a self-determination contract, the Secretary shall allocate to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.";

(18) by striking subsection (i) of section 106 and inserting the following new subsection:

"(i) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code)."; and

(19) by adding at the end of section 106 the following new subsections:

"(j) A tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

"(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

"(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization and constructed with Federal financial assistance.

"(2) Publication and printing costs.

"(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

"(4) Automated data processing and similar equipment or services.

"(5) Costs for capital assets and repairs.

"(6) Management studies.

"(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

"(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

"(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

"(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

"(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

"(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

"(l) Not later than 1 year after the date of enactment of this subsection, the Director of the Office of Management and Budget, with the active participation of Indian tribes and tribal organizations, the Inspector General of the Department of the Interior, and the head of the Cost Determination Branch of the Department of Health and Human Services, shall develop a separate set of cost principles applicable to Indian tribes and tribal organizations that is consistent with the government-to-government, Federal-tribal relationship provided for in this Act.

"(m) Except with respect to a rescission and reassumption of a contract made under section 109, the Secretary shall in no circumstance suspend, withhold, or delay the payment of funds to a tribal organization under a self-determination contract.

"(n) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

"(1) shall be used by the tribal organization to further the general purposes of the contract; and

"(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(o) To the extent that—

"(1) programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), and

"(2) making such savings available to tribal organizations that carry out contracts under this Act will not adversely affect the ability of the Secretary to carry out the responsibilities of the Secretary with respect to other tribes and tribal organizations,

the Secretary shall make such savings available to tribal organizations described in paragraph (1).

"(p) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have a significant and adverse effect on the level or nature of services provided pursuant to the contract.".

SEC. 3. CONTRACT SPECIFICATIONS.

Section 108 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j) is amended to read as follows:

"SEC. 108. CONTRACT OR GRANT SPECIFICATIONS.

"(a) Each self-determination contract entered into under this Act, or grant made pursuant to this Act, shall—

"(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) (with modifications where indicated and the blanks appropriately filled in), and

"(2) contain such other provisions as are agreed to by the parties.

"(b) Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(4) of such model agreement. As provided in section 1(b)(5) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(c) The model agreement referred to in subsection (a)(1) reads as follows:

"'SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE ____ TRIBAL GOVERNMENT.

"'(a) AUTHORITY AND PURPOSE.—

"'(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the ____ tribal government or tribal organization (referred to in this agreement as the "Contractor"). Unless otherwise provided in this agreement, the provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"'(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

"'(3) TRIBAL LAW AND FORUMS.—The laws or policies (or both) and procedures of the Contractor shall be applied in the performance of this Contract and the powers and decisions of the tribal court of the Contractor or other dispute resolution mechanism shall be binding to the extent that such laws or policies (or both) and procedures are not inconsistent with applicable Federal laws, including the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), construed in accordance with the applicable canons of construction.

"'(b) TERMS, PROVISIONS, AND CONDITIONS.—

"'(1) TERM.—The term of this Contract shall not exceed 3 years, unless the Secretary and the Contractor agree to a longer period pursuant to section 105(c)(1)(B) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)(B)). Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

"'(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

"'(3) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1).

"'(4) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall notify the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded. If, pursuant to the

preceding sentence, the Contractor suspends performance of the Contract, all duties and responsibilities assumed by the Contractor before the date on which the Contractor suspends performance shall be transferred to the appropriate Secretary, and the appropriate Secretary shall carry out such duties and responsibilities.

“‘(5) PAYMENT.—

“‘(A) IN GENERAL.—Payments to the Contractor under this Contract shall—

“‘(i) be made as expeditiously as practicable; and

“‘(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

“‘(B) QUARTERLY SEMIANNUAL, LUMP-SUM, AND OTHER METHODS OF PAYMENT.—

“‘(i) IN GENERAL.—Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

“‘(ii) METHOD OF QUARTERLY PAYMENT.—If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

“‘(iii) APPLICABILITY.—Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

“‘(6) RECORDS AND MONITORING.—

“‘(A) IN GENERAL.—Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

“‘(B) RECORDKEEPING SYSTEM.—The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

“‘(C) RESPONSIBILITIES OF CONTRACTOR.—The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless—

“‘(i) the Contractor agrees to one or more additional visits; or

“‘(ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract or other serious contract performance deficiency exists.

No additional visit referred to in clause (i) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

“‘(7) PROPERTY.—

“‘(A) IN GENERAL.—As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary shall make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Contractor, with the concurrence of the Secretary, and periodically revised by the contractor, with the concurrence of the Secretary.

“‘(B) RECORDS.—The Secretary shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement and shall replace such property on the same basis as property remaining under the control of the Secretary.

“‘(C) JOINT USE AGREEMENTS.—Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

“‘(D) ACQUISITION OF PROPERTY.—The Secretary shall delegate to the Contractor the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.

“‘(E) CONFISCATED OR EXCESS PROPERTY.—The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

“‘(F) SCREENER IDENTIFICATION CARD.—A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

“‘(G) CAPITAL EQUIPMENT.—The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable tribal procurement procedures.

“‘(8) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, any funds provided under this contract—

“‘(A) shall remain available until expended; and

“‘(B) with respect to such funds, no further—

“‘(i) approval by the Secretary, or

“‘(ii) justifying documentation from the Contractor,

shall be required prior to the expenditure of such funds.

“‘(9) TRANSPORTATION.—Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

“‘(10) REGULATORY AUTHORITY.—Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by Federal program guidelines, manuals, or policy directives, unless otherwise agreed to by the Contractor and the Secretary.

“‘(11) DISPUTES.—

“‘(A) THIRD-PARTY MEDIATION DEFINED.—For the purposes of this Contract, the term “third-party mediation” means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

“‘(B) ALTERNATIVE PROCEDURES.—In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m–1), the parties to this Contract may jointly—

“‘(i) submit disputes under this Contract to third-party mediation;

“‘(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

“‘(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

“‘(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

“‘(C) EFFECT OF DECISIONS.—The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

“‘(12) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

“‘(13) SUCCESSOR ANNUAL FUNDING AGREEMENT.—

“‘(A) IN GENERAL.—Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. The funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j–1(b)).

“‘(B) INFORMATION.—The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

“‘(14) CONTRACT REQUIREMENTS; APPROVAL BY SECRETARY.—

“‘(A) IN GENERAL.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to any contract entered into in connection with this Contract.

“‘(B) REQUIREMENTS.—Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall—

“‘(i) be in writing;

“‘(ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;

"'(iii) state the work to be performed under the Contract; and

"'(iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

"'(c) OBLIGATION OF THE CONTRACTOR.—

"'(1) CONTRACT PERFORMANCE.—Except as provided in subsection (d)(2), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection (f)(2) of this Contract.

"'(2) AMOUNT OF FUNDS.—The total amount of funds to be paid under this Contract shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

"'(3) CONTRACTED PROGRAMS.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreement under subsection (f)(2).

"'(4) TRUST SERVICES FOR INDIVIDUAL INDIANS.—

"'(A) IN GENERAL.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

"'(B) TRUST SERVICES TO INDIVIDUAL INDIANS.—For the purposes of this paragraph only, the term "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

"'(5) FAIR AND UNIFORM SERVICES.—The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

"'(d) OBLIGATION OF THE UNITED STATES.—

"'(1) TRUST RESPONSIBILITY.—

"'(A) IN GENERAL.—The United States reaffirms the trust responsibility of the United States to the ____ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

"'(B) CONSTRUCTION OF CONTRACT.—Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe(s) or individual Indians.

"'(C) DUTIES OF SECRETARY.—The Secretary shall act in good faith in upholding such trust responsibility. To the extent that health programs are included in this Contract, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"'(2) PROGRAMS RETAINED.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection (f)(2).

"'(e) OTHER PROVISIONS.—

"'(1) DESIGNATED OFFICIALS.—Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

"'(2) CONTRACT MODIFICATIONS OR AMENDMENT.—

"'(A) IN GENERAL.—Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

"'(B) EXCEPTION.—The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2) shall not be subject to subparagraph (A).

"'(3) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

"'(4) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

"'(f) ATTACHMENTS.—

"'(1) APPROVAL OF CONTRACT.—Unless previously furnished to the Secretary, the resolution of the ____ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

"'(2) ANNUAL FUNDING AGREEMENT.—

"'(A) IN GENERAL.—The negotiated and duly approved annual funding agreement under this Contract shall only contain—

"'(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and

"'(ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), as the Contractor may request and to which the parties agree.

"'(B) INCORPORATION BY REFERENCE.—The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2.'".

SEC. 4. ADDITIONAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 and 3, is further amended—

(1) in section 109—

(A) by striking "action as prescribed by him" and all that follows through "in such cases, he" and inserting the following: "action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary";

(B) by striking the second period after "the tribal organization may approve"; and

(C) by inserting before the last sentence, the following new sentence: "In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clear and convincing evidence, the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing.";

(2) in section 110(a), by inserting immediately before the period at the end the following: "(including immediate injunctive relief to reverse a declination finding under section 102(a)(2) or to compel the Secretary to award and fund an approved self-determination contract)"; and

(3) in section 110(d), by inserting immediately before the period at the end the following: ", except that all administrative appeals relating to such contracts shall be heard by the Interior Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)".

SEC. 5. REGULATIONS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 through 4, is further amended—

(1) by striking subsections (a) and (b) of section 107 and inserting the following new subsections:

"(a)(1) Except as may be specifically authorized in this subsection, or in any other provision of this Act, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this Act relating to chapter 171 of title 28, United States Code, commonly known as the 'Federal Tort Claims Act', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination appeal procedures, reassumption procedures, and retrocession procedures.

"(2)(A) The regulations promulgated under this Act, including the regulations referred to in this subsection, shall be promulgated—

"(i) in conformance with sections 552 and 553 of title 5, United States Code and subsections (c), (d), and (e) of this section; and

"(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

"(B) The authority to promulgate regulations set forth in this Act shall expire if final regulations are not promulgated within 1 year after the date of enactment of the Indian Self-Determination Contract Reform Act of 1994.

"(b) The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994."; and

(2) by adding at the end of section 107, the following new subsections:

"(d)(1) In drafting and promulgating regulations as provided in subsection (a) (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, individual tribal members, and representatives of other parties interested in the implementation of this Act.

"(2)(A) In carrying out rulemaking processes under this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

"(i) subchapter III of chapter 5 of title 5, United States Code, commonly known as the 'Negotiated Rulemaking Act of 1990'; and

"(ii) the recommendations of the Administrative Conference of the United States numbered 82-4 and 85-5 entitled 'Procedures for Negotiating Proposed Regulations' under sections 305.82-4 and 305.85-5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

"(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be chosen by the tribes and tribal organizations participating in regional and national meetings that the Secretary shall convene. The participants shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

"(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after the date of enactment of such Act.

"(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this Act.

"(e) Notwithstanding any other provision of law (including any regulation), the Secretary may, with respect to a contract entered into under this Act, make exceptions in the regulations promulgated by the Secretary to carry out this Act, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract. The Secretary shall review each request for a waiver submitted by a tribe or tribal organization under this subsection in accordance with the declination criteria and procedures set forth in section 102(a)(2).".

SEC. 6. CONFORMING AMENDMENTS.

Section 105(h) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107 of this Act".

AMENDMENT NO. 2635

(Purpose: To provide a substitute amendment)

Mr. SIMPSON. Mr. President, on behalf of Senator MCCAIN, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report. The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. MCCAIN, proposes an amendment numbered 2635.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted".)

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment (No. 2635) is agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

Mr. MCCAIN. Mr. President, I rise today to offer an amendment in the nature of a substitute to S. 2036, the Indian Self-Determination Contract Reform Act of 1994. The substitute amendment makes over 40 changes to the bill and by doing so responds to a significant number of concerns raised by the Department of the Interior and the Department of Health and Human Services. The substitute reflects a good faith effort on the part of the Senate, House and the tribes to be responsive to the administration's concerns. With the inclusion of the changes incorporated in this amendment, I am advised that the administration has expressed its full support for the bill.

Nevertheless, I am deeply troubled by what has taken place during this debate. In my view, after the administration concluded that its attempts to delay the bill would be useless, the administration had one thing in mind with respect to self-determination reform: the administration's concerns were critical; tribal concerns were negotiable. I suspect the tribes themselves will be troubled by this because the administration has gone out if its way to proclaim itself as an administration that is more sensitive to tribal concerns. Frankly, if there is a unifying theme in this administration's Indian policy, it is the casual relationship between words and action.

It is my hope that S. 2036, as amended, will assist tribes in recapturing the vision of Indian self-determination that has its origins in President Nixon's 1970 "Special Message to the Congress on Indian Affairs" which stated:

> For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make that decision.
>
> This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency.

For the benefit of my colleagues, I will summarize briefly the amendments contained in the substitute bill.

In section 2(1): deletes architectural and engineering services from the category of programs not covered by the special rules applicable to construction contracts.

In section 2(5): replaces the words "relating to" with the words "supportive of".

In section 2(6): enlarges the declination timeframe from 60 days to 90 days; replaces the "clear and convincing" standard for declination with the "clearly demonstrate" standard, an intermediate standard higher than a "preponderance of the evidence"; deletes the proposed amendment to the "satisfactory services" standard of existing law; and separates out the declination criteria relating to funding and contractibility issues. Requires that program standards be set forth in contract proposals so that they can be evaluated against the declination criteria.

In section 2(9): replaces the "clear and convincing" standard with the "clearly demonstrate" standard; deletes the requirement that a declination finding include a technical assistance finding; adds a provision permitting administrative judges to make final decisions in declination appeals; and deletes the so-called Alaska indirect redelegation provision.

In section 2(10): eliminates section 103 grants from the scope of the section; improves upon the language specifying those laws which do not apply to non-construction contracts; again requires that program standards be included in contract proposals and in final contracts so that the Departments can evaluate those standards in light of the declination criteria.

In section 2(11): limits the authority of a tribal organization that is itself not a tribe to technically retrocede a program back to the government to instances where the authority has been delegated to the tribal organization.

In section 2(12): eliminates the limitation on return of property to the federal government relating to use of the property in the contracted program.

In section 2(13): deletes virtually all of the divisibility section, and replacing it with a new explicit protection for non-contracting tribes; limits redesign authority to non-construction contracts; makes redesign a matter for a tribal organization to propose to the Secretary; prohibits any redesign that would be contrary to statute; clarifies the types of property interests necessary to support a tribal lease; clarifies that certain sections of Title I do not apply to construction contracts, including the model contract and the reassumption section; and clarifies that auditing costs that are to be covered in construction contracts are those that relate to the management of the contract, and not those relating to other aspects of the tribal organization's operations.

In section 2(14): adds language to assure against any inadvertent double payment of contract support costs which duplicate the Secretarial amount already included in the contract.

In section 2(15): changes the reporting deadlines from March 15 to May 15, to provide adequate time to include reports relating to calendar year contracts within the supplemental appropriations cycle.

In section 2(17): changes the word "allocate" to "add".

In section 2(19): clarifies the matching provision; clarifies the depreciation provision; deletes the mandate to OMB to issue a new circular, leaving such matters up to OMB's discretion; entirely rewrites the "funding suspension" provision to grant the agencies this authority within certain guidelines; rewrites the "savings" provision so that savings equally benefit both contracted and non-contracted parts of the Secretary's programs; and clarifies the limitation applicable to a tribal organization's rebudgeting authority.

In section 3 of the bill (containing the model contract): deletes the paragraph relating to tribal forums; requires that the contract set forth the program standards applicable to the contracted programs; amends and narrows the "limitation of cost" clause; enlarges the Secretary's monitoring rights; changes certain recordkeeping requirements; conforms the funding reduction provisions of the contract with section 105(c)(2) of the Act; clarifies that the funding amount specified in the annual funding agreement is tied to the funding amount required to be paid under section 106(a) of the Act; clarifies the Secretary's responsibilities; and edits the annual funding agreement paragraphs as requested.

In section 4 of the bill (relating to reassumption): adds a new reassumption ground tied to endangerment of trust resources; provides for partial reassumption; and changes the "clear and convincing" standard to the "clearly demonstrate" standard.

In section 5 of the bill (relating to regulatory implementation): adds several additional topic areas with respect to which Congress delegates its legislative rulemaking authority to the departments; adds an explicit regulatory repeal authority; amends the tribal participant and meeting requirements related to negotiated rulemaking; and substantially rewrites the waiver and exception provisions.

Mr. President, S. 2036, as amended, is legislation that is strongly supported by the tribes. I urge my colleagues to pass this legislation.

THE PROCESS PATENT PROTECTION ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4307, a bill relating to biotechnology patents.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4307) an act to amend title 35 of the United States Code with respect to applications for process patents, and for certain other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2636

(Purpose: To amend title 35 United States Code, with respect to applications for process patents)

Mr. FORD. Mr. President, in behalf of Senator DECONCINI and Senator HATCH, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. DECONCINI, (for himself, Mr. HATCH, and Mr. KENNEDY) proposes an amendment numbered 2636.

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—PROCESS PATENT APPLICATIONS

SECTION 101. EXAMINATION OF PROCESS PATENT APPLICATIONS FOR OBVIOUSNESS.

Section 103 of title 35, United States Code, is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph the

"(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a "biotechnological process" using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

"(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effective filing date; and

"(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the composition of matter used in or made by that process, or

"(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.".

For purposes of subsection (b), the term "biotechnological process" means a process of genetically altering or otherwise inducing a cell or a living organism to express an exogenous nucleotide sequence or to express specific physiological characteristics. Such processes include genetic alteration of a cell to express an exogenous nucleotide sequence, cell fusion procedures yielding a cell line that expresses a specific protein, including a monoclonal antibody, and genetic alteration of a multicellular organism to induce said organism to express an exogenous nucleotide sequence or to express predefined physiological characteristics.

SEC. 102. PRESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: "Notwithstanding the preceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).".

SEC. 103. EFFECTIVE DATE.

The amendments made by section 101 shall apply to any application for patent filed on or after the date of the enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) as application for the reissue of a patent.

AMENDMENT NO. 2637

(Purpose: To confer jurisdiction on the United States Court of Federal Claims relating to certain claims arising out of the furnishing of software and services)

Mr. FORD. Mr. President, on behalf of Senator HATCH, I send an amendment to the desk, and ask unanimous consent to proceed to its immediate consideration, that the amendment be agreed to, that substitute amendment as amended, be agreed to, that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2637) was agreed to, as follows:

On page , insert between lines and the following:

SEC. . JURISDICTION OF UNITED STATES COURT OF FEDERAL CLAIMS RELATING TO CERTAIN SOFTWARE AND SERVICE CLAIMS.

(a) JURISDICTION.—Jurisdiction is conferred upon the United States Court of Federal Claims to hear, determine, and render conclusions that are sufficient to inform the Congress of the amount, if any, legally or equitably due upon the claims of Inslaw, Inc., a Delaware Corporation (hereinafter referred to as "Inslaw") and William A. Hamilton and Nancy Burke Hamilton, individually against the United States which claims arise out of the furnishing of computer software and services to the United States Department of Justice. The hearings and proceedings conducted, determinations and conclusions made, and report submitted to the Congress under this subsection shall be conducted in accordance with the provisions of section 2509 of title 28, United States Code.

(b) WAIVER OF SOVEREIGN IMMUNITY AND DEFENSE.—For purposes of the report submitted under subsection (a), any available defense relating to statute of limitations, any form of estoppel, laches, res judicata, failure to exhaust all remedies, and any available defense of sovereign immunity of the United States, the Department of Justice, or any other United States Government agency is specifically waived as to the respective claims of Inslaw, William A. Hamilton, and Nancy Burke Hamilton.

THE PROCESS PATENT PROTECTION ACT OF 1994

Mr. DECONCINI. Mr. President, I urge my colleagues to join with me and Senators HATCH and KENNEDY in passing H.R. 4307, the Process Patent Protection Act of 1994. This bill will remedy a situation which has endangered the competitiveness of America's burgeoning biotech industry.

To date, patent law has failed to provide the biotechnology industry with adequate protection for the processes they utilize. Because of the failure of our laws, foreign competitors have an unfair advantage. Furthermore, biotech firms cannot obtain much needed investment to continue their research in vital areas ranging from pharmaceuticals, to agriculture and environmental cleanup. For 5 years Congress has worked to resolve the inequity in the law, and H.R. 4307 is the result of these efforts.

On September 20, 1994 the House passed H.R. 4307, a bill similar to S. 298, the Biotechnology Patent Protection Act of 1993, which passed the Senate on July 15, 1993. S. 238 amended the patent code, in particular title 35, to provide protection for the biotechnology industry which was having difficulty obtaining process patents due to conflicting court decisions. The Senate bill was industry specific and concerned only biotechnology claims.

H.R. 4307 took a different approach to the problem in that it was generic, or industry neutral. Although the electronics and computer industry initially raised concerns over this approach, H.R. 4307 was narrowed, prior to passage, to address their concerns. However, the bill remained generic in nature.

The amendment in the nature of a substitute proposed by Senators DECONCINI, HATCH and KENNEDY, takes an approach which is more general than S. 298 but more narrow than H.R. 4307 as it passed the House. In order to address concerns raised by the chemical industry that H.R. 4307 would create the possibility of overreaching process claims which could extend the scope of patent protection far downstream or upstream of the actual process which the bill seeks to protect, language has been added to narrow the bill to cover only biotechnological processes. In order to clarify and avoid any misunderstanding as to the parameters to which the protections of this amendment would be applicable, a definition of biotechnological process has also been added to the House language.

By limiting the applicability of this law to these type of processes, only those industries which engage in biotechnological endeavors will be affected. This alternative proposal to H.R. 4307 has been accepted as a viable solution to the concerns of the chemical industry. By adding the clarifying language to the House bill, the amendment in the nature of a substitute accomplishes the proponent's original goal in a manner acceptable to all concerned industries and the Patent and Trademark Office. Furthermore, it enjoys bipartisan support in Congress.

I urge my colleagues to support the Patent Protection Act, and provide the American biotech industry the much needed protection which will allow them to maintain their position as world leaders in this vital field. The benefits of maintaining this position will be enjoyed by Americans for generations to come.

THE PROCESS PATENT PROTECTION ACT OF 1994

Mr. KENNEDY. Mr. President, I urge all of my colleagues to join in passing H.R. 4307, the Process Patent Protection Act of 1994. This bill makes essential changes to patent law which will help stimulate biomedical innovation and foster the international competitiveness of the American biotech industry. I am a principal cosponsor of the Biotechnology Patent Protection Act which passed the Senate earlier this session and which proposed legislative reforms similar to those in H.R. 4307.

The United States is the world's leader in the research, development and manufacture of biotechnology products, and Massachusetts is home to many prominent biotechnology companies. More than 100 million people are treated annually with medicines derived from biotechnology and more than 100 new products are being developed to treat Alzheimer's disease, AIDS, cancer, cystic fibrosis and many other illnesses. Our country is unsurpassed in translating state of the art science into economic growth and improved human health.

The Process Patent Protection Act of 1994 would resolve an issue that has been debated by Congress for over 5 years. The legislation is needed because of the failure of patent law to keep pace with technological innovations in the field of biotechnology. Specifically, current law fails to protect the ability of biotech firms to patent the processes by which they produce new inventions.

This legislation will extend patent protection to cover the process for preparing and using a biotechnology product. This kind of protection is routinely granted in Western Europe and Japan, and is already available under current law for inventions in areas other than biotechnology. However, by failing to protect process patents for American biotechnology, our current patent law grants foreign competitors unnecessary and unfair advantages.

Common sense tells us to reward innovation and punish imitators, but our patent laws have the opposite effect for biotechnology manufacturers. In a research-intensive industry such as biotechnology, the need to protect innovation is particularly urgent.

Without adequate patent protection, biotech firms cannot attract the investment needed to pursue promising new therapies. Companies must have assurances that rival firms cannot pirate their original research. The current patent law also leads to inconsistent decisions, and time-consuming patent litigation that drains companies' research resources.

This bill provides a needed remedy for these inadequacies. By granting adequate protection to biotechnology products, it ensures that the nation will benefit from cutting-edge therapies, and that the biotechnology industry will remain innovative and competitive. The bill has broad bipartisan support, and the Bush and Clinton Administrations have supported similar reforms.

I strongly urge passage of the Patent Protection Act of 1994, so that our patent laws will continue to serve as a stimulus to innovation, not a barrier.

The substitute amendment (No. 2636), as amended, was agreed to.

The bill (H.R. 4307), as amended, was deemed read the third time and passed.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1994

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1927) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1927) entitled "An Act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Act of 1994".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COST-OF-LIVING ADJUSTMENT IN RATES OF COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 101. DISABILITY COMPENSATION.

Section 1114 is amended—

(1) by striking out "$87" in subsection (a) and inserting in lieu thereof "$89";

(2) by striking out "$166" in subsection (b) and inserting in lieu thereof "$170";

(3) by striking out "$253" in subsection (c) and inserting in lieu thereof "$260";

(4) by striking out "$361" in subsection (d) and inserting in lieu thereof "$371";

(5) by striking out "$515" in subsection (e) and inserting in lieu thereof "$530";

(6) by striking out "$648" in subsection (f) and inserting in lieu thereof "$667";

(7) by striking out "$819" in subsection (g) and inserting in lieu thereof "$843";

(8) by striking out "$948" in subsection (h) and inserting in lieu thereof "$976";

(9) by striking out "$1,067" in subsection (i) and inserting in lieu thereof "$1,099";

(10) by striking out "$1,774" in subsection (j) and inserting in lieu thereof "$1,827";

(11) by striking out "$2,207" and "$3,093" in subsection (k) and inserting in lieu thereof "$2,273" and "$3,187", respectively;

(12) by striking out "$2,207" in subsection (l) and inserting in lieu thereof "$2,273";

(13) by striking out "$2,432" in subsection (m) and inserting in lieu thereof "$2,504";

(14) by striking out "$2,768" in subsection (n) and inserting in lieu thereof "$2,851";

(15) by striking out "$3,093" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,185";

(16) by striking out "$1,328" and "$1,978" in subsection (r) and inserting in lieu thereof "$1,367" and "$2,037", respectively; and

(17) by striking out "$1,985" in subsection (s) and inserting in lieu thereof "$2,044".

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$105" in subparagraph (A) and inserting in lieu thereof "$108";

(2) by striking out "$178" and "$55" in subparagraph (B) and inserting in lieu thereof "$183" and "$56", respectively;

(3) by striking out "$72" and "$55" in subparagraph (C) and inserting in lieu thereof "$74" and "$56", respectively;

(4) by striking out "$84" in subparagraph (D) and inserting in lieu thereof "$86";

(5) by striking out "$195" in subparagraph (E) and inserting in lieu thereof "$200"; and

(6) by striking out "$164" in subparagraph (F) and inserting in lieu thereof "$168".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$478" and inserting in lieu thereof "$492".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) in subsection (a)(1), by striking out "$769" and inserting in lieu thereof "$792";

(2) in subsection (a)(2), by striking out "$169" and inserting in lieu thereof "$174";

(3) in subsection (a)(3), by striking out the table therein and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E–7	$817	O–3	$923
E–8	863	O–4	976
E–9	[1]901	O–5	1,075
W–1	836	O–6	1,212
W–2	869	O–7	1,309
W–3	895	O–8	1,433
W–4	947	O–9	1,536
O–1	836	O–10	[2]1,685
O–2	863		

"[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $971.

"[2]If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,805.";

(4) in subsection (c), by striking out "$195" and inserting in lieu thereof "$200"; and

(5) in subsection (d), by striking out "$95" in subsection (c) and inserting in lieu thereof "$97".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$327" in paragraph (1) and inserting in lieu thereof "$336";

(2) by striking out "$471" in paragraph (2) and inserting in lieu thereof "$485";

(3) by striking out "$610" in paragraph (3) and inserting in lieu thereof "$628"; and

(4) by striking out "$610" and "$120" in paragraph (4) and inserting in lieu thereof "$628" and "$123", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$195" in subsection (a) and inserting in lieu thereof "$200";

(2) by striking out "$327" in subsection (b) and inserting in lieu thereof "$336"; and

(3) by striking out "$166" in subsection (c) and inserting in lieu thereof "$170".

SEC. 106. EFFECTIVE DATE.

The amendments made by this title shall take effect on December 1, 1994.

TITLE II—DISABILITIES RESULTING FROM HERBICIDE EXPOSURE

SEC. 201. CODIFICATION OF PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY.

Section 1116(a)(2) is amended by adding at the end the following new subparagraphs:

"(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

"(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of 10 percent or more within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.".

TITLE III—BOARD OF VETERANS' APPEALS ADMINISTRATION

SEC. 301. APPOINTMENT, PAY COMPARABILITY, AND PERFORMANCE REVIEWS FOR MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) IN GENERAL.—(1) Chapter 71 is amended by inserting after section 7101 the following new section:

"§7101A. Members of Board: appointment; pay; performance review

"(a) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

"(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

"(c)(1) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the Chairman shall determine, with respect to each member of the Board (other than a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

"(2) If the determination of the Chairman in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the member's appointment as a member of the Board shall be recertified.

"(3) If the determination of the Chairman in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

"(A) grant the member a conditional recertification; or

"(B) recommend to the Secretary that the member be noncertified.

"(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3) or (5)(C), the Chairman shall review the member's job performance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the Chairman at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

"(5)(A) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary shall establish a panel to review that recommendation. The panel shall be established from among employees of the Department other than members of the Board or of the Board's staff and may include Federal employees from outside the Department with appropriate expertise.

"(B) The panel shall review the matter and recommend to the Secretary whether the Board member should be noncertified or should be granted a conditional recertification.

"(C) The Secretary, after considering the recommendation of the panel, may either—

"(i) grant the member a conditional recertification; or

"(ii) determine that the member should be noncertified.

"(d)(1) If the Secretary, based upon the recommendation of the Chairman and after considering the recommendation of the panel under subsection (c)(5), determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

"(2) An individual so removed from the Board shall have the right to be employed by the Board in an attorney-advisor position.

"(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

"(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the

Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

"(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

"(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7101 the following new item:

"7101A. Members of Board: appointment; pay; performance review.".

(b) SAVE PAY PROVISION.—The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act may not be reduced by reason of the amendments made by this section to a rate below the rate payable to such individual on the day before such date.

(c) EFFECTIVE DATE.—Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994.

SEC. 302. CONFORMING AMENDMENTS.

Section 7101(b) is amended—

(1) by striking out paragraph (2);

(2) by designating as paragraph (2) the text in paragraph (1) beginning "The Chairman may be removed"; and

(3) by striking out "Members (including the Chairman)" in paragraph (3) and inserting in lieu thereof "The Chairman".

SEC. 303. DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS.

(a) DEADLINE.—The job performance standards required to be established by section 7101A(d) of title 38, United States Code, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION TO CONGRESSIONAL COMMITTEE.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing the Secretary's proposal for the establishment of those standards.

TITLE IV—ADJUDICATION IMPROVEMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the "Veterans' Adjudication Improvements Act of 1994".

SEC. 402. REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report addressing the feasibility and impact of a reorganization of the adjudication divisions located within the regional offices of the Veterans Benefits Administration to a number of such divisions that would result in improved efficiency in the processing of claims filed by veterans, their survivors, or other eligible persons, for benefits administered by the Secretary.

SEC. 403. MASTER VETERAN RECORD.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall implement a recordkeeping system whereby each veteran and other person eligible for benefits under laws administered by the Secretary shall be identified by a single identification number and through which information relating to that person, including that person's current eligibility or entitlement status with respect to each benefit or service administered by the Secretary, shall be available through electronic means to employees of the Department located in each regional office of the Veterans Benefits Administration or medical center of the Veterans Health Administration.

(b) DEADLINE FOR IMPLEMENTATION.—The recordkeeping system required by subsection (a) shall be implemented not later than two years after the date of the enactment of this Act.

SEC. 404. REPORT ON PILOT PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report enumerating and describing each pilot program and major initiative being tested in the regional offices of the Veterans Benefits Administration that affect the adjudication of claims for benefits administered by the Secretary.

(b) CONTENTS.—The report shall include the Secretary's recommendations regarding the need, if any, for legislation to implement any of such pilot programs the Secretary may recommend. If the Secretary indicates that legislation is not required to implement one or more of such programs, the Secretary shall advise the Committees as to whether any such pilot program will be implemented and provide a timetable for such implementation.

SEC. 405. ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES.

(a) STATEMENTS OF CLAIMANT TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.—Chapter 51 is amended by adding at the end the following new section:

"§5124. Acceptance of claimant's statement as proof of relationship

"(a) For purposes of benefits under laws administered by the Secretary, the Secretary shall accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

"(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

"(1) Marriage.

"(2) Dissolution of a marriage.

"(3) Birth of a child.

"(4) Death of any family member.

"(c) The Secretary may require the submission of documentation in support of the claimant's statement—

"(1) if the claimant does not reside within a State; or

"(2) if the statement on its face raises a question as to its validity.".

(b) REPORTS OF EXAMINATIONS BY PRIVATE PHYSICIANS.—Such chapter, as amended by subsection (a), is further amended by adding at the end the following new section:

"§5125. Acceptance of reports of private physician examinations

"For purposes of establishing a claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter shall be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for disability rating purposes.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"5124. Acceptance of claimant's statement as proof of relationship.

"5125. Acceptance of reports of private physician examinations.".

SEC. 406. EXPEDITED TREATMENT OF REMANDED CLAIMS.

The Secretary shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action.

SEC. 407. SCREENING OF APPEALS.

Section 7107 of title 38, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Each case" and inserting in lieu thereof "Except as provided in subsection (f), each case"; and

(2) by adding at the end the following new subsection:

"(f) Nothing in this section shall preclude the screening of cases for purposes of—

"(1) determining the adequacy of the record for decisional purposes; or

"(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.".

SEC. 408. REVISION OF DECISIONS BASED ON CLEAR AND UNMISTAKABLE ERROR.

(a) ORIGINAL DECISIONS.—(1) Chapter 51 is amended by inserting after section 5109 the following new section:

"§5109A. Revision of decisions on grounds of clear and unmistakable error

"(a) A decision by the Secretary under this chapter is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

"(b) For the purposes of authorizing benefits, a rating or other adjudicative decision that constitutes a reversal or revision of a prior decision on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

"(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Secretary on the Secretary's own motion or upon request of the claimant.

"(d) A request for revision of a decision of the Secretary based on clear and unmistakable error may be made at any time after that decision is made.

"(e) Such a request shall be submitted to the Secretary and shall be decided in the same manner as any other claim.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5109 the following new item:

"5109A. Revision of decisions on grounds of clear and unmistakable error.".

(b) BVA DECISIONS.—(1) Chapter 71 is amended by adding at the end the following new section:

"§7111. Revision of decisions on grounds of clear and unmistakable error

"(a) A decision by the Board is subject to revision on the grounds of clear and unmistakable error. If evidence establishes the error, the prior decision shall be reversed or revised.

"(b) For the purposes of authorizing benefits, a rating or other adjudicative decision of the Board that constitutes a reversal or revision of a prior decision of the Board on the grounds of clear and unmistakable error has the same effect as if the decision had been made on the date of the prior decision.

"(c) Review to determine whether clear and unmistakable error exists in a case may be instituted by the Board on the Board's own motion or upon request of the claimant.

"(d) A request for revision of a decision of the Board based on clear and unmistakable error may be made at any time after that decision is made.

"(e) Such a request shall be submitted directly to the Board and shall be decided by the Board on the merits, without referral to any adjudicative or hearing official acting on behalf of the Secretary.

"(f) A claim filed with the Secretary that requests reversal or revision of a previous Board decision due to clear and unmistakable error shall be considered to be a request to the Board under this section, and the Secretary shall promptly transmit any such request to the Board for its consideration under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7111. Revision of decisions on grounds of clear and unmistakable error.".

(c) EFFECTIVE DATE.—(1) Sections 5109A and 7111 of title 38, United States Code, as added by this section, apply to any determination made before, on, or after the date of the enactment of this Act.

(2) Notwithstanding section 402 of the Veterans Judicial Review Act (38 U.S.C. 7251 note), chapter 72 of title 38, United States Code, shall apply with respect to any decision of the Board of Veterans' Appeals on a claim alleging that a previous determination of the Board was the product of clear and unmistakable error if that claim is filed after, or was pending before the Department of Veterans Affairs, the Court of Veterans Appeals, the Court of Appeals for the Federal Circuit, or the Supreme Court on, the date of the enactment of this Act.

TITLE V—MISCELLANEOUS

SEC. 501. RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988.

(a) RESTATEMENT OF ABSENCE OF STATUTORY LIMITATION TO UNITED STATES TESTS.—(1) Clause (i) of section 1112(c)(3)(B) is amended by inserting "(without regard to whether the nation conducting the test was the United States or another nation)" after "nuclear device".

(2) The amendment made by paragraph (1) shall take effect as of May 1, 1988.

(b) PROOF OF SERVICE CONNECTION OF DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION.—(1) Section 1113(b) is amended—

(A) by striking out "title or" and inserting in lieu thereof "title,"; and

(B) by inserting ", or section 5 of Public Law 98–542 (38 U.S.C. 1154 note)" after "of this section".

(2) The amendments made by paragraph (1) shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 502. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1999".

SEC. 503. RENOUNCEMENT OF BENEFIT RIGHTS.

Section 5306 is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.".

SEC. 504. EFFECTIVE DATE OF DISCONTINUANCE OF COMPENSATION UPON DEATH OF CERTAIN VETERANS.

(a) IN GENERAL.—Section 5112 is amended by adding the following new subsection:

"(d) In the case of a veteran who, at time of death, was in receipt of compensation for a disability rated as totally disabling with an additional amount being paid for a spouse, if the Secretary determines that the surviving spouse of such veteran is not eligible for dependency and indemnity compensation, the effective date of the discontinuance of such compensation shall be the last day of the month in which such death occurred.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring after September 30, 1994.

Amend the title so as to read: "An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans, to revise and improve veterans' benefits programs, and for other purposes.".

Mr. FORD. Mr. President, I move that the Senate concur in the amendments of the House with a further amendment which I now send to the desk on behalf of Senator ROCKEFELLER, and I ask unanimous consent that the amendment be agreed to, the motion to reconsider be laid upon the table, and any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The Senator from Kentucky [Mr. FORD] for Mr. ROCKEFELLER, proposes an amendment numbered 2638.

The legislative clerk read as follows:

The amendment is as follows:

In lieu of the matter inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1994".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 1994, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b)

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(7) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF PERCENTAGE INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 1994. Each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) In the computation of increased dollar amounts pursuant to paragraph (1), any amount which as so computed is not an even multiple of $1 shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1994, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased pursuant to section 2.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1994

Mr. ROCKEFELLER. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise today to urge the Senate to pass S. 1927, the proposed "Veterans' Compensation Cost-of-Living Adjustment Act of 1994," as it will be amended by the amendment I am offering.

Mr. President, effective December 1, 1994, my amendment would increase the rates of compensation paid to veterans with service-connected disabilities, and the rates of dependency and indemnity compensation [DIC] paid to the survivors of certain service-disabled veterans, by the same percentage as the increase in Social Security and VA pension benefits.

Mr. President, ever since I began my career in public service, I have worked closely with the veterans of my home State of West Virginia, and now, as chairman of the Committee on Veterans' Affairs, I have had the opportunity to work with veterans all across the country. Consequently, I am keenly aware of the fact that the compensation payments that would be increased by this measure have a profound effect on the everyday lives of veterans and their families. The compensation payments that this measure would adjust affect over 2½ million veterans and veterans' survivors, including nearly 30,000 in West Virginia.

As chairman of the Committee on Veterans' Affairs, I am committed to ensuring that these veterans and veterans' survivors receive the benefits they deserve. I believe strongly that we have a fundamental obligation to meet the needs of those who became disabled as the result of military service, as well as the needs of their families. This measure fulfills one of the most important aspects of that obligation. It is our responsibility to continue to provide cost-of-living adjsutments—equally to all qualified recipients—in compensation and DIC benefits, in order to guarantee that the value of these essential, service-connected VA benefits are not eroded by inflation.

I am very proud that Congress consistently has fulfilled its obligation to make sure that the real value of these benefits it preserved by providing an annual COLA for compensation and DIC benefits every fiscal year since 1976. Most recently, on November 11, 1993, Veterans' Day, President Clinton signed Public Law 103-140 into law, providing a 2.6-percent increase in these benefits, effective December 1, 1993.

Mr. President, we cannot ever repay the debt we owe to the individuals who have sacrificed so much for our country. Service-disabled veterans and the survivors of those who died as the result of service-connected conditions are reminded daily of the price they have paid for the freedom we all enjoy. The very least we can do is protect the value of the benefits they have earned through their sacrifice.

Mr. President, I strongly urge all of my colleagues to support this vitally important measure.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

RECOGNITION OF RADIO AMATEURS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 611, S.J. Res. 90, a joint resolution to recognize the achievements of radio amateurs, that the joint resolution be deemed read three times, passed, that the preamble be agreed to, and the motion to reconsider be laid upon the table; further, that any statements appear in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 90) was deemed read a third time and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

(The text of the joint resolution will be printed in a future edition of the RECORD.)

BETTER NUTRITION AND HEALTH FOR CHILDREN ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 1614) to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Healthy Meals for Healthy Americans Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Sense of Congress.

TITLE I—AMENDMENTS TO NATIONAL SCHOOL LUNCH ACT

Sec. 101. Purchase of fresh fruits and vegetables.
Sec. 102. Delivery of commodities.
Sec. 103. Requirement of minimum percentage of commodity assistance.
Sec. 104. Combined Federal and State commodity purchases.
Sec. 105. Technical assistance to ensure compliance with nutritional requirements.
Sec. 106. Nutritional and other program requirements.
Sec. 107. Nutritional requirements relating to provision of milk.
Sec. 108. Use of free and reduced price meal eligibility information.
Sec. 109. Automatic eligibility of Head Start participants.
Sec. 110. Use of nutrition education and training program resources.
Sec. 111. Special assistance for schools electing to serve all children free lunches or breakfasts.
Sec. 112. Miscellaneous provisions and definitions.
Sec. 113. Food and nutrition projects.
Sec. 114. Summer food service program for children.
Sec. 115. Commodity distribution program.
Sec. 116. Child and adult care food program.
Sec. 117. Homeless children nutrition program.
Sec. 118. Pilot projects.
Sec. 119. Reduction of paperwork.
Sec. 120. Food service management institute.
Sec. 121. Compliance and accountability.
Sec. 122. Duties of the Secretary of Agriculture relating to nonprocurement debarment under certain child nutrition programs.
Sec. 123. Information clearinghouse.
Sec. 124. Guidance and grants for accommodating special dietary needs of children with disabilities.
Sec. 125. Study of adulteration of juice products sold to school meal programs.

TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

Sec. 201. School breakfast program.
Sec. 202. State administrative expenses.
Sec. 203. Competitive foods of minimal nutritional value.
Sec. 204. Special supplemental nutrition program.
Sec. 205. Nutrition education and training program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Consolidation of school lunch program and school breakfast program into comprehensive meal program.
Sec. 302. Study and report relating to use of private food establishments and caterers under school lunch program and school breakfast program.
Sec. 303. Amendment to Commodity Distribution Reform Act and WIC Amendments of 1987.
Sec. 304. Study of the effect of combining federally donated and federally inspected meat or poultry.

TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

SEC. 2. FINDINGS.

Congress finds that—

(1) undernutrition can permanently retard physical growth, brain development, and cognitive functioning of children;

(2) the longer a child's nutritional, emotional, and educational needs go unmet, the greater the likelihood of cognitive impairment;

(3) low-income children who attend school hungry score significantly lower on standardized tests than non-hungry low-income children; and

(4) supplemental nutrition programs under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) funds should be made available for child nutrition programs to remove barriers to the participation of needy children in the school lunch program, school breakfast program, summer food service program for children, and the child and adult care food program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(2) the Secretary of Agriculture should take actions to further strengthen the efficiency of child nutrition programs by streamlining administrative requirements to reduce the administrative burden on participating schools and other meal providers; and

(3) as a part of efforts to continue to serve nutritious meals to youths in the United States and to educate the general public regarding health and nutrition issues, the Secretary of Agriculture should take actions to coordinate the nutrition education efforts of all nutrition programs.

TITLE I—AMENDMENTS TO NATIONAL SCHOOL LUNCH ACT

SEC. 101. PURCHASE OF FRESH FRUITS AND VEGETABLES.

Section 6(a) of the National School Lunch Act (42 U.S.C. 1755(a)) is amended—

(1) in the second sentence, by striking "Any school" and inserting "Except as provided in the next 2 sentences, any school"; and

(2) by inserting after the second sentence the following new sentences: "Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in

value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence.".

SEC. 102. DELIVERY OF COMMODITIES.

Subsection (b) of section 6 of the National School Lunch Act (42 U.S.C. 1755(b)) is amended to read as follows:

"(b) The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.".

SEC. 103. REQUIREMENT OF MINIMUM PERCENTAGE OF COMMODITY ASSISTANCE.

Section 6 of the National School Lunch Act (42 U.S.C. 1755) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 4, this section, and section 11 shall be in the form of commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section.

"(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirement for the school year.".

SEC. 104. COMBINED FEDERAL AND STATE COMMODITY PURCHASES.

Section 7 of the National School Lunch Act (42 U.S.C. 1756) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by the school food service authority in meals served under the school lunch program under this Act.".

SEC. 105. TECHNICAL ASSISTANCE TO ENSURE COMPLIANCE WITH NUTRITIONAL REQUIREMENTS.

(a) SCHOOL LUNCH PROGRAM.—Section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(b) SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Section 13(f) of such Act (42 U.S.C. 1761(f)) is amended—

(1) by inserting after the first sentence the following new sentences: "The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection. The Secretary shall provide additional technical assistance to those service institutions and private nonprofit organizations that are having difficulty maintaining compliance with the requirements."; and

(2) in the fourth sentence (after the amendment made by paragraph (1)), by striking "Such meals" and inserting "Meals described in the first sentence".

(c) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17(g)(1) of such Act (42 U.S.C. 1766(g)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide technical assistance to those institutions participating in the program under this section to assist the institutions and family or group day care home sponsoring organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A). The Secretary shall provide additional technical assistance to those institutions and family or group day care home sponsoring organizations that are having difficulty maintaining compliance with the requirements.".

SEC. 106. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS.

(a) MINIMUM NUTRITIONAL REQUIREMENTS BASED ON WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL LUNCHES.—Section 9(a)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(a)(1)(A)) (as amended by section 105(a)) is further amended—

(1) by striking "; except that such minimum nutritional requirements shall not" and inserting ", except that the minimum nutritional requirements—

"(i) shall not";

(2) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.".

(b) DIETARY GUIDELINES FOR AMERICANS.—Section 9 of such Act (42 U.S.C. 1758) is amended by adding at the end the following new subsection:

"(f)(1) Not later than the first day of the 1996–97 school year, the Secretary, State educational agencies, schools, and school food service authorities shall, to the maximum extent practicable, inform students who participate in the school lunch and school breakfast programs, and parents and guardians of the students, of—

"(A) the nutritional content of the lunches and breakfasts that are served under the programs; and

"(B) the consistency of the lunches and breakfasts with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), including the consistency of the lunches and breakfasts with the guideline for fat content.

"(2)(A) Except as provided in subparagraph (B), not later than the first day of the 1996–97 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the programs that are consistent with the Guidelines (as measured in accordance with subsection (a)(1)(A)(ii) and section 4(e)(1)).

"(B) State educational agencies may grant waivers from the requirements of subparagraph (A) subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

"(C) To assist schools in meeting the requirements of this paragraph, the Secretary—

"(i) shall—

"(I) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

"(II) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

"(ii) may provide to schools information regarding other approaches, as determined by the Secretary.

"(D) Schools may use any of the approaches described in subparagraph (C) to meet the requirements of this paragraph. In the case of schools that elect to use food-based menu systems to meet the requirements of this paragraph, the Secretary may not require the schools to conduct or use nutrient analysis.".

(c) PRODUCTION RECORDS.—Section 9 of such Act (42 U.S.C. 1758) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(g) Not later than 1 year after the date of enactment of this subsection, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.".

SEC. 107. NUTRITIONAL REQUIREMENTS RELATING TO PROVISION OF MILK.

Section 9(a)(2) of the National School Lunch Act (42 U.S.C. 1758(a)(2)) is amended to read as follows:

"(2)(A) Lunches served by schools participating in the school lunch program under this Act—

"(i) shall offer students fluid milk; and

"(ii) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.

"(B)(i) The Secretary shall purchase in each calendar year to carry out the school lunch program under this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), lowfat cheese on a bid basis in a quantity that is the milkfat equivalent of the quantity of milkfat the Secretary estimates the Commodity Credit Corporation will purchase each calendar year as a result of the elimination of the requirement that schools offer students fluid whole milk and fluid unflavored lowfat milk, based on data provided by the Director of Office of Management and Budget.

"(ii) Not later than 30 days after the Secretary provides an estimate required under clause (i), the Director of the Congressional Budget Office shall provide to the appropriate committees of Congress a report on whether the Director concurs with the estimate of the Secretary.

"(iii) The quantity of lowfat cheese that is purchased under this subparagraph shall be in addition to the quantity of cheese that is historically purchased by the Secretary to carry out school feeding programs. The Secretary shall take such actions as are necessary to ensure that purchases under this subparagraph shall not displace commercial purchases of cheese by schools.".

SEC. 108. USE OF FREE AND REDUCED PRICE MEAL ELIGIBILITY INFORMATION.

Section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)) is amended by striking clause (iii) and inserting the following new clauses:

"(iii) The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

"(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

"(II) a person directly connected with the administration or enforcement of—

"(aa) a Federal education program;

"(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or

"(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; and

"(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

"(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph.

"(iv) Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the consent of the parent or guardian of the child for whom application for benefits was made is obtained.

"(v) A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.".

SEC. 109. AUTOMATIC ELIGIBILITY OF HEAD START PARTICIPANTS.

(a) IN GENERAL.—Section 9(b)(6) of the National School Lunch Act (42 U.S.C. 1758(b)(6)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "a member of";

(B) in clause (i)—

(i) by inserting "a member of" after "(i)"; and

(ii) by striking "or" at the end;

(C) in clause (ii)—

(i) by inserting "a member of" after "(ii)"; and

(ii) by striking the period at the end and inserting "; or"; and

(D) by adding at the end the following new clause:

"(iii) enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A))."; and

(2) in subparagraph (B), by striking "food stamps or aid to families with dependent children" and inserting "food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),".

(b) CHILD AND ADULT CARE FOOD PROGRAM.—Section 17(c) of such Act (42 U.S.C. 1766(c)) is amended by adding at the end the following new paragraph:

"(5) A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on September 25, 1995.

SEC. 110. USE OF NUTRITION EDUCATION AND TRAINING PROGRAM RESOURCES.

Section 9 of the National School Lunch Act (42 U.S.C. 1758) (as amended by section 106(c)) is further amended by adding at the end the following new subsection:

"(h) In carrying out this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a State educational agency may use resources provided through the nutrition education and training program authorized under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) for training aimed at improving the quality and acceptance of school meals.".

SEC. 111. SPECIAL ASSISTANCE FOR SCHOOLS ELECTING TO SERVE ALL CHILDREN FREE LUNCHES OR BREAKFASTS.

Section 11(a)(1) of the National School Lunch Act (42 U.S.C. 1759a(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the second sentence, by striking "In the case of" and inserting the following:

"(B) Except as provided in subparagraph (C), (D), or (E), in the case of"; and

(3) by striking the third and fourth sentences and inserting the following new subparagraphs:

"(C)(i) Except as provided in subparagraph (D), in the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 3 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 3 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

"(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 3-school-year period shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

"(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 3-school-year period.

"(D)(i) In the case of any school that, on the date of enactment of this subparagraph, is receiving special assistance payments under this paragraph for a 3-school-year period described in subparagraph (C), the State may grant, at the end of the 3-school-year period, an extension of the period for an additional 2 school years, if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

"(ii) A school described in clause (i) may reapply to the State at the end of the 2-school-year period described in clause (i) for the purpose of continuing to receive special assistance payments, as determined in accordance with this paragraph, for a subsequent 5-school-year period. The school may reapply to the State at the end of the 5-school-year period, and at the end of each 5-school-year period thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 5-school-year period.

"(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 5-school-year period for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

"(iv) For the purpose of updating information and reimbursement levels, a school described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

"(E)(i) In the case of any school that—

"(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

"(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

"(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).

"(iii) Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall evaluate the effects of this subparagraph and notify the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the results of the evaluation.".

SEC. 112. MISCELLANEOUS PROVISIONS AND DEFINITIONS.

(a) TECHNICAL AMENDMENT TO DEFINITION OF SCHOOL.—

(1) IN GENERAL.—Section 12(d)(5) of the National School Lunch Act (42 U.S.C. 1760(d)(5)) is amended—

(A) in the first sentence—

(i) in clause (A), by inserting "and" at the end;

(ii) in clause (B), by striking ", and" and inserting a period; and

(iii) by striking clause (C); and

(B) in the second sentence, by striking "of clauses (A) and (B)".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on October 1, 1995.

(b) REIMBURSEMENT FOR MEALS, SUPPLEMENTS, AND MILK UNDER CERTAIN PROGRAMS CONTINGENT ON TIMELY SUBMISSION OF CLAIMS AND FINAL PROGRAM OPERATIONS REPORT.—Section 12 of such Act (42 U.S.C. 1760) is amended by adding at the end the following new subsection:

"(j)(1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

"(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

"(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

"(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.".

(c) EXPEDITED RULEMAKING.—Section 12 of such Act (42 U.S.C. 1760) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(k)(1) Prior to the publication of final regulations that implement changes that are intended to bring the meal pattern requirements of the school lunch and breakfast programs into conformance with the guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341) (referred to in this subsection as the 'Guidelines'), the Secretary shall issue proposed regulations permitting the use of food-based menu systems.

"(2) Notwithstanding chapter 5 of title 5, United States Code, not later than 45 days after the publication of the proposed regulations permitting the use of food-based menu systems, the Secretary shall publish notice in the Federal Register of, and hold, a public meeting with—

"(A) representatives of affected parties, such as Federal, State, and local administrators, school food service administrators, other school food service personnel, parents, and teachers; and

"(B) organizations representing affected parties, such as public interest antihunger organizations, doctors specializing in pediatric nutrition, health and consumer groups, commodity groups, food manufacturers and vendors, and nutritionists involved with the implementation and operation of programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

to discuss and obtain public comments on the proposed rule.

"(3) Not later than June 1, 1995, the Secretary shall issue final regulations to conform the nutritional requirements of the school lunch and breakfast programs with the Guidelines. The final regulations shall include—

"(A) rules permitting the use of food-based menu systems; and

"(B) adjustments to the rule on nutrition objectives for school meals published in the Federal Register on June 10, 1994 (59 Fed. Reg. 30218).

"(4) No school food service authority shall be required to implement final regulations issued pursuant to this subsection until the regulations have been final for at least 1 year.

"(5) The final regulations shall reflect comments made at each phase of the proposed rulemaking process, including the public meeting required under paragraph (2).".

(d) AUTHORITY OF SECRETARY TO WAIVE STATUTORY AND REGULATORY REQUIREMENTS.—Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(l)(1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for a State or eligible service provider that requests a waiver if—

"(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

"(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

"(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

"(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

"(2)(A) To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

"(i) identifies the statutory or regulatory requirements that are requested to be waived;

"(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

"(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted;

"(iv) includes a description of the impediments to the efficient operation and administration of the program;

"(v) describes the management goals to be achieved, such as fewer hours devoted to, or fewer number of personnel involved in, the administration of the program;

"(vi) provides a timetable for implementing the waiver; and

"(vii) describes the process the State or eligible service provider will use to monitor the progress in implementing the waiver, including the process for monitoring the cost implications of the waiver to the Federal Government.

"(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

"(3)(A) The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

"(B) If the Secretary grants a waiver request, the Secretary shall state in writing the expected outcome of granting the waiver.

"(C) The result of the decision of the Secretary shall be disseminated by the State or eligible service provider through normal means of communication.

"(D)(i) Except as provided in clause (ii), a waiver granted by the Secretary under this subsection shall be for a period not to exceed 3 years.

"(ii) The Secretary may extend the period if the Secretary determines that the waiver has been effective in enabling the State or eligible service provider to carry out the purposes of the program.

"(4) The Secretary may not grant a waiver under this subsection of any requirement relating to—

"(A) the nutritional content of meals served;

"(B) Federal reimbursement rates;

"(C) the provision of free and reduced price meals;

"(D) offer versus serve provisions;

"(E) limits on the price charged for a reduced price meal;

"(F) maintenance of effort;

"(G) equitable participation of children in private schools;

"(H) distribution of funds to State and local school food service authorities and service institutions participating in a program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

"(I) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

"(J) prohibiting the operation of a profit producing program;

"(K) the sale of competitive foods;

"(L) the commodity distribution program under section 14;

"(M) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

"(N) enforcement of any constitutional or statutory right of an individual, including any right under—

"(i) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

"(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

"(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

"(iv) the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.);

"(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

"(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

"(6)(A)(i) An eligible service provider that receives a waiver under this subsection shall annually submit to the State a report that—

"(I) describes the use of the waiver by the eligible service provider; and

"(II) evaluates how the waiver contributed to improved services to children served by the program for which the waiver was requested.

"(ii) The State shall annually submit to the Secretary a report that summarizes all reports received by the State from eligible service providers.

"(B) The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

"(i) summarizing the use of waivers by the State and eligible service providers;

"(ii) describing whether the waivers resulted in improved services to children;

"(iii) describing the impact of the waivers on providing nutritional meals to participants; and

"(iv) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

"(7) As used in this subsection, the term 'eligible service provider' means—

"(A) a local school food service authority;

"(B) a service institution or private nonprofit organization described in section 13; or

"(C) a family or group day care home sponsoring organization described in section 17.".

SEC. 113. FOOD AND NUTRITION PROJECTS.

Section 12 of the National School Lunch Act (42 U.S.C. 1760) (as amended by section 112(d)) is further amended by adding at the end the following new subsection:

"(m)(1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

"(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

"(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

"(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

"(C) create community service learning opportunities or educational programs;

"(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

"(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or conducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

"(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

"(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 1998.

"(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

"(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 1998.".

SEC. 114. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) Priority Requirements for Determining Participation of Certain Eligible Service Institutions.—Section 13(a)(4) of the National School Lunch Act (42 U.S.C. 1761(a)(4)) is amended by striking subparagraphs (A) through (F) and inserting the following new subparagraphs:

"(A) Local schools.

"(B) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

"(C) New public institutions.

"(D) New private nonprofit organizations eligible under paragraph (7).".

(b) Elimination of 1-Year Waiting Period With Respect to Participation of Private Nonprofit Organizations in Certain Areas Under the Program.—Section 13(a)(7) of such Act (42 U.S.C. 1761(a)(7)) is amended by striking subparagraph (C).

(c) Non-School Sites.—Section 13(c)(1) of such Act (42 U.S.C. 1761(c)(1)) is amended by inserting before the period at the end the following: "or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause".

(d) Registered Food Service Management Company Reports.—Section 13(l)(3) of such Act (42 U.S.C. 1761(*l*)(3)) is amended by striking "and their program record" and inserting "that have been seriously deficient in their participation in the program and may maintain a record of other registered food service management companies,".

(e) Management and Administration Plan.—Section 13(n) of such Act (42 U.S.C. 1761(n)) is amended—

(1) by striking paragraphs (5), (6), (8), and (10); and

(2) by redesignating paragraphs (7), (9), and (11) as paragraphs (5), (6), and (7), respectively;

(3) by inserting "and" after the semicolon at the end of paragraph (6) (as so redesignated); and

(4) by striking "; and (12)" and all that follows through "reimbursement".

(f) Elimination of Warning in Private Nonprofit Organization Application Relating to Criminal Provisions and Related Matters.—Section 13(q) of such Act (42 U.S.C. 1761(q)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(3) in paragraph (3) (as so redesignated), by striking "paragraphs (1) and (3)" and inserting "paragraphs (1) and (2)".

(g) Extension of Program.—Section 13(r) of such Act (42 U.S.C. 1761(r)) is amended by striking "1994" and inserting "1998".

(h) All-Day Activities.—The Secretary of Agriculture shall—

(1) not later than 180 days after the date of enactment of this Act, in consultation with the heads of other Federal agencies, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) to carry out all-day educational and recreational activities for children at feeding sites under the program; and

(2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

SEC. 115. COMMODITY DISTRIBUTION PROGRAM.

Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended—

(1) in subsection (a), by striking "1994" and inserting "1998"; and

(2) in subsection (b)—

(A) by inserting "(1)" after "(b)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

"(3) The Secretary shall—

"(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

"(B) otherwise provide nutritional content information regarding the commodities provided to the schools.".

SEC. 116. CHILD AND ADULT CARE FOOD PROGRAM.

(a) Automatic Eligibility of Certain Even Start Participants.—Section 17(c) of the National School Lunch Act (42 U.S.C. 1766(c)) (as amended by section 109(b)) is further amended by adding at the end the following new paragraph:

"(6)(A) A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

"(B) Subparagraph (A) shall apply only with respect to the provision of benefits under this section for the period beginning September 1, 1995, and ending September 30, 1997.".

(b) REAPPLICATION FOR ASSISTANCE AT 3-YEAR INTERVALS.—Section 17(d)(2)(A) of such Act (42 U.S.C. 1766(d)(2)(A)) is amended by striking "2-year intervals" and inserting "3-year intervals".

(c) USE OF ADMINISTRATIVE FUNDS TO CONDUCT OUTREACH AND RECRUITMENT TO UNLICENSED DAY CARE HOMES.—Section 17(f)(3)(C) of such Act (42 U.S.C. 1766(f)(3)(C)) is amended—

(1) by inserting "(i)" after "(C)"; and

(2) by adding at the end the following new clause:

"(ii) Funds for administrative expenses may be used by family or group day care home sponsoring organizations to conduct outreach and recruitment to unlicensed family or group day care homes so that the day care homes may become licensed.".

(d) INFORMATION AND TRAINING CONCERNING CHILD HEALTH AND DEVELOPMENT.—Section 17(k) of such Act (42 U.S.C. 1766(k)) is amended by adding at the end the following new paragraph:

"(4) The Secretary shall instruct States to provide, through sponsoring organizations, information and training concerning child health and development to family or group day care homes participating in the program.".

(e) EXTENSION OF STATEWIDE DEMONSTRATION PROJECTS.—Section 17(p) of such Act (42 U.S.C. 1766(p)) is amended—

(1) in paragraph (1)(A), by striking "25 percent of the children served by such organization" and inserting "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,";

(2) in paragraph (4)(B), by striking "1992" and inserting "1998"; and

(3) in paragraph (5), by striking "1994" and inserting "1998".

(f) WIC INFORMATION.—Section 17 of such Act (42 U.S.C. 1766) is amended by adding at the end the following new subsection:

"(q)(1) The Secretary shall provide State agencies with basic information concerning the importance and benefits of the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

"(2) The State agency shall—

"(A) provide each child care institution participating in the program established under this section, other than institutions providing day care outside school hours for schoolchildren, with materials that include—

"(i) a basic explanation of the benefits and importance of the special supplemental nutrition program for women, infants, and children;

"(ii) the maximum income limits, according to family size, applicable to children up to age 5 in the State under the special supplemental nutrition program for women, infants, and children; and

"(iii) a listing of the addresses and phone numbers of offices at which parents may apply;

"(B) annually provide the institutions with an update of the information on income limits described in subparagraph (A)(ii); and

"(C) ensure that, at least once a year, the institutions to which subparagraph (A) applies provide written information to parents that includes—

"(i) basic information on the benefits provided under the special supplemental nutrition program for women, infants, and children;

"(ii) information on the maximum income limits, according to family size, applicable to the program; and

"(iii) information on where parents may apply to participate in the program.".

SEC. 117. HOMELESS CHILDREN NUTRITION PROGRAM.

(a) HOMELESS CHILDREN NUTRITION PROGRAM.—

(1) IN GENERAL.—The National School Lunch Act is amended by inserting after section 17A (42 U.S.C. 1766a) the following new section:

"SEC. 17B. HOMELESS CHILDREN NUTRITION PROGRAM.

"(a) IN GENERAL.—The Secretary shall conduct projects designed to provide food service throughout the year to homeless children under the age of 6 in emergency shelters.

"(b) AGREEMENTS TO PARTICIPATE IN PROJECTS.—

"(1) IN GENERAL.—The Secretary shall enter into agreements with State, city, local, or county governments, other public entities, or private nonprofit organizations to participate in the projects conducted under this section.

"(2) ELIGIBILITY REQUIREMENTS.—The Secretary shall establish eligibility requirements for the entities described in paragraph (1) that desire to participate in the projects conducted under this section. The requirements shall include the following:

"(A) Each private nonprofit organization shall operate not more than 5 food service sites under the project and shall serve not more than 300 homeless children at each such site.

"(B) Each site operated by each such organization shall meet applicable State and local health, safety, and sanitation standards.

"(c) PROJECT REQUIREMENTS.—

"(1) IN GENERAL.—A project conducted under this section shall—

"(A) use the same meal patterns and receive reimbursement payments for meals and supplements at the same rates provided to child care centers participating in the child care food program under section 17 for free meals and supplements; and

"(B) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project.

"(2) MODIFICATION.—The Secretary may modify the meal pattern requirements to take into account the needs of infants.

"(3) HOMELESS CHILDREN ELIGIBLE FOR FREE MEALS WITHOUT APPLICATION.—Homeless children under the age of 6 in emergency shelters shall be considered eligible for free meals without application.

"(d) FUNDING PRIORITIES.—From the amount described in subsection (g), the Secretary shall provide funding for projects carried out under this section for a particular fiscal year (referred to in this subsection as the 'current fiscal year') in the following order of priority, to the maximum extent practicable:

"(1) The Secretary shall first provide the funding to entities and organizations, each of which—

"(A) received funding under this section or section 18(c) (as in effect on the day before the date of enactment of this section) to carry out a project for the preceding fiscal year; and

"(B) is eligible to receive funding under this section to carry out the project for the current fiscal year;

to enable the entity or organization to carry out the project under this section for the current fiscal year at the level of service provided by the project during the preceding fiscal year.

"(2) From the portion of the amount that remains after the application of paragraph (1), the Secretary shall provide funds to entities and organizations, each of which is eligible to receive funding under this section, to enable the entity or organization to carry out a new project under this section for the current fiscal year, or to expand the level of service provided by a project for the current fiscal year over the level provided by the project during the preceding fiscal year.

"(e) NOTICE.—The Secretary shall advise each State of the availability of the projects conducted under this subsection for States, cities, counties, local governments, and other public entities, and shall advise each State of the procedures for applying to participate in the project.

"(f) PLAN TO ALLOW PARTICIPATION IN THE CHILD AND ADULT CARE FOOD PROGRAM.—Not later than September 30, 1996, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan describing—

"(1) how emergency shelters and homeless children who have not attained the age of 6 and who are served by the shelters under the program might participate in the child and adult care food program authorized under section 17 by September 30, 1998; and

"(2) the advantages and disadvantages of the action described in paragraph (1).

"(g) FUNDING.—

"(1) IN GENERAL.—In addition to any amounts made available under section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) and any amounts that are otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this section $1,800,000 for fiscal year 1995, $2,600,000 for fiscal year 1996, $3,100,000 for fiscal year 1997, $3,400,000 for fiscal year 1998, and $3,700,000 for fiscal year 1999 and each succeeding fiscal year. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(2) INSUFFICIENT NUMBER OF APPLICANTS.—The Secretary may expend less than the amount described in paragraph (1) for a fiscal year if there is an insufficient number of suitable applicants to carry out projects under this section for the fiscal year. Any funds made available under this subsection to carry out the projects for a fiscal year that are not obligated to carry out the projects in the fiscal year shall remain available until expended for purposes of carrying out the projects.

"(h) DEFINITION OF EMERGENCY SHELTER.—As used in this section, the term 'emergency shelter' has the meaning provided the term in section 321(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11351(2)).".

(2) CONFORMING AMENDMENTS.—

(A) NATIONAL SCHOOL LUNCH ACT.—Section 18 of the National School Lunch Act (42 U.S.C. 1769) is amended by striking subsection (c).

(B) CHILD NUTRITION ACT OF 1966.—Section 7(a)(5)(B)(i)(I) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)(I)) is amended—

(i) by striking "projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c))" and inserting "projects under section 17B of the National School Lunch Act"; and

(ii) by striking "each of fiscal years 1993 and 1994" each place it appears and inserting "fiscal year 1995 and each subsequent fiscal year".

(b) DEMONSTRATION PROGRAM FOR THE PREVENTION OF BOARDER BABIES.—Section 18 of the National School Lunch Act (42 U.S.C. 1769(c)) (as amended by subsection (a)(2)(A)) is further amended by inserting after subsection (b) the following new subsection:

"(c)(1) Using the funds provided under paragraph (7), the Secretary shall conduct at least 1 demonstration project through a participating entity during each of fiscal years 1995 through 1998 that is designed to provide food and nutrition services throughout the year to—

"(A) homeless pregnant women; and

"(B) homeless mothers or guardians of infants, and the children of the mothers and guardians.

"(2) To be eligible to obtain funds under this subsection, a homeless shelter, a transitional housing organization, or another entity that provides or will provide temporary housing for individuals described in paragraph (1) shall (in accordance with guidelines established by the Secretary)—

"(A) submit to the Secretary a proposal to provide food and nutrition services, including a plan for coordinating the services with services provided under the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

"(B) receive the approval of the Secretary for the proposal;

"(C) be located in an urban area that has—

"(i) a significant population of boarder babies;

"(ii) a very high rate of mortality for children under 1 year of age; or

"(iii) a significant population of homeless pregnant women and homeless women with infants;

as determined by the Secretary; and

"(D) be able to coordinate services provided under this subsection with the services provided by the local government and with other programs that may assist the participants receiving services under this subsection.

"(3) Food and nutrition services funded under this subsection—

"(A) may include—

"(i) meals, supplements, and other food;

"(ii) nutrition education;

"(iii) nutrition assessments;

"(iv) referrals to—

"(I) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786);

"(II) the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(III) the food stamp program established under section 4 of the Food Stamp Act of 1977 (7 U.S.C. 2013); and

"(IV) other public or private programs and services;

"(v) activities related to the services described in any of clauses (i) through (iv); and

"(vi) administrative activities related to the services described in any of clauses (i) through (v); and

"(B) may not include the construction, purchase, or rental of real property.

"(4)(A) A participating entity shall—

"(i) use the same meal patterns, and receive reimbursement payments for meals and supplements at the same rates, as apply to child care centers participating in the child care food program under section 17 for free meals and supplements;

"(ii) receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the entity; and

"(iii) maintain a policy of not providing services or assistance to pregnant women, or homeless women with infants, who use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(B) The Secretary may modify the meal pattern requirements to take into account the needs of infants, homeless pregnant women, homeless mothers, guardians of infants, or the children of the women, mothers, or guardians.

"(C) The Secretary shall provide funding to a participating entity for services described in paragraph (3) that are provided to individuals described in paragraph (1).

"(5) The Secretary shall impose such auditing and recordkeeping requirements as are necessary to monitor the use of Federal funds to carry out this subsection.

"(6) The Secretary shall notify the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on projects carried out under this subsection.

"(7)(A) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $400,000 for each of fiscal years 1995 through 1998 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) Any funds provided under subparagraph (A) to carry out projects under this subsection for a fiscal year that are not obligated in the fiscal year shall be used by the Secretary to carry out the homeless children nutrition program established under section 17B.

"(8) As used in this subsection:

"(A) The term 'boarder baby' means an abandoned infant described in section 103(1) of the Abandoned Infants Assistance Act of 1988 (Public Law 100-505; 42 U.S.C. 670 note).

"(B) The term 'nutrition education' has the meaning provided in section 17(b)(7) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(7)).".

SEC. 118. PILOT PROJECTS.

(a) COMMODITY LETTER OF CREDIT (CLOC) PROGRAMS.—The first sentence of section 18(b)(1) of the National School Lunch Act (42 U.S.C. 1769(b)(1)) is amended by striking ", and ending September 30, 1994".

(b) DEMONSTRATION PROGRAM TO PROVIDE MEALS AND SUPPLEMENTS OUTSIDE OF SCHOOL HOURS.—Section 18 of such Act (42 U.S.C. 1769) is amended by adding at the end the following new subsection:

"(e)(1)(A) The Secretary shall establish a demonstration program to provide grants to eligible institutions or schools to provide meals or supplements to adolescents participating in educational, recreational, or other programs and activities provided outside of school hours.

"(B) The amount of a grant under subparagraph (A) shall be equal to the amount necessary to provide meals or supplements described in such subparagraph and shall be determined in accordance with reimbursement payment rates for meals and supplements under the child and adult care food program under section 17.

"(2) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school submits to the Secretary an application containing such information as the Secretary may reasonably require.

"(3) The Secretary may not provide a grant under paragraph (1) to an eligible institution or school unless the institution or school agrees that the institution or school will—

"(A) use amounts from the grant to provide meals or supplements under educational, recreational, or other programs and activities for adolescents outside of school hours, and the programs and activities are carried out in geographic areas in which there are high rates of poverty, violence, or drug and alcohol abuse among school-aged youths; and

"(B) use the same meal patterns as meal patterns required under the child and adult care food program under section 17.

"(4) Determinations with regard to eligibility for free and reduced price meals and supplements provided under programs and activities under this subsection shall be made in accordance with the income eligibility guidelines for free and reduced price lunches under section 9.

"(5)(A) Except as provided in subparagraph (B), the Secretary shall expend to carry out this subsection, from amounts appropriated for purposes of carrying out section 17, $325,000 for fiscal year 1995, $475,000 for each of fiscal years 1996 and 1997, and $525,000 for fiscal year 1998. In addition to amounts described in the preceding sentence, the Secretary shall expend any additional amounts in any fiscal year as may be provided in advance in appropriations Acts.

"(B) The Secretary may expend less than the amount required under subparagraph (A) if there is an insufficient number of suitable applicants.

"(6) As used in this subsection:

"(A) The term 'adolescent' means a child who has attained the age of 13 but has not attained the age of 19.

"(B) The term 'eligible institution or school' means—

"(i) an institution, as the term is defined in section 17; or

"(ii) an elementary or secondary school participating in the school lunch program under this Act.

"(C) The term 'outside of school hours' means after-school hours, weekends, or holidays during the regular school year.".

(c) FORTIFIED FLUID MILK.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(f)(1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

"(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

"(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

"(A) all whole milk in final package form for beverage use shall contain not less than—

"(i) 3.25 percent milk fat; and

"(ii) 8.7 percent milk solids not fat;

"(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

"(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

"(5) Not later than 2 years after the establishment of the first pilot project under this subsection, the Secretary shall report to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

"(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

"(B) the impact of offering the milk on milk consumption;

"(C) the views of the school food service authorities on the pilot projects; and

"(D) any increases or reductions in costs attributed to the pilot projects.

"(6) The Secretary shall—

"(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

"(B) on request, make available to State agencies and the public—

"(i) the information obtained under subparagraph (A); and

"(ii) information about where to obtain milk described in paragraph (3).

"(7)(A) Each pilot project established under this subsection shall terminate on the last day of the third year after the establishment of the pilot project.

"(B) The Secretary shall advise representatives of each district participating in a pilot project that the district may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.".

(d) INCREASED CHOICES OF FRUITS, VEGETABLES, LEGUMES, CEREALS, AND GRAIN-BASED PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (c)) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of fruits, vegetables, legumes, cereals, and grain-based products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

"(A) the extent to which participating children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of requiring that—

"(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(e) INCREASED CHOICES OF LOWFAT DAIRY PRODUCTS AND LEAN MEAT AND POULTRY PRODUCTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (d)) is further amended by adding at the end the following new subsection:

"(h)(1) The Secretary is authorized to establish a pilot project to assist schools participating in the school lunch program established under this Act, and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), to offer participating students additional choices of lowfat dairy products (including lactose-free dairy products) and lean meat and poultry products (including, subject to paragraph (6), organically produced agricultural commodities and products) (collectively referred to in this subsection as 'qualified products').

"(2) The Secretary shall establish procedures under which schools may apply to participate in the pilot project. To the maximum extent practicable, the Secretary shall select qualified schools that apply from each State.

"(3) The Secretary may provide a priority for receiving funds under this subsection to—

"(A) schools that are located in low-income areas (as defined by the Secretary); and

"(B) schools that rarely offer 3 or more choices of qualified products per meal.

"(4) On request, the Secretary shall provide information to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the impact of the pilot project on participating schools, including—

"(A) the extent to which participating children increased consumption of qualified products;

"(B) the extent to which increased consumption of qualified products offered under the pilot project has contributed to a reduction in fat intake in the school breakfast and school lunch programs;

"(C) the desirability of requiring that—

"(i) each school participating in the school breakfast program increase the number of choices of qualified products offered per meal to at least 2 choices;

"(ii) each school participating in the school lunch program increase the number of choices of qualified products offered per meal; and

"(iii) the Secretary provide additional Federal reimbursements to assist schools in complying with clauses (i) and (ii);

"(D) the views of the school food service authorities on the pilot project; and

"(E) any increase or reduction in costs to the schools in offering the additional qualified products.

"(5) Subject to the availability of funds appropriated to carry out this subsection, the Secretary shall use not more than $5,000,000 for each of fiscal years 1995 through 1997 to carry out this subsection.

"(6) For purposes of this subsection, qualified products shall include organically produced agricultural commodities and products beginning on the date the Secretary establishes an organic certification program for producers and handlers of agricultural products in accordance with the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).".

(f) REDUCED PAPERWORK AND APPLICATION REQUIREMENTS AND INCREASED PARTICIPATION PILOTS.—Section 18 of such Act (42 U.S.C. 1769) (as amended by subsection (e)) is further amended by adding at the end the following new subsection:

"(i)(1) Subject to the availability of advance appropriations under paragraph (8), the Secretary shall make grants to a limited number of schools to conduct pilot projects in 2 or more States approved by the Secretary to—

"(A) reduce paperwork;

"(B) reduce application and meal counting requirements; and

"(C) make changes that will increase participation in the school lunch and school breakfast programs.

"(2)(A) Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

"(B) The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program recipient, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966, or a Federal statute or regulation that protects an individual constitutional right or a statutory civil right.

"(C) No child otherwise eligible for free or reduced price meals under section 9 or under section 4 of the Child Nutrition Act of 1966

(42 U.S.C. 1773) shall be required to pay more under a program carried out under this subsection for such a meal than the child would otherwise pay under section 9 or under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively.

"(3) To be eligible to receive a grant to conduct a pilot project under this subsection, a school shall—

"(A) submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require, including, at a minimum, information—

"(i) demonstrating that the program carried out under the project differs from programs carried out under subparagraph (C), (D), or (E) of section 11(a)(1);

"(ii) demonstrating that at least 40 percent of the students participating in the school lunch program at the school are eligible for free or reduced price meals;

"(iii) demonstrating that the school operates both a school lunch program and a school breakfast program;

"(iv) describing the funding, if any that the school will receive from non-Federal sources to carry out the pilot project;

"(v) describing and justifying the additional amount, over the most recent prior year reimbursement amount received under the school lunch program and the school breakfast program (adjusted for inflation and fluctuations in enrollment), that the school needs from the Federal government to conduct the pilot; and

"(vi) describing the policy of the school on a la carte and competitive foods;

"(B) not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); and

"(C) meet any other requirement that the Secretary may reasonably require.

"(4) To the extent practicable, the Secretary shall select schools to participate in the pilot program under this subsection in a manner that will provide for an equitable distribution among the following types of schools:

"(A) Urban and rural schools.

"(B) Elementary, middle, and high schools.

"(C) Schools of varying income levels.

"(5)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive commodities in an amount equal to the amount the school received in the prior year under the school lunch program under this Act and under the school breakfast program under section 4 of the Child Nutrition Act of 1966, adjusted for inflation and fluctuations in enrollment.

"(B) Commodities required for the pilot project in excess of the amount of commodities received by the school in the prior year under the school lunch program and the school breakfast program may be funded from amounts appropriated to carry out this section.

"(6)(A) Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school lunch program and school breakfast program in an amount equal to the total Federal reimbursement for the school in the prior year under each such program (adjusted for inflation and fluctuations in enrollment).

"(B) Funds required for the pilot project in excess of the level of reimbursement received by the school in the prior year (adjusted for inflation and fluctuations in enrollment) may be taken from any non-Federal source or from amounts appropriated to carry out this subsection. If no appropriations are made for the pilot projects, schools may not conduct the pilot projects.

"(7)(A) The Secretary shall require each school conducting a pilot project under this subsection to submit to the Secretary documentation sufficient for the Secretary, to the extent practicable, to—

"(i) determine the effect that participation by schools in the pilot projects has on the rate of student participation in the school lunch program and the school breakfast program, in total and by various income groups;

"(ii) compare the quality of meals served under the pilot project to the quality of meals served under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

"(iii) summarize the views of students, parents, and administrators with respect to the pilot project;

"(iv) compare the amount of administrative costs under the pilot project to the amount of administrative costs under the school lunch program and the school breakfast program during the school year immediately preceding participation in the pilot project;

"(v) determine the reduction in paperwork under the pilot project from the amount of paperwork under the school lunch and school breakfast programs at the school; and

"(vi) determine the effect of participation in the pilot project on sales of, and school policy regarding, a la carte and competitive foods.

"(B) Not later than January 31, 1998, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing—

"(i) a description of the pilot projects approved by the Secretary under this subsection;

"(ii) a compilation of the information received by the Secretary under paragraph (1) as of this date from each school conducting a pilot project under this subsection; and

"(iii) an evaluation of the program by the Secretary.

"(8) There are authorized to be appropriated to carry out this subsection $9,000,000 for each fiscal year during the period beginning October 1, 1995, and ending July 31, 1998.".

SEC. 119. REDUCTION OF PAPERWORK.

Section 19(a) of the National School Lunch Act (42 U.S.C. 1769a(a)) is amended—

(1) by striking "and other agencies" and inserting "other agencies"; and

(2) by inserting ", and families of children participating in the programs," after "assisted under such Acts".

SEC. 120. FOOD SERVICE MANAGEMENT INSTITUTE.

(a) Required Activities.—Section 21(c)(2) of the National School Lunch Act (42 U.S.C. 1769b–1(c)(2)) is amended—

(1) in subparagraph (B)—

(A) by striking "and" at the end of clause (viii);

(B) by redesignating clause (ix) as clause (x); and

(C) by inserting after clause (viii) the following new clause:

"(ix) culinary skills; and";

(2) by striking "and" at the end of subparagraph (D);

(3) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(F) training food service personnel to comply with the nutrition guidance and objectives of section 24 through a national network of instructors or other means;

"(G) preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

"(H) assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives of section 24.".

(b) Use of Food Service Management Institute for Dietary and Nutrition Activities.—Section 21(d) of such Act (42 U.S.C. 1769b–1(d)) is amended—

(1) by striking "(d) Coordination.—The" and inserting the following:

"(d) Coordination.—

"(1) In general.—The"; and

(2) by adding at the end the following new paragraph:

"(2) Use of institute for dietary and nutrition activities.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.".

(c) Authorization of Appropriations.—Section 21 of such Act (42 U.S.C. 1769b–1) is amended—

(1) in subsection (a)(1), by striking "from" and inserting "subject to the availability of, and from,"; and

(2) by striking subsection (e) and inserting the following new subsection:

"(e) Authorization of Appropriations.—

"(1) Training activities and technical assistance.—There are authorized to be appropriated to carry out subsection (a)(1) $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 1998.

"(2) Food service management institute.—

"(A) Funding.—In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $147,000 for fiscal year 1995, and $2,000,000 for fiscal year 1996, and each subsequent fiscal year, to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds.

"(B) Additional funding.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

"(C) Funding for education, training, or applied research or studies.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.".

SEC. 121. COMPLIANCE AND ACCOUNTABILITY.

Section 22(d) of the National School Lunch Act (42 U.S.C. 1769c(d)) is amended by striking "1990, 1991, 1992, 1993, and 1994" and inserting "1994 through 1996".

SEC. 122. DUTIES OF THE SECRETARY OF AGRICULTURE RELATING TO NONPROCUREMENT DEBARMENT UNDER CERTAIN CHILD NUTRITION PROGRAMS.

(a) IN GENERAL.—The National School Lunch Act (42 U.S.C. 1751 et seq.) is amended by adding at the end the following new section:

"SEC. 25. DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.

"(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

"(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

"(2) providing training, technical advice, and guidance in identifying and preventing the activities.

"(b) DEFINITIONS.—As used in this section:

"(1) CHILD NUTRITION PROGRAM.—The term 'child nutrition program' means—

"(A) the school lunch program established under this Act;

"(B) the summer food service program for children established under section 13;

"(C) the child and adult care food program established under section 17;

"(D) the homeless children nutrition program established under section 17B;

"(E) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

"(F) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

"(G) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

"(2) CONTRACTOR.—The term 'contractor' means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

"(3) LOCAL AGENCY.—The term 'local agency' means a school, school food authority, child care center, sponsoring organization, or other entity authorized to operate a child nutrition program at the local level.

"(4) NONPROCUREMENT DEBARMENT.—The term 'nonprocurement debarment' means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

"(5) PERSON.—The term 'person' means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

"(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

"(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

"(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(d) NONPROCUREMENT DEBARMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

"(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

"(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

"(B) fraud, bribery, theft, forgery, or embezzlement;

"(C) knowingly receiving stolen property;

"(D) making a false claim or statement; or

"(E) any other obstruction of justice.

"(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

"(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

"(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

"(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

"(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

"(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

"(i) reverse a debarment decision;

"(ii) reduce the period or scope of a debarment;

"(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

"(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

"(5) INFORMATION.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

"(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

"(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

"(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2)), unless the action—

"(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

"(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

"(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not involved in the improper activity that would otherwise result in the debarment;

"(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

"(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

"(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

"(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

"(1) exhaust all administrative procedures prescribed by the Secretary; and

"(2) receive notice of the final determination of the Secretary.

"(g) INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.".

(b) APPLICABILITY.—Section 25 of the National School Lunch Act (as added by subsection (a)) shall not apply to a cause for debarment as described in section 25(d)(2) of such Act that is based on an activity that took place prior to the effective date of section 25 of such Act.

(c) NO REDUCTION IN AUTHORITY TO DEBAR OR SUSPEND A PERSON FROM FEDERAL FINANCIAL AND NONFINANCIAL ASSISTANCE AND BENEFITS.—The authority of the Secretary of

Agriculture that exists on the day before the date of enactment of this Act to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by subsection (a) or the amendment made by subsection (a).

SEC. 123. INFORMATION CLEARINGHOUSE.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 122) is further amended by adding at the end the following new section:

"SEC. 26. INFORMATION CLEARINGHOUSE.

"(a) In General.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

"(b) Nongovernmental Organization.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

"(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

"(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

"(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

"(4) be sponsored by an organization, or be an organization, that—

"(A) has helped combat hunger for at least 10 years;

"(B) is committed to reinvesting in the United States; and

"(C) is knowledgeable regarding Federal nutrition programs;

"(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

"(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

"(c) Audits.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

"(d) Funding.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $2,000,000 for each of fiscal years 1995 and 1996, $150,000 for fiscal year 1997, and $100,000 for fiscal year 1998. The Secretary shall be entitled to receive the funds and shall accept the funds.".

SEC. 124. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

The National School Lunch Act (42 U.S.C. 1751 et seq.) (as amended by section 123) is further amended by adding at the end the following new section:

"SEC. 27. GUIDANCE AND GRANTS FOR ACCOMMODATING SPECIAL DIETARY NEEDS OF CHILDREN WITH DISABILITIES.

"(a) Definitions.—As used in this section:

"(1) Children with disabilities.—The term 'children with disabilities' means individuals, each of whom is—

"(A) a participant in a covered program; and

"(B) an individual with a disability, as defined in section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) for purposes of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) Covered program.—The term 'covered program' means—

"(A) the school lunch program established under this Act;

"(B) the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

"(C) any other program established under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that the Secretary determines is appropriate.

"(3) Eligible entity.—The term 'eligible entity' means a school food service authority, or an institution or organization, that participates in a covered program.

"(b) Guidance.—

"(1) Development.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall develop and approve guidance for accommodating the medical and special dietary needs of children with disabilities under covered programs in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) Timing.—In the case of the school lunch program established under this Act and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the Secretary shall develop the guidance as required by paragraph (1) not later than 150 days after the date of enactment of this section.

"(3) Distribution.—Not later than 60 days after the date that the development of the guidance relating to a covered program is completed, the Secretary shall distribute the guidance to school food service authorities, and institutions and organizations, participating in the covered program.

"(4) Revision of guidance.—The Secretary, in consultation with the Attorney General and the Secretary of Education, shall periodically update and approve the guidances to reflect new scientific information and comments and suggestions from persons carrying out covered programs, recognized medical authorities, parents, and other persons.

"(c) Grants.—

"(1) In general.—Subject to the availability of appropriations provided in advance to carry out this subsection, the Secretary shall make grants on a competitive basis to State educational agencies for distribution to eligible entities to assist the eligible entities with nonrecurring expenses incurred in accommodating the medical and special dietary needs of children with disabilities in a manner that is consistent with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(2) Additional assistance.—Subject to paragraph (3)(A)(iii), assistance received through grants made under this subsection shall be in addition to any other assistance that State educational agencies and eligible entities would otherwise receive.

"(3) Allocation by secretary.—

"(A) Preference.—In making grants under this subsection for any fiscal year, the Secretary shall provide a preference to State educational agencies that, individually—

"(i) submit to the Secretary a plan for accommodating the needs described in paragraph (1), including a description of the purpose of the project for which the agency seeks such a grant, a budget for the project, and a justification for the budget;

"(ii) provide to the Secretary data demonstrating that the State served by the agency has a substantial percentage of children with medical or special dietary needs, and information explaining the basis for the data; or

"(iii) demonstrate to the satisfaction of the Secretary that the activities supported through such a grant will be coordinated with activities supported under other Federal, State, and local programs, including—

"(I) activities carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(II) activities carried out under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

"(III) activities carried out under section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) or by the food service management institute established under section 21.

"(B) Reallocation.—The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency under this subsection that are not used by the agency within a reasonable period (as determined by the Secretary).

"(C) Applications.—The Secretary shall allow State educational agencies to apply on an annual basis for assistance under this subsection.

"(4) Allocation by state educational agencies.—In allocating funds made available under this subsection within a State, the State educational agency shall give a preference to eligible entities that demonstrate the greatest ability to use the funds to carry out the plan submitted by the State in accordance with paragraph (3)(A)(i).

"(5) Maintenance of effort.—Expenditures of funds from State and local sources to accommodate the needs described in paragraph (1) shall not be diminished as a result of grants received under this subsection.

"(6) Authorization of appropriations.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1995 through 1998 to carry out this subsection.".

SEC. 125. STUDY OF ADULTERATION OF JUICE PRODUCTS SOLD TO SCHOOL MEAL PROGRAMS

(a) In General.—The Comptroller General of the United States shall conduct a study of the costs and problems associated with the sale of adulterated fruit juice and juice products to the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), including a study of—

(1) the nature and extent to which juice products have been and are currently being adulterated;

(2) the adequacy of current requirements and standards to preclude manufacturers

from processing adulterated products for school meal programs;

(3) the availability and effectiveness of various detection methods and testing procedures used to identify adulterated juice products;

(4) the adequacy of existing enforcement mechanisms and efforts to detect and prosecute manufacturers of adulterated juice products;

(5) the economic effect of the sale of adulterated juice products on the school meal program and on manufacturers of the products; and

(6) the effect alternative mandatory inspection methods would have on program costs and various purchasing options.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the study conducted under subsection (a) (including any related recommendations) to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

TITLE II—AMENDMENTS TO CHILD NUTRITION ACT OF 1966

SEC. 201. SCHOOL BREAKFAST PROGRAM.

(a) MINIMUM NUTRITIONAL REQUIREMENTS MEASURED BY WEEKLY AVERAGE OF NUTRIENT CONTENT OF SCHOOL BREAKFASTS.—The first sentence of section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)) is amended by inserting before the period at the end the following: ", except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts".

(b) TECHNICAL ASSISTANCE FOR SCHOOL BREAKFAST PROGRAM.—Section 4(e)(1) of such Act (42 U.S.C. 1773(e)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.".

(c) PROMOTION OF PROGRAM.—Section 4(f)(1) of such Act (42 U.S.C. 1773(f)(1)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by adding at the end the following new subparagraphs:

"(B) In cooperation with State educational agencies, the Secretary shall promote the school breakfast program by—

"(i) marketing the program in a manner that expands participation in the program by schools and students; and

"(ii) improving public education and outreach efforts in language appropriate materials that enhance the public image of the program.

"(C) As used in this paragraph, the term 'language appropriate materials' means materials using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.".

(d) STARTUP AND EXPANSION OF SCHOOL BREAKFAST PROGRAM AND SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.—Subsection (g) of section 4 of such Act (42 U.S.C. 1773(g)) is amended to read as follows:

"STARTUP AND EXPANSION COSTS

"(g)(1) Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $5,000,000 for each of fiscal years 1991 through 1997, $6,000,000 for fiscal year 1998, and $7,000,000 for fiscal year 1999 and each subsequent fiscal year to make payments under this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds. The Secretary shall use the funds to make payments on a competitive basis and in the following order of priority (subject to other provisions of this subsection), to—

"(A) State educational agencies in a substantial number of States for distribution to eligible schools to assist the schools with nonrecurring expenses incurred in—

"(i) initiating a school breakfast program under this section; or

"(ii) expanding a school breakfast program; and

"(B) a substantial number of States for distribution to service institutions to assist the institutions with nonrecurring expenses incurred in—

"(i) initiating a summer food service program for children; or

"(ii) expanding a summer food service program for children.

"(2) Payments received under this subsection shall be in addition to payments to which State agencies are entitled under subsection (b) and section 13 of the National School Lunch Act (42 U.S.C. 1761).

"(3) To be eligible to receive a payment under this subsection, a State educational agency shall submit to the Secretary a plan to initiate or expand school breakfast programs conducted in the State, including a description of the manner in which the agency will provide technical assistance and funding to schools in the State to initiate or expand the programs.

"(4) In making payments under this subsection for any fiscal year to initiate or expand school breakfast programs, the Secretary shall provide a preference to State educational agencies that—

"(A) have in effect a State law that requires the expansion of the programs during the year;

"(B) have significant public or private resources that have been assembled to carry out the expansion of the programs during the year;

"(C) do not have a school breakfast program available to a large number of low-income children in the State; or

"(D) serve an unmet need among low-income children, as determined by the Secretary.

"(5) In making payments under this subsection for any fiscal year to initiate or expand summer food service programs for children, the Secretary shall provide a preference to States—

"(A)(i) in which the numbers of children participating in the summer food service program for children represent the lowest percentages of the number of children receiving free or reduced price meals under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.); or

"(ii) that do not have a summer food service program for children available to a large number of low-income children in the State; and

"(B) that submit to the Secretary a plan to expand the summer food service programs for children conducted in the State, including a description of—

"(i) the manner in which the State will provide technical assistance and funding to service institutions in the State to expand the programs; and

"(ii) significant public or private resources that have been assembled to carry out the expansion of the programs during the year.

"(6) The Secretary shall act in a timely manner to recover and reallocate to other States any amounts provided to a State educational agency or State under this subsection that are not used by the agency or State within a reasonable period (as determined by the Secretary).

"(7) The Secretary shall allow States to apply on an annual basis for assistance under this subsection.

"(8) Each State agency and State, in allocating funds within the State, shall give preference for assistance under this subsection to eligible schools and service institutions that demonstrate the greatest need for a school breakfast program or a summer food service program for children, respectively.

"(9) Expenditures of funds from State and local sources for the maintenance of the school breakfast program and the summer food service program for children shall not be diminished as a result of payments received under this subsection.

"(10) As used in this subsection:

"(A) The term 'eligible school' means a school—

"(i) attended by children a significant percentage of whom are members of low-income families;

"(ii)(I) as used with respect to a school breakfast program, that agrees to operate the school breakfast program established or expanded with the assistance provided under this subsection for a period of not less than 3 years; and

"(II) as used with respect to a summer food service program for children, that agrees to operate the summer food service program for children established or expanded with the assistance provided under this subsection for a period of not less than 3 years.

"(B) The term 'service institution' means an institution or organization described in paragraph (1)(B) or (7) of section 13(a) of the National School Lunch Act (42 U.S.C. 1761(a)(1)(B) or (7)).

"(C) The term 'summer food service program for children' means a program authorized by section 13 of such Act (42 U.S.C. 1761).".

SEC. 202. STATE ADMINISTRATIVE EXPENSES.

(a) WITHHOLDING.—Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) is amended by adding at the end the following new paragraph:

"(9)(A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the National School Lunch Act (42 U.S.C. 1751 et seq.), or compliance with a regulation issued pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

"(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.".

(b) EXTENSION OF AUTHORITY TO PROVIDE FUNDS FOR STATE ADMINISTRATIVE EXPENSES.—Section 7(h) of such Act (42 U.S.C. 1776(h)) is amended by striking "1994" and inserting "1998".

(c) PROHIBITION OF FUNDING UNLESS STATE AGREES TO PARTICIPATE IN CERTAIN STUDIES OR SURVEYS.—Section 7 of such Act (42 U.S.C. 1776) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) The Secretary may not provide amounts under this section to a State for administrative costs incurred in any fiscal year unless the State agrees to participate in any study or survey of programs authorized under this Act or the National School Lunch Act (42 U.S.C. 1751 et seq.) and conducted by the Secretary.".

SEC. 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE.

Section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779) is amended—

(1) by designating the first, second, and third sentences as subsections (a), (b), and (c), respectively;

(2) by indenting the margins of subsections (b) and (c) so as to align with the margins of subsection (b) of section 11 of such Act (42 U.S.C. 1780); and

(3) in subsection (b) (as designated by paragraph (1))—

(A) by striking "Such regulations" and inserting "(1) The regulations"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall develop and provide to State agencies, for distribution to private elementary schools and to public elementary schools through local educational agencies, model language that bans the sale of competitive foods of minimal nutritional value anywhere on elementary school grounds before the end of the last lunch period.

"(3) The Secretary shall provide to State agencies, for distribution to private secondary schools and to public secondary schools through local educational agencies, a copy of regulations (in existence on the effective date of this paragraph) concerning the sale of competitive foods of minimal nutritional value.

"(4) Paragraphs (2) and (3) shall not apply to a State that has in effect a ban on the sale of competitive foods of minimal nutritional value in schools in the State.".

SEC. 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM.

(a) DEFINITION OF NUTRITIONAL RISK.—Section 17(b)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E);

(2) by inserting after "health," at the end of subparagraph (C) the following new subparagraph: "(D) conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse,"; and

(3) in subparagraph (E) (as redesignated by paragraph (1)), by striking "alcoholism and drug addiction, homelessness, and" and inserting "homelessness and".

(b) PROMOTION OF PROGRAM.—Section 17(c) of such Act (42 U.S.C. 1786(c)) is amended by adding at the end the following new paragraph:

"(5) The Secretary shall promote the special supplemental nutrition program by producing and distributing materials, including television and radio public service announcements in English and other appropriate languages, that inform potentially eligible individuals of the benefits and services under the program.".

(c) ELIGIBILITY FOR CERTAIN PREGNANT WOMEN.—Section 17(d) of such Act (42 U.S.C. 1786(d)) is amended—

(1) in paragraph (2), by adding at the end the following new subparagraph:

"(C) In the case of a pregnant woman who is otherwise ineligible for participation in the program because the family of the woman is of insufficient size to meet the income eligibility standards of the program, the pregnant woman shall be considered to have satisfied the income eligibility standards if, by increasing the number of individuals in the family of the woman by 1 individual, the income eligibility standards would be met."; and

(2) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) A State may consider pregnant women who meet the income eligibility standards to be presumptively eligible to participate in the program and may certify the women for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of such a woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently determined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.".

(d) TECHNICAL CORRECTIONS.—Section 17(e) of such Act (42 U.S.C. 1786(e)) is amended by redesignating paragraph (3) (as added by section 123(a)(3)(D) of the Child Nutrition and WIC Reauthorization Act of 1989 (Public Law 101-147; 103 Stat. 895)) and paragraphs (4) and (5) as paragraphs (4), (5), and (6), respectively.

(e) COORDINATION OF WIC AND MEDICAID PROGRAMS USING COORDINATED CARE PROVIDERS.—Section 17(f)(1)(C)(iii) of such Act (42 U.S.C. 1786(f)(1)(C)(iii)) is amended by inserting before the semicolon at the end the following: ", including medicaid programs that use coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)) (including coordination through the referral of potentially eligible women, infants, and children between the program authorized under this section and the medicaid program)".

(f) PRIORITY CONSIDERATION FOR CERTAIN MIGRANT POPULATIONS.—The first sentence of section 17(f)(3) of such Act (42 U.S.C. 1786(f)(3)) is amended by inserting before the period at the end the following: "and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time".

(g) INCOME ELIGIBILITY GUIDELINES.—Paragraph (18) of section 17(f) of such Act (42 U.S.C. 1786(f)(18)) is amended to read as follows:

"(18) Notwithstanding subsection (d)(2)(A)(i), not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).".

(h) USE OF RECOVERED PROGRAM FUNDS IN YEAR COLLECTED.—Section 17(f) of such Act (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(23) A State agency may use funds recovered as a result of violations in the food delivery system of the program in the year in which the funds are collected for the purpose of carrying out the program.".

(i) COORDINATION INITIATIVE FOR WIC AND MEDICAID PROGRAMS.—Section 17(f) of such Act (42 U.S.C. 1786(f)) (as amended by subsection (h)) is further amended by adding at the end the following new paragraph:

"(24) The Secretary and the Secretary of Health and Human Services shall carry out an initiative to assure that, in a case in which a State medicaid program uses coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C 1396b(m) or 1396n(b)), coordination between the program authorized by this section and the medicaid program is continued, including—

"(A) the referral of potentially eligible women, infants, and children between the 2 programs; and

"(B) the timely provision of medical information related to the program authorized by this section to agencies carrying out the program.".

(j) EXTENSION OF PROGRAM.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in the first sentence of subsection (g)(1), by striking "1991, 1992, 1993, and 1994" and inserting "1995 through 1998"; and

(2) in the first sentence of subsection (h)(2)(A), by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1995 through 1998".

(k) USE OF FUNDS FOR TECHNICAL ASSISTANCE AND RESEARCH EVALUATION PROJECTS.—Section 17(g)(5) of such Act (42 U.S.C. 1786(g)(5)) is amended—

(1) by striking "and administration of pilot projects" and inserting "administration of pilot projects"; and

(2) by inserting before the period at the end the following: ", and carrying out technical assistance and research evaluation projects of the programs under this section".

(l) BREASTFEEDING PROMOTION AND SUPPORT ACTIVITIES.—Section 17(h)(3) of such Act (42 U.S.C. 1786(h)(3)) is amended—

(1) in subparagraph (A)(i)(II)—

(A) by striking "an amount" and inserting "except as otherwise provided in subparagraphs (F) and (G), an amount"; and

(B) by striking "$8,000,000," and inserting "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E),"; and

(2) by adding at the end the following new subparagraphs:

"(E) In the case of fiscal year 1996 (except as provided in subparagraph (G)) and each subsequent fiscal year, the national minimum breastfeeding promotion expenditure means an amount that is—

"(i) equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program nationwide, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data; and

"(ii) adjusted for inflation on October 1, 1996, and each October 1 thereafter, in accordance with paragraph (1)(B)(ii).

"(F) In the case of fiscal year 1995, a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

"(i) an amount that is more than the expenditure of the State for fiscal year 1994 on the activities described in subparagraph (A)(i); or

"(ii) an amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.

"(G)(i) If the Secretary determines that a State agency is unable, for reasons the Secretary considers to be appropriate, to make the expenditure required under subparagraph (A)(i)(II) for fiscal year 1996, the Secretary may permit the State to make the required level of expenditure not later than October 1, 1996.

"(ii) In the case of fiscal year 1996, if the Secretary makes a determination described in clause (i), a State shall pay, in lieu of the expenditure required under subparagraph (A)(i)(II), an amount that is equal to the lesser of—

"(I) an amount that is more than the expenditure of the State for fiscal year 1995 on the activities described in subparagraph (A)(i); and

"(II) an amount that is equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program in the State, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data.".

(m) Development of Standards for the Collection of Breastfeeding Data.—Section 17(h)(4) of such Act (42 U.S.C. 1786(h)(4)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program and, on development of the uniform requirements, require each State agency to report the data for inclusion in the report to Congress described in subsection (d)(4).".

(n) Submission of Information to Congress on Waivers With Respect to Procurement of Infant Formula.—Section 17(h)(8)(D)(iii) of such Act (42 U.S.C. 1786(h)(8)(D)(iii)) is amended by striking "at 6-month intervals" and inserting "on a timely basis".

(o) Cost Containment.—

(1) In general.—Section 17(h)(8)(G) of such Act (42 U.S.C. 1786(h)(8)(G)) is amended by adding at the end the following new clause:

"(ix) Not later than September 30, 1996, the Secretary shall offer to solicit bids on behalf of State agencies regarding cost containment contracts to be entered into by infant cereal manufacturers and State agencies. In carrying out this clause, the Secretary shall, to the maximum extent feasible, follow the procedures prescribed in this subparagraph regarding offers made by the Secretary with regard to soliciting bids regarding infant formula cost containment contracts. The Secretary may carry out this clause without issuing regulations.".

(2) Repeal of Termination of Authority.—Section 209 of the WIC Infant Formula Procurement Act of 1992 (Public Law 102-512; 42 U.S.C. 1786 note) is repealed.

(p) Prohibition on Interest Liability to Federal Government on Rebate Funds.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) is amended by adding at the end the following new subparagraph:

"(L) A State shall not incur any interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used for program purposes.".

(q) Use of Universal Product Codes.—Section 17(h)(8) of such Act (42 U.S.C. 1786(h)(8)) (as amended by subsection (p)) is further amended by adding at the end the following new subparagraph:

"(M)(i) The Secretary shall establish pilot projects in at least 1 State, with the consent of the State, to determine the feasibility and cost of requiring States to carry out a system for using universal product codes to assist retail food stores that are vendors under the program in providing the type of infant formula that the participants in the program are authorized to obtain. In carrying out the projects, the Secretary shall determine whether the system reduces the incidence of incorrect redemptions of low-iron formula or brands of infant formula not authorized to be redeemed through the program, or both.

"(ii) The Secretary shall provide a notification to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding whether the system is feasible, is cost-effective, reduces the incidence of incorrect redemptions described in clause (i), and results in any additional costs to States.

"(iii) The system shall not require a vendor under the program to obtain special equipment and shall not be applicable to a vendor that does not have equipment that can use universal product codes.".

(r) Use of Unspent Nutrition Services and Administration Funds.—Section 17(h) of such Act (42 U.S.C. 1786(h)) is amended by adding at the end the following new paragraph:

"(10)(A) For each of fiscal years 1995 through 1998, the Secretary shall use for the purposes specified in subparagraph (B), $10,000,000 or the amount of nutrition services and administration funds for the prior fiscal year that has not been obligated, whichever is less.

"(B) Funds under subparagraph (A) shall be used for—

"(i) development of infrastructure for the program under this section, including management information systems;

"(ii) special State projects of regional or national significance to improve the services of the program under this section; and

"(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.".

(s) Spendback Funds.—Section 17(i)(3) of such Act (42 U.S.C. 1786(i)(3)) is amended—

(1) in subparagraph (A)(i), by inserting "(except as provided in subparagraph (H))" after "1 percent"; and

(2) by adding at the end the following new subparagraph:

"(H) The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in infant formula cost containment savings provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.".

(t) Elimination of Duplicative Migrant Reports.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(1) in subsection (d)(4), by inserting after "Congress" the following: "and the National Advisory Council on Maternal, Infant, and Fetal Nutrition established under subsection (k)"; and

(2) by striking subsection (j).

(u) Initiative To Provide Program Services at Community and Migrant Health Centers.—Section 17 of such Act (42 U.S.C. 1786) (as amended by subsection (t)(2)) is further amended by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the 'Secretaries') shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers.

"(2) The initiative shall also include—

"(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

"(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically underserved areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

"(3) The initiative may include—

"(A) outreach and technical assistance for State and local agencies and the facilities described in paragraph (2)(A) and the health centers and facilities described in paragraph (2)(B);

"(B) demonstration projects in selected State or local areas; and

"(C) such other activities as the Secretaries find are appropriate.

"(4)(A) Not later than April 1, 1995, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries intend to take to carry out the initiative.

"(B) Not later than July 1, 1996, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries are taking under the initiative or actions the Secretaries intend to take under the initiative as a result of their experience in implementing the initiative.

"(C) On completion of the initiative, the Secretaries shall provide to Congress a notification concerning an evaluation of the initiative by the Secretaries and a plan of the Secretaries to further the goals of the initiative.

"(5) As used in this subsection:

"(A) The term 'community health center' has the meaning given the term in section

330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

"(B) The term 'migrant health center' has the meaning given the term in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).".

(v) EXPANSION OF FARMERS' MARKET NUTRITION PROGRAM.—

(1) MATCHING REQUIREMENT FOR INDIAN STATE AGENCIES.—Section 17(m)(3) of such Act (42 U.S.C. 1786(m)(3)) is amended by adding at the end the following new sentence: "The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council.".

(2) EXPANSION.—Section 17(m)(5)(F) of such Act (42 U.S.C. 1786(m)(5)(F)) is amended—

(A) in clause (i), by striking "15 percent" and inserting "17 percent";

(B) by striking clause (ii) and inserting the following new clause:

"(ii) During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use not more than 2 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables."; and

(C) in clause (iii), strike "for the administration of the program".

(3) CONTINUED FUNDING FOR CERTAIN STATES UNDER FARMERS' MARKET NUTRITION PROGRAM.—Subparagraph (A) of section 17(m)(6) of such Act (42 U.S.C. 1786(m)(6)(A)) is amended to read as follows:

"(A) The Secretary shall give the same preference for funding under this subsection to eligible States that participated in the program under this subsection in a prior fiscal year as to States that participated in the program in the most recent fiscal year. The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.".

(4) FUNDING REDUCTION FLOOR.—Section 17(m)(6)(B)(ii) of such Act (42 U.S.C. 1786(m)(6)(B)(ii)) is amended by striking "$50,000" each place it appears and inserting "$75,000".

(5) STATE PLAN SUBMISSION DATE.—Section 17(m)(6)(D)(i) of such Act (42 U.S.C. 1786(m)(6)(D)(i)) is amended by striking "at such time and in such manner as the Secretary may reasonably require" and inserting "by November 15 of each year".

(6) PERCENTAGE OF ANNUAL APPROPRIATIONS AVAILABLE TO STATES UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(6)(G) of such Act (42 U.S.C. 1786(m)(6)(G)) is amended—

(A) in the first sentence of clause (i), by striking "45 to 55 percent" and inserting "75 percent"; and

(B) in the first sentence of clause (ii), by striking "45 to 55 percent" and inserting "25 percent".

(7) DATA COLLECTION REQUIREMENTS.—Section 17(m)(8) of such Act (42 U.S.C. 1786(m)(8)) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraphs:

"(D) the change in consumption of fresh fruits and vegetables by recipients, if the information is available;

"(E) the effects of the program on farmers' markets, if the information is available; and".

(8) EXTENSION OF COUPON PROGRAM.—Section 17(m)(10)(A) of such Act (42 U.S.C. 1786(m)(10)(A))) is amended—

(A) by striking "$3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and"; and

(B) by inserting before the period at the end ", $10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998".

(9) ELIMINATION OF FUNDING CARRYOVER PROVISION UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(10)(B)(i) of such Act (42 U.S.C. 1786(m)(10)(B)(i)) is amended—

(A) in subclause (I), by striking "Except as provided in subclause (II), each" and inserting "Each"; and

(B) in subclause (II), by striking "or may be retained" and all that follows and inserting a period.

(10) ELIMINATION OF REALLOCATION OF UNEXPENDED FUNDS WITH RESPECT TO DEMONSTRATION PROJECTS UNDER FARMERS' MARKET NUTRITION PROGRAM.—Section 17(m)(10)(B)(ii) of such Act (42 U.S.C. 1786(m)(10)(B)(ii)) is amended by striking the second sentence.

(11) DEFINITION.—Section 17(m)(11)(D) of such Act (42 U.S.C. 1786(m)(11)(D)) is amended by inserting before the period at the end the following: "and any other agency approved by the chief executive officer of the State".

(12) PROMOTION BY THE SECRETARY.—The Secretary of Agriculture shall promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary.

(w) CHANGE IN NAME OF PROGRAM.—

(1) IN GENERAL.—Section 17 of such Act (42 U.S.C. 1786) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN";

(B) in the first sentence of subsection (c)(1), by striking "special supplemental food program" and inserting "special supplemental nutrition program";

(C) in the second sentence of subsection (k)(1), by striking "special supplemental food program" each place it appears and inserting "special supplemental nutrition program"; and

(D) in subsection (o)(1)(B), by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(2) CONFORMING AMENDMENTS.—

(A) The second sentence of section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(B) Section 685(b)(8) of the Individuals with Disabilities Education Act (20 U.S.C. 1484a(b)(8)) is amended by striking "Special Supplemental Food Program for Women, Infants and Children" and inserting "special supplemental nutrition program for women, infants, and children".

(C) Section 3803(c)(2)(C)(x) of title 31, United States Code, is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(D) Section 399(b)(6) of the Public Health Service Act (42 U.S.C. 280c–6(b)(6)) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(E) Paragraphs (11)(C) and (53)(A) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) are each amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(F) Section 202(b) of the WIC Infant Formula Procurement Act of 1992 (Public Law 102–512; 42 U.S.C. 1786 note) is amended by striking "special supplemental food program" and inserting "special supplemental nutrition program".

(3) REFERENCES.—Any reference to the special supplemental food program established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) in any provision of law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under such section.

SEC. 205. NUTRITION EDUCATION AND TRAINING PROGRAM.

(a) NAME OF PROGRAM.—Section 19 of the Child Nutrition Act of 1966 (42 U.S.C. 1788) is amended by striking "information and education" each place it appears in subsections (b), (c), (d)(1), (f)(1)(G), and (j)(1) and inserting "education and training".

(b) NUTRITION EDUCATION PROGRAMS.—The second sentence of section 19(c) of such Act (42 U.S.C. 1788(c)) is amended—

(1) in subparagraph (B), by striking "school food service" and inserting "child nutrition program";

(2) by striking "and" at the end of subparagraph (C); and

(3) by inserting before the period at the end the following: "; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health".

(c) NUTRITION EDUCATION AND TRAINING.—Section 19(d) of such Act (42 U.S.C. 1788(d)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and the provision of nutrition education to parents and caregivers";

(2) in the first sentence of paragraph (4), by striking "educational and school food service personnel" and inserting "educational, school food service, child care, and summer food service personnel"; and

(3) in the first sentence of paragraph (5), by inserting after "schools" the following: ", and in child care institutions and summer food service institutions,".

(d) USE OF FUNDS.—Section 19(f)(1) of such Act (42 U.S.C. 1788(f)(1)) is amended—

(1) by striking "(f)(1) The funds" and inserting "(f)(1)(A) The funds";

(2) by striking "for (A) employing" and inserting "for—

"(i) employing";

(3) by redesignating subparagraphs (B) through (I) as clauses (ii) through (ix), respectively;

(4) by indenting the margins of each of clauses (ii) through (ix) (as redesignated by paragraph (3)) so as to align with the margins of clause (i) (as amended by paragraph (2));

(5) by striking "and" at the end of clause (viii);

(6) by redesignating clause (ix) as clause (xx);

(7) by inserting after clause (viii) the following new clauses:

"(ix) providing funding for a nutrition component that can be offered in consumer and homemaking education programs as well as in the health education curriculum offered to children in kindergarten through grade 12;

"(x) instructing teachers, school administrators, or other school staff on how to promote better nutritional health and to motivate children from a variety of linguistic and cultural backgrounds to practice sound eating habits;

"(xi) developing means of providing nutrition education in language appropriate materials to children and families of children through after-school programs;

"(xii) training in relation to healthy and nutritious meals;

"(xiii) creating instructional programming, including language appropriate materials and programming, for teachers, school food service personnel, and parents on the relationships between nutrition and health and the role of the Food Guide Pyramid established by the Secretary;

"(xiv) funding aspects of the Strategic Plan for Nutrition and Education issued by the Secretary;

"(xv) encouraging public service advertisements, including language appropriate materials and advertisements, to promote healthy eating habits for children;

"(xvi) coordinating and promoting nutrition education and training activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, child nutrition programs);

"(xvii) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purpose of this section;

"(xviii) increasing public awareness of the importance of breakfasts for providing the energy necessary for the cognitive development of school-age children;

"(xix) coordinating and promoting nutrition education and training activities carried out under child nutrition programs, including the summer food service program for children established under section 13 of the National School Lunch Act (42 U.S.C. 1761) and the child and adult care food program established under section 17 of such Act (42 U.S.C. 1766); and"; and

(8) by adding at the end the following new subparagraph:

"(B) As used in this paragraph, the term 'language appropriate' used with respect to materials, programming, or advertisements means materials, programming, or advertisements, respectively, using a language other than the English language in a case in which the language is dominant for a large percentage of individuals participating in the program.".

(e) ADMINISTRATIVE PURPOSES.—Section 19(f) of such Act (42 U.S.C. 1788(f)) is amended by striking paragraph (3) and inserting the following new paragraph:

"(3) A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.".

(f) STATE COORDINATORS FOR NUTRITION; STATE PLAN.—Section 19(h) of such Act (42 U.S.C. 1788(h)) is amended—

(1) in the first sentence of paragraph (2), by inserting "and training" after "education"; and

(2) in the third sentence of paragraph (3)—

(A) by striking "and" at the end of subparagraph (D); and

(B) by inserting before the period at the end the following: "; and (F) a comprehensive plan for providing nutrition education during the first fiscal year beginning after the submission of the plan and the succeeding 4 fiscal years".

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 19(i)(2)(A) of such Act (42 U.S.C. 1788(i)(2)(A)) is amended to read as follows:

"(A) Out of any moneys in the Treasury not otherwise appropriated, and in addition to any amounts otherwise made available for fiscal year 1995, the Secretary of the Treasury shall provide to the Secretary $1,000 for fiscal year 1995 and $10,000,000 for fiscal year 1996 and each succeeding fiscal year for making grants under this section to each State for the conduct of nutrition education and training programs. The Secretary shall be entitled to receive the funds and shall accept the funds.".

(h) AVAILABILITY OF FUNDS.—Section 19(i) of such Act (42 U.S.C. 1788(i)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. CONSOLIDATION OF SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM INTO COMPREHENSIVE MEAL PROGRAM.

(a) IN GENERAL.—Notwithstanding any provision of the National School Lunch Act (42 U.S.C. 1751 et seq.) or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), except as otherwise provided in this section, the Secretary of Agriculture shall, not later than 18 months after the date of enactment of this Act, develop and implement regulations to consolidate the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) into a comprehensive meal program.

(b) REQUIREMENTS.—In establishing the comprehensive meal program under subsection (a), the Secretary shall meet the following requirements:

(1) The Secretary shall ensure that the program continues to serve children who are eligible for free and reduced price meals. The meals shall meet the nutritional requirements of section 9(a)(1) of the National School Lunch Act (42 U.S.C. 1758(a)(1)) and section 4(e)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)).

(2) The Secretary shall continue to make breakfast assistance payments in accordance with section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) and food assistance payments in accordance with the National School Lunch Act (42 U.S.C. 1751 et seq.).

(3) The Secretary may not consolidate any aspect of the school lunch program or the school breakfast program with respect to any matter described in any of subparagraphs (A) through (N) of section 12(k)(4) of the National School Lunch Act (42 U.S.C. 1760(k)(4)).

(c) PLAN AND RECOMMENDATIONS.—

(1) PLAN FOR CONSOLIDATION AND SIMPLIFICATION.—Not later than 180 days prior to implementing the regulations described in subsection (a), the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a plan for the consolidation and simplification of the school lunch program and the school breakfast program.

(2) RECOMMENDATIONS WITH RESPECT TO CHANGE IN PAYMENT AMOUNTS.—If the Secretary proposes to change the amount of the breakfast assistance payment or the food assistance payment under the comprehensive meal program, the Secretary shall not include the change in the consolidation and shall prepare and submit to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate recommendations for legislation to effect the change.

SEC. 302. STUDY AND REPORT RELATING TO USE OF PRIVATE FOOD ESTABLISHMENTS AND CATERERS UNDER SCHOOL LUNCH PROGRAM AND SCHOOL BREAKFAST PROGRAM.

(a) STUDY.—The Comptroller General of the United States, in conjunction with the Director of the Office of Technology Assessment, shall conduct a study on the use of private food establishments and caterers by schools that participate in the school lunch program under the National School Lunch Act (42 U.S.C. 1751 et seq.) or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773). In conducting the study, the Comptroller General of the United States shall—

(1) examine the extent to which, manner in which, and terms under which the private food establishments and caterers supply meals and food to students and schools that participate in the school lunch program or the school breakfast program;

(2) determine the nutritional profile of all foods provided to students during school hours;

(3) evaluate the impact that the services provided by the establishments and caterers have on local child nutrition programs and the ability of the establishments and caterers to utilize the commodities under section 14 of the National School Lunch Act (42 U.S.C. 1762a); and

(4) examine the impact that private food establishments and caterers have on—

(A) student participation in the national school lunch program;

(B) school food service employment;

(C) generation of revenues through school lunch sales and a la carte sales of food in schools; and

(D) the number of students leaving schools during lunch periods.

(b) REPORT.—Not later than September 1, 1996, the Comptroller General of the United States shall submit to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains the findings, determinations, and evaluations of the study conducted pursuant to subsection (a).

SEC. 303. AMENDMENT TO COMMODITY DISTRIBUTION REFORM ACT AND WIC AMENDMENTS OF 1987.

Section 3(h)(3) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended—

(1) by striking "Hawaii,"; and

(2) by adding at the end the following new sentence: "The requirement established in paragraph (1) shall apply to recipient agencies in Hawaii only with respect to the purchase of pineapples.".

SEC. 304. STUDY OF THE EFFECT OF COMBINING FEDERALLY DONATED AND FEDERALLY INSPECTED MEAT OR POULTRY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the incidence and the effect of States restricting or prohibiting a legally contracted commercial entity from physically combining federally donated and inspected meat or poultry from another State.

(b) REPORT.—Not later than September 1, 1996, the Comptroller General of the United States shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the findings, determinations, and evaluations of the study conducted pursuant to subsection (a).

Mr. FORD. Mr. President, I move the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I am pleased that my bill S. 1614, reauthorizing and improving child nutrition programs, will now become law.

This bill represents a historic change in direction for the school lunch program. For the first time, the Dietary Guidelines for Americans, including the guidelines regarding fat and saturated fat, are mandated in law. Beginning in 1996, school meals will have to meet the Dietary Guidelines. That is two years sooner than the Department of Agriculture's proposed regulations would mandate.

I am firmly committed to improving the nutritional quality of our school meals. Child nutrition is a matter of our national interest—children who eat well learn better and grow into healthy adults. But I believe that schools should have flexibility in the means by which they meet the Dietary Guidelines.

I recently attended a press event with Public Voice for Food and Health Policy, in which they released a study entitled "Serving Up Success: Schools Making Nutrition a Priority." The report highlights 41 schools throughout the nation which have already taken steps to improve school meals. These schools are meeting the Dietary Guidelines in many different and creative ways—and often involve students and food service staff in the process. I want to encourage that kind of creativity, so that schools can find the way that works best in their individual situation.

My bill will also help schools meet the new nutritional standards. It requires the Department of Agriculture to improve the nutritional quality of the commodities which it provides to schools. It provides training and technical assistance to school food service staff. And it helps schools which want to ban the sale of junk food.

But that is just one of the areas in which this bill improves child nutrition programs. The bill expands a program which helps schools start-up school breakfast programs, and it provides similar grants for summer food programs, so that children will not go hungry when school is out. It makes permanent and expands a program providing meals to homeless children under age six who live in shelters. These children might otherwise go hungry while their older brothers and sisters eat in school.

In addition, the bill makes numerous improvements to the child and adult care food program, the summer food service program and the special supplemental nutrition program for women, infants and children, commonly referred to as WIC. WIC is one of our nation's most successful nutrition and health programs, and saves far more in medical costs than it spends. I am disappointed that Congress was unable to pass a health care reform package including full funding for WIC this year. But I will continue to push to fully fund this important and proven program.

I am concerned, however, about an amendment made in the House of Representatives regarding milk. In giving schools more flexibility in determining the types of milk they serve, I want to ensure that we do not impose new burdensome requirements. This is an issue that will have to be addressed further in the future.

Mr. President, I ask that the following document be included in the RECORD. It reflects special concerns and clarifications of the Senate Committee on Agriculture, Nutrition, and Forestry, the House Committee on Education and Labor, and the House Committee on Agriculture relating to the child nutrition reauthorization bill passed by Congress. This document is intended to address the issues usually found in a conference report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEES' ANALYSIS OF S. 1614

TITLE I

SECTION 101. PURCHASE OF FRESH FRUITS AND VEGETABLES

The Committees expect that this provision will address current problems with the provision of fresh fruits and vegetables through the Commodity Distribution system, so as to reduce spoilage and waste by improving the quality of products received by schools, ensuring more timely delivery of fresh fruits and vegetables, and providing fresh fruits and vegetables in appropriate and usable quantities.

SECTION 103. REQUIREMENT OF MINIMUM PERCENTAGE OF COMMODITY ASSISTANCE

The commodities purchased under section 104 of the bill (concerning combined Federal and State commodity purchases), and the costs of procuring commodities under section 104, are not to be considered when calculating the 12% commodity assistance under section 103.

SECTION 105. TECHNICAL ASSISTANCE TO ENSURE COMPLIANCE WITH NUTRITIONAL REQUIREMENTS

The Secretary shall encourage the coordination of technical assistance and training activities under this provision with activities already underway in States and schools to develop nutrition education curricula and with related Extension home economics programs in local communities. The Secretary shall encourage identification of these teaching and Extension professionals within the local schools and communities to assist in the implementation of these activities.

The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor support the Department's proposal to use a significant portion of funds appropriated for technical assistance to meet the dietary guidelines for funding through States to train food service staff, help school districts implement new menu systems and provide nutrition training for classroom and food service staff. The Committees encourage the Secretary to follow through on providing this funding through States.

SECTION 106. NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

Regarding the requirement that the Secretary, State educational agencies and school food service authorities inform students, parents and guardians of the nutritional content of school meals, the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor do not expect that such information will be provided in other than the usual mailings and methods.

Regarding waivers to implementing the Guidelines, the Committees wish to clarify that individual schools do not necessarily need to apply for waivers—States have authority to determine the waiver guidelines, and may choose to require individual applications from schools for waivers or may choose to waive the requirement for categories of schools or even all schools in the State.

The Committees also want to make clear that while all schools will need to serve meals that meet the Dietary Guidelines, there should be flexibility in how they do so. In particular, schools should not be required to do nutrient analysis in cases where a food-based menu system is used. However, nutrient analysis may be used by schools, State agencies or the Secretary as part of audit and compliance activities.

The Committees also suggest that the Secretary may look to the Food Pyramid as a basis for developing a food-based menu system.

Furthermore, the Committees instruct the Secretary to develop regulations taking into account that meals should be comprised of a variety of conventional foods, as recommended in the dietary guidelines, rather than depending on highly fortified foods to meet nutritional standards. Preferred sources of adequate nutrition are meals and snacks which provide a variety of conventional foods rather than formulated, fortified foods. Moreover, foods that are fortified may not supply other essential micronutrients which conventional foods supply.

SECTION 107. ELIMINATION OF WHOLE MILK REQUIREMENT

The Senate Committee on Agriculture, Nutrition and Forestry, the House Committee on Education and Labor and the House Committee on Agriculture note that a significant number of children participating in the school lunch and breakfast program have an intolerance to lactose in milk. Schools are encouraged to provide lactose-reduced or lactose-free milk so those students demonstrating such an intolerance can receive the nutritional benefits of milk without experiencing the digestive compilations they normally associate with the digestion of lactose.

SECTION 112. MISCELLANEOUS PROVISIONS AND DEFINITIONS

This section concerns regulations on nutritional requirements for school meals. The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor want to emphasize their commitment to ensuring that meals served by schools meet the Dietary Guidelines. This provision is intended to ensure that the regulations facilitate this goal, without delaying compliance with the Guidelines.

SECTION 113. FOOD AND NUTRITION PROJECTS

The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor encourage projects funded under this section to, to the maximum extent practicable, coordinate their activities with activities under the Nutrition Education and Training program, and other related activities already underway in schools.

SECTION 117. HOMELESS CHILDREN NUTRITION PROGRAM

The pilot project for the prevention of boarder babies established under this section includes, as a requirement for receiving funding, coordination of the projects with other programs that may assist recipients. The Senate Committee on Agriculture, Nutrition and Forestry, the House Committee on Education and Labor and the House Committee on Agriculture also want to emphasize that referrals to the Food Stamp program should be a part of these activities.

The intended benefits of these projects were discussed in the Senate Committee Report on S. 1614 (S. Rpt. 103-300). It is hoped that the Department of Agriculture will work to distribute these funds as soon as practicable.

SECTION 118. PILOT PROJECTS

This section authorizes pilots for increased choices of fruits, vegetables, legumes, cereals and grain-based products, as well as pilots for increased choices of lowfat dairy products and lean meat and poultry products. The Senate Committee on Agriculture, Nutrition and Forestry, the House Committee on Education and Labor and the House Committee on Agriculture note that some ways the Secretary may implement these provisions are by giving incentive awards to schools that agree to increase the choices of these products, or by distributing to schools qualified products.

This section also authorizes pilot programs on reduced paperwork and application requirements and increased participation. The goals of these pilots are three-fold: (1) to aid schools in the reduction of paperwork in their breakfast and lunch programs by providing waiver authority; (2) to relieve schools of the requirement to collect applications by allowing Federal reimbursement for meals to be based on prior year data adjusted for changes in enrollment and inflation; and (3) to increase participation in the pilot shcools' breakfast and lunch programs. Schools are encouraged to be innovative in their approach, and to reduce paperwork and increase participation to the greatest extent possible.

In approving applications for participation in the pilot, the Secretary is encouraged to choose programs that eliminate varying rates of payment for students.

Hunger is a significant barrier to learning. This program builds upon efforts to make school meals more nutritious; the success of increasing the nutritional quality of school meals is inherently dependent on the students eating those meals.

TITLE II

SECTION 201. SCHOOL BREAKFAST PROGRAM

In making permanent the school breakfast start-up grant program and expanding it to include start-up and expansion of school breakfast and summer food programs, this section established priority levels for the funding of projects. The Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor want to emphasize that the Secretary should approve worthy and needy projects in each of the four priority categories established. In addition, special consideration should be given to funding expansion of school breakfast.

SECTION 203. COMPETITIVE FOODS OF MINIMAL NUTRITIONAL VALUE

In preparing the letters and other materials required by this provision, the Secretary and State agencies shall follow the wording and directions specified in the Senate Agriculture Committee Report on S. 1614 (S. Rpt. 103-300).

SECTION 204. SPECIAL SUPPLEMENTAL NUTRITION PROGRAM

Regarding the provision concerning presumptive eligibility for pregnant women, the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor expect that, in States adopting this option, the timetable for conducting nutritional risk assessment shall be no shorter under presumptive eligibility than is otherwise the case.

States electing to implement presumptive eligibility should inform their WIC providers of the importance of performing dietary risk assessments before—or as soon as possible after—the presumptively eligible pregnant woman begins receiving WIC benefits. The Committees are concerned that under presumptive eligibility, states might take longer to conduct the dietary assessment, since it would not delay receipt of benefits by the woman. However, the longer it takes to do the assessment, the more likely it is that a woman who would have been eligible for WIC due to inadequate diet will not be eligible because dietary inadequacies were eliminated through the woman's participation in the WIC program. The Committees do not intend for any woman who would have been able to receive benefits without presumptive eligibility to be taken off the program because the benefits of WIC eliminated the nutritional risk of the woman before her assessment was complete.

Regarding the pilot projects required under this section to test the use of universal product codes in the WIC program, the Committees believe that pilots in one State would be sufficient to carry out this provision.

Regarding the use of unspent administrative funds, the Secretary, in implementing the provision, shall not delay allocating funds until the total amount of unspent nutrition services and administration funds from the prior fiscal year is determined, if the Secretary estimates that more than $10,000,000 will be available.

Regarding the elimination of migrant reports, the purpose of this provision is to eliminate a duplicative report. The remaining report shall continue to address the issue of migrants to the same extent as previously addressed in the separate migrant report.

Regarding Indian State agencies, the Committees expect that in negotiating lower matches with those agencies, the Secretary shall consider their ability to pay. Decisions regarding whether to fund such programs shall be based on the agency's capacity to operate a program.

The Committees expect the Secretary to provide technical assistance to Indian Tribal Organizations in meeting the application requirements for the Farmers' Market Nutrition Program. Such technical assistance may include sharing approved State plans which have been submitted by Indian Tribal Organizations in prior years, providing information of sources of funding which could be used to meet the required match, facilitating the development of farmers' markets, and lending additional assistance as necessary.

Regarding the use of funds for market development, the Committees want to clarify that the goals of such development should be to increase access among WIC participants to farmers' markets and to encourage the use of farmers' markets by WIC participants.

Regarding the funding reduction floor for the farmers' market nutrition program, the Committee is concerned that the Department of Agriculture has interpreted language pertaining to pro rata reductions to apply to request for new or expanded funding by States. This was not the intent of the law. The threshold of $75,000 is not meant to serve as a minimum grant level for first-year requests from States, nor is it intended to be a factor for evaluating expansion requests from States which participated in the program in the prior fiscal year. This provision is intended to apply only to the situation in which the Secretary is unable to provide a continued level of funding to States which participated in the program in the prior fiscal year due to a reduction, or an insufficient increase, in the annual appropriation for the program.

In making grants to States already participating in the farmers' market nutrition program, the Secretary should take into account the difference between the number of WIC recipients in a State and the number participating in the program. The Committees are concerned that the Department of Agriculture has been distributing additional funds to States which participated in the program in the prior fiscal year on the basis of the size of the State's grant in the prior fiscal year. As a result, each State is awarded a pro-rata share of additional funds based upon the percentage of the annual appropriation which it received in the prior fiscal year. Thus, if a State's program started out on a small scale, its growth would be permanently limited to a very slow rate of expansion.

In addition, the Committees instruct the Secretary to examine additional methods to reduce the cost of infant formula for the WIC program and provide information to the Senate Committee on Agriculture, Nutrition and Forestry and the House Committee on Education and Labor on effective means to reduce formula costs to the program. One of the methods that the Secretary shall review is the effectiveness of purchasing infant formula at lower costs by soliciting bids for rebates or discounts for milk-based and soy-based infant formula separately.

SECTION 205. NUTRITION EDUCATION AND TRAINING PROGRAM

Developing means of providing nutrition education in language appropriate materials to children and families of children through after-school programs, could be offered collaboratively among consumer and homemaking teachers in schools and non-school-district professionals in the community who are qualified to teach nutrition, such as Cooperative Extension home economists.

Mr. LEAHY. Mr. President, I would like to amplify remarks I made earlier about the child nutrition bill, S. 1614.

Section 106, "Nutritional and other Program Requirements," of this bill clearly requires that USDA allow schools to use a variety of approaches to achieve the goals of the Dietary Guidelines for Americans.

It is important to note that the Congress has required use of those dietary guidelines based on the Department's decision to require schools to follow those guidelines rather than the "Nutrition Guidance for Child Nutrition Programs" referred to in section 24 of the National School Lunch Act. While I was surprised that USDA decided in the June 10, 1994, proposal to use the Dietary Guidelines rather than the Nutrition Guidance this law change now precludes the Department from changing its mind at a later date.

This new requirement, proposed by USDA, but now in law is found in new section 9(f)(1)(B) referencing the "Dietary Guidelines for Americans," in section 9(f)(2), and in other provisions of S. 1614.

Thus, when USDA issues its final rules regarding the June 10, 1994, proposal, those final rules must apply the Dietary Guidelines for Americans to schools and not the Nutrition Guidance for Child Nutrition Programs.

Second, when USDA applies any other nutritional or nutrient requirement to schools, such as those referred to in section 9(a)(1) or any other provisions under the Child Nutrition Act of 1966, the National School Lunch Act, or this Act, USDA must allow schools with respect to food preparation or the service of meals to use standardized recipes, menu cycles, food product specification and preparation techniques, food-based menu systems, and other options.

Thus, for example, in preparing meals schools may use information regarding food-based menu systems if the school wants to use such information—this choice is not up to the Secretary.

I have previously addressed this matter in my floor statement on S. 1614 as reported by my committee. Those comments still apply to this final version of the bill.

Providing this flexibility to schools in preparing and serving meals is very important to Senate and to House members.

Thus, USDA can not preclude this local flexibility by applying some other guidelines instead of the Dietary Guidelines for Americans. That flexibility found in new section 9(f)(2)(C) thus can not be reduced or diminished by USDA—only Congress can provide less flexibility to local schools.

On another issue I want to note that even for schools not using the computer-driven nutrient analyses the Department should allow more flexibility than present. For example, schools can not get a reimbursement from USDA for serving yogurt under the current meal pattern requirements. This represents bad policy on the part of USDA—yogurt represents a great source of protein and essential vitamins and minerals.

It is also the intent of the Congress that a school choosing not to use nutrient standard menu planning should not be required to conduct, use, or obtain nutrient analysis on the recipes that it uses to comply with any provision of this Act, the Child Nutrition Act, or the National School Lunch Act.

The goal is that school must meet the dietary guidelines, including the guidelines on fat and saturated fat, but exactly how they do that is up to the school.

I want to emphasize that this Act does not interfere with the ability of USDA and states to monitor compliance with dietary guidelines. This Act fully allows the nutrition compliance procedures as set forth in the June 10, 1994, proposal. It is very important that the requirements of the dietary guidelines be met by all schools—compliance is very important.

In summary, it is very important that the dietary guidelines be met, but exactly how schools meet those requirements is up to the school.

My previous remarks upon Senate passage thank many Senators and individuals for their help. I need to stress, again, how much I appreciate the efforts of the Republican leader, Senator DOLE, and my friend and colleague, Senator LUGAR, for their constant and strong support of nutrition programs. Without their support and help this bill would not have been possible—with their support the Senate was able to pass this bill without objection.

Mr. McCONNELL, Mr. President, I rise today to join my colleagues in supporting S. 1614, the child nutrition reauthorization bill. After months of work and several productive and very informative hearings, I believe we have put together a strong bill that addresses several concerns in our child nutrition programs. We are improving the nutritional quality of the means served to our children; we are giving schools the flexibility they need in preparing means that please the appetites of their own students; we are strengthening and coordinating our nutrition education and training efforts; and, we are directing the USDA to streamline administrative procedures and paperwork in our child nutrition programs.

I want to commend Senator LEAHY and LUGAR, the chairman and ranking Republican, of the full committee, as well as Senator HARKIN, my chairman on the Subcommittee on Nutrition for their work on this bill. The School Lunch and Breakfast Programs, the Child and Adult Care Food Program, and WIC are some of the most successful programs this Government runs. It is through these nutrition programs that children of all ages consume the food to lay the groundwork needed to learn and grow and become productive members of our society.

Mr. President, there has been a lot of negative press on the School Lunch Program—judging by many of the articles and editorial cartoons I have seen, you would have thought they were serving pure garbage for food. While some of the criticisms regarding the nutritional content of lunches are legitimate, the school food service workers in our country do a commendable job of feeding 23 million lunches a day.

The average school lunch contains 38 percent of its calories from fat, a number that is higher than Federal guidelines recommend, but a number that is comparable to the amount in the average American's meal. What has not been highlighted in the press as much is the fact that school food service workers are already working to improve the nutritional quality of their means, and that they share the goal of feeding kids healthy meals. Almost half of our schools offer at least one meal that meets the dietary guidelines, and a variety of schools are using new menu planners that give tips on preparing healthy meals as well as marketing ideas to make the lunches attractive to the kids.

This bill builds on the progress many schools are already making. The Healthy Means for Healthy Americans Act of 1994 will require schools to serve meals that are consistent with the dietary guidelines by 1998. And to assist schools in those efforts, the bill directs USDA to provide the training and technical assistance necessary for the schools to comply with the Federal nutrition recommendations. Further, we have directed the Department to improve the nutritional quality of the commodities the schools receive under the entitlement program. S. 1614 encourages schools to move forward quickly and provides the training and technical assistance to back this commitment up.

This past June, USDA proposed that all schools plan their meals under a system called Nutrient Based Menu Analysis or NuMenus in order to ensure that school meals meet the dietary guidelines. S. 1614, allows the schools to have more flexibility in determining the method they will use to meet the nutrition recommendations. Nutrient based menu planning is a very new concept to a lot of schools, especially some of the smaller, rural schools. I believe it is very important that we encourage schools to focus on providing healthy meals rather than dictate the method they must use to reach our mutual goals.

S. 1614 also bolsters and enhances the Nutrition Education and Training Program, a program which I think is essential to teaching our children healthy eating habits that will stay with them throughout their lives. We have all heard the old Chinese proverb, "Give a man a fish, and you feed him for a day. Teach a man to fish, and you feed him for life." If we teach our children the tenants of healthy eating, the importance of eating a variety of foods, the importance of various food components, then we will build a healthy population. In S. 1614, we have expanded the purpose of the program to include parents and caregivers, as well as child care institutions and summer food service providers, in order to reach more families with important information on the link between diet and health. We have also included provisions to encourage coordination and collaboration between various educators, food service personnel, USDA and the Food Service Management Institute.

During my tenure on the Senate Agriculture Committee, I have consistently heard complaints from child nutrition program personnel about the burdensome and laborious paperwork requirements of the meal programs. This bill sends a strong message to USDA: eliminate unnecessary paperwork and administrative hurdles that impede effective administration of the nutrition programs. S. 1614 also allows states and schools to apply to the Department for waivers from various legislative and regulatory requirements. I intend to closely follow the implementation of these provisions, and hope that this bill will allow the food service personnel to go back to being bean cookers, instead of bean counters.

I also want to highlight two additional provisions in this bill that are particularly important to me. First, we have continued the School Breakfast Start-Up Grant Program. In 1989, I, along with several of my colleagues, introduced the legislation to initiate this method of increasing participation in the breakfast program. In Kentucky, almost 92 percent of the schools that offer lunch also offer breakfast. Further, 49 percent of Kentucky children that are eligible for free and reduced priced meals eat breakfast—a number that places my State fourth in the country. The Start-Up Grant Program has been extremely successful in attracting schools to the breakfast program, and I am pleased that we are continuing it as well as allowing the Summer Food Program to utilize some of these resources.

A second provision I want to highlight is the provision to extend a demonstration project ongoing in the Child and Adult Care Food Program. Current law hinges participation by for-profit child care centers on the receipt of other Federal monies, not on the number of low-income children in a center. In 1989, this situation was brought to my attention, and Senator HARKIN and I introduced legislation to test a new method of eligibility, whereby a center can participate if 25 percent of the kids are from low-income families. The demo is operating in Kentucky and Iowa and has proven to be very successful. In Kentucky, over 14,000 children have participated in the program, and 57 percent of these children are from low-income families. The centers are reporting that they serve 2 to 3 meals a day instead of just one, and that they serve higher quality meals with more fresh fruits and vegetables because they participate in CACFP. The demo has been very effective and popular in my State, and I want to thank my colleagues for extending the authorization for this project.

During these times of tight budget constraints, it is even more necessary to ensure that we are targeting our resources in such a way as to reach low-income children who are at risk of nutritional deficiency. Programs like the start-up grants and the CACFP demo in Kentucky and Iowa are good examples of using Federal dollars to support nutrition programs in institutions with higher numbers of low-income children.

It is very fitting that we pass the Healthy Meals for Healthy Amercians Act right before the National School Lunch Week—a week dedicated to honoring all of those who are involved with providing nutritious meals to 23 million children nationwide. S. 1614 will go far in improving the nutritional quality of meals served, in strengthening the nutrition education and training program, and in streamlining administrative burdens. Our child nutrition programs help ensure that children have the energy and good health needed to be eager and attentive students, and S. 1614 build and improve on the success of those programs.

BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2534, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, introduced earlier today by Senator MICHELL and Senator DOLE; that the bill be deemed read the third time, passed, the motion to reconsider be laid upon the table; that any statements relating to this measure be inserted in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2534) was deemed read the third time, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. PRYOR. Mr. President, I rise today to offer my full support for the unanimous consent agreement being offered by the majority and minority leaders on the behalf of Senator FEINSTEIN and myself.

Three years ago, my good friend and distinguished colleague, the Senate Majority Leader GEORGE MITCHELL asked me to serve as chairman of a special task force assigned to devise a strategy for easing the impact of reducing the size of our military and our defense budget.

Among the many post-cold war transition problems our task force has discovered is the unnecessary and costly burden the Stewart B. McKinney Homeless Assistance Act is placing on communities nationwide that are working around the clock to redevelop former military installations.

Mr. President, like many of my Senate colleagues, I have lost a base in my State. Eaker Air force Base in Mississippi County, AR closed its doors in 1992, resulting in the loss of 3,000 jobs in a community of just over 20,000 residents. As my Senate colleagues who also have lost a base in their State know, the local economic development planning efforts that follow the painful base closure announcements are truly massive and comprehensive, consuming millions of State and Federal dollars. These enormous planning efforts are focused on the community's new mission of securing their economic future following the departure of the military.

Unfortunately, local communities that are working diligently to bring new businesses to town are repeatedly finding their efforts disrupted by the so-called McKinney Act legislation. Mr. President, the McKinney Act was passed by Congress in 1987 to provide needed relief to the growing epidemic of hopelessness in America. This relief was provided by giving legitimate homeless assistance groups a priority in obtaining excess and surplus Federal property to be used for housing the homeless.

However, the McKinney Act was passed without taking into account that the cold war would soon come to an end and the U.S. military would close numerous major military installations. The McKinney Act also did not take into account the massive economic development planning efforts of communities that lose military bases. But indeed bases are closing and these planning efforts are ongoing and essential to the economic recovery of base closure communities.

Unfortunately, serious problems are currently arising in communities nationwide when homeless assistance groups exercise the legal authority provided by the McKinney Act to acquire former base property. These transactions to homeless assistance groups are allowed by law even though they often undermine the Government-funded economic development efforts of local communities. In extreme cases, homeless assistance groups are using the McKinney Act to acquire entire former military bases.

These problems, coupled with an often unaccommodating approach to homeless problems by certain local redevelopment authorities, has contributed to the creation of an intensely adversarial relationship in base closure communities that is truly detrimental to the interests of both parties.

Mr. President, I feel that this is an unintended consequence of the McKinney Act. As a result, our bill will exempt military bases from the McKinney Act. Last year, in legislation commonly known as the Pryor amendment, we attempted to solve these problems without exempting bases from the McKinney Act. Unfortunately, our efforts provided limited solutions.

So now we have taken the next step and exempted military installations from the McKinney Act. We also established a new process for transferring former base property to homeless assistance groups that will protect the interests of the homeless and economic development. This new process emphasizes the importance of weighing economic development plans with the local needs of the homeless, in an attempt to balance these often competing interests.

This delicate balance will be achieved through good faith negotiations between local redevelopment authorities and legitimate homeless assistance groups. Since these negotiations will take place while communities are planning for the reuse of a closed base, local homeless needs can be addressed in a way that is in the best interest of the community as a whole.

Mr. President, the authors of this bill are not suggesting that the needs of the homeless in America are not a high priority. Rather, we feel that the special needs of the homeless can be addressed in a way that is less disruptive to the job creation efforts of those who ultimately desire to bring prosperity and salvation to individuals and communities that desperately need an economic boost. In addition, this bill will encourage those charged with redeveloping closed military bases to carry on their mission in a way that is more sensitive to local homeless needs.

Mr. President, there is also a true sense of urgency associated with the passage of this bill. I need not remind my colleagues that the Department of Defense and the Base Closure Commission are currently preparing for "the mother of all base closings". Next year the commission will recommend the closure of more bases than were closed in the 1988, 1991, and 1993 rounds combined. In these first three rounds, some 72 major military installations were closed. We can expect an equal or greater number of base closures from the commission next year, and we must prepare for this massive disruption to our cities and to our economy.

I look forward to the Senate's passage of this measure, and I urge the House of Representatives to quickly pass this bill before the 103d Congress adjourns.

Mr. President, I am proud to say that our legislation has been endorsed by the National Association of Installation Developers [NAID], which represents base closure communities across our country. Also, this bill was drafted in consultation with the National Law Center on Homelessness and Poverty, which represents homeless assistance groups in America.

Mr. President, our bill is a bipartisan bill that will help communities that are redirecting their resources following the end of the cold war and the closing of obsolete military bases.

I would like to thank the many people who contributed to the creation and passage of this important bill. First, I would like to recognize Senator DIANNE FEINSTEIN from California who was the original drafter of this legislation in the Senate. Senator FEINSTEIN has shown time and time again that she is truly sensitive to the many people and communities in California that have been hard hit by the end of the cold war.

I also would like to thank my good friend, the distinguished chairman of the Senate Armed Services Committee, Senator NUNN and the ranking member, Senator THURMOND, for their support. Also, special thanks to Senators GLENN and ROTH and their staffs from the Senate Governmental Affairs Committee. The Housing Subcommittee of the Banking Committee also provided tremendous assistance in the drafting of this bill and I thank the chairman and ranking member as well as their staff for this assistance.

Special recognition is also due to the Clinton administration, which worked with the Congress in admirable fashion to craft this important legislation. Officials from HUD, HHS, the President's Interagency Council on Homelessness, the National Economic Council, and Department of Defense contributed to this process. Specifically, I would like to thank David Lane from the National Economic Council, Marcia Martin from the Interagency Council on Homelessness, Jackie Lawing from HUD, and Joshua Gotbaum from DOD, as well as Mark Wagner and Rob Hertzfeld from Mr. Gotbaum's staff.

I also feel compelled to point out the tremendous staff work of Robert Mestman from Senator FEINSTEIN's office and Madelyn Creedon from Senator NUNN's office. Their efforts are greatly appreciated. Also, Charlie Armstrong from Senate Legislative Counsel was tireless in his work in bringing this bill to fruition.

From the National Law Center on Homelessness and Poverty, I commend Laurel Weir for her approach to this difficult process and for working with us in an attempt to balance the needs of the homeless with economic development. From the National Association of Installation Developers, George Schlossberg's assistance was welcomed and helpful. Also, former Congressman Bill Lowery was very instrumental in the passage of this bill.

Finally, I would like to take this opportunity to thank my good friend and colleague, Senate Majority Leader GEORGE MITCHELL for providing me with the opportunity to chair the Senate Task Force on Defense Reinvestment. I must say that I did not seek this position when Senator MITCHELL bestowed it upon me in 1992, but I have enjoyed the opportunity to serve the majority leader and the Senate in this capacity, and I thank him.

Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise today in strong support of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994—legislation designed to improve the military base closure and reuse process by empowering local communities. In particular, this legislation places base reuse decisions in the hands of local officials and balances economic redevelopment interests with the needs of the homeless in a commonsense manner.

As many of my colleagues know, since 1988, nearly 250 military bases have been closed or realigned under the BRAC process. While painful for States and regions, base closures can be devastating for local communities. A closing military base not only means job loss, but also translates into reduced local tax revenues, higher housing vacancy rates, and increased business failures.

Base closures, though, also create economic opportunities for localities that can expedite reuse through effective redevelopment. But, conversion of military bases has proven to be anything but quick or simple. Communities across the country have struggled to make sense of complex Federal laws and regulations that were never designed to deal with military base closures. The current process is cumbersome and conflicting, and poses difficulties for local, State and Federal authorities trying to make decisions and dispose of base property in a timely manner. Increasingly, opportunities for job creation and economic redevelopment are lost.

In order to respond to this problem, President Clinton development a five-part base community reinvestment program early last year. The Pryor amendment to the fiscal year 1994 Defense Authorization Act followed—it was designed to basically implement the President's program for accelerating the base reuse process and make it easier for communities with closing military bases to transition to a commercial economy. Under the Pryor amendment, local communities are empowered in the reuse process with the goal to reduce the time it takes to turn closing base property over to communities and foster job creation and economic development.

The President's five-part program and the Pryor amendment are certainly steps in the right direction, and I strongly support both. However, because the base reuse problem is so difficult, the President's program and the Pryor amendment have only partially improved the process; obstacles to rapid base reuse remain. Additional action is needed to further improve the process and remove or mitigate some of the remaining obstacles to rapid base reuse.

This legislation—which is similar to section 2 of a bill I recently introduced, S. 2491—builds on last year's Pryor amendment to further improve the base reuse process. A local redevelopment authority would develop a reuse plan on the local level, balancing the needs of all community and economic development interests.

Under current law, potential homeless assistance providers apply for base property under the McKinney Homeless Assistance Act; the Department of Health and Human Services then denies or approves each request. The McKinney Act—which was enacted before the BRAC process began—has worked relatively well for small parcels of excess Federal property, but was never intended for large military bases.

This bill exempts military bases from the McKinney Act; instead, homeless assistance providers and other community groups would be given a voice in the new reuse planning process. A local redevelopment plan, developed in consultation with homeless assistance planning boards, would weigh the needs of economic redevelopment and job creation with homeless assistance. The Secretary of Housing and Urban Development would review the local redevelopment plan to ensure that it reasonably addresses the needs of the homeless, but economic redevelopment priorities would also be considered in a process that balances competing interests.

The House of Representatives recently passed a similar provision as an amendment to the Housing Reauthorization Act, H.R. 3838. The legislation before use today builds on the House passed amendment, and it is my hope that the House will recede to the Senate provision, and that this bill can be passed and signed into law shortly.

My staff has worked very closely, on a bipartisan basis, with several parties, including Senators PRYOR, ROBB, SIMON, GRAHAM, BOXER, the majority and minority leaders, as well as with Governor Wilson's office, the National Law Center on Homelessness and Poverty, and other interested parties in developing and drafting the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. Crucial input was also provided from many of my colleagues in the House of Representatives, including Congresswoman JANE HARMAN. In addition, this bill was drafted in consultation with an administration interagency working group consisting of representatives from DOD, HUD, HHS, GSA, and the Council on the Homeless, as well as staff from the Armed Services, Banking and Housing, and Governmental Affairs Committees in both the House and Senate, and on both sides of the aisle.

Another base closure round is fast approaching that could be larger than the first three BRAC rounds combined; it will affect communities across the country. This timely legislation will improve the reuse process for those bases already slated for closure, as well as for bases yet to close. It will also help accomplish a very important objective—the acceleration of the economic redevelopment process for communities suffering from the closure or realignment of military bases. This is important legislation that is badly needed in base closure communities throughout the country. I urge all of my colleagues to support the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

I ask unanimous consent that some examples of letters in support of this legislation be printed in the RECORD at this time. In addition, I ask unanimous consent that a summary and concept paper of this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY HALL,
Los Angeles, CA, August 23, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: We are writing to enlist your active support for an amendment to Title V of the Stewart B. McKinney Homeless Assistance Act of 1987, that will be offered during floor consideration of S. 2049, the housing and community development reauthorization bill. This amendment is extremely critical to the implementation of the Alameda Corridor Transportation project which is in jeopardy as a result of Title V. Title V mandates that homeless organizations be given priority in the acquisition of surplus military property to the exclusion of local government redevelopment projects.

Site 6A, a tract of land which is pivotal to the Alameda Corridor, is part of the Long Beach Naval Station complex which was closed on June 30, 1994. Pursuant to Title V, the federal Department of Health and Human Services is responsible for approving applications from homeless organizations interested in operating programs on Site 6A. However, without Site 6A the Alameda Corridor project will be irreparably harmed.

For this reason, we request that you join efforts underway in the Senate to craft a floor amendment to Title V that would expand the action already taken by the House and give local governments the authority to use available surplus military property for economic development projects that are deemed to have a significant economic impact. As you well know, the Alameda Corridor is one such project and includes significant job creation potential for both he Los Angeles region and the nation.

The success of this amendment is critical to the future of the Alameda Corridor project and similar economic development projects around the country. Thank you for your assistance in this extremely critical matter.

Sincerely,

RICHARD J. RIORDAN,
Mayor.
JOHN FERRARO,
President, Los Angeles City Counsel.

NATIONAL ASSOCIATION OF INSTALLATION DEVELOPERS,
Alexandria, VA, October 5, 1994.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, U.S. Senate, Washington, DC

DEAR MR. LEADER. As President of the National Association of Installation Developers, I am writing to urge you to use your office to ensure passage of legislation to reform the Steward B. McKinney Homeless Assistance Act as it pertains to closing military bases.

In July, the House of Representatives passed H.R. 3838, the Housing Reauthorization Act. This bill included an amendment to reform the Steward B. McKinney Homeless Assistance Act as it pertains to closing military bases. The effect of this amendment would be to restore control over the reuse of these bases to the local community while maintaining a requirement that homeless assistance be included in a final reuse plan. By including provisions for coordination between local reuse authorities and homeless providers, the legislation insures that homeless assistance will receive consideration alongside economic reuse, and that a comprehensive reuse plan serving all community interests is developed. This amendment builds upon the reforms Congress enacted as part of the Pryor Amendments included in the Fiscal Year 1995 Defense Authorization Act.

NAID was an active participant in the development of this legislation, working on behalf of our member communities, and in coordination with bipartisan House and Senate members, committee staff, representatives of national homeless groups, and an interagency Task Force on the Homeless. As a result, this amendment balances the interests of all parties and enjoys broad, bipartisan support.

It is clear now, however, that H.R. 3838 will not be considered by the Senate in this Congress. Instead, Senators Pryor and Feinstein have developed legislation to accomplish the reforms included in the House-passed amendment. This legislation now represents the best opportunity for this Congress to remove obstacles to base reuse and ensure communities have the ability to put sensible, community-based economic redevelopment plans in place.

The timing for this reform is critical, as many of the communities impacted by base closures as a result of the 1993 round will soon begin the process of property screening and reuse planning. Without enactment of this legislation, these communities, and others in the future, will continue to face uncertain property disposals and months of potential delays and disputes.

Reform of the McKinney Act remains a top legislative concern for NAID. I appreciate your consideration of this important issue, and hope the Congress will see clear to final enactment of this legislation before adjournment.

Sincerely,

ANN SUMMERS,
President.

NATIONAL LAW CENTER ON HOMELESSNESS & POVERTY
Washington, DC, October 6, 1994.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader,
Washington, DC.

DEAR SENATOR MITCHELL: I am writing concerning the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 which I understand will be offered as a bipartisan Senate Leadership initiative.

We believe that the needs of homeless persons can be best met if there is close cooperation between local communities and homeless assistance organizations. We hope that this legislation which is premised on such cooperation will improve the working relationships at the local level and will enable base closings to move forward more efficiently and to meet equitably the needs of homeless persons and of the community generally.

During the development of this legislation, we have worked closely with a number of Senate offices, the relevant Committees, and representatives of the State of California to suggest improvements and are appreciative of their willingness to listen and respond to those suggestions. We were particularly concerned about the plight of homeless providers who have met all of the requirements of current law, who have filed applications for specified properties, who have had those applications approved and are simply awaiting transfer of those properties. We would want nothing enacted which would push aside those providers with approved applications and leave the identified needs of homeless persons unmet. We believe the final product will guarantee that those needs will be met either by the approved properties, substantially equivalent properties, by funding to secure substantially equivalent properties or by the provision of additional services to homeless providers sufficient to meet the identified needs.

I appreciate the cooperation of your offices in helping address our concerns.

Sincerely,

MARIA FOSCARINIS,
Executive Director.

MERCED COUNTY
BOARD OF SUPERVISORS,
Merced, CA, July 27, 1994.

Senator DIANE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINSTEIN: We are aware that the House has taken action to alter the Stewart B. McKinney Homeless Assistance Act to deal with the special problems raised by the Base Closure process.

It is our understanding that the House action only considers 1993 round and later closures. In fact, several bases from the 1991 closure list have not received their Record of Decision and should be included in any overall language approved by the Senate and Conference.

Military base options are a challenge and difficult to create with directly competing requirements imposed by McKinney. They are particularly difficult in depressed, rural areas desperate for viable, economic/job creating opportunities. Actions, under the law, by Washington, D.C. agencies that do not examine an entire base reuse plan can create untenable situations which, in fact, drive away potential reusers.

We strongly urge your support for changes to the McKinney Act which provide for 1991 base closure installations and the application of sensible, good business approaches to the overall reuse of each individually affected base.

Sincerely,

Jerry O'Banion, *Chairman,*
Merced County Board of Supervisors,
District 5.

SACRAMENTO HOUSING &
REDEVELOPMENT AGENCY,
Sacramento, CA, August 11, 1994

Hon. DIANE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The Sacramento Housing and Redevelopment Agency urges you to support proposed amendments to the 1994 Housing and Community development Act which would revise the McKinney Act to provide local reuse authorities a larger role in planning homeless assistance components at closing military bases. The current McKinney Act screening process which provides for multiple screenings makes it difficult for local reuse authorities to plan for and implement redevelopment activities.

The Sacramento Housing and Redevelopment Agency is involved in the reuse planning and implementation for Mather Air Force Base (announced for closure in 1988) and the Sacramento Army Depot (announced for closure in 1991). The Sacramento Housing and Redevelopment Agency's successful McKinney Act application at Mather Air Force Base has been hailed as a model for the nation. In October 1993, the U.S. Department of Housing and Urban Development (HUD) awarded the Agency $12.84 million to develop and administer a transitional housing and employment skills development program (the largest single grant ever made by HUD under the Stewart B. McKinney Supportive Housing Program). Despite this program, properties at Mather Air Force Base continue to be screened.

The Sacramento Housing and Redevelopment Agency requests that the 1994 Housing and Community Development Act be amended to exempt property screened after January 1, 1994 and for which the U.S. Department of Health and Human Services has not yet approved a homeless application be exempt from the normal McKinney process and instead be subject to a new community homeless plan component. If HUD does not approve the homeless component, base property would then be subject to the standard quarterly McKinney screening process. It is imperative that such provisions apply to 1988 and 1991 base closures and that communities with existing homeless components be exempt from planning for additional homeless assistance programs and further screening.

I thank you for your consideration of this matter. If you have any questions or would like more information, please call me at (916) 440-1333.

Sincerely,

JOHN E. MOLLOY,
Executive Director.

BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994

USE OF CLOSING MILITARY BASES FOR ECONOMIC REDEVELOPMENT AND HOMELESS ASSISTANCE

(Developed in consultation with Congressional staff and an interagency working group consisting of representatives from DOD, HUD, HHS, GSA and the Interagency Council on the Homeless)

1. Base Closure and Realignment property shall be exempted from the current provisions of Title V of the McKinney Homeless Assistance Act. Instead, homeless assistance providers, homeless persons and their representatives will have a voice in the reuse planning process for closing military installations. The Local Redevelopment Authority (LRA) will be used to request property on a portion of the base or to request other assistance related to the development of the base. Accordingly, homeless assistance providers will no longer be able to make requests directly to the Federal government for all or part of an entire installation. The redevelopment plan developed by the LRA will be required to be based on local needs as well as balance all community and economic development interests, including those of the homeless.

2. DoD and Federal agencies will screen available properties and participate in the local planning process by submitting an expression of interest and a statement of need to DoD, with a copy to the LRA. (Federal agencies may obtain property either directly from DoD or through the LRA under economic development conveyances.)

3. Following the DoD/Federal agency screening, DoD shall publish in the Federal Register information about excess and surplus property on a base. State, local and other interested parties are encouraged to express their needs to the LRA as soon as practical after approval of closure. DoD shall also publish the name of the LRA and LRA contacts as soon as an LRA is established. The Interagency Council on the Homeless will assist in disseminating this information to organizations serving the homeless. The LRA will be responsible for publicizing its planning and public input process in local publications.

State and local interests, including community-based homeless-related interests, and all other parties shall express their interest and statement of need for base property to the LRA. A submission from a homeless assistance provider to the LRA shall include a statement describing: (1) its proposed homeless assistance program; (2) the need for the program; (3) the linkages of the proposed program to other programs available in the community; (4) the specific properties, facilities or other resources needed to carry out the proposed program; and (6) the amount of time necessary for the proposed program to become operational.

4. All statements of interest from state and local interests, homeless assistance providers and other parties shall be submitted to the LRA within a time frame set by the LRA and made public (but not less than three months and not later than six months after completion of DoD/Federal screening). [For those bases already slated for closure that have already completed the screening process, the time frame shall be not less than one month and not later than six months.] This process of submitting non-DoD/Federal statements of interests is intended as a substitute for the state and local screening under GSA regulations.

5. The local Homeless Assistance Planning Board (HAPB) established under (proposed)

Section 411(b) of Title IV of the McKinney Act (as provided for in Section 811 of H.R. 3838) (if one exists) is expected to take the lead in coordinating and reviewing requests from homeless providers and making recommendations to the LRA on those requests. If no HAPB exists, a committee with representatives from the local government and broad representation from locally based government and non-government homeless providers may be established to coordinate these efforts.

6. The LRA will have not more than 9 months from completion of the screening period to complete and submit a redevelopment plan [note: this is not more than 21 months from approval of closure]. DoD may negotiate and enter into interim leases for use of available properties (consistent with the redevelopment plan) prior to permanent transfer or disposal.

7. The LRA will submit a redevelopment plan and application for certification to DoD and HUD. (The plan discussed in this proposal is the "redevelopment plan" defined in Title 29 of the Defense Authorization Act of 1994.)

The LRA's application shall be appropriately documented and include:

(a) A copy of the redevelopment plan.

(b) Copies of all expressions of interest from homeless assistance providers and a discussion of how these and all other requests for property, including those from Federal agencies, state and local interests, etc., are being addressed;

(c) A summary of the LRA's outreach to homeless providers and publicity efforts, as well as a summary of any public comments.

(d) A summary of the LRA's consultations with other organizations in developing the plan (including consultations with local Homeless Assistance Planning Boards and homeless providers who have expressed interest);

(e) A statement from the LRA of how the plan balances the expressed needs of the homeless (either on- or off-base) and other community and economic development needs; and

(f) Copies of proposed legally binding and enforceable agreement(s) that the LRA has entered into to fulfill its commitment(s) to homeless assistance providers. The agreement(s) must set forth the LRA's policies and procedures for determining the future use of properties, transfers for homeless assistance resources provided in accordance with the plan, in the event that local needs or circumstances change. In this case, any property which has been transferred for homeless assistance use shall revert to the LRA or its authorized local designee for a use consistent with its legally binding agreement with the homeless provider, and not revert to DoD.

The redevelopment plan shall be site-specific to the extent practicable. (The LRA may submit a more specific plan at a later date if the plan involves a base which is scheduled for closure more than 24 months following DoD's Federal Register announcement). DoD may begin to review the LRA's redevelopment plan and incorporate it into the environmental analysis required for NEPA.

8. HUD will review the entire submission to certify that the plan adequately addresses the needs of the homeless and that it balances those needs with the need for community and economic development. The reuse plan must:

(a) include commitments to enter into legally binding agreements to provide assistance to the homeless within the community, and copies of such agreements;

(b) balance the need for providing property and assistance to the homeless with the overall reuse plan for the military installation;

(c) have been developed in consultation with local representatives of the homeless, including representatives of applicable local homeless assistance planning boards and representatives of local nongovernmental homeless providers;

(d) specify the manner in which property or assistance will be made available for homeless assistance.

In making the determination, HUD will consider the population of the homeless in the community involved, the extent of current services to assist the homeless within the community, the extent of the commitment of resources by local governments in the community to assist the homeless, the need for additional services to assist the homeless within the community, and the suitability of the property for serving the needs of the homeless.

Formal adoption of the redevelopment plan must be made in a public forum and in accordance with applicable state and local laws. In addition, the redevelopment plan submitted should include a summary of comments from community groups and other interested parties as expressed during a public comment period.

9. HUD will have 60 days to complete its review of the plan, certify that the plan either does or does not reasonably address the needs of the homeless (either on- or off-base) and balance those needs with the need for community and economic development, and notify the redevelopment authority. During this period, HUD may work with the LRA to identify inadequacies and may negotiate changes to the plan. DoD will not convey any properties to the LRA unless and until HUD certifies that the LRA's submission is acceptable.

(a) If HUD certifies that the plan balances homeless assistance needs with community and economic needs, HUD will notify DoD and the LRA. DoD will then work with the LRA to fulfill the approved commitments for homeless use.

(b) If HUD determines that the plan fails to reasonably address the needs of the homeless and balance the need for community and economic development, then HUD will state the specific reasons for its conclusions and specify actions needed to make the plan acceptable. HUD's report will be sent both to DoD and the LRA.

10. If the redevelopment plan is not approved by HUD, the LRA will have 90 days following the receipt of HUD's report to submit a revised plan to HUD and DoD that addresses HUD's concerns. HUD will review the revised plan and either certify that it is either acceptable or unacceptable within 30 days of receipt. If HUD certifies that the revised plan is unacceptable, HUD will, within 90 days, administer the following process:

(a) HUD will review the original expressions of interest from homeless assistance providers for property on the base there were included in the LRA's submission (see paragraph 7(b) above).

(b) HUD will consult with these providers to determine if they are still interested in property on the base for homeless assistance purposes and obtain additional information necessary to prepare leases, deeds or other conveyance documents.

(c) HUD will request that these providers submit a detailed proposal containing information related to its proposed program which is similar to that currently submitted to HHS as part of the current McKinney Title V process (e.g., financial capacity, environmental issues, and compliance with Federal non-discrimination laws). The applicant will also be asked to certify and document the availability of appropriate sewer, water, police and fire services.

(d) HUD will review these proposals and make a recommendation to DoD consistent with its previous report to DoD and the LRA on the redevelopment plan. In making this recommendation, HUD will address the suitability of the identified properties for homeless use in consultation with DoD and in accordance with the current HUD checklist for McKinney properties.

11. If HUD approves the redevelopment plan, DoD will, after reviewing recommendations from the appropriate federal agencies and in compliance with current law, ordinarily convey properties to an LRA or to other entities approved for public benefit uses under the Federal Property Act. DoD may, when necessary, transfer properties directly to providers identified by the LRA (or approved by HUD finds the LRA's plan unacceptable) to meet the needs of the homeless.

12. In those limited cases in which DoD conveys property directly to homeless providers, HUD will work with DoD and the providers in preparing the necessary deed.

13. DoD, in consultation with the LRA and the Secretary of HUD, may extend any of the time lines mentioned above if doing so is in the public interest.

14. The new process identified above shall apply to any installation approved for closure after the date of enactment.

15. In the case of property on an installation already approved for closure, the LRA may, within 60 days of enactment of this proposal, submit a request to DoD for consideration under the new procedures instead of the current McKinney Title V process.

If a homeless assistance provider has a pending McKinney Act application but not yet approved, that homeless assistance provider shall be given preferential status by the LRA when determining homeless needs in the redevelopment plan. If a McKinney Act application has already been approved by HHS but property has not yet been transferred, the LRA must demonstrate in the redevelopment plan how it will accommodate, at a minimum, the approved program(s) and activities on or off the base in a substantially equivalent manner.

16. For the 60 calendar days immediately following enactment of this proposal, HHS will suspend processing of all expressions of interest and applications for base closure properties under the current McKinney process which have been published by HUD but not approved. At the end of this 60 day period, HHS will resume processing applications in accordance with applicable law and regulations.

17. In the event a request is filed in connection with the process described in paragraphs 13 or 14 above, HHS and HUD will suspend the McKinney application process for the applicable properties. DoD will notify HHS and HUD (who will notify any affected homeless providers) that a LRA wishes to proceed under this new section.

18. The LRA will be responsible for monitoring the implementation of the redevelopment plan.

Mr. DOLE. Mr. President, I rise today to sponsor with the majority leader the "Base Closure Community Redevelopment and Homeless Assistance Act of 1994."

This legislation changes the process used to determine the use of military bases closed under the 1990 Defense Base Closure and Realignment Act.

This needed change allows local communities to determine what the best use should be for the military bases. Communities would be able to balance economic needs with other critical issues like the needs of the homeless. To facilitate this the McKinney Act, established before the 1990 Defense Base Closure and Realignment Act, would no longer give to homeless providers the first priority of all surplus property on closed military bases.

This proposed legislation would provide that local communities would establish a local redevelopment authority to develop plans for the best use of the property. There is no question that we want to leave the door open to this improved, yet still cumbersome process, and consider improving upon it next year. Nevertheless this proposed legislation is a good first step.

So far over 70 major bases have been closed and more than 30 have been realigned. Current law makes it difficult for these communities to reach the degree of economic redevelopment they want. However, this legislation will provide these communities with greater flexibility in implementing economic initiatives which will begin to meet the needs of all members of the community, including the homeless. By passing this legislation now, we will not only provide immediate relief to the already impacted communities, but we will improve the process for the upcoming round of base closures. As my colleagues know, BRAC III is suppose to equal the total, in replacement value, of the sum of BRAC I and II.

Strong bipartisan support and teamwork exist on this issue. Particular attention needs to be given to the leadership of our former colleague Senator Pete Wilson. In 1993 Governor Wilson created the California military base reuse task force and emphasized the need to identify the obstacles to effective base re-use and to make recommendations to overcome the barriers.

The basis of the legislation currently before us was one of the primary recommendations of Governor Wilson's task force which identified the need of having local economic concerns and job creation considered along with homeless issues.

The need for this legislation is significant. For example, Governor Wilson's task force reports that 22 installations in California will shut down and result in the loss of 200,000 jobs and about $7 billion of annual income. If legislation is not passed immediately those local communities will have increased difficulty under the McKinney Act in regenerating these losses because the homeless providers have the first priority on the military bases.

Mr. President, I urge my colleagues to support this proposed legislation.

BANKRUPTCY REFORM ACT OF 1994

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5116, the bankruptcy reform bill, just received from the House; that the bill be deemed read the third time, passed, the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5116) was deemed read the third time, and passed.

Mr. GRASSLEY. Mr. President, I am pleased to support H.R. 5116. This bill represents the collective wisdom of the Senate and the House concerning needed bankruptcy reforms. As an original cosponsor of the Senate-passed bill, S. 540, I would have its enactment. Nonetheless, compromise is the key to enact just about anything, I can support this compromise bill as a good effort to improve our Nation's bankruptcy laws. Indeed, several of the provisions of the House bill were an improvement on the Senate language.

At this time, I would like to address a number of the issues covered by this legislation. First, I am pleased that the House has agreed to create a bankruptcy review commission. Since the enactment of the present code in 1978, the code has not been able to accommodate the many changes in the economy and other laws. Although the code largely has functioned well, no one in 1978 could have foreseen the changed circumstances that now confront our bankruptcy system. This year, more than 900,000 bankruptcy petitions will be filed, many more than anyone could have imagined in 1978. Since 1978, the world economy has become more international in scope, and the economic boom, in part financed through debt in the 1980's, has led to a multitude of bankruptcies in the 1990's. Additionally, new laws have been enacted whose relation to bankruptcy has not been carefully evaluated. And despite the 1984 legislation in response to the Northern Pipeline decision, the constitutionality of the current bankruptcy system is not certain. The Blue-Ribbon Bankruptcy Commission established by this bill will evaluate the code's deficiencies, substantively and operationally, and make recommendations to the Congress for legislative change. Thus, while H.R. 5116 will improve the bankruptcy system, its greatest contributions will come from the commission it creates.

One provision in section 104 of the bill concerns the establishment of bankruptcy appellate panels. The Federal courts study committee recommended that Congress require each Federal Court of Appeals establish a bankruptcy appellate panel. It also recommended that parties affirmatively opt out of the procedure or else have their cases heard under it. Unless specified circumstances apply, the Federal Courts of Appeals will be required to establish bankruptcy appellate panels under this legislation. The Federal Courts Study Committee found that the ninth circuit's BAPS disposed of 902 appeals in 1987 and 664 in 1988, reducing the workload of both district and appellate courts, and have received favorable reviews from both bench and bar. They foster expertise, and increase the morale, of bankruptcy judges, in part by offering them an opportunity for appellate work. I am pleased that H.R. 5116 will promote this procedure.

Section 202 of the bill amends section 550 of the code relating to the recovery of preferences to insiders. Currently, section 547 of the bankruptcy code authorizes trustees to recapture preferential payments be made to creditors within 90 days prior to a bankruptcy filing. Because of the concern that corporate insiders (such as officers and directors) who are creditors of their own corporation have an unfair advantage over outside creditors, section 547 of the Bankruptcy Code further authorizes trustees to recapture any preferential payments to such insiders which were made a full year prior to a bankrputcy filing.

Several recent court decisions, beginning with *Levit* v. *Ingersoll Rand Financial Corp. in re V.N. Deprizio Construction Co.*, 874 F.2d 1186 (7th Cir. 1989), have allowed trustees to recapture payments made to non-insider creditors a full year prior to the bankruptcy filing, if an insider benefits from the transfer in some way. Although the creditor is not an insider in these cases, the courts have reasoned that because the repayment benefited a corporate insider (namely the officer who signed the guarantee), the non-insider transferee should be liable for returning the transfer to the bankrupt estate as if the transferee were an insider as well.

Our legislation overrules the Deprizio line of decisions and clarifies congressional intent that non-insider transferees should not be subject to the preference provisions of the Bankruptcy Code beyond the 90-day statutory period. Our aim is to encourage commercial lenders and landlords to extend credit to smaller business entities.

Section 219 makes needed changes in the treatment of leases of personal property. Sixty days after the order for relief, the debtor will have to perform all obligations under the equipment lease, unless the court holds a hearing and determines otherwise, with the burden on the debtor. The word "first" as used in the section refers to the payments and the performance of all other obligations that initially become due more than 60 days after the order for relief. The purpose of that reference is to make clear the intent that the provision does not affect payments originally due prior to 60 days before the order of relief.

Title III of the bill will assist homeowners. Some homeowners attempt to prevent their homes from being foreclosed upon, even though a bankruptcy court has ordered a foreclosure sale. There may be several months between the court order and the foreclosure sale. Section 301 will preempt conflicting State laws, and permit homeowners to present a plan to pay off their mortgage debt until the foreclosure sale actually occurs. And section 305 will prevent mortgage lenders from imposing interest on interest when mortgage lenders from imposing interest on interest when mortgage arrearages are cured, even when the mortgage instrument is silent on the subject. This section will affect all future mortgages unless the mortgage expressly retains the lender's right to impose such interest on interest.

Title III also expands the criminal code's bankruptcy provision. Section 312 of the bill enacts a new section 157 to 18 U.S. Code on Bankruptcy Crimes. The provisions of section 501 of S. 540, which contained similar provisions, had a subsection (b) which contained certain provisions about requisite intent for criminal liability. The omission of these S. 540 provisions from H.R. 5116 is not intended to signal any congressional purpose to lower the standard on intent necessary to impose criminal liability on entities participating in the bankruptcy process. For example, bona fide settlements are not intended to be criminal under any provision of section 312 of H.R. 5116, nor are indeliberate errors in documents which are not part of any scheme to defraud. By way of further example, entities who act in good faith or who rely in good faith on advice of professional persons are not exposed to criminal liability under section 312.

I wish to commend Senator HEFLIN for his persistent efforts to see to it that we enact these necessary reforms. I look forward to studying the report of the Bankruptcy Review Commission to determine what further efforts should be made to strengthen the operation of the bankruptcy code.

Mr. HEFLIN. Mr. President, I rise to discuss H.R. 5116, the Bankruptcy Reform Act of 1994 that passed the Senate today.

The passage of this bill brings to a close almost 5 years of work on this legislation. I would like to briefly outline some of the major provisions of this legislation.

The first title of this bill is a collection of provisions intended to increase the efficiency of the bankruptcy court; helping debtors and creditors alike.

The second title relates to consumer bankruptcy issues. Included in this section is an amendment allowing for the curing of a default on a person's principal residence, as well as a provision that will help ensure child support and alimony will continue to be paid after the filing of an individual bankruptcy.

The next title addresses the area of commercial bankruptcy, specifically the role of chapter 11 in today's economy. In this section of the bill there are various provisions intended to update the bankruptcy code in light of the tremendous number of commercial filings each year.

Title four of this bill may be the most important section of the entire bill. This title establishes the national bankruptcy review commission. The commission will have the ability to review and study a wide range of problems presently facing the bankruptcy system, as well as help prepare for the future. I encourage the funding for this commission, at the earliest opportunity, and in the first appropriate vehicle, so that it can begin its' task.

I would like to mention several topics of importance that have come to my attention and which we have addressed during the consideration of this bill. This, of course, is not an exclusive list:

The establishment of provisions within chapter 11 which are designed to help small businesses reorganize quickly and more efficiently;

The problems in cases with single asset real estate;

The establishment of a bankruptcy appellant panel to afford debtors and creditors an efficient mechanism for bankruptcy appeals;

The new section 106(c) recodifies currently existing section 106(b). No substantive change in the law is intended.

The problems faced by issuing card companies when a debtor uses their card to pay Federal taxes and subsequently files for bankruptcy;

The protection of local governments ability to perfect and enforce tax liens;

The confusion over the hotel income/rents issue;

The clarification that section 365 protection for lessors requires the lessee to perform all obligations that become due or payable 60 days after the order for relief;

The highly complex and controversial issues that result from mass torts, health care, and environmental law.

Mr. President, I would like to thank all of the Members of the Senate who have worked with me on this important legislation. I am hopeful that this bill will be signed into law.

TREATMENT OF PRODUCTION PAYMENTS

Mr. SIMPSON. Mr. President, I rise for the purpose of entering into a colloquy with the distinguished Senators from Alabama and Louisiana regarding section 208 of H.R. 5116 which relates to the treatment of production payments i a bankruptcy context.

Mr. HEFLIN. I yield to my friends for the purpose of a colloquy.

Mr. SIMPSON. I have been informed that during House consideration of the bills, certain legislative language, although implied, was inadvertently omitted by the other body. This language is extremely important to the bill. It is critical that the point of this language be clarified so that we fully understand that not only the conveyance of a production payment, but also an oil and gas lease, are each real property interest, excluded from the debtor's estate in bankruptcy.

Mr. JOHNSTON. May good friend from Wyoming is correct, apparently there was some hesitation on the part of the other body to treat oil and gas leases in the bill language because there is currently no definition for an oil and gas lease in the Bankruptcy Code. The absence of a code definition in not relevant since the definition of and oil and gas lease is a matter of State statutory and case law. And further, I agree with him that production payments and oil and gas leases are both real property interests excluded from the debtor's estate in bankruptcy.

Mr. HEFLIN. I thank my good friends for bringing this matter to my attention and I certainly defer to my colleagues' expertise in the oil and gas industry. I concur that both production payments and oil and gas leases are real property interests for purposes of section 541 of the Bankruptcy Code and I will point out that in S. 540 we included language to that effect.

Mr. SIMPSON. I thank my good friend for that clarification, but I need to further point out drafting errors in the House section-by-section description printed in the CONGRESSIONAL RECORD for October 4, 1994, on page 10767. The language contains inaccuracies which must be corrected. Specifically, and I quote, "a production payment is an interest in the product of an oil or gas producer * * *" and "* * * the interest in the product that is produced." I think we all know that a production payment is not an interest in "product", rather, it is an interest in certain reserves of an oil or gas producer. I further quote, "These payments, often transferred by way of oil and gas leases, * * *" Production payments are not transferred by oil and gas leases; they are created out of oil an gas leases by written conveyance. The sentence should instead read, "The production payment is created out of an oil and gas lease, each of which is a real property interest." Finally, and I quote with reference to oil and gas producers "generating income from their property", it would be more appropriate to state that these capital-strapped producers may monetize their property without giving up operating control of their property.

Mr. JOHNSTON. If the Senator will yield, I would like to point out that the terms product and reserves have two very different and distinct meanings in the oil and gas industry, therefore it is important that these points be clarified. And further, I agree with him that it is impossible to transfer a production payment by virtue of an oil and gas lease; rather, a production payment is carved out of an oil and gas lease.

I agree with the Senator that it is very important to clear up any misunderstanding that may have been inadvertently created by the House regarding production payments and oil and gas leases; each of these interests is a real property interest.

Mr. SIMPSON. I might add as a final point, the record fails to clarify the treatment of oil and gas leases in a bankruptcy context. A sentence should have been included in the House text that states: "It is not the intent of this section to permit a conveyance of a production payment or an oil and gas lease to be characterized in a bankruptcy context as a contractual interest rejectable under section 365 of the Bankruptcy Code."

Mr. HEFLIN. I concur with the honorable Senator from Wyoming, neither production payments nor oil and gas leases should be characterized in a bankruptcy context as a contractual interest rejectable under section 365 of the Bankruptcy Code. And I thank both Senators for pointing out to me that the CONGRESSIONAL RECORD contains many inaccuracies evidencing a failure to define and understand the nature of these interests.

Mr. SIMPSON. I thank my distinguished colleagues from Alabama and Louisiana.

Mr. SIMPSON. Mr. President, I rise briefly to express my appreciation to my colleagues, Senators HOWELL HEFLIN and CHARLES GRASSLEY, for their untiring work in the area of bankruptcy reform. Without their leadership, we would not see this important legislation enacted into law.

I am particularly thankful for their assistance in including an amendment I offered to the Senate bill, regarding "Production Payments", in this legislation.

It is important to note that the legislation we are now considering in the Senate, even though it is enrolled as a House bill, is in large part, the Senate-passed legislation that our colleagues crafted.

So I am grateful that Members of both Houses of Congress have agreed to include protection under the bankruptcy code for oil and gas production payments, as provided by my original amendment.

Mr. President, this is an issue which is very important to the oil and gas industry in the west. I would, very briefly, explain to my colleagues what my amendment to this legislation is.

The property law governing transactions in oil and gas—as to both real and personal property—has led to some confusion in bankruptcy cases.

Oil and gas exploration and development is already a very high risk undertaking, and uncertainty about how Federal courts will deal with particular issues makes it even riskier for potential investors.

This is one narrow area where we in Congress can help to reduce unreasonable risk to innocent investors.

Typically, the owner of rights to drill obtains part of the funding for a new well by agreeing to pay back the funding "in kind"—repayment is not in cash, but in product.

That payment is a "production payment".

A problem has arisen in that, if the produced declares bankruptcy, then some courts have looked to the production payments as a source of additional revenue for unsecured creditors.

That is a very unfair result, Mr. President, because the owner of that production payment is blameless in the bankruptcy proceeding. Indeed, the owner of a production payment is analogous to what is known in legal terms as a "bona fide purchaser for value".

This legislation recognizes that a production payment transferred prior to bankruptcy is a real property interest. it is therefore excluded for the estate of the debtor who transferred that interest to the current owner.

The intent of this provision is that an oil and gas lease, out of which the production payment is created, is also recognized as a real property interest in bankruptcy law—just as that real property interest is recognized under the laws of the various States.

When we crafted this provision, we were careful to make it clear that it was not our intent to permit a conveyance of a production payment to be treated as no more than a contractual interest. Such interests are commonly recharacterized in a bankruptcy proceeding with the result that the innocent owners of production payments are "left out in the cold". That is precisely the type of confusion and inequity that this provision is designed to prevent in the future.

So, Mr. President, I wish to extend my appreciation to our colleagues, Senators HOWELL HEFLIN and CHARLES GRASSLEY for their assistance. I would also recognize the valuable assistance provided by Oklahoma Representative MIKE SYNAR, and House Judiciary Committee Chairman JACK BROOKS, in accepting this provision as part of the final legislation which we will be voting on today. I thank them, and I thank the chair.

CREATION OF BANKRUPTCY APPELLATE PANEL SERVICES

Mr. HEFLIN. Mr. President, the intent of Section 104(c) is to require the judicial council of each circuit to establish a bankruptcy appellate panel service. However, we also recognize that there will be some circumstances in individual circuits where the establishment of a bankruptcy appellate panel service would not be a benefit to the parties or to the system. Therefore, we have included language that permits a judicial council to determine that there are insufficient judicial resources available in the circuit to create a bankruptcy appellate panel service or that creation of such a service will result in undue delay or increased cost to the parties. For example, in some circuits the majority of appeals are generated from a single large district with numerous bankruptcy judges. However, in the remaining districts within the circuit there are only one or a small number of bankruptcy judges and very few appeals. Because the legislation prohibits a bankruptcy judge from hearing an appeal that originated in the district to which they are appointed, the burden of hearing such appeals will be placed on the judges for the smaller districts, while those judges from the District with the majority of the appeals in the circuit will be eligible to hear very few appeals. Because of this disparate distribution of appeals there may be insufficient judicial resources for the effective operation of a bankruptcy appellate panel service.

Although the number of bankruptcy cases filed each year almost reached one million, the number of bankruptcy appeals is small in comparison. The average number of appeals per circuit for the last available 12-month period was 408. As with all averages, this number is lower in some circuits and higher in others. There may be situations where the number of bankruptcy appeals filed do not warrant the creation of this new system. In some districts, the medium disposition time for disposing of bankruptcy appeals is efficient under the current system.

It should be recognized that the creation of a bankruptcy appellate panel service can help to establish a dependable body of bankruptcy case law.

I ask that a letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, October 6, 1994.

Hon. HOWELL HEFLIN,
Chairman, Subcommittee on Courts and Administrative Practice, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with regard to proposed bankruptcy legislation that would create a new bankruptcy fraud statute, section 312 of H.R. 5116. To put this measure in perspective, in calendar year 1993, there were over 875,000 bankruptcy cases filed; however there were a mere 183 bankruptcy fraud prosecutions during the analogous period of FY 1993.

As recently stated by the Department of Justice in a letter to House Judiciary Committee Chairman Jack Brooks, dated September 15, 1994:

"Section 157 [of Title 18 of the United States Code], patterned after the wire and mail fraud statutes, would require proof of devising or intending to devise a 'scheme or artifice to defraud.' Like the mail fraud statute, an essential element of the proposed statute requires proof beyond a reasonable doubt of a specific intent to defraud. This is one of the highest mens rea standards in the criminal law. Because of the high burden of proof, most courses of action under the Bankruptcy Code and allowed by the bankruptcy courts are unlikely to be prosecutable under this new law or any other statute. * * * If however, there were no 'intent to defraud' present, as noted above, no prosecution could result."

I hope that this background information allays your concerns regarding proposed section 157.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

PERMANENT INJUNCTIONS

Mr. BROWN. Mr. President, I wonder if the distinguished manager of the bill, the senior Senator from Alabama, is available to answer one of two questions that I have regarding this bill? Specifically, Mr. President, when S. 540, the Bankruptcy Reform Amendments, was considered by the Senate earlier this year, the Senate adopted an amendment sponsored by myself; the senior Senator from Alabama, Mr. HEFLIN; and the Senator from Florida, Mr. GRAHAM. That amendment, which ultimately became section 221 of the Senate-passed bill, sought to codify the authority of the courts to issue permanent injunctions under certain circumstances. Can the distinguished bill manager advise me regarding the disposition of that provision? Is it included in the bill that passed the other body and is before us for approval today?

Mr. HEFLIN. Mr. President, if the Senator will yield, I can advise the Senator that the provision he refers to was approved by the House and is a part of the measure we have before us today. What was section 221 of the Senate bill is now substantively reflected in Section 111 of the House bill. Certain minor changes to the language of the provision were recommended by the House, and I understand that the provision as adopted by the House is acceptable to the various parties that have been involved in this matter.

Mr. BROWN. Mr. President, I thank the distinguished bill manager for his response, and I wonder if I might make an additional inquiry? Specifically, Mr. President, I wonder if the Senator from Alabama can enlighten the Senate regarding the impact of this "Supplemental Permanent Injunctions" provision on those existing Injunctions that have been issued in asbestos-related Chapter 11 reorganizations, as well as its impact on any subsequent injunction that may be issued in an asbestos-related reorganization proceeding.

Mr. HEFLIN. Mr. President, if the Senator will yield, I would be happy to respond. Mr. President, section 111 will codify a court's authority to issue a permanent injunction to supplement the existing injunctive effect of section 524 of the Code in asbestos-related chapter 11 reorganizations. This section provides that, if certain defined conditions are satisfied, a court may issue a supplemental permanent injunction barring asbestos-related claims or demands against the reorganized company and channeling those claims to an independent trust. To qualify under the statute, such a trust is to be funded in whole or in part by the securities of the reorganized company, which at some time could be borrowed against, or more likely sold outright, to raise cash to pay claims; and the reorganized obligation to make future payments, including dividends, to the asbestos victims' trust.

Moreover this section is carefully limited to bankruptcy orders where certain specified conditions are satisfied, including requirements that a supermajority of the affected class of asbestos claimants vote to approve the plan creating the trust and authorizing the injunction, and that the terms of the injunction be set out in the plan or related documents and fully detailed in any plan description issued for the purposes of soliciting creditor approval. If and when these and other conditions are satisfied, the section provides that the affected injunction is permanent and irrevocable except on initial appeal of the plan, if any.

Mr. President, this statutory affirmation of the court's existing injunctive authority is designed to help asbestos victims receive maximum value. It does so by assuring investors, lenders, and employees that the reorganized debtor has indeed emerged from Chapter 11 free and clear of all asbestos-related liabilities other than those defined in the confirmed plan of reorganization, and that all asbestos-related claims and demands must be made against the court-approved trust. This added certainty will ensure that the full value of such a trust's assets—the securities upon which it relies in order to generate resources to pay asbestos claims—can be realized.

Finally, Mr. President, with respect to the Senator's specific question, this section applies to injunctions in effect on or after the date of enactment. What that means is, for any injunction that may have been issued under a court's authority under the Code prior to enactment, such an injunction is afforded statutory permanence from the date of enactment forward, assuming that it otherwise meets the qualifying criteria described earlier. A good example of this would be the injunctions issued in the Manville and the UNR industries reorganizations, both of which are intended to be covered by this section and both of which will be confirmed as permanent under this statute, so that the securities of these reorganized companies should no longer be discounted because of any fear of unknown asbestos liabilities. Regarding any prospective asbestos-related trusts and their related injunctions, they, too, would qualify under the statute so long as the criteria outlined in the proposed legislation are satisfied.

Mr. BROWN. Mr. President, I thank the distinguished bill manager for his explanation, and I am pleased that this provision has been approved by the other body and can be approved by the Senate again here today. As the Senator from Alabama has ably stated, adoption of this provision will assure that the financial markets are free to value the securities of reorganized companies such as Denver-based Manville Corporation, unencumbered by any suggestion that asbestos-related claims arising from Manville's pre-bankruptcy activities, whether existing now or manifesting in the future, may reach to the reorganized company in any fashion other than that provided in the confirmed plan of reorganization. In essence, we are affirming what chapter 11 reorganization is supposed to be about: allowing an otherwise viable business to quantify, consolidate, and manage its debt so that it can satisfy its creditors to the maximum extent feasible, but without threatening its continued existence and the thousands of jobs that it provides. I am pleased to have been an original sponsor of this important provision, and I urge my colleagues to support it and the entire Bankruptcy Reform Amendments package that is before us today.

Mr. HATCH. Mr. President, the Bankruptcy Act of 1994 is one of the most important pieces of economic legislation to be considered and passed by the 103d Congress. It is important because it clarifies many of the existing ambiguities in our bankruptcy law that have, in essence, discouraged the extension of new credit to our businesses in Utah and throughout the Nation.

The bill responds to these concerns by offering clear guidance to both creditors and debtors as to the risks they are undertaking. It strikes a fair and delicate balance between the rights and responsibilities of creditors and the rights and obligations of debtors. More important, it encourages the credit community to extend much needed new capital to the well deserving businesses in our communities seeking to grow and expand. In sum, this bill is good for business, good for creditors, and good for consumers.

This bill also creates a new Bankruptcy Commission to study and investigate bankruptcy issues and problems. One issue that merits careful study is the relationship of local governments to bankruptcy law. This issue is of great concern to many local governments in Utah, including Salt Lake City. We need to review how the priority provisions of the code impact our local governments as they are increasingly drawn into the bankruptcy process.

In coming to an agreement on the provisions contained in H.R. 5116, the House and the Senate have agreed to eliminate section 205 of S. 540, the Senate-passed bill. Section 205 provided that, unless a landlord obtain a stay pending appeal, the reversal or modification of an assignment of a lease will have no effect on a good faith assignee. While there is some disagreement as to the proper interpretation and implementation of the bankruptcy code in this area, I believe that the decision in in re Slocum was correct in its analysis of the law.

The House has added a new provision, section 216, to the Bankruptcy Reform Act and I would like to clarify my belief as to the purpose and intent of including this section. It is my understanding that the current statute of limitations contained in section 546(a) of title 11 requires that an avoidance action be brought within 2 years of the filing of a chapter 11 petition, even if a trustee or other estate representative is subsequently appointed or the case is later converted. Thus, under current law, if a trustee or other estate representative is appointed after the current 2 year statute of limitations expires, any actions which the trustee may discover are time-barred. This amendment has arisen from a perceived need to provide a period of time for a later appointed bankruptcy estate representative to investigate and institute actions.

This is yet another area of bankruptcy law that has been the subject of extensive litigation recently, and I commend the Congress for its attention to this problem. This amendment should prevent prejudice against potential defendents that would result from having to defend stale actions and should encourage estate representative to investigate and resolve actions earlier in a bankruptcy case, thus minimizing estate expenses and maximizing the value of the estate to all creditors.

On January 1, 1995, the longstanding "Stock for Debt" rule, which has been a fixture of U.S. tax law for 50 years, will be repealed pursuant the terms of the Revenue Reconciliation Act of 1993. The rule has been an essential tool for reorganizing and restructuring financially troubled companies in chapter 11. I regret the repeal of the "Stock for Debt" rule, but the passage of this major bankruptcy reform legislation creates the perfect opportunity to reexamine the need for tax incentives to rehabilitate troubled companies.

Currently, the "Stock for Debt" rule allows creditors to exchange millions of dollars of debt in troubled companies for equity interests in those companies, resulting in many new financially viable business ventures. If creditors agree to the exchange, they invest in the reorganized company's future, reduce the company's debt and preserve the jobs of the company's employees.

The repeal of the "Stock for Debt" now means that chapter 11 companies that exchange their stock for their debt will, in effect, be taxed on the differences between the value of the debt forgiven and the value of the stock received by the creditors. This tax liability will be satisfied by reducing the reorganized company's tax attributes—such as reducing the company's net operating losses or its tax basis in assets. By reducing these tax attributes, the creditors will be investing in a reorganized company that is worth much less. Thus, creditors will be less likely to exchange debt for stock or will demand more for the exchange. The reorganized company will be weakened—or its reorganization will fail—all to the severe detriment of its employees.

The reinstatement of the "Stock for Debt" exception is crucial to the hundreds of thousands of Americans whose jobs may be on the line in the months and years ahead as companies attempt to restructure. The "Stock for Debt" exception may make the difference between a company's survival or its failure. More important, for employees of the affected company, it could mean the difference between continued employment and unemployment.

The repeal of the "Stock for Debt" rule raises serious questions for those of us concerned with bankruptcy policy. As a matter of public policy, both our Bankruptcy Code and tax laws have traditionally favored the rehabilitation of troubled companies over their liquidation. Unfortunately, the Congress has deviated from our longstanding policy with the elimination of the "Stock for Debt" rule.

Mr. President, I urge my colleagues on both the Judiciary and Finance Committees to join me in efforts in the 104th Congress to review the need for tax incentives to rehabilitate troubled companies as well as other aspects of bankruptcy taxation.

Finally, let me again express my appreciation to Senators HEFLIN and GRASSLEY for their fine leadership in crafting a bankruptcy bill acceptable to the Senate, to consumers, and to the entire bankruptcy community. I commend them for their untiring efforts and I look forward to working with them on bankruptcy tax issues in the next Congress.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar Nos. 1136, 1137, 1138, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1211, 1213, 1228, 1288, 1290, 1291, 1292, 1293, 1316, 1319, 1320, 1321, 1323, 1324, 1325, 1326, 1329, 1330, 1331, 1332, 1333, 1347, 1348, 1349, 1350, 1351, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, and all nominations placed on the Secretary's Desk in the Air Force and Army.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations, considered and confirmed, en bloc, are as follows:

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Bill Anoatubby, of Oklahoma, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years. (New Position)

Terrence L. Bracy, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years. (New Position)

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Andrea N. Brown, of Michigan, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of one year. (New Position)

Thomas Ehrlich, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of three years. (New Position)

Christopher C. Gallagher, Sr., of New Hampshire, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of four years. (New Position)

Reatha Clark King, of Minnesota, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years. (New Position)

Carol W. Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of five years. (New Position)

Leslie Lenkowsky, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of four years. (New Position)

Marlee Matlin, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of two years. (New Position)

Arthur J. Naparstek, of Ohio, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of four years. (New Position)

John Rother, of Maryland, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of two years. (New Position)

Walter H. Shorenstein, of California, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term of three years. (New Position)

THE JUDICIARY

Dominic J. Squatrito, of Connecticut, to be United States District Judge for the District of Connecticut.

DEPARTMENT OF JUSTICE

Lois Jane Schiffer, of the District of Columbia, to be an Assistant Attorney General.

DEPARTMENT OF DEFENSE

Frederick F. Y. Pang, of Hawaii, to be an Assistant Secretary of Defense, vice Chas. W. Freeman.

THE JUDICIARY

David S. Tatel, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, vice Ruth Bader Ginsburg.

Catherine D. Perry, of Missouri, to be United States District Judge for the Eastern District of Missouri.

Robert J. Cindrich, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

David H. Coar, of Illinois, to be United States District Judge for the Northern District of Illinois.

Paul E. Riley, of Illinois, to be United States District Judge for the Southern District of Illinois.

EXECUTIVE OFFICE OF THE PRESIDENT

Alice M. Rivlin, of the District of Columbia, to be Director of the Office of Management and Budget.

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Lori Esposito Murray, of Connecticut, to be an Assistant Director of the United States Arms Control and Disarmament Agency.

FARM CREDIT ADMINISTRATION

Marsha P. Martin, of Texas, to be a Member of the Farm Credit Administration Board, Farm Credit Administration, for the term expiring October 13, 2000, vice Billy Ross Brown, term expiring.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Luise S. Jordan, of Maryland, to be Inspector General, Corporation for National and Community Service. (New Position)

FEDERAL EMERGENCY MANAGEMENT AGENCY

George J. Opfer, of Virginia, to be Inspector General, Federal Emergency Management Agency.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

James H. Atkins, of Arkansas, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring September 25, 1996.

Scott B. Lukins, of Washington, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 1995.

DEPARTMENT OF COMMERCE

Martha F. Riche, of Maryland, to be Director of the Census.

SECURITIES INVESTOR PROTECTION CORPORATION

James Clifford Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1994.

James Clifford Hudson, of Oklahoma, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997. (Reappointment)

NATIONAL INSTITUTE OF BUILDING SCIENCES

H. Terry Rasco, of Arkansas, to be a Member of the Board of Directors of the National Institute for Building Sciences for a term expiring September 7, 1997.

Christine M. Warnke, of the District of Columbia, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1995.

Mary Ellen R. Fise, of the District of Columbia, to be a Member of the Board of Directors of the National Institute of Building Sciences for a term expiring September 7, 1996.

DEPARTMENT OF JUSTICE

Eddie J. Jordan, Jr., of Louisiana, to be United States Attorney for the Eastern District of Louisiana for the term of four years.

Robert Henry McMichael, of Georgia, to be United States Marshal for the Northern District of Georgia for the term of four years.

William Henry Von Edwards, III, of Alabama, to be United States Marshal for the Northern District of Alabama for the term of four years.

Reginald B. Madsen, of Oregon, to be United States Marshal for the District of Oregon for the term of four years.

John Edward Rouille, of Vermont, to be United States Marshal for the District of Vermont for the term of four years.

DEPARTMENT OF JUSTICE

Richard Thomas White, of Michigan, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 1996.

UNITED STATES SENTENCING COMMISSION

Richard P. Conaboy, of Pennsylvania, to be a Member of the United States Sentencing Commission for a term expiring October 31, 1999.

Richard P. Conaboy, of Pennsylvania, to be Chairman of the United States Sentencing Commission.

Deanell Reece Tacha, of Kansas, to be a Member of the United States Sentencing Commission for a term expiring October 31, 1997.

Wayne Anthony Budd, of Massachusetts, to be a Member of the United States Sentencing Commission for a term expiring October 31, 1999.

UNITED STATES SENTENCING COMMISSION

Michael Goldsmith, of Utah, to be a Member of the United States Sentencing Commission for a term expiring October 31, 1997.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

A.J. Eggenberger, of Montana, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1998. (Reappointment)

Herbert Kouts, of New York, to be a Member of the Defense Nuclear Facilities Safety Board for a term expiring October 18, 1997. (Reappointment)

SELECTIVE SERVICE SYSTEM

Gil Coronado, of Texas, to be Director of Selective Service.

PANAMA CANAL COMMISSION

Clifford B. O'Hara, of Connecticut, to be a Member of the Board of Directors of the Panama Canal Commission.

PANAMA CANAL COMMISSION

Albert H. Nahmad, of Florida, to be a Member of the Board of Directors of the Panama Canal Commission.

DEPARTMENT OF DEFENSE

Bernard Daniel Rostker, of Virginia, to be an Assistant Secretary of the Navy.

AIR FORCE

The following named officer for reappointment to the grade indicated while serving in a position of importance and responsibility designated by the President under the provisions of Title 10, United States Code, Section 601, and to be appointed as Chief of Staff, United States Air Force under the provisions of Title 10, United States Code, section 8033:

TO BE CHIEF OF STAFF, UNITED STATES AIR FORCE

To be general

Gen. Ronald R. Fogleman, [redacted], United States Air Force.

The following named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601:

To be general

Gen. Robert L. Rutherford, [redacted], United States Air Force.

The following named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. James E. Chambers, [redacted], United States Air Force.

ARMY

The following named officer for reappointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be lieutenant general

Lt. Gen. Daniel W. Christman, [redacted], United States Army.

UNITED STATES ARMY

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under Title 10, United States Code, Section 601(a):

To be lieutenant general

Maj. Gen. Otto J. Guenther, [redacted], United States Army.

ARMY

The following named officer to be placed on the retired list in the grade indicated under the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. William H. Forster, [redacted], United States Army.

MARINE CORPS

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be general

Lt. Gen. John J. Sheehan, [redacted], U.S. Marine Corps.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Paul L. Hill, Jr., of West Virginia, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

Paul L. Hill, Jr., of West Virginia, to be Chairperson of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

Devra Lee Davis, of the District of Columbia, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

Gerald V. Poje, of Virginia, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years. (New Position)

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Kenneth Burton, of Virginia, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of two years. (New Position)

D. Michael Rappoport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of two years. (New Position)

Anne Jeanette Udall, of North Carolina, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years. (New Position)

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY

Air Force nominations beginning Thomas O. Wildes, [redacted], and ending Thomas E. Sawner Ii, [redacted], which nominations were received by the Senate and appeared in the Congressional Record of September 26, 1994.

Air Force nominations beginning Major Tommie S. Alsabrook, [redacted], and ending Major Donald W. Tipple, [redacted], which nominations were received by the Senate and appeared in the Congressional Record of September 26, 1994.

Air Force nominations beginning Bret D Anderson, and ending Sarah H Yang, which nominations were received by the Senate and appeared in the Congressional Record of September 26, 1994.

Air Force nominations beginning Francis L. Abad, Jr, and ending Basil Tupyi, which nominations were received by the Senate and appeared in the Congressional Record of September 26, 1994.

AIR FORCE nominations beginning Major Frances M. Auclair, [redacted], and ending Major Leslie Karns, [redacted], which nominations were received by the Senate and appeared in the Congressional Record of October 3, 1994.

Air Force nominations beginning David W Abati, and ending Michael J. Ward, which nominations were received by the Senate and appeared in the Congressional Record of October 3, 1994.

Army nomination of Brian M. McWilliams, which was received by the Senate and appeared in the Congressional Record of September 26, 1994.

Army nomination of Michael D. Furlong, which was received by the Senate and appeared in the Congressional Record of October 3, 1994.

Army nominations beginning Kristine Campbell, and ending Sidney E. McDaniel, which nominations were received by the Senate and appeared in the Congressional Record of October 3, 1994.

Army nominations beginning Peter M. Allen, and ending Earl S. Wood, which nominations were received by the Senate and appeared in the Congressional Record of October 3, 1994.

Army nominations beginning Daniel G. Aaron, and ending 8012x, which nominations were received by the Senate and appeared in the Congressional Record of October 4, 1994.

Mr. SIMPSON. Mr. President, I am not certain that I heard the Calendar No. 1228 called, and it was approved on both sides. I do not know.

Mr FORD. Frederick F.Y. Pang, Calendar No. 1228, yes, it was. I may have been moving a little fast.

U.S. MARINE CORPS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the following nomination reported today by the Committee on Armed Services, Maj. Gen. Richard I. Neal to be Lieutenant General, that the nominee be confirmed, that any statements appear in the RECORD as if read, that the motion to reconsider be laid upon the table, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the nomination was confirmed, as follows:

U.S. MARINE CORPS

To be lieutenant general

Maj. Gen. Richard I. Neal, [redacted], USMC.

AGREEMENT TO PROMOTE COMPLIANCE WITH INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES BY FISHING VESSELS ON THE HIGH SEAS (TREATY CAL. 24)

ILO CONVENTION (NO. 150) CONCERNING LABOR ADMINISTRATION (TREATY CAL. 25)

TWO TREATIES WITH THE UNITED KINGDOM ESTABLISHING CARIBBEAN MARITIME BOUNDARIES (TREATY CAL. 26)

CONVENTION ON THE CONSERVATION AND MANAGEMENT OF POLLOCK RESOURCES IN THE CENTRAL BERING SEA (TREATY CAL. 27)

HEADQUARTERS AGREEMENT WITH THE ORGANIZATION OF AMERICAN STATES (TREATY CAL. 28)

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to consider the following five treaties, en bloc,

Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (Treaty Cal. 24);

ILO Convention (No. 150) concerning Labor Administration (Treaty Cal. 25);

Two Treaties with the United Kingdom Establishing Caribbean Maritime Boundaries (Treaty Cal. 26);

Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (Treaty Cal. 27); and

Headquarters Agreement with the Organization of American States (Treaty Cal. 28)

I further ask unanimous consent that the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; that no amendments, conditions, declarations, provisos, reservations or understandings be in order; that any statements be inserted in the CONGRESSIONAL RECORD as if read; that when the resolutions of ratification are agreed to, the motion to reconsider be laid upon the table, en bloc; that the President be notified of the Senate's action and that following disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARRIVAL OF THE CONVENTION ON THE LAW OF THE SEA

Mr. PELL. Mr. President, I am very pleased to inform my colleagues that today, the President transmitted to the Senate for its advice and consent, the United Nations Convention on the Law of the Sea and the Agreement Relating to the Implementation of Part XI of the Convention. I ask unanimous consent that the President's Letter of Transmittal and the Secretary of State's Letter of Submittal appear immediately following my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PELL. Next year, Mr. President, this body will be called upon to decide if the Convention and Agreement serve our national interest. In my view, the answer to that question is an emphatic yes. In essence, the Convention is a constitution to guide the use of the world's oceans. As a coastal and maritime nation, the United States has a vital interest in such a constitution.

From a national security perspective, the Convention establishes as a matter of international law, navigational freedoms that are fundamental to the effective operation of our military forces. As a representative from the Department of Defense testified before the Foreign Relations Committee, the Department "considers the legal framework which the Convention establishes to be essential to its mission."

I ask unanimous consent that a Department of Defense study of the Convention entitled "National Security and the Convention on the Law of the Sea" appear following my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PELL. From an economic perspective, the Convention helps guarantee American jobs and economic growth. Seaborne commerce accounts for 80 percent of trade among nations, and a tremendous percentage of U.S. imports and exports. This commerce is critically dependent on the navigational freedoms formally established in the Convention. The United States has a vital interest in the stability of the international legal order that serves as the basis for this commerce. Universal adherence to the Law of the Sea Convention provides that stability.

From an environmental perspective, the Convention provides a foundation for addressing such challenges as the depletion of many of the world's major fisheries. Just last week, the Committee on Foreign Relations reported favorably the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, commonly known as the Donut Hole Convention. By establishing a management regime to preserve Pollock resources, the Convention will help ensure the livelihood of thousands of U.S. fishermen in Alaska and the Pacific Northwest. The foundation for the Donut Hole Convention lies in the Law of the Sea Convention, and in particular the latter's provisions coupling the right to fish on the high seas with the responsibility to conserve high seas fishery resources. As Ambassador David Colson noted in his testimony the Donut Hole Convention is precisely the sort of agreement envisioned in the Law of the Sea Convention.

Mr. President, these are just a few examples of the benefits of the Law of the Sea Convention to the United States. We must recognize, however, that the Convention will not be a static document. Just as form and substance have been given our Constitution by the courts, so too will future uses of the oceans by influenced and shaped by decisions made under the Convention. As much as for what is in the Convention now, our country has an interest in participating in the Convention for what it may become. To be part of that process, the United States must become a party to the Convention.

Mr. President, the Convention and the Agreement transmitted to the Senate today are the culmination of over two decades of effort by Democratic and Republican Administrations. They are a triumph for American foreign policy, and I will make their consideration one of my highest priorities for the Committee on Foreign Relations, in the 104th Congress.

I yield the floor.

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to accession, the United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the "Convention"), and, for the advice and consent of the Senate to ratification, the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994 (the "Agreement"), and signed by the United States, subject to ratification, on July 29, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention and Agreement, as well as Resolution II of Annex I and Annex II of the Final Act of the Third United Nations Conference on the Law of the Sea.

The United States has basic and enduring national interests in the oceans and has consistently taken the view that the full range of these interests is best protected through a widely accepted international framework governing uses of the sea. Since the late 1960s, the basic U.S. strategy has been to conclude a comprehensive treaty on the law of the sea that will be respected by all countries. Each succeeding U.S. Administration has recognized this as the cornerstone of U.S. oceans policy. Following adoption of the Convention in 1982, it has been the policy of the United States to act in a manner consistent with its provisions relating to traditional uses of the oceans and to encourage other countries to do likewise.

The primary benefits of the Convention to the United States include the following:

—The Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. It achieves this, *inter alia*, by stabilizing the breadth of the territorial sea at 12 nautical miles; by setting forth navigation regimes of innocent passage in the territorial sea, transit passage in straits used for international navigation, and archipelagic sea lanes passage; and by reaffirming the traditional freedoms of navigation and overflight in the exclusive economic zone and the high seas beyond.

—The Convention advances the interests of the United States as a coastal State. It achieves this, *inter alia*, by providing for an exclusive economic zone out to 200 nautical miles from shore by securing our rights regarding resources and artificial islands, installations and structures for economic purposes over the full extent of the continental shelf. These provisions fully comport with U.S. oil and gas leasing practices, domestic management of coastal fishery resources, and international fisheries agreements.

—As a far-reaching environmental accord addressing vessel source pollution, pollution from seabed activities, ocean dumping, and land-based sources of marine pollution, the Convention promotes continuing improvement in the health of the world's oceans.

—In light of the essential role of marine scientific research in understanding and managing the oceans, the Convention sets forth criteria and procedures to promote access to marine areas, including coastal waters, for research activities.

—The Convention facilitates solutions to the increasingly complex problems of the uses of the ocean—solutions that respect the essential balance between our interests as both a coastal and a maritime nation.

—Through its dispute settlement provisions, the Convention provides for mechanisms to enhance compliance by Parties with the Convention's provisions.

Notwithstanding these beneficial provisions of the Convention and bipartisan support for them, the United States decided not to sign the Convention in 1982 because of flaws in the regime it would have established for managing the development of mineral resources of the seabed beyond national jurisdiction (Part XI). It has been the consistent view of successive U.S. Administrations that this deep seabed mining regime was inadequate and in need of reform if the United States was ever to become a Party to the Convention.

Such reform has now been achieved. The Agreement, signed by the United States on July 29, 1994, fundamentally changes the deep seabed mining regime of the Convention. As described in the report of the Secretary of State, the Agreement meets the objections the United States and other industrialized nations previously expressed to Part XI. It promises to provide a stable and internationally recognized framework for mining to proceed in response to future demand for minerals.

Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which covers more than 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength.

I therefore recommend that the Senate give early and favorable consideration to the Convention and to the Agreement and give its advice and consent to accession to the Convention and to ratification of the Agreement. Should the Senate give such advice and consent, I intend to exercise the options concerning dispute settlement recommended in the accompanying report of the Secretary of State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1994.*

DEPARTMENT OF STATE,
Washington, September 23, 1994.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you the United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the Convention) and the Agreement Relating to the Implementation of Part XI of the United Nations

Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994 (the Agreement), and signed by the United States on July 29, 1994, subject to ratification. I recommend that the Convention and the Agreement be transmitted by the Senate for its advice and consent to accession and ratification, respectively.

The Convention sets forth a comprehensive framework governing uses of the oceans. It was adopted by the Third United Nations Conference on the Law of the Sea (the Conference), which met between 1973 and 1982 to negotiate a comprehensive treaty relating to the law of the sea.

The Agreement, adopted by United Nations General Assembly Resolution A/RES/48/263 on July 28, 1994, contains legally binding changes to that part of the Convention dealing with the mining of the seabed beyond the limits of national jurisdiction (Part XI and related Annexes) and is to be applied and interpreted together with the Convention as a single instrument. The Agreement promotes universal adherence to the Convention by removing obstacles to acceptance of the Convention by industrialized nations, including the United States.

I also recommend that Resolution II of Annex I, governing preparatory investment in pioneer activities relating to polymetallic nodules, and Annex II, a statement of understanding concerning a specific method to be used in establishing the outer edge of the continental margin, of the Final Act of the Third United Nations Conference on the Law of the Sea be transmitted to the Senate for its information.

THE CONVENTION

The Convention provides a comprehensive framework with respect to uses of the oceans. It creates a structure for the governance and protection of all marine areas, including the airspace above and the seabed and subsoil below. After decades of dispute and negotiation, the Convention reflects consensus on the extent of jurisdiction that States may exercise off their coasts and allocates rights and duties among States.

The Convention provides for a territorial sea of a maximum breadth of 12 nautical miles and coastal State sovereign rights over fisheries and other natural resources in an Exclusive Economic Zone (EEZ) that may extend to 200 nautical miles from the coast. In so doing, the Convention brings most fisheries under the jurisdiction of coastal States. (Some 90 percent of living marine resources are harvested within 200 nautical miles of the coast.) The Convention imposes on coastal States a duty to conserve these resources, as well as obligations upon all States to cooperate in the conservation of fisheries populations on the high seas and such populations that are found both on the high seas and within the EEZ (highly migratory stocks, such as tuna, as well as "straddling stocks"). In addition, it provides for special protective measures for anadromous species, such as salmon, and for marine mammals, such as whales.

The Convention also accords the coastal State sovereign rights over the exploration and development of non-living resources, including oil and gas, found in the seabed and subsoil of the continental shelf, which is defined to extend to 200 nautical miles from the coast or, where the continental margin extends beyond that limit, to the outer edge of the geological continental margin. It lays down specific criteria and procedures for determining the outer limit of the margin.

The Convention carefully balances the interests of States in controlling activities off their own coasts with those of all States in protecting the freedom to use ocean spaces without undue interference. It specifically preserves and elaborates the rights of military and commercial navigation and overflight in areas under coastal State jurisdiction and on the high seas beyond. It guarantees passage for all ships and aircraft through, under and over straits used for international navigation and archipelagos. It also guarantees the high seas freedoms of navigation, overflight and the laying and maintenance of submarine cables and pipelines in the EEZ and on the continental shelf.

For the non-living resources of the seabed beyond the limits of national jurisdiction (i.e., beyond the EEZ or continental margin, whichever is further seaward), the Convention establishes an international regime to govern exploration and exploitation of such resources. It defines the general conditions for access to deep seabed minerals by commercial entities and provides for the establishment of an international organization, the International Seabed Authority, to grant title to mine sites and establish necessary ground rules. The system was substantially modified by the 1994 Agreement, discussed below.

The Convention sets forth a comprehensive legal framework and basic obligations for protecting the marine environment from all sources of pollution, including pollution from vessels, from dumping, from seabed activities and from land-based activities. It creates a positive and unprecedented regime for marine environmental protection that will compel parties to come together to address issues of common and pressing concern. As such, the Convention is the strongest comprehensive environmental treaty now in existence or likely to emerge for quite some time.

The essential role of marine scientific research in understanding and managing the oceans is also secured. The Convention affirms the right of all States to conduct marine scientific research and sets forth obligations to promote and cooperate in such research. It confirms the rights of coastal States to require consent for such research undertaken in marine areas under their jurisdiction. These rights are balanced by specific criteria to ensure that coastal States exercise the consent authority in a predictable and reasonable fashion to promote maximum access for research activities.

The Convention establishes a dispute settlement system to promote compliance with its provisions and the peaceful settlement of disputes. These procedures are flexible, in providing options as to the appropriate means and fora for resolution of disputes, and comprehensive, in subjecting the bulk of the Convention's provisions to enforcement through binding mechanisms. The system also provides Parties the means of excluding from binding dispute settlement certain sensitive political and defense matters.

Further analysis of provisions of the Convention's 17 Parts, comprising 320 articles and nine Annexes, is set forth in the Commentary that is enclosed as part of this Report.

THE AGREEMENT

The achievement of a widely accepted and comprehensive law of the sea convention—to which the United States can become a Party—has been a consistent objective of successive U.S. administrations for the past quarter century. However, the United States decided not to sign the Convention upon its adoption in 1982 because of objections to the regime it would have established for managing the development of seabed mineral resources beyond national jurisdiction. While the other Parts of the Convention were judged beneficial for U.S. ocean policy interests, the United States determined the deep seabed regime of Part XI to be inadequate and in need of reform before the United States could consider becoming Party to the Convention.

Similar objections to Part XI also deterred all other major industrialized nations from adhering to the Convention. However, as a result of the important international political and economic changes of the last decade—including the end of the Cold War and growing reliance on free market principles—widespread recognition emerged that the seabed mining regime of the Convention required basic change in order to make it generally acceptable. As a result, informal negotiations were launched in 1990, under the auspices of the United Nations Secretary-General, that resulted in adoption of the Agreement on July 28, 1994.

The legally binding changes set forth in the Agreement meet the objections of the United States to Part XI of the Convention. The United States and all other major industrialized nations have signed the Agreement.

The provisions of the Agreement overhaul the decision-making procedures of Part XI to accord the United States, and others with major economic interests at stake, adequate influence over future decisions on possible deep seabed mining. The Agreement guarantee a seat for the United States on the critical executive body and requires a consensus of major contributors for financial decisions.

The Agreement restructures the deep seabed mining regime along free market principles and meets the U.S. goal of guaranteed access by U.S. firms to deep seabed minerals on the basis of reasonable terms and conditions. It eliminates mandatory transfer of technology and production controls. It scales back the structure of the organization to administer the mining regime and links the activation and operation of institutions to the actual development of concrete commercial interest in seabed mining. A future decision, which the United States and a few of its allies can block, is required before the organization's potential operating arm (the Enterprise) may be activated, and any activities on its part are subject to the same requirements that apply to private mining companies. States have no obligation to finance the Enterprise, and subsidies inconsistent with GATT are prohibited.

The Agreement provides for grandfathering the seabed mine site claims established on the basis of the exploration work already conducted by companies holding U.S. licenses on the basis of arrangements "similar to and no less favorable than" the best terms granted to previous claimants; further, it strengthens the provisions requiring consideration of the potential environmental impacts of deep seabed mining.

The Agreement provides for its provisional application from November 16, 1994, pending its entry into force. Without such a provision, the Convention would enter into force on that date with its objectionable seabed mining provisions unchanged. Provisional application may continue only for a limited period, pending entry into force. Provisional application would terminate on November 16, 1998, if the Agreement has not entered into force due to failure of a sufficient number of industrialized States to become Parties. Further, the Agreement provides flexibility in allowing States to apply it provisionally in accordance with their domestic laws and regulations.

In signing the agreement on July 29, 1994, the United States indicated that it intends to apply the agreement provisionally pending ratification. Provisional application by the United States will permit the advancement of U.S. seabed mining interests by U.S. participation in the International Seabed Authority from the outset to ensure that the implementation of the regime is consistent with those interests, while doing so consistent with existing laws and regulations.

Further analysis of the Agreement and its Annex, including analysis of the provisions of Part XI of the Convention as modified by the Agreement, is also set forth in the Commentary that follows.

STATUS OF THE CONVENTION AND THE AGREEMENT

One hundred and fifty-two States signed the Convention during the two years it was open for signature. As of September 8, 1994, 65 States had deposited their instruments of ratification, accession or succession to the Convention. The Convention will enter into force for these States on November 16, 1994, and thereafter for other States 30 days after deposit of their instruments of ratification or accession.

The United States joined 120 other States in voting for adoption of the Agreement on July 28, 1994; there were no negative votes and seven abstentions. As of September 8, 1994, 50 States and the European Community have signed the Agreement, of which 19 had previously ratified the Convention. Eighteen developed States have signed the Agreement, including the United States, all the members of the European Community, Japan, Canada and Australia, as well as major developing countries, such as Brazil, China and India.

RELATION TO THE 1958 GENEVA CONVENTIONS

Article 311(1) of the LOS Convention provides that the Convention will prevail, as between States Parties, over the four Geneva Conventions on the Law of the Sea of April 29, 1958, which are currently in force for the United States: the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606, T.I.A.S. No. 5639, 516 U.N.T.S. 205 (entered into force September 10, 1964); the Convention on the High Seas, 13 U.S.T. 2312, T.I.A.S. No. 5200, 450 U.N.T.S. 82 (entered into force September 30, 1962); Convention on the Continental Shelf, 15 U.S.T. 471, T.I.A.S. No. 5578, 499 U.N.T.S. 311 (entered into force June 10, 1964); and the Convention on Fishing and Conservation of Living Resources of the High Seas, 17 U.S.T. 138, T.I.A.S. No. 5969, 559 U.N.T.S. 285 (entered into force March 20, 1966). Virtually all of the provisions of these Conventions are either repeated, modified, or replaced by the provisions of the LOS Convention.

DISPUTE SETTLEMENT

The Convention identifies four potential fora for binding dispute settlement:

The International Tribunal for the Law of the Sea constituted under Annex VI;

The International Court of Justice;

An arbitral tribunal constituted in accordance with Annex VII; and

A special arbitral tribunal constituted in accordance with Annex VIII for specified categories of disputes.

A State, when adhering to the Convention, or at any time thereafter, is able to choose, by written declaration, one or more of these means for the settlement of disputes under the Convention. If the parties to a dispute have not accepted the same procedure for the settlement of the dispute, it may be submitted only to arbitration in accordance with Annex VII, unless the parties otherwise agree. If a Party has failed to announce its choice of forum, it is deemed to have accepted arbitration in accordance with Annex VII.

I recommend that the United States choose special arbitration for all the categories of disputes to which it may be applied and Annex VII arbitration for disputes not covered by the above, and thus that the United States make the following declaration:

The Government of the United States of America declares, in accordance with paragraph 1 of Article 287, that it chooses the following means for the settlement of disputes concerning the interpretation or application of the Convention:

(A) a special arbitral tribunal constituted in accordance with Annex VIII for the settlement of disputes concerning the interpretation or application of the articles of the Convention relating to (1) fisheries, (2) protection and preservation of the marine environment, (3) marine scientific research, and (4) navigation, including pollution from vessels and by dumping, and

(B) an arbitral tribunal constituted in accordance with Annex VII for the settlement of disputes not covered by the declaration in (A) above.

Subject to limited exceptions, the Convention excludes from binding dispute settlement disputes relating to the sovereign rights of coastal States with respect to the living resources in their EEZs. In addition, the Convention permits a State to opt out of binding dispute settlement procedures with respect to one ore more enumerated categories of disputes, namely disputes regarding maritime boundaries between neighboring States, disputes concerning military activities and certain law enforcement activities, and disputes in respect of which the United Nations Security Council is exercising the functions assigned to it by the Charter of the United Nations.

I recommend that the United States elect to exclude all three of these categories of disputes from binding dispute settlement, and thus that the United States make the following declaration:

The Government of the United States of America declares, in accordance with paragraph 1 of Article 298, that it does not accept the procedures provided for in section 2 of Part XV with respect to the categories of disputes set forth in subparagraphs (a), (b) and (c) of that paragraph.

RECOMMENDATION

The interested Federal agencies and departments of the United States have unanimously concluded that our interests would be best served by the United States becoming a Party to the Convention and the Agreement.

The primary benefits of the Convention to the United States include the following:

The convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. It achieves this, *inter alia*, by stabilizing the breadth of the territorial sea at 12 nautical miles; by setting forth navigation regimes of innocent passage in the territorial sea, transit passage in straits used for international navigation, and archipelagic sea lanes passage; and by reaffirming the traditional freedoms of navigation and overflight in the EEZ and the high seas beyond.

The Convention advances the interests of the United States as a coastal State. It achieves this, inter alia, by providing for an EEZ out to 200 nautical miles from shore and by securing our rights regarding resources and artificial islands, installations and structures for economic purposes over the full extent of the continental shelf. These provisions fully comport with U.S. oil and gas leasing practices, domestic management of coastal fishery resources, and international fisheries agreements.

As a far-reaching environmental accord addressing vessel source pollution, pollution from seabed activities, ocean dumping and land-based sources of marine pollution, the Convention promotes continuing improvement in the health of the world's oceans.

In light of the essential role of marine scientific research in understanding and managing the oceans, the Convention sets forth criteria and procedures to promote access to marine areas, including coastal waters, for research activities.

The Convention facilitates solutions to the increasingly complex problems of the uses of the ocean—solutions which respect the essential balance between our interests as both a coastal and a maritime nation.

Through its dispute settlement provisions, the Convention provides for mechanisms to enhance compliance by Parties with the Convention's provisions.

The Agreement fundamentally changes the deep seabed mining regime of the Convention. It meets the objections the United States and other industrialized nations previously expressed to Part XI. It promises to provide a stable and internationally recognized framework for mining to proceed in response to future demand for minerals.

The United States has been a leader in the international community's effort to develop a widely accepted international framework governing uses of the seas. As a Party to the Convention, the United States will be in a position to continue its role in this evolution and ensure solutions that respect our interests.

All interested agencies and departments, therefore, join the Department of State in unanimously recommending that the Convention and Agreement be transmitted to the Senate for its advice and consent to accession and ratification respectively. They further recommend that they be transmitted before the Senate adjourns sine die this fall.

The Department of State, along with other concerned agencies, stands ready to work with Congress toward enactment of legislation necessary to carry out the obligations assumed under the Convention and Agreement and to permit the United States to exercise rights granted by the Convention.

Respectfully submitted,

WARREN CHRISTOPHER.

EXHIBIT 2

THE SECRETARY OF DEFENSE,
Washington, DC, July 29, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In 1982, the United States made a decision that it would not become a party to the United Nations Convention on the Law of the Sea because of its concerns about the deep seabed mining provisions, contained in Part XI of the Convention. The Convention is due to enter into force on November 16, 1994, now that the requisite number of other states (60) have ratified it. However, consultations were recently concluded which resulted in an Agreement to correct what the United States has long viewed as the Convention's flawed deep seabed mining provisions. The United States now intends to sign the Agreement at the United Nations on July 29, 1994. Accordingly, the Convention as modified will be transmitted to the Senate for its advice and consent at the end of the 103rd Congress.

The Department of Defense fully supports U.S. signature of the Agreement, and ratification of the Convention as modified by the Agreement. In the Administration's view, the new Agreement satisfactorily resolves the issues that the U.S. Government and ocean mining interests raised in the early 1980's during deliberations over whether the United States should sign the Law of the Sea Convention. The new Agreement meets these objections by correcting the serious institutional and free market deficiencies in the original Convention. We have received indications from other industrialized nations that, with adoption of the new Agreement, they will soon accede to the modified Convention.

The Convention establishes a universal regime for governance of the oceans which is needed to safeguard U.S. security and economic interests, as well as to defuse those situations in which competing uses of the oceans are likely to result in conflict. In addition to strongly supporting our interests in freedom of navigation, the Convention provides an effective framework for serious efforts to address land and sea-based sources of pollution and overfishing. Moreover, the Agreement provides us with an opportunity to participate with other industrialized nations in a widely accepted international order to regulate and safeguard the many diverse activities, interests, and resources in the world's oceans. Historically, this nation's security has depended upon the ability to conduct military operations over, under, and on the oceans. The best guarantee that this free and unfettered access to the high seas will continue in the years ahead is for the U.S. to become a party to the Convention, as modified by the Agreement, at the earliest possible time.

In the coming months, we anticipate heightened public debate of the merits of the Law of the Sea Convention. To put that debate into perspective, you will find enclosed a paper which briefly outlines the history of the original Convention, the steps leading to the formalization of the Part XI Agreement, and the nation's vital national security and other interests in becoming bound by the modified Convention.

To send a strong signal that the United States is committed to an ocean regulatory regime that is guided by the rule of law, General Shalikashvili and I urge your support in securing early advice and consent of the United Nations Convention on the Law of the Sea and implementing Agreement.

Sincerely,

WILLIAM J. PERRY.

NATIONAL SECURITY AND THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

EXECUTIVE SUMMARY

This position paper analyzes the Department of Defense's interests in having the United States become a party to the 1982 UN Law of the Sea Convention (Convention), as modified by the recently negotiated Part XI Implementation Agreement (Agreement). This new Agreement corrects the flaws identified by the United States in the deep seabed mining regime set out in the Convention.

Our principal judgment is that public order of the oceans is best established by a universally accepted law of the sea treaty that is in the U.S. national interest. We believe the opportunity created by the new Agreement meets this test. Reliance upon customary international law in the absence of the modified Convention would represent a necessarily imprecise approach to the problem as well as one which requires the United States to put forces into harm's way when principles of law are not universally understood or accepted. A universal Convention is the best guarantee of avoiding situations in which U.S. forces must be used to assert navigational freedoms, as well as the best method of fostering the growth and use of various conflict avoidance schemes which are contained in the Convention.

The Convention, as modified, is not a perfect solution to all oceans policy issues. However, the compromises embodied in the Agreement and the Convention as a whole establish an ocean regulatory regime that is, on balance, in the national security interest of the United States. We now have before us a rare window of opportunity to resolve favorably the deep seabed mining issues, as well as to solidify the vital navigation and other resources issues which are addressed by the Convention.

The Department of Defense's key conclusions are:

DOD has long been a major proponent of achieving a comprehensive and stable legal regime with respect to traditional uses of the oceans. A universally accepted Convention, as modified by the Agreement, would promote our strategic goals of free access to and public order on the oceans and in the superjacent airspace.

Over 150 States, including the U.S., participated in the negotiation of the Convention between 1973 and 1982. Save for Part XI, we achieved our fundamental objectives of solidifying and defining the nature of maritime claims, restraining the growth of excessive maritime claims, and codifying key legal provisions in the areas of environment, fisheries, and sovereign immunity which balance the vital interests of maritime and coastal states.

Since 1979 DOD and the Department of State have been actively involved in countering excessive maritime claims through the Freedom of Navigation (FON) program. This combination of diplomatic and operational challenges is less desirable than establishment through the Convention of universal norms of behavior and conflict resolution mechanisms.

With 62 States now having ratified, the Convention will enter into force in November 1994. Under the sponsorship of the UN Secretary General, the United States and other states have worked hard on a comprehensive set of modifications to Part XI. An Agreement has been finalized and will be offered for adoption by the UN General Assembly in late July. Negotiators of the Agreement were guided by the specified objections to Part XI articulated by President Reagan in 1982.

Correction of the Part XI flaws now allows the United States to take advantage of the opportunity to adhere to the modified Convention so as to realize its national security benefits, and permit us to ensure those rights from within the structure of the Convention.

U.S. OCEANS POLICY: 1973–1994

Between 1973 and 1982, over 150 states participated in the negotiation of the Third United Nations Convention on the Law of the Sea (Convention). Save for the provisions dealing with deep seabed mining, the Convention was a success from the U.S. perspective.It secured much needed agreement on the breadth of the territorial sea (12 nautical miles (NM)) in the face of a large number of nations seeking to establish territorial sea claims of up to 200 NM or more, and struck a positive balance between coastal states and maritime states on issues such as marine pollution, fisheries, and mineral resource exploitation, and navigational freedoms through the waters and airspace of exclusive economic zones (EEZs), territorial seas, straits, and archipelagic waters.

However, while United States maritime interests were significantly preserved in the balance struck between coastal state interests in security and resource protection, the provisions dealing with deep seabed mining in Part XI of the Convention were not satisfactory. As a result, on July 9, 1982,[1] President Reagan announced that eleven sessions of negotiations had failed to produce a universal agreement which accommodated the diverse interests represented at the conference on the full range of oceans use. Of particular concern to the U.S. and other developed countries were those seabed mining provisions that deterred development, did not guarantee a decision-making role for the U.S. which fairly reflected its interests, permitted amendments to the regime without state party consent, mandated transfers of privately owned technology, permitted sharing of benefits by national liberation movements, and failed to assure access for those pioneer investors who sought to develop deep seabed resources privately.[2] Virtually all major maritime and industrialized nations have declined to become parties to the Convention in its original form. However, 62 other states have agreed to be bound by the Convention and it will enter into force on November 16, 1994.

In 1983, President Reagan issued the U.S. Ocean Policy Statement[3] which declared, in essence, that the United States would follow the non-seabed-mining provisions of the Convention because they reflected "traditional uses of the oceans" and "generally confirm existing maritime law and practice." In that same 1983 statement, President Reagan asserted a 200 NM EEZ on behalf of the United States, in addition to confirming the United States exercise of sovereign jurisdiction over the resources of the continental shelf.

In addition to the 1983 declaration of the 200 NM EEZ, President Reagan also announced that the United States would "exercise and assert its navigation and overflight rights and freedoms on a worldwide basis consistent with . . . the Convention [but not] . . . acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses." President Reagan's statement reaffirmed the ongoing U.S. practice since 1979 of challenging, through diplomatic and navigational assertions, maritime claims which were inconsistent with the Convention. In excess of 110 diplomatic protests, as well as 35–40 operational challenges per year, have been made since 1979 under the Freedom of Navigation (FON) Program[4] challenging excessive coastal claims. Finally, to extend the breadth of the United States territorial sea (3 NM) to that authorized by the Convention, President Reagan issued a Proclamation on December 27, 1988[5] extending the Territorial Sea of the United States and its possessions to 12 NM.

SCOPE OF THE CONVENTION

The text of the Convention is the result of nine years of negotiations in which the United States was an active participant. The Convention opened for signature on 10 December 1982. It consists of 320 articles and

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Footnotes at end of article.

nine annexes, covering virtually every topic of importance to coastal and maritime states. Among the topics covered: breadth of the territorial sea, exclusive economic zone (EEZ), contiguous zones, and continental shelf; freedom of navigation and overflight; the laying of cables and pipelines; rights of transit, innocent and archipelagic sea lanes passage; right of states to conduct marine scientific research; a balancing of rights between fishing states and coastal states concerning management of fish stocks, as well as empowerment of regional fishing compacts; creation of special regimes for the management and protection of marine mammals, anadromous, and highly migratory fish species; apportionment of responsibility between the coastal states and flag states to take measures to protect the marine environment; and establishment of a broad range of dispute settlement options so that universal participation would be reasonably assured. However, as noted above, Part XI of the Convention established both a regime and institutions to administer mining of the deep seabed which were objectionable to the United States and most other industrialized countries.

EFFORTS TO REFORM THE CONVENTION AND THE REACTION OF OUR ALLIES

In 1990, then UN Secretary-General Javier Perez de Cuellar convened informal meetings in New York to begin negotiation of a multilateral instrument which would correct the objectionable portions of Part XI. The object was universal adherence to the Convention. Approximately 30 developing and developed countries participated in the discussions which resulted, in early 1994, in a Draft UN General Assembly Resolution and Draft Agreement Relating to Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea (hereinafter Agreement).

The Part XI Agreement and Draft General Assembly Resolution have been crafted so as to incorporate by reference the provisions of the Convention which are not objectionable (the entire Convention less specified provisions in Part XI). Most parties and non-parties to the Convention are expected to sign the Agreement, including most industrialized nations. Since the Convention will enter into force for over 60 states in November 1994, those states which have agreed to be bound by the Convention may signal their assent to the Agreement through, in essence, silent consent procedures. The legal significance of the draft UN General Assembly Resolution is that it eliminates the requirement to amend the Convention through the convening of an entirely new Law of the Sea Conference or by use of the Convention's ⅔ vote amendment procedures. For the Agreement to formally enter into force, 40 states must register their approval of the Agreement by either signing it or failing (in the case of states which have already ratified the Convention) to "opt out" within one year after the Agreement provisionally applies. While the Agreement will not formally enter into force until there are 40 state parties, it will be provisionally applied to signatory states from November 16, 1994, when the Convention enters into force.

There is consensus among all Federal agencies that accession to the Law of the Sea Convention is a priority. Following extensive interagency coordination in conjunction with Presidential Review Directive-12, an Executive Branch policy decision was formulated in May 1993 that: (a) the U.S. should provide leadership to find solutions to the Part XI dilemma; (b) the non-seabed provisions of the Convention are the appropriate legal framework for governance of the oceans; and (c) the U.S. should, as a matter of high priority, become an active participant in efforts to reform the Convention.

VITAL NATIONAL SECURITY INTERESTS ARE ADVANCED BY THE UNITED STATES BECOMING A PARTY TO THE CONVENTION VIA THE PART XI AGREEMENT

National security interests have been a critical component over the 25 years spent in seeking a comprehensive Convention. They were at the heart of the Clinton Administration's policy of finding a satisfactory solution to the Part XI problem so that the United States could sign the Convention. The national security interests in having a stable oceans regime are, if anything, even more important today than in 1982 when the work had a roughly bipolar political dimension and the U.S. had more abundant forces to project power to wherever it was needed.

The navigational rights and freedoms embodied in the Convention are in daily use by the naval and air forces of the United States and its allies. The core rights assured by the Convention include the following:

THE RIGHT OF INNOCENT PASSAGE

This right of ships to continuous and expeditious passage which is not prejudicial to the peace, good order, or security of coastal states is a primary right of nations in foreign territorial seas. Naval vessels need this right to be able to conduct their passage expeditiously and effectively. The Convention plays a special role in codifying the customary right of innocent passage and contains an exhaustive list of the types of shipboard activities which are forbidden while a ship is engaged in innocent passage.

THE RIGHT OF TRANSIT PASSAGE.

The Convention codifies the historic regime permitting free transit through and over international straits while upholding the needs of major maritime states who could not accept the extension of territorial seas to 12 NM without a corresponding guarantee of an unimpeded right of transit through and over international straits. Over 135 straits, which would have been closed as a result of the extension of the territorial seas to 12 NM, are open to free passage under the regime of transit passage. Less restrictive than innocent passage, ships and aircraft under the passage regime may pass through straits continuously and expeditiously in their normal mode. Accordingly, submarines may pass through straits submerged, naval task forces may conduct formation steaming, aircraft carriers may engage in flight operations, and military aircraft can transit unchallenged. In three significant conflicts the regime of transit passage would have and has played a critical role:

During the 1973 Yom Kippur War, overflight of the Strait of Gibraltar enabled U.S. military aircraft to conduct emergency resupply of Israel following the denial of overflight of land territory by certain NATO Allies.[6]

Following the state-sponsored terrorist attack on U.S. armed forces in Berlin, U.S. military aircraft overflew the Strait of Gibraltar to conduct a raid on Libya on April 14, 1986, after certain NATO Allied denied the U.S. permission to overfly their land territory.

In the recent Persian Gulf War, the exercise of the right of transit passage enabled U.S. and other coalition naval and air forces to traverse through the critical choke points of Hormuz and Bab el Mandeb.

ARCHIPELAGIC SEA LANES PASSAGE

The right of transit by ships and aircraft through archipelagos, such as the Philippines, the Bahamas, and Indonesia, can have a significant impact on the ability of military forces to proceed to an area of operations in a timely and secure manner. Archipelagic sea lanes passage permits transits in the normal mode between one part of the high seas or EEZ and another through the normal routes used for international navigation or through International Maritime Organization approved sea lanes. To date, there has been a general compliance with the Convention by national claiming archipelagic status.[7]

HIGH SEAS FREEDOMS

The Convention makes an important contribution in defining the types of activities which are permissible on and over the high seas. Under the principle of "due regard" to the rights of other high seas users, U.S. forces remain free to engage in task force maneuvering, flight operations, military exercises, surveillance and intelligence activities, and ordnance testing and firing.

SOVEREIGN IMMUNITY OF WARSHIPS AND OTHER PUBLIC VESSELS AND AIRCRAFT

The concept of sovereign immunity of warships and other public vessels has come under increasing assault by coastal states wishing to circumscribe this historic right on the basis of security or pollution control concerns. Article 236 of the Convention contains a vitally important codification of the customary principle that naval auxiliaries are entitled to the same immunity from enforcement by other than the flag state as warships enjoy. To support military operations around the globe, there must be the assurance that military vessels and their cargoes can move freely without being subject to levy or interference by coastal states.

Recent events in Korea, Haiti and the former Yugoslavia are important reminders that we still live in an uncertain and dangerous world. Threats to world order and U.S. interests in the post-Cold war era include:

Ethnic rivalry and separatist violence within and outside of national borders;

Regional tensions in areas such as the Middle East and Northeast Asia;

Humanitarian crises of natural or other origin resulting in starvation, strife or mass migration patterns;

Conflict over resources including those that straddle territorial or maritime zones;

Terrorist and pirate attacks against U.S. persons, property, or shipping overseas or on the high seas.

These challenges are considerably different than those which dominated thinking in the era following World War II. What has not changed, however, is that many U.S. economic, political, and military interests are located far away from the United States. The United States has always been a maritime nation and we must have substantial air and sealift capabilities to enable our forces to be where and when needed. Assurance that key sea and air lines of communication will remain open as a matter of international legal right and not contingent upon approval by coastal or island nations is a fundamental premise in our defense posture.

The Convention continues to serve an important function in safeguarding our national security interests. Because the Convention is regarded as authoritative, it guides the behavior of states, promoting stability of expectations and providing clear benchmarks for issue resolution. For example, provisions in the Convention have been invaluable in resolving the following issues which have strong national security implications:

Bilateral discussions with the former Soviet Union following the Black Sea "bumping" incident, resulting in the U.S.-USSR Uniform Interpretation of the Rules of International Law Governing Innocent Passage Through the Territorial Sea signed at Jackson Hole, Wyoming on September 23, 1989; and

Technical level discussions between U.S. and Indonesian representatives concerning archipelagic sea lanes passage through the Indonesian archipelago.

A universal convention offers considerable promise because of the flexibility which it provides to states to resolve disputes over conflicting uses of the sea through the employment of any of four dispute resolution mechanisms. Even though the United States and other powers will not submit to compulsory jurisdiction for military matters, a mechanism for resolving lesser disputes provides an additional method of managing conflict. The large number of "hot spots" on the glove (Haiti, Korea, Somalia, Rwanda, the Middle East, the Persian Gulf, the former Soviet Union, and the former Yugoslavia) underscore the need for additional non-military methods of resolving conflicts.

Without international respect for the freedoms of navigation and overflight set forth in the Convention, exercise of our forces' mobility rights could be jeopardized. Disputes with littoral states could delay action and be resolved only by protracted political discussions. The response time for U.S. and allied/coalition forces based away from potential areas of conflict could lengthen. Deterrence could be weakened—particularly when our coalition allies do not have sufficient power projection capacity to resist illegal claims. Forces may arrive on the scene too late to make a difference, affecting our ability to influence the course of events consistent with our interests and treaty obligations.

INTERNATIONAL TRADE AND BUSINESS INTERESTS OF THE UNITED STATES DEPEND UPON THE NAVIGATIONAL PROVISIONS OF THE CONVENTION

To be secure and influential in the political arena, the United States must maintain its economic viability. In the 12 years since the United States rejected the Convention's seabed mining regime, our country has become more economically interdependent than ever upon access to global markets. U.S. economic growth is closely linked to the world economy as a whole and the majority of that trade is carried on and over the world's oceans. Seaborne commerce exceeds 3.5 billion tons annually and accounts for 80 percent of trade among nations. Universal adherence to the Convention would provide the predictability and stability which international shippers and insurers depend upon in establishing routes and rates for global movement of commercial cargo. Increased costs of goods and services resulting from coastal state restrictions on navigation and communications would adversely impact our entire economy.

The reality that U.S. economic interests are global in nature underscores the need to uphold the transit rights under a widely accepted and comprehensive international legal regime. The Convention's dispute resolution provisions, its fixed rules for determining the breadth and access to maritime resources in the EEZ and continental shelf, and its provisions which preserve "flag state" control over vessel-source pollution all support the "stability of expectations of investment bankers, insurance companies and others who underwrite and support shipping, offshore exploration and drilling and many other activities at sea."[8]

THE LOS CONVENTION PROVIDES CLEAR AND CONCRETE RULES FOR DETERMINING THE LEGALITY OF MARITIME CLAIMS

One of the principal accomplishments of the LOS Convention is the establishment of a clear set of maritime zones: the territorial sea, contiguous zone, EEZ, and continental shelf, which uphold the security and resource interests of coastal states, balanced against the interest of maritime nations to have relatively open access to the oceans for navigation, overflight, and telecommunications. This careful balance of maritime zones reverses a disturbing trend in jurisdictional creep in which some states claimed territorial seas of up to 200 NM in order to create a monopoly over coastal resources or for purposes of security. Excessive maritime claims may not disappear altogether if the United States signs the Agreement; however, as an insider, the U.S. would be in a stronger position to assert the Convention's clear rules for establishing the baseline from which the territorial sea is measured, as well as the unambiguous rules for determining the existence of bays.

As a party to the Convention, the United States also will be entitled to make use of the dispute resolution apparatus to contest those excessive claims. Since 1979, the United States has unilaterally contested excessive coastal claims diplomatically and operationally through the FON Program. Those actions may still be required to enforce the norms of the Convention; however, to the extent we can decrease reliance upon FON challenges, the United States avoids political and military risks and other costs. Also, because the Convention provides explicit rules for fixing maritime boundaries, there should be a corresponding lessening in tension over the normative rules to be applied. In addition, from the perspective of the smaller coastal states, our becoming party to the Convention would create less perceived pressure on those states to assert excessive claims to achieve parity with the U.S. and other major maritime nations.

THE LOS CONVENTION ESTABLISHES IMPORTANT BENCHMARKS FOR PROTECTING THE MARINE ENVIRONMENT WHILE PRESERVING OPERATIONAL FREEDOMS

The Department of Defense in committed as a matter of policy to the norm established by Part XII of the Convention, which affirms that "States have the obligation to protect and preserve the marine environment." Although the Convention provides a framework for retaining navigational access to the world's oceans, the practical abilities of naval forces to gain access to foreign ports and bases for distant operations and to resist some types of coastal state claims are heavily influenced by the perceptions of coastal states that the U.S. warships and other public vessels are being operated in an environmentally responsible manner. The goal of our environmental program is to ensure that our shore installations and operational commands worldwide are able to accomplish their assigned missions while meeting our environmental obligations.[9] To meet this overall goal of environmental compliance and to maintain credibility with the world community at large, the military Departments have made a heavy commitment of resources to:

Actively participate in the international fora (such as the International Maritime Organization) which adopt and promulgate realistic procedural and substantive environmental standards affecting maritime operations;

Modify our operational practices or, as appropriate, acquire waste processing equipment, to mitigate the environmental impacts of military operations;

Conduct extensive research to develop technical solutions to the problems of processing shipboard wastes and development of special coatings and industrial processes to further limit sources of pollution from ship hulls.

The Department will continue to be proactive in the area of environmental protection as a matter of national law and policy. Nevertheless, to resist excessive maritime claims and to maintain the principle of sovereign immunity (guaranteed in Article 236 of the Convention) requires both a legal commitment to environmental protection as well as a history of sound management of environmental hazards. In the latter respect, the United States has a solid record. But failing to become committed to the comprehensive environmental norms in the Convention would inevitably hamper our ability to maintain diplomatically the balance between our interests in freedom of navigation and protection of the marine environment.

The Convention establishes a delicate balance between the rights of coastal states to adopt certain measures to protect the marine environment close to their shores and the general right of a flag state to exercise prescriptive and enforcement jurisdiction over incidents as sea, routine operational practices, design, and training of crewmembers. The Convention establishes a similar balance between the responsibility of states to curb all sources of marine pollution and the rights of maritime states to exercise their high seas freedoms. Since the Convention and most states take the position that states cannot avoid their overarching responsibilities under the Convention (or customary international law) to protect the marine environment through a claim of sovereign immunity, the U.S. has worked hard to maintain a leadership position in the International Maritime Organization (IMO), based in London.[10] The United States and all major maritime powers have refused to sign the 1982 Convention, yet all actively participate in the IMO, the institutional sponsor for a number of other related conventions, including:

The 1973 Convention and 1978 Protocol for the Prevention of Pollution from Ships (MARPOL);[11]

The 1972 Convention on Prevention of Collisions at Sea (COLREGS);[12] and

The 1972 Convention on the Prevention of Marine Pollution (London Dumping Convention).[13]

The common frame of reference for all three of these IMO-sponsored conventions is the law of the Sea Convention. In the IMO context, the United States has successfully urged positions which tend to hold those flag states accountable for failing to uphold applicable environmental protection norms. By the same token, the United States over the years has been successful in urging realistic and practical methods of dealing with unilateral restrictions on navigation or the rights of sovereign immune vessels which would potentially impair our operational freedoms in the name of environmental protection.

Once again, the Convention is the glue that holds together diverse maritime interests in the environmental field. By becoming a party to the Convention, the United States will be in a better position to influence events in forums like the IMO. Moreover, our general ability to curtail the growth of unilateral claims which restrict navigation also will be strengthened.

From the standpoint of promoting international peace and stability, the Department strongly supports the Convention because it is one of the few comprehensive legally binding instruments committed to global environmental security. As noted above, DOD has made a significant policy and fiscal commitment to operate in an environmentally responsible manner to assure itself access to foreign ports, bases, and airfields, as well as to set a standard which other nations will follow. In examining the factors which precipitated the current and past instabilities in Haiti, Ethiopia, Somalia, the Sudan and elsewhere among developing and undeveloped states, it is clear that environmental mismanagement played a significant role. The Convention requires: states to ensure that activities under their jurisdiction do not cause environmental damage to other states or result in the spread of pollution beyond their own offshore zones; to minimize the release of harmful substances into the marine environment from land-based sources; to protect fragile ecosystems; and to conserve living resources.

Since over 80% of marine pollution emanates from land-based sources, it serves U.S. national security interests to promote universal accession to the Convention as a method of addressing conflicts which arise out of the transboundary movement of pollutants.

THE CONVENTION PROVIDES AN IMPORTANT FOUNDATION FOR FUTURE EFFORTS TO IMPROVE THE LEGAL REGIME AFFECTING MANAGEMENT OF FISH STOCKS AND RESOLVING RESOURCE CONFLICTS

The management of fish stocks is becoming an increasingly contentious issue for those states which rely upon fishing to feed their populations. Even though DOD's mission does not include fisheries management, the Department has a legitimate interest in encouraging solutions or mechanisms to resolve conflict between coastal states and/or among fishing states competing for diminishing fish stocks which are beyond the scope of a nation's management jurisdiction.

The Convention provides a legal baseline which sanctions the actions of regional fishing organizations to deal with conservation issues. The Convention also levies important duties on coastal states to manage their fishery resources to the limits of their maximum sustainable yield. These principles are the legal cornerstones for the UN-sponsored Conference on Straddling Fish Stocks and High Migratory Fish Stocks, as well as the upcoming UN-sponsored Conference on High Seas Fishing. Until such time as there is international agreement on the regime for managing fish stocks beyond a coastal state's EEZ, the fisheries management precepts of the Convention, together with its encouragement to fishing states to enter into regional agreements, are fundamental to maintaining order between fishing and coastal states. Finally, if current efforts to conclude a universal agreement on straddling stocks and high seas fishing do not meet with success, the dispute resolution provisions of the Convention (which authorize application of provisional measures to prevent serious harm to the marine environment) provide parties with a non-military method of constructively resolving disputes.

The United States has played an important role in promoting workable solutions to fisheries management problems. By acceding to the Convention, the U.S. will be in a much stronger position to exercise influence in efforts to achieve moderate solutions to fisheries management problems. The Convention provides the U.S. government with the tools to formulate workable diplomatic solutions.

The trend towards greater coastal state control over fish stocks and living resources beyond 200 NM is indicative of a general trend by coastal states to also exercise greater dominion and control over maritime activities in the water column of its EEZ or over its continental shelf. Like the current trend in fishing disputes, states have proposed measures which encroach upon navigational freedoms because of perceptions that navigation is harmful to the living marine resources or that navigation will interfere with exploitation of the resources of the continental shelf. Coral reef ecosystems are coming under tremendous pressures because of population growth (3.5 billion of the 5.6 billion people on earth now live in coastal areas), poor resource management, and land-based sources of pollution. World attention has only recently been focused on this problem. Certain states have reacted by proposing high seas zones—particularly in coral reef or polar areas—which could restrict or place "off-limits" navigation because of these areas' special ecological sensitivity or importance to coastal fish stocks. DOD's perspective, of course, is that navigation is an environmentally benign activity if flag states properly regulate their flag vessels. Also, additional regulation of navigation is an ineffective method of addressing the root cause of most marine pollution—land-based sources.

Continued offshore development of areas of the continental shelf for fish farming and oil and gas extraction (particularly in critical navigational choke points) will inevitably impact on the navigational freedoms which DOD must preserve to meet its operational commitments worldwide. At the widely attended "Strait of Malacca Conference" on June 14–15, 1994, it was argued that:

> The coastal state's right to explore for oil and use the Strait for economic development is greater than the international community's right to use the Strait; and
>
> The newness of the transit passage regime lends uncertainty as to whether the regime has become a customary practice of international law

As noted in Figures 2 and 4, the Strait of Malacca is a strategic waterway which DOD uses to move forces from Pacific bases to the Indian Ocean and Persian Gulf. These arguments, coupled with the trend towards special zones which restrict or prohibit navigation, reinforce the basic theme that the Convention provides the best structural and normative framework for the United States to attack objectionable claims as well as channel conflicts between competing ocean users.

SINCE THE UNITED STATES ALREADY REGARDS THE NON-SEABED MINING PROVISIONS OF THE CONVENTION TO BE CUSTOMARY INTERNATIONAL LAW, DOES THE UNITED STATES DERIVE ANY BENEFIT BY SIGNING THE NEW AGREEMENT?

In the view of the Department of Defense, significant interests of the United States are advanced by becoming a party to the Convention.

Negotiations of the Agreement were late in coming in part because many nations regarded the Convention to be a "package deal" and states had to accept the good with the bad to maintain balance between the various groups of states which participated in the negotiation: developing vs. developed states; mineral producing vs. non-mineral producing states; coastal vs. maritime states. Consequently, states like Yemen, Iran, Morocco, Egypt, Greece, Indonesia, Malaysia, Iran, Spain and the Philippines, at one time or another, have asserted that key navigational principles (particularly the regime of transit passage) are not customary international law but a benefit flowing from the Convention. Remaining outside of the Convention tends to reinforce those arguments. There is also general acknowledgement by the maritime powers that rejection of a "reasonable" Convention by them could create a highly unstable situation vis-a-vis those states which have already ratified the Convention.

In addition to potential for "backlash" if the United States continues to refuse to become party to the Convention as modified, accession will enable the United States to avoid arguments by states that Convention rights are contractual and only available to parties to the Convention.

From the standpoint of promoting global stability, universal accession to the Convention, as modified by the Agreement, will stabilize and fix the customary rules which states now argue do or do not exist. Unlike the 1958 Geneva Convention on the High Seas, which, according to the preamble, is a codification of "the rules of international law of the high seas," many international legal scholars view the LOS Convention as containing numerous provisions that codify customary international law, as well as a number of provisions that represent progressive development of the law. Since the United States is committed to international order determined by the rule of law, accession will put doubts to rest as to the legal underpinnings of U.S. policy towards the Convention. Moreover, since many important provisions that protect our national security interests are to be found in the very carefully drafted details of the text. Customary international law is unlikely to incorporate such detail and nuance.

It is inevitable through the passage of time that change to the Convention will be necessary to adapt it to new conditions. If the United States were to remain a non-party to the Convention, the only way that it could seek to influence changes in the LOS regime would be through unilateral action, which could lead to increased international friction. The U.S. does not seek a static system, and welcomes the gradual adaptation of the Convention to new circumstances, by agreement among states.

CONCLUSION

A universal regime for governance of the oceans is needed to safeguard U.S. security and economic interests, as well as to defuse those situations in which competing uses of the oceans are likely to result in conflict. In addition to strongly supporting our interests in freedom of navigation, the Convention provides an effective framework for serious efforts to address pressures upon the oceans resulting from land and sea-based sources of pollution and overfishing. Moreover, the Agreement provides us with a near-term opportunity to join with other industrialized nations in a widely accepted international order to regulate and safeguard the many diverse activities, interests, and resources in the world's oceans. Historically, this nation's security has depended upon the ability to conduct military operations over, under, and on the oceans. The best guarantee that this free and unfettered access to the high seas will continue in the years ahead is for the U.S. to become a party to the Convention, as modified by the Agreement, at the earliest possible time.

RESTRICTIONS ON FREEDOM OF NAVIGATION AND OVERFLIGHT

While U.S. military forces are generally free to navigate, consistent with international law as reflected in the 1982 LOS Convention, there have been many instances where our rights have been challenged. Some examples:

In 1967 the Soviet Union denied passage through the Northeast Passage in the Arctic to two U.S. Coast Guard icebreakers. As a result, they were unable to complete their mission. This route has been denied to U.S. surface vessels since then.

In 1973, Libya enclosed a huge area of water in the Gulf of Sidra as an "historic bay." Although the world has largely rejected the claim, Libya's willingness to use force ("line of death") has deterred many from exercising their rights.

In 1982 and 1987, Soviet forces interfered with the operations of U.S. naval frigates near Peter the Great Bay. The Soviets claim the bay is "historic" and the waters as internal. The United States considers these to be international waters.

After the August 1985 transit of the U.S. Coast Guard icebreaker *Polar Sea* through the Northwest Passage, public opinion resulted in a restrictive Canadian law claiming high seas areas as internal waters and closing international straits. To maintain our access to the Northwest Passage, the United States agreed not to transit with Coast Guard icebreakers without Canada's consent to the conduct of marine scientific research during the passage.

In January 1988, two Soviet border guard vessels "bumped" the *USS Caron* and *USS Yorktown* engaged in innocent passage in the territorial sea off the Crimean Peninsula. [see figure 7, page 19]

Having claimed a 200 NM territorial sea since 1947, Peru regularly intercepts U.S. planes far off the coast of Peru. After an incident in 1989, the Chief of Staff of the Air Force, a passenger on an intercepted aircraft, demanded that the U.S. file a diplomatic protest. Later, in April 1992, a Peruvian fighter aircraft intercepted and shot at a USAF C–130 aircraft, killing one crewmember and wounding two others. Peru attempted to justify its action asserting that the U.S. aircraft was within its illegal 200 NM territorial sea/airspace.

Other States' forces are even more constrained than the United States, often acquiescing in excessive maritime claims, because they do not have the naval resources to support operational challenges.

FOOTNOTES

[1] 18 Weekly Comp. Pres. Doc. 877 (July 9, 1982).

[2] Id. See also, James L. Malone, The United States and the Law of the Sea, 24 VA. J. Int'l Law 785 (1984).

[3] 19 Weekly Comp. Pres. Doc. 383–385 (Mar. 10, 1983).

[4] Dept. of State, Limits in the Seas No. 112, United States Responses to Excessive National Maritime Claims (March 9, 1992). Illegal claims which have been challenged include: improper straight baseline claims, excessive territorial sea claims, and claims which restrict the right of transit passage or innocent passage by all ships (including warships) without prior notice or permission.

[5] 24 Weekly Comp. Pres. Docs. 52 (Dec. 27, 1989).

[6] John Norton Moore, The Regime of Straits and UNCLOS, 74 AM. J. Int'l Law 77, 81 (1980).

[7] William L. Schachte (Rear Adm., USN ret.), Remarks before the 25th Annual Law of the Sea Conference, Law of the Sea Institute, University of Hawaii, 6-9 August 1991, Malmo, Sweden (Manuscript Available in DOD REPOPA Files).

[8] John R. Stevenson & Bernard H. Oxman, The Future of the United Nations Convention on the Law of the Sea, 88 AM. J. Int'l Law 488 (1994).

[9] See, e.g., Sherri Wasserman Goodman, Deputy Undersecretary of Defense for Environmental Security, DoD's New Vision for Environmental Security, Defense Issues, Vol. 9, No. 24.

[10] The IMO is expressly recognized in Article 211 as the "competent" international organization to decide questions relating to vessel design and construction as well as restrictive navigational schemes to protect the environment (e.g., traffic separation schemes in straits and archipelagic waters).

[11] Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships of 1973, Done at London February 17, 1978. (Protocol incorporates, with modifications, the provisions of the 1973 convention, including its annexes and protocol.)

[12] Convention on the International Regulations for Preventing Collisions at Sea, Done at London October 20, 1972, 28 UST 3459, TIAS 8587.

[13] Convention on the Prevention of Maine Pollution by Dumping of Wastes and Other Matter, Done at Washington, London, Mexico City and Moscow December 29, 1972, 26 UST 2403, TIAS 8165, 1046 UNTS 120.

[From the USA Today, June 15, 1994]

U.S. REELING OVER CANADA FISHING TOLL

(By Deeann Glamser)

SEATTLE.—A plan by Canada to charge U.S. fishermen a $1,100 toll to travel its waters to fish in Alaska is threatening to start an economic war between the two countries.

The toll—charged each way starting today on boats traveling the 650-mile Inside Passage between Washington and Alaska—comes from the countries' failure to renew a salmon-fishing treaty.

"It's extortion," says commercial fisherman Mike Health.

The move has prompted the State Department and Northwest legislators to call for a new law to reimburse hundreds of fishermen who will have to make a port of call to pay the toll in cash or money orders. The State Department would then be authorized to make claims against Canada for toll money.

U.S. Rep. Jolene Unsoleld, D–Wash, is expected to propose the short-term relief measure to Congress today.

The United States is sending a letter of protest to Canada; some in Congress are asking President Clinton to intervene.

The two countries have been haggling over fishing rights for years. Big bucks are at stake: Average commercial salmon catchers are worth $140 million a year off Washington, Oregon and California, and another $575 million in Alaska.

Canada claims fishermen off Alaska are intercepting millions of fish that would be headed for its waters. Canadian officials estimate that 52% of the region's salmon spawn in British Columbia; 31% in Alaska; and 17% in Washington and Oregon.

U.S. fishermen are frustrated by U.S. law, which protects several types of threatened salmon in U.S. waterways, but has no reach once the migratory fish hit Canadian waters.

Washington and Oregon officials, frantically trying to save an industry that is an economic mainstay in the region, want Canada to reduce catchers too.

Those states already closed salmon fishing off their coasts this year because of record-low stocks. Many fishermen planned to go to Alaska's abundant waters, but now say they can't afford the toll.

"Normally that pays all our insurance, fuel and groceries (for Alaska)," says Howard Winnem, 53. "Now we start with nothing."

Winnem, like many others, plans to take a more dangerous open-sea route to Alaska to avoid paying the toll. "We don't have the money, so we have to take a chance."

But other boat owners say that's too risky.

Stan Bell and his wife, Deanna, are making only critical repairs on their weathered troller so they can afford the sheltered route. Vows Deanna; "I won't eat anything Canadian or buy Canadian."

Bud Graham, Canada's Pacific Region fisheries management director, says Canada has the legal right to impose the toll, or commercial license fee.

U.S. officials don't agree.

"The claims the Canadians are making are clearly and patently illegal," Ambassador David Colson, chief U.S. fish negotiator, told the Seattle Post-Intellegencer.

Graham says the toll is just "one in a series of measures Canada will introduce" to break the stalemate over fishing rights and restore talks.

Ultimately, many feel the problem won't be resolved until the two countries agree on restrictions to avoid overfishing salmon.

Which is why Sen. Patty Murray, D-Wash., says the reimbursement proposal provides only short-term relief.

"We can't be thinking this is a solution," Murray says. "The problem with our fisheries is much bigger."

Mr. FORD. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. All those in favor of ratifications, please stand and be counted.

All those opposed to ratification, please stand and be counted.

Two-thirds of the Senators present and voting having voted in the affirmative, the resolutions of ratification are agreed to, as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High seas, Which Was Adopted at Rome by Consensus by the Conference of the United Nations Food and Agriculture Organization on November 24, 1993.

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention (No. 150) Concerning Labor Administration: Role, Functions and Organization, Adopted by the International Labor Conference at its 64th Session in Geneva on June 7, 1978.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Two Treaties Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, both signed at London, November 5, 1993, on the Delimitation in the Caribbean of a Maritime Boundary Relating to: (A) the U.S. Virgin Islands and Anguilla; and (B) Puerto Rico/U.S. Virgin Islands and the British Virgin Islands, with Annex.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Convention on the Conservation and Management of Pollock Reserves in the Central Bering Sea, with Annex, done at Washington on June 16, 1994.

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Headquarters Agreement Between the Government of the United States of America and the Organization of American States, signed at Washington on May 14, 1992.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to the consideration of legislative session.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOC. 103-39

Mr. FORD. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a treaty transmitted to the Senate on October 6, 1994, by the President of the United States.

United Nations Convention on the Law of the Sea, with Annexes, and, the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, with Annex (Treaty Doc. 103-39);

I also ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for the advice and consent of the Senate to accession, the United Nations Convention on the Law of the Sea, with Annexes, done at Montego Bay, December 10, 1982 (the "Convention"), and, for the advice and consent of the Senate to ratification, the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982, with Annex, adopted at New York, July 28, 1994 (the "Agreement"), and signed by the United States, subject to ratification, on July 29, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Convention and Agreement, as well as Resolution II of Annex I and Annex II of the Final Act of the Third United Nations Conference on the Law of the Sea.

The United States has basic and enduring national interests in the oceans and has consistently taken the view that the full range of these interests is best protected through a widely accepted international framework governing uses of the sea. Since the late 1960s, the basic U.S. strategy has been to conclude a comprehensive treaty on the law of the sea that will be respected by all countries. Each succeeding U.S. Administration has recognized this as the cornerstone of U.S. oceans policy. Following adoption of the Convention in 1982, it has been the policy of the United States to act in a manner consistent with its provisions relating to traditional uses of the oceans and to encourage other countries to do likewise.

The primary benefits of the Convention to the United States include the following:

—The Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. it achieves this, inter alia, by stabilizing the breadth of the territorial sea at 12 nautical miles; by setting forth navigation regimes of innocent passage in the territorial sea, transit passage in straits used for international navigation, and archipelagic sea lanes passage; and by reaffirming the traditional freedoms of navigation and overflight in the exclusive economic zone and the high seas beyond.

—The Convention advances the interests of the United States as a coastal State. It achieves this, inter alia, by providing for an exclusive economic zone out to 200 nautical miles from shore and by securing our rights regarding resources and artificial islands, installations and structures for economic purposes over the full extent of the continental shelf. These provisions fully comport with U.S. oil and gas leasing practices, domestic management of coastal fishery resources, and international fisheries agreements.

—As a far-reaching environmental accord addressing vessel source pollution, pollution from seabed activities, ocean dumping, and land-based sources of marine pollution, the Convention promotes continuing improvement in the health of the world's oceans.

—In light of the essential role of marine scientific research in understanding and managing the oceans, the Convention sets forth criteria and procedures to promote access to marine areas, including coastal waters, for research activities.

—The Convention facilitates solutions to the increasingly complex problems of the uses of the ocean—solutions that respect the essential balance between our interests as both a coastal and a maritime nation.

—Through its dispute settlement provisions, the Convention provides for mechanisms to enhance compliance by Parties with the Convention's provisions.

Notwithstanding these beneficial provisions of the Convention and bipartisan support for them, the United States decided not to sign the Convention in 1982 because of flaws in the regime it would have established for managing the development of mineral resources of the seabed beyond national jurisdiction (Part XI). It has been the consistent view of successive U.S. Administrations that this deep seabed mining regime was inadequate and in need of reform if the United States was ever to become a Party to the Convention.

Such reform has now been achieved. The Agreement, signed by the United States on July 29, 1994, fundamentally changes the deep seabed mining regime of the Convention. As described in the report of the Secretary of State, the Agreement meets the objections the United States and other industrialized nations previously expressed to Part XI. It promises to provide a stable and internationally recognized framework for mining to proceed in response to future demand for minerals.

Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which covers more than 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength.

I therefore recommend that the Senate give early and favorable consideration to the Convention and to the Agreement and give its advice and consent to accession to the Convention and to ratification of the Agreement. Should the Senate give such advice and consent, I intend to exercise the options concerning dispute settlement recommended in the accompanying report of the Secretary of State.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1994.*

REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT—PM 153

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1993, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1994.*

REPORT OF INTENTIONS RELATIVE TO THE NORTH AMERICAN FREE TRADE AGREEMENT—MESSAGE FROM THE PRESIDENT—PM 154

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

In November 1993, in preparation for the implementation of the North American Free Trade Agreement (NAFTA) on January 1, 1994, I informed the Congress of my intent to modify the moratorium on the issuance of certificates of operating authority to Mexican-owned or-controlled motor carriers that was imposed by the Bus Regulatory Reform Act of 1982 (49 U.S.C. 10922(*l*)(2)(A)). The modification applied to Mexican charter and tour bus operations. At that time, I also informed the Congress that I would be notifying it of additional modifications to the moratorium with respect to Mexican operations as we continued to implement NAFTA's transportation provisions. In this regard, it is now my intention to further modify the moratorium to allow Mexican small package delivery services to operate in the United States provided that Mexico implements its NAFTA obligation to provide national treatment to U.S. small package delivery companies.

Prior to its implementation of the NAFTA, Mexico limited foreign-owned small package delivery services, such as that offered by United Parcel Service and Federal Express, to trucks approximately the size of a minivan. This made intercity service impractical and effectively limited small-package delivery companies to intracity service only. Mexico has no similar restriction on the size of trucks used by Mexican small package delivery services. Because Mexico did not take a reservation in this area, the NAFTA obligates Mexico to extend national treatment to U.S. small package and messenger service companies. Mexico must allow U.S. small package delivery services to use the same size trucks that Mexican small package delivery companies are permitted to use.

Mexico, earlier this year, enacted legislation that addresses the small package delivery issue. Amendments to the *Law on Roads, Bridges, and Federal Motor Carriers* authorize parcel delivery and messenger services to operate without restriction so long as they obtain a permit from the Secretariat of Communications and Transportation and direct that such permits be granted in a timely fashion. The law includes no restrictions on the size and weight of parcels nor on the dimensions of the vehicles that small package delivery services will be permitted to use.

At the North American Transportation Summit hosted by the United States on April 29, 1994, Mexico's Secretary of Communications and Transportation Emilio Gamboa reaffirmed his government's commitment to permit unrestricted operations by foreign-owned providers of small package delivery services in Mexico. In return, even though the United States does not have a similar obligation under the NAFTA, Secretary of Transportation Federico Peña stated the United States Government's intention to grant Mexican small package delivery service companies reciprocal operating rights in the United States by modifying the moratorium imposed by the Bus Regulatory Reform Act. Mexico and the United States agreed to establish a joint working group to specify the details of this arrangement by September 1, 1994.

The U.S. small package delivery service industry is supportive of United States Government efforts to eliminate Mexico's restrictions on small package delivery operations. Provided Mexico implements its NAFTA obligation to extend national treatment to U.S. small package delivery companies, the U.S. industry would not object to a modification of the moratorium that would provide Mexican small package delivery companies reciprocal treatment in the United States.

Provided that Mexico meets its NAFTA-imposed national treatment obligation to allow U.S.-owned small package delivery services unrestricted operations, I intend, pursuant to section 6 of the Bus Regulatory Reform Act, to modify the moratorium imposed by that section to permit Mexican small package delivery services to operate in the United States in exactly the same manner and to exactly the same extent that U.S. small package delivery services will be permitted to operate in Mexico. The Bus Regulatory Reform Act requires 60 days' advance notice to the Congress of my intention to modify or remove the moratorium. With this message, I am providing the advance notice so required.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *October 6, 1994.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 10:36 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolutions:

S. 316. An act to expand the boundaries of the Saguaro National Monument, and for other purposes.

S. 1233. An act to resolve the status of certain lands in Arizona that are subject to a claim as a grant of public lands for railroad purposes, and for other purposes.

H.R. 810. An act for the relief of Elizabeth M. Hill.

H.J. Res. 389. Joint resolution to designate the second Sunday in October of 1994 as "National Children's Day."

H.J. Res. 398. Joint resolution to establish the fourth Sunday of July as "Parents' Day."

H.J. Res. 415. Joint resolution designating the week beginning October 16, 1994, as "National Penny Charity Week."

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4922. An act to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

H.R. 5044. An act to establish the American Heritage Areas Partnership Program, and for other purposes.

H.R. 5116. An act to amend title 11 of the United States Code.

The message also announced that the House has passed the following bill, without amendment:

S. 1225. An act to authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore (Mr. BYRD).

At 2:01 p.m., a message from the House of Representatives announced that the House has passed the following bills; in which it requests the concurrence of the Senate:

H.R. 2135. An act to provide for a National Native American Veterans' Memorial.

H.R. 3059. An act to establish a National Maritime Heritage Program to make grants available for educational programs and the restoration of America's cultural resources for the purpose of preserving America's endangered maritime heritage.

H.R. 5139. An act to amend title 39, United States Code, to provide for procedures under which persons involuntarily separated by the United States Postal Service as a result of having been improperly arrested by the Postal Inspection Service on narcotics charges may seek reemployment.

H.R. 5140. An act to provide for improved procedures for the enforcement of child support obligations of members of the Armed Forces.

H.R. 5143. An act to amend the Fair Credit Reporting Act to provide for disclosures by consumer reporting agencies to the Federal Bureau of Investigation for counterintelligence purposes.

H.R. 5155. An act to authorize the transfer of naval vessels to certain foreign countries.

H.R. 5161. An act to amend the Omnibus Budget Reconciliation Act of 1993 to permit the prompt sharing of timber sale receipts of the Forest Service and the Bureau of Land Management.

H.R. 5176. An act to amend the Federal Water Pollution Control Act relating to San Diego ocean discharge and waste water reclamation.

The message also announced that the House has agreed to the following concurrent resolutions; in which it requests the concurrence of the Senate:

H. Con. Res. 216. Concurrent resolution expressing the sense of the Congress regarding human rights in Vietnam.

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress regarding United States policy towards Vietnam.

H. Con. Res. 295. Concurrent resolution to express the sense of the Congress of the United States that the United States should actively seek compliance by all countries with the conservation and management measures for Atlantic bluefin tuna adopted by the International Commission for the Conservation of Atlantic Tunas.

H. Con. Res. 302. Concurrent resolution urging the President to promote political stability in Tajikistan through efforts to encourage political resolution of the conflict and respect for human rights and through the provision of humanitarian assistance and, subject to certain conditions, economic assistance.

The message further announced that the House has passed the following bills; each without amendment:

S. 922. An act to provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

S. 2475. An act to authorize assistance to promote the peaceful resolution of conflicts in Africa.

S. 2500. An act to enable producers and feeders of sheep and importers of sheep and sheep products to develop, finance, and carry out a nationally coordinated program for sheep and sheep product promotion, research, and information, and for other purposes.

The message also announced that the House has passed the following bills; each with an amendment, in which it requests the concurrence of the Senate:

S. 423. An act to provide for recovery of costs of supervision and regulation of investment advisors and their activities, and for other purposes.

S. 720. An act to clean up open dumps on Indian lands, and for other purposes.

S. 986. An act to provide for an interpretive center at the Civil War Battlefield of Corinth, Mississippi, and for other purposes.

S. 1457. An act to amend the Aleutian and Pribilof Restitution Act to increase authorization for appropriation to compensate Aleut villages for church property lost, damaged, or destroyed during World War II.

S. 1614. An act to amend the Child Nutrition Act of 1966 and the National Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution; without amendment:

S. Con. Res. 77. Concurrent resolution expressing the sense of the Congress regarding the United States position on the disinsection of aircraft at the 11th meeting of the Facilitation Division of the International Civil Aviation Organization.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 2826) to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3485) to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1994, 1995, and 1996.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4653) to settle Indian land claims within the State of Connecticut, and for other purposes.

At 3:54 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5178. An Act to amend the Fair Credit Reporting Act, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on October 6, 1994 she had presented to the President of the United States, the following enrolled joint resolutions:

S.J. Res. 157. Joint Resolution to designate 1994 as "The Year of Gospel Music."

S.J. Res. 185. Joint Resolution to designate October 1994 as "National Breast Cancer Awareness Month."

S.J. Res. 198. Joint Resolution to designating 1995 the "Year of Grandparent."

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 2375) to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes (Rept. 103-402).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Martin Jay Dickman, of Illinois to be Inspector General, Railroad Retirement Board.

Jorge M. Perez, of Florida, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

Joel David Valdez, of Arizona, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

G. Mario Moreno, of Texas, to be Assistant Secretary for Intergovernmental and Interagency Affairs, Department of Education

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. Richard I. Neal, 023-30-0571, USMC.

(The above information was reported with the recommendation that he be confirmed.)

By Mr. BUMPERS, from the Committee on Small Business:

Philp Lader, of South Carolina, to be Administrator of the Small Business Administration, vice Erskin B. Bowles.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. BIDEN, from the Committee on the Judiciary:

Robert Moore, of Illinois, to be United States Marshal for the Central District of Illinois for the term of four years.

Okla Jones, II, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Kathleen M. O'Malley, of Ohio, to be United States District Judge for the Northern District of Ohio.

G. Thomas Porteous, Jr., of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

James Robertson, of Maryland, to be United States District Judge for the District of Columbia.

Thomas B. Russell, of Kentucky, to be United States District Judge for the Western District of Kentucky.

James A. Beaty, Jr., of North Carolina, to be United States District Judge for the Middle District of North Carolina.

Charles R. Wilson, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years.

Steven Scott Alm of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

David Briones, of Texas, to be United States District Judge for the Western District of Texas.

Herbert M. Rutherford III, of the District of Columbia, to be United States Marshal for the District of Columbia for the term of four years.

Michael R. Ramon, of California, to be United States Marshal for the Central District of California.

Michael D. Carrington, of Indiana, to be United States Marshal for the Northern District of Indiana for the term of four years.

John R. Murphy, of Alaska, to be United States Marshal for the District of Alaska for the term of four years.

Eisenhower Durr, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.

Robert Bradford English, of Missouri, to be United States Marshal for the Western District of Missouri for the term of four years.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DODD (for himself and Mr. D'AMATO):

S. 2510. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LIEBERMAN:

S. 2511. A bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. McCONNELL (for himself and Mr. FORD):

S. 2512. A bill to require the Secretary of Agriculture to issue an order to establish a thoroughbred horse industry promotion program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER:

S. 2513. A bill to enhance the research conducted by the Agency for Health Care Policy and Research concerning primary care, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 2514. A bill to ensure economic equity for American women and their families by promoting fairness in the workplace; creating new economic opportunities for women workers and women business owners; helping workers better meet the competing demands of work and family; and enhancing economic self-sufficiency through public and private pension reform and improved child support enforcement; to the Committee on Finance.

By Mr. BROWN:

S. 2515. A bill to amend title 17, United States Code, to exempt business establishments from copyright fees for the public performance of nondramatic musical works, to provide for binding arbitration in royalty disputes involving performing rights societies, to ensure computer access to music repertoire, and for other purposes; to the Committee on the Judiciary.

By Mr. KENNEDY:

S. 2516. A bill to consolidate and reform Federal job training programs to create a world class workforce development system for the 21st century, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON:

S. 2517. A bill to amend the Fastener Quality Act; to the Committee on Commerce, Science, and Transportation.

By Mr. HATFIELD:

S. 2518. A bill for the relief of Ang Tsering Sherpa; to the Committee on the Judiciary.

By Mr. FORD:

S. 2519. A bill to amend title IV of the Surface Mining Control and Reclamation Act of 1977, to provide for acquisition and reclamation of land adversely affected by past coal mining practices, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2520. A bill to amend title IV, of the Surface Mining Control and Reclamation Act of 1977, to encourage the mining and reclamation of previously mined areas by active mining operations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (for himself and Mr. PRESSLER):

S. 2521. A bill to amend chapter 6 of title 5, United States Code, to modify the judicial review of regulatory flexibility analyses, and for other purposes; to the Committee on the Judiciary.

By Mr. McCONNELL:

S. 2522. A bill to amend the Federal Humane Methods of Livestock Slaughter Act to authorize the Secretary of Agriculture to regulate the commercial transportation of horses for slaughter, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WALLOP:

S. 2523. A bill to amend the Internal Revenue Code of 1986 to permit certain foreign pension plans to invest in the United States on a nontaxable basis; to the Committee on Finance.

By Mr. HEFLIN:

S. 2524. A bill to amend chapter 23 of title 28, United States Code, to authorize voluntary alternative dispute resolution programs in Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. LIEBERMAN (for himself, Mr. MACK, Mrs. BOXER, Mr. SMITH, Mrs. FEINSTEIN, Mr. ROBB, Mr. GREGG, and Mrs. MURRAY):

S. 2525. A bill to require a majority vote of the Securities and Exchange Commission for the adoption of accounting standards and principles used in the preparation of financial statements required under the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself and Mr. SIMON):

S. 2526. A bill to prohibit any charges on telephone bills for calls to 800 numbers; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI:

S. 2527. A bill to amend section 257(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the treatment of losses from asset sales; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mrs. FEINSTEIN (for herself, Mr. SASSER, and Mr. PELL):

S. 2528. A bill to improve and strengthen the child support collection system; to the Committee on Finance.

By Mr. GRAHAM:

S. 2529. A bill to amend title XI of the Social Security Act with respect to certain criminal penalties for acts involving the medicare program or State health care programs; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. WOFFORD, Mr. ROBB, Mr. DECONCINI, Mr. INOUYE, Mr. LEVIN, Mr. HATFIELD, and Mr. D'AMATO):

S. 2530. A bill to express the sense of the Congress on suspending consideration of any commemorative coin legislation during the 104th Congress, to affirm the role of the Citizens Commemorative Coin Advisory Committee in recommending new commemorative coin programs, and to authorize the Secretary of the Treasury to mint certain coins; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM:

S. 2531. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the pension and welfare benefits of working men and women, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself, Mr. BOREN, Mr. SIMON, and Mr. COATS):

S. 2532. A bill to amend the Internal Revenue Code of 1986 to allow for the establishment of medical savings accounts for individuals covered by certain high deductible health plans; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. FAIRCLOTH):

S. 2533. A bill to amend the Immigration and Nationality Act to protect Americans against criminal activity by aliens, to defend against acts of international terrorism, and to relieve pressure on public services by enhancing border security and diminishing legal immigration into the United States; to the Committee on the Judiciary.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. PRYOR, Mrs. FEINSTEIN, Mr. McCAIN, Mr. CAMPBELL, Mr. SIMON, Mr. WOFFORD, Mr. THURMOND, Mr. ROBB, Mr. MACK, Mr. PELL, Mrs. HUTCHISON, Mrs. BOXER, Mr. SMITH, Mr. LAUTENBERG, Mr. WARNER, Mr. GRAHAM, Mr. GLENN, Mr. GREGG, and Mr. ROTH):

S. 2534. A bill to revise and improve the process for disposing of buildings and property at military installations under the base closure laws; considered and passed.

By Mr. MITCHELL (for himself, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. COVERDELL, Mr. GREGG, Mr. McCAIN, and Mr. THURMOND):

S.J. Res. 229. A joint resolution regarding United States policy toward Haiti; considered and passed.

By Mr. MURKOWSKI:

S.J. Res. 230. A joint resolution designating the week beginning October 16, 1994, as "National Penny Charity Week", and for other purposes; to the Committee on the Judiciary.

By Mr. CHAFEE:

S.J. Res. 231. A joint resolution prohibiting funds for diplomatic relations with Vietnam at the ambassadorial level unless a report on United States servicemen who remain unaccounted for from the Vietnam War is submitted to the Senate; to the Committee on Foreign Relations.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. AKAKA, Mr. BIDEN, Mr. BOND, Mr. BOREN, Mr. BRYAN, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CRAIG, Mr. D'AMATO, Mr. DECONCINI, Mr. DURENBERGER, Mr. GLENN, Mr. GRASSLEY, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MIKULSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. ROTH, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WARNER, and Mr. WOFFORD):

S.J. Res. 232. A joint resolution designating October 23, 1994, through October 31, 1994, as "National Red Ribbon Week for a Drug-Free America; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. SIMPSON, Mr. NICKLES, Mr. COCHRAN, Mr. McCONNELL, Mr. SMITH, Mr. D'AMATO, Mr. DOMENICI, Mr. COATS, Mr. LOTT, Mrs. HUTCHISON, Mr. BENNETT, Mr. SHELBY, Mr. GREGG, Mr. COVERDELL, Mr. DURENBERGER, Mr.

PACKWOOD, Mr. GORTON, Mr. KEMPTHORNE, Mr. THURMOND, Mrs. KASSEBAUM, Mr. BROWN, Mr. MACK, Mr. WARNER, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, Mr. BURNS, Mr. HELMS, Mr. MCCAIN, Mr. GRASSLEY, Mr. LUGAR, Mr. BOND, Mr. CRAIG, Mr. ROTH, Mr. PRESSLER, Mr. COHEN, and Mr. CHAFEE):

S. Res. 274. A resolution to amend the Standing Rules of the Senate; to the Committee on Rules and Administration.

By Mr. WELLSTONE (for himself and Mr. FEINGOLD):

S. Res. 275. A resolution to amend the Senate gift rule; to the Committee on Rules and Administration.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 276. A resolution providing that notwithstanding the sine die adjournment; the President of the Senate, the President pro tempore, the majority and minority leaders are authorized to make appointments to commissions, committees, boards, or conferences; considered and agreed to.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. MITCHELL, Mr. WELLSTONE, and Mr. LAUTENBERG):

S. Con. Res. 80. A concurrent resolution to correct technical errors in the enrollment of the bill (S. 349), and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself and Mr. D'AMATO):

S. 2510. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

THE BANK INSURANCE FUND AND DEPOSITOR PROTECTION ACT OF 1994

• Mr. DODD. Mr. President, I introduce the Bank Insurance Fund and Depositor Protection Act of 1994. Sponsoring this legislation with me is my colleague, Senator ALFONSE D'AMATO, the ranking member of the Senate Banking Committee.

The Bank Insurance Fund and Depositor Protection Act of 1994 is simple and straightforward. It prohibits Federal deposit insurance coverage for a new financial product that recently emerged from a small corner of the retail banking world. This first of its kind product, called a retirement CD, has been cleverly constructed to receive both the benefits of Federal deposit insurance and tax deferral.

Earlier this year, the Office of the Comptroller of the Currency [OCC] and the Federal Deposit Insurance Corporation [FDIC] sanctioned the sale of the retirement CD by Blackfeet National Bank, a small national bank in Montana. In separate letters dated May 12, 1994, the FDIC and the OCC stated that they had no objection to the sale of the retirement CD by Blackfeet. I would note that the Internal Revenue Service has not issued a similar opinion on the tax status of the retirement CD.

At this time, Blackfeet is the only insured depository institution going forward with the sale of the retirement CD to consumers. However, it is my understanding that approximately eight other institutions have signed licensing agreements to sell the retirement CD and may begin offering the product within the next few weeks. Many others are carefully examining the retirement CD with an eye toward offering it at some time in the future.

Mr. President, as it is currently structured, the retirement CD is not an appropriate product to be covered by Federal deposit insurance. The retirement CD raises significant policy issues related to consumer protection, safety and soundness, regulatory control, and competitive equity. I believe that if it is allowed to proliferate as it is currently structured, the retirement CD could have a tremendously negative impact on consumer confidence in our financial institutions and on the stability of our deposit insurance system.

I have described in detail most of my concerns about the retirement CD in a June 20, 1994 letter that I and several of my Banking Committee colleagues sent to the OCC and the FDIC. I would like to include that letter along with the regulators' responses in the RECORD.

I will not reiterate all the concerns described in that letter, but will briefly mention a couple of the more troubling issues that arise in connection with the retirement CD.

First, there is enormous potential for customer confusion about the retirement CD's terms and conditions. This product is not a plain vanilla certificate of deposit. It is not a simple annuity. It is a complex newfangled hybrid that has both CD and annuity features.

The retirement CD pays a fixed rate of interest for up to 5 years, after which the rate is adjusted at the sole discretion of the bank. This rate is never supposed to fall below 3 percent. Interest ceases to be posted upon maturity. The customer may withdraw up to two-thirds of the balance at maturity, and the remainder will be disbursed in fixed periodic payments for life, incorporating the imputed interest rate.

Consumers must understand that the interest rate is set at the sole discretion of the bank. While there is a 3-percent floor during the period when interest accrues, there is no similar threshold during the payout phase. This raises the prospect that a customer may not know what the imputed rate is tied to, and that the bank could offer a fixed payout at an extremely unfavorable rate.

Second, a consumer must understand that this retirement CD, unlike traditional certificates of deposit, contains a component that is not FDIC insured. FDIC insurance only applies to the balance that is not withdrawn at maturity, less the full dollar amount of any payments received. If a bank that issues a retirement CD fails at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure nor continue to pay the monthly payments for the rest of the customer's life. This is the case despite the fact that the promotional material claims to guarantee payments for life.

Mr. President, the OCC and the FDIC share many of my concerns about the likelihood of customer confusion, the existence of misleading marketing information, and the impact of this product on bank safety and soundness. They outlined these concerns in their respective no objection letters I referred to earlier. However, the regulators chose not to prevent Blackfeet from going forward with the issuance of the retirement CD, as long as the bank complied with a lengthy list of conditions.

Mr. President, I think this was ill-advised. There is already strong evidence of substantial customer confusion regarding the insurance status of non-deposit investment products like mutual funds and annuity products being sold by banks and other insured depository institutions. These products are much less complex than the retirement CD. The regulators themselves have helped to collect compelling evidence about the ongoing problem of customer confusion. At a time when we are wrestling with how to eliminate this problem, I find it difficult to understand why the regulators gave their stamp of approval to the sale of this new complex product which can only make a bad situation worse.

Mr. President, for this and many other reasons, the retirement CD as it's currently structured should not be offered by banks to the public. The legislation I am introducing today will exclude the retirement CD from the definition of a deposit under the Federal Deposit Insurance Act. The retirement CD will therefore not be convered by Federal deposit insurance.

The legislation does not prohibit banks from offering the retirement CD. It simply denies the product deposit status under the Federal Deposit Insurance Act.

The legislation is not intended to eliminate existing levels of deposit insurance coverage to deposit accounts established in connection with certain individual retirement accounts, Keogh plans, eligible deferred compensation plans, pension plans, or similar employee benefit plans which may be maintained at an insured depository institution. This legislation eliminates Federal deposit insurance coverage for products which expose the issuing insured depository institution, and ultimately the deposit insurance funds, to liabilities that are annuity contracts and are tax deferred under section 72 of the Internal Revenue Code of 1986.

The provisions of this act do not apply to any liability which is not an annuity contract, whether or not tax deferred under section 72 of the Internal Revenue Code. For example, a liability other than an annuity contract which is part of an individual retirement account would not be affected by the provisions of this act even though the tax liability is deferred under section 72 of the Internal Revenue Code of 1986 because section 408(d) of the Code incorporates section 72 only by reference.

Mr. President, the retirement CD may be cleverly packaged. It may be a tempting new business opportunity for the banking industry. But because it raises serious public policy concerns that have not been fully explored, it must not be provided the protection of the Federal safety net—at least until it is more closely examined by Congress, the banking regulators, and the Internal Revenue Service. I hope that the Banking Committee will hold hearings on this matter early next year.

I ask unanimous consent that the Bank Insurance Fund and Consumer Protection Act of 1994 be printed in the RECORD along with additional material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank Insurance Fund and Depositor Protection Act of 1994".

SEC. 2 DEFINITION OF DEPOSIT.

Section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) any liability of an insured depository institution that arises under an annuity contract, the income on which is tax deferred under section 72 of the Internal Revenue Code of 1986.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to any liability of an insured depository institution that arises under an annuity contract issued on or after October 6, 1994.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, June 20, 1994.

Hon. EUGENE LUDWIG,
Comptroller of the Currency, Office of the Comptroller of the Currency, Washington, DC.

Hon. ANDREW C. HOVE,
Acting Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MR. LUDWIG AND CHAIRMAN HOVE: We are following with great interest and concern the efforts of the Blackfeet National Bank ("Blackfeet") of Browning, Montana to offer to the general public a new "Retirement CD." We are disappointed that the OCC and the FDIC, by separate correspondence dated May 12, 1994, have in effect sanctioned, with certain conditions, plans to market and offer this Retirement CD investment product.

We are very troubled that the OCC and FDIC would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet.

The Retirement CD product raises a number of significant concerns which we have detailed below. We strongly believe these matters need to be thoroughly addressed by the regulators and Congress before this investment product is offered to the public.

1. CONSUMER PROTECTION ISSUES

The OCC and FDIC letters clearly indicate that both regulators have rather significant reservations about the consumer-protection implications of the Retirement CD. Both letters contain suggestions or conditions aimed at ensuring customer understanding and adequate disclosure. This insured deposit product combines features of both certificates of deposit and annuities, and it is enormously complex. Consumers may not fully comprehend how it works, the interest rate structure or the extent of FDIC insurance coverage.

The Retirement CD will pay a fixed rate of interest for up to five years, after which the rate becomes adjustable until the agreed-upon maturity date. The only assurance given to the consumers with respect to this variable interest rate is that it will be at least 3 percent. Upon maturity, the customer may withdraw up to two-thirds of the account balance, and the remainder of the account will be dispersed for life in fixed payments. These periodic payments incorporate an imputed interest rate. The consumer must understand that the interest rate, during much of the accumulation period (prior to the agreed- upon maturity date) and all of the payout phase, will be determined at the sole discretion of the bank. Furthermore, as we understand this product during the payout phase, there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This raises an ominous prospect: that a customer will not know exactly what the "imputed" rate is keyed to and that the bank could offer a fixed payout at an extremely unfavorable rate.

As we understand the product, FDIC insurance would only apply to the balance (principal plus accrued interest) that was not withdrawn on the date of maturity, less the full dollar amount of any payments received during the pay-out period. Therefore, a customer would have to understand that if the bank were to fail at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customer's life.

The OCC and the FDIC have expressed consumer protection concerns with respect to depository institution sales of uninsured non-deposit investment products, such as mutual fund shares. There is evidence that banking consumers do not always understand the simple fact that some of the products that banks offer are not FDIC-insured. With respect to the Retirement CD, we are concerned that consumers will not be able to fully-understand that a product that is called a "certificate of deposit"—a traditional insured deposit product—contains a component that is not FDIC-insured (although we understand that the promotional materials misleadingly "guarantee" payments for life).

Even the regulators seem somewhat uncertain about how the Retirement CD works. The respective letters from the OCC and the FDIC differ in their descriptions of one of the most important basic terms of the product—mainly, at what point the payout is agreed to. The OCC letter states, "[o]n the maturity date the customer will select from various options for repayment" (p. 2, emphasis added). The FDIC letter states, "[u]pon opening the account, the customer also chooses his/her payout options" (p. 1–2, emphasis added). If the regulators are confused, certainly the potential for consumer confusion is enormous.

We must ask this question: Do the regulators honestly believe that this product—that contains variable interest rates, certain tax benefits, and partial FDIC-insured deposit status—will not create substantially greater confusion than non-deposit investment products?

2. REGULATORY ISSUES

Annuities are currently subject to the state regulations enforced by state insurance officials. It is unclear if state insurance regulatory requirements will apply to the Retirement CD. Both customers and the bank should know this. If state regulations do not apply, it should be determined whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train bank personnel about annuities and about appropriate sales practices.

3. SAFETY AND SOUNDNESS ISSUES

Blackfeet and other banks that may offer the Retirement CD clearly will be acting as an underwriter of what is essentially an annuity. Although clever lawyering has gained this annuity product designation as a "deposit", it poses much greater risk to the bank than a traditional deposit. National banks will be assuming an unprecedented and inappropriate risk as a result of having to make a fixed payout for the life of a customer. Ultimately, these payments could exceed the consumer's balance on deposit at maturity. While the OCC suggests that Blackfeet's business plan should indicate how it will manage the risk associated with the annuity payment, the OCC requires no specific showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions.

This "deposit" is structured so that at the date of maturity, the bank must determine the fixed lifetime payout for the customer using a complex and not entirely-discernible process to achieve a proper rate of return. The Congress has opted not to authorize banks to assume the type of risk Blackfeet would assume in offering the Retirement CD. The OCC and the FDIC seem willing to disregard this consistent record of Congressional reluctance to allow federally-insured depository institutions to engage in such high-risk activities. The OCC and FDIC also seem too willing to take it on faith that a small national bank (armed with a software program) will have the business acumen and operational know-how to handle the risk of underwriting this annuity product.

4. COMPETITIVE EQUALITY ISSUES

The proliferation of the Retirement CD will produce an unfair competitive advantage for banks. It is reasonable to expect that consumers will be drawn to a tax-deferred annuity that also offers federal deposit insurance. By allowing national banks to underwrite, market and sell a tax-deferred annuity that is FDIC-insured, the FDIC is granting a substantial competitive advantage over similar annuity products that do not come with a government guarantee.

In expanding future opportunities for all financial service providers and consumers, the Federal government's goal should be to encourage competition on a free and fair basis. Balance sheet strength, customer service and other market-determined characteristics, not market-distorting government guarantees, should determine success. Given the recent savings and loan crisis, and the regulators' concerns over the abuse of deposit insurance, it would seem ill-advised to extend the reach of the federal safety net to a product that raises so many regulatory, competitive and consumer protection concerns.

The OCC and the FDIC have made it very clear that when given the opportunity, they will usually take the most expansive and creative view of bank powers under current law. We strongly support the view that, to the maximum extent possible, an explicit statutory mandate must exist before the regulators authorize expanded powers for banks, or any other financial intermediaries. For this reason, we continue to support comprehensive modernization of our entire financial system. Until this can be accomplished by Congress, we urge the OCC and FDIC to balance the proclivity to expand bank powers through regulatory channels against the legitimate public policy concerns of consumer protection, safety and soundness, and competitive equality. Products that raise serious public policy concerns deserve great scrutiny, regardless of how cleverly they are packaged or how attractive they may be to the banking industry. The Retirement CD is clearly one such product.

We do not share your view that this product, as it is currently structured, is an appropriate product for national banks to offer to retail customers. Therefore, we are developing, and will soon introduce, legislation to prohibit the sale of this investment product. Pending consideration of this legislation by Congress, we urge the OCC and the FDIC to reconsider their respective positions on the Retirement CD.

Sincerely,

CHRISTOPHER J. DODD.
RICHARD H. BRYAN.
ALFONSE M. D'AMATO.
LAUCH FAIRCLOTH.

FEDERAL DEPOSIT INSURANCE CORPORATION,
Washington, DC, July 8, 1994.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: Thank you for your letter concerning the Retirement CD, a product developed by American Deposit Corporation which is being offered by Blackfeet National Bank, Browning, Montana. Your letter expresses reservations regarding the Federal Deposit Insurance Corporation's position, as expressed in our Legal Division's May 12, 1994 advisory opinion. We appreciate the opportunity to address your concerns. Similar letters will be sent to Senators D'Amato, Bryan and Faircloth.

Your primary concern is the "consumer protection implications of the Retirement CD." The FDIC shares your concern that potential customers not be misled with regard to the workings of and the federal deposit insurance coverage afforded to the Retirement CD. That is precisely why the advisory opinion discusses these issues in such detail. The advisory opinion expressly states that the "FDIC therefore strongly believes that all promotional materials, advertisements, agreements and other customer materials concerning the Retirement CD should clearly and conspicuously state that the lifetime monthly annuity payments are not guaranteed by the FDIC." The opinion then goes on to discuss, in great detail, the Legal Division's concerns regarding the customer promotional materials which it reviewed, including explicit suggestions to revise certain portions of the text which were found to be inaccurate and possibly misleading. The advisory opinion also states that the offering bank should follow the applicable provisions of the "Interagency Statement on Retail Sales of Nondeposit Investment Products."

Your letter questions whether (i) state insurance laws and regulations apply to the Retirement CD and (ii) a national bank may offer this type of product. Our advisory opinion makes it quite clear that since the FDIC was addressing these questions as insurer, not as the primary federal regulator of Blackfeet National Bank, the only questions considered by the Legal Division were whether the Retirement CD is a "deposit" as that term is defined in section 3(*l*) of the FDI Act and, if so, the extent to which it is insured by the FDIC. Thus, the FDIC did not consider and has taken no position on these other issues. Your letter also asserts that the FDIC has "sanctioned" and "reacted favorably" to the Retirement CD. While the FDIC has determined that the Retirement CD is a "deposit" as that term is defined in the FDI Act and, therefore, is entitled to a certain level of deposit insurance coverage, the advisory opinion explicitly provides that it "should in no way be represented or construed as an endorsement or approval by the FDIC of this product."

You suggest in your letter that the regulators seem uncertain about how the Retirement CD works since the FDIC's and OCC's descriptions of the choice of payout options differ slightly. While our advisory opinion does state that the customer chooses his/her payout option when the account is opened, it goes on to explain that this election may be changed at any time up until thirty days prior to the maturity date. Thus, the FDIC and OCC share a common understanding of the product's parameters.

Section 11(a)(1)(A) of the FDI Act requires the FDIC to insure the deposits of all insured depository institutions. Since our staff determined that the Retirement CD qualifies as a deposit—to the extent described in the advisory opinion—we are required by law to insure it. In making its determination, the Legal Division considered all applicable statutory factors. The FDI Act does not require, or even permit, the FDIC to consider the "ramifications for the . . . insurance industry."

If you have any further questions or need any additional information, please let us know.

Sincerely,

ANDREW C. HOVE, Jr.,
Acting Chairman.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, August 18, 1994.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: I am responding to your June 20, 1994, letter addressed jointly to me and Andrew C. Hove, Acting Chairman, Federal Deposit Insurance Corporation ("FDIC"), concerning our recent letters to the Blackfeet National Bank (the "Bank") regarding its new Retirement CD. I appreciate this opportunity to address the concerns expressed in your letter relating to this bank product. Since your letter was also signed by them, we have sent identical responses to Senators Bryan, D'Amato and Faircloth.

Your letter states you are troubled that the OCC "would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet."

Please be assured that during the OCC's review of the Bank's November 8, 1993, letter in which the Bank informed us of its intention to market the Retirement CD, our staff had numerous telephone conversations with Blackfeet and its legal counsel, and did request a substantial amount of additional information. On the basis of that information and our own research, we found no reason in law or supervisory policy to prohibit the offering of this product. Accordingly, we issued our no-objection letter to the Bank. Our administrative process does not routinely involve consultation with Congress. However, we are available to discuss the Blackfeet matter with you and the members of your staff at your convenience.

I. CONSUMER PROTECTION ISSUES

The consumer protection issues you address generally arise from the mix of features that comprise the Retirement CD, and the ability of the Bank to explain and of consumers adequately to understand this combination of features. You are concerned that the product's structure may prevent consumers from fully comprehending how the product works, its interest rate structure and the extent to which the product is covered by FDIC insurance. In addition, your letter indicates that consumers may not be able to understand a product that is called a certificate of deposit but contains a non-FDIC insured component. Moreover, you ask whether we believe that the Retirement CD, which contains variable interest rates, tax benefits, and partial FDIC-insured deposit status, will create substantially greater confusion than nondeposit investment products.

The OCC is concerned about any bank product that potentially may confuse customers. I understand your concern that the combination of certain attributes of the Retirement CD, including variable interest rates, tax benefits, and partial FDIC-insured deposit status presents complications and could create customer confusion. We fully agree that it is important customers not misunderstand the nature of financial products offered to them. This is a problem to which we and the other federal banking agencies have been sensitive in our evaluation of bank sales of all types of nondeposit investments products. While the Retirement CD's complexities do not present a legal basis for preventing its offer and sale by the Bank, they do raise supervisory concerns. In response to those concerns we imposed conditions on the operation of Bank sales programs to address the potential problem of customer confusion.

Our legal review of the Retirement CD rested upon an analysis of the powers of national banks to engage in the business of banking. We concluded that offering the product represents the exercise by the Bank of its express authorizations to receive deposits and enter into contracts, coupled with its powers to incur liabilities and fund its operations. By offering the Retirement CD, the Bank is engaging in the business of banking, an activity federal law authorizes it to undertake.

The Bank did not seek and the OCC did not issue a formal approval of the product. Because offering the Retirement CD lies within the business of banking, the Bank does not need specific OCC approval to offer the product. Even so, the Bank may not ignore safety and soundness and customer protection concerns when it actually sells the product. We therefore advised the Bank that the OCC would not object to the offering of the Retirement CD only if the Bank met certain supervisory and consumer protection related conditions.

To address consumer-related concerns, our letter cautioned the Bank that the OCC expects it accurately to represent the "product's risk and economics, deposit insurance status and tax treatment in dealing with actual and prospective customers." We also stipulated twelve conditions that concern adequate disclosure and customer protection. Among these conditions are requirements that the Bank—(1) take steps to assure that its representations to customers regarding the FDIC insured status of the product are fair and accurate (condition #6); (2) make specific disclosures concerning the tax aspects of the product (conditions #9–10); (3) adequately explain the product's mechanics and economics (condition #12); (4) properly explain the calculation of the applicable interest rate (condition #13); and (5) implement an appropriate training program for personnel who will be involved in marketing the product. OCC examiners will periodically evaluate the Bank's compliance with these conditions.

In addition to the conditions detailed in our letter concerning disclosures, we informed the Bank that the Interagency Statement on Retail Sales of Nondeposit Investments Products, NR 94–21 (February 17, 1994) is applicable to the non-FDIC insured portion of the product. We have also advised the Bank of the applicability of 12 U.S.C. §4301 et seq. and 12 C.F.R. §230 et seq. (Truth in Savings).

You also set forth your understanding that during the payout phase of the Retirement CD there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This is not our understanding. The Bank has represented to us that at the end of the accumulation phase, a monthly payment amount is calculated for the depositor based primarily on three elements—(1) the balance left in the account after the depositor has made any withdrawals; (2) an imputed interest rate that cannot be below three percent; and (3) the depositor's life expectancy. Once the payment amount is determined, it remains fixed for the life of the depositor. Thus, there is a minimum imputed interest rate of three percent used in calculating the monthly payments.

Another concern expressed in your letter relates to the fact that FDIC insurance only applies to the balance (principal plus accrued interest) that is left in the account at the end of the accumulation phase. Your concern is that depositors may not understand that if the Bank fails after the depositor has received payments equal to this balance, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customers life. We addressed this specific concern in condition #6 of our letter where we directed the Bank to take steps to assure that representations to customers concerning the FDIC insured status of the product are fair and accurate, and that any limitations on FDIC insurance are conspicuously indicated.

You also expressed concern that the Bank's promotional materials contained the phrase "guaranteed payments for life." This language was contained in an early draft of the Bank's materials, and we strongly objected to it. (See condition #8 in our letter.) The phrase has been deleted from the current draft promotional materials and the term "guaranteed" now is used only with respect to the three percent guaranteed minimum interest rate. We are discussing use of the term in the context with the Bank's counsel to make sure its use is not confusing to investors.

Finally as to consumer issues, you point out an apparent discrepancy between our letter and the FDIC's with respect to the time at which consumers may select from various options for repayment. The FDIC's letter states the selection is made "upon opening the account" whereas our letter states the selection is made "on the maturity date." The depositor is actually allowed to select the terms for repayment on either date. We viewed the maturity date as the most effective time for this selection, and that is why we used that date in our letter. However, the FDIC is correct in stating that depositors may make their selections upon opening the account.

2. REGULATORY ISSUES

You state that annuities are currently subject to state regulations enforced by state insurance officials, and note that it is unclear if state insurance regulatory requirements will apply to the Retirement CD. In addition, you believe that customers should know whether state regulations apply to the product. If they do not, you suggest we consider whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train Bank personnel about annuities and appropriate sales practices.

Our legal analysis and conclusions to date have been limited to a determination of the Bank's authority to conduct the business of banking under the National Bank Act. State regulatory officials may conclude that state insurance laws also apply to the Retirement CD or any other activity which we interpret as being authorized by the National Bank Act. Such a conclusion, however, does not affect our interpretation of that Act. The applicability of any particular state law to the Retirement CD will have to be reviewed on a case by case basis.

We believe the OCC has the expertise fully to examine and evaluate Bank practices to mitigate the risks associated with the Retirement CD. The most significant concerns associated with the Retirement CD, in our view, relate to liquidity and funding. Written procedures and formal training presently available to, and extensively used by, OCC examiners address a variety of issues relevant to the supervision of bank obligations, including the evaluation of bank liquidity and funding issues. In the event additional guidance or training is necessary, it will be provided to examiners.

Condition #15 of our no-objection letter specifically requires the Bank to implement a program for training personnel who will be involved in marketing the Retirement CD. The training program must ensure a thorough understanding of the product so that customer questions are answered properly, and investment risks are adequately conveyed. The OCC has focused, and will continue to focus, on the Bank's training efforts in this regard, as well as its other efforts to mitigate the risks associated with the product.

3. SAFETY AND SOUNDNESS ISSUES

You state that offering the Retirement CD is tantamount to acting as an underwriter of an annuity. The risks associated with the product you believe are much greater to the Bank than a traditional deposit. The risk you state comes from the "unprecedented and inappropriate risk" a bank assumes by agreeing to make a fixed payout for the life of a customer. You are also troubled that the OCC "requires no showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions."

Our letter to the Blackfeet National Bank prescribed conditions for the Bank, including the need for Bank expertise in designing and implementing product controls and systems to mitigate the risks associated with the product. We directed the Bank to pay particular attention to adequate planning for the use of funds generated from the product, accurate estimation of product payouts, and proper design of internal controls. Additionally, we required that the Bank adequately manage its funding sources for the payout obligations that will arise from the Retirement CD, considering the financial risks associated with the product.

We directed the Bank to take appropriate steps to deal with the risks it will assume by offering the Retirement CD and required the Bank to furnish us with a detailed business plan. The OCC will review the business plan and will evaluate the manner in which the Bank utilizes funds received from the Retirement CD and funds these obligations.

We believe these steps adequately and responsibly address the supervisory concerns you have expressed with the payment risks associated with the Retirement CD. As with any bank product, we will continue to review the Bank's implementation of these procedures and evaluate the Bank's effectiveness in dealing with the risks associated with the product. Should we determine at any point that the Bank is materially not in compliance with these requirements, we would direct it to cease offering the product until it took appropriate corrective actions.

4. COMPETITIVE EQUALITY ISSUES

You state your belief that the proliferation of the Retirement CD will result in an unfair competitive advantage for banks over annuity products offered by insurance companies. Given the wide and growing range of products that could be viewed as competitive in this area, and uncertainties as to the popularity of the product, it is hard to tell whether any competitive advantage will actually be present. But the potential for competitive implications does not affect the Bank's legal authority to offer the product.

I hope this letter addresses the questions and concerns you expressed in your letter concerning the Blackfeet Retirement CD. Should you have any questions or need any additional information, please let me know.

Sincerely,

EUGENE A. LUDWIG.●

● Mr. D'AMATO. Mr. President, I am pleased to cosponsor the Bank Insurance Fund and Depositor Protection Act of 1994 with my distinguished colleague from Connecticut, Senator

DODD. This bill makes a necessary and important refinement to our banking laws. This bill would clarify the definition of a "deposit" in the Federal Deposit Insurance Act to make clear that certain annuity products are not FDIC-insured deposits. This legislation would provide necessary guidance to the banking regulators, make the law more precise, and protect the bank insurance fund from potential unquantifiable losses.

Mr. President, recently there has been a lot of marketing hype about a new investment product—the Retirement CD. This product will operate much like a traditional annuity, but will be underwritten by a bank under the rubric of certificate of deposit. In short, a Federal-insured hybrid investment vehicle—and a potential roll-of-the-dice with Uncle Sam's implicit backing. The Comptroller of the Currency and the FDIC will permit this so-called CD to be offered to depositors, with FDIC protection, under current law. Senator DODD and I, along with several of our colleagues on the Senate Banking Committee, wrote to the OCC and the FDIC to express our concern about this product, a product that would be marketed with the market-enhancing lure of FDIC insurance.

Mr. President, the regulators have tried to address the issues we raised, but our public policy concerns remain unabated. This legislation has been introduced in order to provide further congressional guidance as to the appropriate scope and operation of Federal banking law and the proper use of Federal deposit insurance.

This bill has been refined in an attempt to avoid any undesired effect on standard deposit products that banks commonly offer today. For instance, qualified plans and individual retirement accounts are not intended to be covered by this legislation, to the extent that they do not generate depository institution liabilities that constitute annuity contracts. This is so even if the depository institution liability has tax-deferred status under section 72 of the Internal Revenue Code.

Again, I support this bill with the hope that it will protect consumers of financial products, safeguard FDIC funds, and promote safe-and-sound banking practices.

By Mr. LIEBERMAN:

S. 2511. A bill to specifically exclude certain programs from provision of the Electronic Funds Transfer Act; to the Committee on Banking, housing, and Urban Affairs.

THE ELECTRONIC BENEFITS REGULATORY RELIEF ACT OF 1994

• Mr. LIEBERMAN. Mr. President. I introduce the Electronic Benefits Regulatory Relief Act of 1994. This bill is also cosponsored by Senators BREAUX, DOMENICI, DURENBURGER, HATFIELD, and PRESSLER. When passed, this bill will eliminate one of the major barriers to making the banking system more accessible to those receiving government benefits like Aid to Families with Dependent Children or food stamps. If this bill is not passed, we will have missed an opportunity to reduce the cost of government services, and an opportunity to make the delivery of government services more efficient and humane.

This legislation is necessary to reverse a regulation issued by the Federal Reserve Board. That ruling, issued last March, said that the electronic benefit transfer [EBT] cards issued by Stats are subject to the same liability limits as ATM or credit cards. On the surface that seems reasonable—a card is a card and there seems little reason to differentiate between cards to withdraw government benefits from a bank and cards to withdraw earnings or savings from a bank. But, as is often the case with regulations, what appears on the surface isn't necessarily the whole story.

With the simple extension of this regulation to EBT cards, the Federal Reserve has dramatically altered social benefit legislation, extended the Electronic Funds Transfer Act into a realm it was not intended to cover, and created for States a new liability of unpredictable size. This bill seeks to reestablish the legislative intent governing food stamps, the legislative intent of the Electronic Funds Transfer Act, an at the same time limit a State's exposure to liability if they chose EBT over checks and coupons.

Electronic benefit transfer cards are simply an extension of current technology into the delivery of government benefits. Instead of receiving checks or coupons, recipients receive an EBT card. With that card they can access the cash benefits whenever and wherever they choose. They can withdraw as little as $5, or as much as the system will allow in a single transaction. Recipients can use their card at the supermarket instead of food stamps the way millions of Americans now use credit or debit cards to pay for food.

EBT cards offer recipients greater protection from theft than current methods of payment. Without the associated pin number, the EBT card is useless. Checks are easily stolen and forged. Food stamp coupons, once stolen, can be used by anyone and can even be used to buy drugs on the black market.

EBT cards provide recipients access to a banking system that is frequently criticized for shunning them. It is often the case that the only way a recipient can get his or her check cashed is by paying an exorbitant fee to some non-banking facility. Several Senator have introduced or supported bills requiring banks to cash government checks. Their goal was to provide these individuals access to the same services most Americans enjoy. Those bills will be unnecessary when EBT cards replace checks. EBT cards can be used at number of locations at any hour of the day or night and no fees charged to the recipient for transactions.

The action by the Federal Reserve will stop all of these benefits from happening. State and local governments have indicated that if Regulation E is enforced they will not go forward with EBT. John Michaelson, the director of Social Services in San Bernardino County California points out that while San Bernardino County was selected as the pilot site for the California EBT development, that project will not go forward as long as Regulation E applies. Similarly, Governor Carlson of Minnesota recently wrote to me indicating that the plans to expand EBT statewide in Minnesota will be halted by the application of Regulation E. Letters of support for this legislation have come from Gov. Pete Wilson of California, Gov. David Walters of Oklahoma, Gov. Mike Sullivan of Wyoming, Gov. Edwin W. Edwards of Louisiana, Gov. Arne H. Carlson of Minnesota, the National Association of State Auditors, Comptrollers and Treasures, the American Public Welfare Association, the National Association of Counties, the National Governors Association, and the Electronic Funds Transfer Association. I ask unanimous consent that these letters, along with the letter from Mr. Michaelson, be printed in the RECORD immediately following my statement.

The dilemma that faces States is that simply switching from checks and coupons to EBT cards, because of Regulation E, creates a new liability. Stolen benefit checks and coupons are not replaced except in extreme circumstances. Regulation E requires that all but $50 of any benefits stolen through an EBT card must be replaced. The effect of the Federal Reserve's action is that the simple act of changing the method of delivery imposes on the States a liability of unknown magnitude.

This action by the Federal Reserve is inconsistent with the legislative intent that created the benefit programs. The legislation for both food stamps and Aid to Families with Dependent Children—the two largest programs included in EBT—are quite clear in specifying that lost or stolen benefits will be replaced only in extreme circumstances. We should not allow that legislation to be changed through regulation.

This action is also consistent with the legislative intent of the Electronic Funds Transfer Act. The EFTA is about the relationship between an individual and his or her bank. It is designed to protect the individual in that relationship because of the dramatic disparity in power between the individual and the bank. In EBT, any relationship between the bank and the individual is meditated by the State. The State sets up a single account which all recipients draw upon. If there is a mistake, either in the bank's favor or the recipient's, the bank goes to the State, and it is the State's responsibility to contact the individual. It is difficult to accept that the same disparity in bargaining power exists between the State and the bank.

The differences between EBT and other electronic transfers were carefully documented in a letter from Dr. Alice Rivilin, Deputy Director of OMB, to the Board of Governors of the Federal Reserve.

Opponents of this action argue that by exempting EBT cards from the Electronic Funds Transfer Act discriminates against the poor. This argument misses two important differences between EBT and ATM cards. First, ATM access is a service that banks give with discretion, and can withdraw. States cannot deny recipients access to benefits. If there is abuse of the system, the State's only alternative is to operate dual systems, thus decreasing the efficiency gains of EBT. Second, EBT extends to recipients greater protection of their benefits than checks or coupons. If stolen, the card can't be used without the pin number. And, recipients are less likely to have all their cash stolen. With checks they must receive all the cash at once, and usually pay a fee for cashing the check. With EBT cards they can withdraw only what they need, and transaction costs are covered by the contract between the State and the bank.

Others suggest that the concern with fraud if EBT is covered by Regulation E unfairly impugns the character of the recipients. That is not so. It only says that they are like everyone else—a small portion will participate in fraudulent activities to the expense of all the rest. One of the major criminal problems with ATM cards, according to the Secret Service, is fraud involving Regulation E protection. An individual can sell his or her ATM card, and as long as the price is greater than $50, everyone wins but the bank. The Secret Service knows this type of fraud occurs, but proving it is very difficult. States rightly fear that similar fraud will occur with EBT.

Earlier this month the Vice President issued the first report from the EBT task force and called for nationwide implementation. Without passage of this legislation, that goal will never be reached. When the Federal Reserve was considering this issue, 40 Governors wrote in opposition. The National Association of State Auditors, Comptrollers, and Treasurers; The American Public Welfare Association, the National Association of Counties, the National Conference of State Legislatures, and the National Governors' Association wrote jointly to Vice President GORE and to Chairman Greenspan opposing the application of Regulation E to EBT.

The Federal Reserve has made a mistake. We in Congress now need to act to ensure that benefits cards can become a reality. I urge my colleagues to enact this bill promptly.

I ask unanimous consent that a copy of the bill and additional material be printed in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELECTRONIC BENEFIT TRANSFERS.

Section 940 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end the following new paragraphs:

"(2)(A) The Board may not, under paragraph (1), make the disclosures, protections, responsibilities, and remedies created by this title apply to an electronic benefit transfer program established under State or local law, or administered by a State or local government, unless the payment under such programs is made directly into a consumer's account held by the recipient.

"(B) Subparagraph (A) does not apply to employment related payments including salaries, pension, retirement, or unemployment benefits established by Federal, State, or local governments.

"(C) Nothing in subparagraph (A) alters the protections of benefits established by Federal, State, or local statute.

"(D) For purposes of subparagraph (A), an electronic benefit transfer program is a program under which a government agency distributes needs-tested benefits by establishing accounts to be accessed by recipients electronically, such as through automated teller machines, or point-of-sale terminals. A program established for the purpose of enforcing the support obligations owned by absent parents to their children and the custodial parents with whom the children are living is not an electronic benefit transfer program.".

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, May 21, 1993.

Mr. WILLIAM W. WILES,
Secretary, Board of Governors of the Federal Reserve System, Washington, DC

DEAR MR. WILES: This letter responds to the proposal, published for comment on February 8, 1993, to revise Regulation E to cover electronic benefit transfer (EBT) programs. Please refer to Docket No. R-0796. This letter contains our endorsement of the EBT Steering Committee proposal for modifying Reg E, our views on the differences between program beneficiaries and the consumers with bank accounts, and our recommendations for your consideration.

EBT STEERING COMMITTEE VIEW

We strongly support the recommendations of the Electronic Benefit Steering Committee, which were submitted to the Board on May 11, 1992. The EBT Steering Committee recommended that EBT be treated differently from other electronic fund transfers, that specific minimum standards be established for EBT programs, and that agencies be allowed to implement Regulation E fully on a voluntary basis, if appropriate. A copy of the Steering Committee recommendation is enclosed.

In an analysis that is being prepared for the Steering Committee, preliminary data from a study for the Department of the Treasury indicate that the additional cost to government of compliance with Regulation E as proposed could be between $120 million to $826 million annually, with the most likely costs of $498 million. Such cost increases would preclude State and Federal expansion of current EBT programs and could cause termination of some, if not all, programs.

We oppose implementation of Regulation E as proposed by the Board on February 16, 1993 based on the recommendations of the EBT Steering Committee which is composed of senior Federal program policy officials who have given a great deal of deliberation to the issue and who are accountable for the management of Federal programs. We believe that the preliminary data shows that States and the Federal government would be exposed to an expense that will seriously limit the potential for EBT in the future. In addition we believe there are significant differences between program beneficiaries and a regular bank customer. OMB urges the Board to exercise its authority under the Electronic Funds Transfer Act (EFTA) to prescribe regulations that consider the economic impact on beneficiaries, State and Federal governments, and other participants.

DIFFERENCES BETWEEN BENEFICIARIES AND BANKED CONSUMERS

The EFTA is intended to protect consumers when EFT services are made available to them. The plastic EBT card gives the beneficiary more choices on where and when to withdraw cash. However, they are not "shopping" for benefits as a customer would shop for a bank card. Benefits are only received from one payment source. Furthermore, regular banking EFT services are not necessarily being "made available" to them. In fact, these beneficiaries may be required to access benefits through EBT in the future. These differences make necessary protections that are different from, and in many ways, greater than, those afforded by Regulation E. The EFTA assumes a contractual relationship between the consumer and the bank, as evident in the provisions for disclosure of terms and conditions of electronic funds transfers (15 USC 1693c(a)). Under EBT, beneficiaries do not enter into contracts with either banks or agencies governing terms and conditions of transfers.

EBT offers great potential benefits to recipients—alleviating the stigma of welfare experienced in grocery checkout lines when presenting food coupons, eliminating check cashing fees, allowing beneficiaries to become proficient with a technology useful in the working world, and eliminating the hazard of carrying cash after cashing a check. Surveys of beneficiaries show overwhelming preference for EBT over checks. The desire to access benefits through this technology is so strong that in at least one locality individual beneficiaries and the private sector are working, without government assistance, to implement EBT.

Individual benefit programs also offer significant protections to beneficiaries that are far greater than any protections afforded by financial institutions to consumers:

Access to funds by eligible beneficiary is a right guaranteed by law and is not conditioned on any prior abuses. Eligibility is based on need.

Improper withdrawals can only be recouped in a way that protects economic interest of beneficiary. For example, reductions of future benefits are strictly limited to 10 percent per month in AFDC.

If beneficiary contests an adverse action, extensive administrative apparatus supports the appeal at no cost to the beneficiary.

OMB RECOMMENDATIONS

The Federal Reserve Board has requested comment on whether modifications to Regulation E for EBT beyond those proposed should be considered. OMB specific recommendations are enclosed.

We recommend that the Board create some exceptions in Regulation E for EBT programs. In summary, we believe the Board has authority under the EFTA to prescribe regulations that provide exceptions for any class of electronic funds transfer that would effectuate the purposes of the EFTA. We believe that the Steering Committee proposal, taken together with existing protections in individual program requirements, establish the rights, liabilities, and responsibilities of participants in EBT programs and are primarily directed to protecting and enhancing the rights of individual beneficiaries.

OMB joins with the Federal Reserve Board in its commitment to protect the rights of individuals in this emerging technology. We look forward to continued progress on this governmentwide initiative.

Sincerely,

Alice M. Rivlin,
Deputy Director.

Governor Pete Wilson,
Sacramento, CA, Sept. 15, 1994.

Hon. Joseph I. Lieberman,
U.S. Senate,
Washington, DC

Dear Senator Lieberman: I am writing to give my support to your proposed legislation to exempt Electronic Benefit Transfer (EBT) programs from the Electronic Funds Transfer Act, Specifically from the Federal Reserve's Regulation E.

California cannot assume the unknown fiscal liability that accompanies subjecting EBT programs to Regulation E, which includes a requirement to replace lost or stolen benefits. The State has begun development of a pilot EBT project, but Regulation E greatly increases our potential liability, jeopardizing our ability to meet federal cost neutrality requirements and making EBT economically infeasible, thus thwarting further development within our state.

I recognize EBT as a tool to help the states provide efficient and effective social welfare programs, and am committed to working with you to resolve the concerns raised by the application of Regulation E to EBT programs.

Sincerely,

Pete Wilson.

State of Oklahoma,
Office of the Governor,
Oklahoma City, OK, June 10, 1994.

Hon. Joseph Lieberman,
Chairman, Governmental Affairs Subcommittee on Regulation and Governmental Information, U.S. Senate,
Washington, DC.

Dear Senator Lieberman: I am writing in support of your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA). The prompt passage of this legislation is needed to ensure that EBT becomes a reality in Oklahoma.

Electronic benefits transfer is the future of government benefit distribution. The advantages for recipients and government entities have been studied and validated. The pending implementation of Regulation E in March 1997, will be an irresponsible act in light of the consequences anticipated in liability costs to the States. If Regulation E is implemented, the nationwide costs for replacing food stamps is estimated in excess of $800 million a year. Estimates are not available for the numerous money payments anticipated for EBT distribution. Current federal regulations provide ample protection to the consumer recipients, in addition to the known advantages of receiving benefits electronically.

Oklahoma is leading a multi-state southwest regional team in procuring an EBT system to distribute food stamps and money payments. This month, the Oklahoma Department of Human Services will publish a Request for Information to be distributed to potential bidders to inform them of our unique approach to procurement, and to provide the opportunity to comment on the proposed system design. We plan to publish a Request for Bids in September 1994 to hire a vendor to provide EBT services. Oklahoma has been working toward this goal for five years. Our investment in EBT is an investment in fiscal responsibility. Please feel free to call Dee Fones (405) 521-3533 if you have any questions or if we can be of further assistance in helping to pass this legislation.

Sincerely,

David Walters.

State of Wyoming,
Office of the Governor,
Cheyenne, WY, June 21, 1994.

Hon. Joseph Lieberman,
Chairman, Government Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Washington, DC

Dear Senator Lieberman: We are writing to you to express full support for your leadership in proceeding with legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA), including exception from the Regulation E (Reg E) provision.

Wyoming is developing an off-line smart card system solution to deliver state and federal benefits. Wyoming's first phase is to conduct a federally approved combined Food Stamp and WIC Supplemental Food Program Demonstration Pilot. As this approach uses off-line distributive technology in contrast to traditional on-line magnetic stripe banking technology, we propose that smart card technology should be exempt as benefits are in the hands of the client/user and not controlled by a mainframe bank processor.

The application of Reg E to EBT represents a major transfer of liability that states are not prepared to embrace. One estimate suggests that for Good Stamps alone, the liability losses could be 800 million each year.

Of greatest concern is the faulty premise of the Federal Reserve Board. The assumption in applying EFTA to EBT is that the bank/customer relationship in the private sector is analogous to the government/recipient relationship in the public sector. This assumption is false because public assistance recipients are entitled to benefit and must be served. Banks market their services for profits. They get to choose the customers they serve.

Second, customers of government benefit programs are given a card to access and manage their benefits, but they do not own the account and cannot deposit additional resources to the account. Further, banks charge fees to cover the costs of maintaining bank accounts, including complying with Regulation E.

Finally, Congress set up benefit programs like Food Stamps, AFDC and WIC to achieve a public safety net to assure health and welfare for all citizens. States will never be able to apply Regulation E to these programs like banks apply the Regulation because the goals of the relationship with the client/user are fundamentally different.

Once again, thank you for your leadership on this important issue.

Sincerely,

Mike Sullivan,
Governor.
Dave Ferrari,
State Auditor.

State of Louisiana,
Office of the Governor,
Baton Rouge, LA, June 28, 1994.

Hon. Joseph Lieberman,
Chairman, Governmental Affairs Subcommittee on Regulation and Governmental Information, U.S. Senate, Washington, DC.

Dear Senator Lieberman: I am writing in support of your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA). This legislation is needed to ensure the future electronic delivery of governmental entitlement benefits in Louisiana.

Electronic benefits transfer as a method of distribution of government benefits has proven to be viable and secure. Although entitlement programs have been granted exemption from Regulation E until 1997, this regulation threatens the development and growth of EBT because of anticipated liability to the states. Estimated losses to the states could exceed $1.5 billion a year if Regulation E is implemented in March 1997.

Louisiana is participating in a joint venture with other states in the southwest region in procuring an EBT system to distribute AFDC and food stamp benefits. Proposals from bidders will be solicited in September 1994. Implemention of EBT is an investment that is responsible administratively in addition to being beneficial to recipients. Your efforts in securing the future of EBT are appreciated.

Sincerely,

Edwin W. Edwards.

State of Minnesota,
Washington, DC, June 29, 1994.

Hon. Joseph I. Lieberman,
Hart Senate Office Building, Washington, DC.

Dear Senator Lieberman: I am writing in support of legislation you plan to introduce which would exempt welfare benefit programs from provisions of the Electronic Funds Transfer Act. Without such an exemption, plans to expand Minnesota's statewide Electronic Benefits Systems (EBT) would be halted.

As you know, the Federal Reserve Board recently ruled that welfare programs using electronic benefit issuance are subject to the consumer protection provisions of Regulation E under the Electronic Funds Act. Welfare programs have been exempted from Regulation E since 1987. Under the new Federal Reserve Board ruling, as of March, 1997, the regulation will be applied.

Minnesota cannot accept the unknown liability inherent in applying Regulation E to benefit programs. The cost of replacing benefits should a card become lost or stolen would fall strictly on the state under this rule, even for the share of the benefit which is federally funded.

Your legislation, if enacted, would permit Minnesota and other states to move forward with developing electronic benefit transfer (EBT) systems which will help state and federal government improve service delivery of welfare benefits to the client.

Warmest regards,

ARNE H. CARLSON,
Governor.

NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS,
Phoenix, AZ, May 20, 1994.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Subcommittee on Regulation and Government Information, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing in support of your legislation to exclude Electronic Benefit Transfer (EBT) programs from the Electronic Fund Transfer Act. The National Association of State Auditors, Comptrollers and Treasurers (NASACT) supports the establishment of EBT programs, but opposes the decision of the Board of Governors of the Federal Reserve of March 1994 to apply the liability provisions of Regulation E, which implements the Electronic Fund Transfer Act, to these programs.

Regulation E governs the relationship between a financial institution and its customers. This is a decidedly different relationship from that which exists between a government and benefit recipients. Regulation E is a "show stopper" for EBT. By requiring governments to replace all but $50 of a benefit that a recipient claims has been lost or stolen, it would change the current policy for benefit replacement and make EBT too expensive to implement. While we support consumer protection and training programs for recipients participating in EBT programs, we believe that the protections provided under Regulation E are inappropriate in a government EBT environment.

Simply stated, governments are not banks. Banks market their services to specific customers whose business will generate increased profits. Banks can choose not to serve customers. Governments, on the other hand, must serve recipients that are entitled to benefits. While banks charge fees or surcharges to cover the cost of maintaining bank accounts—including the cost of Regulation E—governments do not charge recipients to participate in public assistance programs. In addition, unlike banking customers, government benefit recipients do not establish individual accounts, they do not own the accounts, they cannot deposit funds into the accounts and they cannot write checks against the accounts.

I want to commend you for introducing legislation addressing this important issue. Your legislation will help assure that governments can improve service delivery without experiencing undue liability. As the legislation progresses, you may want to consider a technical amendment to clarify the scope of the bill. For instance, it might be helpful to more fully explain the meaning of the term "general assistance." NASACT will, of course, be happy to assist you and your staff in any way possible.

Sincerely,

DOUGLAS R. NORTON.
President.

AMERICAN PUBLIC WELFARE ASSOCIATION,
Washington, DC, May 25, 1994,

Hon. JOSEPH LIEBERMAN,
Chairman, Governmental Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Washington, DC.

DEAR SENATOR LIEBERMAN: I am writing to give full support to your legislation to exempt electronic benefits transfer (EBT) from the Electronic Funds Transfer Act (EFTA), including from its Regulation E (Reg E) provision.

Across the country, human service agencies are moving toward making EBT a reality for the people they serve. Unfortunately, as you know, the Federal Reserve Board decided on March 7, 1994 to apply Reg E to EBT starting in March, 1997, requiring the issuer of an electronic transfer card to replace all but $50 of any benefits that are lost or stolen. The Board's decision to apply banking law to EBT expands the liability of government and taxpayers regarding benefit replacement, creating a drastic change in current social policy. Furthermore, making card issuers responsible for benefit replacement shifts costs from the federal domain to the states, creating a new unfunded mandate. Financial estimates conclude that the costs to government and taxpayers for replacing food stamps alone under this ruling could run in excess of $800 million a year. This estimate does not include the potential costs associated with replacing other benefits that can be transferred electronically, such as AFDC, child support, General Assistance, WIC, and SSI.

Indeed, the Federal Reserve Board's decision effectively will impede state EBT activity due to the prohibitive costs associated with replacing lost or unauthorized transfers of government benefits. Currently, the regulations of the Food Stamp Program (a 100% federally-funded program) prohibit replacing food coupons, unless coupons were not received in the mail, were stolen from the mail, or were destroyed in a "household misfortune." Current AFDC regulations prohibit replacing the federal portion of the amount of an AFDC benefit check unless the initial check has been voided or, if cashed, the federal portion has been refunded (AFDC is jointly funded by federal and state governments). These policies have provided adequate client protection in the past, and when combined with the added safeguard of a properly-used EBT card with a PIN number, would continue offering adequate protections.

In an era when government is striving—both due to necessity and public demand—to deliver services that cut or contain costs rather than provide opportunities for increased costs, Regulation E not only dampens but may thwart state efforts to benefit from EBT. In fact, in a federal government attempts to have states or localities currently operating EBT programs test the costs associated with the regulation, no state has yet come forward to volunteer for the pilot test due to the financial and political risk.

As the national representative of the 50 cabinet-level state human service departments, hundreds of local public welfare agencies, and thousands of individuals concerned about achieving efficient and effective social welfare policy, APWA is quite concerned about finding a solution that will allow progress on EBT. Our members are the innovators and visionaries bringing EBT to clients at the state and local levels. They are the people who deliver the government benefits such as food stamps, AFDC, child support, and medical and are committed to working with you to find a solution to the barrier Reg E presents.

Sincere thanks to you for taking the critical steps needed to mitigate the impact of the Board's decision. We look forward to working with you to help pass this legislation quickly. Please feel free to call either me or Kelly Thompson at 202–682–0100.

Sincerely,

A. SIDNEY JOHNSON III,
Executive Director.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, June 29, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN:

EBT/EFT offers numerous advantages to both the issuing agency and the recipient. Government agencies will save substantial administrative and production costs, as well as costs associated with fraud. Recipients will have the benefit of a secure delivery system, and a more dignified method of receiving public assistance. Also, retail establishments would save the time and money involved in manually processing Food Stamps and vouchers. In all, EBT/EFT benefits everyone, especially the taxpayers.

Presently, numerous counties in six states are operating EBT/EFT programs in various stages of development. Many other counties are considering EBT/EFT implementation, but are reserving initiating a system until the issue of liability under Regulation E of the EFTA is resolved. For many counties, the application of Regulation E would effectively make initiating an electronic delivery system economically unfeasible through the violation of the cost neutrality requirement.

It is also the position of NACo that the consumer rights of welfare and Food Stamp recipients, which appear to be the major concern of the Federal Reserve Board of Governors and the driving force behind their push for Regulation E's application, are protected under extensive federal rules in the authorizing statutes and program regulations. Application of Regulation E would be duplicative in some cases, and costly in all cases.

For these reasons, NACo supports your draft bill excluding government EBT/EFT programs and looks forward to working with you as this bill moves through the legislative process. Please do not hesitate to contact Marilina Sanz, Associate Legislative Director for Human Services and Education at NACo on 202–942–4260 should you have any questions.

Sincerely,

LARRY E. NAAKE,
Executive Director.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, Oct. 4, 1994.

Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN: We are writing in strong support of legislation that you are introducing to exempt certain electronic benefit transfer programs from the Electronic Funds Transfer Act.

As you know, Governors have been leaders in using technology to improve the delivery of services to the public through such initiatives as distance learning, telemedicine, and electronic benefit transfer (EBT). States and localities have been exploring for over a decade the potential of EBT for providing clients with more convenient and safer access to benefits and for improving the ability of states to manage programs and prevent fraud. More recently, Vice President Albert Gore has promoted nationwide EBT for some federal benefit programs in the near future as part of his Reinventing Government initiative.

Progress toward wider use of EBT has been slowed, however, by the Federal Reserve Board's decision last March to apply Regulation E of the Electronic Funds Transfer Act to EBT programs. This Federal Reserve decision essentially changed federal social policy by creating a new entitlement to replacement of lost or stolen welfare benefits for EBT clients—a new entitlement benefit that clients who receive those same welfare benefits in cash or coupons do not have. Estimates of the cost of this new benefit vary widely but range as high as $800 million annually.

While the Board's decision created this new entitlement benefit, it did not address how this benefit would be financed. To date the federal government has refused to commit to reimburse states for the EBT benefit replacement costs of even those welfare benefits that are entirely federally financed, such as food stamps. This is true despite the fact that most of the administrative savings from EBT accrue to the federal government, not to the states.

Governors are not opposed to consumer protections for EBT clients. If the consumer protections of Regulation E are applied to EBT programs, however, we believe that Congress must recognize that this is a new entitlement benefit and act accordingly to fund it. Otherwise it will become an unfunded mandate on the states, and Governors will have little choice but to halt their efforts toward creating EBT systems for welfare clients.

If Congress is not able to fund this new entitlement benefit, then we believe that the only alternative is to make it clear that clients who receive welfare benefits through EBT are entitled to the same protections as clients who receive benefits in cash or in coupons—no more, no less. That is exactly what your legislation would do. We believe your bill addresses the following problems created by the Federal Reserve Board decision:

Inequitable treatment of clients—The bill ensures that clients have the same rights and responsibilities regardless of whether their welfare benfits are delivered by check, by coupon or electronically.

Unfunded mandates on states and localities—The bill eliminates the unfunded mandate for states and localities to replace lost or stolen EBT benefits even when the original benefit was entirely federally funded.

Loss of EBT as a viable means of delivering welfare benefits—The bill will remove the Regulation E roadblock to nationwide EBT by making it financially possible for Governors to proceed with EBT to the benefit of clients and federal, state and local governments.

We recognize that there may be other ways to address these problems but all of these other means would necessarily involve some unknown new cost because they would create some level of new entitlement to benefit replacement. Until Governors have a commitment from the federal government to assume the costs of any new EBT entitlement benefits, your bill's exemption approach is the only solution that we can support.

Sincerely,

GOV. MEL CARNAHAN,
Chair, Human Resources Committee.

GOV. ARNE H. CARLSON,
Vice Chair, Human Resources Committee.

ELECTRONIC FUNDS TRANSFER ASSOCIATION,
Herndon, VA, Oct. 4, 1994.

Hon. JOSEPH LIEBERMAN,
Chairman, Government Affairs Subcommittee on Regulation and Government Information, U.S. Senate, Washington, DC.

DEAR SENATOR LIEBERMAN: On behalf of the Board of Directors of the Electronic Funds Transfer Association (EFTA), I wish to express support for your legislation to exempt electronic benefits transfer (EBT) from Regulation E (Reg E) of the Electronic Funds Transfer Act (EFT Act).

The Federal Reserve Board has declared its intention to apply Reg E to EBT starting in March 1997. Under the provisions of the regulation, the issuer of an EBT card will be required to replace all but $50 of any benefits that are lost or stolen. The replacement costs have delayed indefinitely the implementation of EBT programs in several states, including California. States cannot pass their fraud costs to benefit recipients; they must be borne by taxpayers, who are looking to EBT to cut delivery costs, not increase them. Financial estimates conclude that costs to government and taxpayers for replacing benefits may run as high as $800 million per year. Currently, the state of Maryland (and possibly others) is considering pursuing legal action against the Federal Reserve Board for regulating a matter that is not within its purview. EFTA agrees with this assessment and believes the three year delay in implementation provides the opportunity for Congress to resolve this matter.

On August 1, 1994, EFTA filed comments with the Federal Reserve Board of Governors in response to the proposed revisions of Reg E. We indicated that the imposition of Reg E's liability and error resolution rules will terminate EBT programs in many states and will substantially delay progress of many other important EBT initiatives. As a fiscal and political matter, states are unwilling to undertake responsibility for liabilities of an undermined value. If EBT fails to develop, benefits recipients will be substantially disadvantaged. They will not obtain the advantages of convenience, security, speed and dignity that EBT can offer.

EFTA has become a strong advocate of EBT over the past several years, advising the Office of Technology Assessment (OTA) and the Federal EBT Task Force of the myriad benefits associated with EBT. Like Vice President Gore, EFTA's goal is to utilize the current ATM/POS infrastructure in order to facilitate the electronic delivery of federal and state benefits nationwide. However, as Dale Brown, Director of the Maryland statewide EBT project indicated, applying the regulation would be a "show stopper." Ms. Brown estimates that Maryland could inherit a potential liability of several million dollars. EFTA members include government agencies, EFT processors and networks, card issuers and manufacturers, as well as financial institutions. With a significant increase in costs due to benefit replacement, EBT would no longer be a viable venture for these stakeholders.

EFTA would be pleased to work with you to help pass this legislation. In addition, we offer our assistance in crafting language that would further protect recipients whose benefits have been lost or stolen, while minimizing the opportunities for fraud that currently threaten fledgling EBT programs across the country.

We thank you for your thoughtful analysis and interest in such a significant issue. If EFTA can be of any help in this matter please do not hesitate to call at 703-435-9800.

Sincerely,

H. KURT HELWIG,
Acting President and CEO, Director, Government Relations.

DEPARTMENT OF PUBLIC SOCIAL SERVICES,
San Bernardino, CA, April 15, 1994.

Mr. WILLIAM LUDWIG,
Administrator, Food and Nutrition Service, Alexandria, VA.

DEAR BILL: For more than 4 years San Bernardino County has attempted to bring Electronic Benefit Transfer (EBT), not only to our County, but to the entire State of California. Now, as we submit the attached Request for Proposal (RFP), after overcoming many hurdles and after finally being named as the EBT Pilot County for California, yet another mountain stands in our way. That mountain is the Federal Reserve Board's ruling that Regulation E does apply to EBT.

The San Bernardino County Board of Supervisors and I have made EBT a high priority. Besides being a cost-effective use of new technology, it is the best of all worlds (an occurrence not often seen in today's world of government bureaucracy). EBT holds the promise of being more cost effective than our current Food Stamp distribution system, it is also less costly for grocers and is generally viewed favorably by recipients for a number of reasons, not the least of which is having to access their benefits only as they use them.

REGULATION E IMPACT

First, I am not aware of any written definitive statement of shares of cost of Regulation E by any federal agency, in particular FNS or ACF. I have heard verbal statements from FNS that our County Cost Cap, which EBT cannot exceed, may dictate that all Regulation E costs above that cap must be borne 100% by the State or local Government—in our case San Bernardino County.

I cannot, in good conscience, recommend to my Board of Supervisors, a contract which includes an unknown liability for Regulation E. To do so is tantamount to asking them to sign a blank check.

Therefore, with the concurrence of the California Welfare Director's Association, the County of San Diego and the California Department of Social Service, I must put you on notice that our EBT RFP will not be released until we receive a written Federal commitment for relief from the unknown liability of Regulation E, such as assurance that we will not be responsible for any Regulation E costs above our cap.

As you are aware, San Bernardino, a number of other California counties and the State have been committed to bringing EBT to California and, therefore, the above statement was arrived at only after a great deal of debate and discussion with all affected parties. However, an immediate resolution to the Regulation E cost-sharing issue could resolve this and allow us to move forward.

As always, I and my staff will make ourselves available for any discussion that you think will be helpful in our pursuit of EBT for San Bernardino County and, therefore, California.

Sincerely,

JOHN F. MICHAELSON,
Director.●

By Mr. McCONNELL (for himself and Mr. FORD):

S. 2512. A bill to require the Secretary of Agriculture to issue an order to establish a thoroughbred horse industry promotion program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE THOROUGHBRED INDUSTRY PROMOTION ACT

Mr. McCONNELL. Mr. President, I rise today with my colleague Senator FORD, to introduce legislation authorizing the Secretary of Agriculture to establish a check-off program to fund critical promotion and research activities in the thoroughbred horse industry.

The Thoroughbred Industry Promotion and Research Act of 1994 is patterned after more than a dozen other successful commodity promotion and research programs which are similarly authorized by Federal statutes.

Kentucky is the thoroughbred horse breeding capital of North America—indeed of the world. In 1992, there were 34,512 thoroughbred foals registered in the United States; 6,807 or 19.7 percent in Kentucky alone, followed by California, 11.7 percent; Florida, 10.1 percent; and Texas, 6.4 percent. Those four States, plus Oklahoma, 4.5 percent, accounted for more than half of the 1992 registered foal crop. Large or small, however, each State makes its own contribution to the industry on a nationwide basis.

Many of our colleagues may not know that Kentucky also has become one of the leading racing States in the country. It has always enjoyed that distinction on the first Saturday in May when the Kentucky Derby is run at historic Churchill Downs in Louisville. Another historic event returns in just a month—November 5—when the Breeders' Cup returns to Churchill Downs. But other Kentucky racetracks—notably Keeneland, Turfway Park, Dueling Grounds, and Bluegrass Downs—have moved Kentucky up into the top three racing States, measured by gross purse distributions—$51.6 million in 1993—behind only California and New York, and followed by Florida and Illinois, according to 1993 statistics from the Daily Racing Form.

But there is not a lot of good news in the industry outside of Kentucky. Historically speaking, horseracing has always been a leading spectator sport. But in 1993, for the first time in modern history, thoroughbred racing suffered declines in both on-track attendance and parimutuel wagering. In the competitive context of expanding demands for the entertainment dollar, declines in revenue and handle are dangerous trends.

Needless to say, I and thoroughbred breeders, owners, and racetracks, do not propose to stand by while competition shrinks market shares and replaces thoroughbred racing at the top of America's menu of entertainment options.

Like many agricultural industries, the thoroughbred horse industry is comprised mainly of small- and medium-sized owners, breeders, and small business proprietors, such as trainers, jockeys, exercise riders, grooms, blacksmiths, and veterinarians. Not surprisingly, development of nationally coordinated marketing and promotion programs is difficult to accomplish for such a diverse bunch.

A market research project recently conducted by a nationally recognized advertising agency for the Thoroughbred Owners and Breeders Association [TOBA] in a three-State market—Kentucky, Illinois, and Ohio—identified several marketing objectives for thoroughbred racing. But as TOBA President Helen Alexander recently noted," * * * strategies for attaining those or any other business objectives cannot be developed without adequate funding."

This bill would provide a method of funding that is needed for effective marketing and promotion of the industry. It provides a mandatory assessment of one-fourth of 1 percent of gross handle—25 cents per $100. Operations and promotional activities would be directed by a board comprised of owners, racetracks, a trainer, and a jockey—all representative of purse participants in the net revenue stream after payouts to patrons who wager on thoroughbred racing—and to State governments, which regulate and tax the sport.

This bill also would create a funding source for needed research activity; economic impact data at national, regional, and State levels; drug testing; the quality assurance program administered by the Association of Racing Commissioners International; and sustained racing surface and injury breakdown reporting studies, to name but a few needed research and development activities.

Something meaningful must be done to promote the thoroughbred industry and enable it to compete more effectively for its market share. This approach has worked elsewhere. As I recently told a thoroughbred industry journalist, "Professional promotion has worked like charm for every other agricultural commodity for which it has been implemented." It ought to be made available for this one, too.

This is a starting point for reasoned consideration and informed discussion of an optional method of funding needed marketing, promotion and research activity in a significant American industry whose roots trace to Colonial times. This bill provides a solid foundation for addressing unmet needs.

By Mr. ROCKEFELLER:

S. 2513. A bill to enhance the research conducted by the Agency for Health Care Policy and Research concerning primary care, and for other purposes; to the Committee on Labor and Human Resources.

THE CENTER FOR PRIMARY CARE RESEARCH ACT OF 1994

• Mr. ROCKEFELLER. Mr. President, I offer a bill that would establish a new Center for Primary Care Research within the Agency for Health Care Policy and Research. This bill would establish within the Federal Government the only location dedicated to increasing the Nation's critical need for primary care research.

Family doctors, general internists, and pediatricians handle most of the health care problems for most of the people, most of the time. They care for the bulk of serious and disabling problems, as well as provide preventive care and treatment of common illnesses. As the health care system in the United States continues to evolve, more and more emphasis and responsibility will be placed on these primary care providers.

Each time a primary care provider sees a patient, he or she must make a decision on whether or not to perform certain laboratory tests, to treat, observe, educate, refer to a specialist, or hospitalize that patient. These decisions have a dramatic impact on people's health and on health care costs. Therefore, it is of critical importance that family doctors and other primary care providers, such as nurse practitioners and physician assistants, make their decisions based on the best scientific information available.

Currently there is almost no primary care research being done and only a small number of primary care providers are actually trained to do this type of research. There is an urgent need to develop an infrastructure of primary care research and financial support for primary care research.

Primary care is defined as comprehensive and person-centered care—as opposed to disease or organ-specific—addressing the full range of personal health needs through preventive, curative, and rehabilitative care. It is the care you get when you first get sick, and the care you get from your own doctor over time. Results from the Medical Outcomes Study, the largest and best study ever done on the subject, showed that primary care doctors provided similar medical care as specialists, at lower cost, even when the severity of illness was taken into consideration.

Our country already spends over $11 billion on biomedical research, and does so wisely. Biomedical research focuses on basic science research, such as molecular biology, and individual diseases in highly artificial hospital settings, usually in patients of certain ages and sex, and without the complications of other diseases and without the interaction of other medicines. While this information is extremely important, there is a critical need to complement this type of research with primary care research which is relevant to illness as most people experience it. This kind of research is not specifically addressed anywhere in the Federal research establishment.

For example, while there is lots of research on the treatment of brain tumors, most patients do not see their doctor because of a brain tumor. Instead people come in complaining of a headache and while specialists are frequently trained to order a CAT scan or MRI for every headache, primary care providers need to determine which patients need these tests, which patients might, in fact, have a tumor and which patients do not need an MRI. Currently, there is very little medical science to help doctors make these determinations. It is critical for our health care system—for patient care research program to answer these questions.

The same goes for back pain. Which patients have a pulled muscle and which ones have a slipped disk? Should they all have an MRI? A recent study showed that over half of normal people have an abnormal MRI. So we don't want to MRIs on everyone with back pain. Or, another example, ear infections in kids. In the United States we tend to treat them all with antibiotics. In many European countries they seem to do just as well without antibiotic treatment. We need research to answer these questions, based on real life patients being treated by their family doctor.

Other examples are chronic disease like high blood pressure. Doctors have very little scientific information on how often patients with high blood pressure should have their blood pressure checked. Should it be every month, every 3 months, every 6 months, or every day at home? Does it make a difference? We just don't have the answer to these very basic questions. And many patients, especially the elderly, have multiple problems. For patients with Alzheimer's disease, we don't know what the best way is to care for them.

We know how to treat many types of cancer, and we know how to treat depression, but what about patients with cancer and depression. Another example is prevention. We know that lowering cholesterol is important in preventing heart disease, at least for men, as is exercise, diet, and not smoking. But we need to know more about the relative importance of these factors, how they interact, or whether lowering cholesterol is as important for women or the elderly. These are the real life situations which patients see primary care doctors about every day, and where research is desperately needed.

If primary care providers are to effectively care for most patients, they need to base their treatments on the sound foundation of science obtained through research. There needs to be a "home" for primary care research with its own funding source.

Therefore, Mr. President, I propose that the current division of primary care in AHCPR which has very little visibility and has not been very effective in competing for support or in building an infrastructure of primary care research, be elevated to the center for primary care research. This center should have its own funding source which would make it the only place in the Federal Government with dedicated funding for primary care research.

The purpose of the Center for Primary Care Research would be to meet our country's critical need for primary care research. Research that is relevant to actual primary care practice. This would include: development of a research agenda for primary care; conducting and supporting primary care research; providing support for institutions to develop an infrastructure in primary care research; promoting collaboration among the various primary care disciplines, researchers, and primary care practitioners; implementation of career development strategies to help develop primary care researchers; and other strategies to increase capacity in primary care research as outlined in "Putting Research into Practice," the AHCPR report of the task force on building capacity for research in primary care. This task force was put together by AHCPR to make recommendations on exactly this problem.

In summary, as we move to a health care system which is increasingly based on primary health care and as the education and training of health care providers becomes increasingly oriented toward primary care providers, there is an essential need for more research to provide a basis for primary care practice and to improve the quality of primary health care.

This amendment is strongly supported by the American Academy of Family Physicians, the American College of Physicians, the American Society of Internal Medicine, the American Academy of Pediatrics, the Association of American Medical Colleges, the Association of Academic Health Centers, the Association of Professors of Medicine, the Organizations of Academic Family Medicine, the American Academy of Nurse Practitioners, and the American Academy of Physician Assistants.

I also want to express my special thanks to Dr. Howard Rabinowitz, a dedicated physician who is completing a fellowship in my office, for his assistance with this legislation and his many valuable contributions over the past year to our efforts to better meet the health care needs of Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2513

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CENTER FOR PRIMARY CARE RESEARCH.

(a) Establishment.—Section 902 of the Public Health Service Act (42 U.S.C. 299a) is amended by adding at the end thereof the following new subsection:

"(f) Center for Primary Care Research.—

"(1) Establishment.—The Secretary shall establish within the Agency, a Center for Primary Care Research.

"(2) Funding and activities.—The Center established under paragraph (1) shall carry out research that is relevant to the practice of primary care, including—

"(A) the development and support of a research agenda for primary care;

"(B) The provision of support to enable institutions to develop an infrastructure in primary care research;

"(C) the development of increased communication and collaboration among various primary care disciplines, researchers, and primary care clinicians, including physicians, nurse practitioners, and physician's assistants;

"(D) the implementation of career development strategies and technical assistance for primary care researchers; and

"(E) the conduct of other activities to increase capacity in primary care research determined appropriate by the Administrator.

"(3) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection, $15,000,000 for fiscal year 1996, $20,000,000 for fiscal year 1997, and $25,000,000 for fiscal year 1998.".

(b) Transfers.—

(1) In General.—There are transferred to the Center for Primary Care Research (established under the amendment made by subsection (a)) all functions, personnel employed in connection with, and assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this subsection, of the Division of Primary Care within the Agency for Health Care Policy and Research (including all related functions for any officer or employee of such Division).

(2) Personnel.—The transfer pursuant to paragraph (1) of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this subsection.

(3) Continuing effect of legal documents.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this paragraph, and

(B) which are in effect at the time this subsection takes effect, or were final before the date of enactment of this Act and are to become effective on or after the date of enactment of this Act, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary or other authorized official, a court of competent jurisdiction, or by operation of law.•

By Mr. DURENBERGER:

S. 2514. A bill to ensure economic equity for American women and their families by promoting fairness in the workplace; creating new economic opportunities for women workers and women businessowners; helping workers better meet the competing demands of work and family; and enhancing economic self-sufficiency through public and private pension reform and improved child support enforcement; to the Committee on Finance.

THE ECONOMIC EQUITY ACT

• Mr. DURENBERGER. Mr. President, I introduce the Economic Equity Act. I think it is fitting that one of my last official acts will be the introduction of the EEA in my final session in Congress.

Today, a 13-year commitment of mine comes full circle. Back in 1981, I was one of the architects of the very first EEA. The concept of the EEA and the phrase "Economic Equity" originated in Minnesota, through a task force of interested citizens that I organized. The Economic Equity Act has been introduced in every Congress since 1981, and I am proud to have been a sponsor each time.

From the beginning, the purpose of the act was to bring attention to the problem of economic discrimination against women, and to offer some real solutions. That goal is the same today.

The EEA is an omnibus bill—a package of several free-standing bills that address a broad array of economic obstacles for women. The EEA changes in each successive Congress, reflecting past accomplishments and new challenges. Although the EEA itself has never passed, its great contribution has been that many of its individual provisions have become law.

These are some of the provisions in past versions of the EEA that have been enacted:

First, estate tax reforms that recognize women as equal partners in building a family business;

Second, day care tax credits, especially for low- and moderate-income families;

Third, Individual Retirement Accounts for women who choose to work in the home;

Fourth, changes in farm credit regulations to eliminate the previous bias against unmarried women;

Fifth, tougher child support enforcement;

Sixth, the removal of economic roadblocks for women in pension and insurance laws;

Seventh, increases in the standard deduction for single heads of household and an expansion in the earned income tax credit;

Eighth, continued health benefits coverage for widows, divorced spouses, and dependent children under COBRA; and

Nineth, grant programs for college students who need affordable child care.

This year's Economic Equity Act is identical to the bill that was introduced on the House side by Representatives PAT SCHROEDER and OLYMPIA SNOWE, members of the Congressional Caucus for Women's Issues. The bill's four titles contain a total of 22 separate bills.

The first title, Workplace Fairness, addresses the problem of discrimination in the workplace. One of the bills in this title, the Equal Remedies Act, was introduced last year by Senator KENNEDY and myself. The Equal Remedies Act would cure an inequity in the law that prohibits victims of gender discrimination from receiving the same remedies available to victims of racial discrimination.

Title I also contains a bill I sponsored with Senator PATTY MURRAY, the Sexual Harassment Prevention Act. This would set up a low-cost system to help employers establish policies to reduce the incidence of sexual harassment in the workplace.

The second title, Economic Opportunity, would expand access to the fields of science and engineering, increase Federal contract opportunities, and increase access to credit for women starting small businesses.

Title III addresses the difficulty of balancing the demands of work and family, by encouraging family friendly policies in the workplace and expanding access to quality child care.

The fourth and final title, Economic Self-Sufficiency, deals with a variety of impediments to income security for women. These challenges range from the effectiveness of child support enforcement, to Social Security penalties for those who take time off from work to care for a family member, to the adequacy of job training programs.

Although I may not endorse the particular approach of every provision of the EEA, I stand behind the EEA because it illuminates the enormity of economic obstacles facing half of America's citizens. Each of the challenges addressed under the umbrella of the EEA—touching countless areas of the law—deserves our attention and action.

When we recognize the potential of all Americans and remove barriers to their economic participation, America will not only become a more fair place, it will become a better competitor in the international marketplace.

America must make all of its citizens full partners in the economy. It is not only the right thing to do, it is the smart thing to do. Long after my retirement from this body, I hope the EEA will continue to speak that message.•

By Mr. BROWN:

S. 2515. A bill to amend title 17, United States Code, to exempt business establishments from copyright fees for the public performance of nondramatic musical works, to provide for binding arbitration in royalty disputes involving performing rights societies, to ensure computer access to music repertoire, and for other purposes; to the Committee on the Judiciary.

THE FAIRNESS IN MUSICAL LICENSING ACT OF 1994

• Mr. BROWN. Mr. President, I introduce legislation that would lift a burden off of small businesses who currently pay fees to music licensing organizations under a complicated and cumbersome copyright law.

Under current law, music licensing organizations are permitted to collect fees from those who play a radio or television in their commercial establishment. The music may be background music, or it may be music played at half-time during a football game. The music license fee applies to shoe stores, to diners, to shopping centers, or any other business establishment.

The artists who create this music certainly deserve compensation for their intellectual property. In fact, those artists are compensated for their labors. When a song is played over a radio or TV, the broadcaster pays for the rights to play that song. When we are at home, and we turn on the radio, we are not expected to pay a second fee. Yet, if a radio is played at a commercial establishment for no commercial gain, a second fee is charged for the music. This double-dipping smacks of unfairness.

In addition, there is tremendous inequity in the way licensing companies assess these fees. The businesses are unable to see a list of the songs that are available for licensing. The businesses are unable, because of the market inequity, to bargain for a fair price. Instead, we have an anticompetitive environment where two or three licensing companies control almost all of the music available. Small businesses have two options: pay the preordained fee or turn off the radio or TV.

The approach I have taken to address this problem aims at leveling this playing field. The legislation I am introducing would require the licensing companies to make a list of their repertory available so businesses can know what products they are paying for.

The legislation would exempt retail and other businesses from paying the fee for music played over radio and TV if a fee has already been paid. Where music has already been paid for by the broadcaster, the copyright owner has in fact been compensated.

In addition, the legislation would establish arbitration to resolve disputes over fees. As it stands, if a retail store wishes to contest the fees paid to one of the licensing companies, they have to go to a court in New York. Moreover, full blown litigation in any case is often prohibitively expensive.

The legislation would require the music licensing companies to offer per period programming licenses—in other words allow radio stations to purchase licenses for shorter time periods instead of 24 hours a day if they are only playing music in short spots between religious, news, or talk shows. I hope my colleagues will join me in leveling the playing field and will support this bill.●

By Mr. KENNEDY:

S. 2516. A bill to consolidate and reform Federal job training programs to create a world class workforce development system for the 21st century, and for other purposes; to the Committee on Labor and Human Resources.

THE JOB TRAINING CONSOLIDATION AND REFORM ACT

Mr. KENNEDY. Mr. President, today I am introducing the Job Training Consolidation and Reform Act. This bill grew out of a bipartisan effort that Senator KASSEBAUM and I initiated earlier this year to consolidate, reform, and revitalize federally funded job training programs, and I hope that this measure will help to lay the foundation for early and effective action on this important issue in the next Congress.

In his State of the Union Address this year, President Clinton called on Congress to improve all aspects of Federal work force development policy. In this session of the Congress, we have responded by enacting new education and job training measures for youth, such as the School-to-Work Opportunities Act and the Goals 2000: Educate America Act.

We have also made significant progress in responding to President Clinton's challenge to streamline today's patchwork of job training programs and make them a more effective source of skills for all those whom these programs were designed to serve.

For the past 6 months, we have been working to develop legislation to make job training more responsive to the needs of job seekers, workers, and businesses. We made substantial progress and reached agreement on many aspects of a comprehensive reform bill. Our goal is to transform federally funded job training efforts from the current disparate collection of free-standing, categorical programs into a coherent, integrated, accountable work force development system.

Compared to other major industrial nations, the United States does not have a coherent labor market policy to help workers and firms adjust to structural changes in our economy. The basic building blocks of our current job training system were established during the years of the New Deal, the New Frontier, and the Great Society. The challenge then was to help hard-to-serve groups enter the labor force.

Now, as we head into the 21st century, we must respond to a new set of problems. As a result of increased international competition, rapid technological change, and the current downsizing of defense, many workers already in the labor force need to be retrained in order to improve their skills and continue productive careers. Often, this kind of retraining may be needed more than once or even several times over the course of their careers.

The increasing number of two-income families and families with single heads of household requires more flexible labor market institutions capable of helping workers to move in and out of the labor force without losing their earning power.

In addition, as President Clinton has emphasized, more effective job training is an essential part of our efforts to reform the welfare system and end the endless cycle of welfare dependency.

In the past decade, many private businesses have taken steps to try to deal with the profound structural changes taking place in our economy. It is time for the Federal government to act as well, by revising its own approach to job training, and giving workers a greater opportunity to succeed. The Clinton administration deserves credit for its leadership on this issue and for facing up to this serious challenge.

In a series of recent speeches, Secretary of Labor Robert Reich has described the broad trends since the 1970's that have split the old middle class into three new groups—an "underclass" largely trapped in central cities and increasingly isolated from the heart of the economy; an "overclass" of those who are well-positioned to ride the waves of change successfully; and in between, the largest group, an "anxious class", most of whom hold jobs but who are justifiably uneasy about their own future and even more fearful for their children's future.

As Secretary Reich persuasively states, success in today's work force is heavily based on education and skills. Well-educated and highly skilled workers are prospering. Those with few skills or whose skills are out of date or out of step with the changing economy are concerned about their prospects as they drift farther and farther from the mainstream.

The most effective way for Congress and the administration to deal with this challenge is to develop a more coherent job training system that is accessible to all job seekers, workers, and businesses, without retreating from the commitment we have made to the most disadvantaged.

We must assess the strengths and weaknesses of the current system and develop a better strategy to achieve our goals, and all this must be accomplished within the constraints of the budget.

According to a series of reports issued by the General Accounting Office at the request of Senator KASSEBAUM and myself and several other members of Congress, the Federal Government is now spending $25 billion a year on 154 separate job training programs. In Massachusetts, more than $700 million is spent each year on a variety of Federal and State programs outside the traditional school and college environments.

Although we know the total Federal investment in job training, we still lack basic data about our return on this investment. The most alarming finding of the GAO reports is that many Federal agencies do not know whether their programs are working.

At the request of Senator KASSEBAUM, GAO assessed 62 programs that provide job training assistance to the disadvantaged. The survey found that although Federal agencies monitor the expenditure of funds, they generally do not have information on outcomes. In light of the importance of job training, the lack of focus on outcomes is unacceptable, especially in this time of increasingly tight Federal budgets and scarce resources for new investments.

Over the past 6 months, Senator KASSEBAUM, and I have been working together to devise a new strategy to create the type of work force development system the Nation needs. In June we issued a joint statement on the Senate floor which laid out a series of principles to guide this reform. Several other Senators joined us at that time. We have subsequently received support from many other Senators on both sides of the aisle, and our staffs have spent many hours meeting with representatives of organizations and constituencies concerned with how the current system operates.

This bill that I am introducing today—the Job Training Consolidation and Reform Act—contains a detailed strategy for reforming these programs. This bill has two major aspects. It establishes a process for sensible consolidation and streamlining of federally funded job training programs. And it reforms the delivery system to create a marketplace for job training services connected to real jobs.

The consolidation that will take place under the bill is a means to an end. Although we should eliminate unnecessary or outmoded programs, the primary goal is to do a better job of helping jobseekers, workers, and firms in labor markets in communities across the Nation. The bill clearly states that savings resulting from program elimination or consolidation are to be reinvested into building a more integrated and accountable work force development system. We are clearly spending these resources unwisely and inefficiently now, and reform will enable us to accomplish far more with the same level of resources.

I take pride that bipartisan developments in Massachusetts in recent years form the basis for major elements of the legislation. In 1988, Massachusetts became the first State to establish supercouncils at the State and local level to oversee policy on work force development.

The MassJobs Council has played a vital role in pioneering new ways to link education reform with economic development. The MJC has also done excellent work in building the type of information system needed to provide beneficiaries of job training programs with vital information about the supply, demand, price, and quality of the services available in local labor markets.

The bill encourages States to experiment with different strategies. All States will have an opportunity to obtain planning grants to design more efficient information systems. All States will be able to apply for waivers to remove cumbersome requirements that stand in the way of providing effective services to customers.

Leading-edge States like Massachusetts will have an opportunity to compete for larger grants to accelerate reform. A new tripartite national board consisting of business, labor, and governmental officials will oversee State efforts, and establish accountability to ensure that lessons learned in the States are incorporated into national policy.

The bill also provides incentives for communities to create local boards to oversee these activities. In Massachusetts, our 16 private sector led regional employment boards are playing a key role in ensuring that all programs—not just those funded by the Job Training Partnership Act—are linked to the skill requirements of industries that are vital to each region's competitiveness.

Each of these REB's has responded to this challenge in a different way, based on the character of its local economy. In Boston, the REB has taken a leadership role in integrating youth employment programs in the public schools into a citywide school to work effort that leads to paid jobs in the hospital, financial services, communications, and environmental industries.

In Springfield, the REB is helping design a comprehensive program for the 350 small- and medium-sized machine firms in Hampden County. REB's in Pittsfield and northern Worcester County have initiated similar efforts with the plastic industry. The REB on Cape Cod is developing a comprehensive one stop center in Hyannis to make it easier to obtain services.

The act makes fund available to local boards on a matching basis for training programs to upgrade the skills and earnings of front-line workers in local industries. Local boards under the act, in conjunction with local officials, will oversee the development of one stop career centers.

The act also includes provisions to strengthen cooperation and planning among the various Federal agencies responsible for these programs. The national board will be responsible for comparing the preparedness of the U.S. work force with that of other countries. It will develop a biennial plan to guide Federal policy, and produce an annual report card on the performance of the Nation's training programs.

In sum, it is clear that the current policy is flawed. Many workers are increasingly anxious about their ability to adjust to economic changes, and it is increasingly clear that our Nation's job training programs are not operating effectively.

By introducing this legislation now, I hope to be laying the groundwork for major reform in the next Congress. The effort that Senator KASSEBAUM and I have launched has been viewed as a positive development by a wide range of groups representing business, labor, and State and local governments. I would encourage these organizations and others who share our concern about its importance to review the bill I am introducing and Senator KASSEBAUM'S earlier bill S. 1943, and to offer their comments and suggestions.

The need for this reform has never been greater. Based on the constructive progress we have made this year and the positive response our effort has received, I am optimistic that there will be broad bipartisan support for comprehensive reform in the next Congress.

I ask unanimous consent that the text of the bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2516

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Job Training Consolidation and Reform Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Authorization of appropriations.
Sec. 4. Definitions.

TITLE I—FEDERAL RESPONSIBILITIES

Sec. 101. National Workforce Development Board.
Sec. 102. National Report Card.
Sec. 103. Mechanisms for building high quality integrated workforce development systems.
Sec. 104. Centralized waivers.
Sec. 105. Quality assurance system.

TITLE II—STATE RESPONSIBILITIES

Sec. 201. State Workforce Development Councils.
Sec. 202. Membership.
Sec. 203. Chairperson.
Sec. 204. Duties and responsibilities.
Sec. 205. Development of quality assurance systems and consumer reports.
Sec. 206. Administration.
Sec. 207. Establishment of unified service delivery areas.
Sec. 208. Financial and management information systems.
Sec. 209. Capacity building grants.
Sec. 210. Performance standards for unified service delivery areas.

TITLE III—LOCAL RESPONSIBILITIES

Sec. 301. Workforce development boards.
Sec. 302. Workforce development board policy blueprint.
Sec. 303. Report card.
Sec. 304. One-stop career centers.
Sec. 305. Progress reports.
Sec. 306. Capacity building.
Sec. 307. Incentive grants for incumbent worker training.

TITLE IV—CONSOLIDATION

Sec. 401. Purpose; findings; sense of the Congress.
Sec. 402. Integration of youth programs.
Sec. 403. Consolidation of workforce development programs.
Sec. 404. Integration of programs at the local level.
Sec. 405. Sunset of major workforce development programs.

TITLE V—INTEGRATED LABOR MARKET INFORMATION SYSTEM

Sec. 501. Integrated labor market information.
Sec. 502. Responsibilities of the National Board.
Sec. 503. Responsibilities of the Secretary.
Sec. 504. Responsibilities of Governors.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) increasing international competition, technological advances, and structural changes in the United States economy present new challenges to private firms and public policy makers in creating a skilled workforce with the ability to adapt to change and technological progress;

(2) the Federal Government should work with the private sector to create a high performance workforce development system to encourage collaboration among private sector firms and publicly funded education and training efforts to assist jobseekers and workers adjust to structural economic changes;

(3) according to the General Accounting Office, there are currently 154 federally funded employment and training programs (hereafter referred to in section as the "programs");

(4) the programs cost more than $25,000,000,000 annually and are administered by 14 different Federal departments and agencies;

(5) although it is necessary for the Federal Government to consolidate or eliminate unnecessary programs, the primary goal of Federal workforce development policy should be to help facilitate transactions taking place between jobseekers, workers, and business in local labor markets;

(6) in order to bring more coherence to Federal workforce development policy, there should be a single entity at the Federal, State, or local level vested with the necessary authority to strategically plan ways to transform the separate training and employment programs into an integrated and accountable workforce development system;

(7) these Federal, State, and local strategic planning bodies should be structured in such

a way to give businesses and workers a meaningful role in shaping policy and overseeing the quality of workforce development programs;

(8) while the Federal Government must maintain its commitment to provide economically and educationally disadvantaged individuals with skills and support services necessary to succeed in the labor market, Federal workforce development policy must also begin to provide incentives to assist firms to help upgrade the skills of their front-line workers;

(9) the United States needs a comprehensive integrated labor market information system to ensure that workforce development programs are related to the demand for particular skills in local labor markets, and to ensure that information about the employment and earnings of the local workforce, and the performance of education and training institutions, will be available to citizens and decision makers;

(10) in recent years, many States and communities have made progress in developing new approaches to better integrate Federal employment and training programs;

(11) the Federal Government should take more systematic measures to encourage experimentation and flexibility, and to disseminate best practices in the design and implementation of a comprehensive workforce development system throughout the country; and

(12) the Federal Government should address the findings of this subsection through the implementation of immediate and long-term improvements that result in the establishment of a high quality workforce development system needed for the economy of the 21st century.

(b) PURPOSE.—It is the purpose of this Act to take certain immediate actions, and to establish a process for bringing about longer term improvements, that are needed to begin the transformation of federally funded education and job training efforts from a collection of fragmented programs into a coherent, integrated, accountable workforce development system that—

(1) is based on the needs of jobseekers, workers, and employers, rather than bureaucratic requirements;

(2) is accessible to any jobseeker, worker, or employer;

(3) focuses on accountability, performance, and accurate information;

(4) provides flexibility and responsibility to the States, and in turn to local communities, for design and implementation of workforce development systems;

(5) requires the active involvement of firms and workers in the governance, design, and implementation of such system;

(6) is linked directly to employment and training opportunities in the private sector; and

(7) adopts best practices of quality administration and management that have been successful in the private sector .

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there is authorized to be appropriated to carry out titles I, II, III, and IV—

(1) $160,000,000 for fiscal year 1996; and

(2) such sums as may be necessary for each of fiscal years 1997 through 1999.

(b) LIMITATIONS.—

(1) FISCAL YEAR 1996.—In fiscal year 1996, of the funds made available pursuant to subsection (a)—

(A) not more than 5 percent shall be used for the activities of the National Board;

(B) not more than 10 percent shall be used for incentive grants, pursuant to section 307;

(C) not more than 15 percent shall be used for development grants, pursuant to section 103(a); and

(D) not less than 70 percent shall be used for implementation grants, pursuant to section 103(b).

(2) Fiscal years 1997 THROUGH 1999.—In each of fiscal years 1997 through 1999, of the funds made available pursuant to subsection (a)—

(A) not more than 5 percent shall be used for the activities of the National Board;

(B) not more than 10 percent shall be used for incentive grants, pursuant to section 307; and

(C) not less than 85 percent shall be used for implementation grants, pursuant to section 103(b).

(c) INTEGRATED LABOR MARKET INFORMATION SYSTEM.—To carry out title V, there is authorized to be appropriated—

(1) $90,000,000 for fiscal year 1996; and

(2) such sums as may be necessary for each succeeding fiscal year.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term "development grant" means a grant provided to each State under section 103(a);

(2) the term "implementation grant" means a grant provided under section 103(b);

(3) the term "leading edge State" means a State that has been awarded an implementation grant under section 103(b);

(4) the term "workforce development program" means any of the more than 150 federally funded job training programs identified by the General Accounting Office in testimony on March 3, 1994, before the Subcommittee on Employment, Housing and Aviation of the Committee on Government Operations of the House of Representatives, and any State-funded program that provides job training assistance to individuals or assists employers to identify or train workers;

(5) the terms "integrated workforce development system" and "integrated system" mean the system of employment, training, and employment-related education programs, including the mandatory programs described in section 404(a) and any additional Federal or State programs designated by the Governor of a State, comprising the consolidated system pursuant to section 404(b);

(6) the term "National Board" means the National Workforce Development Board established under section 101(b);

(7) the term "Federal Blueprint" means the National Workforce Development Strategic Plan issued by the National Board pursuant to section 101(c)(1);

(8) the term "National Report Card" means the Nation's Workforce Development Report Card prepared pursuant to section 102;

(9) the term "State Council" means a State Workforce Development Council established pursuant to section 201;

(10) the term "State Blueprint" means the State Workforce Development Policy Blueprint prepared pursuant to section 204(a);

(11) the term "State Report Card" means the State Workforce Development Report Card issued pursuant to section 204(b);

(12) the term "workforce development board" means a local board established pursuant to section 301;

(13) the term "unified service delivery area" means the common geographic service area boundaries established pursuant to section 207 and overseen by a workforce development board;

(14) the term "one-stop career center" means an access point for intake, assessment, referral, and placement services, including services provided electronically, that is part of the network established pursuant to section 304;

(15) the term "hard-to-serve" means an individual meeting the requirements of section 203(b) of the Job Training Partnership Act (29 U.S.C. 1603(b)); and

(16) the term "Secretary" means the Secretary of Labor, unless the context suggests otherwise.

TITLE I—FEDERAL RESPONSIBILITIES

SEC. 101. NATIONAL WORKFORCE DEVELOPMENT BOARD.

(a) FINDINGS.—Congress finds that a national workforce development board is necessary to—

(1) oversee the establishment and continuous improvement of the national workforce development system;

(2) provide policy guidance to enhance strategic planning among the Federal agencies responsible for administering job training programs;

(3) bring private sector expertise to the governance of the national workforce development system; and

(4) take active steps to remove the legislative and regulatory barriers to service integration.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the National Workforce Development Board (referred to in this Act as the "National Board").

(2) COMPOSITION.—The National Board shall be comprised of 9 members, of whom—

(A) one member shall be the Secretary of Labor;

(B) one member shall be the Secretary of Education;

(C) one member shall be the Secretary of Health and Human Services;

(D) three members shall be representatives of business (including representatives of small businesses and large employers);

(E) two members shall be representatives of organized labor; and

(F) one member shall be selected from representatives of—

(i) community-based organizations;

(ii) State and local governments; or

(iii) nongovernmental organizations that have a history of successfully protecting the rights of individuals with disabilities or older persons.

(3) ADDITIONAL REQUIREMENTS.—The members described in subparagraphs (D), (E), and (F) of paragraph (2) shall—

(A) in the aggregate, represent a broad cross-section of occupations and industries;

(B) to the extent feasible, be geographically representative of the United States, and reflect the racial, ethnic, and gender diversity of the United States; and

(C) one member shall be a member of the National Skill Standards Board established pursuant to the National Skill Standards Act of 1994.

(4) EXPERTISE.—The National Board and the staff shall have sufficient expertise to effectively carry out the duties and functions of the National Board.

(5) BUSINESS AND LABOR ADVISORY COMMITTEES.—The National Board may establish a business advisory committee and a labor advisory committee which shall be comprised of members who are appointed to the National Board pursuant to subparagraphs (D) and (E) of paragraph (2), respectively, and members who are not on the National Board, to assist the National Board to carry out its duties pursuant to subsection (c).

(6) APPOINTMENT.—The members described in subparagraphs (D), (E), and (F) of paragraph (2) shall be appointed by the President,

by and with the advice and consent of the Senate.

(7) EX OFFICIO NONVOTING MEMBERS.—The Director of the Office of Management and Budget, the Secretary of Commerce, the chairpersons and ranking minority members of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives shall be ex officio, nonvoting members of the National Board.

(8) TERMS.—Each member of the National Board appointed under subparagraph (D), (E), and (F) of paragraph (2) shall be appointed for a term of 4 years, except that of the initial members of the National Board appointed under such subparagraphs—

(A) two members shall be appointed for a term of 2 years;

(B) two members shall be appointed for a term of 3 years; and

(C) two members shall be appointed for a term of 4 years.

(9) VACANCIES.—Any vacancy on the National Board shall not affect the powers of the National Board, but shall be filled in the same manner as the original appointments.

(10) CHAIRPERSONS.—The President, by and with the advice and consent of the Senate, shall select one co-chairperson of the National Board from among the members of the National Board appointed under paragraph (2)(D) and one co-chairperson from among the members appointed pursuant to paragraph (2)(E).

(11) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the National Board who is not a full-time employee or officer of the Federal Government shall serve without compensation. Each member of the National Board who is an officer or employee of the Federal Government shall serve without compensation in addition to that received for the services of such member as an officer or employee of the Federal Government.

(B) EXPENSES.—The members of the National Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the National Board.

(12) EXECUTIVE DIRECTOR AND STAFF.—

(A) EXECUTIVE DIRECTOR.—The co-chairpersons of the National Board shall appoint an Executive Director who shall be compensated at a rate determined by the National Board, not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(B) STAFF.—The Executive Director may—

(i) appoint and compensate such additional staff as may be necessary to enable the National Board to perform its duties; and

(ii) fix the compensation of the staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classifications of positions and General Schedule pay rates, except that the rate of pay for the staff may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(13) VOLUNTARY AND UNCOMPENSATED SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the National Board is authorized, in carrying out this Act, to accept voluntary and uncompensated services.

(14) AGENCY SUPPORT.—

(A) USE OF FACILITIES.—The National Board may use the research, equipment, services, and facilities of any agency or instrumentality of the United States with the consent of such agency or instrumentality.

(B) STAFF OF FEDERAL AGENCIES.—Upon the request of the National Board, the head of any Federal agency may detail to the National Board, on a reimbursable basis, any of the personnel of such Federal agency to assist the National Board in carrying out this Act. Such detail shall be without interruption or loss of civil service status or privilege.

(15) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The co-chairpersons of the National Board may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

(16) NATIONAL COMMISSION FOR EMPLOYMENT POLICY.—

(A) IN GENERAL.—Part F of title IV of the Job Training Partnership Act (29 U.S.C. 1771 et seq.) is repealed.

(B) CONFORMING AMENDMENT.—Subsection (i) of section 106 of such Act (29 U.S.C. 1516(i)) is amended by striking "(i) FUNCTIONS OF NCEP.—The National Commission for Employment Policy" and inserting "(i) FUNCTIONS OF NATIONAL WORKFORCE DEVELOPMENT BOARD.—The National Workforce Development Board established under section 101 of the Job Training Consolidation and Reform Act".

(c) DUTIES.—

(1) NATIONAL WORKFORCE DEVELOPMENT STRATEGIC PLAN.—

(A) IN GENERAL.—Not later than July 1, 1995, and every 2 years thereafter, the National Board shall issue a National Workforce Development Strategic Plan (referred to in this Act as the "Federal Blueprint").

(B) REQUIREMENTS.—The Federal Blueprint shall evaluate the progress being made toward streamlining, consolidating, and reforming the workforce development system of the United States, and toward the purposes described in section 2(b). The Federal Blueprint shall—

(i) compare the preparedness of the workforce of the United States with the workforce of other countries;

(ii) serve as a strategic plan to guide the integration of federally funded workforce development programs into a streamlined system;

(iii) assess the lessons learned from the experience of leading edge States, and States that waive certain program requirements to experiment with alternative workforce development strategies;

(iv) analyze how businesses are—

(I) progressing in the restructuring of the workplace to provide continuous learning for their employees;

(II) improving the skills and abilities of the front-line workers of such businesses; and

(III) taking measures to integrate public workforce development programs into private sector training systems;

(v) make recommendations to Congress and the President on ways to improve linkages between federally funded business modernization programs and federally funded workforce development programs;

(vi) include a research agenda for the National Board to carry out its activities;

(vii) evaluate the labor market information of the Nation and recommend areas in need of improvement; and

(viii) based on the evaluation of the progress being made toward the development of an integrated, accountable, effective workforce development system, as described in the National Report Card, make recommendations to Congress and the President on ways to promote further streamlining, consolidation, and reform.

(2) CONGRESSIONAL TESTIMONY.—The co-chairpersons of the National Board shall, at least annually, provide testimony, during a joint hearing before the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives on the progress being made in developing a more integrated and accountable public and private workforce development system in the United States.

(3) EMPLOYER AND WORKER TRAINING.—Not later than 180 days after the date of enactment of this Act, the National Board shall make recommendations to Congress and the President on what measures can be taken, including changes in the tax codes, to encourage employers and workers to invest in training and skills upgrading, and to encourage employers to hire and train hard-to-serve individuals.

(4) REVIEW OF GRANT PROPOSALS.—The National Board shall review the implementation grant proposals pursuant to section 103(b) and the incentive grant proposals submitted pursuant to section 307, and make recommendations to the Secretary regarding such proposals.

(5) COORDINATION WITH THE NATIONAL SKILL STANDARDS BOARD.—The National Board shall annually hold a joint meeting with the National Skill Standards Board established pursuant to section 503 of the National Skill Standards Act to ensure that Federal efforts to reform and streamline the Nation's workforce development system are integrated and coordinated.

(6) FINAL RECOMMENDATIONS.—Not later than June 1, 1999, the National Board shall submit recommendations in the form of a joint resolution to the President and Congress, pursuant to section 403(b).

SEC. 102. NATIONAL REPORT CARD.

(a) IN GENERAL.—Not later than July 1, 1996, and each July 1 thereafter, the National Board shall prepare a report to be known as the Nation's Workforce Development Report Card (referred to in this Act as the "National Report Card").

(b) REQUIREMENTS.—The National Report Card shall assess the performance of the workforce development system of the United States, based on the earnings and employment gains and other nonemployment-related outcomes of individuals assisted by the programs comprising such system. The National Report Card shall evaluate all workforce development programs that receive Federal funding, and shall—

(1) assess the performance of each program;

(2) assess performance based on the type of assistance provided, including the categories of services identified in section 105(b)(1)(C);

(3) assess year-to-year changes in performance;

(4) report on the extent to which hard-to-serve populations are receiving services and the related outcomes in relation to services received in the preceding three years;

(5) determine the annual Federal investment in workforce development in each State; and

(6) assess the performance of the workforce development system in each State.

SEC. 103. MECHANISMS FOR BUILDING HIGH QUALITY INTEGRATED WORKFORCE DEVELOPMENT SYSTEMS.

(a) STATE DEVELOPMENT GRANTS.—

(1) PURPOSE.—The purpose of this subsection is to assist States and communities

in strategic planning for integrated workforce development systems, including the development of a financial and management information system, a quality assurance system, and an integrated labor market information system.

(2) GRANTS TO STATES.—On the application of the Governor of a State, on behalf of the State, the Secretary may provide a development grant to the State in such amount as the Secretary, in consultation with the National Board, determines to be necessary to enable such State to develop a strategic plan pursuant to paragraph (1) for the development of a comprehensive statewide integrated workforce development system.

(3) APPLICATION.—To be eligible to receive a development grant under this subsection, the Governor of a State, on behalf of the State, shall submit to the National Board and the Secretary an application, at such time, in such form, and containing such information as the Secretary may require.

(b) IMPLEMENTATION GRANTS TO LEADING EDGE STATES.—

(1) PURPOSE.—The purpose of this subsection is to assist States in the implementation of statewide high quality integrated workforce development systems that are accountable for achieving results.

(2) GRANTS TO STATES.—On the application of a Governor of a State, on behalf of the State, in accordance with paragraph (6), the Secretary, in consultation with the National Board, may provide an implementation grant to the State in such amount as the Secretary determines to be necessary to enable such State to implement an integrated workforce development system.

(3) PERIOD OF GRANT.—The provision of payments under a grant under this subsection shall not exceed 4 fiscal years, and shall be subject to the annual approval of the Secretary, in consultation with the National Board, and the availability of appropriations for the fiscal year involved.

(4) ALLOCATION REQUIREMENTS.—

(A) FIRST YEAR.—In the first fiscal year in which a State receives amounts from an implementation grant under subsection (b), the State shall use not less than 75 percent of such amount to provide subgrants to local workforce development boards.

(B) SECOND YEAR.—In the second fiscal year in which a State receives amounts from an implementation grant under subsection (b), the State shall use not less than 80 percent of such amount to provide subgrants to local workforce development boards.

(C) THIRD AND SUCCEEDING YEARS.—In the third, and each succeeding, fiscal year in which a State receives amounts from an implementation grant under subsection (b), the State shall use not less than 85 percent of such amount to provide subgrants to local workforce development boards.

(5) LIMITATION.—A State shall be eligible to receive not more than 1 implementation grant under this subsection.

(6) APPLICATION.—To be eligible to receive an implementation grant under this subsection, the Governor of a State, on behalf of the State, shall submit to the National Board and the Secretary an application that shall include a copy of the State Blueprint and such other information as the Secretary, with the advice of the National Board, may require.

(c) DISSEMINATION OF INFORMATION ON BEST PRACTICES.—

(1) IN GENERAL.—The Secretary, in consultation with the National Board, shall—

(A) collect and disseminate information that will assist State and local communities undertaking activities to streamline and reform their job training systems, including information on—

(i) the successful experiences of States and localities that have received development or implementation grants, or that have been granted waivers; and

(ii) research concerning the restructuring of workforce development systems; and

(B) facilitate the exchange of information and ideas among States and local entities carrying out job training reform initiatives.

(2) USE OF INFORMATION CLEARINGHOUSES AND OTHER ENTITIES.—To carry out this subsection, the Secretary and the National Board shall utilize such mechanisms as—

(A) the Capacity Building and Information Dissemination Network established pursuant to section 453(b) of the Job Training Partnership Act (29 U.S.C. 1733(b));

(B) the education resources information center clearinghouses referred to in the General Education Provisions Act (20 U.S.C. 1221e);

(C) the National Network for Curriculum Coordination in Vocational and Technical Education established under section 402(c)(2) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2402(c)(2));

(D) the National Institute for Literacy established under section 384 of the Adult Education Act (20 U.S.C. 1213c); and

(E) the State Literacy Resource Centers established under section 356 of such Act (20 U.S.C. 1208aa).

(d) WORKFORCE DEVELOPMENT IMPACT REPORTS.—

(1) SUBMISSION.—For each bill or resolution concerning workforce development reported by any committee of the Senate or the House of Representatives, the National Board shall determine whether proposed Federal job training legislation complies with the data reporting, common definitions, and common funding cycles described in subsections (b) and (e) of section 105. A determination of compliance by the National Board under this subsection shall be included in the committee report accompanying such legislation, if timely submitted to such committee before such report is filed.

(2) PROCEDURE.—It shall not be in order in the Senate or the House of Representatives to consider any bill or resolution concerning workforce development that would not comply with the national workforce development system, as determined by the National Board under paragraph (1).

(3) WAIVER.—This subsection may be waived or suspended in the Senate or the House of Representatives only by the affirmative vote of three-fifths of the members of such House.

SEC. 104. CENTRALIZED WAIVERS.

(a) EXPEDITED PROCESS.—Not later than 180 days after the date of enactment of this Act, the President shall establish an expedited process to consider and act on waiver requests submitted by the States under this section.

(b) STATES NOT RECEIVING IMPLEMENTATION GRANTS.—

(1) IN GENERAL.—Any State may apply, in accordance with this section, for a waiver relating to provisions of law or regulations for one or more of the programs listed in section 404(a), for a period of 2 years to facilitate the provision of assistance for workforce development.

(2) WAIVER AUTHORITY.—A waiver may be granted under this subsection only if—

(A) the requirement sought to be waived impedes the ability of the State, or a local entity in the States, to carry out the State or local workforce development plan;

(B) the State has waived, or agrees to waive, similar requirements of State law; and

(C) in the case of a statewide waiver, the State—

(i) provides all State and local agencies and appropriate organizations in the State with notice and an opportunity to comment on the State's proposal to seek a waiver; and

(ii) submits the affected agency's comments with the waiver application.

(3) APPLICATION.—Each application submitted under this subsection shall—

(A) identify the statutory or regulatory requirements that are requested to be waived and the goals that the State or local agency intends to achieve;

(B) describe the action that the State has undertaken to remove State statutory or regulatory barriers identified in the application;

(C) describe the goals of the waiver and the expected programmatic outcomes if the request is granted;

(D) describe the numbers and types of people to be affected by such waiver;

(E) describe a timetable for implementing the waiver;

(F) describe the process the State will use to monitor, on a biannual basis, the progress in implementing the waiver; and

(G) describe how the goals of the waived program or programs will continue to be met.

(c) STATES RECEIVING IMPLEMENTATION GRANTS.—Subject to subsection (d), each State receiving an implementation grant under section 103(b) shall have the provisions of law, or regulations under such provisions, described in its grant application or State Blueprint of such State waived for the duration of the implementation grant.

(d) LIMITATIONS.—

(1) IN GENERAL.—A waiver shall not be granted of a provision of law (or a regulation under such provision) under a workforce development program if such waiver would alter—

(A) the purposes or goals of such program;

(B) the allocation of funds under such program;

(C) any provision of law under such program relating to public health or safety, civil rights, protections granted under title I and sections 503 and 504 of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), occupational safety and health, environmental protection, displacement of current employees, or fraud and abuse; or

(D) eligibility requirements under such program, except that a waiver may be granted with respect to an eligibility requirement if such waiver would provide for increased flexibility in developing common definitions for individuals eligible for such program.

(2) CIRCULARS AND RELATED REGULATIONS.—The following circulars promulgated by the Office of Management and Budget shall be subject to the waiver authority of this subsection:

(A) A–87, relating to cost principles for State and local governments.

(B) A–102, relating to grants and cooperative agreements with State and local governments.

(C) A–122, relating to nonprofit organizations.

(D) A–110, relating to administrative requirements for grants and cooperative agreements with nonprofit organizations and institutions of higher education.

(E) A–21, relating to cost principles for institutions of higher education.

(3) EFFECTIVE DATE.—A waiver granted under this section shall take effect on the date such waiver is granted.

(4) REVIEW OF APPLICATION.—Each application submitted by a State pursuant to paragraph (3) shall be reviewed by the Secretary or agency head who has jurisdiction over the workforce development program or programs to which such waiver request relates.

(5) APPROVAL OR DISAPPROVAL OF APPLICATION.—

(A) TIMING.—Each application submitted by a State in accordance with subsection (b)(3) shall be reviewed promptly upon receipt, and shall be approved or disapproved not later than the end of the 60-day period beginning on the date such application is received.

(B) APPROVAL.—Waiver or waivers proposed in an application may be approved for the 2-year period beginning on the date such application is approved, if the State demonstrates in the application that such waiver or waivers would achieve coordination, expansion, and improvement in the quality of services under its workforce development system.

(C) DISAPPROVAL AND RESUBMISSION.—If an application is incomplete or unsatisfactory, the appropriated Federal official shall, before the end of the period referred to in subparagraph (A)—

(i) notify the State of the reasons for the failure to approve the application;

(ii) notify the State that the application may be resubmitted during the period referred to in clause (iii); and

(iii) permit the State to resubmit a corrected or amended application during the 60-day period beginning on notification under this subparagraph.

(D) REVIEW OF RESUBMITTED APPLICATION.—Any application resubmitted under subparagraph (C) shall be approved or disapproved before the expiration of the 60-day period beginning on the date of the resubmission.

(6) REVOCATION OF WAIVER.—If, after approving an application under this subsection, it is found that the waiver or waivers do not achieve coordination, expansion, and improvement in the quality of services under the workforce development programs to which such waiver or waivers relate, the waiver or waivers may be revoked in whole or in part.

(7) NOTIFICATION OF INSPECTOR GENERAL.—The inspector general of any Federal agency that has jurisdiction over a workforce development program for which a waiver or waivers has been approved shall be notified of the grant of such waiver.

SEC. 105. QUALITY ASSURANCE SYSTEM.

(a) PURPOSE.—The purpose of this section is to improve the quality of all Federal programs directed at improving the knowledge, skills, and abilities of members of the workforce by strengthening accountability and encouraging the adoption of quality improvement processes at all levels of the workforce development system. In order to accomplish this purpose, this Act—

(1) directs the Secretaries of Labor, Education, and Health and Human Services to jointly, in consultation with the National Board—

(A) develop common terms and definitions as described in subsection (b);

(B) develop a placement accountability system as described in subsection (c); and

(C) adjust existing program performance standards as described in section 210; and

(2) directs the National Board to recommend a system of performance standards in its joint resolution submitted to Congress pursuant to section 403(b) that includes standard outcome measures relating to—

(A) employment;

(B) job retention;

(C) earnings; and

(D) nonemployment outcome measures (such as learning and competency gains).

(b) COMMON TERMS AND DEFINITIONS.—

(1) IN GENERAL.—Each workforce development program that receives Federal funds shall collect and report to the Governor and the State Council, if applicable, for each participant to whom assistance is provided, the following information:

(A) The quarterly employment status and earnings for 1 year after the participant no longer receives assistance under such program.

(B) Economic and demographic characteristics, including the participant's—

(i) social security number;

(ii) date of birth;

(iii) gender;

(iv) race or ethnicity;

(v) disability status;

(vi) education (highest formal grade level achieved at commencement of participation in program);

(vii) academic degrees and credentials at time of entry into the program; and

(viii) employment status at time of entry into the program, including—

(I) scheduled hours of work per week (if employed);

(II) weeks of unemployment (if not employed);

(III) status as a homeless individual;

(IV) veteran status; and

(V) information regarding the receipt by the individual of public financial assistance (including Federal, State, and local assistance).

(C) Services received, the extent, when appropriate, and spending for such services, including—

(i) assessments;

(ii) testing;

(iii) counseling;

(iv) job development or job search assistance;

(v) occupational skills training, including on-the-job training;

(vi) work experience;

(vii) job readiness training;

(viii) basic skills education;

(ix) postsecondary academic education (nonoccupational); and

(x) supportive and supplementary services.

(D) Program outcomes, as specified by the State, such as—

(i) advancement to higher level education or training;

(ii) attainment of additional degrees or credentials (including skill standards as such standards become available);

(iii) assessment of learning gain in basic skills programs;

(iv) attainment and retention of subsidized or unsubsidized employment;

(v) quarterly earnings; and

(vi) reduction in welfare dependency.

(E) Other data elements that may be added to the items required to be collected and reported for all program participants, as the National Board develops additional standard definitions, including—

(i) date of entry into the program and date of exit from the program;

(ii) program applicant, program participant, and program terminee; and

(iii) attainment of recognized skills standards.

(2) REPLACEMENT OF EXISTING REQUIREMENTS.—Program monitoring under this section shall supplant existing monitoring and reporting requirements for program participants.

(3) ADOPTION OF COMMON TERMS AND DEFINITIONS.—

(A) REPORT.—Not later than 180 days after the date of enactment of this Act, each Federal department and agency with responsibility for a workforce development program shall report to the National Board on its progress in adopting the common terms and definitions for program participants, service activities, and outcomes by program operators and grant recipients.

(B) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, each workforce development program receiving Federal funds shall use the common terms and definitions.

(C) USE.—Upon adoption by the appropriate Federal agencies, the common definitions for terminology developed and reported pursuant to section 455 of the Job Training Partnership Act (29 U.S.C. 1735(b)) shall be utilized in interpreting and compiling the core data elements. Notwithstanding any other provision of Federal law, such common definitions shall be utilized in lieu of existing program definitions for similar data elements.

(4) RECOMMENDATIONS.—Not later than 180 days after the date all of the Members of the National Board are appointed, the National Board shall make recommendations to the Secretaries of Labor, Education, and Health and Human Services, and the heads of other agencies operating workforce development programs, on common definitions for other terms, including terms relating to—

(A) program status, including—

(i) applicant;

(ii) participant;

(iii) terminee; and

(iv) training-related placement;

(B) program eligibility, including—

(i) family income; and

(ii) economically disadvantaged individuals; and

(C) other terms considered appropriate by the National Board, such as common cost categories.

(5) AMENDMENTS.—If any of the proposed common definitions require amendment to existing laws, the National Board shall submit to Congress recommendations for legislative action not later than 9 months after the date all of the members of the National Board are appointed.

(c) PLACEMENT ACCOUNTABILITY.—

(1) IN GENERAL.—The purpose of this subsection is to establish a placement accountability system using a cost-effective data source with information on job placement, earnings, and job retention, to foster accountability by all federally funded workforce development programs.

(2) PERFORMANCE MONITORING.—Each workforce development program that receives Federal funds shall—

(A) engage in continuous performance self-monitoring by measuring, at a minimum, the quarterly employment status and earnings of each recipient of assistance under such program; and

(B) monitor each recipient of assistance for a period of not less than 1 year, beginning on the date on which the recipient no longer receives assistance under such program.

(3) INFORMATION MATCHING.—

(A) CORE DATA.—Each workforce development program that receives Federal funds shall provide the information described in subsection (b) regarding program participants to the State agency responsible for labor market information designated in title V.

(B) Matching.—The State agency responsible for labor market information designated in title V shall, in conjunction with the Bureau of Labor Statistics, match the information provided pursuant to subparagraph (A) with quarterly employment and earnings records.

(4) Reimbursement.—Requesting programs shall reimburse the State agency responsible for wage record data for the cost of matching such information. Notwithstanding any other provision of Federal law, requesting programs may use Federal funds for such reimbursement.

(5) Confidentiality.—Requesting programs—

(A) shall protect the confidentiality of wage record data through the use of recognized security procedures; and

(B) may not retain such data for more than 10 years.

(6) Submission to state council.—The State agency responsible for labor market information shall submit the results of the matching to the State Council, in accordance with procedures and schedules specified by the National Board and the Secretary.

(7) Responsibility of governors.—The Governor of each State shall ensure the submission of the matched data to the State Council, the National Board, the Secretary, and other Federal entities, as required by the National Board.

(d) Dissemination of Quality Assurance.—The information obtained under subsection (c) shall be made available to—

(1) the State Council of the State in which the program is located;

(2) the local workforce development boards in the State in which the program is located; and

(3) consumers of labor market information to judge individual program performance in an easily accessible format.

(e) Consistent Funding Cycles.—

(1) In general.—All federally funded workforce development training activities shall, to the extent practicable, be funded on a consistent funding cycle basis.

(2) Recommendations for funding cycle.—Not later than 180 days after the date on which all of the members of the National Board are appointed, the National Board shall make recommendations to Congress on the appropriate funding cycle to be used for all workforce development programs and activities.

TITLE II—STATE RESPONSIBILITIES

SEC. 201. STATE WORKFORCE DEVELOPMENT COUNCILS.

(a) Establishment.—Each State desiring to participate in the development of an integrated and accountable workforce development system under the procedures specified in section 103(b) shall establish a State Workforce Development Council (referred to in this Act as a "State Council") or have located within such State an existing entity that is similar to a State Council and that includes members who are representatives of employers and workers.

(b) Purpose.—Each State Council shall serve as the principal advisory board for the Governor of such State for all programs included in the State's integrated workforce development system.

(c) Functions.—Each State Council shall assume the functions and responsibilities of councils and commissions required under Federal law that are part of the integrated workforce development system of such State.

SEC. 202. MEMBERSHIP.

(a) In General.—

(1) Representatives of business and industry and organized labor.—Each State Council shall be comprised of individuals who are appointed by the Governor for a term of not less than 2 years from among—

(A) representatives of business and industry, who shall constitute not less than 33 percent of the membership of the State Council, including individuals who are members of local workforce development boards; and

(B) representatives of organized labor who shall constitute not less than 25 percent of the membership of the State Council and shall be selected from among individuals nominated by recognized State labor federations.

(2) Additional members.—Each State Council may include one or more qualified members who are appointed by the Governor from among representatives of the following:

(A) Postsecondary institutions.

(B) Secondary or postsecondary vocational education institutions.

(C) Community-based organizations.

(D) Nongovernmental organizations that have a history of successfully protecting the rights of individuals with disabilities or older persons.

(E) Units of general local government or consortia of such units.

(F) State officials responsible for administering programs listed in sections 402 and 404(a), and included in the integrated system.

(G) The State legislature.

(H) Any local program that receives Federal funding from any program included in the integrated workforce development system of the State.

(b) Ex Officio.—

(1) Nonvoting members.—The Governor may appoint ex officio additional nonvoting members to the State Council.

(2) Expertise.—The Governor of the State shall ensure that the State Council and the staff of the State Council have sufficient expertise to effectively carry out the duties and functions of the State Council described under the laws relating to the applicable program.

(c) Advisory Committees.—Each State Council may establish a business and a labor advisory committee to assist the State Council in carrying out its duties pursuant to section 204. Membership on such advisory committees shall include State Council members from the business and labor communities and such additional members as the State Council requires.

SEC. 203. CHAIRPERSON.

The Governor of the State shall appoint a chairperson of the State Council who is a representative of the business community.

SEC. 204. DUTIES AND RESPONSIBILITIES.

(a) State Workforce Development Policy Blueprint.—The State Council shall assist the Governor to prepare and submit to the National Board a biennial report to be known as the State Workforce Development Policy Blueprint (referred to in this Act as the "State Blueprint"). The State Blueprint shall—

(1) serve as a strategic plan for integrating federally funded workforce development programs included in an integrated system of the State, established pursuant to section 103(b), with State-funded job training, employment, employment-related education, and economic development activities;

(2) summarize and analyze information about training needs of critical industries in the State contained in the local workforce development policy blueprints developed by the workforce development board;

(3) establish State goals for the integrated workforce development system and a common core set of performance measures and standards for programs included in the system, to be used in lieu of existing performance measures and standards for each of the included programs;

(4) analyze how the businesses of the State are—

(A) progressing in the restructuring of the workplace to provide continuous learning;

(B) improving the skills and abilities of front-line workers of such businesses; and

(C) participating in State and local efforts to transform federally funded education and job training programs into a coherent and accountable workforce development system;

(5) utilize information available from the State Report Card and other sources to analyze the relative effectiveness of individual workforce development programs within the State and of the State's workforce development system as a whole;

(6) evaluate the progress being made within the State in streamlining, consolidating, and reforming the workforce development system of the State in accordance with the purposes contained in section 2(b) and the framework for State implementation contained in the implementation grant proposal of the State;

(7) describe how service to special hard-to-serve populations is to be maintained;

(8) identify how any funds that a State may be receiving under section 103(b) are to be utilized in conjunction with existing resources to continuously improve the effectiveness of the workforce development system of the State;

(9) describe the method to be used to allocate funds received under section 103(b) in a fair and equitable manner among unified service delivery areas;

(10) specify the additional elements, if any, to be included in operating agreements between local workforce development boards and one-stop career centers;

(11) specify additional criteria, if any, for selection of one-stop career centers;

(12) specify the conditions under which the requirements of section 304(g) may be waived;

(13) specify the nonemployment-related outcome measures that will be used for the workforce development system;

(14) specify the nature and scope of the budget authority for local workforce development boards in the State; and

(15) supplant federally required planning reports for programs under the integrated workforce development system of the State.

(b) State Workforce Development Report Card.—The State Council shall assist the Governor of the State to issue an annual report to be known as the State Workforce Development Report Card (referred to in this Act as the "State Report Card"). The State Report Card shall describe the performance of all workforce development programs operating in the State that receive Federal funding and any additional State-funded programs that the Governor may choose to include. The State Report Card shall—

(1) include an integrated budget that documents the annual spending, number of clients served, and types of services provided for workforce development programs for the State as a whole and for each unified service delivery area within the State;

(2) assess the maintenance of effort to hard-to-serve populations in relation to the number served and outcomes for those populations in the preceding 3 years;

(3) utilize information available from the quality assurance system established under section 105 to assess—

(A) employment and earnings experiences of individuals who have received assistance from each workforce development program operated in the State; and

(B) relative employment and earnings experiences of participants receiving services from each one-stop career center in the State;

(4) include an analysis of other nonemployment-related results for each workforce development program operating within the State; and

(5) include a report of annual employment trends and earnings (by industry and occupation) in the State and each unified service delivery area, to assist State and local policy makers, training providers, and users of the system to link the training provided to the skill and labor force needs of local employers.

(c) WORKFORCE DEVELOPMENT BOARD CERTIFICATION AND EFFECTIVENESS CRITERIA.—Each State Council shall—

(1) assist the Governor to certify each local workforce development board; and

(2) make recommendations to the Governor for criteria that will be used to judge the effectiveness of each of the workforce development boards of the State.

SEC. 205. DEVELOPMENT OF QUALITY ASSURANCE SYSTEMS AND CONSUMER REPORTS.

(a) IN GENERAL.—The State Council shall develop a quality assurance system to complement and expand upon the quality assurance system established in section 105 in order to provide customers of job training services with consumer reports on the supply, demand, price, and quality of job training services in each unified service delivery area in the State.

(b) SELECTION OF TOOLS AND MEASURES.—Each State shall select the tools and measures that are appropriate to the needs of such State, including, but not limited to—

(1) collecting and organizing service provider performance data in accordance with information generated from the State Report Card under section 204(b), the financial and management information system designed pursuant to section 208, and the labor market information system of the State described in section 501; and

(2) conducting surveys as appropriate to ascertain customer satisfaction.

(c) COLLECTION AND DISSEMINATION.—The State Council shall, in conjunction with the local workforce development boards, establish mechanisms for collecting and disseminating the quality assurance information on a regular basis to—

(1) individuals seeking employment;

(2) employers;

(3) policymakers at the Federal, State, and local levels; and

(4) training and education providers.

(d) ASSURANCES.—Each public and private education, training, and career development service provider receiving Federal funds under a program in an integrated system of the State pursuant to section 103(b) shall collect and provide the quality assurance information required under this section.

SEC. 206. ADMINISTRATION.

(a) AUTHORITIES.—Each State Council shall be independent of other State workforce development agencies and have the authority to—

(1) employ staff; and

(2) receive and disburse funds.

(b) SPECIAL PROJECTS.—Each State Council may fund and operate special pilot or demonstration projects for purposes of research or continuous improvement of system performance.

(c) LIMITATION ON USE OF FUNDS.—Not more than 5 percent of the funds received by the State from an implementation grant under section 103(b) shall be used for the administration of the State Council.

SEC. 207. ESTABLISHMENT OF UNIFIED SERVICE DELIVERY AREAS.

(a) RECOMMENDATIONS.—Each State Council shall make recommendations to the Governor of such State for the establishment of unified service delivery areas that may be used as intrastate geographic boundaries, to the extent practicable, for all workforce development programs in an integrated system of the State pursuant to section 103(b).

(b) ESTABLISHMENT.—Each State receiving an implementation grant under section 103(b) shall, based upon the recommendations of the State Council, and in consultation and cooperation with local communities, establish unified service delivery areas throughout the State for the purpose of providing community wide workforce development assistance in one-stop career centers under section 304.

(c) RESPONSIBILITIES.—In establishing unified service delivery areas, the Governor, in consultation with the State Council and local communities—

(1) shall take into consideration existing—

(A) labor market areas;

(B) units of general local government;

(C) service delivery areas established under section 101 of the Job Training Partnership Act (29 U.S.C. 1511); and

(D) the distance traveled by individuals to receive services;

(2) may merge existing service delivery areas; and

(3) may not approve a total number of unified service delivery areas that is greater than the total number of service delivery areas in existence in the State on the date of enactment of this Act.

SEC. 208. FINANCIAL AND MANAGEMENT INFORMATION SYSTEMS.

(a) IN GENERAL.—Each State shall use a portion of the funds it receives under section 103(a) to design a unified financial and management information system. Each State that receives an implementation grant under section 103(b) shall require that all programs designated in the integrated system use the unified financial and management information system.

(b) REQUIREMENTS.—Each unified financial and management information system shall—

(1) be used by all agencies involved in workforce development activities, including one-stop career centers which shall have the capability to track the overall public investments within the State and unified service delivery areas, and to inform policymakers as to the results being achieved through that investment;

(2) contain a common structure of financial reporting requirements, fiscal systems, and monitoring for all workforce development expenditures included in the integrated system that shall utilize the common data elements and definitions included in subsections (b) and (c) of section 105;

(3) support local efforts to establish unified service systems, including intake and eligibility determination for all financial aid sources; and

(4) notwithstanding any other provision of Federal law, supplant federally required fiscal reporting and monitoring for each individual program included in the integrated system.

SEC. 209. CAPACITY BUILDING GRANTS.

From funds made available to a State for implementation pursuant to section 103(b) or development pursuant to section 103(a), the State shall develop a strategy to enhance the capacity of the institutions, organizations, and staff involved in State and local workforce development activities by providing services such as—

(1) training for members of the local workforce development boards;

(2) training for front-line staff of any local education or training service provider or one-stop career center;

(3) technical assistance regarding managing systemic change;

(4) customer service training;

(5) organization of peer-to-peer networks for training, technical assistance, and information sharing;

(6) organizing a best practices database covering the various workforce development system components; and

(7) training for State and local staff on the principles of quality management and decentralizing decisionmaking.

SEC. 210. PERFORMANCE STANDARDS FOR UNIFIED SERVICE DELIVERY AREAS.

(a) IN GENERAL.—The Governor of each State that implements an integrated workforce development system under section 103(b) may, in consultation with the State Council, the local workforce development boards in the State, and employees of any of the job training programs included in the integrated system or the employee organizations of such employees, make adjustments to existing performance standards for programs in such system in the unified service delivery area of the State.

(b) CRITERIA.—Criteria developed pursuant to subsection (a) may include such factors as—

(1) placement, retention, and earnings of participants in unsubsidized employment, including—

(A) earnings at 1, 2, and 4 quarters after termination from the program; and

(B) comparability of wages 1 year after termination from the program with wages prior to participation in the program;

(2) acquisition of skills pursuant to a skill standards and skill certification system endorsed by the National Skill Standards Board established pursuant to section 503 of the National Skill Standards Act of 1994;

(3) the satisfaction of participants and employers with services provided and employment outcomes; and

(4) the quality of services provided and the maintenance of effort to hard-to-serve populations, such as low-income individuals and older workers.

(c) ADJUSTMENTS.—Each Governor of a State that implements an integrated workforce development system under section 103(b) shall, within parameters established by the National Board, and after consultation with the workforce development boards in the State, prescribe adjustments to the performance criteria prescribed under subsections (a) and (b) for the unified service delivery areas based on—

(1) specific economic, geographic, and demographic factors in the State and in regions within the State; and

(2) the characteristics of the population to be served, including the demonstrated difficulties in serving special populations.

(d) USE OF CRITERIA.—The performance criteria developed pursuant to this section shall be utilized in lieu of similar criteria for programs receiving Federal funding included in the integrated system of the State, to the extent determined by the State Council subject to the approval of the National Board.

TITLE III—LOCAL RESPONSIBILITIES

SEC. 301. WORKFORCE DEVELOPMENT BOARDS.

(a) ESTABLISHMENT.—In each State receiving an implementation grant under section 103(b), and subject to subsection (b) of this section, the local elected officials of each unified service delivery area shall establish a workforce development board to administer the workforce development assistance provided by all the programs in the integrated workforce development system in such area.

(b) EXCEPTION.—States with a single unified delivery area with contiguous borders shall not be subject to the requirement of subsection (a).

(c) MEMBERSHIP.—Each workforce development board shall be comprised of—

(1) representatives of business and industry, who shall constitute a majority of the board and who shall be business leaders in the unified service delivery area;

(2)(A)(i) representatives of organized labor organizations, who shall be selected from among individuals nominated by recognized State labor federations; and

(ii) representatives of community-based organizations, who shall be selected from among those individuals nominated by officers of such organizations; and

(B) who shall comprise not less than 30 percent of the membership of the board;

(3) representatives of educational institutions;

(4) community leaders, such as leaders of—

(A) economic development agencies;

(B) human service agencies and institutions;

(C) veterans organizations; and

(D) entities providing job training;

(5) representatives of nongovernmental organizations that have a history of successfully protecting the rights of individuals with disabilities or older persons; and

(6) a local elected official, who shall be a nonvoting member.

(d) NOMINATIONS.—

(1) BUSINESS AND INDUSTRY REPRESENTATIVES.—

(A) IN GENERAL.—The representatives of business and industry under paragraph (1) of subsection (c) shall be selected by local elected officials from among individuals nominated by general purpose business organizations after consultation with, and receiving recommendations from, other business organizations in the unified service delivery area.

(B) DEFINITION.—For purposes of this paragraph, the term "general purpose business organization" means an organization that admits to membership any for-profit business operating within the unified service delivery area.

(2) LABOR REPRESENTATIVES.—The representatives of organized labor under paragraph (2) of subsection (c) shall be selected from among individuals recommended by recognized State and local labor federations. If the State or local labor federation fails to nominate a sufficient number of individuals, individual workers may be included on the workforce development board as labor representatives.

(3) OTHER MEMBERS.—The members of the workforce development board described in paragraphs (1), (4), and (5) of subsection (c) shall be selected by chief local elected officials in accordance with subsection (e) from individuals recommended by interested organizations.

(4) EXPERTISE.—The State Council and Governor of each State shall ensure that the workforce development board and the staff of the State Council have sufficient expertise to effectively carry out the duties and functions of existing local boards described under the laws relating to the applicable program. Such expertise shall include, where appropriate, knowledge of—

(A) the long-term needs of individuals preparing to enter the workforce;

(B) the needs of State, local, and regional labor markets; and

(C) the methods for evaluating the effectiveness of education and job training programs in serving various populations.

(e) APPOINTMENT PROCESS.—In the case of a unified service delivery area—

(1) in which there is one unit of general local government, the chief elected official of such unit shall determine the number and appoint members to the board from the individuals nominated or recommended under subsection (d); and

(2) in which there are 2 or more units of general local government, the chief elected officials of such units shall determine the number and appoint members to the workforce development board from the individuals nominated or recommended under subsection (d), in accordance with an agreement entered into by such units of general local government or, in the absence of such an agreement, by the Governor of the State in which the unified service delivery area is located.

(f) TERMS.—Each workforce development board shall establish, in its bylaws, terms to be served by its members, who may serve until the successors of such members are appointed.

(g) VACANCIES.—Any vacancy on a workforce development board shall be filled in the same manner as the original appointment was made.

(h) REMOVAL FOR CAUSE.—Any member of a workforce development board may be removed for cause in accordance with procedures established by the workforce development board.

(i) CHAIRPERSON.—Each workforce development board shall select a chairperson, by a majority vote of the members of the board, from among the members of the workforce development board who are from business or industry. The term of the chairperson shall be determined by the board.

(j) SUBCOMMITTEES.—Each workforce development board may establish business and labor subcommittees to advise the board on workforce development issues. Such subcommittees shall have as members representatives of the business and labor communities, and such other members as the board determines necessary.

(k) DUTIES.—Each workforce development board shall—

(1) prepare a workforce development board policy blueprint in accordance with section 302;

(2) issue an annual unified service delivery area report card in accordance with section 303;

(3) review and comment on the local plans for all programs included in the integrated workforce development system of the State and operating within the unified service delivery area, prior to the submission of such plans to the appropriate State Council, or the relevant Federal agency, if no State approval is required;

(4) oversee the operations of the one-stop career center established in the unified service delivery area under section 304, including the responsibility to—

(A) designate one-stop career center operators within the unified service delivery area consistent with selection criteria specified in section 204(a);

(B) develop and approve the budgets and annual operating plans of the one-stop career centers;

(C) establish annual performance standards, customer service quality criteria, and outcome measures for the one-stop career centers, consistent with measures developed pursuant to sections 210;

(D) assess the results of programs and services;

(E) ensure that services and skills provided through the centers are of high quality and are relevant to labor market demands; and

(F) determine priorities for client services from Federal funding sources in the system;

(5) develop a strategy to disseminate consumer reports produced under section 205 to workers, jobseekers, and employers, and other individuals in the unified service delivery area; and

(6) upon recommendation of a business or labor advisory committee, the local board may apply to the Secretary for a grant in the amount of 50 percent of the cost of establishing innovative models of workplace training and upgrading of incumbent workers pursuant to section 307.

(k) ADMINISTRATION.—

(1) IN GENERAL.—Each local workforce development board shall have the authority to receive and disburse funds made available for carrying out the provisions of this Act and shall employ its own staff, independent of local programs and service providers.

(2) FUNDING.—Each workforce development board shall receive a portion of its funding from the implementation grant of the State, with additional funds made available from participating programs.

(l) CONFLICT OF INTEREST.—No member of a workforce development board shall cast a vote on the provision of services by that member (or any organization which that member directly represents) or vote on any matter that would provide direct financial benefit to such member.

SEC. 302. WORKFORCE DEVELOPMENT BOARD POLICY BLUEPRINT.

(a) IN GENERAL.—Each workforce development board shall prepare and submit to the State Council a biennial report, to be known as the workforce development board policy blueprint, except that in States with a single unified service delivery area, the additional elements required in the regional blueprint shall be incorporated into the State Blueprint.

(b) REQUIREMENTS.—The workforce development board policy blueprint shall—

(1) include a list of the key industries and industry clusters of small- to mid-size firms that are most critical to the current and future economic competitiveness of unified service delivery area;

(2) identify the workforce development needs of the critical industries and industry clusters;

(3) summarize the capacity of local education and training providers to respond to the workforce development needs;

(4) indicate how the local workforce development programs intend to strategically deploy resources available from implementation grants and existing programs operating in the unified service delivery area to better meet the workforce development needs of critical industries and industry clusters in the unified service delivery area and enhance program performance;

(5) include a plan to develop one-stop career centers, as described in section 304, including an estimate of the costs in personnel

and other resources to develop a network adequate to provide universal access to such centers in the local labor market;

(6) describe how services will be maintained to all groups served by the participating programs in accordance with their legislative intent, including hard-to-serve populations;

(7) identify actions for building the capacity of the workforce development system in the unified service delivery area; and

(8) report on the level and recent changes in earned income of workers in the local labor market, in relation to State and national levels, by occupation and industry.

(c) USE IN OTHER REPORTS.—The workforce development board policy blueprint may be utilized in lieu of local planning reports required by any other Federal law for any program included in the integrated workforce development system, subject to the approval of the State Council.

SEC. 303. REPORT CARD.

(a) IN GENERAL.—Each workforce development board shall annually prepare and submit to the State Council a unified service delivery area report card in accordance with this section. The report card shall describe the performance of all workforce development programs and service providers, including the one-stop career centers, operating in the area that is included in the integrated workforce development system. In States with a single unified service delivery area, the State Council shall prepare the report card.

(b) REQUIREMENTS.—The report card shall—

(1) report on the relationship between services provided and the local labor market needs as described in the workforce development board policy blueprint;

(2) using the quality assurance system information established pursuant to section 205, include an analysis of employment-related, and other outcomes achieved by the programs and service providers operating in the area;

(3) identity the performance of the one-stop career centers;

(4) detail the economic and demographic characteristics of individuals served compared to the characteristics of the general population of the unified service delivery area, and the jobseekers, workers, and businesses of such area; and

(5) assess the maintenance of effort to hard-to-serve populations in relation to the level of services and outcomes during the preceding 3 years.

SEC. 304. ONE-STOP CAREER CENTERS.

(a) ESTABLISHMENT.—Each workforce development board receiving funds under an implementation grant awarded under section 103(b) shall develop and implement a network of one-stop career centers in the unified service delivery area of the workforce development board. The one-stop career centers shall provide jobseekers, workers, and businesses universal access to a comprehensive array of quality employment, education, and training services.

(b) PROCEDURES.—Each workforce development board shall, in conjunction with local elected official or officials in the unified service delivery area, and consistent with criteria specified in section 204(a), select a method for establishing one-stop career centers.

(c) ELIGIBLE ENTITIES.—Each entity within the unified service delivery area that performs the functions specified in subsections (e) and (f) for any of the programs in the integrated workforce development system shall be eligible to be selected as a one-stop career center.

(d) PERIOD OF SELECTION.—Each one-stop career center operator shall be designated for two-year periods. Every 2 years, one-stop career center designations shall be reevaluated by the workforce development board based on performance indicated in the unified service delivery area report card and other criteria established by the workforce development board and the State Council.

(e) BROKERAGE SERVICES TO INDIVIDUALS.—Each one-stop career center shall make available to the public, at no cost—

(1) outreach to make individuals aware of, and encourage the use of, services available from workforce development programs operating in the unified service delivery area;

(2) intake and orientation to the information and services available through the one-stop career center;

(3) preliminary assessments of the skill levels (including appropriate testing) and service needs of individuals, including—

(A) basic skills;

(B) occupational skills;

(C) prior work experience;

(D) employability;

(E) interests;

(F) aptitude; and

(G) supportive service needs;

(4) job search assistance, including resume and interview preparation and workshops;

(5) information relating to the supply, demand, price, and quality of job training services available in each unified service delivery area in the State pursuant to section 501(c);

(6) information relating to eligibility requirements and sources of financial assistance for entering the programs described in 501(c)(2)(C); and

(7) referral to appropriate job training, employment, and employment-related education or support services in the unified service delivery area.

(f) BROKERAGE SERVICES TO EMPLOYERS.—Each one-stop career center shall provide to each requesting employer—

(1) information relating to supply, demand, price, and quality of job training services available in each unified service delivery area in the State, consistent with the consumer reports described in section 205;

(2) customized screening and referral of individuals for employment;

(3) customized assessment of skills of the current workers of the employer;

(4) an analysis of the skill needs of the employer; and

(5) other specialized employment and training services.

(g) CONFLICTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), any entity that performs one-stop career center functions shall be prohibited from making an education and training referral to itself.

(2) WAIVER.—If the enforcement of paragraph (1) would result in diminished access to either one-stop career center services or to education and training services, as defined under section 204(a), such prohibition may be waived by the State council upon request of a regional board.

(h) FEES.—

(1) IN GENERAL.—Except as provided in paragraph (2), each one-stop career center may charge fees for the services described in subsection (f), subject to approval by the workforce development board.

(2) LIMITATION.—No fee may be charged for any service that an individual would be eligible to receive at no cost under a participating program.

(3) INCOME.—Income received by a one-stop career center from the fees collected shall be used by the workforce development board to expand or enhance one-stop career centers available within the unified service delivery area.

(i) CORE DATA ELEMENTS AND COMMON DEFINITIONS.—Each one-stop career center shall adopt the core data elements and common definitions as specified in subsections (b) and (c) of section 105, and updated by the National Board.

(j) OPERATING AGREEMENTS.—

(1) IN GENERAL.—Each one-stop career center operator shall enter into a written agreement with the workforce development board concerning the operation of the center.

(2) APPROVAL.—The agreement shall—

(A) be subject to the approval of—

(i) the local chief elected official or officials;

(ii) the State Council; and

(iii) the Governor of the State in which the center is located; and

(B) shall address—

(i) the services to be provided;

(ii) the financial and nonfinancial contributions to be made to the centers from funds made available pursuant to section 103(b) and all participating workforce development programs;

(iii) methods of administration;

(iv) procedures to be used to ensure compliance with statutory requirements of the programs in the integrated workforce development system; and

(v) other elements, as required by the workforce development board or the State Council under section 204(a).

SEC. 305. PROGRESS REPORTS.

Each workforce development board shall annually report to the State Council on the progress such board is making with respect to the effectiveness criteria of the workforce development board established under section 210, assessing the implementation of the integrated system, except that in States with a single unified service delivery area the State Council shall be responsible for carrying out the activities under this section.

SEC. 306. CAPACITY BUILDING.

(a) IN GENERAL.—Each workforce development board shall identify actions to be taken for building the capacity of the workforce development system in such unified service delivery, except that in States with a single unified delivery area, the State Council shall be responsible for carrying out the activities under this section.

(b) FUNDING.—The State Council shall make funds available to each workforce development board for capacity building activities from funds made available under section 103(b) and any other funds within the integrated workforce development budget of the State. For the activities described in subsection (c), the workforce development board may also submit requests to the State Council to redirect a portion of training and technical assistance resources available from any of the workforce development programs included in the integrated system within the unified service development area of the workforce development board.

(c) TYPES OF ACTIVITIES.—Capacity building activities may include—

(1) training of workforce development board members;

(2) staff training;

(3) technical assistance regarding managing systemic change;

(4) customer service training;

(5) organization of peer-to-peer networks for training, technical assistance, and information sharing;

(6) organizing a best practices database covering the various system activities; and

(7) training for local staff on the principles of quality management and decentralized decisionmaking.

SEC. 307. INCENTIVE GRANTS FOR INCUMBENT WORKER TRAINING.

(a) PURPOSE.—The purpose of this section is to establish a program to award competitive matching grants to assist local workforce development boards respond to the training needs of front-line workers in the communities in which such boards are located.

(b) APPLICATION.—Each local workforce development board seeking a grant under this section shall submit an application to the State Council of the State in which such board is located, at such time, in such manner, and containing such information as the Secretary may prescribe. Not later than 30 days after receiving an application, the State Council shall review and forward the application, with comments, to the National Board and the Secretary.

(c) SELECTION OF GRANTEES.—

(1) IN GENERAL.—The Secretary, with the advice of the National Board, shall award a grant under this section only if the Secretary determines, from the grant application, that the grant will be used to maintain or enhance the competitive position of local industries that are committed to making the investments necessary to develop the skills of their workers.

(2) CRITERIA.—In awarding grants under this section, the Secretary shall take into account—

(A) the policy priorities and training needs of local industries identified in the local workforce development policy blueprints;

(B) whether there is a demonstrated need for skill upgrading to maintain firm or industry competitiveness;

(C) whether the application contains proposals for training that will directly lead to increased earnings of front-line workers;

(D) initiatives by firms or firm partnerships to develop high performance work organizations;

(E) whether the grant proposal meets the training needs of small and medium sized firms;

(F) whether the grant proposal is focused on workers with substantial firm or industry tenure; and

(G) whether the proposed industry activities are integrated with private sector activities under the School-to-Work Opportunities Act of 1994.

(d) USE OF FUNDS.—Grants awarded under this section shall be used for skill enhancement and training activities that may include—

(1) basic skills;

(2) occupational skills;

(3) statistical process control training;

(4) total quality management techniques;

(5) team building and problem solving skills; and

(6) other training or activities that will result in the increased likelihood of job retention, higher wages, or increased firm competitiveness.

(e) FUNDING.—

(1) COST SHARE.—

(A) FEDERAL SHARE.—A grant awarded under this section shall be in an amount equal to 50 percent of the cost of carrying out the grant proposal.

(B) LOCAL SHARE.—As a condition to receiving Federal funds under this section, local businesses, industry associations, and worker organizations shall provide funding in an amount equal to 50 percent of the cost of carrying out the grant proposal.

(2) LIMITATIONS.—

(A) USE OF FUNDS.—Amounts awarded under this section shall not be used to pay the wages of workers during the training of such workers.

(B) ADDITIONAL FUNDING.—Each recipient of funds under this section shall certify that such funds shall supplement and not supplant other public or private funds otherwise spent on worker training.

TITLE IV—CONSOLIDATION

SEC. 401. PURPOSE; FINDINGS; SENSE OF THE CONGRESS.

(a) PURPOSE.—The purpose of this title is to streamline the system of federally funded employment training services available to jobseekers, workers, and businesses.

(b) FINDINGS.—The Congress finds that—

(1) the process of streamlining the system of federally funded employment training services begins with consolidating and eliminating separate employment training programs; and

(2) as such programs are eliminated, the funding for such programs should be invested back into such system to support the creation of a workforce development system, as described in section 2(b).

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) any budget savings realized as a result of the elimination or consolidation of programs pursuant to section 403(a) or through the sunsetting of programs pursuant to section 405 should be reinvested in the Nation's job training system as described in subsection (b); and

(2) as programs are eliminated and merged, it is imperative that such elimination and merging be done without in any way reducing the commitment or level of effort of the Federal Government to improving the education, employment, and earnings of all workers, particularly hard-to-serve individuals, including individuals with limited-English proficiency, and other workers with special needs.

SEC. 402. INTEGRATION OF YOUTH PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the National Board shall study and report to the President and Congress on how best to integrate the programs, under the following statutes or portions of statutes, for in-school and out-of-school youth with the School-to-Work Opportunities Act of 1994:

(1) Part C of title II of the Job Training Partnership Act (29 U.S.C. 1641 et seq.).

(2) Part B of title II of the Job Training Partnership Act (29 U.S.C. 1630 et seq.).

(3) Part H of title IV of the Job Training Partnership Act (29 U.S.C. 1782 et seq.).

(4) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(5) Youthbuild programs under title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899 et seq.).

(6) Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.).

SEC. 403. CONSOLIDATION OF WORKFORCE DEVELOPMENT PROGRAMS.

(a) ANNUAL RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, and each June 1 thereafter, the National Board shall make recommendations to the President and Congress for the elimination of Federal workforce development programs, or programs whose functions should be subsumed under other Federal programs.

(b) REPORT.—Not later than June 1, 1999, the National Board, based on such board's analysis of the experience of leading edge States and the progress made toward establishing an integrated workforce development system, shall prepare and submit recommendations to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the findings of such board, and recommendations for proposed reforms. The National Board shall also submit to the Congress a draft of a joint resolution containing provisions to develop a streamlined, integrated, federally supported workforce development system, from the programs listed in section 404(a) and any other Federal workforce development program determined by the National Board as appropriate to be included that is consistent with this Act, pursuant to section 2(b). The joint resolution shall include recommendations for standard outcome measures as described in section 105(a) and shall describe how the new system will maintain services to hard-to-serve populations.

SEC. 404. INTEGRATION OF PROGRAMS AT THE LOCAL LEVEL.

(a) REQUIREMENT.—Any State receiving an implementation grant to develop an integrated workforce development system shall, at a minimum, include the programs and activities carried out on the date of enactment of this Act under the following provisions and Acts in such State's reformed delivery system pursuant to section 103(b):

(1) Part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

(2) Part A of title II, and title III of the Job Training Partnership Act (29 U.S.C. 1601 et seq., 1651 et seq.).

(3) The Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(4) Sections 235 and 236 of the Trade Act of 1974 (19 U.S.C. 2295 and 2296) and paragraphs (1) and (2) of section 250(d) of such Act (19 U.S.C. 2331(d)).

(5) The Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note).

(6) Title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 et seq.).

(7) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(b) ADDITIONAL PROGRAMS.—Any State receiving an implementation grant to develop an integrated workforce development system may include the programs and activities carried out on the date of enactment of this Act under the following provisions and Acts in such State's reformed delivery system pursuant to section 103(b):

(1) Part B of title III of the Adult Education Act (20 U.S.C. 1203 et seq.).

(2) Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(3) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(4) Part C of title IV of the Job Training Partnership Act (29 U.S.C. 1721).

(5) Any other Federal or State workforce development program identified by the Governor pursuant to section 103(b), subject to a two-thirds vote of the National Board.

SEC. 405. SUNSET OF MAJOR WORKFORCE DEVELOPMENT PROGRAMS.

(a) REPEAL.—

(1) IN GENERAL.—Subject to paragraph (2), the provisions and Acts listed in paragraphs (1) through (7) of section 404(a) are repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1999.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The National Board shall include in the draft joint resolution submitted under section 403(b), technical and conforming amendments regarding the provisions and Act repealed under subsection (a). Such proposed amendments should be consistent with the purposes of this Act.

TITLE V—INTEGRATED LABOR MARKET INFORMATION SYSTEM

SEC. 501. INTEGRATED LABOR MARKET INFORMATION.

(a) FINDINGS.—Congress finds that accurate, timely, and relevant data for the Nation, States, and localities is required to achieve Federal domestic policy goals, such as—

(1) economic growth and productivity through—

(A) career planning and successful job training and job searching by youth and adults; and

(B) efficient hiring, effective worker training, and appropriate location and organization of work by employers;

(2) accountability, through planning and evaluation, in workforce development and job placement programs funded by the Federal Government or developed by other public or private entities;

(3) equity and efficiency in the allocation of Federal funds; and

(4) greater understanding of local labor market dynamics through the support of research.

(b) PURPOSE.—The purpose of this title is to provide for the development, maintenance, and continuous improvement of a nationwide integrated system for the collection, analysis, and dissemination of labor market information.

(c) SYSTEM.—

(1) DEVELOPMENT.—The Secretary, in cooperation with the National Board, the State Councils, where appropriate, and the Governors, shall oversee and ensure the development, maintenance, and continuous improvement of a nationwide integrated system of labor market information that will—

(A) promote comprehensive workforce development planning, evaluation, and service integration;

(B) meet and be responsive to the customer needs of jobseekers, employers, and public officials at all government levels who develop economic and social policy, allocate funds, plan and implement workforce development systems, are involved in career planning or exploration, and deliver integrated services;

(C) serve as the foundation for automated information delivery systems that provide easy access to labor market, occupational and career information; and

(D) meet the Federal domestic policy goals specified in section 501(a).

(2) INFORMATION TO BE INCLUDED.—The integrated system described in paragraph (1) shall include statistical data from survey and projection programs and data from administrative reporting systems which, taken together, shall enumerate, estimate, and project the supply of and demand for labor at national, State, and local levels in a timely manner, including, but not limited to, data on—

(A) labor market demand, such as—

(i) profiles of occupations that describe job duties, education, and training requirements, skills, wages, benefits, working conditions, and the industrial distribution of occupations;

(ii) current and projected employment opportunities and trends, by industry and occupation, including growth projections by industry, and growth and replacement need projections by occupation;

(iii) job openings, job locations, hiring requirements, and application procedures;

(iv) profiles of industries and employers in the local labor market describing the nature of the work performed, employment skill and experience requirements, specific occupations, wages, hours, and benefits, and hiring patterns;

(v) industries, occupations, and geographic locations facing significant change or dislocation; and

(vi) information maintained in a longitudinal manner on the quarterly earnings, establishment, industry affiliation, and geographic location of employment for all individuals for whom such information is collected by the States;

(B) labor supply, such as—

(i) educational attainment, training, skills, skill levels, and occupations of the population;

(ii) demographic, socioeconomic characteristics, and current employment status of the population, including self-employed, part-time, and seasonal workers;

(iii) job seekers, including their education and training, skills, skill levels, employment experience, and employment goals;

(iv) the number of workers displaced by permanent layoffs and plant closings by industry, occupation, and geographic location; and

(v) current and projected training completers who have acquired specific occupational or work skills and competencies; and

(C) consumer information, which shall be current, comprehensive, localized, automated, and in a form useful for immediate employment, entry into training and education programs, and career exploration, including—

(i) job openings, locations, hiring requirements, application procedures, and profiles of employers in the local labor market describing the nature of the work performed, employment requirements, wages, benefits, and hiring patterns;

(ii) jobseekers, including their education and training, skills, skill levels, employment experience, and employment goals;

(iii) the labor market experiences, in terms of wages and annual earnings, by industry and occupation, of workers in local labor markets, by sex and racial or ethnic group, including information on hard-to-serve populations;

(iv) education courses, training programs, and job placement programs, including information derived from statistically based performance evaluations and their user satisfaction ratings; and

(v) eligibility for funding and other assistance in job training, job search, income support, supportive services, and other employment services.

(3) TECHNICAL STANDARDS.—The integrated labor market information system shall use common standards that will include—

(A) standard classification and coding systems for industries, occupations, skills, programs, and courses;

(B) nationally standardized definitions of terms consistent with sections 105 and 501(c)(2);

(C) a common system for designating geographic areas consistent with the unified service delivery areas;

(D) data standards and quality control mechanisms; and

(E) common schedules for data collection and dissemination.

(4) AVAILABILITY OF INFORMATION.—Data generated by the labor market information system including information on quarterly employment and earnings, together with matched data on individuals who have participated in a federally supported job training activity, shall be made available to the National Board for use in the preparation of the National Report Card. Aggregate level information will be made available to consumers in automated information delivery systems.

(5) DISSEMINATION, TECHNICAL ASSISTANCE, AND RESEARCH.—The Secretary, in cooperation with the National Board, the Governors, and State Councils, where appropriate, shall oversee the development, maintenance, and continuous improvement of—

(A) dissemination mechanisms for data and analysis, including mechanisms that may be standardized among the States;

(B) programs of technical assistance and staff development for States and localities, including assistance in adopting and utilizing automated systems and improving the access, through electronic and other means, to labor market information; and

(C) programs of research and demonstration, on ways to improve the products and processes authorized by this section.

SEC. 502. RESPONSIBILITIES OF THE NATIONAL BOARD.

(a) IN GENERAL.—The National Board shall plan, review, and evaluate the Nation's integrated labor market information system.

(b) DUTIES.—The National Board shall—

(1) be responsible for providing policy guidance;

(2) evaluate the integrated labor market information system and ensure the cooperation of participating agencies; and

(3) recommend to the Secretary needed improvements in Federal, State, and local information systems to support the development of an integrated labor market information system.

SEC. 503. RESPONSIBILITIES OF THE SECRETARY.

(a) IN GENERAL.—The Secretary shall manage the investment in an integrated labor market information system by—

(1) reviewing all requirements for labor market information across all programs within the system;

(2) developing a comprehensive annual budget, including funds at the Federal level, funds allotted to States by formula, and funds supplied to the States by contracts with departmental entities;

(3) administering grants allotted to States by formula;

(4) negotiating and executing contracts with the States;

(5) coordinating the activities of Federal workforce development agencies responsible for collecting the statistics and program administrative data that comprise the integrated system and disseminating labor market information at the National, State, regional, and local levels; and

(6) ensuring that standards are designed to meet the requirements of chapter 35 of title 44, United States Code, and are coordinated and consistent with other appropriate Federal standards established by the Bureau of Labor Statistics and other statistical agencies;

(b) REQUIREMENTS.—In carrying out the duties of the Secretary under this section, the Secretary shall—

(1) in consultation with the States and the private sector, define a common core set of labor market information data elements as specified in section 501(c)(2) that will be consistently available across States in an integrated labor market information system; and

(2) ensure that data is sufficiently timely and locally detailed for use, including uses specified in subsections (b) and (c)(2) of section 501.

(c) ANNUAL PLAN.—

(1) IN GENERAL.—The Secretary shall annually prepare and submit to the National Board for review, a plan for improving the Nation's integrated labor market information system. The Secretary shall also submit the plan, together with the comments and recommendations of the National Board, to the President and Congress.

(2) CONTENTS.—The plan shall describe the budgetary needs of the labor market information system, and shall describe the activities of such Federal agencies with respect to data collection, analysis, and dissemination for each fiscal year succeeding the fiscal year in which the plan is developed. The plan shall—

(A) establish goals for system development and improvement based on information needs for achieving economic growth and productivity, accountability, fund allocation equity, and an understanding of labor market characteristics and dynamics;

(B) specify the common core set of data that shall be included in the integrated labor market information system;

(C) describe the current spending on integrated labor market information activities from all sources, assess the adequacy of the funds and identify the specific budget needs of the Federal and State workforce development agencies with respect to implementing and improving an integrated labor market information system and the activities of such agencies with respect to data compilation, analysis, and dissemination for each fiscal year in which the plan is developed;

(D) develop a budget for an integrated labor market information system that accounts for all funds in subparagraph (C) and any new funds made available pursuant to this Act, and describes the relative allotments to be made for—

(i) the operation of the cooperative statistical programs under section 501(c)(2);

(ii) ensuring that technical standards are met pursuant to section 501(c)(3); and

(iii) consumer information, analysis and dissemination, technical assistance, and research under paragraphs (2)(C), (4), and (6) of section 501(c);

(E) describe the existing system, information needs, and the development of new data programs, analytical techniques, definitions and standards, dissemination mechanisms, governance mechanisms, and funding processes to meet new needs;

(F) summarize the results of an annual review of the costs to the States of meeting contract requirements for data production, including a description of how the budget request for an integrated labor market information system will cover such costs;

(G) describe how the State Councils will be reimbursed for carrying out the duties for labor market information;

(H) recommend methods to simplify and integrate automated client intake and eligibility determination systems across workforce development programs to permit easy determination of eligibility for funding and other assistance in job training, job search, income support, supportive services, and other reemployment services; and

(I) provide for the involvement of States in developing the plan by holding formal consultations conducted in cooperation with representatives of the Governor or State Council, where appropriate, pursuant to a process established by the National Board.

(d) ASSISTANCE FROM OTHER AGENCIES.—The Secretary may receive assistance from member and other Federal agencies (such as the Bureau of Labor Statistics and the Employment and Training Administration of the Department of Labor, the Administration on Children and Families of the Department of Health and Human Services, and the Office of Adult and Vocational Education and the National Commission for Education Statistics of the Department of Education) to assist in the collection, analysis, and dissemination of labor market information, and in the provision of training and technical assistance to users of information, including States, employers, youth, and adults.

SEC. 504. RESPONSIBILITIES OF GOVERNORS.

(a) DESIGNATION OF STATE AGENCY.—The Governor of each State and the State Council, where appropriate, shall designate one State agency to be the agency responsible for—

(1) the management and oversight of a statewide comprehensive integrated labor market information system; and

(2) developing a State unified labor market information budget on an annual basis.

(b) REQUIREMENTS.—As a condition of receiving Federal financial assistance under this title, the Governor or State Council, where appropriate, shall—

(1) develop, maintain, and continuously improve a comprehensive integrated labor market information system, which shall—

(A) include the elements specified in section 501(c)(2);

(B) be responsive to the needs of the State and the localities of such State for planning and evaluative data, including employment and economic analyses and projections, and program outcome data on employment and earnings for the quality assurance system under section 205; and

(C) meet Federal standards under chapter 35 of title 44, United States Code, and other appropriate Federal standards established by the Bureau;

(2) ensure the performance of contract and grant responsibilities for data compilation, analysis, and dissemination;

(3) conduct such other data collection, analysis, and dissemination activities as will ensure the availability of comprehensive State and local labor market information;

(4) coordinate the data collection, analysis, and dissemination activities of other State and local agencies, with particular attention to State education, economic development, human services, and welfare agencies, to ensure complementary and compatibility among data; and

(5) cooperate with the National Board and the Secretary by making available, as requested, data for the evaluation of programs covered by the labor market information and the quality assurance systems under section 205.

(c) NONINTERFERENCE WITH STATE FUNCTIONS.—Nothing in this Act shall limit the ability of the State agency designated under this section to conduct additional data collection, analysis, and dissemination activities with funds derived from sources other than this Act.

JOB TRAINING CONSOLIDATION AND REFORM ACT

I. OVERVIEW

The federal government currently spends over $25 billion each year on 154 different job training programs. There is widespread consensus that these programs are not preparing workers adequately for jobs in the increasingly competitive world economy.

This bill is intended to transform federally-funded job training from a collection of free-standing programs into a coherent, integrated, accountable workforce development system. The goal is to consolidate and streamline duplicative and overlapping programs, and create a more effective system that will provide greater opportunities for workers to obtain the job skills they need.

II. KEY FEATURES

Proposal will streamline and consolidate fragmented job training programs

One-stop shopping will make services accessible and user-friendly to job seekers, workers and business.

Businesses and workers will have a key role in designing and overseeing job training programs and will help ensure that workers have skills and labor market information needed to obtain jobs in growth industries.

Programs will be held accountable for results.

Legislation builds on lessons learned from bipartisan efforts underway in Massachusetts and other states.

Federal savings from job training consolidation will be used as venture capital to reward leading-edge States and communities.

III. MAJOR PROVISIONS

A National Workforce Development Board will, within 6 months, make recommendations to the President and the Congress on which of the 154 current job training programs are redundant or ineffective and should be consolidated or eliminated. This nine-member board will be comprised of the Secretary of Labor, the Secretary of Education, the Secretary of Health and Human Services and representatives of business and organized labor.

All states will be eligible for planning grants to establish labor market systems to give policy makers and citizens a sense of how well each program is preparing and placing people in jobs.

States and communities will be encouraged to experiment with new approaches to integrating job training and education. Competitive grants will be available to states ready to adopt system-wide reforms in cooperation with the private sector. These stats will be required to establish one-stop career centers which will make services more accessible to jobseekers, workers and businesses.

The Board will also make matching grants to communities to upgrade the skills of existing workers. It will make recommendations for incentives to employers to increase training of front-line workers, and propose strategies to integrate existing youth employment and training programs with the recently enacted School-to-Work Opportunities Act.

By June 1, 1999, the Board must submit recommendations to the President and Congress for a new public/private workforce development system suitable for the needs of the 21st century. These recommendations will be based upon the lessons learned from the experience of leading-edge states and a review of the performance of existing programs.

IV. FUNDING

Funding for the reforms will be primarily generated by savings resulting from program elimination or consolidation. In addition, the bill authorizes $250 million in fiscal year 1996 as seed money to help states and communities set up one-stop career centers, and to ensure that hard-to-serve populations continue to receive services as the new system is developed.

By Mr. FORD:

S. 2519. A bill to amend title IV of the Surface Mining Control and Reclamation Act of 1977, to provide for acquisition and reclamation of land adversely affected by past coal mining practices, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 2520. A bill to amend title IV, of the Surface Mining Control and Reclamation Act of 1977, to encourage the mining and reclamation of previously mind areas by active mining operations, and for other purposes; to the

MINING LEGISLATION

Mr. FORD. Mr. President, the Surface Mining Control and Reclamation Act of 1977 has brought a degree of tangible gain to coal-producing areas. Today, I am introducing legislation to allow for cost-effective ways of dealing with abandoned mine emergencies through public-private partnership.

For the past several years, the Interior Department's Office of Surface Mining and the Commonwealth of Kentucky have been working together to deal with a recurring crisis in administering the Abandoned Mine Lands Reclamation Program.

The Office of Surface Mining has been exploring possible solutions to the annual dilemma of having too little money to abate all the abandoned coal mine emergencies in a timely manner. Although additional funding looks like an obvious solution, other management solutions are being sought that could be just as effective and more economical.

For example, one area of the program being reexamined for possible improvements is the actual abatement process, in particular, the abatement of landslides. Mr. President, I am sure you are aware of the high potential for landslides to occur on the steeply minded slopes of eastern Kentucky. Moreover, I am sure it is no surprise to you that the cost of stabilizing those shifting masses of earth is extremely high.

Sometimes the cost of abatement in that rugged country is more than the monetary value of the dwellings that the landslides are threatening. Emergency abatement is necessary when an occupied dwelling downhill is directly in the path of an advancing landslide. Mr. President, we appreciate the fact that these dwellings are not just houses, but peoples' homes. Yet there are times when it is in the best interest of the homeowner as well as the taxpayers to find a more cost-effective way of eliminating the emergency condition.

Therefore, today I am introducing legislation to provide the Office of Surface Mining and the affected citizens of eastern Kentucky and similarly affected areas a more practical option.

One of my bills will provide the Office of Surface Mining with flexibility to abate the emergency condition by purchasing the land or dwelling that is being threatened, thereby eliminating the emergency condition. This option would be exercised only when it can be demonstrated that the purchase option will result in significant cost savings to the reclamation program and will be agreeable to the homeowner. If this option is exercised only a few times a year in Kentucky, the Commonwealth's annual allocation could be saved so it would be available to abate other abandoned mine emergencies.

I recognize that eliminating an emergency condition in this manner does not eliminate landslides. However, by eliminating the emergency condition, the landslide problem can then be referred to the State for less costly non-emergency reclamation through the State's regularly, Federally-funded abandoned mine land program. Thus we will enable the State to continue reclaiming abandoned mined sites according to the priorities of their regular program, other than as dire emergencies.

Another beneficial feature of my legislature is that it will allow the States to establish self-sustaining funds for the purpose of insuring private property against damages caused by abandoned coal mine landslides. This same concept is already working successfully in several coal mining States to insure property owners against subsidence damage caused by abandoned underground coal mines. My proposal is designed to operate in the same way to provide landowners with the ability to insure their homes against abandoned mine landslides damage in those instances where the landslides happens so fast that the responsible agency can only respond after the home has already been damaged.

Together, those two features of my first bill offer the citizens of the coal fields a better expectation that funds already in the Treasury for dealing with abandoned coal mine emergencies will actually do them some good. This legislation will enable the responsible State or Federal reclamation agency, working with the people who are directly affected by the emergency conditions, to reach the best decision together as to how to abate the emergency condition. And, through the landslide insurance program, coal field homeowners who today have no financial options to protect their investments will, for the first time, have the opportunity to insure themselves against the constant threat of landslide damage to their homes.

Mr. President, I am also introducing a second bill to provide incentives for commercial coal mine operators to extract coal from places that others have previously mined, abandoned and left unreclaimed or inadequately reclaimed. The incentives would apply when, in the process of remining those previously mined lands, the operators reclaim the land with no outlay of money from the national Abandoned Mine Reclamation Fund.

As background, let me explain that the Abandoned Mine Land reclamation program was established in title IV of the 1977 Surface Mining Act in response to concern over extensive environmental damage caused by coal mining activities of the past, that is, before the 1977 surface mining law was enacted.

As enacted in 1977, lands and waters eligible for reclamation or drainage abatement expenditures under title IV are those that were mined for coal or which were affected by such mining, waste banks, coal processing, or other coal mining processes, then abandoned or left in an inadequate reclamation status, before August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. Reclamation funding is based on a priority system; sites representing a threat to the public health and safety get first priority for reclamation.

Mr. President, the Abandoned Mine Land Reclamation program has mitigated many health, safety and environment hazards faced by people living in the coal mining regions of the United States. However, while progress has been made, the inventory of unreclaimed high-priority abandoned coal mine sites, the ones still threatening public health and safety, is still overwhelming. Moreover, little has been done to address the threats posed by lower priority environmental problems from pre-1977 coal mining.

The need for amending title IV of the Surface Mining Act in this respect is premised on the large inventory of abandoned coal mine sites which may never be addressed by the current reclamation effort. The time has come to try a new approach, a cooperative effort between the government and private industry to reclaim more of those abandoned lands.

My second bill would be the third time that Congress has addressed remining. First in 1987, we amended the Clean Water Act standards (30 U.S.C. §1311) regarding pre-existing discharges as applied to remining operations. Such modified requirements apply the best technology economically achievable on a case-by-case basis, using best professional judgment, to set specific numerical effluent limitations for each permit. Second, as part of the Energy Policy Act of 1992, Public Law 102–486, we again attempted to provide additional incentives to encourage remining operations by shortening the revegetation success liability period for remining operations and eliminating the penalty of permit blocking under section 510(c) of the 1977 Surface Mining Act of 1977, 30 U.S.C. 201 *et seq.*, as amended, as long as the violation resulted from an unanticipated event or condition occurring on the remining site.

Mr. President, now I am seeking to make coal available that otherwise would be bypassed by providing a financial incentive for industry to extract and reprocess, in an environmentally sound manner, coal that remains within an eligible abandoned coal mine site. The Secretary of the Interior, working through cooperative agreements with the States, would be authorized to provide a fee credit to operators if the Secretary makes a finding that the cost to the reclamation fund to reclaim the abandoned site would significantly exceed the reclamation fees that would be credited to the operator for mining and reclaiming the abandoned site, and that the mining and subsequent reclamation of the site is in the public interest.

What I'm proposing saves the government money. Instead of laying out millions for Government-sponsored reclamation, we will get private industry to do it at a cost of no more than a few thousand in reclamation fees concessions. Moreover, many, if not most of the abandoned sites to be reclaimed in this way are beyond the foreseeable reach of conventional State and Federal reclamation programs. Despite the environmental blight these abandoned coal mine sites are responsible for, most of them rate too low on the priority scale for Government-financed reclamation.

Mr. President, reclamation of abandoned mine lands through remining is the most practical way to achieve reclamation of these orphan lands. The reclamation already accomplished through remining validates the concept. Now is the time to broaden the scope and enlarge the scale of remining's benefits by providing a modest concession in fees charged to operators in exchange for an immense reclamation bonus to the Nation.

Mr. President, I ask unanimous consent that the text of the two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2519

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

ACQUISITION AND RECLAMATION OF LAND ADVERSELY AFFECTED BY PAST COAL MINING PRACTICES

SECTION 1. Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)) is amended by inserting "or landslides caused by past coal mining activities" after the phrase "land subsidence resulting from underground coal mining"."

SEC. 2. Section 407(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1237(c)) is amended by—

(1) inserting "or dwellings" after the phrase, "may acquire any land";

(2) inserting "or dwellings" after the phrase, "acquisition of such land"; and

(3) inserting "except paragraph 4" after the phrase, "to successful reclamation".

SEC. 3. Section 407(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1237(c)) is amended by striking the period at the end of paragraph (3); inserting "; or", and adding the following new paragraph at the end:

"(4) acquisition of any interest in the threatened site in lieu of performing reclamation activities, will protect the public health and safety, and will result in significant cost savings to the Abandoned Mine Reclamation Fund over performing emergency reclamation activities."

SEC. 4. Section 407(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1237(h)) is amended by striking the sentence stating: "No part of the funds provided under this title may be used to pay the actual construction costs of housing.", and inserting in lieu thereof: "Provided further, the Secretary or a State with an approved program, is authorized to utilize available funds to acquire comparable property, when necessary and when agreed to by the homeowner, and to relocate private residences that are threatened by past mining abuses in lieu of performing emergency reclamation activities at the site if such relocation will result in significant cost savings to the program over performing emergency reclamation activities, and safeguard the public health and safety.".

S. 2520

Be it enacted by the Senate and the House of Representatives the United States of Representatives America in Congress assembled.

ABANDONED MINE FEE CREDIT

SECTION 1. Section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1322(a)) is amended as follows:

(1) Add the following after Sec. 402(a):

"(1) Except as provided in subsection 402(a)(2),".

(2) At the end of the paragraph add the following paragraph:

"(2) The Secretary may grant a credit to any operator for the reclamation fee otherwise required to be paid in section 402(a)(1) for coal within an eligible site, pursuant to section 404, as an incentive to operators, to remine areas if the Secretary finds that (1) the cost to reclaim the affected area under this title would significantly exceed the reclamation fee credit provided for the recoverable coal within the affected site and (2) the mining and subsequent reclamation of the affected site by a private operator is in the public interest. In a primary State, the Secretary shall administer the provision of this paragraph through a cooperative agreement with that State and shall obtain the recommendation of the State before granting the credit. The Secretary may require a bond to ensure repayment of the credit in the event the site is not fully reclaimed.".

By Mr. McCONNELL:

S. 2522. A bill to amend the Federal Humane Methods of Livestock Slaughter Act to authorize the Secretary of Agriculture to regulate the commercial transportation of horses for slaughter, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE HUMANE AND SAFE COMMERCIAL TRANSPORTATION OF HORSES FOR SLAUGHTER ACT OF 1994

• Mr. McCONNELL. Mr. President, today I am introducing legislation amending the Federal Humane Methods of Livestock Slaughter Act to regulate the commercial transportation of horses to slaughter facilities. This is an area of great concern to me, the horse industry, and animal welfare groups. I am pleased that my bill is supported by the American Horse Council, the American Association of Equine Practitioners, the American Horse Protection Association, the Society for Animal Protective Legislation, the American Humane Association.

Currently, some horses are being transported for long periods in overcrowded conditions without rest, food or water. Some vehicles used for transport have inadequate headroom and are not intended to transport large animals. Further, some of the horses transported have serious injuries which can be severely aggravated by the journey.

My legislation would give the Secretary of Agriculture the authority to correct these practices by regulating those in the business of transporting horses to processing facilities.

I want to make it clear that it is not my intention to either promote or prevent the commercial slaughter of horses. This industry has been in existence for a long time in this country, and I expect that it will continue to operate long into the future. My purpose in this legislation is to protect horses from unduly harsh and unpleasant treatment as they are transported across the country.

Horses occupy a central role in the traditions, history, and economy of Kentucky. Thousands of Kentuckians are employed either directly or indirectly by the horse industry. Horses have been good to Kentucky; and we should try to the maximum practical extent to be good to horses.

This bill would require that horses be rested off the vehicle after 24 hours, with access to food and water. Any vehicles used to transport the animals would have to have headroom of at least 6 feet 6 inches and interiors free of sharp edges. Transporting vehicles must be maintained in a sanitary condition, offer adequate ventilation and shelter from extremes of heat and cold, be large enough for the number of horses transported, and allow for the position of horses by sex and size. Finally, in order to be transported, horses must be physically fit to travel.

Enforcement of the act is placed with the U.S. Department of Agriculture, which presently regulates the slaughter process itself under the Humane Methods of Slaughter Act. The Department would be authorized to work with State and local authorities to enforce the provisions of this bill. This bill, while correcting abuses that exist, will not be an excessive burden on the processing facilities, auctions, or the commercial transporters of these horses.

Unlike other livestock, the transportation of horses to processing facilities is often a lengthy process, because there are fewer facilities that handle horses and they are located in only a few areas. Moreover, not all of them operate on a full-time basis. The result is that the transporting of these animals requires special protection.

There are several States that have passed legislation to regulate the transportation of these horses, but most of the travel is interstate, across wide areas. This is why Federal legislation is needed. The shipment of horses over long distances in inappropriate trailers, without food or water, is unacceptable. This bill would extend Federal regulation to the commercial transport of horses to slaughter and assure the humane and safe conditions of that transport.

I invite all groups that are concerned about these horses to work with me in passing this legislation.•

By Mr. WALLOP:

S. 2523. A bill to amend the Internal Revenue Code of 1986 to permit certain foreign pension plans to invest in the United States on a nontaxable basis; to the Committee on Finance.

THE FOREIGN PENSION PLAN INVESTMENT ACT OF 1994

• Mr. WALLOP. Mr. President, increasing capital investment in America is vital to our efforts to improve our country's international competitiveness. A larger capital pool leads to increased innovation, which in turn stimulates productivity and income growth. Today, I rise to introduce a bill—similar to one I introduced back in 1981 with Senator MOYNIHAN, and to one I introduced in 1983 with then Senator, and now Treasury Secretary, Bentsen—which will increase capital investment in America by removing tax barriers now faced by foreign pension plans interested in long-term passive investments in U.S. industry and real estate.

Private pension systems in Great Britain, Holland, Japan, and other countries have hundreds of billions of dollars in assets but presently invest very little of that money in the United States. Our tax system is largely to blame for this lack of investment. The 30-percent withholding tax on investment income and the FIRPTA tax on real estate gains place a prohibitive tax burden on foreign pension plan investment here in the United States which does not exist in the plans' home countries.

Foreign pension plans are an excellent potential source of capital for the American economy. Increased U.S. investment by these plans would expand the available pool of capital for industrial, technological, and infrastructure growth. In this respect, the bill differs from many capital formation proposals of years past, which would have merely shifted capital already invested in the United States from one sector to another. U.S. investment by foreign pension plans also would have the distinct advantage of serving our capital needs without leading to foreign control of U.S. businesses. That is so because various provisions of our Federal securities laws, and diversification requirements imposed by the home countries of these plans effectively limit foreign control of U.S. business by foreign pension plans.

Recently, there has been some very disturbing evidence that capital investment in the United States from certain traditional sources has faltered in recent years. For example, the Commerce Department reported in May 1993 that new foreign direct investment in the United States hit a 10-year low in 1992; such investment fell by 47 percent from the year before, the fourth straight annual decline. The Washington Post reported only last month that American's personal savings rate fell by nearly half from 1970 to 1990. In February 1993 and April 1994, the Wall Street Journal indicated that the outflow of U.S. pension monies to the Far East was accelerating. Foreign pension plan investment in the United States would help make up the shortfall in the U.S. capital pool created by these trends.

U.S. taxes now levied on foreign pension plan investment here have also contributed to the fall in real estate sales and prices and the slowdown in new construction. Removing these tax barriers will give our real estate industry a needed stimulus and will go a long ways toward strengthening the entire economy.

Exempting foreign pension plans from U.S. tax will not give these plans special advantage. On the contrary, the bill will remove an inequity in the current tax treatment of U.S. and foreign plans. Today, the investment income and gains of qualified U.S. pension plans are exempt from U.S. tax. However, U.S. investment income of foreign plans, including dividends on equity investments in U.S. companies, rental income, and capital gains on U.S. real property, and earnings from insurance company investment accounts, is often subject to full taxation, even though the foreign plan is exempt from tax in its home country.

Present law prevents U.S. life insurance companies from economically offering to foreign pension plans investment accounts that lack annuity purchase features. A foreign plan administrator may not want annuity purchase features but will be forced to incur these costs because, without them, there is a significant tax penalty on the insurance company. Congress eliminated this problem for qualified U.S. pension plans in 1976. We should do the same for comparable foreign plans.

Mr. President, let me point out that foreign governments would be expected to reciprocate. That is, the President would have the power to withdraw the tax exemption from any foreign pension plan if the country in which the plan was formed refuses to reduce its taxes on U.S. pension plans. The bill is to be used as a carrot. And in the absence of reciprocation, the carrot should be a disappearing one.

Finally, Mr. President, because foreign pension plans are either not investing here on account of the present tax barriers, or are structuring their U.S. investments to minimize U.S. tax, the bill involves little or no revenue loss. In the long-term, the bill should raise revenue because increased long-term investment and a reinvigorated real estate industry will lead to increased GNP and higher Federal income tax collections. In addition, U.S. pension plans also should benefit from the bill because it would lead to an increase in the value of their U.S. investment portfolios.

Those, in essence, are the major arguments for this bill. Now let me discuss the principal provisions.

The bill would add a new subparagraph to section 501(c) of the Internal Revenue Code of 1986. A trust, corporation, or fund that is part of a foreign pension plan would be exempted from Federal income taxes if it passed four tests.

First, the plan of which the trust, corporation, or fund is a part, must meet the pension plan definition in section (3)(2) of ERISA.

Second, the plan's assets must be kept separately from the assets of the employer in accordance with the laws of the country where the plan is maintained.

Third, the income of the plan must be taxed at preferential rates, or not at all, in the home country.

Fourth, the plan must give benefits to a broad classification of employees, not merely highly compensated employees or owners.

The bill would also make clear that the tax exemption is to be subject to adjustment under section 896 of the Internal Revenue Code. Section 896(b) requires the President to act whenever he finds that a foreign country is taxing U.S. citizens or corporations more heavily than United States nationals of the same country. The President must ask the foreign country "to eliminate (the) higher effective rate of tax." And if that does not work, he "shall proclaim" that the U.S. taxes on the foreign nationals in question will be increased. The Senate and House must be given 30 days' notice.

Those are the key provisions. The bill would take effect with respect to income earned on or after January 1 of this year. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TAX EXEMPTION FOR CERTAIN FOREIGN PENSION PLANS INVESTING IN THE UNITED STATES.

(a) IN GENERAL.—Section 501(c) of the Internal Revenue Code of 1986 (relating to organizations exempt from tax under section 501(a)) is amended by adding at the end the following new paragraph:

"(26)(A) Except as provided in subparagraph (B), a trust, corporation, or fund which is formed pursuant to, or as part of, a foreign pension plan—

"(i) which is described in section 3(2) of the Employee Retirement Income Security Act (29 U.S.C. 1002(2));

"(ii) the assets of which are segregated from the assets of the employer or employers maintaining the plan pursuant to the laws of the foreign country in which such plan is maintained;

"(iii) the income of which is, under the laws of the foreign country in which the plan is maintained, exempt from tax or is subject to a lower rate of taxation than is generally imposed on other residents of such foreign country; and

"(iv) which provides benefits to a broad classification of employees, not merely highly compensated employees or owners.

If all of the assets of a trust, corporation, or fund are held for the benefit of one or more foreign pension plans described in this subparagraph, such trust, corporation, or fund shall be treated as described in this subparagraph.

"(B) The exemption provided by this paragraph shall be subject to adjustment under section 896 (relating to the adjustment of tax of nationals of foreign countries). The President shall, no later than January 1, 1996, report to Congress on the extent to which the President has exercised the authority under that section with respect to relief from foreign income taxes for plans described in section 401(a)."

(b) CONFORMING AMENDMENTS.—(1) Section 512(a)(2) of the Internal Revenue Code of 1986 (relating to the unrelated business taxable income of certain foreign organizations) is amended by inserting "or section 501(c)(26)" after "section 511".

(2) Clause (ii) of section 514(c)(9)(C) of such Code (relating to unrelated debt-financed income of qualified trusts) is amended by inserting "or any foreign pension plan described in section 501(c)(26)" after "section 401".

(3) Section 818(a) of such Code (relating to pension plan contracts of life insurance companies) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; or", and by adding at the end the following new paragraph:

"(7) entered into with trusts, corporations, or funds which are formed pursuant to, or as part of, a foreign pension plan described in section 501(c)(26)."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1995.●

By Mr. HEFLIN:

S. 2524. A bill to amend chapter 23 of title 28, United States Code, to authorize voluntary alternative dispute resolution programs in Federal courts, and for other purposes; to the Committee on the Judiciary.

THE VOLUNTARY ALTERNATIVE DISPUTE RESOLUTION ACT

Mr. HEFLIN. Mr. President, I am today introducing legislation that would authorize our Nation's Federal district courts to adopt and utilize voluntary alternative dispute resolution programs.

The time has come for Congress and the Federal courts to realize that there must be alternative ways of settling disputes other than the traditional methods utilizing a Federal judge and jury. With criminal cases crowding the dockets, many litigants in civil cases, especially small businesses, simply cannot get their cases heard in a timely manner.

Recent statistics from the Administrative Office of the United States Courts indicate that a majority of cases in the Federal courts are civil cases and that the number of filings since 1990 has increased 9 percent. With criminal cases being put on a fast track, the time has come for Congress to assist the Federal courts in processing civil cases for the benefit of the American people.

Our Federal court system is one of the best in the world, and our judges work long hours to hear cases which come before them. I believe the approach that my legislation takes will bring the Federal courts into the 21st century ahead of schedule by expressing Congress' intent that if parties want to voluntarily settle their civil disputes by such methods as court annexed arbitration, mediation, early neutral evaluation, mini-trials, or summary trials, then they should be allowed to do so.

I am introducing this legislation as a result of a hearing which the Judiciary Subcommittee on Courts and Administrative Practice held last year on October 29, 1993. I am privileged to chair this subcommittee, and the hearing heard testimony from a number of distinguished witnesses including Judge Anne Williams, on behalf of the U.S. Judicial Conference; Judge Bill Wilson, U.S. District Court, E.D. Arkansas; Judge William Schwarzer on behalf of the Federal Judicial Center; U.S. Magistrate Judge Wayne Brazil, N.D. California; Judge Raymond Broderick, E.D. Pennsylvania; Stuart Grossman, on behalf of the American Board of Trial Advocates; Jack Watson, on behalf of the American Bar Association; and Dianne Nast, a practicing attorney in Philadelphia.

The focus of the hearing last year was to consider H.R. 1102, introduced by Congressman BILL HUGHES of New Jersey, which would require, not merely authorize, each of the 94 Federal district courts to adopt either a mandatory or a voluntary court-annexed arbitration program which would operate under the existing authority of chapter 44 (sections 651–658) of title 28 of the United States Code. H.R. 1102 would also increase the maximum amount in controversy for cases referred under the mandatory programs from $100,000 to $150,000.

In 1988, Congress enacted legislation to authorize the continuation of 10 pilot programs of mandatory court-annexed arbitration that were in operation in the Federal courts, and this legislation also authorized 10 additional pilot programs that would be of a voluntary nature.

This authorization was to terminate toward the end of last year, and H.R. 1102 would have made that authorization permanent and would have required each district court to adopt either a mandatory or a voluntary program of court-annexed arbitration. Because of strong concerns raised at last year's hearing regarding the mandatory nature of court-annexed arbitration, our subcommittee was unwilling to immediately go forward with H.R. 1102. Instead, S. 1732, which became Public Law 103–192, was introduced toward the end of last year which simply extended the existing authority for 1 year with regard to the 20 pilot districts utilizing court-annexed arbitration.

Recently, I, along with my colleagues Senators BIDEN, HATCH, GRASSLEY, and SPECTER, introduced S. 2407, the Judicial Amendments Act of 1994, to extend this authority for an additional 3 years until the end of 1997. S. 2407 was introduced and passed by voice vote on August 19, and it is now in the House of Representatives for consideration.

Let me return now to the hearing which the subcommittee held last year and which focused primarily on arbitration which is one of the programs of alternative dispute resolution as ADR is popularly called. Judge Ann Claire Williams of the U.S. District Court for the Northern District of Illinois appeared on behalf of the U.S. Judicial Conference which is the policymaking body of the Federal judiciary. The Judicial Conference has recommended that Congress should authorize all Federal district courts to have the discretion to utilize voluntary nonbinding court-annexed arbitration. Thus, the Judicial Conference did not recommend the expansion of mandatory court-annexed arbitration for the remainder of the Federal district courts.

The legislation which I am introducing today builds on the recommendation of the Judicial Conference by authorizing each of the 94 Federal district courts to adopt not only voluntary court-annexed arbitration but also other ADR programs, including but not limited to mediation, early neutral evaluation, mini-trials, summary jury, or bench trials.

My legislation also contains a provision that clearly states that "[a]n alternative dispute resolution program shall not in any way infringe on a litigant's right to trial de novo and shall impose no penalty on participating litigants."

Over the last year, I have talked with many people from both the bar and the business community, and I believe that it is an undeniable fact that civil litigation in the Federal courts has become more complicated, time-consuming, and expensive. Further, the Speedy Trial Act, requiring criminal cases to proceed on a fast track, has resulted in delays in civil cases being considered by the Federal courts.

I want to make certain that the Congress clearly intends for our Federal courts to consider alternative means of dispute resolution, so that litigants can have a speedy and less expensive alternative to formal civil adjudication, consistent with the requirements of the seventh amendment to the U.S. Constitution. Where parties are willing to mutually participate in such alternatives, I believe there are merits that justify our support for such programs.

I hope that this legislation will be carefully considered by my colleagues, and I look forward to further discussion on its merits in the days ahead.

By Mr. LIEBERMAN (for himself, Mr. MACK, Mrs. BOXER, Mr. SMITH, Mrs. FEINSTEIN, Mr. ROBB, Mr. GREGG, and Mrs. MURRAY):

S. 2525. A bill to require a majority vote of the Securities and Exchange Commission for the adoption of accounting standards and principles used in the preparation of financial statements required under the Securities Exchange Act of 1934; to the Committee on Banking, Housing, and Urban Affairs.

THE ACCOUNTING STANDARDS REFORM ACT OF 1994

• Mr. LIEBERMAN. Mr. President, last May the Senate approved a sense-of-the-Senate resolution by a vote of 88 to 9 urging the Financial Accounting Standards Board [FASB] to drop their controversial project on accounting for employee stock options and stock purchase plans. However, more than 4 months later, it is quite clear that FASB has chosen to ignore the will of the Senate, to move forward with this project, and to implement a final rule by the first quarter of 1995.

I firmly believe that markets operate freely and efficiently only with full and accurate information. I also believe that financial statements must be credible and comparable, and that the accounting standards that drive financial reporting ought to be set by the private sector. Yet, FASB's choice to ignore the outcry from the pension fund managers, high-technology companies, individual investors, and the accounting profession in order to ram this proposal through has made many people think about how to improve the process by which accounting standards are adopted. I rise today for two purposes. First, I want to express my true discomfort over FASB's handling of this issue and the continuation of a process which, by any rational analysis, has run its course. Second, I rise to introduce the Accounting Standards Reform Act, legislation which is critical to bringing this problem to closure and crucial to correcting what I believe is a serious lack of accountability in the process for setting accounting standards.

I. THE ACCOUNTING STANDARDS REFORM ACT

Mr. President, the legislation I am introducing today, the Accounting Standards Reform Act, merely states that the Securities and Exchange Commission [SEC] shall approve by a majority vote, any new change in accounting standards for publicly traded companies. Currently, unless the SEC affirmatively rejects a FASB pronouncement, the standard becomes part of the Generally Accepted Accounting Principles [GAAP] and is applicable to all publicly traded companies. In other words, SEC silence is tantamount to SEC approval.

It's important to emphasize that this bill—unlike my earlier bill on this topic, S. 1175—does not specify the content of any financial standard, nor does it legislatively overturn any FASB standard. This bill only addresses the procedure that the SEC shall use to approve and enforce FASB standards in the future.

This legislation is entirely consistent with the intent of the Securities Exchange Act of 1934 and will help strengthen the private-sector standards setting process. It is not the intent of this legislation to diminish the legitimate role of the FASB. It is simply to bring back some accountability to the process.

II. OVERVIEW BACKGROUND

For the benefit of those not familiar with this debate, a stock option represents the future right of an employee to purchase a set number of company shares at a fixed price. Presuming the company does well and the stock price increases, the employee shares some of the benefit. But if the stock price remains constant or decreases, the employee gets nothing.

At present, stock options are accounted for in the same manner as other inherently difficult-to-value item—by disclosure. For example, since the cost of a pending law suit cannot be known in advance, current accounting rules—FASB 5—require the fact of the suit to be disclosed to investors. In the same way, since the value of an employee stock option depends on unknown variables, the proper accounting is full disclosure to the shareholders. This proposal would require companies to use a complex mathematical formula to estimate the value of an employee's option at the date of grant and to record that estimate as a reduction to earnings regardless whether the employee ever receives a benefit.

When FASB first issued their proposed rule on June 30, 1993, SEC Chairman Arthur Levitt urged Congress to let the FASB process run its course, and avoid the politicalization of the accounting standard setting process. His advice was sound because the public commentary collected during the process has made the case against FASB's draft proposal stronger than ever.

Mr. President, FASB's process has brought to life these facts about this proposal: First, this issue is about accounting, economic growth, and jobs—not about the level of CEO pay; second, FASB's proposal is not sound accounting, and it is almost universally opposed by all sides of the financial community; and third, any cost-benefit analysis requires a rejection of the proposal. Unfortunately, the Board is clearly determined to ignore these facts.

A. This is not about executive pay

First, the current accounting treatment for employee stock options is not the result of some conspiracy to enrich corporate executives. It is the result of a genuine accounting quandary. Moreover, this debate has nothing—nothing—to do with the level of executive compensation. This is one point where FASB and I are in compete agreement. FASB has pointed out over and over again that their proposal is about accounting, not pay. Let me quote Dennis Beresford, chairman of FASB in a recent interview with the Bureau of National Affairs: He states:

> Our project has gotten confused with the so-called excessive executive pay issue. Many of the articles that have been written, and some of the interested Members of Congress have focused, at least initially, on some people making too much money. Our project has gotten confused with that issue.

B. FASB's proposal is not sound accounting, and is near-universally opposed

Mr. President, this proposal is not sound accounting for the simple reason that placing an accurate estimate of the present value of an employees' stock option at the time the transaction takes place is impossible. It is true that the value of trade options can be estimated. But, comparisons between fixed employee stock options and traded options are invalid for four reasons: First, employee options are nontransferable, while market options are traded freely; second, employee options generally vest over a 5-year period and expire after 10 years, while market options generally have a life of only 3 to 6 months; and third, employee options are not liquid until they vest, while market options may be liquidated at any time. And, most important, there is no market for long-term, nonliquid employee stock options. Because of these differences, complex formulas designed to value exchange traded short-term options do not work when applied to employee options. If the required formulas will be erratic and the values overstated, financial statements will be less useful to investors than they are today.

FASB has been inundated with testimony, letters, and studies criticizing their proposals. Their position is opposed by the overwhelming majority of the financial community including individual investors, institutional investors, pension funds, and the accounting professions; by both Commerce Secretary Brown and Treasury Secretary Bentsen; by the venture capital community; by the financial markets; by thousands of companies across the Nation; and by hundreds of thousands of employees.

Even those who agree with FASB's contention that options have value and ought to be expensed, invariably they still acknowledge that a reasonable and accurate measurement formula remains exclusive. Even the American Institute of Certified Public Accountants, representing more than 310,000 CPA's, opposed FASB's proposal saying it is "too complex and unreliable." Here are some of the other comments:

Letter from Secretary Brown and Secretary Bentsen:

> Most troubling is the possibility that implementation of the proposal might result in more volatile and less accurate and consistent financial statements because of the extreme difficulty of valuing long-term, nonmarketable, forfeitable stock options.

Testimony from the Council of Institutional Investors—representing hundreds of union and corporate pension funds:

> There is no group that has a greater interest in the principled right answers to accounting questions than we do. We are the people who invest real money—huge amounts of money—based upon what we read in financial statements. We are America's employees and America's retirees, and we will not get our pensions if we do not invest wisely based on accurate financial information. So no one will be hurt more than we if any other agenda—however virtuous—is pursued at the expense of the accuracy and usefulness of financial statements. This is real people's grocery money.

CII goes on to say:

> The exposure draft requires companies to put something in their financial statements that simply isn't true.

Letter from the United Shareholders Association—representing 65,000 individual investors:

> As investors and regular users of corporate financial reports, USA members are the very people the accounting rules are designed to protect. Our members oppose charging earnings for stock options. We do not believe FASB's proposal would clarify the reports we receive. In fact, we believe that including speculative estimates of future stock option values in corporate earnings statements diminishes rather than enhances their usefulness.

C. The cost outweighs the benefits

The FASB charter requires it to "promulgate standards only when the expected benefits exceed the perceived costs." Almost everyone who has seriously considered this proposal has concluded that the costs in terms of potential damage to the economy far outweigh any benefits. In fact, try as I might, I don't see any benefits which will flow from the FASB change.

We all agree that the goal of financial reporting should be to maximize the integrity and comparability of financial statements. But it is also apparent that purist accounting theory can be brought to illogical ends which benefit neither the investing public nor the economy as a whole. The stock option proposal is one such example. No one—let me say that again—no one is arguing that concerns over job creation justify bad accounting. But we are saying that an accounting standard ought not move forward if the economic consequences so clearly outweigh the accounting benefits. This case has been continually and persuasively made to FASB. Indeed, with the public comment period and the field hearings now behind us, we must conclude that the stock option project ought to be dropped in favor of a disclosure based alternative. To conclude otherwise simply ignores the extensive public record and makes a mockery out of FASB's public process.

III. IS THE PROCESS WORKING?

Mr. President, unfortunately, I am forced to conclude that one of the casualties of this debate may be the Board's credibility. Members of the financial community are justifiably starting to question FASB's process and the Board's accountability.

From the earliest days of this process FASB has regularly and continually prejudged the key issues. The central issues of this debate are: First, whether options and stock purchase plans are compensatory; second, whether options and stock purchase plans should be expenses on the income statement; and third, whether we can derive a reasonable estimate of their value. FASB has been willing to discuss the question of valuation, but has refused to discuss the questions of compensation, expense, or cost-benefit analysis.

Mr. President, fundamental requirements of due process and fair administrative procedure require that those affected by proposed regulations have a right to have their views heard and considered before the regulations are implemented. These basic principles apply to all issues under consideration, not just those issues which FASB wishes to discuss. FASB should not be permitted to artificially limit the scope of discussion to a narrow set of issues.

On the issue of process, FASB will soon be tested once again because it appears intent on adopting a standard even if the standard is flawed. At FASB's August 25th meeting, the Board explored the idea of changing the measurement date from grant date to vesting date to help solve some of the inherent difficulty in valuing options. But as the Board pointed out in its own exposure draft:

> The measurement date for equity instruments granted to employees as compensation is the date at which the stock price that enters into the measurement of the transaction is fixed. Stock price changes after that date have no effect on measuring the value of the equity instrument issued or the related compensation cost.

The exposure draft went on to argue:

> If compensation is measured at a later date, such as the date at which the shares vest, not even the approximate amount of compensation that would result from an award could be known when the employer decides how many shares to grant.

Now one would have to question why FASB is now revisiting approaches it has already considered and rejected. One can only guess that they are more interested in finding an answer than finding the right answer.

Mr. President, 2 weeks ago, 600 chief financial officers sent a letter to FASB which said:

> It is central to the FASB's deliberative process that the public be allowed to comment officially, on the record, on any material change to the existing exposure draft. Given the propensity of the Board to move forward with this project, and the highly complex and technical nature of the Board's current deliberations, we urge the FASB to reexpose its proposal.

The letter goes on to say:

> We hope you agree with us that given the controversial nature and the outpouring of sentiment in opposition to the exposure draft, the integrity of the Board's process dictates that FASB issue a new exposure draft.

It will be interesting to see now FASB will respond. If they make changes to either the measurement date or the measurement formula, the changes will be material and should be subject to another exposure draft. We will see, Mr. President, whether FASB plans to include the public in this process or whether they will continue to move forward in isolation.

Mr. President, allow me to highlight just one part of FASB's deliberative process which I found particularly disturbing. As part of the exposure draft the Board committed to perform a field test, ostensibly to measure the "effects of the exposure draft on individual companies" and to measure implementation issues. One of the most perplexing pieces of the field test was FASB's utter failure to include small growth companies. Only 2 of FASB's 25 participants—8 percent—had revenue of less than $100 million, while almost 60 percent of the companies in the SEC database have revenues in this category. Conversely, large companies—those with revenue of more than $5 billion—accounted for 52 percent of FASB's sample group while these firms represent only slightly more than 3 percent of publicly traded companies. When asked about this distortion, FASB responded that the existing sample was sufficient for testing purposes. How can this be sufficient when the sector of the economy most affected by the proposal was barely considered?

Each of the Big Six accounting firms recently signed a letter to FASB which stated:

> We believe that expanding the effort and spending significant additional time trying to develop a reasonable and reliable measurement method, including the recently announced decision to reconsider finalizing measurement at the vesting date, would not be a productive use of the Board's limited resources. The Board's resources could be put to far better use working on more critical financial reporting issues, such as accounting for derivatives and other financial instruments.

Mr. President, to watch FASB deliberate on this issue for another 6 months, no matter what the outcome, would merely confirm what many have alleged. The process is designed to yield only those outcomes which FASB prescribes.

Mr. President, what has occurred in this debate is not a deliberative process, but a lack of governance. The existing exposure draft is fatally flawed. Its option-pricing models have proven unworkable. This process should end. FASB's efforts at this juncture will undermine—not advance—the private sector standard setting process. Indeed this debate has demonstrated that the threat to the private sector accounting standard setting process is real. I believe that this threat will not come from Congress, but from the private sector itself. An accounting system which is based upon Generally Accepted Accounting Principles, cannot continue in an environment of general unacceptance.

IV. FASB'S MYTHS

A. Myth 1: There will be no real impact on the economy

Mr. President, one of FASB's regular arguments is that there will be no impact on the economy, this is just an accounting change. The Board says the market will learn to overlook these charges and discern the true nature of the companies earnings. They regularly cite the accounting change regarding post-retirement health benefits and argue that many large companies experienced a large reduction in earnings which in some cases resulted in an increase in stock price. Presuming a thoroughly efficient marketplace, this could be true for the Fortune 500, but nearly 50 percent of all NASDAQ stocks are never followed by any analyst. These companies—the smaller, more volatile, job-creating companies—will be seriously impacted. What the Board does not understand—and this came shining through in the field test—is that this is not about the Fortune 500. This is about the growth sector of the economy. The result of this change will be lower earnings which will impact the ability of these firms to raise capital and will curtail their ability to offer options to a broad-base of their workforce.

B. Myth 2: S&L crisis

Mr. President, shortly after the Senate passed my resolution last May, the Financial Accounting Standards Board sent a letter to all 535 Members of Congress. Let me quote from the letter:

> We invite your attention to the record of attempts to tilt accounting information in promoting social and economic goals. Experience has shown that manipulating accounting information does more harm than good. Regulatory accounting for the savings and loan industry is one prominent example.

Mr. President, this is just plain nonsense. Clearly there is no defense for Regulatory Accounting Practice [RAP] accounting adopted during the S&L debacle. But there is absolutely no comparison between accounting for stock options and the collapse of the savings and loan industry. No one seriously contends that companies are fraudulently hiding their imminent collapse through their accounting for stock options.

C. Myth 3: This really like other accounting debates

FASB claims is has no responsibility to take the economic impact of its actions into account. And, they argue that Congress should not become involved in the standard setting process. Generally speaking, I agree with both points. However, do not be fooled into thinking that this is like past accounting debates, despite FASB's attempt to raise the stakes of this proposal. This debate is not about post-retirement health benefits, unfunded pensions, or thrift accounting. There is no comparison because in this case, there are not identifiable victims of the present accounting approach. In fact, the very people who should benefit from accounting rules—investors—are crying out against this proposal.

Myth 4: There is a problem with current financial statements:

FASB states that "Current accounting produces financial statements that are neither credible nor representational faithful." This statement—like the statement comparing this debate to the Savings and Loan crisis—is an outrageous exaggeration of the facts. Let me quote Jim Bunt, Comptroller of General Electric, at last year's Senate hearing testifying on behalf of the Financial Executives Institute:

> I can assert that during the past 20 years, not one share owner, securities analyst, not one member of the business press, has ever suggested that my Company's financial statements are flawed or misleading as a result of our accounting for employee stock options.

This is simply not an area in which the public needs nor wants a complex new formula.

Myth 5: Stock purchase plans:

Mr. President, one other issue I would like to mention falls into the category of what FASB does not say rather than what they do say. This exposure draft explicitly applies to section 423 plans, commonly known as employee stock purchase plans. These plans, by statute, are broadly disseminated throughout the company work force. FASB does not wish to talk about these plans because it is convenient to allow the CEO pay perception to fester. Instead, what's really at stake are employee dreams of owning a piece of the company they work for. Simply stated, the hundreds of thousands of employees who participate in stock purchase plans will lose an important part of their livelihood if this rule goes forward.

V. IS THERE A ROLE FOR CONGRESS?

Pursuant to the Securities Exchange Act of 1934, Congress granted the Securities and Exchange Commission broad statutory authority to ensure the integrity and effectiveness of our capital markets. I agree that the private sector is best suited to deal with these difficult and often controversial issues. Historically, the SEC has looked to the private sector to promulgate accounting standards for U.S. companies. However, it is the SEC's acceptance of these standards which gives them standing in the financial community. Let me quote from FASB's publication, An Introduction to the FASB:

> Throughout its history, the SEC has relied on the private sector for this function [setting accounting standards], to the extent that the private sector demonstrates an ability to fulfill the responsibility in the public interest. The SEC and congressional committees maintain an active oversight of the FASB to ensure that the public interest is served.

Clearly, Mr. President, it is desirable for the SEC to defer to the private sector in matters of financial accounting. But it is also clear that the SEC, as well as the Congress, have not—and should not—give up legitimate oversight responsibilities. That is, FASB knows this, but more importantly, that is what the law says. Congress granted responsibility to set accounting standards to the SEC because they are an independent, but accountable, commission charged to act in the public interest. We did not grant this authority to a nonaccountable private board.

VI. WHERE SHOULD THE PROCESS GO FROM HERE?

Mr. President, at this juncture of the debate there is only one logical and legitimate outcome. The SEC should immediately adopt a disclosure-based alternative to FASB's proposal. From the SEC perspective, the marketplace has yet to receive any meaningful information regarding an individual company's use of option plans. The SEC can move forward independently with disclosure on the financial statements. SEC Chairman Arthur Levitt can and should justify this move in defense of small investors and institutional investors. FASB could then take as much time as it needs to develop an option valuation formula which is truly generally accepted.

FASB'S FLAWED FIELD TEST: LOOKING IN THE WRONG PLACE

Revenue	No. of stock option plans	Percentage	FASB field test	Percentage
Less than $100 million	3,656	59.06	2	8
$100 million to $249.99 million	864	13.96	4	16
$250 million to $499.99 million	566	9.14		
$500 million to $1.99 billion	665	10.74	[1] 6	24
$2 billion to $4.99 billion	247	3.99		
More than $5 billion	192	3.10	13	52
Total	6,190		25	

[1] The Financial Accounting Standards Board field test included only one category for companies with annual revenues of $250 million to $5 billion. According to the FASB field test there were six companies which fit this category. As a result, the three SEC categories $250 million to $499.99 million; $500 million to $1.99 billion; and $2 billion to $4.99 billion were combined.

Sources: The Disclosure, Inc. database (SEC data represents publicly-traded companies listed as of March, 1994); Financial Accounting Standards Board Field Test, Accounting for Stock Based Compensation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Accounting Standards Reform Act of 1994".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) under the Securities Exchange Act of 1934, the Congress granted the Securities and Exchange Commission (hereafter in this Act referred to as the "Commission") broad authority to set financial accounting and reporting standards for publicly held companies;

(2) historically, the Commission has delegated such responsibility to the private sector, to the extent that the private sector demonstrates an ability to fulfill such responsibility in the public interest; and

(3) although the Commission has reserved the right to disapprove standards proposed by the private sector, a more affirmative process in needed to ensure that the public interest is protected.

(b) PURPOSES.—The purposes of this Act are—

(1) to clarify the Securities Exchange Act of 1934 with regard to the Commission's responsibility in setting financial accounting and reporting standards for publicly held companies; and

(2) to ensure that the public interest is served in the financial accounting standards setting process.

SEC. 3. ADOPTION OF ACCOUNTING STANDARDS AND PRINCIPLES FOR PURPOSES OF THE SECURITIES EXCHANGE ACT OF 1934.

Section 13(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(1)) is amended by adding at the end the following: "On and after the date of enactment of the Accounting Standards Reform Act of 1994, any new accounting standard or principle, and any modification to an existing accounting standard or principle, to be used on the preparation of financial statements required to be filed pursuant to this title shall become effective only following an affirmative vote of a majority of a quorum of the members of the Commission.".•

By Mr. HARKIN (for himself and Mr. SIMON):

S. 2526. A bill to prohibit any charges on telephone bills for calls to 800 numbers; to the Committee on Commerce, Science, and Transportation.

THE TOLL-FREE 800 NUMBER PROTECTION ACT

Mr. HARKIN. Mr. President, I want to speak about a problem being faced by families across the country—a problem that has cost families hundreds and even thousands of dollars. This problem exposes families to rip-off schemes in their own homes. Worst of all, young people are being exposed to dial-a-porn phone sex services, even when the families take the step of placing a block on extra-cost 900 number calls from their home.

Most people believe that when they dial 1–800 at the beginning of a call, they are calling toll free. Toll-free 800 number calling has had a dramatically positive impact on many businesses, allowing catalog sales to take off, and providing helpful customer services. My State of Iowa is prominent in providing these telemarketing services. So I strongly believe that we must ensure public confidence in toll-free 800 numbers.

Federal law prohibits most practices that would allow people calling an 800 number to be charged for the call. Callers cannot be assessed a charge by virtue of completing the call, and they cannot be connected to a pay-per-call service—which are usually called 900 number services. They also cannot be charged for information conveyed during the call—with one exception. If there is a preexisting agreement to be charged, a charge is allowed. This provision was added, because there was concern that the provision might be read to prevent people buying merchandise with a credit card on an 800 number, or for nationwide access numbers for long distance providers.

Unfortunately, Mr. President, this small loophole has allowed some sleazy operators to set up phone sex services on 800 numbers—and to make the caller pay the bill. They use the loophole allowing a charge when there is a preexisting arrangement to turn a toll-free 800 number call into a toll call.

Families are being hurt by these services. Youngsters run across the ads, like the ads shown on this exhibit, and thinking the call will be free, call numbers like 1–800–HOT TALK. These numbers appear in all kinds of publications—from the City Paper here in Washington; Rolling Stone magazine; and a host of adult magazines. The ads on this exhibit were the least offensive ones we could find. The worst ones could not be displayed here.

A woman from Fort Dodge, IA, recently wrote to me about this problem. I will not give out her name in the interest of her privacy. Her 16-year-old son was found to be using phone sex services. She has tried putting phone blocks on to prevent him from calling 900 numbers and international numbers. But these 800 numbers cannot be blocked. She says, Why can't this be stopped? Why are the phone companies handling these lines? The answer to her question is, the phone companies are common carriers. They are not allowed to discriminate based on the content of calls. Only by congressional action can we put a halt to these outrageous practices.

Here's how the companies do it. A caller calls an 800 number. He or she is directed to enter an access code, in order to be connected to a service—without knowing that, by entering the number, they are authorizing the service to charge for the call. Another scam is for the call to be switched to international numbers in small countries around the world. Phone sex companies set up in these companies, where local law allows them to receive a cut from the charges. One service operated out of Suriname charges some $50 per minute.

Under another so-called preexisting agreement, the first call from a number establishes the agreement, and subsequent calls are charged to the phone number the first call was made from. This means that anyone making a telephone call from your phone could make you liable for hundreds of dollars of calls—even if the person never makes another call from that phone. A person making a call from a model can set up one of these agreements with a phone-sex service, and the motel could be forced to pay for subsequent calls from anywhere in the country. At the Motel 6 chain alone, porn calls have cost a quarter of a million dollars in the last year. In our own offices here at the Senate, a courier who uses the courtesy telephone, supposedly to call his dispatcher, could charge phone-sex calls back to your office account.

How many people are concerned about this problem? All you need to know is how many families have signed up for 900 number blocking. These families have said that they have no intention of using pay-per-call services. In Iowa, about one in four lines are restricted from calling 900 numbers, most of which are homes, rather than businesses.

Recently, the Federal Communications Commission took action to clamp down on these services. It would require that the service providers have a written agreement with the person being billed. While this is a first step, it will not eliminate the problem. When you look at the tiny loophole in the law that allowed the abusive practices I just described, I feel that Congressional action is needed to slam the loophole shut, once and for all.

Today, I am offering a bill that would prohibit this abuse. My bill, a companion to which has been introduced by my House colleague, Representative

Bart Gordon of Tennessee, would simply clarify that the loophole does not allow charges to be placed on the phone bill. It would have no impact on the 800 number services that have made all of our lives more convenient, and helped our businesses grow. While we obviously will not have time to fully consider this legislation in this Congress, I wanted to start a discussion of it so that it can be acted on promptly next year. I believe we must act to stop this abuse.

I ask unanimous consent that a copy of the bill and a recent article in the New York Times on this subject be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act (Public Law 102–556) have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a prohibition on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the prohibition on charging for information conveyed during a call to a "toll-free" number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) Therefore, it is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not, under any circumstances, be included or transmitted with a bill for telephone services.

SEC. 2. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

(a) Amendment.—Section 228(c)(6)(C) of the Communications Act of 1934 (47 U.S.C. 228(c)(6)(C) is amended by inserting before the semicolon the following: ", except that nothing in this paragraph shall permit the calling party to be charged for the information or the call by means of a charge included on, or transmitted with, a bill for telephone exchange service or telephone toll service".

(b) Regulations.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by subsection (a) of this section within 30 days after the date of enactment of this Act.

[From the New York Times, Thursday, Aug. 18, 1994]

1–800–$$$–$$$$

True or false? Calls to 800 numbers are free.

Mostly true, but there is a loophole. Some 800–number calls carry a charge, sometimes steep, and the caller is probably not aware of it. A lot of duped customers are angry, to the point where phone companies are finally cracking down, the Federal Communications Commission has proposed some new rules and Representative Bart Gordon of Tennessee has a bill that would ban the charges outright.

The trouble stems from a 1992 law to curb abuses on 900-number calls. That law also said 800-number calls shall be toll-free. However, in case toll-free was taken to mean, for example, that a catalogue company could not charge for a shirt sold over its 800 line, the law says it is all right to charge for the business transacted so long as there is an agreement—for example, where the caller has contracted for a computer information service on an 800 line, or where the caller gives a credit card number to order that shirt.

The loophole was not meant for pornography, psychics, sports lines and others scheming to exploit it. They work their trickery by answering with a recording that tells callers to punch a numerical "code." The code is deemed an agreement to pay; once punched in, it transfers the call to a pay-per-call number, sometimes overseas. The charge then appears on the caller's bill.

The F.C.C. now proposes that callers must give written agreement to pay for a service that charges for 800 calls. Representative Gordon's bill seems simpler and surer: Permit no charges on telephone bills for calls placed to 800 numbers. That would cut off the money and, pretty quickly, the service. If a business wants to charge for phone services, it can get a 900 number, or put the charge on the caller's credit card, or bill the caller directly.

By Mr. MURKOWSKI:

S. 2527. A bill to amend section 257(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 to modify the treatment of losses from asset sales; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

THE ASSET SALE BUDGET RULES ACT OF 1994

• Mr. MURKOWSKI. Mr. President, I introduce legislation that would modify the budget rules governing the sale of Federal assets. It is my hope that Congress next year will review many of the perverse and unintended effects of our budget rules and consider including this legislation in a budget process reform package.

Under current law, the sale of an asset does not alter the deficit or produce any net deficit reduction in the budget baseline. My legislation maintains this principle. Although an asset sale would not be counted in calculating the deficit, future revenue generated by the asset which the Government would have received if the asset had not been sold could be offset by the revenue generated from the sale. I want to emphasize that this rule is narrowly crafted so that revenue gained from an asset sale could not be used to offset a separate revenue losing program.

Mr. President, the current budget rules governing asset sales make it nearly impossible for the Federal Government to sell assets. For example, during the last several years, both the Bush and Clinton administrations have sought to sell the Alaska Power Administration [APA]. The Department of Energy (DOE) has entered into sale agreements and negotiated a price of more than $80 million for these electric generating assets.

Unfortunately, legislation needed to implement this sale has been delayed for several years, in part because of the budget rules governing asset sales. Since the APA takes in approximately $11 million per year from the sale of electricity, under our pay-as-you-go rules, the sale if scored by the Congressional Budget Office [CBO] as losing the Federal Government $11 million annually. In other words, even though the Federal Government will receive upfront more than $80 million by selling the APA, our budget scoring rules require that the sale proceeds be ignored, but that the stream of lost future revenues be counted.

The end result of these rules is that for the sale to proceed, the lost $11 million per year must be offset by other unrelated spending reductions. This is Alice-In-Wonderland accounting that has no relationship to the real world. Presumably, the Department of Energy negotiated what it believed was a fair price for the APA assets. Certainly DOE factored in the amount of revenue that will no longer be coming to the Federal Government as a result of the sale as well as the fact that the Federal Government will no longer have to staff and maintain these operations. Yet when it comes to Congressional budget scoring rules, all that is counted is the lost stream of future revenues.

The legislation I am introducing today would rationalize the asset sale rules by allowing the price the Federal Government receives from the asset sale to offset future revenue lost as a result of the transfer of the asset from the Government to private parties. Thus, in the APA example, if over the next 5 years, it is assumed that electricity sales from APA would generate $11 million per year, $55 million over 5 years, for purposes of the Budget Act, the $83 million sales price could offset the $55 million loss of revenue to the government. And I want to emphasize that under my legislation, the remaining $28 million associated with the sale could neither count toward deficit reduction, nor could it be used to increase spending in any other program.

I look forward to working with the members of the Budget Committee to resolve the current asset sale anomaly. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2527

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFSETTING LOSSES FROM ASSET SALES.

Section 257(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking the semicolon at the end thereof and inserting the following: ". Effective beginning fiscal year 1995, the proceeds from the sale of an asset may be applied to offset the loss of any revenue or receipts resulting from such sale.".•

By Mrs. FEINSTEIN (for herself, Mr. SASSER, and Mr. PELL):

S. 2528. A bill to improve and strengthen the child support collection system; to the Committee on Finance.

THE CHILD SUPPORT RESPONSIBILITY ACT

Mrs. FEINSTEIN. Madam President, I rise today to join with Senators SASSER and PELL to introduce legislation that will provide comprehensive reform of our Nation's system of child support.

The Child Support Responsibility Act is companion legislation to a measure which has been introduced in the House of Representatives and which has been moving quickly in several committees with strong bipartisan support.

This legislation builds upon legislation which was introduced by Senator BRADLEY last year, and which was based on the recommendations of the U.S. Commission of Interstate Child Support. I was proud to be a cosponsor of that bill, and I want to take this opportunity to commend the Senator from New Jersey for his early leadership in this area.

In this Nation, one in four children grow up in poverty. One of the principal reasons for this is the absence of child support. According to the Department of Health and Human Services, in 1990, noncustodial parents paid a total of $14 billion in child support.

However, the Department reports that, if child support orders had been established, based on the absent parents' ability to pay, and if those orders had been enforced, $48 billion would have been paid that year. That is an annual shortfall of $34 billion, $34 billion that could be paid each year—and $34 billion that is not paid, and that does not reach the children of those absent parents. In California alone, $3 billion goes uncollected each year.

Madam President, this is a national disgrace.

The annual cost of AFDC to Federal and State governments is $22 billion. In July, in testimony before the Senate, Mary Jo Bane, Assistant Secretary for Children and Families at the Department of Health and Human Services, acknowledged that a substantial increase in child support collections would yield a reduction of 25 percent in AFDC payments.

But this problem is not limited just to AFDC recipients. In that same hearing, the Children's Defense Fund testified that the nonwelfare caseload of child support agencies around the country has quadrupled, from 1.7 million in 1983, to 6.5 million in 1992.

The Children's Defense Fund also reported another statistic. And this, I must say, is a statistic which absolutely confounds me. According to the Children's Defense Fund, in 1992 the default rate for used car loans was less than 3 percent. However, the delinquency rate for child support was 49 percent in 1990.

What does this say about our society? What it says to me is that people care more about their cars than they do about their children. And this is a very sad commentary indeed. But it also says to me that the time has come for the Federal Government to assert its jurisdiction over a worsening national problem. In fact, almost one-third of unpaid child support is due from parents living in another State, and without adequate interstate enforcement, noncustodial parents can simply become child support scofflaws.

As I stated before, it is a national disgrace that these parents are allowed to willfully shirk their obligations to their families and to society. Even if parents walk away from their families, they should not be permitted to walk away from the law. And our laws should have teeth in them. The message should be loud, and it should be clear: "No longer will you burden the taxpayer with your obligations; if you run, we will find out."

And that is precisely what this legislation does. This legislation will create a new Federal registry of child support orders issued by State courts. In addition, a new W–4 form is created which contains child support information indicating if child support is owned, to whom it is payable, and whether it is to be paid through wage withholding.

This new W–4 form will be filed with Federal Child Support Registry where data will be compared to the information on file and transmitted to the State registry where the noncustodial parent is employed.

States are also required to establish child support registries. They will transmit wage withholding orders to employers, receive funds from employers that have withheld wages, and distribute all funds received within 3 days.

In addition, this legislation provides for reconciliation of child support payments on Federal income tax returns. Withheld child support will be shown on a revised W–2 form. Arrearages will be deducted by the Internal Revenue Service from any refund due and funds will be forwarded to State registries.

Social Security numbers will be required on marriage licenses, divorce decrees, parentage decrees, and birth certificates.

Let me turn for a moment to the issue of parentage. We know that, more and more, ours is a society which, over the past few decades, has witnessed a dramatic increase in the number of families headed by one parent. In fact, in 1991, 14.6 million children lived in a female-headed family. Of those, 56 percent were living in poverty. And for most children born to single mothers, paternity is not established.

There are many who question what has happened to our family structure, and we know these circumstances are complex and not without controversy. Indeed, many wonder what, if anything, government can or should do about it.

There is, however, one thing upon which I think we can all agree. Irrespective of their marital status or living arrangement, both parents must be held accountable for their children. This is impossible if paternity is never established.

Therefore, this bill strengthens our ability to establish paternity early on. States will be required to provide for hospital-based paternity establishment. It is widely believed that the most likely time for voluntary acknowledgment of paternity is in the days immediately following birth, when there is the initial euphoria around the birth and the baby's father will often visit mother and child in the hospital.

In this legislation, we outline procedures and specify information which must be given to each of the parents about their rights and responsibilities. This information includes the availability of genetic testing.

A new National Paternity Acknowledgment Affidavit is created for voluntary acknowledgment and, after an initial 30-day challenge period, this document will be conclusively presumed to create a legal finding of paternity with the effect of a final judgment at law.

And so, with these new registries, and with strengthened paternity establishment procedures, we will have the tools and information to monitor, at the Federal and State levels, the payment record of the noncustodial parents. And this legislation says: "You'd better pay your child support." If you don't, we'll make you pay with tough new enforcement measures. We will track you from employer to employer, and State to State, and we will make you pay. We will garnishee your wages if necessary, across State lines if necessary. We will reconcile your payment record with your income tax return, and if you owe child support, we'll deduct it from any refund due.

And if you still don't pay, we will take away your driver's license. We will take away your business license or your professional license. If you are a doctor, or a lawyer, or a member of any profession requiring State or Federal licensing, you will pay your child support or you will lose your license. You can forget about foreign travel because we won't issue you a passport.

And those cars, about which you care so much? We will even place a lien on your vehicle title until you have paid your child support. We'll attach your bank account. We will seize your State lottery winnings, your insurance settlements, any judgments you may win, and any bequests you may inherit. And we'll also file a report with the credit bureau.

This law will apply to everyone. It applies to those in the private sector, as well as Federal workers and members of the armed services. Garnishment will be authorized not only for wages but also for Federal death benefits and veterans' benefits.

Finally, this legislation will establish a stronger Federal role. It creates a new Assistant Secretary of Child Support Enforcement, reporting directly to the Secretary of Health and Human Services, and confirmed by the Senate. The Secretary is directed to study the staffing of each State's child support enforcement program and report to Congress within 1 year of enactment of this legislation.

Demonstration projects are established in four States to create a system of assured minimum child support payments. And a new children's trust fund is established which allows for voluntary contributions from taxpayers on their Federal tax returns. This fund will be dedicated to programs aimed at the prevention of child poverty.

Madam President, years of study have gone into our Nation's failed child support system. There is consensus on the steps that need to be taken to overhaul that system. There are those who believe that child reform should be coupled with welfare reform. That is not my view. We have consensus, and our children cannot wait.

Our Nation and its children are being cheated by irresponsible parents. We cannot wait for welfare reform to right this wrong. It takes two people to bring a child into this world, and two people must be held responsible.

This is legislation whose time has come.

Madam President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Support Responsibility Act of 1994".

(b) REFERENCE TO SOCIAL SECURITY ACT.—Except as otherwise specifically provided, wherever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; reference; table of contents.

TITLE I—LOCATE AND CASE TRACKING

Sec. 101. Federal child support order registry.
Sec. 102. Expansion of Federal parent locator systems.
Sec. 103. National reporting of employees and child support information.
Sec. 104. State role.
Sec. 105. Reconciliation of child support obligation and payments on income tax return.

TITLE II—ESTABLISHMENT

Sec. 201. Service of process on Federal employees and members of the armed services in connection with proceedings relating to child support and parentage obligations.
Sec. 202. Presumed address of obligor and obligee.
Sec. 203. Fair Credit Reporting Act amendment.
Sec. 204. National child support guideline commission.
Sec. 205. Duration of support.
Sec. 206. Evidence.
Sec. 207. Telephonic appearance in interstate cases.
Sec. 208. Uniform terms in orders.
Sec. 209. Social security numbers on marriage licenses, divorce decrees, parentage decrees, and birth certificates.
Sec. 210. Administrative subpoena power.
Sec. 211. Support orders outreach and demonstrations.
Sec. 212. Health care support.
Sec. 213. Rules governing modification of child support orders.

TITLE III—PARENTAGE

Sec. 301. Paternity establishment procedures.

TITLE IV—ENFORCEMENT

Sec. 401. Direct wage withholding.
Sec. 402. Priorities in application of withheld wages.
Sec. 403. Additional benefits subject to garnishment.
Sec. 404. Consumer Credit Protection Act amendments.
Sec. 405. Prohibition against use of election of remedies doctrine to prevent collection of child support.
Sec. 406. Hold on occupational, professional, and business licenses.
Sec. 407. Driver's licenses and vehicle registrations denied to persons failing to appear in child support cases.
Sec. 408. Liens on certificates of vehicle title.
Sec. 409. Attachment of bank accounts.
Sec. 410. Seizure of lottery winnings, settlements, payouts, awards, and bequests, and sale of forfeited property, to pay child support arrearages.
Sec. 411. Fraudulent transfer pursuit.
Sec. 412. Full IRS collection.
Sec. 413. Tax refund offset program expanded to cover non-AFDC post-minor children.
Sec. 414. Attachment of public and private retirement funds.
Sec. 415. Reporting of child support arrearages to credit bureaus.
Sec. 416. Elimination of statutes of limitations in child support cases.
Sec. 417. Interest.
Sec. 418. Bankruptcy.
Sec. 419. Federal government cooperation in enforcement of support obligations of members and former members of the Armed Forces.
Sec. 420. States required to enact the Uniform Interstate Family Support Act.
Sec. 421. Denial of passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support.
Sec. 422. Denial of Federal benefits, loans, guarantees, and employment to certain persons with large child support arrearages.
Sec. 423. States required to order courts to allow assignment of life insurance benefits to satisfy child support arrearages.
Sec. 424. Interests in jointly held property subject to assignment to satisfy child support arrearages.
Sec. 425. International child support enforcement.
Sec. 426. Nonliability for depository institutions providing financial records to State child support enforcement agencies in child support cases.
Sec. 427. Cost-of-living adjustment of child support awards.
Sec. 428. Annual exchange of financial information by parties to child support order.
Sec. 429. Criminal penalties for failure to pay child support.

TITLE V—COLLECTION AND DISTRIBUTION

Sec. 501. Priorities in distribution of collected child support.
Sec. 502. State claims against noncustodial parent limited to assistance provided to the child.
Sec. 503. Fees for non-AFDC clients.
Sec. 504. Collection and disbursement points for child support.

TITLE VI—FEDERAL ROLE

Sec. 601. Placement and role of the Office of Child Support Enforcement.
Sec. 602. Training.
Sec. 603. Staffing.
Sec. 604. Child support definition.
Sec. 605. Technical correction to ERISA definition of medical child support order.
Sec. 606. Audits.
Sec. 607. Establishment of child support assurance demonstration projects.
Sec. 608. Children's Trust Fund.
Sec. 609. Study of reasons for nonpayment of child support; report.
Sec. 610. Study of effectiveness of administrative processes; report.
Sec. 611. Compendium of State child support statutes.
Sec. 612. Establishment of permanent child support advisory committee.

TITLE VII—STATE ROLE

Sec. 701. Advocation of children's economic security.
Sec. 702. Duties of State child support agencies.
Sec. 704. Administrative process for change of payee in IV-D cases.
Sec. 705. Financial incentives.
Sec. 706. Avoidance of conflicts of interest.

TITLE I—LOCATE AND CASE TRACKING

SEC. 101. FEDERAL CHILD SUPPORT ORDER REGISTRY.

(a) ESTABLISHMENT.—Not later than October 1, 1995, the Secretary shall establish a

Federal registry of child support orders issued or modified by any State court or administrative process established under State law.

(b) COMPARISON OF INFORMATION ON W-4 FORMS WITH INFORMATION IN CHILD SUPPORT ORDERS.—Within 10 days after the registry established under subsection (a) receives a W-4 form of an employee, the registry shall—

(1) compare the information on the form with the information in the registry on the child support obligations of the employee; and

(2) transmit to the registry established under section 466(a)(12) of the State in which the employee is employed a notice as to whether the amount specified on the W-4 form as the monthly child support obligation of the employee is accurate or not.

(c) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this section, especially in cases involving an employee who has 2 or more employers or child support obligations.

(d) STATE ACCESS TO THE REGISTRY.—The Secretary shall, upon request of any State, provide the State with access to the information contained in the registry established under subsection (a).

(e) DEFINITIONS.—As used in this section:

(1) CHILD SUPPORT ORDER.—The term "child support order" means an order requiring payments for support and maintenance of a child or of a child and the parent with whom the child is living (including an order requiring health insurance to be provided to such a child or parent).

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) STATE.—The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 102. EXPANSION OF FEDERAL PARENT LOCATOR SYSTEMS.

(a) EXPANSION OF FUNCTIONS.—Section 453(a) (42 U.S.C. 653(a)) is amended by striking "enforcing support obligations against such parent" and inserting "establishing parentage, establishing, modifying, and enforcing child support obligations".

(b) ACCESS TO ADDITIONAL DATA BASES.—Section 453 (42 U.S.C. 653) is amended—

(1) in subsection (b), by striking "the most recent address and place of employment" and inserting "the most recent residential address, employer name and address, and amounts and nature of income and assets";

(2) in subsection (c)(3), by striking "resident" and inserting "custodial"; and

(3) in subsection (e), by adding at the end the following:

"(4) The Secretary of the Treasury shall enter into an agreement with the Secretary to provide prompt access by the Secretary (in accordance with this subsection and section 6103(l)(6) of the Internal Revenue Code of 1986) to all Federal income tax returns filed by individuals with the Internal Revenue Service.".

(c) EXPANSION OF ACCESS TO THE NATIONAL PARENT LOCATOR NETWORK.—Section 453 (42 U.S.C. 653) is amended by adding at the end the following:

"(g) The Secretary shall expand the Parent Locator Service to establish a national network based on the comprehensive statewide child support enforcement systems developed by the States, to—

"(1) allow each State to—

"(A) locate any absent parent who owes child support or for whom a child support obligation is being established, by—

"(i) to the extent practicable, accessing the records of other State agencies and sources of locate information directly from one computer system to another; and

"(ii) accessing Federal sources of locate information in the same fashion;

"(B) access the files of other States to determine whether there are other child support orders and obtain the details of those orders;

"(C) provide for both on-line and batch processing of locate requests, with on-line access restricted to cases in which the information is needed immediately (for such reasons as court appearances) and batch processing used to 'troll' data bases to locate individuals or update information periodically; and

"(D) direct locate requests to individual States or Federal agencies, broadcast requests to selected States, or broadcast cases to all States when there is no indication of the source of needed information;

"(2) provide for a maximum of 48-hour turnaround time for information to be broadcast and returned to a requesting State;

"(3) provide ready access to courts and administrative agencies of the information on the network by location of a computer terminal in each court; and

"(4) access the registries of child support orders maintained by States pursuant to section 466(a)(12).".

SEC. 103. NATIONAL REPORTING OF EMPLOYEES AND CHILD SUPPORT INFORMATION.

(a) IN GENERAL.—Not later than Janauary 1, 1995, the Secretary of the Treasury, in consultation with the Secretary of Labor, shall establish a system of reporting of employees by requiring employers to provide a copy of every employee's W-4 form to the Federal child support order registry established pursuant to section 101(a) of the Child Support Responsibility Act of 1994 and to the child support order registry established pursuant to section 466(a)(12) of the Social Security Act by the State in which the employment is located—

(1) in the case of employees hired on or after the effective date of this section, on the date the employee is hired; or

(2) in the case of employees hired before such effective date, within 10 days after such effective date.

(b) INCLUSION OF CHILD SUPPORT INFORMATION ON W-4 FORMS.—The Secretary of the Treasury shall modify the W-4 form to enable the employee to indicate on the form—

(A) whether the employee owes child support, and if so—

(i) to whom the support is payable and the amount of the support payable; and

(ii) whether the support is to be paid through wage withholding; and

(B) whether health care insurance is available to the new employee, and, if so, whether the employee has obtained such insurance for the dependent children of the employee.

SEC. 104. STATE ROLE.

(a) STATE CHILD SUPPORT ORDER REGISTRIES.—Section 466(a) (42 U.S.C. 666(a)) is amended by inserting after paragraph (11) the following:

"(12) Procedures under which the—

"(A) State child support enforcement agency shall—

"(i) establish and maintain a child support order registry which shall include—

"(I) a copy of each child support order issued or modified in the State on or after the effective date of this paragraph;

"(II) a copy of each child support order issued or modified in the State before the effective date of this paragraph that is being enforced under the State plan; and

"(III) a copy of each child support order issued or modified in the State before the enactment of this paragraph that a party to the order has requested be included in the Federal child support order registry established pursuant to section 101(a) of the Child Support Responsibility Act of 1994;

"(ii)(I) immediately upon receipt of a child support order referred to in subclause (I) or (II) of clause (i), transmit an abstract of the order to the Federal registry; and

"(II) beginning 2 years after such date of enactment, transmit to the Federal registry an abstract of each child support order referred to in clause (i)(III); and

"(iii) distribute in accordance with section 457(b) all amounts received from employers that have been deducted and withheld from the wages of employees for the payment of child support obligations, and all amounts received from the Internal Revenue Service pursuant to section 7524(f) of the Internal Revenue Code of 1986, within 3 days after receipt;

"(B) allow any individual owed support pursuant to a child support order issued or modified in the State who alleges that an employer has failed to comply subsection (b)(11)(B)(ii) with respect to the order, or that a State official has failed to comply with subparagraph (A)(iii) of this paragraph with respect to amounts withheld from wages pursuant to the order and paid to the State, to bring an action against the employer or the official (in the official's personal capacity), as the case may be, in any State court and recover damages, including interest; and

"(C) the State agency referred to in section 402(a)(3) shall notify the State child support enforcement agency of the commencement or termination of aid under the State plan approved under part A to any individual or family, within 10 days after such commencement or termination.".

(b) DIRECT WAGE WITHHOLDING.—Section 466(b) (42 U.S.C. 666(b)) is amended by adding at the end the following:

"(11)(A)(i) Upon the issuance or modification by a State court or administrative agency of an order imposing a child support obligation on an individual, the State shall transmit to any employer of the individual a wage withholding order developed under section 452(a)(12) directing the employer to withhold amounts from the wages of the individual pursuant to the order, or such greater amount as the State child support order registry established pursuant to subsection (a)(12)(A) of this section may determine is the total amount of the child support obligations of the individual.

"(ii) Clause (i) shall not apply to an order upon agreement of the parties to the order and the court or administrative agency that issued or modified the order.

"(iii) An agreement referred to in clause (ii) may be unilaterally rescinded only by the individual to whom child support is payable under the order.

"(B) Any individual or entity engaged in commerce, as a condition of doing business in the State, shall, on receipt of a wage withholding order developed under section 452(a)(12) that is regular on its face and has been issued by a court of any State—

"(i) comply with the order by forwarding to the State registry established pursuant to subsection (a)(12)(A) of this section, within 5 days after the end of each payroll period ending after receipt of the order, the greater of—

"(I) the amount required to be withheld pursuant to the order; or

"(II) the amount that the State registry has notified the employer is the amount required to be withheld from the wages of the employee for payment of child support obligations of the employee; and

"(ii) keep records of the amounts so withheld.

"(C) Such an order may be served on the income source directly or by first-class mail.

"(D) An individual or entity who complies with subparagraph (B)(i) with respect to such an order may not be held liable for wrongful withholding of income from the employee subject to the order.

"(E) The State shall impose a civil fine of $1,000 on any individual or entity who receives such an order for each failure to comply with subparagraph (B)(i) with respect to the order.

"(F) The State shall have in effect procedures for carrying out this paragraph in cases involving an employee who has 2 or more employers or child support obligations.

"(12) If the State transmits to an individual or entity engaged in commerce only outside the State a wage withholding order issued by the State with respect to an employee of the individual or entity, and the individual or entity contests or refuses to comply with the order, the State shall send an informational copy of the order to the registry established under subsection (a)(12)(A) of any other State in which the individual or entity is engaged in commerce.

"(13) If an employee requests a hearing to contest wage withholding based on claim of a mistake of fact, the hearing may be held in the State from which the income is paid or in which the employee is employed, and, within 45 days after the income source receives the withholding order, the entity conducting the hearing must adjudicate the claim. The State in which the hearing is held shall provide appropriate services in cases enforced under the State plan to ensure that the interests of the individual to whom the withheld income is to be paid are adequately represented.".

(c) Priorities in Application of Withheld Wages.—Section 466(b) (42 U.S.C. 666(b)), as amended by subsection (b) of this section, is amended by inserting after paragraph (13) the following:

"(14) Procedures under which the amounts withheld pursuant to a child support or wage withholding order are to be applied in the following order:

"(A) To payments of support due during the month of withholding.

"(B) To payments of premiums for health care insurance coverage for dependent children.

"(C) To payments of support due before the month of withholding, and of unreimbursed health-care expenses.".

(d) Access to Various Data Bases.—Section 466(a) (42 U.S.C. 666(a)), as amended by subsection (a) of this section, is amended by inserting after paragraph (12) the following:

"(13) Procedures under which the State child support enforcement agency shall have automated on-line or batch access (or, if necessary, nonautomated access) to information regarding residential addresses, employers and employer addresses, income and assets, and medical insurance benefits with respect to absent parents that is available through any data base maintained by—

"(A) any agency of the State or any political subdivision thereof, that contains information on residential addresses, or on employers and employer addresses, as the State deems appropriate;

"(B) any publicly regulated utility company located in the State; and

"(C) any credit reporting agency located in the State.".

(e) Expanded Interaction With the National Parent Locator Network.—Section 454(16) (42 U.S.C. 654(16)) is amended—

(1) by striking "and (E)" and inserting "(E)"; and

(2) by striking "enforcement;" and inserting "enforcement, and (F) to provide access to the national network developed pursuant to section 453(g);".

SEC. 105. RECONCILIATION OF CHILD SUPPORT OBLIGATION AND PAYMENTS ON INCOME TAX RETURN.

(a) In General.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. RECONCILIATION OF CHILD SUPPORT OBLIGATION AND PAYMENTS ON INCOME TAX RETURN.

"(a) In General.—Each applicable child support obligation of any individual for months ending with or within any taxable year shall be paid—

"(1) not later than the last date (determined without regard to extensions) prescribed for filing the individual's return of tax imposed by chapter 1 for such taxable year, and

"(2)(A) if such return is filed not later than such date, with such return, or

"(B) in any case not described in subparagraph (A), in such manner as the Secretary may by regulations prescribe.

"(b) Offset for Withheld Child Support, Etc.—There shall be allowed as a credit against the amount required to be paid under subsection (a) by an individual the sum of—

"(1) the amount (if any) deducted and withheld pursuant to State law from the wages received by such individual during the taxable year,

"(2) the amount (if any) paid by such individual under section 6654 by reason of subsection (f)(3) thereof for such taxable year, and

"(3) the amount paid by such individual directly to the person to whom the obligation is owed (or, if such person has assigned to a State the right to collect the obligation, the State).

"(c) Credit or Refund for Payments in Excess of Actual Obligation.—There shall be allowed as a credit against the tax imposed by subtitle A for the taxable year an amount equal to the excess (if any) of—

"(1) the aggregate of the amounts described in paragraphs (1), (2), and (3) of subsection (a) for such taxable year, over

"(2) the aggregate of the child support obligations of the taxpayer for such taxable year.

The credit allowed by this subsection shall be treated for purposes of this title as allowed by subpart C of part IV of subchapter A of chapter 1.

"(d) Failure To Pay Amount Owing.—If an individual fails to pay the full amount required to be paid under subsection (a) on or before due date for such payment, the Secretary shall assess and collect the unpaid amount in the same manner, with the same powers, and subject to the same limitations applicable to a tax imposed by subtitle C the collection of which would be jeopardized by delay.

"(e) Applicable Child Support Obligation.—For purposes of this section, the term 'applicable child support obligation' means a legal obligation to provide child support (as defined in section 462(b) of the Social Security Act).

"(f) Amounts Collected by Secretary Paid to State Registries.—Amounts collected under this section and section 6654 by reason of an applicable child support obligation shall be paid by the Secretary to the appropriate State registry established pursuant to section 466(a)(12)(A)(i) of the Social Security Act.".

(b) Withheld Child Support To Be Shown on W-2.—Subsection (a) of section 6051 of such Code is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) the total amount of child support obligations withheld pursuant to State law.".

(c) Application of Estimated Tax Penalty.—

(1) Subsection (f) of section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by striking "minus" at the end of paragraph (2) and inserting "plus", by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) the aggregate applicable child support obligation (as defined in section 7524(a)) of the taxpayer for months ending with or within the taxable year, minus".

(2) Paragraph (1) of section 6654(d) of such Code is amended by adding at the end the following new subparagraph:

"(D) Determination of required annual payment for taxpayers required to pay child support.—In the case of a taxpayer who is required under section 7524 to pay an applicable child support obligation (as defined in section 7524) for any month ending with or within the taxable year, the required annual payment shall be the sum of—

"(i) the amount determined under subparagraph (B) without regard to subsection (f)(3), plus

"(ii) the aggregate amount of such obligation for all months ending with or within the taxable year.".

(3) Credit for withheld amounts, etc.—Subsection (g) of section 6654 of such Code is amended by adding at the end the following new paragraph:

"(3) Child support.—For purposes of applying this section, the sum of—

"(A) amounts deducted and withheld under State law for applicable child support obligations, and

"(B) amounts paid by the individual directly to the person to whom the obligation is owed (or, if such person has assigned to a State the right to collect the obligation, the State),

shall be deemed to be a payment of the amount described in subsection (f)(3) on the date such amounts were actually withheld or paid, as the case may be.".

(d) Clerical Amendment.—The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7524. Reconciliation of child support obligation and payments on income tax return.".

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

TITLE II—ESTABLISHMENT

SEC. 201. SERVICE OF PROCESS ON FEDERAL EMPLOYEES AND MEMBERS OF THE ARMED SERVICES IN CONNECTION WITH PROCEEDINGS RELATING TO CHILD SUPPORT AND PARENTAGE OBLIGATIONS.

Part D of title IV (42 U.S.C. 651-670) is amended by inserting after section 460 the following:

"SEC. 460A. SERVICE OF PROCESS ON FEDERAL EMPLOYEES AND MEMBERS OF THE ARMED SERVICES IN CONNECTION WITH PROCEEDINGS RELATING TO CHILD SUPPORT AND PARENTAGE OBLIGATIONS.

"(a) IN GENERAL.—The head of each Government agency shall, in accordance with applicable regulations under subsection (b), designate an agent for receipt of service of process, for any Federal employee or member of the Armed Forces serving in or under such agency, in connection with an action, brought in a court of competent jurisdiction within any State, territory, or possession of the United States, for obtaining a child support order or for establishing parentage.

"(b) REGULATIONS.—Regulations governing the implementation of this section with respect to the executive, legislative, or judicial branch of the Government shall be promulgated by the authority or authorities responsible for promulgating regulations under section 461 with respect to the branch of Government involved.

"(c) INTERPRETIVE RULE.—This section shall not be construed to prevent any otherwise eligible individual from requesting or being granted a stay or continuance in any judicial proceeding, including under the Soldiers' and Sailors' Civil Relief Act of 1940.

"(d) GOVERNMENT AGENCY DEFINED.—For purposes of this section, the term 'Government agency' means each agency of the Federal Government, including—

"(1) an Executive agency (as defined by section 105 of title 5, United States Code);

"(2) the Department of Defense, to the extent that any Federal employee serving in or under that agency or any member of the armed services is involved;

"(3) the United States Postal Service and the Postal Rate Commission;

"(4) the government of the District of Columbia;

"(5) an agency within the legislative or judicial branch of the Government; and

"(6) an advisory committee to which the Federal Advisory Committee Act applies.".

SEC. 202. PRESUMED ADDRESS OF OBLIGOR AND OBLIGEE.

Section 466(a) (42 U.S.C. 666(a)), as amended by section 104 of this Act, is amended by inserting after paragraph (13) the following:

"(14) Procedures under which the State shall—

"(A) require the court or administrative agency with authority to issue the final order in a child support or parentage case to require each party subject to the order to file with the court or administrative agency, on or before the date the order is issued—

"(i) the party's residential address or addresses;

"(ii) the party's mailing address or addresses;

"(iii) the party's home telephone number or numbers;

"(iv) the party's driver's license number;

"(v) the party's social security account number;

"(vi) the name of each employer of the party;

"(vii) the addresses of each place of employment of the party; and

"(viii) the party's work telephone number or numbers;

"(B) require the court or administrative agency in any action related to child support to presume, for the purpose of providing sufficient notice (other than the initial notice in an action to establish parentage or a child support order), that the noncustodial parent resides at the last residential address given by the noncustodial parent to the court or agency; and

"(C) ensure that information concerning the location of a custodial parent or a child of the custodial parent is not released to a noncustodial parent if a court order has been issued against the noncustodial parent for the physical protection of the custodial parent or the child.".

SEC. 203. FAIR CREDIT REPORTING ACT AMENDMENT.

Section 604 of the Consumer Credit Protection Act (15 U.S.C. 1681b) is amended by adding at the end the following:

"(4) To a State agency administering a State plan under section 454 of the Social Security Act, for use to establish or modify a child support award.".

SEC. 204. NATIONAL CHILD SUPPORT GUIDELINE COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Child Support Guidelines Commission (in this section referred to as the "Commission").

(b) GENERAL DUTIES.—The Commission shall convene a conference to study the desirability of a national child support guideline, and if such guideline is advisable, the Commission shall develop for congressional consideration a national child support guideline that is based on the conference's study of various guideline models, the deficiencies of such models and any needed improvements.

(c) MEMBERSHIP.—

(1) NUMBER; APPOINTMENT.—

(A) IN GENERAL.—The Commission shall be composed of 9 individuals appointed jointly by the Secretary of Health and Human Services and the Congress, not later than January 15, 1995.

(B) QUALIFICATIONS OF MEMBERS.—Members of the Commission shall be appointed from among those who are able to provide expertise and experience in the evaluation and development of child support guidelines. At least 2 of the members shall represent parent child support advocacy groups.

(2) TERMS OF OFFICE.—Each member shall be appointed for a term of 1 year. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMMISSION POWERS, COMPENSATION, ACCESS TO INFORMATION, AND SUPERVISION.—The first sentence of subparagraph (C), the first and third sentences of subparagraph (D), subparagraph (F) (except with respect to the conduct of medical studies), clauses (ii) and (iii) of subparagraph (G), and subparagraph (H) of section 1886(e)(6) of the Social Security Act shall apply to the Commission in the same manner in which such provisions apply to the Prospective Payment Assessment Commission.

(e) REPORT.—Not later than 1 year after the appointment of members, the Commission shall report to the President and the Congress on the results of the study described in subsection (b) and the final assessment by the Commission of issues relating to a national child support guideline.

(f) TERMINATION.—The Commission shall terminate upon the submission of the report described in subsection (e).

SEC. 205. DURATION OF SUPPORT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104 and 202 of this Act, is amended by inserting after paragraph (14) the following:

"(15) Procedures under which the State—

"(A) imposes on 1 or both parents of a child an obligation to continue to provide support for the child until not earlier than the later of the date the child attains 18 years of age or the date the child is graduated from or is no longer enrolled in secondary school or its equivalent, unless the child is married or is otherwise emancipated by a court of competent jurisdiction or by operation of State law;

"(B) provides that courts with jurisdiction over child support cases may, in accordance with criteria established by the State, order—

"(i) child support, payable to an adult child, at least up to the age of 22 years for a child enrolled in an accredited postsecondary or vocational school or college who is a student in good standing; and

"(ii) either or both parents to pay for postsecondary school support based on each parent's financial ability to pay; and

"(C) provides for child support to continue beyond the child's minority if the child is disabled, unable to be self-supportive, and the disability arose during the child's minority.".

SEC. 206. EVIDENCE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104 and 205 of this Act, is amended by inserting after paragraph (15) the following:

"(16) Procedures under which—

"(A) a certified copy of an out-of-State order, decree, or judgment related to child support or parentage shall be admitted once offered in the courts of the State if the order, decree, or judgment is regular on its face; and

"(B) electronically transmitted information and documents faxed to a court or administrative agency that contain information related to the amount of a child support obligation and the terms of the order imposing the obligation may be offered as evidence of the amount and the terms, and electronically transmitted records of payment of a child support agency that are regular on their face shall be admissible as evidence in a child support or parentage proceeding to prove the truth of the matter asserted in the records.".

SEC. 207. TELEPHONIC APPEARANCE IN INTERSTATE CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, and 206 of this Act, is amended by inserting after paragraph (16) the following:

"(17) Procedures under which the parties to an interstate parentage or child support administrative or judicial proceeding may appear and participate by telephonic means in lieu of appearing personally.".

SEC. 208. UNIFORM TERMS IN ORDERS.

(a) IN GENERAL.—Section 452(a) (42 U.S.C. 652(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of the 2nd sentence of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following:

"(11) not later than 12 months after the date of the enactment of this paragraph, develop, in conjunction with State executive and judicial organizations, a uniform abstract of a child support order, for use by all State courts to record, with respect to each child support order in the child support order registry established under section 466(a)(12)—

"(A) the date support payments are to begin under the order;

"(B) the circumstances upon which support payments are to end under the order;

"(C) the amount of child support payable pursuant to the order expressed as a sum certain to be paid on a monthly basis, arrearages expressed as a sum certain as of a certain date, and any payback schedule for the arrearages;

"(D) whether the order awards support in a lump sum (nonallocated) or per child;

"(E) if the award is in a lump sum, the event causing a change in the support award and the amount of any change;

"(F) other expenses covered by the order;

"(G) the names of the parents subject to the order;

"(H) the social security account numbers of the parents;

"(I) the name, date of birth, and social security account number (if any) of each child covered by the order;

"(J) the identification (FIPS code, name, and address) of the court that issued the order;

"(K) any information on health care support required by the order; and

"(L) the party to contact if additional information is obtained.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 209. SOCIAL SECURITY NUMBERS ON MARRIAGE LICENSES, DIVORCE DECREES, PARENTAGE DECREES, AND BIRTH CERTIFICATES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, and 207 of this Act, is amended by inserting after paragraph (17) the following:

"(18) Procedures under which the social security account number (if any) of—

"(A) each individual applying for a marriage license is to be listed by the individual's name on the license;

"(B) each party granted a divorce decree is to be listed by the party's name on the decree, if any party to the decree is pregnant or a parent;

"(C) each individual determined to be a parent of a child in an action to establish parentage is to be listed by the individual's name on the decree containing the determination; and

"(D) each parent of a child is to be listed by the parent's name on the child's birth certificate, except that, if the State agency determines (in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child) that there is good cause for not so listing the social security account number of a parent.".

SEC. 210. ADMINISTRATIVE SUBPOENA POWER.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, and 209 of this Act, is amended by inserting after paragraph (18) the following:

"(19) Procedures under which the State child support enforcement agency may issue a subpoena which—

"(A) requires the individual served to produce and deliver documents to, or to appear at, a court or administrative agency on a certain date; and

"(B) penalizes an individual for failing to comply with the subpoena.".

SEC. 211. SUPPORT ORDERS OUTREACH AND DEMONSTRATIONS.

(a) STATES REQUIRED TO CONDUCT SURVEYS OF UNDERSERVED POPULATIONS.—

(1) IN GENERAL.—Part D of title IV (42 U.S.C. 651-669) is amended by adding at the end the following:

"SEC. 470. STATE SURVEYS OF UNDERSERVED POPULATIONS.

"Each State, as a condition for having a State plan approved under this part, must conduct surveys to identify populations underserved by child support services, and develop outreach programs to serve such populations in places such as child care centers, parenting classes, prenatal classes, and unemployment offices.".

(2) FEDERAL FINANCIAL PARTICIPATION.—Section 455(a)(1) (42 U.S.C. 655(a)(1)) is amended—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C) by adding "and" at the end; and

(C) by inserting after subparagraph (C) the following:

"(D) equal to 90 percent of so much of the sums expended during such quarter as are attributable to operating programs described in section 470,".

(b) MATERIALS TO ASSIST PERSONS WITH LOW LITERACY LEVELS.—The Secretary of Health and Human Services shall fund demonstration projects and technical assistance grants to States to develop applications and informational materials directed to individuals with low literacy levels or difficulties reading English.

(c) REVIEW OF WRITTEN MATERIALS.—The Secretary of Health and Human Services shall review all written materials provided to persons served by the Office of Child Support Enforcement to ensure that any requirement contained in the materials is presented clearly and in a manner that is easily understandable by such persons.

(d) DEMONSTRATION PROJECTS TO IMPROVE COORDINATION BETWEEN CERTAIN STATE PUBLIC ASSISTANCE AGENCIES.—The Secretary of Health and Human Services shall make grants to States to conduct demonstration projects to test various methods for improving the coordination of services and case processing between the State agency referred to in section 402(a)(3) of the Social Security Act and the State agency referred to in section 454(3) of such Act.

(e) REFERRAL OF CUSTODIAL PARENTS TO COMMUNITY RESOURCES TO COMBAT DOMESTIC VIOLENCE.—Section 454 (42 U.S.C. 654) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by inserting after paragraph (24) the following:

"(25) provide that the agency administering the plan must refer to appropriate community resources custodial parents against whom or whose children violence has been threatened as a result of cooperation with a State agency in establishing or enforcing a child support order, in accordance with procedures developed by the State to reduce the risk of violence, such as exempting the custodial parent from any requirement of face-to-face meetings with persons other than from the agency.".

SEC. 212. HEALTH CARE SUPPORT.

(a) INCLUSION IN CHILD SUPPORT ORDERS.—

(1) STATE GUIDELINES.—Section 467 (42 U.S.C. 667) is amended by adding at the end the following:

"(d)(1) Not later than the beginning of the 9th calendar month that begins after the date the Secretary prescribes final regulations in accordance with paragraph (2), each State, as a condition for having its State plan approved under this part, must establish guidelines for the coverage of the health care costs of children pursuant to child support orders issued or modified in the State, which guidelines shall create a streamlined process that meets the minimum standards established by the Secretary in such regulations.

"(2)(A) The Secretary shall promulgate regulations which set forth minimum standards that any set of guidelines established pursuant to paragraph (1) must meet in providing for the coverage of the health care costs of children pursuant to child support orders issued or modified in the State, including—

"(i) the contents of such an order with respect to the coverage of such costs;

"(ii) the distribution of responsibility for such costs;

"(iii) to the extent that such costs are to be covered through health insurance—

"(I) the provision of such insurance;

"(II) the payment of insurance claims; and

"(III) the rights of the noncustodial parent and the custodial parent to insurance information;

"(iv) the circumstances under which a provider of health insurance may or may not deny coverage to a child who is the subject of such an order;

"(v) penalties to be imposed on providers of health insurance who fail to comply with the guidelines; and

"(vi) how changes in the circumstances of the noncustodial parent and the custodial parent are to be taken into account with respect to the coverage of such costs.

"(B) In developing such standards, the Secretary shall ensure that, in establishing guidelines pursuant to paragraph (1), the State considers the following matters in the following order of importance:

"(i) The best interests of the child.

"(ii) The financial and other circumstances of the parents of the child.

"(iii) Cost-effectiveness.

"(3) The preceding subsections of this section shall apply in like manner to the guidelines established pursuant to this subsection.".

(2) REGULATIONS.—

(A) PROPOSED REGULATIONS.—Within 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement the amendments made by this subsection.

(B) FINAL REGULATIONS.—Within 14 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to implement the amendments made by this subsection.

(b) INCLUSION IN INCENTIVE PAYMENTS PROGRAM OF DEPENDENT HEALTH INSURANCE PROVIDED DUE TO SUCCESSFUL ENFORCEMENT.—

(1) IN GENERAL.—Section 458(b) (42 U.S.C. 658(b)) is amended by adding at the end the following:

"(5)(A) For purposes of this section, the successful enforcement by the State of a provision of a support order requiring an absent parent to obtain health insurance for 1 or more children shall be considered the collection of support from the absent parent, without regard to the means by which such support is provided.

"(B) The amount of support collected in any case in which the State successfully enforces a provision of a support order requiring an absent parent to obtain health insurance for 1 or more children shall be the savings to the State from the provision of such health insurance to such children, as determined in accordance with a health insurance savings methodology adopted by the State in accordance with regulations prescribed by the Secretary.".

(2) REGULATIONS.—Within 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall prescribe such regulations as may be necessary to implement the amendment made by paragraph (1).

(3) STUDY; REPORT.—

(A) STUDY.—The Secretary of Health and Human Services shall conduct a study to determine the incentives that should be provided to encourage States to enforce obligations of noncustodial parents to pay (and obtain medical insurance coverage with respect to) the reasonable and necessary health and dental expenses of the children to whom the noncustodial parents owe such obligations.

(B) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required by subparagraph (A).

SEC. 213. RULES GOVERNING MODIFICATION OF CHILD SUPPORT ORDERS.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by inserting after section 1738A the following:

"§1738B. Rules governing modification of child support orders

"(a) IN GENERAL.—A court of a State may not modify a child support order issued or modified with respect to a child by a court of another State, unless—

"(1) the child does not reside in the other State;

"(2) an individual who is a party to the order (other than the party seeking modification of the order) does not reside in the other State; or

"(3) all parties to the order have consented in writing to the modification.

"(b) DEFINITIONS.—As used in this section:

"(1) CHILD.—The term 'child' means an individual for whom a child support order has been issued pursuant to the laws of a State.

"(2) CHILD SUPPORT ORDER.—The term 'child support order' means a judgment, decree, or order that requires child support (as defined in section 462(b) of the Social Security Act) to be provided with respect to a child.

"(3) COURT.—The term 'court' means a court or administrative agency of a State which is authorized by State law to establish or modify a child support order.

"(4) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country as defined in section 1151 of title 18.".

TITLE III—PARENTAGE

SEC. 301. PATERNITY ESTABLISHMENT.

(a) STATE PLAN REQUIREMENTS.—Section 454 (42 U.S.C. 654), as amended by section 211(e) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by inserting after paragraph (26) the following:

"(27) in order to encourage voluntary paternity acknowledgement, provide for—

"(A) the development and distribution of material at schools, hospitals, agencies administering the programs under part A of this title and title XIX, prenatal health-care providers, WIC programs, health departments, clinics, and other appropriate locations that describe the benefits and responsibilities of paternity establishment and the process by which paternity services may be obtained,

"(B) outreach programs at hospitals and birthing facilities and programs for prenatal care, child birth, and parenting, and

"(C) the use of consent procedures.".

(b) REQUIRED PROCEDURES.—Section 466(a)(5)(C) (42 U.S.C. 666(a)(5)(C)) is amended—

(1) by redesignating the 1st sentence as clause (i)(I);

(2) by inserting after such clause the following:

"(II) Such procedures must provide that any such explanation to a mother include the following information:

"(aa) Signing a paternity acknowledgment affidavit is voluntary.

"(bb) Once paternity of a child is established, the father of the child has the right to seek custody of the child or visitation rights with respect to the child.

"(cc) Once paternity of a child is established, the mother of the child has the right to seek from the father of the child financial and medical support for the child.

"(dd) The effect that the courts of the State will give to a signed paternity acknowledgment affidavit.

"(III) Such procedures must provide that any such explanation to a possible father include the following information:

"(aa) Signing a paternity acknowledgment affidavit is voluntary.

"(bb) Genetic testing is available and will be provided upon request.

"(cc) The policy of the State with respect to payment for the cost of genetic testing.

"(dd) Once paternity of a child is established, the father of the child has the right to seek custody of the child or visitation rights with respect to the child.

"(ee) Once paternity of a child is established, the mother of the child has the right to seek from the father of the child financial and medical support for the child.

"(ff) The effect that the courts of the State will give to a signed paternity acknowledgment affidavit.

"(IV) Such procedures must provide that the information required to be provided under subclause (II) or (III) must be provided—

"(aa) orally and in writing;

"(bb) where appropriate, in the language of the individual to whom the information is required to be provided; and

"(cc) if the individual is blind or hearing-impaired, in a manner accessible to the individual.";

(3) by indenting the 2nd sentence 2 ems and redesignating such sentence as clause (ii); and

(4) by inserting after such clause (ii) the following:

"(iii) Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

"(iv) Such procedures must require the State to use only the affidavit developed under section 452(a)(7) for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State.

"(v) The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by entities other than hospitals, which shall include a requirement that any State agency that provides such services must use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as hospital-based voluntary paternity establishment programs.".

(c) NATIONAL PATERNITY ACKNOWLEDGMENT AFFIDAVIT.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting ", and develop an affidavit to be used for the voluntary acknowledgment of paternity" before the semicolon.

(d) SIGNED PATERNITY ACKNOWLEDGMENT AFFIDAVIT CONCLUSIVELY PRESUMED TO ESTABLISH PATERNITY.—Section 466(a)(5)(D) (42 U.S.C. 666(a)(5)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following:

"(ii)(I) Such procedures shall provide that the written voluntary acknowledgment of the paternity of a child shall, upon the expiration of the challenge period, create a legal finding of paternity that has the effect of a final judgment at law which can be revised, or which can be set aside based on criteria established by the State for setting aside judgments, other than by reason of the minority of the person who executed the acknowledgment—

"(aa) without any further action; or

"(bb) at the option of the State, after a court or administrative agency with which the document containing the acknowledgment has been filed within 5 business days after the expiration of the challenge period issues an order establishing such paternity.

"(II) As used in subclause (I), the term 'challenge period' means, with respect to an acknowledgment of paternity—

"(aa) the 30-day period that begins on the date of the acknowledgment; or

"(bb) if the person who executed the acknowledgment undergoes genetic testing within 30 days after the date of the acknowledgment, the 30-day period that begins with the date the person is notified of the results of the genetic testing.".

TITLE IV—ENFORCEMENT

SEC. 401. DIRECT WAGE WITHHOLDING.

(a) STATE LAW.—Section 466(b) (42 U.S.C. 666(b)), as amended by section 104 of this Act, is amended by adding at the end the following:

"(15)(A) Upon the issuance or modification by a State court or administrative agency of an order imposing a child support obligation on an individual, the State shall transmit to any employer of the individual a wage withholding order developed under section 452(a)(12) directing the employer to withhold amounts from the wages of the individual pursuant to the order.

"(B) Any individual or entity engaged in commerce, as a condition of doing business in the State, shall, on receipt of a wage withholding order developed under section 452(a)(12) that is regular on its face and has been issued by a court of any State—

"(i) within 3 days after receipt of the order, comply with the order;

"(ii) forward the amount withheld pursuant to the order to the State or custodial parent specified in the order; and

"(iii) keep records of the amounts so withheld.

"(C) Such an order may be served on the income source directly or by first-class mail.

"(D) An individual or entity who complies with such an order may not be held liable for wrongful withholding of income from the employee subject to the order.

"(E) The State shall impose a civil fine of $1,000 on any individual or entity who receives such an order, and fails to comply with the order within 10 days after receipt. The preceding sentence shall not be construed to affect the authority of any court to stay the effectiveness of the fine.

"(16) If the State transmits to an individual or entity engaged in commerce in another State a wage withholding order issued by the State with respect to an employee of the individual or entity, and the individual or entity contests or refuses to comply with the order, the State shall send an informational copy of the order to the registry established under subsection (a)(12) of such other State or of the State from which the income of the employee is paid.

"(17) If an employee requests a hearing to contest wage withholding based on claim of a mistake of fact, the hearing may be held in the State from which the income is paid or in which the employee is employed, and, within 45 days after the income source receives the withholding order, the entity conducting the hearing must adjudicate the claim. The State in which the hearing is held shall provide appropriate services in cases enforced under the State plan to ensure that the interests of the individual to whom the withheld income is to be paid are adequately represented.".

(b) UNIFORM WITHHOLDING ORDER.—Section 452(a) (42 U.S.C. 652(a)), as amended by section 208(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by inserting after paragraph (11) the following:

"(12) develop a uniform order to be used in all cases in which income is to be withheld for the payment of child support, which shall contain the name of the individual whose income is to be withheld, the number of children covered by the order, and the individual or State to whom the withheld income is to be paid, and be generic to allow for the service of the order on all sources of income.".

SEC. 402. PRIORITIES IN APPLICATION OF WITHHELD WAGES.

Section 466(b) (42 U.S.C. 666(a)), as amended by section 401(a) of this Act, is amended by inserting after paragraph (13) the following:

"(14) Procedures under which the amounts withheld pursuant to a child support or wage withholding order are to be applied in the following order:

"(A) To payments of support due during the month of withholding.

"(B) To payments of premiums for health care insurance coverage for dependent children.

"(C) To payments of support due before the month of withholding, and of unreimbursed health-care expenses.".

SEC. 403. ADDITIONAL BENEFITS SUBJECT TO GARNISHMENT.

(a) FEDERAL DEATH BENEFITS, BLACK LUNG BENEFITS, AND VETERANS BENEFITS.—Section 462(f)(2) (42 U.S.C. 662(f)(2)) is amended by striking "(not including" and all that follows through "compensation)".

(b) WORKERS' COMPENSATION.—Section 462(f) (42 U.S.C. 662(f)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting ", or"; and

(3) by adding at the end the following:

"(3) workers' compensation benefits.".

SEC. 404. CONSUMER CREDIT PROTECTION ACT AMENDMENTS.

(a) PREEMPTION OF STATE LAWS.—Section 307 of the Consumer Credit Protection Act (15 U.S.C. 1677) is amended—

(1) by striking "This" and inserting "(a) IN GENERAL.—Subject to subsection (b), this";

(2) by striking "or" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting ", or"; and

(4) by adding at the end the following:

"(3) providing a cause of action, either by the State or a private individual, to enforce a Federal or State law related to garnishment for the purpose of securing child support.

"(b) EXCEPTION.—Subsection (a)(1) shall not apply to the laws of any State that prohibit or restrict garnishments for the purpose of securing support for any person.".

(b) OTHER FORMS OF INCOME.—Title III of such Act (15 U.S.C. 1671 et seq.) is amended by adding at the end the following:

"SEC. 308. OTHER FORMS OF INCOME.

"This title does not apply to forms of income that are not earnings within the definition contained in section 302(a).".

(c) PRIORITY OF DEBTS.—Title III of such Act (15 U.S.C. 1671 et seq.) is further amended by adding after section 308, as added by subsection (b) of this section, the following:

"SEC. 309. PRIORITY OF DEBTS.

"If an individual's disposable earnings are not sufficient to pay—

"(1) a garnishment intended to satisfy a debt owed to the Federal Government; and

"(2) a garnishment intended to satisfy a debt related to the support of any child,

the debt owed to the Federal Government shall be satisfied through garnishment only after the debt related to child support has first been satisfied.".

(d) ADDITIONAL INDEBTEDNESS IN ANTI-DISCHARGE SECTION.—Section 304 of such Act (16 U.S.C. 1674) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) in subsection (c) (as so redesignated) by striking "subsection (a) of"; and

(3) by inserting after subsection (a) the following:

"(b) No employer may discharge any employee by reason of the fact that the earnings of the employee have been subjected to garnishment for more than one indebtedness, if not more than one indebtedness arises from a debt other than an order for the support of a child.".

(e) CLERICAL AMENDMENT.—The table of sections at the beginning of the title III of the Truth in Lending Act (15 U.S.C. 1671 et seq.) is amended by adding at the end the following:

"308. Other forms of income.
"309. Priority of debts.".

SEC. 405. PROHIBITION AGAINST USE OF ELECTION OF REMEDIES DOCTRINE TO PREVENT COLLECTION OF CHILD SUPPORT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, and 212 of this Act, is amended by inserting after paragraph (20) the following:

"(21) Procedures which prohibit any State court from applying the doctrine of election of remedies to prevent a custodial parent from collecting or seeking to collect child support from a noncustodial parent.".

SEC. 406. HOLD ON OCCUPATIONAL, PROFESSIONAL, AND BUSINESS LICENSES.

(a) STATE HOLD BASED ON WARRANT OR SUPPORT DELINQUENCY.—Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, and 405 of this Act, is amended by inserting after paragraph (21) the following:

"(22) Procedures under which the State occupational licensing and regulating departments and agencies may not issue or renew any occupational, professional, or business license of—

"(A) a noncustodial parent who is the subject of an outstanding failure to appear warrant, capias, or bench warrant related to a child support proceeding that appears on the State's crime information system, until removed from the system; and

"(B) an individual who is delinquent in the payment of child support, until the obligee or a State prosecutor responsible for child support enforcement consents to, or a court that is responsible for the order's enforcement orders, the release of the hold on the license, or an expedited inquiry and review is completed while the individual is granted a 60-day temporary license.".

(b) FEDERAL HOLD BASED ON SUPPORT DELINQUENCY.—A Federal agency may not issue or renew any occupational, professional, or business license of an individual who is delinquent in the payment of child support, until the obligee, the obligee's attorney or a State prosecutor responsible for child support enforcement consents to, or a court that is responsible for the order's enforcement orders, the release of the hold on the license, or an expedited inquiry and review is completed while the individual is granted a 60-day temporary license.

SEC. 407. DRIVER'S LICENSES AND VEHICLE REGISTRATIONS DENIED TO PERSONS FAILING TO APPEAR IN CHILD SUPPORT CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, and 406(a) of this Act, is amended by inserting after paragraph (22) the following:

"(23) Procedures under which the State motor vehicle department—

"(A) may not issue or renew the driver's license or any vehicle registration (other than temporary) of any noncustodial parent who is the subject of an outstanding failure to appear warrant, capias, or bench warrant related to a child support proceeding that appears on the State's crime information system, until removed from the system;

"(B) upon receiving notice that an individual to whom a State driver's license or vehicle registration has been issued is the subject of a warrant related to a child support proceeding, shall issue a show cause order to the individual requesting the individual to demonstrate why the individual's driver's license or vehicle registration should not be suspended until the warrant is removed by the State responsible for issuing the warrant; and

"(C) in any case in which a show cause order has been issued as described in subparagraph (B), may grant a temporary license or vehicle registration to the individual pending the show cause hearing or the removal of the warrant, whichever occurs first.".

SEC. 408. LIENS ON CERTIFICATES OF VEHICLE TITLE.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), and 407 of this Act, is amended by inserting after paragraph (23) the following:

"(24) Procedures under which the State shall systematically place liens on vehicle titles for child support arrearages determined under a court order or an order of an administrative process established under State law, using a method for updating the value of the lien on a regular basis or allowing for an expedited inquiry to and response from a governmental payee for proof of the amount of arrears, with an expedited method for the titleholder or the individual owing the arrearage to contest the arrearage or to request a release upon fulfilling the support obligation, and under which such a lien has precedence over all other encumbrances on a vehicle title other than a purchase money security interest, and that the individual owed the arrearage may execute on, seize, and sell the property in accordance with State law.".

SEC. 409. ATTACHMENT OF BANK ACCOUNTS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, and 408 of this Act, is amended by inserting after paragraph (24) the following:

"(25) Procedures under which—

"(A) amounts on deposit in a bank account may be seized to satisfy child support arrearages determined under a court order or an order of an administrative process established under State law, solely through an administrative process, pending notice to and an expedited opportunity to be heard from the account holder or holders; and

"(B) if the account holder or holders fail to successfully challenge the seizure (as determined under State law), the bank may be required to pay from the account to the entity with the right to collect the arrearage the lesser of—

"(i) the amount of the arrearage; or

"(ii) the amount on deposit in the account.".

SEC. 410. SEIZURE OF LOTTERY WINNINGS, SETTLEMENTS, PAYOUTS, AWARDS, AND BEQUESTS, AND SALE OF FORFEITED PROPERTY, TO PAY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, and 409 of this Act, is amended by inserting after paragraph (25) the following:

"(26) Procedures, in addition to other income withholding procedures, under which a lien is imposed against property with the following effect:

"(A) The distributor of the winnings from a State lottery or State-sanctioned or tribal-sanctioned gambling house or casino shall—

"(i) suspend payment of the winnings from the person otherwise entitled to the payment until an inquiry is made to and a response is received from the State child support enforcement agency as to whether the person owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(B) The person required to make a payment under a policy of insurance or a settlement of a claim made with respect to the policy shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(C) The payor of any amount pursuant to an award, judgment, or settlement in any action brought in Federal or State court shall—

"(i) suspend the payment of the amount until an inquiry is made to and a response is received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.

"(D) If the State seizes property forfeited to the State by an individual by reason of a criminal conviction, the State shall—

"(i) hold the property until an inquiry is made to and a response is received from the agency as to whether the individual owes a child support arrearage; and

"(ii) if there is such an arrearage, sell the property and, after satisfying the claims of all other private or public claimants to the property and deducting from the proceeds of the sale the attendant costs (such as for towing, storage, and the sale), pay the lesser of the remaining proceeds or the amount of the arrearage directly to the agency for distribution.

"(E) Any person required to make a payment in respect of a decedent shall—

"(i) suspend the payment until an inquiry is made to and a response received from the agency as to whether the person otherwise entitled to the payment owes a child support arrearage; and

"(ii) if there is such an arrearage, withhold from the payment the lesser of the amount of the payment or the amount of the arrearage, and pay the amount withheld to the agency for distribution.".

SEC. 411. FRAUDULENT TRANSFER PURSUIT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, and 410 of this Act, is amended by inserting after paragraph (26) the following:

"(27) Procedures requiring that, in any case related to child support, any transfer of property by an individual who owes a child support arrearage shall be presumed to be made with the intent to avoid payment of the arrearage, and may be rebutted by evidence to the contrary.".

SEC. 412. FULL IRS COLLECTION.

The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall by regulation simplify the full collection process under section 6305 of the Internal Revenue Code of 1986 and reduce the amount of child support arrearage needed before an individual may apply for collection under such section.

SEC. 413. TAX REFUND OFFSET PROGRAM EXPANDED TO COVER NON-AFDC POSTMINOR CHILDREN.

Section 464(c) (42 U.S.C. 664(c)) is amended—

(1) by striking "(1) Except as provided in paragraph (2), as" and inserting "As";

(2) by inserting "(whether or not a minor)" after "a child" each place such term appears; and

(3) by striking paragraphs (2) and (3).

SEC. 414. ATTACHMENT OF PUBLIC AND PRIVATE RETIREMENT FUNDS.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, and 411 of this Act, is amended by inserting after paragraph (27) the following:

"(28) Procedures under which an individual owed a child support arrearage (determined under a court order or an order of an administrative process established under State law) may, notwithstanding section 401(a)(13) of the Internal Revenue Code of 1986, attach any interest in any public or private retirement plan of the individual who owes the support, without the requirement of a separate court order, and with notice and an expedited hearing provided if requested by the individual who owes the support.".

SEC. 415. REPORTING OF CHILD SUPPORT ARREARAGES TO CREDIT BUREAUS.

Section 466(a)(7)(A) (42 U.S.C. 666(a)(7)(A)) is amended by striking "$1,000" and inserting "the amount of the monthly support obligation".

SEC. 416. ELIMINATION OF STATUTES OF LIMITATIONS IN CHILD SUPPORT CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, and 414 of this Act, is amended by inserting after paragraph (28) the following:

"(29) Procedures which ensure that there is no limit to the period in which any court order, or order of an administrative process established under State law, for support or maintenance of a child, may be enforced.".

SEC. 417. INTEREST.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, and 416 of this Act, is amended by inserting after paragraph (29) the following:

"(30) Procedures under which the State child support enforcement agency must assess and collect interest on all child support judgments, at the rate determined for interest on money judgments, in addition to any late payment fee imposed by the State under section 454(21).".

SEC. 418. BANKRUPTCY.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (12) the following:

"(12A) 'debt for child support' means a debt of a kind specified in section 523(a)(5) of this title for maintenance or support of a child of the debtor;".

(b) EXCEPTION FROM AUTOMATIC STAY.—Section 362(b) of title 11, United States Code, is amended—

(1) by inserting "(A)" after "(2);

(2) by inserting "or" after the semicolon; and

(3) by adding at the end the following:

"(B) under subsection (a) of the commencement or continuation of a civil action or administrative proceeding against the debtor—

"(i) to establish parentage;

"(ii) to establish, review, adjust, or modify a judgment or order creating a debt for child support; or

"(iii) to enforce such judgment or order to collect a debt for child support;".

(c) TREATMENT OF DEBT FOR CHILD SUPPORT IN PROCEEDINGS UNDER CHAPTERS 11, 12, AND 13.—

(1) CHAPTER 11.—Section 1123(a) of title 11, United States Code, is amended—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting "; and"; and

(C) by adding at the end the following:

"(8) provide for the full payment when due of debts for child support unless the parent with custody, or the guardian, of the child agrees otherwise.".

(2) CHAPTER 12.—Section 1222(a) of title 11, United States Code, is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following:

"(4) provide for the full payment when due of debts for child support unless the parent with custody, or the guardian, of the child agrees otherwise.".

(3) Chapter 13.—Section 1322(a) of title 11, United States Code, is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following:

"(4) provide for the full payment when due of debts for child support unless the parent with custody, or the guardian, of the child agrees otherwise.".

(d) Assertion of Claim for Child Support.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 511. Assertion of claim for child support

"(a) Fee.—No fee shall be charged for filing of claim for a debt for child support.

"(b) Requirements for Appearance.—A claim for a debt for child support may be made in any court by a individual appearing—

"(1) personally; or

"(2) through an attorney admitted to practice in any district court of the United States, without the attorney's being required to meet any admission requirements other than those applicable in the judicial district of the United States in which the attorney is admitted to practice.".

(e) Clarification of the Nondischargeability of State Public Debts and Assigned Child Support Based on the Provision of Expenditures Under Parts A and E of Title IV of the Social Security Act.—Section 523 of title 11, United States Code, is amended by adding at the end the following:

"(f) For the purposes of subsection (a)(5), a debt to a child of the debtor for maintenance for or support of the child includes State public debts and assigned child support based on the provision of expenditures under parts A and E of title IV of the Social Security Act.".

(f) Priority of Claims.—(1) Section 507 of title 11, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (8) by striking "(8) Eighth" and inserting "(9) Ninth",

(ii) in paragraph (7) by striking "(7) Seventh" and inserting "(8) Eighth", and

(iii) by inserting after paragraph (6) the following:

"(7) Seventh, allowed unsecured claims due to a spouse, former spouse, or child of the debtor for maintenance for or support of a child, in connection with a separation agreement, divorce decree, or other order of a court of record, a determination made in accordance with State or territorial law by a governmental unit, or a property settlement agreement, but not to the extent that—

"(A) such debt is assigned to another entity, voluntarily, by operation of law, or otherwise (other than debts assigned pursuant to section 402(a)(26) of the Social Security Act, or any such debt which has been assigned to the Federal Government or to a State or any political subdivision of such State); or

"(B) such debt includes a liability designated as maintenance or support unless such liability is actually in the nature of maintenance or support;", and

(B) in subsection (d) by striking "or (6)" and inserting "(6), or (7)".

(2) Title 11 of the United States Code is amended—

(A) in sections 502(i), 503(b)(1)(B)(i), 523(a)(1)(A), and 1123(a)(1) by striking "507(a)(7)" and inserting "507(a)(8)",

(B) in section 724(b)(2) by striking "or 507(a)(6)" and inserting "507(a)(6), or 507(a)(7)",

(C) in section 726(b) by striking "or (7)" and inserting ", (7), or (8)", and

(D) in section 1129(a)(9)—

(i) in subparagraph (B) by striking "or 507(a)(6)" and inserting ", 507(a)(6), or 507(a)(7)", and

(ii) in subparagraph (C) by striking "507(a)(7)" and inserting "507(a)(8)".

(g) Protection of Liens.—Section 522(f)(1) of title 11, United States Code, is amended to read as follows:

"(1) a judicial lien (other than a judicial lien that secures a debt to a spouse, former spouse, or child of the debtor for maintenance for or support of a child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, to the extent that the debt—

"(A) is not assigned to another entity, voluntarily, by operation of law, or otherwise; and

"(B) includes a liability designated as maintenance or support, unless such liability is actually in the nature of maintenance or support).".

(h) Exception to Discharge.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (11) by striking "or" at the end,

(B) in paragraph (12) by inserting "or" after the semicolon at the end, and

(C) by adding at the end the following:

"(13) assumed or incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, divorce decree or other order of a court of record, a determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, unless—

"(A) excepting such debt from discharge under this paragraph would impose an undue hardship for the debtor; and

"(B) discharging such debt would result in a benefit to the debtor that outweighs the detrimental consequences to a child of the debtor.", and

(2) in subsection (c)(1) by striking "or (6)" each place it appears and inserting ", or (13)".

(i) Protection Against Trustee Avoidance.—Section 547(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) to the extent that the transfer was a bona fide payment of a debt to a spouse, former spouse, or child of the debtor for maintenance for or support of such child, in connection with a separation agreement, divorce decree or other order of a court of record, determination made in accordance with State or territorial law by a governmental unit, or property settlement agreement, but not to the extent that such debt—

"(A) is assigned to another entity, voluntarily, by operation of law, or otherwise; or

"(B) includes a liability designated as maintenance or support, unless such liability is actually in the nature of maintenance or support; or".

SEC. 419. FEDERAL GOVERNMENT COOPERATION IN ENFORCEMENT OF SUPPORT OBLIGATIONS OF MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.

(a) Availability of Current Locator Information.—

(1) Maintenance of Address Information.—Each worldwide personnel locator service of the Armed Forces and each personnel locator service of the Armed Forces maintained for a military installation shall include the residential address of each member of the Armed Forces listed in such service. Within 30 days after a change of duty station or residential address of a member listed in a locator service, the Secretary concerned shall update the locator service to indicate the new residential address of the member.

(2) Availability of Information.—The Secretary of Defense shall prescribe regulations to make information regarding the residential address of a member of the Armed Forces available, on request, to any authorized person for the purposes of part D of title IV of the Social Security Act.

(3) Definitions.—For purposes of this subsection:

(A) The term "authorized person" has the meaning given that term in section 453(c) of the Social Security Act (42 U.S.C. 653(c)).

(B) The term "Secretary concerned" has the meaning given that term in section 101(a)(9) of title 10, United States Code.

(b) Facilitating the Granting of Leave for Attendance at Hearings.—

(1) Regulations Required.—The Secretary concerned shall prescribe regulations to facilitate the granting of a leave of absence to a member of the Armed Forces under the jurisdiction of that Secretary when necessary for the member to attend a hearing of a court that is conducted in connection with a civil action—

(A) to determine whether the member is a natural parent of a child; or

(B) to determine an obligation of the member to provide child support.

(2) Waiver Authority.—The regulations prescribed under paragraph (1) may authorize a waiver of the applicability of the regulations to a member of the Armed Forces when—

(A) the member is serving in an area of combat operations; or

(B) such a waiver is otherwise necessary in the national security interest of the United States.

(3) Definitions.—For purposes of this subsection:

(A) The term "court" has the meaning given that term in section 1408(a) of title 10, United States Code.

(B) The term "child support" has the meaning given such term in section 462 of the Social Security Act (42 U.S.C. 662).

(C) The term "Secretary concerned" has the meaning given that term in section 101(a)(9) of title 10, United States Code.

(c) Payment of Military Retired Pay in Compliance With Court Orders.—

(1) Date of Certification of Court Order.—Section 1408 of title 10, United States Code, is amended—

(A) by redesignating subsection (i) as subsection (j); and

(B) by inserting after subsection (h) the following new subsection:

"(i) Certification Date.—It is not necessary that the date of a certification of the authenticity or completeness of a copy of a court order for child support received by the Secretary concerned for the purposes of this section be recent in relation to the date of receipt.".

(2) PAYMENTS CONSISTENT WITH ASSIGNMENTS OF RIGHTS TO STATES.—

(A) AUTHORITY.—Subsection (d)(1) of such section is amended by inserting after the first sentence the following: "In the case of a spouse or former spouse who, pursuant to section 402(a)(26) of the Social Security Act (42 U.S.C. 602(26)), assigns to a State the rights of the spouse or former spouse to receive support, the Secretary concerned may make the child support payments referred to in the preceding sentence to that State in amounts consistent with the assignment of rights.".

(B) RULE OF CONSTRUCTION.—Subsection (c)(2) of such section is amended—

(i) by inserting after the first sentence the following: "The second sentence of subsection (d)(1) shall not be construed to create any such right, title, or interest.";

(ii) by inserting "(A)" after "(2)"; and

(iii) by designating the last sentence as subparagraph (B) and conforming the margins accordingly.

(3) ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.—Part D of title IV (42 U.S.C. 651–669) is amended by inserting after section 465 the following:

"SEC. 465A. PAYMENT OF CHILD SUPPORT ARREARAGES OWED BY MEMBERS OF THE UNIFORMED SERVICES.

"Any authority, requirement, or procedure provided in this part or section 1408 of title 10, United States Code, that applies to the payment of child support owed by a member of the uniformed services (as defined in section 101 of title 37, United States Code) shall apply to the payment of child support arrearages as well as to amounts of child support that are currently due.".

SEC. 420. STATES REQUIRED TO ENACT THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.

(a) IN GENERAL.—Section 466 (42 U.S.C. 666) is amended by adding at the end the following:

"(f) In order to satisfy section 454(20)(A), each State must have in effect laws which adopt the officially approved version of the Uniform Interstate Family Support Act adopted by the National Conference of Commissioners on Uniform State Laws in August 1992.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to payments under part D of title IV of the Social Security Act for calendar quarters ending 2 or more years after the date of the enactment of this Act.

SEC. 421. DENIAL OF PASSPORTS TO NONCUSTODIAL PARENTS SUBJECT TO STATE ARREST WARRANTS IN CASES OF NONPAYMENT OF CHILD SUPPORT.

The Secretary of State is authorized to refuse a passport or revoke, restrict, or limit a passport in any case in which the Secretary of State determines or is informed by competent authority that the applicant or passport holder is a noncustodial parent who is the subject of an outstanding State warrant of arrest for nonpayment of child support, where the amount in controversy is not less than $10,000.

SEC. 422. DENIAL OF FEDERAL BENEFITS, LOANS, GUARANTEES, AND EMPLOYMENT TO CERTAIN PERSONS WITH LARGE CHILD SUPPORT ARREARAGES.

(a) BENEFITS, LOANS, AND GUARANTEES.—Notwithstanding any other provision of law, each agency or instrumentality of the Federal Government may not, under any program that the agency or instrumentality supervises or administers, provide a benefit to, make a loan to, or provide any guarantee for the benefit of, any person—

(1) whose child support arrearages, determined under a court order or an order of an administrative process established under State law, exceed $1,000; and

(2) who is not in compliance with a plan or an agreement to repay the arrearages.

(b) EMPLOYMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an individual shall be considered ineligible to accept employment in a position in the Federal Government if—

(A) such individual has child support arrearages, determined under a court order or an order of an administrative process established under State law, exceeding $1,000; and

(B) such individual is not in compliance with a plan or agreement to repay the arrearages.

(2) REGULATIONS.—Regulations to carry out paragraph (1) shall—

(A) with respect to positions in the executive branch, be prescribed by the President (or his designee);

(B) with respect to positions in the legislative branch, be prescribed jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees); and

(C) with respect to positions in the judicial branch, be prescribed by the Chief Justice of the United States (or his designee).

(3) CHILD SUPPORT DEFINED.—For purposes of this subsection, the term "child support" has the meaning given such term in section 462 of the Social Security Act.

SEC. 423. STATES REQUIRED TO ORDER COURTS TO ALLOW ASSIGNMENT OF LIFE INSURANCE BENEFITS TO SATISFY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, 416, and 417 of this Act, is amended by inserting after paragraph (30) the following:

"(31) Procedures allowing State courts to—

"(A) order the issuer of a life insurance policy to change the beneficiary provisions of the policy to effect an assignment of the benefits payable to a beneficiary under the policy, in whole or in part, to a child to satisfy a child support arrearage, determined under a court order or an order of an administrative process established under State law, owed by the beneficiary with respect to the child; and

"(B) prohibit the sale, assignment, or pledge as collateral of the policy, in whole or in part, by the beneficiary of the policy.".

SEC. 424. INTERESTS IN JOINTLY HELD PROPERTY SUBJECT TO ASSIGNMENT TO SATISFY CHILD SUPPORT ARREARAGES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, 416, 417, and 423 of this Act, is amended by inserting after paragraph (31) the following:

"(32) Procedures allowing State courts to order the assignment of an interest in jointly held property to an individual owed a child support arrearage (determined under a court order or an order of an administrative process established under State law) by a holder of an interest in the property, to the extent of the arrearage.".

SEC. 425. INTERNATIONAL CHILD SUPPORT ENFORCEMENT.

(a) SENSE OF THE CONGRESS THAT THE UNITED STATES SHOULD RATIFY THE UNITED NATIONS CONVENTION OF 1956.—It is the sense of the Congress that the United States should ratify the United Nations Convention of 1956.

(b) TREATMENT OF INTERNATIONAL CHILD SUPPORT CASES AS INTERSTATE CASES.—Section 454 (42 U.S.C. 654), as amended by sections 211(e) and 301(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (25);

(2) by striking the period at the end of paragraph (26) and inserting "; and"; and

(3) by inserting after paragraph (26) the following:

"(27) provide that the State must treat international child support cases in the same manner as the State treats interstate child support cases.".

SEC. 426. NONLIABILITY FOR DEPOSITORY INSTITUTIONS PROVIDING FINANCIAL RECORDS TO STATE CHILD SUPPORT ENFORCEMENT AGENCIES IN CHILD SUPPORT CASES.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a depository institution shall not be liable under any Federal or State law to any person for disclosing any financial record of an individual to a State child support enforcement agency attempting to establish, modify, or enforce a child support obligation of such individual.

(b) PROHIBITION OF DISCLOSURE OF FINANCIAL RECORD OBTAINED BY STATE CHILD SUPPORT ENFORCEMENT AGENCY.—A State child support enforcement agency which obtains a financial record of an individual from a financial institution pursuant to subsection (a) may disclose such financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of such individual.

(c) CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE.—

(1) DISCLOSURE BY STATE OFFICER OR EMPLOYEE.—If any officer or employee of a State knowingly, or by reason of negligence, discloses a financial record of an individual in violation of subsection (b), such individual may bring a civil action for damages against the officer or employee in the personal capacity of the officer or employee, in a district court of the United States.

(2) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this subsection with respect to any disclosure which results from a good faith, but erroneous, interpretation of subsection (b).

(3) DAMAGES.—In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

(A) the greater of—

(i) $1,000 for each act of unauthorized disclosure of a financial record with respect to which such defendant is found liable; or

(ii) the sum of—

(I) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure; plus

(II) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages; plus

(B) the costs of the action.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "depository institution" means—

(A) a depository institution, as defined by section 3(c) of the Federal Deposit Insurance Act;

(B) an institution-affiliated party, as defined by section 3(u) of such Act; and

(C) any Federal credit union or State credit union, as defined by section 101 of the Federal Credit Union Act, including an institution-affiliated party of such a credit union, as defined by section 206(r) of such Act.

(2) The term "financial record" has the meaning given such term by section 1101 of the Right to Financial Privacy Act of 1978.

(3) The term "State child support enforcement agency" means a State agency which administers a State program for establishing and enforcing child support obligations.

SEC. 427. COST-OF-LIVING ADJUSTMENT OF CHILD SUPPORT AWARDS.

Part D of title IV (42 U.S.C. 651-669) is amended by inserting after section 467 the following:

"SEC. 467A. COST-OF-LIVING ADJUSTMENT OF CHILD SUPPORT AWARDS.

"(a) IN GENERAL.—Each State, as a condition for having its State plan approved under this part, shall have in effect such laws and procedures as are necessary to ensure that each child support order issued or modified in the State after the effective date of this section shall provide that amount of any child support award specified in the order shall, on each anniversary of the 1st day of the calendar month in which the order is so issued or modified, increase by the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period that ends with the anniversary; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period that ends on such 1st day.

"(b) RULE OF INTERPRETATION.—Subsection (a) shall not be construed to eliminate other grounds for modifying a child support award.".

SEC. 428. ANNUAL EXCHANGE OF FINANCIAL INFORMATION BY PARTIES TO CHILD SUPPORT ORDER.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, 416, 417, 423, and 424 of this Act, is amended by inserting after paragraph (32) the following:

"(33) Procedures to ensure that each party to a child support order issued or modified in the State discloses to the other party to the order a complete statement of the financial condition of the party.".

SEC. 429. CRIMINAL PENALTIES FOR FAILURE TO PAY CHILD SUPPORT.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, 416, 417, 423, and 424 of this Act, is amended by inserting after paragraph (33) the following:

"(34) Procedures under which—

"(A) criminal penalties may be imposed for the failure to pay child support; and

"(B) use immunity may be granted to compel testimony in civil child support proceedings in which the defendant claims a Fifth Amendment privilege against self-incrimination, and if granted, bars Federal or other State criminal prosecution for failure to pay child support based on the testimony given in the civil proceeding with respect to which use immunity was granted.".

TITLE V—COLLECTION AND DISTRIBUTION

SEC. 501. PRIORITIES IN DISTRIBUTION OF COLLECTED CHILD SUPPORT.

(a) STATE DISTRIBUTION PLAN.—Section 457 (42 U.S.C. 657) is amended by adding at the end the following:

"(e) Beginning on September 1, 1995, the amounts that a State collects as child support (including interest) pursuant to a plan approved under this part, other than amounts so collected through a tax refund offset, shall (subject to subsection (d)) be paid—

"(1) first to the individual owed the support or (if the individual assigned to the State the payment of the support) to the State, to the extent necessary to satisfy the current month's support obligation;

"(2) then to the individual owed the support, to the extent necessary to satisfy any arrearage;

"(3) then, at the option of the State, to the State, to the extent necessary to reimburse the State for assistance provided with respect to the child under this title (without interest); and

"(4) then to other States, to the extent necessary to reimburse such other States for assistance provided with respect to the child under this title (without interest), in the order in which such assistance was provided.".

(b) STUDY AND PILOT PROJECTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct studies and pilot projects of systems under which States would be required to pay the child support collected pursuant to a State plan approved under part D of title IV of the Social Security Act to the individuals to whom the support is owed before making any payment to reimburse any State for assistance provided with respect to the child under part A of such title.

(2) REPORT TO THE CONGRESS.—Within 3 years after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on each study and pilot project conducted pursuant to paragraph (1), including a cost-benefit analysis and an analysis of the costs that would be avoided under the program of aid to families with dependent children under part A of title IV of the Social Security Act, the program of medical assistance under title XIX of such Act, and the food stamp program under the Food Stamp Act of 1977, if the various systems studied were implemented.

(c) REVISION OF FEDERAL INCOME TAX REFUND OFFSET.—Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended—

(1) in subsection (c), by striking "after any other reductions allowed by law (but before" and inserting "before any other reductions allowed by law (and before"; and

(2) in subsection (d), by striking "with respect to past-due support collected pursuant to an assignment under section 402(a)(26) of the Social Security Act".

(d) $50 DISREGARDED FOR ALL MEANS-TESTED PROGRAMS.—Section 457(b)(1) (42 U.S.C. 657(b)(1)) is amended by inserting "under this part or under any other Federal program which determines eligibility for or the amount of assistance based on the income or assets of the applicant for or recipient of the assistance" after "during such month".

(e) FILL-THE-GAP POLICIES ALLOWED.—Section 402(a)(28) (42 U.S.C. 602(a)(28)) is amended by striking the open parenthesis and all that follows through the close parenthesis.

SEC. 502. STATE CLAIMS AGAINST NONCUSTODIAL PARENT LIMITED TO ASSISTANCE PROVIDED TO THE CHILD.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, 416, 417, 423, 424, 428, and 429 of this Act, is amended by inserting after paragraph (34) the following:

"(35)(A) Procedures under which any claims the State may have against a noncustodial parent for a child's portion of the assistance provided under a State plan approved under part A shall not exceed the amount specified as child support under a court or administrative order.

"(B) As used in subparagraph (A), the term 'child's portion' means the assistance that would have been provided with respect to the child if the needs of the caretaker relative of the child had not been taken into account in making the determination with respect to the child's family under section 402(a)(7).".

SEC. 503. FEES FOR NON-AFDC CLIENTS.

(a) IN GENERAL.—Section 454(6) (42 U.S.C. 654(6)) is amended—

(1) in subparagraph (B), by striking "or recovered" and all that follows through "program)";

(2) in subparagraph (C), by inserting "on the parent who owes the child or spousal support obligation involved" after "imposed";

(3) in subparagraph (D), by striking "individual who" and inserting "the noncustodial parent if the child whose parentage is to be determined through the tests"; and

(4) in subparagraph (E), by striking all that follows "may be collected" and inserting "from the parent who owes the child or spousal support obligation involved, but only after all current and past-due support and interest charges have been collected".

(b) PUBLICATION OF FEE SCHEDULES.—Section 454(10) (42 U.S.C. 654(10)) is amended by inserting ", and shall publish guidelines and schedules of fees which may be imposed under paragraph (6), and which shall be reasonable" before the semicolon.

SEC. 504. COLLECTION AND DISBURSEMENT POINTS FOR CHILD SUPPORT.

Section 454 (42 U.S.C. 654), as amended by sections 211(e), 301(a), and 425 of this Act, is amended—

(1) by striking "and" at the end of paragraph (26);

(2) by striking the period at the end of paragraph (27) and inserting "; and"; and

(3) by inserting after paragraph (27) the following:

"(28) provide for only 1 location, or several local or regional locations for the collection of, accounting for, and disbursement of child support in cases enforced under the State plan under this part.".

TITLE VI—FEDERAL ROLE

SEC. 601. PLACEMENT AND ROLE OF THE OFFICE OF CHILD SUPPORT ENFORCEMENT.

Section 452(a) (42 U.S.C. 652(a)), as amended by sections 208(a) and 401(b) of this Act, is amended—

(1) in the matter preceding paragraph (1), by striking ", under the direction" and all that follows through "and who" and inserting "which shall be known as the Office of Child Support Enforcement, shall be under the direction of an Assistant Secretary appointed by the President with the advice and consent of the Senate, and shall have its own legal counsel. The Assistant Secretary shall report directly to the Secretary and";

(2) in paragraph (10)—

(A) in subparagraph (A), by inserting "using a methodology that reflects cost-avoidance as well as cost-recovery" after "the States and the Federal Government";

(B) by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively; and

(C) by inserting after subparagraph (G) the following:

"(H) the budgetary allocation of the $50 pass through equally between part A and this part;";

(3) by striking "and" at the end of paragraph (11);

(4) by striking the period at the end of paragraph (12) and inserting "; and"; and

(5) by inserting after paragraph (12) the following:

"(13) initiate and actively pursue with other Federal agencies, such as the Department of Defense, coordinated efforts on Federal legislation.".

SEC. 602. TRAINING.

(a) FEDERAL TRAINING ASSISTANCE.—Section 452(a)(7) (42 U.S.C. 652(a)(7)) is amended by inserting "and training" after "technical assistance".

(b) STATE TRAINING PROGRAM.—Section 454 (42 U.S.C. 654), as amended by sections 211(e), 301(a), 425, and 504 of this Act, is amended—

(1) by striking "and" at the end of paragraph (27);

(2) by striking the period at the end of paragraph (28) and inserting "; and"; and

(3) by inserting after paragraph (28) the following:

"(29) provide that the State will develop and implement a training program under which training is to be provided not less frequently than annually to all personnel performing functions under the State plan.".

(c) REPORT.—Section 452(a)(10) (42 U.S.C. 652(a)(10)), as amended by section 601(2) of this Act, is amended by redesignating subparagraphs (I) and (J) as subparagraphs (J) and (K), respectively, and by inserting after subparagraph (H) the following:

"(I) the training activities at the Federal and State levels, the training audit, and the amounts expended on training;".

SEC. 603. STAFFING.

(a) METHODOGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall develop the methodology to be used to determine the staffing requirements of each State program operated under part D of title IV of the Social Security Act, including each agency and court involved in the program.

(b) IMPLEMENTATION.—Not later than 2 years after the date of the enactment of this Act, each State with a plan approved under part D of title IV of the Social Security Act shall—

(1) use the methodology developed pursuant to subsection (a) to determine the staffing requirements of the State program operated under the plan, including each agency and court involved in the program; and

(2) staff the program, and each agency and court involved in the program, in accordance with the staffing requirements determined pursuant to paragraph (1).

(c) IMPLEMENTATION.—The Secretary of Health and Human Services shall reduce by 2 percent the amount otherwise payable to a State pursuant to section 455(a)(1)(A) of the Social Security Act for any calendar quarter ending 2 or more years after the date of the enactment of this Act, if the Secretary determines that, during the quarter, the State is not in substantial compliance with subsection (b)(2).

SEC. 604. CHILD SUPPORT DEFINITION.

(a) IN GENERAL.—Section 452 (42 U.S.C. 652) is amended by adding at the end the following:

"(j) For purposes of this part, the term 'child support' shall have the meaning given such term in section 462(b).".

(b) CONFORMING AMENDMENTS.—Section 462(b) (42 U.S.C. 662(b)) is amended—

(1) by inserting "and lump sum" after "periodic", and

(2) by inserting "child care," after "clothing,".

SEC. 605. TECHNICAL CORRECTION TO ERISA DEFINITION OF MEDICAL CHILD SUPPORT ORDER.

(a) IN GENERAL.—Section 609(a)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)(B)) is amended—

(1) by striking "issued by a court of competent jurisdiction";

(2) by striking the period at the end of clause (ii) and inserting a comma; and

(3) by adding, after and below clause (ii), the following:

"if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued by an administrative adjudicator and has the force and effect of law under applicable State law.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1995.—Any amendment to a plan required to be made by an amendment made by this section shall not be required to be made before the first plan year beginning on or after January 1, 1995, if—

(A) during the period after the date before the date of the enactment of this Act and before such first plan year, the plan is operated in accordance with the requirements of the amendments made by this section, and

(B) such plan amendment applies retroactively to the period after the date before the date of the enactment of this Act and before such first plan year.

A plan shall not be treated as failing to be operated in accordance with the provisions of the plan merely because it operates in accordance with this paragraph.

SEC. 606. AUDITS.

(a) STUDY.—

(1) CONTRACT AUTHORITY.—The Secretary of Health and Human Services shall enter into a contract for a study of the audit process of the Office of Child Support Enforcement to develop criteria and methodology for auditing the activities of State child support enforcement agencies pursuant to part D of title IV of the Social Security Act.

(2) DESIGN OF STUDY.—The study shall be designed to—

(A) identify ways to improve the auditing process, including by—

(i) reducing the resources required to perform the audit;

(ii) simplifying procedures for States to follow in obtaining samples;

(iii) studying the feasibility of sampling cases for needed action rather than requiring sampling plans for each audit criterion; and

(iv) a more timely audit period of review; and

(B) develop a penalty process which—

(i) focuses on improving the delivery of child support services and not harming families;

(ii) uses a penalty not tied to any reduction of funds payable to States under part A of title IV of the Social Security Act; and

(iii) should include the escrowing of funds withheld as penalties for use by States to improve their child support programs in a manner approved by the Secretary of Health and Human Services.

(b) REPORT.—Not later than 90 days after completion of the study required by subsection (a), the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study.

(c) LIMITATION ON CASES INCLUDED IN AUDITS.—Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) by adding "and" at the end; and

(3) by adding after and below the end the following:

"(B) notwithstanding subparagraph (A), each audit under subparagraph (A) shall be limited to cases open on the date the audit begins and cases closed within 180 days before such date, unless the Secretary has determined, in accordance with regulations, that there is a need for a longitudinal review of case handling that includes cases that have been closed for more than 180 days;".

SEC. 607. ESTABLISHMENT OF CHILD SUPPORT ASSURANCE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—In order to encourage States to provide a guaranteed minimum level of child support for every eligible child not receiving such support, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall make grants to 4 qualified States to conduct demonstration projects for the purpose of establishing or improving a system of assured minimum child support payments in accordance with this section.

(b) CONTENTS OF APPLICATION.—An application for grants under this section shall be submitted by the Governor of a State and shall—

(1) contain a description of the proposed child support assurance project to be established, implemented, or improved using amounts provided under this section, including the level of the assured benefit to be provided, the specific activities to be undertaken, and the agencies that will be involved;

(2) specify that the project will be carried out throughout the State;

(3) estimate the number of children who will be eligible for assured minimum child support payments under the project, and the amounts to which they will be entitled on average as individuals and in the aggregate;

(4) describe the child support guidelines and review procedures which are in use in the State and any expected modifications;

(5) contain a commitment by the State to carry out the project during a period of not less than 3 and not more than 5 consecutive fiscal years beginning with fiscal year 1996;

(6) contain assurances that the State—

(A) is currently at or above the national median paternity establishment rate (as defined in section 452(g)(2) of the Social Security Act),

(B) will improve the performance of the agency designated by the State to carry out the requirements under part D of title IV of the Social Security Act by at least 4 percent each year in which the State operates a child support assurance project under this section in—

(i) the number of cases in which paternity is established when required;

(ii) the number of cases in which child support orders are obtained; and

(iii) the number of cases with child support orders in which collections are made; and

(C) to the maximum extent possible under current law, will use Federal, State, and local job training assistance to assist individuals who have been determined to be unable to meet such individuals' child support obligations;

(7) describe the extent to which multiple agencies, including those responsible for administering the Aid to Families With Dependent Children Program under part A of title IV of the Social Security Act and child support collection, enforcement, and payment under part D of such title, will be involved in the design and operation of the child support assurance project; and

(8) contain such other information as the Secretary may require by regulation.

(c) USE OF FUNDS.—A State shall use amounts provided under a grant awarded under this section to carry out a child support assurance project designed to provide a minimum monthly child support benefit for each eligible child in the State to the extent that such minimum child support is not paid in a month by the noncustodial parent.

(d) REQUIREMENTS.—(1) A child support assurance project funded under this section shall provide that—

(A) any child (as defined in paragraph (2)) with a living noncustodial parent for whom a child support order has been sought (as defined in paragraph (3)) or obtained and any child who meets "good cause" criteria for not seeking or enforcing a support order is eligible for the assured child support benefit;

(B) the assured child support benefit shall be paid promptly to the custodial parent at least once a month and shall be—

(i) an amount determined by the State which is—

(I) not less than $1,500 per year for the first child, $1,000 per year for the second child, and $500 per year for the third and each subsequent child, and

(II) not more than $3,000 per year for the first child and $1,000 per year for the second and each subsequent child;

(ii) offset and reduced to the extent that the custodial parent receives child support in a month from the noncustodial parent;

(iii) indexed and adjusted for inflation; and

(iv) in the case of a family of children with multiple noncustodial parents, calculated in the same manner as if all such children were full siblings, but any child support payment from a particular noncustodial parent shall only be applied against the assured child support benefit for the child or children of that particular noncustodial parent;

(C) for purposes of determining the need of a child or relative and the level of assistance, one-half of the amount received as a child support payment shall be disregarded from income until the total amount of child support and Aid to Families With Dependent Children benefit received under part A of title IV of the Social Security Act equals the Federal poverty level for a family of comparable size;

(D) in the event that the family as a whole becomes ineligible for Aid to Families With Dependent Children under part A of the Social Security Act due to consideration of assured child support benefits, the continuing eligibility of the caretaker for Aid to Families With Dependent Children under such title shall be calculated without consideration of the assured child support benefit; and

(E) in order to participate in the child support assurance project, the child's caretaker shall apply for services of the State's child support enforcement program under part D of title IV of the Social Security Act.

(2) For purposes of this section, the term "child" means an individual who is of such an age, disability, or educational status as to be eligible for child support as provided for by the law of the State in which such individual resides.

(3) For purposes of this section, a child support order shall be deemed to have been "sought" where an individual has applied for services from the State agency designated by the State to carry out the requirements of part D of title IV of the Social Security Act or has sought a child support order through representation by private or public counsel or pro se.

(e) CONSIDERATION AND PRIORITY OF APPLICATIONS.—(1) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section and shall approve not more than 4 applications which appear likely to contribute significantly to the achievement of the purpose of this section. In selecting States to conduct demonstration projects under this section, the Secretary shall—

(A) ensure that the applications selected represent a diversity of minimum benefits distributed throughout the range specified in subsection (d)(1)(B)(i);

(B) consider the geographic dispersion and variation in population of the applicants;

(C) give priority to States the applications of which demonstrate—

(i) significant recent improvements in—

(I) establishing paternity and child support awards,

(II) enforcement of child support awards, and

(III) collection of child support payments;

(ii) a record of effective automation; and

(iii) that efforts will be made to link child support systems with other service delivery systems;

(D) ensure that the proposed projects will be of a size sufficient to obtain a meaningful measure of the effects of child support assurance;

(E) give priority, first, to States intending to operate a child support assurance project on a statewide basis, and, second, to States that are committed to phasing in an expansion of such project to the entire State, if interim evaluations suggest such expansion is warranted; and

(F) ensure that, if feasible, the States selected use a variety of approaches for child support guidelines.

(2) Of the States selected to participate in the demonstration projects conducted under this section, the Secretary shall require, if feasible—

(A) that at least 2 provide intensive integrated social services for low-income participants in the child support assurance project, for the purpose of assisting such participants in improving their employment, housing, health, and educational status; and

(B) that at least 2 have adopted the Uniform Interstate Family Support Act.

(f) DURATION.—(1) During fiscal year 1995, the Secretary shall develop criteria, select the States to participate in the demonstration, and plan for the evaluation required under subsection (h). The demonstration projects conducted under this section shall commence on October 1, 1995, and shall be conducted for not less than 3 and not more than 5 consecutive fiscal years, except that the Secretary may terminate a project before the end of such period if the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the application approved by the Secretary under this section, and the Secretary may authorize the continuation of a project if the Secretary determines that the project has been successful.

(g) COST SAVINGS RECOVERY.—The Secretary shall develop a methodology to identify any State cost savings realized in connection with the implementation of a child support assurance project conducted under this Act. Any such savings realized as a result of the implementation of a child support assurance project shall be utilized for child support enforcement improvements or expansions and improvements in the Aid to Families With Dependent Children Program conducted under part A of title IV of the Social Security Act within the participating State.

(h) EVALUATION AND REPORT TO CONGRESS.—(1) The Secretary shall conduct an evaluation of the effectiveness of the demonstration projects funded under this section. The evaluation shall include an assessment of the effect of an assured benefit on—

(A) income from nongovernment sources and the number of hours worked;

(B) the use and amount of government supports;

(C) the ability to accumulate resources;

(D) the well-being of the children, including educational attainment and school behavior; and

(E) the State's rates of establishing paternity and support orders and of collecting support.

(2) Three and 5 years after commencement of the demonstration projects, the Secretary shall submit an interim and final report based on the evaluation to the Committee on Finance and the Committee on Labor and Human Resources of the Senate, and the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives concerning the effectiveness of the child support assurance projects funded under this section.

(i) STATE REPORTS.—The Secretary shall require each State that conducts a demonstration project under this section to annually report such information on the project's operation as the Secretary may require, except that all such information shall be reported according to a uniform format prescribed by the Secretary.

(j) RESTRICTIONS ON MATCHING AND USE OF FUNDS.—(1) A State conducting a demonstration project under this section shall be required—

(A) except as provided in paragraph (2), to provide not less than 20 percent of the total amounts expended in each calendar year of the project to pay the costs associated with the project funded under this section;

(B) to maintain its level of expenditures for child support collection, enforcement, and payment at the same level, or at a higher level, than such expenditures were prior to such State's participation in a demonstration project provided by this section; and

(C) to maintain the Aid to Families With Dependent Children benefits provided under part A of title IV of the Social Security Act at the same level, or at a higher level, as the level of such benefits on the date of the enactment of this Act.

(2) A State participating in a demonstration project under this section may provide no less than 10 percent of the total amounts expended to pay the costs associated with the project funded under this section in years after the first year such project is conducted in a State if the State meets the improvements specified in subsection (b)(6)(B).

(k) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

(1) the United States Housing Act of 1937;

(2) title V of the Housing Act of 1949;

(3) section 101 of the Housing and Urban Development Act of 1965;

(4) sections 221(d)(3), 235, and 236 of the National Housing Act;

(5) the Food Stamp Act of 1977;

(6) title XIX of the Social Security Act; and

(7) child care assistance provided through part A of title IV of the Social Security Act, the Child Care and Development Block Grant, or title XX of the Social Security Act,

any payment made to an individual within the demonstration project area for child support up to the amount which an assured child support benefit would provide shall not be treated as income and shall not be taken into account in determining resources for the month of its receipt and the following month.

(l) TREATMENT OF CHILD SUPPORT BENEFIT.—Any assured child support benefit received by an individual under this Act shall be considered child support for purposes of the Internal Revenue Code of 1986.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 to carry out the purposes of this section.

SEC. 608. CHILDREN'S TRUST FUND.

(a) DESIGNATION OF CONTRIBUTIONS.—

(1) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end thereof the following new part:

"PART IX—CONTRIBUTIONS TO CHILDREN'S TRUST FUND

"Sec. 6097. Amounts for Children's Trust Fund.

"SEC. 6097. AMOUNTS FOR CHILDREN'S TRUST FUND.

"Each taxpayer may include with such taxpayer's return of tax imposed by chapter 1 for any taxable year a contribution by the taxpayer to the Children's Trust Fund.".

(2) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part IX—Contributions for Children's Trust Fund.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1995.

(b) ESTABLISHMENT OF CHILDREN'S TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to the trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. CHILDREN'S TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Children's Trust Fund', consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO CHILDREN'S TRUST FUND OF AMOUNTS DESIGNATED.—There is hereby appropriated to the Children's Trust Fund amounts equivalent to the amounts contributed to such Trust Fund under section 6097.

"(c) EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Amounts in the Children's Trust Fund shall be available as provided by appropriation Acts for making expenditures for programs regarding child support and the specific mandates described in part D of title IV of the Social Security Act, especially such mandates established by the amendments made by the Child Support Responsibility Act of 1994.

"(2) ADMINISTRATIVE EXPENSES.—Amounts in the Children's Trust Fund shall be available to pay the administrative expenses of the Department of the Treasury directly allocable to—

"(A) modifying the individual income tax return forms to carry out section 6097,

"(B) carrying out this chapter with respect to such Trust Fund, and

"(C) processing amounts received under section 6097 and transferring such amounts to such Trust Fund.".

(2) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9512. Children's Trust Fund.".

SEC. 609. STUDY OF REASONS FOR NONPAYMENT OF CHILD SUPPORT; REPORT.

(a) STUDY.—The Comptroller General of the United States shall—

(1) conduct a study of the causes of delinquency in the payment of child support, including the nonpayment of child support by noncustodial parents and failure of custodial parents to cooperate in the collection of child support; and

(2) if a sufficient number of studies of this matter are available, review the studies.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and to the Office of Child Support Enforcement, a report that contains the results of the study required by subsection (a), and a consolidated summary of the studies described in subsection (a)(2).

SEC. 610. STUDY OF EFFECTIVENESS OF ADMINISTRATIVE PROCESSES; REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the effectiveness of the processing of child support and parentage cases in States that use administrative processes as compared with States that use judicial or quasi-judicial processes.

(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study required by subsection (a).

SEC. 611. COMPENDIUM OF STATE CHILD SUPPORT STATUTES.

The Office of Child Support Enforcement shall produce and update the compendium entitled "A Guide To State Child Support And Paternity Laws", published by the National Conference of State Legislatures.

SEC. 612. ESTABLISHMENT OF PERMANENT CHILD SUPPORT ADVISORY COMMITTEE.

(a) IN GENERAL.—The Office of Child Support Enforcement shall establish an advisory committee on child support matters composed of Federal and State legislators, State child support officials, and representatives of custodial and noncustodial parents.

(b) FUNCTIONS.—The advisory committee established pursuant to subsection (a) shall—

(1) provide oversight of the implementation of Federal laws and regulations affecting child support, and the operation of Federal, State, and local child support programs; and

(2) provide a forum through which child support problems experienced by parents, State agencies, the courts, and the private bar may be identified, and from which recommendations on how to solve such problems may be reported to the Secretary of Health and Human Services and to the Congress.

(c) PERMANENCY.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee established pursuant to subsection (a) of this section.

TITLE VII—STATE ROLE

SEC. 701. ADVOCATION OF CHILDREN'S ECONOMIC SECURITY.

Section 454 (42 U.S.C. 654), as amended by sections 211(e), 301(a), 425, 504, and 602 of this Act, is amended—

(1) by striking "and" at the end of paragraph (28);

(2) by striking the period at the end of paragraph (29) and inserting "; and"; and

(3) by inserting after paragraph (29) the following:

"(30) provide that the agency administering the plan shall advocate to promote the greatest economic security possible for children, consistent with the ability of any individual who owes child support with respect to the child to provide the support.".

SEC. 702. DUTIES OF STATE CHILD SUPPORT AGENCIES.

Section 454 (42 U.S.C. 654), as amended by sections 211(e), 301(a), 425, 504, 602, and 701 of this Act, is amended—

(1) by striking "and" at the end of paragraph (29);

(2) by striking the period at the end of paragraph (30) and inserting "; and"; and

(3) by inserting after paragraph (30) the following:

"(31) provide that the agency administering the plan shall provide to each custodial parent—

"(A) a written description of the services available under the plan, and a statement describing the priorities applied in distributing collected child support and the rules governing confidentiality of information in child support matters;

"(B) a statement that at least 30 days before the agency consents to the dismissal of a child support case with prejudice or a reduction of arrearages, the agency must provide notice to the custodial parent at the last known address of the custodial parent;

"(C) written quarterly reports on the status of any case involving the custodial parent;

"(D) a statement that the State is required to provide services under the plan to any custodial parent who is eligible for aid under the State plan approved under part A; and

"(E) a statement that any custodial parent who applies for services under the plan is eligible for such services, and that any application fee for such services is deferred pending determination of the eligibility of the custodial parent for aid under the State plan approved under part A.".

SEC. 704. ADMINISTRATIVE PROCESS FOR CHANGE OF PAYEE IN IV-D CASES.

Section 466(a) (42 U.S.C. 666(a)), as amended by sections 104, 205, 206, 207, 209, 210, 212, 405, 406(a), 407, 408, 409, 410, 411, 414, 416, 417, 423, 424, 428, 429, and 502 of this Act, is amended by inserting after paragraph (35) the following:

"(36) Procedures under which only administrative procedures are required to change the payee under a child support order in a case under this part, if a statement by an official of the State child support enforcement agency is included in the court or administrative file documenting the change.".

SEC. 705. FINANCIAL INCENTIVES.

(a) ONLY CHILD SUPPORT ENFORCEMENT FUNDS SUBJECT TO REDUCTION FOR SUBSTANTIAL NONCOMPLIANCE.—

(1) IN GENERAL.—Subsection (h) of section 403 (42 U.S.C. 603(h)) is hereby transferred to section 455 of the Social Security Act, redesignated as subsection (f) of such section 455, and amended—

(A) in paragraph (1)—

(i) by striking "Act" and inserting "part";

(ii) by striking "part D" and inserting "this part"; and

(iii) by striking "such part" and inserting "this part"; and

(B) in paragraph (3), by striking "this part" and inserting "part A".

(2) CONFORMING AMENDMENTS.—

(A) Section 452(a)(4) (42 U.S.C. 652(a)(4)) is amended by striking "403(h)" each place such term appears and inserting "455(f)".

(B) Subsections (d)(3)(A), (g)(1), and (g)(3)(A) of section 452 (42 U.S.C. 652) are each amended by striking "403(h)" and inserting "455(f)".

(b) PAYMENTS TO STATES INCREASED.—

(1) IN GENERAL.—Section 455(a) (42 U.S.C. 655(a)) is amended—

(A) in paragraph (1)—

(i) by striking "(a)(1)" and inserting "(a)"; and

(ii) in subparagraph (A), by striking "the percent specified in paragraph (2)" and inserting "90 percent"; and

(iii) in each of subparagraphs (B) and (C), by striking "(rather than the percentage specified in subparagraph (A))";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A), (B), and (C) of paragraph (1) as paragraphs (1), (2), and (3), respectively.

(2) CONFORMING AMENDMENTS.—Paragraphs (1)(B), (2)(A), and (2)(B) of section 452(d) (42 U.S.C. 652(d)) are each amended by striking "455(a)(1)(B)" and inserting "455(a)(2)".

(c) REPEAL OF INCENTIVE PAYMENTS TO STATES.—Section 458 (42 U.S.C. 658) is hereby repealed.

SEC. 706. AVOIDANCE OF CONFLICTS OF INTEREST.

Section 454 (42 U.S.C. 654), as amended by sections 211(e), 301(a), 425, 504, 602, 701, and 702 of this Act, is amended—

(1) by striking "and" at the end of paragraph (30);

(2) by striking the period at the end of paragraph (31) and inserting "; and"; and

(3) by inserting after paragraph (31) the following:

"(32) provide that the State may not seek to modify a child support order on behalf of a party to the order if the State has provided services under the State plan to another party to the order.".

Mr. SASSER. Mr. President, I rise today to talk about an issue that is critical for the future of many children in this country; too many children are growing up in poverty because noncustodial parents refuse to provide financial support for them. As a result, millions are growing up in financially unstable families. While we do have a child support enforcement program, it is inadequate to meet the needs of many of these children. That is why I am joining Senator FEINSTEIN in introducing the Child Support Responsibility Act of 1994.

SINGLE-PARENT FAMILIES AND POVERTY

An increasing number of children are growing up in families with just one parent—usually the mother—living in the same household. The percentage of children in one-parent families has increased from 8 percent in 1960 to 25 percent in 1990. Contributing to this is the rise in out-of-wedlock births; the number of children born to unwed mothers increased by 75 percent between 1980 and 1990. Nearly one-third of all children born in 1991 were born to unmarried mothers. More than half of children receiving benefits under the AFDC program now have parents who have never been married. Some researchers estimate that more than half of all children born in the last decade will live at some point during their childhood with only one parent.

Now, most single parents do their very best to raise those children in loving and supportive homes. Unfortunately, however, there is a high correlation between single parent families and poverty. More than half of all children in mother-only families live in poverty compared to only 11 percent of children in two-parent families. Nearly 75 percent of children who spend at least some time in a single-parent family will live in poverty at some point during their first 10 years of life and are likely to remain poor longer than children in two-parent families. Children of unmarried teenage mothers are particularly likely to experience poverty.

Financial instability can put children at a tremendous disadvantage. Yet, today 65 percent of absent fathers provide no support at all for their children. This is why we must demand that noncustodial parents take more responsibility for providing financial support for their children. It is true that some fathers are not able to provide financial support for their children. But the system needs to reach these fathers to encourage them to be a part of their children's lives, to provide emotional support, and, when they are able, to contribute financially to the child's well-being.

INADEQUACIES OF THE CURRENT SYSTEM

Child support laws, which are part of family law, are generally under the purview of the States. Federal legislation was first enacted in 1950 to respond to the increasing cost of the Aid to Families with Dependent Children program. The Child Support Enforcement [CSE] Act was enacted in 1975, and has been modified a number of times. The Federal Government provides funding and assistance to States to operate child support programs to help both AFDC and non-AFDC parents.

While aspects of the child support system are improving, it is still inadequate. Of the 10.8 million single-mother families in this country, only 60 percent have child support orders—and there has been no improvement in that figure over the past decade. Just over one quarter of potentially eligible women have child support awards and received the full amount. In addition, the value of child support awards declined by 10 percent in real terms between 1978 and 1989. Those with child support orders receive, on average, only 60 percent of what is owed them per year. The Federal Child Support Enforcement Program, which handles only about half of all child support cases, obtained collections for less than 20 percent of these families.

Research by the Urban Institute suggests that if child support orders were established in all cases, or brought up to date, and fully enforced, $47 billion would be paid in child support every year. However, only a total of $20 billion in child support orders have been established and, of that, less than $14 billion is currently collected. This leaves a gap of nearly $34 billion owed to both non-AFDC and AFDC parents.

There are many reasons for this gap. Some 21 percent, or $7 billion, is due to a failure to collect what has been ordered. This can occur either because a noncustodial parent cannot pay, or refuses to pay. In some cases, the location of the noncustodial parent may not be known.

Another factor contributing to the gap is that existing child support awards are frequently inadequate. Many have not been updated to reflect inflation or the ability of the noncustodial parent to pay. If all AFDC mothers had child support awards reflective of current award levels and received full payment, another $7.2 billion could be collected.

But fully 57 percent, or $19 billion, of the gap occurs because many potentially eligible custodial parents do not have a legal child support award or order. About 42 percent of the 10 million single-mother households do not have child support orders. Half of these parents are unable to obtain an award because paternity has not been legally established.

There are many reasons why we should be concerned about the failure of noncustodial parents to support their children. We know that children tend to fare better if they have the support—emotional and financial—of both parents. But taxpayers have a legitimate reason to be angry about the refusal of individuals to take responsibility for providing financial support for their children; one estimate suggests that there could be an 8-percent reduction in the AFDC caseload if just the awards that have already been ordered were collected. More people could get off of welfare if they have adequate child support orders in place.

This is why I believe that we need to do more to improve child support enforcement at the Federal level. The bill we are introducing today is the same as legislation introduced by Congresswoman SCHROEDER on behalf of the Congressional Women's Caucus in the House of Representatives. That legislation now has 77 cosponsors.

HIGHLIGHTS

This bill would improve Federal and State systems to locate absent parents through a number of mechanisms. A Federal registry of all child support orders would be established. The Federal W-4 form would be modified to include information about child support obligations. Access to the National Parent Locator Network would be expanded. States would be required to maintain child support order registries, using a uniform abstract, and transmit copies of those abstracts to the Federal registry. Development of interstate online access to information on child support orders would be encouraged.

This bill would strengthen programs to establish legal paternity as soon as possible after a child is born. This is essential if more single mothers are to obtain enforceable child support orders. Information would be made available to prospective parents about the rights as well as the responsibilities conveyed by legal recognition and about the means that are available to establish paternity. Legal procedures for establishing paternity would be simplified.

The bill would also strengthen mechanisms to increase the number of families with child support orders, improve the uniformity of those orders, and provide for annual updates so that children receive a fair amount of support from noncustodial parents.

The bill would help States increase collection of child support payments. Wage withholding requirements would be strengthened to improve collections from those who change jobs or move frequently, and penalties imposed if employers failed to comply. States would be allowed to restrict professional, occupational, and business licenses as well as drivers' licenses and auto registration for nonpayment of child support. Payments on Lottery winnings, legal settlements, payouts, awards, and bequests could be delayed until a determination can be made whether the person is in arrears on child support payments. Delinquent child support payments would be reported to credit bureaus. Passports could be denied or revoked for noncustodial parents who are the subject of outstanding State warrants of arrest for nonpayment of child support exceeding $10,000. We must get the word out that nonpayment of child support is not acceptable.

Mr. President, I do think it is important to acknowledge that some parents may not always be in a position to provide financial support for their children, because they have lost their jobs or cannot find work. This is one reason why we must continue to work to have a strong, vibrant, and job-producng economy that will provide decent wages and why we must have strong education and job training systems.

Our world has changed in many ways over the last 30 years. The change in family structure is one such change that has profound implications for the future of our Nation's children. We cannot turn back the clock. But our Nation's children need financial and emotional security if they are to participate fully in this country's future. And the first place to turn is to the parents of those children. We can and should adopt these measures to make sure that parents take financial responsibility for the children they bring into this world. We must get the message out that the children come first.

By Mr. GRAHAM:

S. 2529. A bill to amend title XI of the Social Security Act with respect to certain criminal penalties for acts involving the Medicare Program or State health care programs; to the Committee on Finance.

HEALTH CARE LEGISLATION

• Mr. GRAHAM. Mr. President, today I am introducing a bill to clarify that the intent of the 1977 antikickback statute is not to jeopardize every State or Federal health plan which already uses, or which seeks to use, Federal funding to pay for private health insurance for citizens. Unfortunately, a recent interpretation of that statute by the Department of Justice and the Department of Health and Human Services have placed at risk innovative Government programs to increase health insurance coverage through the purchase of private health insurance or the use of managed care in either Medicaid or Medicare. That interpretation came as part of Florida's waiver request for a Medicaid demonstration project.

On February 9, 1994, Florida submitted its Florida Health Security waiver to the Department of Health and Human Services [HHS] and the Health Care Financing Administration [HCFA]. This Medicaid waiver request would, if enacted, provide 1.1 million additional Floridians with insurance coverage up to 250 percent of the poverty level. FHS participants would buy a standard benefit package offered through a Community Health Purchasing Alliance and receive, according to their income, a premium discount to make the package affordable.

On September 14, 1994, after 7 long months of negotiations, HHS granted a conditional waiver approval to allow Florida to implement the State's proposed reforms. By granting this important request, Florida would be allowed to use Medicaid funds to provide insurance premium discounts to working, uninsured Floridians traditionally ineligible for Medicaid.

There are many positive aspects of Florida Health Security. First and foremost, let me reemphasize that this waiver program would allow an additional 1.1 million Floridians obtain health insurance coverage—thereby reducing the State's uninsured rate by over 40 percent. Moreover, of the 2.7 million Floridians presently without health insurance, 1 million are children. With the plan's requirement that 80 percent of the enrollment spaces be reserved for lower income, uninsured families, children will disproportionately benefit from this initiative.

In addition, this waiver would eliminate the all or none approach of Medicaid by creating a sliding scale of contributions for those above the Medicaid poverty threshold and up to 250 percent of poverty. At present, Medicaid's all or none approach creates the perverse incentive of encouraging people to remain unemployed and in poverty in order to continue to have health care coverage. Florida's approach would clearly help get people off welfare and be a much fairer system than what we have now.

The waiver also allows Florida and the Federal Government better control over the costs of the Medicaid Program. Since 1982, Florida has had its Medicaid Program increase from $1 billion to $7 billion. In the years from 1990 through 1993, Florida saw its Medicaid budget expand by 30 percent, 26 percent, and 19 percent, respectively. Instead, over the 5-year period of Florida's waiver program, costs would be controlled and managed through the increased use of case management and managed care in the private sector. Through these savings, the State and the Federal Government will be able to provide coverage to over 1 million previously uninsured Floridians without spending additional revenue.

In short, Florida's Health Security Program would expand access and health coverage without raising taxes, control costs and break the categorical link between health care and welfare.

To implement this program, Florida Health Security will utilize the already successfully established Community Health Purchasing Alliances, which have reduced premiums for participating small businesses by 10 to 50 percent this year. As a result of this, private health plans will be integrally involved in this Florida Health Security Program.

In fact, under Florida Health Security, accountable health partnerships would submit bids on premium rates for the standard benefit plan, with a portion of the premium to be paid by Medicaid. Insurance agents would be directly involved in the process due to the fact that they are an integral part of any system relying in whole or in part on private health insurance coverage.

Unfortunately, HHS and the Department of Justice have expressed concern that payments to insurance agents by accountable health plans might violate the Social Security antikickback statute. Clearly, the 1977 antikickback statute was not intended or was even contemplated to apply to programs like Florida's demonstration project.

In fact, there are already numerous and widespread examples where Medicare and Medicaid funds are used for the payment, directly or indirectly, to insurance agents. These include Medicaid revisions in the Family Support

Act of 1988, which creates a Medicaid wrap-around option allowing States to use Medicaid funds to pay a family's expenses for premiums, deductibles, and coinsurance for any health care coverage offered by the employer.

As the State argued while pursuing the waiver, since insurance companies use insurance agents, the purchase of insurance and the payment of premiums of necessity results in the payment of a commission to an insurance agent. This is also true when Medicaid funds health maintenance organizations [HMO's], the Medicare Risk Program and various State plans relating to areas such as the enrollment of Medicaid eligibles in group health plans.

Through the section 1115 Medicaid demonstration project waiver process, Florida is attempting to, for the first time, use Medicaid funds to purchase private health insurance on a wide scale. However, by mistakenly applying the antikickback statute beyond its intended scope to insurance agent commissions, the Departments of Justice and Health and Human Service would effectively kill the demonstration. As noted before, insurance agents are an integral part of the existing health insurance system.

As a result, this legislation focuses narrowly on clarifying that the 1977 antikickback statute would not be unnecessarily applied to Medicaid demonstration projects and Medicaid managed care programs, which were initiatives that were not anticipated in the original adoption of the statute. Failure to adopt this language, with Justice's and HHS's present interpretation of the statute, would very well jeopardize every State or Federal health plan which already uses, or which seeks to use, Federal moneys to fund private health insurance coverage.

I urge my colleagues to support this legislation and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2529

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR ACTS INVOLVING THE MEDICARE PROGRAM OR STATE HEALTH CARE PROGRAMS.

Section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a-7(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F)(i) any premium payment made to a health insurer or health maintenance organization by a State agency in connection with a demonstration project operated under the State Mmedicaid program pursuant to section 1115 with respect to individuals participating in such project; or

"(ii) any payment made by a health insurer or a health maintenance organization to a sales representative or a licensed insurance agent for the purpose of servicing, marketing, or enrolling individuals participating in such demonstration project in a health plan offered by such an insurer or organization.".•

By Mr. METZENBAUM:

S. 2531. A bill to amend the Employee Retirement Income Security Act of 1974 to improve the pension and welfare benefits of working men and women, and for other purposes; to the Committee on Labor and Human Resources.

THE PENSION BILL OF RIGHTS ACT OF 1994

• Mr. METZENBAUM. Mr. President, today I am introducing the Pension Bill of Rights Act of 1994. I wish that I had introduced this bill many years earlier. Unfortunately, we spend so much time fighting the most pressing crises of the day, and defending against efforts to weaken our laws, we have little time to address the long-term needs of our citizens and our country. Even when we try to put forth comprehensive proposals to help people, the obstacles are many. We have spent decades trying to establish a decent and uniform health care system for all of our citizens with little to show for our efforts. Access to meaningful health care remains a basic and pressing need; Congress must keep trying to pass a comprehensive solution no matter how long it takes.

Increasingly, there is anxiety about the adequacy of our retirement system as well. Although Social Security remains a fairly stable program to provide a minimum level of income to retired individuals, additional funds and reforms are likely to be needed to strengthen this floor of retirement protection. In addition, we need to reexamine and strengthen our private supplemental pension system. It was 20 years ago that the Congress enacted our Federal pension law, known as the Employee Retirement Income Security Act or ERISA. While ERISA has led to numerous protections and improvements in our supplemental system, it also has an increasingly apparent number of flaws. Over the years, the Senate Subcommittee on Labor, which I chair, has received thousands of letters and held innumerable hearings on the problems which exist in our private pension system.

First, for too many Americans, our private system is failing to provide a supplement to Social Security. More than half the work force is not covered by a private pension at work. Many full-time workers are covered, but more and more employers are hiring part-time, temporary, or other contingent employees who are ineligible for pension benefits. In fact, today contingent workers account for one-quarter of our work force as a whole.

Second, the funds being set aside for retirement, both by employers and employees are increasingly inadequate to meet the needs of retirees. Traditionally, employers made initial contributions to workers' pensions and then allowed workers to set aside additional employee savings. More and more, employers have turned pension plans around so that employees must first contribute funds, and only then will employers match some or all of the employee's contributions. While this change may be an attractive incentive for employees to save more than they ordinarily would, it is turning our pension system into one that works for those who are already better off financially, and it is setting lower paid workers further and further behind. Those without discretionary income lose two times; first, because they do not earn enough to save their own funds, and second because they therefore receive little or nothing from the employer in matching pension contributions.

Third, there is still too much game-playing in our private pension system. Too many employers make the rules of the plan so complicated and rifled with caveats and loopholes, that the promise of retirement benefits proves illusory for many workers. Pension plans should be fair. Employers should design and operate their plans fairly. Employees should be afforded a fair opportunity to earn pension benefits based on their years of service to the company.

We need a healthy retirement system, both in Social Security and in our supplemental private system. The bill I am introducing today seeks to improve and simplify our current supplemental system. It does not solve every problem that our system faces. But I hope it does clean out many of the known cobwebs, and, I believe that it will make our system simpler and fairer. I hope it will lay the groundwork for future reform. We all have an interest in ensuring a decent and adequate retirement system for all of our citizens.•

By Mr. ROTH (for himself, Mr. BOREN, Mr. SIMON, and Mr. COATS):

S. 2532. A bill to amend the Internal Revenue Code of 1986 to allow for the establishment of medical savings accounts for individuals covered by certain high deductible health plans; to the Committee on Finance.

THE MEDICAL SAVINGS ACCOUNT TAX INCENTIVE ACT

• Mr. ROTH. Mr. President, I join my friend from Oklahoma to introduce this legislation to create a medical savings account option for American families—an option that will help our families save money on health care expenses—an option that will create incentives to lower health care costs—an option that will allow our families to choose their own physicians and their own health care plans.

Let me explain how the medical savings accounts will work.

Looking at an average family health policy that costs $5,000 a year, today that family might have to pay the first $250 of their own health costs, and then pay some 20 percent of any health costs after that. Under our legislation, that family could instead spend the same $5,000 to buy a high deductible policy for $2,500 and place $2,500 in their medical savings account. As long as that family spends less than $2,500 for health costs during the year, all of their health expenses will be paid with Pretax dollars from their medical savings account provided by their employer. If they spend more, then their high deductible health insurance policy will begin paying their health costs once they exceed $3,000.

It's that simple!

After a few years of relatively low health expenses, excess funds in that family's medical savings account would be available to pay for unexpectedly high health costs, for long-term health insurance, or to make health insurance payments to extend coverage in the case of unemployment. This last feature offers something that Americans have been desiring for years—portability.

All of this means that many Americans no longer will be forced to stay in a job that they do not want, nor do they have to fear losing their insurance if they lose their job. They will most likely have the comfort of knowing that the money has been provided by their employer, free of tax, and is in their account where it can be used to pay for their insurance premiums, as well as their routine doctor visits.

What makes this legislation work is the fact that Americans will know that whatever they do not spend on health care expenses, they can keep for themselves. This also helps to improve the Nation's poor savings rate—the worst in the industrialized world.

Mr. President, for all these reasons, I encourage my colleagues to support Senator BOREN and me in this effort. It is good for our families. It is good for our health care delivery system. It is good for our country.

SUPPORT ORGANIZATIONS

Mr. President, I would like to point out that there is a large coalition supporting medical savings accounts. We have had very strong support from the small business community and from agriculture organizations. I would like to mention a few supporters: the American Farm Bureau, the American Soybean Association, the National Association of Wheat Growers, the National Federation of Independent Businesses, the Small Business Council of America, the American Small Business Association, the National American Wholesale Grocers' Association, the U.S. Business and Industrial Council, the American Health Care Association, the Small Business Survival Committee, the Washington Policy Associates, the Independent Bakers Association, the Council for Affordable Health Insurance—which includes over 40 insurance companies, many doctors and health providers, and the Business Coalition for Affordable Health Care—which represents over 900,000 American business, mostly small ones.

We feel that this is an impressive list of supporters from diverse areas and particularly with the farm and small businesses, this is an important alternative that the Congress ought to allow for family's health care.

PHYSICIAN CHOICE

Under this legislation, you can go to any doctor, nurse, or other health care provider of your choice without worrying about whether or not your insurance is going to cover the bill. The reason is simple, you will be using the money that your employer has placed into your medical savings account before paying taxes, to pay the doctor. If your using your own money, then of course you are free to go to whatever health provider you want.

Of course, not only will taxpayers be allowed to go to the doctor of their choice, but the hospital, nurse, the midwife, the chiropractor, or the optometrist of your choice as well. For working poor Americans, I believe medical savings accounts will be especially beneficial. That's because they will have the money to pay for health costs in their account, and in addition, they will not have to meet a deductible or a copayment problem that may prove prohibitively expensive for some workers.

So to summarize, one of the great things about this bill is that no Government bureaucrat will get in the way of you and your doctor, or you and your hospital, or you and your nurse. There is no health junta in my legislation. No one to approve whether you spend the money on a second opinion or not, or get that extra test done. There is no standard plan that lays out a one-size-fits-all Government system for you to leap through. The money is yours, and so you are the one in control. But, because the money is yours, and because you will get to keep it if you do not waste it, I believe taxpayers will make smarter, more informed, and better decisions about when, how, and where to seek their health advice.

LONG-TERM CARE AND COBRA PAYMENTS

Two of the best provisions of this bill are the ones that add flexibility for consumers to purchase insurance in the event they lose their job, or if they want to buy long-term insurance. Under this bill, taxpayers will be able to use money in their medical savings account to make COBRA payments to continue their catastrophic health insurance policy in the event that their employer goes out of business, or if they are let go. This portability feature is something that is high on the list of most Americans in the context of health reform, and this bill helps address the problem.

Second, many Americans know that if they are faced with a serious illness for a long period of time, they will need long-term care insurance. Those who receive their care from nursing homes understand exactly what I am talking about. Often, people's regular insurance does not cover this kind of expense, and a long-term care insurance policy becomes essential. Government cannot afford to pay the costs of this kind of benefit, but it can encourage it through the use of medical savings accounts, and the equal tax treatment I am advocating in this legislation.

COST CONTAINMENT

Beyond offering patients choice, medical savings accounts will help control health care costs. The reason why is simple: it will encourage consumers of medical care to shop wisely, reject unnecessary treatment, and conserve scarce medical resources because it is the consumer, not some third party, such as an insurance company or the Government, who will be paying the bills.

We already know about the success of medical savings accounts because they already exist. Many businesses and their employees have learned that they can offer these plans today. It is done by offering a high deductible health insurance policy to employees, and depositing the savings from buying these low cost plans into the employees' bank accounts.

The problem, however, with the current medical savings accounts in effect, is that employees are treated worse under the tax laws by electing this self-insurance option for their health care coverage. You see, at the end of each year, the employee has to include the full amount of the money deposited into his or her medical savings account in taxable income. That is a grossly unfair result. Since most taxpayers cannot deduct their health service costs because they do not exceed the 7½ percent of adjusted gross income test, this often results in a tax penalty of between 15 and over 40 percent, after taking into account State taxes.

Still, many, many taxpayers are electing on their own to choose these medical saving accounts rather than an ordinary health insurance plan from their employers. Why? The answer is simple; they know that they have the catastrophic insurance to cover them in the event of an emergency, and they have the money provided by their employer to pay for routine visits to the doctor for their family. These same taxpayers know that if they are good consumers, learn about competition in the health care industry, and shop wisely, then they will get to keep the savings from being a prudent consumer. Even with the dramatic tax penalty now imposed on these health accounts, taxpayers all over the country are choosing this method to pay for their health care. I will just mention a few employers with programs now in place, and hope the Senate will continue to look at their successes: Forbes, the United Mine Workers, Dominion Resources, DuPont, Golden Rule Insurance Co., Quaker Oats, and the Council for Affordable Health Insurance.

STATE LEGISLATION

Already, seven States have passed legislation enacting tax-favored medical savings accounts: Arizona, Colorado, Idaho, Illinois, Michigan, Mississippi, and Missouri. Dozens of other States are working to pass similar legislation. Jersey City has implemented them as an alternative for their city employees, and the State of Ohio is moving to implement a test program next year for State employees. Clearly medical savings accounts offer Americans a choice about their health care that should be fundamental in a country built on free market principles. It is the Federal Government that must now move ahead with this new idea.

I want to point out a few other things about efforts at the local levels of government to use medical savings accounts to reform health care. I have letters here from three Governors endorsing my proposal and pointing out how important it is that we pass their reform at the Federal level. Kirk Fordice, from Mississippi writes that he signed legislation earlier this year to establish medical savings accounts in that State. The State law provides tax exemptions for medical savings accounts spent on health care, and he states that a Federal exemption would strengthen this incentive, and give employers a viable option for providing cost effective health care coverage for their employees. He also points out that because medical savings accounts preserve and encourage the doctor-patient relationship, they are far more likely to produce wise health care choices than an enhanced bureaucracy.

Another Governor, John Engler from Michigan, writes that he signed legislation on July 13, 1994, "making Michigan the first large industrial State to encourage the creation and use of medical savings accounts." He points out that "the injection of the consumer in the purchase of health care will work to make the individual much more sensitive to the true cost of care."

Another letter I received from Governor Edgar in Illinois also advocates that we adopt medical savings accounts. Governor Edgar points out that Illinois will soon have a new law that will allow employees and employers to contribute up to $3,000 to a medical savings account, from which withdrawals for health costs can be made free of Illinois income tax. He says that the Illinois General Assembly agreed unanimously to this proposal, and he agrees that the "accounts just make good sense."

In addition to the seven States that have actually enacted medical savings account legislation, there are seven more that have asked the Federal Government to enact medical savings accounts. These resolutions at the State level are intended to encourage us to enact just the kind of legislation that is in my bill. Those States enacting resolutions supporting medical savings accounts, and therefore a bill like mine, are: Arizona, Colorado, Montana, South Carolina, Texas, Utah, and Virginia.

I should also mention that there are quite a number of other States that have taken steps toward enacting medical savings accounts. In Oklahoma, the Oklahoma Family Choice Health Plan was proposed by Governor Walters and that plan is under study. That plan, includes a form of medical savings accounts, and even forces most individuals by 1995 to use them to buy insurance and pay doctor's bills. Under a study by the respected firm of KPMG Peat Marwick, it was estimated that health costs would be reduced by 1 percent in 1997. In 1998 and beyond, savings are "expected to be even greater."

In Minnesota, New Jersey, and South Carolina, the Governors have all signed legislation to enact in-depth studies of medical savings accounts. Mississippi has already concluded their study, and were so pleased by the results that they enacted medical savings account legislation.

Other States have pending legislation, some of which have passed through some part of the legislative process. These States include: California, Kansas, New Mexico, New York, and Pennsylvania. Of these, the Kansas and New Mexico legislation has moved the furthest.

I hope that the encouragement that the States have offered to us here in the Senate serve as a strong incentive for Members to support this legislation.

CLOSING

Clearly, strong efforts have been made to defeat any medical savings account legislation by those who have a vested interest in the current system.

The real winners when my legislation passes will be hundreds of thousands of consumers who will have more control over the their own life and the health care they need.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Medical Savings Account Tax Incentive Act".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. DEDUCTION FOR CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

"(a) DEDUCTION ALLOWED.—In the case of an eligible individual, the amounts paid in cash during the taxable year by such individual to a medical savings account for the benefit of such individual or for the benefit of such individual and any spouse or dependent of such individual who is an eligible individual shall be treated for purposes of sections 162(l) and 213 as amounts paid for insurance which constitutes medical care.

"(b) LIMITATIONS.—

"(1) ONLY 1 ACCOUNT PER FAMILY.—Except as provided in regulations prescribed by the Secretary, no amount shall be treated as paid for insurance by reason of subsection (a) for amounts paid to any medical savings account if the account beneficiary, or such beneficiary's spouse or dependent, is a beneficiary of any other medical savings account.

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—The aggregate amount which may be treated as paid for insurance under subsection (a) with respect to any account beneficiary shall not exceed the excess (if any) of—

"(i) the premium determined under subparagraph (B) for the same class of enrollment as the high deductible health plan described in subsection (c)(1)(A), over

"(ii) the cost of such high deductible health plan.

"(B) PREMIUM.—Not later than January 1 of each calendar year, the Secretary shall determine and publish the premium (for each class of enrollment) for the preceding calendar year for the health benefits plan offered under chapter 89 of title 5, United States Code, with the highest enrollment (determined on the basis of the annual open enrollment period).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means any individual—

"(A) who is covered under a high deductible health plan during any portion of the calendar year with or within which the taxable year begins, and

"(B) who is not eligible during such calendar year—

"(i) to participate in an employer-subsidized health plan maintained by an employer of the individual, the individual's spouse, or any dependent of either, or

"(ii) to receive any employer contribution to a medical savings account.

For purposes of subparagraph (B), a self-employed individual (within the meaning of section 401(c)) shall not be treated as his own employer.

"(2) HIGH DEDUCTIBLE HEALTH PLAN.—

"(A) In general.—The term 'high deductible health plan' means a health plan which—

"(i) has an annual deductible limit for each individual covered by the plan which is not less than $1,000 or more then $3,000, and

"(ii) has an annual limit on the aggregate amount of deductibles required to be paid with respect to all individuals covered by the plan which is not less than $2,000 or more than $5,500.

"(B) Cost-of-living adjustment.—In the case of taxable years beginning after December 31, 1996, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to the product of—

"(i) such dollar amount, and

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that such section shall be applied by substituting 'the medical component of the CPI' for 'the CPI' each place it appears and by substituting '1995' for '1992' in subparagraph (B).

If any amount under this paragraph is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.

"(3) Medical savings account.—The term 'medical savings account' has the meaning given such term by section 7705.

"(4) Time when contributions deemed made.—A contribution shall be deemed to be made on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof)."

(b) Clerical Amendment.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new item:

"Sec. 220. Contributions to medical savings accounts."

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 3. EXCLUSION FROM INCOME OF EMPLOYER CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Section 106 (relating to contributions by employers to accident and health plans) is amended by adding at the end the following new subsection:

"(b) Contributions to Medical Savings Accounts.—

"(1) Treatment of contributions.—

"(A) In general.—Gross income of an employee who is covered by a high deductible health plan of an employer shall not include any employer contribution to a medical savings account on behalf of the employee or the employee's spouse or dependents.

"(B) No constructive receipt.—No amount shall be included in the gross income of any employee solely because the employee may choose between the contributions described in subparagraph (A) and employer contributions to a health plan of the employer.

"(2) Dollar limitation.—The amount which may be excluded under paragraph (1) for any taxable year shall not exceed the high deductible health plan differential.

"(3) High deductible health plan differential.—For purposes of paragraph (2)(B), the high deductible health plan differential with respect to any employee is the amount by which the cost of the high deductible health plan in which the employee is enrolled is less than the lesser of—

"(A) the cost (for the same class of enrollment) of the health plan which—

"(i) the employee is eligible to enroll in through the employer, and

"(ii) has the highest cost of all health plans in which the employee may enroll in through the employer, or

"(B) the amount determined under section 220(b)(2)(B).

"(4) Definitions.—For purposes of this subsection—

"(A) High deductible health plan.—The term 'high deductible health plan' has the meaning given such term by section 220(c)(2).

"(B) Medical savings account.—The term 'medical savings account' has the meaning given such term by section 7705."

(b) Employer Payments Excluded From Employment Tax Base.—

(1) Social security taxes.—

(A) Subsection (a) of section 3121 is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(B) Subsection (a) of section 209 of the Social Security Act is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "; or", and by inserting after paragraph (19) the following new paragraph:

"(20) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b) of the Internal Revenue Code of 1986."

(2) Railroad retirement tax.—Subsection (e) of section 3231 is amended by adding at the end the following new paragraph:

"(10) Medical savings account contributions.—The term 'compensation' shall not include any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(3) Unemployment tax.—Subsection (b) of section 3306 is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "; or", and by inserting after paragraph (16) the following new paragraph:

"(17) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(4) Withholding tax.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) any payment made to or for the benefit of an employee if at the time of such payment it is reasonable to believe that the employee will be able to exclude such payment from income under section 106(b)."

(c) Conforming Amendment.—Section 106 is amended by striking "Gross income" and inserting:

"(a) General Rule.—Gross income".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

SEC. 4. MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Chapter 79 is amended by adding at the end the following new section:

"SEC. 7705. MEDICAL SAVINGS ACCOUNTS.

"(a) General Rule.—The term 'medical savings account' means a trust created or organized in the United States for the exclusive benefit of the beneficiaries of the trust, but only if the written governing instrument creating the trust meets the following requirements:

"(1) Except in the case of a rollover contribution described in subsection (c)(4)—

"(A) no contribution will be accepted unless—

"(i) it is in cash, and

"(ii) it is made for a period during which the individual on whose behalf it is made is covered under a high deductible health plan, and

"(B) contributions will not be accepted for any calendar year in excess of the amount determined under section 220(b)(2)(B).

"(2) The trustee is a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the trust will be consistent with the requirements of this section.

"(3) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(4) No part of the trust assets will be invested in life insurance contracts.

"(5) The interest of an individual in the balance in the individual's account is nonforfeitable.

"(b) Tax Treatment of Accounts.—

"(1) Account taxed as grantor trust.—

"(A) In general.—Except as provided in subparagraph (B), the account beneficiary of a medical savings account shall be treated for purposes of this title as the owner of such account and shall be subject to tax thereon in accordance with subpart E of part I of subchapter J of this chapter (relating to grantors and others treated as substantial owners).

"(B) Treatment of capital losses.—With respect to assets held in a medical savings account, any capital loss for a taxable year from the sale or exchange of such an asset shall be allowed only to the extent of capital gains from such assets for such taxable year. Any capital loss which is disallowed under the preceding sentence shall be treated as a capital loss from the sale or exchange of such an asset in the next taxable year.

"(2) Account terminations.—

"(A) Prohibited transactions; excess withdrawals.—If, during any taxable year of the account beneficiary—

"(i) such beneficiary engages in any transaction prohibited by section 4975 with respect to the account, or

"(ii) there is a distribution out of the account any portion of which is includible in the income of the account beneficiary under subsection (c)(1)(A), and after such distribution the balance in the account is less than the annual aggregate deductible limit for all individuals covered by the high deductible health plan,

the account shall cease to be a medical savings account as of the first day of such taxable year.

"(B) Failure to remain in health plan.—

"(i) In general.—If, at any time during the 2-taxable year period beginning with the taxable year of the account beneficiary in which the medical savings account was established, the account beneficiary becomes a participant in a health plan which has a lower individual (or aggregate) deductible limit than the lowest individual (or aggregate) limit permitted under a high deductible health plan, the account shall cease to be a medical savings account as of the first day of the taxable year in which the individual ceases to be so covered.

"(ii) EXCEPTION.—This subparagraph shall not apply to any account beneficiary who becomes a participant in a plan described in such subparagraph by reason of separation from employment.

"(C) ACCOUNT TREATED AS DISTRIBUTING ALL ITS ASSETS.—In any case in which any account ceases to be a medical savings account by reason of subparagraph (A) or (B) on the first day of any taxable year, subsection (c) shall be applied as if—

"(i) there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day), and

"(ii) no portion of such distribution were used to pay qualified medical expenses.

"(D) CORRECTION WITHIN 60 DAYS.—Subparagraph (A)(ii) shall not apply to any distribution if, within 60 days of the 1st date the account beneficiary knew (or exercising reasonable diligence would have known) of a failure to meet the requirements of subparagraph (A)(ii), the account beneficiary repays to the account the amount of the excess distribution. Such repayment shall not be treated as a contribution to the account.

"(3) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year, the account beneficiary uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed and not used to pay qualified medical expenses.

"(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) INCLUSION OF AMOUNTS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—Any amount paid or distributed out of a medical savings account which is not used exclusively to pay the qualified medical expenses of the account beneficiary or of the spouse or dependents of such beneficiary shall be included in the gross income of such beneficiary to the extent such amount does not exceed the excess of—

"(i) the aggregate contributions to such account which were not includible in gross income by reason of section 106(b) or which were deductible under section 220, over

"(ii) the aggregate prior payments or distributions from such account which were includible in gross income under this paragraph.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) all payments and distributions during any taxable year shall be treated as 1 distribution, and

"(ii) any distribution of property shall be taken into account at its fair market value on the date of the distribution.

"(2) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a medical savings account to the extent that such contribution exceeds the amount under subsection (a)(2) if—

"(A) such distribution is received by the individual on or before the last day prescribed by law (including extensions of time) for filing such individual's return for such taxable year, and

"(B) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (B) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) PENALTY FOR DISTRIBUTIONS NOT USED FOR QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The tax imposed by chapter 1 on the account beneficiary for any taxable year in which there is a payment or distribution from a medical savings account of such beneficiary which is includible in gross income under paragraph (1) shall be increased by 10 percent of the amount which is so includible.

"(B) EXCEPTION FOR DISABILITY OR DEATH.—Subparagraph (A) shall not apply if the payment or distribution is made after the account beneficiary becomes disabled within the meaning of section 72(m)(7) or dies.

"(C) EXCEPTION FOR DISTRIBUTIONS AFTER AGE 59½.—Subparagraph (A) shall not apply to any payment or distribution after the date on which the account beneficiary attains age 59½.

"(4) ROLLOVER CONTRIBUTION.—An amount is described in this paragraph as a rollover contribution if it meets the requirements of subparagraphs (A) and (B).

"(A) IN GENERAL.—Paragraph (1) shall not apply to any amount paid or distributed from a medical savings account to the account beneficiary to the extent the amount received is paid into a medical savings account for the benefit of such beneficiary not later than the 60th day after the day on which the beneficiary receives the payment or distribution.

"(B) LIMITATION.—This paragraph shall not apply to any amount described in subparagraph (A) received by an individual from a medical savings account if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in subparagraph (A) from a medical savings account which was not includible in the individual's gross income because of the application of this paragraph.

"(5) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—For purposes of section 213, any payment or distribution out of a medical savings account for qualified medical expenses shall not be treated as an expense paid for medical care to the extent of the amount of such payment or distribution which is excludable from gross income solely by reason of paragraph (1)(A).

"(6) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a medical savings account to an individual's spouse or former spouse under a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer shall be treated as a medical savings account of such spouse, and not of such individual. Any such account or annuity shall, for purposes of this subtitle, be treated as maintained for the benefit of the spouse to whom the interest was transferred.

"(d) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED MEDICAL EXPENSES.—

"(A) IN GENERAL.—The term 'qualified medical expenses' means any expense for—

"(i) medical care (as defined in section 213(d)), or

"(ii) qualified long-term care services.

"(B) EXCEPTION FOR INSURANCE.—

"(i) IN GENERAL.—Such term shall not include any expense for insurance.

"(ii) EXCEPTIONS.—Clause (i) shall not apply to any expense for—

"(I) coverage under a health plan during a period of continuation coverage described in section 4980B(f)(2)(B),

"(II) coverage under a medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act), or

"(III) payment of premiums under part A or B of title XVIII of the Social Security Act, or

"(IV) coverage under a policy providing qualified long-term care services.

"(C) QUALIFIED LONG-TERM CARE SERVICES.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified long-term care services' means necessary diagnostic, preventive, therapeutic, rehabilitative, and maintenance (including personal care) services—

"(I) which are required by an individual during any period during which such individual is a functionally impaired individual,

"(II) which have as their primary purpose the provision of needed assistance with 1 or more activities of daily living which a functionally impaired individual is certified as being unable to perform under clause (ii)(I), and

"(III) which are provided pursuant to a continuing plan of care prescribed by a licensed health care practitioner (other than a relative of such individual).

"(ii) FUNCTIONALLY IMPAIRED INDIVIDUAL.—

"(I) IN GENERAL.—The term 'functionally impaired individual' means any individual who is certified by a licensed health care practitioner (other than a relative of such individual) as being unable to perform, without substantial assistance from another individual (including assistance involving verbal reminding, physical cueing, or substantial supervision), at least 3 activities of daily living described in clause (iii).

"(II) SPECIAL RULE FOR HOME HEALTH CARE SERVICES.—In the case of services which are provided during any period during which an individual is residing within the individual's home (whether or not the services are provided within the home), subclause (I) shall be applied by substituting '2' for '3'. For purposes of this subclause, a nursing home or similar facility shall not be treated as a home.

"(iii) ACTIVITIES OF DAILY LIVING.—Each of the following is an activity of daily living:

"(I) Eating.

"(II) Transferring.

"(III) Toileting.

"(IV) Dressing.

"(V) Bathing.

"(D) LICENSED HEALTH CARE PRACTITIONER.—For purposes of subparagraph (C)—

"(i) IN GENERAL.—The term 'licensed health care practitioner' means—

"(I) a physician or registered professional nurse,

"(II) a qualified community care case manager (as defined in clause (ii)), or

"(III) any other individual who meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(ii) QUALIFIED COMMUNITY CARE CASE MANAGER.—The term 'qualified community care case manager' means an individual or entity which—

"(I) has experience or has been trained in providing case management services and in preparing individual care plans;

"(II) has experience in assessing individuals to determine their functional and cognitive impairment;

"(III) is not a relative of the individual receiving case management services; and

"(IV) meets such requirements as may be prescribed by the Secretary after consultation with the Secretary of Health and Human Services.

"(E) RELATIVE.—For purposes of this paragraph, the term 'relative' means an individual bearing a relationship to another individual which is described in paragraphs (1) through (8) of section 152(a).

"(2) ACCOUNT BENEFICIARY.—The term 'account beneficiary' means the individual for whose benefit the medical savings account is maintained.

"(e) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if—

"(1) the assets of such account are held by a bank (as defined in section 408(n)), insurance company (as defined in section 816), or another person who demonstrates to the satisfaction of the Secretary that the manner in which such person will administer the account will be consistent with the requirements of this section, and

"(2) the custodial account would, except for the fact that it is not a trust, constitute a medical savings account described in subsection (a).

For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(f) REPORTS.—The trustee of a medical savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) TAX ON EXCESS CONTRIBUTIONS.—Section 4973 (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "medical savings accounts," after "accounts," in the heading of such section,

(2) by striking "or" at the end of paragraph (1) of subsection (a),

(3) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a medical savings account (within the meaning of section 7705(a)), or", and

(4) by adding at the end the following new subsection:

"(d) EXCESS CONTRIBUTIONS TO MEDICAL SAVINGS ACCOUNTS.—For purposes of this section, in the case of a medical savings account (within the meaning of section 7705(a)), the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount which may be contributed to the account under section 7705(a)(1)(B) for such taxable year. For purposes of this subsection, any contribution which is distributed out of the medical savings account in a distribution to which section 7705(c)(2) applies shall be treated as an amount not contributed."

(c) TAX ON PROHIBITED TRANSACTIONS.—Section 4975 (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) SPECIAL RULE FOR MEDICAL SAVINGS ACCOUNTS.—An individual for whose benefit a medical savings account (within the meaning of section 7705(a)) is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a medical savings account by reason of the application of section 7705(b)(2)(A)(i) to such account.", and

(2) by inserting "or a medical savings account described in section 7705(a)" in subsection (e)(1) after "described in section 408(a)".

(d) FAILURE TO PROVIDE REPORTS ON MEDICAL SAVINGS ACCOUNTS.—Section 6693 (relating to failure to provide reports on individual retirement accounts or annuities) is amended—

(1) by inserting "or on medical savings accounts" after "annuities" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 7705(f) to file a report regarding a medical savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 43 is amended by striking the item relating to section 4973 and inserting the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, medical savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(2) The table of sections for subchapter B of chapter 68 is amended by inserting "or on medical savings accounts" after "annuities" in the item relating to section 6693.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1996.●

By Mr. SMITH (for himself and Mr. FAIRCLOTH):

S. 2533. A bill to amend the Immigration and Nationality Act to protect Americans against criminal activity by aliens, to defend against acts of international terrorism, and to relieve pressure on public services by enhancing border security and diminishing legal immigration into the United States; to the Committee on the Judiciary.

THE IMMIGRATION CONTROL AND REFORM ACT

Mr. SMITH. Mr. President, as the recent Haitian and Cuban refugee crises dramatically demonstrate, the immigration issue remains one of our most urgent national priorities. On behalf of myself and Senator FAIRCLOTH, today I am introducing a bill that combines the best of the approaches that I have studied to controlling illegal immigration and reforming legal immigration. My bill is entitled the "Immigration Control and Reform Act of 1994."

Nearly 8 years after the passage of the landmark Immigration Reform and Control Act of 1986, our Nation still has not secured its borders. Illegal immigration remains out of control. The Immigration and Naturalization Service apprehends about 1 million illegal aliens every year as they seek to enter our country. About three times that many illegal aliens evade the INS each year and enter the country. The INS estimates that at least 4 million illegal aliens reside permanently in the United States and that number grows by at least 300,000 per year.

The best—and most comprehensive—approach that I have found to addressing this continuing crisis is the result of the stellar work of the Task Force on Illegal Immigration of the House Republican Research Committee. The Immigration Control and Reform Act of 1994 incorporates, with some revisions, many of the proposals set forth by the task force. In doing so, the bill introduced by myself and Senator FAIRCLOTH seeks to blunt the effects of two of the most powerful magnets that draw illegal aliens into our country—the hope of employment and the allure of the welfare state.

As my colleagues know, the employer sanctions provisions of the 1986 act are the principal means by which the current immigration laws seek to neutralize the employment magnet drawing illegal aliens to the United States. The 1986 act requires job applicants to prove that they are either U.S. citizens or legal immigrants who are authorized to work here. But the proof can come from 29 separate documents—ranging from passports to driver's licenses. Numerous studies indicate widespread fraud through counterfeiting.

In keeping with the general approach adopted by the House task force and recommended in principle recently by the U.S. Commission on Immigration Reform, my bill would establish Social Security numbers as the sole means by which employment authorization would be verified. Under the new system established by my bill, prospective employers would call a national employment verification telephone number to check a person's eligibility for employment in much the same manner in which retailers now verify credit cards. Such a system, I am convinced, will obviate the need for a national identification card, which I think would be an infringement on privacy.

In order to address the welfare magnet aspect of the illegal immigration problem, my bill includes strict new prohibitions on welfare benefits to illegal aliens. Dr. Don Huddle, of Rice University, estimates that the nationwide cost for providing health care alone to illegal aliens is $2.5 billion per year. That is just health care. A Congressional Research Service study indicates that illegal aliens can get on the rolls of more than 100 Federal benefits programs. My bill puts a stop to this deplorable state of affairs by explicitly barring illegal aliens from receiving any such benefits.

My bill also addresses the illegal immigration crisis by taking steps toward improving significantly our illegal immigration control efforts at the Nation's land borders, at her ports of entry, and at overseas airports. In addition, my bill takes aim at the increasing problem of alien smuggling.

The Immigration Control and Reform Act of 1994 also remedies a significant weakness in the House Republican Immigration Task Force approach—the fact that it does not address the current astronomical levels of legal immigration. While it is true that ours is proudly a nation of immigrants, we simply cannot afford the luxury of legal immigration levels of almost 900,000—about three times the historical levels—at a time when illegal immigration remains out of control. Public opinion polls repeatedly demonstrate that overwhelming majorities of the American people want legal immigration levels brought down dramatically. A recent ABC News poll, for example, found that 73 percent of respondents agreed with the statement that "the U.S. Government is allowing too many immigrants to enter this country these days."

In order to bring legal immigration down to more reasonable levels, my bill proposes a reduction of total legal immigration from the current annual level of approximately 880,000 to 300,000 persons per year. the 300,000 figure represents the approximate historical average of annual immigration rates for the period of 1820 through the modern liberalization of legal immigration levels in 1965. Although a reduction of nearly two-thirds in our annual legal immigration levels is a major step, it is hardly a radical one. Indeed, the old U.S. Select Commission on Immigration and Refugee Policy, the chairman of which was Father Theodore Hesburgh, recommended an annual legal immigration cap of 325,000 when it issued its report nearly 15 years ago.

Finally, Mr. President, my Immigration Control and Reform Act proposal incorporates the Smith-Simpson amendment to the Senate-passed version of the crime bill. As my colleagues will recall, the Smith-Simpson amendment provided for a new procedure to enable the Justice Department to secure the deportation of terrorist aliens through the use of classified information. Although the Smith-Simpson amendment passed the Senate unanimously and the Clinton administration acknowledged that the measure is both necessary and fully constitutional, senior liberal members of the House Judiciary Committee insisted upon its removal from the conference report on the crime bill. I am confident that we can and will get the Smith-Simpson amendment enacted into law. I just hope that we can do so before another alien terrorist commits another barbaric act like the World Trade Center bombing.

Mr. President, I ask unanimous consent that the full text of my bill, as well as a section-by-section analysis, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SMITH. Mr. President, I am pleased that the distinguished Senator from North Carolina, Senator FAIRCLOTH, has joined me as an original cosponsor of the Immigration Control and Reform Act of 1994. I invite my colleagues to study our proposal and to join us as cosponsors when the bill is reintroduced in the 104th Congress next year.

S. 2533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Control and Reform Act of 1994.".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

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Subtitle E—Employer Sanctions Enforcement

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Sec. 251. Prohibition of welfare benefits to illegal aliens.
Sec. 252. Prohibition of unemployment benefits to illegal aliens.
Sec. 253. Prohibition of housing benefits to illegal aliens.
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TITLE III—EXCLUSION AND DEPORTATION REFORM

Subtitle A—Criminal Aliens

Sec. 301. Registration of aliens on probation and parole.
Sec. 302. Expansion of definition of aggravated felony.
Sec. 303. Authorization of judicial deportation orders.
Sec. 304. Restrictions on defenses to deportation by criminals.
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Subtitle B—Terrorist Aliens

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TITLE IV—EFFECTIVE DATE

Sec. 401. Effective date.

TITLE I—LEGAL IMMIGRATION REFORM

Subtitle A—Admission of Legal Immigrants

SEC. 101. REDUCTION IN ANNUAL LEGAL IMMIGRATION CEILINGS.

(a) FAMILY-SPONSORED IMMIGRATION.—Section 201(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1151) is amended to read as follows:

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—(1) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to—

"(A) 300,000, minus

"(B) the number computed under paragraph (2), plus

"(C) the number computed under paragraph (3).".

(b) EMPLOYMENT-BASED IMMIGRATION.—Section 201(d)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1151(d)(1)(A)) is amended by striking "140,000" and inserting "30,000".

(c) DIVERSITY IMMIGRATION.—Section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)) is amended by striking "55,000" and inserting "35,000".

SEC. 102. REDEFINITION OF IMMEDIATE RELATIVES.

Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking "children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age" and inserting "children and spouses of a citizen of the United States".

SEC. 103. REVISION OF PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.

Paragraphs (1) through (4) of section 203(a) of the Immigration and Nationality Act are amended to read as follows:

"(1) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence shall be allocated visas in a number equal to 40 percent of the difference between such worldwide level and the number of immediate relative visas required, plus any visas not required for the class specified in paragraph (1).

"(2) PARENTS OF ADULT UNITED STATES CITIZENS.—Qualified immigrants who are the parents of citizens of the United States who are at least 21 years of age shall be allocated visas in a number equal to 60 percent of the difference between such worldwide level and the number of immediate relative visas required, plus any visas not required for the class specified in paragraph (1).

"(3) SONS AND DAUGHTERS OF UNITED STATES CITIZENS.—Qualified immigrants holding priority dates as of the effective date of this paragraph who are the sons and daughters of citizens of the United States shall be allocated visas in a number equal to 75 percent of the maximum number of visas available but not issued under paragraphs (1) and (2).

"(4) SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants holding priority dates as of the effective date of this paragraph who are the sons and daughters of permanent resident aliens shall be allocated visas in a number equal to 25 percent of the maximum number of visas available but not issued under paragraphs (1) and (2).

"(5) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants holding priority dates as of the effective date of this paragraph who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number equal to the number of visas not required for the classes specified in paragraphs (3) and (4).".

SEC. 104. REVISION OF PREFERENCE ALLOCATIONS FOR EMPLOYMENT-BASED IMMIGRANTS.

(a) ADJUSTMENT IN ALLOCATIONS AS PERCENTAGE OF WORLDWIDE LEVEL.—(1) Section 203(b)(1) of such Act is amended by striking "28.6 percent" and inserting "50 percent".

(2) Section 203(b)(2)(A) of such Act is amended by striking "28.6 percent" and inserting "50 percent".

(3) Section 203(b)(1) of such Act is amended by striking ", plus any visas not required for the classes specified in paragraphs (4) and (5),".

(b) ALLOCATIONS FOR BACKLOGGED PREVIOUS PREFERENCES.—(1) Section 203(b)(3)(A) of such Act (8 U.S.C. 1153(b)(3)(A)), in the text above clause (i), is amended to read as follows:

"(A) IN GENERAL.—Visas shall be made available in a number equal to the number of visas not required for the classes specified in paragraphs (1) and (2) to the following classes of aliens not described in paragraph (2) who are qualified immigrants holding priority dates as of the effective date of this paragraph:".

(2) Section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)) is amended by striking "in a number not to exceed 7.1 percent of such worldwide level, to qualified special immigrants" and inserting "in a number equal to the number of visas not required for the classes specified in paragraphs (1) through (3), to qualified special immigrants holding priority dates as of the effective date of this Act who are".

(3) Section 203(b)(5)(A) of such Act (8 U.S.C. 1153(b)(5)(A)), in the text above clause (i), is amended to read as follows:

"(A) IN GENERAL.—Visas shall be made available in a number equal to the number of visas not required for paragraphs (1) through (4) to qualified immigrants holding priority dates as of the effective date of this paragraph who are seeking to enter the United States for the purpose of engaging in a new commercial enterprise—".

(4) Section 203(b)(6) of such Act (8 U.S.C. 1153(b)(6)) is repealed.

SEC. 105. CONFORMING AMENDMENTS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking "paragraph (1), (3), or (4)" and inserting "paragraph (1) or (3)";

(B) in subparagraph (D), by striking "203(b)(2), or 203(b)(3)" and inserting "or 203(b)(2)";

(C) by redesignating subparagraph (E)(ii) as subparagraph (E);

(D) by striking subparagraph (E)(i);

(E) by striking subparagraph (F); and

(F) by redesignating subparagraph (G) as subparagraph (F); and

(2) in subsection (b), by striking "or 203(b)(3)".

SEC. 106. TRANSITION.

(a) PARENTS OF CITIZENS; UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Any petition filed under section 204(a) of the Immigration and Nationality Act before the effective date of this Act for—

(1) immediate relative status as a parent of a United States citizen who is at least 21 years of age,

(2) preference status under section 203(a)(1) of such Act (as in effect before such date),

(3) preference status under section 203(a)(2) by virtue of being the spouse or child of a permanent resident alien, or

(4) preference status under section 203(a)(2) by virtue of being the son or daughter of a permanent resident alien,

shall be deemed, as of such date, to be a petition filed under such section for preference status under section 203(a)(2), section 203(a)(3), 203(a)(1), or 203(a)(4), respectively, of such Act (as amended by this Act).

(b) ELIMINATED PREFERENCE CLASSIFICATIONS.—Beginning on the effective date of this Act—

(1) the Attorney General may not accept any petition filed under section 204(a) for classification under section 203(a)(4), 203(b)(3), 203(b)(4), or 203(b)(5), as in effect before the effective date of this Act; and

(2) each priority date established before the effective date of this Act shall be maintained with respect to any petition filed under section 204(a) of the Immigration and Nationality Act before such date for preference status under paragraph (1), (2), (3), or (4) of section 203(a) (as in effect before such date) or paragraph (3), (4), or (5) of section 203(b) of such Act (as in effect before such date).

SEC. 107. REPEAL.

Section 301 of the Immigration Act of 1990 (Public Law 101-649) (relating to admission of dependents of legalized aliens) is hereby repealed.

Subtitle B—Admission of Refugees

SEC. 111. NUMBER OF ADMISSIONS.

Section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) is amended by striking subsection (a) and inserting the following:

"(a) Except as provided in subsection (b), the number of refugees who may be admitted under this section in any fiscal year may not exceed 35,000. Admissions under this subsection shall be allocated by the President among refugees of special humanitarian concern to the United States.".

TITLE II—ILLEGAL IMMIGRATION CONTROL

Subtitle A—Land Borders Control

SEC. 201. PLACEMENT OF ADDITIONAL PHYSICAL BARRIERS.

After consultation with the Commissioner of Immigration and Naturalization, but not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to the chairmen of the Committees on the Judiciary of the House of Representatives and the Senate on the feasibility and cost of the placement of substantial numbers of additional physical barriers at appropriate points on the border between the United States and Mexico to deter and prevent unauthorized crossings into the United States.

SEC. 202. ESTABLISHMENT OF INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Commissioner of Immigration and Naturalization, shall develop and implement a program in which aliens who entered the United States illegally not less than three times before such date and were deported or returned to a country that is contiguous to the United States shall be returned to locations that are not less than five hundred kilometers from that country's border with the United States.

Subtitle B—Ports of Entry Control

SEC. 211. REQUIREMENT OF 24 HOURS' NOTICE OF ARRIVALS BY SHIPS.

The Attorney General is authorized to require, by regulation, not less than 24 hours of advance notice to the Immigration and Naturalization Service of the intention of any seagoing vessel to arrive at any port of entry of the United States.

Subtitle C—Overseas Airports Control

SEC. 221. ESTABLISHMENT OF ADDITIONAL PREINSPECTION STATIONS.

(a) PREINSPECTION STATIONS.—(1) After consultation with the Secretary of State and the Commissioner of Immigration and Naturalization, but not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to the chairmen of the Committees on the Judiciary of the House of Representatives and the Senate on the feasibility and cost of the establishment and maintenance of preinspection stations in at least 10 of the foreign airports that the Attorney General determines to be serving as the last points of departure for the greatest numbers of passengers who arrive from abroad by air at ports of entry within the United States. Such preinspection stations shall be in addition to any preinspection stations that are established before the date of enactment of this section.

(2) Not later than November 1 of each year, the Attorney General shall compile data identifying—

(A) the foreign airports that served as the last points of departure for aliens who arrived by air at ports of entry into the United States without valid documentation during the preceding fiscal year,

(B) the number and nationality of such aliens arriving from each such foreign airport, and

(C) the primary routes that such aliens followed from their countries of origin to the United States.

(3) Prior to the establishment of a preinspection station, the Attorney General, in consultation with the Secretary of State, shall ensure that—

(A) employees of the United States stationed at the preinspection station and their accompanying family members will receive appropriate protection,

(B) such employees and their families will not be subject to unreasonable risks to their welfare and safety, and

(C) the country in which the preinspection station is to be established maintains practices and procedures with respect to asylum seekers and refugees in accordance with the Convention Relating to the Status of Refugees (done at Geneva on July 28, 1951) or the Protocol Relating to the Status of Refugees (done at New York on January 31, 1967).

(b) ESTABLISHMENT OF CARRIER CONSULTANT PROGRAM.—After consultation with the Secretary of State and the Commissioner of Immigration and Naturalization, but not later than 6 months after the date of enactment of this Act, the Attorney General shall submit a report to the chairmen of the Committees on the Judiciary of the House of Representatives and the Senate on the feasibility and cost of the assignment of substantial numbers of additional immigration officers to assist air carriers in the detection of fraudulent documents at foreign airports that, based on the records that are maintained in accordance with subsection (a)(2), served as the points of departure for a significant number of the aliens arriving at ports of entry into the United States without valid documentation, but where no preinspection station exists.

SEC. 222. TRAINING OF AIRLINE PERSONNEL IN DETECTION OF FRAUD.

(a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C. 1356(h)(2)(A)) is amended—

(1) in clause (iv), by inserting ", including training of, and technical assistance to, commercial airline personnel on such detection" after "United States", and

(2) by adding at the end the following:

"The Attorney General shall provide for expenditures for training and assistance described in clause (iv) in an amount, for any fiscal year, not less than five percent of the total of the expenses incurred that are described in the preceding sentence.".

(b) COMPLIANCE WITH DETECTION REGULATIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by adding at the end the following: "Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents that are used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to expenses incurred on or after October 1, 1994.

(2) The Attorney General first shall issue, in proposed form, regulations referred to in the second sentence of section 212(f) of the Immigration and Nationality Act, as added by the amendment made by subsection (b), by not later than 90 days after the date of enactment of this Act.

Subtitle D—Alien Smuggling Control

SEC. 231. EXPANSION OF ALIEN SMUGGLING ASSET FORFEITURE PROGRAM.

(a) IN GENERAL.—Paragraph (1) of section 274(b) of the Immigration and Nationality Act (8 U.S.C. 1324(b)) is amended to read as follows:

"(1)(A) Except as provided in subparagraph (B), the following property shall be subject to seizure and forfeiture:

"(i) Any conveyance, including any vessel, vehicle, or aircraft, which has been or is being used in the commission of a violation of subsection (a).

"(ii) Any property, real or personal, which—

"(I) constitutes, or is derived from or traceable to, the proceeds obtained directly or indirectly from the commission of a violation of subsection (a), or

"(II) is used to facilitate, or is intended to be so used in the commission of, a violation of subsection (a)(1)(A).

"(B)(i) No property used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section, unless the owner or other person with lawful custody of the property was a consenting party to or privy to the violation of subsection (a) or of paragraphs (1) and (2) of subsection (a) of section 274A.

"(ii) No property shall be forfeited under the provisions of this section by reason of any act or omission established by the owner to have been committed or omitted by a person other than the owner while the property was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States or of any State.

"(iii) No property shall be forfeited under the provisions of this section to the extent of an interest of the owner, by reason of any act or omission established by the owner to have been committed or omitted without the knowledge, consent, or willful disregard of the owner, unless the act or omission was committed or omitted by an employee or agent of the owner or other person with lawful custody of the property with the intent of furthering the business interests of, or to confer any other benefit upon, the owner or other person with lawful custody of the property.".

(b) CONFORMING AMENDMENTS.—Section 274(b) of such Act (8 U.S.C. 1324(b)) is amended—

(1) in paragraph (2)—

(A) by striking "conveyance" and inserting "property" in each place in which it appears, and

(B) by striking "is being used in" and inserting "is being used in, is facilitating, has facilitated, is facilitating or was intended to facilitate"; and

(2) in paragraphs (4) and (5), by striking "a conveyance", "any conveyance", and "conveyance" and inserting "property" in each place in which it appears.

SEC. 232. INCLUSION OF ALIEN SMUGGLING IN RICO ACT.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E) any act", and

(2) by inserting before the period at the end the following: ", or (F) any act that is indictable under section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling)".

SEC. 233. ENHANCED PENALTIES FOR ALIEN SMUGGLING AND EMPLOYMENT.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D) and inserting "; or",

(3) by inserting after subparagraph (D) the following:

"(E) contracts or agrees with another party for that party to provide, for employment by the person or another, an alien who is not authorized to be employed in the United States, knowing that such party intends to cause such alien to be brought into the United States in violation of the laws of the United States,", and

(4) by striking "five years" and inserting "ten years".

SEC. 234. PROVISION OF WIRETAP AUTHORITY FOR INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in subparagraph (c), by inserting after "weapons)," the following: "or a felony violation of section 1028 (relating to production of false identification documentation), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents),";

(2) by striking out "or" after paragraph (l);

(3) by redesignating paragraphs (m), (n), and (o) as paragraphs (n), (o), and (p), respectively;

(4) by inserting after paragraph (l) the following new paragraph:

"(m) a violation of section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) (relating to alien smuggling), of section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) (relating to the smuggling of aliens convicted of aggravated felonies or of aliens subject to exclusion on grounds of national security), or of section 278 of the Immigration and Nationality Act (8 U.S.C. 1328) (relating to smuggling of aliens for the purpose of prostitution or other immoral purpose);"; and

(5) by striking "and" at the end of paragraph (o) (as redesignated) and inserting "or".

Subtitle E—Employer Sanctions Enforcement

SEC. 241. IMPROVEMENT OF WORK ELIGIBILITY VERIFICATION SYSTEMS.

(a) WORK ELIGIBILITY DOCUMENTS AND VERIFICATION OF ELIGIBILITY TO WORK.—Section 274A(b) of the Immigration and Nationality Act is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) ATTESTATION AFTER EXAMINATION AND VERIFICATION OF DOCUMENTATION.—The person or entity must attest, under penalty of perjury and on a form designated or established by the Attorney General by regulation, that it has been confirmed that the individual is not an unauthorized alien by verifying the individual's Social Security account number through the verification system established pursuant to subsection (d)(1).";

(2) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (3), (4), (5), and (6), respectively;

(3) by inserting after paragraph (1) the following:

"(2) VERIFICATION OF CONTINUED WORK ELIGIBILITY FOR ALIENS WITH LIMITED WORK AUTHORIZATION.—In the case of an alien whose work authorization has an expiration date, a person or entity who continues to employ such an alien after the date on which the employment authorization expires must verify, through the verification system established pursuant to subsection (d)(1), that the alien's work authorization has been extended."; and

(4) by adding at the end the following new paragraph:

"(7) RULE OF STATUTORY CONSTRUCTION.—Notwithstanding any other provision of law, a person or entity may not be considered to discriminate by requesting the production of the documentation required under this subsection in the hiring, recruiting, or referring of an individual for employment in the United States.".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall take effect on July 1, 1995.

(2) The amendments made by paragraphs (2), (3), and (4) of subsection (a) shall take effect on the date of enactment of this Act.

(c) ESTABLISHMENT OF EMPLOYMENT VERIFICATION SYSTEM.—Section 274A(d) of the Immigration and Nationality Act is amended to read as follows:

"(d) EMPLOYMENT VERIFICATION SYSTEM.—

"(1) ESTABLISHMENT OF VERIFICATION SYSTEM.—

"(A) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Attorney General, shall make such modifications and improvements as are necessary to current data bases and systems to develop and implement a verification system that a person or entity can access by telephone or other electronic means. Such system shall permit verification that an individual's Social Security number—

"(i) has been issued,

"(ii) was issued to an individual authorized to work in the United States, and

"(iii) is not a number that was issued to an individual who now is deceased and that has not been reissued to a living individual.

The system shall also provide any other information that the Attorney General and the Secretary of Health and Human Services determine is needed to verify that the number provided to the employer is the number that was issued properly to that individual, that such individual is authorized to work in the United States, and that the individual providing the Social Security number to the employer is the same person to whom the number is assigned.

"(B) ACCESS FEE.—A fee, not to exceed $2 plus any line charges payable to a telephone carrier or equivalent entity, shall be charged for each use of the verification system in order to pay for the costs of operating the system.

"(C) EFFECTIVE DATE.—The verification system required by this paragraph shall be operational not later than July 1, 1995.

"(2) PRIVACY PROTECTIONS.—

"(A) Any personal information utilized by the system may not be made available to Government agencies, employers, and other persons except to the extent necessary to verify that an individual is not an unauthorized alien.

"(B) The system must protect the privacy and security of personal information and identifiers utilized in the system.

"(C) A verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld or revoked under the system for any reason other than that the employee or prospective employee is an unauthorized alien.

"(D) The system may not be used for law enforcement purposes, other than for the enforcement of this Act or sections 1001, 1028, 1546, and 1621 of title 18, United States Code.

"(E) Unauthorized use or disclosure of the information or identifiers contained in the employment verification system shall be punishable by civil and criminal penalties.

"(3) MONITORING AND IMPROVEMENTS IN THE VERIFICATION SYSTEM.—(A) The Attorney General shall provide for the monitoring and evaluation of the degree to which the employment verification system established under this section provides an accurate, efficient, and secure system by which to determine employment eligibility in the United States.

"(B) To the extent that the system established under this section is found not to be an accurate, efficient, and secure system by which to determine employment eligibility in the United States, the Attorney General shall recommend such changes or enhancements in the system as may be necessary to achieve such a system.".

(d) CONFORMING AMENDMENTS.—(1) Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(A) in subsection (b), by striking "following three paragraphs" and inserting "following four paragraphs", and

(B) by striking subsections (i), (j), (k), (l), (m), and (n).

(2) The amendments made by this subsection shall take effect on July 1, 1995.

Subtitle F—Prohibition on Welfare Benefits to Illegal Aliens

SEC. 251. PROHIBITION OF WELFARE BENEFITS TO ILLEGAL ALIENS.

(a) DIRECT FEDERAL FINANCIAL BENEFITS.—Subject to subsection (b) and the Immigration and Nationality Act, and notwithstanding any other provision of law, an alien who is not lawfully within the United States as a permanent resident, a refugee, an asylee, or a parolee is not eligible for any direct Federal financial benefit or social insurance benefit (whether through grant, loan, guarantee, or otherwise) as such benefits are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of the Federal Government.

(b) EMERGENCY MEDICAL CARE.—Subsection (a) shall not apply with respect to the Federal reimbursement of emergency medical care for aliens, as determined by the Secretary of Health and Human Services by regulation.

SEC. 252. PROHIBITION OF UNEMPLOYMENT BENEFITS TO ILLEGAL ALIENS.

(a) PROHIBITION.—An alien who has not been granted employment authorization pursuant to the Immigration and Nationality Act or other Federal law shall be ineligible for unemployment compensation under an unemployment compensation law of a State or the United States.

(b) AMOUNT OF COMPENSATION.—An alien who has been granted temporary work authorization shall be eligible only for such unemployment compensation under a law of a State or the United States as accrued during the time in which the alien was authorized to work.

(c) DEFINITION.—As used in this section, the term "State" means any of the several States of the United States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

SEC. 253. PROHIBITION OF HOUSING BENEFITS TO ILLEGAL ALIENS.

(a) LIMITATION.—Notwithstanding section 251 or any other provision of law, no alien who is not a permanent resident, a refugee, an asylee, or a parolee shall be eligible for benefits under the following provisions of law:

(1) The program of rental assistance on behalf of low-income families provided under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) The program of assistance to public housing under title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

(3) The loan program under section 502 of the Housing Act of 1949 (42 U.S.C. 1472).

(4) The program of interest reduction payments pursuant to contracts entered into by the Secretary of Housing and Urban Development under section 236 of the National Housing Act (12 U.S.C. 1715z-1).

(5) The program of loans for rental and cooperative housing under section 515 of the Housing Act of 1949 (42 U.S.C. 1485).

(6) The program of rental assistance payments pursuant to contracts entered into under section 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(2)(A)).

(7) The program of assistance payments on behalf of homeowners under section 235 of the National Housing Act (12 U.S.C. 1715z).

(8) The program of rent supplement payments on behalf of qualified tenants pursuant to contracts entered into under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

(9) The loan and grant programs under section 504 of the Housing Act of 1949 (42 U.S.C. 1474) for repairs and improvements to rural dwellings.

(10) The loan and assistance programs under sections 514 and 516 of the Housing Act of 1949 (42 U.S.C. 1484, 1486) for housing for farm labor.

(11) The program of grants for preservation and rehabilitation of housing under section 533 of the Housing Act of 1949 (42 U.S.C. 1490m).

(12) The program of grants and loans for mutual and self-help housing and technical assistance under section 523 of the Housing Act of 1949 (42 U.S.C. 1490c).

(13) The program of site loans under section 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

(b) REGULATIONS.—Not later than January 1, 1995, the Secretary of Housing and Urban Development shall issue final regulations to carry out subsection (a).

SEC. 254. ENHANCEMENT OF LEGAL ALIEN ENTITLEMENT VERIFICATION.

There are authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, and 1999 such sums as may be necessary to carry out the purposes of the automated System for Alien Verification of Eligibility (SAVE) that was established under section 121 of the Immigration Reform and Control Act of 1986 (Public Law 99-603).

Subtitle G—State and Local Cooperation in Immigration Enforcement

SEC. 261. PROHIBITION ON FINANCIAL ASSISTANCE.

(a) IN GENERAL.—No State or local government or agency that the Attorney General determines has an official policy of refusing to cooperate with officers or employees of the Immigration and Naturalization Service with respect to the identification, location, arrest, prosecution, detention, or deportation of aliens who are not lawfully present within the United States, shall be eligible for any Federal funds from appropriations made to the Department of Justice for as long as the policy of noncooperation remains in effect.

(b) REIMBURSEMENT PROHIBITED.—No State or local government (or any agency thereof) that is ineligible for assistance under subsection (a) may be reimbursed for such assistance after the termination of such ineligibility.

SEC. 262. ESTABLISHMENT OF PROGRAM FOR UNIFORM VITAL STATISTICS.

(a) PILOT PROGRAM.—The Secretary of Health and Human Services shall consult with each State agency that is responsible for the registration and certification of births and deaths and, within 3 years of the date of enactment of this Act, shall establish a pilot program for 3 of the 5 States with the largest number of undocumented aliens that creates an electronic network linking the vital statistics records of such States. The network shall provide, where practical, for the matching of deaths with births and shall enable the confirmation of births and deaths of citizens of such States, or of aliens within such States, by any Federal or State agency or official in the performance of official duties. The Secretary and participating State agencies shall institute measures to achieve uniform and accurate reporting of vital statistics into the pilot program network, to protect the integrity of the registration and certification process, and to prevent fraud against the Government and other persons through the use of false birth or death certificates.

(b) REPORT.—Not later than 180 days after the establishment of the pilot program under subsection (a), the Secretary shall submit a report to Congress containing recommendations on how the pilot program could be instituted effectively as a national network for the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE III—EXCLUSION AND DEPORTATION REFORM

Subtitle A—Criminal Aliens

SEC. 301. REGISTRATION OF ALIENS ON PROBATION AND PAROLE.

Section 263(a) of the Immigration and Nationality Act (8 U.S.C. 1303(a)) is amended by striking "and (5)" and inserting "(5) aliens who are or have been on criminal probation or parole pursuant to the laws of the United States or of any State, and (6)".

SEC. 302. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION IN DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including any drug trafficking crime as defined in section 924(c) of title 18, United States Code;

"(C) any illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code, or in explosive materials as defined in section 841(c) of title 18, United States Code;

"(D) any offense described in sections 1951 through 1963 of title 18, United States Code;

"(E) any defense described in—

"(i) subsections (h) or (i) of section 842, title 18, United States Code, or subsection (d), (e), (f), (g), (h), or (i) of section 844 of title 18, United States Code (relating to explosive materials offenses),

"(ii) paragraph (1), (2), (3), (4), or (5) of section 922(g), or section 922(j), section 922(n), section 922(o), section 922(p), section 922(r), section 924(b), or section 924(h) of title 18, United States Code (relating to firearms offenses), or

"(iii) section 5861 of title 26, United States Code (relating to firearms offenses);

"(F) any crime of violence (as defined in section 16 of title 18, United States Code) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(G) any theft offense (including receipt of stolen property) or any burglary offense, where a sentence of 5 years of imprisonment or more may be imposed;

"(H) any offense described in section 875, section 876, section 877, or section 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) any offense described in section 2251, section 2251A or section 2252 of title 18, United States Code (relating to child pornography);

"(J) any offense described in section 1084 of title 18, United States Code, where a sentence of 5 years of imprisonment or more may be imposed;

"(K) any offense relating to commercial bribery, counterfeiting, forgery or trafficking in vehicles whose identification numbers have been altered, where a sentence of 5 years of imprisonment or more may be imposed;

"(L) any offense—

"(i) relating to the owning, controlling, managing or supervising of a prostitution business,

"(ii) described in section 2421 through 2424 of title 18, United States Code, for commercial advantage, or

"(iii) described in sections 1581 through 1585, or section 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(M) any offense relating to perjury or subornation of perjury where a sentence of 5 years of imprisonment or more may be imposed;

"(N) any offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), section 798 (relating to disclosure of classified information), section 2153 (relating to sabotage) or section 2381 or section 2382 (relating to treason) of title 18, United States Code, or

"(ii) section 421 of title 50, United States Code (relating to protecting the identity of undercover intelligence agents);

"(O) any offense—

"(i) involving fraud or deceit where the loss to the victim or victims exceeded $200,000; or

"(ii) described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion), where the tax loss to the Government exceeds $200,000;

"(P) any offense described in section 274(a)(1) of the Immigration and Nationality Act (relating to alien smuggling) for the purpose of commercial advantage;

"(Q) any violation of section 1546(a) of title 18, United States Code (relating to document fraud), for the purpose of commercial advantage; or

"(R) any offense relating to failing to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony, where a sentence of 2 years or more may be imposed,

or any attempt or conspiracy to commit any such act. Such term applies to offenses described in this paragraph whether in violation of Federal or State law and applies to such offenses in violation of the laws of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to all convictions entered before, on, or after the date of enactment of this Act.

SEC. 303. AUTHORIZATION OF JUDICIAL DEPORTATION ORDERS.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is further amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 242(a)(2)(A)(iii) (relating to conviction of an aggravated felony), if such an order has been requested prior to sentencing by the United States Attorney with the concurrence of the Commissioner.

"(2) PROCEDURE.—(A) The United States Attorney shall provide notice of intent to request judicial deportation promptly after the entry in the record of an adjudication of guilt or guilty plea. Such notice shall be provided to the court, to the alien, and to the alien's counsel of record.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 20 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and satisfaction by the defendant of the definition of aggravated felony.

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under section 212(c), the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief under such section. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her behalf, and to cross-examine any witnesses that are presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings that are conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information that a court of the United States may receive or consider for the purpose of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates by clear and convincing evidence that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDERS OF DEPORTATION.—(A)(i) A judicial order of deportation, or the denial of such an order, may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements that are described in section 106.

"(iii) Upon the execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period that is described in section 106(a)(1), or the final dismissal of an appeal from such a conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order.

"(B) As soon as is practicable after the entry of a judicial order of deportation, the Commissioner shall provide the defendant with a written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—The denial of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability that is provided under section 241(a).".

(b) TECHNICAL AND CONFORMING CHANGES.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking out "The" and inserting in lieu thereof, "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudications of guilt or guilty pleas are entered in the record after the date of enactment of this Act.

SEC. 304. RESTRICTIONS ON DEFENSES TO DEPORTATION BY CRIMINALS.

(a) DEFENSES BASED ON SEVEN YEARS OF PERMANENT RESIDENCE.—The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking out "has served for such felony or felonies" and all that follows through the period and inserting in lieu thereof "has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such a conviction or sentence has expired and the sentence has become final.".

(b) DEFENSES BASED ON THE WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (9 U.S.C. 1253(h)(2)) is amended—

(1) by striking out the "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; or";

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) the alien has been convicted of an aggravated felony."; and

(4) by striking the last sentence.

SEC. 305. ESTABLISHMENT OF ALIEN PRISONER TRANSFER TREATY STUDY.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the "Treaty") to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens who have been convicted of a criminal offense in the United States since November 30, 1977, who have been, or are, eligible for transfer pursuant to the Treaty.

(2) The number of aliens who are described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens who are described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens who are described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas that are disproportionately harmed by aliens who have been convicted of criminal offenses as the Secretary and the Attorney General consider to be appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed criminal offenses in the United States.

(3) Changes in the Treaty that may be necessary in order to increase the number of aliens who have been convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

(d) DEFINITION.—As used in this section, the term "Prisoner Transfer Treaty with Mexico" refers to the Treaty Between the United States of America and the United Mexican States on the Execution of Penal Sentences, done at Mexico City on November 25, 1976 (28 U.S.T. 7399).

Subtitle B—Terrorist Aliens

SEC. 311. REMOVAL OF ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after section 242B the following new section:

"REMOVAL OF ALIEN TERRORISTS

"SEC. 242C. (a) DEFINITIONS.—As used in this section—

"(1) the term 'alien terrorist' means any alien who is described in section 241(a)(4)(B);

"(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

"(4) the term 'special court' means the court described in subsection (c) of this section; and

"(5) the term 'special removal hearing' means the hearing described in subsection (e) of this section.

"(b) APPLICATION FOR USE OF PROCEDURES.—The provisions of this section shall apply whenever the Attorney General certifies under seal to the special court established under subsection (c) that—

"(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

"(2) an alien terrorist is physically present in the United States; and

"(3) removal of such alien terrorist by deportation proceedings described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

"(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate up to 7 district court judges who shall constitute a special court to hear and decide cases that arise under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

"(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated for service on the Foreign Intelligence Surveillance Court pursuant to section 103(a) of that Act (50 U.S.C. 1803(a)).

"(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (b), a single judge of the special court shall consider the application in camera and ex parte.

"(2) The judge shall invoke the procedures of subsection (e), if the judge determines that there is probable cause to believe that—

"(A) the alien who is the subject of the application has been correctly identified;

"(B) a deportation proceeding under section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information; and

"(C) the threat posed by the alien's physical presence is immediate and involves the risk of death or serious bodily harm.

"(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (4), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

"(2) The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien who is financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

"(3) The alien shall have a right to introduce evidence on his own behalf and, except as provided in paragraph (4), shall have a right to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

"(4) The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

"(5) With respect to any evidence described in paragraph (4), the judge shall cause to be delivered to the alien either—

"(A) the substitution for such evidence of—

"(i) a statement admitting relevant facts that the specific evidence would tend to prove, or

"(ii) a summary of the specific evidence; or

"(B) if disclosure of even the substituted evidence described in subparagraph (A) would create a substantial risk of death or serious bodily harm to any person, a statement informing the alien that no such summary is possible.

"(6) If the judge determines—

"(A) that the substituted evidence described in paragraph (4)(B) will provide the alien with substantially the same ability to make his defense as would disclosure of the specific evidence, or

"(B) that disclosure of even the substituted evidence described in paragraph (5)(A) would create a substantial risk of death or serious bodily harm to any person, then the determination of deportability (described in section (f)) may be made pursuant to this section.

"(f) DETERMINATION OF DEPORTABILITY.—(1) If the determination in subsection (e)(6)(A) has been made, then the judge shall, considering the evidence on the record as a whole, require that the alien be deported if the Attorney General has proven, by clear and convincing evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(2) If the determination in subsection (e)(6)(B) has been made, then the judge shall, considering the evidence received (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear, convincing, and unequivocal evidence, that the alien is subject to deportation because he is an alien as described in section 241(a)(4)(B).

"(g) APPEALS.—(1) The alien may appeal a determination under subsection (f) to the Court of Appeals for the Federal Circuit, by filing a notice of appeal with such court within 20 days of the determination under such subsection.

"(2)(A) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the Court of Appeals for the Federal Circuit, by filing a notice of appeal with such court within twenty days of the determination under any one of such subsections.

"(B) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the Court of Appeals under seal. The Court of Appeals shall consider such appeal in camera and ex parte.".

(b) CONFORMING AMENDMENT.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking "and" at the end of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(15) of an appeal under section 242C(g) of the Immigration and Nationality Act.".

(c) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 242B the following new item:

"Sec. 242C. Removal of alien terrorists.".

SEC. 312. MANDATORY EXCLUSION FOR MEMBERSHIP IN TERROR GROUP.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)(II), by inserting "or" at the end;

(2) by adding after clause (i)(II) the following:

"(III) is a member of an organization that engages in, or has engaged in, terrorist activity or who actively supports or advocates terrorist activity,"; and

(3) by adding at the end the following new clause:

"(iv) TERRORIST ORGANIZATION DEFINED.—As used in this subparagraph, the term 'terrorist organization' means an organization that engages in terrorist activity as determined by the Attorney General, in consultation with the Secretary of State.".

Subtitle C—Enforcement of Deportation Orders

SEC. 321. LIMITATIONS ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDERS.

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

"(c) In any criminal proceeding under this section, no alien may challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates—

"(1) that the alien exhausted the administrative remedies (if any) that may have been available to seek relief against such order,

"(2) that the deportation proceedings at which such order was issued improperly deprived the alien of the opportunity for judicial review, and

"(3) that the entry of such order was fundamentally unfair.".

Subtitle D—Expedited Asylum Review at Ports of Entry

SEC. 331. ESTABLISHMENT OF EXPEDITED ASYLUM REVIEW PROGRAM.

(a) IN GENERAL.—Section 235(b) (8 U.S.C. 1225 (b)) is amended to read as follows:

"(b) INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.—(1) An immigration officer shall inspect each alien who is seeking entry to the United States.

"(2)(A) If the examining immigration officer determines that an alien seeking entry—

"(i) does not present the documentation required (if any) to obtain legal entry to the United States; and

"(ii) does not indicate either an intention to apply for provisional asylum (under section 208) or a fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

"(B) The examining immigration officer shall refer for immediate inspection at the port of entry by an asylum officer under subparagraph (C) any alien who (i) does not present the documentation required (if any) to obtain legal entry to the United States, and (ii) has indicated an intention to apply for provisional asylum or a fear of persecution. Such an alien shall not be considered to have been inspected and admitted for the purposes of this Act.

"(C)(i) If an asylum officer determines that an alien has a credible fear of persecution, then the alien shall be entitled to apply for provisional asylum under section 208.

"(ii)(I) Subject to subclause (II), if an asylum officer determines that an alien does not have a credible fear of persecution, then the officer shall order the alien excluded from the United States without further hearing or review.

"(II) The Attorney General shall promulgate regulations to provide for the immediate review by another asylum officer at the port of entry of a decision under subclause (I).

"(iii) For the purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of his or her claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

"(iv) Notwithstanding any other provision of law, no court shall have jurisdiction to review, except by petition for habeas corpus, any determination made with respect to an alien found excludable pursuant to this paragraph. In any such case, review by habeas corpus shall be limited to examination of whether the petitioner (I) is an alien, and (II) was ordered excluded from the United States pursuant to this paragraph.

"(v) Notwithstanding any other provision of law, no court shall have jurisdiction (I) to review the procedures established by the Attorney General for the determination of exclusion pursuant to this paragraph, or (II) to enter declaratory or injunctive relief with respect to the implementation of this paragraph. Regardless of the nature of the suit or claim, no court shall have jurisdiction except by habeas corpus petition as provided in clause (iv) to consider the validity of any adjudication or determination under this paragraph or to provide declaratory or injunctive relief with respect to the exclusion of any alien pursuant to this paragraph.

"(vi) In any action brought for the assessment of penalties for improper entry or reentry of an alien under sections 275 or 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion or deportation entered under section 235, 236, or 242.

"(3)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

"(B) The provisions of subparagraph (A) shall not apply—

"(i) to an alien crewman,

"(ii) to an alien described in paragraph (2)(A) or (2)(B), or

"(iii) if the conditions described in section 273(d) exist.

"(4) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to enter is so challenged, before a special inquiry officer for a hearing on the exclusion of the alien.

"(5) An alien has not entered the United States for the purposes of this Act unless and until such alien has been inspected and admitted by an immigration officer pursuant to this subsection.".

(b) CONFORMING AMENDMENTS.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1) by striking "Deportation" and inserting "Subject to section 235(b)(2), deportation"; and

(2) in the first sentence of paragraph (2) by striking "If" and inserting "Subject to section 235(b)(2), if".

Subtitle E—Asylum Reform

SEC. 341. ASYLUM.

(a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is amended to read as follows:

"SEC. 208. ASYLUM.

"(a) PROVISIONAL ASYLUM.—

"(1) RIGHT TO APPLY.—The Attorney General shall establish a procedure for an alien who is physically present in the United States or at a land border or port of entry, irrespective of such alien's status, to apply for provisional asylum in accordance with this section.

"(2) CONDITIONS FOR GRANTING.—

"(A) MANDATORY CASES.—The Attorney General shall grant provisional asylum to an alien if the alien applies for provisional asylum in accordance with the requirements of this section and establishes that it is more likely than not that in the alien's country of nationality (or, in the case of a person having no nationality, the country in which such alien last habitually resided) such alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(B) DISCRETIONARY CASES.—The Attorney General may grant provisional asylum to an alien if the alien applies for provisional asylum in accordance with the requirements of this section and establishes that the alien is a refugee within the meaning of section 101(a)(42).

"(C) EXCEPTIONS.—(i) Subparagraphs (A) and (B) shall not apply to an alien if the Attorney General determines that—

"(I) the alien ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

"(II) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

"(III) there are serious reasons for believing that the alien has committed a serious nonpolitical crime outside the United States prior to the arrival of the alien in the United States;

"(IV) there are reasonable grounds for regarding the alien as a danger to the security of the United States; or

"(V) a country willing to accept the alien has been identified (other than the country described in subparagraph (A)) to which the alien can be deported or returned and the alien does not establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(ii)(I) For the purposes of clause (i)(II), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.

"(II) The Attorney General shall promulgate regulations that specify additional crimes that will be considered to be crimes that are described in clauses (i)(II) or (i)(III).

"(III) The Attorney General shall promulgate regulations establishing such additional limitations and conditions as the Attorney General considers to be appropriate under which an alien shall be ineligible for provisional asylum under subparagraph (B).

"(3) PROVISIONAL ASYLUM STATUS.—In the case of any alien who is granted provisional asylum under paragraph (2)(A), the Attorney General, in accordance with this section—

"(A) shall not deport or return the alien to the country described under paragraph (2)(A);

"(B) shall authorize the alien to engage in employment in the United States and to provide the alien with an 'employment authorized' endorsement or other appropriate work permit; and

"(C) may allow the alien to travel abroad with the prior consent of the Attorney General.

"(4) TERMINATION.—Provisional asylum granted under paragraph (2) may be terminated if the Attorney General, pursuant to such regulations as the Attorney General may prescribe, determines that—

"(A) the alien no longer meets the conditions described in paragraph (2) owing to a change in the circumstances in the alien's country of nationality or, in the case of an alien having no nationality, in the country in which the alien last habitually resided;

"(B) the alien meets a condition described in paragraph (2)(C); or

"(C) a country willing to accept the alien has been identified (other than the country described in paragraph (2)) to which the alien can be deported or returned and the alien cannot establish that it is more likely than not that the alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(5) ACCEPTANCE BY ANOTHER COUNTRY.—In the case of an alien who is described in paragraph (2)(C)(i)(V) or paragraph (4)(C), the alien's deportation or return shall be directed, at the discretion of the Attorney General, to any country that is willing to accept the alien into its territory (other than the country that is described in paragraph (2)(A)).

"(b) PROVISIONAL ASYLUM APPLICATIONS.—

"(1) IN GENERAL.—

"(A) DEADLINE.—Subject to subparagraph (B), an alien's application for provisional asylum shall not be considered under this section unless—

"(i) the alien has filed, not later than 30 days after entering or coming to the United States, notice of intention to file such an application, and

"(ii) such application is actually filed not later than 60 days after entering or arriving in the United States.

"(B) EXCEPTION.—An application for provisional asylum may be considered, notwithstanding that the requirements of subparagraph (A) have not been met, only if the alien demonstrates by clear and convincing evidence changed circumstances in the alien's country of nationality (or in the case of an alien with no nationality, in the country where the alien last habitually resided) affecting eligibility for provisional asylum.

"(2) REQUIREMENTS.—An application for provisional asylum shall not be considered unless the alien submits to the taking of fingerprints and a photograph in a manner determined by the Attorney General.

"(3) PREVIOUS DENIAL OF ASYLUM.—An application for provisional asylum shall not be considered if the alien has been denied asylum by a country in which the alien has had access to a full and fair procedure for determining his or her asylum claim in accordance with a bilateral or multilateral agreement between that country and the United States.

"(4) FEES.—In the discretion of the Attorney General, the Attorney General may impose reasonable fees for the consideration of an application for provisional asylum, for employment authorization under this section, and for adjustment of status under section 209(b). The Attorney General is authorized to provide for the assessment and payment of any such fee over a period of time or by installments.

"(5) EMPLOYMENT.—An applicant for provisional asylum is not entitled to engage in employment in the United States. The Attorney General may authorize an alien who has filed an application for provisional asylum to engage in employment in the United States, in the discretion of the Attorney General.

"(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS APPLICATIONS.—At the time of the filing a notice of his or her intention to apply for provisional asylum, the alien shall be advised of the consequences, under subsection (e), of filing a frivolous application for provisional asylum.

"(c) SANCTIONS FOR FAILURE TO APPEAR.—

"(1) Subject to paragraph (2), the application for provisional asylum of an alien who does not appear for a hearing on such application shall be summarily dismissed unless the alien can show exceptional circumstances (as defined in section 242B(f)(2)) as determined by an asylum officer or an immigration judge.

"(2) Paragraph (1) shall not apply if written and oral notice were not provided to the alien of the time and place at which the asylum hearing was to be held, and in the case of any change or postponement in such time or place, written and oral notice were provided to the alien of the new time or place of the hearing.

"(d) ASYLUM.—

"(1) ADJUSTMENT OF STATUS.—Under such regulations as the Attorney General may prescribe, the Attorney General shall adjust to the status of an alien granted asylum the status of any alien granted provisional asylum under subsection (a)(2)(A) or (a)(2)(B) who—

"(A) applies for such adjustment;

"(B) has been physically present in the United States for at least 1 year after being granted provisional asylum;

"(C) continues to be eligible for provisional asylum under this section; and

"(D) is admissible under this Act at the time of his or her examination for adjustment of status under this subsection.

"(2) TREATMENT OF SPOUSES AND CHILDREN.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien whose status is adjusted to that of an alien granted asylum under paragraph (a)(2) may be granted the same status as the alien if he or she is accompanying, or following to join, such an alien.

"(3) APPLICATION FEES.—The Attorney General may impose a reasonable fee for the filing of an application for asylum under this subsection.

"(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIVOLOUS APPLICATIONS.—

"(1) IN GENERAL.—If the Attorney General determines that an alien has made a frivolous application for provisional asylum under this section and the alien has received the notice under subsection (b)(5), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such an application.

"(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For the purposes of this subsection, an application considered to be 'frivolous' includes, but is not limited to, an application that contains a willful misrepresentation or concealment of a material fact.".

(b) CLERICAL AMENDMENT.—The item in the table of contents relating to section 208 is amended to read as follows:

"Sec. 208. Asylum.".

SEC. 342. FAILURE TO APPEAR FOR ASYLUM HEARING; JUDICIAL REVIEW.

(a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is amended—

(1) in the heading, by striking "ASYLUM" and inserting "PROVISIONAL ASYLUM";

(2) by striking "asylum" each place it appears and inserting "provisional asylum"; and

(3) in subparagraph (A), by striking all after clause (iii) and inserting "shall not be eligible for any benefits under this Act.".

(b) JUDICIAL REVIEW.—Section 106 (8 U.S.C. 1105a) is amended by adding at the end the following subsection:

"(d) The procedure prescribed by, and all the provisions of chapter 158 of title 28, United States Code, shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders granting or denying provisional asylum, except that—

"(1) a petition for review may be filed not later than 90 days after the date of the issuance of the final order granting or denying provisional asylum;

"(2) the venue of any petition for review under this subsection shall be in the judicial circuit in which the administrative proceedings were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit; and

"(3) notwithstanding any other provision of law, a determination granting or denying provisional asylum based on changed circumstances pursuant to section 208(b)(1)(A)(ii) shall be in the sole discretion of the officer conducting the administrative proceeding.".

SEC. 343. CONFORMING AMENDMENTS.

(a) LIMITATION ON DEPORTATION.—Section 243 (8 U.S.C. 1253) is amended by striking subsection (h).

(b) ADJUSTMENT OF STATUS.—Section 209(b) (8 U.S.C. 1159(b)) is amended—

(1) in paragraph (2), by striking "one year" and inserting "2 years"; and

(2) by amending paragraph (3) to read as follows:

"(3) continues to be eligible for provisional asylum under section 208,".

(c) ALIENS INELIGIBLE FOR TEMPORARY PROTECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C. 1254a(c)(2)(B)(ii)) is amended by striking "section 243(h)(2)" and inserting "section 208(a)(2)(C)".

(d) ELIGIBILITY FOR NATURALIZATION.—Section 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking "subparagraphs (A) through (D) of paragraph 243(h)(2)" and inserting "section 208(a)(2)(C).".

(e) FAMILY UNITY.—Section 301(e) of the Immigration Act of 1990 (Public Law 101-649) is amended by striking "section 243(h)(2)" and inserting "section 208(a)(2)(C).".

SEC. 344. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, the amendments made by this title shall take effect on the date of enactment of this Act.

(b) EXCEPTIONS.—(1) The amendments made by this title shall not apply to applications for asylum or the withholding of deportation made before the first day of the first month that begins more than 180 days after the date on which this Act becomes law and no application for provisional asylum under section 208 of the Immigration and Nationality Act (as amended by section 331 of this title) shall be considered before such first day.

(2) In applying section 208(b)(1)(A) of the Immigration and Nationality Act (as amended by this title) in the case of an alien who has entered or arrived in the United States before the first day described in paragraph (1), notwithstanding the deadlines specified in such section—

(A) the deadline for the filing of a notice of intention to file an application for provisional asylum is 30 days after such first day, and

(B) the deadline for the filing of the application for provisional asylum is 30 days after the date of the filing of such a notice.

(3) The amendment made by section 342(b) (relating to adjustment of status) shall not apply to aliens who are granted asylum under section 208 of the Immigration and Nationality Act, as in effect before the date of enactment of this Act.

Subtitle F—Miscellaneous Provisions

SEC. 351. AUTHORIZATION OF TELEPHONIC DEPORTATION HEARINGS.

The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: "; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with or without the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien.".

SEC. 352. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act, and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)), may be construed to create any right or benefit, substantive or procedural, which is legally enforceable by any party against the United States, its agencies, its officers or any other person.

TITLE IV—EFFECTIVE DATE

SEC. 401. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act, this Act, and the amendments made by this Act, shall take effect on October 1, 1994.

EXHIBIT 1

SECTION-BY-SECTION ANALYSIS

TITLE I—LEGAL IMMIGRATION REFORM IMMIGRANTS

SUBTITLE A—ADMISSION OF LEGAL

Sec. 101. Reduction in Annual Legal Immigration Ceilings.

This section sets a comprehensive ceiling on legal immigration of 300,000 persons per year. It would represent a substantial reduction from the current level of approximately 880,000 persons per year. The 300,000-person annual limit also is consistent with the average yearly immigration figure for the period of 1820 until the modern era of high legal immigration began in 1965.

Under the new ceiling, this section provides that employers may petition for up to 30,000 priority workers per year. It also sets a limit of 35,000 on "diversity" immigrants under an immigration category that was established by the Immigration Act of 1990 to increase the number of immigrants from countries that have been under-represented as sources of immigration in recent decades.

Sec. 102. Redefinition of Immediate Relatives.

This section provides that U.S. citizens may petition for immigrant visas on behalf of only their spouses and children. It provides that other relatives may be admitted only if they are on existing waiting lists. By contrast, under current law, U.S. citizens also may file petitions on behalf of their parents and siblings, and aliens may petition for their spouses and children.

Sec. 103. Revision of Preference Allocations for Family-Sponsored Immigrants.

This section conforms applicable parts of the Immigration and Nationality Act (INA) to the changes in law made by Sections 101 and 102.

Sec. 104. Revision of Preference Allocations for Employment-Based Immigrants.

This section conforms applicable parts of the INA to the changes in law made by the previous sections of this Subtitle.

Sec. 105. Conforming Amendments.

This section makes further conforming changes to the INA.

Sec. 106. Transition.

This section provides a short transition period to the new limits.

Sec. 107. Repeal.

This section repeals Section 301 of the Immigration Act of 1990, relating to the admission of dependents of legalized aliens.

SUBTITLE B—ADMISSION OF REFUGEES

Sec. 111. Number of Admissions.

Within the overall ceiling set forth in section 101, this section limits the annual number of refugee admissions to 35,000. Under current law, there is no limit on the number of refugee admissions. In Fiscal Year 1992, 117,000 refugees were admitted to the U.S.

TITLE II—ILLEGAL IMMIGRATION CONTROL

SUBTITLE A—LAND BORDERS CONTROL

Sec. 201. Placement of Additional Physical Barriers.

This section requires the Attorney General to report to the Chairmen of the Senate and House Judiciary Committees within six months after enactment on the feasibility and cost of the placement of substantial numbers of physical barriers, such as fences and ditches, at appropriate points on the border between the U.S. and Mexico to deter and prevent unauthorized crossings into the U.S.

Sec. 202. Establishment of Interior Repatriation Program.

In order to deter the "revolving door" effect of reentries by aliens who have been deported from a border area, this section requires that illegal entrants from Canada or Mexico who have entered the U.S. illegally on at least three previous occasions must be repatriated to locations that are not less than five hundred kilometers from that country's border with the United States.

SUBTITLE B—PORTS OF ENTRY CONTROL

Sec. 211. Requirement of 24 Hours of Notice of Arrivals by Ships.

This section would require that 24 hours of advance notice must be given to the INS by ships with respect to their arrivals at ports of entry so that they may be inspected for immigration purposes. Such notice already is given to the U.S. Customs Service.

SUBTITLE C—OVERSEAS AIRPORTS CONTROL

Sec. 221. Establishment of Additional Inspection Stations.

Recognizing that preinspection combats illegal immigration by preventing undocumented aliens from reaching the U.S., this section requires the Attorney General to report to the Chairmen of the Senate and House Judiciary Committees within six months of enactment regarding the feasibility and cost of the establishment of additional preinspection stations in at least 10 of the overseas airports with the heaviest U.S.-bound passenger traffic.

Sec. 222. Training or Airline Personnel in Detection of Fraud.

This section requires the INS to use at least 5% of the funds in the Inspection Fees Account in order to train airline personnel in the detection of fraudulent documents. If an airline fails to participate in INS training programs with regard to the detection of fraudulent documents, then the section provides that the Attorney General may suspend that airline's landing rights in the U.S.

SUBTITLE D—ALIEN SMUGGLING CONTROL

Sec. 231. Expansion of Alien Smuggling Asset Forfeiture Program.

This section expands the INS's current seizure and forfeiture authority with respect to conveyance used in the smuggling or harboring of illegal aliens to include the seizure and forfeiture of all property in such cases.

Sec. 232. Inclusion of Alien Smuggling in Rico Act.

This section adds alien smuggling as a prohibited activity under the Racketeering Influenced Corrupt Organizations (RICO) Act.

Sec. 233. Enhanced Penalties for Alien Smuggling and Employment.

This section provides enhanced penalties for any person who knowingly contracts or agrees with another party to provide employment to an illegal alien.

Sec. 234. Provision of Wiretap Authority for Investigations.

This section provides authority for the U.S. Department of Justice to use wiretaps to assist in the investigation of alien smuggling and fraud in connection with visas, permits, and other travel documents.

SUBTITLE E—EMPLOYER SANCTIONS ENFORCEMENT

Sec. 241. Improvement of Work Eligibility Verification Systems.

In order to eliminate the widespread fraud that is crippling the employer sanctions provisions of the Immigration Reform and Control Act of 1986 (IRCA), this section provides for the use of Social Security numbers as the primary means by which employment eligibility will be verified. The section provides for the establishment of a telephonic verification system for use by employers to determine employment eligibility. The Attorney General is directed to monitor the verification system and to recommend any statutory changes that she deems necessary for the full achievement of the objective of this section.

SUBTITLE F—PROHIBITION OF WELFARE BENEFITS TO ILLEGAL ALIENS

Sec. 251. Prohibition of Welfare Benefits to Illegal Aliens.

This section prohibits the payment of Federally-funded welfare benefits to aliens other than those who are lawfully admitted as permanent residents, refugees, asylees or parolees. The section also provides an exception with respect to the Federal reimbursement of emergency medical care for aliens, as determined by the Secretary of Health and Human Services by regulation.

Sec. 252. Prohibition of Unemployment Benefits to Illegal Aliens.

This section prohibits the payment of unemployment compensation to aliens who have not been granted employment authorization pursuant to the INA.

Sec. 253. Prohibition of Housing Benefits to Illegal Aliens.

This section prohibits the provision of Federally-subsidized housing to aliens other than those who are admitted as permanent residents, asylees, refugees, or parolees.

Sec. 254. Enhancement of Legal Alien Entitlement Verification.

This section authorizes augmentation of the automated Systematic Alien Verification of Entitlements (SAVE) program, which is used to verify the immigration status of aliens who apply for Federal benefits.

SUBTITLE G—LOCAL COOPERATION IN IMMIGRATION ENFORCEMENT

Sec. 261. Prohibition on Financial Assistance.

This section requires the suspension of all Justice Department grant assistance to so-called "sanctuary cities," which have an official policy of refusing to cooperate with the INS in the detection, arrest, and detention of illegal aliens. The provision also applies to any States that adopt such policies.

Sec. 262. Establishment of Program for Uniform Vital Statistics.

This section establishes a pilot program for the development of a data base on birth and death records to prevent fraud against the government through the use of counterfeit birth or death certificates.

TITLE III—EXCLUSION AND DEPORTATION REFORM

SUBTITLE A—CRIMINAL ALIENS

Sec. 301. Registration of Aliens on Probation and Parole.

This section authorizes the registration of aliens on criminal probation or criminal parole with the INS. It is intended to assist the INS in keeping track of criminal aliens.

Sec. 302. Expansion of Definition of Aggravated Felony.

This section expands the definition of "aggravated felony" for purposes of the INA. The crimes that currently fall within that category are murder, drug trafficking, trafficking in firearms or explosives, money laundering, and violent crimes for which the sentence is over 5 years. This section adds firearms violations, failure to appear before a court to answer a felony charge, demanding or receiving ransom money, unlawful conduct as set forth under the RICO Act, immigration-related offenses including alien smuggling and the sale of fraudulent documents, child pornography, owning or operating a prostitution business, treason, and tax evasion exceeding $200,000.

Sec. 303. Authorization of Judicial Deportation Orders.

This section authorizes United States District Judges to issue orders of deportation during the sentencing phases of criminal trials of aliens who are convicted of aggravated felonies. It could apply to all criminal aliens, including those who are permanent residents of the U.S.

Under this provision, judicial deportation orders must be requested by the U.S. Attorney involved, with the concurrence of the Commissioner of the INS. The U.S. Attorney would be required to provide the alien with a notice of intent to seek such an order following an adjudication of criminal guilt or the entry of a guilty plea. The government would be responsible for demonstrating that the defendant is an alien who is subject to deportation and that the crime of which the alien has been convicted meets the statutory definition of "aggravated felony."

Judicial deportation would replace ordinary administrative deportation procedures in those cases in which it is sought. Aliens who are found to be deportable under this process would continue to have the right to seek judicial review of their deportation orders in the United States Courts of Appeals. In addition, this section would not require the consideration of judicial deportation orders in every trial of an alien who is charged with an aggravated felony. Finally, under this section the Attorney General would retain her right to seek an administrative determination of deportability if the U.S. District Court were to deny a government motion for a judicial deportation order.

Sec. 304. Restrictions on Defenses to Deportation by Criminals.

This section would restrict defenses to deportation for aliens who have been convicted of aggravated felonies. As the result of amendments made to the INA by this section, the only such aliens who would qualify for discretionary relief from deportation would be those permanent residents who have lived in the U.S. under that immigration status for at least seven years and have been sentenced to less than five years of imprisonment upon conviction of an aggravated felony.

Under current law, permanent resident aliens who have lived in the U.S. for seven years are ineligible for relief from deportation if they have *served* five years or more upon conviction of an aggravated felony. This section would amend the law to make such aliens who have been *sentenced* to serve five years or more in prison ineligible for such relief.

The new proposed standard is more relevant to assessing the seriousness of an offense, since dangerous criminals sometimes are released prematurely due to prison overcrowding or for other reasons that are unrelated to the seriousness of the crimes for which they were convicted. Moreover, the current standard presents a serious logistical obstacle to the speedy commencement of deportation proceedings because it may not be known until the alien has served five years in prison whether the alien will be eligible for relief from deportation.

Sec. 305. Establishment of Alien Prisoner Transfer Treaty Study.

This section requires the Attorney General, together with the Secretary of State, to report on the use and effectiveness of the Prisoner Transfer Treaty with Mexico. That treaty provides for the removal of aliens who are Mexican nationals from the U.S. when they have been convicted of crimes here.

SUBTITLE B—TERRORIST ALIENS

Sec. 311. Removal of Alien Terrorists.

This section incorporates a legislative proposal first made by the Justice Department under the Reagan Administration in 1988. It was resubmitted to the Congress by the Bush Administration in 1989. The Senate adopted it unanimously as a part of the crime bill in the fall of 1993. The provision was dropped, however, from the conference report on the bill.

Under this section, a special Article III court is established in which, under limited circumstances, classified information may be used to establish the deportability of alien terrorists as defined under the Immigration Act of 1990. The special Article III court is based on that which was created by the Foreign Intelligence Surveillance Act nearly twenty years ago.

Under current law [Section 235(c) of the INA], classified information may be used to establish the excludability of aliens. Those cases are heard before INS officials sitting as special adjudicatory officers. In recognition of the fact that aliens are accorded greater constitutional due process protections in deportation proceedings, this section places cases in which the government seeks to use classified information to establish deportability before Article III life-tenured judges. In addition, this section requires that either the Attorney General or the Deputy Attorney General of the United States must personally approve the invocation of this procedure by the Justice Department.

Under this section, aliens may appeal from adverse decisions by the special Article III court to the United States Court of Appeals for the Federal Circuit. They may seek review of adverse appellate decisions by filing petitions for writs of *certiorari* to the United States Supreme Court.

Sec. 312. Mandatory Exclusion for Membership in Terror Group.

This section provides that membership in a terrorist organization is sufficient cause for the exclusion of aliens who are attempting to enter the United States.

SUBTITLE C—ENFORCEMENT OF DEPORTATION ORDERS

Sec. 321. Limitations on Collateral Attacks on Underlying Deportation Orders.

In a criminal proceeding against a deported alien who reenters the United States illegally, this section would allow a U.S. District Court to examine the validity of the original deportation order only if the alien demonstrates (1) that he/she exhausted all available administrative remedies, (2) that the deportation proceedings improperly deprived the alien of the opportunity for judicial review, and (3) that the entry of the order of deportation was "fundamentally unfair. This language, which is taken directly from the U.S. Supreme Court case of *United States* v. *Mendoza-Lopez*, 481 U.S 828 (1987), is intended to ensure that minimum due process is followed in the original deportation proceeding while preventing wholesale, time-consuming attack on underlying deportation orders.

SUBTITLE D—EXPEDITED ASYLUM REVIEW AT PORTS OF ENTRY

Sec. 331. Establishment of Expedited Asylum Review Program.

Aliens who seek to immigrate to the United States increasingly are using commercial international airline flights in order to circumvent U.S. immigration laws. The number of such aliens who arrive at U.S. airports with fraudulent documents, or without any travel papers at all, has grown markedly in recent years. Severely limited detention space requires the INS to parole most such aliens into the U.S. with instructions to report several months later for a hearing before an immigration judge. Many of those aliens fail to appear for their hearings, however, and take other actions to make INS efforts to locate them quite difficult.

This section revises Section 235(b) of the INA, which governs the inspection and exclusion of aliens. It provides for an expedited exclusion procedure for aliens who (1) arrive either at points of entry or elsewhere in the U.S., (2) do not have proper documentation, and (3) do not have a credible claim for asylum. Under its terms, if the examining immigration officer determines that an alien seeking entry to the U.S. does not present the requisite documentation to enter the U.S. and doesn't indicate that he/she has a fear of persecution in his/her home country, the officer may exclude the alien without further hearing or review.

Special protections, however, are provided under this section to aliens who do profess fear of persecution. Such aliens are immediately referred to an INS asylum officer at the port of entry. If the asylum officer determines that the alien has a credible fear of persecution, then the alien is entitled to apply for provisional asylum. On the other hand, if the INS asylum officer finds that the alien does not have a credible fear of persecution, then the officer can order the alien excluded from the United States, subject to immediate supervisory review.

Under this section, a finding that an alien has a "credible fear of persecution" requires a judgment that (1) it is more probable than not that the statements made in support of the claim are true and that (2) there is a significant possibility that the alien could establish eligibility for provisional asylum based upon them.

This section provides only for quite limited judicial review. An alien who is found to be excludable under the expedited exclusion procedure would be permitted to file a petition for a writ of *habeas corpus* in a United States District Court. Such review by the Court would be limited to (1) a determination that the petitioner is an alien and (2) a finding of whether the petitioner was ordered excluded under the expedited exclusion procedure.

SUBTITLE E—ASYLUM REFORM

Sec. 341. Asylum.

Under current law, the adjudication of asylum claims through many levels of administrative and judicial review typically is extremely slow. Undeserving applicants have taken advantage of the present massive backlog of 300,000 cases, as well as all of their rights to review and appeal, to delay for many years the final resolutions of their cases. In response to that problem, this section rewrites Section 208 of the INA, which establishes the asylum process.

Current law provides that an alien who fears persecution can apply for either asylum under Section 208 or withholding of deportation under Section 243(h), or both. In order to be granted asylum, an alien must prove that he/she has a "well-founded fear of persecution," whereas to be granted withholding of deportation an alien must demonstrate that his/her life or freedom "would be threatened" if he/she were to return to his/her home country. The courts have interpreted "would be threatened" to mean "more likely than not" and "well-founded fear" to mean "good reason to fear." The judgment of whether to grant asylum to an alien who qualifies is left to the discretion of the Attorney General, while the grant of the withholding of deportation is mandatory for aliens who meet the statutory requirements.

Under Section 208 as revised by this section, an alien who fears persecution in his/her homeland would be allowed to apply only for provisional asylum. This section would preserve the existing burdens of proof, such that the Attorney General would be required to grant provisional asylum to an alien who establishes that it is "more likely than not" that he/she would be persecuted in his/her home country and (2) the Attorney General is given the discretion to grant provisional asylum to an alien who establishes a "good reason to fear" persecution. Reflecting current law, the Attorney General would be precluded from granting provisional asylum to aliens who are found to have participated in persecution, who have been convicted of a particularly serious crime, or who are dangerous to the security of the U.S.

This section also addresses another deficiency in current law with respect to asylum, which is that there are no deadlines by which asylum applications must be filed. An undocumented alien who has been in the U.S. for many years, for example, may claim asylum at any time. This allows such aliens to use asylum as a defense to deportation.

Accordingly, this section establishes deadlines for provisional asylum applications. Under the new requirements, aliens would be required to file a notice of intent to file a provisional asylum application within 30 days after arriving in the U.S. The application itself then must be filed within 60 days. An applicant who misses these deadlines is allowed to apply only if he/she can demonstrate that circumstances changed in his/her home country after the deadlines passed.

In addition, this section provides that reasonable fees may be charged for asylum applications and that employment authorizations in connection therewith only will be granted at the discretion of the Attorney General. The asylum applications of aliens who do not appear at their hearings will be dismissed, unless the alien involved can demonstrate exceptional circumstances.

This section also allows aliens who have been granted provisional asylum to receive full asylum status. In order to do so, the alien must be present in the U.S. in provisional asylum status for one year, continue to be eligible for provisional asylum, and admissible for adjustment under the INA.

Finally, under this section, any alien who has received notice of the consequences of the filing of a frivolous provisional asylum application, and nevertheless files such an application, will not be eligible ever again for any immigration benefits under the INA. An application will be considered frivolous if it includes willful and material misrepresentations of fact.

Sec. 342. Failure to Appear for Asylum Hearing; Judicial Review.

Under this section, an alien who has received proper notice and nevertheless fails to appear for a provisional asylum hearing will not be eligible in the future for any immigration benefit under the INA. This section also provides that judicial review of provisional asylum cases will take place in the U.S. Courts of Appeals. Determinations granting or denying provisional asylum on the basis of claims of changed circumstances, however, will rest in the sole discretion of the Attorney General.

Sec. 343. Conforming Amendments.

This section includes conforming amendments to the INA.

Sec. 344. Effective Dates.

This section provides for effective dates. Although most amendments made by the bill will take effect on the date on which the bill becomes law, some effective dates are set afterwards in order to allow the INS more time in which to prepare for the changes made thereby.

SUBTITLE E—MISCELLANEOUS PROVISIONS

Sec. 351. Authorization of Telephonic Deportation Hearings.

In response to the 1989 decision of the U.S. Court of Appeals for the Ninth Circuit in *Purba v. INS*, 884 F. 2d 516 (9th Cir. 1989), this section provides authority for deportation proceedings to be heard by immigration judges telephonically and, where waived or agreed to by the parties, in the absence of the alien.

Sec. 352. Construction of Expedited Deportation Requirements.

In response to another recent ruling by the Court of Appeals for the Ninth Circuit, this section makes clear that the provision in the INA that requires the Attorney General to begin deportation proceedings as expeditiously as possible cannot be construed to create a legally enforceable right or benefit.

By Mr. CHAFEE:

S.J. Res. 231. A joint resolution prohibiting funds for diplomatic relations with Vietnam at the ambassadorial level unless a report on United States servicemen who remain unaccounted for from the Vietnam War is submitted to the Senate; to the Committee on Foreign Relations.

VIETNAM DIPLOMATIC RELATIONS JOINT RESOLUTION

• Mr. CHAFEE. Mr. President, at the beginning of this session, the Senate debated and approved a resolution urging the President to lift the trade embargo against Vietnam. It was an emotional and hard-fought debate. All Senators agreed as to our primary policy objective: to obtain continued cooperation from Vietnam in our efforts to account for the more than 2,000 servicemen who never returned from the War. The question was, how best to meet that objective.

At the time, many argued very passionately that the cooperation we have received from Vietnam on the POW-MIA question has been reluctant at best, and that lifting the embargo would remove any incentive that the

Vietnamese might have to continue to work with us. Others argued that if we did not lift the embargo, the Vietnamese would decide that continuing to cooperate was pointless and would cease to do so.

After much consideration, I sided with the proponents of lifting the embargo. I felt that we should trust the judgment of our on-the-ground investigators, virtually all of whom gave high marks to the Vietnamese for their cooperation, and that the best way to maintain that cooperation would be to advance our relationship through the lifting of the trade embargo.

Since the Senate approved that resolution on January 27 and the President lifted the embargo accordingly on February 3, many in the Vietnam veterans community in my State of Rhode Island have expressed the understandable concern that, in doing so, we had let the camel's nose under the tent. Now that we have taken this important step forward, they fear that we will rush headlong toward normalizing our relations with Vietnam without any further reflection on the POW-MIA question.

I stated during the debate on the Kerry-McCain amendment that I did not advocate establishing normal diplomatic ties with Vietnam. I believed then, as I believe now, that any further progress toward normalization must continue to be linked to Vietnamese cooperation on the POW-MIA issue. The legislation I introduce today—and plan to reintroduce when we return next year—is intended to let our Vietnam veterans, as well as the comrades and families of those who never returned, know that we will not sever that link.

Quite simply, my joint resolution states that Congress shall appropriate no funds to maintain diplomatic relations with Vietnam at the ambassadorial level unless, prior to Senate confirmation of any U.S. ambassador to Vietnam, the President submits to the Senate a comprehensive report assessing the progress to date of United States-Vietnamese efforts to resolve cases involving U.S. servicemen still unaccounted for.

This legislation would not undermine the President's ability to conduct diplomacy. Clearly, we cannot formulate foreign policy with 535 Secretaries of State. Instead, my legislation focuses on the Senate's Constitutional responsibility to confirm ambassadorial appointments and the Congress' control over the Federal purse strings. It says to the President, we will not tie your hands, but before we vote on sending an ambassador to Vietnam and before we appropriate any funds to support an American embassy in Vietnam, we want, at the very least, a thorough update on the accounting of American POW-MIA.

Mr. President, sadly, we will never recover every American who remains unaccounted for from the Vietnam War. The destructive nature of war and the particular challenges of recovery work in the jungle make resolution of these cases very slow and painstaking, and in some instances, impossible. That does not mean, however, that we should abandon our efforts to achieve the best accounting we can. The families and friends of our missing servicemen have been waiting more than 20 years for answers about what happened to their loved ones. We must continue to do everything possible to provide those answers.

I want to thank the Rhode Island chapter of the Vietnam Veterans of America and in particular Mr. Ernie DiRocco and Mr. Ken Osborne for their hard work on this issue and their invaluable assistance in crafting this joint resolution.●

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. AKAKA, Mr. BIDEN, Mr. BOND, Mr. BOREN, Mr. BRYAN, Mr. CHAFEE, Mr. COATS, Mr. COCHRAN, Mr. CRAIG, Mr. D'AMATO, Mr. DECONCINI, Mr. DURENBERGER, Mr. GLENN, Mr. GRASSLEY, Mr. HEFLIN, Mr. HELMS, Mr. HOLLINGS, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MIKULSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. ROTH, Mr. SIMON, Mr. SPECTER, Mr. THURMOND, Mr. WARNER and Mr. WOFFORD):

S.J. Res. 232. A joint resolution designating October 23, 1994, through October 31, 1994, as "National Red Ribbon Week for a Drug-Free America; to the Committee on the Judiciary.

NATIONAL RED RIBBON WEEK FOR A DRUG-FREE AMERICA

● Mr. MURKOWSKI. Mr. President, on behalf of myself, Senator STEVENS, and 29 of our colleagues, I introduce a Senate Resolution designating October 23–October 31, 1994, as "National Red Ribbon Week for a Drug-Free America." I am proud to be the Senate's original sponsor of this seventh annual recognition of this week, and I invite my colleagues to support this important resolution.

Illegal and addictive drugs, Mr. President, are a scourge on our society and, if not stemmed, could virtually destroy our American way of life. The human misery and violence that surround the drug culture are among the most dangerous threats to a free society. I cannot—and know we will not—stand by and allow the cancer of drug addiction to imperil the future of this country.

The National Family Partnership is an important organization fighting drug abuse in our country. This group of volunteers is dedicated to freeing our Nation from dependence on illegal drugs. The Partnership orchestrates educational activities throughout American communities that are designed to promote broad public awareness on the perils of drug addiction. The campaign primarily targets school-age children—those most vulnerable to the dangers of drugs. Red Ribbon Week is as much a celebration of the success and effectiveness of the Family Partnership as it is a collective statement about the dangers of drug abuse.

Since its inception in 1988, the National Red Ribbon Celebration has made a positive impact on more and more people each year. In 1993, over 120 million people in the United States participated in Red Ribbon activities.

The National Red Ribbon Celebration originated when Drug Enforcement Administration agent Enrique Camarena was murdered by drug traffickers in 1985. Angered by the killing and destruction caused by illegal drugs in America, the National Family Partnership and affiliated non-profit organizations began wearing red ribbons as a symbol of their commitment to a healthy, drug-free lifestyle—No use of illegal drugs and no illegal use of legal drugs.

Mr. President, a Senate Joint Resolution on this vital topic lends both credence and seriousness to the purposes of Red Ribbon Week, a true national grassroots initiative.

Mr. President, I urge all my colleagues to support this important legislation.●

ADDITIONAL COSPONSORS

S. 51

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 51, a bill to consolidate overseas broadcasting services of the United States Government, and for other purposes.

S. 340

At the request of Mr. HEFLIN, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the Act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 600

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 600, a bill to amend the Internal Revenue Code of 1986 to extend and modify the targeted jobs credit.

S. 993

At the request of Mr. KEMPTHORNE, the names of the Senator from Nebraska [Mr. EXON] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 993, a bill to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations.

S. 1288

At the request of Mr. AKAKA, the names of the Senator from North Dakota [Mr. DORGAN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1288, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture commercialization research program, and for other purposes.

S. 1376

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1376, a bill to repeal the Helium Act, to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes.

S. 1772

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1772, a bill to reduce federal employment to the levels proposed in the Vice President's Report of the National Performance Review.

S. 1843

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 1843, a bill to downsize and improve the performance and accountability of the Federal Government.

S. 1887

At the request of Mr. PELL, his name was added as a cosponsor of S. 1887, a bill to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 1933

At the request of Mr. MCCAIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1933, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

S. 2071

At the request of Mr. LIEBERMAN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2071, a bill to provide for the application of certain employment protection and information laws to the Congress and for other purposes.

S. 2140

At the request of Mr. DASCHLE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2140, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 2337

At the request of Mr. LOTT, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 2337, a bill to extend benefits for qualified service to certain merchant mariners who served during World War II, and for other purposes.

S. 2360

At the request of Mr. BREAUX, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 2360, a bill to amend the Magnuson Fishery Conservation and Management Act of 1976, and for other purposes.

S. 2427

At the request of Mr. HEFLIN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 2427, a bill to require the Secretary of Agriculture to offer to enter into an agreement with the National Academy of Sciences to coordinate the development of recommendations to carry out an improved inspection program for meat and poultry products, and for other purposes.

S. 2437

At the request of Mr. CONRAD, the names of the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2437, a bill to amend the Food Security Act of 1985 to extend, improve, increase flexibility, and increase conservation benefits of the conservation reserve program, and for other purposes.

S. 2456

At the request of Mr. GORTON, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2456, a bill to direct the Secretary of Agriculture to carry out activities on certain federally owned lands to address the adverse effects of 1994 wildfires in the western portion of the United States, and for other purposes.

S. 2460

At the request of Mr. CHAFEE, the names of the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Indiana [Mr. COATS] were added as cosponsors of S. 2460, a bill to extend for an additional two years the period during which medicare select policies may be issued.

S. 2478

At the request of Mr. KERRY, the names of the Senator from New Mexico [Mr. DOMENICI], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 2478, a bill to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes.

S. 2491

At the request of Mrs. FEINSTEIN, the names of the Senator from California [Mrs. BOXER], the Senator from Arizona [Mr. DECONCINI], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2491, a bill to amend the Defense Authorization Amendments and Defense Base Closure and Realignment Act and the Defense Base Closure and Realignment Act of 1990 to improve the base closure process, and for other purposes.

S. 2508

At the request of Mr. PACKWOOD, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 2508, a bill to amend the fishing endorsement issued to a vessel owned by Ronnie C. Fisheries, Inc.

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mrs. FEINSTEIN], the Senator from Maine [Mr. COHEN], the Senator from Arizona [Mr. MCCAIN], the Senator from Rhode Island [Mr. CHAFEE], the Senator from New Hampshire [Mr. GREGG], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. THURMOND, the names of the Senator from Ohio [Mr. GLENN], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating September 18, 1994, through September 24, 1994, as "Iron Overload Diseases Awareness Week."

SENATE JOINT RESOLUTION 186

At the request of Mr. PACKWOOD, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of Senate Joint Resolution 186, a joint resolution to designate February 2, 1995, and February 1, 1996, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 219

At the request of Mr. LEAHY, the names of the Senator from South Carolina [Mr. THURMOND], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 219, a joint resolution to commend the United States rice industry, and for other purposes.

SENATE JOINT RESOLUTION 224

At the request of Mr. SIMON, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of Senate Joint Resolution 224, a joint resolution designating November 1, 1994, as "National Family Literacy Day".

SENATE CONCURRENT RESOLUTION 66

At the request of Ms. MIKULSKI, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from South Carolina [Mr. THURMOND], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of Senate Concurrent Resolution 66, a concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

SENATE CONCURRENT RESOLUTION 80—RELATIVE TO S. 349

Mr. LEVIN (for himself, Mr. COHEN, Mr. MITCHELL, Mr. WELLSTONE, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 80

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 349) an Act to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes, the Secretary of the Senate shall make the following corrections:

(1) Strike out section 103(2) and insert in lieu thereof the following:

"(2) CLIENT.—The term 'client' means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is the coalition or association and not its individual members.".

(2) Strike out section 103(8).

(3) In section 103(9)(A), in the second sentence insert "and communications with members, as described in section 4911(d)(1)(A) and (3) of the Internal Revenue Code of 1986" after "include grassroots lobbying communications".

(4) In section 103(9)(B) strike out all after "the Internal Revenue Code of 1986" and insert in lieu thereof a period.

(5) Strike out section 103(10)(B)(xviii)(II) and insert in lieu thereof the following:

"(II) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a); and".

(6) In section 103 redesignate paragraphs (9) through (17) as paragraphs (8) through (16), respectively.

(7) In section 104(b)—

(A) strike out paragraph (5); and

(B) redesignate paragraphs (6) and (7) as paragraph (5) and (6), respectively.

(8) In section 105(b)(2)—

(A) in subparagraph (C) add "and" after the semicolon;

(B) in subparagraph (D) strike out "and" after the semicolon; and

(C) strike out subparagraph (E).

(9) In section 105(b)—

(A) in paragraph (3) add "and" after the semicolon;

(B) in paragraph (4) strike out the semicolon and insert in lieu thereof a period; and

(C) strike out paragraphs (5) and (6).

(10) In section 105(c)(4) strike out "subsections (b)(4) and (b)(6)" and insert in lieu thereof "subsection (b)(4)".

(11) In section 107(d)(14) strike out "section 103(17)" and insert in lieu thereof "section 103(16)".

(12) In section 121(g)(2), in the first sentence strike out "section 103(12)" and insert in lieu thereof "section 103(11)".

(13) In section 121(g)(2)(A) strike out "sections 104(a)(3), 105(a)(2), 105(b)(4), and 105(b)(6)" and insert in lieu thereof "sections 104(a)(3), 105(a)(2), and 105(b)(4)".

(14) In section 121(g)(2)(A) strike out "section 103(9)" and insert in lieu thereof "section 103(8)".

(15) In section 121(g)(2)(B) strike out "section 103(9), consider as lobbying" and insert in lieu thereof "section 103(8), consider as lobbying".

(16) In section 121(g)(2)(B)(iii) strike out "section 103(9)" and insert in lieu thereof "section 103(8)".

(17) In section 121(g)(3)(A) strike out "section 103(9)" and insert in lieu thereof "section 103(8)".

SENATE RESOLUTION 274—TO AMEND THE STANDING RULES OF THE SENATE

Mr. DOLE (for himself, Mr. SIMPSON, Mr. NICKLES, Mr. COCHRAN, Mr. MCCONNELL, Mr. SMITH, Mr. D'AMATO, Mr. DOMENICI, Mr. Coats, Mr. LOTT, Mrs. HUTCHISON, Mr. BENNETT, Mr. SHELBY, MR. GREGG, Mr. COVERDELL, Mr. Durenberger, Mr. PACKWOOD, Mr. GORTON, Mr. KEMPTHORNE, Mr. THURMOND, Mrs. KASSEBAUM, Mr. BROWN, Mr. MACK, Mr. WARNER, Mr. FAIRCLOTH, Mr. GRAMM, Mr. HATCH, Mr. BURNS, Mr. HELMS, Mr. MCCAIN, Mr. GRASSLEY, Mr. LUGAR, Mr. BOND, Mr. GRAIG, Mr. ROTH, Mr. COHEN, Mr. CHAFEE, and Mr. PRESSLER) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 274

GIFT RULES

AMENDMENTS TO SENATE RULES

Resolved, Rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No Member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a registered lobbyist under the Federal Regulation of Lobbying Act, a lobbying firm, or an agent of a foreign principal.

(a) GIFTS.—A prohibited gift includes the following:

(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by Member, officer, or employee of the Senate.

(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a Member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a Member, officer, or employee of the Senate.

(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a Member, officer, or employee of the Senate.

(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of a Member, officer, or employee of the Senate.

(b) NOT GIFTS.—The following are not gifts subject to the prohibition:

(1) Anything for which the recipient pays the market value, or does not use and promptly returns to the donor.

(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(3) Food or refreshments of nominal value offered other than as part of a meal.

(4) Benefits resulting from the business, employment, or Member, officer, or employee of the Senate, if such benefits are customarily provided to others in similar circumstances.

(5) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(6) Informational materials that are sent to the office of a Member, officer, or employee of the Senate in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

(c) GIFTS GIVEN FOR A NONBUSINESS PURPOSE AND MOTIVATED BY FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP.—

(1) IN GENERAL.—A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the Member, officer, or employee of the Senate, shall not be subject to the prohibition in subsection (a).

(2) NONBUSINESS PURPOSE.—A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

(A) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

(B) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

(3) FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP. In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

(A) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

(B) Whether the gift was purchased by the individual who gave the item.

(C) Whether the individual who gave the gift also at the same time gave the same or similar gifts to any other Member, officer, or employee of the Senate.

"2. (a) In addition to the restriction on receiving gifts from lobbyists, registered lobbyists under the Federal Regulation of Lobbying Act, lobbying firms, and agents of foreign principles provided by paragraph 1 and except as provided in this Rule, no Member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this Rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer, or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(d)(1) Except as prohibited by paragraph 1, a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(e) No Member, officer or employee may accept a gift the value of which exceeds $250 under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the Member, officer, or employee of the Senate unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(f)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (A)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, fact-finding trip or similar event in connection with the duties of the Members, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the Member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be consider to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the Member of officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.".

3. DEFINITIONS.—

(a) Lobbyist means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client.

(b) Lobbying firm means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity including a self-employed individual who is a lobbyist.

(c) Agent of a foreign principal means the definition contained in the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)

4. MISCELLANEOUS SENATE PROVISIONS.—

(1) AUTHORITY OF THE COMMITTEE ON RULES AND ADMINISTRATION.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

(2) FOOD, REFRESHMENTS, AND ENTERTAINMENT.—The rules on acceptance of food, refreshments, and entertainment provided to a Member of the Senate or an employee of such a Member in the Member's home State before the adoption of reasonable limitations by the Committee on Rules and Administration shall be the rules in effect on the day before the effective date of this title.

5. EFFECTIVE DATE.—This rule change shall take effect May 31, 1995.

SENATE RESOLUTION 275—TO AMEND THE SENATE GIFT RULE

Mr. WELLSTONE (for himself, Mr. FEINGOLD, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 275

Resolved, That rule XXXV of the Standing Rules of the Senate is amended by inserting the following:

SEC. ____. AMENDMENTS TO SENATE RULES.

The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a lobbying firm, or an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) in violation of this rule.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this rule, no member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a member, officer, or employee (or a gift to any other individual based on that individual's relationship with the member, officer, or employee) shall be considered a gift to the member, officer, or employee if it is given with the knowledge and acquiescence of the member, officer, or employee and the member, officer, or employee has reason to believe the gift was given because of the official position of the member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall apply to the following:

"(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

"(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a member, officer, or employee of the Senate.

"(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

"(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a member, officer, or employee of the Senate.

"(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a member, officer, or employee of the Senate.

"(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of members, officers, or employees of the Senate.

"(d) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officeholder) of the member, officer, or employee, or the spouse of the member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a member or an employee of a member in the member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (e).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

"(2) A member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(f)(1) No member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in subparagraph (d)(3) or the close personal friendship exception in clause (2) unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(2)(A) A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the member, officer, or employee of the Senate shall not be subject to the prohibition in clause (1).

"(B) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

"(i) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

"(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

"(C) In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

"(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

"(ii) Whether the gift was purchased by the individual who gave the item.

"(iii) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees of the Senate.

"(g)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the member or officer (in the case of travel by that Member or officer) or by the member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officeholder and would not create the appearance that the member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee, subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

"4. In this rule:

"(a) The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

"(1) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments; or

"(2) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues and assessments.

"(b)(1) The term "lobbying contact" means any oral or written communication (including an electronic communication) to a member, officer, or employee of the Senate that is made on behalf of a client with regard to the formulation, modification, or adoption of Federal legislation (including legislative proposals) or the nomination or confirmation of a person for a position subject to confirmation by the Senate.

"(2) The term "lobbying contact" does not include a communication that is—

"(A) made by a public official acting in the public official's official capacity;

"(B) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

"(C) made in a speech, article, publication or other material that is widely distributed to the public, or through radio, television, cable television, or other medium of mass communication;

"(D) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

"(E) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a member, officer, or employee of the Senate;

"(F) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

"(G) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

"(H) information provided in writing in response to a written request by a member, officer, or employee of the Senate for specific information;

"(I) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

"(J) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this subclause does not apply to any communication with a member, officer, or employee of the Senate (other than the individual's elected Senators or employees who work under such Senators' direct supervision) with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

"(K) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law; or

"(L) made by—

"(i) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

"(ii) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a),

if the communication constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion.

"(c)(1) The term "lobbying firm"—

"(A) means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity; and

"(B) includes a self-employed individual who is a lobbyist; but

"(C) does not include a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated in accordance with standards issued by the Committee on Rules and Administration) in the preceding semiannual period of January through June or July through December.

"(2) The dollar amounts in clause (1) shall be adjusted—

"(A) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

"(B) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

"(d)(1) The term "lobbyist"—

"(A) means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client; but

"(B) does not include an individual whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated in accordance with standards issued by the Committee on Rules and Administration) in the preceding semiannual period of January through June or July through December.

"(2) The dollar amounts in clause (1) shall be adjusted—

"(A) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

"(B) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

"(e) The term "public official" means any elected official, appointed official, or employee of—

"(1) a Federal, State, or local unit of government in the United States other than—

"(A) a college or university;

"(B) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

"(C) a public utility that provides gas, electricity, water, or communications;

"(D) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

"(E) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

"(2) a Government corporation (as defined in section 9101 of title 31, United States Code);

"(3) an organization of State or local elected or appointed officials other than officials of an entity described in aubclause (A), (B), (C), (D), or (E) of clause (1);

"(4) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

"(5) a national or State political party or any organizational unit thereof; or

"(6) a national, regional, or local unit of any foreign government.

"(f) The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

SENATE RESOLUTION 276—RELATIVE TO APPOINTMENTS TO COMMISSIONS, COMMITTEES, BOARDS, OR CONFERENCES

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 276

Resolved, That notwithstanding the sine die adjournment of the present session of the Congress, the President of the Senate, the

President pro tempore, the Majority leader of the Senate, and the Minority leader of the Senate be, and they are hereby, authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

AMENDMENTS SUBMITTED

THE FEDERAL MANDATE ACCOUNTABILITY AND REFORM ACT OF 1994

SIMON (AND OTHERS) AMENDMENT NO. 2621

Mr. SIMON (for himself, Mr. MCCAIN, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill (S. 993) to end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; as follows:

At the end of the pending amendment, insert the following:

DIVISION 2—NATIONAL AFRICAN AMERICAN MUSEUM ACT

SECTION 1. SHORT TITLE.

This division may be cited as the "National African American Museum Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities are inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restrict the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture include the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 3. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 4. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

SEC. 5. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American art, history, and culture appointed by the Board of Regents, of whom 9 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (b), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 6. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

SEC. 7. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees of the Museum, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 5(a).

(3) The term "Museum" means the National African American Museum established under section 3(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary only for costs directly relating to the operation and maintenance of the Museum.

THE CONGRESSIONAL ACCOUNTABILITY ACT

WELLSTONE (AND OTHERS) AMENDMENT NO. 2622

(Ordered to lie on the table.)

Mr. WELLSTONE (for himself, Mr. FEINGOLD, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill (H.R. 4822) to make certain laws applicable to the legislative branch of the Federal Government.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. WELLSTONE. Mr. President, pursuant to Rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby submit notice to amend Rule 35 of the Standing Rules of the Senate; as follows:

SEC. ___. AMENDMENTS TO SENATE RULES.

The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a lobbying firm, or an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) in violation of this rule.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this rule, no member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a member, officer, or employee (or a gift to any other individual based on that individual's relationship with the member, officer, or employee) shall be considered a gift to the member, officer, or employee if it is given with the knowledge and acquiescence of the member, officer, or employee and the member, officer, or employee has reason to believe the gift was given because of the official position of the member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall apply to the following:

"(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

"(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a member, officer, or employee of the Senate.

"(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

"(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a member, officer, or employee of the Senate.

"(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a member, officer, or employee of the Senate.

"(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of members, officers, or employees of the Senate.

"(d) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officeholder) of the member, officer, or employee, or the spouse of the member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a member or an employee of a member in the member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (e).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

"(2) A member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(f)(1) No member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in subparagraph (d)(3) or the close personal friendship exception in clause (2) unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(2)(A) A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the member, officer, or employee of the Senate shall not be subject to the prohibition in clause (1).

"(B) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

"(i) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

"(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

"(C) In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

"(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

"(ii) Whether the gift was purchased by the individual who gave the item.

"(iii) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees of the Senate.

"(g)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the member or officer (in the case of travel by that Member or officer) or by the member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officeholder and would not create the appearance that the member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee, subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

"4. In this rule:

"(a) The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

"(1) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments; or

"(2) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues and assessments.

"(b)(1) The term "lobbying contact" means any oral or written communication (including an electronic communication) to a member, officer, or employee of the Senate that is made on behalf of a client with regard to the formulation, modification, or adoption of Federal legislation (including legislative proposals) or the nomination or confirmation of a person for a position subject to confirmation by the Senate.

"(2) The term "lobbying contact" does not include a communication that is—

"(A) made by a public official acting in the public official's official capacity;

"(B) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

"(C) made in a speech, article, publication or other material that is widely distributed to the public, or through radio, television, cable television, or other medium of mass communication;

"(D) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

"(E) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a member, officer, or employee of the Senate;

"(F) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

"(G) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

"(H) information provided in writing in response to a written request by a member, officer, or employee of the Senate for specific information;

"(I) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

"(J) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this subclause does not apply to any communication with a member, officer, or employee of the Senate (other than the individual's elected Senators or employees who work under such Senators' direct supervision) with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

"(K) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law; or

"(L) made by—

"(i) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

"(ii) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a),

if the communication constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion.

"(c)(1) The term "lobbying firm"—

"(A) means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity; and

"(B) includes a self-employed individual who is a lobbyist; but

"(C) does not include a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated in accordance with standards issued by the Committee on Rules and Administration) in the preceding semiannual period of January through June or July through December.

"(2) The dollar amounts in clause (1) shall be adjusted—

"(A) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

"(B) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

"(d)(1) The term "lobbyist"—

"(A) means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client; but

"(B) does not include an individual whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated in accordance with standards issued by the Committee on Rules and Administration) in the preceding semiannual period of January through June or July through December.

"(2) The dollar amounts in clause (1) shall be adjusted—

"(A) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

"(B) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,

rounded to the nearest $500.

"(e) The term "public official" means any elected official, appointed official, or employee of—

"(1) a Federal, State, or local unit of government in the United States other than—

"(A) a college or university;

"(B) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

"(C) a public utility that provides gas, electricity, water, or communications;

"(D) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

"(E) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

"(2) a Government corporation (as defined in section 9101 of title 31, United States Code);

"(3) an organization of State or local elected or appointed officials other than officials of an entity described in aubclause (A), (B), (C), (D), or (E) of clause (1);

"(4) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

"(5) a national or State political party or any organizational unit thereof; or

"(6) a national, regional, or local unit of any foreign government.

"(f) The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

THE FEDERAL MANDATE ACCOUNTABILITY AND REFORM ACT OF 1994

MOSELEY-BRAUN AMENDMENT NO. 2623

Ms. MOSELEY-BRAUN proposed an amendment to amendment No. 2621 proposed by Mr. SIMON to the bill S. 993, supra; as follows:

Strike all in the amendment and insert the following:

2—NATIONAL AFRICAN AMERICAN MUSEUM ACT

SECTION 1. SHORT TITLE.

This division may be cited as the "National African American Museum Act".

SEC. 2. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities are inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restrict the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture include the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

SEC. 3. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

SEC. 4. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

SEC. 5. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American life, art, history, and culture appointed by the Board of Regents, of whom 11 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (b), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

SEC. 6. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

SEC. 7. DIRECTOR AND STAFF.

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees of the Museum, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 5(a).

(3) The term "Museum" means the National African American Museum established under section 3(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary only for costs directly relating to the operation and maintenance of the Museum.

GRAMM AMENDMENT NO. 2624

Mr. GRAMM proposed an amendment to the bill S. 993, supra; as follows:

At the appropriate place, insert:

SEC. ___. REPEAL OF 1993 TAX INCREASE ON SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 13215 of the Revenue Reconciliation Act of 1993 (relating to tax on social security and tier 1 railroad retirement benefits) is hereby repealed.

(b) APPLICATION OF INTERNAL REVENUE CODE.—The Internal Revenue Code of 1986 shall be applied and administered as if the provisions of, and the amendments made by, section 13215 of the Revenue Reconciliation Act of 1993 had not been enacted.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1993.

WOFFORD AMENDMENT NO. 2625

(Ordered to lie on the table.)

Mr. WOFFORD submitted an amendment intended to be proposed by him to the bill S. 993, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. DISQUALIFICATION OF MEMBERS OF CONGRESS FROM PARTICIPATING IN THE FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) the Congress has failed to enact legislation that extends health insurance to all Americans and reduces inflation in health care costs;

(2) Members of Congress may obtain health insurance through the Federal Employees Health Benefits Program, which provides Members of Congress with guaranteed and affordable private health insurance, choice of health plans and choice of doctor, and no exclusions for preexisting medical conditions; and

(3) Members of Congress currently receive on average a 72 percent contribution of their health insurance premiums from their employer, the taxpayers.

(b) PURPOSE.—The purpose of this section is to provide that Members of Congress shall not obtain taxpayer-financed health insurance under the favorable conditions established through the Federal Employees Health Benefits Program unless Congress enacts health reform legislation that gives the American people the type of affordable, guaranteed health insurance that Members of Congress have provided for themselves.

(c) LIMITATION ON FEDERAL EMPLOYEE HEALTH BENEFITS PLAN COVERAGE FOR MEMBERS OF CONGRESS.—Effective on January 1, 1995.—

(1) the Office of Personnel Management shall—

(A) terminate the enrollment of any Member of Congress in a health benefits plan under chapter 89 of title 5, United States Code; and

(B) prohibit the original enrollment, re-enrollment, or change of enrollment of any Member of Congress in such a plan; and

(2) the Secretary of the Senate and the Clerk of the House of Representatives shall cease making applicable employee withholdings and Government contributions under section 8906 of title 5, United States Code, for any Member of Congress.

(d) CONTINUED COVERAGE.—A Member of Congress who is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, on December 31, 1994, may receive continued coverage under section 8905a of such title.

NATIONALITY AND NATURALIZATION AMENDMENTS ACT

CONRAD (AND OTHERS) AMENDMENT NO. 2626

Mr. FORD (for Mr. CONRAD for himself, Mr. BURNS, Mr. JOHNSTON, Mr. DECONCINI, and Mr. DORGAN) proposed an amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; as follows:

At the end of the matter proposed to be inserted by the House amendment, add the following:

SEC. ___. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) WAIVER.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended——

(1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent)" after "interested United States Government agency"; and

(2) by inserting after "public interest" the following: "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent the waiver shall be subject to the requirements of section 214(k)".

(b) RESTRICTIONS ON WAIVER.—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(k)(1) In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless——

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

"(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

"(2)(A) Notwithstanding section 248(2), the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of a contract with a health facility shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(H), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States, before, on, or after the date of enactment of this Act and before June 1, 1996.

BROWN (AND OTHERS) AMENDMENT NO. 2627

Mr. FORD (for Mr. BROWN for himself, Mr. SIMON, Mr. MURKOWSKI, and Mr. LIEBERMAN) proposed an amendment to the amendment of the House to the amendment of the Senate to the bill H.R. 783, supra; as follows:

At the appropriate place in the bill, add the following new section—

"SEC. . VISAS FOR OFFICIALS OF TAIWAN.

"Whenever, the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

"(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

"(ii) Prevention of nuclear proliferation;

"(iii) Threats to the national security of the United States;

"(iv) The protection of the global environment;

"(v) The protection of endangered species; or

"(vi) Regional humanitarian disasters.

"The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.".

SIMPSON AMENDMENT NO. 2628

Mr. FORD (for Mr. SIMPSON) proposed an amendment to the amendment of the House to the amendment of the Senate to the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization; as follows:

At the end of the matter proposed to be inserted by the House amendment, add the following:

SEC. ___. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive materials (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) or (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influenced corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(M) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(N) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(O) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(P) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(Q) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. ___. SUMMARY DEPORTATION.

(a) EXPEDITED PROCEDURES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (b)(4)(D), by striking "the determination of deportability is supported by clear, convincing, and unequivocal evidence and"; and

(2) in subsection (b)(4)(E), by striking "entered" and inserting "adjudicated".

(b) TECHNICAL CORRECTION.—Section 106(d)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by striking "242A(b)(5)" and inserting "242A(b)(4)".

SEC. ___. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A), if such an order has been requested by the United States Attorney with the concurrence of the Commissioner and if the court chooses to exercise such jurisdiction.

"(2) PROCEDURE.—

"(A) The United States Attorney shall file with the United States district court, and serve upon the defendant and the Service, prior to commencement of the trial or entry of a guilty plea a notice of intent to request judicial deportation.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 30 days prior to the date set for sentencing a charge containing factual allegations regarding the alienage of the defendant and identifying the crime or crimes which make the defendant deportable under section 241(a)(2)(A).

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under this Act, the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial without a decision on the merits of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242A(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. ___. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT

SIMON AMENDMENT NO. 2629

Mr. FORD (for Mr. SIMON) proposed an amendment to the House amendments to the bill (S. 2372) to reauthorize for three years the Commission on Civil Rights, and for other purposes; as follows:

On page 10, line 12, strike "September 30, 1995" and insert "September 30, 1996".

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT

WALLOP (AND OTHERS) AMENDMENT NO. 2630

Mr. FORD (for Mr. WALLOP for himself, Mr. LIEBERMAN and Mr. DODD) proposed an amendment to the bill (S. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes; as folows:

TITLE I—QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR.

SECTION 101. SHORT TITLE.

This title may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and other permanent open space;

(2) the State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other Northeastern States in the amount of land set-aside for public recreation;

(3) the beautiful rural landscapes, scenic vistas and excellent water quality of the Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States;

(4) the Quinebaug and Shetucket Rivers Valley is within a two-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for significant population;

(5) the existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution;

(6) the Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States;

(7) the Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the Northeastern United States;

(8) the Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period, leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence; and

(9) many local, regional and State agencies businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 103. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this title to provide assistance to the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley.

SEC. 104. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

SEC. 105. STATE CORRIDOR PLAN.

(a) PREPARATION OF PLAN.—Within two years after the date of enactment of this title, the Governor of the State of Connecticut is encouraged to develop a Cultural Heritage and Corridor Management Plan. The plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a comprehensive historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) recommend non-binding advisory standards and criteria pertaining to the construction, preservation, restoration, alteration and use of properties within the Corridor, including an inventory of such properties which potentially could be preserved, restored, managed, developed, maintained, or acquired based upon their historic, cultural or recreational significance;

(2) develop an historic interpretation plan to interpret the history of the Corridor;

(3) develop an inventory of existing and potential recreational sites which are developed or which could be developed within the Corridor;

(4) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts:

(5) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this Title; and

(6) contain a program for implementation of the plan by the State and its political subdivisions.

(b) PUBLIC INVOLVEMENT IN PLAN DEVELOPMENT.—During development of the Plan, the Governor is encouraged to include:

(1) the participation of at least the following:

(A) local elected officials in the communities defined in Section 104;

(B) representatives of the three Regional Planning Agencies defined in Section 108;

(C) representatives of Northeast Connecticut Visitors District and Southeastern Connecticut Tourism District;

(D) the Commissioners, or their designees, of the Connecticut Department of Environmental Protection and the Connecticut Department of Economic Development;

(E) Director, or his designee of the Connecticut State Historical Commission; and

(F) residents of the communities within the Corridor as defined in Section 104.

(2) hold at least one public hearing in each of the following counties: Windham; Tolland, and New London; and

(3) consider, to the maximum extent practicable, the recommendations, comments, proposals and other information submitted at the public hearings when developing the final version of the plan. The Governor is encouraged to publish notice of hearings discussed in subparagraph (2) of this paragraph in newspapers of general circulation at least 30 days prior to the hearing date. The Governor is encouraged to use any other means authorized by Connecticut law to gather public input and/or involve members of the public in the development of the plan.

(c) IMPLEMENTATION OF PLAN.—After review of the plan by the Secretary as provided for in Section 106, the Governor shall implement the plan. Upon the request of the Governor, the Secretary may take appropriate steps to assist in the preservation and interpretation of historic resources, and to assist in the development of recreational resources within the Corridor. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in establishing and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and nonprofit organizations in the restoration of historic buildings within the Corridor identified pursuant to the inventory required in section 5(a)(1);

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the plan; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 106. DUTIES OF THE SECRETARY.

(a) ASSISTANCE.—The Secretary and the heads of other Federal Agencies shall, upon request of the Governor assist the Governor in the preparation and implementation of the plan.

(b) COMPLETION.—Upon completion of the plan the Governor shall submit such plan to the Secretary for review and comment. The Secretary shall complete such review and comment within 60 days. The Governor shall make such changes in the plan as he deems appropriate based on the Secretary's review and comment.

SEC. 107. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall consult with the Secretary and the Governor with respect to such activities to minimize any adverse effect on the Corridor.

SEC. 108. DEFINITIONS.

For the purposes of this title:

(1) The term "State" means the State of Connecticut.

(2) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor under section 3.

(3) The term "Governor" means the Governor of the State of Connecticut.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "regional planning organization" means each of the three regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency or its successor, and the Southeastern Connecticut Regional Planning Agency or its successor).

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title: *Provided*, That not more than $200,000 shall be appropriated for fiscal year 1995, and not more than $250,000 annually thereafter shall be appropriated for the Secretary to carry out his duties under this title for a period not to exceed seven years: *Provided further*, That the Federal funding for the Corridor shall not exceed 50 percent of the total annual costs for the Corridor.

SEC. 110. NATIONAL PARK SERVICE.

The Corridor shall not be deemed to be a unit of the National Park System.

TITLE II—WEIR FARM NATIONAL HISTORIC SITE ADDITIONS.

SEC. 201. SHORT TITLE.

This title may be cited as the "Weir Farm National Historic Site Expansion Act of 1994".

SEC. 202. PURPOSE.

The purpose of this title is to preserve the last remaining undeveloped parcels of the historic Weir Farm that remain in private ownership by including the parcels within the boundary of the Weir Farm National Historic Site.

SEC. 203. BOUNDARY ADJUSTMENT.

(a) ADJUSTMENT.—Section 4(b) of the Weir Farm National Historic Site Establishment Act of 1990 (Public Law 101-485; 104 Stat. 1171) is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the flush material below paragraph (2); and

(3) by adding at the end the following:

"(3) the approximately 2-acre parcel of land situated in the town of Wilton, Connecticut, designated as lot 18 on a map entitled 'Revised Map of Section I, Thunder Lake at Wilton, Connecticut, Scale 1' = 100', October 27, 1978, Ryan and Faulds Land Surveyors, Wilton, Connecticut', that is on file in the office of the town clerk of the town of Wilton, and therein numbered 3673; and

"(4) the approximately 0.9-acre western portion of a parcel of land situated in the town of Wilton, Connecticut, designated as Tall Oaks Road on the map referred to in paragraph (3).'.

(b) GENERAL DEPICTION.—Section 4 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

(c) GENERAL DEPICTION.—The parcels referred to in paragraphs (1) through (4) of subsection (b) are all as generally depicted on a map entitled 'Boundary Map, Weir Farm National Historic Site, Fairfield County Connecticut', dated June, 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.'.

TITLE III—CANE RIVER CREOLE NATIONAL HISTORICAL PARK.

SECTION 301. SHORT TITLE.

Titles III and IV of this Act may be cited as the "Cane River Creole National Historical Park and National Heritage Area Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Natchitoches area along Cane River, established in 1714, is the oldest permanent settlement in the Louisiana Purchase territory;

(2) the Cane River area is the locale of the development of Creole culture, from French-Spanish interactions of the early 18th century to today's living communities;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, unlike the Cane River area, most are isolated examples, and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features with original elements in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, four other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefitted from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs.

(b) PURPOSES.—The purposes of titles III and IV of this Act are to—

(1) recognize the importance of the Cane River Creole culture as a nationally significant element of the cultural heritage of the United States;

(2) establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river; and

(3) establish a Cane River National Heritage Area and Commission to be undertaken in partnership with the State of Louisiana, the City of Natchitoches, local communities and settlements of the Cane River area, preservation organizations, and private landowners, with full recognition that programs must fully involve the local communities and landowners.

SEC. 303. ESTABLISHMENT OF CANE RIVER CREOLE NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—In order to assist in the preservation and interpretation of, and education concerning, the Creole culture and diverse history of the Natchitoches region, and to provide technical assistance to a broad range of public and private landowners and preservation organizations, there is hereby established the Cane River Creole National Historical Park in the State of Louisiana (hereinafter in titles III and IV of this Act referred to as the "historical park").

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) Lands and structures associated with the Oakland Plantation as depicted on map CARI, 80,002, dated January 1994.

(2) Lands and structures owned or acquired by Museum Contents, Inc. as depicted on map CARI, 80,001A, dated May 1994.

(3) Sites that may be the subject of cooperative agreements with the National Park Service for the purposes of historic preservation and interpretation including, but not limited to, the Melrose Plantation, the Badin-Roque site, the Cherokee Plantation, the Beau Fort Plantation, and sites within the Natchitoches National Historical Landmark District: *Provided*, That such sites may not be added to the historical park unless the Secretary of the Interior (hereinafter referred to as the "Secretary") determines, based on further research and planning, that such sites meet the applicable criteria for national historical significance, suitability, and feasibility, and notification of the proposed addition has been transmitted to the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of the House of Representatives.

(4) Not to exceed 10 acres of land that the Secretary may designate for an interpretive visitor center complex to serve the needs of the historical park and heritage area established in title IV of this Act.

SEC. 304. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in accordance with this title and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1935 (49 Stat. 535; 16 U.S.C. 1, 2-4); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary shall manage the historical park in such a manner as will preserve resources and cultural landscapes relating to the Creole culture of the Cane River and enhance public understanding of the important cultural heritage of the Cane River region."

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, or other public or private entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of titles III and IV of this Act. Any funds donated to the Secretary pursuant to this subsection may be expended without further appropriation.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center on lands identified by the Secretary pursuant to section 303(b)(4). Such center shall provide for the general information and orientation needs of the historical park and the heritage area. The Secretary shall consult with the State of Louisiana, the City of Natchitoches, the Association for the Preservation of Historic Natchitoches, and the Cane River National Heritage Area Commission pursuant to section 402 of this Act in the planning and development of the interpretive center.

(d) COOPERATIVE AGREEMENTS AND TECHNICAL ASSISTANCE.—(1) The Secretary, after consultation with the Cane River National Heritage Area Commission established pursuant to section 402 of this Act, is authorized to enter into cooperative agreements with owners of properties within the heritage area and owners of properties within the historical park that provide important educational and interpretive opportunities relating to the heritage of the Cane River region. The Secretary may also enter into cooperative agreements for the purpose of facilitating the preservation of important historic sites and structures identified in the historical park's general management plan or other heritage elements related to the heritage of the Cane River region. Such cooperative agreements shall specify that the National Park Service shall have reasonable rights of access for operational and visitor use needs and that preservation treatments will meet the Secretary's standards for rehabilitation of historic buildings.

(2) The Secretary is authorized to enter into cooperative agreements with the City of Natchitoches, the State of Louisiana, and other public or private organizations for the development of the interpretive center, educational programs, and other materials that will facilitate public use of the historical park and heritage area.

(e) RESEARCH.—The Secretary, acting through the National Park Service, shall coordinate a comprehensive research program on the complex history of the Cane River region, including ethnography studies of the living communities along the Cane River, and how past and present generations have adapted to their environment, including genealogical studies of families within the Cane River area. Research shall include, but not be limited to, the extensive primary historic documents within the Natchitoches and Cane River areas, and curation methods for their care and exhibition. The research program shall be coordinated with Northwestern State University of Louisiana, and the National Center for Preservation Technology and Training in Natchitoches.

SEC. 305. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—Except as otherwise provided in this section, the Secretary is authorized to acquire lands and interests therein within the boundaries of the historical park by donation, purchase with donated or appropriated funds, or exchange.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests therein that are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) MUSEUM CONTENTS, INC.—Lands and structures identified in section 303(b)(2) may be acquired only by donation.

(d) COOPERATIVE AGREEMENT SITES.—Lands and interests therein that are the subject of cooperative agreements pursuant to section 303(b)(3) shall not be acquired except with the consent of the owner thereof.

SEC. 306. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and in consultation with the Cane River Heritage Area Commission, the National Park Service shall prepare a general management plan for the historical park. The plan shall include but need not be limited to—

(1) a visitor use plan indicating programs and facilities that will be provided for public use, including the location and cost of an interpretive center;

(2) programs and management actions that the National Park Service will undertake cooperatively with the heritage area commission, including preservation treatments for important sites, structures, objects, and research materials. Planning shall address educational media, roadway signing, and brochures that could be coordinated with the Commission pursuant to section 403 of this Act; and

(3) preservation and use plans for any sites and structures that are identified for National Park Service involvement through cooperative agreements.

TITLE IV—CANE RIVER NATIONAL HERITAGE AREA

SEC. 401. ESTABLISHMENT OF THE CANE RIVER NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Cane River National Heritage Area (hereinafter in this title referred to as the "heritage area").

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of the Cane River region and in recognition of the findings of section 302(a) of this Act, it is the purpose of this title to establish a heritage area to complement the historical park and to provide for a culturally sensitive approach to the preservation of the heritage of the Cane River region, and for other needs including—

(1) recognizing areas important to the Nation's heritage and identity;

(2) assisting in the preservation and enhancement of the cultural landscape and traditions of the Cane River region;

(3) providing a framework for those who live within this important dynamic cultural landscape to assist in preservation and educational actions; and

(4) minimizing the need for Federal land acquisition and management.

(c) AREA INCLUDED.—The heritage area shall include—

(1) an area approximately 1 mile on both sides of the Cane River as depicted on map CARI, 80,000A, dated May 1994;

(2) those properties within the Natchitoches National Historic Landmark District which are the subject of cooperative agreements pursuant to section 304(d) of this Act;

(3) the Los Adaes State Commemorative Area;

(4) the Fort Jesup State Commemorative Area;

(5) the Fort St. Jean Baptiste State Commemorative Area; and

(6) the Kate Chopin House.

A final identification of all areas and sites to be included in the heritage area shall be included in the heritage area management plan as required in section 403.

SEC. 402. CANE RIVER NATIONAL HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—To assist in implementing the purposes of titles II and III of this Act and to provide guidance for the management of the heritage area, there is established the Cane River National Heritage Acra Commission (hereinafter in this title referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 19 members to be appointed no later than 6 months after the date of enactment of this title. The Commission shall be appointed by the Secretary as follows—

(1) one member from recommendations submitted by the Mayor of Natchitoches;

(2) one member from recommendations submitted by the Association for the Preservation of Historic Natchitoches;

(3) one member from recommendations submitted by the Natchitoches Historic Foundation, Inc.;

(4) two members with experience in and knowledge of tourism in the heritage area from recommendations submitted by the local business and tourism organizations;

(5) one member from recommendations submitted by the Governor of the State of Louisiana;

(6) one member from recommendations submitted by the Police Jury of Natchitoches Parish;

(7) one member from recommendations submitted by the Concerned Citizens of Cloutierville;

(8) one member from recommendations submitted by the St. Augustine Historical Society;

(9) one member from recommendations submitted by the Black Heritage Committee;

(10) one member from recommendations submitted by the Los Ades/Robeline Community;

(11) one member from recommendations submitted by the Natchitoches Historic District Commission;

(12) one member from recommendations submitted by the Cane River Waterway Commission;

(13) two members who are landowners in and residents of the heritage area;

(14) one member with experience and knowledge of historic preservation from recommendations submitted by Museum Contents, Inc.;

(15) one member with experience and knowledge of historic preservation from recommendations submitted by the President of Northwestern State University of Louisiana;

(16) one member with experience in and knowledge of environmental, recreational and conservation matters affecting the heritage area from recommendations submitted by the Natchitoches Sportsman Association and other local recreational and environmental organizations; and

(17) the Director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) prepare a management plan for the heritage area in consultation with the National Park Service, the State of Louisiana, the City of Natchitoches, Natchitoches Parish, interested groups, property owners, and the public;

(2) consult with the Secretary on the preparation of the general management plan for the historical park;

(3) develop cooperative agreements with property owners, preservation groups, educational groups, the State of Louisiana, the City of Natchitoches, universities, and tourism groups, and other groups to further the purposes of titles III and IV of this Act; and

(4) identify appropriate entities, such as a non-profit corporation, that could be established to assume the responsibilities of the Commission following its termination.

(d) POWERS OF THE COMMISSION.—In furtherance of the purposes of titles III and IV of this Act, the Commission is authorized to—

(1) procure temporary and intermittent services to the same extent that is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable;

(2) accept the services of personnel detailed from the State of Louisiana or any political subdivision thereof, and may reimburse the State or political subdivision for such services;

(3) upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties;

(4) appoint and fix the compensation of such staff as may be necessary to carry out its duties. Staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) enter into cooperative agreements with public or private individuals or entities for research, historic preservation, and education purposes;

(6) make grants to assist in the preparation of studies that identify, preserve, and plan for the management of the heritage area;

(7) notwithstanding any other provision of law, seek and accept donations of funds or services from individuals, foundations, or other public or private entities and expend the same for the purposes of providing services and programs in furtherance of the purposes of titles III and IV of this Act;

(8) assist others in developing educational, informational, and interpretive programs and facilities;

(9) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; and

(10) use the United States mails in the same manner and under the same conditions as other departments or agencies of the United States.

(e) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(g) TERMS.—The terms of Commission members shall be for 3 years. Any member of the Commission appointed by the Secretary for a 3-year term may serve after expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(h) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report is made, and actions that are planned for the following year.

SEC. 403. PREPARATION OF THE PLAN.

(a) IN GENERAL.—Within 3 years after the Commission conducts its first meeting, it shall prepare and submit a heritage area management plan to the Governor of the State of Louisiana. The Governor shall, if the Governor approves the plan, submit it to the Secretary for review and approval. The Secretary shall provide technical assistance to the Commission in the preparation and implementation of the plan, in concert with actions by the National Park Service to prepare a general management plan for the historical park. The plan shall consider local government plans and shall present a unified heritage preservation and education plan for the heritage area. The plan shall include, but not be limited to—

(1) an inventory of important properties and cultural landscapes that should be preserved, managed, developed, and maintained because of their cultural, natural, and public use significance;

(2) an analysis of current land uses within the area and how they affect the goals of preservation and public use of the heritage area;

(3) an interpretive plan to address the cultural and natural history of the area, and actions to enhance visitor use. This element of the plan shall be undertaken in consultation with the National Park Service and visitor use plans for the historical park;

(4) recommendations for coordinating actions by local, State, and Federal governments within the heritage area, to further the purposes of titles III and IV of this Act; and

(5) an implementation program for the plan including desired actions by State and local governments and other involved groups and entities.

(b) APPROVAL OF THE PLAN.—The Secretary shall approve or disapprove the plan within 90 days after receipt of the plan from the Commission. The Commission shall notify the Secretary of the status of approval by the Governor of Louisiana when the plan is submitted for review and approval. In determining whether or not to approve the plan the Secretary shall consider—

(1) whether the Commission has afforded adequate opportunity, including public meetings and hearings, for public and governmental involvement in the preparation of the plan; and

(2) whether reasonable assurances have been received from the State and local governments that the plan is supported and that the implementation program is feasible.

(c) DISAPPROVAL OF THE PLAN.—If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons for disapproval, and shall provide recommendations and assistance in the revision of the plan. Following completion of any revisions to the plan, the Commission shall resubmit the plant to the Government or Louisiana for approval, and to the Secretary, who shall approve or disapprove the plan within 90 days after the date that the plan is revised.

SEC. 404. TERMINATION OF HERITAGE AREA COMMISSION.

(a) TERMINATION.—The Commission shall terminate on the day occurring 10 years after the first official meeting of the Commission.

(b) EXTENSION.—The Commission may petition to be extended for a period of not more than 5 years beginning on the day referred to in subsection (a), provided the Commission determines a critical need to fulfill the purposes of titles III and IV of this Act; and the Commission obtains approval from the Secretary, in consultation with the Governor of Louisiana.

(c) HERITAGE AREA MANAGEMENT FOLLOWING TERMINATION OF THE COMMISSION.—The national heritage area status for the Cane River region shall continue following the termination of the Commission. The management plan, and partnerships and agreements subject to the plan shall guide the future management of the heritage area. The Commission, prior to its termination, shall recommend to the Governor of the State of Louisiana and the Secretary, appropriate entities, including the potential for a nonprofit corporation, to assume the responsibilities of the Commission.

SEC. 405. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal entity conducting or supporting activities directly affecting the heritage area shall—

(1) consult with the Secretary and the Commission with respect to implementation of their proposed actions; and

(2) to the maximum extent practicable, coordinate such activities with the Commission to minimize potential impacts on the resources of the heritage area.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out titles III and IV of this Act.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION ACT

LEVIN AND COHEN AMENDMENT NO. 2631

Mr. FORD (for Mr. LEVIN for himself and Mr. COHEN) proposed an amendment to the bill (S. 1413) to amend the Ethics in Government Act of 1978, as amended, to extend the authorization of appropriations for the Office of Government Ethics for 8 years, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Authorization Act of 1994".

SEC. 2. GIFT ACCEPTANCE AUTHORITY.

Section 403 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended by—

(1) inserting "(a)" before "Upon the request"; and

(2) adding at the end thereof the following:

"(b)(1) The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

"(2) No gift may be accepted—

"(A) that attaches conditions inconsistent with applicable laws or regulations; or

"(B) that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Office of Government Ethics.

"(3) The Director shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money, services, use of facilities, or personal property under this subsection would reflect unfavorably upon the ability of the Office of Government Ethics or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.".

SEC. 3. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

The text of section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this title and for no other purpose not to exceed $14,000,000 for fiscal year 1995 and for each of the next 7 fiscal years thereafter.

SEC. 4. ASSISTANCE FROM OTHER AGENCIES.

Section 403(a) of the Ethics in Government Act of 1978 (5 U.S.C. App. 5), as designated by section 2, is amended—

(1) in paragraph (1) by striking "under this Act; and" and inserting "of the Office of Government Ethics; and"; and

(2) in paragraph (2) by striking "duties." and inserting "duties under this Act or any other Act.".

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

"(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

"(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

"(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

"(C) For purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 6. REPEAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF DISPLAY REQUIREMENT.—The Act entitled "An Act to provide for the display of the Code of Ethics for Government Service", approved July 3, 1980 (Public Law 96-303; 5 U.S.C. 7301 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) FDIA.—Section 12(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1822 (f)(3)) is amended by striking ", with the concurrence of the Office of Government Ethics,".

(2) ETHICS IN GOVERNMENT ACT OF 1978.—(A) The heading for section 401 of the Ethics in Government Act of 1978 is amended to read as follows:

"ESTABLISHMENT; APPOINTMENT OF DIRECTOR".

(B) Section 408 is amended by striking "March 31" and inserting "April 30".

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, except section 5 shall take effect and apply to communications or appearances made on and after the date of enactment of this Act.

MOTOR CARRIERS REGULATIONS TECHNICAL CORRECTIONS ACT

FORD (AND OTHERS) AMENDMENT NO 2632

Mr. FORD (for himself, Mrs. MURRAY, Mr. BINGAMAN, Mr. GORTON, and Mrs. HUTCHISON) proposed an amendment to the bill (H.R. 5123) to make a technical correction to an act preempting State economic regulation of motor carriers; as follows:

SECTION 1. TECHNICAL CORRECTION OF 1994 FAA AUTHORIZATION ACT.

(a) IN GENERAL.—Section 11501(h)(2) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and insert in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(C) does not apply to the transportation of garbage and refuse;

"(D) does not apply to the transportation for collection of recyclable materials that are a part of a residential curbside recycling program; and

"(E) does not restrict the regulatory authority of a State, political subdivision of a State, or political authority of 2 or more States before January 1, 1997, insofar as such authority relates to tow trucks or wreckers providing for-hire service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1995.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT

EXON AMENDMENT NO. 2633

Mr. FORD (for Mr. EXON) proposed an amendment to the bill (S. 2132) to authorize appropriations to carry out the Federal Railroad Safety Act of 1970, and for other purposes; as follows:

SUBTITLE A—HIGH-RISK AND ALCOHOL-IMPAIRED DRIVERS

SEC. 211. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a

vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 212. DEFINITIONS.

For purposes of this subtitle—

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 213. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

SUBTITLE B—YOUNG DRIVER PROGRAMS

SEC. 221. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Programs for young drivers

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which the High Risk Drivers Act of 1994 is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets three of the seven criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets four of such criteria;

"(iii) in the third year of receiving such grants, meets five of such criteria;

"(iv) in the fourth year of receiving such grants, meets six of such criteria; and

"(v) in fifth year of receiving such grants, meets six of such criteria. For purposes of subparagraph (B), a State shall be treated as having met one of the requirements of paragraph (3) for any year if the State demonstrates to the satisfaction of the Secretary that, for the 3 preceding years, the alcohol fatal crash involvement rate for individuals under the age of 21 has declined in that State and the alcohol fatal crash involvement rate for such individuals has been lower in that State than the average such rate for all States.

"(2) GRADUATED LICENSING PROGRAM.—

"(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The seven criteria referred to in paragraph (1)(B) are as follows:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under 21 years of age.

"(C) The State requires that the license of a driver under 21 years of age be suspended for a period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(D) The State conducts youth-oriented traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(E) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(F) The State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(G) The State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(f) Supplemental Grant Program.—

"(1) Extended Application of Provisional License Requirement.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).

"(2) Remedial Driver Education.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.

"(C) The driver shall be—

"(3) Record of Serious Convictions; Habitual or Repeat Offender Sanctions.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least 10 years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(4) Interstate Driver License Compact.—The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.

"(5) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.

"(6) Vehicle Seizure Program.—The State ha a law or regulation that—

"(A) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;

"(B) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;

"(C) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and

"(D) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner or owner.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $9,000,000 for the fiscal year ending September 30, 1996, $12,000,000 for the fiscal year ending September 30, 1997, and $14,000,000 for the fiscal year ending September 30, 1998, $16,000,000 for the fiscal year ending September 30, 1999, and $18,000,000 for the fiscal year ending September 30, 2000.".

(b) Conforming Amendment.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) Deadlines for Issuance of Regulations.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 222. PROGRAM EVALUATION.

(a) Evaluation by Secretary.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).

(b) Report to Congress.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (a) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

SUBTITLE C—OLDER DRIVER PROGRAMS

SEC. 231. OLDER DRIVER SAFETY RESEARCH.

(a) Research on Predictability of High Risk Driving.—

(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration entitled "Addressing the Safety Issues Related to Younger and Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) Specialized Training for License Examiners.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) Counseling Procedures and Consultation Methods.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) Alternative Transportation Means.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–

240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(e) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 1997, to support older driver programs described in subsections (a), (b), (c), (e), and (f).

SUBTITLE D—HIGH RISK DRIVERS

SEC. 241. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and the Driver License Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 242. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.

SUBTITLE E—FUNDING

SEC. 251. FUNDING FOR 23 USC 410 PROGRAM.

In addition to any amount otherwise appropriated or available for such use, there are authorized to be appropriated $15,000,000 for fiscal years 1995, 1996, and 1997 for the purpose of carrying out section 410 of title 23, United States Code.

MOYNIHAN AMENDMENT NO. 2634

Mr. FORD (for Mr. MOYNIHAN) proposed an amendment to the bill (S. 2132) to authorize appropriations to carry out the Federal Railroad Safety Act of 1970, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . AUTHORIZATION

There are authorized to be appropriated to the Secretary of Transportation for the benefit of Amtrak $40,000,000 for fiscal year 1995 and $50,000,000 for fiscal year 1996 to be used for engineering, design, and construction activities to enable the James A. Farley Post Office in New York, New York, to be used as a train station and commercial center and for necessary improvements and redevelopment of the existing Pennsylvania Station and associated service building in New York, New York.

INDIAN SELF-DETERMINATION CONTRACT REFORM ACT

MCCAIN AMENDMENT NO. 2635

Mr. SIMPSON (for Mr. MCCAIN) proposed an amendment to the bill (S. 2036) to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 2. GENERAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended—

(1) in section 4—

(A) in subsection (g), by striking "indirect costs rate" and inserting "indirect cost rate";

(B) by striking "and" at the end of subsection (k);

(C) by striking the period at the end of subsection (l) and inserting "; and"; and

(D) by adding at the end the following new subsection:

"(m) 'construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

"(1) that is limited to providing planning services and construction management services (or a combination of such services);

"(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

"(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.";

(2) by striking subsection (f) of section 5 and inserting the following new subsection:

"(f)(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this Act, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

"(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 102.";

(3) in section 7(a), by striking "of subcontractors" and inserting in lieu thereof "or subcontractors (excluding tribes and tribal organizations)";

(4) at the end of section 7, add the following new subsection:

"(c) Notwithstanding subsections (a) and (b), with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.";

(5) at the end of section 102(a)(1), add the following new flush sentence:

"The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the department that carries out such functions.";

(6) in section 102(a)—

(A) in paragraph (2)—

(i) in the first sentence, by inserting ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review";

(ii) in the second sentence—

(I) by striking "The" and inserting "Subject to the provisions of paragraph (4), the";

(II) by inserting "and award the contract" after "approve the proposal";

(III) by striking ", within sixty days of receipt of the proposal,"; and

(IV) by striking "a specific finding is made that" and inserting "the Secretary provides written notification to the applicant that contains a specific finding supported by clearly demonstrated evidence or a controlling legal authority that";

(iii) in subparagraph (B), by striking "or" after the semicolon;

(iv) in subparagraph (C), by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following new subparagraphs:

"(D) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a); or

"(E) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor."; and

(vi) by adding at the end of the paragraph the following new flush material:

"Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period specified in the second sentence of this subsection, if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period. The contractor shall include in the proposal of the contractor the standards under which the tribal organization will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects, applicable health and safety standards, adherence to applicable Federal, State, local, or tribal building codes and engineering standards. The standards referred to in the preceding sentence shall ensure structural integrity, accountability of funds, adequate competition for subcontracting under tribal or other applicable law the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of proper materials or workmanship, necessary inspection and testing, and changes, modifications, stop work, and termination of the work when warranted."; and

(B) by adding at the end the following new paragraph:

"(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

"(A) proposes in part to plan, conduct, or administer a program, function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

"(B) proposes a level of funding that is in excess of the applicable level determined under section 106(a),

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 106(a). If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.";

(7) in section 102(b)(3)—

(A) by inserting after "record" the following: "with the right to engage in full discovery relevant to any issue raised in the matter"; and

(B) by inserting before the period the following: ", except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 110(a)";

(8) in section 102(d), by striking "as provided in section 2671 of title 28)" and inserting "as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)";

(9) by adding at the end of section 102 the following new subsection:

"(e)(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3), the Secretary shall have the burden of proof to establish by clearly demonstrated evidence the validity of the grounds for declining the contract proposal (or portion thereof).

"(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the 'Department') that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) shall be made either—

"(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or

"(B) by an administrative judge.";

(10) by striking subsection (a) of section 105 and inserting the following new subsection:

"(a)(1) Notwithstanding any other provision of law, subject to paragraph (3), the contracts and cooperative agreements entered into with, and grants made to, tribal organizations pursuant to sections 102 and 103 shall not be subject to Federal contracting, discretionary grant or cooperative agreement laws (including any regulations), except to the extent that such laws expressly apply to Indian tribes.

"(2) Program standards applicable to a nonconstruction self-determination contract shall be set forth in the contract proposal and the final contract of the tribe or tribal organization.

"(3)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

"(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

"(ii) directly related to the construction activity; and

"(iii) not inconsistent with this Act.

"(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

"(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law (including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this Act, unless expressly provided in such law.

"(ii) The laws listed in this paragraph are as follows:

"(I) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(II) Section 3709 of the Revised Statutes.

"(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

"(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288).

"(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479).

"(VI) Chapters 21, 25, 27, 29, and 31 of title 44, United States Code.

"(VII) Section 2 of the Act of June 13, 1934 (48 Stat 948, chapter 483).

"(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881).

"(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

"(X) The Small Business Act (15 U.S.C. 631 et seq.).

"(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.";

(11) by striking subsection (e) and inserting the following new subsection:

"(e) If an Indian tribe, or a tribal organization authorized by a tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this Act, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

"(1) the earlier of—

"(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

"(B) the date on which the contract expires; or

"(2) such date as may be mutually agreed by the Secretary and the Indian tribe.";

(12) by striking paragraph (2) of section 105(f) and inserting the following new paragraph:

"(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

"(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

"(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and

"(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and";

(13) by adding at the end of section 105 the following new subsections:

"(i)(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract, including program redesign in consultation with the tribal organization and all affected tribes.

"(2) Nothing in this title shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 110.

"(j) Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 102.

"(k) For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

"(l)(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this Act.

"(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable.

"(m)(1) Each construction contract requested, approved, or awarded under this Act shall be subject to—

"(A) except as otherwise provided in this Act, the provisions of this Act, other than sections 102(a)(2), 106(m), 108 and 109; and

"(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

"(3) Prior to finalizing a construction contract proposal pursuant to section 102(a), and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

"(A) The provision of technical assistance pursuant to section 103 and paragraph (2).

"(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

"(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

"(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

"(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5, United States Code.

"(F) The submission to the Secretary by the tribe or tribal organization of a final contract proposal pursuant to section 102(a).

"(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall provide for the following:

"(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

"(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

"(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

"(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

"(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this Act and any other applicable law.

"(ii) The costs of preparing the contract proposal and supporting cost data.

"(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with the management of the construction contract.

"(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

"(v) If the Secretary and the tribe or tribal organization are unable to develop a mutually agreeable construction contract proposal pursuant to the procedures set forth in this subsection, the tribe or tribal organization may submit a final contract proposal to the Secretary. Not later than 30 days after receiving such final contract proposal, the Secretary shall approve the contract proposal and award the contract, unless, during such period the Secretary declines the proposal pursuant to sections 102(a)(2) and 102(b) of section 102 (including providing opportunity for an appeal pursuant to section 102(b)).

"(n) Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

"(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5, United States Code) to such employee, and

"(2) the circumstances under which such quarters and facilities are provided to such employee,

as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.";

(14) in section 106(a)—

(A) in paragraph (1), by inserting before the period at the end the following: ", without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated";

(B) in paragraph (2), by inserting after "consist of" the following: "an amount for"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

"(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

"(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under section 106(a)(1).

"(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

"(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

"(A) be used to provide additional services or benefits under the contract; or

"(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

"(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

"(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

"(B) to ensure compliance with the terms of the contract and prudent management.

"(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.";

(15) in section 106(c)—

(A) by striking "March 15" and inserting "May 15";

(B) in paragraphs (1) and (2), by striking "indirect costs" each place it appears and inserting "contract support costs";

(C) in paragraph (4), by striking "and" at the end;

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(6) an accounting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle to a different accounting cycle, as authorized by section 105(d).";

(16) in section 106(f), by inserting immediately after the second sentence the following new sentence: "For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.";

(17) by striking subsection (g) of section 106 and inserting the following new subsection:

"(g) Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.";

(18) by striking subsection (i) of section 106 and inserting the following new subsection:

"(i) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code)."; and

(19) by adding at the end of section 106 the following new subsections:

"(j) Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

"(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

"(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

"(2) Publication and printing costs.

"(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

"(4) Automated data processing and similar equipment or services.

"(5) Costs for capital assets and repairs.

"(6) Management studies.

"(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

"(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

"(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

"(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

"(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

"(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

"(*l*) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

"(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrated evidence the validity of the grounds for suspending, withholding, or delaying payment of funds.

"(m) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

"(1) shall be used by the tribal organization to further the general purposes of the contract; and

"(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(n) To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

"(o) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract.".

SEC. 3. CONTRACT SPECIFICATIONS.

The Indian Self-Determination Education Assistance Act (25 U.S.C. 450 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 108. CONTRACT OR GRANT SPECIFICATIONS.

"(a) Each self-determination contract entered into under this Act shall—

"(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) (with modifications where indicated and the blanks appropriately filled in), and

"(2) contain such other provisions as are agreed to by the parties.

"(b) Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(c) The model agreement referred to in subsection (a)(1) reads as follows:

"SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE ___ TRIBAL GOVERNMENT.

"'(a) AUTHORITY AND PURPOSE.—

"'(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the ___ tribal government or tribal organization (referred to in this agreement as the "Contractor"). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"'(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

"'(b) TERMS, PROVISIONS, AND CONDITIONS.—

"'(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be ___ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

"'(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

PATENT APPLICATION AMENDMENTS ACT

DECONCINI (AND OTHERS) AMENDMENT NO. 2636

Mr. FORD (for Mr. DECONCINI for himself, Mr. HATCH, and Mr. KENNEDY) proposed an amendment to the bill (H.R. 4307) to amend title 35, United States Code, with respect to applications for process patents; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—PROCESS PATENT APPLICATIONS

SECTION 101. EXAMINATION OF PROCESS PATENT APPLICATIONS FOR OBVIOUSNESS.

Section 103 of title 35, United States Code, is amended—

(1) by designating the first paragraph as subsection (a);

(2) by designating the second paragraph as subsection (c); and

(3) by inserting after the first paragraph

"(b)(1) Notwithstanding subsection (a), and upon timely election by the applicant for patent to proceed under this subsection, a 'biotechnological process' using or resulting in a composition of matter that is novel under section 102 and nonobvious under subsection (a) of this section shall be considered nonobvious if—

"(A) claims to the process and the composition of matter are contained in either the same application for patent or in separate applications having the same effect filing date; and

"(B) the composition of matter, and the process at the time it was invented, were owned by the same person or subject to an obligation of assignment to the same person.

"(2) A patent issued on a process under paragraph (1)—

"(A) shall also contain the claims to the composition of matter used in or made by that process, or

"(B) shall, if such composition of matter is claimed in another patent, be set to expire on the same date as such other patent, notwithstanding section 154.".

For purposes of subsection (b), the term "biotechnological process" means a process of genetically altering or otherwise inducing a cell or a living organism to express an exogenous nucleotide sequence or to express specific physiological characteristics. Such process include genetic alteration of a cell to express an exogenous nucleotide sequence, cell fusion procedures yielding a cell line that expresses a specific protein, including a monoclonal antibody, and genetic alteration of a multicellular organism to include said organism to express an exogenous nucleotide sequence or to express predefined physiological characteristics.

SEC. 102. RESUMPTION OF VALIDITY; DEFENSES.

Section 282 of title 35, United States Code, is amended by inserting after the second sentence of the first paragraph the following: "Notwithstanding the proceding sentence, if a claim to a composition of matter is held invalid and that claim was the basis of a determination of nonobviousness under section 103(b)(1), the process shall no longer be considered nonobvious solely on the basis of section 103(b)(1).".

SEC. 103. EFFECTIVE DATE.

The amendments made by section 101 shall apply to any application for patent filed on or after the date of the enactment of this Act and to any application for patent pending on such date of enactment, including (in either case) an application for the reissue of a patent.

HATCH AMENDMENT NO. 2637

Mr. FORD (for Mr. HATCH) proposed an amendment to amendment No. 2636 proposed by Mr. DECONCINI to the bill (H.R. 4307) to amend title 35, United States Code, with respect to applications for process patents, as follows:

On page ___, insert between lines ___ and ___ the following:

SEC. ___. JURISDICTION OF UNITED STATES COURT OF FEDERAL CLAIMS RELATING TO CERTAIN SOFTWARE AND SERVICE CLAIMS.

(a) JURISDICTION.—Jurisdiction is conferred upon the United States Court of Federal Claims to hear, determine, and render conclusions that are sufficient to inform the Congress of the amount, if any, legally or equitably due upon the claims of Inslaw, Inc., a Delaware Corporation (hereinafter referred to as "Inslaw") and William A. Hamilton and Nancy Burke Hamilton, individually against the United States which claims arise out of the furnishing of computer software and services to the United States Department of Justice. The hearings and proceedings conducted, determinations and conclusions made, and report submitted to the Congress under this subsection shall be conducted in accordance with the provisions of section 2509 of title 28, United States Code.

(b) WAIVER OF SOVEREIGN IMMUNITY AND DEFENSES.—For purposes of the report submitted under subsection (a), any available defense relating to statute of limitations, any form of estoppel, laches, res judicata, failure to exhaust all remedies, and any available defense of sovereign immunity of the United States, the Department of Justice, or any other United States Government agency is specifically waived as to the respective claims of Inslaw, William A. Hamilton, and Nancy Burke Hamilton.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT

ROCKEFELLER AMENDMENT NO. 2638

Mr. FORD (for Mr. ROCKEFELLER) proposed an amendment to the bill (S. 1927) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; as follows:

In lieu of the matter inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1994".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 1994, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b)

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(7) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF PERCENTAGE INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 1994. Each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) In the computation of increased dollar amounts pursuant to paragraph (1), any amount which as so computed is not an even multiple of $1 shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1994, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased pursuant to section 2.

NOTICE OF HEARING

Mr. LEVIN. Mr. President, I wish to announce that on Wednesday, October 12, 1994, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on "Navy's Mismanagement of the Sealift Tanker Program."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, October 6, 1994, at 9 a.m., in room 226 Senate Dirksen Office Building to consider the nominations of James A. Beaty, Jr. to be United States District Judge for the Middle District of North Carolina, David Briones to be United States District Judge for the Western District of Texas, Okla Jones, II to be United States District Judge for the Eastern District of Louisiana, Kathleen M. O'Malley to be United States District Judge for the Northern District of Ohio, G. Thomas Porteous to be United States District Judge for the Eastern District of Louisiana, James Robertson to be United States District Judge for the District of Columbia and Thomas B. Russell to be United States District Judge for the Western District of Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, October 6, 1994.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Small Business be permitted to meet today during the Senate session in order to consider the nomination of Mr. Philip Lader to be Administrator of the Small Business Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. DOLE. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby submit notice to amend rule 35 of the Standing Rules of the Senate, as follows:

GIFT RULES

AMENDMENTS TO SENATE RULES

Resolved, Rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No Member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a registered lobbyist under the Federal Regulation of Lobbying Act, a lobbying firm, or an agent of a foreign principal.

(a) GIFTS.—A prohibited gift includes the following:

(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by Member, officer, or employee of the Senate.

(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a Member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a Member, officer, or employee of the Senate.

(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a Member, officer, or employee of the Senate.

(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of a Member, officer, or employee of the Senate.

(b) NOT GIFTS.—The following are not gifts subject to the prohibition:

(1) Anything for which the recipient pays the market value, or does not use and promptly returns to the donor.

(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

(3) Food or refreshments of nominal value offered other than as part of a meal.

(4) Benefits resulting from the business, employment, or Member, officer, or employee of the Senate, if such benefits are customarily provided to others in similar circumstances.

(5) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

(6) Informational materials that are sent to the office of a Member, officer, or employee of the Senate in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

(c) GIFTS GIVEN FOR A NONBUSINESS PURPOSE AND MOTIVATED BY FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP.—

(1) IN GENERAL.—A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the Member, officer, or employee of the Senate, shall not be subject to the prohibition in subsection (a).

(2) NONBUSINESS PURPOSE.—A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

(A) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

(B) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

(3) FAMILY RELATIONSHIP OR CLOSE PERSONAL FRIENDSHIP. In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

(A) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

(B) Whether the gift was purchased by the individual who gave the item.

(C) Whether the individual who gave the gift also at the same time gave the same or similar gifts to any other Member, officer, or employee of the Senate.

"2. (a) In addition to the restriction on receiving gifts from lobbyists, registered lobbyists under the Federal Regulation of Lobbying Act, lobbying firms, and agents of foreign principles provided by paragraph 1 and except as provided in this Rule, no Member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this Rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a Member, officer, or employee (or a gift to any other individual based on that individual's relationship with the Member, officer, or employee) shall be considered a gift to the Member, officer,

or employee if it is given with the knowledge and acquiescence of the Member, officer, or employee and the Member, officer, or employee has reason to believe the gift was given because of the official position of the Member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the Member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the Member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the Member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a Member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another Member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the Member, officer, or employee as an officeholder) of the Member, officer, or employee, or the spouse of the Member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the Member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the Member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the Member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a Member or an employee of a Member in the Member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a Member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (d).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(d)(1) Except as prohibited by paragraph 1, a Member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the Member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the Member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the Member, officer, or employee.

"(2) A Member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a Member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(e) No Member, officer or employee may accept a gift the value of which exceeds $250 under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the Member, officer, or employee of the Senate unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(f)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (c)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by Members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (A)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a Member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, fact-finding trip or similar event in connection with the duties of the Members, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the Member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the Member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be consider to be in connection with the duties of a Member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the Member of officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the Member or officer (in the case of travel by that Member or officer) or by the Member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a Member or officer, a determination that the travel was in connection with the duties of the Member or officer as an officeholder and would not create the appearance that the Member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the Member, officer, or employee, subject to a determination signed by the Member or officer (or in the case of an employee, the Member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.".

3. DEFINITIONS.—

(a) Lobbyist means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client.

(b) Lobbying firm means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity including a self-employed individual who is a lobbyist.

(c) Agent of a foreign principal means the definition contained in the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.)

4. MISCELLANEOUS SENATE PROVISIONS.—

(1) AUTHORITY OF THE COMMITTEE ON RULES AND ADMINISTRATION.—The Senate Committee on Rules and Administration, on behalf of the Senate, may accept gifts provided they do not involve any duty, burden, or condition, or are not made dependent upon some future performance by the United States. The Committee on Rules and Administration is authorized to promulgate regulations to carry out this section.

(2) FOOD, REFRESHMENTS, AND ENTERTAINMENT.—The rules on acceptance of food, refreshments, and entertainment provided to a Member of the Senate or an employee of such a Member in the Member's home State before the adoption of reasonable limitations by the Committee on Rules and Administration shall be the rules in effect on the day before the effective date of this title.

5. EFFECTIVE DATE.—This rule change shall take effect May 31, 1995.

NOTICE OF INTENTION TO AMEND THE STANDING RULES OF THE SENATE

Mr. WELLSTONE. Mr. President, pursuant to rule 5, paragraph 1 of the Standing Rules of the Senate, I hereby submit notice to amend rule 35 of the Standing Rules of the Senate; as follows:

S. RES. 275

Resolved, That rule XXXV of the Standing Rules of the Senate is amended by inserting the following:

SEC. ___. AMENDMENTS TO SENATE RULES.

The text of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

"1. No member, officer, or employee of the Senate shall accept a gift, knowing that such gift is provided by a lobbyist, a lobbying firm, or an agent of a foreign principal registered under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) in violation of this rule.

"2. (a) In addition to the restriction on receiving gifts from registered lobbyists, lobbying firms, and agents of foreign principals provided by paragraph 1 and except as provided in this rule, no member, officer, or employee of the Senate shall knowingly accept a gift from any other person.

"(b)(1) For the purpose of this rule, the term 'gift' means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. The term includes gifts of services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"(2) A gift to the spouse or dependent of a member, officer, or employee (or a gift to any other individual based on that individual's relationship with the member, officer, or employee) shall be considered a gift to the member, officer, or employee if it is given with the knowledge and acquiescence of the member, officer, or employee and the member, officer, or employee has reason to believe the gift was given because of the official position of the member, officer, or employee.

"(c) The restrictions in subparagraph (a) shall apply to the following:

"(1) Anything provided by a lobbyist or a foreign agent which is paid for, charged to, or reimbursed by a client or firm of such lobbyist or foreign agent.

"(2) Anything provided by a lobbyist, a lobbying firm, or a foreign agent to an entity that is maintained or controlled by a member, officer, or employee of the Senate.

"(3) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent on the basis of a designation, recommendation, or other specification of a member, officer, or employee of the Senate (not including a mass mailing or other solicitation directed to a broad category of persons or entities).

"(4) A contribution or other payment by a lobbyist, a lobbying firm, or a foreign agent to a legal expense fund established for the benefit of a member, officer, or employee of the Senate.++

"(5) A charitable contribution (as defined in section 170(c) of the Internal Revenue Code of 1986) made by a lobbyist, a lobbying firm, or a foreign agent in lieu of an honorarium to a member, officer, or employee of the Senate.

"(6) A financial contribution or expenditure made by a lobbyist, a lobbying firm, or a foreign agent relating to a conference, retreat, or similar event, sponsored by or affiliated with an official congressional organization, for or on behalf of members, officers, or employees of the Senate.

"(d) The restrictions in subparagraph (a) shall not apply to the following:

"(1) Anything for which the member, officer, or employee pays the market value, or does not use and promptly returns to the donor.

"(2) A contribution, as defined in the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) that is lawfully made under that Act, or attendance at a fundraising event sponsored by a political organization described in section 527(e) of the Internal Revenue Code of 1986.

"(3) Anything provided by an individual on the basis of a personal or family relationship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position of the member, officer, or employee and not because of the personal or family relationship. The Select Committee on Ethics shall provide guidance on the applicability of this clause and examples of circumstances under which a gift may be accepted under this exception.

"(4) A contribution or other payment to a legal expense fund established for the benefit of a member, officer, or employee, that is otherwise lawfully made, if the person making the contribution or payment is identified for the Select Committee on Ethics.

"(5) Any food or refreshments which the recipient reasonably believes to have a value of less than $20.

"(6) Any gift from another member, officer, or employee of the Senate or the House of Representatives.

"(7) Food, refreshments, lodging, and other benefits—

"(A) resulting from the outside business or employment activities (or other outside activities that are not connected to the duties of the member, officer, or employee as an officeholder) of the member, officer, or employee, or the spouse of the member, officer, or employee, if such benefits have not been offered or enhanced because of the official position of the member, officer, or employee and are customarily provided to others in similar circumstances;

"(B) customarily provided by a prospective employer in connection with bona fide employment discussions; or

"(C) provided by a political organization described in section 527(e) of the Internal Revenue Code of 1986 in connection with a fundraising or campaign event sponsored by such an organization.

"(8) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.

"(9) Informational materials that are sent to the office of the member, officer, or employee in the form of books, articles, periodicals, other written materials, audio tapes, videotapes, or other forms of communication.

"(10) Awards or prizes which are given to competitors in contests or events open to the public, including random drawings.

"(11) Honorary degrees (and associated travel, food, refreshments, and entertainment) and other bona fide, nonmonetary awards presented in recognition of public service (and associated food, refreshments, and entertainment provided in the presentation of such degrees and awards).

"(12) Donations of products from the State that the member represents that are intended primarily for promotional purposes, such as display or free distribution, and are of minimal value to any individual recipient.

"(13) Food, refreshments, and entertainment provided to a member or an employee of a member in the member's home State, subject to reasonable limitations, to be established by the Committee on Rules and Administration.

"(14) An item of little intrinsic value such as a greeting card, baseball cap, or a T shirt.

"(15) Training (including food and refreshments furnished to all attendees as an integral part of the training) provided to a member, officer, or employee, if such training is in the interest of the Senate.

"(16) Bequests, inheritances, and other transfers at death.

"(17) Any item, the receipt of which is authorized by the Foreign Gifts and Decorations Act, the Mutual Educational and Cultural Exchange Act, or any other statute.

"(18) Anything which is paid for by the Federal Government, by a State or local government, or secured by the Government under a Government contract.

"(19) A gift of personal hospitality of an individual, as defined in section 109(14) of the Ethics in Government Act.

"(20) Free attendance at a widely attended event permitted pursuant to subparagraph (e).

"(21) Opportunities and benefits which are—

"(A) available to the public or to a class consisting of all Federal employees, whether or not restricted on the basis of geographic consideration;

"(B) offered to members of a group or class in which membership is unrelated to congressional employment;

"(C) offered to members of an organization, such as an employees' association or congressional credit union, in which membership is related to congressional employment and similar opportunities are available to large segments of the public through organizations of similar size;

"(D) offered to any group or class that is not defined in a manner that specifically discriminates among Government employees on the basis of branch of Government or type of responsibility, or on a basis that favors those of higher rank or rate of pay;

"(E) in the form of loans from banks and other financial institutions on terms generally available to the public; or

"(F) in the form of reduced membership or other fees for participation in organization activities offered to all Government employees by professional organizations if the only restrictions on membership relate to professional qualifications.

"(22) A plaque, trophy, or other memento of modest value.

"(23) Anything for which, in an unusual case, a waiver is granted by the Select Committee on Ethics.

"(e)(1) Except as prohibited by paragraph 1, a member, officer, or employee may accept an offer of free attendance at a widely attended convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, or similar event, provided by the sponsor of the event, if—

"(A) the member, officer, or employee participates in the event as a speaker or a panel participant, by presenting information related to Congress or matters before Congress, or by performing a ceremonial function appropriate to the member's, officer's, or employee's official position; or

"(B) attendance at the event is appropriate to the performance of the official duties or representative function of the member, officer, or employee.

"(2) A member, officer, or employee who attends an event described in clause (1) may accept a sponsor's unsolicited offer of free attendance at the event for an accompanying individual if others in attendance will generally be similarly accompanied or if such attendance is appropriate to assist in the representation of the Senate.

"(3) Except as prohibited by paragraph 1, a member, officer, or employee, or the spouse or dependent thereof, may accept a sponsor's unsolicited offer of free attendance at a charity event, except that reimbursement for transportation and lodging may not be accepted in connection with the event.

"(4) For purposes of this paragraph, the term 'free attendance' may include waiver of all or part of a conference or other fee, the provision of local transportation, or the provision of food, refreshments, entertainment, and instructional materials furnished to all attendees as an integral part of the event. The term does not include entertainment collateral to the event, or food or refreshments taken other than in a group setting with all or substantially all other attendees.

"(f)(1) No member, officer, or employee may accept a gift the value of which exceeds $250 on the basis of the personal relationship exception in subparagraph (d)(3) or the close personal friendship exception in clause (2) unless the Select Committee on Ethics issues a written determination that one of such exceptions applies.

"(2)(A) A gift given by an individual under circumstances which make it clear that the gift is given for a nonbusiness purpose and is motivated by a family relationship or close personal friendship and not by the position of the member, officer, or employee of the Senate shall not be subject to the prohibition in clause (1).

"(B) A gift shall not be considered to be given for a nonbusiness purpose if the individual giving the gift seeks—

"(i) to deduct the value of such gift as a business expense on the individual's Federal income tax return, or

"(ii) direct or indirect reimbursement or any other compensation for the value of the gift from a client or employer of such lobbyist or foreign agent.

"(C) In determining if the giving of a gift is motivated by a family relationship or close personal friendship, at least the following factors shall be considered:

"(i) The history of the relationship between the individual giving the gift and the recipient of the gift, including whether or not gifts have previously been exchanged by such individuals.

"(ii) Whether the gift was purchased by the individual who gave the item.

"(iii) Whether the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees of the Senate.

"(g)(1) The Committee on Rules and Administration is authorized to adjust the dollar amount referred to in subparagraph (d)(5) on a periodic basis, to the extent necessary to adjust for inflation.

"(2) The Select Committee on Ethics shall provide guidance setting forth reasonable steps that may be taken by members, officers, and employees, with a minimum of paperwork and time, to prevent the acceptance of prohibited gifts from lobbyists.

"(3) When it is not practicable to return a tangible item because it is perishable, the item may, at the discretion of the recipient, be given to an appropriate charity or destroyed.

"3. (a)(1) Except as prohibited by paragraph 1, a reimbursement (including payment in kind) to a member, officer, or employee for necessary transportation, lodging and related expenses for travel to a meeting, speaking engagement, factfinding trip or similar event in connection with the duties of the member, officer, or employee as an officeholder shall be deemed to be a reimbursement to the Senate and not a gift prohibited by this rule, if the member, officer, or employee—

"(A) in the case of an employee, receives advance authorization, from the member or officer under whose direct supervision the employee works, to accept reimbursement, and

"(B) discloses the expenses reimbursed or to be reimbursed and the authorization to the Secretary of the Senate within 30 days after the travel is completed.

"(2) For purposes of clause (1), events, the activities of which are substantially recreational in nature, shall not be considered to be in connection with the duties of a member, officer, or employee as an officeholder.

"(b) Each advance authorization to accept reimbursement shall be signed by the member or officer under whose direct supervision the employee works and shall include—

"(1) the name of the employee;

"(2) the name of the person who will make the reimbursement;

"(3) the time, place, and purpose of the travel; and

"(4) a determination that the travel is in connection with the duties of the employee as an officeholder and would not create the appearance that the employee is using public office for private gain.

"(c) Each disclosure made under subparagraph (a)(1) of expenses reimbursed or to be reimbursed shall be signed by the member or officer (in the case of travel by that Member or officer) or by the member or officer under whose direct supervision the employee works (in the case of travel by an employee) and shall include—

"(1) a good faith estimate of total transportation expenses reimbursed or to be reimbursed;

"(2) a good faith estimate of total lodging expenses reimbursed or to be reimbursed;

"(3) a good faith estimate of total meal expenses reimbursed or to be reimbursed;

"(4) a good faith estimate of the total of other expenses reimbursed or to be reimbursed;

"(5) a determination that all such expenses are necessary transportation, lodging, and related expenses as defined in this paragraph; and

"(6) in the case of a reimbursement to a member or officer, a determination that the travel was in connection with the duties of the member or officer as an officeholder and would not create the appearance that the member or officer is using public office for private gain.

"(d) For the purposes of this paragraph, the term 'necessary transportation, lodging, and related expenses'—

"(1) includes reasonable expenses that are necessary for travel for a period not exceeding 3 days exclusive of traveltime within the United States or 7 days exclusive of traveltime outside of the United States unless approved in advance by the Select Committee on Ethics;

"(2) is limited to reasonable expenditures for transportation, lodging, conference fees and materials, and food and refreshments, including reimbursement for necessary transportation, whether or not such transportation occurs within the periods described in clause (1);

"(3) does not include expenditures for recreational activities, or entertainment other than that provided to all attendees as an integral part of the event; and

"(4) may include travel expenses incurred on behalf of either the spouse or a child of the member, officer, or employee, subject to a determination signed by the member or officer (or in the case of an employee, the member or officer under whose direct supervision the employee works) that the attendance of the spouse or child is appropriate to assist in the representation of the Senate.

"(e) The Secretary of the Senate shall make available to the public all advance authorizations and disclosures of reimbursement filed pursuant to subparagraph (a) as soon as possible after they are received.

"4. In this rule:

"(a) The term "client" means any person or entity that employs or retains another person for financial or other compensation to conduct lobbying activities on behalf of that person or entity. A person or entity whose employees act as lobbyists on its own behalf is both a client and an employer of such employees. In the case of a coalition or association that employs or retains other persons to conduct lobbying activities, the client is—

"(1) the coalition or association and not its individual members when the lobbying activities are conducted on behalf of its membership and financed by the coalition's or association's dues and assessments; or

"(2) an individual member or members, when the lobbying activities are conducted on behalf of, and financed separately by, 1 or more individual members and not by the coalition's or association's dues and assessments.

"(b)(1) The term "lobbying contact" means any oral or written communication (including an electronic communication) to a member, officer, or employee of the Senate that is made on behalf of a client with regard to the formulation, modification, or adoption of Federal legislation (including legislative proposals) or the nomination or confirmation of a person for a position subject to confirmation by the Senate.

"(2) The term "lobbying contact" does not include a communication that is—

"(A) made by a public official acting in the public official's official capacity;

"(B) made by a representative of a media organization if the purpose of the communication is gathering and disseminating news and information to the public;

"(C) made in a speech, article, publication or other material that is widely distributed to the public, or through radio, television, cable television, or other medium of mass communication;

"(D) made on behalf of a government of a foreign country or a foreign political party and disclosed under the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.);

"(E) a request for a meeting, a request for the status of an action, or any other similar administrative request, if the request does not include an attempt to influence a member, officer, or employee of the Senate;

"(F) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act;

"(G) testimony given before a committee, subcommittee, or task force of the Congress, or submitted for inclusion in the public record of a hearing conducted by such committee, subcommittee, or task force;

"(H) information provided in writing in response to a written request by a member, officer, or employee of the Senate for specific information;

"(I) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of the Congress or an agency;

"(J) made on behalf of an individual with regard to that individual's benefits, employment, or other personal matters involving only that individual, except that this subclause does not apply to any communication with a member, officer, or employee of the Senate (other than the individual's elected Senators or employees who work under such Senators' direct supervision) with respect to the formulation, modification, or adoption of private legislation for the relief of that individual;

"(K) a disclosure by an individual that is protected under the amendments made by the Whistleblower Protection Act of 1989, under the Inspector General Act of 1978, or under another provision of law; or

"(L) made by—

"(i) a church, its integrated auxiliary, or a convention or association of churches that is exempt from filing a Federal income tax return under paragraph 2(A)(i) of section 6033(a) of the Internal Revenue Code of 1986, or

"(ii) a religious order that is exempt from filing a Federal income tax return under paragraph (2)(A)(iii) of such section 6033(a),

if the communication constitutes the free exercise of religion or is for the purpose of protecting the right to the free exercise of religion.

"(c)(1) The term "lobbying firm"—

"(A) means a person or entity that has 1 or more employees who are lobbyists on behalf of a client other than that person or entity; and

"(B) includes a self-employed individual who is a lobbyist; but

"(C) does not include a person or entity whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated in accordance with standards issued by the Committee on Rules and Administration) in the preceding semiannual period of January through June or July through December.

"(2) The dollar amounts in clause (1) shall be adjusted—

"(A) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

"(B) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,
rounded to the nearest $500.

"(d)(1) The term "lobbyist"—

"(A) means any individual who is employed or retained by a client for financial or other compensation for services that include one or more lobbying contacts, other than an individual whose lobbying activities constitute less than 10 percent of the time engaged in the services provided by such individual to that client; but

"(B) does not include an individual whose—

(i) total income for matters related to lobbying activities on behalf of a particular client (in the case of a lobbying firm) does not exceed and is not expected to exceed $2,500; or

(ii) total expenses in connection with lobbying activities (in the case of an organization whose employees engage in lobbying activities on its own behalf) do not exceed or are not expected to exceed $5,000,

(as estimated in accordance with standards issued by the Committee on Rules and Administration) in the preceding semiannual period of January through June or July through December.

"(2) The dollar amounts in clause (1) shall be adjusted—

"(A) on January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) since the date of enactment of this title; and

"(B) on January 1 of each fourth year occurring after January 1, 1997, to reflect changes in the Consumer Price Index (as determined by the Secretary of Labor) during the preceding 4-year period,
rounded to the nearest $500.

"(e) The term "public official" means any elected official, appointed official, or employee of—

"(1) a Federal, State, or local unit of government in the United States other than—

"(A) a college or university;

"(B) a government-sponsored enterprise (as defined in section 3(8) of the Congressional Budget and Impoundment Control Act of 1974);

"(C) a public utility that provides gas, electricity, water, or communications;

"(D) a guaranty agency (as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1085(j))), including any affiliate of such an agency; or

"(E) an agency of any State functioning as a student loan secondary market pursuant to section 435(d)(1)(F) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(1)(F));

"(2) a Government corporation (as defined in section 9101 of title 31, United States Code);

"(3) an organization of State or local elected or appointed officials other than officials of an entity described in aubclause (A), (B), (C), (D), or (E) of clause (1);

"(4) an Indian tribe (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

"(5) a national or State political party or any organizational unit thereof; or

"(6) a national, regional, or local unit of any foreign government.

"(f) The term "State" means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

ADDITIONAL STATEMENTS

AMERICA'S TEN DEADLY STRATEGIC GAMBLES: ARMS CONTROL OR UNILATERAL DISARMAMENT

• Mr. WALLOP. Mr. President, I rise today to bring a very important article to the attention of the Senate and the American people. The article, entitled "America's ten deadly Strategic Gambles: Arms Control or Unilateral Disarmament," was written by Mr. Sven F. Kraemer, an individual with vast experience and sound judgment.

Mr. Kraemer's assessments and policy recommendations are in startling contrast with the views prevailing in the administration, Congress, and the media. Mr. Kraemer served in the U.S. Government for 25 years, including 16 years at the National Security Council. His cogent article provides a critique of America's increasingly hallow strategies and forces. I strongly recommend it to anyone concerned about American national security.

I ask that Mr. Kraemer's article be included in the RECORD following my remarks.

The article follows:

[From the Strategic Review, Sept. 12, 1994]

AMERICA'S TEN DEADLY STRATEGIC GAMBLES: ARMS CONTROL OR UNILATERAL DISARMAMENT?

(By Sven F. Kraemer)

IN BRIEF

The United States is on the verge of taking a number of potentially dangerous strategic disarmament gambles. The Clinton Administration justifies these gambles on the basis of the Cold War's end, but the potential for real damage to U.S. security remains. These gambles include denying strategic threats from proliferation, Russia and China; dismantling the strategic "triad" and strategic defense programs, and resting U.S. security on fragile arms control agreements with unreliable partners. Each gamble has grave consequences for U.S. security. Cumulatively their impact could be catastrophic.

Much-debated recent American foreign policy ventures in Bosnia, Haiti and Somalia, reveal America as a confused, weak, and vulnerable superpower. Far less well known, and virtually undebated by the Congress, the media and the American people, are America's potentially far more dangerous strategic disarmament gambles, ten of them explored below. These high-risk gambles are put into bold relief by North Korea's emerging nuclear threat, the September 1994 U.S.-Russia summit, the Clinton Administration's Fall 1994 nuclear posture review and its 1994 and 1995 defense budget and arms control proposals.

In a world of gathering storms, these deadly gambles deny global strategic threats, dismantle America's strategic triad, our nuclear deterrent and our strategic defense programs, and rest our security on fragile arms control agreements with unreliable partners. Each gamble has grave consequences for America's security. Their cumulative impact confounds the Constitutional imperative to "provide for the common defense" and leaves America hostage to hollow strategies, hollow partnerships and hollow forces. They place America at the bull's eye of disaster.

IGNORING STRATEGIC THREATS

The First Gamble: Denying Strategic Threats from Proliferation

America's first strategic gamble is to deny the accelerating strategic impact of global proliferation in the post-Cold War period. The Clinton Administration's Department of Defense "Bottom Up Review" of 1993 and the Administration's 1994 and 1995 defense budget proposals acknowledge proliferation problems centered on "regional" or "theater" threats, but none are considered strategic in affecting our homeland and our vital interests, or as requiring urgent responses.[1] It is not as if America had not been warned.

Strategic Proliferation Dangers Are Greater Than Ever

Already early in the Clinton presidency, R. James Woolsey, the Director of the Central Intelligence Agency (CIA), testified that: "More than 25 countries, many of them hostile to the United States and our allies, may have or may be developing nuclear, biological and chemical weapons—the so-called weapons of mass destruction—and the means to deliver them."[2]

At the same time, the CIA's senior strategic force analyst, Lawrence Gershwin, warned that the danger may be greater, and deterence less effective, than at the height of the Cold War around the time of the Cuban missile crisis. According to Gershwin: "the potential capabilities of some of these countries are comparable to, and in some cases, *more lethal than the Soviet threat in 1960.* With leaders like Quaddhafi and Saddam Husayn, and in many cases weak, unstable, or illegitimate governments, *our classic notions of deterrence hold much less promise* of assuring U.S. and Western security." (Emphasis added.)[3]

As reported by Secretary of Defense Dick Cheney in 1992: "The threat is not limited just to weapons of mass destruction. The global diffusion of military and dual-use technologies will enable a growing number of countries to field highly capable weapon systems, such as ballistic missiles, stealthy cruise missiles, integrated air defenses, submarines, modern command and control systems, and even space-based assets. Unfortunately there are both governments and individuals willing to supply proliferating countries with both systems and technical expertise. As a result, *our regional adversaries may be armed with capabilities that in the past were limited only to superpowers.*" (Emphasis added.)[4]

Middle-East and Korean Lessons Unlearned

The threat exists now, not in some distant future. North Korea reportedly has four or five nuclear weapons and numerous missiles and in the Middle East alone, seven wars have been fought with missiles, including the Iran-Iraq inter-city missile shootouts of the 1980s, the 1991 Gulf War and the Yemen war in 1994. During the Gulf War, a single Iraqi SCUD missile killed 28 Americans and injured 97; other SCUD attacks might easily have caused far higher casualties in Saudi Arabia, Kuwait or Israel. A chemical or nuclear warhead might have killed hundreds or even thousands and changed the war's outcome with truly devastating results and strategic impact on America's vital interests, including its economy, its key allies and its global credibility.

Lack of Anti-Missile Defenses and Technology Controls

The Administration's "Counterproliferation Initiative" cannot be serious so long as the strategic implications of such threats continue to be denied through two current policies. First, advanced U.S. anti-missile programs, including "upper tier" Navy programs, air-borne systems, and all strategic systems, including those based in space, are being gutted or eliminated rather than accelerated (see Gamble #10 below). Second, no effective technology transfer control regime is in place since the Administration agreed in March 1994 to the elimination of the West's Committee on Multilateral Export Controls (COCOM) without a replacement regime. The U.S. is not able to enforce three voluntary arrangements: the Missile Technology Control Regime (e.g., against China), the Nuclear Suppliers Group "guidelines," and the Australia Group's information exchanges on chemical and biological weapons proliferation. The Administration's proposed Export Control Act permits the transfer of advanced technologies over Defense Department opposition and without effective controls over re-export to third countries.[5] The ultimate military and commercial costs to America are likely to be enormous, not only in future defense dollars but also in American lives.

The second gamble: Denying strategic threats from Russia

America's second strategic gamble is to deny the reality of current strategic threats from Post-Soviet Russia.[6] Here too, warnings and realities are being ignored.

Even when moonstruck about its hopes for Russia and a benign "new world order," the Bush Administration was able to distinguish the strategic threat *inherent* in Russia's political instabilities and its vast nuclear arsenals. In his 1992 report to the U.S. Congress, Secretary of Defense Dick Cheney pointedly warned that: "Today we face no adversary capable of posing a global challenge, *except with respect to strategic nuclear forces,... massive soviet nuclear arsenals, including some 30,000 tactical weapons are of serious concern.*" (Emphasis added.)[7]

Two years later, Russia is far from democratic or predictable and its inherent strategic threat remains very much alive. Russia remains a nuclear superpower with over 9,000 strategic nuclear weapons, most designed for use against us, while Russia's thousands of "tactical" and "theater" nuclear weapons are under uncertain control.[8] Dangerous? Vladimir Zhirinovsky warned during his 1991 presidential campaign: "What price Paris? How about London? Washington? Los Angeles? How much are you willing to pay so I don't wipe them from the face of the earth with SS-18s. You doubt me? Want to take a chance? Let's get started."[9]

Russia's reform at risk and its emerging militance

Nothwithstanding the efforts of Boris Yeltsin and other reform-minded Russians, Russia's problems have mounted and leading reformers have long been pushed aside as hardliners and criminal elements have gained far-reaching influence on Russian government agencies. The issue is not simply one of a Zhirinovsky, or of generals Rutskoi, Lebed or Gromov, to name three other hardliners who bear careful watching.[10] The Russian problem is far greater and more profound. Even on Bill Clinton's watch, Yeltsin may fall and America may face exceptionally dangerous chaos, coups and civil wars in Russia. We are more likely than not to see the emergence of an aggressive national socialist regime and the return of an evil empire.

Because Russia has a shaky economy and an $80 billion foreign debt, Russian officials

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Footnotes at end of article.

seeking American aid invariably complain of severe hardships and shortfalls and point especially to Russia's military sector. At the same time, Russia clearly lacks effective democratic controls, economic reform strategies, or defense conversion programs likely to succeed against mounting obstacles. Yet Russia's generals are pressing ahead on costly programs to modernize their military forces. Yeltsin has clearly had to pay a high price for his bloody October 1993 showdown against the parliamentary hardliners, a price which includes the assertion by his generals of an aggressive new military doctrine and a defense commitment designed to assure Russia's nuclear superpower status, its primary military role throughout all of the lands of the former Soviet Union, and its special status throughout the former empire's sphere of influence.[11]

Russia's Strategic Programs

Russia is dismantling few if any warheads under the Strategic Arms Reduction treaties (START I and II), is violating biological and chemical weapons conventions and is conducting a robust strategic modernization program unmatched by the United States and extending far beyond any conceivable defensive needs.[12] While draconian U.S. defense cuts have ruled out any comparable new American strategic systems, U.S. intelligence officials reported Russia's strategic effort in 1993 to include numerous programs, which apparently still continue in 1994, as follows: "We expect that Russia will flight test and deploy three new ballistic missiles—a road-mobile ICBM, a silo-based ICBM, and an SLBM—during this decade. . . [and] a new ballistic missile submarine after the turn of the century."[13] Russia also continues work on improving its strategic anti-ballistic missile systems, an area wherein U.S. efforts are greatly curtailed.

The Russian generals' troublesome strategic activities include vetoing advanced U.S. strategic missile defense and having their Strategic Rocket Forces conduct large-scale strategic exercises against the United States.[14] Reportedly also continuing are Russia's programs to improve at least parts of its extensive system of several hundred deep underground blast shelters, hardened to let commanders and key industries survive a nuclear war. The United States has only one such hardened facility (the Defense and Space Command at Cheyenne Mountain, Colorado). Ironically, America's "continuity of government" facility, which was not superhardened, was closed down by President Clinton in 1994.[15]

Clinton Administration officials have said little about the Russian exercise or tunnelling programs, but following a major exercise in 1993, some reportedly drew sober strategic conclusions about the Russian military's strategic intentions: "These officials said the Russian nuclear exercise, along with signs of the continued construction and improvement of underground nuclear blast shelters around Moscow, are signs the Russian military are still making preparations to fight a nuclear war with the United States. 'You can't dismiss that threat,' one official said."[16]

Russian Nuclear Scenarios.

Given Russia's unpredictable path, no nuclear weapon in Russia can be assumed to be under assured democratic civilian control; all must be considered as potentially threatening to us and our allies. Russian General Staff investigators reported that during the August 1991 coup attempt against Gorbachev, generals working with Defense Minister Yazov (a trusted U.S. "reform" favorite) removed the strategic weapons chain of command from civilian control and that weapons could have been launched without presidential approval.[17] In addition, Russia's 18,000 or more *tactical* nuclear weapons, with an average destructive power equal to that of the Hiroshima bomb, are described by Boris Yeltsin and by U.S. officials, including the directors of the CIA (R. James Woolsey) and the FBI (Louis Freeh) as increasingly vulnerable to capture and proliferation by Russia's powerful criminal mafias.[18]

Woolsey's June 27, 1994 testimony to the House Foreign Affairs Committee is instructive as to the clear and present danger: "With organized crime, there is no possibility for diplomacy, demarches, hotlines or summits. . . . Complicating the problem . . . is the involvement of former KGB and military officers in organized crime. With their KGB and military background, special training, and contacts with former colleagues, these individuals offer valuable skills and access. . . . When the security of weapons of mass destruction—nuclear, chemical, biological, advanced conventional, as well as nuclear materials such as highly enriched uranium and plutonium—is factored into the equation, the stakes can become dangerously high for Russia itself and for the United States. . . . Organized crime groups certainly have the resources to bribe or threaten nuclear weapons handlers or employees at facilities with weapons handlers or employees at facilities with weapons grade nuclear materials."[19] In August, July and May 1994, German authorities seized plutonium and enriched uranium being smuggled into Germany, possibly headed for the Middle East, from sources they reported to be in Russia, possibly involving "disgruntled members of the security services."[20]

Russia's Intelligence Activities and Further Strategic Reach

Russia is active in a broad range of troublesome activities with strategic implications, including intensive intelligence activities reported by the FBI and CIA chiefs as directed against the United States and focused particularly on the acquisition of advanced military and commercial technologies.[21] The Ames espionage case is no exception and may prove the tip of an iceberg. In June 1994, Boris Yeltsin pointedly noted that: "The absence of the idea of a 'main opponent' does not mean a curtailing of our intelligence-gathering activities in the traditional areas, mainly with regard to the United States and the NATO member states."[22] In addition, Russia's strategic reach during the past year has also included opposition to U.S. policy initiatives for Bosnia (air strikes against Serbs, lifting the embargo against Bosnians), North Korea and Libya (tough sanctions) and NATO (East European membership); sales of submarines to Iran and North Korea; and peacekeeping units in Bosnia (extending Russian military presence toward the Adriatic).

In actions praised as "stabilizing" by President Clinton,[23] but conducted in violation of the Conventional Forces in Europe Treaty, elite Russian military units and mercenaries are engaged in civil wars in Georgia, Moldova, Tajikistan, etc., implementing a "peace enforcement" role reminiscent of the infamous Brezhnev Doctrine of 1968, and intended to "reintegrate," by force if necessary, the post-Soviet independent republics into the Moscow-dominated Commonwealth of Independent States. Even the relatively "liberal" senior Russian official, Foreign Minister Andrei Kozyrev, publicly declared on December 7, 1993: "Anyhow, everything will get back to its old place."[24]

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The Third Gamble: Denying Strategic Threats From China

America's third strategic gamble is to deny the reality of a strategic threat from China, whose strategic modernization efforts, reportedly aided by hundreds of Russian specialists, are clearly designed to guarantee China's role as a nuclear superpower in the next century.

Even now, China's CSS–4 intercontinental ballistic missiles (ICBMs) can reach the United States and China's strategic activities continue apace. They include development of a new mobile ICBM, extensive espionage directed against us and three recent nuclear weapons tests, including a one-megaton test in 1992 and tests in October 1993 and June 1994, while the U.S. and Russia stopped testing and even as China pays lip service to joining the Non-Proliferation Treaty (NPT) and a new Comprehensive Test Ban Treaty.[25] China also has one of the world's worst records on proliferation, exporting sensitive military items notably to Iran, North Korea, and Pakistan and consistently opposing tough sanctions against North Korean's NPT violations.

[25]

Rewarding Militance

China's assertive strategic posture raises potential dangers to America and her allies substantially greater than her much discussed trade and human rights abuses. Yet these dangers have been ignored as China was rewarded on May 25, 1994 not only with Most Favored Nation status but also with the transfer of advanced technologies with very high military and proliferation potential, including advanced computers, engines and satellites.[26] On June 10, 1994 China rewarded the latest U.S. concessions by exploding an H-bomb in an underground test; the White House managed to say that "The United States deeply regrets this action," and called on China to stop its nuclear testing program.[27]

ARMS CONTROL OR UNILATERAL NUCLEAR DISARMAMENT?

The Fourth Gamble: Unilaterally Implementing START I and II

America's fourth strategic gamble is the Clinton Administration's unilateral implementation of the flawed Strategic Arms Reduction Treaties.

Three years after the July 1991 signing of the first Strategic Arms Reduction Treaty (START I) by Presidents Bush and Gorbachev, the treaty was still not in force pending resolution of Russian-Ukrainian disputes and its reductions were being only very slowly implemented by Russia. Yet the Clinton Administration declared in January 1994 that the United States had by then already *unilaterally* implemented 90 percent of the U.S. reductions proposed for the treaty's seven-year period, the remainder to be completed in 1994.[28]

START I: Fundamental Flaws and Poison Pills

The START I treaty is fundamentally flawed by outdated Cold War concessions made by the Bush Administration to the hardline Soviet generals who determined Gorbachev's arms control positions, concessions manifest in provisions whose risks are significantly magnified by Russia's current strategic programs and political uncertainties.[29] Thus, for example, START I does not require the dismantlement of a single one of the Russian warheads to be reduced, retired or "off-loaded" under the treaty. Thus, key treaty provisions on mobile missile limits, "retired" systems, bomber loadings and sea-launched cruise missiles, cannot be verified effectively (i.e., with high confidence) and, in a reversal of a major Reagan START position, hundreds of Russia's intercontinental range Backfire bombers are not counted as strategic. In another reversal of a key Reagan START position, his proposed ban on mobile missiles, START permits over a thousand warheads to be deployed under the treaty on such hard-to-find, strategically destabilizing missiles, of which Russia has many hundreds and the United States has none.[30]

START I's gambles are doubly dangerous because the treaty involves a poison pill declaration of June 13, 1991, through which Moscow officially makes its START I compliance explicitly dependent on U.S. compliance with the Anti-Ballistic Missile (ABM) Treaty of 1972. Yet, this Cold War treaty bars the advanced defenses against strategic missiles that could uniquely safeguard the American people and the world against Russian cheating or global proliferation.

START II's fatal flaws

START II, signed in January 1993, is being implemented unilaterally by the United States by way of the Clinton Administration's budget proposals and planned strategic cuts. Yet START II, on which the U.S. Senate has permitted no critics to testify, has been ratified neither by Russia's parliament nor by the U.S. Congress and START II has not corrected START I's basic flaws. START II's own flaws, including "downloading" and "conversion" provisions which cannot be effectively verified and which are reversible, are compounded by Russia's political unpredictability. Furthermore, START II cannot legally come into force until START I has done so.

But even if START II were ratified by the U.S. Congress, were legally in force and were fully implemented by Russia, Russia would still retain 3,000 to 3,500 strategic nuclear weapons by the year 2002, or by the year 2000 if the U.S. provides substantial moneys and assistance to Russia. Most of these Russian weapons would be mobile and reloadable to high-level multiple-warhead configurations. This inherently threatening strategic reality would remain as described by former Chairman of the Joint Chiefs of Staff, General Colin Powell, speaking to senior Russian generals in Moscow when START I was signed in 1991: "Even with the START treaty you will have the capability to destroy us in 30 minutes."[31] Against this threat, the Clinton Administration's strategic disarmament gambles leave the American people with questionable deterrent power and without the safeguard of protection against strategic missile attack.

The Fifth Gamble: Forcing Unilateral Nuclear Disarmament on Ukraine

America's fifth strategic gamble is that in implementing the START treaties, the Administration has added to Russia's strategic pressure on Ukraine and Eastern Europe.

With Ukraine, as Zbigniew Brzezinski has noted, Russia can be an empire, without Ukraine it cannot. Russian officials understand this, refuse to acknowledge full Ukrainian sovereignty if Ukraine retains nuclear weapons, and uniformly demand the "reintegration" of Crimea and all of the rest of Ukraine, a 52-million-strong nation the size of France, into Moscow's "Commonwealth." Toward that end, Russia demands that all nuclear weapons in Ukraine be rapidly surrendered to Russia, and Russia has rattled its nuclear saber at Ukraine and demonstrated its ability to cut off Ukraine's vital energy supplies.

The Strategic Costs of Ukraine's Surrender

Having given up 2,000 tactical nuclear weapons to Russia in 1992 in a futile effort to trade weapons for assured peace and security, Ukraine's president and parliament have sought two critical security steps in signing on to START I in Lisbon in May 1992 and in ratifying START and preparing to accede to the Nuclear Non-Proliferation Treaty: 1) "step by step" Ukrainian nuclear reductions, with international fiscal support and with internationally supervised dismantlements of the more than 1,600 strategic weapons in Ukraine demanded by a Russia which already had a five-to-one nuclear strategic superiority over Ukraine; and 2) international security guarantees of Ukraine's independence, e.g., through Ukraine's membership in NATO.[32] Russia strongly opposed both of these conditions and in the January 1994 Trilateral Agreement between Russia, Ukraine and the United States, President Clinton joined Russia's generals in imposing rapid unilateral nuclear disarmament on Ukraine.[33]

A U.S. offer of $300 million came with non-binding "security" arrangements offered through the "Partnership for Peace" and the terminally weak Nuclear Non-Proliferation Treaty. In return, Ukraine is to surrender the only decisive lever it possesses to assure its future sovereignty and the West loses a potent strategic buffer and deterrent against a likely renewal of Russian military pressure on Eastern Europe. As for NATO, Russia itself wants to be a member, but with NATO to be placed under the consensus-determined Conference on Security and Confidence Building in Europe (CSCE) and thus rendered militarily ineffective.

The Sixth Gamble: Counting on Legislation and Nuclear Purchases to Close the START Gap in Russia

The sixth strategic gamble is to rely on recent Congressional legislation and U.S.-Russian nuclear materials agreements to close START's arms reduction gaps and to assure the early dismantlement of Russia's strategic arsenals.

The visionary "Nuclear Threat Reduction" Act initiated in 1991 and sponsored by Senators Sam Nunn and Richard Lugar attempts to close the huge arms reduction gaps left by the START treaties. Under this act, the United States Congress had appropriated $1.2 billion by 1994, with $400 million more to come in FY 1995, to dismantle nuclear (and chemical) weapons in Russia and other successor states. But chemical weapons dismantlements have made only a small dent in Russia's CW stockpiles and the U.S. taxpayers' support for storage and transportation of Russian nuclear weapons and materials has thus far *enhanced* Russia's nuclear capability. Bureaucratic confusion in Washington and Moscow and lack of U.S. insistence on American presence during the nuclear dismantlements we are paying for in Russia mean that few, if any, nuclear weapons have been *or are likely to be verifiably dismantled in Russia* in the near future.[34] Under the principles that "we pay therefore we should inspect," and that Russia lacks the assurance of America's democratic civilian controls, we should insist on the physical U.S. supervision of Russian dismantlements, without granting reciprocal inspections in the United States.

U.S.-Russian Nuclear Materials Deals

January 1994 agreements with Russia for the U.S. purchase of $12 billion in fissile (nuclear) materials reflect a further effort to get beyond the flawed START treaties.[35] But while the new agreement potentially provides billions of U.S. taxpayer dollars to Russian officials, many of whom are likely to be inefficient or corrupt, it does *not* provide for continuous American presence at nuclear plants or dismantlement facilities and thus cannot come close to assuring that we will have accurate data on inventories, activities, violations, etc. Furthermore, even if fully implemented, the agreement would have only a marginal impact on Russia's vast nuclear weapons stockpiles over the next decade. As described below, the agreement also marks a dangerous first step toward the international control and elimination of *American* nuclear weapons production.

The Seventh Gamble: Denuclearizing America's Deterrent Forces

The seventh strategic gamble leaves the United States incapable of producing or testing any nuclear weapons, relying instead on fatally weak international arrangements and the goodwill of other nations. Like the muddle-headed anti-defense "nuclear freeze" proposals of an earlier day, an intended result is to *eliminate* America's nuclear deterrent in the foreseeable future. The unintended result will be to increase global proliferation incentives.

U.S. Nucler Weapons and Nuclear Materials Production Halts

The United States stopped producing nuclear weapons materials in 1991, has no active production capacity and no longer makes the critical element tritium, without which many of our weapons will be unuseable in some ten to twenty years. As the base dissipates for our nuclear weapons materials, experts, labs and industry, and in violation of informed American opinion,[36] America will lack a credible deterrent or a timely strategic nuclear reconstitution capability at the very time we can expect new nuclear buildups and proliferation threats across the globe.

Banning Fissile Materials

The January 1994 U.S.-Russian fissile materials agreement reflects the Clinton Administration's high-risk intention soon to place U.S. nuclear weapons facilities, and thus U.S. security, under multilateral international control going well beyond current limited voluntary U.S. participation in a number of non-military International Atomic Energy Agency (IAEA) safeguards. The new agreement provides U.S. visits to Tomsk in Russia and, reportedly to the Pentagon's surprise, Russian visits to the Pantex nuclear weapons plant in Texas; it is seen as ". . . 'the beginning of an international control regime over plutonium,' the basic building block of nuclear weapons, an Administration official said."[37] The Administration formally supports negotiation, at the Geneva Conference on Disarmament, of a multilateral fissile material production ban which would "halt the production of plutonium and highly enriched uranium for nuclear weapons in the five declared nuclear-weapons states."[38]

U.S. Denuclearization Increases Proliferation Dangers

The Clinton Administration argues that U.S. denuclearization and new anti-testing regimes foster international arms control "norms" which reduce proliferation incentives.[39] Yet the opposite result is far more likely since U.S. nuclear disarmament could prove a very strong incentive for aggressive rogue state leaders (e.g., in North Korea, Iraq, Iran, Libya) or for criminal groups in Russia confident that even a limited arsenal of nuclear weapons and longer-range missiles would gain them enormous leverage in deterring and paralyzing us and our allies.

For friendly nations (e.g., Japan, Germany, South Korea and Taiwan) which have forgone nuclear weapons because they could depend on an effective American nuclear umbrella, U.S. denuclearization will inevitably produce increasing worry about the U.S. umbrella's sufficiency and credibility. In such circumstances, our friends, (and not just Israel) are likely to believe it increasingly critical that they have their own nuclear weapons to deter proliferating nuclear threats.

The Nuclear Non-Proliferation Treaty

Iraq, North Korea and other states, and those who assist them, have demonstrated that the "norms" supposedly established by non-proliferation and anti-nuclear-testing treaties are easy to violate or circumvent and can neither deter nor protect against, those determined not to abide by them. Yet, "the President attaches the highest importance to indefinite and unconditional extension" of the fatally weak Nuclear Non-Proliferation Treaty (NPT) of 1968 at an April 1995 review conference.[40] Here America's strategic gamble is compounded by not insisting on first strengthening the twenty-five year-old NPT and the NPT-related International Atomic Energy Inspection Agency (IAEA) with inspections and sanctions teeth to include *compulsory* inspection and enforcement power against non-compliant states. The abuse of NPT membership by such states, and their continuing deception and denial activities, plus the reality that scores of *non-signatory* nations and *non-state* terrorist or criminal organizations would remain beyond the pale of the treaty, expose the NPT treaty as one of the single least effective arms control arrangements in history.

The Comprehensive Test Ban Treaty

Even weaker, less enforceable and more fateful than the Nuclear Non-Proliferation Treaty is the illusory Comprehensive Test Ban Treaty (CTBT) which the Clinton Administration wants the United States to join no later than 1996. The CTBT would permanently extend the high-risk U.S. policy "temporarily" halting even the small underground tests permitted by the 1974 Threshold Test Ban Treaty (TTBT). Even in the post-Cold War period, senior U.S. defense officials, reportedly including President Clinton's Deputy Secretary of Defense, John Deutch, have considered such tests indispensable to maintaining the safety and effectiveness of the nuclear weapons on which the U.S. and those relying on its nuclear umbrella will continue to depend for deterrence in the foreseeable future.[41] Yet the ineffective CTB would come into force and would bind the United States to stop testing, and thus rapidly to denuclearize, even if adopted by only a third of the world's nations. This would reverse the understanding of past American presidents and other senior officials that the CTB's lack of effective verification and enforcement mechanisms against violators would bring enormous instabilities, further increased by America's expected unilateral CTB compliance in a dangerous nuclear world.[42]

The Eighth Gamble: "Banning" Chemical and Biological Weapons

The eighth strategic gamble is the failure to strengthen *existing* treaties on chemical weapons (CW) and biological weapons (BW), while supporting ineffective, but very expensive new steps likely to weaken American defenses against such weapons.

The United States has forsworn the use of chemical weapons, no longer produces them, and is dismantling its stocks. Meanwhile, some twenty-five nations are officially estimated to have chemical weapons, and Iraq, Libya, and Russia have notably violated the weak existing CW conventions of 1925 and 1972 forbidding CW use. Russia, which has a poor record on CW and BW compliance and officially admits it cannot implement the treaty's dismantlement schedule, has recently imprisoned some of its own experts for telling the world about *current* Russian CW/BW coverups.[43]

Notwithstanding the fateful strategic implications of such cheating, which has continued since the Bush Administration overoptimistically signed a weak new treaty, the Clinton Administration is pressing the U.S. Senate to ratify the exceptionally expensive and fatally flawed convention for a supposedly "comprehensive" global ban on possession of such weapons and their precursors.

Neither Comprehensive Nor Effective

As detailed by defense experts, the proposed CW treaty will be neither comprehensive nor effective; in today's world, its illusions and its price would, indeed, be dangerous to our security.[44] It excludes major chemical warfare agents used in World War I (chlorine and hydrogen cyanide), lacks mandatory sanctions, does not require inspection of *suspect* sites, and would bind the United States even if adopted by only 65 of the world's nations, thus leaving numerous rogue regimes outside it nominal scope. Although the treaty cannot be effectively enforced abroad, it would surely be fully, even if unilaterally, implemented by the U.S. and would call into question the possession of even a small U.S. CW stockpile required for defensive anti-CW testing. Treaty implementation would require extraordinarily intrustive and expensive regulations and inspections of the U.S. chemical industry and would require massive U.S. technical and financial support of Russia's multi-billion-dollar CW dismantlement costs.

The United States long ago forswore development of biological weapons, but has had no demonstrated success in enforcing the existing 1925 and 1972 BW conventions against violators such as Russia (as admitted by Boris Yeltsin), Iraq, Iran and Libya. Now, the Geneva-based Conference on Disarmament is to consider twenty-one "confidence building measures" to strengthen the BW conventions. But although none of the proposed measures could make a "ban" effectively verifiable or enforcable, the Clinton Administration is placing much confidence in this fatally illusory effort "to strengthen the international norm against a scourge that could well become the next weapon of mass destruction of choice."[45]

DISMANTLING THE STRATEGIC TRIAD, DENYING STRATEGIC DEFENSES

The Ninth Gamble: Dismantling America's Strategic Triad

The ninth strategic gamble is to cut deeply into the marrow of America's strategic triad of air-, land-, and sea-forces which have maintained strategic peace for four decades and which remain an indispensable deterrent in a nuclear world, particularly one which includes another, quite turbulent, nuclear superpower.[46]

The entire U.S. strategic nuclear bomber force is off alert and will be reduced to at most 20 nuclear-armed B-2 "stealth" bombers, of which only two were operational in mid-1994. The United States is planning no new bombers and the bulk of the nuclear weapons to be carried by U.S. bombers will be old-style gravity bombs rather than precision guided missiles. Fewer than 50 B-52H bombers and 72 B-1B bombers will remain operational, but all will be converted from nuclear-armed strategic roles to conventionally-armed *non-strategic* aircraft. "Reconstitution reserve" bombers will lack ground crews, training programs and spare parts.[47]

The U.S. land-based intercontinental ballistic missile (ICBM) force is losing its ability to deter potential Russian nuclear blackmail by holding most of Russia's missile force at risk. It could also have a future problem deterring a strategically robust China. All 50 U.S. MX ICBMs, each with 10 advanced warheads capable of defeating Russia's hardest silos, are being eliminated, as are all 350 U.S. Minuteman II ICBMs. Only 500 Minuteman IIIs will remain deployed, each "downloaded" from three warheads to a single warhead and vulnerable to a first-strike threat, since none will be mobile and none will be protected by strategic defenses. China, in contrast, is developing mobile ICBMs and Russia will retain many of its mobile ICBMs, has SA-10 and mobile SA-12 strategic anti-missile systems developed around Moscow, and has the production base for deploying more mobile missiles and a national strategic defense system.

U.S. Strategic Ballistic Missile Submarines (SSBNs) dropped from 33 in 1990 to 16 in 1994 and may drop further to only 10 or 11. Through elimination, retirement and "downloading," the total warheads carried on these submarines' missiles will be reduced by about half, not all of which will be the modern Trident D-5 system which can hold even the hardest silos at risk. The United States is planning no new ballistic missile submarines or new submarine-launched ballistic missiles while Russia is reported to be developing a new submarine-launched ballistic missile, had 66 ballistic missile submarines deployed in 1992 and was expected to retain 24 Delta IV an 6 Typhoon submarines under START I. U.S. attack submarine numbers are being cut in half to the low 40s, with only one or two new Seawolf submarines assured, while Russia will maintain a far larger, modernized fleet. Even with START II, according to Rear Admiral Thomas Ryan, director of the U.S. Navy's submarine requirements office: "in ten years we are likely to face a Russian submarine force that is comparable in quality to our own and may exceed ours in numbers by about 40 percent."[48]

C^{3}I, Launch Capacity, Computer Security

Major U.S. command, control, communications and intelligence (C3I) and satellite and satellite launch rocket programs that support our triad are being cut or eliminated, including advanced technology systems based in space.[49] The United States no longer even maintains "Looking Glass," its flying strategic command post, constantly airborne. In strategic intelligence, according to CIA Director Woolsey: "The Intelligence Community has reduced its resources devoted to Russian military development across the board. But, in reality, there are now no fewer questions being put to us by the Executive Branch and Congress. . . ."[50]

A serious new danger to U.S. security, according to the Senate Arms Services Committee, is that through the Internet "information highway": "Over the last six months, unknown intruders have repeatedly gained entry into computers and computer networks at numerous, sensitive military installations. The intruders took control of computers that directly support deployed forces and research and development, installed capabilities to ensure they could reenter the computers at will, read and stole data files (including software under development for future weapons systems) and, in some cases, destroyed data files."[51]

Detargeting, Retargeting

While visiting Moscow on January 14, 1994, President Clinton agreed to order the "detargeting" of all U.S. strategic missiles away from Russia—with the targeting information removed from the Trident I and Trident II sea-based missiles and the MX ICBM, and with the Minuteman III ICBM set to ocean-area targets. Intended to be only "symbolic," "confidence-building" measure this is, in fact, a *high-risk, step* which sharply reduces U.S. strategic confidence and deterrent capability, since the United States has no effective verification or enforcement mechanisms to ensure corresponding retargeting by Russia's generals.[52] America's democratic political system makes it very difficult to contemplate resumption of U.S. targeting of Russia's missile bases, even in a crisis. Russia's military commanders, in contrast, lack comparable democratic civilian oversight or debate. They can either continue to target us at will or can retarget temporarily "detargeted" missiles against us again in a matter of minutes.

Keeping Bombers Off Alert and Removing Tactical Nuclear Weapons

In a 1991 decision that should reexamined, the Bush Administration took all U.S. strategic bombers off alert and removed all land- and sea-based tactical nuclear weapons from operational forces, a substantial loss of U.S. contingency options. Corresponding Russian actions, if any, cannot be verified with confidence and, even if fully implemented, would be politically very much easier for Russia's generals to reverse than would be the case in the United States.

The Tenth Strategic Gamble: Clinton's "MAD" Opposition to Strategic Missile Defenses

The tenth U.S. strategic disarmament gamble is the President's radical opposition to strategic defense systems and to the increased protection and strategic stability they could uniquely provide to the American people and their friends and allies around the globe.

This deadly gamble rests on the Clinton Administration's faith in the long-broken[53] and long-obsolete Anti-Ballistic Missile (ABM) Treaty of 1972 and its associated Cold War doctrine of Mutual Assured Destruction (MAD). During the Cold War, MAD supporters such as Robert McNamara and the self-styled arms control lobby argued that the threat of mutual nuclear annihilation was the most effective deterrent to nuclear war. This awful Cold War theory assumed the dubious ethics of nuclear suicide and gambled on the existence of rational authorities in Moscow and an unbreakably tight control over the nuclear chain of command. The Strangelovian MAD theory was bad for defense during the Cold War and today remains the Cold War's single most dangerous strategic relic. MAD cannot account for Russia's breach of the ABM treaty in 1983, the lack of assured control of Russia's nuclear weapons, the breakdown of deterrence in recent Middle East wars, or the accelerating global risks of proliferation.

Gutting Strategic Defenses

Bound by the missile-Maginot line ABM Treaty and its MAD theory, and joining the Russian generals in walking back Boris Yeltsin's 1992 endorsement of a global defense system,[54] the Clinton Administration has cut by more than half the anti-missile program requests of the Bush Administration for the next five years. Bush proposed $39 billion to field a global defense system against limited attack beginning in the mid-1990s, as required by the Missile Defense Act of 1991 passed by the U.S. Congress in the wake of the Gulf War. The Clinton Administration has cut this to $18 billion or less to pay for a very restricted (reduced THAAD) system barely able to counter even limited tactical or theater threats and rendered deliberately incapable of defending the American people and key allies against strategic missile attack, whether purposeful, unauthorized or accidental.[55] In little-noticed negotiations leading up to the September 1994 U.S.-Russia summit, the Administration granted Russian generals at the Standing Consultative Commission in Geneva veto over advanced "theater" defenses based on the ground and on any advanced defenses, theater or strategic, based on the sea, in the air or in space.[56]

The ABM Treaty provides that a signatory can withdraw from it with six months notice on grounds of jeopardized supreme interests.[57] Given mounting nuclear dangers and the long lead times required to deploy strategic missile defenses, such a step would end MAD and would surely be the logical post-Cold War strategic update of the Missile Defense Act of 1991 calling for early defenses and a secure response to volatile missile threats in Russia and other global hot spots.

BOTTOM UP, BELLY UP, OR BOTTOM LINE AMERICAN DEFENSES?

The Clinton Administartion's strategic gambles reflected in its 1993 "Bottom Up Defense Review," its FY 1994 and FY 1995 defense budgets, its nuclear posture reviews and its missile defense and arms control proposals, turn out to be more like a "Belly Up Review." They are deadly in their unrealistic perspective of the post-Cold War world and in their "emperor's-new-clothes" illusions about what amounts to a "lowest common defense denominator" policy which underlies their "cooperative defense" and disarmament approach even toward the world's non-democratic and rogue regimes. If, as is more likely than not, these strategic assumptions are proved wrong, and the strategic gambles are lost, America will lack the necessary defense safeguards.

America and the American people are worth protecting. They urgently require in-depth, blinders-off reviews of global realities, of U.S. options, and of the means of reversing our nation's deadly strategic gambles. Independent red-team reassessments and critical Congressional hearings would help, supported by a Congress awakening to new global dangers and by the concerns of an increasingly security conscious public. In the tenth straight year of declining U.S. defense investment and at a time of a MAD strategy and of precipitous further cuts which are reducing U.S. defense investment below pre-Pearl Harbor levels, it is time to recall that weakness invariably provokes aggression and that the task of providing for our people's common defense must quickly get the priority attention and resources it deserves.[58] Given the very real threats we face and the catastrophic risks of national defense failures, anything less will catapult America into the deadliest of the globe's gathering storms.

FOOTNOTES

[1] The Clinton Administration's *Bottom Up Review: Forces for a New Era*, published on September 1, 1993 by Secretary of Defense Les Aspin's Pentagon, begins as follows: "The Cold War is gone. The Soviet Union is no longer. The threat that drove our defense decision-making . . . is gone." Its maps of potential crisis or threat areas around the globe *exclude* the entire area of the former Soviet Union. The Administration's first *Secretary of Defense Annual Report to the Congress*, published in January 1994, follows this pattern.

[2] R. James Woolsey, Testimony to Governmental Affairs Committee, United States Senate, February 24, 1993. More recent assessments by Woolsey and other senior officials contain essentially the same numbers.

[3] Lawrence Gershwin, Senior Analyst for Strategic Forces, Central Intelligence Agency, Center for Security Policy, Washington, DC, symposium on strategic defense, March 23, 1993. Prepared statement.

[4] Secretary of Defense Dick Cheney, *Annual Report to the President and the Congress*, Department of Defense, February 1992, p. 5.

[5] William Clements, Director, Nonproliferation and Export Controls, National Security Council and Barry E. Carter, Acting Under Secretary for the Bureau of Export Administration, U.S. Department of Commerce; statements at American Bar Association conference on "Nonproliferation of Weapons of Mass Destruction," Washington, DC, June 10, 1994. Among numerous criticisms of the Administration's laxity, is one entitled "Don't Sell our Spy Technology," which states that "the Administration went too far in liberalizing sales of satellite imaging technology itself, as well as sophisticated machine tools and large-rocket technology, which are likely to be put to military use. And it missed a chance to require companies to disclose the sales now exempted from licensing, as well as the identity of ultimate buyers, enabling it to keep track of technology flows. . . . The Administration has not just waived controls on many dual-use exports. It has also established new administrative procedures to expedite licensing decisions. . . . There is need for vigilance. . . ." *New York Times*, March 12, 1994, p. 20. On congressional concerns, see Philip Finnegan and Theresa Hitchins, "Control of Dual-Use Exports Splits Two House Committees," *Defense News*, June 20–26, 1994, p. 10.

[6] See Note 1 above.

[7] Cheney, *DoD Annual Report—1992*, op. cit., p. 2. A year later, Cheney's *DoD Annual Report—1993* set it as U.S. policy to preclude "the reemergence of a global threat," (p. 3), and to have sufficient "reconstitution" capability to "cope with" a "global threat from a single aggressor or some emergent alliance of aggressive regional powers" (p. 6).

[8] Because of continued Russian military secrecy, and inadequate U.S. intelligence, the potentially life-or-death issue of the number of nuclear weapons now in Russia (and the other nuclear successor republics) remains a mystery, but is likely to be greater than the 9,000 strategic and 18,000 tactical/theater weapons numbers generally used by U.S. officials. In 1993, Russia's Minister for Atomic Energy, Victor Mikhailov, revealed that the Soviet Union's mid-1980s nuclear arsenal included 45,000 warheads, i.e., 15,000 *more* than had been estimated by the U.S. Central Intelligence Agency. See Bill Gertz, "Russia's Nuclear Admission Confirms Hawk's Fears," *Washington Times*, October 7, 1993.

[9] "New Foe on Right May Challenge for Presidency," *Washington Times*, December 14, 1993, p. A–1. Zhirinovsky has similarly publicly threatened Germany and Japan with nuclear annihilation.

[10] The charismatic General Alexander Lebed commands Russia's 9,000-man 14th Army in Moldova in support of pro-Russia elements in the "Trans-Dniester Republic," an enclave in Moldova just west of Ukraine. Using the pseudo "Republic" as a military base, the 14th Army has pulled, or pushed Moldova back into union with Russia through Moscow's Commonwealth of Independent States. General Boris Gromov, considered by some a future "Red Napoleon," is currently Russia's Deputy Defense Minister. Alexander Rutskoi, better known in the United States as Boris Yeltsin's former Vice

President, who led the parliamentary revolt and coup attempt against Yeltsin in October 1993, is a former Soviet general. All three are so-called "Afghanistan" generals, war heroes who energetically pursued the Soviet Union's aggressive war from 1979 to 1989.

[11] The doctrine, an apparent payoff to Russia's hardline military and KGB elements, was approved by President Yeltsin and Russia's National Security Council on October 4, 1993, as street battles were raging between forces backing Yeltsin and those backing the hardliners. The doctrine was publicized in November 1993, but few Western officials have commented on it. The author's analysis is based, *inter alia*, on Radio Free Europe/Radio Liberty's invaluable Daily Reports. The doctrine includes the reversal of Brezhnev's pledge not to be the first to use nuclear weapons against a non-nuclear power. In addition to strategic programs, other payoffs to the military reported by RFE/RL include Yeltsin's support of doubled military wages, exemption from income taxes, and major procurement programs to equip modern, highly mobile forces.

[12] On Russia's chemical and biological weapons violations, see discussion in Gamble #8 and in Note 43.

[13] Gershwin, op. cit. Also see Lt. General James Clapper, Jr., Director, Defense Intelligence Agency: "Currently, the strategic forces are relatively well financed and adequately trained to perform their mission, and their modernization efforts are continuing," public testimony to the Senate Committee on Intelligence, January 25, 1994.

[14] On Russia's strategic defense veto, see Gamble #10. On Russian strategic exercises, see William Gertz, "Russian Nuclear Exercises Include Mock Hit on U.S.," *Washington Times*, September 14, 1993, pp. 1, 24.

[15] Russia's network of superhardened deep tunnels and command and control bunkers is designed for nuclear war-fighting and survival and remains strategically significant. In January 1994 President Clinton ordered the October 1, 1994 shut down of the single (non-hardened) U.S. "Continuity of Government" facility established by President Reagan in 1983. See Tim Weiner, "Pentagon Book for Doomsday is to be Closed," *New York Times*, April 18, 1994, pp. A1, 12.

[16] Gertz, op. cit., p. 24.

[17] See Michael Dobbs, "During the Soviet Coup, Who Held Nuclear Control: Gorbachev Lost Command, Probers Say," *Washington Post*, August 23, 1992, pp. A1, 24. According to Dobbs, the Russian General Staff "investigators argue that it also would have been technically possible for nuclear commanders to launch a first strike without the president's permission."(p. 24).

[18] In 1993 Yeltsin labeled Russia "a superpower of crime," and in 1994 described the situation as having gotten worse. (See e.g., Candice Hughes, "Yeltsin: Russia a 'Superpower of Crime',") *Washington Times*, June 7, 1994, p. A12. Freeh has testified to the Senate Government Affairs Committee that these organized crime groups pose "a mounting threat to the safety and well-being of Americans, not only because of the crimes but also because the groups could obtain nuclear weapons materials or a completed nuclear bomb. Such stolen weapons could be sold potentially to terrorists who could use them against us." Cited by R. Jeffrey Smith, "Freeh Warns of a New Russian Threat," *Washington Post*, May 26, 1994.

[19] R. James Woolsey, Director, Central Intelligence Agency, House Foreign Affairs Committee, June 27, 1994, prepared remarks, pp. 3, 4, 9.

[20] Craig R. Whitney, "Germans Seize 3rd Atom Sample, Smuggled by Plane from Russia," *New York Times*, August 14, 1994, pp. 1, 12.

[21] The Bush Administration's FBI Director, William Sessions publicly spoke out on intensified Russian intelligence activities, but Clinton Administration officials, optimistic about Russia and burned by the Ames case, have said little in public. A detailed assessment demonstrating that little has changed since Soviet days, is provided in "The KGB & Its Successors," an article by J. Michael Waller, Senior Fellow, American Foreign Policy Council, in *Perspective*, a publication of the Institute for the Study of Conflict, Ideology and Policy, Boston University, April/May 1994, pp. 5–9.

[22] Friedrich Kuehn, "New Aims Keep East European Spies Busy," *Washington Times*, June 6, 1994, p. A13.

[23] Zbigniew Brzezinski points to the invidious problem as follows: ". . . the joint Clinton-Yeltsin communique at the January [1994] summit did not dispute Russia's interpretation of its 'peacekeeping' mission in the 'near abroad.' Going still further, President Clinton, addressing the Russian people, not only described the Russian military as having been 'instrumental in stabilizing' the political situation in Georgia, but even added that 'you will be more likely to be involved in some of these areas near you, just like the United States has been involved in the last several years in Panama and Grenada near our area'." Brzezinski, "The Premature Partnership," *Foreign Affairs*, March/April 1994, p. 70.

[24] Cited by Brzezinski, ibid., p. 76.

[25] China's nuclear tests have been widely reported. On China's strategic programs, note: "The Chinese have deployed a small force of nuclear-tipped ICBMS, some of which are aimed at the United States, as well as a small force of intermediate-range ballistic missiles, that could be targeted against our allies and our forces in Asia. China plans to update this force with new missiles. We expect that a new mobile ICBM and additional regional nuclear forces will probably be fielded during the 1990's." Lawrence Gershwin, CIA, Center for Security Policy symposium, March 23, 1993, op. cit.

[26] E.g., on the Administration-approved sale of advanced engines: "Within the Department of Defense Technology Security Administration, specialists are worried that the engine is perfectly suited to powering a long-range cruise missile. CIA studies have warned that . . China will gain high-quality military technology, which could be used for a new generation of cruise missiles . . . [which] would put most of the rest of Asia within range of Chinese nuclear attack." Elaine Shannon and Kenneth R. Timmerman, "Confounded by the Chinese Puzzle: A Prospective Arms Sale Leaves Beijing and Much of Washington Mystified About U.S. Policy," *Time*, April 25, 1994, p. 39. Neither President Clinton's statement nor Secretary of State Christopher's report of May 26, 1994 on the renewal of MFN trade status for China, mentions nuclear tests, arms trade, sanctions weaknesses, etc., as issues of concern to the United States.

[27] Patrick E. Tyler, "China Explodes H-Bomb Underground as Test," *New York Times*, June 11, 1994, p. 7. According to Tyler, "the overall improvement of China's strategic weaponry only adds to regional and Wesern concerns about the nature of China's political-military development in the future."

[28] Les Aspin, *Annual DoD Report* 1994, op. cit., p. 45.

[29] For a detailed critique of the START I and START II treaties and the Catch-22 relationship between these treaties and other agreements, see Sven F. Kraemer, "START; Advise, Don't Consent," *The Nataional Interest*, Fall 1992. The realities of the hard-line Soviet military's stance, later manifested in their 1991 coup attempt but neglected by the Bush Administration as it was pressing towards START, are described in Sven F. Kraemer, "Soft-pedaling Soviet Stance Ignores Confrontation Peril," *Signal*, December 1990.

[3] Mobile missiles are ideal for cheating and breakout scenarios and for launching attacks with good chances of escaping counter attack. In violation of the Intermediate Nuclear Forces (INF) Treaty of 1987, the Soviet Union successfully hid 72 shorter-range mobile SS–23 missile launchers (and probably twice that many missiles) in East Germany, Czechoslovakia and Bulgaria—missiles not discovered until after the anti-Communist revolutions. In Iraq, some 5,000 U.S. Air Force anti-SCUD sorties were unable to discover a single one of Iraq's mobile SCUD launchers. In Russia's eleven time zones it is relatively easy to hide extra mobile missiles and to confuse the START categories of which are "retired," "reduced" on "exercises," etc.

[31] Quoted by Eleanor Randolph, "Powell: Soviet Military 'Oversized'," *Washington Post*, July 25, 1991.

[32] See text of Lisbon Protocol to START Treaty and accompanying side letter from Ukrainian President Kravchuck. On ratification issues also Paul Bedard, "Clinton Warns Ukraine on START Pact," *Washington Times*, November 30, 1993, pp. Al, 8.

[33] The Ukrainian surrender to the two nuclear superpowers is notably clear in the opening remarks of Presidents Clinton and Kravchuck at a January 12, 1994 press conference in Kiev and in the text of the Trilateral Statement and Annex issued by the Presidents of the United States, Russia, and Ukraine in Moscow, January 14, 1994. See U.S. Department of State, *Dispatch Supplement*, January 1994, Vol. 5, Supplement 1, pp. 13–19. The Partnership for Peace concept explicitly rejected NATO-type guarantees; the false security of the NPT is discussed in Gamble #9. Ukraine's new President, Leonid Kuchma, who took office in July 1994, is considered pro-Russian.

[24] On non-fulfillment of Nunn-Lugar's promise see, *inter alia*, the most recent "Semi-Annual Report on Weapon Activities to Facilitate Weapons Destruction and Nonproliferation in the Former Soviet Union," dated April 30, 1994 and sent to Vice President Gore and the U.S. Congress on May 14, 1994 by Secretary of Defense William Perry. The report indicated that as of April only $130 million of the funds had even been obligated, that "the FSU states still have the ability to produce weapons of mass destruction and their components," that "conversion" funds were just "seed money," that the Moscow International Science and Technology Center [to seek peaceful nuclear research] was just beginning its work and that the Ukrainian center had not yet been established.

[35] See statement issued by White House, Office of the Press Secretary, Moscow, January 14, 1994. U.S. Department of State, *Dispatches*, op. cit., pp. 25-26.

[36] According to a scientific poll conducted between June 1993 and March 1994 of 1,226 scientists at U.S. nuclear laboratories and of 1,155 members of the Union of Concerned Scientists: "59 percent thought it was not feasible to eliminate nuclear weapons in the next 25 years. But if that occurred, 85 percent thought it would be extremely difficult to keep other countries from rebuilding them. The threat of nuclear terrorism now and in the future also was rated high." See Associated Press report, cited in "Nuclear Fears Rise Among Americans Despite Soviet Fall," *Washington Times*, July 8, 1994.

[37] On the Pentagon's surprise on the Russian inspections, see Thomas W. Lippman and R. Jeffrey Smith, "Arms Wrestling with the Pentagon," *Washington Post*, August 4, 1994, p. 29. On the Administration's building block view, see Thomas W. Lippman, "Accord Set on Nuclear Inspections," *Washington Post*, March 16, 1994, p. 14.

[38] John D. Hollum, Director, U.S. Arms Control and Disarmament Agency, Address to the Geneva-based Conference on Disarmament, January 25, 1994, U.S. Department of State, *Dispatches*, Vol. 5, No. 5., p. 44.

[39] Ibid, pp. 43–44.

[40] U.S. Arms Control and Disarmament Agency, Issues Brief, "Comprehensive Test Ban Treaty," March 13, 1994, p. 4.

[41] "Deutch has pressed for a continuation of small-scale nuclear tests and wants the Energy Department to invest immediately in a new facility to produce tritium, a key nuclear weapons ingredient, on the assumption that the U.S. arsenal will not go much lower than current projected levels." Thomas W. Lippman and R. Jeffrey Smith,"Arms Wrestling . . . ." op. cit. In a letter to the Clinton Administration's anti-nuclear Secretary of Energy, Hazel R. O'Leary, it is reported, "Deutch questioned whether the Energy Department was allocating enough money to the weapons program 'to maintain the technological capability that is required for future nuclear weapons missions'." Ibid.

[42] The Reagan and Bush Administrations, for example adhered to the ultimate goal of a CTB only in the context of a world of effective verification and in which America no longer needed to rely on nuclear deterrence, conditions they and most of their senior defense colleagues understood as essentially utopian. The Bush Administration's last major policy position on nuclear testing was announced in July 1992 and described as follows by Secretary of Defense Cheney in his Annual Report to the Congress in January 1993, pp. 15–16. "The policy stated that as long as nuclear weapons and nuclear deterrence continue to be important elements of U.S. and NATO security strategy, the United States would need to conduct an underground nuclear testing program. However, we would restrict the purpose . . . to maintain and improve the safety and reliability of our forces. We do not anticipate under currently foreseen circumstances conducting more than six nuclear tests per year. We also do not anticipate conducting more than three tests per year above 35 kilotons." Cheney also reported the Administration's *opposition* to September 1992 Congressional restrictions proposing a five test per year limit until October 1996 and a ban on tests after that date unless another state tested after that time. Said Cheney: ". . . the United States must conduct a modest number of nuclear weapons tests to ensure the safety and reliability of our forces."

[43] Each of the Reagan and Bush Administration's Congressionally mandated annual reports on Soviet/

Russian noncompliance with arms control agreements identified serious violations of the CW and BW conventions. In 1993 the Russian scientist Vil Mirzayanov was imprisoned for revealing Moscow's continued development of binary weapons. See J. Michael Waller, "Trials of a New Russian Dissident," *Wall Street Journal*, February 4, 1994. In March 1994 Valery Menshikov, a consultant of Russia's Security Council, exposed a major Russian military cover up of hidden stocks and false data. See Marcus Warren, "Russian Admits Deception on Chemical Arms Stocks," *Washington Times*, March 21, 1994, p. 8. Also see Associated Press report, "Russia Lags on Destroying Chemical Weapons, GAO Reports," *Washington Post*, April 11, 1994, p. 20.

[44] In his September 1993 United Nations address President Clinton urged that the treaty enter into force by January 1995, requiring ratification and deposit of treaty instruments with the U.N. Secretary General by July 17, 1994. Critics, all former senior Department of Defense officials, were for the first time permitted to testify on the treaty before the Senate, at a Foreign Relations Committee hearing on June 9, 1994. See the testimony of Kathleen Bailey, Amoretta Hoeber and Frank Gaffney. Detailed treaty critiques are available through the Center for Security Policy (Issues Papers) and The Heritage Foundation (a study by Baker Spring).

[45] John Hollum, Director ACDA, op. cit., p. 45.

[46] The cited numbers in this section of text are derived from official sources including Secretary of Defense briefings on the "Bottom Up Review," the Secretary's Annual Report to the Congress, the Department of Defense Budget Briefings and Congressional hearings on the U.S. defense budget.

[47] The general numbers on bombers are provided in the Clinton Administration's Bottom Up Review, Annual Defense Report, budget proposals, etc. A comprehensive discussion of roles, options, shortfalls, etc. was provided by Air Force officers and private defense experts at a "Roundtable on the Future of the Manned Bomber" sponsored by the Center for Security Policy, in Washington, D.C. on June 8, 1994.

[48] Cited by Robert Holzer, "U.S. Fears New Russian Sub Threat," *Defense News*, June 20–26, 1994, p. 3.

[49] To take one example, according to the Senate Armed Services Committee's *Report on the National Defense Authorization Act for FY 1995*, June 14, 1994, at p. 87: "The Secretary [of Defense] responded by limiting additional defense support program (DSP) satellite procurement to one satellite; cancelling the follow-on early warning system (FEWS); initiating a cheaper alternative to FEWS . . . and reduced the scope of the Brilliant Eyes mid-course tracking program."

[50] R. James Woolsey, Director, Central Intelligence Agency, Testimony on START Treaty, Senate Foreign Relations Committee, June 24, 1993.

[51] Committee on Armed Services, United States Senate, *Report on the National Defense Authorization Act for FY 1994*, June 14, 1994, p. 111.

[52] The official U.S. statement issued in Moscow provides this information along with the note that "Russia has *told* the United States that their detargeting measures are comparable." (Emphasis added).

[53] For the details of the Soviet violations of the ABM Treaty and a discussion of continued U.S. weakness and self-deception in failing to insist on compliance with valid existing arms control treaties, see Sven F. Kraemer, "The Krasnoyarsk Saga," *Strategic Review*, Winter 1990, pp. 25–38.

[54] On January 29, 1992 Yeltsin stated that "the time has come to consider creating a global defense system for the world community. It could be based on a reorientation of the U.S. Strategic Defense Initiative. . . ." For an extended discussion, see Keith Payne, et al., "Evolving Russian Views on Defense . . .," *Strategic Review*, Winter 1993, pp. 61–72. While Yeltsin's position, subsequently rejected by his generals, endorses a joint U.S.-Russian program rather than an American program, it reflects mutual concerns about global proliferation, unauthorized launches, etc.

[55] America's future THAAD will have less capability than Russia's currently deployed SA–12, or the commercial version of the SA–12, the S–300, a fact touted by Russian arms salesmen. (See U.S. Government publication JPRS–TAC–94–L, March 31, 1994, p. 34 quoting an article by Aleksander Savelyev.) Strategic ballistic missiles have velocities over 7 km/sec as they attack their targets on the ground. The Russian SCC proposal (which the U.S. negotiator agreed to in May 1994), limits defensive missiles to a velocity of only 3 km/second and to an ability to counter missiles coming at us at the rate of less than 5 km/sec. This U.S. concession, if approved by the U.S. Senate, and as now reflected in U.S. development and testing programs, would mark a deliberate MAD decision permanently to prevent our government from protecting the American people against strategic missile attack.

[56] See "Wallop Says U.S. Offered Russia a Permanent Space Defense Ban," *Aerospace Daily*, May 4, 1994, p. 185B; and Theresa Hutchins and Robert Holzer, "DoD Protest Mars Missile Talks With Russia," *Defense News*, June 20–26, 1994.

[57] In a May 9, 1972 U.S. Statement on "Withdrawal from the ABM Treaty," Ambassador Gerald Smith declared that: "If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, U.S. supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty." (U.S. Arms Control and Disarmament Agency, *Arms Control and Disarmament Agreements*, 1990, p. 165.) Twenty-two years later, Russia was still modernizing rather than eliminating large numbers of strategic offensive arms under the START treaties (which are not in force), and no strategic offensive arms limitations were being achieved with regard to *global* proliferation. These extraordinary developments very clearly jeopardize our supreme national security interests and require putting aside the long-breached ABM Treaty and committing to the accelerated deployment of U.S. strategic defenses.

[58] U.S. defense funding, materiel and readiness short-falls are becoming increasingly evident. Bill Clinton's pre-election declaration to cut an additional $60 billion from the already much-reduced U.S. defense budget over the next five years was subsequently doubled to at least a $129 billion cut. Military procurement is cut by 60%, as Army divisions and Navy ships are cut by one-third and Air Force wings are reduced by half. These cuts result in forces below those called for by the Administration's own, September 1993 "Bottom Up Review," and far below the Joint Chief's 1992 proposals for a post-Cold War "Base Force" able to handle potential future contingencies. In July 1994, Secretary of Defense Perry stated publicly that the U.S. military could not fight and win two near simultaneous regional wars and the U.S. General Accounting Office informed Congress that funding for the Perry Pentagon's new five-year plan was now $150 billion short of the real costs, thus requiring even more draconian military cuts. (The Pentagon officially acknowledged a $40 billion shortfall; others considered the GAO estimate close to the mark.) See Bradley Graham and John F. Harris, "Can the Pentagon Afford its Future? Goals of 'Bottom Up Review' in Doubt Because of Budget Gap," *Washington Post*, August 8, 1994, pp. A–1, A–6.•

A CONVERSATION WITH MARTHA MINOW

• Mr. SIMON. Mr. President, I confess, I was not even aware that a magazine called Humanities existed until I had the pleasure of listening to Gwendolyn Brooks deliver the annual Jefferson Lecture for the National Endowment for the Humanities, and someone handed me a copy of the magazine.

In fact, it is 15 years old.

It is a solid, constructive journal.

In the current edition, there is an interview by Sheldon Hackney, who chairs the National Endowment for the Humanities with Prof. Martha Minow.

I confess some prejudice in the matter because she is the daughter of two longtime friends of my wife and me, Newton and Jo Minow.

The interview talks about the divisions in our society; where we are, where we must go and how to get there.

Martha Minow recently authored a book titled, "Making All The Difference: Inclusion, Exclusion, and American Law."

That book, undoubtedly, stimulated Sheldon Hackney to have this interview.

Because it contains so much common sense, in a period where we don't have an abundance of that quality, I ask to insert the interview into the RECORD at this point.

The interview follows:

A CONVERSATION WITH MARTHA MINOW

SHELDON HACKNEY: History has a way of confusing things. You've written a good bit about the dilemmas of difference in this country. One in particular speaks to me because of my experience on a college campus, where I saw this in action—the paradox of how trying to do something about the problems that arise because of differences actually exacerbates those problems.

MARTHA MINOW: Yes. When you are in a community in which people with certain kinds of traits or identities have been less advantaged or less well regarded than others, the dilemma that is created is that paying attention to that trait against the same backdrop may further accentuate precisely what has disadvantaged people, and yet ignoring it against the same backdrop may leave those people unassisted in an environment, a school, or other institution that wasn't designed with them in mind. I think that an obvious example in the academic context is, should there be special welcoming or academic support programs for people of color or women? If you create those kinds of programs, there is a danger that you are singling those people out and saying that somehow they're not full and equal members of the community—they need something special. On the other hand, if you don't do something and you leave the existing operations as they were, those people may well look around and feel as if no one has even noticed that they're there, and indeed that some of the mores of the place seem exclusionary. That's the kind of problem.

HACKNEY: Precisely. I felt that keenly every day. I didn't find a good solution to that. Do you have one?

MINOW: Well, it's not one solution, but it's an approach at a somewhat abstract level. Figuring out how to make it operational is, of course, the big challenge. The abstract insight is that the background norms themselves have to change.

In that way, you won't have to single people out or create special programs because you'll have changed the institution. The easiest image for me to describe this is with regard to disability. Rather than having a separate entrance for the student who uses a wheelchair, you make the front entrance wheelchair accessible. Rather than having a separate building with classrooms that are wheelchair accessible, you make all the buildings wheelchair accessible. Now, how you translate that across the range of differences that we encounter in this society is the challenge. The nature of a physical disability is different from gender difference, which is different from racial difference, which is different from linguistic difference.

HACKNEY: Yes.

MINOW: And then, of course, we have people who are in many of those categories, overlapping with each other.

Another example that I use in my book is in an elementary school classroom in which there is a student who is hearing disabled. A case that went up to the Supreme Court posed the question, does that student have a right to have the state pay for a full-time sign-language interpreter? The Supreme Court said no, it's too costly, and, in any case, the student is smart enough that she's making progress without much assistance. I thought that was an inadequate response: nothing needs to change because this student was talented enough to make progress while missing one-third of what was said in class. Maybe she would make much more progress if she had a fuller accommodation. I understand the cost problem, however, and no doubt that explained the school's opposition.

Yet there is another alternative besides giving or denying a paid sign language instructor. An alternative solution should ask what if every student in the class learned sign language? Some people say, "How impractical," and yet other people have written me to say that is exactly what they've done in their schools, which is very encouraging. One of the things I like about that particular example is that not only is it the humane thing to do, but those students will have an enormous benefit from learning about language generally as well as learning how to make a place that's inclusive.

So, again, it's not the details of this solution that I would advocate in every place, every time, but that's the kind of idea I have. The background assumption in this classroom should be "not everybody can hear"; the background assumption in that classroom should be "everyone has a right to be communicated with however they need to be communicated with," and you figure out what it takes.

HACKNEY: It does provide a theoretical framework. In the case of racial differences on campus, one can imagine a time when the differences by race won't matter but then, how do you get there?

MINOW: What do you mean by "there"? By saying racial differences won't matter, I think we mean several things. One, we mean that for any of the things that we categorize as benefits and burdens, the differences are irrelevant. On the other hand, we don't mean therefore no one has an identity related to their background. We don't mean that everyone is operating behind a screen and no one sees anyone else. What we mean is that race can matter to people along with other kinds of personal and group characteristics that, again, don't carry significant burdens in terms of institutional treatment or opportunities.

So how do we get there? And I think it's a very complex process of joining together to tack against the wind. It's trying to figure out what mix of special programs will actually change the background norms and what changes in the curriculum will ensure that not just the black students are taking courses that expose them to African-American studies, but the changes occur in other parts of the curriculum, so they don't feel like "Well, only we are learning about this, and the dominant curriculum excludes our experience, and other students are never expected to learn about it." The important thing is to look at the university from the perspective of *all* the students.

On the issue of gender, imagining and constructing methods for inclusion prompt painful discussions. Women's groups have been divided over precisely this question. Usually it is put in the form of a conflict over equal treatment or special treatment, which is itself, I think, an unfortunate formulation. A good example is in the workplace with regard to pregnancy and childbearing. Should a woman have a right to maternity leave that a man does not get? For years, many women's groups said yes and many others said no, contending such a leave disadvantages women when they are trying to get a job, and it stigmatizes them at the workplace. I think the solution that the law has developed is the right one, which is, the employer has to accommodate both men and women and make it possible for both men and women to have a job and to raise their children, and if that means a parenting leave or a dependent-care leave, that's the right answer.

HACKNEY: Parenting leave is the solution for a lot of institutions. But in the abstract, that is to say, "Well, we will make both groups, both parties, the same."

MINOW: We will make both parties the same by changing the institution. What I think that example so nicely illustrates is that most of our institutions, our workplaces and so forth, took for granted a kind of societal practice that said everything surrounding children is women's jobs; therefore, anything that women have to do in order to take care of children should take away from their place in the paid work force. Whereas, if you stand back and say, anything to do with children is an obligation of both parents, then the workplace itself has to change. It means all or most employees will have some family obligations, not just this odd little group called women. It is treating both women and men the same, in a sense, by the institution's saying there is a dimension of our workers' lives that the workplace has to accommodate. If it turns out in practice that none of the men take the parenting leave, you may have a problem of stigma or tracking for the women who do, but at least we're going down the right road.

HACKNEY: What I find interesting is this solution—much like the solution of having all children in the school where there are hearing-impaired children learn to sign—to give men a parenting leave that is the same as what's available for women. You are treating them the same.

MINOW: That's exactly right. I think that is the only way out of the dilemma of difference, because the dilemma creates this danger of stigmatizing the people who seem different without changing the underlying institutions that produce the differences. If you change the underlying institutions, then you can treat everyone the same.

HACKNEY: Now, if you translate that into race and ethnicity, might it not mean that one works toward a society in which group differences may still be significant in some way, but in which no group is privileged and no group is disadvantaged?

MINOW: I think that is a perfect way to say it. It is still very hard to figure out operationally what does that mean. Does that mean bilingualism, trilingualism? I'm not sure. I think we'd have to look at different circumstances and see what makes sense. Does it mean that the basic U.S. history course for everyone should have a heavy component of African-American and gender studies? My own sense is probably yes, but not to the exclusion of other dimensions, too.

HACKNEY: How do traits get selected by society to categorize people, anyway?

MINOW: It's a marvelous question. One thing we know is that they change over time, and yet there always are some traits selected. For example, throughout American history, race has been used, although there is a relatively modern conception of it since the late nineteenth century. Before that, it wasn't really race per se. Even at the turn of this past century, when race was very much in the air, people didn't know what to do with various categories. For a time in California, there were racial categories that didn't have a place for Chinese, so they were alternately placed in categories of Caucasian and Negro. Moments like that reveal the way in which the categories are not natural or inevitable.

I think that I don't want to make any vast claims about human nature and the need to categorize "the other," but it does seem that at least in American history there has been a continual struggle between groups and among groups to define a place of privilege and a place of exclusion, and in part to define who is American by reference to who's not American. Yet there's been a shifting definition of the in and the out, the boundaries. Sometimes it is ethnicity, sometimes language, sometimes it is national origin.

HACKNEY: Sometimes religion.

MINOW: Often religion. Sometimes skin color, which is really quite a different category. Sometimes it is just shared historical experience: Did you live through the blizzard of 1978? One of the hopeful signs for me is this very mutability in the categories. It is not as though it is always the same categories.

HACKNEY: That is something that everyone should bear in mind; the categories do change over time. And also one's membership in a group. Even if the category doesn't change, individuals move into and out of those groups.

MINOW: Move into and out of, and also simultaneously occupy several, which again helps to demonstrate why these are, at least for most important purposes, socially-invented categories. Again, if you look at American history, there was a period of time in some parts of the country when German immigrants were the most despised people. It's a hard thing for people today to remember that, but it puts in perspective some of the issues.

I think what is very crucial to this discussion, though, is the history of slavery and the unique place of people who have that in their historical experience. I think it is an important and critical subject to address, because too often people who came from the wave of immigrants in the twentieth century say, "My family made it. Why can't you?" I think that that is a pointed question, but it is in some senses an ignorant question, because as much as I find hope in the mutability of these categories, one group has been consistently at the bottom.

Having said that, we shouldn't ignore the fact that in terms of economic gains, there has been a dramatic shift in the last fifty years for African Americans. Still, the vast over-representation of African Americans in the class of people who are defined as poor, in the prisons, in the most undesirable places to live in this country, has to be looked at.

HACKNEY: Is it possible that Americans might feel the need to categorize a bit more than other countries because of the absence of another source of identity?

MINOW: It certainly has struck me that in many other nations, there is a group sense that predates the creation of the political boundaries, and we don't have that in this country.

HACKNEY: That's right. And we also have this ideological commitment to equality.

MINOW: Well, I think I talked with you once before about a book that I have admired by R. Lawrence Moore called *The Religious Outsider in America*. It goes chapter by chapter about each of the religious groups in

America and examines how they have defined themselves as outsiders, and how in a curious, paradoxical way, helped them all be Americans, moving through the Mormons and the Quakers, and then the Jews, and then the Catholics, and then even the mainline Protestants. There is both the struggle to say we are outsiders, and that is why we are uncomfortable, and at the same time a way of saying, this makes us truly American, because we *are* all outsiders. There are no insiders. In a sad and tragic way, the Native Americans, who might be considered the insiders, of course, have never been treated that way by the occupiers of this country.

HACKNEY: It does make equality a problematic concept. What does equality mean in a system where there are all these differences?

MINOW: Equality is itself a very curious commitment. We are far better able to define what we mean by equality when we talk about the political sphere—equal access to the vote, equal participation in other aspects of the political process, equal opportunity to serve on a jury—because then we are talking about access to the instruments of the state, and that state has, for the most part, the possibility of entire control over those instrumentalities. When we talk about equality in the aspects of the society in which the state is a regulator but not the creator of the activity—take, for example, the workplace or perhaps even the schools, although that may be a special instance of a public institution that reflects private family and property systems—it is a more complicated problem. Do we mean, then, social equality? Do we mean equality in the realms of life in which we also cherish freedom, freedom of association? That is one reason that I think equality is a very difficult notion in this country.

Another reason, though, is that equality is for the most part an empty concept, as some theorists have described. It is almost like a mathematical equation. If so and so gets this, then you get this. But what's the "this"? There is no substantive context that tells us "same as what"—same as some background norm, same as what someone else gets. One of the great tragedies of efforts to use the commitment to equality to bring about the practice of equality, is that a state can say, "Okay, you want us to treat you equally? We'll take away the benefit from everybody. Now you're all equally disadvantaged." It is surprising and disappointing, obviously, to people that that is what equality has at times meant, at least in legal and sometimes political matters. In most people's hopes and dreams, equality carries with it not just this brute sameness, but also some vision of access, participation, inclusion, opening up into the realms of opportunity.

HACKNEY: I think you're exactly right. I've been doing a number of trial conversations about pluralism with people in different parts of the country, and after those groups have been talking for a good while, if I press them to try to identify some core American shared values or concepts, they very easily come up with the political system, the Constitution, that nexus in the political realm, and say, "Yes, that's something that we all believe in or should believe in. And even if we don't realize the high ideals in the Declaration and the Constitution, we aspire to them, and everyone should." If I press a little bit further and say, "What else outside the political sphere, the governance, would you think of as being very American?" equal opportunity almost always comes up. But struggling to define what that means is very difficult.

MINOW: It is difficult, and yet I am not surprised that equal opportunity seems to many people to be so essentially American. In a very, very simple-minded sense—I'm worried about saying this to a historian—I usually think about the United States as the first country to try to create itself without feudalism.

HACKNEY: That's true, yes. Born free.

MINOW: Born free. I think that is well understood even by people who have never studied history—that you are not assigned a status here by birth. And though feudalism is supposedly long dead in other parts of the world, its legacy is there, and certainly many, many important institutions reflect it. In contrast, there is a deep feel for individual possibility in this country, which, of course, is what has attracted so many people from around the world.

HACKNEY: Almost every group came to America to find economic opportunity.

MINOW: That's right, and economic opportunity, of course, usually requires a means to other kinds of opportunities and freedoms—an ability to be independent from a state and independent from oppressive groups, or ability to exercise religion freely and the chances for self-fulfillment and self-affirmed identity. I think that is important—that equal opportunity for economic success is for most people a means to other ends, not an end in itself. All the freedoms that are necessary to produce economic equality, not just coincidentally but necessarily, involve other kinds of freedoms that people want as well—freedom of speech, freedom of association.

It has always struck me as somewhat ironic that many immigrant groups came here and, within a generation, seemed to abandon many of the characteristics that had held them together. But it is also interesting to watch, then, as several generations go on, and the younger generations try to reclaim aspects of that identity. It is another expression of the freedom of being an American. It need not be costly to retain or regain the language of your ancestors. You can make it economically and still celebrate the holidays and rituals of your religion. Those reclaimings of identity seem to me as much an expression of the freedom here as the abandonment of them. Both are crucial.

Albert Otto Hirschman, the economist, describes it well. He says, "exit," "voice," and "loyalty" are the three ways in which individuals can express their relationships with groups. This country has been very big on exit and voice, making those real possibilities for people, and yet loyalty is crucial to people's identity as well.

HACKNEY: I think that, in Hirschmanesque terms, that is the conversation, basically, exploring those options.

MINOW: Yes.

HACKNEY: What is the relationship between equality and tolerance? Is there one? I think most Americans would think of themselves as being tolerant of people with differences. Is that enough to achieve equality?

MINOW: Tolerance is certainly something to be admired compared with the alternative of intolerance. It is an advance over intolerance. It suggests a willingness to put up with people who are quite different from yourself and to refrain from regulating them or criticizing them in some active way. Yet it seems to fall short of what it is we hope for from equality and from the conception of individual liberty that we've just been alluding to. Tolerance itself implies, I think accurately, that there is a power differential, that the group that is expressing itself as tolerant has the ability to withhold that tolerance and to express intolerance. Tolerance implies that there is a continuation of background norms that make some groups privileged and other groups not privileged, and the privileged groups are willing to tolerate the others. But that means that the privileged ones still hold the keys to the door, they still in some sense run the shop. They will let other people in, but it's still their house. I think that is why to many groups, tolerance sounds unacceptable, or at least inadequate. And I think I would share that view if tolerance means the failure to challenge background assumptions and to preserve institutions that were designed without some people in mind—again, our discussion of our universities is a good example. "Tolerance" here does not suggest the kind of change it takes, so that the institutions really belong to everyone, including those who were previously excluded.

HACKNEY: So they can be successful.

MINOW: Exactly. It seems to me the great moments of pride for institutions like the University of Pennsylvania and Harvard are when there are alumni associations of African Americans and women who say, "This is our place. This is ours, and we are committed to it, and we are committed to its past and to its future." That's when you should feel very good, because then this means that the institutions haven't just tolerated them, the institutions have changed. The newcomers change what they find, that is what participation means.

HACKNEY: Let us leap from that parochial setting to the same sort of relationship on the national level. I would assume that when alumni say, "This place belongs to me," they, in that statement, recognize there relationship to other alumni. This is a question or a subset, a form of the general question: What do Americans owe to each other because they are citizens? Do I owe anything different, either more or less, to a person because he or she is a member of my racial group, or because that person is not a member of my racial group?

MINOW: Well, it's back to exit, voice, and loyalty. What's the loyalty part? Is the loyalty to a subgroup or to a larger group, or can it be to both, and what if there is a tension between them or a conflict between them?

I think one of the negative aspects of the dominance of legal and political ideology in the binding of Americans to one another is that it tends to use individual liberty as the organization framework rather than a notion of responsibility or duty. I don't think it has to, and I think in other periods of American history, there has been a greater informal culture of responsibility and duty rhetoric. Yet, if you look simply at the language of the political documents, it's not there. So wherever a since of duty came from, it wasn't written down, and it hasn't been transmitted as well as some of the other aspects of our Constitutional heritage.

HACKNEY: This may come also from the born-free nature of this. We're bound together by a contract rather than by natural relationship.

MINOW: And perhaps the very legalism of the contractual idea is corrosive of bonds that otherwise would exist. That's a worry that some people have.

That said, I think it is fair to say that the framers of the Constitution felt strongly that duty and loyalty and commitment and responsibility were crucial aspects to the pursuit of happiness, the same way they believed that maintaining one's family in safety and security were crucial to the pursuit of happiness. Again, they didn't write that down. I guess I think it is important to rescue and revitalize those unwritten aspects of our traditions alongside the written aspects.

It is still not answering your question, though, about the relationship between those sentiments and commitments vis-a-vis your immediate group. With regard to that, I guess I do believe that some of the teachings about family bonds are relevant here. You cannot order people, because of family membership, to be loyal, caring, or responsible, but you can imbue them with a sense that that is the right thing to do both by example and by winning their loyalty. That, I think, is the same challenge to the nation.

HACKNEY: With respect to family responsibilities, a person is more likely to feel those and to act them out if the entire society expects him to.

MINOW: Yes. Reinforced by the social messages and cultural messages.

HACKNEY: If he doesn't, people disapprove of him.

MINOW: It's true. Peer and cultural pressures are extraordinarily powerful and able to be mobilized. But it is interesting to me how ready people are to accept certain kinds of responsibilities when they are made visible to them.

An example to me is these programs like City Year and others through which people, after high school, can go and serve the country, not in a military fashion but doing other kinds of service. These youth service programs are springing up around the country. There are people for whom, in their peer group, such service work is the thing to do; it's the right thing to do. And it's not just peer pressure; it resonates in some place that is deeper. If you can mobilize both the peer culture and the larger culture, I think that there is something to summon up here in the sense of giving back to the community.

HACKNEY: One could also argue that that sort of service freely given is of long-term self-interest.

MINOW: I absolutely agree. I think it is one of those debates like nature versus nurture in human psychology. Is philanthropy or charity selfish or altruistic? It is one of those endless debates that probably we should put aside, because it is both, and it should be both, and that is why it works.

HACKNEY: But it only works if people really identify with the society, think of themselves as owning it.

MINOW: I think that's one way it works, but it may be that the very process of engaging in this kind of service can give one a sense of participation and ownership.

HACKNEY: Excellent point.

Let me give you a brief vignette from one of my discussions in which a very diverse group of people was exchanging stories about the particular values of their group, what held them together, what they valued as members of this group, how important group loyalty was, how important their group identity was to them—these are racial groups—and how they felt a sense of obligation to do something for the group, to give back, to help build it. So I posed the question: What would they do if they happened to own a factory that employed, say, five hundred people, and they wanted to help their community and decided that they would hire only people from their racial group? Would that be good? It really stumped them. They were surprised at the question because they had never thought about it in those terms. We actually have some law in this area, I guess.

MINOW: Yes, we do, which would not allow that practice. But I think that it's a fascinating question, and it probably challenged them to imagine that they have access to greater resources than they usually imagine.

HACKNEY: That may be right.

MINOW: Many of the usual ways of thinking about group loyalty are expressed by people who feel that they are at the margins of the society and they are struggling as outsiders. When you pose the question, "Let's imagine you're actually more of an insider, now what do you do?" my suspicion is that more people would feel the obligations that come with power—the obligations not to replicate the patterns of exclusion that they find so offensive.

HACKNEY: I think you're right. In this group, there were a couple of small shop owners and when pressed about whom they employed, they talked about hiring people from groups different from their own. But they talked about it almost entirely in practical terms. "I hired that person who's not from my group because some of my customers are from that other group, and I found it very useful." It was very difficult to get them to think about an abstract right.

MINOW: That's another example of why I think that economic freedom so nicely requires other forms of freedom in this country. The virtue of the marketplace is not merely that it is a solvent of our differences, if money is the coin of the realm. More importantly, to be successful in the marketplace, you have to produce an environment of equality and multilingualism, if that's what you need as well. Though I also wonder—and this is an important and difficult topic—when people are working in small mom-and-pop type shops, oftentimes they feel that it's an extension of their family, their community.

HACKNEY: Indeed, the law recognizes that.

MINOW: The law does recognize it. This is an environment in which it is their own comfort level that is crucial to them, and, as you say, the law has exempted small operations from most of the coercive powers of the civil rights laws, probably for that reason. The same is true of our small landlord-tenant relationships. But as much as face-to-face communication and small settings are appealing, that's where many forms of prejudice are most likely to be expressed. More importantly, we are increasingly not a society where those are the building blocks. We're increasingly a society where the building blocks are large entities, commercial enterprises owned by other commercial enterprises. In that kind of world you cannot, I believe, let the personal comfort level of the managers operate. That is why the abstract commitment to rights is crucial.

HACKNEY: I couldn't agree more.

Let me double back to something you were saying earlier, and ask you if you can imagine a society in which Americans are equal with each other—in whatever sense that is going to come to mean—yet a society that does not require people to shed their racial or ethnic identities.

MINOW: I must be able to imagine it because it is what I hope we can achieve. I am sure of this: that it will be different from the world that we live in right now in fundamental ways, and yet continuous in other fundamental ways. It is always that problem of imagining a future, that sometimes we fear it won't resemble us at all. The future can only proceed one moment at a time, each step making possible the next. Our future must resemble us; otherwise we'd have to give up everything we know. On the other hand, there will be some changes that we can't quite imagine.

Somebody was recently talking with me about Hawaii and how it is the future of America. I've never been to Hawaii, but my understanding is that, certainly with regard to racial composition, Caucasians are a minority. I'm not sure it that's the future that we're imagining, but it is certainly not what most people think of when they imagine the future for America.

I guess I am hopeful. I look at how younger people are comfortable having friends from different kinds of backgrounds, but also more comfortable than perhaps their parents in saying, "Yes, this is who I am, and this is what I am." At the same time, every year I'm being educated by my students. I had a student this year who wrote a paper about rejecting racial classification when your parents are from different races, which was her own experience. That is another way to think—that at some point over time the significance of many of the classifications, particularly race, will diminish. There will be a relinquishing of the tendency to say, "Any drop of black blood means you're black," which is a rule you come up with in a racially oppressive society. If you reject that rule, then the significance of racial identity will diminish and there will be many, many different kinds of identities that people can lay claim to. As this particular student says, "Look, I'm black and I'm white. I am my mother's daughter and I am my father's daughter. Why do I have to pick?"

Indeed for me, the great hope and promise for this country, and indeed for the world, is not just from these younger generations, who always give us hope, but also from the sense that identity can be more complex than the rigid categories we presently use tend to suggest. As individuals and societies grow more comfortable with that, I think that the vision that you've described could be achieved.

HACKNEY: That's a wonderful note on which to end.

Let me thank you very much.•

KIWI

• Mr. LUGAR. Mr. President, I rise today to recognize the Kids Involved With Indiana Program, better known as KIWI, at Spring Mill Elementary School in Washington Township, IN. KIWI is an innovative public school program designed to teach fourth grade students about the rich history of our State.

Created in 1983, the year-long program provides Spring Mill students with concrete experiences in their study of Indiana history, geography, sociology, and the economy. For example, students learn about native history by visiting the Angel Mounds in southwestern Indiana, learn the ways of the Amish by sitting down to dinner with an Amish family, and learn of our State's industrial history by traveling to the steel mills in northern Indiana. These hands-on activities are supplemented throughout the year by a wide variety of speakers and cultural performances, as well as field trips to nearby parks and historical buildings.

I congratulate the dedicated teachers and parents at Spring Mill for their initiative and hard work in making this program a reality for the students. KIWI serves as a shining example for other communities interested in a creative way of teaching the valuable lessons of history to the youth of our Nation.•

TRIBUTE TO THE PRADER-WILLI SYNDROME ASSOCIATION (USA)

• Mr. ROCKEFELLER. Mr. President, I know our time in the 103d Congress is running short, however, I could not allow this Congress to end without commending the Prader-Willi Syndrome Association (USA).

First discovered by Drs. Prader and Willi in Switzerland in 1956, Prader-Willi syndrome is a condition that affects an unknown number of children each year. The syndrome has many common symptoms, so it is often misdiagnosed. Those who suffer from Prader-Willi syndrome are retarded, have weak facial muscles, are sterile, have an insatiable appetite, have stunted growth, are slow to walk, and never become fully coordinated. Although some children survive to early adulthood, their life expectancy does not extend beyond adolescence.

The Prader-Willi Syndrome Association (USA) is an all-volunteer organization of parents, grandparents, friends, and health care providers. The association endeavors to raise the public's awareness of Prader-Willi Syndrome and provides a network of support and information to those who love and care for children with this syndrome. For their self-sacrifice and dedication, the Prader-Willi Association of America (USA) deserves our thanks and appreciation. With their continuing efforts, I hope that one day a course of treatment will be developed for Prader-Willi syndrome and eventually a cure will be found. Again, thank you to the Prader-Willi Association (USA).•

"15 YEARS FOR A 17-YEAR-OLD'S FIRST DRUG SALE"

• Mr. SIMON. Mr. President, my colleagues are, perhaps, tired and clearly unmoved by my repeated admonitions against mandatory minimums. The political advantage of supporting mandatory minimums, I do not question. The wisdom of supporting mandatory minimums, I seriously question.

Recently, Nat Hentoff had a column in the Washington Post that deals with the question of mandatory minimums and one 17-year-old girl. I urge Members and their staffs, who have any questions in this area at all, to read the Nat Hentoff column.

I ask to insert it into the RECORD at this point.

The article follows:

[From the Washington Post, Sept. 10, 1994]

15 YEARS FOR A 17-YEAR-OLD'S FIRST DRUG SALE

(By Nat Hentoff)

NEW YORK.—Nelson Rockefeller, the late governor of New York, is remembered by many in the art world as an enthusiastic, sophisticated collector. For many New Yorkers in prison, however, he is remembered as the author of the 1973 Rockefeller Drug Sentencing Laws whose harsh mandatory minimums helped lead the way nationally to reducing judges' discretion in sentencing.

Some years ago, I ask Gov. Mario M. Cuomo if he might try to move the legislature to make those laws more humane. He said he didn't think the legislature could be budged. But, as a political leader, shouldn't he try? No comment. Nor, certainly, is there a chance now to make the Rockefeller drug laws more flexible when fear of crime is chronic.

Recently, several lower court judges in New York did take the risk of softening a young woman's long prison term because they were appalled at the damage the Rockefeller law would have done to the rest of her life. Their attempt failed when they were reversed by the Court of Appeals, the state's highest court.

What has happened to Angela Thompson is hardly unique. In 1988, when she was 17, she was arrested after making a single sale of crack cocaine to an undercover police officer. (There was no other criminal activity on her record.) The sale took place at the residence of her uncle, Norman Little, who, according to the dissenting opinion in the Court of Appeals, was "running a major drug-selling operation in Harlem."

The 17-year-old "had grown up in a variety of places and under several different custodial arrangements" until she was employed by her uncle. Her drug sale to the police agent qualified as an A-1 felony because it weighed 2.3 grams—less than one-tenth of an ounce over the next lower level crime.

On a plea bargain, she was offered four years to life, but she insisted on her right to trial. She was convicted. The penalty for an A-1 felony is a mandatory indeterminate sentence, with a minimum of not less than 15 years. The maximum is life imprisonment.

The trial judge, Juanita Bing-Newton, rebelled. The minimum mandatory sentence, she ruled, would be cruel and unusual punishment under the Eighth Amendment. Instead, she sentenced Angela Thompson to eight years to life. The judge acknowledged that the legislature had decreed a tougher minimum, but she added: "I think it is still the law of this country that the punishment must fit the crime." After all, this was "a single transgression of the law."

The case went up one level to the Appellate Division. A majority on that bench also refused to go rigidly by the book and upheld the lower sentence of the trial judge. Said Appellate Justice Sidney Asch:

"A system of justice which mandates a 15-year prison sentence, as a minimum, on a 17-year-old girl, who was not cared for by her parents and [was] under the domination of her uncle also mandates a lifetime of crime. And [it] imposes on the community, upon release, a woman who may be incapable of anything but criminal activity. If we do not attempt to rehabilitate such young people, we condemn ourselves as well."

Again, the prosecution appealed this lower sentence in the name of the people. The New York State Court of Appeals agreed with the prosecution. The chief judge, Judith Kaye, is an often compassionate jurist who has written some notable First Amendment opinions, among others. In this case, she was part of the majority that overturned the lower courts and resentenced Angela Thompson to a mandatory minimum of 15 years to life imprisonment.

Writing for the two dissenters, Judge Joseph Bellacosa said of his majority colleagues—who have locked up Angela Thompson for at least 15 years—that they have tied themselves to "the will of the legislature. A will expressed more than 20 years ago as part of the frustratingly decried, yet intractably operative, Rockefeller Drug Sentencing Laws."

But, Bellacosa added, "It is judges who bear the singular awesome duty of facing defendants in open court on the day of reckoning to declare the law's sentencing judgment."

Joseph Bellacosa is often described as a conservative; Chief Judge Kaye is decidedly regarded as a liberal. It was Bellacosa, however, who tried unsuccessfully to remind his colleagues that "constitutional adjudication is a dynamic, evolving process—not a static set of revered relics."

And Angela Thompson will become an unrevered relic.•

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TECHNOLOGY INVESTMENT ACT OF 1994

• Mr. BURNS. Mr. President, I am pleased to express my support for passage of the National Aeronautics and Space Administration Technology Investment Act of 1994. This bill is designed to encourage the National Aeronautics and Space Administration [NASA] to strengthen the link between their programs and economic growth and jobs for Americans, and in my case, Montanans.

The bill provides a framework for NASA to move in the direction of a more business-like approach with the aerospace industry. The bill does two basic things: Gives NASA a direction for its role in technology investment and requires the United States to prepare a strategy for developing world class aeronautics testing facilities.

It is important to support our aerospace industry because of its key role in offsetting deficits in U.S. trade with other countries. One of the areas the industry lacks is adequate facilities to test new concepts.

My work with a company in Butte, MT, revealed to me that the United States does not have adequate wind tunnels and must rely on foreign wind tunnels for our Nation's future aeronautics testing. Our aerospace companies' reliance on these foreign wind tunnels could result in advances to other countries' aircraft competing directly with U.S. commercial aircraft.

The bill establishes a competitive, cost-sharing technology program for eligible companies. It is designed to work with existing Federal policy to encourage industry-led groups to develop new technologies on a more efficient basis.

I commend my good friend Senator ROCKEFELLER, chairman of the Science, Technology, and Space Subcommittee of the Commerce, Science, and Transportation Committee, for his leadership on this legislation.•

TALE OF TWO NATIONS

• Mr. SIMON. Mr. President, the Richmond Times-Dispatch of Richmond, VA, recently had an editorial titled, "Tale of Two Nations," which talks about our inconsistency in supporting democracy in Haiti but not supporting democracy in Asia.

The point they make in the editorial absolutely valid.

I urge my colleagues to read the editorial, and I ask to insert it into the RECORD at this point.

The editorial follows:

[From the Richmond Times-Dispatch, Sept. 26, 1994]

TALE OF TWO NATIONS

The Clinton administration is committing hundreds of millions of dollars, and potentially the lives of many American military personnel, to the "restoration" of democracy in Haiti. If that third-rate nation's brutal politicians and policemen suspend their practice of murdering their critics and oppressing the populace, the United States may reward the country with generous economic aid for years to come. And, of course, its diplomats will continue to receive invitations to White House soirees.

Meanwhile, how does the Clinton administration reward an old American ally that is democratizing by choice, that has established a commendable record on human rights, that has embraced the free enterprise system, and that does enough business with the United States to support more than 300,000 American jobs? By throwing it a few crumbs and telling it to keep its officials away from the White House and the State Department.

That about explains the Clinton administration's new and supposedly improved policy on the Republic of China on Taiwan. The President has condescendingly allowed Taiwan to rename its unofficial mission here from "The Coordination Council for North American Affairs" to "The Taipei Economic and Cultural Representative's Office in the United States," which more clearly describes the mission's function.

He also has removed the ban on direct contacts between American economic and technical officials of non-Cabinet rank and Taiwanese government officials in Taipei, but Taiwanese officials stationed in the United States will not be permitted to visit the State Department. And the President may support Taiwan's membership in certain international organizations, such as those concerned with trade, when he can do so without implying diplomatic recognition of that country.

In other words, Taiwan is to remain a diplomatic pariah whose president is not even permitted to land on American soil long enough to play a round of golf.

Taiwan deserves better treatment. It is the United States' sixth-largest trading partner. It stood shoulder to shoulder with the United States during the darkest and most dangerous phases of the Cold War. It has used the United States as a model in building its economic and political structures. Voluntarily and enthusiastically, it is developing exactly the kind of democracy that the United States advocates.

The United States withdrew diplomatic recognition from Taiwan during the Carter administration, and denies it still, in an effort to cultivate the friendship of mainland Communist China, which asserts sovereignty over Taiwan and vows to reclaim that island someday. Taiwan is also committed to eventual reunification. The two countries have developed important commercial ties in recent years, but they are far from agreement on the terms for merging politically into a new united China.

Strong arguments based on both principle and political reality can be made against the United States' eagerness to appease Communist China at the expense of an old American friend. Tomorrow Senator Robb will convene a hearing of his Subcommittee on East Asian and Pacific Affairs to review the administration's China policies. The exchange promises to be vigorous.

Democratic Senator Paul Simon of Illinois considers it wrong as a matter of principle for the United States to disdain a country that has "a multi-party system, free elections, and a free press—the things we profess to champion—while we continue to cuddle up to the mainland government whose dictatorship permits none of those." Heritage Foundation China analyst Brett Lippencott suggests that by developing closer ties to Taiwan the United States could promote the reunification of China. The reason, essentially, is that the failure to enhance Taiwan's "international status could weaken those in Taiwan who favor eventual reunification . . . and strengthen those who seek an independent Taiwan."

Obviously, the actual existence of two Chinas creates a difficult and delicate problem for the United States. But in dealing with it, our leaders should occasionally do what is right instead of always doing what they think will please the tyrannical rulers of the world's last remaining major Communist stronghold.•

THE 13TH ANNIVERSARY OF UNITED STATES HONORARY CITIZENSHIP TO RAOUL WALLENBERG

• Mr. MOYNIHAN. Mr. President, yesterday marked the 13th anniversary of Swedish Holocaust hero Raoul Wallenberg's honorary United States citizenship. This honor had been bestowed by Congress only once prior to 1981, on Sir Winston Churchill in 1963, and has been granted only once since then, on William & Hannah Penn in 1984. From July 1994 until July 1995, we will be observing the 50th anniversary of Raoul Wallenberg's heroic effort to save the last remaining Jews of Hungary from Nazi atrocities.

As many of my colleagues know, in 1944, Raoul Wallenberg gave up the comfort and security of his home in Stockholm to go to Budapest, risking his life to save people he did not even know. This truly courageous man is credited with rescuing tens of thousands of Jews directly, by issuing protective passports or by negotiating with Nazi officials for their release.

Most unfortunately, we are also approaching the 50th anniversary of Raoul Wallenberg's disappearance at the hands of Soviet military personnel. Over the past half century, Mr. Wallenberg's family, the Swedish Government and others worldwide have pressed for answers about his fate. In 1957, in response to evidence of eyewitness sightings, the Soviet Government reversed its claim of August 1947 that Wallenberg was not to be found in the Soviet Union. While not contradicting the eyewitness accounts, the Soviets stated that Wallenberg died of a heart attack in Lubyanka Prison in 1947. This was based on a handwritten note-to-file known as the Smoltsov Document. Mr. President, there are no official documents to support this claim or to account for Mr. Wallenberg's whereabouts.

The collapse of the Soviet Union has led to the declassification of foreign ministry files. It has also led to the release of Mr. Wallenberg's arrest order signed by then Deputy Minister of Defense, Bulganin, and has given researchers access to the files of other diplomats who were arrested in Budapest at the same time as Wallenberg, but who were eventually returned. Combined with the testimonies accumulated by the Swedish Government over the years, and recently discovered documents in our own National Archives, there is now an impressive body of new knowledge on this compelling case—knowledge which must be enhanced and put to good use.

Presently, an official Swedish-Russian working group, which also includes American representatives, is working side-by-side with independent human rights researchers, in a dedicated effort which has not only laid the foundation for understanding Mr. Wallenberg's fate, but now serves as a model in the search for other foreign prisoners in the Gulag.

These efforts are to be highly commended. However, the dictates of time call for an accelerated effort on Mr. Wallenberg's behalf. Since his reported death in 1947, there have been a number of sightings sufficiently documented to require a thorough search of the psychiatric facilities, prisons and labor camps in the Gulag system where Mr. Wallenberg is said to have been held. The Honorable Sergei Kovalyev, chairman of the Presidential Human Rights Commission of the Russian Parliament and Mr. Vyacheslav Bakhmin, chief of the Department of Human Rights and Global Affairs of the Foreign Minister are presently working with the Russian Ministry to Health to make such a systemic search possible. Further cooperation will be needed from the Ministry of Internal Affairs that governs the prison system if Mr. Wallenberg is to be found or if an accurate, more historical record is to be established.

This long awaited initiative, personally led by Mr. Wallenberg's half-brother, Dr. Guy von Dardel, will build upon the previous efforts of the ARK Project, the Independent Psychiatric Association of Russia, and Memorial, three human rights organizations whose findings in the Gulag have substantiated the claim that Mr. Wallenberg could indeed be languishing as an anonymous foreign prisoner or may have died more recently under another name. To focus this search, the team will make use of the most advanced forensic techniques as well as supporting material from recently declassified CIA documents, thanks to the efforts of our colleague Senator CARL LEVIN.

To be successful, Dr. von Dardel's initiative needs our full support and that of the concerned international community. As we press President Yeltsin to allow access to the files and archives of the Serbsky Institute related to special prisoners, we must continue our own process of declassification and call upon other nations to do the same so that all evidence in this case may be made available to the international experts.

Mr. President, Mr. Wallenberg took on a most dangerous and important mission 50 years ago. We should mark the 50th anniversary of his mission by redoubling our efforts to learn his fate.•

FOREST HEALTH ACT OF 1994

• Mr. BURNS. Mr. President, I would like to voice my support for the Forest Health Act of 1994. This bill is desperately needed for the areas which experienced fires this summer in Montana.

This bill would allow for salvaging in fire areas this summer. It would give the Forest Service, the professional land managers, the ability to actively manage these areas. Salvaging in these areas is proper land management activity. And, the Forest Service should be given the opportunity to manage these areas. It is the right thing to do.

Also, this bill would provide needed jobs to the people of Montana. Timber harvesting in Montana has decreased by 50 percent in recent years, this puts our 15,000 timber jobs at great, and unnecessary risk. In addition, 46 percent of western Montana's economy is timber based. This bill would help protect that portion of our economy.

While I know there is not enough legislative time to pass this bill, I hope the Congress will consider similar legislation next year.•

"A TALE OF TWO FACES, RIGHT OF PASSAGE IN ISTANBUL"

• Mr. SIMON. Mr. President, recently, I had a chance to catch up on my reading and had the opportunity to go through the magazine published by the Armenian General Benevolent Union.

In it is an article titled, "A Tale Of Two Faces, Right of Passage in Istanbul" written by Sahan Arzruni. He is an internationally acclaimed pianist, who lives in New York City.

What I found interesting was the small bit of hope that as an artist of Armenian background, he received a warm welcome in Istanbul. In his article he writes: "Perhaps it was by chance that during my short stay in Istanbul an infusion of Armenian artists, invited by the Ministry of Culture, presented concerts in the main auditoriums of the city: The Chilingirian String Quartet from the United Kingdom and the Beaux Arts Trio with violinist Ida Kavafian from the United States."

In another part of the article he writes: "What blew me away, however, was the reception given on the occasion of the publication of Hagop Mntsouri's collected works (1886–1978), in translation, by a Turkish establishment. At the soiree in which various Armenian literati and progressive Turkish intellectuals extolled the qualities of Mntsouri's work, their explication of the events of 1915 astonished me. Having been raised at a time in a culture where no mention of the Genocide was made either in school or at home, I was taken aback by such a frank exchange of ideas concerning its historic events."

Germany has faced the problems of her past and is emerging as a highly respected member of the international community.

I know that Turkey wants to join the European community more fully, and I believe that part of that will come with Turkish acknowledgement that in the past, their country—as other countries, including ours—has committed some gross violations of human rights.

I believe my colleagues will find the article by Mr. Arzruni of interest. At this point, I ask unanimous consent to insert it into the RECORD.

A TALE OF TWO FACES

(By Sahan Arzruni)

"When elected to the House, I will erect the bust of Garabed Bayan in front of the Dolmabahce Palace," pronounced congressional candidate Hayati Asilyazici to a mostly Armenian audience in Istanbul, Turkey, recently. He was referring to an illustrious member of the Balyan dynasty that served the Ottoman Sultans and built some of the most splendid edifices in Constantinople during the eighteenth and nineteenth centuries. Ironically, until the Turkish edition of an exhaustive study of the Balyan family by the Armenian art historian Pars Tuglaci, the architect of the magnificent seraglio was officially identified as "an Italian named Baliani."

Since my last visit to Istanbul two years ago, things have changed considerably. While state-controlled Turkish television now refers to our kin in the homeland as "savage Armenians," the officialdom in Istanbul coaxes the local folk to an engaged relationship. I had been invited to Istanbul to present a piano recital devoted entirely to Khachaturian's music on the occasion of his ninetieth anniversary. The sold-out concert held at the Ataturk Cultural Center in a 550-seat auditorium was received with kudos, particularly from the Turkish press. The response was so overwhelming that soon after the recital the State Conservatory extended an invitation to me to repeat the program and introduce Khachaturian's "wonderful" music to the graduating class. Indeed I was also asked to deliver a previously scheduled lecture on Armenian music in Turkish for the benefit of the wider public.

Perhaps it was by chance that during my short stay in Istanbul an infusion of Armenian artists, invited by the Ministry of Culture, presented concerts in the main auditoriums of the city: The Chilingirian String Quartet from the United Kingdom and the Beaux Arts Trio with violinist Ida Kavafian from the United States.

The number of cultural activities taking place in Armenian community centers were also astounding. In addition to the events already mentioned, the Armenians celebrated the 125th anniversary of Komitas, Odian and Toumanian, the commemorations often including insightful commentary by author Robert Haddeler. These occasions were attended by young and old alike, audiences eager to absorb their cultural traditions. The Komitas celebration was particularly impressive, for it was organized by the new generation which is now experiencing a compelling awareness of its Armenian heritage. The keynote speaker, married to a young woman from Yerevan where they have made their home, discussed Komitas's cultural contribution with knowledge and conviction. An ensemble of three talented musicians presented arrangements of some of Komitas's lesser-known songs. One student recited poems about Komitas.

The Armenian community in Istanbul is indeed remarkable. Reportedly 50,000 strong, they display a clear sense of belonging and an unshakable belief in their national traditions. Their support for the religious and educational institutions is perhaps peerless. On designated Sundays, a large contingency attends one of the nearly 30 churches, gathering around the "siro seghan" (love feast) to raise the funds needed to balance the yearly budget of the church and the adjacent school. No tax deductions here!

The venerable Surp Prgich National Hospital, originally designed to help the Armenian needy, now serves both Armenian and Turkish patients. In fact, Turks in the neighborhood seem to prefer this hospital's medical expertise and care to some of their own institutions, despite the relatively steep price schedule. Its four operating rooms feature the latest technical equipment available in the Balkans. The hospital serves an additional, perhaps more significant function: Since Turkish law prohibits the bequesting of personal properties to minority organizations, many Armenians now sell their real estate holdings and donate an amount not less than $10,000 to the hospital while living, with the understanding that the hospital will take care of them for the rest of their lives in attractive, semi-private accommodations on its grounds.

Although there is no official restriction regarding use of the American language in

Turkey, the younger generation finds it easier to speak Turkish. As in the United States, daily life dictates the use of the local language. Yet, Zahrad and Khrakhuni, two internationally acclaimed poets, work with a group of interested youngsters several evenings every week, teaching them advanced Armenian and literature. There are also two Armenian-language dailies, Marmara and Jamanak, that help keep the mother tongue alive. To stimulate readership, each paper includes coupons, good for free Armenian books. At the time of my visit, Vartan Gomigyan's collection of short stories, Hamrichi Hadigner (Rosary Beads), just off the press, and a recently-published, lavish four-color reproduction of Kristin Saleri's paintings were among the offered titles.

What blew me away, however, was the reception given on the occasion of the publication of Hagop Mntsouri's collected works (1886–1978), in translation, by a Turkish establishment. At the soiree in which various Armenian literati and progressive Turkish intellectuals extolled the qualities of Mntsouri's work, their explication of the events of 1915 astonished me. Having been raised at a time and in a culture where no mention of the Genocide was made either in school or at home, I was taken aback by such a frank exchange of ideas concerning its historic events. That the Armenians were exiled was mentioned as a matter of course; that they were murdered was spoken without dispute. Only when the Armenian moderator suggested that there would have been many more Mntsouris had it not been for the 1915 events, did one of the Turkish editors assert somewhat irately that they were there to celebrate what was and not what could have been.

It was a revealing journey for me. In my youth I was ignorant of the Ottoman Turkish atrocities; in my formative years here in America I was hateful and intolerant of Turks; and now, in my old age I am prepared to take advantage of the opportunities presented there. The diplomatic skills of the Turkish government are well known. That they want to present a kinder, gentler face to the world in order to participate in the European Common Market is well established. That they are quite cognizant of the reality of the new Republic of Armenia on their Eastern border is obvious. Ever vigilant and alert, I shall enter into an artistic dialogue with my colleagues in Turkey and reiterate purposefully my culture, my art my civilization. Perhaps it is foolhardy to expect that Balyan's monument will be placed in a public square in Istanbul, but it certainly is not foolish to press the case.

Sahan Arzruni enjoys an international reputation as a pianist, ethnomusicologist and author. In his efforts to disseminate Armenian musical arts, he has recorded numerous albums, written in scholarly and popular publications, and participated in academic symposia. He lives in New York City.●

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow; that there be a period for morning business from 9:30 until 10:05 a.m. tomorrow, with 20 minutes of that time under the control of Senator GRAMM, of Texas, and 15 minutes under the control of Senator SPECTER; that at 10:05 a.m. tomorrow, the Senate resume consideration of the conference report accompanying S. 349, the Lobbying Disclosure and Gift Reform Act; that there be 1 hour for debate on the motion to invoke cloture on that matter, with the time equally divided and under the control of the majority and the minority leaders; and that at 11:05 a.m. tomorrow, the Senate vote on the motion to invoke cloture on the conference report accompanying S. 349.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDERS FOR TOMORROW AS MODIFIED

Mr. FORD. Mr. President, I ask unanimous consent that we convene tomorrow at 10 a.m., that morning business run from 10 a.m. to 10:35 a.m. and the first vote then occur at 11:35 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL FRIDAY, OCTOBER 7, 1994, AT 10 A.M.

Mr. FORD. Mr. President, in accordance with the previous order, I ask unanimous consent that the Senate stand in recess.

There being no objection, the Senate, at 12:15 a.m., recessed until Friday, October 7, 1994, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 7, 1994:

EXECUTIVE OFFICE OF THE PRESIDENT

ALICE M. RIVLIN, OF THE DISTRICT OF COLUMBIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

A. J. EGGENBERGER, OF MONTANA, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1998.

HERBERT KOUTS, OF NEW YORK, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1997.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

BILL ANOATUBBY, OF OKLAHOMA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 6 YEARS.

TERRENCE L. BRACY, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 4 YEARS.

MATT JAMES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF SIX YEARS.

KENNETH BURTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 2 YEARS.

D. MICHAEL RAPPOPORT, OF ARIZONA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 2 YEARS.

ANNE JEANETTE UDALL, OF NORTH CAROLINA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM OF 4 YEARS.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

PAUL L. HILL, JR., OF WEST VIRGINIA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF 5 YEARS.

PAUL L. HILL, JR., OF WEST VIRGINIA, TO BE CHAIRPERSON OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF 5 YEARS.

DEVRA LEE DAVIS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF 5 YEARS.

GERALD V. POJE, OF VIRGINIA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF 5 YEARS.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

LUISE S. JORDAN, OF MARYLAND, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

ANDREA N. BROWN, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 1 YEAR.

THOMAS EHRLICH, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

CHRISTOPHER C. GALLAGHER, SR., OF NEW HAMPSHIRE, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 4 YEARS.

REATHA CLARK KING, OF MINNESOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 5 YEARS.

CAROL W. KINSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 5 YEARS.

LESLIE LENKOWSKY, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 4 YEARS.

MARLEE MATLIN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 2 YEARS.

ARTHUR J. NAPARSTEK, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 4 YEARS.

JOHN ROTHER, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 2 YEARS.

WALTER H. SHORENSTEIN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

FARM CREDIT ADMINISTRATION

MARSHA P. MARTIN, OF TEXAS, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION, FOR THE TERM EXPIRING OCTOBER 13, 2000.

DEPARTMENT OF COMMERCE

MARTHA F. RICHE, OF MARYLAND, TO BE DIRECTOR OF THE CENSUS.

DEPARTMENT OF DEFENSE

BERNARD DANIEL ROSTKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY.

FREDERICK F.Y. PANG, OF HAWAII, TO BE AN ASSISTANT SECRETARY OF DEFENSE

SELECTIVE SERVICE SYSTEM

GIL CORONADO, OF TEXAS, TO BE DIRECTOR OF SELECTIVE SERVICE.

PANAMA CANAL COMMISSION

CLIFFORD B. O'HARA, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE PANAMA CANAL COMMISSION.

ALBERT H. NAHMAD, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE PANAMA CANAL COMMISSION.

NATIONAL INSTITUTE OF BUILDING SCIENCES

H. TERRY RASCO, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE FOR BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1997.

CHRISTINE M. WARNKE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1995.

MARY ELLEN R. FISE, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 1996.

SECURITIES INVESTOR PROTECTION CORPORATION

JAMES CLIFFORD HUDSON, OF OKLAHOMA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1994.

JAMES CLIFFORD HUDSON, OF OKLAHOMA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1997. (REAPPOINTMENT)

FEDERAL EMERGENCY MANAGEMENT AGENCY

GEORGE J. OPFER, OF VIRGINIA, TO BE INSPECTOR GENERAL, FEDERAL EMERGENCY MANAGEMENT AGENCY.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

LORI ESPOSITO MURRARY, OF CONNECTICUT, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

JAMES H. ATKINS, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING SEPTEMBER 25, 1996.

SCOTT B. LUKINS, OF WASHINGTON, TO BE A MEMBER OF THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD FOR A TERM EXPIRING OCTOBER 11, 1995.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

DAVID S. TATEL, OF MARYLAND, TO BE U.S. CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.

CATHERINE D. PERRY, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI.

DOMINIC J. SQUATRITO, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

ROBERT J. CINDRICH, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

DAVID H. COAR, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

PAUL E. RILEY, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF ILLINOIS.

DEPARTMENT OF JUSTICE

LOIS JANE SCHIFFER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

EDDIE J. JORDAN, JR., OF LOUISIANA, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF LOUISIANA FOR THE TERM OF 4 YEARS.

ROBERT HENRY MCMICHAEL, OF GEORGIA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF GEORGIA FOR THE TERM OF 4 YEARS.

WILLIAM HENRY VON EDWARDS III, OF ALABAMA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF ALABAMA FOR THE TERM OF 4 YEARS.

REGINALD B. MADSEN, OF OREGON, TO BE U.S. MARSHAL FOR THE DISTRICT OF OREGON FOR THE TERM OF 4 YEARS.

JOHN EDWARD ROUILLE, OF VERMONT, TO BE U.S. MARSHAL FOR THE DISTRICT OF VERMONT FOR THE TERM OF 4 YEARS.

RICHARD THOMAS WHITE, OF MICHIGAN, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1996.

U.S. SENTENCING COMMISSION

RICHARD P. CONABOY, OF PENNSYLVANIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999.

RICHARD P. CONABOY, OF PENNSYLVANIA, TO BE CHAIRMAN OF THE U.S. SENTENCING COMMISSION.

DEANELL REECE TACHA, OF KANSAS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997.

WAYNE ANTHONY BUDD, OF MASSACHUSETTS, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1999.

MICHAEL GOLDSMITH, OF UTAH, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE INDICATED WHILE SERVING IN A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, AND TO BE APPOINTED AS CHIEF OF STAFF, UNITED STATES AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8033:

To be Chief of Staff, U.S. Air Force

To be general

GEN. RONALD R. FOGLEMAN, [redacted] U.S. AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. ROBERT L. RUTHERFORD, [redacted] U.S. AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES E. CHAMBERS, [redacted] U.S. AIR FORCE

UNITED STATES ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. OTTO J. GUENTHER, [redacted] U.S. ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM H. FORSTER, [redacted] U.S. ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. DANIEL W. CHRISTMAN, [redacted] U.S. ARMY

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be general

LT. GEN. JOHN J. SHEEHAN, [redacted] U.S. MARINE CORPS

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. RICHARD I. NEAL, [redacted] USMC

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING THOMAS O. WILDES, [redacted] AND ENDING THOMAS E. SAWNER II, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 26, 1994.

AIR FORCE NOMINATIONS BEGINNING MAJ. TOMMIE S. ALSABROOK, [redacted] AND ENDING MAJ. DONALD W. TIPPLE, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 26, 1994.

AIR FORCE NOMINATIONS BEGINNING BRET D. ANDERSON, AND ENDING SARAH H. YANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 26, 1994.

AIR FORCE NOMINATIONS BEGINNING FRANCIS L. ABAD, JR., AND ENDING BASIL TUPYI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 26, 1994.

AIR FORCE NOMINATIONS BEGINNING MAJ. FRANCES M. AUCLAIR, [redacted] AND ENDING MAJ. LESLIE KARNS, [redacted] WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 3, 1994.

AIR FORCE NOMINATIONS BEGINNING DAVID W. ABATI, AND ENDING MICHAEL J. WARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 3, 1994.

IN THE ARMY

THE FOLLOWING NAMED OFFICER, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE.

ARMY

To be lieutenant colonel

MICHAEL D. FURLONG, [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY AND PROMOTION TO THE GRADES OF MAJOR AND LIEUTENANT COLONEL IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 1552, TITLE 10, UNITED STATES CODE. THE SECRETARY OF THE ARMY WILL DETERMINE THE DATES OF RANK.

BRIAN M. MCWILLIAMS, [redacted]

ARMY NOMINATIONS BEGINNING KRISTINE CAMPBELL, AND ENDING SIDNEY E. MCDANIEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 3, 1994.

ARMY NOMINATIONS BEGINNING PETER M. ALLEN, AND ENDING EARL S. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 3, 1994.

ARMY NOMINATIONS BEGINNING DANIEL G. AARON, AND ENDING 8012X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON OCTOBER 4, 1994.

HOUSE OF REPRESENTATIVES—*Thursday, October 6, 1994*

The House met at 10 a.m.

Dr. Tetsunao Yamamori, president, Food for the Hungry, International, Scottsdale, AZ, offered the following prayer:

Being a recently naturalized citizen of the United States, I count it a privilege to be able to give this invocation here today. Let us pray.

O God, the Ruler of all nations, we beseech Your intervention into this much needy world. Wherever there is uncertainty, let there be faith; wherever there is despair, hope; wherever there is hatred, love.

You have chosen these, Your servants, and placed upon them the heavy burden of guiding this great Nation. Endow them with clarity of thought, unity of purpose, and wisdom in their decision making. Replenish their spiritual resources as they draw upon Your strength to go about their daily tasks. Grant them, O God, peace and serenity of heart in all that they do in both their private and public lives. In the name of Him who desired not to be served but to serve, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arizona [Mr. KYL] come forward and lead the House in the Pledge of Allegiance.

Mr. KYL led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

IN HONOR OF DR. TED YAMAMORI

(Mr. KYL asked and was given permission to address the House for 1 minute.)

Mr. KYL. Mr. Speaker, it is fitting and proper that Ted Yamamori was chosen to lead the House today in prayer. A good and kind man, Ted has served for several years as president of Food for the Hungry. He is a real American hero, and I'm proud to call him a friend.

As a child, Dr. Yamamori survived war and starvation. Yet, instead of becoming resentful, bitter, or angry, he began serving others. In addition to serving as president of Food for the Hungry, Ted is an adjunct professor of sociology at Arizona State University. He received a bachelor's degree from Texas Christian University and a Ph.D. from Duke University. Before joining Food for the Hungry, Dr. Yamamori taught in colleges and universities for 18 years. He is the author of several books, numerous articles, and has coauthored 12 books in the fields of missiology, sociology, and international development. His scholarship on the mission of the church has brought meaning and inspiration to Christians around the world.

Ted Yamamori lives by Abraham Lincoln's creed: "It is difficult to make a man miserable while he feels worthy of himself and claims kindred to the great God that made him." Under this creed, Ted rose above the terror of war and starvation. In the example of his life lies a message of inspiration for us all.

Mr. Speaker, I am honored to host Ted Yamamori as guest chaplain today. His invocation of prayer to the U.S. House of Representatives is just a sample of his inspiration and ministry to the world.

TRIBUTE TO THE HONORABLE GEORGE J. MITCHELL

By unanimous consent Mr. GEPHARDT was given permission to proceed out of order for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise as will the Speaker and the minority leader to pay our tribute to a friend and colleague of every Member of this House, Senator GEORGE MITCHELL, who will be retiring as majority leader from the Senate at the end of this session.

I am going to begin with a risky proposition in this age of anti-incumbency.

I am going to begin by saying that, to me, GEORGE MITCHELL is the consummate politician.

And I am going to tell you what it means to me to be a politican—and then maybe you'll understand how I feel about GEORGE MITCHELL.

You see, some people may think that politics is about power. And by that measure, you'd have to say that the Senate majority leader is one of the most powerful people in the world.

But a true politician knows that real power comes from only one place—from the people who vest it in you, when they give you their votes, their voices, and their trust.

As high as GEORGE MITCHELL has risen in our Government's hierarchy, those are the voices he heeds—and their cares have been his constant concern.

Some may think that politics is about partisanship—that the best way to lay a foundation is to throw down a gauntlet.

But a true politician knows that the hallmark of progress is partnership—that a quiet word, a calm gesture, a call for consensus mean more than any partisan posture or pressure tactic.

GEORGE MITCHELL isn't just respected by his colleagues from the other side of the aisle—he isn't just liked by them—he's admired by them. And that's one of the rarest testaments this town can offer.

Some may think that politics is about ambition.

But a true politician is never ambitious for himself—only for the people he serves.

Pundits all over this country were stunned when GEORGE MITCHELL turned down a seat on this Nation's highest court, for the simple reason that he had unfinished business on the Senate floor—the people's business. But those of us who know GEORGE weren't surprised. For him, service is its own reward—and self-service just isn't part of the job description.

Some may think a politician strives to erect monuments to himself.

But a true politician knows that the greatest monuments to a man's progress are not of chiseled stone, but of flesh and blood—that no plaque or statue can compare to helping a hardworking family claim their stake in the American dream.

Today, in the State of Maine, and all across America, there are millions of families with better jobs and better futures; with college loans for their children; with cleaner air to breathe, and safer streets to walk. And they bear in their hearts the silent dedication: to Senator GEORGE MITCHELL, with love and gratitude.

This isn't an easy time for politicians. Too often, in our zeal to find everything that's wrong with our political system, we forget about everything that's right with it. And the result is that, sometimes, there is a dignity and a decency missing from our public discourse—an appeal to a higher conscience, and a greater good.

But GEORGE MITCHELL is the very soul of dignity, and decency, and conscience.

Each and every day, he reminds us why we came here, and why we are so grateful for the promise of our country.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Each and every day, he reminds us that if the son of a janitor can lift himself up, to do so much good for so many people—then surely the rest of us can learn a little from his example.

So I rise today to pay tribute to one of the finest politicians the world has ever known. A man who gives politics a good name. A politician's politician.

And Senator MITCHELL, believe me, from the bottom of my heart—that's the highest compliment I know.

Obviously, none of us is irreplaceable. But you come as close to that as anyone I know. We will miss you, and miss you very, very much.

Best wishes, and Godspeed.

□ 1010

(Mr. MICHEL asked and was given permission to speak out of order for 5 minutes.)

TRIBUTE TO SENATOR GEORGE J. MITCHELL

Mr. MICHEL. I am happy this morning, Mr. Speaker, to join my distinguished colleagues, the majority leader and the Speaker, in paying our tribute to the distinguished majority leader in the Senate, GEORGE MITCHELL. There was a tremendous tribute dinner held in a nearby hotel last night for him, to which the Speaker, the majority leader, and I could not attend until after the President had spoken so eloquently for GEORGE MITCHELL. That is the reason we take the time this morning to say what we would have said on that occasion.

Two weeks ago, Mr. Speaker, at a similar event that was held in my honor for the benefit of my old alma mater, Bradley University, my wife and I were deeply moved by GEORGE MITCHELL's most generous remarks relative to our stewardship and the cordiality of our relationship. I will tell you, when the Senator spoke that evening in that quiet, deliberate way of his, the only sound that could be heard in that huge banquet room was the sound of his voice, and how penetrating his remarks were.

GEORGE MITCHELL, if you are listening, you really touched our hearts, and both Corinne and I are deeply touched.

The first thing I want to say is, thank you for your generosity, your eloquence, and yes, your friendship. Although we come from different parties and different areas of the country, GEORGE MITCHELL and I share similar backgrounds. Our fathers were working men, and we are both sons of immigrants. My father was French and GEORGE's mother was Lebanese.

I might just add here that my hometown in Peoria has long been blessed with the thriving, energetic community of Americans of Lebanese ancestry, one of the largest in the country. As I got to know GEORGE MITCHELL, I recognized in him those attributes of hard work and quiet patriotism and love of community I have long admired in Lebanese-Americans.

Mr. Speaker, each of us, GEORGE MITCHELL and I, have had the good fortune early in our careers to have the example of guidance of a great Senator. For GEORGE, it was Senator Muskie of Maine. For me, it was the late Senator Everett Dirksen of Illinois.

As I say, Mr. Speaker, we have much in common. But candor compels me today to confess that we have one great unbridgeable difference. It is a difference bigger than that between Democrat and Republican, or liberal or conservative, or between the House and the other body.

As most of you know, GEORGE MITCHELL is an inveterate tennis player, while I have a devotion to golf; two different worlds, two different vocabularies, two different ways of life. It might even serve as a metaphor for politics in Washington. Tennis players serve, as do elected officials, and unlike golfers, they have to do a lot of moving from side to side, backwards and forward, as do all elected officials who want to remain elected officials.

I guess, therefore, it can be said that anyone with GEORGE MITCHELL's background as a judge is going to feel more comfortable on a court. With no disrespect to tennis players, GEORGE MITCHELL and I would have an even better relationship if he were also a golfer.

How often in leadership meetings, when we have reached an impasse on some piece of legislation, have I wanted to turn to him and say, "GEORGE, give me a Mulligan on this one. What about a gimmie on this provision? GEORGE, let's hit this one straight down the fairway."

However, alas, we do not share the same sports vocabulary, unless maybe it could be something having to do with baseball. We seem to lack a common language of familiar and comfortable cliches and maxims, the glue that binds so many of us together in Washington.

However, GEORGE MITCHELL speaks another language that I do understand perfectly, the language of civility in politics. It is a language of ideals, and the highest standard of personal deportment, of strong beliefs in his party, in his principles, and devotion to his country.

It is a political vocabulary that can be very direct, cutting right to the bone, if the occasion demands, but it is also a language that has room in it for words like comity, friendship, and common decency, integrity, keeping your word, and honoring your commitments. I must say that we need to restore that great language of civility to politics, particularly in this town.

In a great democracy like ours, political debates have to be sharp, critical, incisive, and sometimes very emotional, but they don't have to be mean. Yes, we can be political without getting personal, and we can question policies without questioning motives.

□ 1016

GEORGE MITCHELL and I can be poles apart on the issues, but we would never let those differences erode the mutual respect and personal friendship we have for each other, and that is the way I like it. Leadership does have its ups and downs, but in either case, GEORGE MITCHELL has always approached his responsibilities calmly, rationally, and with an air of coolness and dignity. He has worn the victory crown nobly and accepted his defeats gracefully.

What better way can I salute my good friend and colleague, GEORGE MITCHELL. I couldn't be leaving the Congress in better company. GEORGE, we wish you all the best in your retirement.

Mr. Speaker, I am honored to be able to join Speaker TOM FOLEY and majority leader DICK GEPHARDT in paying tribute to Senate majority leader GEORGE MITCHELL, who will be retiring at the end of this session.

We were all scheduled to pay tribute to him at a scholarship fund dinner last evening, but our busy schedule was such that we never got the chance to deliver our remarks in his presence. So I guess the next thing was to say a few words this morning, which we were so glad to do.

But the most eloquent words spoken at the dinner were by Senator MITCHELL himself. In a moving tribute to his parents, to a teacher who helped him, and to the life of public service, GEORGE MITCHELL demonstrated the kind of insight and wisdom we need so much in public life.

I therefore insert in the RECORD at this point remarks made by Senator GEORGE MITCHELL at the George J. Mitchell Scholarship Fund Dinner, Washington DC, October 5, 1994.

REMARKS OF SENATE MAJORITY LEADER GEORGE J. MITCHELL AT THE GEORGE J. MITCHELL SCHOLARSHIP FUND DINNER

I'm grateful to President Clinton, to my colleagues from the Congress, and to all of you for your support for this scholarship fund. This is as important to me as anything I've done since I entered public service.

Before I entered the Senate, I had the privilege of serving as a Federal judge. In that position, I had great power. The one I most enjoyed exercising was when I presided over what are called naturalization ceremonies. They're citizenship ceremonies. A group of people gathered before me in a federal courtroom. They'd come from every part of the world. They'd gone through the required procedures.

Now in the final act, I administered to them the oath of allegiance to the United States. And then I made them Americans.

It was always emotional for me because my mother was an immigrant, my father the orphan son of immigrants. They had no education and they lived hard lives. But because of their efforts, and more importantly, because of the openness of American society, I, their son, am today the Majority Leader of the United States Senate.

After every ceremony I spoke personally with each of the new Americans. I asked where they came from, how they came, why they came. Their stories were as different as their countries of origin, but all were infused with a tangible and inspiring love for this, the country of their choice.

The answers of the new Americans to my question of why they came were different. But a common theme ran through them. It was best expressed by a young Asian man who replied, in slow, broken English: "I came because here in America everyone has a chance."

A young man who'd been an American for five minutes summed up the meaning of America in a single sentence. Here, everyone has a chance.

But in the twenty-first century, and the third century of American history, everyone will not have a chance to succeed unless they first have a chance to learn. The competition will be fierce and unforgiving. Those who lack knowledge and skill will not succeed.

I consider myself to be especially fortunate. I had a chance. I got an education.

My mother spent her entire working life on the night shift in textile mills. She was a woman of strength and substance, the most influential person in my life. My father was a laborer and a janitor. Like many in their generation, they devoted their lives to providing for their children the education they never had. They had a profound, perhaps even exaggerated sense of the value of formal education. Although they died without property or prominence, my parents had rich and fulfilling lives by their standards—and mine.

I experienced early in life the value of learning. I was fifteen years old in my junior year at High School, when I met an English teacher named Elvira Whitten.

She was elderly, intelligent and kind. One day she asked me to come back to class after school. I did, not knowing what to expect. She talked for a few minutes, then she asked me what and how much I read. I told her the truth: I had never read a book, other than what was required to move from one grade in school to the next. She picked a book up off her desk and handed it to me, and said she thought I would find it interesting.

She made it clear that I didn't have to read it, but she asked if I would, for her, and, if I did, to come back and tell her what I thought of it. I agreed to read the book because I respected her and knew that it would please her.

That night, I got into bed, opened the book and began reading.

It was "The Moon is Down" a short novel by John Steinbeck about a wartime military occupation—presumably the Nazi occupation of Norway. I stayed up much of the night reading it, and could hardly wait to tell Mrs. Whitten about it. She smiled, handed me another book and said, "I thought you'd like it. Here's another one you might like."

It went that way for a few months, and then she gently suggested that I start picking out my own books. I did so, and felt the first stirring of self-worth. It was my exposure to the world of books, to the excitement of knowledge, and it was my first step to adulthood.

I've often wondered what would have become of me if I had not met Mrs. Whitten, or if she had not taken an interest in me. I will always regret that before her death I never went back to tell her what a difference she made in my life. This is my way of doing so, and through her, all of the other teachers who hold the wondrous power to open young minds and inspire young lives.

Earlier this year, when I announced that I would not seek reelection, I received hundreds of requests from groups who wanted to honor me in some way.

I asked that all such offers be concentrated into this one effort. The money raised tonight will be combined with the remainder of my campaign fund to set up a scholarship foundation to help needy and deserving students get a college education.

Nothing is more important to success in American life than a good education. I believe that, because of my own experience and because of what I expect to be the rising demands of the next century.

I once needed help and got it.

Now, fate has provided me the opportunity to help others. I'm grateful for that opportunity. And I'm grateful to you for helping to make it possible.

I've been proud to serve the people of Maine in the United States Senate. It's a great honor, the greatest of my life. But when the 104th Congress convenes in January, I will not be there to take the oath of office as a United States Senator.

My decision not to seek reelection was based solely on my personal concept of public service. I will miss the Senate. I will miss my colleagues. Most of all, I will miss public service.

I've been in the private sector and then in the public sector, and I'm now returning to the private sector. I take nothing away from private life when I say that nothing can ever give the deep and meaningful satisfaction that comes from public service.

Public service gives work a value and meaning greater than mere personal ambition and private goals.

Public service must be and is its own reward, for it does not guarantee wealth, popularity, or respect.

It's often frustrating. But when you do something that will change the lives of people for better, then it's worth all the frustrations.

We are the most fortunate people ever to have lived, to be Americans, citizens of the most free, the most open, the most just society in human history. Ours is virtually the only government in history dedicated to opening doors, not closing them.

In America today, I believe anyone can go as far and reach as high as work, talent, and education allow. We can't equalize effort or talent and we shouldn't. But we can provide equal opportunity—the promise to everyone of a fair chance to succeed.

It's because of the promise of America that I was able to become the Majority Leader of the United States Senate.

Whatever new problems arise, whatever unforeseeable challenges come, if we can keep that promise alive for our children and theirs, America will never lose her way. For me, that's the purpose of public service, its inspiration and finally, its reward.

Thank you for your support, your trust, and your friendship.

TRIBUTE TO SENATOR GEORGE J. MITCHELL

(Mr. FOLEY asked and was given permission to speak out of order for 5 minutes.)

Mr. FOLEY. Mr. Speaker, this is an unusual event. It is unusual for several reasons. First of all, it has not been, in the past, ever permissible for Members of the House to speak of other Members of the Congress, of the other body, and certainly not in any way that might imply any question of their motives or character.

We are here, of course, to praise one of the great Senators of this century, and to praise him by name and to embrace him with bipartisan enthusiasm, conviction, respect, admiration, and gratitude.

This Congress will see two giants of our institution leave after many years of service. BOB MICHEL, who has just left the floor, the distinguished Republican leader, leaves with the admiration and respect of every Member of this Chamber, Republican and Democrat; and GEORGE MITCHELL, after 5 brilliant years as majority leader of the U.S. Senate, is voluntarily retiring as a Senator from Maine.

These have not been easy times for leaders. I think we, all of us who have had some responsibility, recognize that. One of my favorite stories about a previous Speaker, probably apocryphal, but I like it, is about Thomas Brackett Reed, who came from the same State that GEORGE MITCHELL now represents so well.

Speaker Reed was a powerful Speaker, a Speaker who had enormous sway over this body. One of his constituents from Maine, he then represented the whole State of Maine in one single congressional district, wrote to him and asked him for a copy of the rules and regulations of the House of Representatives, to which Mr. Speaker Reed grandly replied by sending his constituent an autographed photograph of himself.

The days have long passed when a Speaker or majority leader can symbolize personal control and regulation and direction of any legislative body. And, of course, it is right that that should not be so. But I would hazard a little bit on the border of the rules of the House to say that the other body makes it particularly difficult for a leader.

There is a phrase that I have heard on that side of the Capitol that "99 is not enough", which means that a leader must almost obtain unanimous consent day after day, time after time, to bring issues forward and to resolve them, and GEORGE MITCHELL has used his extraordinary skills of conciliation and compromise, and his great qualities of courage and patience and knowledge, time after time, year after year, day after day, to bring the other body to some of its greatest legislative achievements.

He is a man who has never forgotten to whom he is responsible, the people of the State of Maine, but he has also recognized the broader responsibility to the country and to the world that his high office has required and made possible. He has always remembered the circumstance of his own upbringing and the fight every day for decency and opportunity and comfort, for which his family struggled as immigrants to the United States.

He has not forgotten that every day in this Chamber and in the Senate we have the responsibility of remembering what those who have sent us here expect of us, our conscientious concern for their welfare, their dignity, their future, and their values, and a day-by-day effort to achieve, perhaps in a way that they will never even know about, much less remember, a benefit to their future and the future of their children and their grandchildren.

GEORGE MITCHELL has held that responsibility high. He has represented the State of Maine, he has represented the United States and the other body, the Senate of the United States, with such great dignity and effectiveness, that he serves as a model, not only for every majority leader that will follow him, but for leaders in both parties and in both bodies.

He is deliberate, tenacious, logical, precise, judicious, brilliant in his knowledge of the law and of the subjects of which he has made himself a particular master, dedicated to the institution in which he has served, and formidable. Everyone who has come in contact with GEORGE MITCHELL knows that he can be a strong, a vigorous, a determined, and a committed party leader. And he has sometimes even been criticized for the zeal and the determination and the effectiveness of his leadership.

But he also knows that legislation is the art of compromise and conciliation, and that at the end, we must bring together these two great bodies in the final legislative resolution. And time after time, on environment, on crime, on clean air, on issues that relate to reform of the Congress, on health care, on government, on public service and war and peace, his voice has been a voice not only of conviction, but of resolution, compromise, and conciliation.

From his early apprenticeship with Senator Muskie mentioned by BOB MICHEL, through his leadership of the Democratic Party in Maine, his service as assistant county attorney, nominee for governor, U.S. attorney, and U.S. district judge, he has been a man of extraordinary ability and accomplishment. He is a born leader. It has been a great pleasure to work with him.

He has many, many values and characteristics that all of us want to recall as we recall our service with him. He has always been a person of extraordinary personal integrity, not only in the normal and understandable sense of that word, but in terms of his intellectual honesty. His honesty, his word, his ability to see the issues clearly and without blinking at the difficulties and the challenges. He has been as patient and as hard working and as controlled in his determination to achieve the ultimate goal as any leader, as any Member, I have ever served with.

We know that he will have great success in his future endeavors. All of those qualities and characteristics, all of that strong character, that New England character that he has brought with such great achievement to the leadership of the U.S. Senate, will avail him in private life to continue to leave his mark, to continue to help those with whom he comes in contact, in and out of public service, for the future of our country, in everything that he undertakes to do.

I am proud to have known him. I salute him and wish him well in the future. All of us in this Chamber, I know, would want me to express for them our best wishes for every success in the future.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GEPHARDT). After consultation with the majority and minority leaders and with their consent and approval, the Chair announces that during the joint meeting to hear an address by Mr. Nelson Mandela, only the doors immediately opposite the Speaker and those on his right and left will be open. No one will be allowed on the floor of the House who does not have the privilege of the floor of the House. Due to the large attendance which is anticipated, the Chair feels that the rule regarding the privilege of the floor must be strictly adhered to.

Children of Members will not be permitted on the floor, and the cooperation of all Members is requested.

RECESS

The SPEAKER pro tempore. Pursuant to the order of the House of Friday, September 30, 1994, the House will stand in recess, subject to the call of the Chair.

The House is now in recess.

Accordingly (at 10 o'clock and 26 minutes a.m.) the House stood in recess subject to the call of the Chair.

□ 1051

JOINT MEETING OF THE HOUSE AND SENATE TO HEAR AN ADDRESS BY MR. NELSON MANDELA, PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

The Speaker of the House presided.

The Doorkeeper, the Honorable James T. Molloy, announced the Vice President and Members of the U.S. Senate who entered the Hall of the House of Representatives, the Vice President taking the chair at the right of the Speaker, and the Members of the Senate the seats reserved for them.

The SPEAKER. The Chair appoints as members of the committee on the part of the House to escort Mr. Nelson Mandela into the Chamber: The gentleman from Missouri [Mr. GEPHARDT]; the gentleman from Michigan [Mr. BONIOR]; the gentleman from Maryland [Mr. HOYER]; the gentleman from California [Mr. FAZIO]; the gentleman from Indiana [Mr. HAMILTON]; the gentleman from Illinois [Mr. MICHEL]; the gentleman from Georgia [Mr. GINGRICH]; the gentleman from Texas [Mr. ARMEY]; the gentleman from New York [Mr. GILMAN]; the gentleman from New York [Mr. FISH]; the gentleman from California [Mr. DELLUMS]; the gentleman from Michigan [Mr. CONYERS]; the gentleman from Ohio [Mr. STOKES]; the gentlewoman from Illinois [Mrs. COLLINS]; the gentlewoman from Maine [Ms. SNOWE]; the gentleman from Georgia [Mr. LEWIS]; the gentleman from Maryland [Mr. MFUME]; the gentleman from New Jersey [Mr. PAYNE]; the gentleman from Connecticut [Mr. FRANKS]; and the gentleman from Florida [Mr. HASTINGS].

The VICE PRESIDENT. The President of the Senate, at the direction of that body, appoints the following Senators as a committee on the part of the Senate to escort Mr. Mandela, the President of the Republic of South Africa, into the House Chamber: The Senator from Maine [Mr. MITCHELL]; the Senator from Rhode Island [Mr. PELL]; the Senator from Massachusetts [Mr. KENNEDY]; the Senator from New York [Mr. MOYNIHAN]; the Senator from Oklahoma [Mr. BOREN]; the Senator from Illinois [Mr. SIMON]; the Senator from Illinois [Ms. MOSELEY-BRAUN]; the Senator from Wisconsin [Mr. FEINGOLD]; the Senator from Kansas [Mr. DOLE]; and the Senator from Wyoming [Mr. SIMPSON]; the Senator from Mississippi [Mr. COCHRAN]; the Senator from Oklahoma [Mr. NICKLES]; the Senator from Indiana [Mr. LUGAR]; the Senator from South Dakota [Mr. PRESSLER]; and the Senator from Vermont [Mr. JEFFORDS].

The Doorkeeper announced the ambassadors, ministers, and charges d'affaires of foreign governments.

The ambassadors, ministers and charges d'affaires of foreign governments entered the Hall of the House of Representatives and took the seats reserved for them.

The Doorkeeper announced the Associate Justices of the Supreme Court of the United States.

The Associate Justices of the Supreme Court of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

The Doorkeeper announced the Cabinet of the President of the United States.

The members of the Cabinet of the President of the United States entered the Hall of the House of Representatives and took the seats reserved for them in front of the Speaker's rostrum.

At 11 o'clock and 12 minutes a.m., the Doorkeeper announced Mr. Nelson Mandela, the President of the Republic of South Africa.

The President of the Republic of South Africa, escorted by the committee of Senators and Representatives, entered the Hall of the House of Representatives, and stood at the Clerk's desk. [Applause, the Members rising.]

The SPEAKER. Members of the Congress, it is my great privilege and I deem it a high honor and a personal pleasure to present to you Mr. Nelson Mandela, the President of the Republic of South Africa. [Applause, the Members rising.]

ADDRESS BY NELSON MANDELA, PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA, BEFORE A JOINT MEETING OF THE UNITED STATES CONGRESS

Mr. MANDELA. Mr. Speaker, Mr. President, Members of Congress, this we understand fully, that it is given to very few, who came from outside the shores of this country, to stand in this lofty Chamber to address you, the lawmakers of the United States of America.

And so we speak today feeling the great weight of an extraordinary and elevating circumstance that you have extended this rare honour to us twice in our lifetime in a period of less than half-a-decade.

We extend our humble thanks to you all and to the millions of people you represent. We express our gratitude that you have thus, as an Irish patriot once said, given to a subaltern all the tribute that is due to a superior.

When last we were here, we came to thank you for the things you had done which had flung open the prison gates of our troubled land and enabled the leaders of our enslaved people to tread the soil of our country unhindered.

We came to salute you for the place you had taken in the universal assault on apartheid, which had made it possible that once more the authentic organisations of our people should speak for the people freely and without seeking the permission of those who sought to ensure that the people had no voice except the voice of subservice.

We came also to share with you our dreams of genuine independence, democracy and the emanicipation of all our people, you whose forebears had, at earlier times, dreamt of independence, of democracy and of the emancipation of all the people of these United States.

The time that has passed since then has given it to us to come back to you to speak not of a dream deferred, of which your fellow-countryman Langston Hughes spoke.

The history that cannot be unmade has enabled us to repeat in this Chamber the poetry of the triumph of the oppressed.

For, as the representatives of centuries of white minority rule bowed to the results of the democratic process, the people did, like your fellow-countryman, Martin Luther King Jr, cry out: "Free at last, free at last, thank God Almighty we are free at last."

We were moved that even at that first moment of celebration, representatives of the American people were present among us to help us sing and louder sing of freedom, justice and peace.

We were moved because you, like the great humanity to which we all belong, had committed your own human and material resources to ensure that for the first time in the entire history of our country, the people had the possibility to elect a government of their choice, without let or hindrance.

When the proclamation rang out that the elections had in the substance been free and fair, we knew that we could proudly return to these shores to say: Dear friends, brothers and sisters, your wishes and ours have been realised; democracy has won the day.

We were humbled and inspired that you honoured us again by sending a delegation of eminent Americans to join us at our inauguration.

As we began our new journey into a new future, we took the presence in our country, of so weighty a group of emissaries of what is good in the American consciousness, to be a declaration which none could either forget or ignore, that you stand by our young democracy and commit your prayers to its everlasting success.

Along the uneasy road to the victory of the cause of democracy and fundamental human rights, we, like the great revolutionaries who were the founders of this Republic, have had to rest the capacity of our people to break new ground in the history of human evolution.

Principal among these was, on the one hand, the willingness of the erstwhile minority rules to concede political power without first resorting to such resistance as would reduce our country to a wasteland.

On the other, was the ability of the oppressed majority to forgive and accept a shared destiny with those who had enslaved them.

That both black and white in our country can today say we are to one another brother and sister, a united rainbow nation that derives its strength from the bonding of its many races and colours, constitutes a celebration of the oneness of the human race.

It represents the triumph of that intangible nobility of spirit which, in a divided and unequal world, makes for peace and friendship among the peoples.

At the end, the bloodletting stopped. At the end, goodwill prevailed. At the end, the overwhelming majority, both black and white, decided to invest in peace.

In the end, it is all this that the ceremonial drums sought to salute as they throbbed to a rhythm both African and universal.

But in the fullness of time, they too ceased to beat. Their powerful rhythms have been replaced by the great pulsations which represent and reflect a new society in formation. New challenges stand ahead of us.

The flame of freedom, under whose light we danced in joyful abandon, has thrown an unrelenting glare on the great human tragedy on which was built the tarnished, tinsel glitter of an unjust society.

As we look and look again at the reality that freedom brings, we see together with T.S. Eliot that we are, still:

In the uncertain hour before the morning
Near the ending of interminable night
At the recurrent end of the unending . . .
While the dead leaves still rattled on like tin
Over the asphalt where no other sound
was . . .

The dead leaves that still rattle on over the asphalt, and "the awareness of things ill done and done to others' harm" which Eliot decried, speak to the pervasive poverty that afflicts our society; the despair of millions who are without jobs and without hope; the unborn whom we know will be born disabled and die before their maturity, because of poverty; the darkness that engulfs millions because they are both illiterate and innumerate; the many who will be victims of rape, robbery and other violent crimes because hunger, want and brutalization have warped and condemned many a human soul.

What we speak of is not unknown to this and other societies across the globe. And yet it is a reality which assumes its own special place because it superimposes itself on new and as yet fragile democratic institutions, democratic institutions that have sprouted out of the turbulent African soil.

This situation carries the features of a foundation that is, naturally, still in the process of setting. It represents the recurrent end of the unending process of the betterment of the human condition. It is to that unending process that we must turn our attention.

The question that arises is whether we shall embark on that road walking alone or whether you will be with us, having decided thus, in the process of the exercise of your own sovereign will.

It is perhaps right that we sit together again to evaluate this circumstance, to measure whether there is in it anything which demands of our people and yours that we enter into a compact founded on the imperatives of mutual gain.

The new South Africa has been born out of, and into a new age of great change. Because, perforce, we describe our country's transformation in words that have a familiar meaning, because they originate in the mists of time—democracy, justice and peace—we too may not yet see that this is a transformation born out of and into a new age of great change.

The new age will surely demand that democracy must also mean a life of plenty. As the images of life lived anywhere on our globe become available to all, so will the contrast between the rich and the poor within and across frontiers and within and across the continents, become a motive force impelling the deprived to demand a better life from the powers that be, whatever their location.

As the possibility of nations to become islands, sufficient unto themselves, diminishes and vanishes forever, so will it be that the suffering of the one shall, at the same time, inflict pain upon the other.

In an age such as this, when the fissures of the great oceans shall, in the face of human genius, be reduced to the narrowness of a forest path, much revision will have to be done of ideas that have seemed as stable as the rocks, including such concepts as sovereignty and the national interest.

What we speak of is the evolution of the objective world which inexorably says to all of us that we are human together or nothing at all.

The phrase you use, the concept of your being which is fundamental to the understanding of your society, the notion of a "melting pot," has, in time, begun to address a reality that encompasses the globe.

In the world of mundane things, as opposed to the celestial and the imaginary, a buyer is a buyer. The profits that your great corporations make, derive from whoever has the capacity to purchase their products and services, regardless of whether the customers are Chinese or African, Indian or American, European or Arab or Polynesian, male or female, young or old, Christian, Jew, Hindu, Moslem or Animist.

The success of your entrepreneurs, and with it the capacity of your society to give work to your citizens, rests on the fact of the elevation of every person, anywhere in the world, to the position of a free actor in the market place.

It will perhaps come to pass that the imperatives of this commercial market place will produce that magical elixir which the great thinkers of all time have searched for, which sought to convince all societies that the assertion was true and self-evident that whatever our different complexions, whatever our different racial characteristics, whatever our different gender features, we are nonetheless all of us part of one, indivisible and common humanity.

It will perhaps come to be that this interconnectedness will produce among you, the distinguished members of these Houses of Congress, as among other actors on the world stage, policies which will spring from a common recognition of the fact that success or failure in the conduct of human affairs, can no longer be measured within the limited sphere defined by national boundaries that are the legacy of an ancient reality, away from which life itself has moved society a thousand leagues.

If what we say is true, that manifestly, the world is one stage and the actions of all its inhabitants part of the same drama, does it not then follow that each one of us as nations, including yourselves, should begin to define the national interest to include the genuine happiness of others, however distant in time and space their domicile might be.

You, honourable members of the U.S. Congress, are part of and represent the most powerful Nation in our universe. I am, on the other hand, an African.

I come out of a continent with whose travails and suffering you are very familiar. You will therefore understand it easily why I stand up to say that for such a powerful country as yours, democracy, peace and propserity in Africa are as much in your national interest as ours.

Because I am an African, you will, I am certain, understand why I should stand here and say that it is our deeply held belief that the new world order that is in the making must focus on the creation of a world of democracy, peace and prosperity for all humanity.

Is the time therefore not upon us when we should cease to treat tyranny, instability and poverty anywhere on our globe as being peripheral to our interests and to our future.

Has not the end of the paralysis in world affairs, which resulted from the conflicts of the cold war and the threat of a nuclear holocaust, posed to us all the challenge to redefine the purposes of the world's system of international relations.

Can we not, then, move from the negative to the positive! The situation of conflict between two competing systems having been brought to an end, do we not now move away from the negative, of the global destruction of one system, to the positive, of the global creation of the conditions which will make it possible for all peoples to enjoy the right to full human dignity.

We are deeply moved by the commitment which the great people you represent, and which you yourselves and the President of the United States have made, that you will stay the course with us as we strengthen democracy in our country, ensure stability born of freedom and banish poverty and deprivation.

You have taken these positions not out of a sense of condescending pity for our people but because you have felt and recognised that our success advances the very principles on which this country is founded.

Such recognition can never be an end in itself. It must surely be the beginning of a process of embarking on actions that reinforce the independent activities of the peoples to address these matters.

If all of this is true, then great countries, such as this one, and great institutions such as the United Nations, the International Bank for Reconstruction and Development, the International Monetary Fund and the European Union, must begin to put as a purpose central to their policies and actions, the creation of a world of democracy, peace and prosperity.

For the very first time in the history of humanity, we have arrived at the point where it has become possible to pose this challenge. That possibility has arisen from the fact that, given the will, humanity does in fact have the means to begin the creation of the new world order whose central features we have sought to define.

One of your poets, Walt Whitman, has written of an age that must dawn, when every hour of the day will bring peace and happiness to all the people of these United States, and not the uncertainties of the uncertain hour before the morning, of which T.S. Eliot spoke.

Here is what he wrote:

Lo, the most excellent sun so calm and haughty,
The violet and purple morn with just-felt breezes,
The gentle soft-born measureless light,
The miracle spreading bathing all, the fulfill'd noon,
The coming eve delicious, the welcome night and the stars,
Over my cities shining all, enveloping man and land.

Shall we not awaken to the challenge of our times and bend every effort to achieve so magnificent a result!

I do firmly believe that the people of this country, who have done so much to write the history of the world, have the vision, the wisdom and the daring to strive so that what is good shines over the cities and the villages of that world, enveloping man and land.

Once you set out on this road, no one will need to be encouraged to follow.

Surely, the order of the day is forward march.

Thank you.

[Applause, the Members rising.]

At 11 o'clock and 48 minutes a.m., the President of the Republic of South Africa, accompanied by the committee of escort, retired from the Hall of the House of Representatives.

The Doorkeeper escorted the invited guests from the Chamber in the following order:

The members of the President's Cabinet.

The Associate Justice of the Supreme Court of the United States.

The ambassadors, ministers and charges d'affaires of foreign governments.

JOINT MEETING DISSOLVED

The SPEAKER. The purpose of the joint meeting having been completed, the Chair declares the joint meeting of the two Houses now dissolved.

Accordingly, at 12 noon, the joint meeting of the two Houses was dissolved.

The Members of the Senate retired to their Chamber.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will continue in recess until the hour of 12:30 p.m.

□ 1233

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. SCHUMER] at 12 o'clock and 33 minutes p.m.

PRINTING OF PROCEEDINGS HAD DURING THE RECESS

Mr. WISE. Mr. Speaker, I ask unanimous consent that the proceedings had during the recess be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 1520. An act to amend the Petroleum Marketing Practices Act;

H.R. 4379. An act to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes; and

H.J. Res. 417. Joint Resolution providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4455. An act to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services the primary end use of which will be for civilian purposes; and

H.R. 4489. An act to authorize appropriations to the Natural Aeronautics and Space Administration for human space flight, science, aeronautics, and technology, mission support, and Inspector General, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) "An Act to extend for five years the authorizations of appropriations for the programs under the Elementary and Secondary Education Act of 1965, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2060) entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes."

The message also announced that the Senate had a bill of the following title in which the concurrence of the House is requested:

S. 2384. An act to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes.

PROVIDING FOR CONSIDERATION OF S. 455, PAYMENTS IN LIEU OF TAXES ACT

The SPEAKER pro tempore. The unfinished business is the question of the vote on House Resolution 565.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on agreeing to the resolution, House Resolution 565, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 384, nays 28, not voting 22, as follows:

[Roll No. 493]

YEAS—384

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Barca
Barcia
Barlow
Barrett (NE)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Johnston
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal-Allard
Rush
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schenk
Schiff
Schroeder
Schumer
Scott
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Unsoeld
Valentine
Velazquez
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff

NAYS—28

Ballenger
Barrett (WI)
Fawell
Franks (NJ)
Gilchrest
Gunderson
Hefley
Hoke
Kanjorski
Klug
Miller (CA)
Morella
Murphy
Penny
Petri

Porter
Ramstad
Roth
Royce
Sabo
Schaefer
Sensenbrenner
Taylor (MS)
Torkildsen
Upton
Vento
Yates
Zimmer

NOT VOTING—22

Applegate
Bentley
Blackwell
Brooks
Carr
Crane
Dornan
Ewing
Gallo
Istook
McCandless
McCurdy
Moran
Oxley
Ridge
Rohrabacher
Slattery
Sundquist
Towns
Tucker
Washington
Whitten

☐ 1257

Mr. ROYCE changed his vote from "yea" to "nay."

Messrs. KLECZKA, BARCIA of Michigan, and McINNIS changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote as announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4278, SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT OF 1994

Mr. GIBBONS submitted the following conference report and statement on the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act:

CONFERENCE REPORT (H. REPT. 103-842)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278), to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Domestic Employment Reform Act of 1994".

SEC. 2. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) AMENDMENTS OF INTERNAL REVENUE CODE.—

(A) GENERAL RULE.—Subparagraph (B) of section 3121(a)(7) of the Internal Revenue Code of 1986 (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in subsection (g)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in subsection (x)) for such year;".

(B) APPLICABLE DOLLAR THRESHOLD.—Section 3121 of such Code is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE DOLLAR THRESHOLD.—For purposes of subsection (a)(7)(B), the term 'applicable dollar threshold' means $1,000. In the case of calendar years after 1995, the Commissioner of Social Security shall adjust such $1,000 amount at the same time and in the same manner as under section 215(a)(1)(B)(ii) of the Social Security Act with respect to the amounts referred to in section 215(a)(1)(B)(i) of such Act, except that, for purposes of this paragraph, 1993 shall be substituted for the calendar year referred to in section 215(a)(1)(B)(ii)(II) of such Act. If any amount as adjusted under the preceding sentence is not a multiple of $100, such amount shall be rounded to the next lowest multiple of $100.".

(C) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 3121(b) of such Code (defining employment) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) domestic service in a private home of the employer which—

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee.".

(D) CONFORMING AMENDMENTS.—The second sentence of section 3102(a) of such Code is amended—

(i) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(ii) by striking "$50" and inserting "the applicable dollar threshold (as defined in section 3121(x)) for such year".

(2) AMENDMENT OF SOCIAL SECURITY ACT.—

(A) GENERAL RULE.—Subparagraph (B) of section 209(a)(6) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer (including domestic service described in section 210(f)(5)), if the cash remuneration paid in such year by the employer to the employee for such service is less than the applicable dollar threshold (as defined in section 3121(x) of the Internal Revenue Code of 1986) for such year;".

(B) EMPLOYMENT OF DOMESTIC EMPLOYEES UNDER AGE 18 EXCLUDED FROM COVERAGE.—Section 210(a) of such Act (42 U.S.C. 410(a)) is amended—

(i) by striking "or" at the end of paragraph (19),

(ii) by striking the period at the end of paragraph (20) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(21) Domestic service in a private home of the employer which—

"(A) is performed in any year by an individual under the age of 18 during any portion of such year; and

"(B) is not the principal occupation of such employee.".

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to remuneration paid after December 31, 1993.

(B) EXCLUDED EMPLOYMENT.—The amendments made by paragraphs (1)(C) and (2)(B) shall apply to services performed after December 31, 1994.

(4) NO LOSS OF SOCIAL SECURITY COVERAGE FOR 1994; CONTINUATION OF W-2 FILING REQUIREMENT.—Notwithstanding the amendments made by this subsection, if the wages (as defined in section 3121(a) of the Internal Revenue Code of 1986) paid during 1994 to an employee for domestic service in a private home of the employer are less than $1,000—

(A) the employer shall file any return or statement required under section 6051 of such Code with respect to such wages (determined without regard to such amendments), and

(B) the employee shall be entitled to credit under section 209 of the Social Security Act with respect to any such wages required to be included on any such return or statement.

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 of the Internal Revenue Code of 1986 (relating to general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the 15th day of the fourth month following the close of the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) EMPLOYERS NOT OTHERWISE REQUIRED TO MAKE ESTIMATED PAYMENTS.—Paragraph (1) shall not apply to any employer for any calendar year if—

"(A) no credit for wage withholding is allowed under section 31 to such employer for the taxable year of the employer which begins in such calendar year, and

"(B) no addition to tax would (but for this section) be imposed under section 6654 for such taxable year by reason of section 6654(e).

"(3) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(4) TRANSITIONAL RULE.—In the case of any taxable year beginning before January 1, 1998, no addition to tax shall be made under section 6654 with respect to any underpayment to the extent such underpayment was created or increased by this section.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' includes domestic service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is

liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) GENERAL REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section. Such regulations may treat domestic service employment taxes as taxes imposed by chapter 1 for purposes of coordinating the assessment and collection of such employment taxes with the assessment and collection of domestic employers' income taxes.

"(f) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1).".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid in calendar years beginning after December 31, 1994.

(4) EXPANDED INFORMATION TO EMPLOYERS.—The Secretary of the Treasury or the Secretary's delegate shall prepare and make available information on the Federal tax obligations of employers with respect to employees performing domestic service in a private home of the employer. Such information shall also include a statement that such employers may have obligations with respect to such employees under State laws relating to unemployment insurance and workers compensation.

SEC. 3. ALLOCATIONS TO FEDERAL DISABILITY INSURANCE TRUST FUND.

(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking "(O) 1.20 per centum" and all that follows through "December 31, 1999, and so reported," and inserting "(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported,".

(b) ALLOCATION WITH RESPECT TO SELF-EMPLOYMENT INCOME.—Section 201(b)(2) of such Act (42 U.S.C. 401(b)(2)) is amended striking "(O) 1.20 per centum" and all that follows through "December 31, 1999," and inserting "(O) 1.20 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1989, and before January 1, 1994, (P) 1.88 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1993, and before January 1, 1997, (Q) 1.70 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1996, and before January 1, 2000, and (R) 1.80 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1999,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to wages paid after December 31, 1993, and self-employment income for taxable years beginning after such date.

(d) STUDY ON RISING COSTS OF DISABILITY BENEFITS.—

(1) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Commissioner of Social Security shall conduct a comprehensive study of the reasons for rising costs payable from the Federal Disability Insurance Trust Fund.

(2) MATTERS TO BE INCLUDED IN STUDY.—In conducting the study under this subsection, the Commissioner of Social Security shall—

(A) determine the relative importance of the following factors in increasing the costs payable from the Trust Fund:

(i) increased numbers of applications for benefits;

(ii) higher rates of benefit allowances; and

(iii) decreased rates of benefit terminations; and

(B) identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in disability benefit applications, allowances, and terminations.

(3) REPORT.—Not later than October 1, 1995, the Commissioner of Social Security shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of the study conducted under this subsection, together with any recommendations for legislative changes which the Commissioner determines appropriate.

SEC. 4. NONPAYMENT OF BENEFITS TO INCARCERATED INDIVIDUALS AND INDIVIDUALS CONFINED IN CRIMINAL CASES PURSUANT TO CONVICTION OR BY COURT ORDER BASED ON FINDINGS OF INSANITY.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by inserting "and Certain Other Inmates of Publicly Funded Institutions" after "Prisoners";

(2) by striking "(x)(1) Notwithstanding" and all that follows through the end of paragraph (1) and inserting the following:

"(x)(1)(A) Notwithstanding any other provision of this title, no monthly benefits shall be paid under this section or under section 223 to any individual for any month during which such individual—

"(i) is confined in a jail, prison, or other penal institution or correctional facility pursuant to his conviction of an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed), or

"(ii) is confined by court order in an institution at public expense in connection with—

"(I) a verdict or finding that the individual is guilty but insane, with respect to an offense punishable by imprisonment for more than 1 year,

"(II) a verdict or finding that the individual is not guilty of such an offense by reason of insanity,

"(III) a finding that such individual is incompetent to stand trial under an allegation of such an offense, or

"(IV) a similar verdict or finding with respect to such an offense based on similar factors (such as a mental disease, a mental defect, or mental incompetence).

"(B)(i) For purposes of clause (i) of subparagraph (A), an individual shall not be considered confined in an institution comprising a jail, prison, or other penal institution or correctional facility during any month throughout which such individual is residing outside such institution at no expense (other than the cost of monitoring) to such institution or the penal system or to any agency to which the penal system has transferred jurisdiction over the individual.

"(ii) For purposes of clause (ii) of subparagraph (A), an individual confined in an institution as described in such clause (ii) shall be treated as remaining so confined until—

"(I) he or she is released from the care and supervision of such institution, and

"(II) such institution ceases to meet the individual's basic living needs.";

and

(3) in paragraph (3), by striking "any individual" and all that follows and inserting "any individual who is confined as described in paragraph (1) if the confinement is under the jurisdiction of such agency and the Commissioner of Social Security requires such information to carry out the provisions of this section.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months commencing after 90 days after the date of the enactment of this Act.

SEC. 5. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) IN GENERAL.—Section 204 of the Social Security Act (42 U.S.C. 404) is amended by adding at the end the following new subsection:

"(f)(1) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, and 3718 of title 31, United States Code, as in effect on October 1, 1994.

"(2) For purposes of paragraph (1), the term 'delinquent amount' means an amount—

"(A) in excess of the correct amount of payment under this title;

"(B) paid to a person after such person has attained 18 years of age; and

"(C) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this title.".

(b) CONFORMING AMENDMENT.—Section 3701(d) of title 31, United States Code, is amended by inserting ", except to the extent provided under section 204(f) of such Act (42 U.S.C. 404(f))," after "the Social Security Act (42 U.S.C. 301 et seq.)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to collection activities begun on or after the date of the enactment of this Act and before October 1, 1999.

SEC. 6. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS.

(a) IN GENERAL.—Section 1631(e)(1) of the Social Security Act (42 U.S.C. 1383(e)(1)) is amended by adding at the end the following new subparagraph:

"(C) For purposes of making determinations under section 1611(e), the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this title, to transmit to the Commissioner a report of the admission.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring on or after October 1, 1995.

SEC. 7. RULE OF CONSTRUCTION.

Until March 31, 1995, any reference in this Act (other than section 3(d)) or any amendment *made by this Act to the Commissioner of Social Security shall be deemed a reference to the Secretary of Health and Human Services.*

And the Senate agree to the same.

SAM GIBBONS,
DAN ROSTENKOWSKI,
J.J. PICKLE,
ANDREW JACOBS, Jr.,
HAROLD FORD,
BILL ARCHER,
JIM BUNNING,
RICK SANTORUM,
Managers on the Part of the House

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

SOCIAL SECURITY DOMESTIC EMPLOYMENT REFORM ACT OF 1994

1. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES (SEC. 2 OF HOUSE BILL AND SEC. 2 OF SENATE AMENDMENT)

Present law

Individuals who hire domestic employees such as baby-sitters, housekeepers, and yard workers are required to withhold and pay employment taxes when the worker's wages exceed certain thresholds. (Individuals who hire domestic workers who are properly classified as independent contractors to provide these services are excluded from these requirements.) For Social Security, the wage threshold is reached, generally, when an employer pays $50 or more per quarter to a domestic employee.

However, wages paid to domestic employees hired by farm operators are subject to the thresholds that are used for determining coverage for agricultural employees. For these employees, the wage threshold is reached if either (1) the farm operator's total farm payroll for a year is $2,500 or more, or (2) the wages paid to an employee in a year are $150 or more. (This latter test applies only if the farm operator's total payroll for a year is less than $2,500.)

For Federal unemployment insurance (FUTA), the threshold is reached when an employer pays $1,000 or more in a calendar quarter to one or more domestic employees.

When the $50 threshold is reached, the employer must file a quarterly report (Form 942) with the Internal Revenue Service, submitting with it the required Social Security tax for both the employer and the employee. The employer must also provide the employee and the Social Security Administration with a Wage and Tax Statement (Form W-2) at the end of the year. When the $1,000 unemployment insurance wage threshold is reached in any calendar quarter, the employer must file a report (Form 940) with the IRS at the end of the year, submitting the required tax.

In addition, employers of domestic workers must: notify employees who may be eligible for the earned income tax credit of the existence of this credit; withhold income tax if the employee requests it and the employer agrees; file and pay State unemployment insurance tax in each quarter in which the State unemployment insurance wage threshold (equal to the $1,000 Federal threshold in 45 States) is reached; and, in some States, report wages paid to domestic employees to the State for purposes of State income tax.

House bill

Reporting

The bill requires individuals who employ only domestic workers to report on a calendar-year basis any Social Security or Federal unemployment tax obligations for wages paid these workers and authorizes the Secretary of the Treasury to revise Federal Form 1040 to enable such employers to report both taxes on their own Federal income tax returns.

The bill also requires the Secretary of the Treasury to provide to domestic employers a comprehensive package of informational materials, including all requirements of Federal law and a notification that they may also be subject to State unemployment insurance and workers compensation laws.

Threshold

The bill changes the threshold for withholding and paying Social Security taxes on domestic workers from $50 per quarter to $1,250 annually in 1995.

Indexing

The bill indexes the threshold for increases in average wages in the economy, rounded to $50 increments.

Farm service

The bill does not apply to domestic service on a farm.

Estimated taxes

The bill includes domestic employers' Social Security and Federal unemployment taxes in estimated tax provisions. Employers may satisfy their tax obligations through regular estimated tax payments or increased tax withholding from their own wages.

State unemployment

The bill authorizes the Secretary of the Treasury to enter into agreements with States to collect State unemployment taxes in the manner described above.

Age limitation

No provision.

Effective date.—Generally applies to remuneration paid in calendar years beginning after 1994.

The bill adjusts the Social Security tax threshold retroactively to $1,150 for 1993 and to $1,200 for 1994. No underpayment of taxes could be assessed (or, if assessed, could be collected), effective on or after the date of enactment. No refunds would be provided.

Senate amendment

Reporting

Same as House bill.

Threshold

The amendment changes the threshold from $50 per quarter to an annual threshold equal to the amount required for one quarter of Social Security coverage (estimated to be $630 in 1995).

Indexing

Same as House bill, except the amendment would use a technically different indexing mechanism.

Farm service

The amendment applies to domestic service on a farm.

Estimated taxes

Same as House bill, except no estimated tax penalty would apply to an underpayment of these taxes if they were paid on or before April 15 (or the date the return of the employer is filed, if earlier.)

State unemployment

Same as House bill.

Age limitation

The amendment exempts from Social Security taxes any wages paid to a worker for domestic services performed in any year during which the worker is under the age of 18.

Effective date.—Generally applies to remuneration paid in calendar years beginning after 1994 (same as House bill). Exemption for workers under the age of 18 applies to services performed in calendar years beginning after 1994.

No provision with respect to retroactive adjustment of the threshold for 1993 and 1994.

Conference agreement

REPORTING

The conference agreement follows the House bill and the Senate amendment.

The Secretary of the Treasury continues to have regulatory authority to allow States to pay the employment taxes for certain public assistance recipients who employ household workers. Several States have agreements under which the State handles the appropriate Federal employment taxes for household workers employed by public assistance recipients under State programs.

THRESHOLD

The conference agreement provides that the threshold is $1,000.

INDEXING

The conference agreement follows the House bill and the Senate amendment by indexing the $1,000 threshold. Indexing will occur in $100 increments, rounded down to the nearest $100.

FARM SERVICE

The conference agreement follows the Senate amendment.

ESTIMATED TAXES

The conference agreement follows the House bill, except that estimated tax penalties will not apply to amounts affected by the conference agreement until 1998. The conferees intend that the Internal Revenue Service disseminate the informational materials required by the statute so that taxpayers will be fully apprised of the provisions of the conference agreement (including the provision related to estimated taxes).

Individuals not required to make estimated tax payments (including by having income taxes withheld from their wages) are not required to begin making estimated tax payments (or wage withholding) solely as a consequence of the conference agreement. Individuals otherwise required to make estimated tax payments (including by having income taxes withheld from their wages) are required, after 1997, to include amounts affected by the conference agreement in those estimated tax payment (or wage withholding).

STATE UNEMPLOYMENT

The conference agreement follows the House bill and the Senate amendment.

AGE LIMITATION

The conference agreement follows the Senate amendment, except that the exemption for workers under the age of 18 would not apply to individuals whose principal occupation is household employment. Being a student is considered to be an occupation for purposes of this test. Thus, for example, the wages of a student who is 16 years old who also babysits will be exempt from the reporting and payment requirements, regardless of whether the amount of wages paid is above or below the threshold. On the other hand, for example, the wages of a 17 year-old single mother who leaves school and goes to work as a domestic to support her family will be subject to the reporting and payment requirements; she will consequently obtain Social Security coverage with respect to those wages.

Effective date.—The $1,000 threshold is effective for calendar year 1994. The simplified reporting system, as well as the other provisions of the conference agreement, are effective January 1, 1995. Refunds would be given for payroll taxes on wages paid in 1994 when the total wages that an employee receives from an employer are below the $1,000 threshold.

There will be no loss of Social Security wage credits with respect to amounts refunded for 1994. To provide information reporting the ensure that there is no loss of credits, an employer who would have been required to file a Form W-2 (without regard to the enactment of these provisions) will continue to be required to do so, and will be required to report wages paid for the whole year in the "social security wages" box, even though the employer will receive a refund of any Social Security taxes paid.

Example 1.—Assume Employer A pays a domestic employee R $500 in wages for calendar year 1994. A has been making quarterly payments of the payroll taxes due on these wages. A will not be required to make any further quarterly payments of payroll taxes with respect to 1994 that are due on or after the date of enactment of the conference agreement. A can obtain a refund of payroll taxes previously paid. Employee R will get Social Security credit with respect to the $500 of wages.

Example 2.—Assume Employer B pays a domestic employee $1,500 in wages for calendar year 1994. B has been make quarterly payments of the payroll taxes due on these wages. B must continue to make quarterly payments of payroll taxes to the remainder of 1994.

Example 3.—Assume Employer A will pay domestic employee R $500 in wages for calendar year 1995. Because the amount of these wages is below the $1,000 threshold, A is not subject to reporting.

Example 4.—Assume Employer B will pay domestic employee S $1,500 in wages for calendar year 1995. Because the amount of these wages is above the $1,000 threshold, B is subject to reporting.

2. REALLOCATION OF A PORTION OF THE OLD-AGE AND SURVIVORS INSURANCE PAYROLL TAX TO THE DISABILITY INSURANCE TRUST FUND (SEC. 3 OF THE HOUSE BILL)

Present law

Employees and employers each pay a Social Security payroll tax of 7.65 percent of earnings up to a specified ceiling. The self-employed pay at the combined employee-employer rate. The employee and the employer share of the payroll tax is allocated to the Old-Age and Survivors Insurance (OASI), the Disability Insurance (DI), and the Hospital Insurance (HI) programs at the following rates:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994–99	5.60	0.60	1.45
2000 on	5.49	0.71	1.45

House bill

The provision would increase the employee and the employer rate of tax for the DI program from 0.6 percent to 0.94 percent, with commensurate reduction of the rate of the OASI tax. Beginning in 2000, the DI tax rate would be reduced to 0.90 percent, with a commensurate increase of the rate of the OASI tax. The rate of tax would be:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994–99	5.26	0.94	1.45
2000 on	5.30	0.90	1.45

In addition, the Secretary of Health and Human Services would be required to conduct a comprehensive study of the reasons for rising costs in the DI program. The study would determine the relative importance of: (a) increased numbers of applications for benefits, (b) higher rates of benefit allowances, and (c) decreased rates of benefit terminations in increasing DI program costs. It would also identify, to the extent possible, underlying social, economic, demographic, programmatic, and other trends responsible for changes in DI applications, allowances, and terminations. No later than December 31, 1995, the Secretary would be required to issue a report to the House Committee on Ways and Means and the Senate Committee on Finance summarizing the results of the study and, if appropriate, making legislative recommendations.

Effective date.—The provision would apply to wages paid after December 31, 1993, and to self-employment income for taxable years beginning after this date.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision, with an amendment making the allocation to the DI trust fund 0.85 percent of payroll for the employer and employee, each, for the years 1997–99. The resulting tax rates are:

Calendar years	OASI tax rate (percent)	DI tax rate (percent)	HI tax rate (percent)
1994–96	5.26	0.94	1.45
1997–99	5.35	0.85	1.45
2000 on	5.30	0.90	1.45

The Commissioner of Social Security would be required to provide the study by October 1, 1995. The conferees understand that the Social Security Administration may not have sufficient data to provide as full a report as the Congress may want by the October 1 due date. The conferees expect that the Commissioner will supplement the October 1 report with any subsequent findings and recommendations that the Commissioner may wish to make no later than December 31, 1995.

3. LIMITATION ON PAYMENTS TO INCARCERATED CRIMINALS AND CRIMINALLY INSANE INDIVIDUALS CONFINED TO INSTITUTIONS BY COURT ORDER AT PUBLIC EXPENSE (SEC. 4 OF THE HOUSE BILL AND SEC. 4 OF THE SENATE AMENDMENT)

Present law

Generally, Social Security benefits may not be paid to any individual who is confined in a penal institution pursuant to a felony conviction. (This provision does not apply to an individual who is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law and, as determined by the Secretary, is expected to result in the individual being able to engage in substantial gainful activity upon release and within a reasonable time.) Benefits to qualified family members of incarcerated felons continue to be paid.

When an individual is confined to a public institution pursuant to verdict related to a felony offense for which he or she was found to be not guilty by reason of insanity, the Social Security Act provides no limitation on benefit payments.

House bill

The provision would:

Apply the limitation on Social Security benefit payments, which currently applies only to incarcerated felons, to all individuals convicted of an offense punishable by imprisonment for more than one year;

Repeal the exception to the limitation for inmates participating in court-approved rehabilitation; and

Extend the limitation to criminally insane individuals who are confined to institutions by court order at public expense in connection with an offense punishable by imprisonment of more than one year. The court order must be issued pursuant to a verdict of guilty but insane, a verdict of not guilty by reason of insanity, a finding of incompetence to stand trial, or a similar verdict or finding based on similar factors (such as mental disease, mental defect, or mental incompetence).

The limitation would continue to apply until such time as the individual is unconditionally released from the care and supervision of the institution to which he or she was confined and the institution ceases to meet the cost of the individual's basic living needs.

A similar limitation would be placed on Medicare Part A hospital insurance (as well as on Medicare Part B supplemental medical insurance in cases where eligibility for Part B is conditioned on eligibility for Part A).

To enforce the ban, the Secretary of Health and Human Services would be authorized to require from institutions the names and Social Security numbers of the individuals confined there under the conditions described above.

Effective date.—The provision would apply to benefits for months commencing after 90 days after enactment and with respect to items and services provided after this 90-day period.

Senate amendment

The amendment would suspend payment of any Social Security benefit payable under title II of the Social Security Act to any individual while confined in any public institution, if the individual had been found guilty of a felony offense but insane, or not guilty of a felony offense by reason of insanity or other similar disorder. Federal or State agencies having jurisdiction over institutions where such individuals are confined would be required to furnish such information as the Secretary of Health and Human Services may require to carry out this provision.

Effective date.—The provision would apply with respect to benefits for months commencing after 90 days after enactment.

Conference agreement

The conference agreement generally follows the House provision, modified to:

(1) maintain the current exception for prisoners in court-approved rehabilitation;

(2) maintain Medicare eligibility for individuals whose cash benefits have been suspended due to their confinement;

(3) provide that benefits will be reinstated to individuals who are released from an institution to which they were committed pursuant to an insanity verdict, so long as the institution ceases to meet the individual's basic living needs; and

(4) provide that an individual is not to be treated as confined to a prison or other penal institution during any month throughout which he or she resides outside such institution at no expense (other than the cost of monitoring) to the institution or the penal system (or, if the penal system has transferred jurisdiction over the individual to another agency, at no expense to the institution, the penal system, or that agency).

The fourth modification addresses an issue that has arisen because of the development of highly sophisticated electronic surveillance technology. Relying on such technology, courts and prisons are confining growing numbers of individuals to their homes, where they can now be effectively monitored. SSA's policy response to this practice is two-fold: In cases where an individual is confined to home by court order, the agency will resume payment of monthly benefits. However, in cases where an individual is confined to home without such an order (e.g., because of crowding in a prison), SSA continues to suspend benefits.

The conferees disagree with SSA's policy in the second instance. The conferees believe that payments should be resumed for any month in which a prisoner resides outside a correctional facility at no expense (other than the cost of monitoring) to the penal system.

4. ADDITIONAL DEBT COLLECTION PROCEDURES (SEC. 3 OF THE SENATE AMENDMENT)

Present law

The Omnibus Budget Reconciliation Act of 1990 permits the Social Security Administration to collect overpaid Social Security benefits from former beneficiaries by reducing these individual's Federal tax refunds when other efforts to collect the overpayment have failed.

In addition, certain debt collection procedures are available for use by most Federal agencies. Those include provisions enabling Federal agencies to recover debts owed to them by offsetting other Federal payments to which the debtor may be entitled (called "administrative offset"); to report delinquent debtors to credit reporting agencies; and to contract with private debt collection agencies to recover delinquent debt. The Social Security Administration (SSA) is prohibited from using these three debt collection procedures.

House bill

No provision.

Senate amendment

SSA would be authorized to use three procedures that are available to other Federal agencies: administrative offset, reporting delinquent debtors to credit reporting agencies, and contracting with private debt collection agencies.

These procedures would be available for use only for the purpose of recovering any delinquent amount owned by former Social Security beneficiaries who were paid benefits not due. The term "delinquent amount" is defined to mean an amount (1) in excess of the correct amount of payment under title II of the Social Security Act, (2) paid to a person after the person has attained age 18, and (3) determined by the Secretary, under regulations, to be otherwise unrecoverable.

Effective date.—The provision would apply to collection activities begun on or after the date of enactment and before October 1, 1999.

Conference agreement

The conference agreement follows the Senate amendment.

5. NURSING HOMES REQUIRED TO REPORT ADMISSIONS OF SSI RECIPIENTS (SEC. 5 OF THE SENATE AMENDMENT)

Present law

Supplemental Security Income recipients, or their representative payees, are required to report to the Social Security Administration any change in the recipient's status (e.g., income, resources, living arrangements) that may affect the amount of benefits to which the recipient is entitled. Generally, when an SSI recipient enters a nursing home for an extended period, and payment for the recipient's care is being provided by Medicaid, the amount of the recipient's SSI benefit is reduced to no more than $30 per month, beginning with the first full month of residence. Because nursing home admissions are not always reported promptly to SSA, some SSI recipients receive more benefits than they are entitled to receive in the months following their admission.

House bill

No provision.

Senate amendment

Nursing home administrators would be required to report to SSA the administration of any SSI recipient within two weeks of the recipient's admission, so that SSA can make timely adjustment in the amount of the recipient's SSI benefit.

Effective date.—The provision is effective for admissions to nursing homes occurring on or after October 1, 1995.

Conference agreement

The conference agreement follows the Senate amendment.

SAM GIBBONS,
DAN ROSTENKOWSKI,
J.J. PICKLE,
ANDREW JACOBS, JR.,
HAROLD FORD,
BILL ARCHER,
JIM BUNNING,
RICK SANTORUM,
Managers on the Part of the House.

DANIEL PATRICK MOYNIHAN,
MAX BAUCUS,
JOHN BREAUX,
BOB PACKWOOD,
BOB DOLE,
Managers on the Part of the Senate.

Mr. GIBBONS. Mr. Speaker, I call up the conference report on the bill (H.R. 4278) to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ROWLAND). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the conference report be considered as read, and that any points of order against the conference report or its consideration be waived.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. BUNNING] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume. I do not intend to take up that much time.

Mr. Speaker, this is a good conference report. The chairman of the subcommittee who handled this legislation is here to go over the fine points and details of it.

Mr. Speaker, I ask that I be permitted to yield the balance of my time to the gentleman from Indiana [Mr. JACOBS], chairman of the subcommittee, who handled this legislation, and that he be permitted to yield such time as he sees fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1300

PARLIAMENTARY INQUIRY

Mr. JACOBS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. ROWLAND). The gentleman will state his parliamentary inquiry.

Mr. JACOBS. Has the gentleman from Kentucky [Mr. BUNNING] been yielded the customary 50 percent of the time?

The SPEAKER pro tempore. The gentleman has been yielded 30 minutes.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I begin by commending my co-chairman, the gentleman from Kentucky [Mr. BUNNING]. It has been a long effort, it has been an entirely cooperative effort, and, therefore, to that extent it has been a pleasant effort to correct the egregious wrong that has occurred by the inadvertence of the U.S. Government to the taxpayers of this country.

Mr. Speaker, almost 2 years ago it was discovered that the threshold for household employers to pay Social Security taxes on domestic workers had remained $50 for 40 years. Now at the same time the threshold for getting any credit for paying the tax had been more than indexed during those 40 years. Two years ago the Government discovered the error, and got right on it now, and 2 years later, finally, it is being corrected; or, putting it another way, one might say that the wheels of justice will never get a speeding ticket.

This report, this conference report, does the following:

It allows household employers to file their obligations for Social Security taxes on an annual rather than quarterly basis. Moreover it allows them to file those taxes on their 1040 forms that they are filing anyway. It makes the threshold heretofore $200 per year, $1,000 per year, and, as a token of apology to the American people, it makes this retroactive to the first day of this year, of 1994, refunds the taxes paid by any household worker or employer on wages that did not cross the threshold of $1,000.

It has other features such as indexing by $100 the amount of the threshold into the future. It has a provision dealing with people who do not file 1040 forms alone, but also estimate their taxes because of self-employment.

It has another principal feature, which is correcting an anomaly of a law that was passed in 1980 that forbade Social Security payments to felons in prison. The anomaly was, although I can personally testify that the law in 1980 was intended to deny those same benefits to murderers and other wrongdoers who were declared criminally insane and incarcerated anyway, some have read the statute not to cover those individuals. This would correct that anomaly, and while it is correcting that anomaly, it raises sufficient funds for the trust fund to allow for the change that I have just described, including the retroactive refund for those who do not cross the threshold of $1,000 for the year 1994.

Mr. Speaker, I look forward with avidity to hearing from my colleague, the gentleman from Kentucky [Mr. BUNNING] who is from where my mother is from, and I reserve the balance of my time.

Mr. BUNNING. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. PETRI] to speak out of order.

DIRTY TRICKS

(By unanimous consent Mr. PETRI was given permission to address the House out of order.)

Mr. PETRI. Mr. Speaker, the use of bogus polls to spread ugly rumors is a campaign practice the media and campaign reformers should look into.

Here is how it works: A so-called pollster calls every household and asks a series of questions such as, "Do you plan to vote for Smith or Jones?" "What if you learned that Smith steals candy from children?" "Would that change your vote?" "What if you learned that Smith is fighting four paternity suits and his mother complains he never comes home for Christmas? Would that change your vote?"

Now, obviously, the charges have to be more plausible than those—but they do not have to be true. They can be totally misleading. They are designed to spread ugly rumors.

And you can never find these polls listed in the disclosure forms campaigns are required to file. Instead, separate groups which are allied with a political party do the dirty work technically separately from the actual campaigns.

During the final weeks of the campaign, these bogus pollsters will be calling every household in some areas to spread rumors about candidates' positions on pay raises, Social Security, and who knows what else.

I understand that Wisconsin and Ohio are the greatest victims of this technique. But you can bet it will become nationwide if it is allowed to go unquestioned.

We should tighten the campaign disclosure laws so people will know when somebody allied with a campaign tries to pull this dirty trick. Or at least, the media should expose it.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, It is a pleasure to be here for Congress' second major piece of Social Security legislation this year, and for the final action in a process that the House started back in March of last year.

This was when the Social Security Subcommittee held the first of the three hearings on the provisions in the conference report.

I would like to commend my colleague, ANDY JACOBS, the chairman of the Social Security Subcommittee, for his diligence, persistence, and perserverance.

He is a pleasure to work with, and I thank him for another great effort.

This legislation addresses three problems. The first is one made famous by the hapless Zoe Baird.

Singlehandedly, Ms. Baird has done more to publicize the law that provides Social Security protection for nannies and other domestic employees than the IRS and the Social Security Administration have been able to do combined.

As a result of the publicity that surrounded Zoe Baird, a lot of hard-working and normally law-abiding American taxpayers woke up to a terrible realization—that they were tax cheats and lawbreakers.

I'm sure that Congress, back in 1951 when domestic workers were first covered under Social Security, never intended to make lawbreakers out of householders who hire cleaning ladies and parents who hire babysitters.

But, that is just what happened when it set the wage threshold at $50 a calendar quarter, and never provided for any increase as the years went by.

A $50 quarterly threshold was probably more than adequate back in 1951, and easily exempted the occasional cleaning lady or babysitter earning a $1 an hour a day or two a month. Today, $50 is just over a day's pay at minimum wage.

The conference report before us addresses these problems. First, it raises this outdated $50 in wages paid in a calendar quarter to $1,000 paid in a year.

Now, I would have preferred a higher amount based on the fact that the $50 threshold amount was never indexed.

I strongly supported the $1,800 threshold that was passed by the House last year, only to be stripped from the budget reconciliation bill at the insistence of the Senate—or even the $1,250 threshold that was in the House version of this legislation.

But I also appreciate the need to protect Social Security eligibility for those who spend their lifetimes cleaning other people's homes—many of whom are low income women.

I believe that the $1,000 threshold, which will be indexed, should be high enough to protect these employees and still relieve the average householder of the burden of having to report wages of someone they occasionally employ in their home.

This legislation exempts teenagers under 18 who babysit or mow lawns.

Because Americans who employ babysitters and cleaning ladies have been expecting Congress to fix this problem for over a year now, I am pleased that the House conferees were successful in making these provisions retroactive to January, 1994.

It took 40 years to recognize and deal with this problem.

Going back to the beginning of this year was the least Congress could do for average Americans who occasionally hire people to look after their children or mow their grass.

The legislation also allows householders who hire domestic workers to report and pay their employees' Social Security taxes as part of their personal tax returns, rather than have to complete all sorts of complicated additional paperwork.

Because it will be easier for householders to pay the Social Security taxes on their domestic workers, more domestic workers will end up getting the same Social Security credit that other workers get toward disability or retirement benefits.

The second provision transfers a small part of the revenues now going into the Social Security retirement trust fund to the disability trust fund.

The Social Security retirement trust, which the actuaries say has enough money to last until 2036 while the disability trust fund will run out of money as early as next spring if we don't act now.

Currently, the disability program pays over $3 billion a month in benefits to almost 4 million severely disabled workers and their families.

We recognize, however, that this transfer is just a Band-Aid, and that the administration has to take a serious look at why the disability program is in trouble.

We are looking forward to getting the study they have been doing on this serious problem by October of next year.

We will also be closely monitoring SSA's efforts to clear up its disability backlogs and do disability reviews.

In my opinion, SSA's failure to do these reviews and take nondisabled people off the rolls has not only contributed to the program's financial problems, but to the public's lack of confidence as well.

There are serious problems at SSA, but it will be an independent agency next year, unfettered by HHS. We will be expecting the leadership of this independent agency to do something about those problems.

The third provision is also overdue. Congress voted—14 years ago—to prohibit payment of Social Security benefits to criminals like the Son of Sam, who are being completely supported at the taxpayers' expense as they serve out their time behind bars.

This provision likewise prohibits payment of benefits to those who have committed terrible crimes, but who are found not guilty by reason of insanity, and are institutionalized at taxpayers' expense instead of imprisoned.

To allow the criminally insane to collect benefits is an affront to the families of the victims of their terrible acts, as well as to hard-working taxpayers.

Mr. Speaker, it has been a long haul, but we have finally taken action on problems that have been around a long time.

This legislation will help millions of average Americans do the right thing for those they employ to care for their children or clean their homes.

It will help ensure that the millions of severely disabled Americans and their families will continue to receive benefits without worry.

And it will stop benefits to the criminally insane who are already institutionalized at taxpayers' expense.

I am pleased that we are considering this important legislation today, and I urge its speedy passage.

□ 1310

Mr. Speaker, I reserve the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I omitted one point that the world, or at least this part of it, ought to know, and that is that this bill also exempts all domestic workers under the age of 18 except in the case of a young person who works full-time, perhaps as a child, works full-time, has not reached the age of 18. That person would be covered under the payment of the taxes and the $1,000 threshold.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, the conference report before us contains a measure which will help thousands of workers across the country. It will update the threshold at which employers must start paying taxes for their domestic employees. This is what we now call the nanny tax. It is much-needed legislation, and it is long overdue.

The nanny tax threshold was set more than 40 years ago and remains to this very day, until this very moment, artificially low. Today, if you use a baby-sitter or someone to mow your lawn on a regular basis, you probably owe this tax. And while the law was never meant to address the 14-year-old baby-sitter, that is exactly what it has done.

It is necessary that we safeguard people who perform domestic work. The law was never about the person who shovels your walk, or the person who mows your lawn, or about the baby-sitter. It was about people who proudly, with dignity, do domestic work.

When employers fail to pay this tax, workers who have multiple employers can find themselves ineligible for benefits after a lifetime of work. This is not right, and this legislation will change this.

This conference report raises the threshold at which taxes must be paid to $1,000 annually, and requires the taxes to be filed only once a year. Can you imagine, and some of you can, what it is like to have to file a tax for your domestic worker four times a year? Anyone who has tried to do it can truly understand why many did not. The IRS code had become anachronistic in this whole area. And as a result of the law becoming outdated, people who worked day in and day out, and worked hard, but who worked for a number of employers, were not getting their Social Security taxes paid correctly.

As I stand here today, I hear about the gridlock, I hear about how Congress does not know how to do anything. I hear about how we cannot move forward and help the American people.

The nanny tax is an example where we can, in a bipartisan fashion, make it easier for the American people to do their duty and obey the law. With this legislation, we make it much less likely that someone who wakes up in the morning and works maybe 5 days a week, sometimes 7 days a week, at domestic work, proudly, will find that their employer has not paid the Social Security tax.

We have achieved this in a bipartisan fashion. We have achieved it in a bipartisan fashion in the House of Representatives, and we have achieved it in a bipartisan fashion on the Senate side. We have achieved this without loading it up with a number of amendments. And we have achieved it in the way we should legislate.

□ 1320

We are passing legislation that may not get much attention in the newspapers or the media who say we cannot do anything, but it will be noticed by the thousands upon thousands of domestic workers who now can count on the fact that their employer only has to fill out one form, once a year, when they do their income tax return.

Numerous Members contributed to this success.

I stand here and thank the acting chairman of our committee, the gentleman from Florida [Mr. GIBBONS], to thank the gentleman from Indiana [Mr. JACOBS], who truly understood what was happening here, and to thank Mr. ARCHER and Mr. BUNNING on the other side of the aisle. I'd like also to offer my thanks to Mrs. MEEK, whose commitment to this legislation is second to none, and Mr. HOUGHTON, who was also instrumental in passage of this bill and he is to be commended. I thank Senator MOYNIHAN for his help, and all the other people involved. This bill is not for the elite of America, this is not for the well-known names, it is for the working men and women who have to count on their Social Security. This is for working people. It is also for the men and women of America who want to obey the law and just cannot quite figure out the forms and the back and the forth and the up and the down. With this change, they can be law-abiding citizens.

Mr. Speaker, this is a solid achievement and should be recognized as such.

Mr. BUNNING. Mr. Speaker, I yield 4 minutes to the gentleman from Texas, [Mr. ARCHER], the ranking member on the full Committee on Ways and Means.

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of H.R. 4278 with a great deal of compliments and accolades to both the chairman of the Subcommittee on Social Security, the gentleman from Indiana [Mr. JACOBS], and the ranking Republican, the gentleman from Kentucky, [Mr. BUNNING]. I also want to note that another member of our committee, the gentleman from New York [Mr. HOUGHTON], contributed a great deal toward the development of this bill.

It is truly a bipartisan bill. It is something that needs to be done, actually has needed to be done for a long time to correct a situation where one of the Nation's basic laws has been in effect but not effective. Because we are not dealing with business people who are used to the process of withholding from the payroll of employees. We are dealing with people who are average citizens in the home, employing other average citizens in the home, employing other average citizens to do work in the home.

This bill corrects the problem by streamlining and simplifying the process for the employer, makes it easier to understand and to comply with the law, and sets a threshold below which it is not necessary to go through the administrative red tape because the numbers are so low that the cost of administration does not justify the added effort. So it is long overdue and something that I believe would serve the benefit of both the person who employs someone in the home and the person who works in the home.

In addition, as the chairman of the subcommittee knows for many, many years I have devoted a great deal of attention to Social Security, along with him, to attempt to shore up and stabilize the fund so that Americans could have more confidence in it. There is a part of this bill that has been alluded to that is exceedingly important, that takes away Social Security benefits from the criminally insane who are already being supported by the taxpayers while institutionalized.

The injustice of paying benefits to such individuals has cried out for correction for many, many years. This bill finally corrects it, and takes that load off of the Social Security fund. In doing so, it helps to stabilize it for the future.

So on all counts, this bill makes sense. It is in the interest of the taxpayers. It is in the interest of the Social Security beneficiaries. It is in the interest of all Americans, and I urge its adoption.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the ranking member of the Committee on Ways and Means for the outstanding job that he has done on our committee. He mentioned shoring up Social Security has been one of his priorities since he first was ranking on the Subcommittee on Social Security. He has worked actively on Social Security issues for over a decade. I want to thank him for his leadership and guidance, particularly on this bill, and all the bills that we take up in the Subcommittee on Social Security.

It is a pleasure to be here, Mr. Speaker, for Congress' second major piece of Social Security legislation this year, and for the final action in a process that the House started back in March of last year. This was when the Social Security Subcommittee held the first of the three hearings on the provisions in the conference report. I would like to commend my colleague, ANDY JACOBS, the chairman of the Social Security Subcommittee, for his diligence, persistence, and perseverance. He is a pleasure to work with, and I thank him for another great effort.

This legislation addresses three problems.

The first is one made famous by the hapless Zoe Baird. Singlehandedly, Ms. Baird has done more to publicize the law that provides Social Security protection for nannies and other domestic employees than the IRS and the Social Security Administration have been able to do combined.

As a result of the publicity that surrounded Zoe Baird, a lot of hard working and normally law-abiding American taxpayers woke up to a terrible realization—that they were tax cheats and law breakers.

I am sure that Congress, back in 1951 when domestic workers were first covered under Social Security, never intended to make law breakers out of householders who hire cleaning ladies and parents who hire babysitters. But, that just what happened when it set the wage threshold at $50 a calendar quarter, and never provided for any increase as the years went by.

A $50 quarterly threshold was probably more than adequate back in 1951, and easily exempted the occasional cleaning lady or babysitter earning a dollar an hour a day or two a month. Today, $50 is just over a day's pay at minimum wage.

The conference report before us addresses these problems. First, It raises this outdated $50 in wages paid in a calendar quarter to $1,000 paid in a year. Now, I would have preferred a higher amount based on the fact that the $50 threshold amount was never indexed. I strongly supported the $1,800 threshold that was passed by the House last year, only to be stripped from the budget reconciliation bill at the insistence of the Senate—or even the $1,250 threshold that was in the House version of this legislation.

But I also appreciate the need to protect Social Security eligibility for those who spend their lifetimes cleaning other people's homes—many of whom are low-income women. I believe that the $1,000 threshold, which will be indexed, should be high enough to protect these employees and still relieve the average householder of the burden of having to report wages of someone they occasionally employ in their home. This legislation exempts teenagers under 18 who babysit or mow lawns.

Because Americans who employ babysitters and cleaning ladies have been expecting Congress to fix this problem for over a year now, I am pleased that the House conferees were successful in making these provisions retroactive to January 1994. It took 40 years to recognize and deal with this problem. Going back to the beginning of this year was the least Congress could do for average Americans who occasionally hire people to look after their children or mow their grass.

The legislation also allows householders who hire domestic workers to report and pay their employees' Social Security taxes as part of their personal tax returns, rather than have to complete all sorts of complicated additional paperwork. Because it will be easier for householders to pay the Social Security taxes on their domestic workers, more domestic workers will end up getting the same Social Security credit that other workers get toward disability or retirement benefits.

The second provision transfers a small part of the revenues now going into the Social Security retirement trust fund, which the actuaries say has enough money to last until 2036, to the disability trust fund, which will run out of money as early as next spring if we do not act now. Currently, the disability program pays over $3 billion a month in benefits to almost 4 million severely disabled workers and their families. We recognize, however, that this transfer is just a bandaid, and that the administration has to take a serious look at why the disability program is in trouble. We are looking forward to getting the study they have been doing on this serious problem by October of next year.

We will also be closely monitoring SSA's efforts to clear up its disability backlogs and do disability reviews. In my opinion, SSA's failure to do these reviews and take nondisabled people off the rolls has not only contributed to the program's financial problems, but to the public's lack of confidence as well. There are serious problems at SSA, but it will be an independent agency next year, unfettered by HHS. We will be expecting the leadership of this independent agency to do something about those problems.

The third provision is also overdue. Fourteen years ago, Congress voted to prohibit payment of Social Security benefits to criminals like the Son of Sam, who are being completely supported at the taxpayer's expense as they serve out their time behind bars.

This provision likewise prohibits payment of benefits to those who have committed terrible crimes, but who are found not guilty by reason of insanity, and are institutionalized at taxpayers' expense instead of imprisoned. To allow the criminally insane to collect benefits is an affront to the families of the victims of their terrible acts, as well as to hard-working taxpayers.

Mr. Speaker, it has been a long haul, but we have finally taken action on problems that have been around a long time. This legislation will help millions of average Americans do the right thing for those they employ to care for their children or clean their homes. It will help ensure that the millions of severely disabled Americans and their families will continue to receive benefits without worry. And it will stop benefits to the criminally insane who are already institutionalized at taxpayers' expense. I am pleased that we are considering this important legislation today, and I urge its speedy passage.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, I appreciate the opportunity to be here today, in support of the conference agreement on what has become known as the nanny tax.

Mr. Speaker, when people think about the problem that average citizens have had reporting and paying the Social Security taxes on domestic workers, they usually think in terms of younger families who employ babysitters to look after their children while they work, or enjoy an occasional night out.

In fact, this has been a problem for many senior citizens as well. Many of us know from watching our own parents and grandparents that, as people get older, they fight to retain the dignity that comes from being independent. They do not want to burden their children, who are busy trying to raise their own families—or who live too far away to provide regular help. So, they hire individuals to come into their home to do some of the tasks that they find difficult to do—clean the house, take care of the lawn, things like that.

As we know Mr. Speaker, senior citizens are among our most law-abiding citizens. They want to do the right thing. And they know better than anyone the value of earning enough Social Security credit to qualify for benefits in retirement. Unfortunately, up until now it was very difficult for them to do the right thing when it came to paying the Social Security tax on domestic workers they hire because of all of the extra, complicated paperwork they have been required to complete four times a year in addition to their annual tax return.

Mr. Speaker, this legislation streamlines the whole process of paying Social Security taxes on domestic workers by raising the threshold to $1,000 a year instead of $50 a quarter, and, more importantly, by doing away with burdensome quarterly returns, and allowing householders—young and old—to pay the tax on their personal tax return. By so doing we will be removing the worry of dealing with burdensome paperwork every 3 months from the minds of senior citizens who want to do the right thing as taxpayers when they hire domestic workers who help them to remain independent.

In closing, I commend the gentleman from Kentucky for his efforts and leadership on this legislation, and I join with him and my colleagues in urging its speedy passage.

Mr. BUNNING. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, I would like to thank my colleague, the gentleman from Kentucky [Mr. BUNNING], who has been so helpful on this whole process and also to the chairman of the subcommittee, the gentleman from Indiana [Mr. JACOBS], who has been so wonderful as well.

I would like to take issue with my colleague from Connecticut who said today's piece of legislation is an indication of how well Congress works. To the contrary, I think it is an indication of how extraordinarily difficult it can be around here to get the simplest thing done.

My colleague may remember that this all began in January of 1993, when one of the President's Cabinet nominees suddenly discovered she had not paid the Social Security that was due one of her workers for years. What was even more frightening was that Americans all over this country who go to work and pay the bills and try to keep their nose clean discovered that they were breaking the law because they were not filing Social Security payments if they simply paid somebody $50 in a 3-month period.

In this day and age, if Members have three boys like I do and they go out to the movie once a month and out to dinner and then hire somebody to shovel the snow, bango, they are over the limit and they have broken the law.

So in February of 1993, I introduced one of the first variations of legislation to try to fix this problem and worked very closely with a number of my colleagues around the House. And within a couple of weeks, we had more than 50 cosponsors to try to solve the problem, which included annual reporting, as today's bill does, which required also an annual cost-of-living increase, as today's piece of legislation does. And then we found ourselves amazingly in front of the Committee on Ways and Means doing hearings, and it seemed like full steam ahead.

Then it was in the budget bill, and then it got stripped out last year in a conference fight with the Senate.

□ 1330

Then we found ourselves in February of 1994, nearly a year after the original bills had been introduced, nearly a year after the first hearings had begun, and we were stalled out. And so at that point, my colleagues, the gentleman from Oregon [Mr. KOPETSKI], and the gentleman from Wisconsin [Mr. KLECZKA], both Democrats, and the gentleman from Pennsylvania [Mr. SANTORUM], also on the Committee on Ways and Means, a friend of mine, began to try to urge the Senator from New York [Mr. MOYNIHAN] and our colleagues in the other body to get moving so we could finally get this done. We almost found ourselves in a situation again this week where it died in conference once again, where we had a $1,800 threshold, a $1,200 threshold, a $1,000 threshold and a $670 threshold.

In a final gesture to good, common sense and in a final tribute again to my colleagues from Kentucky and Indiana who managed to stick with this and bulldog all the way, we find ourselves with a very important piece of legislation today which solves the problem which says you have an annual $1,000 standard, a cost of living increase, and for the millions of Americans who discovered way back in January of 1993 they were law-breakers will discover when they file their income taxes next April, they are no longer law-breakers, in fact they can comply with a law which is now meaningful and intelligent and much more germane in 1994 than the 1950's piece of legislation we found ourselves with.

Mr. BUNNING. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON], a member of the subcommittee, who has done an exceptional amount of work on this legislation.

Mr. HOUGHTON. Mr. Speaker, I would like to talk about a couple of individuals. First of all, the gentleman from Kentucky [Mr. BUNNING] and the gentleman from Indiana [Mr. JACOBS]. They have done an extraordinary job. But I have got to talk about the people that I have worked very closely with on this, the gentlewoman from Florida [Mrs. MEEK] and the gentlewoman from Connecticut [Mrs. KENNELLY]. They really have stuck to this, they put their heart into it, and I would like to feel that they were of help to the gentleman from Kentucky [Mr. BUNNING] and the gentleman from Indiana [Mr. JACOBS] in pulling off this legislative coup which we thought was going to go down the drain about 24 hours ago.

Very briefly, I happen to be an optimist. I know that it is difficult to get legislation through here, having seen what happened to GATT and the delay of that, the fact that this could come to a conclusion, I am really very happy about. Some people could think this is not in the league of finance reform or of crime legislation or things like that, but I think it is very important. There was a problem out there, it was not being fixed. Not only were people not paying their taxes, but also, very importantly, those making a minimum amount of wage were not getting Social Security credit, and not really understanding it. The solution was there, the package was put together, I think it is a good bill, and I very strongly support the conference report on H.R. 4278.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from New York [Mr. HOUGHTON], my colleague on the subcommittee, for his remarks and for his continued support during this process. He has been extremely concerned about getting the nanny tax problem solved.

Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. MCCRERY].

Mr. MCCRERY. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I want to thank him for his valiant efforts on the part of hard-working Americans who will benefit from this change in the law, and also the gentleman from Indiana [Mr. JACOBS] on the Democratic side, I thank him for his unyielding efforts to get this law simplified.

The Members of the Congress now have an opportunity to do something that we seldom do here, and, that is, to make the lives of many hard-working Americans across this country a little bit simpler, a little bit less complicated, a little bit less burdensome. Usually what we do on this House floor has the opposite effect. But this bill finally is one that can make things better for folks who try to abide by the law, who work hard, and also provide a job for somebody in their community.

My wife works, and so we happen to have someone who comes in and keeps our baby boy. We have gone through this hassle of filing all the forms necessary, and, of course, paying the taxes. It is a real disincentive. I was just talking to another Member who said that when he and his wife had a similar circumstance a few years ago, they hired someone and the hassle was so great that after keeping that person on the job for just a little while, they decided to let the person go, because it just was not worth the hassle. That is the effect of the law that is on the books now that we do not hear about too often, people actually losing jobs because of the hassle that Congress has imposed upon those families who need to have somebody to come into their home and keep their children during the day.

This bill is a great effort on the part of the members of the Committee on Ways and Means who have worked so hard to make this provision in the law less complicated and it is a great opportunity for all of us as Members of the House and Members of the Congress to do something that will not only make lives less complicated in this country but also give the opportunity for more people to go to work in this country. Any time we can do that, we ought to do it.

I urge all of my colleagues to vote in favor of this legislation.

Mr. BUNNING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to conclude our side by thanking the chairman of the Subcommittee on Social Security for his extreme hard work in solving some of the problems in the conference, and the staff that worked with him on solving those problems.

It is not easy to come out with the numbers that we came out with, but it is only through our chairman's hard work that we were able to accomplish this. I really cannot say enough kind things about the gentleman from Indiana [Mr. JACOBS] and the hard work that he has done on this. I think generally speaking that is how good bipartisan legislation comes about. I know the gentleman in the chair also has had a lot of experience in that. I would like to thank everybody involved in this whole piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. JACOBS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before making the customary motions, I too would like to express specifically my gratitude first of all to the gentleman from Kentucky [Mr. BUNNING]. It is just a pure pleasure and an example I think to all Members of the Congress and really all citizens of our country that if you are a different religion, if you are of a different party or whatever, if we truly do all want the same things, namely, justice, fairness, civility, that you can do it even with honest difference of opinion in a very pleasant way. That has been my experience working with the gentleman from Kentucky.

None of God's children is a waste of skin. My mother's favorite quotation is from an old Senator, I think, from Arizona who said, "There is so much good in the worst of us and so much bad in the best of us that it hardly becomes any of us to say very much about the rest of us." That is the best way to legislate. We have honest differences of opinion, although I must say that the gentleman from Kentucky [Mr. BUNNING] and I have gone in lockstep on this obvious problem.

I also pay my compliments to the Senator from New York [Mr. MOYNIHAN]. He has been a stalwart both with the independent agency and also in clarifying and straightening this problem out; and the gentleman from Wisconsin [Mr. KLUG], as has been indicated, has made an enormous contribution, been devoted to the cause, and a number of other people, including the gentleman from Louisiana [Mr. MCCRERY] who spoke here today. I thank those who were kind enough to compliment my own efforts and I return those compliments greatly.

Mr. Speaker, in a free society, the best statecraft is reasonable laws. Reasonable laws will be adhered to because most people that God put on earth are reasonable if you get to know them. Reasonable laws will be obeyed. Unreasonable laws will not be obeyed. Today we have the opportunity to make a law that has been enormously unreasonable reasonable. It is a happy day for all Americans.

GENERAL LEAVE

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4278, the legislation under consideration.

The SPEAKER pro tempore (Mr. ROWLAND). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in strong support of this conference agreement to simplify and streamline the payment of Social Security payroll taxes on domestic workers for the first time since 1950.

It will increase the number of employers who comply with the law, and it will assure that more workers will receive much-needed protection under Social Security.

No one ever intended that Americans be required to pay taxes on occasional babysitters or yard workers. But, that is what has happened over time.

This bill will take care of that problem by exempting this type of occasional work from Social Security taxes. At the same time, it will protect full-time nannies, housekeepers and other domestic workers by assuring that they receive Social Security coverage.

Second, the bill will reduce paperwork for employers by permitting them to file their employment taxes on their own annual 1040 income tax forms.

The agreement also assures the short-term solvency of the disability insurance trust fund by following the recommendation of the Social Security trustees and allocating a small portion of the existing Social Security payroll tax into that fund.

Without it, the disability insurance fund would become insolvent in 1995.

The House acted responsibly in 1993 and passed both these provisions as part of the budget agreement. But, we were forced by the Senate to drop the provisions from that conference.

It is time for us to fix these problems.

I strongly support this agreement.

Mr. BUNNING. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JACOBS. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FORD of Tennessee. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 11, as follows:

[Roll No. 494]

YEAS—423

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill

Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (MA)
Neal (NC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Applegate
Bentley
Coyne
Dingell
Gallo
Slattery
Stark
Sundquist
Tucker
Washington
Whitten

□ 1402

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI

The SPEAKER pro tempore (Mr. ROWLAND). Pursuant to the order of the House of Wednesday, October 4, 1994, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of House Joint Resolution 416.

□ 1403

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, with Mr. MAZZOLI in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 5, 1994, 1 hour and 34 minutes remained in general debate. The gentleman from New Jersey [Mr. TORRICELLI] has 45 minutes remaining, and the gentleman from New York [Mr. GILMAN] has 49 minutes remaining.

The Chair recognizes the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, last evening Members of the House began an important debate concerning the American occupation currently in Haiti. Members from all perspectives, recognizing the importance of our actions and the three alternatives before the institution, began, I think, a thorough review of each of the options.

Today we continue that debate. At this point, yielding to Members on this side of the aisle of each perspective, while the gentleman from New York [Mr. GILMAN] does the same, I would like to begin by yielding 5 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I rise today in support of the Committee on Foreign Affairs' amendment and in opposition to the Michel substitute.

But I think I would like to talk a few minutes about both concerns and principles of United States involvement in Haiti as well as some of my perspective as to the role of United States intelligence in dealing with the problems in Haiti.

When the United States decided to get involved in Haiti, I had some concerns, particularly United States involvement in a possible military action that could result in casualties to soldiers without congressional authorization.

I also had concern about the lack of a clear mission. At the beginning, this mission looked rather fuzzy, it involved the policing and nation-building in Haiti, and it also looked like there was a lack of a deadline, an end point as to our role in the Haitian situation.

Now, a lot of that has crystallized in the last few weeks, partly because we have had a successful military operation in Haiti. Some of those concerns still remain.

However, I do think there are certain principles which govern our role in Haiti and are more clear today than they used to be. No. 1, the United States does have a historic role in preserving democracy in the Caribbean. We did it in Grenada, we did it in Panama. Haiti is a nation in chaos, and it does matter, because unless there is some order brought out of that chaos, there will be a continual massive amount of illegal immigration into the United States of America.

We have already received tens of thousands of Haitians, in fact it may be hundreds of thousands, come to this country because of the political and economic instability of that country, particularly the human rights violations.

So that flow will not stop without political stability and economic rebuilding. And the United States involvement to try to restore democracy in Haiti and move to a nonmilitary solution to some of those economic problems will have more to do with stopping that massive amount of Haitian immigration to the United States than anything else.

So I guess my point is something I say to my constituents at home, that it is important to build democracy in the Caribbean for its own sake because that spills over to other countries, the Dominican Republic and maybe Cuba, which is a republic we so desperately want to see free. But in addition, there probably was no other way to stop this massive illegal immigration of Haitians into this country without some form of military action.

Now our troops are there. I want to get them out as quickly as possible. I fear for our casualties. There is no way to absolutely prevent that from happening.

□ 1410

But anything that is done to jeopardize the safety of those troops I think is disgraceful and is something we ought not to be on record for. That is why I think the Committee on Foreign Affairs' resolution, which has a responsible, but flexible, deadline, is a lot more realistic than the Michel proposal which calls for basically the immediate withdrawal of troops which will put our troops in jeopardy and which all our military officers, I believe both in Haiti and in the Pentagon in our country, unanimously oppose doing that. They fear for the lives of the troops if that resolution is adopted.

Now let me just mention quickly a word about the role of intelligence. Early on, before the military action took place, there was a lot of discussion about the fact that our intelligence, particularly our Central Intelligence Agency, did not have an objective view of Haiti or of President Aristide, and that was in fact harming the move towards democracy in Haiti, and quite honestly I did not find that to be totally true, although I do admit that at least some of the public perception was not particularly encouraging in terms of a clear position of our Government and how intelligence affected policy. But I will tell my colleagues that in advance of the soldiers coming to Haiti and in connection with their current presence our intelligence has been superb, and our military commanders have told us that without any kind of quality of intelligence, both in terms of satellite pictures and in terms of the information as to the nature of where Haitian military was located, the nature of possible insurrections taking place, that our soldiers would have been in harm's way much more than they currently are now.

So let me just summarize by saying that I would like to see these troops out of there as quickly as possible, but to take them out tomorrow, as the Michel resolution implies, would harm them, be very dangerous to their lives. We need to have this action completed as quickly as possible, but done in a responsible way, to create the institutions of democracy in order to avoid a continued, massive, illegal immigration of Haitians into this country.

So, given those reasons, Mr. Chairman, I appreciate having been yielded to by the gentleman from New Jersey [Mr. TORRICELLI], and I rise again in support of his resolution.

Mr. GILMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa [Mr. LEACH], a senior member of our Committee on Foreign Affairs.

Mr. LEACH. Mr. Chairman, all Americans are relieved that United States Armed Forces did not have to fight their way into Haiti. The 11th-hour mission led by former President Carter at least partially succeeded in rescuing the administration from a diplomatic and political crisis of its own making: both a hostile invasion and a divisive constitutional debate over war powers.

Nevertheless, the unparalleled awkwardness, indeed ad hoc oddness, of administration policymaking toward Haiti cries out for congressional as well as historical review.

Two issues, in particular, are profoundly troubling to this Member: the articulation of what must be described as a new Clinton doctrine of geographical propinquity that is apparently to become the rudder for American military intervention in the Western Hemisphere, and the cul de sac implications of failed American diplomacy toward Haiti which left the administration no policy option except intervention.

Even as we breathe a sigh of relief at a bloody invasion scenario avoided, it is well worth pondering not only how Washington got into this mess, but how we extricate ourselves from our newly assumed responsibility for superintending Haitian affairs. After all, the exit policy will surely be more difficult to craft than the entrance, with long-term moral and financial accountability impossible to project at this time.

Like most Americans, I listened respectfully to administration justifications for its intervention in Haiti. The White House has its reasons. I just don't find them compelling.

The principal justification advanced for the U.S. intervention is that the United States has a responsibility to act to put an end to egregious human rights abuses close to our shores. But no modern doctrine of U.S. foreign policy suggests that geographical proximity should be the basis for U.S. military intervention absent a genuine national security threat.

I emphasize modern doctrine because stripped of its multilateral veneer, the rationale advanced for the United States intervention in Haiti eerily echoes the Roosevelt corollary to the Monroe Doctrine, which was precipitated by one President only to be repudiated a generation later by his fifth cousin. Specifically, in 1904 Teddy Roosevelt justified establishing an American protectorate over the Dominican Republic by issuing a corollary to the Monroe Doctrine, committing the United States to "the exercise of an international police power" in the Caribbean in order to remedy "flagrant cases" of "wrongdoing or impotence." The corollary was subsequently abandoned by Franklin Roosevelt with the establishment of his Good Neighbor Policy. FDR rightly concluded that United States intervention was a counterproductive means of protecting U.S. strategic interests as well as establishing stability and good governance in Latin America.

Some 60 years after the demise of the Roosevelt corollary, it would appear gunboat diplomacy is back in vogue. The new Clinton doctrine of geographical propinquity in substance has committed the United States to again exercise an international police power in the Caribbean. The obvious philosophical and foreign policy question is whether there are any boundaries to this assertion of broad U.S. police authority in the Caribbean or elsewhere in the Western Hemisphere.

With respect to human rights, no one disputes that egregious abuses have occurred under the de facto Haitian regime. All Americans condemn such acts, as we do all human rights violations wherever they occur. All Americans support commonsense efforts to ameliorate and hopefully end the tragic suffering of others, whether it be in Cambodia, El Salvador, Haiti, Rwanda, or the Sudan.

But if a combination of human rights abuses and geographical propinquity is the controlling standard for U.S. military intervention in the Western Hemisphere, is the United States also prepared to invade Cuba to depose Fidel Castro and remove his oppressive regime, which has not only been much cited for abuse of civil liberties, but is rooted in Marxist orthodoxy and, from time to time, export-oriented revolutionary zeal? Does Port-au-Prince pose a greater national security threat to the United States than Havana, if any at all?

Our humanitarian rationale, as reasonable as it may be, begs the question of why for consistency reasons the administration would not now be militarily intervening to stop the bloody welter of violence in Bosnia, why it is not acting to stop the shocking and senseless ethnic slaughter of hundreds of thousands in Rwanda, or intervening in Burma and other countries suffering under the thumb of brutal military misrule.

Policymakers might rightly point out that a healthy respect for the limits of American power demands prudential restraint, but nonetheless the manifest inconsistencies in our human rights policy are self-apparent.

It is also troubling that this intervention—in a setting where no tangible threat to international peace and security exists—may set a dangerous precedent for the use of force by Russia, China, or other regional powers such as Iran or Iraq in their own backyard. It would be the height of naivete to believe that Moscow has supported the United States action in Haiti without the full expectation that this precedent could be widely applied in any number of trouble spots in Russia's "near abroad."

Clearly, the precedent of United States intervention in the Caribbean is precisely what Moscow likes, because any United States doctrine of intervention implicitly can be used to prop up new versions of the Brezhnev doctrine. We can properly point out that United States actions were preceded by United Nations and Organization of American States approval, and that our goal is democracy building rather than colonialist control, but to potential hegemonists lurking in the Kremlin or Zhongnanhai these circumstances may be considered merely legalistic niceties. While process may be America's most important product, to aggrandizing potentates the world over the deed is more important than the rationalization.

The contrast between the responsible internationalism that hallmarked the Bush approach to coalition building in the gulf war and this administration's intervention in Haiti could not be more worrisome or striking.

Ironically, if one American political party has been historically identified with the advocacy of collective security and the multilateral diplomacy it implies, it is the Democratic Party. Collective security was the watchword of Woodrow Wilson, who literally drove himself to death defending the principle against strident critics. Franklin Roosevelt, arguably the greatest President of this century, insisted that collective security principles be espoused in the Atlantic Charter, in authoritative statements of American war aims in World War II and ultimately in the Charter of the United Nations.

In this context, it is well worth recalling that in the gulf war President Bush courageously chose to step outside both the isolationist and go-it-alone interventionist themes that have ambivalently represented much of this century's conservative tradition.

While the campaign sloganeering of candidate Clinton promised an even more "assertive multilateralism" than practiced by his predecessor, the incoherence and vacillation in administration policies have left internationalists in full retreat. The effectiveness and prestige of the United Nations is in serious doubt because of the failure of Washington to lead and understand the obligations of power. The squandering of hard-earned good will and the failure to offer the world credible leadership has contributed to a corrosive crisis of confidence in the United Nations. Lacking enlightened American leadership, U.N. reform has become passe. Collective security, far from appearing newly credible, increasingly is discredited.

The hubristic intellectual abandonment of the internationalist ideal has progressed so far that this administration has naively embraced a trendy new liberal realpolitik that would delegate world order to a few great powers, complete with responsibility to keep the peace in their spheres of influence. Such is the bottom-line rationale for this intervention. Such precedent can only be described as alarming for peoples aspiring to embrace or keep freedom in such disparate regions of the globe as the former Soviet Georgia, the Indian subcontinent, and Taiwan.

In the context of foreign policy decision making related to Haiti, it is fair to ask whether there are distinctions of judgment relating to United States actions over the past decade in Grenada, Panama, the Iran-Contra affair, the Persian Gulf war, and Somalia.

Issues of foreign policy must be considered within a broad philosophical rubric as well as on a case by case basis in the context of the times. Judgments, as in all human experience, can be close, sometimes inconsistent, often involving a weighing of interests and values themselves not easily calculable.

This Member, for instance, was particularly vexed by the scandal of process as well as judgment that led to the United States intervention in Nicaragua and its sorry evolution into Iran-Contra. The Reagan administration attempted to trade arms for hostages and thence use certain proceeds to further a dubiously legal war in Central America without legislative sanction—indeed, under the Boland amendment, contrary to legislative guidance. Trying to out-Kissinger Kissinger, inexperienced geostrategists within the National Security Council surmised that by making overtures to Iranian moderates a basis could be developed for bettering relations with post-Khomeini Iran. A tale of immaturity and deceit ensued, which included blatant stretching of law and the Constitution.

With respect to Panama, both American lives and vital interests were more directly at stake. The extraordinary unilateral announcement by a head of state, Manuel Noriega, of a state of war with the United States, coupled with the indefensible killing of an American serviceman, and existence of United States treaty rights as well as vital interests in the Panama Canal gave President Bush no credible option except to take serious notice. In the background as well was the unprecedented circumstance that Noriega had been indicted in a U.S. Federal court for complicity in drug smuggling.

At the crux of the Iraq crisis was an undisguised threat to every linchpin norm of civilized international behavior. Iraq's brutal bid for regional hegemony threatened not only security in the Persian Gulf but the integrity of the international system itself. The United States and the world community simply had a compelling interest in preventing Saddam Hussein and his fellow Iraqi militarists from swallowing a neighboring state, brutally oppressing its population, as well as developing a nuclear arsenal and other weapons of mass destruction.

While the international community countenanced (in retrospect, too readily) Saddam Hussein's internal human rights abuses, it could not responsibly tolerate external aggression, particularly where it so clearly involved a bold strategy to control such a large part of the world's crude oil supply.

Somalia was from the beginning a high-risk intervention. At its inception the United States stood on unprecedentedly high moral ground. For the first time in modern history a great power's military capabilities were marshalled for a singular humanitarian objective: to feed a population in a country of negligible strategic interest. Problems, however, soon developed as one of the significant power groups in Somalia refused to cooperate with diplomatic efforts to develop consensus power sharing. As violence mounted, the administration, without thinking through the consequences, allowed U.S. forces to be dragged into taking sides in an ongoing civil war with the goal and therefore the broader responsibility of nation-building. Feeding we did well; nation-building proved more difficult. As the American people looked at television reports of the struggle in Somalia, they came to the conclusion that vital American interests were not at issue. Hence: withdrawal, blamesmanship (particularly of the United Nations), and the specter of an American ambassador abandoning his embassy, with a note stuck to the door: "Americans advised to leave the country."

While distributions of food in Somalia could be supported, jeopardization of American lives could not.

In real life, things are never as clear-cut—nor as funny—as they are in the movies. But I was concerned a decade ago that Grenada would turn out to be a rerun of the comedy, "The Mouse That Roared." In the film, a tiny nation provoked a war with the United States in order to be the beneficiary of the billions of dollars in aid America traditionally lavishes on its vanquished adversaries.

In real life, there are also gray areas where human judgments must be made, just as there are gray areas in the law where legality is ill-defined. In Grenada a Marxist-leaning head of state had been brutally deposed and murdered by leftist thugs who feared he was countenancing moderation. President Reagan chose to reconstitute gunboat diplomacy and while the intervention proved to be controversial in the hemisphere and, to some extent in Great Britain, the good news is it appears to have worked, with the people of Grenada even erecting a statue to the former president.

Haiti could prove as successful, but there are aspects of history and Haitian culture which make intervention in this French and Creole speaking island with its voodoo-influenced culture substantially more difficult than in Grenada.

Cautionary evidence is amply supplied by previous United States experience this century with military intervention in Haiti. The United States invasion of Haiti in 1915 and subsequent 19-year occupation ultimately failed to build a stable basis for democratic and representative self-government. According to the February 7, 1930 report of the so-called Forbes Commission to President Hoover on conditions in Haiti, "the failure of the occupation to understand the social problems of Haiti, its brusque attempt to plant democracy there by drill and harrow, its determination to set up a middle-class—however wise and necessary it may seem to Americans—all these explain why, in part, the high hopes of our good works in this land have not been realized."

As it did by blithely expanding the United States and U.N. mission in Somalia from humanitarian assistance to side-choosing nation-building, the administration also risks undercutting U.S. domestic support for the United Nations that President Bush's U.N.-authorized action in the Persian Gulf did so much to establish. There can be little doubt that support for the United Nations at home is more likely to be undermined than advanced if it is put in a no-win situation as the United Stats presses to withdraw and have our presence replace by others even more reluctant to take responsibility. The setting is complicated further by the fact countries on the Security Council—but not the elected Members of the U.S. Congress—were asked by the administration in advance to authorize the potential use of American military power.

The administration has suggested that it was obligated to intervene in order to stop the outflow of Haitian refugees and asylum seekers. Common sense suggests that we have a clear interest in controlling our borders. But common sense also indicates that American military intervention is neither the most appropriate nor effective means of controlling illegal refugee flows. Such reasoning might suggest we intervene in every democracy as well as dictatorship in this hemisphere. The way to deal with problems of illegal economic migration is through trade and economic development, not the U.S. Marines.

In this regard, refugee outflows from Haiti were in part precipitated by the on-again, off-again offer to screen Haitian boat people aboard leased ocean liners as well as United States naval vessels, and until now the crippling international economic embargo against the hemisphere's most cruelly impoverished country.

The administration also has contended that the United States must intervene with military force to "preserve stability and promote democracy in our hemisphere." But, as demonstrated in Haiti's own cultural experiences, there are few examples in world history of the successful establishment of democratic institutions at the point of another country's guns.

The goal of promoting social stability and democratic governance in Latin America is not a subject of serious debate. Such has been consensus, bipartisan policy for decades. The issue in Haiti is means, not ends.

To the extent that a new Clinton Doctrine of democracy building has been established for American military intervention in the Western Hemisphere, could it possibly be appropriate to use the awesome military power of the United States to intervene in Venezuela or Peru, where certain constitutional safeguards have been suspended, or in Guatemala or El Salvador or even Mexico should serious political instability threaten to rend those fragile democratic societies? This Member is doubtful.

The administration seems to equate the forcible restoration of President Aristide with the institutionalization of Haitian democracy. But bringing democracy to Haiti entails far more than the forcible return and military protection of a flawed political leader. If we are indeed committed to building a civil society and ensconcing democratic norms in Haiti—a country largely lacking traditions of temperate governance—then surely the President must forthrightly explain to the American people that the achievement of that objective can only occur over a protracted period of time and will necessitate the commitment of substantial American resources.

The final administration argument for intervening in Haiti rests on the assumption that American credibility was at stake. More precisely, Presidential, as contrasted with United States, credibility became an issue because of the cul de sac implications of administration policy. The administration trapped itself in a policy box of its own making. Once sanctions were imposed and once they proved unsuccessful levers for toppling the de facto government; once force was suggested and the international community asked to approve; once sanction-driven refugee flows increased, the administration had the option of either lifting or substantially modifying its sanctions policy and threatened use of force—that is, admitting failure—or intervening—that is, risking American lives. It chose the latter over the former, and only President Carter's mission averted a blood-letting landing.

Accordingly, it is none too soon to commence a reassessment of the policies with which this President backed himself into the military option. Such a review is particularly appropriate because it appears that in the final measure the determination which led to the decision to intervene related primarily to concern for Presidential pride rather than the U.S. national interest.

From a broad historical perspective, this has been a century of American leadership. One reason the world embraced our leadership is that when limb and purse have been on the line, Americans have always shown resolve. Now, ironically, the world is watching in bewilderment as Americans demonstrate a reluctance to accept the leadership of their own President. Absent in the public today is a sense of confidence in this administration's stewardship of U.S. foreign policy. Innately the public senses that the administration's policies are bereft of conviction, commitment and purpose.

In the context of assessing a President groping for identity, and what appears to be a desire to wield the symbols of power, the question must be asked: What is North Korea or any other potentially hostile country going to make of a circumstance in which American purpose is described in a Presidential address, only to be changed a few hours later by a former President?

As much as I would like to give the benefit of doubt to this President in an awkward foreign policy dilemma, it is nonetheless impossible to do anything except register substantial concerns not only about the ongoing United States intervention and occupation of Haiti, but the intellectual rigor and methodology of decisionmaking that led to it.

In sum, no compelling United States national interest is at stake in Haiti; no modern doctrine of American foreign policy supports intervention; no attention seems to have been given to the unfortunate precedent established for sphere of influence interventions by other less-well-motivated powers in other parts of the world; no clear strategy exists for extricating the United States military from a potential Somalia-like quagmire; and no one has prepared the American people for the long- as well as short-term financial costs at issue.

While the intervention may have appeared low-risk in the wake of the

Carter mission, events of recent days have shown there is serious potential for American troops being trapped in a dangerous crossfire of intra-Haitian strife.

A misjudgment has been made. Let us recognize the dedication, competence and courage of our Armed Forces, but bring our young men and women home as soon as possible

The Michel approach best represents American views, American heritage, and American values.

Mr. TORRICELLI. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, let me thank the gentleman from New Jersey [Mr. TORRICELLI], the subcommittee chairman, for extending me this time on this serious subject matter, especially since it is so close to the time that we have just heard from Nelson Mandela, and I think all of us in this Chamber felt a sense of pride in seeing how a bloodless revolution had taken place in South Africa and to hear him say that, while he was a prisoner in his cell, the inspiration that he received, and even today as he comes back as President, the feeling that he has knowing that the United States of America, a country that truly knew and understood what freedom was all about, its willingness to fight and win it, how he comes back here now depending on our support.

Mr. Chairman, I think the sense that we feel as Americans when we find other countries' freedom in jeopardy, that no matter what differences we have as Democrats or Republicans, that we do feel a sense of pride when we see the countries waving their flags of democracy and to know that we played a part of that. Whether we are talking what happened in World War I or World War II, America has always been there and always stood as a symbol for justice, and that is why I think that when for the first time they had elections in Haiti it was the United States that was able to sit down with the military and to play a meaningful role in making certain that they, for the first time, will have elections.

My God, with all of the problems that African-Americans have had in this country to be able to vote, even our people never had to suffer what Haitians did as they heroically went to the polls, were being shot down, but standing up and going right back again, determined that they were going to vote.

□ 1420

When it settled and we looked around, even though the candidate that was supported by the United States secretly did not win, still there was for the first time in recent history or in the history of Haiti a duly-elected person was elected as President, and that was President Aristide. It was rough. Maybe he did not do some of the things that Americans would like to see him do. Maybe he was not an American type of President. Maybe he was not what some of the Republicans or Democrats would have had running in their national convention. But one thing was abundantly clear, that as it related to what the Haitian people want, this man received an overwhelming vote, something that we would say in our elections was indeed a mandate.

In the middle of the night, a handful of military officers, all of them trained in the United States, as we might suspect, went in collusion with the ruling class in Haiti and together they were able to overthrow the Presidency and to have this President run into exile.

It was no great surprise when President Bush stood up and said, not in this hemisphere do you do this. It was President Bush that said that no fragile democracy would have to fear ambitious generals in this hemisphere. And behind him came our present President, Bill Clinton, and reiterated what America stood for.

Oh, there was a lot of talk as to what was in our national interest. Should we put our troops in harm? There were reports from the CIA that the man was in hospitals in countries that he never visited. There was a terrible thing going against his character and reputation but, nevertheless, we stood our guard and we said that we will go to Governors Island, and we will sign an agreement. And we will participate with civilized nations saying that Aristide would return and democracy would return and America would be on the side of democracy.

And the whole world heard what we were saying. The Organization of American States heard what we were saying. The United Nations heard what we were saying. And we said we would back it up.

Well, I do not know what is in our national interest. I never told Bush to say he was leader of the free world. I never told this President to say that he was prepared to assume that responsibility. I never wrote the new world order. I never told fragile governments to depend on the United States of America to protect their freedom. But it was said and we were proud of the fact that they said it.

Then all of a sudden, it appeared as though those who signed that agreement at Governors Island decided that they were not going to keep it. And they chased away a battleship that was not just the American flag but the flag of all civilized nations in the international community. And the military went on to kill the officers that were in the Aristide cabinet, to kill the people who were innocent, to kill the people in the villages and the towns that supported Aristide. And even though the unpopularity continued, even though there were certain people that continued to create something like we were dealing with a lunatic and not the head of a nation, even though heads of nations who had met Aristide said he was sane, even though President Clinton said that this man was responsible, still the political drums continued to beat and people were saying that we should not go into Haiti.

I will not go into the record, but I know many of my Members will go into the record to see how is it that we can change so fast politically and to determine what is in our national security interest this time under this President and why things were so different under another President. And today we debate the question as to whether or not you, you, and you should supersede the intelligence of our military that are there in Haiti and for you to tell them what time they have to come back home.

On November 30, 1950, some Chinese whom I do not know saw fit to shoot me in North Korea while I was there in the second infantry division as a part of United Nations forces. How we would have felt at a time when we were trying to defend the ground that we fought for that you who sent us there would tell us what time we had to get out.

It just seems to me that there comes a time where we have to take our party labels and put them aside and say that if indeed the President, Republican or Democrat, is indeed the commander in chief, why do we not leave it up to him. Why would we threaten our troops that are there in harm's way and tell them that we have a better idea?

How many of us are involved in knowing what the situation is, what the strategy is? How would we know how many people are there just to test the will of the people of the United States to make certain they know what they will and will not do. What was our national security interest when we invaded Grenada with international forces and how many Members stood up on the floor that are standing up today and willing to say that we ought to get them out right away or they should never go there in the first place.

And the biggest hoax of them all, the invasion of Panama. Was it not to stop narcotics flow? Was it to get rid of General Noriega? Was it to protect the canal? Was it because an American was injured. Give me a break.

We did it because we had the power to do it. We did it because we said we were going to do it, and nobody here said what time we had to get out. And nobody here even knows whether they are still there in Panama.

And also I would like to say that when we went into the Persian Gulf, I do not know how many people got letters from their relatives saying let their people go. I do not know how many rallies you had within your district. I do not even know how your heart just burst with pride as we protected the royal family in Kuwait. But I can only think of three reasons why we went into the Persian Gulf: oil, oil, and more oil. And no one said it was time for us to get out from protecting that oil.

But all of a sudden in this country, which is half of an island in the Caribbean, we are now saying that we know what is best for Haiti. We who sometimes are not even being considerate of the fact that we knew what was best for the Haitian people whomever to elect.

Somebody on that side of the aisle called this President some of the most vicious names we ever called the head of a friendly government. He is not on this floor today. But I hope he will come back now and say that I hope he has more respect for at least our military people than he did for a person that was elected.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from California.

Mr. ROHRABACHER. You are asking about what our national security interests were in Grenada, for example. Was it not true that they were building an air base that was capable of taking Russian bombers? Were not the people that assassinated the leader there in Grenada actually in alliance with the Soviet Union and would have indeed put military bombers on the ground?

Mr. RANGEL. Mr. Chairman, I was impressed with the argument that we had 20 white students that got caught up in Grenada and we had to rescue them. That moved me. But cut it out on the airport.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I was a little disappointed in the last statement of my friend, the gentleman from New York [Mr. RANGEL], about the 20 white students in Grenada. I do not know whether they are white or black or what they were. But I know there were far more than 20 and I know that they felt that their lives were in danger, whether or not they were black or white, we had a right to support and defend and protect and rescue them from the people who were running Grenada who were allied with Fidel Castro and the Kremlin in Moscow.

That should not be an issue at all whether they were black or white. I am disappointed that the gentleman even raised that issue.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, I would like to apologize to my distinguished friend. I took the occasion to check out their background. To me it would not have made any difference at all. I was only stating that as a matter of fact, that they were white. But I would agree with the gentleman. I would be more emotionally upset if they were white or black than telling me about the Air Force.

Mr. YOUNG of Florida. I thank the gentleman. I knew that that was not what was in his heart. It just came out in the heat of the debate.

□ 1430

Mr. Chairman, the gentleman made another comment. That is why I asked to follow the gentleman from New York [Mr. RANGEL]. He said we should listen to our troops about what should be happening in Haiti.

But our troops are not making the decisions about what is happening in Haiti. The decisions are being made here in Washington. Many of them are being made based on what press reports they are getting back from Haiti.

I would rather have our troops make the decision about what we do in Haiti than some of the people who are making them, because I think they are making wrong decisions. Our troops should not have been there in the first place.

I would say to the gentleman, he made the point we should not impose our decision on the troops in Haiti. They do not want to be there. I was there Saturday with the gentleman from Pennsylvania [Mr. MURTHA], our distinguished chairman. We talked to the troops. Many had just come from Somalia. They have been deployed all over the world. They have had very little time off between deployments.

This administration is sending American troops to do police actions and other types of actions around the world as they are diminishing the number of troops available to do it.

Mr. Chairman, we cannot do more with less. This Congress, with the help of the administration, is providing a lot less, but we are making a lot more commitments and a lot more deployments. That is not right. That is not in the best interests of our American troops. I can tell the Members that they told us over there their morale is not very high.

Now about the difference in Haiti and Grenada or Haiti and Lebanon under President Reagan. I did not vote to support Reagan in going to Lebanon, because I saw the mistake there. I did not vote to expand our mission in Somalia, because I saw the mistake there.

We cannot take soldiers who are warriors, who are there to defend us and our national interest, and turn them into policemen, or burial details, or messengers. That is not what they were trained for, it is not what they were hired for.

As the bottom-up review has brought our assets down, we have to be careful how we commit those assets in the future.

Mr. TORRICELLI: Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I stand here in support of an amendment which is to be offered at a later moment, known as the Murtha-Dellums amendment. First, however, Mr. Chairman, let me say with the deepest of sincerity that I have the highest admiration for the young men and young women in the American uniforms now serving in Haiti. They are there representing our country, carrying the American flag.

They have proven themselves to be able, to be highly trained, to be well motivated. They are performing their tasks as the true professionals that they are. I think as a Nation, regardless of how any of us come down on this issue, we should thank those service men and women for their capable and professional job that they are doing.

They are operating in an extremely dangerous situation. They are performing a difficult and unprecedented mission. They are showing extremely good judgment, and they are showing restraint, and all Americans in this body and elsewhere should be proud of them for their service to their nation and to the uniforms that they wear.

We should say no, Mr. Chairman, to a date certain. If I may review my record on the issue of Haiti with this body, I was pleased that the Haitian occupation by the Americans was not hostile. I was very concerned that Americans could have been injured or killed.

I commend former President Carter, Senator NUNN, and General Powell for their diplomatic victory last month. I had a longstanding opposition to our occupation of Haiti. Last July I wrote President Clinton, cautioning him against invasion, but I also added in that letter that should he find it necessary to do so, that we should go in, complete the mission, and withdraw our troops.

I believe, Mr. Chairman, that we should get our troops and our military out of Haiti as soon as possible when our mission has been accomplished.

There is a critical nature to the situation in Haiti. Our troops are taking down the military and disarming security forces. American military policemen are starting to gain control of the streets. The coalition of military forces are beginning to replace the American troops. Haitian refugees are beginning to return to Haiti. President Aristide is about to return and resume his democratic control.

It is not up to us to tie the hands of the military commanders. If we were to come up with a date certain, it would give advantage to the enemies of democracy in Haiti. They know they can wait the United States out.

It says we do not have the staying power, endangering the lives of our service men and women. It invites personal attacks by Haitians on our troops, it restricts our soldiers doing their jobs and forces them to work under an arbitrary drop-dead date to do their tough mission. It ties the hands of General Shelton to control events and influence action by the new Haitian Government, and defeats our exit strategy.

The date certain imposes an artificial obstacle that hinders our military forces in achieving our long-term objectives in Haiti. They are there. That is a fact of life. We should give the military leaders the opportunity without a drop-dead date to do their job and to do it well.

I commend them on an excellent performance thus far, and I know that they will complete their mission, come back home to America with the appreciation of all of the people here in our country.

Mr. Chairman, Harry Truman once displayed on his desk a small sign, and we can see this same sign at the Truman Library in Independence, MO. It says "The buck stops here." Truman's expression applies to everyone who has ever occupied that Oval Office. It now applies to this Commander-in-Chief.

I know what Harry Truman would tell us: The buck stops with this President. He would say that the Congress should not tie his hands, especially when American service men and women are making progress in achieving our objectives in Haiti. Their mission is clear. When they have completed it, I want them to come home as soon as possible.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Texas [Mr. SAM JOHNSON].

Mr. SAM JOHNSON of Texas. Mr. Chairman, there have been so many unanswered questions regarding this situation in Haiti. I wish we had had this debate before we made the decision to go, because there is no defined national interest, in spite of what people say, none to warrant us being there.

Now that we are there, by the way, without the consent of the Congress, or the American people, for that matter, I think the highest priority that we need to ask is, what is our purpose in Haiti? What is our mission? Why does the White House have to clarify and alter the mission day by day? Things keep changing.

What are the responsibilities of our troops in Haiti? I know they have said they do not really know in some cases. Why did we only send U.S. combat troops to what is supposed to be an international peacekeeping mission?

The President keeps constantly referring to the U.N. resolution regarding Haiti, which states it is an international mission with international backing. Where are the international troops and support we need, when there are 19,000 United States troops in Haiti right now and no U.N. troops involved? Maybe a few from the Caribbean republics are starting to filter in in small digit numbers.

With an ill-defined mission our troops are wondering every day what their duties are. Are they there to stop violence, to stop looting and chaos in the streets? Are they there to be a Haitian police force? If so, when did these duties become the job description of the U.S. military? They are trained as combat troops.

Today we learned the American taxpayer is going to pay Haitian police force wages for a couple of months. Wow.

Are our troops there to ransack people's homes looking for guns, or are they there to pay $50 to $300 in U.S. taxpayer dollars for guns and rocket launchers? I do not think so.

In the latest reports today we learned that our own CIA helped assemble the anti-Aristide police force that we are now trying to disarm. I ask again, what is our purpose in Haiti?

What is the cost of this mission? The money for 1994 was transferred out of our military operations budget, preventing our troops from training, and in my view, severely hampering our U.S. military readiness. We still have no idea what it is going to cost us in 1995.

Must the American taxpayer again fund more supplemental appropriations, just to support this ill-formed mission? We need full details of how much this mission will cost.

Why are we restoring Aristide? He is an accused drug trafficker. He is certainly not supporting the United States. He is refusing to sign an agreement not to hold our forces liable for their actions. He is the one who asked us to intervene. Where is his support now?

□ 1440

Are these not valid questions we ought to ask and we ought to get answers to? This administration continues to involve our Armed Forces in conflicts with no clear or consistent mission or goal. Americans do not want, do not need and do not deserve this sort of defense. This kind of policy-making is dangerous to our servicemen and women and dangerous to the future of America.

With so many unanswered questions, it is imperative that we remove our troops from Haiti immediately. I ask Members to support that resolution. Let us get them out of there now.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, today we are belatedly considering the matter of the U.S. intervention in Haiti. This debate comes a little too late. The President clearly should have come to Congress for authorization for his use of the Armed Forces before the troops were on their way to an armed invasion.

And though I share the Nation's relief at the lack of hostilities and the apparent cooperation of Haiti's military rulers, I fundamentally disagree with the policy pursued by the administration. I do not believe United States Armed Forces should be serving as a de facto police force in Haiti. I disagree with the arrogant premise that we can march into this sorry nation and build democratic institutions where they have never existed. I am concerned about the open-ended financial commitment we are taking on when we take responsibility for the Western Hemisphere's economic basket case.

The administration has no apparent policy other than one of reacting to the latest outbreaks of violence. I cannot in good conscience support this risky, expensive, and probably futile police action. I cannot give my seal of approval to this operation, which is what the resolution offered by Mr. TORRICELLI seems to do.

I am voting today against the resolution offered by the Republican leader, Mr. MICHEL, in favor of the resolution offered by Mr. DELLUMS and Mr. MURTHA.

I agree with the Republican leader's basic contention: That the President should not have ordered United States troops into Haiti. In particular, it is quite clear to me that the President was prepared to invade Haiti without congressional authorization. The President and his advisers are wrong—dead wrong—in their view that congressional authorization for an act of war is less important than the authorization of the United Nations.

However, I am disturbed by the change of heart among many of my Republican colleagues on the limits to the President's power to make war. When Ronald Reagan and George Bush occupied the White House, Republicans in Congress were nearly unanimous in their support for almost unlimited presidential warmaking powers. They fought attempts by me and others in this body to limit Presidential wars. It is amazing how many Republican Members of this institution have gotten religion on the subject of war powers now that a Democrat is in the White House

The unfortunate truth is that our troops are now in Haiti. Both the Michel and Dellums resolutions call for a prompt, safe, and early withdrawal of those troops. Both resolutions require an accounting to Congress of the cost of this policy. I agree with both resolutions on these points.

Mr. DELLUMS, to his credit, has maintained a principled and consistent position on the question of Congress' role in these matters. I will support his resolution. The Republican proposal, on the other hand, adds nothing of substance to the Dellums resolution. What is worse, it reeks of partisan politics. I will vote against it on those grounds.

This episode underscores the need for Congress to revisit the War Powers Resolution. I have introduced legislation in every one of the last four Congresses to substantially amend the War Powers Resolution and make it a more effective instrument for restraining illegal Presidential warmaking. If my Republican colleagues are serious about their new-found belief in Congress' role in warmaking, they should join me in my efforts to strengthen the War Powers Resolution.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Chairman, first let me address the issue that this is some type of partisan attack on the President. Everybody in this body realizes that the decision to send troops into Haiti had very much more to do with the President's own political position in the United States than it had to do with the national security interests of this country. That is why he went to the United Nations rather than coming to Congress to plead his case to justify this mission.

We all know that he unjustly attacked President Bush during the last election over his Haitian policy, and President Clinton has been doing handstands and acrobatic moves ever since then trying to get himself out of the predicament that he put himself into by unjustly attacking President Bush's policy.

This invasion happened because he painted himself into a political corner. Now our military people are having to pay by putting themselves in danger's way. Today we are in effect being asked to authorize the military occupation of Haiti retroactively.

Mr. President, you are a little late. It leaves a bitter taste in the mouth of the American people to see that the President of the United States now feels more obligated to seek approval from the United Nations than from the Congress of the United States when ordering the use of the United States military.

Mr. Chairman, neither the President nor anyone else has justified this military occupation in regard to our own country's national interest. It just has not been justified at all. Using boat people, as we heard earlier today, to justify the expense and the danger to our own military personnel is a joke. It is transparent. It is obvious to anyone that the administration's own economic blockade of Haiti is what caused the exodus in the first place. It is what caused the crisis. This was a crisis of President Clinton's own making. The cold war is over. The American people deserve a break. We have shouldered the defense and the stability of the world for decades.

Yes, during the cold war there was some justification for the use of our military personnel in different parts of the world. The Communists were dedicated to destroying democracy. They were a major threat to the Western World, as was fascism, Naziism and Japanese militarism before that. The cold war is over. The American people can no longer afford to police the world. We cannot afford to right every wrong by force of arms. It is not fair to our defenders to try to make them do so. It will break our bank, it will cause a loss of life with no justification to our own national security.

Furthermore, this policy—which apparently is our policy now, if democracy is in trouble anywhere, we can send in American troops—will not succeed unless our own vital interests are at stake. We should not be committing American military personnel.

This is not to say that we should not always be on the side of freedom and democracy and human rights. These are universalities that we should side with. That does not mean, however, that we should be committing our troops every time democracy is in the balance.

The fact is, the issue of freedom, the issue of democracy, even in this case, if we say that is a justification, it is not so clear cut in Haiti that this is a justification. President Aristide, who we are trying to place back into power by putting our own people's lives in danger and spending probably $1 billion in the process, is an unstable, anti-American Marxist. The conflict that led to his exile was a dispute with his own elected Parliament. Yes, he was elected. So was his Parliament.

Yes, by and large the forces of General Cedras are the bad guys, there is no doubt about that, but it is not so clear that Mr. Aristide, who threatened to burn to death his opponents, is the good guy. What should be evident is that this is not our fight. It is not in our national interest. Our troops should never have been sent. Now Congress should do everything we can to get our military personnel home now as soon as possible.

Let us make sure that our troops, our people who defend our lives, our well-being in the United States of America—for Pete's sake, let us get them home so they can spend the holidays with their families. At Thanksgiving and Christmastime, they should be home with their families unless it is in the national security interest of our country, and Haiti is not worth the life of one American soldier.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. MCCLOSKEY. Mr. Chairman, one thing we are all certainly sure of on both sides, and one would hardly have to mention, is the fact that Republicans and Democrats united have massive concern for the welfare and the safe return of all our troops. That is not a real topic of debate. The question is, what is the best use of national policy right now and military power? I say this with some sadness as to distinguished colleagues on the Republican side that from time to time I have worked occasionally, occasionally critically of the President on some very major foreign policy issues, and I really respect their past help and current goodwill.

□ 1450

But Mr. Chairman, truly it boggles my mind given the situation and the possibly, I say possibly extreme perils that our troops could be in in Haiti right now, to have a major House contingent on that side of the aisle to speak and demand not leaving the place on a date certain, not at any particular time in the future after greater stabilization, but in essence to start it now, and if it does not start now to have an absolute binding mandate passed, come January 21 to remove all U.S. forces immediately. I am very curious, for example, if there were deep consultations on the Republican side with people of immense respect on a bipartisan basis such as General Powell. Quite frankly, I doubt it.

There is no doubt that President Clinton could have acted on this in a better and more direct way. I agree that he should have brought it to the Congress and educated the American people and asked for a vote, and we all would have abided by that vote. But the fact is the forces are there now. We cannot say we do not have an interest in a significant country so close to our shores. The refugees washing up on the shores of Florida have been a problem for the population, the authorities of Florida, to say the least.

The brutality that is going on has been going on in Haitian torture chambers and our troops have acted very bravely and in essence as saviors and liberators. Also the simple fact is that we have made a commitment in this area. It should be stopped in a rational and intelligent way. Surely we can trust the President, our top military and State Department authorities, so to speak, to make that judgment. Every one wants them out, but we want them out in a stable and dignified way, hopefully with greater peace in that region.

As to Aristide's credentials, regardless of any fault in his background, even my dear friend, the gentleman from California [Mr. ROHRABACHER], has admitted that he is surely less the bad guy, and I do not consider Aristide a bad guy, than General Cedras. It is

General Cedras's prisons that are being liberated. He is still the overwhelmingly popular President of Haiti.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 5 minutes to the gentlewoman from Kansas [Mrs. MEYERS], a member of our Committee on Foreign Affairs.

Mrs. MEYERS of Kansas. Mr. Chairman, I must express my opposition to the idea of retroactively authorizing President Clinton's ill-advised military operation in Haiti. The President did not feel it was necessary to ask Congress for this authorization before he ordered the invasion—indeed in his speech to the Nation he did not even once mention Congress—and we should not authorize after the fact what Congress would not have voted to authorize before the fact.

We have voted to support the troops, and commend General Powell, Senator NUNN, and President Carter for negotiating the agreement that prevented an invasion. As General Powell said, this agreement saved us from seeing American youngster killing and being killed by Haitian youngsters. But the purely military phase of the operation was never in doubt—everyone knew that the Haitian armed forces would put up no more than a feeble fight against the American troops. But now that we have entered the Haitian quagmire, the problem is getting out of the morass and getting our forces home.

Congress must now assert its constitutional authority and demand our military be withdrawn from Haiti as quickly as possible. I accept the concerns expressed by our military leaders when they urge us not to set a specific cutoff date for the mission. But we must make it clear that Congress stands with the American people in opposition to the commitment of American military forces in Haiti. This mission does not serve our vital national interests, and inhibits our abilities to react to true threats to our national security that may emerge.

Despite the assurances given to the House Foreign Affairs Committee by Deputy Secretary of State Strobe Talbott just last week, "Mission Creep" has already occurred. Our military people are having to assume control over functions in Haiti that they did not plan to.

Our mission is now even more confusing and ambiguous than it would have been after an invasion. If we had forced our way in, our troops could have maintained order under occupation procedures that are well established under international law and that the military could implement until there was legitimate civil authority to hand it over to. On the other hand, the agreement requires our troops to cooperate with the de facto authorities—the very ones we have come to force out of office. Meanwhile, President Aristide is dragging his feet on signing a Status of Forces Agreement that would provide guidance on the policy for our military presence. So our young military men and women now must stand between the forces of thuggish repression on one hand and the forces of lynch mob justice on the other.

Finally, I would like to express my concern about the unfortunate attempts by some participants in the debate over the months to paint opposition to sending troops to Haiti as being racially motivated. Other proposed military interventions, such as Bosnia, have generated controversy as well. It is wrong to make accusations that differences of opinion on crucial issues of national security are generated by vile prejudice. Surely, we can debate this issue on a higher plane.

We have a choice, we can insist on pulling our troops out quickly, or we can submit to the Clinton administration keeping our young men and women in Haiti for years. And we will indeed be there for years. The President himself said so. He said most of our troops would be out quickly—that means some of them will not.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentleman from Ohio.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 4 minutes.

Mr. TRAFICANT. Mr. Chairman, Harry Truman was brought up in this debate. As Commander in Chief, Harry Truman did absolutely not one thing without the approval of Congress. The Congress of the United States declared war and said, "Commander in Chief, you're the boss. But now we give you authority to go over there."

I want to take this debate a little bit back to what I think is problem with our policy. No one person in America can declare war or place America's troops in harm's way. That is clearly the constitutional mandate of the people, the Congress. We have turned our backs so long that we have delegated that power to the White House.

I am not knocking President Clinton. I believe President Clinton is doing what he thinks is right. I think we have gone too far in allowing this type of business to go on, and it has got to stop. We have become the policemen for the world. To tell the truth, after it is over, we will stay on as the neighborhood crime watch. We put the lives of our young people at stake, and we throw billions of dollars overseas and no one has taken a look at this minimum wage country over here with 25,000 murders a year and the American people screaming for Congress to help us.

Congress, get back to the Constitution.

But now I want to talk about Haiti. Regardless of how we feel, the President made a commitment. We are over there. We have now really put our hands on Cedras. We have overpowered them.

The United Nations is supposed to come in as soon as we do that. I stand here today as a Democrat. I support the Michel-Gilman substitute. United Nations, go now and bring our 20,000 troops home, now. That is what the people in my district want. That is what is just.

We did not turn our backs on the Haitians. But now Congress cannot keep turning the other check and delegating to the White House this power this is truly ours.

There are several other things I want to talk about. There have been troubling connections revolving around Aristide. Drug informants considered to be reliable say he is connected with the Colombian cocaine cartel and had agreements with Escobar.

I talked to my friends on both sides and they said, "We don't think that's true, JIM. We think Aristide is solid." I am not the Secretary of State. I do not know. But let my say this: Our noble intent is to help establish democracy in Haiti.

☐ 1500

Let us make sure we at least investigate these at least rumors to make sure we are not helping some drug cartel send more drugs to this country.

I think now our troops have gone in and they have put out the fire. We pay billions of dollars to the United Nations. The United Nations go in now and do some peacekeeping. Bring our troops home now.

For my Democrat friends, I do not know if the Michel-Gilman substitute is going to pass. If it does not pass, I will support the initiatives to do something, to at least put some process by the Congress of the United States into this mix.

Ladies and gentlemen, it is the people's Government. They empowered us to make those types of decisions, and we are allowing Presidents to take our foreign policy and put it in harm's way outside of constitutional authority. I even think we should review this War Powers Act.

I think enough is enough.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I rise in opposition to House Joint Resolution 416, or any attempt to set an arbitrary deadline to withdraw our troops from Haiti.

This is not an easy position for me to take today because I am probably going against the wishes of my leadership. But I fear politics may be a blinding reason today.

Military leaders have asked Congress, and Gen. Collin Powell has told us directly, to give the President's policy in Haiti a chance to work. While we can raise concerns and questions about how this administration develops and implements foreign policy, our men and women in uniform should not pay the price for our dissatisfaction.

I staunchly opposed President Clinton's Haitian policy and his decision to send our troops to Haiti. But it is now a fact of life that those troops are there, and they must have our full support to carry out their mission.

I want to see our troops withdrawn as soon as possible. I join my colleagues in demanding that President Clinton clearly define our policy in Haiti, and there are provisions in this resolution to do that.

But this resolution also authorizes United States troops in Haiti until March 1, 1995. Where is the information about their mission, or the details of an exit plan, which we should have in hand before making any decision about when to pull our troops back home. We should press the President for answers and information, but we should not hamstring our troops with an arbitrary deadline.

This resolution I fear is an attempt to embarrass the President and gain votes in an election. Of all issues with which to play politics, I urge my colleagues to leave this one alone. We Republicans have always supported our military and fought here on the House floor to provide our commanders the resources necessary to carry out their missions. Sadly, it appears that this may not be the case today.

I urge my colleagues to resist the political temptation to vote for this resolution. Support our troops and vote "no."

Mr. TORRICELLI. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico [Mr. RICHARDSON], the distinguished deputy majority whip.

Mr. RICHARDSON. Mr. Chairman, let me first commend the gentleman from Nebraska [Mr. BARRETT] for the excellent statement that he just made.

I think it is critically important that when it comes to issues affecting American national security and American troops, we must try as much as we can to keep politics out of it. Let me say that I think all of us, Republicans and Democrats, a majority in this body, are pleased that the United States did not have to resort to an invasion of Haiti. I think for that, we owe President Carter and SAM NUNN and Colin Powell a debt of gratitude. I think we can all be united on that and that we should do everything we can to protect the agreement that they negotiated. That agreement calls for an October 15 withdrawal of the Haitian military leaders, the return of Aristide, an amnesty provision, and political stabilization plan of safety guaranteed by American troops.

I think the Republican substitute explicitly repudiates that policy and all current American policy on Haiti with an immediate withdrawal. This provision, needless to say, the Republican substitute, is strongly opposed by the American military, and I have a letter written by the Chairman of the Joint Chiefs of Staff and William Perry, the Secretary of Defense, to the Speaker underscoring that.

I think what would happen if we had immediate withdrawal is, first, we would jeopardize the safety of American troops. We would undermine the Carter-Nunn-Powell agreement. We would damage American credibility in the world. We would send a signal to Haiti's military leaders that they can come back and perhaps plan their return. In the end, we would really be ending Haiti's quest for democracy.

We would also undermine President Aristide's return, and we recognize that some questions have been raised by his leadership. I think, however, that the man has grown in the last 2 years and recognizes the need for reconciliation. I think he is ready to be a good President.

Mr. Chairman, of all the approaches today that we are debating, I think that the Torricelli-Hamilton approach and the Committee on Foreign Affairs approach is the soundest. The Foreign Affairs approach sets a March 1 deadline for the authorization of United States troops in Haiti. That does not mean that they all have to get out on that date. It means that on March 1, we can review the situation and debate it again. It also paves the way to move into the multinational phase, the U.N. phase, of the peacekeeping operation.

What the Torricelli language also does is establish a clear, strictly limited mission for American forces. I think we need to do that because there has been confusion about what their role is. Are they police or peacekeepers? The language also requires that American troops serve only under U.S. commanders.

I think the gentleman from Pennsylvania [Mr. MURTHA] and his approach is a good one, too, and can be supported, but the Torricelli approach reflects more what the American people want. They do want us to end our mission in Haiti, to ensure that American troops are not killed, but they want us to make sure that we contribute to Haiti's democracy. They want to make sure that we have a positive role helping to end the quagmire that has been set up by the Haitian military leaders.

We must not damage the President's credibility. We must not proceed with a policy that feels best right now, but isn't the best policy. We must adopt policy that is reasonable, that sets a goal for withdrawal, that respects international obligations, that respects the will of the American people and that protects our troops. Most importantly, we should adopt a policy that our troops support and that the American military commanders support.

I think the Torricelli-Foreign Affairs approach is supported by our foreign policy establishment. Perhaps they cannot say that; perhaps they are saying that they do not want any fixed deadline, but the March 1 deadline in the Torricelli language is not a deadline. It is basically a call for the Congress to again assume its rightful role in the war-making powers and debate this issue once again.

But clearly the immediate withdrawal language in the Republican substitute is not good foreign policy, is not good for American credibility, it is opposed by the American military, and I think it would not send a good signal to our troops in the field.

Mr. Chairman, I am placing in the RECORD at this point the letter to the Speaker from the Chairman of the Joint Chiefs of Staff and the Secretary of Defense, as follows:

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We are writing to express our opposition to any legislation that would require U.S. military operations in Haiti to end on a fixed date.

We have developed a phased plan that encompasses the introduction of U.S. forces, establishment of public order, gradual reduction in U.S. force level, transition to a U.N. mission, and withdrawal of U.S. troops. According to this plan, the initial phase of predominant American involvement will end in a matter of months, and the UNMIH phase will end with the inauguration of a new, democratically elected President of Haiti in early 1996.

However, it is too early in the operation to set fixed dates. For the operation to succeed and meet the intended schedule with minimum risk to U.S. personnel, our military forces need to proceed with achieving objectives, not meeting fixed deadlines. The success of the operation to date is due largely to the force commander having the freedom both to devise and implement military plans and to make necessary adjustments as circumstances change on this ground. A fixed end date would deprive us of this advantage.

More important, a legislatively required withdrawal date would change the dynamic on the ground and affect the actions of our friends and those who oppose us. Those who oppose us will find reasons to try to outlast us. Our friends—including those who would support us in the MNF and those who would relieve us in UNMIH—might find excuses not to join us. Also, if Congress were to direct a withdrawal from Haiti now, our troops would lose an important psychological advantage they now enjoy. The bottom line is that the dynamic created by a mandated withdrawal date could make the situation more dangerous to our troops.

Sincerely,

JOHN M. SHALIKASHVILI,
Chairman of the Joint Chiefs of Staff.
WILLIAM J. PERRY,
Secretary of Defense.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. YOUNG].

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding me this time and for the additional time that he has given me this afternoon.

About the speaker who just left the well, I want to compliment him for the personal effort that he made prior to this issue becoming full blown. He tried hard to try to make this thing work without having to have a military intervention, and I take my hat off to him. I am just sorry it did not work.

I have to disagree with that speaker though about his support of the particular resolution that would have us keep things status quo today and debate it again March 1. Mr. Chairman, I do not want to have this debate again on March 1.

I want those Americans who are in Haiti to be out of Haiti long before March 1, and we should not have to debate this again.

I am also opposed to setting a specific date. Some of you may be surprised at that, but I have never supported setting a specific date to withdraw American troops from anywhere, that is dangerous. It puts American troops who are trying to withdraw in a dangerous position, because the other side, the potential threat, has a target. They know when something is going to happen. They can melt into the woodwork and come out at a time that they decide to make it difficult for the Americans as they do withdraw. And that is dangerous.

□ 1510

Mr. Chairman, my main concern is not putting Aristide back in the president's palace; my main concern is the safety of the Americans who are in Haiti today, and getting them out of harm's way as soon as we possibly can.

Those of us from Florida have a fairly long history of working with the problems dealing with Haiti. We know there are problems there. We deal with them a lot in our own State.

But I have to say this: That as sad as the conditions are in Haiti, and they are very sad, the standard of living, the lifestyle, the poverty, that is sad. Mr. Chairman, I am convinced that if we were to annex Haiti as a territory or a State of the United States, we probably could not make a massive change in that sad situation in one or two generations. It is that bad.

The other problem is there are many places like Haiti in our own hemisphere. And in fact right here in America there is some of that same poverty. We ought to be concerned, as concerned about that as we are about Haiti.

The point I am making is Haiti did not threaten the national security of the United States, Haiti did not threaten any of our national interests here at home or abroad.

The entire mission, based on the meetings that I have had the opportunity to sit in as a member of the Committee on Intelligence and the Appropriations Subcommittee on Defense, the whole mission is to put Aristide back in power. Well, our friend from Ohio, Mr. TRAFICANT, I thought made a very powerful statement in questioning whether Mr. Aristide is the right person for us to put our bets on.

I have an idea that if the full record were known and if some of the policymakers were listening to their intelligence community, they would recognize that if Cedras is bad, and I am sure he is, that Aristide is probably every bit as bad. I believe some of the reports of our intelligence community that tell us that.

Now, there is something that bothers me, the comments about partisanship. You can go back through the record in the time that Chairman DELLUMS and Chairman MAZZOLI and I came to the House together, look at the record, and you will not find a partisan statement by this Member on any issue. I disagreed with the War Powers Act, for example. I offered a substitute. I did not think the President should have that much power.

I disagreed with President Reagan sending the Marines to Lebanon. And that policy was proved wrong. So there has been no partisanship on my part. I have stayed out of the partisan fights. My job has been doing things that were right, my job has been in intelligence and national security since I have been here doing what is in the best interest of the United States.

If we send troops to war, send them with the best training possible and with the best equipment and technology possible, but do not send American troops to places where they are in harm's way for no reason relative to the mission of the United States military and for no reason other than to become a police officer on some street in Port-au-Prince, Haiti.

Mr. Chairman, we cannot do it all, we just cannot do it all. We should not be turning our military forces into policemen. They are trained to defend this Nation, and the people of our Nation and their interests wherever they might be. But they are not trained to become policemen in a battle between Cedras and company, Aristide and company, the FRAPH, the FAH'O the attaches or whoever they might be. The unfortunate issue here is that the numbers of military personnel we have in uniform today have decreased to a dangerous level, yet they are being assigned to more and more missions.

As we visited with our troops last Saturday in Haiti, we found some of these young men had just come from another mission, another deployment. You have got to give the military some time at home with their families. You cannot keep them on constant deployment.

Protect our men, bring them home, and let us not try to be policemen of the world's problems.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I would like to speak to my friends in this House on both sides of the aisle. I would like to address them as both an American and as a Caribbean person.

I was here at the time of the invasion of Grenada. I remember what it was like. I remember that on my side of the aisle there were many, many questions about that invasion. I supported it because I knew what was going on down there. And I remember that the House sent a delegation there, and I remember that the present Speaker of the House was a member of that delegation, Dick Cheney, who was a Member of the House at that time, was a member of that delegation, and I was also.

We investigated it and we came back, and I remember that this House and particularly this side of the aisle did nothing to undermine our President or our troops.

We must support our President. I must admire the gentleman from Nebraska for his statement this morning, the courage that it took.

We have to take politics out of these issues. Politics must end at the water's edge.

Our young President showed tremendous courage when he called back those planes and accepted that agreement. That took political courage, and our troops were able to enter Haiti without a shot being fired.

We have to be very proud of our military; how much they have learned and now they are conducting themselves. Look at what is going on in Haiti and the way these young soldiers, men and women, are conducting themselves and making our country look good.

Just a little while ago all of us were here in the House and we were applauding President Mandela. Did we hear what he was saying? How could we applaud Mandela sincerely and take some of the positions that are being espoused here on this floor today?

And remember this, that President Aristide was elected democratically by the people of Haiti. We, the United States, yes, we stand as a great chance for the people of Haiti. And they are good people.

Mr. Chairman, they need this chance. Do we want this responsibility? No, we do not want it, but we are the only superpower in the world, and with that comes a lot of responsibility.

Are the American people up to it? That is what we are going to find out.

Should we have a date certain? Should we tell the American troops, "We want you out now, start pulling out"?

Every one of you knows that that would be the worst possible thing that we could do for our troops, for our country.

Let us stand behind our President and stand behind the troops.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to express my opposition to President Clinton's ill-advised policy in Haiti. The President ordered 15,000 United States troops to Haiti in a blatant disregard for congressional consultation and approval. Unlike the case of Grenada, American lives were not at risk. Unlike Panama, our national security interests were not threatened. And unlike the Persian Gulf, the President acted without congressional approval. While I support our troops, we must set a timetable to bring our service men and women home and eliminate the huge costs this occupation promises to accrue.

Let me quote from the Forbes Commission's report on the United States occupation of Haiti 65 years ago: "The educated public opinion and literate minority in Haiti are so small that any government formed in these circumstances is liable to become an oligarchy. Until the basis of political structure is broadened by education—a matter of years—the government must necessarily be more or less unstable and in constant danger of political upheavals."—I stress a matter of years, folks. In 1994, with 64 percent of the population illiterate and annual per capita income at $320—are we prepared for "a matter of years?"

Sixty-five years ago, the United States built roads, railroads, and sewage systems. However, Haiti remained mired in poverty. Today, as the Haitian political problems continue to deepen, the country's physical infrastructure—roads and bridges—continues to erode and will require large investments of capital in the near future to assist the country. Are we ready for such an investment?

Mr. Chairman, we invaded Haiti in 1915—an occupation that lasted 19 years. The similarities between the State of Haiti then and the State of Haiti today in 1994 are striking. Do we know what we are getting ourselves into today? Are we prepared for a 19-year occupation? Is history destined to repeat itself? I hope not.

I am opposed to House Joint Resolution 416 primarily because it grants retroactive authorization for the President's decision to send troops to Haiti. I support Gilman-Michel that provides for House and Senate votes under expedited procedures no later than January 21, 1995, on a resolution requiring the withdrawal of United States forces from Haiti within 30 days after the date of enactment. More importantly, the resolution states the sense of Congress that President Clinton initially should not have ordered the occupation of Haiti.

□ 1520

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Chairman, I am distressed at the magnitude of human suffering that has been endured by the Haitian people since the coup which toppled President Aristide from power. However, I believe that our Nation's military policy must be dictated by factors other than sympathy. Factors like the safety of American lives and the security of American interests. And the fact is that the United States has no national interest in Haiti which justifies our military presence there.

Haiti's military is tiny, ill-equipped, and poorly trained. And Haiti is 736 miles from the United States. Let's face it: Haiti is not a threat to us in any way. What it is, is a disaster waiting to happen, and it is foolish to believe otherwise.

As much as I wish it were not so, the truth is that Haiti has never had true democracy. In all their troubled history, the Haitian people have been oppressed, exploited, and terrorized by a succession of dictators, and the results of one democratic election—even backed up by the armed might of the United States—are not enough to establish the rule of reason and democracy in Haiti.

Although I am relieved that we did not actually invade Haiti, I think we have jumped into the middle of a minefield and we must tread very carefully. There was never any doubt that we could carry out a successful invasion of Haiti—the question all along has been: What to do once we were on the ground? In spite of my opposition and the opposition of the American people to taking that initial step, we are on the ground now. What are we going to do? The last time we went into Haiti, we were there for 17 years.

I am extremely concerned for the safety of our young men and women in uniform, who are facing situation where the rules are always changing, and a landscape which is unfamiliar and fraught with danger. I do not want to see another Mogadishu, and I believe that our military involvement should be short-lived.

I do not support setting a firm withdrawal date, since that would further jeopardize our troops, but I do think we should invite the multilateral forces from the United Nations into Haiti now and withdraw our troops as soon as possible thereafter. We have no national interest in Haiti. We should not have gone there in the first place. And we should get out as soon as we can.

Mr. GILMAN. Mr. Chairman, I thank the gentlewoman from Florida [Mrs. FOWLER] for her supporting remarks. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, the President seems to be repeating the tragic mistakes made in Somalia by putting our Armed Forces in a dangerous situation with an unclear mission.

Congress must not stand idly by.

As one who has always stood firmly behind our brave troops, I am increasingly alarmed about their safety as part of the occupying force in Haiti.

It is unfortunate that Congress was not given the opportunity to vote on the Haiti operation until today.

The President has clearly put a higher priority on consulting the United Nation, whose approval he sought months ago, than in consulting the U.S. Congress.

Mr. Chairman, the resolution before us today is a Sham. Although its retroactive authorization of the Haiti operation expires next March—over 5 months from now—the President can extend the authorization permanently.

In fact, the President has said that United States troops might remain in Haiti until 1996 as part of a U.N. "nation-building" force.

Let us be up front about what is happening today. There is only one purpose for this resolution—to provide cover for some Members of this body before they go home for elections.

It simply does not provide the needed congressional oversight of President Clinton's misguided, open-ended and ill-defined policy in Haiti.

Congress should not abdicate its responsibility to the American people. We must not simply write the President a blank check for the Haiti operation and adjourn for the year.

With this resolution the President can spend billions of taxpayer dollars to order United States troops to serve as Haiti's police force or even as Aristide's personal security force.

Mr. Chairman, "mission creep" has already started. Our brave soldiers trained for battle have become Haiti's cops.

It was just 1 year ago, when the United States suffered severe casualties in Somalia. How can the President forget so soon the lessons that were learned in Somalia?

It was not until the United States became a nation builder in Somalia that serious problems arose and United States soldiers were killed and wounded.

Our goal today should be to end the Haiti mission and begin the orderly withdrawal of United States troops immediately. Let's get our troops out now.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN] for yielding this time to me.

As the debate on Haiti continues throughout the day, every once in a while we do hear some partisan snipes, not from everybody certainly, but every once in a while that does occur, and I want to make two quick remarks.

In 1965, Mr. Chairman, I was with a battalion of marines that landed in the Dominican Republic to protect them from a coup sponsored by Castro. I was 19, and I can tell my colleagues all of the ground troops at that particular point did not care anything about partisanship in Washington, and we can be sure that none of those troops down in Haiti care anything about partisan snipes. So let us keep the debate in my judgment where it ought to be: what we can do for the troops in Haiti.

Many of us were against the initial invasion. I know I was. No one here wants United States occupation of Haiti. No one wants United States troops to become police forces for the Haitians, or for Mr. Aristide, or for anybody. All of us want our troops home in an orderly manner, and we want them to come home safe; we want the mission to be a success; and we want an orderly, safe withdrawal of our troops home soon, and we all want, and we should work for, the Haitians to accept the responsibility of their own country and to restore their own democracy.

We have troops in Haiti now; we want those troops home, and the last comment I want to make is that if we want the mission to be a success, if we want the transition to be taken over by the United Nations, if we want our troops home safe, and while they are there we want them to remain safe and in an organized, orderly operation; I emphasize, and I cannot emphasize this enough, we should not place a date on their withdrawal.

We should make sure that the President tells us everything that is going on, including what the mission is, the status of our troops, what our troops are doing, what the cost is, where the money is coming from. We should be apprised of this situation almost on a daily basis. But we should not, for our troops' sake, set a date for their withdrawal. Let us bring them home soon.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. MANZULLO], a member of our committee.

Mr. MANZULLO. Mr. Chairman, the time to get out of Haiti is now. We have no business being there. Every day we're there is another chance one of our brave military personnel could be killed or wounded.

The President has embarked on a dangerous and reckless course of action—a mission without a policy.

Don't we even have memories that last more than 1 year? Remember how all the Somalians rejoiced at our initial intervention. We vainly thought that we could do anything in Somalia. Yet, what happened? The minute we went beyond administering humanitarian aid and began tinkering with Somalian society our soldiers were ambushed, killed, and dragged through the streets.

Who can forget those images? Yet, we're repeating those very same mistakes in Haiti. What happens once Mr. Aristide assumes power on October 15, conveniently after we adjourn? Will U.S. military personnel be caught in firefights between pro-Aristide forces and the Haitian military. What if General Cedras does not leave Haiti? Will we decide to fight the Haitian military and police?

And when we win, what will we do then? Call on the United Nations? What a joke. Our military will become the law enforcement arm of Mr. Aristide. Strobe Talbott, Deputy Secretary of State, said Mr. Aristide has been given a "bum rap."

How ironic. We're using U.S. military personnel to reinstall a priest defrocked because of his belief in violence; a charismatic leftist anti-American leader who supports autocratic ways of setting disputes, including putting burning tires on a person's neck and inciting mob violence to intimidate opponents. This is the man chosen by President Clinton to "restore" democracy, the man who, in violation of the Haitian Constitution, replaced members of the Haitian Supreme Court and local mayors with his supporters. This is the man who extols the virtues of Che Guevera, Castro's minister of revolutionary terrorism? And we put the lives of our fighting forces at Stake for him? How long will it be until he stirs up the Haitian people to say, "Yankee Go Home?" Will American troops be targeted by these mobs?

It's time we get out. The sooner the better. I encourage all my colleagues to vote for any resolution that sends a message to this administration: Get our forces out of Haiti. Get them out now, before one gets killed; now, before anymore are wounded.

□ 1530

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, politics stop at the border. Each and every Member of Congress, each and every American must always stand united in confronting any foreign foe.

Our military personnel who stand on the frontlines of these struggles must have our full and uncompromising support.

Those Americans in harm's way always have our full support. They also deserve our measured judgment not to put their lives at risk unless the national security of the United States is at stake.

We must simultaneously respect the President's prerogatives as Commander-in Chief and fully exercise Congress' power of the purse.

I believe we can do both. It is a solemn responsibility that falls on us today. We must exercise it properly.

We will be failing our troops, failing their families, and failing the American people if we fail to answer the following simple questions posed by my constituents.

Is there a national security interest in Haiti? Do we have goals and objectives for our forces? Is there a strategy which would lead to the withdrawal of our forces? Is our policy consistent with the Monroe Doctrine, which has been an unaltered part of our policy in this hemisphere for nearly two centuries? The answer to these questions is no, no, no, and no.

No, we should not involve ourselves in the occupation of a country where we have no national interest, no clear objectives, and no exit strategy.

We owe it to our troops to vote for their immediate withdrawal. We owe it to our troops for no missions without objectives. We owe it to our troops to vote never to place their lives in the hands of the United Nations. Each and every one of us was elected to fulfill these responsibilities. We owe it to the American people and to the troops to do no less.

On July 28, I authored a bipartisan letter urging the President not to occupy Haiti and not to violate the Monroe Doctrine by placing U.N. forces in that violent land. The President unfortunately chose a different path.

I cannot in good conscience reverse course and support a policy which risks American lives and compromises our historic traditions without an explanation of the threat to our national security.

Mr. Chairman, I say to my colleagues, there should only be two considerations when you vote today, the safety of our troops and the well-being of our Republic.

Only one of the amendments before us meets this test. Only the Michel amendment calls for the immediate withdrawal of our forces and provides a mechanism to insure their withdrawal. Only the Michel amendment upholds the Monroe Doctrine by rejecting U.N. command. Only the Michel amendment puts our troops and America first. I ask my colleagues to please join me in voting for our troops and for our democracy. Please join me in voting for the Michel amendment.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, this debate on the United States liberation of Haiti is a very significant one. It is basically a nonpartisan debate, and this is a debate where some minds may truly be changed. Some of the Members of this body are sincerely searching for a way to fully develop an updated

Western Hemisphere foreign policy approach for the new world order. As we go into the new world order, we must resolve to never allow a band of armed criminals to hijack a nation as they did in Haiti.

We must never again allow the United States CIA or any other agency of our Government to support armed criminals in the overthrow of a democratically elected government

The United States has always dominated the political and economic life of Haiti, since the time of Thomas Jefferson. The Haitian Army was created by the occupation force of the United States Marines. Most of the foreign businesses in Haiti are American owned. Thousands of Haitian refugees seeking entry to this country have confronted our Nation with a moral dilemma of great magnitude. Our posture in the world and our vital interests are very much interwoven with the future of Haiti. We have dominated Haiti in the past but this liberation action, fostered by President Clinton, should be a new beginning.

Without wholesale interference in its affairs, Haiti can manage its own affairs. Haiti is not Somalia. Haiti has a constitution. The people of Haiti are not divided down the middle. There is not a civil war raging in Haiti.

President Jean-Bertrand Aristide is the people's choice, and Aristide is a great man, trusted and revered by the Haitian people. Aristide has a cabinet and there is a legislature. Haiti has a middle class which can produce the necessary diplomats and technicians. There are thousands of Haitians who live in New York and Paris and across the world who are willing to go home to help rebuild their nation. There is no need for a long occupation of Haiti. We are removing the criminals and the killers and that is the primary purpose of the United States liberation of Haiti.

I oppose any resolution setting a date certain for the withdrawal, but the people of America should be reassured that the Haitians will repay this investment. They will go it alone. They can go it alone. They can rebuild their nation.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WALSH].

Mr. WALSH. Mr. Chairman, I thank my distinguished colleague, the gentleman from New York, for yielding time to me.

Mr. Chairman, I was opposed to invasion, and I am opposed to occupation of Haiti. Even Mr. Aristide, the man who we would restore to power, opposed this action. Indeed, even after our troops landed and took control of the streets, Mr. Aristide had to be pressed by our diplomats to say thank you. Imagine, our forces in harm's way, and this man offering a half-hearted thank you and faint praise for their efforts.

As officials of our government, we should never undermine our troops, and we do not. We stand squarely with them. We need to make sure that if they need additional support, materiel, weaponry, or armor, similar to what happened in Somalia, we should make sure that they get it.

We need to understand that history does repeat itself, sometimes more rapidly than others. We need to understand that those who refuse to learn from history are forced to repeat it.

One year ago I stood in this well and I called for Mr. Aspin's resignation after the debacle in Somalia. I do not want to have to repeat history again with another Secretary of Defense. We need to set a deadline, all right. The deadline that we need to set is for Mr. Aristide to go back to Haiti.

It is about time that that gentleman took up his own responsibilities and returned to his homeland and led those people. I cannot believe that he stays here in Washington under armed guard, living in the lap of luxury, while our troops are putting out fires and disarming the people of Haiti. He travels with an entourage. Our troops travel with M–16's. Support the Michel-Gilman amendment. Let us have a vote in January to require an orderly and staged withdrawal of our troops and a United Nations takeover of that situation.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, thank God for the CONGRESSIONAL RECORD. I was afraid that the memory loss that affects us as we age was affecting me at an unduly rapid rate. Having gotten here in 1981, I was ready to swear that I had heard the overwhelming majority of Republicans assert that the President had the right to send troops into foreign countries when he thought it was in the national interest without congressional authorization.

I had this distinct recollection that Republicans said "When we invade a country, especially in our hemisphere, to restore democracy and to confront a dictator, that is a very good thing." Then I saw President Clinton doing exactly what I had heard, I thought I had heard the Republicans talking about for 14 years, and I began to worry whether or not I was hearing voices; worse, I was hearing Republican voices say things that they did not believe.

However, some people on my staff fortunately got out the CONGRESSIONAL RECORD. I found that no, my memory is not deteriorating any more rapidly than my age would indicate.

In the case of Lebanon, in the case of Panama, in the case of Grenada, in the case of Kuwait, Republican Members consistently used arguments which today they are repudiating because one thing has changed: The partisan nature of the person in the Presidency.

Republicans have said "Let us eschew partisanship." They have been engaged in it consistently throughout.

Let me, for instance, say, when people talk about liberation versus invasion, "If you cannot distinguish between force for subjugation and force for liberation, then it is difficult to discuss this matter with you." That is not me, that is the gentleman from Illinois [Mr. HYDE]. It is the gentleman from Illinois [Mr. HYDE] who said "If you cannot distinguish between force for subjugation and force for liberation, it is difficult to discuss this matter with you." Well, maybe he is not discussing the matter with himself.

We were told that to go into Grenada and free up the people from an oppressive regime was a good thing. People have said, "Aristide is not a perfect Democrat." He is not, but compared to the Emir of Kuwait, he is Ghandi.

People would argue that going into Kuwait was a great thing for human rights, to restore that repressive regime, but I do not think the Iraqis should have invaded. The Emir of Kuwait is better for the people of Kuwait than Saddam Hussein, but if he was a Democrat, I am a pumpkin.

However, we are told that Aristide, who won an election, does not deserve this kind of support. We have sent troops into a country where their arrival has been able to be accomplished without any American deaths due to our being there, where the people are overwhelmingly happy, where the result will be to restore an elected president.

I think, Mr. Chairman, that there is only one thing that makes my Republican friends angrier than when President Clinton does something that they think is wrong. It is when he does something that looks right. That is what we have here.

We have a situation where, applying principles that Republicans themselves have argued for 14 years, President Clinton has taken an action that has made Americans very popular in Haiti and that, with no loss of American life and with savings of Haitian life, is going to restore democracy. That is what they do not like, that Bill Clinton is accomplishing it.

Mr. GILMAN. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The Chair would advise that the gentleman from New York [Mr. GILMAN] has 6 minutes remaining, and the gentleman from New Jersey [Mr. TORRICELLI] has 3 minutes remaining.

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is my understanding we are now ending the general debate provided under the unanimous-consent request, and are about to engage in a 1-hour debate on the rule.

Mr. Chairman, the President acted on his own in committing United States forces to occupy Haiti. Each of us is now being given the opportunity to decide for ourselves whether the President acted wisely.

Though we respect the arguments expressed so eloquently by the gentleman from New Jersey [Mr. TORRICELLI] on his resolution, House Joint Resolution 416, I have come to a different conclusion about just what his proposal will accomplish.

Mr. Chairman, let us be certain about what the House will be doing if it adopts the Torricelli resolution. It is important to know that supporting the Torricelli resolution means we would be retroactively authorizing the deployment of United States troops in Haiti. In approving the Torricelli resolution, we would be blessing a mission that we know to be dangerously vague and a policy that long ago substituted force for diplomacy.

We would also be accepting President Clinton's definition of what our troops should be doing in Haiti, even though ambiguous objectives, improvised rules of engagement, and ever-expanding tasks laid upon our military have rendered that definition virtually open-ended. That, Mr. Chairman, is a recipe for disaster.

Second, the March 1 termination of authorization in the Torricelli resolution has no teeth. On March 1, the President can—if he chooses—simply continue with his plan to deploy 2,000 to 3,000 U.S. troops in a U.N. peacekeeping mission through February 1996.

Under the rule we will be considering in a few minutes, that March 1 date in the Torricelli resolution would be watered-down even further by giving the President yet another escape hatch to extend our authorization unilaterally and permanently.

Third, the Torricelli resolution does not protect our troops from being placed under foreign command in a U.N. peacekeeping mission.

Fourth, and perhaps most importantly, we can do much better. The Michel-Gilman substitute, made in order under the proposed rule, will better reflect the will of the American people. Our substitute differs from the Torricelli resolution in the following significant and positive ways:

For one, it does not authorize this mission in Haiti. To the contrary, it expresses the sense of the Congress that the President "should immediately commence the safe and orderly withdrawal of" our troops from Haiti.

Second, our resolution does not authorize U.S. participation in U.N. peacekeeping.

Third, the Michel-Gilman resolution requires that any United States military personnel in Haiti "shall remain under the command and control of" United States officers at all times.

Accordingly, Mr. Chairman, I urge my colleagues to vote "no" on Torricelli. Save your vote for the Michel-Gilman substitute. Our alternative reflects the will of the American people and protects our troops by calling for their immediate withdrawal from Haiti.

Mr. Chairman, I have no further requests for time on this segment of our unanimous consent request.

Mr. TORRICELLI. Mr. Chairman, I yield the balance of our time to the gentleman from Massachusetts [Mr. OLVER].

The CHAIRMAN. The gentleman from Massachusetts [Mr. OLVER] is recognized for 3 minutes.

Mr. OLVER. Mr. Chairman, I thank the gentleman from New Jersey for yielding time to me.

Mr. Chairman, I strongly support bringing our troops home as soon as possible, but I come to the well to ask my colleagues to give their full support to the members of the armed services and to make their jobs, which they are performing very well, as easy as possible.

Unfortunately, some Members seem to want to go against the best judgment of our military commanders by setting a specific deadline for withdrawing U.S. troops. It does not take a rocket scientist to understand the words of the Deputy Secretary of Defense, and I quote: "Setting an arbitrary deadline to complete this mission will endanger these military forces."

If that is too hard to understand, General Shelton, the commander of our forces in Haiti, put it much more simply when he said, "We would endanger our forces by moving too fast."

□ 1550

We are debating the safety of American service men and women while they execute a mission clearly in the long-term interest of the United States.

This country has used U.S. forces overseas in support of our interests 234 times since the founding of our country and only in 3 cases has the Congress set a deadline for troop withdrawal. Over the past 200 years, Congress has overwhelmingly understood that we should avoid micromanagement of military operations. By setting a withdrawal date, Congress instantly changes the dynamic in the field and makes it harder for those troops. Furthermore, if we demonstrate a lack of resolve, we are simply inviting more attacks on our troops wherever they are in the world.

However, I want to draw attention to the magnificent job our troops are doing. Who can fail to be moved by the images of a jubilant Haitian people immensely grateful for being freed from a vicious oppression, and yet restraining themselves from taking retribution? Who can fail to be moved by Haitian citizens taking the weapons that have been used to kill their friends, relatives, and neighbors and turning them over to our marines?

I believe it is wrong to claim that we have no interest in supporting a peaceful transition from the thugs who brutalized Haiti to the legitimate elected government.

I want to remind my colleagues that Haiti's elections, which were internationally monitored and certified as free, Jean-Bertrand Aristide ran in a field of 11 and received 70 percent of the vote. That is a popular mandate unmatched by any leader in the western hemisphere and no American President has ever received such a mandate. The people of Haiti certainly thought that they were on the road to democracy in that election.

My colleagues should also remember that during the election process and while President Aristide was in office in Haiti, very few Haitians were attempting to leave the island compared to the thousands upon thousands who fled the cruel repression of the attaches and fraph.

Clearly it is in our interests to have a law-abiding government that provides the routine government services which make everyday life and commerce possible in any country.

We need a stable government in Haiti, not an outlaw regime driving huge numbers of refugees into neighboring countries.

I commend the President for restoring a legitimate, stable government in Haiti through negotiations. I support bringing our troops home and tell my colleagues that the way to do that is not to set a deadline that puts more American lives at risk, it is to let them do their jobs. Support the Dellums-Murtha substitute.

The CHAIRMAN. All time for general debate has expired. Pursuant to the order of the House of Representatives on Wednesday, October 5, 1994, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. MINK of Hawaii) having assumed the chair, Mr. MAZZOLI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution—House Joint Resolution 416—providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, had come to no resolution thereon.

PROVIDING FOR FURTHER CONSIDERATION OF HOUSE JOINT RESOLUTION 416, LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 570 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 570

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for further consideration of the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti. All time for general debate under the terms of any previous order of the House shall be considered as expired. After further general debate, which shall be confined to the joint resolution and the amendments made in order by this resolution and shall not exceed two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the joint resolution shall be considered for amendment under the five-minute rule and shall be considered as read. The amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and the Committee of the Whole. No further amendment shall be in order in the House or in the Committee of the Whole except those printed in part 2 of the report of the Committee on Rules. Each further amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment except as specified in the report. All points of order against the amendments printed in the report are waived. If more than one of the amendments printed in part 2 of the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendment as may have been finally adopted. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida [Mr. GOSS], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 570 is the rule providing for the consideration of House Joint Resolution 416, providing limited authorization for the United States-led force in Haiti, and providing for the prompt withdrawal of the United States Armed Forces from Haiti. Under this rule all time for general debate under any previous order of the House shall be considered as expired. The rule provides further general debate of 2 hours, and it provides that the joint resolution shall be considered as read. Under the rule, the amendments printed in part 1 of the Rules Committee's report to accompany this resolution shall be considered as adopted in the House and in the Committee of the Whole.

Madam Speaker, no further amendment, except those amendments printed in part 2 of the report of the Committee on Rules are in order in the House and in the Committee of the Whole. The part 2 amendments are to be considered in the order and manner specified in the report, with debate time also specified in the report. These amendments, Madam Speaker, are as follows: First, a substitute amendment by Mr. MICHEL; second, a substitute amendment by Mr. DELLUMS, MURTHA, HASTINGS, and DICKS; third, a substitute amendment to be offered by Mr. TORRICELLI and HAMILTON. These part 2 amendments are not subject to amendment except as specified in the report, are considered as read, and are not subject to a demand for a division of the question. The rule waives all points of order against the amendments in the report. The rule also provides for the consideration of the part 2 amendments under the procedure known as king-of-the-hill in which the last amendment to pass, shall be considered as finally adopted and reported to the House. Finally, the rule provides a motion to recommit with or without instructions.

Madam Speaker, this rule expeditiously brings to the floor the important resolution which provides limited authorization for the participation of United States troops in the multinational force in Haiti, and provides for the prompt withdrawal of our troops when it is time to go home. Debate was started yesterday through a unanimous consent agreement and this rule will allow all further consideration of this important foreign policy issue.

As one who has spent a good portion of my time fighting poverty and hunger, I must say I am deeply concerned about our policy in Haiti. Early on I advised the administration that I did not think we should invade Haiti. Haiti was not a threat to U.S. interests and security, and our record of previous occupation after the 1915 invasion was not a successful one.

However, Haiti's people are suffering. Their poverty and helplessness is beyond most people's comprehension. Haiti's hospitals have no medicine, its people have very little food, and the infrastructure is almost nonexistent.

As a matter of fact, during this debate there has been hardly a word said about the poverty of these people.

Madam Speaker, for many years, I have heard people in this country, many in this House of Representatives, cry out for democratic systems of government. And rightfully so. Now that our troops are on Haiti's soil, helping to keep order and stability so a democratically-elected government can return, and humanitarian assistance can flow, we must support them. To pull the rug out from under our troops now is not fair to men and women who are doing good jobs. Nor is it fair to the people of Haiti, who have perhaps the only shot they will get at democracy, and the hope of a better standard of living. We need to complete our mission and get out. This is not the time to shift direction in mid-course.

It is the time, however, to call upon our allies to provide some help. Peacekeeping and humanitarian responsibilities should not fall upon the United States alone. The United States has provided over one million meals every day to children, pregnant and lactating mothers, orphans, and the old and sick in Haiti over the last 3 years. The United States has always responded to its moral obligations to help the poorest of the poor countries. But just as we cannot be the world's policemen, we cannot be the world's only humanitarians. Our allies must help, and I intend to continue to call upon them.

Madam Speaker, this resolution is a carefully crafted one which provides for fair consideration of this difficult issue. I urge my colleagues to join me in adopting the rule.

□ 1600

Mr. GOSS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, exactly 1 year ago today I stood in this well and implored the Clinton administration to re-think its misguided approach toward the developing crisis in Haiti. At that time, the U.S.S. *Harlan County* was preparing to carry more than 600 United States troops to Haiti, in anticipation of the transition date under the Governors' Island Accord.

One year ago I raised a question that I believe is still valid today, as we watch more than 20,000 American troops occupy Haiti and prepare for yet another planned transition date. On that day I said, "Let us ask this question of the administration: Could you look your son or daughter in the eye and say 'This is why you are going to Haiti?' There is no Answer." Today there is still no good answer.

The administration would have us believe we are restoring democracy—at the barrel of a gun—and reinstalling a democratically elected—if erratic—President who was overthrown by Haitians 3 years ago. In reality, we are perilously close to taking sides and getting hopelessly entangled in a long-standing, sometimes vicious civil war.

Over the course of the past year I have followed the machinations of this bungled foreign policy, seeking at many junctures to offer thoughtful criticism and reasonable alternatives. Yet the administration turned a deaf ear—not just to me, but to the entire Congress and to most of America, preferring instead to take us further down the road toward military entanglement in Haiti.

Now, finally, the Congress is being brought into the debate. Today we are belatedly being asked to provide an after-the-fact authorization for a policy that has no clear definition, a very unconvincing and fuzzy rationale and almost complete lack of support among the American people.

I think most Members understand that the appropriate time for this debate in Congress would have been before 20,000 young Americans were sent to Haiti to serve as referees, police forces, and nation-builders in a country where brutality, instability, and civil war have ruled for 200 years. But that debate never took place.

Instead, now that troops are already in harm's way, the House Democratic leadership is finally moving. We are now presented with the Torricelli proposal, a measure designed to offer retroactive cover to a failed policy and make this Congress complicit in a series of terrible decisions.

I strongly oppose the Torricelli resolution. Instead, I urge my colleagues to examine the Michel-Gilman substitute—a proposal that explicitly rejects the decision of the President to send United States troops to Haiti and withholds any sort of authorization for this Haiti policy.

The Michel-Gilman language calls for an immediate commencement of withdrawal of United States troops from Haiti. It establishes a timetable for the administration to report to Congress about the Haiti mission and its costs—information that has so far been practically impossible to gather. In my view, the Michel-Gilman proposal is a much more accurate reflection of American public opinion on this subject, and this House should adopt it.

Unfortunately, Mr. Speaker, the rule before us today is stacked against adoption of the Michel proposal. It uses the arcane but wickedly effective process known as king-of-the-hill to give Mr. TORRICELLI a chance to trump the Michel-Gilman proposal, as well as a third option to be offered by Messrs. DELLUMS, MURTHA, HASTINGS, and DICKS. Up in the Rules Committee my friend Mr. DREIER sought to level the playing field by stipulating that the proposal with the most votes should prevail—but we were outvoted. So, king of the hill it is.

Mr. Speaker, I am also troubled that this rule self-executes some additional language into the base text of the Torricelli proposal—language that will no doubt be hard for some Members to swallow, given its explicit authorization of the mission, its provision of a giant out for the President from the get-out-of-Haiti termination date and its assessment of the War Powers Act. I urge Members to read the fine print of this rule very carefully to be sure you know what you are voting for—since a "yes" vote on the rule is also a "yes" vote on an authorization that terminates March 1, 1995, unless the President certifies that additional time is needed; and it is a "yes" vote on language presented by Mr. SKAGGS that says the Constitution would have required the President to gain prior approval from Congress before committing U.S. troops.

Finally, Mr. Speaker, this rule has shut out several worthwhile proposals offered by Mr. COX and Mr. ROYCE—one dealing with specific requests for cost estimates of the Haiti mission and one seeking to ensure that U.S. troops do not get sucked into some nebulous U.N. chain of operations.

Overall, Mr. Speaker, although I am gratified that at long last this House is being given the chance to seriously debate our foreign policy vis-a-vis Haiti, I regret that it has come about in such a convoluted and belated way. I am upset at the contortions and contrivance all for the purpose of trying to make the Clinton administration look better; history will never be kind to the ineptness, mismanagement, and indecision of this odyssey of inconsistency. I do oppose this rule because of its structure—and I oppose the Torricelli resolution because it is toothless about getting our troops out and it tries to paint a smile on an operation I can't smile about.

Mr. Speaker, I support our troops. America stands behind them and we urge their earliest possible return.

I include for the RECORD rollcall votes in the Committee on Rules on House Joint Resolution 416, as follows:

ROLL CALL VOTES IN THE RULES COMMITTEE ON THE RULE FOR H.J. RES. 416, HAITI AUTHORIZATION RESOLUTION, WEDNESDAY, OCTOBER 5, 1994

1. Dreier En Bloc Motion to Make in Order 2 Cox Amendments—Amendments by Rep. Cox (CA) to: (1) Express sense of House that it disapproves the policy of military occupation of Haiti which was undertaken without congressional approval; and (2) That the President should submit to Congress within 5 days after enactment a complete accounting of funds expended in Haiti and a specific authorization for funds in the remainder of the fiscal year. Rejected: 4-7. Yeas. Solomon, Quillen, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Bonior, Hall, Gordon, Slaughter. Not Voting: Derrick, Wheat.

2. Dreier Motion to Make in Order Royce Amendment—by Rep. Royce (CA) would prohibit any U.S. troops in Haiti to be under foreign command. Rejected: 4-7. Yeas: Solomon, Quillen, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Bonior, Hall, Gordon, Slaughter. Not Voting: Derrick, Wheat.

3. Dreier Motion to Change King-of-Hill Procedure—Rule would be amended to provide that the substitute adopted receiving the most affirmative votes, instead of the last adopted, shall be the one considered as finally adopted and reported to the House. Rejected: 4-7. Yeas: Solomon, Quillen, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Bonior, Hall, Gordon, Slaughter. Not Voting: Derrick, Wheat.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted[1]	Open rules		Restrictive rules	
		Number	Percent[2]	Number	Percent[3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	103	31	30	72	70

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 5, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A	A: Voice Vote (Oct. 5, 1994).
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A	F: 83–339 (Oct. 5, 1994).
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A.	
H. Res. 570, Oct. 5, 1994	MC	H. J. Res. 416: U.S. in Haiti	N/A	N/A.	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I opposed the invasion of Haiti. I believe that the Congress should assert its constitutional responsibility and authority to declare war whenever the United States is in a situation where it is considering offensive military action. I am sorry that my President, this President of the United States, did not make it clear that he would seek that approval. I think he and every other President should, and is required to, under the Constitution.

I do understand how it is in our best interests to see stability and progress in Haiti. Peace in our region is good for all nations. Democracy in Haiti and the surrounding nations not only sets a good example, but is what America has always been about.

Finally, the illegal immigration from Haiti was creating problems which even my Republican colleagues would have to concede were unbearable, not only for the State of Florida but for many other States. As long as the political and economic instability continued in Haiti, more illegal immigrants would risk their lives to come to our shores. It is part of the national interest of the United States to make certain that illegal immigration is at least diminished if not stopped.

Finally, I doubt our long-term mission in Haiti, if we contemplate being there until we have economic and political stability. I worry that the United States can never achieve that goal by itself. Democracy is really new to Haiti. They have not seen it. They have to come to understand democratic institutions and how they will work. It will take some time.

Economic stability is an even greater challenge in a nation where the average annual income is $250 a year.

Many of my Republican colleagues have criticized President Jean-Bertrand Aristide. He is not to their liking. The fact is he received 70 percent of the vote in a closely monitored election, the first democratic election in the history of Haiti. The fact is if we refuse to accept Aristide's leadership, we refuse to accept the verdict of democracy, and quite honestly, it really calls in question our commitment to it.

I would like to see a different leader, but the fact is the Haitians have spoken through a democratic process, and we must stand by their choice.

□ 1610

Today the people of this Nation, through their elected Representatives, will make a policy choice on Haiti. There are three choices in the House: the Republican approach says "immediate withdrawal"; one of the Democratic approaches says "as soon as possible"; and the final one says "March 1, 1995" giving the President some latitude to extend it with explanations and concurrence by Congress.

I am about to make my decision on those choices, but I will tell you there is one that is totally unacceptable. The Republican alternative calling for immediate withdrawal has been characterized by military leaders as one which would jeopardize the 20,000 men and women in uniform serving in Haiti today. I will not, I cannot, in good conscience support a Republican alternative which would endanger the life of one of our soldiers, sailors, marines, or airmen in Haiti.

It is far better for us to take the military advice, to make sure our kids and our fellow citizens are protected in Haiti, and that we have an orderly withdrawal at the appropriate moment.

Mr. GOSS. Madam Speaker, I yield 4 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Madam Speaker, I thought about bringing a pail full of water into the Chamber. If I had it with me, I would stir it up and splash it around and then I would stop for a few seconds.

And you know what? After a few seconds, that pail of water would look just the same as it did when I first brought it in—despite all of the stirring and splashing.

Well, Mr. Speaker, I sadly fear that Haiti is much the same as that pail of water. We can send in 15,000 troops, 20,000 troops, 25,000 troops—you pick a number. But the moment those troops leave—probably even before they leave—Haiti is more than likely to go right back to what it has always been.

It is very sad, indeed tragic, but Haiti's problems have defied rational solution for two centuries.

Throughout its 190 year long history as an independent nation, Haiti has never really known democracy, and it has rarely known stability.

Even now, Haiti does not face a single problem that lends itself to solution by outside military intervention and occupation.

Chronic underdevelopment and poverty.

Ecological disintegration.

Massive social and economic inequities.

No judicial system.

No police force.

Very little economic infrastructure.

No sustained history or experience with democratic rule.

Madam Speaker, I say this—not to sit in judgment of the Haitian people, but merely to illustrate the dimensions of the problem our forces are now up against.

The issue in Haiti is not a matter of restoring democracy and rebuilding the country—it is a matter of starting from scratch.

Mr. Speaker, earlier this century our troops occupied Haiti for 19 long years. At that time, Haiti was practically the 49th State. But did anything really change? We all know the answer to that.

Nothing has ever been settled in Haiti with any degree of finality. Not in the past. And it is not likely to get settled now.

If the President honestly thinks he has discovered the solution to Haiti's problems after 190 years of tragedy, why does he not share that information with the Congress? Why does he not share that information with the Organization of American States?

And, most importantly of all, why does he not seek congressional support and authorization for this intervention in Haiti?

Madam Speaker, America is always most effective abroad when we are united at home. But the President simply has not been able to persuade either the Congress or the American people concerning the wisdom or value of this policy toward Haiti.

Madam Speaker, I realize that Members of Congress rarely have the luxury of casting a comfortable vote. We usually have to decide between various policy alternatives that differ from each other only to the degree of their respective shades of ambiguity.

That is certainly the case with Haiti today. The situation there is fraught with dilemmas, and we do not face an easy vote here in the House.

But I have decided that one plausible course of action is clear: We should commence immediately a safe and orderly withdrawal of U.S. forces from Haiti.

That is the only policy option I can support wholeheartedly, in the absence of any compelling and comprehensive plan to incorporate Haiti into the sphere of America's vital interests.

Mr. HALL of Ohio. Madam Speaker, I yield 7 minutes to the gentleman from California [Mr. DELLUMS], the chairman of the Committee on Armed Services.

Mr. DELLUMS. Madam Speaker, I thank my colleague for his generosity.

First, let me say that I rise in support of the rule, and I appreciate the fact that the Committee on Rules saw fit to allow this gentleman and others to offer an alternative that will be discussed on the floor of these chambers momentarily.

Let me with the remainder of my time offer this thought: During the course of the debate, Madam Speaker, the issue of what is and is not in the interest of the United States will be discussed on a repeated basis. What is in the national security interest of this country will be raised on numerous occasions during the course of this debate.

I would ask my colleagues to consider these thoughts, some of which I have repeated before: I would suggest to you in no uncertain terms that the day the Berlin Wall crumbled down, the day that the cold war ended, the day that the Soviet Union dissipated, the day that the Warsaw Pact disappeared, all of us began to step forward into uncharted waters, into a period of tremendous transition, into a period of change. And so, Madam Speaker, there are no post-cold-war experts.

We had brilliant Ph.D.'s and thinkers who could talk about the calculations of the cold war add infinitum, but there is no one human being on this planet, not one human being in these Chambers who is an expert in the post-cold-war world.

This moment is evolving, and I would suggest to all of you that none of us at this moment are precise about what we believe to be in the national interest of this country. At a minimum it ought to be something open for discussion and open for debate, and all of us ought to be willing to take off old labels, old stripes, remove old thinking and old paradigms and come to this moment intellectually honest enough to say that is, indeed, in the national interest of this country. What is, indeed, Madam Speaker, in the national security interest of this country ought to at minimum be something that is open for debate, new definitions, new ideas. The world is new.

I do not know about any of you in these Chambers, but just a few hours ago when President Mandela stood there to address us, my heart soared, because many of us in these Chambers stood arm in arm and fought to bring about the reality of freedom and democracy in South Africa. When Nelson Mandela stood there and said, "I am an African," chills went up this gentleman's spine, as he illuminated on a magnificent vision of the world, expansive and brilliant, that talked about the fact of the oneness of our human experience and the interrelatedness and interdependence of all of our struggles and the fact that it is, indeed, in the interests of the United States that the world be free, be peaceful, couched in the principles of justice and democracy and self-determination and rule by the people and no violation of human rights.

We sat here, and our hearts soared, and I thought if good enough for America, if good enough for South Africa, why not the people of Haiti? They are not on this planet?

If we could cheer Mandela's speech of how interrelated we are, some came away who were prepared to set Haiti free as an island unto itself.

I would submit to all of you here that it is, indeed, in the interest of the United States that democracy flourish, that freedom reign, that peace be the reality, and I am prepared, Madam Speaker, to challenge any Member in this Chamber that would, indeed, suggest that it is not in the interest of a great Nation, the United States, ostensibly the greatest democracy on the face of the Earth, that is not prepared to stand in defense of freedom and democracy a few miles off the shore of this Nation.

☐ 1620

Madam Speaker, every time I turn on the television set and see black faces in Haiti smiling and cheering, being able to speak freely about the brutality and the oppression that has been visited upon them, freely now because America stands there holding back the forces of brutality and pain and oppression, my heart soars. I feel proud for a moment, Madam Speaker, to be on the side of justice, just as I felt proud with the United States when it found itself on the right side of history and we attempted to bring South Africa not to its knees but to wisdom.

I feel good today that American people are in Haiti not by virtue of an invasion. Madam Speaker, all of you know I came to these Chambers in 1971 as an advocate of peace. I have never once stood here to raise my voice in the name of force. With all the anger and the pain that was inside me when I looked at oppression in South Africa, many of you remember I stood here and said, "But I do not ask you to use force, because I am a man of peace."

And if President Clinton had invaded Haiti, I would have challenged our President because I continue to believe that peace and nonviolence is a superior way of engaging in conflict resolution.

So I am happy that our forces did not hit the beach killing Haitians with Haitians killing Americans. But now they are there, and it would seem to me that we ought to allow them to be there to create the kind of stability that would allow the triumph of the human spirit, that would allow people to rise above the pain and oppression that has been their reality.

This is not some primitive country. Maybe they live in some poverty-stricken conditions, but these are human beings with magnificent spirits, no less magnificent than South Africans, no less magnificent than Americans.

So, Madam Speaker, as we go forward, I ask all of my colleagues let us not be cavalier about what is in the interest of the United States in the context of the post-cold war world that at a bare minimum ought to be subject to debate.

I hope that at the end of this discussion America stands as cleanly and as firmly at the end of the debate as it did at the end of debate on apartheid in South Africa, we stand up for the freedom of people in Haiti.

Mr. GOSS. Madam Speaker, I yield 5 minutes to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN. I thank the gentleman for yielding this time to me.

Madam Speaker, may I have the attention of my good friend from California? And I do mean my friend. We have not crossed intellectual swords in a long time. The gentleman is such a great orator I will have to play off some of his best lines.

Mr. DELLUMS. Madam Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman. I like to think that I think a little bit, too.

Mr. DORNAN. I am not setting the gentleman up as an Irishman, the gentleman knows I am sincere.

No. 1, we were on the right side of history all during the cold war. When I walked the streets of Haiti and saw City Soleil, as I said last night, I thought what I thought when I walked the streets of Saigon, Danang, cities all through Africa and Asia: These are God's people. Mothers nurse their babies, coo back at them. Fathers want to take their boys to do a little fishing, something I saw going down a road near the Pearl River in Vietnam. But I do not recall the same level of eloquence or passion when the subject was Nicaragua or Cambodia or Laos or Vietnam. Bosnia, maybe; Rwanda, yes. But these are all God's children, but we cannot be everywhere at once.

Mr. DELLUMS. Madam Speaker, will the gentleman yield?

Mr. DORNAN. I yield to the gentleman, my friend.

Mr. DELLUMS. I thank the gentleman. I would simply like to ask my colleague, is he questioning this gentleman's integrity with respect to my feelings about democracy and freedom?

Mr. DORNAN. Of course not. I would never accuse the gentleman of selective passion. Never. But do we all have different areas where we focus sometimes a little more love and attention and where we might be more willing to send American troops? You bet.

I was activated in my Air Force captain's uniform to fly, not a fighter, not a bomber, but a rescue seaplane around the island of Hispaniola and Cuba in the summer of 1965. We lost 27 men to bring peace to the city of Santo Domingo in the Dominican Republic. There were 172 wounded.

Look how close that is to what happened in Somalia. There we had 30 dead in action, 27 in 1965 in Santo Domingo, 204 wounded in Somalia, 172 wounded in Santo Domingo. You know how long we were there? 17 months. How long are we going to be in Haiti? God only knows.

Do I want a precipitous withdrawal, does HENRY HYDE, does PORTER or BEN or JERRY? No, we do not want to leave tomorrow if it is going to cause a riot or put our men at risk. And we all know that the poorest of the poor—and that country is 80 percent illiterate—those most hungry will be the soonest to die in a conflict there. But what makes me so concerned is that Haiti is likely to explode in civil violence whenever we leave, whether now or a year from now. We should never have pulled the *Harlan County* out of that harbor on Columbus Day a year ago next week. Never should we have turned tail and run. But the gentleman, an ex-marine, had better listen to this ex-Air Force guy when I tell you that what makes this policy even more rotten is that the architects of this policy all took student deferments, some literally avoided the draft at every turn and some dodged the draft and had their induction notices politically suppressed through connections in the State of Arkansas. S.Sgt. Donald Holsted, with a wound in his gut, lies in Walbrook Hospital down in Fort Bragg right now. Has Aristide sent him flowers, a card of condolence?

Can Holsted show something from Aristide to his wife and two small children? No.

We have Americans in harm's way big time now. I will try to go down and have Thanksgiving with them. I will try to go down next week. Here is the information I want to learn—there is no time. I will put that in the RECORD.

I will tell you this, there is no military mission, no military objective other than what we both share, to stop people from brutalizing one another. But that is a job for a police force, not the 10th Mountain.

I heard the term police action used to describe Korea by Harry Truman, I heard it from the Secretary of State and from Lyndon Johnson when we first went into Vietnam. This is not a police action.

Our young men and women are wearing body armor, they are in danger. There are rumors that both sides want them killed. One side thinks this is another Somalia and a few dead Americans will cause us to pull out. The other side thinks dead Americans will keep us there so that our 10th Mountain Division can become personal bodyguards for Aristide. It is an insecure environment.

And defense funding—the gentleman is an expert, I am supposed to be an expert—where is this money coming from? We are not supposed to refer to the gallery, but how many people up there want to cough up 50 bucks to buy back rusty old weapons from Haitians who have been killing one another for years. We may be stuck there a long time.

My opinion changes from day to day on what I believe will be the level of bloodshed, but I will tell you this: Aristide better call Sgt. John Holsted because we do not know if his wound has changed his eating habits for life, or if he will only live to 60 instead of 80. A gut shot is a terrible thing. In the Civil War it meant certain death, no matter what side you were on.

We have one man with a gut shot, and I will say what I have said every day here for a week, it is a miracle that no American has died other than two suicides. We had a suicide in Somalia, we had a shark death, we had a car crash, and we had a drowning in a pool in Mombasa on R&R. I am talking about combat deaths.

One wounded, no deaths yet; I am praying, I am holding my breath.

We had better defeat this rule. We had better vote for Michel-Gilman in this House today.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. I thank the gentleman for yielding this time to me.

Let me say as briefly as I can, with as much enthusiasm and without the passion that we have just been treated to, that I am moderate or conservative Democrat and make no apologies to anybody for it.

□ 1630

I felt that the President should not have become involved and should not have committed the Armed Forces of the United States in Haiti. I wrote him to that effect. I shared the opinion of many who were here. However, the President did not agree with me, and it was his right not to agree. We can argue this constitutional question all we want to, but, as my colleagues know, about Panama, and about Grenada, and about Lebanon, and on, and on, and on, they do not need Congress.

Well, the fact is, my colleagues, that the Armed Forces of the United States are committed there, and they deserve to have the support of this Congress without all this bickering and whining.

Do we want to say to those who wish us ill that those troops that are dug in at some place, that company commander with his lieutenants, and his private soldiers, and others, that at a certain time the enemy knows that their time runs out, pack up the stuff, put the bullets back in the bags, get on the bus, and get on the boat, and come home. It is ridiculous.

I suggest we give the President an opportunity to work this matter out. I did not agree with him, but he deserves our support to try to bring this matter to a conclusion at the earliest possible time. He does not deserve, nor do our troops who are in harm's way deserve, the bickering of this body on this occasion. We should say to them, the President has made the decision; we support him. If he made the wrong decisions, the voters will deal with him.

But do the best you can, Mr. President, to bring this to a conclusion at the quickest possible time. We support you. You are the President of all of us, and we support the troops. Bring them home soon, if you can.

If that has not happened in a year or in 6 months, we revisit it, but not now.

Mr. GOSS. Madam Speaker, I yield 4 minutes to the distinguished ranking member of the Committee on Foreign Affairs, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Speaker, I rise in opposition to the portion of the rule which provides a king-of-the-hill procedure in consideration of legislation regarding President Clinton's decision to intervene militarily in Haiti.

While I do not want to delay our debate and vote on the military intervention, I am troubled by the self-executing nature of this rule.

In my view, no rule should be allowed to dictate the will of the House. Yet the provisions in part 1 of this rule effectively negates the decision of the Committee on Foreign Affairs to set a nonbinding target date of March 1, 1995, for ending the current U.S.-led phase of the military occupation.

Part 1 of this rule automatically inserts into the provision establishing the March 1 target date a mechanism by which the President can extend the target date indefinitely. If the President exercises this authority—and he certainly will if he wants to keep United States forces in Haiti past March 1—Mr. TORRICELLI's House Joint Resolution 416 is converted from an attempted limitation on United States involvement in Haiti into an unlimited, permanent authorization for that involvement.

An amendment such as this, which turns the will of the Foreign Affairs Committee upside down, should be decided on the House floor after a full and fair debate and not behind the closed doors of the Rules Committee.

The king-of-the-hill procedure provided in this rule is blatantly unfair. This procedure is clearly designed to favor one of the three competing resolutions on Haiti—Mr. TORRICELLI's resolution—and to the disadvantage of the other two amendments.

I would urge my colleagues not to be confused or misled by the parliamentary sleight of hand in this resolution.

This is a debate between resolutions offering stark choices on Haiti: Choices between a call for immediate commencement of the withdrawal of United States troops from Haiti, with an enforcement mechanism, between such a call without an enforcement mechanism, and between these and what amounts to a permanent authorization for an open-ended United States military presence in that country.

Only the Michel-Gilman resolution states that United States forces initially should not have been sent to Haiti and that their withdrawal should be commenced immediately. It further provides for an expedited congressional vote on whether to mandate the withdrawal of our troops if they are not out of Haiti by January 21 of next year.

Accordingly, Madam Speaker, I urge my colleagues to vote no on prolonging the occupation of Haiti by our troops in our current policy toward Haiti by voting for the Michel-Gilman resolution and against the Dellums and Torricelli substitutes. Our troops have effectively opened the door in Haiti for the U.N. peacekeepers. I say, "Let them out now. Come in and take the place of our Armed Forces."

Mr. HALL of Ohio. Madam Speaker, I yield 4 minutes to my friend, the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Madam Speaker, the United States is currently involved in a military operation in Haiti. We are there because it is in our national interest to maintain regional stability in our hemisphere. The situation in Haiti prior to the United States intervention—that of wide-spread human rights abuses and tens of thousands of Haitian citizens fleeing for United States shores—had continued for too long with no end in sight.

I was pleased to see that an aggressive military invasion of Haiti was averted last month. For that we must give thanks for the efforts of President Clinton and the negotiation team led by former President Carter, Senator NUNN and General Powell. Their leadership in this crisis, along with the hard work and determination of our men and women in the Armed Forces, has been invaluable.

There are many who say that what we have done in Haiti is too much, and we must get our troops out of there as quickly as we can. I tell you, though: if we pull out of Haiti too soon—leaving the country and its people before a stable and democratic government is in place—all our efforts will have been wasted. In deed, we will have made the situation worse.

Without a governing structure, the civil situation would deteriorate to the point where any sort of order would be impossible. Even the abusive Cedras regime will look good compared to the situation we would leave behind. We have gone into Haiti to rid it of a corrupt and abusive military government, and we are succeeding in this mission.

However, until they have established a strong, democratic structure to replace it, we must continue to present a stabilizing force.

This morning, most of us sat in this room and listened to President Mandela of South Africa. He thanked us and all the American people for our commitment of energy and resources in the cause of democracy in South Africa.

We applauded him when he told of how, for the first time in the history of his country, "the people had the possibility to elect a government of their choice, without let or hindrance."

Democracy—the right to choose one's own government—has been denied to the people of Haiti. Should we value their future any less than that of the courageous leaders of the new Government of South Africa.

If anything, Haiti's future stability is as important and interrelated to the United States than South Africa's. We must continue our strong presence in Haiti until stability and democracy are returned.

I am concerned for the safety of our men and women involved in Operation Uphold Democracy. I am concerned for their families and all the people who care about them.

And I want them to come home as quickly as possible. However, they have a job to do, and any arbitrary deadline for removing our troops from Haiti is short-sighted nit-picking of the worst kind. Our troops must leave when the job is finished and not before.

The United States cannot pay lip-service to the ideals of freedom and democracy without the courage and the determination—and, indeed, the responsibility—to act in their name as well. We have done that in Haiti, and we must follow through with our mission there. When that mission is complete, then—and only then—should we bring our troops home.

□ 1640

Mr. GOSS. Madam Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE], a senior member of the Committee on Foreign Affairs.

Mr. HYDE. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I just feel put upon by this rule, because in voting for the rule, which is the only way we can get a debate on this issue and express the will of Congress, we have to accept the passage of an amendment that is constitutional nonsense. That is the amendment that says under the circumstances existing prior to concluding the Port-au-Prince agreement, the Constitution would have required the President to obtain the approval of Congress before ordering United States Armed Forces to invade Haiti.

Now, that just is not so. That was not the law when Reagan went into Grenada, it was not the law when we went into Panama, it was not the law in the gulf. We Republicans have always asserted the President's constitutional right as Commander in Chief under the Constitution to put the troops in, but the ultimate power, the power of the purse, rests with Congress. If we do not like it, we can cut that off. But to have to accept this misstatement of constitutional law to pass the resolution is wrong, and it is unfair.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I rise in support of the rule. It will incorporate into House Joint Resolution 416 a provision I authored stating the sense of Congress that, under the circumstances prior to the agreement negotiated by the negotiating team led by President Carter, the Constitution would have required the President to obtain the approval of Congress before ordering Unites States forces into Haiti to remove the de facto regime.

On September 18 we had a close call. An armed invasion of Haiti was launched with no authority from Congress, and then fortunately recalled. Had the invasion continued it would have been a constitutional tragedy.

It is important that Congress go on record clearly on this point: the invasion the administration started lacked the constitutionally required approval of Congress. For us now to remain silent about this would only encourage some future President again to ignore the constitutional requirement for Congress to act before the country goes to war.

Let me make it clear what my provision does not do. It does not attempt to limit in any way the inherent authority of the President, the Commander in Chief of our Armed Forces, to respond as necessary to any national emergency involving an attack on or imminent danger to the citizens, territory, or Armed Forces of the United States.

My provision does assert the clear constitutional authority of the Congress to grant its explicit prior approval before the United States launches a planned invasion of another country. The records of the Constitutional Convention show that when the drafters vested in Congress the power "to declare War," they meant not only a formal declaration of war, but also the general category of decisions about initiating offensive military operations against another country. James Wilson, an author of the Constitution, put the rationale this way: "It will not be in the power of a single man or a single body of men, to involve us in such distress; for the important power of declaring war is vested in the legislature at large."

The assertion of congressional authority is not some vain struggle for turf or prerogative with the executive branch. The requirement for a debate and vote in Congress is not an end in itself, but a means to a greater end; it provides an effective measure of the understanding and support of the American people for such a grave undertaking as war. The Founders appreciated the need for such understanding and support, and they saw the Congress, as the proxy of the people, as best able to make the decision.

The last time our Government faced this situation was before the Persian Gulf war. After resisting a vote in Congress for some time, President Bush eventually recognized that it was necessary. The public debate and vote in Congress worked as the Founders intended when they vested the war power in Congress—increasing public understanding, confirming public support, and giving the President and our military forces the political legitimacy and moral support that was crucial to their success. If, on the other hand, the American people through Congress had registered opposition to the proposed war, the country would not have been put in the dreadful position of fighting a war that did not have support at home.

I was pleased that President Clinton was able to achieve an agreement to remove Haiti's military leaders without an invasion and without American bloodshed. At the same time I remain deeply troubled that the President was willing—up until the very moment that an agreement was signed with the de facto authorities in Haiti—to launch an invasion without congressional approval.

In the case of the Haiti crisis, there was not even a "fig leaf" claim of some emergency requiring unilateral presidential action. No one was claiming that we faced such a sudden threat that there was no time for Congress to act. And no one was claiming that there were American citizens in danger who needed to be rescued.

The country would not be as divided and confused as it currently is about our presence in Haiti if the President had sought the congressional authority he needed for an invasion. A congressional debate and a vote would have forced the President to make a clear case to the American people to support his claim that serious national interests were at stake in the Haiti crisis. The administration would have been forced to provide a clear plan, to discuss the objectives for a military operation and eventual transfer to United Nations authority, in other words, to make its case.

Passage of House Joint Resolution 416 with the "prior authorization" provision will demonstrate to future Presidents that this Congress was not willing to roll over when its constitutional prerogative on war powers was disregarded. It will encourage future Presidents to come to the Congress and make their case before making the grave decision to take the country to war. By voting for the provision and the resolution, we will make an unequivocal statement, establishing that we will follow the Constitution.

Mr. GOSS. Madam Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Madam Speaker, I thank the gentleman for yielding time.

Madam Speaker, I simply respond to my dear friend from Colorado that I would just suggest to you that recent history shows that a state of war is a legal state. Congress has the only power and authority to declare war. But those declarations are anachronistic. They are not used anymore, because in Vietnam, had we declared war, trading with the enemy laws would have kicked in. Russia and China would have felt obliged to support their ally by declaring war on us, and that starts a very serious train of events.

So wars are just not declared. States of belligerency, those things occur, police actions, but nobody declares war. So Congress is really out of the loop as far as a formal declaration of war is concerned.

However, Congress controls the purse strings. In the snap of a finger, Congress can stop it if they want to. A President is foolish if he does not consult with at least the leaders. That is what his obligation is to do. It is one of the prudence, not of law.

Mr. HALL of Ohio. Madam Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Madam Speaker, I would just like to continue the discussion with the gentleman from Illinois [Mr. HYDE] on this. I think it is relatively clear, although its obviously not clear to all of us, that the history attending the adoption of this particular language in the Constitution suggests that it was not intended to be read narrowly, to deal with a mere formality, with a liberal declaration of war only, but rather included in its ambit those acts of this Government that initiated offensive military action, especially invasions from a standing start, as we almost had going into Haiti; as we did have going into the Persian Gulf. It does not merely contemplate the formal act of declaration. In fact, the elaboration on the word "declare" in the minutes of the Constitutional Convention, and in other attending documents, was that it should be read much more broadly in an offensive military context and in contradistinction to the powers of the Chief Executive to act in defense of the country.

That is the point we are trying to make. To wait until we are left with only the remedy of the power of the purse—as the gentleman from Illinois suggests—still gives one man the power to take this country to war. That is not what the Founders intended.

Mr. GOSS. Madam Speaker, I yield 15 seconds to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Madam Speaker, we are going to use up our time trying to get the last word.

Madam Speaker, I just want to say if the gentleman will read the history of the Barbary pirates and Jefferson sending our ships over there, you would understand when all this started.

Mr. GOSS. Madam Speaker, I yield 2 minutes and 45 seconds to my colleague, the distinguished gentleman from Florida [Mr. MICA], who knows something about this problem firsthand.

Mr. MICA. Madam Speaker, the past two weeks have been awfully expensive for the American taxpayer. First, we had Mr. Yeltsin here asking for trade, and we promised him aid, aid to the tune of $1 billion. Then this administration told Russia to lower its taxes and cut redtape to attract business.

Several years ago during a trade mission to the Baltics, everyone there told me they wanted to trade with the United States. As I returned home, our cargo planes were delivering humanitarian aid to Russia, while the Japanese were opening the largest trade and business fair Moscow had ever seen.

Today we had Mr. Mandela here, and once again the American taxpayer got zapped. Think of what great economic progress we have made in South Africa.

Several years ago the United States was doing $4 billion worth of trade with South Africa and the Japanese had a $1 billion market there. Last year Japan had a $4 billion market in that country, and we dropped to $1 billion.

But do not worry, American taxpayers. President Clinton has now pledged $100 million of your money to South Africa.

Last year, Mr. and Mrs. America were presented with a $2 billion price tag for a failed military mission in Somalia. Somalia also got a bargain basement humanitarian aid package of another $500 million. Here we are now, my colleagues, with another chance to take the American taxpayers to the cleaners.

□ 1650

In Haiti look what the administration has accomplished:

In 1 short year our economic embargo has turned the poorest nation in this hemisphere into a basket case.

We've destroyed every manufacturing job and, since our occupation, finished off any surviving Haitian or American business interest.

We've put the entire island nation on a Clinton-style U.S. taxpayer financed welfare plan.

Now, with this rule we are being asked to justify one of the greatest foreign policy disasters of our time.

Madam Speaker, my constituents already pay for U.N. peacekeeping forces.

Today we must not ask the American taxpayers to pay again to keep 20 thousand troops on a misguided mission. I cannot in good conscious vote for or condone this folly.

Mr. GOSS. Madam Speaker, I yield 3 minutes and 30 seconds to my distinguished colleague, the gentleman from Florida [Mr. STEARNS], who has great knowledge about this subject.

Mr. STEARNS. Madam Speaker, I rise today in support of the Michel resolution to bring American troops home from Haiti.

The vast majority of the Members of this House—both Democrats and Republicans—know that the United States has no genuine national interest at stake in Haiti. The American occupation of Haiti was the last stop-gap measure in a long line of nonpolicies that has proceeded without any semblance of rationality of strategic planning.

Today, America's young men and women serving in Haiti are in the untenable position of policing a civil war, without coherent missions, goals or rules of engagement. As we have seen too many times in the past, this is a recipe for disaster. Only the professionalism of our forces on the ground and the good judgment they have shown, have allowed us to avoid tragedy thus far.

It is the responsibility of this Congress to remember the lessons learned in Vietnam, Lebanon, and Somalia. We should not commit our troops to a military engagement that does not have the support of Congress or the American people. We should not put them in the middle of a civil war. And we should not risk their lives on a matter not directly related to our national security.

We have before us today, three resolutions. The resolution in the dominant position under the so-called king-of-the-hill rule—or, as I like to call it the crime-on-the-hill rule—should be a nonstarter for most Members. It fails to state the fundamental principle that the President should have come to Congress for an authorization of the Haiti operation. It also relies on the President to include Congress in decision-making on this policy—something he has repeatedly failed to do.

On the other hand, I commend the authors of the other two alternatives before us. The distinguished Republican leader, Mr. MICHEL, has offered a resolution that provides for the immediate and orderly withdrawal of American forces from Haiti, prohibits American troops from being placed under foreign commands and restores congressional authority and accountability.

I would also like to commend Mr. DELLUMS, MURTHA, DICKS, and my colleague from Florida, Mr. HASTINGS on this resolution. The consistency of principle on these matters is admirable. Unfortunately, that resolution is nonbinding, does not provide for the immediate departure of American forces, allows our forces to serve under foreign commands and does not reaffirm Congress' role in this process strongly enough. Some Members who support the principles of the Michel resolution might be tempted to also vote for the Dellums-Murtha resolution also.

However, because of the way this rule has been structured, a Member cannot vote for the Dellums resolution without effectively voting against the Michel resolution.

A member cannot vote for this resolution without removing provisions for the immediate withdrawal of American troops and a firm reassertion of congressional authority over the commitment of our troops overseas.

There is only one way to ensure that those vital conditions are met: vote "yes" on Michel, "no" on Dellums-Murtha and "no" on Torricelli-Hamilton.

Mr. HALL of Ohio. Madam Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Madam Speaker, I rise in strong support of the rule.

Mr. GOSS. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Madam Speaker, it is about time that we are debating Haiti here in the Congress. When you consider the rule that we are discussing here and how we are going to debate Haiti, all I have got to say is, you ought to be ashamed of yourselves. You are gaming the system. You are loading the dice. Or as my friend, the gentleman from Iowa [Mr. NUSSLE], says, you are stacking the deck in favor of your resolution.

Why can we not have an honest debate? Why cannot Members come to the floor of this House, the people's House, and debate a resolution where they can offer amendments, where we can change language and where the people's will can be discussed and the people's will can be presented back to the people and to the President?

That is not what is going to happen here today. We have got a system that says, we are going to have three resolutions. It is not which one gets the most votes. It is not which one is in which place. We get to vote for one and, if it passes, does not mean anything. Because we are going to vote for two more. And if they pass, that does not make any difference on the second one. It is only the last one that comes here that passes that actually becomes the resolution, expressing the people's will.

We wonder why the American people are disgusted with this institution when we bring rules like this to the floor and game the system.

What we are doing is we are tying to fool the American people and they are not being fooled. The fact is, we ought to have an open and fair process here today, when we discuss this very important issue that the American people want discussed. And it is not open and it is not fair. And after 40 years of one-party control, it is no wonder the American people are saying goodbye.

Mr. GOSS. Madam Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mrs. MINK of Hawaii). The gentleman from Florida [Mr. GOSS] is recognized for 1½ minutes.

Mr. GOSS. Madam Speaker, we have heard a good deal as we have gone along. What we have is a bad rule here, but we have a necessary debate. We have got three choices.

The first choice, the Michel-Gilman choice, is going to say the President should not have ordered the troops in. That is the sense of Congress. We should start an immediate withdrawal. We should have reports on it. We should set up a congressional commission and have some accountability. That is a pretty clear choice. Since we do not like it, we are going to control it and we are going to find out what happened.

The second choice is Dellums, Murtha, Hastings, and Dicks. This is a sense of Congress that talks about a prompt and orderly, that is not quite as urgent as an immediate, withdrawal. It is a sense of Congress. It calls for some reporting, but it is absolutely meticulously neutral on the subject of whether we should or should not have put troops in Haiti.

It seems to me part of our job in Congress is to stand up and make the tough choices. If we have got 20,000-plus troops standing down there where tough choices mean something to them in terms of life or death, seems like we ought to render a little stronger opinion than we have no opinion on whether they are there. I do not think much of that choice.

Then the last choice is the choice that is offered by the gentleman from New Jersey [Mr. TORRICELLI] and the gentleman from Indiana [Mr. HAMILTON], that says what the President does is terrific. We all want to get behind that and say that was great policy.

I point out that was not such great policy, because the President said the only thing we could do was invade. But the President was wrong. Former President Carter, Colin Powell, SAM NUNN came along and said, "Mr. President, if you negotiate this, we do not have to go in there shooting."

□ 1700

The President was wrong. It is absolutely amazing that we are being asked to endorse something that is blatantly wrong and has been proven so. I urge a "no" vote on the rule and a "yes" vote on the Michel substitute.

Mr. HALL of Ohio. Madam Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HALL of Ohio. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 182, not voting 11, as follows:

[Roll No. 495]

YEAS—241

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Carr
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dicks
Dingell
Dixon

Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Harman
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Holden
Hoyer
Hughes
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
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Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
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Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schenk
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Strickland
Studds
Stupak
Swett
Swift
Synar
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Unsoeld
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NAYS—182

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
McCandless
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
McMillan
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce (OH)
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Saxton
Schaefer
Schiff
Schroeder
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Talent
Tanner
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Applegate
Bentley
Gallo
Quillen
Slattery
Sundquist
Tucker
Valentine
Washington
Wheat
Whitten

□ 1720

The Clerk announced the following pairs:

On this vote:

Mr. Slattery for, with Mrs. Bentley against.

Mr. Tucker for, with Mr. Quillen against.

Mr. SKEEN and Mr. GOODLING changed their vote from "yea" to "nay."

Mr. BROWDER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mrs. MINK of Hawaii). Pursuant to House Resolution 570 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution, House Joint Resolution 416.

□ 1722

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, with Mr. DERRICK, Chairman, in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, all time for general debate pursuant to the order of the House of Wednesday, October 5, 1994, had expired.

Pursuant to House Resolution 570, there will now be a further period of general debate.

The gentleman from New Jersey [Mr. TORRICELLI] will be recognized for 1 hour and the gentleman from New York [Mr. GILMAN] will be recognized for 1 hour.

The Chair recognizes the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. DELLUMS], the distinguished chairman of the Committee on Armed Services.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for his generosity in yielding me this time.

Mr. Chairman, I rise in support of our troops, in support of our President, in support of Operation Uphold Democracy, and in opposition to a date-certain withdrawal for United States troops from Haiti.

The United States taking a leadership role in Operation Uphold Democracy underscores the fact that the end of the cold war has resulted in a redefinition of America's security interests. No longer is the defeat of communism the raison d'etre of U.S. foreign policy. Instead, new and creative thinking must be applied to the myriad, multifaceted challenges that confront us in this rapidly changing world. As I stated in the context of the debate on South Africa the cold war doctrine allows the world to understand what we stand against, but do we stand for what is in our national interest? That is open to debate and exploration.

The days of cookie-cutter foreign policy formulation are over. All of us in this Chamber must now meet with courage and clarity of thought the new challenges that are being thrust upon us in this rapidly changing post-cold-war world.

In the period that Operation Uphold Democracy has been in existence, United States troops have managed to provide hope where there was once only desolation, installed restraint where brutality had long held sway, and conveyed to all Haitians the importance of forbearance and self-control during this very sensitive period of transition towards the restoration of democracy in Haiti.

It is now up to the Congress to ensure that the United States stays the course long enough to ensure that our participation in the multinational force and the U.N.-led mission yields lasting results.

I commend General Shelton and the thousands of men and women in the U.S. armed services currently serving with compassion and professionalism in Haiti. And I commend President Clinton and the many analysts, advisors, and practitioners throughout our Government who found a way to enable the United States to face this post-cold-war challenge.

During the cold war, American power and global pre-eminence were measured in terms of our capacity to confront the then-mighty Soviet Union either directly or through surrogate wars in Third World nations. Multibillion-dollar weapons systems and the world's best trained fighting men and women set our Nation apart from the world's other military establishments. It is my hope, however, that the end of the cold war will heighten our awareness that America's greatness can also be demonstrated in ways other than we grew used to during decades of cold war rivalry. Our readiness to work with the world community to devise strategies to undergird democracy, promote individual liberty, and halt macabre and sustained brutalization of peoples beyond our shores are also worthy of our consideration and support.

The use of U.S. troops in such actions raises many difficult, but important, questions:

Do we have the means to accomplish the mission?

Are the political, economic and humanitarian consequences of inaction considered unacceptable by the the United States and the international community?

Are our Nation's interest in promoting democracy and economic stability abroad advanced in the process?

What is the required level of consultation between the legislative and executive branches of our Government?

For which types of operations is congressional authorization required?

These are important questions with which we are now forced to grapple now that the cold war is over.

With regard to the operations aspects of Operation Uphold Democracy, I must commend the flexibility that our troops have exhibited under the leadership of General Shelton. This has facilitated the correction of operational weaknesses as soon as they have become obvious and, as result, the operation has proceeded thus far without any major setbacks.

Nonetheless, there will be moments of crisis.

This operation is not free of danger. There will be casualties.

And so, it is incumbent upon us all to prepare the American people, and ourselves, for these difficult moments—if moments of crisis and setback are not to give way to despair and defeat. The important point to remember, Mr. Chairman, is that Operation Uphold Democracy represents a new global commitment in the post-cold-war world to uphold and defend democracy. And this is an effort in which the United States of America and every person in this Chamber should be proud to be a part.

Mr. Chairman, I have never heard any of my colleagues, from either side of the aisle, even suggest that the United States become involved in every or even most of the low-intensity conflict that will continue to emerge around the world. Nonetheless, we must be prepared to recognize that there will be those occasions when the suffering of defenseless human beings may be so grave, the repercussions of that crisis within our own borders so great, and our ability to make a difference so clear, that the use of troops in a nontraditional, post-cold-war context may indeed be appropriate.

For my part, I am very pleased that this intervention occurred permissively. I would have had great difficulty accepting an invasion as our only means of supporting the democratic aspirations of the Haitian people. Now that our troops are on the ground in Haiti, having entered without the use of force, we must seize the opportunity to ensure that our mission—to facilitate the restoration of democracy—is executed effectively. We must not Mr. Chairman, jeopardize the safety of our troops by signaling to those who do not want democracy the exact date by which our troops will leave—regardless of what does or does not develop on the ground. Instead we should do all we can to ensure that our mission is executed as quickly and as effectively as possible.

Haiti does not have a long-standing history of democracy. That is a point that has been made repeatedly and it is true. It is also true, however, that Haitian people have risked life and limb over many years to free themselves of dictatorship via the electoral process, a goal they managed to achieve—against great odds—in December 1990. Undergirding their determination to re-enter the world community of democratic nations, despite years of extreme oppression, is indeed worthy of U.S. support.

We must allow United States troops in Haiti to stay long enough to complete the task at hand, free of congressionally mandated withdrawal dates. I am not advocating a multiyear presence but I am urging that we allow our President and the U.S. troops now on the ground the time needed to ensure that Operation Uphold Democracy will succeed.

This would not only in the best interest of the People of Haiti, it would also be in the best interest of our own country.

□ 1730

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. ROYCE].

Mr. ROYCE. Mr. Chairman, I rise in opposition to the Torricelli resolution, House Joint Resolution 416. My opposition is based on two issues.

The first is that if we mean to call for a withdrawal, then we should say so. The second is that if we mean for our troops in Haiti to remain under United States control then we should say so.

Instead this resolution would in effect allow for 6,000 United States troops to be under U.N. control and then left down there in Haiti as long as the President deems it necessary—simply by his certification that its somehow in the national interest. We would not be guaranteed another vote on his decision. That is both disingenuous and unacceptable.

Operational control of American troops, and thus the responsibility for their safety and ultimately, their lives, must remain strictly American, not U.N., not Haitian, not foreign. Period.

When I pressed the author, and the Assistant Secretary of State in hearings, it became clear that both the intention and the effect is to maintain U.S. control only in the first phase of the operation, next week for example, but in the next phase, the so-called U.N.-led multinational force phase, the resolution's prohibitory language would not apply.

The American people are in no mood to have the wool pulled over their eyes like this.

Neither the majority of the American people, nor the majority of Members of Congress, approved of this operation beforehand, nor do they today.

The President acknowledged as much when he stated to the American people that the mission would be short-lived, would not involve nation-building or peace-keeping, and would not involve the use of United States troops to rebuild the Haitian economy.

The President did not say our troops would be needlessly at risk serving as riot police and bodyguards.

Clearly the American people and the Congress remain skeptical about the mission, its purpose, and the likelihood of a successful outcome—successful not as defined by "Restoring Aristide," but by the more immediate and tangible definition of the minimum loss of American lives.

Given the highly controversial and uncertain path by which the present situation of United States troops in Haiti evolved, the additional uncertainty of foreign command is simply too much. Anything short of a solid date for ending this experiment is both meaningless and careless.

There is no compelling national security case for handing over operational control over United States troops in Haiti. There has been no dialog between the administration and this body, or the American people, resulting in a consensus for doing so. Common sense shows there won't be, and clearly that is why this language is trying to cover it up.

On this week's anniversary of the tragic death in Somalia of 18 U.S. servicemen, the wounding of 78, and the capture of another, it is abundantly clear that United States troops in Haiti will always be in imminent danger of combat and casualties.

We owe it to our soldiers and their families to ensure that their safety will be the subject of focused and committed leadership, from the Commander in Chief through to the entire Pentagon chain of command; not Boutros-Boutros Ghali or some unknown general of his choosing.

□ 1740

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentlewoman from Georgia [Ms. McKINNEY].

Ms. McKINNEY. Mr. Chairman, I rise in support of the Dellums-Murtha-Hastings amendment.

On this very day, on this very floor, His Excellency, President Nelson Mandela, spoke to us about many things. He spoke to us about the prison gates of Robben Island. He spoke to us about the triumph of the oppressed. He invoked the name of Martin Luther King, Jr., and he spoke to us of freedom, democracy, peace, and prosperity. And finally, he thanked us from walking down that road with him together.

Mr. Chairman, I support the President's determination to walk down the road of freedom, democracy, peace, and prosperity with the people of Haiti.

Before our eyes we have seen one of the coup leaders leave the country, we have seen the armed thugs and rapists turned in by the Haitian people, and we have seen the marginalization of the once-mighty paramilitary types who could roam the streets and act with impunity.

Mr. Chairman, democracy is about electing a person to govern. When the Haitian people elected President Aristide, they demonstrated to the world their commitment to peace, democracy, prosperity, and reconciliation. We know that despite the facts, the CIA tried to discredit the choice of the Haitian people through false reports of mental illness. We know also, Mr. Chairman, the CIA reports claiming that President Aristide is not a man of peace are also false.

What is true, Mr. Chairman, is that President Aristide has consistently demonstrated that nation-building, peace, and unity are his platform. President Aristide has never supported necklacing and during his 8 months in office there was not one single incident. Neither the CIA nor the State Department has been able to support any accusation that President Aristide advocates necklacing. So, Mr. Chairman, why are my colleagues on the other side still singing this same old song?

The entire international community holds Nelson Mandela up as democracy's symbol. However, Mr. Chairman, only 6 short years ago, Mr. Mandela was reviled by even some people in this Chamber. Mr. Mandela publicly described President Aristide as a man exactly like he—a man of democracy doing his utmost to ensure a better life for his people. These two democratic leaders will meet today. These two democratic leaders will discuss nation-building and reconciliation. And quite frankly, Mr. Chairman, these two leaders represent democracy, peace, and goodwill.

We all love oldies but goodies, but the record being played by the gridlock gang is scratched. Thank goodness Nelson Mandela helped set the record straight.

Nelson Mandela stands as a beacon of hope for peace and justice throughout the world. He is a man of peace because he has forgiven the guards, the police, the military that imprisoned him. He has retained the Ambassador that defended the apartheid regime. He has included South Africans of every political party in his Cabinet. We applaud his courage and his ability to forgive his enemies and the enemies of democracy in South Africa.

Somehow we believe antidemocratic white South Africans can be reformed and that democracy can take root in South Africa. In contrast, members of the opposition would have us write-off Haiti. They would have us abandon the Haitians who risked their lives to vote for President Aristide.

When we listen to these people we end up on the wrong side. They were on the wrong side in South Africa, Namibia, Angola, Zaire, and Mozambique. They are on the wrong side in Haiti.

We can actually define the new world order that is dawning before us. This new order must be a world of democracy, peace, and prosperity for all humanity.

We must support President Clinton, our troops, and our policy to restore true and lasting peace in Haiti. I urge my colleagues to support the Hastings-Dellums-Murtha amendment.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, if we learned anything from our experience as a nation in Vietnam and later Somalia, it was that while we can argue all day whether the President may commit troops before going to Congress—there are three important questions that must be answered before the sons and daughters of America are put in harms way:

First, is there a specific definable national interest at stake?

Second, can that national interest be advanced by military action—which includes specifically when and on what terms the action will be concluded?

And the third and most important lesson we learned from Vietnam, does the military action have the support of the American people?

The occupation of Haiti fails on all three grounds.

We are elected to serve the interests for our constituents and to support the Constitution, not a caucus, not a President, but the American people.

The people of this country overwhelmingly do not want our troops in Haiti. The Michel-Gilman substitute ends the occupation and brings our troops home that is what is important, please support this amendment.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today to strongly oppose any attempt to set a specific, arbitrary date for the withdrawal of our troops now committed to Haiti.

I do so as one who opposed our original policy to commit troops to that country. I clearly stated my opposition to our policy then, but made clear that should our troops ultimately be committed—I pledged my total support for the troops, their safety, and their mission.

I come to this debate with some knowledge of military action, having served in Vietnam for over 6 years in direct contact with the enemy. I saw first hand the damage done when politicians make military decisions.

Let us be sure we all understand what today's debate is all about. This debate is no longer about our policy toward Haiti as it regards the commitment of troops to that country. That debate ended when the President sent in over 20,000 troops into Haiti a couple of weeks ago. This debate is now 100 percent about whether or not this Congress will make an articulate statement that clearly supports our troops now committed and that acknowledges our confidence in the United States military commanders in Haiti to carry out their mission quickly, safely and in the best interests of the Nation.

I personally have total confidence in our commanders to do the right thing in leading our troops in Haiti to accomplish their mission. There is simply no question of their professional ability, their commitment, or their desire to leave Haiti as soon as possible.

Let us not make the mistakes of Vietnam here today. Don't you remember how the Vietnam war was micromanaged in Washington? Don't you remember how we tied the hands of our field commanders? Don't you remember how we left the troops in the field to suffer the psychological burden of serving their Nation in a foreign land without political or public support?

Well I do remember. I remember with great pain the fact that our troops serving at great risk in Vietnam became political punching bags for those who may not have agreed with the policy of multiple administrations. That circumstance ultimately cost us American lives in Vietnam.

Let us not repeat the mistakes of the past. Let us send a clear message to our troops that we have the utmost respect for their bravery, their sacrifices, and for their willingness to serve this great Nation. At the same time, let us not tie the hands of our troop commanders as they carry out their mission. Above all, don't set an artificial time certain when troops must be now removed from Haiti. The lives of our troops may very well depend on our military commanders' ability to determine when the troops can be removed safely.

Yes, we all want to bring our troops home as soon as possible. No, we will not tolerate mission creep. Yes, we all want to successfully bring stability to Haiti and restore democracy there. But, I submit that no one in this body is better qualified to determine precisely the proper time for troop withdrawal than are our commanders in the field.

Let us do the right thing here today—support the Murtha/Dellums/Hastings/Dicks resolution. It is the right message, at the right time, and directed to the right people.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, before I begin let me be clear about one thing: The President of the United States has now deployed over 25,000 of our military personnel to a duty in and around Haiti.

Whether I agree with their assignment or not, I support our men and women in uniform.

They are the best in the world and any criticism of their presence in Haiti is not criticism of them. But rather, a critique of the decisionmaking process that sent them there.

BAD OPTIONS

Mr. Chairman, we have a bit of a mess on our hands. The resolutions we have before us attempts to put the best face on a series of bad options.

On one hand, we are told that we cannot allow the President of the United States to have an open-ended authorization to keep our military forces on the ground in Haiti. On the other hand, we are told that establishing a date certain for withdrawal would be extremely dangerous for our personnel and diminish the chances that the President's mission will succeed.

And still further, there are those of us who feel very strongly that our servicemen and servicewomen should never have been sent to Haiti in the first place.

I count myself in this group and will vote "no" on the Torricelli resolution and give only qualified support to the Republican substitute. Our withdrawal from Haiti should be immediate and complete.

NO NATIONAL INTEREST

Let me state this clearly: President Clinton's decision to occupy Haiti is wrong. Of course America condemns the military coup led by General Cedras in 1991 and the resulting years of human rights violations. But when did we become the police force for the world?

We have no direct vital national economic or strategic interest at stake in Haiti and yet the President is risking the unnecessary loss of American lives for a cause that does not enjoy the support of the American people.

The President has set about restoring democracy in a land that has never known democracy.

This is nation-building in the wake of failure of the Somali effort at a time when we have our own nation-fixing to do here at home.

AND THERE ARE DOLLARS COST TO THE UNITED STATES

This military action, no matter how limited, will require a costly, long-term United States presence in Haiti. And tragically, I believe the cost will be tallied in both U.S. taxpayer dollars and in the lives of U.S. soldiers, sailors and airmen.

On the first count, we have already spent over $200 million in costs associated with the refugee and sanctions enforcement operations of the Coast Guard and the Navy. We are still waiting to see what the final pricetag will be for Operation Restore Democracy which started on September 19. There are preliminary estimates that this total will far exceed $1 billion.

And that's not counting what the Office of Management and Budget has euphemistically labeled reconstruction assistance—humanitarian programs, tearing down and then rebuilding the Haitian military, reconstructing the Haitian police force. And there will be costs associated with building a new Haitian economy—establishing a economic and a physical infrastructure where it does not exist now.

UNITED STATES CASUALTIES WILL COME

From where we sit today, these fiscal costs are staggering. But so will be the cost to our national spirit when our military men and women start being pawns in the coming Haitian civil war. And it will happen, my colleagues. We all know it.

□ 1750

Supporters of Cedras and the military junta have a clear motive to attack Americans so they will leave. On the other hand, supporters of President Aristide have been accused of plotting to attack Americans and blame the violence on the junta so that Americans will stay. In this violent equation the only losers are wearing U.S. uniforms. The President has pushed our military into Haiti, and those of us who believe it was wrong not to seek congressional approval should stand up now. The Congress should bring them home now. The plan offered by the gentleman from New Jersey [Mr. TORRICELLI] fails that objective. The Michel plan is marginally better. But under my plan I would say the motto should be, "You'll be home for Christmas." That is when our people should be coming home. Under the Clinton plan, and other plans, it will only be in their dreams. Home for Christmas should be our goal.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Chairman, at this point in the debate that has gone on for many hours it is difficult to express many new thoughts, so let me just point out with whom I agree and with whom I disagree. The gentlewoman who spoke before me was quite right in saying that we have a mess on our hands and that many of us here today find ourselves having been opposed to this mission in the first place, but trying to sort through what is best now that we have the situation on the ground, and like many others, including the gentlewoman and the gentleman who offers the resolution today, I start my analysis by asking what is in the best interests of our troops, what is in the best interest of the young men and women who our Commander in chief has sent to Haiti, but what I have heard disturbingly often on this floor today is, "I support the troops, but."

"I support the troops, but I don't want to sanction the mission," or, "I support the troops, but I must vote for a date certain to tell my constituents when they are coming," or, "I support the troops, but I have to express my opposition to this mission, and this is the way to express my opposition to the mission."

The fact is, if we support the troops, there should be no buts. Every military leader I have talked to, every individual experienced in military matters that I have talked to, including a constituent who I spoke to just recently who is a Marine himself, whose son was in Somalia, and I spoke to his son after he came home from Somalia, says the same thing:

"Don't tip your hand. Don't tell your enemy what you will or won't do. Let them think you will do anything. Keep them guessing." I was not even happy, I say to the gentleman from New Jersey [Mr. TORRICELLI], when the gentleman from the Defense Department spoke before our committee and answered questions about what they would and would not do. That, I thought, gave too much information away.

The option before us that comes closest to supporting the military leaders on the ground is the Dellums-Murtha amendment. It requires careful reporting, it keeps the administration on a short leash, it gives us the information we need, it does not prevent us from moving to remove them immediately if this Congress decides that it needs to do it, but it does not tie the military's hands, it does support our troops, and I will be supporting that option in today's debate.

The CHAIRMAN pro tempore. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. REED) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1754

LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI RESOLUTION

The Committee resumed its sitting.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman and Members, I think there are two obvious conclusions that ought to begin any discussions of a resolution here this afternoon, and the first is Haiti is not the enemy. We are not at war with Haiti, my colleagues; let us understand that; and, second, let us understand that the Congress ought to never control the conduct of foreign policy when military hostilities are involved. However, my colleagues, I say, when you take those two premises, you quickly, I think, come to some conclusions based on experience, and I would invite every one of my colleagues, especially my colleagues on the Democratic side of the aisle, to think back to how we handled the whole situation in Central America during the early 1980's. Now we did not have troops in a hostile situation there either, but what did we do? We authorized American commitments for a certain period of time, and then each time as we neared that date of expiraiton, we came back and considered where we were at and what we should do from this point forward.

I have to tell my colleagues in all honesty that I am not excited about any of these three resolutions, and anybody who wonders whether Congress ought to conduct foreign policy ought to read all three of them, and they will come to the conclusion that we should not. But that does not give us an answer; does it? So then let us look at the resolutions and understand what they do.

The Michel resolution says that we should not have occupied Haiti, we should immediately begin orderly withdrawal, and if we have not completely withdrawn by January 3, 1995, a resolution will automatically be introduced to consider withdrawal within 30 days.

The Dellums-Murtha resolution is simply a sense of Congress supporting prompt and orderly withdrawal. So it is a sense of Congress that means nothing, and makes us feel good, covers us back home, and asks the President, if it is convenient for him, to report to us on a monthly basis.

The third resolution, the Torricelli-Hamilton resolution, authorizes troops until March 1, 1995, and so we are now ex post facto authorizing troops, and we are putting a limit on the authorization. Sounds good. I was all excited and thought I was going to vote for the Hamilton-Torricelli resolution, and then I read further, and it says, "But if the President decides he wants to keep the troops longer, later, because of national interests, he can do that."

So it does not mean anything at all. It is not a limited authorization. It just says, "Feel good. We are going to sanctify what the President has done, and we are going to give him the automatic carte blanche to do that."

So, Mr. Chairman, I say to my colleagues, if you have concerns about Haiti, and I think every one of us does, and if you are looking for a way in which Congress can have the constitutional authority we have to review our role, the earliest and best opportunity to do that is with the Michel resolution. I'm not here to tell you the Michel resolution is proper public policy, but I'm here to tell you it is the best of the three alternatives before us this evening, and so I encourage you to give it your support.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. MEEK].

Mrs. MEEK of Florida. Mr. Chairman, I have listened very intently at the debate this afternoon. I rise to support the Torricelli-Dellums-Murtha-Hastings amendment, and I want to say that people do not seem to understand, for some reason, that the President of the United States, President Clinton, is in no way obligated to seek their formal approval. He does not need their authority to go and invade Haiti.

We are not at war with Haiti. If Congress wants war with Haiti, they have to declare war with Haiti. The President has not done that.

So, Mr. Chairman, there is no real reason for us to stay here all afternoon debating whether or not we should be in Haiti. The fact is we are in there, and we are in there, and now that we are in there, Mr. Chairman, we must do something.

I have been to Guantanamo. I have gone to the hospital ship *Comfort*. I have seen our military men with the sensitivity and the feeling to collar the young starving babies that come off the ships from Haiti. I have seen our military there. We must support them. We must undergird them. We cannot come here every day with a lot of pious platitudes and never say to our military people, we support the kind of action you're doing in Haiti. We know you're not at war. You are there trying to keep the peace if we will let you.

□ 1800

You are doing your very best, and we salute that. Our military personnel need a pat on the back. We must support the Dellums-Hastings-Murtha amendment. We must defeat the Michel substitute. Who has a time clock and who knows how to assess how long it is going to take to do what needs to be done in Haiti? The President of this country is authorized to do that. Congress is not. So we must look at those things.

I want to also say, why do we ask other people? Some of us really do not have the sense of humanity that we need to respond selectively, Mr. Chairman, and differently to suffering people, when the people involved are not people who look exactly like you. We are all akin to the holocaust victims; we are akin to the Arabs on the West Bank; we are akin to the Moslems in Bosnia and Serbia; to the Catholics and Protestants in Ireland; and to the victims of tribal atrocities in Rwanda.

Mr. Chairman, I do not think everyone is fit to contribute to the policy making in this global village. This Congress has to get with it.

The CHAIRMAN pro tempore (Mr. DELUGO) took the chair.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from New York [Ms. MOLINARI].

Ms. MOLINARI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, today we finally debate an issue that should have been brought to congressional attention and to the attention of the American people before September 19, that is, before we sent one American soldier to Haiti.

Nonetheless, we stand here tonight instead to debate three very different options for action. No. 1, the Dellums bill. It says that our troops should stay as long as the President deems possible. No. 2, the Torricelli resolution says that our troops are authorized through March 1, 1995.

Only the third resolution, the Michel-Gilman resolution, demands that the President withdraw our troops immediately. And for those of us who did not support the President's decision to send forces into Haiti without a stated mission or without an exit strategy, we will not praise that decision now.

Only the Michel-Gilman resolution makes that clear. So I ask my colleagues, why are we waiting until

March 1, 1995 to bring our forces home? Will someone tell us what will change? What are we waiting for? What are we hoping for? An economic resurgence? A stable infrastructure? A citizenry totally embracing democracy? And if that does not occur by March 1, then what?

We wait a little longer.

No. On October 15, Cedras says he will be deposed and Aristide will return. We can and we should do absolutely no more. Because every day we have our troops in Haiti waiting for some sign, they are in danger. And they are not really sure why either. In a recent exposé by the New York Post, a journalist detailed the marines' uneasiness at their role, and told of their inability and frustration to tell the good guys from the bad. He wondered out loud, I am still trying to figure out my mission over here. Did I join the Marine Corps, or did I join the Peace Corps?

Which brings us to another critical decision between the resolutions. Only the Michel-Gilman resolution demands that U.S. troops under all circumstances remain under U.S. control.

Have we not learned our lessons from Somalia, where our forces were asked to become part of a U.N.-led peackeeping effort? Have we not learned from watching the daily disasters in Bosia that U.N. peacekeepers are placed in untenable situations? Only the Michel-Gilman resolution says loudly, not our troops.

I urge my colleagues to support the Michel-Gilman resolution. The White House has yet to tell us why we are in Haiti; the sponsors of the other resolutions have yet to tell us what we are waiting for; and our troops have yet to know just what their role is and is to be.

Mr. Chairman, let us bring them home, let us salute their courage, let us thank them for their sacrifice, let us praise them. But let us bring them home.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I rise in strong opposition to the Michel amendment and in support of the Dellums-Murtha amendment. No one in the Democratic Caucus has been more persistent in warning of the pitfalls involved in Haiti.

But today we come to an issue which we must judge given the realities as they exist today. The first reality is that we do have a national security interest in operations within Haiti, and that interest is to prevent the uncontrolled immigration of people into the United States.

I ask those people who strongly urge that we immediately withdraw, what will that do to our ability to control our borders and prevent the exodus of frustrated, bewildered, and perhaps terrorized Haitians? I would suggest if we leave precipitously, they will cling to our ships, hang on to the skids of our helicopters, they will leave there as fast as possible, and that national security interest we undercut by the Michel amendment.

We also have a second security interest, a noble interest, supporting democracy. That was an interest recognized by everyone in this Chamber. It was recognized by the Republicans when they advanced the Goss proposal in May of this year, which called upon us to contribute to the long-term democratic stability of Haiti. That still is an interest.

But the real reality we face today is the reality that we have American troops on the ground. One of the greatest privileges of my life was to command paratroopers in the 82d Airborne Division. When I saw those young men getting ready to go on those planes, my heart went out to them. I was relieved physically when those planes were turned around, and I know those young men probably said they wanted to go into a fight, but that is the bravado of youth.

We averted a major military operation through the peaceful intervention of our forces into Haiti, but there are still American soldiers on the ground. The Michel proposal would undercut their ability to control tactically their environment, because when they ask local Haitians for help, for intelligence, for support, they would be responded to by, "Why? You are leaving immediately, if not sooner." When they looked into a crowd, they would not sense that they had control, but rather that that crowd knew that next day there would be fewer and fewer and fewer Americans.

In every military operations, Grenada, Panama, we have stood by our troops. We must stand by them today. Reject the Michel amendment, support the Dellums-Murtha amendment.

Mr. GILMAN. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina [Mr. SPENCE], the distinguished ranking Republican on the Committee on Armed Services.

Mr. SPENCE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to the administration's Haitian policy.

As we enter the third week of the United States military occupation of Haiti, it is becoming increasingly clear that United States combat troops are the wrong instrument to use in trying to invigorate whatever few elements of Democracy exist in Haiti.

Yes; we will succeed in facilitating the return of President Aristide. And if that was the extent of our mission, we could bring all of our troops home starting next week.

But the administration plan goes beyond merely returning Aristide to power—it will have U.S. troops serving as his protectors and palace guard for the remainder of his Presidential term.

Mr. Chairman, this policy is deeply flawed.

U.S. troops on the ground today are performing a difficult mission with the valor and competence that we have come to expect from our fine young men and women in uniform. But, they have been placed in the midst of a political mine field with no discernible military misison—just a political one.

Establishing democracy in Haiti is a worthy objective, but in the final analysis, it can only be achieved by the Haitians themselves and not at the gun point of our occupation force.

Therefore, Mr. Chairman, it is my belief that the President made a grave mistake in sending United States forces to Haiti in the first place.

But since he already crossed that line in spite of overwhelming congressional and public opposition, we must now focus on securing the immediate and orderly withdrawal of all United States military forces from Haiti.

Later in this debate we will consider three different resolutions addressing the question of how long United States forces should remain in Haiti and under what conditions.

I believe the withdrawal should start immediately, but that debate lies ahead.

At that time, I want to raise two issues of critical importance to the integrity and safety of our military forces—the difficulties of operating under U.N. command and the readiness implications of overcommitting our military forces around the world.

Mr. Chairman, the administration would have us believe that our troops will be withdrawn in a matter of months at which time this entire mess will be handed over to the United Nations.

In reality, when, and if the United States is able to hand off this operation to the United Nations, a transition we all ought to be skeptical of, the follow-on operation will essentially be a U.S. operation in all but name.

This is the same sequence that we followed in Somalia—the United States goes in strong, stabilizes the situation, and then hands off to the United Nations. But just like in Somalia, the reality in Haiti will be that this handoff will simply be to ourselves. That is, the United States will be handing off to a so-called U.N. force that is principally comprised of American Forces. And, like in Somalia, it will be the United States component of this U.N. force that will be expected to continue doing the heavy lifting of providing security, logistics, intelligence, and, I suspect, nation building. Even though we assert that United States troops will not be nation building in Haiti, that is exactly the course we are already embarked upon.

This means that the operation will change from a U.S. Force of 20,000 troops with the capability to deal with most any security threat the Haitians could muster, to a dramatically reduced U.N. force of 6,000 troops under U.N. command. Other than the American contingent of this U.N. force, the additional forces will be comprised of a patchwork of nations chosen more for political and diplomatic symbolism than for fighting or peacekeeping effectiveness.

Mr. Chairman, we are repeating history only 1 year after that tragic weekend firefight in Mogadishu. We paid for our policy mistakes in Somalia with the blood of our troops.

We should be smart enough not to allow United States Forces to be placed under a United Nations force commander, even if the U.N. agrees to make this officer an American.

Such an arrangement may appear politically attractive, but as we found in Somalia, it creates dual chains of command that guarantee confusion, dissention and wastes precious time in making critical tactical decisions in the heat of battle.

There is no reason why the United Nations and the international community cannot take the entire nation building operation from the United States in Haiti. As the largest financial contributor to the United Nations, United States taxpayers will still pick up the tab on at least 32 percent of the cost of rebuilding Haiti under any scenario. But we shouldn't ask our constituents to place thousands of their sons and daughters under the pale blue flag of the United Nations and run the risk of repeating the mistakes of Somalia once again.

Mr. Chairman, the other point that deserves mention is that United States Forces have been deployed to Haiti at a time when our military forces are already stretched beyond the breaking point. They are not on the edge, but instead, our forces have started to fall of the cliff and readiness is beginning to suffer to an extent we collectively vowed, after the 1970's, never to repeat again.

While the administration has indicated it intends to seek a supplemental appropriation to offset the costs of the Haiti operation, it is unclear when such a supplemental would be approved, and whether it will fully compensate the services for the billion of dollars that Haiti is bound to cost the Department of Defense.

Beyond the fiscal costs, this administration's fondness for peace operations is straining a military force structure that has been significantly reduced due to the Clinton budget cuts.

In simple terms—resources are down but commitments are up. Let me cite some specific examples of the problem. In the Marine Corps, due to funding shortages, 7 East Coast aircraft squadrons were grounded for the month of September.

For instance, one Marine Corps aircraft squadron based in North Carolina usually flies 476 hours a month to maintain operational proficiency. Last month it flew zero hours.

In the Navy, 162 aircraft from active flying units have been put in giant ziplock bags because we do not have the money to fly them.

In the Army, entire divisions are starting to report reduced readiness ratings, indicating a reduced ability to go to war.

The Air Force is facing similar problems as recently demonstrated to Secretary Perry during his trip through Germany.

Mr. Chairman, I could go on in greater detail on this issue and I will at another time.

But the point is that this was the grim readiness picture of our forces before the administration decided to send over 20,000 troops on another peacekeeping adventure in Haiti. Every day the situation worsens.

Beyond the simple dollar costs, there are human, operational and training costs that cannot be recouped by supplemental appropriations. Before our eyes we are witnessing a steady decline in the operational readiness of our forces to carry out their primary mission of fighting and winning wars in defense of American national interests.

Mr. Chairman, in a few days, we will leave Washington for our respective home States and leave the fate of United States operations in Haiti in the hands of the Commander-in-Chief, Bill Clinton. That should give all Americans cause for concern. The debate today may or may not, influence where we are in Haiti when the 104th Congress convenes next year, but we must take this opportunity to voice our loud and determined opposition to the administration's plan to maintain United States Forces in Haiti, under U.N. command, through at least 1996.

Let us bring our men and women in uniform home now, their job in Haiti is done.

□ 1810

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, not long ago, this Chamber debated its authority in foreign policy and the United States role in Haiti. Prior to the agreement by President Carter and General Powell, many Members on both sides of the aisle called for congressional approval of intervention if the President deployed troops for the purposes of military engagement. Fortunately, the agreement reached avoided the need for an invasion. And no one described it better than General Powell. We avoided seeing young Haitians killing young Americans and young Americans killing young Haitians. In times of crises, many often argue that congressional debate can lead to procrastination, delay, and diffusion of American purpose. Many question the Constitution and where authority lies to call for military action. While past experience has dictated this authority lies with the President, it is the responsibility of Congress to debate, to air reservations and concerns, and to express approval or disapproval. It is our responsibility as an institution and it is our responsibility to the American people.

Now we all support our troops and their mission, and while we all hope for stability and peace in Haiti, this mission must continue to be clearly defined. The current situation is still extremely tense and the role of United States troops is still questioned by both the American public and the Haitian people.

The demands on our troops appear to be growing since their successful landing. If our troops are to be effective, specific objectives must be set for our operation in Haiti while the United States maintains its presence. Our policy must be clear and consistent. The role of our Forces spelled out, stabilization brought about, and an orderly transfer of authority must be among our goals. We must do this as swiftly and effectively as possible and in the meantime we commend our troops for a flawless landing and for giving hope to the Haitians who have been unbelievably mistreated—we heard about the brutality these people suffered but now we have seen it. This horrible mistreatment must be stopped and our military returned to our own shores knowing they have ended a human nightmare.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding time to me.

My colleagues, two reference points:

First, this past Monday, retired Army Lt. Col. Larry E. Joyce observed the 1-year anniversary of the loss of his son, James Casey Joyce, who was killed in Somalia. Colonel Joyce reflected upon the loss of his son and the 44 members of the Armed Forces who died in Somalia and expressed and reminded the Nation of the terrible price we pay when brave men and women in uniform are sent to enforce what he called "an invalid foreign policy." That policy decision ended in a military debacle that cost 18 Rangers their lives and resulted in a policy of negotiation and eventual withdrawal. So today, while General Aidid is still in control, it is warlord repression as usual. And the question must be asked for what did our Rangers die?

Reference point No. 2: As we debate these resolutions, we should all be reminded of the advice of former Senator

Richard Russell, the Georgia Democrat who was chairman of the Senate Armed Services Committee during the Vietnam war.

He said,

> I shall never knowingly support a policy of sending even a single American serviceman to risk his life unless the entire population and wealth of our country, all that we have and all that we are, is to bear a commensurate responsibility in giving him the fullest support and protection of which we are capable.

The fatal error is not in setting dates for withdrawal or trying to cut our losses when things go wrong but incurring them at all in places that do not involve our fundamental interests.

The basic error that has been and is being made by this administration is the misuse of the American military. Too many times our Armed Forces, our men and women in uniform are being asked to be policemen or social workers distributing welfare and assistance to victims of failed political and social orders all throughout the world.

I do not mean to argue we cannot do that. But the point is, using our military for those means is misusing the military. And it is more fundamental than that.

Part of the Ranger creed is that they take care of their own. The motto of our U.S. Marine Corps is Semper Fidelis, always faithful. We Marines are told that if we are pinned down, we are part of the greatest fighting force in the history of the world. And if any Marine gets into trouble, we will send in the squad, the platoon, the company, the regiment, the division and, if necessary, the whole damn Marine Corps. And we have never been stopped yet.

Some would say that these days of commitment are gone, that we face new challenges. Things have changed. I think the gentleman from California [Mr. DELLUMS], referred to that.

The rules of military engagement and the value of each American life have not changed. We do not commit American men and women to possible combat situations where the military mission is not clear and where there is no specific mission.

Our former Marine Commandant, Al Grey, was fond of saying every Marine was a warrior in defense of his country. Not today. No, not today.

Today our military have become peacekeepers, traffic cops and social workers in an effort to restore democracy where none has existed. And until the first member of the American military dies in yet another nonmilitary mission, let us not let that happen. Before that happens, let us bring them home.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

□ 1820

Ms. NORTON. Mr. Chairman, I rise in support of the Dellums amendment to leave Haiti as soon as responsibly possible. It is the only position consistent with our role in the world today.

Mr. Chairman, this debate has been about something that has never happened. There is no war or invasion, such as in the Persian Gulf, where the President came and asked our permission, or Grenada and Panama, where he did not. Our troops went in after an agreement that averted war and invasion had taken place. They are embarked on a peacekeeping mission which has no resemblance to war or invasion.

Mr. Chairman, I have been amused to watch Members in role reversal tonight Members who have urged, pressed, and insisted upon military action in the past are now playing the roles of doves and isolationists, using the very language that they have criticized in others.

It appears that their views turn not on the mission, but on who is Commander-in-Chief. Moreover, they feed the notion that the problem with this mission is that the country that is benefiting is Haiti. Many of those most critical of this benign peacekeeping mission would sign on today to a full-scale invasion of Cuba. For them oppression is not oppression unless the oppressors are communists, even if there is no difference in the atrocities that are committed.

There is really only one question before the body, Mr. Chairman. That is, whether there is a sufficient national interest for our troops to remain until the earliest date they can responsibly pull out. Is it in our national interest to uphold our agreements? Is it in our national interests to control our borders? Let us ask the people of Florida about that one. Is it in our national interest to promote democracy and stop terrorism a few hundred miles off our shores?

Haiti is in our sphere of influence, whether we like it or not. There is no way to turn our heads on that without ceding our role as a world power.

Those who define our national interest only in military terms have to tell me what we were doing in the Persian Gulf. There was no country there that, as such, was a threat to the United States of America.

Mr. Chairman, this debate is irrelevant because the mission is already winding down. The Caribbean troops are in. Democracy is already at work. An amnesty already has been enacted. The date for the return of President Aristide has been announced as October 15. The Haitian people's response to our troops has been one of overwhelming gratitude.

To leave precipitously or on a date certain invites the antidemocrats to bide their time. It gives the enemies a time frame to plan a violent counterrevolution to the nonviolent change now taking place. It has no relation to the work that needs to be accomplished, And it risks wasting all we have put into this mission by pulling out, leaving more, not less, chaos.

Mr. Chairman. A great power does not cut and run from a mere peacekeeping mission.

Before this mission began, the question was asked: What would success look like? Turn on your television tonight, look at the relationship between our troops and the Haitian people, and you will see.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, Desert Storm was not a threat to anybody? An invasion of another country, stole nuclear triggers out of San Diego, developed nuclear weapons, controlled and wanted to control the energy sources of two-thirds of the value in the world, and that was not a threat? I am glad the gentlewoman is not controlling our military.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding time to me, Mr. Chairman.

Mr. Chairman, let me just say, first of all, that we do care about our troops in Haiti and that we want them brought home safely. Because we want our troops out quickly does not mean we are not concerned about their safety.

I have a good friend, the gentleman from New Jersey [Mr. TORRICELLI] who is one of the sponsors of this resolution. I think he is a dedicated servant of the people. I value his friendship.

However, I do believe this legislation is open-ended. It gives the President the ability to keep our troops there indefinitely. We do not think that is in order.

We did not send our troops there. The Congress did not send our troops there. The American people did not want them there. The President did it by himself, and everybody in this Chamber knows it.

Mr. Chairman, I believe this was done largely for political reasons. Why do I say that? Let me read to you what Dante Caputo, the former special U.N. Envoy to Haiti, who resigned the day after the invasion, had to say.

In a memo to the U.N. Secretary General, Boutros Boutros-Ghali, he said "The President of the United States' main advisors are of the opinion that not only does this option constitute the lesser evil, but that it is politically desirable." They wanted the troops in there just before the election because they thought it would improve the President's numbers and his party's numbers and help them in the elections this fall.

Mr. Caputo went on to say, "The United States acted as a brake to a diplomatic solution, creating a situation where intervention became nearly inevitable." What he was saying was that there was a diplomatic solution that could have been reached, but the President and his administration deliberately put the brakes on diplomatic negotiations because he wanted the troops to go in there for political reasons.

That is unforgivable, because young Americans' lives are at risk unnecessarily, because we could have solved this diplomatically.

Mr. Chairman, when people start talking about the illegal aliens coming across the water and coming into the country, fleeing oppression, we have a much bigger problem with Mexico. We are getting over 1 million people a year coming in from there. If we are going to divert resources to protect our borders, that would be the first place.

If we used the Coast Guard down in the Caribbean, we could solve the problem, so that is a red herring, saying that we cannot protect our borders. We can if we wanted to use the facilities available to us.

Let us talk about Mr. Aristide. Mr. Aristide, according to a drug cartel informant, got a sack full of money from the drug cartel to bring drugs through Haiti. In addition to that, this man we want to put in, who is no lover of democracy, believes in putting tires around people's necks, filling them with gasoline, and burning them to death.

We have his speeches. We have his speeches where he advocates that sort of thing. We are risking American lives to put this man in power? He is a person who was kicked out of his religious order because he incited riots in Haiti, and yet we are risking American lives to keep this man in power.

Mr. Chairman, this was done for political purposes by the Clinton administration, in my view. It was done to put this man back in power who is no lover of human rights or democracy. We are endangering Americans' lives unnecessarily. It is not in our national interest to do so, and we should bring our troops home immediately, as quickly as possible, at the same time ensuring their safety as we get them out of there.

If we had a grave national interest I would say keep them down there, but there is no national interest. It is only political posturing by this administration, and it has backfired on them, because the American people know what they are doing. They are going to show their disapproval of this administration, of what they have done, on November 8.

Many of my colleagues on that side of the aisle know what is going to happen and they see it in the cards. Mr. Clinton made a big, big mistake. Let us not cost young American lives because he had this political goal in mind. young Americans' lives should not be risked for a political goal.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS], the distinguished deputy majority whip.

Mr. LEWIS of Georgia. Mr. Chairman, I rise today to speak in favor of the Dellums-Hastings-Murtha amendment. Our mission in Haiti, the mission of our young men and women in uniform, is not a charge of war but a declaration of peace, an affirmation of our belief in human rights, democracy and self-determination. Let us not pull the rug out from under the feet of our troops.

We are there, in Haiti, to restore democracy, to renew freedom, to revive hope for the people of that small and desperate country. We have been summoned by the spirit of history to do what we can, to do what we must, to do what is right.

Whether you agree or disagree with our policy, now is the time to stand with our troops, to support them, to give them the freedom they need to accomplish their mission of peace. It is unthinkable, unheard of, to tie the hands or our men and women in uniform when they could be in harms way. Let us not, let us not for one moment, dictate disengagement from Washington when our troops are engaged in peacemaking so close to home.

The young men and women of the United States Armed Forces are fighting for the destiny of democracy. They are responding not to the battlecry of war but to the gasping calls of a people yearning for peace, freedom, hope, and democracy.

We are not there, we are not there in Haiti to conquer, but to liberate. Not to destroy, but to build. Not to divide, but to bring together. Not to enslave, but to set free. Not to make war, but to make peace.

Let us make peace. Let us not dictate to our military, our very able people there on the ground, when we should leave. We all want to leave Haiti as soon as possible, but let us leave when the time is right, when the atmosphere is right, when our job in done, when there is a true, real, and just peace.

Mr. Chairman, I said back in 1963, on the steps of the Lincoln Memorial during the original march on Washington in which Martin Luther King, Jr. made his famous "I have a dream" speech: "One man, one vote, that is the African cry, that is our cry today." And so, Mr. Chairman, that is the cry of the people of Haiti today, more than 30 years later. As President Nelson Mandela told us here in this Chamber today, the cry for freedom has been heard in South Africa, so must it be heard in Haiti, right here in our hemisphere.

We should be proud of our troops. We should support them on their mission. We should support the Dellums-Hastings-Murtha amendment.

□ 1830

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Chairman, I would not believe it unless I heard it with my own ears just last night. I heard our Secretary of Defense, William Perry, get on television and he said, "We've done great things in Haiti." He said, "The parliament has met."

Well, Mr. Secretary, the parliament met, but it met behind barbed wire, it met under armed guard, and it met with the force of 20,000 American troops. And it met to consider a reprieve for murderers.

Then he said the mayor of Port-au-Prince has returned, as if it was some triumphant return. He did not tell you that they had not confiscated all the grenades, they had confiscated some of the guns but they had not confiscated the grenades, and one was lobbed into a crowd and people were killed. What is going to happen when our troops leave?

Then I heard him say the head of the feared police fled, and we have established a peace there.

When the parade of October 15 comes and Mr. Aristide is hoisted to shoulders of his countrymen and there is a great parade and celebration, something will be lacking in that country, and something that we have created will exist in that country. That is going to be bitterness and that is also going to be something that existed in that country before we went there, and that is social and civil problems that we will not resolve even sending 100,000 American troops and sending billions and billions of hard-earned American taxpayers dollars to that nation.

Maybe, my colleagues, we should have sent 20,000 businesspeople instead of 20,000 troops. Maybe we could have done more for Haiti's poor. The problems of Haiti's poor are no different that America's poor. What they need are jobs and good education and opportunity. Actually by that formula, we could have done much more to raise the standard and the tide in this poor country than by the steps we have taken and the steps we are about to condone here.

Unfortunately, the other side and the liberals just do not get it. They will spend more money, they will put lives at risk, and where will we be? We will be right where we are today. We will be right where we are with Somalia. We will have a disaster on our hands and the American taxpayers will be the recipient of the large bill.

Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN], my good colleague, for his tremendous work on this issue. He is to be congratulated for offering to this House and to the American people the greatest service and commentary relating to this sad situation.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I thank the gentleman from New Jersey for yielding me the time.

Mr. Chairman, nearly a century ago, Daniel Webster said, "God grants liberty only to those who live it and are ready to guard and defend it."

In 1990 with the election of President Aristide, the Haitians found democracy but they were unable to defend it. United States troops are now in the process of building democracy and teaching Haitians how to protect this fragile freedom. I firmly believe, Mr. Chairman, that Haitians must assume this protective role without United States personnel and as soon as possible.

I have carefully read all 3 resolutions and I encourage my colleagues to do the same. I believe the words in the Murtha-Dellums resolution best reflect a rational and fair foreign policy to both Haitians and Americans.

First, the Murtha-Dellums substitute calls for a prompt and orderly withdrawal of all U.S. troops as soon as possible. Our troops must come home sooner than March 1.

Second, it recognizes that the President should have sought the approval of Congress prior to sending United States troops to Haiti. I have made it clear that I did not support an invasion of Haiti.

Third, our mission should not be democracy-building. For over 180 years, the Haitians have been unable to build democracy. We could not build it in 19 years of occupation earlier this century.

In the end, the best United States policy will allow Haitians to be vigorous in the defense of their own hard-fought freedom. It is their voice, not the voice of a United States Congressman or a United States Marine, that must be heard if liberty is again to triumph and endure in Haiti.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. KNOLLENBERG].

Mr. KNOLLENBERG. Mr. Chairman, the primary question which is to be investigated is when and how we are to withdraw from Haiti. The second question is what we shall do in the meantime.

This statement clearly frames today's debate on the fate of thousands of American men and women in Haiti as we speak. However, I must admit that it is a borrowed statement. In fact, I borrowed this statement directly from the Forbes Commission report of 1930 studying our occupation of 1915 to 1934.

If I may borrow another statement, this is deja vu all over again.

Yes, we are back in Haiti, trying again to stabilize the nation and sow the seeds of democracy. And, yes, the difficulties that we face today in this respect are similar to the difficulties we faced back then. Simply put, Haiti has no tradition of liberty and democracy.

I have with me a list I will submit for the RECORD, a record of the fate of every Haitian leader since that nation gained its independence in 1804.

Of the 40 leaders, only a handful have left office peacefully, either through retirement or death due to illness or natural causes. The rest have not met such kind fates.

Haitian leaders have been murdered in prison, blown up, poisoned, overthrown, and even dismembered. Countless others, including most recently, President Aristide, have fled to other countries.

Haiti does not have the foundations of democracy. Democracy cannot be imposed at gunpoint by American troops. Rather, it requires a national consensus and political culture, institutions responsible and responsive to the people, and an independent judicial system. Merely casting votes does not constitute democracy.

However, our troops are being asked yet again to protect a democracy that does not exist. Mission creep has already seen us embarking down the slippery slope toward nation-building that proved so tragic in Somalia just a year ago.

Every Member in this Chamber surely supports our troops in Haiti. However, many such as myself do not support the policies that have placed them there, or that keep them there to carry out an undefined, open-ended mission.

Again, as it was asked in 1930, we must ask today: "When and how should we leave Haiti, and what should we do until then?"

I ask my colleagues to reject the administration's policy and support the Michel amendment.

Mr. Chairman, I include for the RECORD the list of Haitian leaders, as follows:

NEXT, PLEASE—HAITI'S RULERS SINCE INDEPENDENCE

Jean-Jacques Dessalines, 1804–06, shot.
Henri Christophe, 1807–20, suicide.
Alexandre Petion, 1807–18, died of illness.
Jean-Pierre Soyer, 1818–43, fled to France.
Charles Herard, 1843–44, fled.
Philippe Guerrier, 1844–45, died of old age.
Jean-Louis Pierrot, 1845–46, unknown.
Jean-Baptiste Riche, 1846–47, unknown.
Faustin Soulouque, 1847–59, fled to Jamaica.
Fabre Geffrard, 1859–67, fled to Jamaica.
Sylvain Saenave, 1867–69, executed.
Nissage Saget, 1870–74, retired.
Michel Dominigue, 1874–76, fled to Jamaica.
Boisrond Canal, 1876–79, fled to Jamaica.
E. Felicite Saloman, 1879–88, fled to France.
F. Florvil Hyppolite, 1889–96, apoplexy.
Tiresias Simon Sam, 1896–1902, fled.
Nord Alexis, 1902–08, fled to Jamaica.
Antoine Simon, 1908–11, fled to Jamaica.
M. Cincinnatus Leconte, 1911–12, blown up.
Tancrede Auguste, 1912–13, poisoned.
Michel Oreste, 1913–14, fled to Jamaica.
Oreste Zamor, 1914, murdered in jail.
J. Davilmar Theodore, 1914–15, fled.
J. Vilbrun Gullaume Sam, 1915, dismembered.
American occupation, 1915–1934,
Stanio Vincent, 1930–41, resigned.
Elie Lescot, 1941–45, fled to Florida.
Dumarsals Estime, 1946–50, overthrown.
Paul Magloire, 1950–56, overthrown.
J. Nemours Pierre-Louis, 1956–57, resigned.
Franck Sylvain, 1957, overthrown.
Daniel Fignole, 1957, overthrown.
Francois Duvalier, 1957–71, died of illness.
Jean-Claude Duvalier, 1971–86, fled to France.
Henri Namphy, 1986–88, stepped down.
Leslie Manigat, 1988, overthrown.
Henri Namphy, 1988, overthrown.
Prosper Avril, 1988–90, fled.
Ertha Pascal-Trouillot, 1990, taken hostage.
Jean-Bertrand Aristide, 1991, fled to America.
Cedras Junta, 1991–94(?).
American occupation, 1994–.

Taken from: The Economist; September 24, 1994; p. 21.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, amidst the gamesmanship that is being played to gain political advantage, I urge that we support the men and women in our armed forces who are seeking to achieve democracy just 700 miles from our border. First and foremost, we support the principles behind this mission, a return to democracy in Haiti. It is vital to stop the brutality of the military regime that overturned the will of 70 percent of the Haitian people. The rule of the military leaders was a reign of terror that included murder of church leaders and Aristide backers. Rape, torture and a climate of fear was a means of repression. It is within the interests of the United States of America to halt this pain in a nation so very close to us. Every day that Cedras, Francois, and Biamby ruled the streets of Haiti was another day of embarrassment to our Nation, which is the sole remaining world leader. It is important that we halt the tyranny which was leading to an unacceptable influx of immigrants, when immigration is one of the most compelling issues confronting us.

We believe that we will end this mission as soon as possible, that the President will bring back our troops as soon as the job is done, as soon as we have finished the job, as soon as is possible.

□ 1840

It would be wrong to set an arbitrary deadline for withdrawing the troops in this mission, and it would set a dangerous precedent for future efforts. I can just see, or just hear or imagine the people like Cedras, the criminals that they lead hiding up in the hills and saying let us just wait until March 1. Then we will go back down, start to murder again, start to wound again, start to rape again and take over that country again. We cannot let that happen.

Let us do what is right. These people are our neighbors. They are only just a few miles from our shores. They want democracy. They want our help. We have read the reports in the papers, "We love you. Thank God you're here. Our prayers have been answered. You've given us liberty."

Let us continue to support those people in their quest for democracy. Let our troops stay there, get the job done, and then get back as soon as possible.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, the President had months to consult Congress. He had time to scrap two aircraft carriers and army helicopters. He went to Haiti, consulted the United Nations but not the United States. He went to Vietnam, to the U.S.S.R., but not the United States of America. He avoided Congress and denied men and women the protection under the Geneva Convention if there had been a battle, and there almost was.

The President himself denied, along with the Secretary of Defense, armor. It cost the lives of 22, not 18, rangers and 77 wounded, and it took 5 hours under U.N. control to get them out.

If Members want to be bipartisan, support Michel-Gilman or even support the Dellums-Murtha language. But let us take out the partisanship.

The Hamilton-Torricelli is under a king-of-the-hill, and guess what, the last one on the king-of-the-hill praises the President. Let us not play Jane Fonda tactics and politics. Let us support our troops, but take the politics out of it and support the first Republican one, the second, which is a Democratic proposal, and I have no qualms with that. But it is a sacrilege to support and say the President did a good job in this.

Day three the President said there was a multinational force that was going to invade. On day three there was not a single multinational troop in Haiti. When our troops took the risk, there was not a single one, and as of yesterday there were only 10. Mr. Chairman, how many are we going to have in this multinational force in peacekeeping? How much are we going to pay?

Aristide or Dracula, Cedras or Saddam Hussein, both of them are bad, and the exploits of both have been brought up.

But I would ask when they say there have been no casualties, talk to the troops that had the 6 months on cruise and then had to turn around and go to Haiti under exercises, and talk to the alleged suicide victim who did not have time to take care of his domestic problems so he allegedly committed suicide, or talk to the sailor or the soldier that had a bullet in his gut sitting in the hospital because he is in Haiti and say there are no casualties. That is wrong.

I would ask Members to support either Michel-Gilman or Dellums-Murtha. I will support both. But not the political Torricelli and Hamilton that praises the President.

We want to support our troops, absolutely. I think Members on both sides of the aisle do. But do not play political football with this. Support the troops. It is wrong.

Mr. TORRICELLI. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. Mr. Chairman, I am one who had grave reservations about a military invasion on Haiti. But circumstances have changed in short time. I was pleased, therefore, by the success of the Carter-Powell-Nunn mission. It is an opportunity. And I think it would be a mistake to squander the opportunity which diplomatic achievement has been given us.

If there is any lesson to draw from the brutal war in former Yugoslavia, it is that stopping hostilities once they have started is far more difficult than preventing them from beginning in the first place. Our troops in Haiti are doing just that—maintaining a secure environment so that we prevent another Yugoslavia on our doorstep.

Haiti's history tells us that transitions of power have proved to be difficult periods. This time around, though, the presence of our troops is preventing the kind of widespread violence which has proved nearly impossible to recover from in the past.

We are giving democracy a chance in Haiti. That is key to encouraging reconciliation in that polarized society, and key to promoting our interest in democracy and stability in the Caribbean.

I still have concerns about our role in Haiti, and I want our troops brought home as soon as possible and in a safe manner. However, I am certain that it would be a disservice to the men and women who are performing admirably in a difficult mission to pull out the rug from under their feet. That is precisely what the Michel substitute would do.

Mr. Chairman, no matter what anyone thinks about our involvement in Haiti, we should understand that passage of the Michel substitute will only serve to embolden those who wish to harm our young men and women on the ground.

Our military leaders have told us that any attempt to set a date certain for withdrawal could have drastic consequences for the success and safety of the mission in Haiti. Mr. Speaker, it is easy for us to make armchair decisions within the safety of these four walls, but we should think about the effect of such decisions on our soldiers in the field.

On September 27, General Sheehan of the Joint Chiefs of Staff told the Foreign Affairs Committee that U.S. forces currently enjoy a tactical advantage. He told us that tactical advantage would evaporate if we set a date certain for withdrawal.

The success of military operations requires the retention of an element of surprise. You're opponent should be kept off balance and left to guess your next move. Setting a date certain would have the effect of handing our military plans over to potential adversaries on a silver platter.

The three substitutes before us are similar in several respects:

They require regular reports to the Congress on military operations.

None specifically authorizes U.S. participation in the U.N. phase of the operation.

Both Dellums and Michel require a report on Human Rights violations.

Both Michel and Torricelli set out procedures for expedited joint resolutions on the withdrawal of forces.

The big difference is that the Michel substitute compromises our military mission by announcing to the world a deadline—January 3, 1995.

Our military commanders are the best ones to decide how to protect the safety of the soldiers serving under them. They have told us that we will jeopardize their security if we set a deadline for withdrawal.

Mr. Chairman, we should not subjugate our military operations to poor political decisions. Unfortunately, that is what the Michel substitute does. I urge my colleagues to defeat the Michel substitute and support the Dellums and Torricelli amendments.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I rise today in opposition to the committee resolution because it endorses the President's Haiti policy, and would allow our troops to remain there until March 1 at least of next year.

I will support, though, the Michel substitute. But I would have preferred a stronger alternative which would order the immediate withdrawal of our troops from Haiti.

United States policy in Haiti has been a disaster, and on a more bipartisan note, it has been a disaster through Republican and Democrat administrations. It started under George Bush and was strengthened and carried forward under Bill Clinton.

□ 1850

The economic sanctions have done nothing to get dictators out of Haiti or out of Cuba but have caused a flood of refugees trying to reach the United States. We need to rethink our economic sanction policy, because it does nothing to remove dictators.

There are a number of countries around the world where dictators are in control, and we do not use economic sanctions against them. In fact, just the opposite, we deal with them on a friendly basis.

In this, and yet in other cases, the policy of sanctions has failed. In fact, there is no justification for sanctions or for putting Americans at risk in Haiti.

When our troops went in, the President failed to clearly explain what the policy was and what the mission was, or possibly the President failed to explain and give us his true agenda. He chose possibly not to inform us that we might be engaged in nation-building.

I would just say in closing that what was the lesson that we learned in Vietnam if we are into Haiti with the same type of policy?

Mr. TORRICELLI. Mr. Chairman, I yield 6 minutes to the gentleman from Maryland [Mr. HOYER], the distinguished chairman of the Democratic caucus.

Mr. GILMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Maryland [Mr. HOYER].

The CHAIRMAN pro tempore. The gentleman from Maryland is recognized for 6½ minutes.

Mr. HOYER. Mr. Chairman, I rise today to urge support for the Dellums-Murtha-Hastings substitute which expresses a sense of the Congress supporting an orderly and organized withdrawal of American troops without imposing an arbitrary deadline. Passage of either competing resolution, calling for either immediate withdrawal or the imposition of a March 1 deadline could harm the peacekeeping mission in the troubled Haitian nation. An arbitrary deadline would undermine our strategy, reduce our flexibility, and endanger our troops. An arbitrary deadline could lead to widespread chaos in Haiti and a mass exodus of refugees to the shores of the United States.

If we are to achieve our goals, we must stand united in our support for our brave troops and the fine job they are doing as a neighboring country—one besieged by human rights violations until their arrival—returns to democratic rule. Their presence has helped to alleviate additional widespread bloodshed. Moreover, Haitians who were once fearful of wrongful arrest and torture for their democratic advocacy have taken to the streets to praise and advocate democratic principles and beliefs.

The goal of preserving democracy in the Western Hemisphere is a legitimate and important keystone of our foreign policy.

Mr. Chairman, in 1991, in an address to the OAS, President Bush's then Secretary of State, James Baker, said, and I quote, "The test we face is clear, to defend democracy, to stand united as a community of democracies, to make clear that the assault on Haiti's constitutional government has no legitimacy and will not succeed." Secretary Baker went on to say, "Let the coup plotters in Haiti and any one who dream of championing them know this: This hemisphere is united to defend democracy."

My friends, we sent almost a half-million troops across the Atlantic Ocean and through the Mediterranean Sea to Saudi Arabia without a vote, and the reason we had no vote in that fall of 1990 was because President Bush asked Speaker FOLEY, "Do not bring this to a vote, because it will undermine our strategic interests and it will diminish my ability to project America's position as it relates to our strategic and tactical interests," and we had no vote, notwithstanding the fact there were some on this floor in my party, yes, perhaps even for partisan reasons, asking for such a vote.

Secretary Baker said that we could not let stand the overthrow of democracy. How many of my friends and colleagues with whom I have voted a number of times on security issues have stood as it related to Grenada, Panama, Nicaragua, Libya, Lebanon, and, yes Iraq, to say that we needed to stand together as a country, stand together as a Nation as we projected the interest of democracy across the waters?

Haiti is close by. Secretary Baker enunciated the policy of the Bush administration, and to his credit, President Clinton reiterated that America would not allow in this hemisphere a democracy to be overthrown.

Let us then come together, not as Republicans, not as Democrats, but as Americans committed to democracy, knowing full well that the last superpower on Earth, indeed, the last best hope on Earth of making sure that the international community is safe and secure from democracy, still has the will and still has the unity to project that power.

But it is not just a strategic interest. It is not just political. It is tactical as well; for, yes, our young men and our young women, the best of our country, are on the ground in the service of their country, in the service of democracy, in the service of freedom, and their commander in chief on the ground. Lt. Gen. Henry Shelton, says, "I am not in favor of setting a date per se at this point."

I am one of the biggest fans of the minority leader in this House. He is a man who fought for this country in the Second World War. He is a hero. But I suggest that he is egregiously in error in suggesting a time certain withdrawal.

There is no more dangerous policy than telling the enemy on this date at this hour we will withdraw. There is hardly a military commander who will not echo the words of General Shelton. He went on to say, "I think that when we do that," that is, set a time certain, "we automatically tip our hand to the adversary in terms of when we are going to leave."

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, the Michel-Gilman measure does not have any date certain, I just wanted to clarify that with you.

Mr. HOYER. I apologize if I misstated the thrust of the amendment which I understand suggests immediate withdrawal. Am I correct?

Mr. GILMAN. It is the sense of Congress that we are asking for an immediate orderly withdrawal.

Mr. HOYER. I understand, and I understand the difference, and to the extent I misstated, I appreciate it.

Mr. Chairman, I understand that the alternative measures would impose arbitrary deadlines for withdrawal that would undermine our mission objectives. The Michel-Gilman substitute would order an immediate withdrawal and the Torricelli-Hamilton substitute would impose a March 1 deadline for withdrawal.

Ladies and gentlemen, I urge your support for the Dellums-Murtha-Hastings substitute. It is the best strategy to reach our mission goals, and it is in the best interest of those men and women who are standing on the frontlines in defense of democracy in the name of America.

Let us stand with them this night.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. You know, I do note that the gentleman from Maryland that just had spoken in his reference to the war in the Persian Gulf, while the gentleman from Pennsylvania [Mr. MCHALE] and myself were in the Persian Gulf war, I note for the record that he voted no on the use of force while I was in the desert.

Mr. President, you have embarked on a liberal crusade to return a defrocked Marxist anti-American priest to power in Haiti. I disagree with the President's utopian foreign policy based on the idea democracy can be enforced around the world at the point of a gun.

Military intervention will not solve the social, economic, and political problems of Haiti.

The President wants us to restore democracy in Haiti, but we cannot restore by force that which never was.

I fully support the brave men and women of the U.S. Armed Forces in Haiti who are serving in almost impossible circumstances attempting to accomplish a vague, ill-defined, and ever changing mission. My military service taught me that if it does not look right, does not smell right, or feel right, something probably is not right.

☐ 1900

One of our troops in Haiti must have felt the same way when he said, "It feels like Somalia all over again."

Despite Administration claims, our forces are already experiencing mission creep that will expand our commitment into 1996 while we conduct nation building operations under the United Nations command.

You see occupying Haiti was a bad idea 6 months ago, it was a bad idea on September 19, and it is a bad idea to occupy that country today. Therefore, I urge my colleagues to vote yes on the Michel-Gilman substitute and no on the Torricelli-Dellums-Hastings amendment.

I say to my colleagues do not take so much out on the President. Equal blame is shared by the Democratic leadership that blocked us from having hearings on this issue before there ever was a military occupation in Haiti.

We should not be having these hearings while we have troops on the ground, but we have been placed in that difficult circumstance, and I believe our troops understand.

God bless them.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. I thank the gentleman for yielding this time to me.

Mr. Chairman, as a veteran I served 2 years in the U.S. Army and still in the National Guard as a weekend warrior. I was one of those that did not support any type of military invasion of Haiti, but I am very pleased that we were able to go into Haiti without any loss of life.

I congratulate our President, and I congratulate our Armed Forces for being able to accomplish that objective. I know I have had a lot of people ask me at home, "Well, what authority does the President have to send troops into a crisis area?" He has those authorities through the War Powers Act.

But we also know in Haiti that thugs and criminals took over this country.

Are they not doing the same thing in the United States of America? Neighborhood by neighborhood? And are we going to just sit idly by and watch it and do nothing to stop it?

If we are going to preserve our democracy, we are going to have to fight for it, and every generation is going to have to fight for it. Surely we have a great country, but if you look at the great democracies of the past, the average longevity of the great democracies of the past is 200 years. The United States of America has already celebrated its 200th birthday about 30-plus years ago. But it is up to all of us to be interested in what happens next.

I know a lot of Republicans are still upset with themselves when Beirut/Lebanon took place and President Reagan and the decisions that were made in Beirut, where we lost 241 U.S. Marines, they were lost in a car bombing of the barracks. And because of that all of us, whether we be Democratic or Republican or the like, want to ask questions about what is our mission? Is our objective clear? But I think all of us know that we are on the ground now, and just as I said a while ago, we have not had any loss of life, thank God.

Let us set a specific date for the withdrawal of our troops, but let us also support our troops and preserve democracy in this hemisphere.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, there is literally so much to cover and so little time. The pity is that some of it could affect the votes coming up here. But we will just have to do the best we can. There is one game in town tomorrow, an Armed Services Committee hearing on Haiti, and I would recommend that all Members avail themselves of the privilege to sit in any committee room in this House, even a closed one, by merely getting the permission of the chairman, in this case Mr. DELLUMS.

I know that Mr. TORRICELLI works as hard as anybody on these foreign affairs issues, and he will be there tomorrow. Elliott Abrams is coming. It is going to be a pretty good list of people. But it is going to be a little bit after the fact. But we must try to get educated tomorrow at this Haiti hearing. We have good panels on both sides.

That is No. 1. No. 2, I just checked the wire service stories, and this is hot, hot, hot, 6:42, AP, open. Cedras is saying the United States is pressuring him and his lieutenants to get the hell out of the country before the October 15th date and take Felipe Biamby with him.

Now there is a wife involved here, every bit as tough as Miss Hillary, and her name is Yanic, Yanic Cedras. She is saying, "Stay our ground and die in our country."

Cedras and Yanic have a home in Spain. Maybe we can get them to go to Spain, where he can be like Juan Peron and Evita working crossword puzzles, taking breakfast in bed, and watching blood flow in the streets of Haiti from both sides.

The big question is how many young Americans are going to shed blood for this—and as a practicing stumbling Catholic, weigh my words and try to gainsay what I am about to say—self-excommunicated priest who was kicked out of the Salesians of Don Bosco for inciting mobs to violence and murder, which did happen, and who is now rolling in money?

We have made, through our State Department, available to Aristide all of the frozen Haitian funds. He is probably the only ex-priest who is a multi-multimillionaire with $40 million at hand.

But here is something brand new. This is an unclassified communique from the State Department, intercepted by one of our Senators. We are now taking $2.58 million of our tax dollars, Mr. Chairman, from AID that we use to feed starving people and sire it to Anotide's transition team. Will we give it to Cherubin, who was down in Guantanamo looking for female company at night when he was supposedly recruiting from those boat people down there, policemens?

Here is an article from the Nation, that says we paid Emmanuel Constant, head of FRAPH. FRAPH, for those of you who hate acronyms, is the Revolutionary Front for the Advancement of Progress in Haiti. We paid him intelligence dollars. He called us and said, "I am going to have a few guys on the docks demonstrating against the U.S.S. *Harlan County*"—that would be a year ago in a few days—and he said, "It is OK though, come on in." The left hand did not know what the right hand was doing. We never sent word to the U.S.S. *Harlan County*. As a result, America was embarrassed. This whole thing reminds me of Peter Sellers in "The Mouse that Roared." I want to put in an article, an article by one of the best military writers in America, Harry G. Summers, Jr.

(The article referred to is as follows.)

U.S. TROOPS NEED A CLEAR MISSION

(By Harry G. Summers Jr.)

If you liked Mogadishu, you'll love Port-au-Prince.

Just as Smith Hempstone, then the U.S. ambassador to Kenya, warned all too correctly in 1992 that Mogadishu was likely to be a repeat of the 1983 Beirut disaster where 241 U.S. servicemen were killed in the bombing of the Marine barracks there so Port-au-Prince is all too likely to turn into another Mogadishu, where 18 U.S. servicemen were killed in failed 1993 attempt to capture Somali warlord Gen. Muhammad Farrah Aidid and the U.S. mission collapsed in disarray.

Tuesday in Port-au-Prince, U.S. troops could be seen on TV standing idle by, uncertain of their goals and limits, while Haitian police beat to death a demonstrator welcoming their arrival.

Outrageous. The least any government can do for its soldiers is make their mission clear and give them the tools to achieve it.

One of the chief tools for doing that is through the military's "rules of engagement." Those rules specify the level of force that can be employed.

Unlike Beirut, where Marines were standing guard with unloaded weapons, in Mogadishu they were fully prepared to use whatever force was necessary to safeguard themselves and the relief effort.

They did not have to wait to be fired on before they could take action. Authority was given to use deadly force, not only to respond to an attack but also to pre-empt any likely attack. And they had the right to use whatever force was necessary in proportion to the threat to defend against civilian mob action and riots as well.

The Somali thugs then controlling the streets got the message. If you value your life, don't fool with the Americans or you will suffer the consequences. Sufficient order was established that the relief supplies could began moving to the countryside, and by all accounts the initial mission was a success.

But by then the Clinton administration had come into office, and it had more grandiose plans.

Instead of just protecting distribution of relief supplies, the U.S. military would stay in Somalia for "nation building," and to that end (as it had done in Lebanon a decade earlier) take sides in the ongoing struggle for power there.

When 18 U.S. servicemen were killed in a futile attempt to arrest Somali strongman Aidid, the U.S. effort ended, as in Beirut, in ignominious retreat.

While the original rules of engagement for the planned invasion of Haiti have not been released, it is safe to assume they were similar to the initial rules for Somalia.

As in Somalia, the presumption was that there was no legitimate government in Port-au-Prince and that the dictatorship of Lt. Gen. Raoul Cedras would have either collapsed in the face of the invasion or would have been overwhelmed by physical force.

U.S. forces would have been given the authority to use all necessary force to restore and maintain order until President Jean-Bertrand Aristide could reassume power and a legitimate government with a new military and police force could take responsibility for maintaining law and order.

But, initially at least, such rules of engagement went down the drain when a negotiated settlement was reached for the peaceful transition of power. The invasion turned into a landing party, with the mission of U.S. military forces ambiguous at best.

"We are not in the business of doing the day-to-day law and order (or) resolving or quelling any demonstrations," said Gen. John Shalikashvili, the chairman of the Joint Chiefs of Staff, "unless these demonstrations or this level of violence becomes so great that it threatens the overall stability and security of our multilateral force, and then we will intervene."

But the uproar back home that ensued when American troops stood helplessly by while Haitian policemen clubbed at least one demonstrator to his death soon forced a change in the rules.

"The use of unnecessary force is a matter of concern to us," said Lt. Gen. Henry Hugh Shelton, the U.S. commander on the scene, adding that if the Haitian forces fail to take the appropriate measures, " we will take the next step." The Pentagon lawyers later reportedly stated that the rules of engagement permit use of deadly force to protect Haitian civilians.

For the U.S. military, it is the worst of all possible worlds. As dangerous as overthrowing Cedras and maintaining law and order would have been, at least the tasks would have been clear. But now the military is deployed countrywide with the mission changing hourly in response to domestic pressure.

In retrospect, it would have been far better if the troops had remained aboard ship as a potent reminder to Cedras to honor his promise to step down. While a withdrawal back to the ships now would send precisely the wrong message, to have the troops remain dispersed across the country serves no useful military or political purpose. Instead, it sets them up as targets for all those who would disrupt a peaceful settlement.

But instead of getting them out of harm's way, White House Chief of Staff Leon Panetta has said, "We're going to increase patrols." He unwittingly is setting the stage for a Mogadishu-like disaster where American casualties would force a premature U.S. withdrawal. Instead of increasing their vulnerability, now is the time to withdraw our forces from the streets and gather them in defensible enclaves, ready if need be to underwrite with force the transition of power from Cedras next month to Jean-Bertrand Aristide.

The CHAIRMAN pro tempore (Mr. SWIFT). The time of the gentleman has expired.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. MCCURDY].

Mr. MCCURDY. Mr. Chairman, again we find our Nation's finest young men and women in uniform performing brilliantly in difficult circumstances and in a dangerous situation in Haiti. They are bright, they are highly trained, and thank God they can think on their feet. Everyone in this Chamber supports them.

But, Mr. Chairman, there are no clear national interests for the United States to be in Haiti. Moralism is not the basis for an effective foreign policy. Innovation is not a foreign policy.

Mr. Chairman, I opposed the involvement, the intervention in Haiti, from the beginning. I opposed the sanctions. And I even supported an alternative by the gentleman from Florida [Mr. GOSS] to try to help support democratic movement from within the country.

However, the problems in Haiti are social, they are economic, and they are political and have been for over 200 years. This intervention is not going to solve those problems. The U.S. military is not in the business of nation-building. The mission is not defined. We have to ask now much is it going to cost? Where do we get the money? And are we going to continue to cut operations and maintenance budgets in order to pay for this indefinite engagement?

It drains our readiness, and already we start to see the mission creep. Those here today say, "Well, don't tie our hands now that we are there in." We should have come to this body in the first place, the same way we did in the gulf, which I supported the use of force in the Gulf. But we should have had that debate months ago.

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The mission originally was to provide a stable and secure environment. Now it is to provide law and order and build democracy.

There is a different kind of mission creep I worry about, the one I saw in a cartoon about a Haitian sign maker. The first sign said, "God bless America." The second sign said, "Welcome, Marines." And the third sign said, "Yankee, go home."

Democracy cannot be built on the back of one man. It needs institutions, and it is going to take years.

Mr. President, Mr. Speaker, bring our troops home.

Mr. GILMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Chairman, I thank the gentleman from New York [Mr. GILMAN], my friend, for yielding this time to me.

My colleagues, last year, October 3, 1993, we learned a lesson when 18 Rangers were killed, and they were pinned down in Mogadishu in Somalia, and we were forced to rely, because we did not have armor and we were not able to retrieve them with an American quick reaction force from the 10th Mountain Division, we were forced to rely on a Malaysian and Pakistani component of the U.N. forces, and we learned a lesson, and that was that reliance on a multinational force for quick combat relief is a very complex and a very difficult thing and, sometimes, a very time consuming thing, and it can cost lives. We learned that lesson, I think.

Many Members stood up on this floor and vowed that they would always vote to keep American troops away from U.N. leadership, and I say to my colleagues now, "Whether or not you learn a lesson, a military operation is always subject to a test when the next military operation occurs, and at that point we discover whether or not we learned the lesson."

Did we learn the lesson about the problems with U.N.-led U.S. forces? The answer, I think if we pass the Michel resolution, the Michel-Gilman resolution, is yes because the Michel-Gilman resolution has a clear prohibition at all phases of this operation against American troops being led by U.N. commanders. The Torricelli resolution has a partial ban; that is, it bans U.N. leadership of the present American military operation in Haiti, and I would ask all my colleagues to turn to page 9 to see that ban manifested. But it says nothing about UNMIH; that is, the U.N. forces, the occupation force, that follows the American military mission.

It was under the United Nations occupation force in Somalia on October 3, 1993, that we found out that we had great problems. Our problems initiated when we had to get American speaking drivers of the Malaysian and Pakistani armor while our Rangers were pinned down in Mogadishu. Our problems persisted, and precious hours went by as we tried to arrange coordination with the Pakistanis and with the Malaysians, and finally, as we fought our way through the city with those Pakistani and Malaysian tanks, they stopped. They stopped two blocks away because the firefighting became very severe, and the Pakistanis said, "We aren't going any further," and so the Americans that ultimately rescued what was left of our Ranger forces had to go the last two blocks with no armor.

The message that came through to every American family that had a young man in uniform was this:

Having an American commander who is accountable, who has the welfare of his troops furthermost in his mind and as his primary mission, is the person we want to have commanding those troops.

Only the Michel resolution has a total ban on U.N. command of American troops. Every family that has a young person in uniform in this country has a stake in the Michel resolution.

I say to my colleagues, "Let's pass it."

Mr. TORRICELLI. Mr. Chairman, I yield 2½ minutes to the gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, this evening I rise in support of the Dellums-Murtha-Hastings amendment. Throughout all the debate that we have heard, and will hear, there is one truth, and that is our military leaders know best, and while it is fine to say we support our young men that are on the ground, the real way we could support them is to do what the military strategists believe makes sense, and that is not to set a date certain, not to telegraph our intentions to our enemies, but rather to allow for an orderly process wherein they can execute or withdraw after their mission is complete.

I think an appeal to common sense is in order at this point, that we not tell our enemy what we are going to do, that we not allow them to provoke us, and that we not allow them to defeat our efforts which, so far, have been highly successful.

Some say we do not have a national interest at stake. I disagree. We have an immigration crisis impacting our country's shores. We have a prospect of regional instability throughout our own hemisphere. We have a human rights crisis in our backyard in which murder, rape, and beatings have become the order of the day, and we have the responsibility to nurture democracy.

I would note that I am offended by those who repeatedly say, "Well, Haiti has never had democracy." Well, neither has Russia, but it does not seem to me we have given up on them. In fact our policy of decisiveness has been successful. Thanks to our President, former President Carter, Senator NUNN, and Colin Powell we landed, not invaded. Francois has left. We have an agreement in place for the removal of Cedras. We are, in fact, enforcing an agreement on which Mr. Cedras previously reneged. We have an amnesty program in place, and we have a commitment of a U.N. peacekeeping force.

Today, my colleagues, we are paying the price of world leadership. Lip service is insufficient. Today in Haiti we are trying to discourage a precedent in the Western Hemisphere, and that precedent would be thuggery over democracy. We should not allow thuggery over democracy. The military will always have the guns, so it is insufficient to say the Haitian people should provide for their own democracy. The Haitian people have spoken. They want democracy. Seventy percent voted for President Aristide.

We have an opportunity, and, as I have indicated, we have met with considerable success to support and nurture that democracy. I hope we will not pull the rug out from under our young men before they complete that task.

Mr. GILMAN. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from New Jersey [Mr. SMITH], the ranking Republican on the Subcommittee on Western Hemisphere Affairs.

Mr. SMITH of New Jersey. Mr. Chairman, the laudable goal of helping Haiti reclaim its fledgling democracy, stop human rights abuses, end hunger, mitigate disease, promote justice, encourage economic reform and create jobs is not in dispute.

All of us want the best for Haiti and an end to the hatred and violence.

All of us want the dictatorship ousted.

All of us want true reconciliation to commence for a people who have suffered excruciating pain.

It is Mr. Clinton's new ways and means to that goal, however, that most Americans find unacceptable and troubling.

After a series of gaffes and major policy reversals on Haiti and elsewhere around the world, including Somalia and China—which only served to confound and confuse the brutal dictatorship concerning U.S. resolve—remember the U.S.S. *Harlan County*—the President has now put thousands of U.S. soldiers at risk of death or maiming in Haiti to effectuate Mr. Aristide's return.

Yes, President Aristide was elected with a popular mandate of approximately 70 percent. And, notwithstanding serious concerns about his past embrace of violence, there was a consensus that a peaceful negotiation was justified out of respect for the ballots cast by the Haitians themselves.

I suppose one could rationalize the diplomacy designed to cause his return with the hope that even if his past was pockmarked with violence, the international presence and spotlight of world scrutiny might chill acts of revenge or score-settling and new acts of violence.

But now that President Clinton has ordered U.S. soldiers to risk dying for Mr. Aristide, now that the United States is in the process of forcibly restoring him to power with bullets, bayonets and crowd control gear, there can no longer be any delay in a comprehensive probe of Mr. Aristide's past record. His behavior in office, which will likely resume on or before October 15, has now become our direct responsibility for which we are morally responsible. Past is often prologue. As the Spanish-born philosopher George Santayana so aptly put it in his novel The Life of Reason (1905), "Those who cannot remember the past are condemned to repeat it."

Diplomatic niceties and "useful fictions" should not be employed to cover up exactly what Aristide has done in the past.

The question remains, has President Aristide ever incited mob violence?

Exactly what was Mr. Aristide talking about on September 27, 1991 when he told a rally: "If you catch one, do not fail to give him what he deserves. What a nice tool! What a nice instrument! What a nice device! It is a pretty one. It is elegant, attractive, splendorous, graceful, and dazzling. It smells good. Wherever you go, you feel like smelling it. It is provided for by the Constitution, which bans macoutes from the political scene * * *."

Is there anyone who seriously doubts that President Aristide was talking about necklacing, that barbaric practice of assassination where the victim is bound, his arms tied or hacked off and a gasoline-filled tire put around his neck and ignited? In Haiti, necklacing is called "Pere Lebrun" [Father Lebrun], the name of a popular Haitian tire dealer.

I have seen the videotape of this rally where some of Mr. Aristide's supporters were brandishing tires and machetes.

What exactly prompted the Salesians in 1988 to throw Father Aristide out of their order for "incitement to hatred and violence and a glorification of class struggle?" His exclusion from his religious order raises serious questions.

In testimony before the Senate Foreign Relations Committee in May 1993, Mr. Clinton's Assistant Secretary for Inter-American Affairs Alex Watson said, "There was ample evidence that President Aristide incited intimidation or violent behavior among his followers."

Secretary Watson's testimony is that there is "ample evidence" of inciting violence. Journalist Mark Danner, writing in the New York Review of Books in October 1993, of his visit with Aristide in March 1986, describes the days following the downfall of the Duvalier dictatorship:

> It was during the early days of the dechoukaj—the "uprooting" that followed the fall of the dictator Jean Duvalier in 1986—that I first visited the Church of St. Jean Bosco—Angry crowds of poor Haitians surrounding an unlucky Tonton Macoute—and hacking him apart with machetes. Other Macoutes were stoned, or covered with gasoline and burned alive. Their remains were left lying in the sun to be further abused, or in some cases they were paraded through the streets like war trophies: a bloody severed head speared on the end of a pole; a shrunken, charred torso lashed to a wooden strut like a roasted pig.
>
> I stood and marveled at the justice of the people, Father Aristide told me—startling me with the passion in his voice—How could he, a priest, call such acts "justice"? How could he countenance mobs burning men

alive in the streets? "One must know when to look at the acts of the people and judge them as a psychologist, not as a priest," he replied. "Our consciences should be clear—these Mascoutes were Satan," he said intensely, leaning forward until his face was only a few inches from mine. We saw Satan Incarnate in certain of these Mascoutes. It was the people who decided to act; and in this they were doing God's work.

Two major Aristide opposition figures were killed in the days immediately prior to the coup: Roger Lafontant—who led the pre-inauguration coup attempt—was murdered under Lavalas orders in his jail cell on September 27; democratic politician Sylvio Claude, was necklaced by pro-Aristide mobs in Les Cayes the following day.

What was Mr. Aristide espousing when he wrote in his "In the Parish of the Poor: Writings from Haiti," published in 1990:

> Look at their machetes. The blades are rusted, the handles dirty. The peasants let the knives hang at their sides except when they are working in the field. But don't be fooled. A machete is useful in almost any situation. Those rusty blades are long and sharp. They remind me of Bolivar's sword. That is, taking their future into their own hands.

Mr. Speaker, the events leading to the coup against Aristide were accompanied by an escalation of violence by Aristide supporters. In August, then Prime Minister Preval was implicated in financial corruption. When the parliament called him for questioning in order to dismiss him, mobs surrounded the building, and some were holding tires etched with the names of Parliamentarians; on September 3, Aristide himself appeared in the Chamber with a vase of flowers, which Haitians interpreted as floral decorations for the graves of his opponents.

On August 4, Mr. Aristide addressed a youth rally not long after a life sentence given to Roger Lafontant, who had unsuccessfully attempted a coup. Mr. Aristide suggests that the Constitution did not provide for death by necklacing but it does not bar the practice:

Mr. Aristide said:

> Was there *pere lebrun* inside the courthouse? [audience yells no] Was there *pere lebrun* in front of the courthouse? [audience yells yes] Did the people use *pere lebrun*? [audience yells no] Did the people forget it? [audience yells no] Did they have the right to forget it? [audience yells no] Do not say that I said it. [laughter]. In front of the courthouse, for 24 hours, *pere lebrun* became [word indistinct]. The Justice Ministry inside the courthouse had the law in its hands, the people had their cushion outside. The people had their little matches in their hands. They had gas nearby. Did they use it? [audience yells no] That means that the people respect [audience yells the constitution] does the constitution tell the people to forget little *pere lebrun*? [audience yells no]
>
> The people are the law, meaning what they do is constitutional. The law respects the Constitution.
>
> When the people heard: life in prison, the people forgot their little gas and little *pere lebrun*. Was *pere lebrun* used on that day? [audience yells no] if it had not gone well, would the people have used *pere lebrun*? [audience yells yes] Therefore, when through education one learns how to write *pere lebrun* and learns how to think *pere lebrun*, one does not use it when it is unnecessary. One learns how not to use it; where not to use it. [end recording].

Mr. Chairman, the way some Aristide advocates derisively dismiss allegations and testimony concerning his support of violence only diminishes their credibility—it does not answer the charges which need to be honestly and painstakingly addressed.

Mr. Michel/Gilman amendment demands an honest assessment of the human rights abuses committed by either faction from December 15, 1990–December 15, 1994. This is a good start, although the probe must go deeper. There should be no coverup of the truth. I remind my colleagues that the Torricelli legislation does not require this.

The Michel/Gilman amendment gives the House the opportunity to express opposition to the deployment itself and that the President should immediately commence the safe and orderly withdrawal of United States Armed Forces from Haiti and should conclude that withdrawal as soon as possible in a manner consistent with the safety of those forces.

Of course this debate—and vote—should have been conducted prior to the invasion and occupation of Haiti but all efforts to do so were stymied by the administration and the House Democratic leadership.

Another pertinent question remains as to whether politics and the November elections had anything whatsoever to do with the U.S. invasion of Haiti and the timing of that operation.

Mr. Chairman, last week at a Foreign Affairs Committee hearing, I asked Deputy Secretary of State Strobe Talbott this question, and exactly what U.N. Envoy to Haiti Dante Caputo meant in a confidential memo that represented the U.S. position on Haiti "as a test case for which the U.S. has to have found a solution before November?"

Mr. Caputo, a former Argentinian foreign minister, also wrote in a memo to U.N. Secretary General Boutros-Ghali on May 23, that:

> The Americans see in this type of action a chance to show, after the strong media criticism of the Administration, the President's decision making capability and firmness of leadership in international political matters," and pointed out that a U.S. armed deployment was "politically desirable" and that "the current opposition of public opinion to an armed invasion will change radically once it has taken place."

The credibility of these statements are of particular value when one recalls that it was Mr. Caputo who brokered the Governor's Island Agreement between General Cedras and President Aristide. In protest of the U.S. invasion, Mr. Caputo resigned as U.N. envoy to Haiti hours after the invasion—a loss of a competent statesman who heavily cared about the future of Haiti.

Mr. Talbott, for his part last week, denied before our Committee ever referring to November in his conversations with Mr. Caputo or that domestic politics had anything to do with the decision to invade Haiti.

The American people and this Congress have a right to know if the November elections had anything whatsoever to do with President Clinton's decision to invade.

For now, the jury is out and Americans have a right to know the answer.

Mr. Chairman, the Michel/Gilman amendment also requires that the administration provide Congress with details and information concerning:

The costs of military operations in and U.S. assistance to Haiti.

Planning for the withdrawal of U.S. forces from Haiti.

Reconvening of Congress after adjournment if events in Haiti so warrant.

Provisions for House and Senate votes under expedited procedures no later than January 21, 1995, on a resolution requiring the withdrawal of U.S. forces from Haiti within 30 days after the date of enactment.

Finally, the establishment of a congressional commission to make recommendations on U.S. policy toward Haiti.

In June, Mr. Chairman, I introduced a resolution which would have established a congressional commission to seek appropriate policy options in Haiti during the occupation of Haiti by the U.S.-led force in Haiti. The resolution, H. Con. Res. 264, has bipartisan support, including the Chairman of the Western Hemisphere Affairs Subcommittee. The Commission provided for in Section 8 of the Michel/Gilman Amendment would consist of House and Senate leaders responsible for decisionmaking on the Committees on Foreign Affairs, the Armed Services, Appropriations, and Intelligence.

I believe the Congress needs the benefit of an assessment of the humanitarian, political, and security conditions in Haiti. A report would be rendered in 45 days. And, the report would assess the status of U.S. force levels and mission, the humanitarian needs of the Haitian people, and designs of withdrawal of U.S. forces and transferring responsibilities to the U.N. Mission in Haiti [UNMIH]. Further, it would outline appropriate post-intervention policy options for the multinational force, Friends of Haiti—U.S., Canada, Venezuela, and France—private sector development, electoral development and training for institutional development.

In addition to travel to Haiti, meeting with President Aristide newly restored to his office, Members of the

Parliament, private, non-governmental organizations, and religious leaders, the Commission would garner advice from recognized experts on Haiti and Haitian culture, human rights, health and social welfare, political institution building, and security training.

Mr. Chairman, I remind my colleagues that in 1983, then-Speaker O'Neill sent a congressional delegation to Grenada following the U.S. invasion in Grenada to assess the situation. The official House delegation was headed by then-Majority Whip Tom Foley and Minority Leader Bob Michel.

In 1991, I was part of the Speaker's congressional commission which went to northern Iraq following the Gulf War to assess the special needs of the Kurds who fled into the mountains and into Turkey. The assessment was helpful in garnering congressional support for the humanitarian mission there. Of course this commission would take a comprehensive look at the situation and suggest solutions.

In closing, Mr. Speaker, I fully support the Michel/Gilman amendment which, I believe, reflects the concerns of the American people. I urge strong support of the amendment.

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Mr. GILMAN. Mr. Chairman, I have no further requests for time, but would like to commend the distinguished member of the Subcommittee on Western Hemisphere Affairs on the Committee on Foreign Affairs for his long-term concern with relation to the Haitian issue.

The CHAIRMAN pro tempore (Mr. SWIFT). The time of the gentleman from New York [Mr. GILMAN] has expired.

Mr. TORRICELLI. Mr. Chairman, I, too, would like to thank the gentleman from New Jersey [Mr. SMITH] for his interest and commitment on the question of Haiti, not simply this week but for some period of time, and for his eloquent address.

Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Chairman, I thank the distinguished gentleman from New Jersey for yielding time to me.

Mr. Chairman, we are not here tonight to debate whether or not the United States should invade Haiti. With over 20,000 American troops already on the ground in Haiti, that question is moot.

Rather, we are here to consider our options for completing our mission and getting our troops home as quickly and safely as possible.

I would hope that everyone in this Chamber feels as strongly as I do that as long as American troops are on the ground in Haiti, we must do everything we possibly can to support them. Similarly, we should all agree on the need to complete our mission and get our troops out of Haiti in the quickest and safest manner possible.

Unfortunately, I do not think I have heard as much partisan rhetoric and circuitous reasoning as we are hearing tonight. I am seriously troubled by the deliberate attempts of some in and out of Congress to undercut President Clinton's efforts to deal with this situation. He is our President. Yet, many in this Chamber do not want him to succeed.

Many of these critics were not heard when we invaded Grenada and Panama during the Reagan and Bush administrations. For example, we keep hearing over and over again in this debate that it is not in our national interest to keep the peace and restore democracy in Haiti.

The fact is, it was the Bush administration which initiated America's policy to restore democracy in Haiti, following the military coup which ousted President Jean-Bertrand Aristide on September 30, 1991. It was the Bush administration that told the Organization of American States that this coup was wrong, and that it was in the national interest of the United States to work to restore President Aristide to power.

It has always been my policy to give the President the benefit of the doubt in conducting foreign affairs, whether that President was a Republican or Democrat. The President is our Commander-in-Chief. We cannot all be Secretaries of State.

It is time to tone down the rhetoric, close ranks behind President Clinton and give his policy a chance to work, just as we did in the Persian Gulf, Panama and Grenada.

This constant second-guessing of the President does little more then encourage General Cedras and his cohorts to thumb their noses at us, and gives little comfort to the thousands of American men and women who are putting their lives on the line this very moment in Haiti, and to their families here at home.

As South African President Nelson Mandela so eloquently reminded us just today, we are all part of the world community. The United States is the only superpower in the world.

Just as we helped to light the flame of freedom in South Africa, we have a responsibility to assist other nations whose people dream of freedom and democracy as well.

It is particularly important to pay attention to our own hemisphere, where instability among our neighbors affects us in a myriad of ways. For example, we cannot expect to get our own immigration policies under control until we are able to deal with the instability in Haiti, and the serious economic and political problems it is causing in this hemisphere.

Indeed, one reason why we have such problems in Central and South America is that we have neglected for too long the nagging instability in Haiti and elsewhere in our hemisphere.

If we can not provide leadership in our own hemisphere, how can we be respected by the world community? It is a matter of our own credibility.

We sought and received the backing of the United Nations to deal with the Haitian issue, and yet some here would have us walk away from that commitment. That's not leadership. It is an admission of vacillation and defeat.

Yet that is just what we will do if the Michel-Gingrich amendment calling for an immediate withdrawal from Haiti passes.

In my judgment, the Michel-Gingrich resolution is politically foolish, if not dangerously counter productive.

It would be a terrible mistake to tie the hands of our President and our current military leaders, as well as those of future Presidents and military leaders, by setting a date certain for the withdrawal of our troops from Haiti.

In the short term, such a decision would make it far more difficult for the United States to achieve its objectives in Haiti. Indeed, it simply encourages General Cedras and his cohorts to stall and disrupt as long as possible—and perhaps resort to violence against out troops—knowing that our hands will be tied once the deadline passes.

Unfortunately, that is just what the Michel resolution would do. Although the Torricelli amendment gives the President a little more leeway, it too would have the same effect.

By setting a date certain for the withdrawal of United States troops, both resolutions run the risk of shortcircuiting a policy that is working fairly well so far, and which has the best chance of restoring democracy to Haiti.

In so doing, they would escalate the dangers which our troops face in attempting to disarm those who are responsible for the violence and instability in Haiti, and make it far more difficult to restore authority to the democratically elected government of President Aristide.

By comparison, the Dellums-Murtha substitute takes a more responsible and rational approach to the situation in Haiti. It supports a prompt and orderly withdrawal of United States forces from Haiti as soon as possible, without setting a data certain for such withdrawal.

It also requires the President to submit a detailed description of United States policy in Haiti and monthly reports on the status of the military operation, so the American people will know exactly what our goals are and the progress we are making in achieving them.

While I oppose making an indefinite commitment to rebuild Haiti, the fact is, we do have to assist this hemisphere in bringing stability to that troubled country.

In the final analysis, the Dellums-Murtha amendment offers the best chance for accomplishing our goals in Haiti, reinforcing our standing in the world community, and getting our troops home quickly and safely. I urge my colleagues to support Dellums-Murtha and to oppose the Michel and Torricelli resolutions.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, let us tell the American people the truth.

We must tell them the truth because this debate involves placing the men and women of the Armed Forces of the United States in harm's way. Let us make clear what this debate is about and what it is not about.

First, this debate is not about setting a date certain for our troops to withdraw from Haiti. It fact, not one of the three resolutions that we will vote on today will commit the President to getting our troops out of Haiti.

The Gilman substitute does not—I repeat, does not—ensure that our troops will be out of Haiti by a date certain.

The Gilman amendment states the following, about a withdrawal from Haiti: Come January 3, 1995, if there are still American troops in Haiti, then a resolution will be introduced and voted in Congress no later than January 21, 1995 which requires that we withdraw from Haiti within 30 days of passage—if it passes.

In other words, the Gilman resolution simply states that we will vote on withdrawal by a date certain—not that we will withdraw by a date certain. This is an important distinction for the American people to understand. It is utterly irresponsible to claim that we are voting for a date certain. It is simply not in the language. And I would hope that my friends on the other side of the aisle would tell the truth about that. They are not committing us to getting any troops out by a date certain.

Second, the Dellums-Murtha-Hastings-Dicks substitute states that we should withdraw as soon as possible, but does not set a deadline for withdrawal, either.

But I ask my colleagues, Who is the enemy in Haiti? Who are we fighting against? I thought our enemy was General Cedras, Colonel Francois and company. The people that brutalized their fellow Haitians and plundered their country. But these people are permitted to leave with honor, without prosecution, without punishment for their heinous acts, the very same acts which President Clinton claimed were sufficient enough to meet the test of national interests. What does that say for our defense of human rights, one of our alleged pillars of foreign policy.

I think its worthy to note in this debate that the fear of a refugee influx has now risen to the level of being a national security threat. History will mark this precedent as we look at Haiti's neighbor, Cuba and other countries in the days to come.

Finally, the Torricelli-Hamilton resolution does not offer us a date certain for withdrawal, either. But it does accomplish one important objective: it sets our exit for March 1, 1995. It also gives our armed forces the time necessary to complete their mission, avoiding the concerns that our military experts have expressed, while making a strong constitutional statement about the role of Congress in such actions.

Working with the hand that has been dealt us, and due to previous congressional inaction, I have chosen to support this option as the most responsible course of action. It expresses the will of the American people but at the same time protects the valiant men and women of our Armed Forces.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS of Texas. Mr. Chairman, the issue today is not what our personal positions are on Haiti. The issue is not whether we support a military invasion of Haiti. The issue today is not Bill Clinton, and it should not be partisan politics.

The issue today is whether this Congress will inadvertently jeopardize the lives of young American citizens in Haiti by setting an inflexible date certain for their withdrawal.

Could anyone imagine General Eisenhower telling the Germans at Normandy that allied troops would withdraw if their mission was not successful by a certain date? Certainly not.

Could anyone imagine General Patton telling Rommel that he would retreat his tanks if his mission was not accomplished by a certain date? Certainly not. Could anyone imagine President Bush telling Saddam Hussein or General Noriega that United States troops would be withdrawn from Kuwait or Panama if his mission was not accomplished by a certain date? Certainly not.

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I would suggest, then, Mr. Chairman, that it would be just as wrong and just as dangerous for this Congress to set a date certain for the withdrawal of United States troops from Haiti. That is exactly what we are hearing from our American military leaders, including General Shalikashvili.

I hope one of the painful but important lessons of Vietnam is that whether we personally oppose or support U.S. military action in another country, it is a deadly mistake to tie the hands of our troops once they are deployed. Let us not make that mistake again here today. Let us support our troops.

We all want to bring our troops home as soon a possible, but until our young American citizens are home safely, let us not put our personal and partisan differences into a position of jeopardizing their lives. Let us support our troops. Let us let the military do its job without political second-guessing in Washington.

Mr. Chairman, I urge opposition to the Michel amendment and support for the Dellums amendment.

Mr. TORRICELLI. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Indiana [Mr. HAMILTON], the chairman of the Committee on Foreign Affairs.

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding time to me, and I want to express my appreciation to him for his leadership in this area. It has really been very distinctive, important, and constructive. I am pleased to join with him in the Torricelli-Hamilton amendment. I would like to direct my remarks to that amendment, if I may, at this point.

Mr. Chairman, I think it is the best of the three choices that are before us. I would like to spell that out, Mr. Chairman. First, just to explain it, it authorizes United States military operations in Haiti until March 1, but then it has a Presidential waiver, and if the requirements are met, then the time can be expanded.

Second, it sets out limited purposes of the U.S. military operation. I will come back to that in a moment. Third, for those who oppose the United States presence in Haiti beyond March 1, it guarantees a vote on a resolution directing the President to withdraw the troops.

Mr. Chairman, the advantage of the Torricelli amendment is that it is the only one of the three that authorizes the presence of United States combat troops in Haiti. Three weeks ago, just before the President sent troops into Haiti, Members of this institution were talking all the time about the President should not commit troops without an authorization. Everybody agreed with that. Now, many Members of this institution are unwilling to authorize the presence of those troops, even after the fact.

The Torricelli-Hamilton amendment authorizes the United States presence in Haiti. It is the only amendment before us that speaks to the question of authorization. Members must step up to the plate and exercise their Constitution responsibilities. Congress should share responsibility any time U.S. troops are deployed abroad for possible combat purposes.

The Murtha-Hastings resolution does not do that. It does not authorize the presence of troops in Haiti, nor does the Michel amendment. If Congress is to play a role in difficult decisions on the use of force, Members should be willing to step up to the plate, and we do that by voting on the question of authorization, not by adopting a sense-of-the-Congress resolution.

The sense-of-the-Congress resolution, for example, in the Dellums-Murtha-Hastings-Dicks amendment said the President should have sought and welcomed congressional approval before deploying troops, but it does not say anything about the Congress stepping up to its responsibility and authorizing after the fact.

You cannot have it both ways. Members cannot complain about no authorization beforehand, and then duck responsibility for authorization afterwards. The House tonight faces a very clear choice: Do United States troops in Haiti continue to operate solely on the President's authority, or do they also have the support and authorization of the United States Congress? I believe we should authorize.

Let me make one other point about the Torricelli amendment. It is the only amendment before us that limits the scope of responsibility of the military forces. The Dellums-Murtha-Hastings-Dicks amendment is completely open-ended. You can get into the whole business of nation building under that amendment. There is no limitation on the scope of what military forces must do.

In the Torricelli substitute, we are very specific about the limited purposes of our involvement: to protect United States citizens; to stabilize the security situation in Haiti, so that you can have orderly progress in transferring to a legitimate government; and to facilitate the provision of humanitarian assistance to the people in Haiti.

What we do not do in the substitute amendment by the gentleman from New Jersey [Mr. TORRICELLI], we do not authorize nation building. Under the Murtha-Hastings-Dicks-Dellums substitute there is not any mention of this, and it is completely open-ended.

Under the Torricelli substitute, we do not authorize United States troops to run Haiti. We do not authorize them to rebuild Haiti. We do not authorize them to create democracy in Haiti. Those are the tasks for the Haitians themselves, with help, of course, from the international community.

Mr. Chairman, the reason for the amendment in the nature of a substitute offered by the gentlemen from New Jersey [Mr. Torricelli] is that it puts the Congress on record in support of United States combat troops in Haiti, and it authorizes their presence. It outlines a clear mission, limited in time, limited in scope.

It gives United States troops a reasonable chance to accomplish their mission. It protects the constitutional prerogatives of this body, and it does not simply cede those responsibilities away, or duck the question. It ensures that Congress will come back in the 104th Congress and have the opportunity to pass judgment on the continued wisdom of this operation at a later date.

Mr. Chairman, I believe, therefore, the reason that the Torricelli substitute is superior is because it steps up to the plate and permits us to exercise our congressional responsibilities under the Constitution, and it limits the amount of time that the troops can be there, and it limits the scope of the mission.

May I say, Mr. Chairman, finally, that there are many, of course, who argue tonight for an early withdrawal, but I think that is a mistake. To pull our troops out on an early deadline simply risks the mission in Haiti.

We have many views in this Congress about whether or not we should intervene, but that question is behind us now. The troops are there, and we should see that those troops succeed, and American foreign policy succeeds in Haiti.

Mr. DELAY. Mr. Chairman, United States policy toward Haiti has been full of errors from the start. First, we based our policy for the restoration of democracy on returning to power Jean-Bertrand Aristide, a man who—although elected democratically—clearly does not govern democratically.

Aristide and his followers routinely incited mob violence and class warfare. He has publicly condoned the practice of necklacing opponents—igniting a gasoline-soaked tire around the head of an enemy and burning the victim alive. He also is believed to have personally ordered the execution of one of his top political enemies prior to being overthrown in September 1991. Aristide, moreover, routinely acted without the consent of the Haitian parliament and ignored the country's constitution.

Yet now President Clinton has committed thousands of United States troops to Haiti in the hope that General Cedras will stick to his part of the agreement brokered by Jimmy Carter and leave power so that Aristide can take his seat again as president until the end of his term.

At this time, many unanswered questions remain:

What if Aristide decides not to step down at the end of his presidential term, as he has agreed to do? Until now, Aristide has held firm to his belief that the period of his exile does not count as part of his 5-year term in office. Will the United States blockade Haiti and impose economic sanctions if Aristide remains in office past 1996, in violation of the 1987 Haitian Constitution?

What if Cedras or other members of the junta refuse to leave Haiti once they step down from power? Already Cedras has indicated that he has no desire to leave, and nothing in the agreement prevents him from staying. Imagine the kind of unrest that could ensue if he stays and decides to run for parliament this year or president next year. Will we be playing referee between the two political factions?

What if Aristide turns on us again? The Clinton administration has been able to keep Aristide fairly quiet while he has been living in Washington. Once he's back in Haiti, however, he could revert to the anti-Americanism that has been prevalent throughout his political career. In a 1990 radio interview regarding United States support for the upcoming Haitian elections, for example, Aristide claimed that "they (the Americans) want to hold our guts always in their hands. Thus, we will become economically, politically, and culturally dependent. For our part, we reject this * * *"

Perhaps the biggest question is what will we do if democracy fails to take root with Aristide's return? This is a country that, unfortunately, has never known democracy. Is the Clinton administration planning to keep United States troops in Haiti indefinitely?

Clinton has yet to define an exit strategy to identify clearly thee conditions that must be met in order to get our troops back home. At this point I fear that we could see a repeat of the failed nation-building attempt that took place in Somalia last year with the unnecessary loss of some 40 American lives.

The Hamilton resolution is a sham: it retroactively authorizes the United States occupation of Haiti, giving the President political cover if anything goes wrong; there are no provisions prohibiting appropriations for operations after the March withdrawal date so the President is under no obligation to honor it; furthermore, while the resolution seems to say that American troops will only serve under U.S. command, it does not specify whether this will hold true after the transition to a U.N.-led force takes place.

The situation in Haiti poses no threat to international peace and security, and there was never any meaningful consultation with Congress on the issue of sending United States troops to occupy the island. Furthermore, it is abundantly clear that the American people do not support this operation.

I would like to express my strong support for the Michel resolution, which states in no uncertain terms that U.S. troops should come home now. Instead of placing American young men and women in needless danger, we should be establishing ties with existing democratic institutions in Haiti for the promotion of free and fair elections, and the economic embargo of Haiti should be fully lifted to revive the economy.

Mr. KOPETSKI. This issue is a very difficult one for me to resolve. And my dissatisfaction with the options presented is evidenced by the seemingly contradictory nature of my votes.

Let me state first, that I have no issue in deciding how to vote on Mr. MICHEL's substitute. I reject it and voted against it. I believe the United States does have a national security interest in Haiti and it is necessary to place troops there. I believe it would be wrong to withdraw our troops immediately from Haiti.

I supported the Dellums substitute because it reflects many of my beliefs: it commends the performance of our men and women in uniform who once again were asked to place their lives on the line on foreign soil; and it supports the prompt and orderly withdrawal of our troops as soon as possible. I find these important promises and worthy of my vote.

What the Dellums amendment does not do is legally authorize the placement of troops on foreign soil. The substitute expresses only the sense of the Congress and is not legally binding. This is the flaw in the choice. I believe the

Congress has the constitutional responsibility to authorize legally the placement of troops on foreign soil when placed in harms way as is the case in Haiti.

The Hamilton substitute fulfills our Constitutional responsibility and legally authorizes the placement of troops. I believe I have a constitutional duty by the oath of office taken to vote to authorize the troops if I deem it necessary to have troops in Haiti. I do and I did.

The flaw in the Hamilton substitute which gave me great concern is the deadline imposed on the President to withdraw the troops. I don't support this deadline. I believe it is bad policy, if not dangerous policy, for our troops on the ground and for strategic purposes.

I believe that, as in Somalia and in the current engagement, the imposition of post authorization of troops by Congress as well as imposition of Congressional deadlines for withdrawal exposes a significant, impractical flaw in the War Powers Act. The Act needs fixing if not repeal for it places Congress in the untenable position of choosing between Constitutional duty and deference to the Commander in Chief to take first actions to protect the lives of our troops. But this is a review and action for a future Congress.

In light of the above I did vote for Mr. HAMILTON's substitute opposing the deadline but granting the legal authority which the President must have in order to have American troops in Haiti.

Though my votes are in past contradictory I was not given the choice I wanted; a legal authorization for the President to commit troops in Haiti for as long as necessary to protect our national security interests. I've done the best I could to honor my oath of office and to support good policy for America.

Mr. LEVIN. Mr. Chairman, each of the resolutions before us tonight has its serious imperfections.

I voted against the Michel resolution because I believe that it would have led to chaos in Haiti and threatened our troops.

The Dellums resolution would set no target date for withdrawing American troops from Haiti.

The Toricelli resolution sets a target date, but its retroactive authorization is unwise and easily misunderstood.

I opposed the use of force in Haiti. Now that our troops are there, I believe that we must support them. I also believe that there must be a clear mission and a target date set for their safe withdrawal.

Since none of the resolutions before us tonight adequately address my concerns, I must reluctantly vote no on all of them.

Ms. LOWEY. Mr. Chairman, I have said for months that I did not want to see United States Troops in Haiti. Like most Americans, I did not—and do not—want to see young Americans placed in harms way. And I decided tonight that my responsibility in casting votes on alternative plans for bringing our troops home was to those several thousand American troops who are in Haiti now.

If I could bring them home tonight, I would do it without question. And I continue to say that our priority now should be to turn this mission over to United Nations Forces and bring our troops safely home without delay. The key word is, without a doubt, "safely."

It would be irresponsible for the Congress to add to the danger facing American troops already stationed overseas by casting a politically motivated vote. Military experts—one after another—have said that setting in stone a date for withdrawal of our troops puts them in greater danger. In the words of Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, "The bottom line is that the dynamic created by a mandated withdrawal date could make the situation more dangerous to our troops." And that makes good common sense—I don't know of any victorious military operation in history that has been conducted after sharing key strategic information with the adversary.

My vote tonight—for the Murtha-Dellums resolution—should leave no doubt in anyone's mind about my determination to bring our troops home. I do not—and never have—supported this military action in Haiti. This resolution says—and means—that our troops should be withdrawn as soon as possible.

Finally, I want to say a word about the discrepancies between the rhetoric of tonight's debate and the reality of the alternatives before us. Yes, the Michel resolution calls for the immediate withdrawal of our troops—but read on—the resolution then delays until January 21, 1995, a vote on a resolution to require withdrawal—and that resolution, if adopted, would allow 30 days—until February 20, 1995—for the withdrawal to be complete. The committee's resolution requires withdrawal by March 1. The difference—8 days—falls far short of what the rhetoric would have us believe.

Mr. COSTELLO. Mr. Chairman, I rise today during this important debate on the resolutions regarding U.S. military involvement in Haiti.

As many of my colleagues know, I opposed the invasion of Haiti, and cosponsored legislation to require the President to seek the approval of Congress prior to any military intervention in Haiti. However, the President committed U.S. troops prior to congressional consideration, and now we have 20,000 troops in that country.

Today, we debate how best to move forward given the fact that our men and women in uniform are in Haiti, facing daily danger but as yet, thankfully, without loss of life. There are three resolutions on the floor today: one sponsored by Rep. MICHEL, urging an immediate withdrawal of troops; one by Rep. MURTHA, expressing the withdrawal of U.S. troops as soon as possible; and one by Rep. TORRICELLI, authorizing the placement of troops in Haiti and urging their withdrawal by March 1, 1995.

While I opposed an invasion of Haiti, I do not believe with 20,000 troops in that country we should pull them out today. Such a resolution sends a mixed signal to the military leaders in Haiti, undercuts the soldiers and sailors who are working for a quick and peaceful resolution to the return of exiled President Aristide, and potentially even puts them in harm's way. Therefore, I intend to vote against the Michel resolution.

The Torricelli resolution authorizes this mission retroactively, and urges a withdrawal by March 1 of U.S. troops stationed in Haiti. As an opponent of military intervention of Haiti, I do not believe that we should authorize this mission. For that reason, I will oppose the Torricelli resolution.

I intend to vote for the Murtha resolution, which calls for withdrawal of U.S. troops as soon as possible from Haiti. It is similar to the bipartisan resolution sponsored by Senators BOB DOLE and GEORGE MITCHELL now under consideration in the Senate.

The President has indicated the return of President Aristide by October 15, 1994, just a few days away. Once he has returned to Haiti, we should bring our troops home as the situation becomes more secure, and allow the United Nations security forces to take over. Our troops will have fulfilled their mission to restore President Aristide to power, and our military role will be complete. I believe the Murtha resolution allows the President to accomplish these goals and I support efforts to bring our troops home as soon as possible.

Mr. FRANKS of Connecticut. Mr. Chairman, I rise today to express my support for the Michel substitute to H.J. Res. 416. The Michel substitute is the best course of action in Haiti. From the beginning, I have opposed United States military involvement in Haiti. We need to do everything we can to get our troops home and out of harms way. I believe that the Michel alternative establishes a clear plan to bring our soldiers home. The Michel substitute is also the only alternative that prohibits U.S. forces from serving under foreign command.

Along with the fear of losing American lives, there are several reasons that stand out in my mind why we shouldn't be in Haiti. For example, who is going to assume the cost of this mission? I know the United Nations approved this occupation, but I don't see our allies opening up their checkbooks for support. I will tell you who is going to pay, the American taxpayer. The Department of Defense has already stated it does not have enough money to cover the $250 million initial cost of this operation. Estimates of the cost of the occupation are now being made as high as $3 billion. So once again the American taxpayer is going to get stuck with the bill for an occupation that the majority of Americans oppose. Something is wrong with the picture.

Another concern is the fact that President Clinton blatantly ignored the will of the American people and the Congress. Instead he turned to the United Nations, rather than the elected officials of his own country giving the people the impression that Mr. Clinton places the approval of the United Nations ahead of the American people. It is also sad that only after American troops have been in Haiti for 2 weeks that we now are addressing this issue properly on the floor of the House of Representatives. It is unfortunate that the Democratic leadership prohibited the Congress from voting on this important matter prior to the United States occupation of Haiti

President Clinton should study the rules of engagement outlined by former Secretary of Defense Caspar Weinberger. Secretary Weinberger argued that there are four principles that should be adhered to before committing U.S. troops on foreign soil: The operation should have the support of the American people and the Congress, the mission should be specifically defined, the operation should be in the strategic interest of the United States, and finally there should be a clear exit plan for our troops. Unfortunately, the Haiti occupation does not satisfy any of these four criteria.

You may recall that this is not the first nation-building exercise for American troops in Haiti. From 1915 to 1934 U.S. forces occupied this caribbean nation to no avail. In fact, Haiti has never had a sustainable democracy.

Mr. Chairman the Michel substitute to H.J. Res. 416 is the only alternative that provides a clear plan to get United States troops out of Haiti. The Dellums and Torricelli plans fail to define a specific course of action. The Michel plan holds the President accountable to the Congress on this important matter. I believe that we are ducking our own responsibility as elected Members of the House of Representatives if we adopt the Torricelli or Dellums alternatives.

Mr. DINGELL. Mr. Speaker, I rise in support of the substitute offered by Representative DELLUMS, Representative MURTHA, and a number of my colleagues.

This resolution, unlike the others we are considering today, does not tie the fate of our soldiers to an arbitrary date. Setting either January 3, 1995 or March 1, 1995 as the date certain for the withdrawal of our forces will undercut the ability of our President to conduct foreign policy. In addition, a date certain for withdrawal will impair his responsibility as Commander in Chief to direct our armed forces.

The deadline also flies in the face of military strategy, by disregarding the need for secrecy. Affording those who do not share our interests in restoring democracy in Haiti the opportunity to plan around our exit date could expose our forces to serious dangers. Furthermore, our strategic objectives, and their potential undoing, would be tied to our departure date. I cannot think of a military leader in our history that has tied his fate to this type of policy, which has serious consequences for this and future military operations.

I was opposed to the invasion of Haiti and I continue to have grave misgivings about our current occupation. Nevertheless, the President has deployed our forces to that country to restore order and to help ensure a smooth transfer of power from Haiti's current military regime to President Jean-Bertrand Aristide. Congress must call upon the President to accomplish this mission quickly and then return home.

Our military forces are the most highly trained and professional soldiers in the world, and they deserve our support. We are asking them to perform a dangerous and ever-widening mission, under difficult circumstances, with unclear rules of engagement. Their responsibilities include protecting Haiti's citizens and political leaders from attack, and seizing weapons from paramilitary groups. Previous experience shows that nation-building and peacekeeping missions in hostile environments can place American soldiers in the difficult position of fending off attacks from local factions.

At this juncture, we need a precise mission laying out our objective and how we will accomplish it. This policy must also include clearly defined rules of engagement, and an exit strategy; not an exit date. Finally, we must commit the resources needed to give our soldiers the ability to defend themselves and to ensure their safe return.

For these reasons, I believe it is incumbent on this body to call upon the Administration to produce the most rational and even-handed policy possible. We must focus our energies on approving a measure to help guarantee that the fundamental requirements I have mentioned are met and that our forces are withdrawn from Haiti as soon as possible, with minimal risk.

Mrs. COLLINS of Illinois. Mr. Chairman, throughout my tenure in Congress I have always strongly opposed offensive U.S. military action against foreign nations except as an absolute last resort. I am a firm believer in the importance of diplomatic resolve.

However, I also strongly believe that once American troops are committed overseas and engaged in a mission as important as the restoration of democracy in the Republic of Haiti, we, as Members of Congress and as citizens of this great country, must stand firmly behind our men and women and support their efforts 100 percent. We must give our courageous and competent soldiers the moral and economic support necessary to the successful completion of their duties.

Throughout the last days of the 103d Congress, there has been a great deal of election year politics and grandstanding by those individuals whose sole purpose has recently been to damage the President of the United States. We cannot allow such tactics to sabotage our troops in Haiti.

This morning South African President Nelson Mandela addressed a joint session in this chamber and praised the United States for its diligent efforts to help break the stranglehold of apartheid in his nation and bring freedom and democracy to the South African people. Does not the United States have the same responsibilities in Haiti?

Mr. Chairman, I congratulate President Clinton for working diligently to restore democracy in the Republic of Haiti in the face of great opposition. He has shown great strength and courage as this Nation's Commander in Chief in attempting to resolve longstanding unrest in that nation in the swiftest and most nonviolent that is possible.

I urge my colleagues to support the Dellums substitute and allow the American troops to complete their mission and bring peace to Haiti and urge my colleagues to do the same.

Mr. KIM. Mr. Chairman, we are at long last debating the American occupation of Haiti. I believe we need to examine how much this occupation is going to cost. The early estimates peg our cost at $250 million through the end of this year.

Our Nation's Armed Forces have been slashed by 25 percent since the Gulf War and are unable to meet their training budgets. How are we going to pay for the occupation without further degrading our military readiness?

What are we spending our money on?

We are spending thousands of dollars to buy obsolete weapons. We are spending tens of thousands of dollars to train and pay Haitian police to sit in Guantanamo refugee camps. We have spent millions for humanitarian food relief and stood by and watched the distribution centers be ransacked.

What is our mission? Is it restoring Jean-Bertrande Aristide to power or is it to promote democracy? Aristide is no different from the military thugs we are overthrowing. Aristide advocates murder and brutality as valid tools of government. How is siding with Aristide any different from choosing sides in the chaos of Somalia? When Aristide returns, who knows what will happen? Haiti may degenerate into civil conflict. Are we going to take sides in a civil war? Are we going to invade Haiti again to replace Aristide?

What is going on? How long are we going to be in Haiti? Without answers to those questions Congress has a responsibility to end this ill-fated adventure. Our servicemen and women should never be thrown into a dangerous environment without a clear mission. And given our budgetary problems we should end this ill-advised waste of precious taxpayer dollars.

I strongly urge my colleagues to vote for the Michel substitute.

Mr. LIGHTFOOT. I rise in opposition to the resolution. I will not vote to give President Clinton a backdoor authorization for his unilateral decision to deploy troops to Haiti. Nor do I believe we should let House Democrats have any opportunity to hide from their complicity in this matter.

Like all Americans I support our troops when they are in harm's way and I pray for their safety and success. But if this operation devolves into the same nation building fiasco we witnessed in Somalia, the responsibility should rest squarely where it belongs, with President Clinton and the House Democrats who sanctioned this adventure last June.

On June 25, 1994, I offered an amendment to the Commerce, Justice, State appropriation to cut the $25 million budgeted for the United States contribution to U.N. peacekeeping operations in Haiti. That amendment was opposed by House Democrats because they decided it would unnecessarily tie the President's hands.

How ironic that we now find ourselves here today discussing a Democrat resolution which is opposed by our field commanders because it would tie the President's hands in Haiti. It's clear to me the Democrats have stuck their collective fingers into the air and suddenly discovered the American people don't want our troops in Haiti.

Well it's too late. House Democrats had several legislative opportunities to stop this madness and like Bill Clinton, you avoided your responsibility.

The President should be held accountable because he has presented the American people a fait accompli. Yes, today Congress can try and order our troops home in a safe and orderly manner. But if we are not prepared to take that decisive step, I don't think we should ignore the recommendation of our force commanders and establish arbitrary dates for the withdrawal of our troops.

I believe the President has evaded his constitutional duty by avoiding Congress in this matter. Haiti is no threat to our national security. The buildup toward our intervention in Haiti was conducted quite publicly.

Who did the President consult before launching this mission? He consulted with United Nations Secretary General Boutros Boutros Ghali, the members of the United Nations Security Council, the leaders of Caribbean and Latin American nations.

It appears Bill Clinton had time to consult with everyone but the American people. I guess we should be grateful that Bill Clinton found 10 minutes to address the American people with a half hearted attempt to justify invading Haiti on the eve of his intervention.

But Mr. Speaker, there is a bigger issue here than just our ownership of a small, useless Caribbean nation. President Clinton's action in Haiti exemplifies his administration's foreign policy.

Presidential decision directive 25, the Clinton administration's peacekeeping doctrine, was designed for situations just like Haiti. PDD–25's criteria for establishing and participating in U.N. peacekeeping operations are so vague as to justify any dubious multilateral action the President's advisors decide upon. If you can justify Haiti with PDD–25, then you can justify anything.

Under the Clinton peacekeeping doctrine, our military is no longer to defend the United States, it's no longer to be used for power projection, it's to be a global police force.

Well Mr. Speaker, Americans don't like watching American troops in Haiti entering homes and making arrests without warrants—in the name of democracy. Americans don't like watching American troops shut down television stations because we don't like what is being broadcast—in the name of democracy. And Americans don't like the idea of using American troops using American bayonets, to replacing one set of dictators with a person who has no demonstrated commitment to democracy, the rule of law or human rights.

I urge this House to support nothing less than legislation which brings home our troops—now.

Mr. JOHNSON of South Dakota. Mr. Chairman, while I have not supported an American invasion or occupation of Haiti, I want, at the outset, to make it very clear that I am supportive of the courageous men and women in uniform who are currently performing their military tasks with skill and professionalism in Haiti. I also commend Gen. Colin Powell, Senator NUNN and former President Carter for their efforts to negotiate an agreement which eliminated the possibility of a forced military entry into Haiti and the loss of life that might have entailed.

I am also supportive of President Clinton's effort to intercept Haitian refugees at sea and transport them to Guantanamo and other locations outside the United States, rather than allowing the large scale entry of Haitian refugees into Florida. Ultimately, the only long-term solution to the Haitian refugee crisis is to encourage the restoration of greater prosperity and individual security in Haiti—that goal serves the needs of both the United States and of the Haitian people. Permitting a large-scale Haitian exodus to the United States creates problems in our country and does not correct the underlying cause of the exodus—poverty and human rights violations in Haiti.

It is my view that no substantial military invasion or occupation of a foreign nation should occur without the express authorization of the representatives of the American people—Congress. I have held that view during the Reagan and Bush administrations and now express the same position during the Clinton administration. I appreciate that Presidents Reagan and Bush as well as President Clinton deny the need for congressional authority prior to this type of military action, and this difference of opinion is why I sought judicial clarification of the issue prior to Desert Storm. The Court declined to rule on meaning of the constitutional warmaking clause prior to Desert Storm because President Bush did ultimately seek a congressional vote. No such vote was taken prior to invasions of Lebanon, Panama, or Grenada and President Clinton is currently following the precedent set by previous Presidents.

I believe that the United States should execute an orderly withdrawal from Haiti in a manner consistent with preserving the safety of our troops. I have not talked to one parent in South Dakota who believes that the national interest of the United States justifies jeopardizing the lives of their sons or daughters in Haiti. Our Nation should facilitate the deployment of an international peacekeeping force as quickly as possible.

The United States can and must play some role in reducing the turmoil in Haiti, but I do not believe that our country can continue to play the role of policeman for the world, or even for our hemisphere. In situations such as this where the threat to the United States is marginal, the better strategy is to rely on international peacekeeping efforts—in which the United States will often play some significant role—in conjunction with trade and diplomatic efforts.

Mr. MANN. Mr. Chairman, I rise today in support of the Dellums-Murtha substitute to House Joint Resolution 416. As a former naval officer, who served during the Cuban missile crisis, I have firsthand experience of military operations in the Caribbean. Therefore, I take seriously the responsibility of placing the men and women of the U.S. Armed Forces in harm's way.

Had President Kennedy been schackled with a date certain for the termination of the Cuban quarantine, the Soviet Union would have successfully put nuclear missiles in Cuba.

Our senior military leaders like Joint Chiefs of Staff Chairman, General Shalikashvili; JCS Director of Operations, General Sheehan; and former JCS Chairman Colin Powell have told us that we place our troops at risk by imposing a date certain. It seems irrational to me that we would then impose a date certain, which is little more than a political solution to this military operation. U.S. troops should not be pawns in the debate between the legislative and executive branches of Government.

The plan we have before us in the Dellums substitute requires the administration to define the mission, identify the costs, estimate the duration of United States presence in Haiti with monthly reports to Congress. This substitute supports our troops without giving congressional approval to their deployment and without jeopardizing them with a date certain. I see this as the best means to successfully completing the mission in Haiti.

I know that is this partisan environment some who have never served their country in the military will criticize those of us who refuse to jeopardize our troops for political gain. While I disagreed with the decision to introduced troops into Haiti without congressional approval, now that they are there we must give them our full and unequivocal support. I urge adoption of the Dellums-Murtha substitute.

Ms. SHEPHERD. Mr. Speaker, I rise today in support of the Dellums-Murtha-Hastings-Dicks substitute to support our troops in Haiti. Now, I did not support a United States invasion in Haiti. I joined with Representative SKAGGS and Representative BOEHLERT and 137 other Members of the House in sending a letter to President Clinton in July calling upon him to gain congressional approval before initiating an invasion of Haiti. I also joined 105 of you in cosponsoring House Concurrent Resolution 276, stating that "the President is required to obtain prior approval of the Congress before United States Armed Forces may undertake offensive military action against the military leadership of Haiti."

Fortunately, the last-minute diplomatic initiative by former President Carter, former Joint Chief of Staff Colin Powell, and Senator SAM NUNN averted a bloody invasion, and for that I am deeply grateful. While I still have reservations about our Haiti policy, particularly about the wisdom of putting American troops at risk, I am cautiously optimistic about the course of events in Haiti. Our troops have fulfilled their mission with professionalism and compassion, and in the areas where United States troops are present, Haitians are once again able to express their political opinions without fear of death or torture. Our forces have dismantled the Haitian military's heavy weapons and have begun to collect guns from the Haitian policy and paramilitary groups, which will make it more difficult for antidemocratic forces to terrorize the population in the future.

The United States does have a direct national interest in the outcome of the power struggle in Haiti. If the people of Haiti feel that their political and economic situation offers them no hope, they will flood the United States as refugees. It will be far better if we can help them arrive at a political solution which will restore democratic rule and give them a chance to rebuild their country. The gradual lifting of sanctions announced by President Clinton should help restore hope and create a viable economy in Haiti. Already, Haitian refugees are returning home from Guantanamo Bay.

United States troops have now created the conditions to allow for the peaceful return of the democratic Government of Haiti. However, it looks as though an international presence will be needed in Haiti through the Presidential elections scheduled for September 1995. Therefore, I believe that we should push for a rapid transfer of responsibility to the United Nations. The urgent need now is for police, not combat troops, and the United Nations should be able to capably handle this mission.

However, I oppose an arbitrary deadline for withdrawal from Haiti. Our Nation's top military leaders have been down here begging us not to tie their hands, to let them fulfill their mission. As long as those who would threaten both our troops and democracy in Haiti are not sure when United States troops will leave, we will retain an important psychological and military advantage. Setting a date certain only encourages the opponents of democracy to dig in and wait us out. We should not give them an advantage by letting them know our plans in advance. Support our troops and vote for the Dellums-Murtha substitute.

Mr. MAZZOLI. Mr. Speaker, I respect President Clinton as I have respected each of his predecessors in office going back to President Richard Nixon who was President when I entered the House of Representatives in 1971.

I believe that President Clinton was correct in his stance on the Federal budget last summer, and I voted for the 1993 budget bill. I thought he was right on the trade question, and I voted for his position on the North American Free-Trade Agreement. I thought he was correct on the crime issue, and I supported the crime bill, including the prevention provisions, at all stages starting at the Crime Subcommittee on which I sit.

But I believe the President is wrong in his policy toward Haiti. And I believe he should have sought congressional approval before deploying troops into Haiti.

I have studied all of the pending resolutions carefully, Mr. Speaker, and the one which provides the earliest and the best opportunity for the 104th Congress, which convenes in January, to debate and act on the question of the orderly disengagement of the United States from our occupation of Haiti and the question of the prompt and safe withdrawal of our troops back to the United States.

Therefore, Mr. Speaker, I rise in support of the resolution offered by the gentleman from Illinois [Mr. MICHEL] and I urge my colleagues to support it.

Last, Mr. Speaker, I wish to take this opportunity to address a few words to my colleagues since I will not be a Member of the 104th Congress. I wish to tell my colleagues how proud and honored and privileged I have been to sit in this assembly and to be part of the United States House of Representatives with them. I thank them for their friendship and their support, and I hope that our paths cross often in the years ahead. I love each and every one of you, and I ask God's blessings upon you.

Mr. LEHMAN. Mr. Chairman, I rise today to express my disgust at the willingness of this body to jeopardize the lives of American soldiers for the purpose of gaining a political advantage.

Though I have publicly stated that I opposed the invasion of Haiti by United States forces, I am not willing to cast a vote which could jeopardize the lives of our soldiers simply to gain political cover. Whether or not we like it, our troops are in Haiti, and as long as United States soldiers are in Haiti we must stand behind them 100 percent.

The decision to bring our soldiers home should be based on the advice of our military leaders and not politicians who are concerned about their own elections. Imposing arbitrary deadlines does nothing but undermine our armed forces. The best thing Congress can do is allow our military leaders to do their job and bring our soldiers home as soon as possible in a safe manner.

If you are looking to gain a political boost right before the election, take the easy vote. By doing so, however, you are risking the lives of American soldiers and undermining our military.

Practice good policy—not partisan politics.

Mr. CLINGER. Mr. Chairman, I rise to express my views on the current U.S. military occupation of Haiti.

My position on U.S. policy toward Haiti is clear and simple. I neither supported President Clinton's initial deployment of U.S. troops to Haiti nor do I support the current U.S. military occupation of the troubled nation. No compelling U.S. interests were at stake in Haiti. No American lives were at risk, and the United States had no vital strategic or economic concerns there. While the United States should always be committed to democracy and support democratically elected leaders, I question whether placing U.S. service men and women in Haiti to restore President Aristide is an appropriate use of our military forces.

Furthermore, it is my belief that, as commander-in-chief, President Clinton had an obligation to build public support for his policy before placing one American service member in harm's way. He should have clearly articulated our national interests and security objectives in Haiti, and allowed Congress to fully and publicly debate and vote on the merits of his policy. President Clinton's decision not to seek public or congressional support prior to the invasion and occupation of Haiti was a serious failure on his part, because if he had, the United States might not be in the troublesome position we are in today.

Although I feel U.S. military intervention in Haiti is a mistake, and U.S. troops should be withdrawn as soon as possible, I strongly oppose any congressional action to set a deadline for withdrawal or any attempt to cut off funds for military operations in Haiti.

Under the two previous administrations, I consistently joined my Republican colleagues in fending off Democratic attempts to tie the hands of the President in executing U.S. foreign policy. I argued that Congress must give the President latitude to properly carry out his responsibilities as our commander-in-chief, especially when U.S. troops are in a hostile environment. It would be contrary to my beliefs and hypocritical for me now to support any resolution that severely restricts the President's authority over foreign policy and military affairs by mandating the withdrawal of U.S. troops.

Having stated by views, I must admit I am not thrilled by any of the three alternative before us today. While none represent flawless public policy, some are clearly better than others.

I am vehemently opposed to the Torricelli-Hamilton resolution which provides an implicit endorsement of the President's policy and retroactive authorization for his actions. I cannot support authorization for continued United States presence in Haiti to carry out a poorly defined mission I do not support, and urge my colleagues to vote "no" on Torricelli-Hamilton.

Although I have misgivings about the Michel-Gilman substitute, I will vote for it because it is clearly the best of the three choices. It states that President Clinton should not have sent troops to Haiti, and urges an immediate, safe and orderly withdrawal. Although I am concerned about the fixed timetable for a congressional vote on pulling U.S. troops out of Haiti, I view this provision more as a reservation of Congress's right to revisit the issue than as a congressional deadline for troop withdrawal.

If the Michel-Gilman substitute fails, which I expect it will, I will lend my qualified support to the Dellums-Murtha substitute. Although the language is anemic and does not go far enough in expressing disapproval of President Clinton's decision to dispatch troops to Haiti, I prefer the Dellums-Murtha substitute over the base text of the resolution which endorses and authorizes the President's actions. President Clinton should not interpret this Member's vote in support of the Dellums-Murtha substitute as a vote of confidence, but instead as a denial of congressional authorization for his Haiti military operation and a forceful repudiation of his mishandling of this sorry affair.

Mr. Speaker, no matter what the outcome of the Michel-Gilman or Dellums-Murtha votes, in my mind, the only vote that truly matters, and the vote the President should be closely watching, is the vote on the Torricelli-Hamilton resolution. This is the only amendment that provides authorization for continued U.S. presence in Haiti, and therefore, the only one that endorses the President's actions. If Congress fails to adopt the Torricelli-Hamilton resolution, it will be a clear, unmistakable rejection of the President's Haitian policy, and President Clinton should recognize and understand this.

Once again, I strongly urge members to vote "no" on the Torricelli-Hamilton resolution.

Mr. VENTO. Mr. Chairman, just over 2 weeks ago, the President ordered United States troops to enter the nation of Haiti. The situation in Haiti was clear—the people of Haiti were faced with a government that forcibly assumed power, committed horrible atrocities on the people of that country, and had repeatedly refused any attempts of a peaceful return to democracy and the legitimately elected President.

President Clinton made a bold and courageous decision to return democracy to Haiti and end the intolerable conditions created by the military regime by whatever means necessary. But much to his credit, our solders did not land in Haiti under a hostile situation.

I have heard many of my colleagues rise and criticize the President for his actions. I have heard my colleagues argue that our country has no stake in Haiti; that Haiti does not effect us. Well to them I say we can either deal with Haiti's problems in the streets of Port-au-Prince or the streets of Miami.

President Clinton went into Haiti with the support of the International Community, including the United Nations and Organization of American States. He went in to protect the Americans there and to restore the democratically elected President. He ensured the safety of our soldiers when they entered the country and he has made clear their mission in Haiti. It would be reckless to demand that he withdrawal our troops before they complete their objective; and very unwise to set a arbitrary date a deadline to conclude their mission and withdrawal. We are legislators not military commanders.

Since our troops safely landed in Haiti much has been accomplished. The flow of Haitian refugees has stopped, a new Haitian Security Force is being trained, dangerous political groups have been disarmed, violence has been minimized, and the Haitian military leaders are in the process of stepping down. If our troops are withdrew prematurely, any hopes of returning democracy and a functioning economy to Haiti will leave with them.

Although I believe the President should have sought congressional approval before deploying United States troops to Haiti, and was prepared to support such decision today commend him for maintaining America's credibility in world affairs, for taking a firm stand against human rights abuses, and for creating the safest possible environment for our troops in a potentially dangerous situation. President Clinton deserve the support of Congress.

The CHAIRMAN. All time for general debate has expired. Pursuant to the rule, the bill is considered for amendment under the 5-minute rule. The amendments printed in part 1 of House Report 103–840 are considered as adopted.

The text of House Joint Resolution 416, as amended, is as follows:

H.J. RES. 416

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Limited Authorization for the United States-led Force in Haiti Resolution".

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) On September 18, 1994, the special delegation to Haiti succeeded in convincing the de facto authorities in Haiti to sign the Port-au-Prince Agreement under which such authorities agreed to leave power.

(2) On September 18, 1994, after the Port-au-Prince Agreement was reached, the President ordered the deployment of United States Armed Forces in and around Haiti.

(3) On September 21, 1994, the President submitted a report, consistent with the War Powers Resolution (50 U.S.C. 1541 et seq.), on the introduction of United States Armed Forces into Haiti.

(4) The Congress fully supports the men and women of the United States Armed Forces who are carrying out their mission in Haiti with professional excellence and dedicated patriotism.

(b) STATEMENT OF POLICY.—The Congress declares the following:

(1) The United States-led force in Haiti should use all necessary means to protect United States citizens, to stabilize the security situation in Haiti so that orderly progress may be made in transferring the functions of government in that country to the democratically-elected government of Haiti, and to facilitate the provision of humanitarian assistance to the people of Haiti.

(2) Transfer of operations in Haiti from the United States-led force in Haiti to the United Nations-led force in Haiti should be facilitated and expedited to the fullest extent possible.

(3) United States Armed Forces should be withdrawn from Haiti as soon as possible.

SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—Subject to subsection (b), United States Armed Forces are authorized to participate in the United States-led force in Haiti only—

(1) to protect United States citizens;

(2) to stabilize the security situation in Haiti so that orderly progress may be made in transferring the functions of government in that country to the democratically-elected government of Haiti; and

(3) to facilitate the provision of humanitarian assistance to the people of Haiti.

(b) LIMITATIONS.—

(1) TERMINATION OF AUTHORIZATION.—The authorization provided by subsection (a) shall expire on March 1, 1995, unless the President determines and certifies to Congress in the report required by section 4(b)(3) that the continued participation of U.S. armed forces in the U.S.-led force is essential to protect U.S. citizens or vital U.S. national security interests.

(2) PROHIBITION ON FOREIGN COMMAND.—United States Armed Forces described in subsection (a) shall remain under the command and control of officers of the United States Armed Forces at all times.

SEC. 4. REPORTS TO CONGRESS.

(a) IN GENERAL.—The President shall submit to the Congress reports on —

(1) the participation of United States Armed Forces in the United States-led force in Haiti and the United Nations-led force in Haiti, including—

(A) the number of members of the United States Armed Forces that are participating in such United States-led force and such United Nations-led force;

(B) the functions of such Armed Forces; and

(C) the costs of deployment of such Armed Forces; and

(2) the efforts to withdraw United States Armed Forces from Haiti, including—

(A) for the purpose of achieving a transition from the United States-led force in Haiti to the United Nations-led force in Haiti, the status of efforts to implement the Port-au-Prince Agreement and to otherwise carry out the terms of United Nations Security Council Resolutions 917 (May 6, 1994) and 940 (July 31, 1994);

(B) the status of plans to accomplish such transition to the United Nations-led force in Haiti; and

(C) the status of plans to withdraw United States Armed Forces from Haiti.

(b) REPORTING DATES.—A report under this section shall be submitted—

(1) not later than November 30, 1994, covering the period since September 18, 1994;

(2) not later than December 31, 1994; covering the period since the report described in paragraph (1); and

(3) not later than February 1, 1995, covering the period since the report described in paragraph (2).

(c) WAR POWERS RESOLUTION REPORTING REQUIREMENTS.—The requirements of this section do not supersede the requirements of the Was Powers Resolution (50 U.S.C. 1541 et. seq.).

SEC. 5. REASSEMBLY OF CONGRESS.

It is the sense of the Congress that the Speaker of the House of Representatives and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House of Representatives and the minority leader of the Senate, respectively, should monitor closely events in Haiti in considering whether to exercise any authority that may be granted to reassemble the Congress after the adjournment of the Congress sine die, if the public interest shall warrant it.

SEC. 6. JOINT RESOLUTION PROHIBITING CONTINUED USE OF UNITED STATES ARMED FORCES IN HAITI.

(A) IN GENERAL.—If a joint resolution described in subsection (b) is enacted, the President shall remove United States Armed Forces from Haiti in accordance with such joint resolution.

(b) DESCRIPTION OF JOINT RESOLUTION.—For purposes of subsection (a), a joint resolution described in this subsection is a joint resolution the matter after the resolving clause of which is as follows: "Pursuant to section 6 of the Limited Authorization for the United States-led Force in Haiti Resolution, the Congress hereby directs the President to remove United States Armed Forces from Haiti not later than 30 days after the date of the enactment of this joint resolution, except for a limited number of members of the United States Armed Forces sufficient to protect United States diplomatic facilities and personnel.".

(c) PRIORITY PROCEDURES.—

(1) INTRODUCTION OF JOINT RESOLUTION.—Paragraph (2) shall only apply to a joint resolution described in subsection (b) and introduced on or after the date on which the President submits, or is required to submit, the report required by section 4(b)(3).

(2) CONSIDERATION OF JOINT RESOLUTION—Only one joint resolution described in subsection (b) and introduced in accordance with paragraph (1) shall be considered in accordance with the procedures described in section 7 of the War Powers Resolution (50 U.S.C. 1546), except that, for purposes of such consideration, the term "calendar days" in such section shall be deemed to mean "legislative days".

SEC. 7. DEFINITIONS.

For purposes of this joint resolution, the following definitions apply:

(1) LEGISLATIVE DAYS.—The term "legislative days" means days in which the House of Representatives is in session.

(2) PORT-AU-PRINCE AGREEMENT.—The term "Port-au-Prince Agreement" means the agreement reached between the United States special delegation and the de facto authorities in Haiti on September 18, 1994.

(3) UNITED NATIONS-LED FORCE IN HAITI.—The term "United Nations-led force in Haiti" means the United Nations Mission in Haiti (commonly referred to as "UNMIH") authorized by United Nations Security Council Resolutions 867 (September 23, 1993), 905 (March 23, 1994), 933 (June 30, 1994), and 940 (July 31, 1994).

(4) UNITED STATES-LED FORCE IN HAITI.—The term "United States-led force in Haiti" means the multinational force (commonly referred to as "MNF") authorized by United Nations Security Council Resolution 940 (July 31, 1994).

SEC. . AUTHORITY OF CONGRESS TO DECLARE WAR.

It is the sense of the Congress that, under circumstances existing prior to concluding the Port-au-Prince Agreement, the Constitution of the United States would have required the President to obtain the approval of the Congress before ordering United States Armed Forces to invade Haiti to remove the de facto authorities in Haiti.

The CHAIRMAN. No further amendment to this bill is in order except those printed in part 2 of the report.

Those amendments may be offered only in the order printed in the report, only by a Member designated in the report, are considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, and shall not be subject to amendment, except as specified in the report. If more than one of the amendments printed in part 2 of the report is adopted, only the last to be adopted shall be considered as finally adopted and reported to the House.

It is now in order to consider amendment No. 1 printed in part 2 of House Report 103–840.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. GILMAN: Strike all after the resolving clause and insert the following:

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Withdrawal from Haiti Resolution".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) On September 19, 1994, President Clinton introduced United States Armed Forces into Haiti for purposes of effecting a transition of power from the military regime of General Raoul Cedras to President Jean-Bertrand Aristide.

(2) Under President Clinton's plan, approximately 20,000 United States Armed Forces personnel have been deployed to Haiti and most are to remain there until, in the judgment of the United Nations Security Council, they have established a secure and stable environment and a follow-on United Nations peacekeeping force known as the United Nations Mission in Haiti (UNMIH) is capable of assuming their functions.

(3) In accordance with United Nations Security Council Resolution 940 (1994), the UNMIH peacekeeping force is to consist of 6,000 personnel and is to remain in Haiti until February 1996.

(4) President Clinton intends for United States Armed Forces personnel to comprise a substantial portion of the UNMIH peacekeeping force that will remain in Haiti until February 1996.

(5) President Clinton never requested or obtained the authorization of the United States Congress for his plan to deploy United States Armed Forces to Haiti.

(6) The incremental cost to the United States of President Clinton's planned military occupation of Haiti is estimated to total not less than $500 million and could be significantly higher. In addition, it is anticipated that the United States will provide hundreds of millions of dollars in economic and humanitarian assistance to Haiti during the military occupation.

(7) The deployment of United States Armed Forces to Haiti is adversely affecting military readiness by placing an enormous stain on a reduced military force structure and by consuming considerable resources from an underfunded defense budget.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that—

(a) the President should not have ordered United States Armed Forces to occupy Haiti;

(b) the President should immediately commence the safe and orderly withdrawal of United States Armed Forces from Haiti and should conclude that withdrawal as soon as possible in a manner consistent with the safety of those Forces;

(c) the President should pursue all appropriate diplomatic steps to ensure that the UNMIH peacekeeping force is promptly put in place and is fully comprised of military personnel from other countries.

SEC. 4. PROHIBITION ON FOREIGN COMMAND.

United States Armed Forces in Haiti shall remain under the command and control (including operational control) of officers of the United States Armed Forces at all times.

SEC. 5. REPORT ON THE SITUATION IN HAITI.

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including:

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 3(b) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all U.S. activities subsequent to September 30, 1993 in and around Haiti, including but not limited to:

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including:

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of department and agencies other than the Department of Defense, a breakdown by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including:

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections.

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including

(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

(2) troop commitments by other nations to UNMIH;

(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;

(4) proposed or actual participation of United States Armed Forces in UNMIH;

(5) proposed command arrangements for UNMIH, including any proposed or actual placement of United States Armed Forces under foreign command; and

(6) the anticipated duration of UNMIH.

SEC. 6. REPORT ON HUMAN RIGHTS.

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990 to December 15, 1994.

SEC. 7. REASSEMBLY OF CONGRESS.

It is the sense of the Congress that the Speaker of the House of Representatives and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House of Representatives and the Minority Leader of the Senate, respectively, should monitor closely events in Haiti in considering whether to exercise any authority that may be granted to reassemble the Congress after the adjournment of the Congress sine die.

SEC. 8. ESTABLISHMENT OF CONGRESSIONAL COMMISSION ON HAITI.

(a) ESTABLISHMENT AND DUTIES.—there is established a congressional commission to assess the humanitarian, political, and diplomatic conditions in Haiti and to present to the Congress a report offering appropriate policy options available to the United States with respect to Haiti. The Commission shall call upon recognized experts on Haiti and Haitian culture, as well as experts on health and social welfare, political institution building, and diplomatic processes and negotiations.

(b) COMPOSITION OF COMMISSION.—The Commission shall consist of the following Members of Congress (or their designees);

(1) The Speaker of the House of Representatives;

(2) The minority leader of the House of Representatives;

(3) The chairman and ranking Member of the following committees of the House of Representatives:

(A) The Committee on Appropriations;

(B) The Committee on foreign Affairs;

(C) The Permanent Select Committee on Intelligence;

(D) The Committee on Armed Services;

(4) The majority leader of the Senate;

(5) The minority leader of the Senate;

(6) The chairman and ranking Member of the following committees of the Senate:

(A) The Committee on Appropriations;

(B) The Committee on Foreign Relations;

(C) The Permanent Select Committee on Intelligence;

(D) The Committee on Armed Services; and

(7) The chairman and vice-chairman of the Congressional Hunger Caucus.

(c) REPORT OF COMMISSION.—Not later than 45 days after enactment of this joint resolution, the Commission shall submit to the Congress a report on the Commission's analysis and assessment of appropriate policy options available to the United States with respect to Haiti.

SEC. 9. JOINT RESOLUTION PROHIBITING CONTINUED USE OF UNITED STATES ARMED FORCES IN HAITI.

(a) IN GENERAL.—If a joint resolution described in subsection (b) is enacted, the President shall remove United States Armed Forces from Haiti in accordance with such joint resolution.

(b) DESCRIPTION OF JOINT RESOLUTION.—For purposes of subsection (a), a joint resolution described in this subsection is a joint resolution the matter after the resolving clause of which is as follows: "Pursuant to section 9 of the Withdrawal from Haiti Resolution, the Congress hereby directs the President to remove United States Armed Forces from

Haiti not later than 30 days after the date of the enactment of this joint resolution, except for a limited number of members of the United States Armed Forces sufficient to protect United States diplomatic facilities and personnel.".

(c) PRIORITY PROCEDURES.—

(1) INTRODUCTION OF JOINT RESOLUTION.—Paragraph (2) shall apply only to a joint resolution described in subsection (b) and introduced on January 3, 1995, or if the Congress is not in session on that date, the first day of session thereafter, if all United States Armed Forces have not been withdrawn from Haiti by that date.

(2) CONSIDERATION OF JOINT RESOLUTION.—Any joint resolution described in subsection (b) and introduced in accordance with paragraph (1) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such resolution shall be reported out by such committee together with its recommendations by January 18, 1995, unless such House shall otherwise determine by the yeas and nays. Any joint resolution reported or required to be reported pursuant to the preceding sentence shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on no later than January 21, 1995, or if the House in question is not in session on that date, the first day of session of such House thereafter, unless such House shall otherwise determine by the yeas and nays. The procedures described in subsections 7(c) and 7(d) of the War Powers Resolution (50 U.S.C. 1546) shall apply to further congressional consideration of any joint resolution approved by either House pursuant to the preceding sentence.

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chairman recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, the Michel-Gilman substitute now before us reflects the will of the American people and deserves the support of their representatives in this House.

Most important, unlike the Torricelli resolution, the Michel-Gilman substitute does not authorize any occupation of Haiti. Rather, it expresses the sense of the Congress that the President should not have deployed our troops there in the first place.

Our resolution provides that the President should immediately commence the safe and orderly withdrawal of United States forces from Haiti and should conclude that withdrawal as soon as possible in a manner consistent with the safety of those forces.

The Michel-Gilman substitute expresses the sense of Congress that the President should take diplomatic steps to organize a United Nations peacekeeping operation in Haiti composed of military personnel from other countries.

In the event that the President has failed to respect the will of Congress by withdrawing our forces, this substitute also provides for House and Senate votes no later than January 21, 1995, on a resolution requiring the withdrawal of U.S. forces within 30 days.

Our substitute also prohibits foreign command or operational control of United States forces in Haiti at all times.

In addition, the Michel-Gilman substitute also requires separate Presidential reports on the costs of all of our expenditures, on the troubling questions on human rights, and on plans for withdrawing U.S. forces.

Mr. Chairman, President Clinton acted on his own without any congressional authorization in deciding to occupy Haiti. Each of us are now called upon to decide for ourselves whether that was a wise decision.

Mr. Chairman, I believe we can far better respond to the will of the American people by supporting the Michel-Gilman substitute.

I believe it is time for the U.N. peacekeeping to take over, and it is time to bring our troops home. Accordingly, I urge a "yes" vote for Michel-Gilman.

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Mr. Chairman, I reserve the balance of my time.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong opposition to the Michel-Gilman resolution. I must say that I had an opportunity last weekend with the gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Florida [Mr. YOUNG], the gentleman from New Mexico [Mr. SKEEN], the gentleman from California [Mr. DIXON] and other Members to go to Haiti. I want to report to my colleagues that what we saw there was an outstanding example of the United States being able to take troops, move them on the ground. Logistically it was another one of the great examples of our mobility and our ability to react in a crisis. I believe that there is no significant military threat to our forces in Haiti. Yes, there will be sporadic acts of violence, and we need to strengthen the police force in Haiti. We need to restructure it, clean it out of those people who are not sympathetic to Mr. Aristide and not willing to work for peace in Haiti. But to say that we should pull out and that there is no justification for being there is simply wrong and a mistake.

First of all, the United States in my judgment has a national interest in being in Haiti. We have got a terrible problem with immigration towards our country. We have the disastrous acts against people in that country, rape and murder, over the last several years by the Cedras government. The United States had every right to act and to help restore Mr. Aristide and I think he will be restored.

The best thing I saw down in that country was that the people of Haiti support the United States being there. They were very friendly to our soldiers. They want us to be there. They recognize that this gives them a chance for democracy, this gives them a chance to have a government that has been elected, a democratically elected government. To say that we should pull out immediately, that there was no reason for us to go there, I think is wrong. I am somewhat amazed and embarrassed that our colleagues on the other side of the aisle are suggesting that we did not do the right thing, that the President did not do the right thing. I think he did the right thing.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I rise in support of the Michel/Gilman substitute.

At the conclusion of my remarks earlier today, I said that wholeheartedly, the immediate, safe, and orderly withdrawal of United States forces from Haiti "Is the only policy option I can support in the absence of any compelling plan to incorporate Haiti into the sphere of America's vital interests."

I would like to elaborate on that statement by saying that not a single American soldier, sailor, marine, or airman should be committed for deployment in any operation in any country in which the United States does not have a clear, compelling, and absolutely vital interest at stake—period.

And until the President, as Commander in Chief, makes that case with respect to Haiti, I will remain convinced that we have no business being there.

Mr. Chairman, neither our citizens, the press, nor—I am convinced—many Members of Congress have any clear idea of the extent to which our military capability has been diminished since the end of the Persian Gulf war.

I am referring especially to the two pillars on which any national defense capability must be build: modernization and readiness.

I want to make a few comments about modernization first as a means of providing some context, and then I want to focus on the issue of readiness, because that is the issue which is affected most directly by ill-advised operations such as the one in Haiti.

Mr. Chairman, President Clinton came into office promising to double the defense cuts that former President Bush outlined for the period through fiscal year 1999.

Within several months of taking office, President Clinton took his own defense cut projections and doubled them!

Only then, once the fix was in, did the President decide that a study should be made of what kind of defense capability is actually necessary to meet the minimum security needs of the country.

The upshot of the whole thing is simply this: Our Government is now underfunding the minimum security needs of the country to the tune of more than $100 billion over the next 4 years.

And even that figure is suspect because the current Defense budget contains so many non-Defense items.

In the last 4 years alone, annual non-Defense spending, which is nevertheless listed in the Defense budget, has nearly quadrupled—from $3.5 billion to more than $13 billion.

Mr. Chairman, our military is only 5 or 6 years away from a modernization crisis of gigantic proportions.

Procurement, in real dollars, is down by 67 percent since 1985. Research and development, in real dollars, is down by more than 20 percent in the same period.

I cite these figures, Mr. Chairman, because General Shalikashvili has said that "Modernization is the key to future readiness."

General Shalikashvili has also said this: "Our structure is getting smaller and smaller with each year, but our commitments remain global in scope, and the range of activities we engage in are expanding."

Mr. Chairman, it is precisely that dilemma that is leading to the return of a hollow military.

Between 1989 and 1993, the number of U.S. service personnel engaged in operational deployments overseas rose from 26,000 to 154,000.

At least 26,000 more can be added to that figure now that the Haiti operation is in full swing—and we can expect to see an additional 4,000 or more personnel committed to the Haiti operation within the next few days.

What this means, Mr. Chairman, is that we now have more people committed to the Haiti operation alone than we had in our total operational deployments worldwide in 1989.

What is the practical effect of all this?

Here is one answer: The current issue of U.S. News & World Report has an article entitled "Running on Empty at the Pentagon."

Listen to these first few paragraphs from that article:

> Two marine pilots recently flew their FA-18 fighters across the country to train at Top Gun, the Navy's elite flight school in California.
>
> But after they arrived, their commanders back at Cherry Point, North Carolina informed the pilots that the unit couldn't afford to pay for the five-week course. The pilots flew home.
>
> It is the catch-22 of post-cold-war military life: From Haiti to Bosnia, crises are testing the skills of United States forces as never before.
>
> In an era of shrinking Pentagon budgets, however, such operations are also draining military coffers, curtailing vital training exercises, and idling units across the United States.
>
> Training cutbacks late in the Federal fiscal year are not unusual; but this September's freeze was the worst many senior officers have seen since the late 1970's, the height of the so-called post-Vietnam hollow Army.
>
> The situation got so bad last week that Secretary of Defense William Parry invoked a little-used law, the feed and forage act, permitting the military to spend for 1 week money it doesn't already have.

Mr. Chairman, one of the distinguished members of the Appropriations Committee, BILL YOUNG of Florida, told the House last week that 65 percent of enlisted personnel in our military are living on food stamps.

The cumulative effect of all these operational deployments from Haiti, to Bosnia, to Macedonia, to Somalia, to Northern Iraq, to Rwanda is having a dramatic impact.

Only last year, to quote general Shalikashvili again—even before the Haiti situation blew up—he said: "The current pace of operations of U.S. forces throughout the world threatens our ability to maintain a high degree of readiness to meet all contingencies."

Mr. Chairman, the Bosnian relief operation has gone on longer than the Berlin airlift.

The Air Force has flown more than twice as many sorties over Iraq since the Persian Gulf war ended than we flew during the war itself.

A Marine amphibious-ready group which was deployed off Somalia for 6 months was redeployed to Haiti after the marines had only 12 days of shore time.

I cite these examples as being indicative of what is happening to our military.

Mr. Chairman, all of these many operations around the world are chipping away at the capability of our military to meet a direct threat—a real threat—to our country.

Mr. Chairman, the purpose of some of our deployments around the world have more merit than do others.

But, Mr. Chairman, there is nothing about the Haiti situation which justifies the deployment of a single American—on-shore, off-shore, or anywhere else.

And until the President provides us with that justification, there is only one course of action.

We should commence immediately to effect the immediate safe withdrawal of our troops from Haiti.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY], the distinguished chairman of the Committee on Appropriations.

Mr. OBEY. Mr. Chairman, I take a look at the Republican amendment and my only reaction is one of infinite sadness. What it says to me is that with troops in the field, with our friends and enemies alike in Haiti waiting to gauge our determination, this resolution would have the Congress tell everybody in Haiti that the United States is wrong, that we are going to cut out and we are going to start the process now. I just cannot imagine anyone believing that is a responsible act.

In that negative context, this resolution also raises the specter of reassembling the Congress to pull the plug on our operation in Haiti. In my view, that is a simple, open invitation for terrorists to lob bombs into American positions, and I cannot imagine that anyone thinks it is a responsible thing to do. I want to see us out of Haiti, too, but to appear to set the stage for immediate withdrawal in my view will encourage the very elements in Haiti who should be left with no doubt about the steadiness of our nerve at this point. In my view, and I am sad to say it, this amendment does not read to me like a policy document. It reads to me more like a political statement for domestic consumption. It simply appears to launch a head-on political attack on the Commander in Chief, and I very much regret that.

To those who say that we have no national interest in Haiti, let me simply point this out: In the 60's, 37,000 Haitian refugees came into this country; in the 1970's, 58,000; in the 1980's, 123,000; in one year alone in the 1990's, some 45,000; and there are 80,000 to 100,000 Haitian refugees knocking on the door ready to come in now because their economy has been destroyed in their own country and they want to go someplace else and have a better life.

I think the United States has the right to take action to control our own borders and to eliminate conditions which are causing deleterious effects within our own country. I think we have a perfect right to do that.

I also think we have a national interest in sending a message to any country who signs an agreement with Uncle Sam that we expect them to stick by that agreement. Haiti did sign an agreement with the United States at Governor's Island. Korea may very well be signing agreements with the United States. I think we have a right to expect all parties to live up to those agreements, and we ought to be sending a message to any party in the world intending to sign an agreement with the United States that if they sign an agreement, they had doggone well better keep it.

I would respectfully suggest that the Michel amendment be dismissed for what it is. It is not in my view a constructive approach to the situation at hand. I think we need to support the troops in the field. I would urge the defeat of the Michel amendment.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Chairman, like all of our colleagues in this body, I am a strong supporter of our troops. As an 8-year member of the Committee on Armed Services, I have had the honor of visiting our troops in all their deployments around the world and work hard on the committee to support them.

What I resent about what has happened in regard to our Haitian policy and the insertion of American troops in Haiti is the deliberate deception of this administration and the use of our troops for what has been called by U.N. officials, and our own State Department officials in one case, political ends. Why would I say that, Mr. Chairman?

□ 2000

Let us look at the words of the President. When the President went on national television he said to the American people it is in our national security interests to go into Haiti. He said one of the primary reasons was the tremendous amounts of boat people coming, and we just heard the previous speaker state that.

Mr. Speaker, let me quote this President from November 12, 1992, when he said,

> I think that sending refugees back to Haiti was an error, and so I will tell you I will modify that program and that process. I can tell you I'm going to change that policy.

Now here is a President who has told the American people that we are going into Haiti because of the illegal immigrants, yet he is the one who criticized George Bush's policy and said he was going to reverse the policy of stopping them from coming to our country and inviting them in. What did he think they would do, go the other way? Of course they came to America. Yet he used that deceptively with the American people as a reason for us to go into Haiti. If that were in fact the policy of this country we should invade Mexico because there are more illegal immigrants coming from Mexico than there are from Haiti.

He said that we are there to restore democracy. Then why was not the President insisting we go into Cuba?

He said that we were there to restore human rights, dignity. What about the other 20 nations that I inserted into the CONGRESSIONAL RECORD back in August who have been similarly listed by human rights organizations as the same human rights record as in fact Haiti has?

The President also deceived the American people when he said this would be a multinational effort with our allies. Mr. Chairman, where are our allies? We had Secretary Deutch before our Committee on Armed Services last Wednesday and we asked him how many American troops were in the country at that time, and he said we have 19,000 troops. We now have 21,000. And I asked him very specifically on the record how many non-American forces are in Haiti on this day, 10 days after the troops went in. He said 24. And those 24, when I asked him where they were, are in the headquarters building. They are not out there with our forces.

We say our allies are invaluable. Let me read what Reuters put out October 5, 1994. Diplomatic sources told Reuters that flight delays attempting to go into Haiti were caused partly by India's refusal to allow U.S. aircraft to fly over its territory carrying troops from a third country, and by Japan's refusal to let the United States aircraft make a refueling stop. Where is Great Britain? Where is France? Where are all of the European countries? Who do we have there? Bangladesh. Why do we have Bangladesh? Do not forget to tell the American people that we are paying the bill. We are not going to be having the Bangladesh people or country pay for the expenses, we are paying the bill. We have hired a mercenary force of Third World nations to send in a safety patrol, and we are paying all of the costs of that. At a time when we are telling the American people we do not have money, we are going to be spending up to $1.5 billion for this operation, paying for troops from Bangladesh and other Third World nations. Where is the multinational force?

Then we say we have a specific mission. I think one of our soldiers put it best in U.S.A. Today on October 3 when he was asked, "What am I doing here," this is his quote from Army Specialist Marc Pierre of New York City: "Ask anybody what we're doing here and they'll say, 'I don't know.' This is a joke."

This is not the Secretary of State, this is not the Secretary of Defense. This is one of those Army people in Haiti right now. The mission is totally clouded.

I ask my colleagues to vote for the Michel amendment. It is the only alternative here that sends a signal to this President on his misguided foreign policy.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas [Mr. THORNTON].

Mr. THORNTON. Mr. Chairman, I rise in opposition to the Michel-Gilman substitute.

Mr. Chairman, I have been in harm's way for this country and I know what it means to be concerned about whether the people of this country are behind you when you are in harm's way. I think that it is very important to recognize, as the gentleman from Texas [Mr. EDWARDS] did, that our priority at this moment is not to debate the policy considerations that got us into Haiti, but debate how we can best support our troops in order to return them safely from Haiti. We all want them out in an orderly way as soon as practicable.

I know this—if you are in a battle with an enemy you do not tip your hand. This issue is not a new experience for me. Nearly 4 years ago I stood here in the well at a time when we had deployed 500,000 American troops halfway around the world without congressional approval and people were urging that we withdraw from President Bush the authority to use force. I took this floor, and supported President Bush in his intervention in the Persian Gulf. And I went home and explained it this way:

Folks, I said, I was thinking about this real hard and my wife and I were upstairs in our bedroom at home, and I thought to myself—now what if I heard a noise downstairs, and so I go over and grab my shotgun. And I go downstairs, and sure enough, I find a burglar raking the silverware off the table and putting it in a sack. And I look at him and I say, "That's my silverware, and this is my house, and you're out of here." And he keeps raking and says, "No, no, this is my sack, and I'm going to keep this silver." I say, "You don't understand. This is my shotgun and you are leaving."

And then my wife says "Ray, your gun's not loaded."

Mr. Chairman, let us not tell our adversaries in Haiti that America's gun is not loaded. Our service men and women are at risk there. Let's support them—not yank the rug from under them. Vote against the Michel-Gilman substitute.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise tonight in support of the Michel substitute.

I would like to ask my colleagues a question. Do you believe that any of our troops, who are tonight risking their young lives in Haiti to fulfill a policy that is ill-conceived and poorly thought out by political wonks in Washington, are happy with this partisan and political debate?

I think not.

It's important to recognize that the lead sponsor of the resolution before us is the distinguished minority leader, BOB MICHEL. As he completes his last days as the minority leader, BOB MICHEL certainly did not need to take such a high profile role in this contentious debate. But it demonstrates to us all the importance that he places on getting our troops home safe and sound and the fact that we should view this debate tonight on the substance and the merits.

I will be voting "yes" on the Michel substitute because the best course of action in Haiti is to start an immediate withdrawal of our brave soldiers who have served their country with distinction and honor.

From day 1, I have opposed sending troops into Haiti and, in fact, voted against such action last May. To me, the key questions of why we would go in to Haiti and what we would do once we were there were never answered by the President. I was appalled that the President sought the approval of the United Nations, other countries, and organizations yet neglected to consult with the United States Congress prior to United States troops going into Haiti.

Now, nearly 3 weeks after our troops landed in Haiti, the Congress finally gets its chance to vote on authorizing the use of troops in Haiti. It is nice that the Congress finally gets an opportunity to vote on such a vital matter, weeks and weeks and weeks after the United Nations had their say. However, nothing has happened to change my mind that our troops should not be there in the first place and that is why I will vote "no" on the Torricelli resolution.

Normally when we reach the closing days of a session of Congress, we find ourselves occupied in budget battles. But tonight, as we prepare to close the books on the 103d Congress, we will be voting on an issue which involves the security and well-being of our Armed Forces and a matter which the American people have been watching very closely.

It's an important test tonight for the Congress to assert its will and see that our troops are not stuck for years serving as some type of riot police in a country that does not involve our national security interests, let alone the cost in the hundreds of millions of tax dollars.

It should be an easy vote tonight for everyone here in support of the Michel substitute.

It is as simple as that.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I would like to approach this from a little bit of a different perspective. I do not have a prepared speech and had not planned to speak on this. But as someone who takes not a back seat to anybody in this House in supporting our armed forces, and I serve on the Appropriation Defense Subcommittee and am chairman of the Military Construction Subcommittee, and our focus has been on quality of life for our troops and their families since I have been the chairman for some 10 years now, but it seems to me we are leaving out one equation in this debate. The fact is our troops are now in Haiti, and we can yell and scream about the policy, and do this if we want to all night, but the fact remains our troops are in Haiti. Had I had a vote I would have not voted to send troops to Haiti, but they are there.

I remember very well a real distinguished general from Fort Bragg, NC who I spent some time with in the Persian Gulf, with Gen. Luck Steiner who is now in Korea, and gentleman who is now in charge of the operations in Haiti from North Carolina, and we have not even said what do our commanders on the ground think about this. Should we let the people know that there is probably a time certain that we are going to get out of there?

□ 2010

Because you have some remnants there that if they say they are going to get out in January, "We will just go into the mountains and we will wait them out and then we will go back and take over," and everybody will be the loser.

Now, it seems to me that we would listen to the people that are on the ground, the generals that are on the ground, and we have talked with them, and I do not want to bring the people into this debate, because that is not their function. They are not political. They could care less who is going to be elected to Congress and who is going to be Speaker in this House. But they are responsible for the lives of these young men, and they are saying to us, "Do not rush to a decision. Do not tip our hands," and I have the utmost respect for these generals, both General Luck, who is no longer there, and General Steiner, who is there with the 82d, and now the general from North Carolina who is there. I have not talked to all of these men, but I have talked to people that are in positions there of command, and they say we do not want a time certain to leave.

I would hope that we could get out next week, and I pray that there will not be one single American drop of blood shed in Haiti, but is seems to me that you are sending the wrong signal when you set a time certain for use to get out of Haiti.

So I think I am absolutely, totally opposed for us setting a time certain. I want these men out, but I want us to do it in a responsible way. I think we are missing the point when we do not consult with the commanders that are on the ground in charge of these precious men and see what they think about these amendments.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Chairman, today, day 18 of the occupation of a friendly neighboring country, I reviewed the collective history of my statements on United States-Haiti policy during the 103d Congress. As many know, for months I have taken every opportunity to discuss United States policy or the lack thereof in Haiti. I followed the inconsistencies, the improvisations, the zigs and zags from one self-generated refugee crisis to another, to the diplomatic bungling, to the ouster of Special Advisor Lawrence Pezzulo, to the Reorganization of the White House Haiti Policy Spin Team, to the imposition of a punishing embargo that blocked humanitarian aid flights and caused deplorable suffering, sickness and starvation among innocent Haitians, to the unprecedented sight of United States ships firing on civilian Haitian vessels in coastal commerce, to the reversal of a House vote in opposition to military intervention and in support of the Goss safe haven alternative, to the elusive cost estimates for this misadventure which now run into the billions of dollars and to a dramatic, if disingenuous, series of oval office speeches by the President. Reading through the chronology of the fits and starts of this policy it is abundantly clear that the White House has never had a workable, well-defined foreign policy goal in Haiti or a feasible plan to achieve responsible results.

Part bad design and part bad policymaking, administration decisions put the United States on an inexorable initiative toward military intervention and then intentionally cut off the safety cord of negotiation that could have prevented it. When a candid memo by U.N. special envoy Dante Caputo was leaked earlier this year, our worst fears were realized. The memo forthrightly stated the administration was tired of the ups and downs of Haiti policy and considered invasion the politically desirable option. Unbelievably White House policymakers continued to ignore the moderate elements in Haiti and the constitutional realities of that country. They succumbed to the elaborate public relations events that featured Randall Robinson's fast and a few liberal Members of Congress demonstrating in front of the White House. They ignored the studied advice of Lawrence Pezzullo, then special advisor on Haiti, who tried to push the administration to deal with the Haitian parliament—the people Aristide must learn to share power with.

Administration officials refused to give any serious consideration to the Goss safe haven alternative sent to the transition team for the first time in December 1992. And, despite frequent inquiries, they were never able to answer the question: How do you get from United States military intervention in Haiti to a democratic, Haitian-controlled Haiti? In my view, they still haven't answered that question. Today nearly 21,000 American troops are on the ground in Haiti getting sucked further into the chaos and brutality of a civil war that has been a part of Haitian life for centuries. All the while these fumbles were going on, the Congress and the American people were shut out of the policy debate. This House should not pass a backhanded authorization of this mission, as my colleagues Mr. TORRICELLI and Mr. HAMILTON have advocated. Instead, we need to be talking about an immediate withdrawal of American troops, a handoff to a multinational force, and getting the humanitarian aid and investment flowing again.

Sadly, the United States occupation of Haiti is now a fait accompli, fuzzy rules of engagement and all. But that doesn't require us to endorse a bad policy either tacitly or outright. Retroactive taxation is bad, retroactive foreign policy approval is worse. It was not a good policy option in the first place and it is not going to get any better. Bring American soldiers home now and get on with the task of giving Haiti back to the Haitians. Accountability must follow—it is Congress' responsibility to oversee this type of broad military action. Accountability will follow—and hard questions will be asked. Evasive answers will not work with the American people.

Mr. TORRICELLI. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana [Mr. HAMILTON], the distinguished chairman of the Committee on Foreign Affairs.

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the Michel-Gilman substitute.

I want to be clear here. We have three choices, of course, before us. I spoke very strongly a few minutes ago with respect to the Dellums-Hastings-Murtha substitute, and as my friend, the chairman of the House Committee on Armed Services told me a few minutes ago, I was perhaps too harsh in my statement with regard to their amendment.

With respect to these three, I, of course, favor the substitute offered by the gentleman from New Jersey [Mr. TORRICELLI].

The second choice would be the Dellums approach.

But I think the one that is before us now, the Michel-Gilman substitute, is clearly the worst of the three by far. I just think it would lead to a rather chaotic U.S. foreign policy.

What kind of a message do we send to the world if the President sends troops into Haiti on one day, and then the Congress votes 3 weeks later to pull them out?

I oppose the Michel-Gilman substitute for several reasons. No. 1, it does sidestep the question of authorization. I have made that point previously. If the House wants to act on Haiti, then it should pass, in my view, an authorization spelling out the terms and the conditions of the United States presence.

The Gilman-Michel amendment certainly does not do that.

Second, the Gilman-Michel amendment could force a vote here by January 21 directing the President to remove the troops. That is unrealistic in terms of the way this institution operates. We could face a vote on Haiti as soon as we return in January. It is wrong from an institutional point of view. The Congress will not be fully organized or prepared to give careful consideration to this matter in the opening days of this session. So I think it has a serious defect in its timing.

The third reason I would oppose the Michel-Gilman substitute is because I do think it does not really give us enough time. We should defeat this amendment, because it pulls the plug not only on the United States troops in Haiti but it pulls the plug on United States foreign policy before we have time to achieve our objectives.

We want the mission of our troops to be successful, and no matter how we may have felt about intervention, whether we were for it or against it, it seems to me that all of us now have a common interest in seeing that this country succeeds in its mission.

The President has sent our troops to Haiti to promote our interests, and we want those troops to be successful. It is important for Members to recognize that we are achieving our objectives in Haiti as of tonight. The parliament is meeting, the mayor of Port-au-Prince is back, refugees are returning, 4,000 firearms have been turned in, the reform of the police has started, international troops have begun to replace United States troops, the coup leader, Mr. Francois, has fled Haiti for the Dominican Republic, and President Aristide is getting ready to return.

□ 2020

As the President said today, the people of Haiti are moving from fear to freedom. So if we pass the Michel-Gilman substitute, I think we make it highly unlikely that we will achieve our goals in Haiti. If we pass that substitute, we will really undercut the ability of the President to conduct American foreign policy and we will send a signal to all the world that we cannot be relied on in this country to conduct a sustained foreign policy.

We have already achieved a number of our key objectives in Haiti. We are seeing further results hourly, daily. And it does not serve our interests to have an immediate pullout.

The President, as Commander-in-Chief, has sent troops to Haiti, they are performing superbly, and Congress should not undercut their efforts by calling for their immediate withdrawal before they have had a chance to achieve their mission.

Mr. Chairman, I urge the defeat of the Michel-Gilman substitute.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, we have been asked "What kind of a message do we send to the world?" How about "What kind of a message do we send to the world about the Constitution of the United States?"

I sat in on a Haiti briefing this morning where it was said by members of the administration, "Well, a few months is what we need there."

Much has been said about the need to support our troops in Haiti. Of course we support our troops. But this Congress did not put them in Haiti.

What we have in the Michel-Gilman amendment is a milestone along the rocky road, namely January 3. If the troops are still in Haiti at that time, we can consider, on the 21st of January, whether they should or should not be there.

I really cannot believe what I heard earlier this evening, that the President can go into Haiti and—since it is not war—he does not need the Congress's approval. We were told that "Congress ought to get with it."

If you felt we should not have troops in Haiti, vote for Michel-Gilman. As to whether or not it is war remains to be seen. But if the troops stay in Haiti, it is a clear precedent for any President to act on his own whim and to send United States forces anywhere in the world even though there is no national interest, no American citizens are being harmed, and the troops are simply in the role of police officer for either the United Nations or some other international or regional organization of nations.

Ladies and gentlemen, if you believe that it is time to assert the role of Congress, and to maintain the authority of the American Constitution, then vote for the Michel-Gilman amendment. It is the only sane policy before us tonight.

I submit for the RECORD the following comparison chart of the three amendments prepared by the House-Senate Arms Control and Foreign Policy Caucus:

Michel amendment	Dellums-Murtha-Hastings-Dicks amendment	Torricelli-Hamilton amendment
Withdrawal date: Urges immediate withdrawal. Requires Congress to vote by Jan. 21 on resolution to require removal within 30 days, if troops not out by Jan. 3.	Withdrawal date: Urges withdrawal in "prompt and orderly" fashion, "as soon as possible." Sets no deadline.	Withdrawal date: Sets March 1 as target withdrawal date, but allows the President to extend it if he certifies a need.
Authorization: Does not authorize the deployment in Haiti	Authorization: Does not authorize the deployment in Haiti	Authorization: Authorizes the deployment through March 1, and defines the mission.
U.N. role: Prohibits U.S. troops from serving under foreign command in Haiti, either in first phase or the U.N. force.	U.N. role: Specifies that Congress is making no statement on the U.S. role in U.N. peacekeeping force.	U.N. role: Silent on U.S. role in U.N. peacekeeping force; but prohibits foreign command in U.S.-led phase.
Ex post facto: States that U.S. troops should not have been sent to Haiti	Ex post facto: States that President should have sought Congressional authorization before deployment.	Ex post facto: States that the Constitution required Congressional approval of any forced (pre-Carter) invasion of Haiti.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. I thank the gentleman for yielding this time to me.

Mr. Chairman, I think all of us are struggling with the term we heard Nelson Mandela use here on the House floor today, one that was made most popular by our last President, George Bush. That is, the term the "new world order."

We all understand that we are in a new world order, given the fact that the bipolar conflict has been resolved. The United States is now preeminent in the world. But we are still working to define what exactly we mean by that. I think our experience recently in Somalia and our experience in Haiti make us focus much more in detail about how we will conduct any activities which we agree to engage in, whether it is through legislative initiative or on decision of the executive, in Third World countries.

Many of us knew that in Vietnam, we were micromanaging a war out of Washington. I think we have all learned that that does not work. It is even more obvious in the environment that we found ourselves in Somalia and that we are in today in Haiti; that it is absolutely essential that we leave control of the day-to-day decisions with our local operational commanders.

And I think we have learned from General Shelton exactly what he believes we ought to do as we decide how we want to vote on these very troublesome questions which face us this evening.

This morning Katie Kouric, of NBC News, asked General Shelton, "How do you feel about the vote that will be held in the Congress," a vote which she described as one that would set a date certain for U.S. troop withdrawal, a date of March 1.

General Shelton said,

> "Well, I am not in favor of setting a date per se at this point. I do think when we do that, we automatically tip our hand to the adversary in terms of when we are going to leave. Consequently, if we are to achieve the end state that we came in with, achieve the goals that we have, we must move much more quickly, which in some cases could mean we would endanger our own troops by trying to move too fast.

I simply would like to say for me as we contemplate this difficult vote, I must vote with Mr. MURTHA. Mr. HASTINGS, and Mr. DELLUMS because their amendment is what General Shelton believes is the appropriate thing to do.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. You know, all of this quoting of generals who are on the front lines, under the gun, is getting very painful around here.

Let us just go back to Somalia 1 year ago today. The first of the desecrated, torn-apart bodies of our dead Medal of Honor winners was dumped on the steps of the U.N. compound in Somalia. None of you were with JACK MURTHA or me on our two separate trips over there. At every level of command we heard different things.

Those heroic Rangers said, "Let us get this thug who killed my friends. Let us get him and arrest him."

The commander who literally had a mortar land at his feet, it was a dud—"The odds of catching him is 1 in 100. I have been telling you that all along. Please give us a mission."

General Hoar, the central commander, said, "This is classic mission creep." General Downing said, "What are we supposed to do there? Where is our air cover with the spectre gunships?" General Montgomery, whom I talked to, said, "Why can't I get armor for a rescue mission?" That cost the Secretary of Defense his job. Mort Halperin was luckier. He managed to weasel his way into a job at the NSC.

Do you know who the architects of this policy are? The same folks who under Carter told us the Sandinistas were not Communists and that they were not exporting the revolution. Do you hear the names? The left-wing Robert Pastor. Warren Christopher, Madeleine Albright. This is the same team who told us to vote to give $75 million to Communists. Do you know, anyone in this Chamber, who Ira Kurzban is? Anybody want to hold up their hand? He is a registered foreign agent, which is not bad. But he represents Castro and Aristide at the same time. What does that tell you? Vote for Michel, vote for BEN GILMAN's amendment; it says safe withdrawal. Let us get out of there fast.

Mr. TORRICELLI. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DELLUMS], the distinguished chairman of the Committee on Armed Services.

Mr. DELLUMS. I thank the gentleman from New Jersey [Mr. TORRICELLI] for his generosity.

Mr. Chairman, I rise to oppose the Michel substitute. It misstates our constitutional responsibilities, fails the test of U.S. interests and obligations, and have U.S. forces only fight wars rather than prevent them.

My commitment to preserve the role of the Congress in sending U.S. troops into armed conflict is unimpeachable.

When it seemed that our President would undertake an invasion of Haiti, I told the President that congressional authorization was required to commit our troops to an act of war.

However, the President did not invade Haiti. The requirement that the Congress authorize war does not necessarily extend to what amounts to a peacekeeping operation.

Should we be consulted? Yes.

Can we terminate funds or order withdrawal? Yes, subject to the full legislative process.

But are we required in advance to authorize Article VI-type peace operations? I am not certain this is clear.

The Michel substitute declares that the operation and expenses will degrade readiness. Readiness for what? The plain fact is that the United States can confidently approach the near term knowing that including Korea, a situation which seems capable for resolution by diplomacy, it is very unlikely that any armed conflict could break out in the near to mid term for which we would not be ready.

In addition, I believe humanitarian or peace operations are precisely the things we should be undertaking and are among the operations for which we must be making our forces ready.

Such a course is both consistent with our national strategy and our normative values—and it will save lives and money in the long run.

The United States must lead efforts to prevent and deter war and violence, rather than just prepare ourselves for full-up military confrontation that we could have prevented.

The Michel substitute forestalls all of this by forcing a precipitous U.S. withdrawal from the effort to restore democracy in Haiti that is important to our national interests, and by prohibiting by law any operational command by non-U.S. troops.

We should reject the Michel substitute's position to force a hasty withdrawal. How can we expect other nations to participate in efforts to create regional stability, if we cut and run? We cannot.

We must work with the international community and the U.N. to establish an appropriately balanced force capable of providing the social stability that will allow Haitians the opportunity to freely elect a new parliament, see their duly-elected government resume office and, as importantly, secure the successful transfer of government to a second freely elected President.

I opposed setting a time limit for withdrawal in Somalia, because time limits are artificial and dangerous obstacles to achieving our objectives. There exists a reasoned and supportable concept for promptly concluding the multinational stage of this operation and for bringing to closure the subsequent United Nations operation upon the inauguration of a new Haitian President in less than a year and a half. That, my colleagues, is an exit strategy.

With all due respect to my colleagues and with a shared concern for the wellbeing of U.S. forces, I do not understand the continuing preoccupation with the issue of foreign command and control, which finds expression again in the Michel substitute. Throughout U.S. history we have willingly placed our troops under non-U.S. operational command when it was in the best interest of unity of command and operational safety and effectiveness. We should not peremptorily deprive the President, acting in his role as Commander in Chief, from making such an arrangement if he believes it is prudent, or indeed essential, for the safety of our troops and the effectiveness of their mission.

For all of these reasons and more, I urge my colleagues to reject the Michel substitute—as a bad reading of the Constitution, as inconsistent with important efforts to promote democracy, and as contrary to both short-term and long-term United States interests.

□ 2030

Mr. TORRICELLI. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore (Mr. FARR of California). Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device, and the following Members recorded their presence:

[Roll No. 496]

ANSWERED "PRESENT"—378

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Becerra
Beilenson
Bentley
Bereuter
Bevill
Bilbray
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Chapman
Clayton
Clement
Clinger
Coble
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooper
Coppersmith
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeLauro
DeLay
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Faleomavaega (AS)
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Fish
Flake
Foglietta
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Furse
Gallegly
Gejdenson
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Hastert
Hastings
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Jacobs
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
Meehan
Meek
Menendez
Meyers
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Richardson
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shays
Shepherd
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Swett
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Underwood (GU)
Unsoeld
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weldon
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

The CHAIRMAN pro tempore (Mr. FARR of California). Three hundred seventy-eight Members have answered to their names, a quorum is present.

MESSAGE FROM THE SENATE

The CHAIRMAN pro tempore. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore (Mr. SERRANO) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4950) "An Act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes."

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 229. Joint resolution regarding United States policy toward Haiti.

LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI RESOLUTION

The Committee resumed its sitting.

Mr. GILMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, I rise today to express my opposition to the presence of United States troops in Haiti.

While we in Congress must recognize the President's constitutional position and duties as Commander in Chief, we must also not forget the Constitution's provisions regarding declarations of war. All of my colleagues, each one of us, is required by the Constitution of the United States to decide whether or not it is in our Nation's best interests to engage in hostilities. If we do declare war, it is then and only then that the President must fulfill his duties in prosecuting the authorized conflict. The vagaries and subtle distinctions of the modern world have blurred the lines between peace and war, but the less distinct the divisions become, the more crucial it is that the President take special care to comply with constitutional procedures and intentions.

In this case, the President chose to not only ignore, but actively reject, his responsibility to seek congressional authorization. However one chooses to define "war" or "peacekeeping," few could argue that when it comes to constitutional duties, the President and other government officials would do well to err on the side of caution. Instead, the Clinton administration made what I believe was a political decision. Put simply, they knew the American people did not support an invasion and that if the issue was put before the American people through their representatives in Congress, the operation would almost certainly have been voted down. So this administration chose to avoid a vote. While they may have avoided a short-term political embarrassment, I believe the American people can and will hold the Clinton administration responsible for their extra-constitutional actions.

Instead of following the process outlined in the Constitution, President Clinton chose to deploy troops without authorization and without a clear mission. While I am a strong supporter of our Armed Forces, the best trained, best disciplined, best equipped fighting force the world has ever seen, I recognize that they cannot accomplish goals which are not made clear. They cannot perform tasks which are indefinite and which have no clear conclusion.

As in Somalia, we have used troops that are trained for war as a police force to maintain an indefinite and unstable peace.

President Clinton has inserted American men and women into an uncertain situation which might very easily deteriorate into guerilla violence or even open warfare. Even in the few short days that American troops have been in Haiti, we have seen signs that violence amongst Haitians and against American troops is close to boiling over. It maybe only a matter of time before the flag waving and high-fives turn into ambushes and fire-fights. I wish to echo the refrain of so many of my constituents: Haiti is not worth one American life. We have so little to gain in Haiti, and so very much to lose. I believe we must take action to remove American troops as soon as is tactically feasible.

As we consider this resolution on Haiti and the various substitutes, I have a number of concerns. Most importantly, I fear that passage of any of these resolutions is an ex post facto authorization of the occupation of Haiti. I wish to remind my colleagues and make it clear to the American people that no resolution or law passed in October can justify improper or illegal operations from September. I find it hypocritical that Congress, after Americans have risked their lives in Haiti, would now seek to find political cover for themselves or for the President by implicitly agreeing to even a limited occupation of Haiti while at the same time expressing the sense of Congress that the President should have sought authorization. Unfortunately, this is little more than business as usual.

Frankly, I am in disagreement with all of these resolutions, but I hope the President will understand that my vote and those of my colleagues are votes to support the Constitution and votes to bring our men and women home. Many have warned of mission creep in Haiti, but for there to be a creep, there must first be a mission. We have not given our troops a clear mission, we have not justified their presence, and we have not authorized this operation. I hope the administration will recognize the jeopardy faced by American men and women and the lack of any identifiable benefits from their presence there. I hope the administration will end this ill-advised operation and bring our brave men and women back, reuniting husbands and wives, parents and children. Their families deserve no less.

Mr. GILMAN. Mr. Chairman, I yield 9 minutes to the gentleman from Illinois [Mr. HYDE], a senior member of the Committee on Foreign Affairs.

Mr. HYDE. Mr. Chairman, earlier in the day we were treated to an instructive recitation of some remarks made by we Republicans during the Reagan and Bush administrations concerning Grenada, Panama, and the Gulf.

I should like to return the favor by reading a couple of quotes from some very famous Democrats.

If I may make my small contribution to the historical record, one of the most famous Senators of this century, who is still serving with great distinction in the other body, is quoted as saying,

> Certainly, the United States does not have the right under international law or any other law that I know of to roam the hemisphere, bringing dictators to justice or installing new government by force on other nations. Surely, it is a contradiction in terms and a violation of America's best ideals to impose democracy by the barrel of a gun on Panama or any other nation.

Moving from the other body to this body, one of the great chairman of this body, still serving in this distinguished Chamber, said:

> It is patently ludicrous to think that any nation has the sacred right to invade another independent nation because we do not like its leader or the actions of its government.

What a difference a change in administrations can make.

□ 2100

Mr. Chairman, this debate should have occurred months ago, before our troops were committed. We have been accused of, I have written it down, "whining, bickering, undercutting the President," simply because we disagree, we dissent from what has happened here.

Do not confront us with an accomplished fact, go get U.N. approval, bypass, ignore Congress, and expect us to join the hallelujah chorus. What is done is done, but our message is, do not do it again.

What signal do we send in foreign policy by objecting to what is going on? What signal did former President James Carter send when he went down to Haiti with two very distinguished Americans and came back with the message that Mr. Aristide was a man of rectitude and honor; when the former President, ambassador extraordinaire for our present President, went down and said he was ashamed of our policy? That is kind of a shaky signal to send to the world, as far as I am concerned.

I do not know who we are supposed to believe.

The focus is on Haiti tonight, but this debate is long overdue over the foreign policy of this administration. Yes, we Republicans supported Reagan and we supported Bush when Grenada was the issue, when Panama was the issue, and Kuwait was the issue. However, always we know and we affirm the fact that it is Congress who controls the purse strings and has the ultimate power.

Mr. Chairman, I would think that those who have been criticizing the Republicans for our strident support of the President in Grenada and Panama and the Gulf would have a more nuanced grasp of modern history, because there were significant differences between Haiti and Grenada and Panama.

In Grenada, there were 1,000 American citizens in a state of terror, 600 of them medical students. There was a coup. The Prime Minister was murdered, Maurice Bishop. We had the Cubans building an airstrip, with all kinds of weapons, to permit the Soviet Union to have another foothold in this hemisphere. Secrecy and speed was necessary. The President did that. Yes, we supported him because he is the Commander in Chief. Contrast that with Haiti, totally dissimilar.

Then we go to Panama. Panama has the great ditch called the canal. Over half of the world's shipping passes through that canal. It was at risk because the country was run by a wholly owned subsidiary of the Medellin cartel named Noriega.

There were 35,000 Americans in a state of siege. There was one Marine officer killed, another officer and his wife brutalized. The Chamber of Deputies had cited acts of war they said we had committed against them. Speed, again, and secrecy was necessary.

I might point out, talk about undercutting the President, seven members of this body, all from this side of the aisle, filed a bill of impeachment about Grenada, a bill of impeachment against the President. That is supporting the President, is it not?

Then, of course, bipartisan committee of Members of this House went down there and came back. Michael Barnes, of all people, said as a member of that committee that a spirit of terror gripped everybody in Grenada, and they ratified what we did.

Talk about the Gulf, the Persian Gulf, if the Iraqis had controlled that, the economies of the world would have been destroyed. The oil, most of the oil reserves in the world, are located over there. To have Iraqis dominate that area would have been a disaster.

When George Bush organized 26 countries, including some Moslem countries, to resist the domination of the Persian Gulf, believe me, that was in our national interest. However, this Chamber was an aviary full of Democratic doves. They walked around billing and cooing. It was absolutely something to behold. I can only say it was marvelous.

The current President's Chief of Staff joined in a lawsuit, talk about undercutting the President, how soon we forget, how soon we forget, joined in a lawsuit. We did have a vote, January 11, 1991. I have the roll call. I carry it with me in my wallet. The entire Democratic leadership voted against our excursion into the Persian Gulf, which, was to prevent a domination of the world's petroleum by Iraq.

Mr. Chairman, with Haiti, we have had a magical, mystical metamorphosis, where now people who have been quiet, placid doves have become screeching hawks with their talons bared. It is amazing, as I say, what a change in administration can do.

What about the policy in Haiti? No congressional concurrence, we vote today after the fact; after the United Nations has said OK, then we, the potted plants, are asked to ratify an accomplished fact.

Now, if your rationale is to establish democracy where it is lacking, I just suggest to you as far as Haiti is concerned, one election does not a democracy make.

If we are to become the world's policeman, the world's nation builder, the world's dispenser of democracy, let us be consistent. Let us first stop deconstructing the military. We are going to need a bigger military if we are going to take that job on.

In the true Wilsonian tradition of fighting to make the world safe for democracy, do not forget, the world is our theater. Let us plan to democratize Cuba. After all, it is on the way down to Haiti. Let us just stop off there and democratize Cuba. They are producing refugees, just like Haiti.

Let us go to China, the greatest slave state in history. Instead of bestowing Most Favored Nation on them, let us teach them about democracy. Let us flood Tiananmen Square with dispensers of democracy. And do not forget Saudi Arabia, do not forget the Sudan. There are 55 countries in the world who need lessons in democracy. Indeed, stop deconstructing the military.

No foreign policy can succeed without the support of the American people. We ought to have learned that from recent times. I suggest the absence of public support for this policy. Instead, we have an eccentric, bizarre, improvised, ad hoc policy made subservient to the United Nations, and not to Congress. So I say, potted plants of the Congress, arise. Cast off your chains, and go for the Michel resolution, which says "Get us out of there and get us home immediately."

Mr. TORRICELLI. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Michigan [Mr. BONIOR], the majority whip.

Mr. BONIOR. Mr. Chairman, it was 3 years ago last week that the democratically elected Government in Haiti was overthrown by a military coup.

And in the past 3 years, under that military dictatorship:

Children were executed.

Tens of thousands of teenage girls were raped.

And over 3,000 civilians were found murdered or mutilated.

In a country just 600 miles from our shores:

Last February, the military beat an old man to death—and then attacked mourners who attended his funeral.

Last August, the police assassinated a priest just because he refused to give up his ministry.

And in the most unconscionable act of all—earlier this year, military police opened fire on an orphanage—because the children were suspected of having pro-Aristide leanings.

Mr. Chairman, think about the Haiti that existed just 2 weeks ago—before our troops arrived.

Think about the 100,000 panicked and persecuted people forced to flee their homes—many to our shores.

Think about the thousands of frightened mothers—and about that scared and defenseless Haitian child who told one visitor, "I don't care if the police kill me * * * because it will bring an end to my suffering."

Those are the people our soldiers are providing hope for in Haiti today.

It is in our national interest to do so.

It is a fundamental cornerstone of our beliefs as a great nation—that we cannot turn our backs on such butchery.

Mr. Chairman, I agree with many of my colleagues who believe that Congress should have been consulted before our troops went in. But that is not what we are here to debate today.

Our troops are already in the field.

They are doing the job.

And we need to let them know here today that America is proud of them, that we support them, that we stand with them, and we will let them complete the mission they have set out to do.

It is a difficult mission.

A mission not of war, but of peace.

A mission that recalls our highest aspirations for freedom and human dignity.

Our troops are in Haiti today to restore a democratically elected Government that is supported by 70 percent of the Haitian people.

They have responded brilliantly to the call of duty, and they have been welcomed as a symbol of freedom.

In just 2 weeks' time, they have helped curb the violence in Haiti, given hundreds of refugees the confidence to return home, permitted the Haitian Parliament to resume its work, supplied food and medicine to those in need, and confiscated over 4,000 weapons.

In the past week alone: A major airport reopened. International police monitors continue to arrive.

And 3 days ago, Police Chief Michel Francois the man who planned the original coup was forced to flee the country.

In less than 10 days, the other two coup leaders are scheduled to step down.

And in less than 2 weeks, the democratically elected President is scheduled to return.

That is real progress. And that progress must continue so our troops can come home as soon as possible. Yet today, there are some who say that we should cut this mission short.

Many of them are the same people who argued, when there was a Republican in the White House, that the President should be free to act unconstrained, who applauded every military exercise that came along, and who ridiculed anybody who dared question them.

Yet today they have made an about-face that would make a drill sergeant proud.

Mr. Chairman, now is not the time for partisanship.

Now is not the time for election-year politics.

The Senate voted 91 to 8 and the vast majority of Republicans voted against the approach embodied in their substitute.

Our troops deserve to know that we are proud of them, and proud of the mission they have been called to serve.

And today, we as a nation need to speak with one clear and confident voice: We will stand with our troops for the cause of freedom. And we will not leave our ideals behind. Vote no on this substitute.

□ 2110

Mr. GILMAN. Mr. Chairman, I yield the balance of our time to the gentleman from Illinois [Mr. MICHEL], our distinguished minority leader.

The CHAIRMAN pro tempore. (Mr. FARR of California). The gentleman from Illinois is recognized for 5½ minutes.

Mr. MICHEL. Mr. Chairman, it should come as no surprise that I rise in support of the amendment I have cosponsored with the distinguished ranking member on the Foreign Affairs Committee, Mr. GILMAN.

Let me get directly to the point:

I have never felt that American troops should have been sent to Haiti.

I think the best thing would be to get them out as quickly and safely as possible.

Before we began debate under the rule, we had already had four full hours of discussion on this issue.

Every conceivable aspect of the issue has been discussed, dissected, analyzed and scrutinized, so I'm not going to give a geo-political tour of the horizon.

Just a few simple thoughts.

First, it seems to me that in any credible resolution of this nature, we have to get on the record our belief that the administration's Haiti policy made no sense two months ago, makes no sense now, and cannot conceivably make any sense in the future.

I have heard some supporters of the President say we should "stand behind our troops."

I agree.

But there is a big difference between standing behind our troops and hiding behind our troops to shield us from the results of an ill-conceived policy.

We cannot use the fact that our troops are in Haiti as retroactive justification for the bad policy that sent them there in the first place.

For those comments I heard earlier in an emotional way likening this situation to the Persian Gulf resolution, that is nonsense, totally nonsense. There is no similarity between that instance when I admit the House was in its finest hour, the debate on both sides, the emotion and all the rest, and to have to make up your mind whether or not you were going to authorize the President to use force. This is not that kind of a situation, believe me.

Second, we say in our resolution that the President should immediately commence the safe and orderly withdrawal of our forces in Haiti in a manner consistent with the safety of our troops.

There is no "date certain" embodied in our amendment.

I have always fought that, feeling any President ought to have the flexibility to move as the Commander in Chief.

Third, if the President refuses to agree to a safe and orderly withdrawal as we recommend then, in January of next year, there should be a vote on a resolution directing the President to remove U.S. Armed Forces from Haiti no later than 30 days after the date of enactment of the resolution.

If the Congress, after another debate, believes it to be a good move, at that time the resolution will pass. If the Congress feels otherwise, it will be defeated. Just as simple as that. The point is you revisit the issue, you debate it fully, and you come to a resolution on a yea and nay vote in this House.

Again, there is no "date certain" but in January, the Congress will debate the issue and have a vote, which is as it should be—and should have been all along.

There are other parts of our amendment dealing with UN command of our troops, reporting requirements, and the formation of a Congressional Commission on Haiti which the distinguished gentleman from New York pointed out so well during the course of his remarks.

But the three points I have outlined are the essential ones.

We are, as usual, caught in a dilemma.

We firmly believe our troops should not be in Haiti, but now that they are there, we don't want to do anything that might undermine their morale or place them in jeopardy.

I do not believe the three major points of our amendment will undermine the morale of even one soldier or Marine, and it won't place any of them in jeopardy.

The fact that our troops have been carrying out their orders so well only makes the situation more exasperating.

There we are, using all that dedication, training, and patriotism on a mission whose already ambiguous goal recedes faster and faster from our view with each passing day.

The administration has never made the case of our national security interests in Haiti, except to offer some rhetoric about high principles.

Thus far, we have been spared any major tragedy. But so long as we are there, the potential for such tragedy exists.

There is no perfect solution or resolution to this sorry mess, but I truly believe our amendment is the best of all the proposed resolution on the table.

I therefore urge a yes vote on the Gilman amendment.

Mr. TORRICELLI. Mr. Chairman, I yield the balance of our time to the gentleman from Missouri [Mr. GEPHARDT], the distinguished majority leader.

The CHAIRMAN pro tempore. The gentleman from Missouri is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Chairman, I rise to urge my colleagues to defeat the Michel substitute. And let us be very clear about what this substitute would do—

For the first time in America's history, it would renounce a military operation that is already underway.

For the first time in America's history, it would say to our courageous young troops:

When your safety is on line—when you are laying the foundation for peace and democracy in America's backyard—we are going to pull the rug out from under you.

Is that the message we sent to send to our brave young soldiers? That we will stand with them—but only when it is easy for us? That we will defend democracy—but only in the absence of a political opportunity?

My colleagues, for more than 200 years, America has had a tradition of unity of standing behind our President in matters of the military, once our resources and resolve are on the line. That is what we did in Grenada. And Panama. And the Persian Gulf. And now is no time for a double standard.

I believe the President should have come to Congress before committing American troops.

But whether we agree with that choice—whether or not we agree with the policy itself—the decision has been made.

Our children are there. And they are making a profound difference to the Haitian people.

In a handful of days, they have dismantled military weapons. They have ended the reign of torture and abuse that had showered down on the people of Haiti. People who had clung to leaky rafts are now clinging to a hope that springs from their own soil.

Maybe it is hard for some of us to appreciate what that means to the people of Haiti. Maybe it is hard for some of us to understand why the politically easy thing is not always the right thing for America

But rest assured, when it comes to the principles that are the bedrock of our own constitution—when it comes to the basic rights and justice—yes, we are doing the right thing.

In recent days, as Americans have disarmed Haiti's military thugs, crowds have surged toward our troops, to hug them and cry: "thank you."

One young woman tried to kiss every American she saw, and shouted "We are free, liberty, liberty." Another shouted "You have done God's work." and she was right.

According to one Marine colonel, and I quote, the liberation "was like a scene from 'Gandhi' * * * It was like the yoke of oppression was lifted from the people * * * I've never seen anything like that in my life."

This mission is working. And if we give up, or give in, or turn back now, the reign of terror could return.

I say to my colleagues that democracy and human rights are the most powerful ideas in human history. And they know no national boundaries.

That is why Nelson Mandela stood in this very chamber, only a few short hours ago, and told us: "As the possibility of nations to become islands diminishes and vanishes forever, so will it be that the suffering of the one shall inflict pain upon the other."

I am proud that, eight years ago, the United States led the world by enacting the toughest, strictest, sanctions on South Africa—pushing for the democracy and freedom that have now overtaken Apartheid.

We stood with Nelson Mandela and the people of South Africa because sometimes, America has to lead, and not follow. Sometimes, we have to strive for a higher service. Sometimes, we have to realize that our best interests are our fundamental human interests.

That is why we must fight for democracy—especially in Haiti, especially in our own backyard.

I urge you—do not trade America's convictions for convenience.

Reject this substitute—support our troops who are on the line tonight, and let democracy rule in our hemisphere.

Ms. HARMAN. Mr. Chairman, today we face a tough series of votes on the United States presence in Haiti.

In deciding what to do, I have weighed the options against a three-fold set of considerations.

First and foremost in my mind is guaranteeing the safety of U.S. troops in Haiti. As the mother of two draft-age children, my heart goes out to other parents whose sons and daughters may be at risk. I pledge to do all in my power as a member of the House Armed Services Committee to protect your loved ones.

A second major consideration is the appropriateness of unilateral U.S. military presence. I was not in favor of committing troops to Haiti—and the great majority of my constituents opposed it. I jointed 117 of my colleagues in signing a resolution calling for a debate on our Haitian policy. I did not and do not feel that a military option was necessary to achieve the restoration of democracy. Rather, I would have tried longer to use and enforce economic sanctions. Of course, I am relieved that President Clinton and the delegation led by former President Carter reached an agreement on the peaceful departure of Haiti's leaders, but I would have wished that result to occur without the imminent arrival and then subsequent presence of U.S. Troops. In time, I feel the force of world moral and economic pressure would have won the day.

Third, I have great sympathy for the plight of the Haitian people who have suffered under a brutal military regime. It is important to nurture democracy in our hemisphere and to oppose its overthrow. But, again, I believe our tools should be economic and moral—not military. I watched the peaceful restoration of democracy in Chile as a member of two international legal delegations, and know that non-military suasion can work.

Applying these criteria to the votes at hand, I am supporting the Michel amendment because it declares that the President should not have ordered U.S. forces into Haiti. But it also sets a timetable for orderly withdrawal "in a manner consistent with the safety of [U.S.] troops." If the President does not withdraw the troops by January 3, 1995, Congress will then vote on withdrawal. This procedure offers Congress the chance to reconsider should we be confronted by changed circumstances. To me, the Michel amendment is consistent with sound policy.

I plan to oppose the Dellums-Murtha Amendment because it does not set a deadline for withdrawal and draws no conclusions about U.S. military presence in Haiti. It is tough to oppose my Armed Serves Committee chairman, Mr. DELLUMS, a man of high moral principle, and it is also difficult to oppose the able Defense Appropriations Subcommittee chairman, Mr. MURTHA, but I feel I must.

Mr. Chairman, earlier today South African President Nelson Mandela made an extraordinary address to a joint session of Congress. He personifies his country's painful transition to democracy—a transition aided by the moral and economic force of the U.S. and many other outraged nations—but achieved without the presence on South African soil of U.S. troops. The lesson is instructive, and I wish we could have applied it to a desperately poor but hopeful neighbor named Haiti.

Mr. BEREUTER. Mr. Chairman, this Member supported the Michel Gilman amendment which expressed the view that Congress supports a prompt and orderly withdrawal of all United States Forces from Haiti as soon as possible. My colleagues remember when you vote that the Torricelli amendment is a retroactive authorization of an ill-advised incursion into Haiti to reinstall a President who will embarrass the United States. It will surely result in casualties to our forces.

The Dellums amendment is itself something of a weaker authorization of the Clinton administration's ill-advised incursion into Haiti for it expresses the non-binding sense of Congress language that our forces should be withdrawn "as soon as possible."

Yet in that same section the Dellums amendment seemingly offers support for the use of troops in Haiti for the objectives cited by the Clinton administration. The Dellums amendment also permits the administration to proceed with its plan to put 2,000 to 3,000 U.S. troops under United Nations command.

The Torricelli amendment authorization is set to expire on March 1, 1995 with a presidential waiver.

Setting a date certain for withdrawal potentially sets in motion a whole series of undesirable events. The withdrawal date becomes a timetable that each faction in Haiti will seek to exploit. Both supporters and opponents of Aristide will tailor provocations to either speed or delay U.S. departure, or harm our forces when we are least likely to retaliate. The unintended consequence is that the date certain—not the safety of the troops—becomes the driving consideration.

All our military commanders have argued against setting a date certain. Although it is clear the military strongly opposed the Haiti operation, they also have expressed the view that setting a date certain would create potentially serious hazards.

Mr. Chairman, the distinguished chairman states it is this body's responsibility to authorize the use of our armed forces in Haiti. Indeed, the President has acted without the support of the Congress or the American people. But the Congress has a higher duty and that is to serve as a check on the President when he is wrong—to say "No, bring the troops home." Vote against the Torricelli amendment.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the authorization of the presence of U.S. military forces in Haiti and in support of the Michel substitute, calling on the President to commence the complete and orderly withdrawal of U.S. Forces from Haiti as soon as possible.

Since President Clinton's speech to the Nation outlining the reasons for his decision to intervene in Haiti, I have received more than 200 letters and phone calls from my constituents, indicating overwhelming opposition to the U.S. mission in Haiti. By more than 10 to 1, the residents of one of our Nation's most highly educated congressional districts find no rationale for the President's suggestion that Haiti poses a national security threat to the United States.

I agree with my constituents. The notion that the U.S. has a national security interest in Haiti strains credibility. Nor am I convinced that restoration of Haiti's legitimate government, even if it results in the quick revival of Haiti's economy to its already abysmal precoup state, will stem the tide of boat people fleeing to our shores.

While I was relieved by the Carter Agreement allowing for the peaceful entry of U.S. Forces into Haiti, it is ironic that the accord, by allowing for a continued role for the Haitian military in running the country, actually makes it more difficult to achieve the mission's objectives. Moreover, now that the U.S. operation in Haiti seems to be moving away from its agreement to coordinate its actions with the Haitian military and police, our troops are vulnerable to attacks by disgruntled soldiers and attaches. Our troops also incur the risk of possible attack from militant Aristide supporters and of being caught in the crossfire of intra-Haitian violence.

The Michel resolution expresses the sense of Congress that U.S. Forces should not have been sent to occupy Haiti and calls for commencement of the immediate withdrawal of those forces as soon as possible, to be replaced by a multinational peacekeeping force. I urge Members to join me in support of the Michel resolution.

Mr. PACKARD. Mr. Chairman, I rise in opposition to the Torricelli-Hamilton substitute and in support of the Michel-Gilman substitute to withdraw our troops from Haiti now. The President failed to listen to the American people when he sent our troops to Haiti. He must listen to our voices now.

We have no clear military objectives in Haiti. Our troops should never have stepped on the beaches of Haiti in the first place. What are we doing policing another Nation when we don't have enough manpower and resources to police our own country, or to control our borders?

I fail to see any compelling reason why American Military Forces are being used to police a country which is of no strategic interest to the U.S. or threat to U.S. security. We must act to rectify the President's military blunder before we lose American lives.

The American Forces in Haiti are serving as pawns in the President's game of international credibility. Foreign policy decisions must be made on the basis of national interests and security, not on personal image. There is absolutely no excuse for putting American lives at risk in an effort to save the Clinton Administration from international embarrassment. The President should not use troops as a substitute for sound foreign policy.

While I support the restoration of democracy in Haiti, that does not necessarily mean the restoration of Jean Bertrand Aristide to power. Aristide is not an ally of the U.S. He has long expressed anti-American sentiment. it is an outrage that the lives of our military forces be jeopardized in an effort to restore Aristide to power.

Our troops are the best trained and most respected military force in the world. It is a mockery that their indispensable resources are wasted in Haiti. There exists no clear military objective in Haiti. The American people know it and Congress knows it. Let's do the right thing and bring our troops home now.

We must act now before the situation in Haiti becomes catastrophic and American lives are lost. Mr. Chairman, I urge my colleagues to support the Michel-Gilman substitute. If you oppose the occupation of Haiti, the only way to express your opposition is to support the Michel-Gilman substitute. No other resolution before you today expressly opposes the occupation of Haiti—stand up and be counted as opposed to President Clinton's occupation of Haiti. Vote for the Michel-Gilman substitute and against the Torricelli-Hamilton substitute.

□ 2120

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment in the nature of a substitute offered by the gentleman from New York [Mr. GILMAN].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 225, answered "present" 1, not voting 9, as follows:

[Roll No. 497]

AYES—205

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Carr
Castle
Clinger
Coble
Collins (GA)
Combest
Condit
Coppersmith
Cox
Crane
Crapo
Cunningham
Danner
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fields (TX)
Filner
Fish
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lazio
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Machtley
Manzullo
Margolies-Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHugh
McInnis
McKeon
McMillan
McNulty
Meyers
Mica
Michel
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Santorum
Sarpalius
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Traficant
Upton
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—225

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coyne
Cramer
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel
English
Eshoo
Evans
Faleomavaega (AS)
Farr
Fazio
Fields (LA)
Fingerhut
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hamilton
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman
Levin
Lewis (GA)
Lloyd
Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
McCloskey
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Poshard
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sanders
Sangmeister
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

ANSWERED "PRESENT"—1

Barrett (NE)

NOT VOTING—9

Applegate
Gallo
Huffington
Mfume
Slattery
Sundquist
Tucker
Washington
Whitten

☐ 2143

Mr. SMITH of Iowa changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Chairman, due to the official state visit of South African President Nelson Mandela, I was unavoidably detained during the last two hours.

Specifically, I was unable to record my presence for rollcall vote No. 496, a quorum call, and rollcall vote No. 497, the Gilman substitute to House Joint Resolution 416.

Mr. Chairman, let the RECORD show that I would have voted "no" on rollcall vote No. 497.

The CHAIRMAN pro tempore. (Mr. MCDERMOTT). It is now in order to consider amendment No. 2, printed in House Report 103–830.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. DELLUMS: Strike all after the resolving clause and insert the following:

SECTION 1. SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.

It is the sense of Congress that—

(a) the men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

(b) the President should have sought *and welcomed* Congressional approval before deploying United States Armed Forces to Haiti;

(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people:

(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

(e) Congress supports a prompt and orderly withdrawal of all United States Armed Forces from Haiti as soon as possible.

SEC. 2. PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.

The President shall prepare and submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives (hereafter, "Congress") not later than seven days after enactment of this resolution a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of United States policy, the military mission and the general rules of engagement under which operations of United States Armed Forces are conducted in and around Haiti, including the role of United States Armed Forces regarding Haitian on Haitian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

SEC. 3. REPORT ON THE SITUATION IN HAITI.

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including:

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of section 1(c) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all U.S. activities subsequent to September 30, 1993 in and around Haiti, including but not limited to:

(1) the cost of all deployments of United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including:

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including:

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections.

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including:

(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

(2) troop commitments by other nations to UNMIH;

(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;

(4) proposed or actual participation of United States Armed Forces in UNMIH;

(5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and

(6) the anticipated duration of UNMIH.

SEC. 4. REPORT ON HUMAN RIGHTS.

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990 to December 15, 1994.

SEC. 5. REPORT ON U.S. AGREEMENTS.

Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

SEC. 6. TRANSITION TO UNITED NATIONS MISSION IN HAITI.

Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.

The CHAIRMAN pro tempore Pursuant to the rule, the gentlemen from California [Mr. DELLUMS] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, the amendment that is before us has been designated as the Dellums-Murtha-Dixon-Hastings amendment. That is simply because of the respect for seniority. But all of these Members have worked very diligently to bring this amendment forward. One of them is my distinguished colleague, the gentleman from Florida [Mr. HASTINGS], a freshman Member of the Congress, who, by virtue of his diligence, his very hard work, has assisted in bringing this amendment to this Chamber.

With those remarks, I would respectfully and honorably yield 5 minutes to the distinguished gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. I thank the distinguished chairman of the Committee on Armed Services for yielding this time to me.

I further thank Chairman MURTHA and Congressman DICKS for participating in cosponsoring this substitute to House Joint Resolution 416.

You know, ladies and gentlemen, when I came to this institution, I did not know that I would have the privileges that I have had in working with the people of this institution. On both sides of the aisle, men and women have been diligent about the business of the United States of America.

Working with this particular resolution gave me the very first time to work with the leadership of the Democratic Party, and that includes the Speaker, the majority leader, the majority whip, and all of their staffs in putting together a substantial portion of the business in dealing with Haiti.

Mr. Chairman, I am offering, along with Chairman DELLUMS, Chairman MURTHA and Congressman DICKS, a substitute to House Joint Resolution 416. Our substitute does not set a date by which United States forces must exit Haiti, but does state that the President should have consulted Congress prior to our intervention. It is identical to legislation just passed in the Senate 91–8.

Mr. Chairman, I offer this substitute not because I am a war-mongerer who places the interests of other countries before the safety of our own children. I offer this amendment because I am a supporter of Democracy, a humanitarian, a resident of South Florida, and a believer in the ability of our own military commanders.

I have said from day one that if Haiti is not hospitable to its own people those same people will flock to South Florida, an area whose emergency health and human services budgets have already splintered from the weight of illegal immigration. If my constituents tell me that they cannot handle another wave of immigrants at this time, then I will support any plan to keep those immigrants out of South Florida. And if that plan includes invading Haiti to remove the illegal military occupation whose minions were terrorizing the populace, and assisting in the return of the democratically-elected president, then I will support the invasion.

Many of my colleagues in this body have criticized President Clinton for sending troops to Haiti. Some argue that it is not our problem to solve, while others are infuriated that the President did not seek prior congressional authorization for the invasion. I found it fascinating that many Members who opposed this limited authorization supported, during the 101st Congress, sending $20 million to Haiti. In the report to H.R. 4636 many of these same members said: This aid will send a signal that the United States supports the effort to establish civilian authority over the military and encourages further movement toward democratic government. The $20 million authorized in this legislation for Haiti is an appropriate indication of the United States commitment to civilian, democratic rule in that country.

There are those who will oppose our current policy because they loathe the person who is directing it. But some are truly opposed to our involvement in a situation which does not warrant our action. To refute this statement one must ask, for what reasons has the United States intervened in foreign crises?

The United States has, since the inception of the Union, used our armed forces abroad 234 times in situations of conflict or potential conflict. Our justification was that our national existence was threatened; specific treaty requirements were abrogated; freedom of the seas was threatened; we opposed aggression by one state against another; we were protecting U.S. citizens abroad; countering terrorism; protecting the sanctity of the Western Hemisphere from outside powers; lending support to our allies in trouble; and certain situations which require intervention for humanitarian reasons.

So what are our interests in Haiti and do they fit into the pro-involvement puzzle? The people of Haiti elected a President, Jean-Bertrand Aristide. That President was overthrown by the head of the military, Raoul Cedras. Aristide and Cedras signed an accord, the Governor's Island Accord, to facilitate the return of the President. That accord was virtually ignored by the Haitian military leaders for almost 2 years until, virtually days before an invasion by the United States, President

Clinton dispatched to Haiti a delegation led by former President Jimmy Carter. President Carter worked out an agreement with the acting President of Haiti which set a deadline for the military leaders to retire and the democratically-elected president Jean-Bertrand Aristide to return to Haiti. Our forces are now in Haiti assisting with this transition.

By virtue of the fact that there was a coup by the military which overthrew a democratically-elected president, U.S. intervention is justifiable. Couple this coup with a humanitarian tragedy, food and energy shortages, regular politically-motivated rapes against Aristide supporters and their family members, and an unmanageable tide of refugees to our shores. Each of these factors alone may justify our intervention. All of these factors combined demand it.

Why allow the President and the military commanders to decide when the troops should return? Because I believe in the judgment of our military commanders. Only last week General Shalikashvili, Chairman of the Joint Chiefs of Staff said,

> For the operation to succeed * * * with minimum risk to U.S. personnel, our military forces need to proceed with achieving objectives, not meeting fixed deadlines * * * The bottom line is that the dynamic created by a mandated date withdrawal could make the situation more dangerous to our troops.

Do not forget why we are voting today. Do not think that setting an early withdrawal date will show the voters that you oppose our intervention in Haiti. That point is moot. This vote is about whether or not we have enough faith in their abilities to let them do their job without our interference.

One of the more outrageous sights that I can remember is seeing United States armed forces land on the beaches during the Somalia intervention and being greeted by American reporters. We were the laughing-stock of the world. Whoever heard of any army announcing their arrival date?

Well, as far as I am concerned, House Joint Resolution 416 is equally ridiculous. Not only did President Clinton practically send to Haiti a press release announcing our arrival, we are now about to tell them when we plan to leave. What kind of military are we operating?

This is not about Members of Congress having a say in foreign policy operations. We are not military strategists. We are politicians. And we should leave the planning to those who know how to do it.

If the military commanders say that announcing an exit date will endanger our troops then we should listen to them. They are the experts. We are perhaps experts in running political campaigns, analyzing legislation, and setting a national agenda. But we are not military planners. What we are is the laughing-stock of the world for ordering our military into a situation and then tying their hands so they cannot accomplish the goals that we have set for them.

If we cut and run before we have accomplished our goals we will have lost as much as the people of Haiti. We will have lost our credibility as a superpower, we will have lost the ability to tell other countries how they ought run their country—which we do all of the time as evidenced by the annual China-MFN vote and which we did for years to the former-communist countries, we will have lost the ability to call ourselves humanitarians, and we will have lost the ability to intervene in any conflict. For even if we say we will take action, who will ever believe us again?

So please show your support for a strong United States and your confidence in the U.S. Armed Forces by supporting the Dellums, Murtha, Hastings, Dicks substitute.

□ 2150

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Chairman, this debate, eloquent as it has been, is absolutely useless. The White House is laughing at us, is scoffing at us, is ridiculing the whole idea of allowing the Congress to even talk about the conduct of foreign policy, just as it was on September 18, as we, many of us, were preparing to come back to the Congress on that Sunday for the new week of deliberations so that we could have an opportunity to debate the question of Haiti. The war planes were already on the way to Haiti.

What does that mean? That means that the President, knowing full well that for 2 weeks we have been haranguing to be given an opportunity to debate this issue, nevertheless sent the war planes toward Haiti without waiting to talk to the Congress, and then he ordered them back because of the Carter, Nunn, and Powell mission, but too late for the Congress to have anything to say about the issue at all.

My people in central Pennsylvania, like most of the districts in all of the country, did not see and will not see a national security issue in the question of Haiti. Our people do not determine that there is a national security issue on the question of Haiti. Human rights violations, horrible as they are, remediable as they must be, are not in the eyes of our people, and truly so, a national security issue. Nor is the restoration of democracy per se a question already determined to be a matter of national security.

So Haiti then becomes an isolated issue, fomented at the White House, supported by many of our citizens in different capacities, but does not go to the core of American public opinion or sentiment as to whether American troops should be sent to such a place for such limited duties and such indescribable missions as have been foisted upon them.

So we now have to vote. How should we vote?

I am tempted to support the Dellums, Murtha, X, Y, and Z amendment. I am tempted to do so because that is the only ballgame, and even though there is no language in here that would prohibit the placing of American troops under foreign domination or under international control, which worries me a little bit, outside of that particular portion that is lacking in this amendment, Mr. Chairman, this is perhaps the best way to approach this issue that has been thrust upon us.

I hope that if we do support it, and I believe I am going to support the Dellums amendment, and it succeeds, that this will be a precedent for the White House no longer to laugh at us, not to scoff at us, but to talk with us before emerging and doing such an excursion of battle.

□ 2200

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I strongly support the Dellums amendment. I support the strong stance President Clinton has taken with the illegal military rulers of Haiti. President Clinton and President Jimmy Carter, Senator NUNN and former Chairman of the Joint Chiefs of Staff Colin Powell must be commended, not pilloried, for doing what is right rather than what is politically popular.

That said, our troops should certainly be brought home as soon as it is possible to do so. But only when it is possible to do so without jeopardizing the mission! That is why I urge support for the Dellums-Murtha-Hastings-Dicks substitute to H.J. Res. 416. The Dellums substitute directs the President to clearly define our mission but does not impose a potentially destructive time limit.

Imposing a drop-dead date on this administration is ill-advised. Why pretend that we can predict the future when we are involved in an extremely unpredictable situation? Rarely in our long history of intervention in the Americas have we imposed an artificial deadline. Neither Presidents Coolidge, Hoover nor Harding operated under a drop-dead date during our first occupation of Haiti. In Nicaragua, in Panama and the Dominican Republic—no date certain. The list goes on. Even in Vietnam where more Americans died during the Nixon administration than during the Johnson and Kennedy administrations combined, there was no such mandate.

After 14 months in Somalia, after saving over 400,000 lives there, I strongly opposed a date-certain. In Rwanda, where we had 4,500 troops for approximately 2 months, there were thankfully no casualties, and also no date-certain.

We should not tie the hands of the those in charge of this operation to score political points. Ill-conceived attempts by some Members to pull us out of Haiti immediately are not in the best interests of anyone but those Members themselves. An expiration date brings our commitment into question and is therefore dangerous to our troops and to our goals for democracy in Haiti.

The Dellums substitute responds to the concerns of Congress, and the American people. We need to understand our mission in Haiti and we want reassurances that this is not a long-term commitment. I urge my colleagues to support the Dellums-Hastings-Murtha-Dicks substitute so we can get the reports, monitor the situation, evaluate our presence there, and bring our troops home as soon as possible without jeopardizing our mission. After all, it is a mission to which our troops, and we as a country, have committed.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, I rise in strong support of the Dellums amendment.

Mr. DELLUMS. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Georgia [Ms. McKINNEY].

Ms. McKINNEY. Mr. Chairman, I rise in strong support of the Dellums amendment.

Mr. DELLUMS. Mr. Chairman, it is with a great deal of pleasure that I yield 5 minutes to my distinguished colleague, the gentleman from Pennsylvania [Mr. MURTHA], one of the foremost shapers of the amendment before the body at this time.

Mr. MURTHA. Mr. Chairman, let me just make a couple points. I just came back from Haiti, and I feel very strongly about a number of things.

One is we have troops on the ground and we must support them. Those troops are doing a magnificent job. Things are getting better. The new media has emphasized isolated incidents of violence going on in Haiti, which has led some to believe the place is in disarray. This is not an accurate picture.

The Parliament is back, the lights are turned on, they are even painting the curbs. The people are welcoming us with open arms. This is different than Somalia. In Somalia you had factions which were well armed with a wide variety of military equipment. There were 50 thousand troops, in various clans and we got caught in between.

In Haiti you have a situation where people want us to restore order, and if we go too far with some of the things that we try to do here, we could disrupt the ability of our military to carry out its mission.

I remember standing here and listening to the debate on Kuwait, and I remember they said that this was one of the finest hours of the House. There was no rancor, there were only people in this House talking about the pros and cons of going to war and the possibility of putting Americans in harm's way.

They say that Saddam Hussein listened to part of that debate. And even though there were disagreements, there was no question at the end of the debate were that America was united in its resolve to protect its national interests.

I believe we must present a unified front. In Baghdad, in the Middle East, in North Korea, they listen to what we say, and we should be united.

This resolution sets the stage. This resolution, passed by the other body, 91 to 8 was sponsored by the majority leader, Senator MITCHELL and the minority leader Senator DOLE, as well as by Senator McCAIN, and a number of other Senators. It is a bipartisan resolution. I feel this is a truly bipartisan resolution, a resolution, that sets the stage for getting our troops out as quickly as possible.

We will have one-third of our troops out by the end of the month. We were at 21,000, we will be at around 15,000 by October 31. We will not leave one troop there any longer than necessary. And they will be under American, U.S. command, there is no question about it, the whole time they are in Haiti.

I would hope that this body would send a clear signal to the people around the world that we are united when our troops are in the field, that the Congress is united behind the troops in the field. We are sending a signal to the American people, the people that are home listening to this debate, the people whose families and sons and daughters are in Haiti, that we support those troops in the field.

Yes, we want them out as soon as possible. We want the President to come to us beforehand. But they are there, and this joint resolution is the only resolution that can be signed into law. Anything else that passes would not be signed into law. So we have a joint resolution that has passed the Senate, an identical resolution will pass the house tonight, and we will have a law that makes clear the guidelines, in a united resolution which says get our troops out as quickly as you can, but we support those troops who are out in the field in harm's way.

So I would urge everyone in this House to support the Dellums-Murtha-Hastings-Dicks resolution.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the original Torricelli resolution and in support of the pending Dellums-Murtha substitute to authorize United States forces in Haiti. The original resolution would provide a retroactive congressional authorization for the unilateral decision of the President to deploy American forces in Haiti, thus giving him political cover for any mishaps.

This resolution also does not contain any means to force the President to withdrawal from Haiti.

Finally, it speaks of a transition to a United Nations-led force, which will contain up to 3,000 American troops. It is not clear whether or not this authorizes American troops to serve under foreign command or rather authorizes the President to keep an American force in Haiti for indefinite duration, both prospects that I strongly oppose.

As far as I am concerned, American troops have no business in Haiti. I do not understand how Haiti ever posed a threat to United States national interests. As current events are demonstrating, our forces in Haiti are facing a deeper, Somalia-like quagmire each day they remain.

Intervening was the easy part, it is getting out that will be difficult.

There is every indication that American troops will have to remain in Haiti for years to come, tying up resources that could be much more effectively used elsewhere. I am disturbed to hear reports that some Navy Reserve units have run out of money for training, yet we can spend over a billion dollars on a dubious operation in Haiti. Quite simply, Haiti is not worth putting thousands of American lives at risk and the billions of dollars the operation will ultimately cost.

The Haitian situation is yet another example of this administration's indecisiveness when faced with serious foreign crises. The administration's vacillation toward aggressors in Somalia, Bosnia, North Korea, and Haiti has seriously eroded United States credibility abroad and has created doubts among our allies about our reliability. To make matters worse, the President's severe defense spending cuts in recent years have diminished our ability to defend our vital national security interests.

At a crucial time of international transition created by the end of the cold war, the administration's timid and erratic approach to foreign policy is exactly what we do not need.

Unfortunately, the House just voted to reject the Michel substitute, which would have immediately brought our troops home. Although I much prefer the Michel language, the Dellums substitute now before us is certainly an improvement over the original Torricelli resolution. Thus, I urge a "yes" vote on Dellums and a "no" vote on Torricelli.

Mr. DELLUMS. Mr. Chairman, it is my distinct pleasure to yield 5 minutes to the fourth coauthor of the amendment, the gentleman from Washington [Mr. DICKS].

Mr. DICKS. Mr. Chairman, I wanted to thank the chairman and also my chairman, the gentleman from Pennsylvania, Mr. JACK MURTHA, who has again gone out into the field to see how our young men and women are doing when they are deployed by the President of the United States. I am pleased to be an author of this resolution, along with my colleagues. We will make it very clear that we want to bring our troops home as quickly as possible.

As the gentleman from Pennsylvania, [Mr. MURTHA], has said, about one-third of them are going to be coming home within a month. In my judgment, we can have our military forces basically out of there by the end of the year. But I do not think we should set a fixed date in this resolution, and I would tell you that John Shalikashvili and Bill Perry, Chairman of the Joint Chiefs of Staff and Secretary of Defense, have written us and asked us not to set a fixed date for the withdrawal of our troops, because they believe it would be dangerous to our troops.

Now, there is one other thing I would like to say about the Torricelli amendment. I believe we would be making a fundamental mistake if, after the President has decided to use force and to put troops into Haiti, for us to then retroactively authorize that action. I think that will become a precedent for future Presidents.

□ 2210

And I happen to believe that the President has a responsibility to come to this Congress and seek our approval before he puts the troops into the field. Now, I want to tell Members, I was impressed in Haiti by the fact that our soldiers have got the situation under control. Yes, there will be random acts of violence. That is why we need to strengthen the Haitian military and their police force so that Haitians can deal with Haitians on these issues.

In my judgment, the situation here is very different from Somalia. There is not a force here that can do any real damage to the U.S. military. So there is no reason to rush out of Haiti.

What we need to do is handle this in a professional way, leave it up to our commanders.

We talked to General Shelton, the commander of our forces in Haiti. We asked him, Do you favor a fixed date? He said, No, it would be dangerous to our troops.

So I again reiterate what the gentleman from Pennsylvania [Mr. MURTHA] has said, if we want to get something done, if we want to pass a resolution tonight that can be signed into law and one that enjoyed bipartisan support in the other body with a vote of 91 to 8, then vote for the Dellums-Murtha-Hastings-Dicks amendment and reject, as we have done already, we rejected Michel, but I think we should also reject the Hamilton-Torricelli amendment because it retroactively authorizes this. I think that is a mistake. It sets a fixed date, which I think is a second mistake.

This is the right resolution for the House to adopt. I urge its adoption.

Mr. GILMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding time to me.

I think it is more than time that we have begun to evaluate what it is that we are really debating and have under discussion tonight. I find it amazing in this debate that most of it has seemed to focus upon whether or not we should support our troops who have been deployed to Haiti. We do not need to debate that issue. There is no Member of this body who is more proud than I of what they have done and how well they have done it. That is not the issue.

Nor is it to me understandable that no Member has come to this well and suggested that the troops who were deployed there would have been deployed there if the President of the United States had come to the Congress or had convinced the American people that they should have been deployed there. The unspoken refrain of all of this debate is that they should not have been deployed.

Now they have been deployed. So we heap praise upon our forces for how well they have conducted themselves, having been deployed. But how long, how long can we ignore the fact that they should not have been deployed, that there is no national security interest of the United States of America that dictates that they should be there?

The President having done it, and I am not one of those who challenge his constitutional authority to have done it, but I do indeed challenge his good judgment in having done it, especially having done it in the face of what appeared to be strong opposition of the American people and of this Congress to the extent that it is an unspoken but almost unanimously-consented point of view that he would not come to the Congress because he could not get the authorization if he had asked for it.

What position does this put this body, which has the ultimate authority? I think in a very untenable position, if we are going forward with the Torricelli language which after the fact gives an authorization that we would never have given in advance.

I am going to vote for the Dellums-Murtha, et al., Resolution. I do so not because I really approve it. I do so because it is the only thing left that is acceptable to a Congress of the United States that has any degree of pride in its responsibility and, indeed, its obligation to those fine American soldiers who are in Haiti against the wishes of the American people and of this Congress.

I would suggest to my colleagues that one of the worst judgments the commander-in-chief can make is to deploy his forces, his volunteer forces in a combat situation of which their fellow citizens do not approve and their Congress as their elected representatives do not approve.

The pick of the litter has been discarded. We cannot vote for a resolution that in a prudent manner makes it clear this is not an exercise we authorized or would choose to authorize and that we want our troops home as soon as possible and if by a certain date it does not happen and the President cannot come to us and persuade us to authorize and continue to fund it, then it should be discontinued. That is the path I think we should have chosen.

Not having chosen it, reluctantly, I do rise in support of the Dellums-Murtha amendment. I would urge my colleagues to do that. But I would urge my colleagues to bear in mind that we are coming back here and at some point in time this Congress is going to have to face squarely how long, how long will we permit our forces to be deployed in an exercise that the American people do not approve of and which we have never authorized, and yet we sit here complacently saying, oh, well, it is a fait accompli. We must not let it continue to be a continuing, nagging fait accompli. We must make sure that we bring our forces home from an exercise in which they should never have been sent.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I rise in reluctant support of the Dellums substitute.

Mr. Chairman, I rise today disappointed with the three Haiti resolutions that are before this chamber.

Since the first democratically elected president, Jean-Bertrand Aristide, was ousted from power in Haiti, thousands of Haitians have fled the brutal and repressive government of Lieutenant General Raoul Cedras. This steady flow of refugees headed for U.S. shores and the continuous human rights atrocities committed by the Haitian military are of great concern.

However, I was not in favor of a United States invasion of Haiti. As sad as the situation is in Haiti, there was no compelling United States national interest justifying the presence of U.S. troops. Furthermore, I was opposed to the presence of U.S. troops in Haiti because the president failed to seek congressional authorization for such use of force.

Despite my strong opposition to the presence of U.S. troops in Haiti, I cannot support the Michel substitute. Now that the president has sent U.S. troops, it is imperative that we support these troops. Military experts, including Lieutenant General Henry Hugh Shelton and Joint Chiefs of Staff Chairman General John Shalikashvili, indicate that a mandated immediate withdrawal could endanger the lives of our U.S. soldiers.

Similarly, I cannot support the Torricelli-Hamilton alternative. Although this option affirms Congress' role in authorizing troop deployment, it specifically provides congressional authorization for the presence of U.S. troops in Haiti, an action which I have opposed.

Although the Dellums-Murtha-Hastings—Dicks substitute makes it clear that there is neither congressional approval or disapproval of the participation of United States Armed Forces in Haiti, I regret that the Dellums alternative is not stronger in affirming Congress' constitutional responsibility regarding troop deployment. We must support our American troops when they are in harm's way, but it's important that Congress stands firm and insist that a president, any president, come to it for support before we undertake non-emergency military measures.

Mr. Chairman, despite the weak language on congressional authorization, I reluctantly vote for the Dellums substitute, for it most closely represent my views.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from New York [Ms. VELÁZQUEZ.]

Ms. VELÁZQUEZ. Mr. Chairman, today I rise in strong support of the Dellums-Murtha-Hastings-Dicks substitute. It is the only approach that would allow a just resolution of the Haitian Crisis.

I initially spoke out against an invasion because of this nation's ugly history of armed intervention in the Americas. Since the Monroe doctrine, we have claimed for ourselves a near divine right to send in the Marines whenever we liked and for as long as we liked. Shamefully, our troops were often sent in to bolster local bullies and dictators who had little regard for the working men and women of their nations: Somoza in Nicaragua, Pinochet in Chile, Batista in Cuba. It is no wonder that the refrain "Yankees go home" is so familiar.

Nevertheless, I rise today in support of the Dellums substitute because for perhaps the first time in memory American GI's are on Latin American soil for a noble cause, and not as an occupying force. We have an opportunity to help ensure that the conditions for democracy can take root there.

As we all know, the agreement that was negotiated by former President Carter had no provision for the departure of the terrorists who preyed upon the Haitian people. If we leave now, one thing is certain. The terror will return, and the opportunity for democracy will have been lost.

It is not enough to say we are for democracy in Haiti. We must also commit ourselves to a democracy that can be sustained once we pull the troops out.

Some of my colleagues would place a deadline on our military presence. Is democracy so predictable that we can pick a date out of a hat, and decide that by then democracy will have had a chance? Is there some magic to March 1?

Mr. Speaker, a stable and democratic Haiti is clearly in our national interest. By turning a blind eye to political conditions there, we encourage thousands of additional refugees to take to the sea in flight from oppression. Preventing another refugee crisis is imperative for this country.

I urge my colleagues to join with me in support of the Dellums substitute. Not only will it serve the national interest—it will serve the interests of justice and democracy in the hemisphere as well.

□ 2220

Mr. GILMAN. Mr. Chairman I yield such time as he may consume to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I rise in support of the Dellums-Murtha-Hastings-Dicks substitute amendment.

Mr. Chairman, I thank the gentleman for yielding, and rise in strong support of the Dellums-Murtha-Hastings-Dicks substitute motion.

Last weekend, I joined my colleagues on the Defense Appropriations Subcommittee in making a one-day trip to Haiti.

I was impressed—and I always am—by the professionalism and dedication of our U.S. troops. They are as confused about our mission there as most Americans are, but they are working to restore order in Haiti. It is prime example of poor administration policy—rescued by super tactical deployment of the U.S. military.

I was opposed to this mission from the start. But now that our troops are stationed in Haiti, we must do all we can to ensure their safety, guarantee the effectiveness of our mission there, and then, get out.

I oppose any efforts by Congress to set a date certain for our troops to withdraw from Haiti. That is like imposing term limits on our soldiers. They would be lame ducks between now and that congressionally imposed deadline—a situation, but also the effectiveness of our mission in Haiti.

If we set an arbitrary deadline and there is some act of violence or if U.S. troops are taken hostage just before that deadline, we wouldn't want to be in a position of pulling our troops out at that specific moment.

This resolution reiterates that the President should have sought and welcomed congressional approval before deploying American forces to Haiti.

This substitute motion provides additional accountability safeguards to Congress and the American people by requiring the President and his administration to provide a statement of national security objectives for this mission. This substitute also requires monthly reports, including updates on important items such as: The duration of our presence in Haiti; the progress made toward establishing democracy in Haiti; and the cost estimates to all United States operation and activities in Haiti.

In addition, this amendment does not endorse or constitute congressional approval of the participation of United States forces in a U.N. operation in Haiti. I strongly oppose the placement of United States Troops under any Foreign command, under any circumstances.

Mr. Chairman, I strongly urge my colleagues to support the Dellums-Murtha-Hastings-Dicks substitute.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I favored the Michel Amendment. It contained a means of pressuring the President to remove the troops immediately.

I believe that to be appropriate since the President failed to consult with the Congress.

The Dellums substitute is better than the remaining choice.

I believe we should not be in Haiti. I don't believe there is a defined National interest there. We must avoid a prolonged occupation—Nation Building is a never-ending task.

We should not allow ourselves to go into an open-ended commitment to do a job that our troops are not designed to do.

I shall not endorse the Haiti occupation.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise in favor of the Dellums-Murtha substitute in opposition to the Hamilton resolution. It is unfortunate that the opponents of President Clinton policy are not facing the real issues here and hiding behind the bluster of a well-organized propaganda campaign against Father Aristide.

We can debate from today to the day of the next election in Haiti about President Aristide's character. Is he a good guy? Or a bad guy? Did he urge crowds to necklace their enemies? Or was he talking about the constitution?

The bottom line is that he was elected by 67 percent of the Haitian people in a free and honest democratic election, an election where more Haitians voted than vote in most elections here in the United States.

The Haitian people should have the right to make their democracy work. And in Father Aristide's own words, the true test of democracy will take place during next year's election when he steps down.

Do we have a national interest in preserving that democracy? Yes. Haiti is 700 miles from our border. Port au Prince is closer to Miami than we are to Chicago. Every day that the military dictators continued their reign of terror in Haiti was an embarrassment to the United States, the sole, remaining world power.

We have a national interest in returning democracy to Haiti because the consequences of the Cedras/Biamby/Francois dictatorship was a flood of Haitian immigration into our country.

We also have a national interest in removing this dictatorship because it was part of the Caribbean drug running ring that is killing off a generation of American young people.

We must return democracy to the Haiti people, and, everyday, our troops are making progress in attaining that goal.

The imposition of an artificial deadline for their departure would be wrong. It will endanger the lives of these American soldiers who are succeeding in this right and honorable mission. And these are not just the views of civilians, Marine General John Sheehan said the exact thing to our Foreign Affairs Committee.

So, what is going on here? Even though we reach another milestone towards success everyday, the President's opponents are putting an obstacle in the way of ultimate victory. This militarily unsound deadline says to the enemy in Haiti, We're here today, but we'll be gone on March 1. This is wrong. This is dangerous. And this is unfair to the men and women in uniform meeting a difficult challenge in Haiti. Support our troops and support democracy in America.

Vote yes on the Murtha/Dellums substitute.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN. Mr. Chairman, I promised our leader on this side that I would vote for his amendment and only his amendment. I have no problem with people voting for the Dellums-Murtha-Dicks amendment. But I would like to clear the air here about what the gentleman from Illinois [Mr. MICHEL] called hiding behind our troops under the guise of supporting our troops.

As he said those words, I thought, there is also a position where people who have no familiarity with the military are pushing our troops up front for their own political purposes, and putting them, no matter how noble, in harm's way.

There are a handful of people in this House, and I am proud to include myself in that number, who can travel to any military service of the United States, any base in this country, and be recognized. We do not ever have to give our bona fides in any legislation here about supporting the troops.

Mr. Chairman, I can name them all: The gentleman from Pennsylvania [Mr. MURTHA], the gentleman from Missouri [Mr. SKELTON], the gentleman from Texas [Mr. WILSON], the gentleman from Illinois [Mr. MICHEL], the gentleman from Mississippi [Mr. MONTGOMERY], hands down. My friends from California, Mr. HUNTER and Mr. CUNNINGHAM, my friend from Texas, Mr. JOHNSON, and my friend from Indiana, Mr. BURTON. Also my colleague from Virginia, Mr. SISISKY.

When we get on an airplane or go on a submarine or on a carrier or down to shoot at Benning, or out with the paratroopers, anywhere in the field, they come up to us with respect. Go ask our liaison downstairs.

They told me they had never seen young GIs, male or female, ask for autographs until they traveled with the aforementioned Members. So I do not ever have to stand here and say I am backing up our troops with this or that vote. They know when we do things like sign certificates to the wounded and fly the flags on the Capitol ourselves, that our hearts are with them. So let us forget that silly stuff.

Mr. Chairman, when I first got here I found out that there are a lot of people in both parties who beg to get on the Committee on Armed Services or the Committee on Veterans' Affairs, because they think it fulfills the military obligation that they somehow avoided in their youth.

But, it does not work that way. Castro's lawyer, Castro's lawyer, Ira, let us get the spelling right here, Curzban, C U R Z B A N, his wife ran against Ileana in the last election, in 1992, ILEANA ROS-LEHTINEN, was flown with the title proconsul into Haiti on a U.S. Air Force aircraft.

Mr. Chairman, I find that offensive. As the gentleman from Illinois HENRY HYDE, said, you have got to go by Cuba to get down to the island of Hispaniola, the western third of which is called Haiti.

Here is that article I put in earlier by the best military writer extant today, Harry Summers, Junior, retired army colonel: "if you like Mogadishu, you are going to love Port-au-Prince. Just as Smith Hempstone, then U.S. ambassador to Kenya, warned all too correctly in 1992, Mogadishu was likely to be a repeat of the 1983 Beirut disaster, during Ronald Reagan's presidency, where 241 U.S. servicemen were killed in the bombing of the barracks, so Port-au-Prince is all too likely to turn into another Mogadishu.

Here is his close. He says "Instead of getting our men out of harm's way, White House Chief of Staff Leon Panetta has said 'We are going to increase patrols.' This is unwittingly setting the stage for a Mogadishu-like disaster, where American casualties would force a premature U.S. withdrawal.

Instead of increasing their vulnerability, now is the time to withdraw our forces from the streets, gather them in defensible enclaves, ready if need be to underwrite with force the transition of power from Cedras to Aristide, and the clock is ticking. We only have a few more days to go.

For about the 8th night in a row, I would point out this is day 18 of a miracle, where only one handsome, brave young staff sargeant named Don Holsted is lying in a hospital at Fort Bragg, shot in his abdomen; no one killed, two suicides, no other wounded in action. It is a miracle. However, Mr. Clinton is interpreting Ron Dellums' "as soon as possible" to be a year, maybe a Dominican Republic, 17 months. I do not buy that.

Mr. Chairman, I include for the RECORD the following document:

SUBJECT: FUNDING ARISTIDE TRANSITION TEAM NEEDS: REQUEST FOR LEGAL OPINION

REF: (A) Horning memo of 10/02/94, (B) Meighan E Mail of 10/03/94

1. On October 1, Aristide transition team leader Beliotte (Constitutional Minister of Defense) and GOH Legal Advisor Ira Kurzbaum approached USAID Director Crandall regarding the need for logistical support and funding for costs associated with the transition prior to and following President Aristide's return to Haiti.

2. Though general budget support is planned under the USD 15 million balance of payments program signed Sept. 30, it will be at least mid-November before local currencies generated by the dollar funds become available. The PL 480 and ESF accounts at the central bank remain blocked and inaccessible until the legitimate GOH returns, takes control of all government functions and audits its accounts. Again, that process could take until mid-November, and probably longer.

FYI: While August 31 de facto records indicate blocked funds are still in central bank accounts, this cannot be verified until all auditing checks are completed. End FYI.

3. We propose to support the transition by using U.S.-owned local currency proceeds generated by PL 480 title III flour sales subsequent to the blocking of the above accounts. These currencies were placed in a separate USDO account at Citibank, where approximately USD 2.58 million are immediately available for use. USAID requires an immediate legal opinion as to whether these unclassified funds can be used for the following purposes, as identified by Ira Kurzbaum in a meeting with Crandall on October 3:

A. Temporary office space: For transition team use until government offices are secured, a prime minister and cabinet are nominated, ratified and installed in office.

B. Communications: Satellite communications system for secure, reliable international communications; radio system for emergency communications.

C. Temporary guard services and non-lethal security equipment, such as alarm system, cameras, etc.: to guard temporary offices and residences of transition team members.

D. Residence to office transportation: due to the continuing high cost and scarcity of fuel, and the fact that many transition team members will not have personal vehicles in Haiti, transportation services will be required, via minivan or other rented vehicles. It is thought that de facto authorities will have "requisitioned" official GOH vehicles for other uses, leaving constitutional authorities on foot.

E. Office equipment and supplies: At a minimum, FAX machines, copiers and limited computer equipment must be leased or purchased for the temporary offices. In addition, it is anticipated that when the transition does take place, the 14 new ministers will find many offices stripped of equipment and devoid of the most basic office supplies, thus a basic package will be developed for donation to each ministry.

4. USAID plans to provide the same type of support to both Houses of the Parliament, in response to a similar request from the legitimate President of the Senate for logistical assistance to enable the parliament to complete the legislation required for the transition, i.e., amnesty law and separation of police from the military.

5. USAID would use these funds to support the Democratic transition in association with our just-arrived RONCO logistics management unit, which: (1) Has management

responsibility for these title III funds, under the terms of the contract, and (2) will provide logistical support for the transition.

6. Please send an immediate cable in response.

Mr. DELLUMS. Mr. Chairman, I am pleased to yield 1 minute to my distinguished colleague, the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of the Dellums amendment. Today we as a country find ourselves in a very tough situation in Haiti. It is a situation of our own creation, but the first rule to follow when we find ourselves in a bad, tough situation is not to make it worse.

The Dellums amendment, in my view, is at this time the best option before Congress to making this tough situation better. I support a prompt and orderly withdrawal of U.S. Forces from Haiti as soon as possible, and in such a manner that does not destroy the progress that we have made so far.

□ 2230

Giving a date certain for withdrawal is tactically self-defeating. It provides aid and comfort to the very people that will bring our troops into harm's way. Many of us opposed a military invasion of Haiti. But all of us were glad when the hostile invasion was avoided. The mission is now under way. Let us carry it out to its quick, swift completion. Let us support our troops. Support the Dellums amendment.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. GINGRICH], the distinguished minority whip.

Mr. GINGRICH. Mr. Chairman, let me say first of all that I hesitate to rise tonight in opposition to the substitute of my good friend, the gentleman from California [Mr. DELLUMS] because I think today has been truly a historic day and I know how many years he worked and how lonely the fight sometimes was. I think I have some small feeling for just how strongly he felt in his heart today, and I want to congratulate him on what I think has been a lifetime of hard work that has in fact helped improve the human condition. I think today listening to President Mandela was an extraordinary experience for all of us and I congratulate the gentleman for his leadership on that.

I want to say to all my colleagues, I have wavered. I have concluded that the wisest vote is a no vote but I do not think this is an easy decision. Let me tell you why. This resolution does correctly say that the President should have sought congressional approval. I believe in a strong Commander in Chief role. I think there are a lot of circumstances for immediate action without consultation. But I do think we are getting into a dangerous habit in this administration of saying that the United Nations Security Council matters but congressional approval does not. So what we do in the Balkans is a function of the U.N. Security Council but not the Congress. What we can do in Haiti is a function of the U.N. Security Council.

I was recently campaigning in Indiana and a local sheriff picked me up to take me to an event—I was not speeding, he was meeting me at the airport—and on the way, he said, "I'm confused. How come you and my candidate are not running for U.N. ambassador?" I said, "What are you talking about?" He said, "I was watching at home the other night and I listened to the Secretary of State's explanation for why we were allowed to do some things and not allowed to do the others and in every case he cited the U.N. Security Council and he never once cited Congress." So in that sense, this resolution is exactly right.

Where I have a problem, I think, is 2 places, and I would like to vote yes but I simply cannot. The first is that the Michel-Gilman substitute said the President should immediately commence the safe and orderly withdrawal of U.S. forces. I feel that very strongly. He did not ask our advice getting there. We are now basically offering him advice, because the truth is he can veto one of these. This is an expression of the will of the people but it is not going to end up being legally binding because he will just veto it if he does not like it. I do not want to vote for anything which implies that I approve of anything that might happen after tonight.

I want to make it clear. I do not think we should have gone, I do not think we should be there, and I do not think we should stay. This document which I respect greatly has two lines that make me concerned:

One is it says under item E, "Congress supports a prompt and orderly withdrawal as soon as possible," which is very different from "the President should immediately commence the safe and orderly withdrawal." It implies that "as soon as possible" if you read the previous item C is related to Haitian domestic political activities and to when the President makes the judgment based on political, not military, reasons.

Lastly, it suggests, and I think this is legitimate in the context of the way the amendment is offered, "not later than November 1 and monthly thereafter, the President shall submit a report." That clearly implies that November 1, December 1, January 1, February 1, the President said in his address to the Nation he expected American troops to be there until February of 1996. I cannot support getting a monthly report until February of 1996 and saying, "Well, at least he listened to us."

So with reluctance, I say to my good friend, who I really do respect deeply and for whom I think this has been a historic day, I urge my colleagues to vote no because I think that the Michel-Gilman substitute was the correct signal. It said we do not agree, we should not be there, and let us withdraw before young Americans start getting killed. But I do say so reluctantly and with the greatest respect for my friend.

Mr. DELLUMS. Mr. Chairman, I would like to thank my distinguished colleague for his generosity.

Mr. Chairman, I yield 1½ minutes to my distinguished colleague, the gentlewoman from Florida [Ms. BROWN].

Ms. BROWN of Florida. Mr. Chairman, I rise today in support of the Dellums/Hastings amendment. I also rise to commend President Clinton for all he has done to restore democracy in Haiti. He has taken the high road. President Clinton, and our young men and women on the ground in Haiti, have done something we should all be proud of. We are helping a struggling democracy make the transition to a peaceful and prosperous democracy, which as President Mandela said just a few hours ago in this very Chamber, is in our national interest in this new world order.

Nowhere else in the world would the prolonged torture, rapes, and murders have been tolerated as they have in Haiti. My colleagues have said that they do not see any vital American interest in Haiti. What does it take to constitute a vital interest—someone else's oil halfway around the world. I am sad to say that our foreign policy has not been colorblind. I have to wonder if the problem is not that Haitians are people of color.

Mr. Chairman, I am proud to be a Member of this House of Representatives (the people's House), but history has taught me that the President of the United States does not have to come to Congress to direct U.S. Troops. Setting a date certain for the withdrawal of U.S. Troops will only endanger the lives of American soldiers.

We in this House are not military experts and military decisions should not be made by us. We must not prevent our military forces from completing their mission in a safe and orderly fashion.

One thing I can say, that the Members on the other side of the aisle talk a good talk but they do not walk that walk.

I urge my colleagues to support the Dellums/Murtha/Hastings Amendment.

Mr. GILMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman from New York for yielding me the time.

Mr. Chairman, the events that have led us to this day are shameful.

Three weeks ago President Clinton sent General Colin Powell, Senator SAM NUNN and former President Carter to Haiti to negotiate a deal with Haitian strongman Raoul Cedras.

According to press reports, Haitian General Philippe Biamby ran into the negotiating room and announced that the planes had left Fort Bragg and the attack was about to begin.

All this while our team, including a Senatorial colleague and a former President, was negotiating in good faith.

Now we are being asked retroactively to approve the actions of the President. In other words, we are being asked to provide him with political cover in case anything goes wrong in Haiti, such as our troops being ambushed on a dark night. We are being asked to support our troops. I do. I always have and always will. That is why I say we must bring our troops home and as soon as possible.

We should have passed the Michel-Gilman substitute which covered all the basic points that we feel are vital, but we did not.

I do not think the Dellums-Murtha amendment goes far enough, but because of the crazy way king-of-the-hill rules work, I will vote for this amendment and vote against final passage.

As he was being led to the gallows, Nathan Hale said, "I regret I have but one life to give to my country."

I wish some Haitians would say that and would sacrifice for their country the way Americans did, Afghans did and the French Underground did.

However, I did not see an armed rebellion in Haiti. The military had replaced the elected President as they have in several other Latin American countries.

Americans should not be used as pawns for other nations' policies or their internal problems. America should not become involved in foreign entanglements unless there is an identifiable American national security interest.

There is none in Haiti. Not a single one of our brave young soldiers should lose his or her life to bolster the approval rating of a President. Let us bring them home now.

□ 2240

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. KLEIN].

Mr. KLEIN. Mr. Chairman, I rise in support of the Dellums-Murtha resolution.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I thank my friend from California for yielding the time and I rise in strong support of his amendment.

I have listened to the debate very carefully today and I have heard a lot of bashing of the President. I have heard Members saying that he is doing the wrong thing. I have heard Members trying to accuse the President of scoring brownie points. Frankly, I think it is the other way around. I think that any time you have the President trying to do anything you always have a certain number of people on the other side of the aisle who are going to say it is the wrong thing.

I am here to say, as I said last night, that foreign policy ought to be bipartisan, the way some of us supported the President, President Bush, in the Persian Gulf war. And I was one of those Democrats that did. We ought to have bipartisan support for our forces in Haiti. We ought to give credit where credit is due.

Our forces entered Haiti. They did not enter Haiti as an occupying force having to shoot their way in. They were welcomed by cheering Haitians in an attempt to restore democracy. I cannot understand Members who say that we have no vital interests in Haiti. Certainly, when the boat people come to our shores trying to get into this country we know that it affects the United States.

This is not something that is going on on the other side of the world. This is right here in the Western Hemisphere. If it was good enough for Panama and good enough for Grenada, it certainly is good enough for Haiti.

Let me tell my colleagues, this resolution is infinitely reasonable and responsible. It says that the President should have sought congressional approval. I think most of us agree. I said that last night.

It says that Congress supports a prompt and orderly withdrawal of all forces as soon as possible. No one can disagree with that.

It says the departure from power of the Haitian military and restoration of democracy is in the best interest of the Haitian people, and in the best interest of the American people I might add. We should not argue with that.

We should not revert to some kind of isolationism here and pretend that what goes on in Haiti does not affect the United States. It does. Let us not tie our troops. We all know that we are better off not having a date certain.

Although there is much in the other resolutions I support, this is the best resolution, and I think we should vote for it in a bipartisan fashion.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, a couple of weeks ago I answered the President in his radio message to the country and said that an invasion of Haiti could have been one of the most foolish acts of foreign policy of this century. Fortunately, the invasion was made unnecessary by President Carter.

But our troops have instead taken to nation-building under the guise of intervention on behalf of an unstable Jean-Bertrand Aristide. Yes, we are in Haiti today and our troops have done well and peace is restored temporarily, at least for the most part. And Aristide is returning on October 15.

But before then, and for the last couple of years, he has been living on Haitian money, a great deal of Haitian money while living off the fat of the land in the United States. I suggest that he take that Haitian money and that he buy himself a security force so that we can pull our troops out the very next day after he arrives.

Haiti is not in our national interest, and certainly far less so than is Cuba. Let us not endorse this policy. Let us not debate the unnecessary nuances of what has turned into a major blunder from which we cannot extract ourselves. Let us put our troops out. Let us vote "no" and "no" and avoid all pretense of support for this failed policy.

Mr. DELLUMS. Mr. Chairman, I yield 1 minute to my distinguished colleague, the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, Before our troops went into Haiti, I joined with my colleagues who believed the President should have sought and welcomed congressional approval before deploying United States Armed Forces to Haiti. That is a responsibility that should be honored by any President—not just this President, but all Presidents regardless of party.

But that is not the issue before us today. Today American troops are on the ground in Haiti.

There is no rule of the House requiring consistency among Members. But I wish there were a bell that would ring when an inconsistency becomes so obviously contradictory and so obviously partisan—as the objections of many Republicans over United States policy in Haiti.

Where were these protesting Republicans when United States troops went into Grenada and Panama? Some of them were standing on this very floor. And what were they saying? They were praising Republican administrations for sending in the troops. And they were chastising Democrats for raising questions.

Now, today, they were saying that we should demand that our troops be pulled from Haiti immediately. Never mind that U.S. military commanders on the ground say that such congressional vote would endanger the lives of our troops. Never mind that the words of the Republican leadership today are 180 degrees opposite what they have said about U.S. troop involvements in the past.

A few years ago this body was faced with the choice of whether to support the use of force against Iraq. Many Democrats, and I was one of them voted against the use of force. We wanted to allow sanctions more time. We wanted every possible step to be taken to avoid the unnecessary deaths of young Americans. Many of those same Democrats also expressed concerns about a use of force in Grenada, in Panama, and yes, in Haiti.

But the moment our troops were on the ground, we recognized that it would be wrong to do anything other than to give them our absolute support. We recognized that irresponsible resolutions, fostered by a partisan spirit and pushed for partisan purposes, would be unconscionable. We rallied round as Americans always have. We kept first and foremost in our minds that when U.S. troops are in harm's way, we would do nothing and say nothing that might endanger them.

If there is meaning to the flying of our flag. There is meaning to the Government over which that flag flies and there is meaning to that Government standing together under Old Glory to support our military commanders when they are leading our Armed Forces, our troops, our men and women on foreign soil.

Now is not the time for this fractious Congress to micromanage military operations. Now is the time for us to show our patriotism and stand up for our troops.

I encourage my colleagues to support the Dellums, Murtha, Dicks, and Hastings substitute. It will make it clear the consent of Congress should have been attained before our troops were sent into Haiti. It will make it clear Congress wants our troops to leave Haiti as soon as possible. Above all, it keeps foremost the concern for the safety of these young Americans.

This body has been wracked by partisanship for too long. All of us should be willing to draw the line here. I implore my colleagues not to continue to play politics with the lives of our troops.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Mr. Chairman, I cannot help but be reminded again of the words of George Santayana who said those who fail to learn the lessons of history are condemned to repeat it.

Haiti is a terrible troubled, tragic land. From 1847 to 1915 it had 20 Presidents, not a remarkable number, but 16 of those 20 Presidents were either assassinated or left as a result of being deposed as a result of violent revolution.

In 1915 we sent the U.S. marines in there. We can argue the reasons. They sounded very familiar. The idea was humanitarian purposes and the enforcement of the Monroe Doctrine. It took us 19 years to get out.

Just recently we heard a President use and exploit the policies of what I call emotional manipulation more than anybody I ever heard on a Thursday afternoon regarding a particular leader, military leader who has become our partner at least until October 15.

We have the problem with respect to not even having been asked permission in this body and from the people, and apparently it was more important to get permission of the United Nations. It is clear that the only important case which needs to be made with respect to military intervention in Haiti has never been made. The President failed to make it. That is the question and the case for national security.

Having said all of that, what we are really talking about tonight are these three different resolutions. Does anybody really believe that our passing or not passing any of these three, except to the extent that we try, perhaps with some great futility to express the will of the American people, will make any difference whatsoever in the way that this is carried out? Clearly the President did not think enough to ask us going in. Does it really matter to him what we say now? I do not think so.

Nonetheless, we will go on record. I voted for the first resolution. I am going to vote for this second resolution. I will tell Members why. I am going to vote for it because I am going to interpret, and I am going on record right now as interpreting section (e), "Congress supports a prompt and orderly withdrawal of all United States forces from Haiti as soon as possible," I interpret those words "as soon as possible" as meaning that we will get out of Haiti just as quickly as we got into Haiti. It does not mean next month, it does not mean next year. It means as soon as possible, and in the same sense as when you give a directive to one of your staff members it means as soon as possible.

That is what this means. That is why I am voting for it.

Mr. DELLUMS. Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I rise to express my support for the Dellums-Murtha-Hastings-Dicks amendment.

Mr. Chairman, I rise to express my support for the Dellums-Murtha-Hastings-Dicks substitute to House Joint Resolution 416. This substitute expresses the sense of the Congress that U.S. Armed Forces should be withdrawn in a timely and orderly fashion, but does not set a deadline for withdrawal. It is a responsible amendment sponsored by both the chairman of the Armed Services and the Chairman of the Defense Appropriations Committee.

As a former Peace Corps volunteer, I know the road to recovery must begin with securing stability in Haiti. I do not believe 20,000 U.S. soldiers can create a democracy, in Haiti. The solution rests with the hemisphere responsibility for economic recovery.

This substitute amendment is limiting, it does not specify the role U.S. forces should play when the U.N. peacekeeping operation takes over in the next phase. I strongly believe that the Congress must not remain silent on this issue. For this reason, I am introducing a concurrent resolution today which expresses the sense of the Congress that the United States' troop commitment to peacekeeping operations in Haiti should not exceed the level which the United States is assessed by the United Nations for worldwide peacekeeping operations. We must work our way out of Haiti, and I believe my resolution sets the framework for the peacekeeping phase recognizing that international leadership is essential to help bring a lasting democracy that Haiti desperately needs.

I thank the authors of this substitute for their leadership, I urge my colleagues to support this amendment.

Mr. DELLUMS. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in support of the Dellums-Hastings-Murtha-Dicks resolution. I rise in support because it is time for us to say where we stand on democracy and human rights.

I have been appalled and a little bit pained as I have heard some of my colleagues make certain remarks about Haiti and the people of Haiti. Over and over again I have heard a few Members say Haiti is not worth anything, it is not worth losing one soldier, it is a worthless country. It is difficult for me to understand those kinds of remarks when this country cries out for freedom, when they have been undermined by a military coup. But they tried hard to have democracy. They elected a president. They elected President Aristide. But they have been violated. This coup has killed, they have maimed, they have raped, but they continue.

□ 2250

Our President, in the most compassionate way, tried everything that could be done to have peace talks. We had a Governors Island accord, we worked at sanctions, we stiffened the sanctions, but Cedras continued.

He and Francois continued because Members of this House got on the floor and encouraged them. They told them we would never intervene, that Haiti did not deserve our support, that even this evening we had one Member get up quoting Cedras, talking about support for Cedras.

There are those who would like to signal to them that we are going to get out, and when we are going to get out, so that those who are opposed to democracy and freedom will remain on, will remain opposed to democracy, and know that we are moving out. Why would we want to send that signal? Why would we want to undermine our troops? Why do I not hear the cry for support for American soldiers? Why would we put them in harm's way by telling them when we are going to get out?

We need to say where we stand in this country for freedom and democracy. I thought we were a country who fought for freedom, who fought for democracy, that history demanded that we do that, and yet we stand here this evening undermining the President, undermining our soldiers.

It is time for us to vote to stand up for democracy. Vote for the Dellums resolution. Vote to support our soldiers.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I just want to make certain that we do not kid ourselves about what is happening here. The resolution we have before us now is essentially the resolution that just passed the U.S. Senate. It was voted on overwhelmingly in the U.S. Senate. The people who voted for it there probably came from a mixed point of view, but what a large portion of those Members believed they were doing was basically endorsing the President's policy. This is authorizing the President's policy, and so, therefore, if, in fact, what you do is vote for the Dellums amendment at the present time, you are voting for essentially that proposition which has passed the U.S. Senate and does, in fact, contain language which can be interpreted, and I feel will be interpreted by this administration, as endorsing his policy in Haiti.

That is the reason why many on this floor who are adamantly in favor of endorsing what the President is doing in Haiti have gotten up and spoken for this resolution.

So just so we understand that when we vote for the Dellums bill, we are voting for a specific authorization to go ahead and do what we have been doing in Haiti. I believe that to be the wrong policy.

I believe that the vote we had a few moments ago on the Michel substitute was, in fact, the vote which assures that we get out immediately. To vote for this proposition now will be to vote differently than you voted on that bill and to vote to endorse what is now happening in Haiti.

I believe the papers tomorrow will read, if Republicans and Democrats come together on this, that the papers will read that there was a bipartisan endorsement of our Haiti policy and so on.

I know that there are many on that side of the aisle who will welcome that bipartisan endorsement of the Haiti policy. I think it is a wrong mission. I think it would be a mistake to have that signal come out of this Congress. I do not believe that reflects the majority sentiment in this Congress.

And so, therefore, I would urge a no vote. I do not believe this Congress should be on record as endorsing the President's policy in Haiti.

Mr. GILMAN. Mr. Chairman, I yield 1 minute, the remainder of my time, to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I must say that I have grave reservations about all three of the resolutions before us this evening, in no small part because during our trip to Haiti I was most concerned about the fact that our people are doing a fantastic job there, and if we send any signal that would suggest that America either intends to leave or is leaving quickly or otherwise, conceivably you could strengthen Cedras' hand and the rest of those people.

Having said that, the item that is before us now essentially, and this is according to the Republican analysis, says that the President should withdraw United States forces from Haiti in an orderly fashion as soon as possible; the men and women of the United States Armed Forces have served with distinction; the President should have sought prior congressional approval before deploying United States troops in Haiti; the de facto authorities and restoration of democracy and rule of law are in the best interests of the Haitian people; and the President should continue in his efforts to lift the United Nations and United States-imposed sanctions against Haiti.

The resolution has a lot to be said for it, ladies and gentlemen.

Mr. DELLUMS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, I support the Dellums amendment, You bet your life it has a lot to be said.

It means when the President of the United States and those that have a commitment to fragile democracies throughout this world speak and the civilized international community hears it, whether it is the United Nations or, in this case, the Organization of American States, that the word of the United States means something.

But more than that, what I think it means is that when our young men and women enter into the armed services and when their Commander in Chief places them in a situation where it is his belief that the security of the United States is at risk, it means that this U.S. Congress will not second-guess him. It means that we want them to come home as soon as possible, but we will not send a message to the enemy or those who are the foes of democracy that we know more than the President of the United States; or the generals who serve this republic so violently in Haiti, that we will not put them at risk. I would say you can have your double standard on Haiti, you can have your partisanship as relates to Democrats and Republicans, but for God's sake do not take it out on our young men and women who are now stationed in Haiti.

Mr. DELLUMS. Mr. Chairman, I yield myself 1½ minutes, the remainder of my time.

Mr. Chairman, this has been referred to as the Dellums-Murtha-Hastings-Dicks amendment. It has been my very high honor and great pleasure to control 30 minutes of this debate.

This is not RON DELLUMS' amendment. I am not that arrogant nor that egotistical.

What brings the four of us together from very different vantage points? The gentleman from Pennsylvania [Mr. MURTHA] and I do not have the same politics; the gentleman from Washington [Mr. DICKS] and the gentleman from California [Mr. DELLUMS] do not always have the same politics; and sometimes, but perhaps more rarely, the gentleman from Florida and the gentleman from California do not share the same politics.

But tonight, at this moment in this place, these four people walking four radically different paths have come together for one purpose, and that is to speak to the magnificence of the human condition and the right of people in Haiti to stand on the ground of freedom and dignity, self-respect, and democracy.

And I urge my colleagues to overwhelmingly support this amendment offered by this coalition.

Mr. POSHARD. Mr. Chairman, I rise this evening to state for the record my views concerning Haiti. I am extremely thankful this country has such fine men and women who are willing to serve in our Armed Forces. As an Army veteran, I have a special appreciation for the devotion and dedication they bring to their service. All of us, regardless of how we may vote on the resolutions before us tonight, send the men and women in uniform our thanks.

I did not support an invasion of Haiti. While I support the return of a democratically elected president, I do not believe it is our place to simply install our preference without more substantial cause than what has been shown in Haiti. We must face clear national security risks before we commit to an invasion which will surely cost American lives.

I was thankful when the delegation headed by General Powell, Senator NUNN and former President Carter was able to negotiate an agreement to return exiled President Aristide to a position of authority in Haiti. Their work to this point has, thankfully, avoided the loss of life which certainly would have resulted from an invasion. But as I listen to the debate this evening, I am even more convinced this is what the American people deserved before we took any significant military action in Haiti. That is why I added my name to legislation to require the President to seek Congressional approval prior to taking military action.

It is for that reason that I cannot support the resolution offered by my colleague Congressman MICHEL, nor the proposal offered by Congressman HAMILTON.

The Michel resolution calls for the immediate withdrawal of American troops, while at the same time stating that the president should not have ordered U.S. Forces into Haiti. While I opposed an invasion, to order them out now would jeopardize the safety of those soldiers who are doing their all to bring some stability to the situation in Haiti. I will also vote against the Hamilton resolution, because it specifically authorizes the action which the President has taken. Because I believe so strongly that the President should have sought congressional approval prior to committing troops, I cannot now support a resolution which authorizes such action.

The Murtha resolution calls for a prompt and orderly withdrawal of U.S. Forces, while commending the men and women serving their country. It requires the administration to report regularly on the progress of our efforts in Haiti and to further establish the goals and objectives under which we operate. This is parallel to the resolution which the Senate will consider under the bipartisan support of Senators DOLE and MITCHELL.

President Aristide is scheduled to return October 15. I hope the multi-national force which will be stationed in Haiti will secure the democracy for which the Haitian people hunger. I think the Murtha resolution offers us the best opportunity to achieve our goals while securing the swift return of our American men and women in uniform, and therefore I give it my support.

Ms. PELOSI. Mr. Chairman I rise today in support of the Dellums-Murtha-Hastings-Dicks amendment, which urges the withdrawal of United States troops from Haiti in a prompt and orderly fashion, as soon as possible. President Clinton is to be commended for his leadership in pursuing additional diplomatic efforts to avoid bloodshed.

I join with those who believe that we have a real national interest in promoting democracy and human rights in Haiti. Peace and prosperity in our hemisphere is a very real national security issue. The restoration of a democratically-elected government in our own backyard will send a message to despots around the world and help to stop the flow of refugees to our shores.

While it is in our national interest to promote democracy and human rights in Haiti, it is in the interest of the lives of our young people now serving there that we act responsibly and sensibly in our policy. I support the Dellums-Murtha amendment because I believe that we should withdraw our troops as soon as possible. I also believe, however, that setting a date certain for troop withdrawal would unnecessarily endanger both our troops on the ground and our efforts at promoting democracy in Haiti.

As many of my colleagues know, I generally do not support the use of force because I truly believe that negotiated solutions lead to a stronger and more lasting peace. That is why I opposed an invasion of Haiti. I do believe that the presence of United States troops in Haiti has made a positive difference. The violence and human rights abuses have been curtailed; the Parliament is reestablishing itself; the Haitian military and para-military forces are being brought under control. If we in Congress demand today that our troops leave Haiti by a specific date, it will shift the momentum of change and start another waiting-game. Haiti's military leaders will know that all they have to do in order to regain control is wait for the United States to leave.

Mr. Chairman, I would like to go on record with several of my reservations regarding the current United States policy toward Haiti. First, I believe that President Clinton had a Constitutional obligation to seek Congressional approval before deploying United States troops to Haiti. Neither the relationship between the Executive and Legislative branches nor the President's policy toward Haiti were well-served by the manner in which the Administration proceeded.

Second, however pleased we all were to have avoided an invasion, the deal made by the Carter delegation to resolve this conflict should not serve as a model for future dealings with brutal dictators. In addressing the nation on Haiti, President Clinton characterized the Haitian regime as the "most violent in our hemisphere," and cited their atrocities, including the execution of children, as justification for the invasion of Haiti. President Carter and Colin Powell characterized these same men as "honorable." The barbarous junta succeeded in being treated with respect and their brutal actions may ultimately go unpunished. We must make it clear to all who brutalize their people that they will answer for their actions in an international court of law.

Mr. Speaker, for the sake of our young people serving in Haiti and for the sake of those who are struggling for democratic reform in Haiti, I urge my colleagues to reject attempts to legislate an arbitrary deadline for the removal of our troops and to support a prompt and orderly withdrawal at the soonest possible time.

Mr. MFUME. Mr. Chairman, I rise today in favor of the substitute offered by my colleagues Messrs. DELLUMS, MURTHA, HASTINGS, and DICKS.

I believe that this substitute offers an exemplary balance between congressional oversight and management by the executive branch of military operations and foreign relations.

Let me begin by saying that, like many of my colleagues, I had some concerns about a military invasion of Haiti.

Furthermore, like most Americans, I was relieved when the outcome of the Carter team's negotiations was announced and the American troops were able to enter into Haiti peacefully.

Since then, American troops have been doing an outstanding job of returning peace, freedom, and stability to the island nation.

Our troops deserve our utmost respect and our most sincere thanks for the job they are doing in Haiti.

Mr. Chairman, I submit to you that the situation in Haiti is in the national interest of the United States.

If the United States, along with other world powers, had sat back and allowed the military leaders to control Haiti with no repercussions, other military leaders in other nations may have taken that as a positive sign.

The unfortunate truth is that despite the best of intentions, and in many cases strong traditions, a number of nations in the Caribbean have strong militaries that may be watching Haiti to see what sort of reception they would receive should they stage a similar coup.

The potential for Haiti to be a destabilizing force in the region is, unfortunately, strong. So I believe that the actions taken by the President were correct, and I am hopeful that democracy will be returned to Haiti soon. Yet some Members here want to tie the President's hands; they want to micro-manage the foreign and military policies of the nation.

While I do believe that it was the intention of the Framers of the Constitution to have the Congress oversee military and foreign operations, I do not believe that they would have wanted 535 Secretaries of Defense and 535 Secretaries of State.

As I said earlier, I believe that the Dellums-Murtha-Hastings-Dicks amendment is a good balance, allowing Congress the oversight of the mission that it should perform while, at the same time, allowing the President and his military advisors the room to make the decisions that they feel are best for the mission and for the troops.

I further support the fact that the Dellums-Murtha-Hastings-Dicks amendment calls for the "prompt and orderly withdrawal of the United States forces from Haiti as soon as possible."

Since the possibility of an invasion of Haiti was first discussed, I have advocated a prompt withdrawal of United States troops, to be replaced by multinational peacekeepers, led by either the United Nations or the O.A.S.

While I support the philosophy that the United States should help people, especially our neighbors, pursue their basic rights as human beings, I do not believe that this provides the United States a free license to impose our strength or our beliefs on other nations.

Therefore, I hope that the President will withdraw our troops quickly, and that multinational, perhaps even regional forces will be installed to help the country rebuild.

Mr. Chairman, as I said earlier I support the Dellums-Murtha-Hastings-Dicks substitute and I urge my colleagues to do the same. The substitute requires that the President report to the Congress, and that he stay in contact with us relative to the ongoing mission. It further requires that the President answer many of the questions that some in the American public, and indeed the Congress, feel have gone unanswered, such as the scope of the mission, the general rules of engagement for our forces, and the approximate cost.

The American public has a right to know these answers, and while I believe that the President has been as up-front as possible, I hope that enactment of the Dellums-Murtha-Hastings-Dicks substitute will help those who are not yet satisfied.

Mr. Chairman, I support the President as I feel he has done an admirable job in a tough situation. He has done the right thing.

Mr. Chairman, I also support our troops, as I believe that they are showing the world that the United States is ready and able to handle any assignment.

Finally, I support the substitute offered by my colleagues, Messrs. DELLUMS, MURTHA, HASTINGS, and DICKS, as I believe it is the best policy.

Mr. COYNE. Mr. Chairman, I want to state my strong support for the resolution on Haiti offered by Representatives DELLUMS and MURTHA.

Let me begin by stating that the American people owe a great debt of gratitude to the men and women of the U.S. military who serve to defend our country. The American service personnel now in Haiti have a right to be proud of their role in the effort to restore democracy to Haiti. They are fighting to defend and uphold the most sacred values of our Nation, including the principle that people have a right to liberty under the rule of law.

I believe strongly that these brave men and women should be brought home as soon as possible. The Dellums/Murtha resolution calls for just that. All U.S. troops would be withdrawn at the earliest possible date.

At the same time, this resolution recognizes the need for the Commander in Chief to direct the withdrawal of troops in a way that protects the safety of United States forces in Haiti. This resolution also directs the Administration to issue a report to Congress stating the specific security interests of the United States in Haiti. Finally, this resolution makes clear the position that Congress should have been consulted prior to the commitment of U.S. forces and that approval for this action should have been sought.

I would not, however, support an immediate and ill-planned departure of United States troops from Haiti. This could put U.S. military personnel at risk and would certainly sacrifice any hope of restoring democracy in that country. An immediate withdrawal would, in fact, reward the military dictators who doubted America's resolve to defend democracy in this hemisphere. An immediate withdrawal would throw away all of the advances that are being achieved daily in restoring order and bringing about a restoration of democracy in the nation of Haiti.

The basic facts of the situation in Haiti are undisputed. President Artistide was elected in an honest election by the overwhelming majority of the Haitian people. This new legitimate government was overthrown by a group of military dictators who perpetuated their brutal regime by means of murder, physical beatings, kidnapping and intimidation. The United States and the international community strived for over 3 years to restore the democratically elected government of Haiti. This effort was thwarted again and again by a military regime of murderers and profiteers.

President Clinton made every possible effort to achieve the restoration of democracy in Haiti through diplomatic means. President Clinton and the diplomatic team led by former President Carter deserve great credit for securing the peaceful arrival of United States troops in Haiti as part of a multinational effort to restore democracy. I was very pleased the United States was able to avert a forceful invasion. It remains my hope that the multinational coalition led by the United States can help to secure respect for democracy and human rights in Haiti.

Mr. Chairman, Congress should adopt the Dellums/Murtha resolution which supports the brave efforts of our troops who are seeking to uphold democracy in Haiti. I urge my colleagues to support this resolution.

Mr. BISHOP. Mr. Chairman, 2 weeks ago, several thousand men and women of our Armed Forces were deployed to Haiti, ostensibly to establish law and order and to pave the way for the return of the ousted president, Jean-Bertrand Aristide. The arrival of our forces in Haiti was made much more permissible through the negotiating efforts of former President Jimmy Carter, former Chairman of the Joint Chiefs of Staff Colin Powell, and the Chairman of the Senate Armed Services Committee, SAM NUNN. These three patriots, all of whom have long and distinguished histories of service to our great country, were dispatched to Haiti by President Clinton in one last diplomatic effort to avoid military conflict. In this regard, President Clinton deserves credit for assembling the Carter delegation.

Mr. Chairman, now that our forces occupy Haiti, the question being asked by my constituents and most Americans is: how long will they remain? I urge the administration to take all appropriate steps to ensure that our forces are withdrawn from Haiti as expeditiously as possible. Yet, I am not prepared at this time to support efforts in Congress to set a date certain for the withdrawal of United States forces, for I believe that to do so would tie the President's hands and provide incentives to those elements in Haitian society who wish to skirt the September 18 agreement signed by President Carter and General Cedras. It is my heartfelt belief, however, that a United Nations peacekeeping force should take control of the Haitian mission and that this should be accomplished in as short a time period as possible.

Mr. Chairman, the administration must be congratulated for its success in avoiding an armed military conflict. However, the difficulties of rebuilding a nation torn apart by a dictatorial and brutal military regime will be manifold and should not be borne by the United States alone. The United Nations Security Council passed a resolution authorizing actions such as the United States undertook to restore President Aristide to power, and it should be a United Nations peacekeeping force which rebuilds Haiti's dilapidated infrastructure and guarantees the establishment of democracy and democratic institutions.

So tonight, Mr. Chairman, and my colleagues of this House, I believe that our best and most prudent course of action is to support the Dellums-Murtha-Hastings and Dicks substitute.

Mr. Chairmam, I rise today to declare my unequivocal support for our troops in Haiti. They are already there. They have a job to do. They are disarming the thugs who refused to recognize a democratically elected government. They deserve our support.

Like many of my colleagues, I was very gratified to see the special delegation obtain the peace which allowed our troops to arrive there safely. But there is work to be done. The military leaders must resign by October 15. An exiled president must be returned to power. Finally, the people of Haiti must come to the realization that democracy and respect for the rule of law must prevail.

The Michel resolution just defeated called for the withdrawal of our troops within 30 days. Mr. Speaker, I submit to you that this resolution is nothing more than a partisan attempt to embarrass the President. The approval of that resolution would have sent the wrong signal to our friends and enemies around the world. It will show other armed thugs that the United States is a pushover in world affairs and only will move in when we are given dates certain to get out.

Like many of my colleagues, I also want our troops to come home soon. The Dellums-Murtha resolution allows for that. It calls on the President to give the Congress periodic reports on the transition to democracy in Haiti. Most of all it does not overly hamper this President or our country in conducting an effective foreign policy.

This executive action—like all others before and after—should be preceded by congressional approval. The War Powers Act demands that. But this President, like others before him, elected to act without waiting for that approval. Congress therefore will only be able to control these types of actions by deciding whether or not to fund them. Many of us would have preferred that this not be the route the executive branch chooses to take. But like Somalia, Panama, Grenada, and even the Dominican Republic before, we must now act after the fact.

President Clinton took a huge chance in calling for an invasion on September 18. All of the polls showed the country was against him. The majority of the Congress indicated they would not support him. Yet, he ordered the invasion because he knew that history was on our side in this hemisphere. Other nations will, I believe, join us and we can perhaps assist Haiti on the road to democracy which is indeed in our national interest.

Mr. Chairman, our troops, 20,000 strong, are at this moment doing a very difficult job in Haiti. Let's get behind them. Support the President. Support the Dellums-Murtha resolution.

Mr. DELLUMS. Mr. Chairman, I yield back the balance of my time.

□ 2300

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. DELLUMS].

The question was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 258, noes 167, answered "present" 1, not voting 13, as follows:

[Roll No. 498]

AYES—258

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Beilenson
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks

Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Grandy
Green
Gunderson
Gutierrez
Hall (OH)
Hamburg
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoke
Hoyer
Hughes
Hutto
Inglis
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Klein
Klink
Kopetski
Kreidler
LaFalce
Lantos
LaRocco
Laughlin
Lehman
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McCollum
McDade
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Moran
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Olver
Ortiz
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Pickett
Pickle
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Romero-Barcelo (PR)
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Spence
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Underwood (GU)
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOES—167

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Bartlett
Barton
Bereuter
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Calvert
Camp
Canady
Cantwell
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Doolittle
Dreier
Duncan
Dunn
Ewing
Faleomavaega (AS)
Fawell
Fields (TX)
Filner
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Greenwood
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hefley
Herger
Hobson
Hoekstra
Holden
Horn
Houghton
Hunter
Hutchinson
Hyde
Istook
Johnson (SD)
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Lazio
Leach
Levin
Levy
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
Mazzoli
McCandless
McCrery
McCurdy
McHugh
McInnis
McKeon
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Pryce (OH)
Quillen
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Skaggs
Smith (NJ)
Smith (TX)
Snowe
Solomon
Stearns
Stenholm
Stump
Swett
Talent
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Walker
Williams
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Owens

NOT VOTING—13

Applegate
Dornan
Fish
Gallo
Huffington
Inhofe
Ravenel
Slattery
Smith (OR)
Sundquist
Tucker
Washington
Whitten

□ 2318

Messrs. PALLONE, CUNNINGHAM, McINNIS, and GOODLING changed their vote from "aye" to "no."

Mr. INSLEE changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

Mr. DELLUMS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 2320

Accordingly, the Committee rose; and the Speaker pro tempore having assumed the chair, Mr. McDERMOTT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Chairman, although on the floor for vote on rollcall 498, I neglected to vote. I had spoken against the Dellum-Murtha amendment, so, obviously, I would have voted no.

CONFERENCE REPORT ON S. 1569, MINORITY HEALTH IMPROVEMENT ACT OF 1994

Mr. WAXMAN submitted the following conference report and statement on the Senate bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-843)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1569), to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Minority Health Improvement Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—OFFICES OF MINORITY HEALTH; ASSISTANT SECRETARY FOR CIVIL RIGHTS

Sec. 101. Revision and extension of programs of Office of Minority Health.
Sec. 102. Establishment of individual offices of minority health within agencies of Public Health Service.
Sec. 103. Assistant Secretary of Health and Human Services for Civil Rights.

TITLE II—PRIMARY HEALTH SERVICES

Sec. 201. Migrant health centers; community health centers.
Sec. 202. Health services for the homeless.
Sec. 203. Health services for residents of public housing.
Sec. 204. Grants to States for loan repayment programs regarding obligated service of health professionals.
Sec. 205. Grants to States for operation of State offices of rural health.
Sec. 206. Demonstration grants to States for community scholarship programs regarding obligated service of health professionals.
Sec. 207. Programs regarding birth defects.
Sec. 208. Healthy start for infants.
Sec. 209. Demonstration projects regarding diabetic-retinopathy.
Sec. 210. Issuance of regulations regarding language as impediment to receipt of services.

TITLE III—HEALTH PROFESSIONS PROGRAMS

Sec. 301. Primary care scholarships for students from disadvantaged backgrounds.
Sec. 302. Scholarships generally; certain other purposes.
Sec. 303. Loan repayments and fellowships regarding faculty positions.
Sec. 304. Centers of Excellence.

Sec. 305. Educational assistance regarding undergraduates.
Sec. 306. Student loans regarding schools of nursing.
Sec. 307. Federally-supported student loans funds.
Sec. 308. Area health education centers.
TITLE IV—RESEARCH
Sec. 401. Office of Research on Minority Health.
Sec. 402. Activities of Agency for Health Care Policy and Research.
Sec. 403. Data collection by National Center for Health Statistics.
TITLE V—NATIVE HAWAIIAN HEALTH CARE
Sec. 501. Clarification of 1992 amendments.
Sec. 502. Amendment of Native Hawaiian Health Care Improvement Act to reflect 1992 agreement.
Sec. 503. Repeal of Public Health Service Act provision.
TITLE VI—WOMEN'S HEALTH
Sec. 601. Establishment of Office of Women's Health.
Sec. 602. Women's scientific employment regarding National Institutes of Health.
Sec. 603. Information and education regarding female genital mutilation.
Sec. 604. Study regarding curricula of medical schools and women's health conditions.
TITLE VII—TRAUMATIC BRAIN INJURY
Sec. 701. Programs of Centers for Disease Control and Prevention.
Sec. 702. Programs of National Institutes of Health.
Sec. 703. Programs of Health Resources and Services Administration.
Sec. 704. Study; consensus conference.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Technical amendment to Indian Health Care Improvement Act.
Sec. 802. Health services for Pacific Islanders.
Sec. 803. Technical corrections regarding Public Law 103–183.
Sec. 804. Certain authorities of Centers for Disease Control and Prevention.
Sec. 805. Establishment of public health analytical laboratory.
Sec. 806. Administration of certain requirements.
Sec. 807. Revisions to eligibility requirements for entities subject to drug pricing limitations.
Sec. 808. Demonstration projects regarding Alzheimer's disease.
Sec. 809. Technical corrections relating to health professions programs.
Sec. 810. Clinical traineeships.
Sec. 811. Construction of regional centers for research on primates.
TITLE IX—GENERAL PROVISIONS
Sec. 901. Effective date.

TITLE I—OFFICE OF MINORITY HEALTH; ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEC. 101. REVISION AND EXTENSION OF PROGRAMS OF OFFICE OF MINORITY HEALTH.

(a) In General.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended by striking subsection (b) and all that follows and inserting the following:

"(b) Duties.—With respect to improving the health of racial and ethnic minority groups, the Secretary, acting through the Deputy Assistant Secretary for Minority Health (in this section referred to as the 'Deputy Assistant Secretary'), shall carry out the following:

"(1) Establish short-range and long-range goals and objectives and coordinate all other activities within the Public Health Service that relate to disease prevention, health promotion, service delivery, and research concerning such individuals. The heads of each of the agencies of the Service shall consult with the Deputy Assistant Secretary to ensure the coordination of such activities.

"(2) Carry out the following types of activities by entering into interagency agreements with other agencies of the Public Health Service:

"(A) Support research, demonstrations and evaluations to test new and innovative models.

"(B) Increase knowledge and understanding of health risk factors.

"(C) Develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including individuals who are members of racial or ethnic minority groups.

"(D) Ensure that the National Center for Health Statistics collects data on the health status of each minority group.

"(E) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of the individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

"(3) Support a national minority health resource center to carry out the following:

"(A) Facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care.

"(B) Facilitate access to such information.

"(C) Assist in the analysis of issues and problems relating to such matters.

"(D) Provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance).

"(4) Carry out programs to improve access to health care services for individuals with limited proficiency in speaking the English language by facilitating the removal of impediments to the receipt of health care that result from such limitation. Activities under the preceding sentence shall include conducting research and developing and evaluating model projects.

"(5) Not later than June 8 of each year, the Deputy Assistant Secretary shall submit to the Secretary a report summarizing the activities of each of the minority health offices under section 1707A.

"(c) Advisory Committee.—

"(1) In general.—The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Health (in this subsection referred to as the 'Committee'). The Deputy Assistant Secretary shall consult with the Committee in carrying out this section.

"(2) Duties.—The Committee shall provide advice to the Deputy Assistant Secretary carrying out this section, including advice on the development of goals and specific program activities under paragraphs (1) and (2) of subsection (b) for each racial and ethnic minority group.

"(3) Chair.—The Deputy Assistant Secretary shall serve as the chair of the Committee.

"(4) Composition.—

"(A) The Committee shall be composed of 12 voting members appointed in accordance with subparagraph (B), and nonvoting, ex officio members designated in subparagraph (C).

"(B) The voting members of the Committee shall be appointed by the Secretary from among individuals who are not officers or employees of the Federal Government and who have expertise regarding issues of minority health. The racial and ethnic minority groups shall be equally represented among such members.

"(C) The nonvoting, ex officio members of the Committee shall be the directors of each of the minority health offices established under section 1707A, and such additional officials of the Department of Health and Human Services as the Secretary determines to be appropriate.

"(5) Terms.—Each member of the Committee shall serve for a term of 4 years, except that the Secretary shall initially appoint a portion of the members to terms of 1 year, 2 years, and 3 years.

"(6) Vacancies.—If a vacancy occurs on the Committee, a new member shall be appointed by the Secretary within 90 days from the date that the vacancy occurs, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Committee.

"(7) Compensation.—Members of the Committee who are officers or employees of the United States shall serve without compensation. Members of the Committee who are not officers or employees of the United States shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Committee. Such compensation may not be in an amount in excess of the daily equivalent of the annual maximum rate of basic pay payable under the General Schedule (under title 5, United States Code) for positions above GS-15.

"(d) Certain Requirements Regarding Duties.—

"(1) Recommendations regarding language as impediment to health care.—The Secretary, acting through the Director of the Office of Refugee Health, the Director of the Office of Civil Rights, and the Director of the Office of Minority Health of the Health Resources and Services Administration, shall make recommendations to the Deputy Assistant Secretary regarding activities under subsection (b)(4).

"(2) Equitable allocation regarding activities.—

"(A) In making awards of grants, cooperative agreements, or contracts under this section or section 338A, 338B, 340A, 404, 724, 736, 737, 738, or 740, the Secretary, acting as appropriate through the Deputy Assistant Secretary or the Administrator of the Health Resources and Services Administration, shall ensure that such awards are equitably allocated with respect to the various racial and minority populations.

"(B) With respect to grants, cooperative agreements, and contracts that are available under the sections specified in subparagraph (A), the Secretary shall—

"(i) carry out activities to inform entities, as appropriate, that the entities may be eligible for awards of such assistance;

"(ii) provide technical assistance to such entities in the process of preparing and submitting applications for the awards in accordance with the policies of the Secretary regarding such application; and

"(iii) inform populations, as appropriate, that members of the populations may be eligible to receive services or otherwise participate in the activities carried out with such awards.

"(3) Cultural competency of services.—The Secretary shall ensure that information and services provided pursuant to subsection (b) are provided in the language and cultural context that is most appropriate for the individuals for whom the information and services are intended.

"(e) Grants and Contracts Regarding Duties.—

"(1) In general.—In carrying out subsection (b), the Deputy Assistant Secretary may make awards of grants, cooperative agreements, and contracts to public and nonprofit private entities.

"(2) Process for making awards.—The Deputy Assistant Secretary shall ensure that

awards under paragraph (1) are made only on a competitive basis, and that an award is made for a proposal only if the proposal has been recommended for such an award through a process of peer review and has been so recommended by the advisory committee established under subsection (c).

"(3) EVALUATION AND DISSEMINATION.—The Deputy Assistant Secretary, directly or through contracts with public and private entities, shall provide for evaluations of projects carried out with awards made under paragraph (1) during the preceding 2 fiscal years. The report shall be included in the report required under subsection (f) for the fiscal year involved.

"(f) BIENNIAL REPORTS.—Not later than February 1 of fiscal year 1996 and of each second year thereafter, the Deputy Assistant Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities carried out under this section during the preceding 2 fiscal years and evaluating the extent to which such activities have been effective in improving the health of racial and ethnic minority groups. Each such report shall include the biennial reports submitted to the Deputy Assistant Secretary under section 1707A(e) for such years by the heads of the minority health offices.

"(g) DEFINITION.—For purposes of this section:

"(1) The term 'racial and ethnic minority group' means American Indians (including Alaskan Natives, Eskimos, and Aleuts); Asian Americans and Pacific Islanders; Blacks; and Hispanics.

"(2) The term 'Hispanic' means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $21,000,000 for fiscal year 1995, $25,000,000 for fiscal year 1996, and $28,000,000 for fiscal year 1997.

"(2) ALLOCATION OF FUNDS BY SECRETARY.—Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $15,000,000, the Secretary shall make available not less than $3,000,000 for carrying out subsection (b)(2)(E).".

(b) MISCELLANEOUS AMENDMENT.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u–6) is amended in the heading for the section by striking "ESTABLISHMENT OF".

SEC. 102. ESTABLISHMENT OF INDIVIDUAL OFFICES OF MINORITY HEALTH WITHIN AGENCIES OF PUBLIC HEALTH SERVICE.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by inserting after section 1707 the following section:

"INDIVIDUAL OFFICES OF MINORITY HEALTH WITHIN PUBLIC HEALTH SERVICE

"SEC. 1707A. (a) IN GENERAL.—The head of each agency specified in subsection (b)(1) shall establish within the agency an office to be known as the Office of Minority Health. Each such Office shall be headed by a director, who shall be appointed by the head of the agency within which the Office is established, and who shall report directly to the head of the agency. The head of such agency shall carry out this section (as this section relates to the agency) acting through such Director.

"(b) SPECIFIED AGENCIES.—

"(1) IN GENERAL.—The agencies referred to in subsection (a) are the following:

"(A) The Centers for Disease Control and Prevention.

"(B) The Agency for Health Care Policy and Research.

"(C) The Health Resources and Services Administration.

"(D) The Substance Abuse and Mental Health Services Administration.

"(2) NATIONAL INSTITUTES OF HEALTH.—For purposes of subsection (c) and the subsequent provisions of this section, the term 'minority health office' includes the Office of Research on Minority Health established within the National Institutes of Health. The Director of the National Institutes of Health shall carry out this section (as this section relates to the agency) acting through the Director of such Office.

"(c) COMPOSITION.—The head of each specified agency shall ensure that the officers and employees of the minority health office of the agency are, collectively, experienced in carrying out community-based health programs for each of the various racial and ethnic minority groups that are present in significant numbers in the United States. The head of such agency shall ensure that, of such officers and employees who are members of racial and ethnic minority groups, no such group is disproportionately represented.

"(d) DUTIES.—Each Director of a minority health office shall monitor the programs of the specified agency of such office in order to carry out the following:

"(1) Determine the extent to which the purposes of the programs are being carried out with respect to racial and ethnic minority groups;

"(2) Determine the extent to which members of such groups are represented among the Federal officers and employees who administer the programs; and

"(3) Make recommendations to the head of such agency on carrying out the programs with respect to such groups. In the case of programs that provide services, such recommendations shall include recommendations toward ensuring that—

"(A) the services are equitably delivered with respect to racial and ethnic minority groups;

"(B) the programs provide the services in the language and cultural context that is most appropriate for the individuals for whom the services are intended; and

"(C) the programs utilize racial and ethnic minority community-based organizations to deliver the services.

"(e) BIENNIAL REPORTS TO SECRETARY.—The head of each specified agency shall submit to the Secretary for inclusion in each biennial report under section 1707(g) (without change) a biennial report describing—

"(1) the extent to which the minority health office of the agency employs individuals who are members of racial and ethnic minority groups, including a specification by minority group of the number of such individuals employed by such office; and

"(2) the manner in which the agency is complying with Public Law 94–311 (relating to data on Americans of Spanish origin or descent).

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'minority health office' means an office established under subsection (a), subject to subsection (b)(2).

"(2) The term 'racial and ethnic minority group' has the meaning given such term in section 1707(g).

"(3) The term 'specified agency' means—

"(A) an agency specified in subsection (b)(1); and

"(B) the National Institutes of Health.

"(g) FUNDING.—

"(1) ALLOCATIONS.—Of the amounts appropriated for a specified agency for a fiscal year, the Secretary may reserve not more than 0.5 percent for the purpose of carrying out activities under this section through the minority health office of the agency. In reserving an amount under the preceding sentence for a minority health office for a fiscal year, the Secretary shall reduce, by substantially the same percentage, the amount that otherwise would be available for each of the programs of the designated agency involved.

"(2) AVAILABILITY OF FUNDS FOR STAFFING.—The purposes for which amounts made available under paragraph (1) may be expended by a minority health office include the costs of employing staff for such office.".

SEC. 103. ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES FOR CIVIL RIGHTS.

(a) IN GENERAL.—Part A of title II of the Public Health Service Act (42 U.S.C. 202 et seq.) is amended by adding at the end the following new section:

"ASSISTANT SECRETARY FOR CIVIL RIGHTS

"SEC. 229. (a) ESTABLISHMENT OF POSITION.—There shall be in the Department of Health and Human Services an Assistant Secretary for Civil Rights, who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) RESPONSIBILITIES.—The Assistant Secretary shall perform such functions relating to civil rights as the Secretary may assign.".

(b) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended, in the item relating to Assistant Secretaries of Health and Human Services, by striking "(5)" and inserting "(6)".

TITLE II—PRIMARY HEALTH SERVICES

SEC. 201. MIGRANT HEALTH CENTERS; COMMUNITY HEALTH CENTERS.

(a) MIGRANT HEALTH CENTERS.—

(1) TREATMENT OF PREGNANT WOMEN FOR SUBSTANCE ABUSE.—Section 329(a) of the Public Health Service Act (42 U.S.C. 254b(a)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting "(i)" after "(C)";

(ii) in clause (i) (as so designated), by adding "and" after the comma at the end; and

(iii) by adding at the end the following clause:

"(ii) to the State official responsible for carrying out programs under subpart II of part B of title XIX, and in accordance with the provisions of section 543 regarding the disclosure of information, a notification if a pregnant woman is provided a referral for the treatment of substance abuse but the entity involved does not have the capacity to admit additional individuals for treatment,"; and

(B) in paragraph (7)—

(i) in subparagraph (L), by striking "and" at the end;

(ii) by redesignating subparagraph (M) as subparagraph (N); and

(iii) by inserting after subparagraph (L) the following subparagraph:

"(M) treatment of pregnant women for substance abuse; and".

(2) OVERLAP IN CATCHMENT AREAS.—Section 329(a) of the Public Health Service Act (42 U.S.C. 254b(a)) is amended by adding at the end the following paragraph:

"(8) In making grants under subsections (c)(1) and (d)(1), the Secretary may provide for the development and operation of more than one migrant health center in a catchment area in any case in which the Secretary determines that in such area there are workers or other individuals described in subsection (a)(1) (in the matter after and below subparagraph (H)) who otherwise will have a shortage of personal health services. The preceding sentence may not be construed as requiring that, in such a case, the catchment areas of the centers involved be identical.".

(3) OFFSITE ACTIVITIES.—Section 329(a) of the Public Health Service Act, as amended by paragraph (2) of this subsection, is amended by adding at the end the following paragraph:

"(9) In making grants under this section, the Secretary may, to the extent determined by the Secretary to be appropriate, authorize migrant health centers to provide services at locations other than the center.".

(4) AUTHORIZATION OF APPROPRIATIONS.—Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended—

(A) in paragraph (1)(A), by striking "1994" and inserting "1996"; and

(B) in paragraph (2)(A), by striking "1994" and inserting "1996".

(b) COMMUNITY HEALTH CENTERS.—

(1) TREATMENT OF PREGNANT WOMEN FOR SUBSTANCE ABUSE.—Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended—

(A) in subsection (a)(3)—

(i) by inserting "(A)" after "(3)";

(ii) in subparagraph (A) (as so designated), by adding "and" after the comma at the end; and

(iii) by adding at the end the following subparagraph:

"(B) to the State official responsible for carrying out programs under subpart II of part B of title XIX, and in accordance with the provisions of section 543 regarding the disclosure of information, a notification if a pregnant woman is provided a referral for the treatment of substance abuse but the entity involved does not have the capacity to admit additional individuals for treatment,"; and

(B) in subsection (b)(2)—

(i) in subparagraph (L), by striking "and" at the end;

(ii) by redesignating subparagraph (M) as subparagraph (N); and

(iii) by inserting after subparagraph (L) the following subparagraph:

"(M) treatment of pregnant women for substance abuse; and".

(2) CRITERIA REGARDING SPECIFIC SHORTAGES.—Section 330(b)(4)(B) of the Public Health Service Act (42 U.S.C. 254c(b)(4)(B)) is amended by striking "include" and all that follows through "the ability of the residents" and inserting the following: "include factors indicative of the health status of the residents of an area or the health status of a population group, such as infant mortality in an area or population group, the ability of the residents".

(3) OVERLAP IN CATCHMENT AREAS.—Section 330(b) of the Public Health Service Act (42 U.S.C. 254c(b)) is amended by adding at the end the following paragraph:

"(7) In making grants under subsections (c)(1) and (d)(1), the Secretary may provide for the development and operation of more than one community health center in a catchment area in any case in which the Secretary determines that there is a population group in such area that otherwise will have a shortage of personal health services. The preceding sentence may not be construed as requiring that, in such a case, the catchment areas of the centers involved be identical.".

(4) OFFSITE ACTIVITIES.—Section 330(b) of the Public Health Service Act, as amended by paragraph (3) of this subsection, is amended by adding at the end the following paragraph:

"(8) In making grants under this section, the Secretary may, to the extent determined by the Secretary to be appropriate, authorize community health centers to provide services at locations other than the center.".

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended—

(A) in paragraph (1)(A), by striking "1994" and inserting "1996"; and

(B) in paragraph (2)(A), by striking "1994" and inserting "1996".

SEC. 202. HEALTH SERVICES FOR THE HOMELESS.

Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking "and 1994" and inserting "through 1998".

SEC. 203. HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING.

Section 340A(p)(1) of the Public Health Service Act (42 U.S.C. 256a(p)(1)) is amended by striking "and 1993" and inserting "through 1998".

SEC. 204. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS REGARDING OBLIGATED SERVICE OF HEALTH PROFESSIONALS.

Section 338I(c) of the Public Health Service Act (42 U.S.C. 254q–1(c)) is amended by adding at the end the following paragraph:

"(4) PRIVATE PRACTICE.—

"(A) In carrying out the program operated with a grant under subsection (a), a State may waive the requirement of paragraph (1) regarding the assignment of a health professional if, subject to subparagraph (B), the health professional enters into an agreement with the State to provide primary health services in a full-time private clinical practice in a health professional shortage area.

"(B) The Secretary may not make a grant under subsection (a) unless the State involved agrees that, if the State provides a waiver under subparagraph (A) for a health professional, section 338D(b)(1) will apply to the agreement under such subparagraph between the State and the health professional to the same extent and in the same manner as such section applies to an agreement between the Secretary and a health professional regarding a full-time private clinical practice.".

SEC. 205. GRANTS TO STATES FOR OPERATION OF STATE OFFICES OF RURAL HEALTH.

Section 338J of the Public Health Service Act (42 U.S.C. 254r) is amended—

(1) in subsection (b)(1), in the matter preceding subparagraph (A), by striking "in cash"; and

(2) in subsection (j)(1)—

(A) by striking "and" after "1992,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1995 through 1997"; and

(3) in subsection (k), by striking "$10,000,000" and inserting "$20,000,000".

SEC. 206. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS REGARDING OBLIGATED SERVICE OF HEALTH PROFESSIONALS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is amended—

(1) by striking "health manpower shortage" each place such term appears and inserting "health professional shortage";

(2) in subsection (e)—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (6) as paragraphs (1) through (5), respectively; and

(C) in paragraph (1) (as so redesignated), by inserting after "the individual" the following: "who is to receive the scholarship under the contract";

(3) in subsection (k)(2), by striking "internal medicine, pediatrics," and inserting "general internal medicine, general pediatrics,"; and

(4) in subsection (l)(1)—

(A) by striking "and" after "1992,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1995 through 1997".

SEC. 207. PROGRAMS REGARDING BIRTH DEFECTS.

Section 317C of the Public Health Service Act (42 U.S.C. 247b–4) is amended to read as follows:

"PROGRAMS REGARDING BIRTH DEFECTS

"SEC. 317C. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out programs—

"(1) to collect, analyze, and make available data on birth defects (in a manner that facilitates compliance with subsection (d)(2)), including data on the causes of such defects and on the incidence and prevalence of such defects;

"(2) to support primary birth-defect prevention, including information and education to the public on the prevention of such defects;

"(3) to improve the education, training, and clinical skills of health professionals with respect to the prevention of such defects;

"(4) to carry out demonstration projects for the prevention of such defects; and

"(5) to operate regional centers for the conduct of applied epidemiological research on the prevention of such defects.

"(b) ADDITIONAL PROVISIONS REGARDING COLLECTION OF DATA.—

"(1) IN GENERAL.—In carrying out subsection (a)(1), the Secretary—

"(A) shall collect and analyze data by gender and by racial and ethnic group, including Hispanics, non-Hispanic whites, Blacks, Native Americans, Asian Americans, and Pacific Islanders;

"(B) shall collect data under subparagraph (A) from birth certificates, death certificates, hospital records, and such other sources as the Secretary determines to be appropriate; and

"(C) shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects, and to make the data available.

"(2) NATIONAL CLEARINGHOUSE.—In carrying out subsection (a)(1), the Secretary shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

"(c) GRANTS AND CONTRACTS.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary may make grants to and enter into contracts with public and nonprofit private entities.

"(2) SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.—

"(A) Upon the request of a recipient of an award of a grant or contract under paragraph (1), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

"(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(3) APPLICATION FOR AWARD.—The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

"(d) BIENNIAL REPORT.—Not later than February 1 of fiscal year 1995 and of every second such year thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report that, with respect to the preceding 2 fiscal years—

"(1) contains information regarding the incidence and prevalence of birth defects and the *extent to which birth defects have contributed to the incidence and prevalence of infant mortality;*

"(2) contains information under paragraph (1) that is specific to various racial and ethnic groups (including Hispanics, non-Hispanic whites, Blacks, Native Americans, and Asian Americans);

"(3) contains an assessment of the extent to which various approaches of preventing birth defects have been effective;

"(4) describes the activities carried out under this section; and

"(5) contains any recommendations of the Secretary regarding this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1997.".

SEC. 208. HEALTHY START FOR INFANTS.

(a) TECHNICAL CORRECTION REGARDING AMENDATORY INSTRUCTIONS.—Part D of title III of the Public Health Service Act (42 U.S.C 254b et seq.), as amended by section 104 of Public Law 103–183 (107 Stat. 2230), is amended in the heading for subpart VIII by striking "Bulk" and all that follows and inserting the following: "Miscellaneous Provisions Regarding Primary Health Care". The amendment made by the preceding sentence is deemed to have taken effect immediately after the enactment of Public Law 103–183.

(b) HEALTHY START FOR INFANTS.—Part D of title III of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end of subpart VIII the following section:

"HEALTHY START FOR INFANTS

"SEC. 340E. (a) GRANTS FOR COMPREHENSIVE SERVICES.—

"(1) IN GENERAL.—The Secretary may make grants for the operation of not more than 22 demonstration projects to provide the services described in subsection (b)(1)(A) for the purpose of reducing, in the geographic areas in which the projects are carried out—

"(A) the incidence of infant mortality;

"(B) the incidence of low-birthweight births; and

"(C) the incidence of maternal mortality.

"(2) ACHIEVEMENT OF YEAR 2000 HEALTH STATUS OBJECTIVES.—With respect to the objectives established by the Secretary for the health status of the population of the United States for the year 2000, the Secretary shall, in providing for a demonstration project under paragraph (1) in a geographic area, seek to meet the objectives that are applicable to the purpose described in such paragraph and the populations served by the project.

"(b) ELIGIBLE USES OF GRANT.—

"(1) AUTHORIZED SERVICES.—

"(A) IN GENERAL.—Subject to subsection (h), the services referred to in this subsection are comprehensive services (including preventive and primary health services for pregnant and postpartum women and infants and infant immunizations in accordance with the schedule recommended by the Secretary) for carrying out the purpose described in subsection (a), including services other than health services.

"(B) USE OF CERTAIN PROVIDERS.—

"(i) The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in making any arrangements under which other entities provide authorized services in the demonstration project involved, the applicant will include among the entities with which the arrangements are made the entities described in clause (ii) if such entities are providing services in the service area of such project and the entities are willing to make such arrangements with the applicant.

"(ii) For purposes of clause (i), the entities described in this clause are the following: Grantees under any of sections 329, 330, 340, and 340A; the public health agencies of the States and localities involved; and social service agencies, local hospitals, and community-based organizations that are public or nonprofit private entities and have a history of serving the populations served by the demonstration project involved.

"(C) CONFIDENTIALITY.—The Secretary may make a grant under subsection (a) only if the applicant for the grant, and each provider of services in the demonstration project involved, agree to ensure the confidentiality of records that the project maintains on individuals who receive the services of the project.

"(2) OTHER USES.—The Secretary shall authorize grantees under subsection (a) to expend the grant for following:

"(A) The development of community-based partnerships for the organization and delivery of services to pregnant women and to infants.

"(B) The development and operation of data systems necessary for monitoring the provision of services to the individuals served by the demonstration project involved and determining the outcomes of such services.

"(C) Carrying out infant mortality reviews.

"(c) ELIGIBLE GEOGRAPHIC AREAS.—The Secretary may make a grant under subsection (a) only if—

"(1) the applicant for the grant specifies the geographic area in which the demonstration project under such subsection is to be carried out and agrees that the project will not be carried out in other areas; and

"(2) during a period designated by the Secretary, the rate of infant mortality in the geographic area equals or exceeds 150 percent of the national average in the United States of such rates.

"(d) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) PUBLIC OR NONPROFIT PRIVATE ENTITIES.—The Secretary may make a grant under subsection (a) only if the applicant for the grant is a State or local department of health, or other public or nonprofit private entity, or a consortium of public or nonprofit private entities.

"(2) APPROVAL OF APPLICANT BY POLITICAL SUBDIVISIONS.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection only if—

"(A) the chief executive officer of each political subdivision in the service area of such project approves the applicant for the grant as being qualified to carry out the project; and

"(B) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of such area so approves the applicant.

"(3) STATUS AS MEDICAID PROVIDER.—

"(A) In the case of any service described in subsection (b)(1)(A) that is available pursuant to the State plan approved under title XIX of the Social Security Act for a State in which a demonstration project under subsection (a) is carried out, the Secretary may make a grant under such subsection for the project only if, subject to subparagraph (B)—

"(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant will enter into an agreement with a public or private entity under which the entity will provide the service, and the entity has entered into such a participation agreement under the State plan and is qualified to receive such payments.

"(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(ii) A determination by the Secretary of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(e) STATE APPROVAL OF PROPOSAL FOR PROJECT.—With respect to a proposed demonstration project under subsection (a), the Secretary may make a grant under such subsection to the applicant involved only if—

"(1) the chief executive officer of the State in which the project is to be carried out approves the proposal of the applicant for carrying out the project; and

"(2) the leadership of any Indian tribe or tribal organization with jurisdiction over any portion of the service area of the project so approves the proposal.

"(f) ELIGIBILITY FOR SERVICES PROVIDED WITH GRANT FUNDS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under a health insurance policy or plan (including a group health plan or a prepaid health plan);

"(2) under any Federal or State health benefits program, including any program under title V, XVIII, or XIX of the Social Security Act; or

"(3) under subpart II of part B of title XIX of this Act.

"(g) MAINTENANCE OF EFFORT.—With respect to expenditures for authorized services under subsection (b), the Secretary may make a grant under subsection (a) only if the following agreements are made:

"(1) The applicant involved agrees that, in the case of non-Federal amounts the expenditure of which is within the discretion of the applicant, the applicant will maintain expenditures of such amounts for authorized services at a level that is not less than the level of such expenditures maintained by the applicant for fiscal year 1993.

"(2) The State in which the demonstration project will be carried out (or the appropriate agencies of the State) agrees to maintain expenditures of non-Federal amounts for authorized services at a level that is not less than the level of such expenditures maintained by the political subdivision for fiscal year 1993.

"(3) Each political subdivision in the service area of the demonstration project agrees to maintain expenditures of non-Federal amounts for such services at a level that is not less than the level of such expenditures maintained by the political subdivision for fiscal year 1993.

"(h) RESTRICTIONS ON EXPENDITURE OF GRANT.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended—

"(A) to provide inpatient services, except with respect to residential treatment for substance abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of health services or mental health services; or

"(C) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase

major medical equipment (other than mobile medical units for providing ambulatory prenatal services).

"(2) ACTIVITIES OTHER THAN PROVISION OF SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that not more than 15 percent of the grant will be expended for administering the grant, collecting and analyzing data, and carrying out the activities described in subsection (b)(2).

"(3) WAIVER.—If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(C).

"(i) DETERMINATION OF CAUSE OF INFANT DEATHS.—The Secretary may make a grant under subsection (a) only if the applicant involved—

"(1) agrees to provide for a determination of the cause of each infant death in the service area of the demonstration project involved; and

"(2) the applicant has made such arrangements with public entities as may be necessary to carry out paragraph (1).

"(j) ANNUAL REPORTS TO SECRETARY.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, for each fiscal year for which the applicant operates a demonstration project under such subsection the applicant will, not later than April 1 of the subsequent fiscal year, submit to the Secretary a report providing the following information with respect to the project:

"(A) The number of individuals that received authorized services, and the demographic characteristics of the population of such individuals.

"(B) The types of authorized services provided, including the types of ambulatory prenatal services provided and the trimester of the pregnancy in which the services were provided.

"(C) The sources of payment for the authorized services provided.

"(D) An analysis of the causes of death determined under subsection (i).

"(E) The extent of progress being made toward meeting the health status objectives specified in subsection (a)(2) for the populations served.

"(F) The extent to which children under age 1 served by the project have received the appropriate number and variety of immunizations against vaccine-preventable diseases.

"(G) With respect to the populations served by the project, the extent to which progress is being made toward meeting the participation goals established for the State by the Secretary under section 1905(r) of the Social Security Act (relating to early periodic screening, diagnostic, and treatment services for children under the age of 21).

"(2) COOPERATION OF STATE REGARDING MEDICAID GOALS FOR PARTICIPATION.—With respect to the State in which a proposed demonstration project under subsection (a) is to be carried out, the Secretary may make a grant under such subsection for the project only if the State (or the appropriate agency of the State) agrees to provide to the applicant involved, in a timely manner, the information needed by the applicant for purposes of paragraph (1)(G).

"(k) COMMUNITY PARTICIPATION.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in preparing the proposal of the applicant for the demonstration project involved, and in the operation of the project, the applicant will include, as participants, residents of the service area of the project and public and nonprofit private entities that provide authorized services to such residents.

"(l) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(m) EVALUATION.—The Secretary shall provide for an evaluation of demonstration projects carried out under subsection (a), other than any such project for which a grant under such subsection was first provided during fiscal year 1994.

"(n) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, two reports regarding this section. The first such report shall be submitted not later than February 1, 1997, and shall be an interim report providing such components of the information described in paragraph (2) as may be available during the period involved. The second such report shall be submitted not later than February 1, 1998, and shall be a final report providing the information so described.

"(2) CONTENTS.—For purposes of paragraph (1), the information described in this paragraph is—

"(A) a summary of the reports received by the Secretary under subsection (j);

"(B) a summary of the evaluation conducted by the Secretary under subsection (m);

"(C) a description of the extent to which the Secretary has, in the service areas of demonstration projects under subsection (a), been successful in meeting the health status objectives specified in subsection (a)(2); and

"(D) a description of the extent to which such projects have been cost effective.

"(o) DEFINITIONS.—For purposes of this section:

"(1) The term 'authorized services' means the services specified in subsection (b)(1)(A).

"(2) The terms 'Indian tribe' and 'tribal organization' have the meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

"(3) The term 'service area', with respect to a demonstration project under subsection (a), means the geographic area specified in subsection (c).

"(p) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1997.

"(2) LIMITATIONS.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 2 percent for the administrative costs of the Secretary in carrying out this section, for the provision of technical assistance regarding demonstration projects under subsection (a), and for activities to provide information and education to the public.

"(B) Of the amounts appropriated under paragraph (1) through fiscal year 1997, the Secretary may not expend more than an aggregate $6,000,000 for evaluations under subsection (m).

"(q) SUNSET.—Effective October 1, 1997, this section is repealed.".

(c) CERTAIN PROVISIONS REGARDING REPORTS.—

(1) FISCAL YEAR 1995.—With respect to grants under section 340E of the Public Health Service Act (as added by subsection (b) of this section), the Secretary of Health and Human Services may make a grant under such section for fiscal year 1995 only if the applicant for the grant agrees to submit to the Secretary, not later than April 1 of such year, a report on any federally-supported project of the applicant that is substantially similar to the demonstration projects authorized in such section 340E, which report provides, to the extent practicable, the information described in subsection (j) of such section.

(2) FISCAL YEAR 1997.—With respect to grants for fiscal year 1997 under section 340E of the Public Health Service Act (as added by subsection (b) of this section), the requirement under subsection (j) of such section that a report be submitted not later than April 1, 1998, remains in effect notwithstanding the repeal of such section pursuant to subsection (q) of such section.

(d) LAPSE OF FUNDS.—Effective October 1, 1997, all unexpended portions of amounts appropriated for grants under 340E of the Public Health Service Act (as added by subsection (b) of this section) are unavailable for obligation or expenditure, without regard to whether the amounts have been received by the grantees involved.

(e) USE OF GENERAL AUTHORITY UNDER PUBLIC HEALTH SERVICE ACT.—With respect to the program established in section 340E of the Public Health Service Act (as added by subsection (b) of this section), section 301 of such Act may not be construed as providing to the Secretary of Health and Human Services any authority to carry out any program providing for the development or operation of demonstration projects substantially similar to the demonstration projects carried out under such section 340E.

SEC. 209. DEMONSTRATION PROJECTS REGARDING DIABETIC-RETINOPATHY.

(a) TECHNICAL CORRECTION REGARDING AMENDATORY INSTRUCTIONS.—Section 301(a) of Public Law 103–183 (107 Stat. 2233) is amended by striking "(42 U.S.C. 242 et seq.)" and inserting "(42 U.S.C. 243 et seq.)". The amendment made by the preceding sentence is deemed to have taken effect immediately after the enactment of Public Law 103–183.

(b) ESTABLISHMENT OF PROGRAM.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended pursuant to subsection (a) and as amended by section 703 of Public Law 103–183 (107 Stat. 2240), is amended by inserting after section 317F the following section:

"DEMONSTRATION PROJECTS REGARDING DIABETIC-RETINOPATHY

"SEC. 317G. (a) IN GENERAL.—The Secretary, acting through the Director of the Center for Chronic Disease Prevention and Health Promotion (of the Centers for Disease Control and Prevention) and in consultation with the Director of the National Eye Institute, shall make grants to public and nonprofit private entities for demonstration projects to serve the populations specified in subsection (b) by carrying out, with respect to the eye disorder known as diabetic-retinopathy, activities regarding information, identification, dissemination, education, and prevention.

"(b) RELEVANT POPULATIONS.—The populations referred to in subsection (a) are minority populations that have diabetes mellitus.".

SEC. 210. ISSUANCE OF REGULATIONS REGARDING LANGUAGE AS IMPEDIMENT TO RECEIPT OF SERVICES.

(a) PROPOSED RULE.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue a proposed rule to establish regulations for policies to reduce the extent to which having limited proficiency in speaking the English language constitutes a significant impediment to individuals in participating in, or receiving the benefits of, any program or activity—

(1) under the Public Health Service Act;

(2) under titles XVIII or XIX of the Social Security Act; or

(3) for which the Secretary otherwise provides financial assistance.

(b) FINAL RULE.—

(1) IN GENERAL.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary shall issue a final rule to establish the regulations described in subsection (a).

(2) FAILURE TO ISSUE BY DATE CERTAIN.—If the Secretary fails to issue a final rule under paragraph (1) before the expiration of the period specified in such paragraph, the proposed rule issued under subsection (a) is upon such expiration deemed to be the final rule under paragraph (1) (and shall remain in effect until the Secretary issues a final rule under such paragraph).

TITLE III—HEALTH PROFESSIONS PROGRAMS

SEC. 301. PRIMARY CARE SCHOLARSHIPS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS.

(a) IN GENERAL.—Section 736 of the Public Health Service Act (42 U.S.C. 293) is amended to read as follows:

"SEC. 736. CESAR CHAVEZ PROGRAM FOR PRIMARY CARE SCHOLARSHIPS.

"(a) IN GENERAL.—The Secretary may in accordance with this section award scholarships to individuals described in subsection (b) for the purpose of assisting the individuals with the costs of attending schools of medicine or osteopathic medicine, schools of dentistry, schools of nursing (as defined in section 853), and graduate programs in mental health practice.

"(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any individual meeting the following conditions:

"(1) The individual is from a disadvantaged background.

"(2) The individual has a financial need for a scholarship under such subsection.

"(3) The individual is enrolled (or accepted for enrollment) at an eligible school as a full-time student in a program leading to a degree in a health profession.

"(4) The individual enters into the contract required pursuant to subsection (d) as a condition of receiving the scholarship (relating to an agreement to provide primary health services in a health professional shortage area designated under section 332).

"(c) PREFERENCES REGARDING AWARDS.—

"(1) IN GENERAL.—In awarding scholarships under subsection (a), the Secretary shall give preference to eligible individuals for whom the costs of attending the school involved would constitute a severe financial hardship.

"(2) ADDITIONAL PREFERENCES.—Of the eligible individuals receiving preference for purposes of paragraph (1), the Secretary shall give additional preference to individuals meeting any of the following conditions:

"(A) The individuals received scholarships pursuant to this section, section 737, or section 740(d)(2) for fiscal year 1994.

"(B) The individuals are seeking scholarships for attendance at eligible schools that received a grant under any of such sections for such fiscal year.

"(C) The individuals are bilingual.

"(D) The individuals participate in a program or activity carried out under section 739 by a grantee under such section.

"(d) APPLICABILITY OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and except as otherwise inconsistent with this section, the provisions of subpart III of part D of title III apply to an award of a scholarship under subsection (a) to the same extent and in the same manner as such provisions apply to an award of a scholarship under section 338A. This section shall be carried out by the bureau that administers such subpart III.

"(2) OPTION REGARDING CERTAIN MEDICAL FIELDS.—

"(A) With respect to amounts that the Secretary reserves for scholarships under subsection (a) for attendance at schools of medicine or osteopathic medicine, the Secretary shall obligate 30 percent for such scholarships for individuals whose contracts made pursuant to paragraph (1) provide to the individuals, subject to subparagraph (B), the option of performing obligated service under the contract in a medical field not providing primary health services.

"(B) In the case of an individual whose contract made pursuant to paragraph (1) provides the option described in subparagraph (A), the contract shall provide that, in the event that the individual exercises the option, the period of obligated service applicable under the contract is 2 years for each school year for which the scholarship involved is provided.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible individual' means an individual described in subsection (b).

"(2) The term 'eligible school' means a school or program specified in subsection (a).

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1995, $38,000,000 for fiscal year 1996, and $48,000,000 for fiscal year 1997. Such authorization is in addition to the authorization of appropriations established in section 740(f)(2)(B).

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year and of the amounts available under section 740(f)(2)(B) for the year, the Secretary shall obligate amounts in accordance with the following:

"(i) 19 percent shall be obligated for scholarships under subsection (a) for attendance at schools of dentistry.

"(ii) 16 percent shall be obligated for scholarships under such subsection for attendance at schools of nursing.

"(iii) 10 percent shall be obligated for scholarships under such subsection for attendance at graduate programs in mental health practice.

"(B) The requirements of subparagraph (A) apply only to the extent that a sufficient number of eligible individuals seeks the scholarships involved.".

(b) CERTAIN PROGRAMS OF OBLIGATED SERVICE.—

(1) REPEAL.—Section 795 of the Public Health Service Act (42 U.S.C. 295n) is repealed.

(2) RULE OF CONSTRUCTION.—Paragraph (1) does not terminate agreements that, on the day before the effective date under section 901, are in effect pursuant to section 795 of the Public Health Service Act. Such agreements continue in effect in accordance with the terms of the agreements. With respect to compliance with such agreements, any period of practice as a provider of primary health services (whether provided pursuant to other agreements with the Federal Government or whether provided otherwise) counts toward satisfaction of the requirement of practice pursuant to such section 795.

SEC. 302. SCHOLARSHIPS GENERALLY; CERTAIN OTHER PURPOSES.

Section 737 of the Public Health Service Act (42 U.S.C. 293a) is amended to read as follows:

"SEC. 737. THURGOOD MARSHALL PROGRAM FOR HEALTH SERVICES SCHOLARSHIPS.

"(a) IN GENERAL.—The Secretary may in accordance with this section award scholarships to individuals described in subsection (b) for the purpose of assisting the individuals with the costs of attending the health professions schools described in subsection (c).

"(b) ELIGIBLE INDIVIDUALS.—An individual referred to in subsection (a) is any individual meeting the following conditions:

"(1) The individual is from a disadvantaged background.

"(2) The individual has a financial need for a scholarship under such subsection.

"(3) The individual is enrolled (or accepted for enrollment) at an eligible school as a full-time student in a program leading to a degree in a health profession.

"(4) The individual enters into the contract required pursuant to subsection (e) as a condition of receiving the scholarship (relating to an agreement to provide primary health services in a health professional shortage area designated under section 332).

"(c) ELIGIBLE SCHOOLS.—A health professions school referred to in subsection (a) is a health professions school meeting the following conditions:

"(1) The school is a school of veterinary medicine, optometry, pharmacy, podiatric medicine, or public health, or a designated school of allied health (as defined in subsection (f)).

"(2) The school is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups.

"(d) PREFERENCES REGARDING AWARDS.—

"(1) IN GENERAL.—In awarding scholarships under subsection (a), the Secretary shall give preference to eligible individuals for whom the costs of attending the school involved would constitute a severe financial hardship.

"(2) ADDITIONAL PREFERENCES.—Of the eligible individuals receiving preference for purposes of paragraph (1), the Secretary shall give additional preference to individuals meeting any of the following conditions:

"(A) The individuals received scholarships pursuant to this section for fiscal year 1994.

"(B) The individuals are seeking scholarships for attendance at eligible schools that received a grant under this section for such fiscal year.

"(C) The individuals are bilingual.

"(D) The individuals participate in a program or activity carried out under section 739 by a grantee under such section.

"(e) APPLICABILITY OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), and except as otherwise inconsistent with this section, the provisions of subpart III of part D of title III apply to an award of a scholarship under subsection (a) to the same extent and in the same manner as such provisions apply to an award of a scholarship under section 338A.

"(2) CERTAIN INDIVIDUALS.—

"(A) In the case of an individual who receives a scholarship under subsection (a) for attendance at a school of veterinary medicine, the contract made pursuant to paragraph (1) shall provide that the individual agrees that, after completing training in such medicine, the individual will, in accordance with requirements established under subparagraph (B)—

"(i) serve in a position in which the individual conducts or assists in the conduct of research regarding human health or safety; or

"(ii) serve in a position with a public health agency of a State or a political subdivision of a State.

"(B) The Secretary shall establish requirements regarding contracts under subparagraph (A).

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'designated school of allied health' means a school of allied health providing training in occupational therapy, physical therapy, dental hygiene, medical technology, or radiologic technology.

"(2) The term 'eligible individual' means an individual described in subsection (b).

"(3) The term 'eligible school' means a school described in subsection (c).

"(g) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1995, $8,000,000 for fiscal year 1996, and $10,000,000 for fiscal year 1997.

"(2) ALLOCATIONS BY SECRETARY.—With respect to scholarships under subsection (a) for attendance at designated schools of allied health, the Secretary shall obligate for such scholarships 25 percent of the amounts appropriated under paragraph (1) for each of the fiscal years 1995 through 1997. The requirement of the preceding sentence applies only to the extent that a sufficient number of eligible individuals seeks such scholarships.".

SEC. 303. LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS.

(a) LOAN REPAYMENTS.—Section 738(a) of the Public Health Service Act (42 U.S.C. 293b(a)) is amended—

(1) by striking paragraphs (4) and (6);

(2) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(3) in paragraph (4) (as so redesignated), by amending subparagraph (B) to read as follows:

"(B) the contract referred to in subparagraph (A) provides that the school, in making a determination of the amount of compensation to be provided by the school to the individual for serving as a member of the faculty, will make the determination without regard to the amount of payments made (or to be made) to the individual by the Federal Government under paragraph (1).".

(b) FELLOWSHIPS.—

(1) IN GENERAL.—Section 738(b) of the Public Health Service Act (42 U.S.C. 293b(b)) is amended—

(A) in paragraph (2)(B), by striking "$30,000" and inserting "$50,000"; and

(B) in paragraph (3)—

(i) in subparagraph (B), by inserting "and" after the semicolon at the end;

(ii) in subparagraph (C), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (D).

(2) DEFINITION.—Section 738(b) of the Public Health Service Act (42 U.S.C. 293b(b)) is amended—

(A) in paragraph (1), by striking "the number" and all that follows and inserting the following: "the number of underrepresented minority individuals who are members of the faculty of the schools.";

(B) in paragraph (3)(A), by striking "individuals from underrepresented minorities in the health professions" and inserting "underrepresented minority individuals"; and

(C) in paragraph (5), by striking "the term" and all that follows and inserting the following: "the term 'underrepresented minority individuals' means individuals who are members of racial or ethnic minority groups that are underrepresented in the health professions.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 738(c) of the Public Health Service Act (42 U.S.C. 293b(c)) is amended by striking "there is" and all that follows and inserting the following: "there is authorized to be appropriated $1,100,000 for each of the fiscal years 1995 through 1997.".

SEC. 304. CENTERS OF EXCELLENCE.

(a) REFERENCES TO SCHOOLS.—Section 739 of the Public Health Service Act (42 U.S.C. 293c) is amended—

(1) by striking "health professions schools" each place such term appears and inserting "designated health professions schools"; and

(2) by striking "health professions school" each place such term appears and inserting "designated health professions school".

(b) REQUIRED USES OF FUNDS.—Section 739(b) of the Public Health Service Act (42 U.S.C. 293c(b)), as amended by subsection (a), is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (1) as paragraph (2);

(3) by inserting before paragraph (2) (as so redesignated) the following paragraph:

"(1) to collaborate with public and nonprofit private entities to carry out community-based programs to interest students of secondary schools and institutions of higher education in pursuing careers in the health professions, and to prepare interested students academically for such careers;";

(4) in paragraph (5)—

(A) by striking "faculty and student research" and inserting "student research"; and

(B) by inserting before the period the following: ", including research on issues relating to the delivery of health care"; and

(5)(A) in paragraph (4), by striking "and" after the semicolon at the end;

(B) in paragraph (5), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(6) to carry out a program to train students of the school in providing health services through training provided at community-based health facilities that provide such services to a significant number of disadvantaged individuals and that are located at a site remote from the main site of the teaching facilities of the school.".

(c) REQUIREMENTS REGARDING CONSORTIA.—

(1) IN GENERAL.—Section 739(c)(1) of the Public Health Service Act (42 U.S.C. 293c(c)(1)), as amended by subsection (a), is amended—

(A) in subparagraph (A), in the matter preceding clause (i), by striking "specified in subparagraph (B)" and inserting "specified in subparagraphs (B) and (C)";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following subparagraph:

"(C) The condition specified in this subparagraph is that, in accordance with subsection (e)(1), the designated health professions school involved has with other health profession schools (designated or otherwise) formed a consortium to carry out the purposes described in subsection (b) at the schools of the consortium. The grant involved may be expended with respect to the other schools without regard to whether such schools meet the conditions specified in subparagraph (B).".

(2) CERTAIN REQUIREMENTS.—Section 739(e) of the Public Health Service Act (42 U.S.C. 293c(e)), as amended by subsection (a), is amended to read as follows:

"(e) PROVISIONS REGARDING CONSORTIA.—

"(1) REQUIREMENTS.—For purposes of subsection (c)(1)(C), a consortium of schools has been formed in accordance with this subsection if—

"(A) the consortium consists of—

"(i) the designated health professions school seeking the grant under subsection (a); and

"(ii) 1 or more schools of medicine, osteopathic medicine, dentistry, pharmacy, nursing, allied health, or public health, or graduate programs in mental health practice;

"(B) the schools of the consortium have entered into an agreement for the allocation of such grant among the schools; and

"(C) each of the schools agrees to expend the grant in accordance with this section.

"(2) AUTHORITY REGARDING NATIVE AMERICANS CENTERS OF EXCELLENCE.—With respect to meeting the conditions specified in subsection (c)(4), the Secretary may make a grant under subsection (a) to a designated health professions school that does not meet such conditions if—

"(A) the school has formed a consortium in accordance with paragraph (1); and

"(B) the schools of the consortium collectively meet such conditions, without regard to whether the schools individually meet such conditions.".

(3) CONFORMING AMENDMENTS.—Section 739 of the Public Health Service Act (42 U.S.C. 293c), as amended by subsection (a), is amended—

(A) in subsection (b), in the matter preceding paragraph (1), by inserting ", subject to subsection (c)(1)(C)," after "agrees"; and

(B) in subsection (d)—

(i) in paragraph (3), by striking "(e)" and inserting "(e)(2)"; and

(ii) by adding at the end the following paragraph:

"(4) RULE OF CONSTRUCTION.—Except as provided in paragraph (3) regarding a consortium under subsection (e)(2), a health professions school that does not meet the conditions specified in subsection (c)(1)(B) may not be designated as a center of excellence for purposes of this section. The preceding sentence applies without regard to whether a grant under subsection (a) is, pursuant to subsection (c)(1)(C), being expended with respect to the school.".

(d) DEFINITION OF HEALTH PROFESSIONS SCHOOL.—

(1) GRADUATE PROGRAMS IN MENTAL HEALTH PRACTICE.—Section 739(h)(1)(A) of the Public Health Service Act (42 U.S.C. 293c(h)(1)(A)), as amended by subsection (a), is amended by—

(A) by striking "or" after "dentistry"; and

(B) by inserting before the period the following: ", or a graduate program in mental health practice".

(2) LIMITATION.—During the fiscal years 1995 through 1997, the Secretary of Health and Human Services may not make more than one grant under section 739 of the Public Health Service Act directly to a graduate program in mental health practice (as defined in section 799 of such Act).

(e) FUNDING.—Section 739(i) of the Public Health Service Act (42 U.S.C. 293c(i)), as amended by subsection (a), is amended to read as follows:

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $24,000,000 for fiscal year 1995, $28,000,000 for fiscal year 1996, and $33,000,000 for fiscal year 1997.

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available $12,000,000 for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (2)(A) of subsection (c).

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A), the Secretary shall make available 65 percent for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e)(2)).

"(C)(i) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A), the Secretary shall make available 35 percent for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (5) of subsection (c).

"(ii) With respect to a fiscal year, a grant under subsection (a) that includes amounts available under subparagraph (A) may not include amounts available under clause (i) unless each of the following conditions is met:

"(I) In the case of amounts available under subparagraph (B) or clause (i) and included in grants made pursuant to subsection (c)(3), the aggregate number of such grants is not less than such aggregate number for the preceding fiscal year, and one or more of such grants is made in an amount that is not less than the lowest amount among grants made from amounts available under subparagraph (A).

"(II) In the case of amounts available under subparagraph (B) or clause (i) and included in grants made pursuant to subsection (c)(4), the aggregate number of such grants is not less than such aggregate number for the preceding fiscal year, and one or more of such grants is made in an amount that is not less than the lowest amount among grants made from amounts available under subparagraph (A).

"(III) In the case of amounts available under clause (i) and included in grants made pursuant to subsection (c)(5) (exclusive of grants that include amounts available under subparagraph (A) or (B)), the aggregate number of such grants is not less than such aggregate number for the preceding fiscal year, and one or more of such grants is made in an amount that is not less than the lowest amount among grants made from amounts available under subparagraph (A).

"(IV) The aggregate amount of grants under subsection (a) made from amounts available under subparagraph (B) and clause (i) (other than grants that include amounts available under subparagraph (A)) is, in the case of fiscal year 1996, not less than the sum of such aggregate amount for fiscal year 1995 and the total amount by which grants are required under subclauses (I) through (III) to be increased; and is, in the case of fiscal year 1997 and each subsequent fiscal year, not less than such aggregate amount for the preceding fiscal year.".

(f) CONFORMING AMENDMENTS.—Section 739(c) of the Public Health Service Act (42 U.S.C. 293c(c)), as amended by subsection (a), is amended—

(1) in paragraph (3)(B), by striking "the designated health professions school" and inserting "the school"; and

(2) in paragraph (4), in each of subparagraphs (B) and (C), by striking "the designated health professions school" and inserting "the school".

(g) TRANSITIONAL AND SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period specified in paragraph (2)—

(A) the amendments made by subsections (a) through (f) do not apply to any entity that received a grant for fiscal year 1994 under section 739 of the Public Health Service Act; and

(B) such a grant to the entity for fiscal year 1995 or subsequent fiscal years shall be made and expended in accordance with the provisions of such section as in effect on the day before the date of the enactment of this Act.

(2) RELEVANT PERIOD.—In the case of an entity that received a grant for fiscal year 1994 under section 739 of the Public Health Service Act, the period referred to in paragraph (1) is the period that, in first approving the grant, the Secretary specified as the duration of the grant.

SEC. 305. EDUCATIONAL ASSISTANCE REGARDING UNDERGRADUATES.

(a) IN GENERAL.—Section 740 of the Public Health Service Act (42 U.S.C. 293d) is amended to read as follows:

"SEC. 740. HEALTH CAREERS OPPORTUNITY PROGRAM.

"(a) IN GENERAL.—Subject to the provisions of this section, the Secretary may make grants and enter into cooperative agreements and contracts for any of the following purposes:

"(1) Identifying and recruiting individuals who—

"(A) are students of elementary schools, or students or graduates of secondary schools or of institutions of higher education;

"(B) are from disadvantaged backgrounds; and

"(C) are interested in a career in the health professions.

"(2) Facilitating the entry of such individuals into a health professions school.

"(3) Providing counseling or other services designed to assist such individuals in successfully completing their education at such a school.

"(4) Providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist the individuals in successfully completing such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education.

"(5) Paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses) at a health professions schools, except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend may not exceed $25 per day (notwithstanding any other provision of law regarding the amount of stipends).

"(6) Carrying out programs under which such individuals both—

"(A) gain experience regarding a career in a field of primary health care through working at facilities of nonprofit private community-based providers of primary health services; and

"(B) receive academic instruction to assist in preparing the individuals to enter health professions schools in such fields.

"(b) RECEIPT OF AWARD.—

"(1) ELIGIBLE ENTITIES; REQUIREMENT OF CONSORTIUM.—The Secretary may make an award under subsection (a) only if the following conditions are met:

"(A) The applicant for the award is a public or nonprofit private entity, and the applicant has established a consortium consisting of nonprofit private community-based organizations and health professions schools.

"(B) The health professions schools of the consortium are schools of medicine or osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, or podiatric medicine, or graduate programs in mental health practice (including such programs in clinical psychology).

"(C) Except as provided in subparagraph (D), the membership of the consortium includes not less than one nonprofit private community-based organization and not less than three health professions schools.

"(D) In the case of an applicant whose exclusive activity under the award will be carrying out one or more programs described in subsection (a)(6), the membership of the consortium includes not less than one nonprofit private community-based organization and not less than one health professions schools.

"(E) The members of the consortium have entered into an agreement specifying—

"(i) that each of the members will comply with the conditions upon which the award is made; and

"(ii) whether and to what extent the award will be allocated among the members.

"(2) REQUIREMENT OF COMPETITIVE AWARDS.—Awards under subsection (a) shall be made only on a competitive basis.

"(c) FINANCIAL REQUIREMENTS.—

"(1) ASSURANCES REGARDING CAPACITY.—The Secretary may make an award under subsection (a) only if the Secretary determines that, in the case of activities carried out under the award that prove to be effective toward achieving the purposes of the activities—

"(A) the members of the consortium involved have or will have the financial capacity to continue the activities, regardless of whether financial assistance under subsection (a) continues to be available; and

"(B) the members of the consortium demonstrate to the satisfaction of the Secretary a commitment to continue such activities, regardless of whether such assistance continues to be available.

"(2) MATCHING FUNDS.—

"(A) With respect to the costs of the activities to be carried out under subsection (a) by an applicant, the Secretary may make an award under such subsection only if the applicant agrees to make available in cash (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that, for any fourth or subsequent fiscal year for which the applicant receives such an award, is not less than 50 percent of such costs.

"(B) Amounts provided by the Federal Government may not be included in determining the amount of non-Federal contributions required in subparagraph (A).

"(C) The Secretary may not require non-Federal contributions for the first three fiscal years for which an applicant receives a grant under subsection (a).

"(d) PREFERENCE IN MAKING AWARDS.—

"(1) IN GENERAL.—

"(A) In making awards under subsection (a), the Secretary shall, subject to paragraph (3), give preference to any applicant that, for the purpose described in subparagraph (B), has made an arrangement with not less than one entity from each of the following categories of entities: Community-based organizations, elementary schools, secondary schools, institutions of higher education, and health professions schools.

"(B) The purpose of arrangements under subparagraph (A) is to establish a program for individuals identified under subsection (a) under which—

"(i) the activities described in such subsection are carried out on behalf of the individuals; and

"(ii) health professions schools make a commitment to admit as students of the schools such individuals who participate in the program, subject to the individuals meeting reasonable academic standards for admission to the schools.

"(2) ADDITIONAL PREFERENCES.—Of the applicants under subsection (a) that are receiving preference for purposes of paragraph (1), the Secretary shall, subject to paragraph (3), give additional preference to applicants whose consortium under subsection (b) includes as members one or more health professions schools that have not previously received any award under this section (including this section as in effect prior to fiscal year 1995).

"(3) LIMITATION.—An applicant may not receive preference for purposes of paragraph (1) or (2) unless the consortium under subsection (b) includes not less than one health professions school that has demonstrated success in enrolling students from disadvantaged backgrounds.

"(e) OBJECTIVES UNDER AWARDS.—

"(1) ESTABLISHMENT OF OBJECTIVES.—Before making a first award to an applicant under subsection (a), the Secretary shall establish objectives regarding the activities to be carried out under the award, which objectives are applicable until the next fiscal year for which such award is made after a competitive process of review. In making an award after such a review, the Secretary shall establish additional objectives for the applicant.

"(2) PRECONDITION FOR SUBSEQUENT AWARDS.—In the case of an applicant seeking an award under subsection (a) pursuant to a competitive process of review, the Secretary may make the award only if the applicant demonstrates to the satisfaction of the Secretary that the applicant has met the objectives that were applicable under paragraph (1) to the preceding awards under such subsection.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and section 736, there are authorized to be appropriated $33,000,000 for fiscal year 1995, $37,000,000 for fiscal year 1996, and $40,000,000 for fiscal year 1997.

"(2) ALLOCATIONS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall obligate amounts as follows:

"(A) For carrying out subsection (a)(6), not less than 20 percent.

"(B) For providing scholarships under section 736, an amount equal to the amount provided for such purpose under this section for fiscal year 1994, plus an amount for offsetting the effects of inflation occurring after October 1, 1994.".

(b) TRANSITIONAL AND SAVINGS PROVISIONS.—

(1) IN GENERAL.—During the period specified in paragraph (2)—

(A) the amendment made by subsection (a) does not apply to any entity that received a grant for fiscal year 1994 under section 740 of the Public Health Service Act; and

(B) such a grant to the entity for fiscal year 1995 or subsequent fiscal years shall be made and expended in accordance with the provisions of such section as in effect on the day before the date of the enactment of this Act.

(2) RELÈVANT PERIOD.—In the case of an entity that received a grant for fiscal year 1994 under section 740 of the Public Health Service Act, the period referred to in paragraph (1) is the period that, in first approving the grant, the Secretary specified as the duration of the grant.

SEC. 306. STUDENT LOANS REGARDING SCHOOLS OF NURSING.

Section 836(b) of the Public Health Service Act (42 U.S.C. 297b(b)) is amended—

(1) in paragraph (1), by striking the period at the end and inserting a semicolon;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "and" at the end; and

(B) by inserting before the semicolon at the end the following: ", and (C) such additional periods under the terms of paragraph (8) of this subsection";

(3) in paragraph (7), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following paragraph:

"(8) pursuant to uniform criteria established by the Secretary, the repayment period established under paragraph (2) for any student borrower who during the repayment period failed to make consecutive payments and who, during the last 12 months of the repayment period, has made at least 12 consecutive payments may be extended for a period not to exceed 10 years.".

SEC. 307. FEDERALLY-SUPPORTED STUDENT LOAN FUNDS.

(a) AUTHORIZATION OF APPROPRIATIONS REGARDING CERTAIN MEDICAL SCHOOLS.—

(1) IN GENERAL.—Subpart II of part A of title VII of the Public Health Service Act (42 U.S.C. 292q et seq.) is amended—

(A) by transferring subsection (f) of section 735 from the current placement of the subsection;

(B) by adding the subsection at the end of section 723;

(C) by redesignating the subsection as subsection (e); and

(D) in subsection (e)(1) of section 723 (as so redesignated), by striking "1996" and inserting "1997".

(2) CONFORMING AMENDMENTS.—Section 723 of the Public Health Service Act (42 U.S.C. 292s), as amended by paragraph (1) of this subsection, is amended in subsection (e)(2)(A)—

(A) by striking "section 723(b)(2)" and inserting "subsection (b)(2)"; and

(B) by striking "such section" and inserting "such subsection".

(b) AUTHORIZATION OF APPROPRIATIONS REGARDING INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Section 724(f)(1) of the Public Health Service Act (42 U.S.C. 292t(f)(1)) is amended to read as follows:

"(1) IN GENERAL.—With respect to making Federal capital contributions to student loan funds for purposes of subsection (a), other than the student loan fund of any school of medicine or osteopathic medicine, there is authorized to be appropriated $8,000,000 for each of the fiscal years 1995 through 1997.".

SEC. 308. AREA HEALTH EDUCATION CENTERS.

(a) REQUIREMENTS FOR CENTERS.—Section 746(d)(2)(D) of the Public Health Service Act (42 U.S.C. 293j(d)(2)(D)) is amended by inserting "and minority health" after "disease prevention".

(b) FUNDING.—Section 746(i)(2)(C) of the Public Health Service Act (42 U.S.C. 293j(i)(2)(C)) is amended in the second sentence by inserting before the period the following: "(except that in the case of fiscal year 1995, amounts appropriated in excess of the amount appropriated for fiscal year 1994 shall be obligated for carrying out subsection (a)(1) in rural States without an area health education center program)".

TITLE IV—RESEARCH

SEC. 401. OFFICE OF RESEARCH ON MINORITY HEALTH.

Section 404 of the Public Health Service Act (42 U.S.C. 283(b)) is amended by adding at the end the following subsections:

"(c) PLAN.—The Director of the Office, in consultation with the advisory committee established under subsection (d), shall develop and implement a plan for carrying out the duties established in subsection (b). The Director shall review the plan not less than annually, and revise the plan as appropriate.

"(d) EQUITY REGARDING VARIOUS GROUPS.—The Director of the Office shall ensure that activities under subsection (b) equitably address all racial and ethnic minority groups.

"(e) ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—In carrying out subsection (b), the Secretary shall establish an advisory committee to be known as the Advisory Committee on Research on Minority Health (in this subsection referred to as the 'Advisory Committee').

"(2) COMPOSITION.—

"(A) VOTING AND NONVOTING MEMBERS.—The Advisory Committee shall be composed of voting members appointed in accordance with subparagraph (B) and the ex officio nonvoting members described in subparagraph (C).

"(B) VOTING MEMBERS.—The Advisory Committee shall include 12 voting members who are not officers or employees of the Federal Government. The Director of the Office shall appoint such members to the Advisory Committee from among physicians, practitioners, scientists, consumers and other health professionals, whose clinical practices, research specialization, or professional expertise includes a significant focus on research on minority health or on the barriers that minorities must overcome to participate in clinical trials. The racial and ethnic minority groups shall be equally represented among such members.

"(C) EX OFFICIO NONVOTING MEMBERS.—The Deputy Assistant Secretary for Minority Health and the Directors of each of the national research entities shall serve as ex officio nonvoting members of the Advisory Committee (except that any of such Directors may designate an official of the institute involved to serve as such member of the Committee in lieu of the Director).

"(3) CHAIR.—The Director of the Office shall serve as the chair of the Advisory Committee.

"(4) DUTIES.—The Advisory Committee shall—

"(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

"(i) research on minority health;

"(ii) research on racial and ethnic differences in clinical drug trials, including responses to pharmacological drugs;

"(iii) research on racial and ethnic differences in disease etiology, course, and treatment; and

"(iv) research on minority health conditions which require a multidisciplinary approach;

"(B) report to the Director of the Office on such research;

"(C) provide recommendations to such Director regarding activities of the Office (including recommendations on priorities in carrying out research described in subparagraph (A)); and

"(D) assist in monitoring compliance with section 492B regarding the inclusion of minorities in clinical research.

"(5) BIENNIAL REPORT.—

"(A) PREPARATION.—The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(i) compliance with section 492B;

"(ii) the extent of expenditures made for research on minority health by the agencies of the National Institutes of Health; and

"(iii) the level of funding needed for such research.

"(B) SUBMISSION.—The report required in subparagraph (A) shall be submitted to the Director of the National Institutes of Health for inclusion in the report required in section 403.

"(f) REPRESENTATIVES OF MINORITIES AMONG RESEARCHERS.—The Secretary, acting through the Assistant Secretary for Personnel Administration and in collaboration with the Director of the Office, shall determine the extent to which minorities are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

"(g) REQUIREMENT REGARDING GRANTS AND CONTRACTS.—Any award of a grant, cooperative agreement, or contract that the Director of the Office is authorized to make shall be made only on a competitive basis.

"(h) DEFINITIONS.—For purposes of this part:

"(1) The term 'minority health conditions', with respect to individuals who are members of minority groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(A) unique to, more serious, or more prevalent in such individuals;

"(B) for which the factors of medical risk or types of medical intervention are different for such individuals, or for which it is unknown whether such factors or types are different for such individuals; or

"(C) with respect to which there has been insufficient research involving such individuals as subjects or insufficient data on such individuals.

"(2) The term 'research on minority health' means research on minority health conditions, including research on preventing such conditions.

"(3) The term 'racial and ethnic minority group' has the meaning given such term in section 1707(g).".

SEC. 402. ACTIVITIES OF AGENCY FOR HEALTH CARE POLICY AND RESEARCH.

Title IX of the Public Health Service Act (42 U.S.C. 299 et seq.) is amended—

(1) in section 902, by amending subsection (b) to read as follows:

"(b) Requirements With Respect to Certain Populations.—In carrying out subsection (a), the Administrator shall undertake and support research, demonstration projects, and evaluations with respect to the health status of, and the delivery of health care to—

"(1) the populations of medically underserved urban or rural areas (including frontier areas); and

"(2) low-income groups, racial and ethnic minority groups, and the elderly."; and

(2) in section 926(a), by adding at the end the following sentence: "Of the amounts appropriated under the preceding sentence for a fiscal year, the Administrator shall reserve not less than 8 percent for carrying out section 902(b)(2).".

SEC. 403. DATA COLLECTION BY NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306(n) of the Public Health Service Act (42 U.S.C. 242k(n)), as redesignated by section 501(a)(5)(B) of Public Law 103–183 (107 Stat. 2237), is amended to read as follows:

"(n)(1) For health statistical and epidemiological activities undertaken or supported under this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1998.

"(2) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall obligate not less than an aggregate $5,000,000 for carrying out subsections (h), (l), and (m) with respect to particular racial and ethnic population groups.".

TITLE V—NATIVE HAWAIIAN HEALTH CARE

SEC. 501. CLARIFICATION OF 1992 AMENDMENTS.

(a) Clarification of Date of Passage.—Section 9168 of the Department of Defense Appropriations Act, 1993 (106 Stat. 1948) is amended by striking "September 12, 1992," and inserting "August 7, 1992,".

(b) Effective Date.—The amendment made by subsection (a) shall take effect as of October 6, 1992.

SEC. 502. AMENDMENT OF NATIVE HAWAIIAN HEALTH CARE IMPROVEMENT ACT TO REFLECT 1992 AGREEMENT.

Effective on the date of enactment of this Act, the Native Hawaiian Health Care Improvement Act (42 U.S.C. 11701 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Native Hawaiian Health Care Improvement Act'.

"SEC. 2. FINDINGS; DECLARATION OF POLICY; INTENT OF CONGRESS.

"(a) Findings.—The Congress finds that—

"(1) the United States retains the legal responsibility to enforce the administration of the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians under section 5(f) of Public Law 86–3 (73 Stat. 6; commonly referred to as the 'Hawaii Statehood Admissions Act');

"(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the United States to the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of Native Hawaiians are consistent with the historical and unique legal relationship of the United States with the government that represented the indigenous native people of Hawaii; and

"(3) it is the policy of the United States to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in order to achieve this objective.

"(b) Declaration of Policy.—The Congress hereby declares that it is the policy of the United States in fulfillment of its special responsibilities and legal obligations to the indigenous people of Hawaii resulting from the unique and historical relationship between the United States and the Government of the indigenous people of Hawaii—

"(1) to raise the health status of Native Hawaiians to the highest possible health level; and

"(2) to provide existing Native Hawaiian health care programs with all resources necessary to effectuate this policy.

"(c) Intent of Congress.—It is the intent of the Congress that the Nation meet the following health objectives with respect to Native Hawaiians by the year 2000:

"(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

"(2) Reduce stroke deaths to no more than 20 per 100,000.

"(3) Increase control of high blood pressure to at least 50 percent of people with high blood pressure.

"(4) Reduce blood cholesterol to an average of no more than 200 mg/dl.

"(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

"(6) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(7) Increase Pap tests every 1 to 3 years to at least 85 percent of women age 18 and older.

"(8) Increase fecal occult blood testing every 1 to 2 years to at least 50 percent of people age 50 and older.

"(9) Reduce diabetes-related deaths to no more than 34 per 100,000.

"(10) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease to no more than 1.4 in 1,000.

"(B) Blindness to no more than 1.4 in 1,000.

"(C) Lower extremity amputation to no more than 4.9 in 1,000.

"(D) Perinatal mortality to no more than 2 percent.

"(E) Major congenital malformations to no more than 4 percent.

"(11) Reduce infant mortality to no more than 7 deaths per 1,000 live births.

"(12) Reduce low birth weight to no more than 5 percent of live births.

"(13) Increase first trimester prenatal care to at least 90 percent of live births.

"(14) Reduce teenage pregnancies to no more than 50 per 1,000 girls age 17 and younger.

"(15) Reduce unintended pregnancies to no more than 30 percent of pregnancies.

"(16) Increase to at least 60 percent the proportion of primary care providers who provide age-appropriate preconception care and counseling.

"(17) Increase years of healthy life to at least 65 years.

"(18) Eliminate financial barriers to clinical preventive services.

"(19) Increase childhood immunization levels to at least 90 percent of 2-year-olds.

"(20) Reduce the prevalence of dental caries to no more than 35 percent of children by age 8.

"(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children age 6 through 8 and no more than 15 percent among adolescents age 15.

"(22) Reduce edentulism to no more than 20 percent in people age 65 and older.

"(23) Increase moderate daily physical activity to at least 30 percent of the population.

"(24) Reduce sedentary lifestyles to no more than 15 percent of the population.

"(25) Reduce overweight to a prevalence of no more than 20 percent of the population.

"(26) Reduce dietary fat intake to an average of 30 percent of calories or less.

"(27) Increase to at least 75 percent the proportion of primary care providers who provide nutrition assessment and counseling or referral to qualified nutritionists or dieticians.

"(28) Reduce cigarette smoking prevalence to no more than 15 percent of adults.

"(29) Reduce initiation of smoking to no more than 15 percent by age 20.

"(30) Reduce alcohol-related motor vehicle crash deaths to no more than 8.5 per 100,000 adjusted for age.

"(31) Reduce alcohol use by school children age 12 to 17 to less than 13 percent.

"(32) Reduce marijuana use by youth age 18 to 25 to less than 8 percent.

"(33) Reduce cocaine use by youth age 18 to 25 to less than 3 percent.

"(34) Confine HIV infection to no more than 800 per 100,000.

"(35) Reduce gonorrhea infections to no more than 225 per 100,000.

"(36) Reduce syphilis infections to no more that 10 per 100,000.

"(37) Reduce significant hearing impairment to a prevalance of no more than 82 per 1,000.

"(38) Reduce acute middle ear infections among children age 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(39) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals age 25 and younger to 0.

"(B) Tetanus among individuals age 25 and younger to 0.

"(C) Polio (wild-type virus) to 0.

"(D) Measles to 0.

"(E) Rubella to 0.

"(F) Congenital Rubella Syndrome to 0.

"(G) Mumps to 500.

"(H) Pertussis to 1,000.

"(40) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(d) Report.—The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 9, a report on the progress made toward meeting each of the objectives described in subsection (c).

"SEC. 3. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

"The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of coordinating, implementing, and updating a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.

"SEC. 4. NATIVE HAWAIIAN HEALTH CARE SYSTEMS.

"(a) Comprehensive Health Promotion, Disease Prevention, and Primary Health Services.—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians.

"(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health care

systems and Native Hawaiian organizations, and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.

"(2) In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.

"(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is a Native Hawaiian health care system.

"(c) SERVICES TO BE PROVIDED.—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

"(A) Outreach services to inform Native Hawaiians of the availability of health services.

"(B) Education in health promotion and disease prevention of the Native Hawaiian population by (wherever possible) Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators.

"(C) Services of physicians, physicians' assistants, or nurse practitioners.

"(D) Immunizations.

"(E) Prevention and control of diabetes, high blood pressure, and otitis media.

"(F) Pregnancy and infant care.

"(G) Improvement of nutrition.

"(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

"(A) Identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians.

"(B) Collection of data related to the prevention of diseases and illnesses among Native Hawaiians.

"(C) Services within the meaning of the terms 'health promotion', 'disease prevention', and 'primary health services', as such terms are defined in section 10, which are not specifically referred to in paragraph (1) of this subsection.

"(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

"(d) LIMITATION ON NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems.

"(e) MATCHING FUNDS.—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to an entity—

"(A) in an amount exceeding 75 percent of the costs of providing health services under the grant or contract; and

"(B) unless the entity agrees that the entity will make available, directly or through donations to the entity, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2)) for each $3 of Federal funds provided in such grant or contract.

"(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

"(3) The Secretary may waive the requirement established in paragraph (1) if—

"(A) the entity involved is a nonprofit private entity described in subsection (b); and

"(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the entity to comply with such requirement.

"(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(1) for any purpose other than the purposes described in subsection (c);

"(2) to provide inpatient services;

"(3) to make cash payments to intended recipients of health services; or

"(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

"(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

"(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

"(2) the entity will impose a charge for the delivery of health services, and such charge—

"(A) will be made according to a schedule of charges that is made available to the public, and

"(B) will be adjusted to reflect the income of the individual involved.

"SEC. 5. FUNCTIONS OF, AND GRANTS TO, PAPA OLA LOKAHI.

"(a) FUNCTIONS.—Papa Ola Lokahi shall—

"(1) coordinate, implement, and update, as appropriate, the comprehensive health care master plan developed pursuant to section 3;

"(2) to the maximum extent possible, coordinate and assist the health care programs and services provided to Native Hawaiians;

"(3) provide for the training of the persons described in section 4(c)(1)(B);

"(4) develop an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out this Act;

"(5) serve as a clearinghouse for—

"(A) the collection and maintenance of data associated with the health status of Native Hawaiians;

"(B) the identification of and research into diseases affecting Native Hawaiians;

"(C) the availability of Native Hawaiian project funds, research projects, and publications; and

"(D) the timely dissemination of information relating to Native Hawaiian health care systems;

"(6) perform the recognition and certification functions specified in sections 10(6)(F) and 10(6)(G); and

"(7) provide technical support and coordination of training and technical assistance to Native Hawaiian health care systems.

"(b) SPECIAL PROJECT FUNDS.—Papa Ola Lokahi may receive project funds that may be appropriated for the purpose of research on the health status of Native Hawaiians or for the purpose of addressing the health care needs of Native Hawaiians.

"(c) GRANTS.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

"(1) carrying out the functions described in subsection (a); and

"(2) administering any special project funds received under the authority of subsection (b).

"(d) RELATIONSHIPS WITH OTHER AGENCIES.—Papa Ola Lokahi may enter into agreements or memoranda of understanding with relevant agencies or organizations that are capable of providing resources or services to Native Hawaiian health care systems.

"SEC. 6. ADMINISTRATION OF GRANTS AND CONTRACTS.

"(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

"(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

"(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

"(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

"(3) with respect to providing health services to any population of Native Hawaiians a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

"(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

"(A) if the entity will provide under the grant or contract any such health services directly—

"(i) the entity has entered into a participation agreement under such plan; and

"(ii) the entity is qualified to receive payments under such plan; and

"(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

"(i) the organization has entered into a participation agreement under such plan; and

"(ii) the organization is qualified to receive payments under such plan; and

"(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

"(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 4, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 4 with another entity referred to in section 4(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

"(2) In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of evaluation under this section.

"(3) All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

"(4) Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this Act.

"(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 5(c), the Secretary may not make a grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this Act for the purpose of administering the grant or contract.

"(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

"(A) activities conducted by the entity under the grant or contract;

"(B) the amounts and purposes for which Federal funds were expended; and

"(C) such other information as the Secretary may request.

"(2) The reports and records of any entity which concern any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of Health and Human Services, and the Comptroller General of the United States.

"(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

"SEC. 7. ASSIGNMENT OF PERSONNEL.

"(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

"(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

"SEC. 8. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

"(a) ELIGIBILITY.—The Secretary is authorized to make scholarship grants to students who—

"(1) meet the requirements of section 338A(b) of the Public Health Service Act (42 U.S.C. 254l(b)); and

"(2) are Native Hawaiians.

"(b) TERMS AND CONDITIONS.—(1) Scholarship grants provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship grants provided under section 338A of the Public Health Service Act (42 U.S.C. 254l), except that—

"(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

"(B) in selecting scholarship recipients, the Secretary shall give priority to individuals included on a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate; and

"(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in—

"(i) any one of the five Native Hawaiian health care systems which, during the fiscal year in which the obligated service requirement is assigned, has received a grant or entered into a contract pursuant to section 4; or

"(ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii.

"(2) The Secretary shall enter into a cooperative agreement with the Kamehameha Schools/Bishop Estate under which such organization shall provide recruitment, retention, counseling, and other support services intended to improve the operation of the scholarship program established under this section.

"(3) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"SEC. 9. REPORT.

"The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress the report required pursuant to section 2(d).

"SEC. 10. DEFINITIONS.

"For purposes of this Act:

"(1) DISEASE PREVENTION.—The term 'disease prevention' includes—

"(A) immunizations,

"(B) control of high blood pressure,

"(C) control of sexually transmittable diseases,

"(D) prevention and control of diabetes,

"(E) control of toxic agents,

"(F) occupational safety and health,

"(G) accident prevention,

"(H) fluoridation of water,

"(I) control of infectious agents, and

"(J) provision of mental health care.

"(2) HEALTH PROMOTION.—The term 'health promotion' includes—

"(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,

"(B) cessation of tobacco smoking,

"(C) reduction in the misuse of alcohol and drugs,

"(D) improvement of nutrition,

"(E) improvement in physical fitness,

"(F) family planning, and

"(G) control of stress.

"(3) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual who is—

"(A) a citizen of the United States; and

"(B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records;

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification; or

"(iii) birth records of the State of Hawaii.

"(4) NATIVE HAWAIIAN HEALTH CENTER.—The term 'Native Hawaiian health center' means an entity—

"(A) which is organized under the laws of the State of Hawaii,

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,

"(C) which is a public or nonprofit private entity, and

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

"(5) NATIVE HAWAIIAN ORGANIZATION.—The term 'Native Hawaiian organization' means any organization—

"(A) which serves the interests of Native Hawaiians,

"(B) which is—

"(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians, and

"(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act,

"(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and

"(D) which is a public or nonprofit private entity.

"(6) NATIVE HAWAIIAN HEALTH CARE SYSTEM.—The term 'Native Hawaiian health care system' means an entity—

"(A) which is organized under the laws of the State of Hawaii;

"(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable;

"(C) which is a public or nonprofit private entity;

"(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health care services;

"(E) which may be composed of as many Native Hawaiian health centers as necessary to meet the health care needs of Native Hawaiians residing on the island or islands served by such entity;

"(F) which is recognized by Papa Ola Lokahi for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians under this Act; and

"(G) which is certified by Papa Ola Lokahi as having the qualifications and the capacity to provide the services and meet the requirements of a contract entered into, or a grant received, under section 4.

"(7) PAPA OLA LOKAHI.—(A) Subject to subparagraph (B), the term 'Papa Ola Lokahi' means an organization composed of—

"(i) E Ola Mau;

"(ii) the Office of Hawaiian Affairs of the State of Hawaii;

"(iii) Alu Like Inc.;

"(iv) the University of Hawaii;

"(v) the Office of Hawaiian Health of the Hawaii State Department of Health;

"(vi) Ho'ola Lahui Hawaii, or a health care system serving the islands of Kaua'i and Ni'ihau;

"(vii) Ke Ola Mamo, or a health care system serving the island of O'ahu;

"(viii) Na Pu'uwai or a health care system serving the islands of Moloka'i and Lana'i;

"(ix) Hui No Ke Ola Pono, or a health care system serving the island of Maui;

"(x) Hui Malama Ola Ha'Oiwi or a health care system serving the island of Hawaii; and

"(xi) such other member organizations as the Board of Papa Ola Lokahi may admit from time to time, based upon satisfactory demonstration of a record of contribution to the health and well-being of Native Hawaiians, and upon satisfactory development of a mission statement in

relation to this Act, including clearly defined goals and objectives, a 5-year action plan outlining the contributions that each organization will make in carrying out the policy of this Act, and an estimated budget.

"(B) Such term does not include any organization identified in subparagraph (A) if the Secretary determines that such organization does not have a mission statement with clearly defined goals and objectives for the contributions the organization will make to Native Hawaiian health care systems and an action plan for carrying out such goals and objectives.

"(8) PRIMARY HEALTH SERVICES.—The term 'primary health services' means—

"(A) services of physicians, physicians' assistants and nurse practitioners;

"(B) diagnostic laboratory and radiologic services;

"(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

"(D) emergency medical services;

"(E) transportation services as required for adequate patient care;

"(F) preventive dental services; and

"(G) pharmaceutical services, as may be appropriate for particular health centers.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(10) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term 'traditional Native Hawaiian healer' means a practitioner—

"(A) who—

"(i) is of Hawaiian ancestry, and

"(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

"(B) whose knowledge, skills, and experience are based on a demonstrated learning of Native Hawaiian healing practices acquired by—

"(i) direct practical association with Native Hawaiian elders, and

"(ii) oral traditions transmitted from generation to generation.

"SEC. 11. RULE OF CONSTRUCTION.

"Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

"SEC. 12. COMPLIANCE WITH BUDGET ACT.

"Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

"SEC. 13. SEVERABILITY.

"If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

"SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated for each of the fiscal years 1995, 1996, 1997, 1998, 1999, and 2000 such sums as may be necessary to carry out the purposes of this Act.

"SEC. 15. PROHIBITION AGAINST EXCLUSION FROM PARTICIPATION.

"Notwithstanding any other provision of this Act, no person shall, on the basis of race, color, or national origin, be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance under this Act.".

SEC. 503. REPEAL OF PUBLIC HEALTH SERVICE ACT PROVISION.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 206 of this Act, is amended by repealing section 338K and redesignating section 338L as section 338K. Such repeal shall not be construed to terminate contracts in effect under such section on the date of the enactment of this Act. Any such contracts shall continue according to the terms and conditions of such contracts.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the enactment of this Act.

TITLE VI—WOMEN'S HEALTH

SEC. 601. ESTABLISHMENT OF OFFICE OF WOMEN'S HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.), as amended by section 704 of Public Law 103-183 (107 Stat. 2240), is amended by adding at the end the following section:

"OFFICE OF WOMEN'S HEALTH

"SEC. 1710. (a) IN GENERAL.—There is established an Office of Women's Health within the Office of the Assistant Secretary for Health. There shall be in the Department of Health and Human Services a Deputy Assistant Secretary for Women's Health, who shall be the head of the Office of Women's Health. The Secretary, acting through such Deputy Assistant Secretary, shall carry out this section.

"(b) DUTIES.—

"(1) IN GENERAL.—The Secretary may conduct or support programs and activities regarding women's health conditions. In carrying out the preceding sentence, the Secretary shall—

"(A) monitor the programs and activities of the agencies specified in paragraph (2) in order to determine the extent to which the purposes of the programs and activities are being carried out with respect to women's health conditions (as defined in section 486);

"(B) provide advice to the heads of such agencies on improving programs and activities that relate to such conditions; and

"(C) coordinate such programs and activities of the agencies.

"(2) SPECIFIED AGENCIES.—For purposes of paragraph (1), the agencies referred to in this paragraph are the following:

"(A) The Centers for Disease Control and Prevention.

"(B) The National Institutes of Health.

"(C) The Agency for Health Care Policy and Research.

"(D) The Health Resources and Services Administration.

"(E) The Substance Abuse and Mental Health Services Administration.

"(F) The Food and Drug Administration.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

SEC. 602. WOMEN'S SCIENTIFIC EMPLOYMENT REGARDING NATIONAL INSTITUTES OF HEALTH.

(a) IN GENERAL.—Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following section:

"WOMEN'S SCIENTIFIC EMPLOYMENT

"SEC. 404F. (a) IN GENERAL.—The Director of NIH shall—

"(1) establish policies for the National Institutes of Health on matters relating to the employment by such Institutes of women as scientists;

"(2) monitor the extent of compliance with such policies, including through the implementation of an accountability system under the Federal Equal Opportunity Recruitment Program; and

"(3) establish and maintain a process for responding to incidents of noncompliance with such policies.

"(b) CERTAIN POLICIES.—In establishing policies under subsection (a)(1), the Director of NIH shall provide for the following policies regarding the employment of women as scientists at the National Institutes of Health:

"(1) A policy on the granting of tenured status.

"(2) A policy on family leave.

"(3) A policy on the recruitment of minority women.

"(4) A policy on the inclusion of women scientists in intramural and extramural conferences, workshops, international congresses, and similar events funded or sponsored by such Institutes.

"(c) AVAILABILITY OF POLICIES.—The Director of NIH shall ensure that copies of policies established under subsection (a) are available to scientists of the National Institutes of Health.

"(d) DEFINITION.—For purposes of this section, the term 'Federal Equal Opportunity Recruitment Program' means the program carried out under part 720 of title 5, Code of Federal Regulations (5 CFR 720).".

(b) STUDIES.—

(1) PAY EQUITY.—The Director of the National Institutes of Health shall provide for a study to identify any pay differences among men and women scientists employed (both tenured and untenured) by the National Institutes of Health. The study shall include recommendations on measures to adjust any inequities, and on making available information on salary ranges to all scientists of such Institutes.

(2) STUDY ON TERMINATION OF EMPLOYMENT.—The Comptroller General of the United States shall conduct a study for the purpose of determining the reasons underlying the employment termination of scientists of the National Institutes of Health. The study shall be carried out with respect to male and female scientists, and with respect to voluntary and involuntary terminations.

(3) REPORTS.—Not later than 240 days after the date of the enactment of this Act, the studies required in this subsection shall be completed, and reports describing the findings and recommendations of the studies shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 603. INFORMATION AND EDUCATION REGARDING FEMALE GENITAL MUTILATION.

(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the Deputy Assistant Secretary for Women's Health and the Deputy Assistant Secretary for Minority Health collaborate for the purpose of carrying out the following activities:

(1) Compile data on the number of females living in the United States who have been subjected to female genital mutilation (whether in the United States or in their countries of origin), including a specification of the number of girls under the age of 18 who have been subjected to such mutilation.

(2) Identify communities in the United States that practice female genital mutilation, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice. Such outreach activities shall be designed and implemented in collaboration with representatives of the ethnic groups practicing such mutilation and with representatives of organizations with expertise in preventing such practice.

(3) Develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation and complications arising from such mutilation. Such recommendations shall be disseminated to such schools.

(b) DEFINITION.—For purposes of this section, the term "female genital mutilation" means the removal or infibulation (or both) of the whole or part of the clitoris, the labia minor, or the labia major.

SEC. 604. STUDY REGARDING CURRICULA OF MEDICAL SCHOOLS AND WOMEN'S HEALTH CONDITIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Administrator of the Health Resources and Services Administration, shall conduct a study for the purpose of determining the contents of the curriculum of schools of medicine and osteopathic medicine and whether such curriculum provides adequate education to students on women's health conditions.

(b) CONSULTATIONS.—The Secretary shall carry out subsection (a) in consultation with the Deputy Assistant Secretary for Women's Health and the Director of the Office of Research on Women's Health (of the National Institutes of Health).

(c) REPORT.—Not later than April 1, 1995, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study and containing any recommendations of the Secretary regarding such findings.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "women's health conditions" has the meaning given such term in section 486 of the Public Health Service Act.

TITLE VII—TRAUMATIC BRAIN INJURY

SEC. 701. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—Part B of Title III of the Public Health Service Act (42 U.S.C. 243 ET SEQ.), AS AMENDED BY SECTION 209 OF THIS ACT, IS AMENDED BY INSERTING AFTER SECTION 317G THE FOLLOWING SECTION:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317H. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 702. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d–61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 703. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d–51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve the availability of health services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall be cognizant of findings and concerns of Federal, State and local agencies, citizens groups, and private industry (such as insurance, health care, automobile, and other industry entities). Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the effective date under section 901 of the Minority Health Improvement Act of 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

SEC. 704. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidence of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the effective date under section 901, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the effective date under section 901, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. TECHNICAL AMENDMENT TO INDIAN HEALTH CARE IMPROVEMENT ACT.

The last sentence of section 818(e)(3) of the Indian Health Care Improvement Act (25 U.S.C. 1680h(e)(3)) is amended—

(1) by striking "services," and inserting "services"; and

(2) by striking ", shall be recoverable." and inserting a period.

SEC. 802. HEALTH SERVICES FOR PACIFIC ISLANDERS.

Section 10 of the Disadvantaged Minority Health Improvement Act of 1990 (42 U.S.C. 254c–1) is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) by inserting ", substance abuse" after "availability of health"; and

(ii) by striking ", including improved health data systems";

(B) in paragraph (3)—

(i) by striking "manpower" and inserting "care providers"; and

(ii) by striking "by—" and all that follows through the end thereof and inserting a semicolon;

(C) by striking paragraphs (5) and (6);

(D) by redesignating paragraphs (7), and (8) as paragraphs (5) and (6), respectively;

(E) in paragraph (5) (as so redesignated), by striking "and" at the end thereof;

(F) in paragraph (6) (as so redesignated), by striking the period and inserting a semicolon; and

(G) by inserting after paragraph (6) (as so redesignated), the following new paragraphs:

"(7) to provide primary health care, preventive health care, and related training to American Samoan health care professionals; and

"(8) to improve access to health promotion and disease prevention services for rural American Samoa.";

(2) in subsection (f)—

(A) by striking "there is" and inserting "there are"; and

(B) by striking "$10,000,000" and all that follows through "1993" and inserting "$3,000,000 for fiscal year 1995, $4,000,000 for fiscal year 1996, and $5,000,000 for fiscal year 1997"; and

(3) by adding at the end thereof the following new subsection:

"(g) STUDY AND REPORT.—

"(1) STUDY.—Not later than 180 days after the date of enactment of this subsection, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall enter into a contract with a public or nonprofit private entity for the conduct of a study to determine the effectiveness of projects funded under this section.

"(2) REPORT.—Not later than July 1, 1995, the Secretary shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the findings made with respect to the study conducted under paragraph (1).".

SEC. 803. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 103–183.

(a) AMENDATORY INSTRUCTIONS.—Public Law 103–183 is amended—

(1) in section 601—

(A) in subsection (b), in the matter preceding paragraph (1), by striking "Section 1201 of the Public Health Service Act (42 U.S.C. 300d)" and inserting "Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.)"; and

(B) in subsection (f)(1), by striking "in section 1204(c)" and inserting "in section 1203(c) (as redesignated by subsection (b)(2) of this section)";

(2) in section 602, by striking "for the purpose" and inserting "For the purpose"; and

(3) in section 705(b), by striking "317D((l)(1)" and inserting "317D(l)(1)".

(b) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act, as amended by Public Law 103–183 and by subsection (a) of this section, is amended—

(1) in section 317E(g)(2), by striking "making grants under subsection (b)" and inserting "carrying out subsection (b)";

(2) in section 318, in subsection (e) as in effect on the day before the date of the enactment of Public Law 103–183, by redesignating the subsection as subsection (f);

(3) in subpart 6 of part C of title IV—

(A) by transferring the first section 447 (added by section 302 of Public Law 103–183) from the current placement of the section;

(B) by redesignating the section as section 447A; and

(C) by inserting the section after section 447;

(4) in section 1213(a)(8), by striking "provides for for" and inserting "provides for";

(5) in section 1501, by redesignating the second subsection (c) (added by section 101(f) of Public Law 103–183) as subsection (d); and

(6) in section 1505(3), by striking "nonprofit".

(c) MISCELLANEOUS CORRECTION.—Section 401(c)(3) of Public Law 103–183 is amended in the matter preceding subparagraph (A) by striking "(d)(5)" and inserting "(e)(5)".

(d) EFFECTIVE DATE.—This section is deemed to have taken effect immediately after the enactment of Public Law 103–183.

SEC. 804. CERTAIN AUTHORITIES OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act, as amended by section 701 of this Act, is amended by inserting after section 317H the following section:

"MISCELLANEOUS AUTHORITIES REGARDING CENTERS FOR DISEASE CONTROL AND PREVENTION

"SEC. 317I. (a) TECHNICAL AND SCIENTIFIC PEER REVIEW GROUPS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups and scientific program advisory committees as are needed to carry out the functions of such Centers and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups. The Federal Advisory Committee Act shall not apply to the duration of such peer review groups. Not more than one-fourth of the members of any such group shall be officers or employees of the United States.

"(b) FELLOWSHIP AND TRAINING PROGRAMS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish fellowship and training programs to be conducted by such Centers to train individuals to develop skills in epidemiology, surveillance, laboratory analysis, and other disease detection and prevention methods. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in local, State, national, and international efforts toward the prevention and control of diseases, injuries, and disabilities. Such fellowships and training may be administered through the use of either appointment or nonappointment procedures.".

(b) EFFECTIVE DATE.—This section is deemed to have taken effect July 1, 1994.

SEC. 805. ESTABLISHMENT OF PUBLIC HEALTH ANALYTICAL LABORATORY.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting as appropriate through the Director of the Centers for Disease Control and Prevention or through other agencies, may make a grant for the establishment and operation of a laboratory to protect the public health through analyzing human, wildlife, air, water, and soil samples. The laboratory shall serve the region in the United States along the international border between the United States and Mexico, and shall be established in the United States in close proximity to such border.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1995 through 1997.

SEC. 806. ADMINISTRATION OF CERTAIN REQUIREMENTS.

(a) IN GENERAL.—Section 2004 of Public Law 103–43 (107 Stat. 209) is amended by striking subsection (a).

(b) CONFORMING AMENDMENTS.—Section 2004 of Public Law 103–43, as amended by subsection (a) of this section, is amended—

(1) by striking "(b) SENSE" and all that follows through "In the case" and inserting the following:

"(a) SENSE OF CONGRESS REGARDING PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case";

(2) by striking "(2) NOTICE TO RECIPIENTS OF ASSISTANCE" and inserting the following:

"(b) NOTICE TO RECIPIENTS OF ASSISTANCE"; and

(3) in subsection (b), as redesignated by paragraph (2) of this subsection, by striking "paragraph (1)" and inserting "subsection (a)".

(c) EFFECTIVE DATE.—This section is deemed to have taken effect immediately after the enactment of Public Law 103–43.

SEC. 807. REVISIONS TO ELIGIBILITY REQUIREMENTS FOR ENTITIES SUBJECT TO DRUG PRICING LIMITATIONS.

(a) TREATMENT OF CERTAIN OUTPATIENT CLINICS AS COVERED ENTITIES.—Section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)) is amended by adding at the end the following subparagraph:

"(M) A diagnostic and treatment center owned and operated by the New York City Health and Hospitals Corporation.".

(b) LIMITATION ON EXCLUSION BASED ON PARTICIPATION IN GROUP PURCHASING ORGANIZATION.—Section 340B(a)(4)(L) of the Public Health Service Act (42 U.S.C. 256b(a)(4)(L)) is amended—

(1) in clause (i), by striking "under this title" and inserting "under title XIX of such Act"; and

(2) in clause (iii), by inserting before the period at the end the following: ", other than the Health Services Purchasing Group under the control of Los Angeles County".

(c) CLARIFICATION OF EFFECTIVE DATE OF EXCLUSION BASED ON PARTICIPATION IN GROUP PURCHASING ORGANIZATION.—The Secretary of Health and Human Services may not find that the hospital system for the Dallas County Hospital District of Texas (commonly known as Parkland Memorial Hospital) fails to meet the requirements for a covered entity under paragraph (4)(L) of section 340B(a) of the Public Health Service Act solely because the hospital used a group purchasing organization or other group purchasing arrangement to obtain a covered outpatient drug before the effective date of the entity guidelines published by the Secretary pursuant to section 602 of the Veterans Health Care Act of 1992 if, at the time the hospital purchased the drug, the manufacturer of the drug did not offer to furnish the drug to the hospital at the price required to be paid for the drug under paragraph (1) of such section.

(d) EFFECTIVE DATES.—Subsections (a) and (b) take effect as if included in the enactment of the Veterans Health Care Act of 1992. Subsection (c) takes effect on the date of the enactment of this Act.

SEC. 808. DEMONSTRATION PROJECTS REGARDING ALZHEIMER'S DISEASE.

(a) IN GENERAL.—Section 398(a) of the Public Health Service Act (42 U.S.C. 280c–3(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "not less than 5, and not more than 15,";

(2) in paragraph (2)—

(A) by inserting after "disorders" the following: "who are living in single family homes or in congregate settings"; and

(B) by striking "and" at the end;

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following:

"(3) to improve the access of such individuals to home-based or community-based long-term care services (subject to the services being provided by entities that were providing such services in the State involved as of October 1, 1995), particularly such individuals who are members of racial or ethnic minority groups, who have limited proficiency in speaking the English language, or who live in rural areas; and".

(b) DURATION.—Section 398A of the Public Health Service Act (42 U.S.C. 280c–4) is amended—

(1) in the heading for the section, by striking "**limitation**" and all that follows and inserting "**requirement of matching funds**";

(2) by striking subsection (a);

(3) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(4) in subsection (a) (as so redesignated), in each of paragraphs (1)(C) and (2)(C), by striking "third year" and inserting "third or subsequent year".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 398B(e) of the Public Health Service Act (42 U.S.C. 280c–5(e)) is amended by striking "and 1993" and inserting "through 1998".

SEC. 809. TECHNICAL CORRECTIONS RELATING TO HEALTH PROFESSIONS PROGRAMS.

(a) HEALTH EDUCATION ASSISTANCE LOAN DEFERMENT FOR BORROWERS PROVIDING HEALTH SERVICES TO INDIANS.—

(1) IN GENERAL.—Section 705(a)(2)(C) of the Public Health Service Act is amended by striking "and (x)" and inserting "(x) not in excess of three years, during which the borrower is providing health care services to Indians through an Indian health program (as defined in section 108(a)(2)(A) of the Indian Health Care Improvement Act (25 U.S.C. 1616a(a)(2)(A)); and (xi)".

(2) CONFORMING AMENDMENTS.—Section 705(a)(2)(C) of the Public Health Service Act is further amended—

(A) in clause (xi) (as so redesignated) by striking "(ix)" and inserting "(x)"; and

(B) in the matter following such clause (xi), by striking "(x)" and inserting "(xi)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to services provided on or after the first day of the third month that begins after the date of the enactment of this Act.

(b) MAXIMUM STUDENT LOAN PROVISION.—

(1) IN GENERAL.—Section 722(a)(1) of the Public Health Service Act (42 U.S.C. 292r(a)(1)), as amended by section 2014(b)(1) of Public Law 103–43, is amended by striking "the sum of" and all that follows through the end thereof and inserting "the cost of attendance (including tuition, other reasonable educational expenses, and reasonable living costs) for that year at the educational institution attended by the student (as determined by such educational institution).".

(2) THIRD AND FOURTH YEARS.—Section 722(a)(2) of the Public Health Service Act (42 U.S.C. 292r(a)(2)), as amended by section 2014(b)(1) of Public Law 103–43, is amended by striking "the amount $2,500" and all that follows through "including such $2,500" and inserting "the amount of the loan may, in the case of the third or fourth year of a student at school of medicine or osteopathic medicine, be increased to the extent necessary".

(c) REQUIREMENT FOR SCHOOLS.—Section 723(b)(1) of the Public Health Service Act (42 U.S.C. 292s(b)(1)), as amended by section 2014(c)(2)(A)(ii) of Public Law 103–43 (107 Stat. 216), is amended by striking "3 years before" and inserting "4 years before".

(d) SERVICE REQUIREMENT FOR PRIMARY CARE LOAN BORROWERS.—Section 723(a) of the Public Health Service Act (42 U.S.C. 292s(a)) is amended in subparagraph (B) of paragraph (1), by striking "through the date on which the loan is repaid in full" and inserting "for 5 years after completing the residency program".

(e) PREFERENCE AND REQUIRED INFORMATION IN CERTAIN PROGRAMS.—

(1) TITLE VII.—Section 791 of the Public Health Service Act (42 U.S.C. 295j) is amended by adding at the end thereof the following subsection:

"(d) EXCEPTIONS.—

"(1) IN GENERAL.—To permit new programs to compete equitably for funding under this section, those new programs that meet the criteria described in paragraph (3) shall qualify for a funding preference under this section.

"(2) DEFINITION.—As used in this subsection, the term 'new program' means any program that has graduated less than three classes. Upon graduating at least three classes, a program shall have the capability to provide the information necessary to qualify the program for the general funding preferences described in subsection (a).

"(3) CRITERIA.—The criteria referred to in paragraph (1) are the following:

"(A) The mission statement of the program identifies a specific purpose of the program as being the preparation of health professionals to serve underserved populations.

"(B) The curriculum of the program includes content which will help to prepare practitioners to serve underserved populations.

"(C) Substantial clinical training experience is required under the program in medically underserved communities.

"(D) A minimum of 20 percent of the faculty of the program spend at least 50 percent of their time providing or supervising care in medically underserved communities.

"(E) The entire program or a substantial portion of the program is physically located in a medically underserved community.

"(F) Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program.

"(G) The program provides a placement mechanism for deploying graduates to medically underserved communities.".

(2) TITLE VIII.—Section 860 of the Public Health Service Act (42 U.S.C. 298b–7) is amended by adding at the end thereof the following subsection:

"(f) EXCEPTIONS.—

"(1) IN GENERAL.—To permit new programs to compete equitably for funding under this section, those new programs that meet the criteria described in paragraph (3) shall qualify for a funding preference under this section.

"(2) DEFINITION.—As used in this subsection, the term 'new program' means any program that has graduated less than three classes. Upon graduating at least three classes, a program shall have the capability to provide the information necessary to qualify the program for the general funding preferences described in subsection (a).

"(3) CRITERIA.—The criteria referred to in paragraph (1) are the following:

"(A) The mission statement of the program identifies a specific purpose of the program as being the preparation of health professionals to serve underserved populations.

"(B) The curriculum of the program includes content which will help to prepare practitioners to serve underserved populations.

"(C) Substantial clinical training experience is required under the program in medically underserved communities.

"(D) A minimum of 20 percent of the faculty of the program spend at least 50 percent of their time providing or supervising care in medically underserved communities.

"(E) The entire program or a substantial portion of the program is physically located in a medically underserved community.

"(F) Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program.

"(G) The program provides a placement mechanism for deploying graduates to medically underserved communities.".

(f) DEFINITIONS.—Section 799(6) of the Public Health Service Act (42 U.S.C. 295p(6)) is amended—

(1) in subparagraph (B) by striking "; or" at the end thereof;

(2) in subparagraph (C) by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following:

"(D) ambulatory practice sites designated by State Governors as shortage areas or medically underserved communities for purposes of State *scholarships or loan repayment or related programs; or*

"(E) practices or facilities in which not less than 50 percent of the patients are recipients of aid under title XIX of the Social Security Act or eligible and uninsured.".

(g) RECOVERY.—Part G of title VII of the Public Health Service Act (42 U.S.C. 295j et seq.), as amended by section 301(b)(1) of this Act, is amended by inserting after section 794 the following section:

"SEC. 795. RECOVERY.

"(a) IN GENERAL.—If at any time within 20 years (or within such shorter period as the Secretary may prescribe by regulation for an interim facility) after the completion of construction of a facility with respect to which funds have been paid under section 720(a) (as such section existed one day prior to the date of enactment of the Health Professions Education Extension Amendments of 1992 (Public Law 102–408)—

"(1)(A) in case of a facility which was an affiliated hospital or outpatient facility with respect to which funds have been paid under such section 720(a)(1), the owner of the facility ceases to be a public or other nonprofit agency that would have been qualified to file an application under section 605;

"(B) in case of a facility which was not an affiliated hospital or outpatient facility but was a facility with respect to which funds have been paid under paragraph (1) or (3) of such section 720(a), the owner of the facility ceases to be a public or nonprofit school, or

"(C) in case of a facility which was a facility with respect to which funds have been paid under such section 720(a)(2), the owner of the facility ceases to be a public or nonprofit entity,

"(2) the facility ceases to be used for the teaching or training purposes (or other purposes permitted under section 722 (as such section existed one day prior to the date of enactment of the Health Professions Education Extension Amendments of 1992 (Public Law 102–408)) for which it was constructed, or

"(3) the facility is used for sectarian instruction or as a place for religious worship,

the United States shall be entitled to recover from the owner of the facility the base amount prescribed by subsection (c)(1) plus the interest (if any) prescribed by subsection (c)(2).

"(b) NOTICE.—The owner of a facility which ceases to be a public or nonprofit agency, school, or entity as described in subparagraph (A), (B), or (C) of subsection (a)(1), as the case may be, or the owner of a facility the use of which changes as described in paragraph (2) or (3) of subsection (a), shall provide the Secretary written notice of such cessation or change of use within 10 days after the date on which such cessation or change of use occurs or within 30 days after the date of enactment of this subsection, whichever is later.

"(c) AMOUNT.—

"(1) BASE AMOUNT.—The base amount that the United States is entitled to recover under subsection (a) is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of the facility as the amount of the Federal participation bore to the cost of construction.

"(2) INTEREST.—

"(A) IN GENERAL.—The interest that the United States is entitled to recover under subsection (a) is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of ninety-one-day Treasury bills auctioned during that period.

"(B) PERIOD.—The period referred to in subparagraph (A) is the period beginning—

"(i) if notice is provided as prescribed by subsection (b), 191 days after the date on which the owner of the facility ceases to be a public or nonprofit agency, school, or entity as described in subparagraph (A), (B), or (C) of subsection (a)(1), as the case may be, or 191 days after the date on which the use of the facility changes as described in paragraph (2) or (3) of subsection (a), or

"(ii) if notice is not provided as prescribed by subsection (b), 11 days after the date on which such cessation or change of use occurs,

and ending on the date the amount the United States is entitled to recover is collected.

"(d) WAIVER.—The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

"(e) LIEN.—The right of recovery of the United States under subsection (a) shall not, prior to judgment, constitute a lien on any facility.".

SEC. 810. CLINICAL TRAINEESHIPS.

Section 303(d)(1) of the Public Health Service Act (42 U.S.C. 242a(d)(1)) is amended by inserting "counseling" after "family therapy,".

SEC. 811. CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES.

Section 481B(a) of the Public Health Service Act (42 U.S.C. 287a–3(a)) is amended by striking "$5,000,000" and inserting "$2,500,000".

TITLE IX—GENERAL PROVISIONS

SEC. 901. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act takes effect upon the date of the enactment of this Act.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following: "An Act to amend the Public Health Service Act to revise and extend programs relating to the health of individuals who are members of racial and ethnic minority groups, and for other purposes.".

And the House agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
BILL RICHARDSON,
EDOLPHUS TOWNS,
CRAIG A. WASHINGTON,
CARLOS J. MOORHEAD,
TOM BLILEY,
MIKE BILIRAKIS,
SAM GIBBONS,
HAROLD FORD,
Managers on the Part of the House.

From the Committee on Ways and Means, for consideration of titles VI and VII of the Senate bill, and modifications committed to conference:

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
NANCY LANDON KASSEBAUM,
ORRIN G. HATCH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

PRIMARY HEALTH CARE SCHOLARSHIPS

The Conference agreement revises the primary care scholarship program into a targeted initiative designed to complement the National Health Service Corps and to increase the opportunities for disadvantaged students to obtain Federal scholarships to meet the costs of attending health professions schools. The agreement consolidates existing federal assistance for students attending medical, osteopathic, dental, nursing or mental health practice schools. The revised Primary Health Care Scholarship program will target aid directly to students, increase the level of financial assistance, and allow scholarship recipients to attend the school of their choice. In addition to scholarship assistance, recipients will receive a stipend that covers reasonable living expenses equivalent to those provided to recipients of the National Health Service Corps scholarships.

The nation's chronic shortage of primary care physicians is a major cause of poor health status within minority and other disadvantaged communities. These shortages cannot be remedied without greater incentives for talented medical students to pursue primary care careers and to be willing, at least for a limited number of years, to repay the taxpayers who financed their education by providing care to critically underserved and often indigent populations.

The Conference agreement acknowledges the uncertainty that some medical students experience in committing to undertake a career in primary care early in their educational career. Although the Conferees are aware that the Department of Health and Human Services receives hundreds of applications from medical students seeking scholarships and admission to the National Health Service Corps (NHSC). Unfortunately, current funding levels preclude the award of scholarships to more than 2 out of 10 applicants. The conferees are persuaded that notwithstanding the high demand for scholarships for students already committed to primary care, it would be appropriate to make available a limited number of scholarships for students who have not decided on a specific medical field or who may desire to pursue an area of study other than the primary care fields of general pediatrics, general internal medicine or family medicine.

Under the Conference agreement, 30 percent of all scholarship funds available to medical or osteopathic students will be reserved for students who are undecided on a specialty. The Conferees are aware that not all students who would be willing to provide a service commitment are prepared early in their student career to commit to primary care field, Nondeclared scholarship recipients will incur a service obligation but the commitment may be discharged through service in any clinical field of medicine. Indeed some students who are fully committed to performing national service may desire to pursue a career in one of the medical specialties. Moreover, disadvantaged minority students continue to be grossly under-represented across all medical specialties.

Nondeclared students will be those who meet the eligibility criteria established by the Secretary but who elect to defer the election of a medical field at the time of application. In the event a student pursues a medical specialty, the Conference agreement provides that a service obligation through the National Health Service Corps is incurred and will be discharged at a rate of two years of service for each year of assistance. In determining appropriate service sites for such physicians, the conferees expect that the needs of the Indian Health Service and the nation's public hospital system should be given priority. Individuals who select a "Nondeclared" scholarship but ultimately pursue a primary care service commitment will incur the same service obligation as students awarded primary care scholarships.

In determining appropriate placement sites for discharging any service commitment, including primary care commitments, the Conferees believe recipients should be given a choice of three locations at least one of which should reflect or be complementary of the applicant's cultural or ethnic heritage. Although this scholarship program is patterned after the NHSC, the conferees do not intend the placement options to be as limited as those which currently apply to the Corps.

For example, the conferees intend that a scholarship recipient of Hispanic heritage who grew up in a rural setting should be offered at least one service site option that is reflective of this heritage and will provide the community the benefit not only of the physicians medical training, but also his or her cultural and linguistic experience. An additional example might involve the desire of a physician of African American ancestry to discharge a service commitment in a predominantly African American community. In making placements, the Secretary is encouraged to identify sites which will enhance the possibility of longterm retention while maintaining a priority for those communities whose populations have the greatest need for medical personnel. To the extent practical the Secretary should offer scholarship recipients a choice of urban and rural sites.

The Conferees anticipate strong demand for scholarships and have included language giving students in severe financial hardship preference consistent with the Secretary's assessment of an applicant's commitment and willingness to complete the service obligation. The conferees expect the Secretary to make special efforts to make scholarships available to qualified students from racial and ethnic minority communities. By providing such special consideration, the conferees believe additional opportunities will be opened for students unable to participate in the National Health Service Corps because of the Corps limited funding.

The Conference agreement provides an authorization of $25 million for FY 1995 which is consistent with the Fiscal Year 1995 appropriation but does not include additional scholarship funding pursuant to section 740(e) of the Act. To assure an equitable division of limited scholarship funds among diverse groups of health professions students, the agreement provides specific allocations to ensure that the various eligible professions are treated fairly consistent with the relative need among underserved communities. 19% of funds are required to be made available for dental scholarships. 16% of funds are to be made available for nursing scholarships. 10% of funds are to be made available for scholarships at graduate programs in mental health practice. The remaining 55% of funds will be made available for the award of scholarships to individuals attending schools of medicine or osteopathic medicine. As noted earlier, one-third of medical and osteopathic medicine scholarships will be made available to students who elect not to declare primary care as a field of study or who elect not to declare a field at the time of application.

The Conferees are especially concerned about the severe underrepresentation of racial and ethnic minorities in the mental health professions. As mental health services become more accessible, the demand will increase for mental health professionals who are competent to deal with language barriers and cultural issues in highly interactive mental health encounters. Mental health services are in great demand in a number of public settings, including community mental health centers, Community and Migrant Health Centers, immigration intake points, and public health or mental health departments. These are appropriate sites for completing service commitments.

The conference agreement also provides that 16 percent of available appropriations should be made available for students attending schools of nursing. The percentage maintains the relative amount of funding reserved for nursing under the former Scholarships for Disadvantaged Students (SDS) program. The agreement also reflects the Conferees' intent that undergraduate nurses continue to be eligible for scholarships under this program as they were under the former SDS program. There continues to be a great need for registered nurses in a variety of non-profit or public community based settings or tertiary care settings in many underserved areas.

Finally, the agreement preserves balance within the scholarship program by requiring a minimum level of funds for scholarships in general dentistry. The conferees are aware of the relatively small number of scholarships for dental students available under the NHSC and have included this requirement to assure an adequate level of support. The agreement is intended to preserve funding for dental scholarships at the same level of support as under the earlier Exceptionally Financially Needy (EFN), Financial Assistance to Disadvantaged Health Professions Students (FADHPS) and SDS programs.

Finally, the agreement reflects the Senate provision that the new primary care scholarships be named in honor of Cesar Chavez, whose life was dedicated to promoting the health and civil rights of disadvantaged populations. The legacy of Cesar Chavez is one of caring for those who have no voice and a selfless dedication to the welfare of others. The conferees intend that scholarship recipients will be referred to as Cesar Chavez Scholars and are available to all disadvantaged students (including all racial and ethnic minorities.)

VETERINARY, OPTOMETRY, PHARMACY, PUBLIC HEALTH, PODIATRY, AND ALLIED HEALTH (VOPPPA) SCHOLARSHIPS FOR DISADVANTAGED STUDENTS

The agreement places priority on providing scholarship assistance directly to eligible students and requiring a service commitment in a medically underserved community, public hospital settings or, in the case of veterinary medicine students, an area involving human health. The agreement includes a setaside for allied health scholarships. The conference agreement reflects the heightened importance the conferees place on expanding the number of opportunities for disadvantaged minority students to enter the allied health professions of occupational therapy, physical therapy, dental hygiene, medical technology, and radiologic technology. The need for an increasing level of scholarship support to allied health students reflects the Conferees concern about a lack of equity and balance in the allocation of funds among eligible professions in the previous SDS program. Finally, the agreement names this scholarship program in honor of the late Supreme Court Justice and civil rights advocate Thurgood Marshall. The Conferees intend that scholarship recipients be referred to as Thurgood Marshall Scholars and are available to all disadvantaged students (including all racial and ethnic minorities).

OFFICE OF MINORITY HEALTH

House recedes with the following amendments: The Office of Minority Health will conduct duties specified in (b) by means of interagency agreements. With respect to the activities of the National Center for Health Statistics in subsection (b)(2)(D), the Office of Minority Health shall provide assistance, including funding, to ensure that NCHS collects adequate information in all its surveys on members of minority groups, including their subpopulations. The agreement also reflects the House language on programs relating to the provision of bilingual and interpretive services.

The agreement revises the Senate language on the advisory committee to require the committee to provide advice on the activities under (b)(2). It clarifies that the voting membership be equally representative of the various racial and ethnic groups and specifically that a quarter of the membership be selected from each of the four major racial and ethnic groups, respectively: American Indians, including Alaska Natives, Aleuts and Eskimos; Asian and Pacific Islanders; Blacks; and Hispanics. Consideration should be given to representation from diverse subpopulation groups and geographic regions of the country. It also clarifies that PHS Office of Minority Health directors be designated non-voting ex officio members of the Committee.

The agreement clarifies that all OMH grants, contracts, and cooperative agreements must be awarded on a competitive basis and include peer review by a committee representative of all the racial and ethnic groups served by the Office. The Conferees intend that the Office or its partners in interagency agreements cease the practice constructing requests for proposals intended for a specific entity or devised in such a manner as to hinder the full competitive participation of applicants representing all racial and ethnic groups served by the Office.

The agreement clarifies the definition of "racial and ethnic groups" to reflect more commonly accepted terminology.

The agreement clarifies that the setaside of appropriations described in section (h)(2) refers to the programs described in subsection (b)(2)(D). The conferees reemphasize language from the House report that directs the OMH to count toward the set-aside only those activities specifically designed to remove language barriers to the receipt of health care through interpretive services or enhanced training of bilingual health professionals to facilitate delivery of health care to individuals with limited English proficiency. While the emphasis on primary care is intended to include mental health and substance abuse treatment, and may include as partners hospitals or other tertiary care providers who also provide primary care services, the Secretary is encouraged to allocate other OMH funds to enhance the delivery of bilingual and interpretive services in the delivery of emergency and speciality care. For example, after complying with the $3 million setaside, the Director of OMH would be authorized and encouraged to award grants to the emergency room or cancer treatment center of a public hospital for the purpose of removing language barriers to care.

With respect to the provision ensuring equitable allocation of grants and contracts among racial and ethnic groups, the Conferees intend that in programs where participation has been lacking by members of certain racial and ethnic groups the Secretary take additional efforts to inform and educate such potential grantees of the availability of awards, and provide technical assistance in the preparation of applications. The Secretary shall, through the biennial reports described in (f), report on the progress toward this requirement and outline specific steps toward its achievement.

PUBLIC HEALTH SERVICE OFFICES OF MINORITY HEALTH

The Senate recedes with an amendment to add criteria from the Senate bill regarding the authorities of the office and to make necessary conforming amendments.

STATE OFFICES OF RURAL HEALTH

The Senate recedes with an amendment to raise from $10 million to $20 million the statutory ceiling on the level of Federal appropriations.

CENTERS OF EXCELLENCE

The Senate recedes with amendments to clarify that none of the changes required by the agreements will apply to currently funded centers until their grants (or in the case of Centers funded through a contract) are recompeted. The new requirements will apply to the funding of any new centers in FY 1995 or later fiscal years. The conference agreement also includes a prohibition on actions which restrict centers (including currently funded centers) from undertaking activities designed to involve students and faculty members based at institutions other than the recipient center. The conferees note concern that the medical school at Drew University may not be eligible under current law to be designated at a Center of Excellence. The conferees want to clarify the Drew University may apply directly for assistance under this program and be designated a Centers of Excellence if its application includes a formal affiliation with an accredited 4 years medical school.

HEALTH CAREER OPPORTUNITY PROGRAM

The conferees support strategies to increase enrollment of underrepresented minorities that include both traditional short-term efforts (focusing on students in the last two years of college with recruitment campaigns, summer academic enrichment programs, financial aid and the implementation of culturally sensitive admission criteria) as well as the long-term strategies targeting younger students early in the educational pipeline. The scarcity of qualified African American, Mexican American, mainland Puerto Rican, American Indian, Pacific Islanders, and certain Asian American subpopulations students largely reflects fundamental deficiencies in the pre-college and undergraduate educational opportunities available to these students.

The conferees recognize that the Health Careers Opportunity Program has been successful in facilitating entry for minority students into medical school, dental school, and many of the other health professions schools. The Conferees are aware that in 1985, there were 191 HCOP projects funded and 29 projects approved not funded. In 1993, there were 143 HCOP projects funded and 139 projects approved but not funded. The Conferees are concerned about the increasing number of meritorious applicants who have never been funded.

In order to maximize the available resources, increase the number of minority students in the pipeline and increase the number of minority students in health professions that continue to have a shortage of racial ethnic minority health professionals, the agreement incorporates substantial changes to increase the authorization of appropriations and the number of health professions schools participating in the program.

The agreement requires new applicants to form a consortium of at least one community-based organization and three health professionals schools. For example, a medical school could collaborate with a dental school, nursing school or graduate program in clinical psychology and a community health center. The agreement gives preference to applicants that develop a program for students who can enter at any stage (K–12) and upon their successful completion of the program, will be guaranteed admission to a member school of the consortium. The Conferees commend Baylor University School of Medicine for their successful K12 program and Boston University School of Medicine for their innovative Early Selection Program. The Conferees urge the Secretary to support and encourage the development of similar models in other medical schools and among other health professions.

In addition, the agreement requires that any program competing for a competitive grant renewal provide 50% of the cost of the program. The consortium can not avoid the matching requirement by changing members of the consortium unless they can demonstrate that they have expanded the number of health professions schools and developed a new program with new objectives.

As described in the House report, the Conferees strongly support community-based clinical experience for HCOP participants. The agreement requires that any community-based HCOP program have an academic enhancement component with at least one health profession school.

The Conferees strongly supports the Association of American Medical Schools 3000 by 2000 Project and encourages the other health profession disciplines to develop similar projects. The Conferees expect the Health Careers Opportunity Program to increase the number of kindergarten through 12th grade project grants.

The agreement requires that the Secretary develop binding outcome objectives for all grantees. These objectives should include retention rates, enrollment rates, and graduation rates. Only programs that have been successful in meeting the objectives established by the Secretary would be eligible to receive a competing renewal grant.

The conferees agree that with the new program authority and expansion, no existing Health Career Opportunity Grant will be modified or reduced as a result of changes in the program. The conferees expect that grants funded prior to 1995 will be carried out as intended until the end of the agreed upon grant period.

NIH OFFICE OF MINORITY HEALTH RESEARCH

House recedes with an amendment making technical or conforming changes and requiring that the Director of the NIH Office of Minority Health Research award all grants, contracts, and cooperative agreements on a competitive basis.

AGENCY FOR HEALTH CARE POLICY RESEARCH (AHCPR)

House recedes with amendment requiring that in any fiscal year 8% of AHCPR research be spent on research, demonstrations and evaluations with respect to the health of low-income groups, racial and ethnic minority groups and the elderly.

FACULTY LOAN REPAYMENT

Senate recedes with amendment making technical and conforming changes and raising the fellowship ceiling from $30,000 to $50,000.

BIRTH DEFECTS

Senate recedes.

HEALTHY START

The conference agreement includes the House bill with the following modifications: (1) the purpose of the projects is narrowed to reducing the incidence of infant mortality, the incidence of maternal mortality, and the incidence of low-birthweight births; (2) The Secretary is authorized to expend up to $6 million over the duration of the demonstration to conduct a national evaluation of the 15 projects first funded prior to fiscal year 1994; (3) the limit on the amounts that the Secretary of HHS is authorized to expend for technical assistance and public information and education in relation to the demonstration projects is reduced from 5 percent to 2 percent of the amounts appropriated under section 340E in a fiscal year; (4) the limit on the amount spent by any grantee on data collection and analysis, the development of community partnerships, and administration is increased from 10 to 15 percent of the grant in any fiscal year; (5) the base year for the maintenance of effort requirement with respect to the non-Federal funds provided by applicants, States, and political subdivisions is changed from fiscal year 1991 to fiscal year 1993; and (6) the Secretary is directed to provide an interim report on the demonstrations to the Congress by February 1, 1997, to enable the Congress to determine whether the sunset date of October 1, 1997, should be extended.

The conferees intend that the number of demonstration projects to be funded under this authority not exceed 22. The Department recently announced 7 additional projects (59 Fed. Reg. 13731, March 23, 1994). The conferees intend that funding for these grantees be limited in the aggregate to 7.2% of the amounts appropriated under this authority in each fiscal year.

DIABETIC-RETINOPATHY

The Senate recedes with an amendment clarifying the responsibility of the Centers for Disease Control and Prevention (CDC). The conferees expect the CDC's Center for Chronic Disease Prevention and Health Promotion to initiate diabetic-retinopathy prevention programs without the need for separate or additional appropriations. The agreement reflects the conferees agreement that the Center should move expeditiously to initiate a program targeted to high risk diabetes patients during FY 1995. The conferees believe that the CDC should make at least 5 grants in FY 1995 which include at least two racial and ethnic minority groups. These groups should be awarded in a fashion that allows for geographic diversity and that will serve both urban and rural populations.

NURSING LOANS

The Senate recedes.

HEALTH PROFESSION STUDENT LOANS (HPSL)

The Senate recedes

STATE HSC PRIVATE PRACTICE OPTION

The Senate recedes.

WOMEN'S HEALTH

The Senate recedes.

TRAUMATIC BRAIN INJURY

The Senate recedes.

INDIAN HEALTH CARE IMPROVEMENT ACT

The Senate recedes.

HEALTH SERVICES FOR PACIFIC ISLANDERS

The House recedes with an amendment extending the authorization period from FY 1996 to FY 1997 and authorizing appropriations at a level of $3 million, $4 million and $5 million in FY 1995, 1996 and 1997 respectively.

TECHNICAL CORRECTIONS REGARDING P.L. 103–183

The Senate recedes.

CENTERS FOR DISEASE CONTROL AND PREVENTION

The Senate recedes.

BORDER HEALTH ANALYTICAL LABORATORY

The Senate recedes with an amendment clarifying that the laboratory may be located in any of the border states of Texas, California, Arizona, or New Mexico. In carrying out this authority, the conferees agreed that geographic proximity to the entire border region is important to the success and effectiveness of the laboratory and that this new facility should be located in an urban center within 25 miles of the Mexican border. Although the conferees anticipate that the Secretary will establish a single laboratory, the conference agreement would permit the laboratory to utilize mobile sites in the collection and analysis of samples and the conduct of environmental surveillance activities in the various border states and communities. In addition, the conference agreement authorizes appropriations for the fiscal years 1995–1997. The conferees expect that when determining the location of the laboratory, priority should be given to an urban center with existing federal environmental and health facilities with which to coordinate efforts.

ADMINISTRATION OF CERTAIN REQUIREMENTS

The Senate recedes.

REVISIONS TO ELIGIBILITY REQUIREMENTS FOR ENTRIES SUBJECT TO DRUG PRICING LIMITATIONS

The Senate recedes. The conferees note that on September 19, 1994, the Public Health Service issued final guidelines clarifying which hospital-related outpatient facilities are eligible for drug discounts under the Veterans Health Care Act of 1992. The purpose of this amendment is to guarantee the eligibility of outpatient facilities owned by New York City Health & Hospitals Corporation that do not qualify under the PHS guidelines.

EFFECTIVE DATE

The Senate recedes.

ASSISTANT SECRETARY FOR CIVIL RIGHTS

The House recedes. The conferees are concerned about the backlog of complaints and the length of time which elapses between the filing of a complaint and the final internal administrative resolution of the complaint within the Department of Health and Human Services, Office of Civil Rights. The Conferees strongly urge the Department to take all appropriate steps to reduce the time from filing to final resolution of discrimination complaints without compromising due process. The conferees believe the elevation of the position of Director of the Office of Civil Rights to the rank of Assistance Secretary will assist in reducing the backlog and the processing time for complaints filed with the Office.

REAUTHORIZATION OF LOANS FOR DISADVANTAGED STUDENTS

The Senate recedes with an amendment increasing the appropriations level. The agreement provides that beginning in FY 1995 funding available for disadvantaged students attending medical or osteopathic schools will be provided through the primary care medical student loan program. An authorization of appropriations for the recapitalization of this important loan fund is authorized by section 723 of the Public Health Service Act at a level of $10 million in fiscal years 1995–1997.

LANGUAGE AS IMPEDIMENT TO RECEIPT OF SERVICES

The House recedes with an amendment extending the deadline for issuing proposed regulations from 90 to 180 days and making necessary technical changes.

AREA HEALTH EDUCATION CENTERS

The House recedes with an amendment to clarify that with respect to use of appropriations in FY 1995, the Secretary should allocate any funding increases over the level of program funding in FY 1994 for the purpose of awarding new AHEC starts in rural states.

HEALTH PROFESSIONS AMENDMENTS

House recedes with a technical amendment.

ELIGIBILITY OF "COUNSELING" FOR CLINICAL TRAINEESHIPS

House recedes with an amendment to clarify that recipients of mental health clinical traineeships under this authority are subject to the same limitations on the discharge of service obligations in bankruptcy as are recipients of National Health Service Corps scholarships.

ALZHEIMER'S DEMONSTRATION GRANTS

The House recedes with an amendment to clarify the program authority.

HEALTH PROFESSIONS SHORTAGE AREA

The Senate recedes on the language regarding a study of health professions shortage areas with an amendment clarifying that the Secretary is to consider a number of criteria in determining the designation of a medically underserved area. The conferees expect the Secretary to continue developing policies to permit the awarding of grants to organizations that will serve population groups with particular health status problems, which lack the ability to pay for health services (including the lack of insurance), or which lack access to appropriate health services.

REGIONAL CENTERS FOR RESEARCH ON PRIMATES

The House recedes with an amendment restoring the availability of "first dollar" NIH extramural construction funds for qualified primate center programs. The conferees agree to reemphasize the importance of the National Institutes of Health adhering strictly to the current requirements of the Public Health Service Act which require that funding for extramural construction be made available for the purpose of making grants to qualified primate centers. The primate center program represents a national resource which benefits thousands of researchers nationally. Addressing the construction and rehabilitation needs of these facilities is important to maintaining the Nation's preeminence in biomedical and behavioral research. The conferees recognize during periods of fiscal restraint it may be appropriate to reduce the level of "first dollar" support relative to other eligible grantees. Accordingly, the conference agreement reduces from $5 million to $2.5 million the requirement that extramural construction funds be reserved each year for this purpose.

NATIVE HAWAIIAN HEALTH CARE

The Senate recedes.

MULTIETHNIC PLACEMENT

The Senate recedes.

VOLUNTARY MUTUAL REUNIONS

The Senate recedes.

COMMUNITY AND MIGRANT HEALTH CENTERS

The Senate recedes with an amendment extending the authorization of appropriations for FY 1995 and FY 1996, and deleting the proposed statutory exemption over CHC budgets involving non-Federal funds. The conferees understand that a resolution of this matter can be accomplished through administrative action and that such action is pending within the Department of Health and Human Services. The conferees believe that while the agreement provides the CHC program a multi-year reauthorization, thorough oversight hearings on the operation of CHCs and the administration of the CHC program will be held during the 104th Congress.

The conferees recognize that primary care dental care is an important part of comprehensive preventive health care. Conferees are encouraged that over half of the community health centers in the nation now provide these services. Conferees understand that many other centers would like to provide these services but, particularly in rural areas, may be constrained from doing so because of difficulties in recruiting or contracting with the necessary health professionals. The Conferees would encourage these centers to give priority to the provision of primary dental care services as resources may be available. Conferees urge the Secretary to work closely with community health centers to assist them in the development of the strategies and resources necessary to achieve this objective.

HOMELESS

The conferees intend the reauthorization of the Health Care for the Homeless program to include extension of the Primary Health Services for Homeless Children program. This program provides federal funding for outreach and primary health services for children who lack access to health care, placing them at increased risk of serious health problems from undiagnosed or poorly controlled illnesses and lack of preventive health services. The Primary Health Services for Homeless Children Program supports projects offering comprehensive services with extensive follow-up systems, including substance abuse prevention and counseling, and mental health services. Children to be served include homeless children, runaways, and children in foster care who have no consistent access to health care. The conferees commend the successful and innovative outreach models, such as pediatric mobile vans, which identify and serve children at risk.

PUBLIC HOUSING

The Senate recedes.

DATA COLLECTION

The Senate recedes. The conferees believe the Secretary of Health and Human Services must ensure that all federally-funded health data systems collect racial and ethnic identifiers in order to access health status, health care access, and health services. The availability of this information is necessary in the effective enforcement of Title VI of the Civil Rights Act of 1964. At a minimum, the conferees believe data collection activities must be in compliance with OMB Directive No. 15 and subsequent racial and ethnic standards for federal statistics and administrative reporting requirements. The agreement provides for collection of such information on subpopulations of these racial and ethnic groups; however Federal agencies must be able to collapse more detailed categories into basic racial/ethnic categories.

The conferees are aware that an April 1994 survey by the Office of Minority Health's Division of Policy Coordination established that compliance with OMB Directive No. 15 is not uniform among PHS health data systems. Some agencies collect no information on race or ethnicity, other use categories which could not be collapsed into those listed in OMB Directive No. 15. Meaningful reporting becomes impossible. These practices must stop.

The conferees are particularly concerned that future health data systems may rely on a hospital discharge form (i.e. UB-92) which does not record the race or ethnicity of the patient receiving care. The use of such a form would perpetuate the government's inability to monitor the compliance of health care providers with civil rights law and cripple minority health research.

JOHN D. DINGELL,
HENRY A. WAXMAN,
BILL RICHARDSON,
EDOLPHUS TOWNS,
CRAIG A. WASHINGTON,
CARLOS J. MOORHEAD,
TOM BLILEY,
MIKE BILIRAKIS,
Managers on the Part of the House.

From the Committee on Ways and Means, for consideration of titles VI and VII of the Senate bill, and modifications committed to conference:

SAM GIBBONS,
HAROLD FORD,
Managers on the Part of the House.

EDWARD M. KENNEDY,
HOWARD M. METZENBAUM,
PAUL SIMON,
NANCY LANDON KASSEBAUM,
ORRIN G. HATCH,
Managers on the Part of the Senate.

LIMITED AUTHORIZATION FOR THE UNITED STATES-LED FORCE IN HAITI RESOLUTION

The SPEAKER pro tempore (Mr. STUDDS). Pursuant to House Resolution 570 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution, H.J. Res. 416.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, with Mr. MCDERMOTT, Chairman pro tempore, in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN pro tempore. When the Committee of the Whole House rose earlier today, the amendment in the nature of a substitute offered by the gentleman from California [Mr. DELLUMS] had been disposed of.

It is now in order to consider amendment No. 3 printed in part 2 of House Report 103-840.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TORRICELLI

Mr. TORRICELLI. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. TORRICELLI: Strike all after the resolving clause and insert the following:

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Limited Authorization for the United States-led Force in Haiti Resolution".

SEC. 2. FINDINGS AND STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds the following:

(1) On September 18, 1994, the special delegation to Haiti succeeded in convincing the de facto authorities in Haiti to sign the Port-au-Prince Agreement under which such authorities agreed to leave power.

(2) On September 18, 1994, after the Port-au-Prince Agreement was reached, the President ordered the deployment of United States Armed Forces in and around Haiti.

(3) On September 21, 1994, the President submitted a report, consistent with the War Powers Resolution (50 U.S.C. 1541 et seq.), on the introduction of United States Armed Forces into Haiti.

(4) The Congress fully supports the men and women of the United States Armed Forces who are carrying out their mission in Haiti with professional excellence and dedicated patriotism.

(b) STATEMENT OF POLICY.—The Congress declares the following:

(1) The United States-led force in Haiti should use all necessary means to protect United States citizens, to stabilize the security situation in Haiti so that orderly progress may be made in transferring the functions of government in that country to the democratically-elected government of Haiti, and to facilitate the provision of humanitarian assistance to the people of Haiti.

(2) Transfer of operations in Haiti from the United States-led force in Haiti to the United Nations-led force in Haiti should be facilitated and expedited to the fullest extent possible.

(3) United States Armed Forces should be withdrawn from Haiti as soon as possible.

SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—Subject to subsection (b), United States Armed Forces are authorized to participate in the United States-led force in Haiti only—

(1) to protect United States citizens;

(2) to stabilize the security situation in Haiti so that orderly progress may be made in transferring the functions of government in that country to the democratically-elected government of Haiti; and

(3) to facilitate the provision of humanitarian assistance to the people of Haiti.

(b) LIMITATIONS.—

(1) TERMINATION OF AUTHORIZATION.—The authorization provided by subsection (a) shall expire on March 1, 1995, unless the President determines and certifies to Congress in the report required by section 4(b)(3) that the continued participation of U.S. Armed Forces in the U.S.-led force is essential to protect U.S. citizens or vital U.S. national security interests.

(2) PROHIBITION ON FOREIGN COMMAND.—United States Armed Forces described in subsection (a) shall remain under the command and control of officers of the United States Armed Forces at all times.

SEC. 4. REPORTS TO CONGRESS.

(a) IN GENERAL.—The President shall submit to the Congress reports on—

(1) the participation of United States Armed Forces in the United States-led force in Haiti and the United Nations-led force in Haiti, including—

(A) the number of members of the United States Armed Forces that are participating in such United States-led force and such United Nations-led force;

(B) the functions of such Armed Forces; and

(C) the costs of deployment of such Armed Forces; and

(2) the efforts to withdraw United States Armed Forces from Haiti, including—

(A) for the purpose of achieving a transition from the United States-led force in Haiti to the United Nations-led force in Haiti, the status of efforts to implement the Port-au-Prince Agreement and to otherwise carry out the terms of United Nations Security Council Resolutions 917 (May 6, 1994) and 940 (July 31, 1994);

(B) the status of plans to accomplish such transition to the United Nations-led force in Haiti; and

(C) the status of plans to withdraw United States Armed Forces from Haiti.

(b) REPORTING DATES.—A report under this section shall be submitted—

(1) not later than November 30, 1994, covering the period since September 18, 1994;

(2) not later than December 31, 1994, covering the period since the report described in paragraph (1); and

(3) not later than February 1, 1995, covering the period since the report described in paragraph (2).

(c) WAR POWERS RESOLUTION REPORTING REQUIREMENTS.—The requirements of this section do not supersede the requirements of the War Powers Resolution (50 U.S.C. 1541 et seq.).

SEC. 5. REASSEMBLY OF CONGRESS.

It is the sense of the Congress that the Speaker of the House of Representatives and the majority leader of the Senate, acting jointly after consultation with the minority leader of the House of Representatives and the minority leader of the Senate, respectively, should monitor closely events in Haiti in considering whether to exercise any authority that may be granted to reassemble the Congress after the adjournment of the Congress sine die, if the public interest shall warrant it.

SEC. 6. JOINT RESOLUTION PROHIBITING CONTINUED USE OF UNITED STATES ARMED FORCES IN HAITI.

(a) IN GENERAL.—If a joint resolution described in subsection (b) is enacted, the President shall remove United States Armed Forces from Haiti in accordance with such joint resolution.

(b) DESCRIPTION OF JOINT RESOLUTION.—For purposes of subsection (a), a joint resolution described in this subsection is a joint resolution the matter after the resolving clause of which is as follows: "Pursuant to section 6 of the Limited Authorization for the United States-led Force in Haiti Resolution, the Congress hereby directs the President to remove United States Armed Forces from Haiti not later than 30 days after the date of the enactment of this joint resolution, except for a limited number of members of the United States Armed Forces sufficient to protect United States diplomatic facilities and personnel.".

(c) PRIORITY PROCEDURES.—

(1) INTRODUCTION OF JOINT RESOLUTION.—Paragraph (2) shall only apply to a joint resolution described in subsection (b) and introduced on or after the date on which the President submits, or is required to submit, the report required by section 4(b)(3).

(2) CONSIDERATION OF JOINT RESOLUTION.—Only one joint resolution described in subsection (b) and introduced in accordance with paragraph (1) shall be considered in accordance with the procedures described in section 7 of the War Powers Resolution (50 U.S.C. 1546), except that, for purposes of such consideration, the term "calendar days" in such section shall be deemed to mean "legislative days".

SEC. 7. DEFINITIONS.

For purposes of this joint resolution, the following definitions apply:

(1) LEGISLATIVE DAYS.—The term "legislative days" means days in which the House of Representatives is in session.

(2) PORT-AU-PRINCE AGREEMENT.—The term "Port-au-Prince Agreement" means the agreement reached between the United States special delegation and the de facto authorities in Haiti on September 18, 1994.

(3) UNITED NATIONS-LED FORCE IN HAITI.—The term "United Nations-led force in Haiti" means the United Nations Mission in Haiti (commonly referred to as "UNMIH") authorized by United Nations Security Council Resolutions 867 (September 23, 1993), 905 (March 23, 1994), 933 (June 30, 1994), and 940 (July 31, 1994).

(4) UNITED STATES-LED FORCE IN HAITI.—The term "United States-led force in Haiti" means the multinational force (commonly referred to as "MNF") authorized by United Nations Security Council Resolution 940 (July 31, 1994).

SEC. 8. AUTHORITY OF CONGRESS TO DECLARE WAR.

It is the sense of the Congress that, under circumstances existing prior to concluding the Port-au-Prince Agreement, the Constitution of the United States would have required the President to obtain the approval of the Congress before ordering United States Armed Forces to invade Haiti to remove the de facto authorities in Haiti.

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. TORRICELLI] will be recognized for 30 minutes, and a Member opposed will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I yield 8 minutes to the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I thank the gentleman for yielding. I rise, of course, in support of the Torricelli substitute.

Mr. Chairman, first let me extend a word of congratulations to the gentleman from California [Mr. DELLUMS], the gentleman from Florida [Mr. HASTINGS], the gentleman from Pennsylvania [Mr. MURTHA], and the gentleman from Washington [Mr. DICKS]. The House has clearly spoken, spoken with a very decisive majority on this issue, and all of us must respect the majority voice in this House.

I opposed the Dellums substitute not because of what it said, but because of what it did not say. I do not think that this Congress lives up to its constitutional responsibilities when it passes a sense of Congress resolution after American combat forces have been introduced into a dangerous situation.

What we have just done is to pass a sense of Congress that calls for reports, not very much more. We have not approved the policy. We have not disapproved the policy. We simply default. We dodge our responsibility. We do not take a position on the gravest question that a government can make, whether you commit American forces to combat.

The amendment that we just adopted is a classical, classical congressional dodge. It sidesteps the question of authorization. We leave no fingerprints by passing that amendment. What we have done is protect our political flank. But what we have not done is exercise our constitutional responsibility.

Now, I believe in the Torricelli amendment. And may I say that to my amazement, to my utter amazement, the administration has been working in support of the Dellums-Hastings-Murtha-Dicks provision. It has been working in support of a resolution which says, Mr. President, tell us what your policy is. That is what that resolution says. The President has been on television explaining it, they have had all of their Cabinet people up here telling us what the policy is. We passed a resolution a moment ago overwhelmingly saying, Mr. President, what is your policy, and the President of the United States supports it.

Not only that, that resolution says withdraw as soon as possible, and many of you support that position, and we all understand that is a reasonable position. There are several reasonable positions here. But it is not the administration policy. But the administration supported it, and I just do not understand why they can support that amendment.

The Torricelli-Hamilton amendment authorizes the United States presence in Haiti. It is the only amendment, it is the only substitute before us tonight, that does it. We should share responsibility when American forces go into a combat situation, and we should not dodge the question.

If we are going to play a rough role, a good role, a difficult role, we have to be willing to step up to the plate, and we do that by voting for or against an authorization.

Look, my friends, you cannot have it both ways. Members cannot complain about no authorization beforehand, and then duck responsibility for authorization after the fact. And that is what we have done.

I believe we have a clear choice: Do the United States troops operating in Haiti today operate there solely on the President's authority, or do they operate there with the support and the authorization of the United States Congress?

□ 2330

I believe we should authorize. May I say to those of my colleagues who worry about a date of withdrawal, that this Torricelli substitute has no certain date of withdrawal. It provides the amount of time that the military sought. It provides useful pressure to make sure that the job gets done in the time frame that they want it. And it permits the President a waiver if circumstances require. So our troops are fully protected under the Torricelli substitute.

Finally, let me just say that the Torricelli substitute is the only amendment that limits the scope, the purpose of our mission. Under the amendment just adopted, there is no limitation; there is no restraint; there is no restriction. The American forces can do anything they want to. They can get involved in nation building. There is no limitation, none.

If our experience in Somalia means anything at all, it is that we have got to watch it when we put these military troops into position because we can have mission creep.

And so the Congress has the obligation here to come in and say, these forces are not there for nation building. They are there not to run Haiti. They are not there to create democracy for Haiti. Those are the tasks for the Haitians themselves, not for us.

We ought to put language of limitation in a resolution of authorization. And we do. We clearly define the role of the United States troops in Haiti to protect citizens, to stabilize the security situation in Haiti so that an orderly process can take place and a legitimate government be restored and to facilitate the provision of humanitarian assistance to the people of Haiti.

The Torricelli resolution, my friends, I understand that the Torricelli substitute calls on you to make a tough decision. I understand that. It is your responsibility to. It is my responsibility to stand up to our constitutional rights, to participate in the decision when you put combat troops into a dangerous situation and say, we support the policy. We support the troops and we participate in the decision, the gravest decision that the Government makes, when you put combat forces on the grounds.

I urge support of the Torricelli amendment.

Mr. GILMAN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I would like to ask just a few questions to the Black and Democrat Caucus. I would like to ask the gentlemen, where were you in Cuba? Where was the caucus in Grenada? Where was the caucus in Panama? Where was the caucus in Desert Storm?

Where was the caucus in El Salvador? Where was the caucus in Nicaragua?

I think it was wrong. I think it was wrong for Congress not to be advised and sought by the President. I think it was wrong to allow Aristide to go back, and I think it is wrong to allow Cedras to stay. I think it was wrong for the United States to invade Haiti.

I think it was wrong to state that there was 25 multinations in this, when none of them participated in the initial invasion.

I ask Members not to support this amendment.

Mr. TORRICELLI. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for yielding time to me.

My colleagues, I know it is late and Members are impatient to end this debate.

There is one and only one argument that I would like to offer to my colleagues in support of the resolution offered by the gentleman from New Jersey, [Mr. TORRICELLI]. That is that his proposal is the only one that fulfills, our fundamental responsibility, that there be a clear and proper assertion of the authority of the Congress of the United States over an undertaking such as the one that we are engaged in in Haiti.

Of course, it would have been better to have been able to do this ahead of time, but we could not. And the action that we should take tonight, in adopting the gentleman's resolution is far preferable to silence or to reliance on the nonstatutory, nonbinding sense of Congress proposals that have been previously voted on.

The alternative to real action by the Congress is, obviously, inaction or even worse, inaction posing as action.

And in either of those cases, the net effect is our acquiescence in the proposition that one man, the President of the United States, can take the Nation into an enterprise like the one we are engaged in in Haiti, and we are fated to do nothing but act as interested observers.

I find that to be an idea that is impossible to square with the principles of the limits on the executive and the shared legislative-executive power that are so central to this republic.

If we sit on our rights and responsibilities, if we default in them, we cannot later complain when those rights have been diminished by our own inaction.

My colleagues, it is time for us to live up to the responsibilities that we took an oath to uphold. The gentleman's resolution is the only alternative before the House tonight that fulfills that obligation.

Mr. GILMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico, [Mr. SCHIFF].

Mr. SCHIFF. Mr. Chairman, I rise in opposition to this amendment.

Mr. GILMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York, [Mr. LAZIO].

Mr. LAZIO. Mr. Chairman, I have been calling for a Congressional debate on sending our troops to Haiti since July. While I am pleased that this debate is finally taking place, I would have much preferred it to occur before our troops actually went to Haiti. We have a responsibility not just in Haiti, but to explore and begin to define, rationally, our Post Cold War Foreign Policy.

But we now have close to 20,000 of our service men and women in Haiti, trying to resolve an internal struggle that has nothing to do with our national security. This misguided intervention in Haiti is symptomatic of the Clinton administration's ongoing struggle with foreign policy. It is hurting our credibility throughout the world, it is costing us hundreds of millions of dollars, and it is unnecessarily putting our troops in harm's way. Our Government will soon be making payroll for the Haitian police and security forces. We are now paying all costs for the observers.

The Haitian occupation represents yet another example of the President's misuse of the military. Time and again he has subjected our Armed Forces to constraints and missions which are inconsistent with their purpose and training. While he continues to slash their funding, he chooses to send them all over the world—a policy effectively at cross purposes. As I have said before on this floor, the President cannot have it both ways.

This intervention is Clinton adventurism at its worst. It lacks clear objectives, it ignores strategic realities, and it should be ended before we get in any further over our heads and before we lose any lives.

The Dellums amendment, which was just passed, and the Torricelli amendment, which we are now debating, will bring us no closer to seeing the safe return of our troops. The Michel/Gilman substitute was the only clear option to providing for an end to this wayward intervention. But instead, we have chosen to put this debate off for a few months, in which time it is uncertain how many losses we will suffer.

Support our troops in Haiti.

Bring them home now!

□ 2340

Mr. TORRICELLI. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Chairman, I rise to congratulate President Clinton on his courageous action to liberate the people of Haiti.

Mr. Chairman, I rise in strong opposition to H.J. Res. 416 and all of the amendments to the Resolution. The Michel amendment is reckless and irresponsible and completely opposite to the positions taken by Mr. Michel and the Republican Members on the use of force in Lebanon, Grenada, Panama and Nicaragua. The Dellums, Murtha, Hastings and Dicks Amendment is worthy of support because it recognizes the danger of setting a date certain for the withdrawal of American troops. This Amendment is critically flawed, however, because it expresses the sense of Congress that the President should have gotten Congressional approval for the operation before sending troops.

Such a "Sense of Congress" chastises the President for his refusal to conduct government by public opinion poll. It refuses to recognize President Clinton's decision to liberate Haiti as a noble, unselfish, courageous act with no political rewards and great political risks. Such a "Sense of Congress" also refuses to make an important distinction between a declaration of war and a police action on behalf of a friendly government that was ousted by military criminals. Unlike Grenada or Nicaragua or Panama, President Clinton's action was clearly in support of a government chosen by and still revered by the masses of the Haitian people.

As we move into the new world order it is important to uphold substance over form. Each day the moral value of President Clinton's action is reaffirmed by the unfolding events in Haiti. By ignoring the misguided and prejudice driven public opinion the President provided leadership for a venture that is working and that sets a positive model for United States and international community policy for the future. Congress should not pass resolutions which downgrade the nobility of President Clinton's wise action.

When President Harry Truman recognized the State of Israel, he ignored public opinion, the advice of the majority of the members of his Cabinet and the sentiment prevailing in Congress at the time. President Truman stood alone and recognized the new State of Israel. Most of the democratic world followed President Truman's example and Israel was allowed to take its place in the constellation of nations. President Clinton's decision to liberate Haiti ranks with the decision by President Truman.

When Abraham Lincoln decided to free the slaves by issuing the Emancipation Proclamation public opinion was arrayed against him.

The Congress and all of the members of President Lincoln's Cabinet also were against freeing the slaves. President Lincoln stood alone and signed the Emancipation Proclamation. In his decision to liberate Haiti President Clinton placed himself on the same moral plain as Abraham Lincoln.

President Clinton should be applauded and congratulated by the Congress for this leadership in the liberation of Haiti. History will condemn all Congressional resolutions which chastise President Clinton for this action on behalf of the weakest and most helpless among us.

Mr. TORRICELLI. Mr. Chairman I yield 3 minutes to the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Chairman, if I had my way, the President of the United States would have come to the American people and to this Congress and would have explained the posture that he found himself in. I would have thought he would have made a powerful and persuasive case that placing our troops into Haiti was in our national security interests, because he had joined in with the OAS, the international community, in order to make it abundantly clear.

Mr. Chairman, it was my hope that the President would have persuaded the American people and this Congress that we would support that action, because when the President speaks, I think we should listen. I think that he was right in this particular case.

He did not do that, however. Now we find ourselves on the eve of the election trying to find out what we wish he would have done or, better than that, trying to send a statement as to what we believe will fly with the American people when we get back home.

Clearly, Mr. Chairman, one alternative that we have is just to say "Hey, get the heck on out of there. We did not authorize you to go there and we wish that you and all our American troops would just go home."

The second thing is the Dellums amendment, where we say "You are there. The President has spoken. Get the job done as soon as you can, and get back home."

The third thing, which means absolutely nothing like the other two, is that we say "We did not authorize you to go there. You have a restriction on what you have to do when you get there, and you have a time restriction to do that in."

Give us a break. What we are talking about here is a political message. For God's sake, do not send a political message to the troops. What the gentleman from California [Mr. DELLUMS] is trying to say is whether you believe it is right or whether you believe it is wrong, you support the American troops, wherever you find them.

It is not for you and it is not for me to be able to say when this job is going to be done. It is up to our commanders who are trained, that we support, to determine when the mission is accomplished, report to the Commander in Chief, and with our prayers, our will, and our support, they will be back home as soon as possible.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, let me just say that, once again, everybody in this Chamber supports our troops. However, let me read what the Torricelli resolution will do.

It provides retroactive congressional authorization for the military occupation of Haiti, retroactive. We are supporting what the President did. Seventy-five to eighty percent of the people of this country did not want our troops sent to Haiti. Seventy-five to eighty percent of the people in this body and the other body did not want our troops sent to Haiti, yet we are approving this action.

Mr. Chairman, some of those young people are going to be killed or maimed. If Members vote for this resolution, they are agreeing with what the President did when the American people said no and we said no, and the blood of those young people will be on the hands of everybody that votes for this resolution, in my opinion.

Mr. Chairman, in addition, this is open-ended. It does not expire on March 1. It can be converted into a permanent occupation by American forces. The President can do that unilaterally.

In addition to that, Mr. Chairman, after March 1, 2,000 to 3,000 U.S. forces can be put under foreign command. I am saying, the American people do not want that, either.

Finally, Mr. Chairman, we are not going to have another vote on this if this passes until after next March 1, and it may be even after that. Mr. Chairman, this is not a good approach. We should not be sanctioning what President Clinton did, because the American people simply did not want it. We should not be giving approval for what they did not want.

Make no mistake about it, every person who votes for this resolution, if a young person is killed down there, is going to be held responsible, just like President Clinton, who did this without our approval, and without the American people's approval.

Do not vote for this resolution, Mr. Chairman. We should bring our troops home now. That is what the American people want.

Mr. TORRICELLI. Mr. Chairman I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, the Torricelli-Hamilton resolution accomplishes these important objectives: It sets our exit from Haiti for March 1, 1995. It gives our Armed Forces the time necessary to complete their mission, avoiding the concerns military experts have expressed about undermining our troops and it makes a strong constitutional statement about Congress's role in such actions.

Because of the hand that has been dealt us due to previous congressional inaction on this issue, Torricelli-Hamilton is the most responsible course of action. It expresses the will of the American people, and protects our Armed Forces.

I opposed the previous amendments because I believe in the following proposition.

If we pass a resolution that does not include a date for withdrawal, then we will have, in effect, abdicated Congress's constitutional power to declare war, and assumed the responsibilities of the consequences.

This debate would be unnecessary if we would have the courage to assert our constitutional responsibility and statutory authority under the War Powers Act.

To those who claim that establishing a date for withdrawal can put the lives of the valiant men and women of our armed forces at risk, I suggest that our failure to pursue our constitutional and statutory authority under the War Powers Act does the same. That is why I believe the Torricelli-Hamilton amendment is the best avenue available to us. Establishing March 1 as a date in which authorization ceases, preserves congressional authority and best protects our troops.

I urge my colleagues to support the Torricelli-Hamilton resolution.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 1½ minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, remember, when Members vote on the Torricelli amendment, it is a retroactive authorization of an ill-advised incursion into Haiti to install a president who will surely embarrass the United States. It will bring us casualties. Setting a date certain, as it does, for withdrawing is potentially a very disastrous course. The withdrawal date becomes a timetable for each faction in Haiti to seek to exploit.

Mr. Chairman, the distinguished chairman says it is the responsibility of the Congress to authorize the use of our armed forces in Haiti. Indeed, Mr. Chairman, the President has acted without the support of the Congress, and without the support of the American people.

However, this Congress has a higher duty, and that is to serve as a check on the President when he is wrong; to say, "No, bring the troops home." Vote against the Torricelli amendment.

Mr. TORRICELLI. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, the public policy question facing this House, the American people, and the Clinton Administration is: What is America's interest in Haiti?

The answer: Democracy. Restoring to office a President who was elected by over 68 percent of the voters in the first honest, fair, free election in the history of Haiti. Restoring a President ousted by a military coup—just as we did under President Bush, in Panama.

Critics have warned that we must not, in this mission, engage in democracy-building in Haiti. We have already engaged in democracy-building in 1987 during the Reagan Administration—when we rightly spent millions of dollars to help Haitians write a constitution and an election law; to train election judges and teach the people how to vote, in a country whose law school had been closed for 25 years and whose judicial system was virtually inoperative.

I felt privileged to play a role in that process for the Reagan administration in the summer of 1987, when the offices of the Electoral Commission were burned and homes of the Commission members machine-gunned. I had just come from the reenactment of our own Constitutional Convention in Philadelphia and urged my Haitian friends to persevere: créer la nouvelle Haiti—to build the new Haiti—the American people support you, I said.

The election of 1987 was ambushed by the forces of Duvalierism, with the complicity of the army. But the Bush administration picked up the challenge and set about democracy-building, by supporting the election process of 1990.

Again, I was honored to play a role for that administration in democracy-building through meetings with Haitian military leaders and interviews on Haitian TV and radio. Haiti had barely begun to draw the deep, complicated breath of democracy in 1991 when, again, the army intervened and forced President Aristide out of office.

Now, another U.S. President, a democrat, is trying to give democracy life in Haiti. I asked people as they left the voting places in Haiti: Pouki sa ou té voté? Ná voté liberté à—why did you vote? We voted for freedom, they said—freedom from the Ton-Tons Macoutes, freedom from oppression.

The United States military intervention in Haiti is creating the essential conditions for freedom in that land—peace, the absence of oppression and fear imposed by the Haitian Army. The Haitian people will build their own parliamentary democracy—with our help in establishing peace.

What we have begun under these Presidents, we must not now abandon. To do so would be ‘lavé mains, essiyê pa te.’ ‘to wash your hands, and dry them off in the dirt’.

Don't abandon this fledgling opportunity for democracy for the most destitute of our neighbors. Don't tie the hands of our President with an artificial date for withdrawal. Our intervention forces can, and I am confident will, be withdrawn in stages as we achieve each of the goals President Clinton has set for our intervention: The restoration of the Aristide Presidency; the holding of parliamentary elections this December; the emplacement of a trained police force, the introduction of an international peacekeeping force, and the initiation of an economic recovery program.

Mr. TORRICELLI. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, with great reluctance, I am going to oppose this amendment for one reason only. That is that the March 1 date is being viewed not as a time within which Congress would revisit the issue of whether the purposes made sense and the operation should be continued to be authorized, but rather, as a date certain for withdrawal. There are compelling military arguments against a date certain for withdrawal.

Having said that, and I was an advocate of having this alternative as a defense against what I thought would be the more disastrous action of Congress, adopting a resolution like the Michel resolution, I have to say, Mr. Chairman, that the words of the gentleman from Colorado [Mr. SKAGGS], the chairman of the Committee on Foreign Affairs, should be listened to very carefully by the body.

The one resolution we will probably speak on in this case is a sense-of-Congress resolution. The question this body must face is whether or not to repeal the War Powers Act, because it has no meaning whatsoever. It is not taken seriously. Every President has viewed it as unconstitutional. It passed only because the veto of President Nixon was overridden at its weakest political time.

We are not even coming up to the plate to make a decision on authorization. We cannot have a debate after an operation that started about whether to deauthorize, for we pull the plug on our troops and on our whole country's purpose in that particular operation.

☐ 2350

I think it follows almost as an inevitable consequence, and I say it with deep despair because it was sponsored and pushed by our dear friend, our former colleague, Dante Fascell, that this is dead letter law and it should probably be repealed by this body because this body is not willing to take the responsibilities that only it thinks it has seriously.

Mr. GILMAN. Mr Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, sometime 30 minutes or so ago, the very distinguished chairman of the Committee on Foreign Affairs scolded me and most of you for having voted for the Dellums-Murtha and others amendment. I think we have scolding in order for ourselves but not for the grounds that the distinguished gentleman scolded us. We have spent all of these hours in debate essentially praising our troops and saying how much we respect them and care for them, which is not even an item under controversy or dispute. If some enterprising journalist counts tomorrow the number of times that Members of this House in the course of this debate have risen and said, "The President should have come to the Congress for authorization before he sent those troops there," he would find that the number is probably going to be the overwhelming majority of everyone who has addressed this question in this debate. Yet what are we now doing? Ignore the fact that he did not have authority. He did not seek authority. And he would not have gotten authority if he had sought it.

Now after the fact, how dare someone scold me and say I am now obligated to give him that authority ex post facto. He does not deserve the authority because the policy is a flawed, failed policy. It should not have been implemented. I will not be a party to saying it should have been, or that I would in any way be cast in the role of having authorized it.

We should bring these troops home. They had no business going there. They ought to come back at the earliest practical moment consistent with their safety.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I think the gentleman yielded this gentleman 4 minutes in order to allow a couple of Members on our side an opportunity to speak in opposition to the amendment.

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. MURTHA].

Mr. MURTHA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I just want to make a couple of points very clear. Everybody in the field is against this. We asked General Sheldon personally about a date certain. He was against a date certain. General Shalikashvili sent a letter over, said it would hamper the troops and endanger the troops to have a date certain.

We have a resolution passed by the other body, 91 to 8, which says, "Get out as soon as possible," and praises the actions of the troops. This is an identical resolution to it, the resolution we have passed already. I ask the Members to defeat soundly the resolution which micromanages from Washington, DC, what they are doing in the field. It would be a disaster for us to pass a resolution like this trying to manage what goes on down in Haiti.

So I would ask the Members to vote against this resolution and vote for the final passage which was the same as the other body passed.

Mr. DELLUMS. Mr. Chairman, I yield to my distinguished colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I too wish the President had asked for authorization, but it ill behooves those who have spent 12 years fighting to free the President from any constraint in the dispatch of American troops to now complain when we do not have any way to do it. Let us all work together now and try to do that in the future. As for now, I reject the argument that we will somehow have left our duty undone. We have had several proposals put forward. The very large vote for the proposal put forward by the gentleman from California does state a clear policy. Members have said, well, they would like the Hamilton-Torricelli resolution except for the fact that it has a date certain for withdrawal. Well, a plane could float if it were lighter, but it is not. It does have the date certain for withdrawal that would undermine the notion that there is some unity. It would undermine the performance of the mission, and does not make a great deal of sense. I am willing now to start and work with people on the other side for means of controlling the President. By the way, we have one now, and that is an amendment to an appropriations bill. So if you put through the line-item veto, you will never have any method of restraining a President. Let us go after that in the future. But for now, let us not destroy the unified position we have managed to put forward here by the gentleman from California and I hope the amendment is defeated.

Mr. GILMAN. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. Cox].

Mr. COX. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to express my vehement opposition to the Torricelli-Hamilton substitute. This is an Orwellian bill being offered under an Orwellian rule. At times like this, this Chamber represents a hall of mirrors more than the people's House. To the public we may seem to be voting on sharply differing alternatives, different competing legislation, but thanks to this fraudulent king-of-the-hill procedure, Members can now vote on every side of this issue and that is not all. The Torricelli amendment seems to be authorizing United States forces in Haiti only for a limited time. But thanks to last-minute changes in the Torricelli amendment, we are in fact debating exactly the reverse, an open-ended virtually unlimited authorization for a United States military occupation of Haiti.

Mr. Chairman, the American people need to know first of all that this amendment would authorize the use of forces in Haiti to "stabilize the security situation in Haiti." This is a Herculean task indeed. For 200 years of Haitian history there has not been a secure and stable situation. In the 5 years before Aristide came to power, Haiti had five governments, five governments in 5 years. Aristide himself was in power for only 7 months. The only supposed stability that Haiti has enjoyed during its history was during the brutish 30-year dictatorial regime of Papa Doc and then Baby Doc Duvalier.

Surely President Clinton knows this since his Secretary of Commerce Ron Brown served as Baby Doc's registered foreign agent and lobbyist here in Washington. The shadow of that Somalia debacle of last year now lies over this House tonight.

Where is the evidence that this episode will end differently than Somalia where warlord Aideed is back on top right where we found him when we got there? Where is the evidence that the Clinton administration has developed a greater capacity to manage our military affairs? Why should we be willing tonight to make an open-ended wager with the lives of our troops and the prestige of the United States on the off chance that this time, unlike Somalia, unlike China, unlike Bosnia, unlike Korea, that this time President Clinton might get it right?

But we are told the Torricelli resolution has a fail-safe to make sure that this kind of fiasco cannot occur again. It is the sham March 1995 deadline. Suffice it to say first of all that 6 months was ample time for President Clinton, for his turn at the wheel in Somalia, to have his policy go disastrously awry. But much more importantly, the March 1 trigger mechanism in this resolution is a sham.

The Haiti occupation would expire on March 1 unless, and this is the world's largest loophole, unless the President determines and certifies that the continued participation of United States Armed Forces is essential to protect United States national security interests.

□ 2400

Where have we heard that before? It sounds familiar. It reminds me in fact of the identical language in the resolution contained in the 1994 defense appropriation. That resolution which Congress already passed barred the use of any appropriated funds for U.S. military operations in Haiti unless prior to the use of force the President reported that the intended deployment is "justified by U.S. national security interests." In fact, there were even more conditions.

Every Member of this body knows tonight that when the President ordered our troops into Haiti 3 weeks ago those conditions were not met. In fact, a majority of this body that voted just moments ago for the Dellums resolution certified legally that even tonight these conditions have not been met.

It simply cannot be more clear. If the Torricelli amendment passes, the Congress of the United States will delegate to President Clinton the power to indefinitely extend our congressional authorization. This we must not do.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California [Mr. Dornan].

Mr. DORNAN. Mr. Chairman, I would like to make a unanimous-consent request that the sentence following: "I support our troops", appears before everybody's remarks all night long on this debate, retroactively and to come. Does anybody object to that?

The CHAIRMAN pro tempore (Mr. McDermott). The Chair cannot entertain that request.

Mr. DORNAN. Mr. Chairman, it was a good idea. We all support the troops.

Now I want to collect my thoughts. Hold the clock a second because I am going to quote two senior Democrats.

In the Pennsylvania corner, but not a Pennsylvanian, one of the top eight people in tenure and seniority said the following sentence, cleared up for airline traffic. He said to another senior Democrat, in my presence: "If those blankety-blank-blanks down at the White House get a handful of Americans killed, our Democratic Party is going to take the biggest bath at the polls it has in this century." That is one.

Second, I know the Black Caucus is as diversified in its thoughts on this as any other caucus in this House. But one of the members who knows more because of a key leadership assignment than anybody else in that Black Caucus said the following, and mark these words: "Aristide can get elected any day in the week, all year long, but he is totally unable to govern."

I would love to give you his name, but I do not have his permission. And that is truly a wise statement.

What are we going to do if he is deposed again? The lawyer of Castro who went in there on an Air Force plane, I have just learned, his wife that ran against Ileana Ros-Lehtinen, whose name is Magna, 5 months ago embraced Castro, kissed him before the cameras, and it has been in the papers all over in Florida, and he said, "You are my teacher, oh great one. I have learned from you what you have done for the people."

I say this: Haiti is an issue in doubt.

Cuba libre.

Cuba libre.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California [Mr. Kim].

Mr. KIM. Mr. Chairman, we are at long last debating the American occupation of Haiti. I believe we need to examine how much this occupation is going to cost. The early estimates peg our cost at $250 million through the end of this year.

Our Nation's Armed Forces have been slashed by 25 percent since the gulf war and are struggling to meet their training budgets. How are we going to pay for the occupation without further degrading our military readiness?

What are we spending our money on?

We are spending thousands of dollars to buy obsolete weapons back from Haitians. We are spending thousands of dollars to train and pay Haitian police to sit in Guantanamo refugee camps. We have spent millions for humanitarian food relief and stood by and watched the distribution centers be ransacked.

What is our mission? Is it restoring Aristide to power or is it to promote democracy? Aristide is no different from the military thugs we are overthrowing. Aristide advocates murder and brutality as valid tools of government. How is siding with Aristide any different from choosing sides in the chaos of Somalia? When Aristide returns, who knows what will happen? Haiti may degenerate into civil conflict. Are we going to take sides in a civil war? Are we going to invade Haiti again to replace Aristide?

What is going on? How long are we going to be Haiti? Without answers to those questions, Congress has a responsibility to end this ill-fated adventure. Our servicemen and women should never be thrown into a dangerous environment without a clear mission. And given our budgetary problems we should end this ill-advised waste of precious taxpayer dollars.

Mr. Chairman, I strongly urge my colleagues to reject this ill-written resolution.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I oppose the amendment. I am not an attorney. All you have to do is check my court record.

But we are passing sense-of-Congresses here and we are telling the President how we feel tonight.

I support now the prevailing amendment that passed, Dellums. But what we are doing tonight is telling the President how we feel. We were not elected to tell the President how we feel; we were elected to govern. Let me say we were not elected to send signals. We do not work for Western Union.

But the reason I am opposed to this amendment is I think it is a dangerous amendment. The President has gone off and committed troops and did not check with us. Now we authorize it after the fact and we set a precedent of saying go ahead, Presidents, you have already done this all of these years and we do not like it, but now we are going to approve it after you have done it.

I am recommending that Chairman DELLUMS and Chairman MURTHA, two of the better chairmen in this House, and Chairman MCDADE and Chairman SPENCE on that side get together, amend the War Powers Act, because there are different types of military needs. When Saddam went into Kuwait he came to the Congress, President Bush, God bless him. But it was clear, was it not?

But Haiti needed a surprise, and there should be a provision in an amended War Powers Act where he could confer with the key leaders of this House and get a proviso approval, whatever President it is. But we should not affirm the President's usurping the power to declare war, and do not let it be confused in the nebulous, well-meaning, well-intentioned amendment.

Vote this down, even though it is a sense-of-the Congress. Let the Dellums language stand, and I say to the chairman he is the exact perfect man with MURTHA, MCDADE, and SPENCE to clarify the difference between an emergency and in fact the surprise needs to protect our hemisphere.

I am not an attorney, but you know I have the same rights as an attorney on the House floor, and I like it.

Mr. GILMAN. Mr. Chairman, I am pleased to yield 6 minutes to the gentleman from California [Mr. LEWIS], our final speaker.

□ 0010

Mr. LEWIS of California. Mr. Chairman, in many ways, this is a frustrating debate. In many ways, this is a positive debate. Most of all, this is certainly an important debate.

It is frustrating because almost no one in this body believed that sending American troops to Haiti was a good idea. Many of us expressed our reservations to the President and the Secretary of Defense in person. It is frustrating because most of us believe in the concept of the Commander in Chief. The Commander in Chief made a decision that now has placed almost 20,000 American men and women in Haiti.

The job our troops are doing is truly incredible. Using almost every form of modern technology and interforce cooperation, they are rapidly stabilizing a country that is almost uncontrollable. Our troops arrived without a shot being fired—that largely because of a very important contribution made by a most unusual commission headed by former President Carter.

President Carter, Senator NUNN and General Colin Powell deserve our gratitude.

We are there and because of that fact, I have grave reservations about all three resolutions—for each impact in a direct way the command authority of our Commander in Chief.

The Michel-Gilman resolution makes the most sense of the three resolutions—but I still have reservations. Our troops are in a place of great danger. Their presence in Haiti has undermined the strength of Cedras, Francois, and Biambi. I believe they will all leave which at least paves the way for the duly elected President—Aristide—to return. Let's us not kid ourselves about President Aristide. Father Aristide both verbally and in writing has expressed his hatred for the United States. He does not like Americans. Indeed, it is not clear that he will be any better for the people of Haiti or their condition than the military dictators. Nonetheless, he is the duly elected President.

Any resolution that encourages those military autocrats could cause one or more of them to try to re-exert their power. That could cause an eruption that would put our troops in grave danger.

The Dellums-Murtha resolution appeals to me in many ways. It does not, however, prohibit foreign control of U.S. troops. This worries me greatly. What is noteworthy is that the Senate has just passed an identical resolution by a vote of 91 to 8.

The Torricelli-Hamilton resolution makes no sense at all. It endorses the President's ill-conceived policy retroactively. It provides for permanent authorization of the President's action and it allows our troops to be placed under foreign command. This is a policy which does not encourage expeditious removal of our troops and potentially places them in the position of being Haiti's police force for not months, but years.

In many ways, Haiti symbolizes the most important challenges our country faces as we enter the 21st century. Haiti is a third world country within our hemisphere, home to almost 7 million people—most of whom go to bed hungry every night. Through U.S. aid, we feed about 1 million every day; our allies feed another one-half million.

The crowds are cheering our troops because they bring hope for change and freedom, but in another sense, they are very sad crowds, for the people are almost all very thin from hunger. Their big brown eyes stare out in hopelessness, for their condition is not new. It has continued for all of our lifetime.

As a young person at UCLA, I remember one of the texts on international affairs entitled "Wanted—An Asian Policy." If the book were written today, it would be entitled Wanted—A Foreign Policy.

Since I have been a member of this House, we have largely been without a comprehensive foreign policy. Oh, there have been high points under President Jimmy Carter and under Presidents Ronald Reagan and George Bush. While this is not one of them, President Clinton has had high points as well.

But in this new post cold war world, we need a long range foreign policy—A policy that reflects our economic and strategic interest in the world. A policy that advocates and supports freedom, democracy and economic growth with individual opportunity. A policy that recognizes that a strong America is important to freedom in the world but also understands that we cannot be the policeman for the world.

Mr. Chairman, we must do all that is necessary to facilitate Aristide's return to Haiti by October 15. We should be shifting to phase II—providing stabilized conditions for U.N. Forces. We should encourage Cedras and Biambi to follow Francois out of the country. And finally, we should remove our troops from Haiti as quickly and as safely as common sense will allow.

Mr. TORRICELLI. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, for 10 hours I have been on this floor helping to preside over this debate, distributing time and listening to my colleagues. For just a few moments I would like your time and your attention to explain why the gentleman from Indiana [Mr. HAMILTON], the gentleman from Colorado [Mr. SKAGGS], and I have asked you to endure another few speeches and another resolution.

The story begins with the first words that each of you ever spoke in this institution: "I do solemnly swear that I will support and defend the Constitution of the United States."

My colleagues, more than any vote, any issue, anything you ever do in your public careers, when you leave this Chamber late at night in the years to come, you will measure your own success or failure by whether or not you were true to those few words. Central to that commitment, central to whether or not you kept your pledge, is whether you have truly defended the prerogatives of this Congress and this institution.

My Republican friends, a decade ago you were wrong in defending the invasions of Lebanon, Panama, and Grenada with a vote in this Congress. I said so. I believed it then, I believe so now.

My Democratic colleagues, we compound the problem. Many of you are my friends. Some of you I respect a great deal. Your speeches in those years were true.

The truth is no different now. The prerogatives of this institution require, when the sons and daughters of your constituents are put in harms' way, that this Congress take a vote and take a stand.

The political affiliation of a President is of no consequence, no bearing, and no relevance in making a judgment on this issue.

And so, my colleagues, I rise, indeed, not to discuss Haitian democracy at all. To anyone who has listened, I have been as doubtful about our occupation in Haiti as any Member. But I have another concern. The most powerful weapon that the United States has to advance democracy is not our military.

□ 0020

It is no weapon, it is no soldier, it is no force. When 62 aircraft, a score of naval ships and 20,000 soldiers and untold millions are sent to Haiti on the order of a single man without the consent of any other institution of this Government, then no democratic ideal is being advanced. And make no mistake about it, what you do and how you define our democracy is heard in the Kremlin as they consider the caucuses, is understood in France when they look at Africa, other Latin American nations when they look to their neighbor. Our lesson to the world is not might, no matter how powerful we may be; it is the rule of law; it is the prerogative of this institution and our elected Representatives to embody the ideals of our Constitution.

I know to some it seems of no consequence any more. In 200 years we have been involved in 246 invasions, occupations, military skirmishes. Some of them are the great pride of our time, World War II to Korea to a host of other engagements. Some are a national embarrassment because the elected Representatives in their time stood silent as we stand now.

My colleagues, it was said best in 1848 by a young Republican Representative from the seventh District of Illinois. New to this body, he rose and he said,

> Allow a President to invade a neighboring nation whenever he may deem it necessary, and you allow him to make war. The Constitutional Convention resolved to frame the Constitution so that no one man should hold this power.

My colleagues, that young Congressman was Abraham Lincoln. He was new to this institution, but he understood a central truth of this Government: That we govern together. When he spoke, it was an illegal and immoral invasion and occupation of Mexico that generated his words.

A century later it could have been Vietnam. The crisis is now Haiti. But it is more than Haiti. As has been said on this floor time and time again, Haiti is more than a crisis, it is a model. In this postwar world what do there and how we conduct ourselves and the rules established on this floor will be revisited time and time again.

If I understand the principles of our President, we will fight in nations around the globe to ensure that democratically elected regimes retain their power, that illegal immigration is stemmed, that human rights are respected.

I believe in all those objectives, but I submit to you, my colleagues, if you are not more vigilant in the defense of the lives of our children, the credibility of this Government and the use of our forces, we are going to be a very busy United States of America.

My colleagues, finally, the Congress' role in defining these new arrangements of power, you and I know, comes at a moment of some weakness in this institution.

From the media to many of our constituents, they have looked upon the problems of this institution as simply the problems of the Members. But if tonight in your own consciences you are not taking a stand to authorize or deauthorize, establish a process to approve or disapprove in the 104th Congress because of the vulnerability of a Member or the problems of an institution, then we no longer have individual problems, we have a problem of the ability of this institution to govern.

My colleagues, I have been proud of every moment I have spent in this institution. With all the respect that each and every one of you deserves, I must humbly conclude this has not been our finest moment.

Mr. HAMILTON and I have offered a resolution that makes no judgment on the invasion.

Some of our opposition is clear.

We simply accept the reality and ask you to authorize it, given the reality of the presence of our forces, and insure that you or your successors in the 104th Congress would cast a vote and let every man and woman whose life is on the line tonight in Haiti know that they are there because the democratic process asked them to be there; no one man, no one individual.

I believe it was the right judgment. I accept the sentiments of the House. I will ask for no vote. But I will leave you tonight with a simple story of a great man who served in this House and left this world not so long ago.

Mr. Chairman, a decade ago when I was new to this institution, not far from where BARNEY FRANK sits tonight, late one night I talked to Tip O'Neill and I said to him, "Mr. Speaker, in all your years in this institution, is there any vote that you regret, any one you ever think about or you would take back?"

And he said to me,

> Bob, every day, one vote every day. The President told me he needed my help in the Gulf of Tonkin Resolution. I believed in my party, I believed in my President, and I cast a vote. I didn't think of that vote for a long time until one morning when 241 U.S. Marines lost their lives in Lebanon. And I thought of it during every debate on every resolution for every foreign involvement since. You see, I listened, too. They said a deadline would be wrong; trust commanders; don't define the mission; allow it to evolve; allow the President to have flexibility. Oh, they had flexibility, and we did not define a mission, but we set a limit right after 241 brave young Americans came home in boxes.

My colleagues, the House has made its judgment. I would have preferred that the courage of 20,000 young Americans in Haiti be met by the courage of 435 Members of this House to take a stand for or against, to establish a process to either end this engagement or allow it to proceed in the new year.

Mr. HAMILTON, Mr. SKAGGS, Mr. MENENDEZ, those who have joined me tonight, have taken our stand. We have not prevailed. We will be back in the 104th, I hope.

But I tell you this, this issue, this issue remains with each and every one of us not only for as long as we are in this House but for as long as we care about the people's business and the integrity of the Constitution of the United States.

Thank you for indulging me.

Mr. COX. Mr. Speaker, I don't want to belabor the question of the President's constitutional authority to occupy Haiti. The more urgent question, now that he has done it, is what to do now. But I want to briefly address the way in which the President respected our democracy, our Constitution, in setting in motion an invasion of Haiti. The Torricelli-Hamilton amendment states explicitly that the Constitution would have required the President to obtain Congress' approval before ordering our armed forces to remove the de facto authorities in Haiti. Mr. Speaker, after careful consideration of the significant constitutional issues at stake, I have concluded that this statement is correct.

First and foremost, I want to make emphatically clear that neither I nor my Republican colleagues who hold this view are enemies of a strong Presidency. From the days when I served as legal counsel to President Reagan to the present, I have firmly opposed the so-called War Powers Resolution as an unconstitutional and unwise fetter on the President's constitutional powers, and I have consistently upheld sweeping presidential authority to use the military forces of the United States in a whole host of contexts: in defense of American territory, lives, and property against actual or threatened attacks—like such military operations as Desert One, Grenada, Libya, or Panama; to enforce the laws of the United States, as was also the case in Panama; in circumstances where speed or secrecy are essential, as was the case in all of the above military actions; or for peacekeeping operations, as Lebanon and Somalia at least initially were. Some of these past operations ended successfully, and others ended in failure; but each fell within the scope of well-established exceptions to the requirement for prior congressional authorization—exceptions that date back to the framing of our Constitution over two centuries ago. I emphatically support these historic precedents, and I will support the President's right to take such actions unilaterally in the future—any President of any party, whether or not I agree that the action in question is justified.

I offered a resolution describing the then-proposed invasion of Haiti as a usurpation of Congress' constitutional rights, because in Haiti President Clinton claimed to act under none of these established precedents. He claimed new authority, for unilateral presidential power that is historically unprecedented. The Constitution has not historically been construed to allow the President to send U.S. Armed Forces to invade another country, with every expectation of resistance by opposing armed forces, where neither secrecy nor American lives are at issue. That is the Desert Storm scenario; and, Mr. Speaker, as we all recall, Congress demanded at the time, and President Bush ultimately sought and received, our authorization for Operation Desert Storm. I advised President Bush at the time that a vote was essential, and so did many of my Republican colleagues; and so, Mr. Speaker, did every one of my Democratic colleagues, stridently and at length, without a single exception that I'm aware of. President Clinton and the Democratic leadership of Congress denied us a vote in Haiti, and have thereby created a broad, inchoate new category of Presidential power.

Mr. Speaker, I have read the opinion provided to the Congress by the Justice Department, purporting to establish that President Clinton could have invaded Haiti even absent the September 18 Carter agreement. The Justice Department cites three bases for such unilateral action. First, it argues that the sense of the Congress resolution contained in the 1994 defense appropriation authorized President Clinton to invade Haiti—and I want to emphasize that the Justice Department said, explicitly, that President Clinton could constitutionally have invaded Haiti if he chose to, rather than simply occupying it with the consent of the de facto government, as we did on September 19. This argument is utterly specious. As the Justice Department is well aware, a nonbinding sense of the Congress resolution can neither augment nor curtail the President's constitutional or statutory authority. Even if it could, the conditions specified in the resolution were not remotely met. The President gave no meaningful "report in advance" of the military action he ordered: he sent a letter to the Speaker as the operation began, at a time when the Congress was in recess. Moreover, the resolution required that prior to the use of force the President would, among other conditions, have "established" "clear objectives for the deployment," "identified" "an exit strategy for ending deployment," and "ensure[d]" "the safety and security of United Armed Forces, including steps to ensure that United States Armed Forces will not become targets due to the nature of their rules of engagement." Mr. Speaker, will any member here present tell me that these conditions were met on the night of September 18, as President Clinton ordered the military mission to begin? Will any member assert that they have been met today?

The second basis for the administration's position is an ill-assorted claim either that the administration complied with the so-called War Powers Resolution, or that the War Powers Resolution supports the President's claimed constitutional authority to invade Haiti, or both. Mr. Speaker, as I noted before, I, together with all previous administrations since its enactment, have regarded the War Powers Resolution as an unconstitutional, ill-conceived nullity; but even if I regarded it as the Ark of the Covenant, I would not argue that Congress could by statute amend the Constitution—particularly where the amendment in question is supported to augment the President's constitutional authority to act without Congress, and particularly where the statute in question expressly recites that it is "not intended to alter the constitutional authority of the * * * President," or to be "construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances." As to the administration's claims to have complied with the War Powers Resolution, even if they were true, they would not answer the broader question whether the administration complied with the Constitution—a considerably more venerable and binding document.

Finally, the Justice Department tells us that the declaration of war clause does not require prior congressional authorization for the use of force authorized and commenced by President Clinton on that Sunday night—the forcible invasion of Haiti. Why, Mr. Speaker? Because we had the permission of the legitimate government, Mr. Aristide, and because the nature, scope, and duration of the deployment were not consistent with its being a war. The Department then cites a long series of U.S. military occupations of other countries, neglecting the fact that the cited examples were either uncontested, or for the protection of U.S. lives or property, or—in the case of the Philippines in 1989—involved genuinely minor and genuinely temporary commitments of forces, and exigencies of timing that made even consultation with Congress impracticable. The Department ends with the tautology that "'war' does not exist * * * in circumstances in which the nature, scope, and duration of the deployment are such that the use of force involved does not rise to the level of 'war.'" Now, Mr. Speaker, I don't wish to be unfair to the administration's reasoning; there will be cases in which there is a genuine difficulty in drawing the line between uses of force that are so small-scale, temporary, riskless, and exigent—like the Philippines in 1989—that they genuinely do not rise to the level of warfare in the constitutional sense, and those which do. But a contested invasion of Haiti, involving 20,000 U.S. troops, does not seem to me to be one of them. And I am genuinely uncomfortable with the argument that the declaration of war clause does not apply to small, "easy" wars. The exceptions to the declaration of war clause all turn on circumstances that the Framers, and every President since then, understood made congressional action impractical or unnecessary—like secrecy or self-defense. Congress cannot debate a secret mission and have it remain secret; defense of U.S. military and civilian personnel cannot await legislative action in Washington. None of these circumstances were present in the case of Haiti. In 1991 the Bush administration found time for a vote in the midst of much more extensive preparations to attack a far stronger enemy. The Clinton administration has orchestrated a military buildup that has allowed time for the United Nations Security Council and the Organization of American States to vote on an invasion; and President Clinton thought it worthwhile to secure their approval—but not the approval of the Congress of the United States. The Senate has had time to hold seven votes concerning Haiti—but neither the House nor the Senate were allowed to hold the one vote that matters, on whether to authorize an invasion or occupation. Only now, when we have already embarked on the mission, are we allowed to debate it after the fact.

Mr. Speaker, this is a travesty. The Democratic leadership of both the House and Senate shouted themselves hoarse in 1991 demanding a vote on Desert Storm, an operation supported by a clear majority of the American people. Vice President GORE, then a U.S. Senator, said that, and I quote, "[t]he plain sense of our Constitution, supported by the full weight of history and jurisprudence, is that the President was never meant to have the power to order this Nation into war; that power was vested in the Congress after the most careful deliberation by our Founders for reasons that are as valid now as they were then." Leon Panetta, now President Clinton's Chief of Staff, joined a lawsuit seeking to prevent Desert Storm. Majority Leader GEPHARDT threatened to cut off funding for our troops if President Bush began Desert Storm without congressional authorization. Majority Leader MITCHELL said that, and I quote, "[o]ur firm view is that the President has no legal authority, none whatsoever, to commit American troops to war in the Persian Gulf or anywhere else" without congressional authorization. What a difference a few years makes. Speaker FOLEY said last month that he agreed with President Clinton that there is no constitutional requirement for an authorizing vote on possible military action in Haiti; and Majority Leader MITCHELL agreed.

Mr. Speaker, this constitutional requirement is not an 18th century formality. It is designed, among other things, as a safeguard for our troops, so that they will not be required to make bloody sacrifices for causes that ultimately do not command the support of the American people. Desert Storm, for which we voted, was unlikely from the outset to be such a cause. But if ever there were a need for a popular mandate, it is now. Yet President Clinton has failed—utterly failed—to persuade the American people or the Congress that this occupation is necessary or prudent. American troops are being inserted into one of the most unstable, violence-racked nations in the world—another Somalia, though with a longer, somewhat more tortured history. Why should we suppose that the public or Congress will have more stomach for American casualties here than they did in Somalia, or Lebanon? The Framers knew that a congressional debate would be an essential part of building public support for military action, and that where Congress had been in on the take-off of a military action it would be far more likely that they would stay the course. President Clinton, the ex-Vietnam protester, should understand that. But he was not willing, over the last many months, to invest the effort needed to even try to build public support for his policy. As a result his Haiti policy has a hair-trigger: any incident, any loss of Haitian or American life, could result overnight in the abandonment of the mission. Mr. Speaker, that is not fair to our troops. It is unfair to ask them to risk their lives, to make enormous personal sacrifices, for a mission that could be aborted overnight—as the Somalia mission was. Our soldiers are willing to lay down their lives at their Commander-in-Chief's direction. The American people and the Congress will understand and accept large sacrifices when they have been given the case for them; our history, including our recent history, proves that they and we will err on the President's side in every case where he has taken the effort to build support and make the case for his policies. That is not much to ask from the President. He has had 2 years to do it. And 2 weeks ago he decided to start doing it. That is not worthy of our troops, and it is unworthy of the office of the Presidency.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. TORRICELLI].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, on that I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 27, noes 398, answer "present", not voting 14, as follows:

[Roll No. 499]

AYES—27

Ackerman
Cantwell
Clement
Deutsch
Faleomavaega (AS)
Gephardt
Hamilton
Kaptur
Kleczka
Kopetski
Lambert
Lancaster
McDermott
Menendez
Minge
Neal (MA)
Pallone
Penny
Richardson
Rostenkowski
Sanders
Sharp
Skaggs
Stupak
Synar
Torricelli
Williams

NOES—398

Abercrombie
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Archer
Armey
Bacchus (FL)
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bateman
Becerra
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cardin
Carr
Castle
Chapman
Clay
Clayton
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hinchey
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inslee
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Klein
Klink
Klug
Knollenberg
Kolbe
Kreidler
Kyl
LaFalce
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McKinney
McMillan
McNulty
Meehan
Meek
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nadler
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Ridge
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenk
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Shepherd
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Swett
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Underwood (GU)
Unsoeld
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Applegate
Fish
Gallo
Huffington
Inhofe
Lewis (FL)
Ravenel
Romero-Barcelo (PR)
Slattery
Smith (OR)
Sundquist
Tucker
Washington
Whitten

☐ 0047

Mr. COSTELLO and Mr. LaFALCE changed their vote from "aye" to "no."

Mr. McDERMOTT changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. MCDERMOTT, Chairman pro tempore, of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 416) providing limited authorization for the participation of United States Armed Forces in the multinational force in Haiti and providing for the prompt withdrawal of United States Armed Forces from Haiti, pursuant to House Resolution 570 he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

☐ 0050

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution, as amended.

The joint resolution, as amended, was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution, as amended.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 236, noes 182, answered "present" 1, not voting 16, as follows:

[Roll No. 500]

AYES—236

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Bacchus (FL)
Barca
Barlow
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Bilbray
Bishop
Blackwell
Blute
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Callahan
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Danner
Darden
de la Garza
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Dickey
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (LA)
Fingerhut
Flake
Foglietta
Foley
Ford (TN)
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Glickman
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamburg
Hastings
Hayes
Hefner
Hilliard
Hinchey
Hoagland
Hochbrueckner
Hoyer
Hughes
Hutto
Inslee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy
Kennelly
Kleczka
Klein
Klink
Kopetski
Kreidler
LaFalce
Lantos
LaRocco
Laughlin
Lehman
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey
Maloney
Mann
Manton
Margolies-Mezvinsky
Markey
Martinez
Matsui
McCloskey
McDade
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
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Mink
Moakley
Mollohan
Montgomery
Moran
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Oberstar
Obey
Olver
Ortiz
Orton
Pastor
Payne (NJ)
Payne (VA)
Penny
Peterson (FL)
Pickett
Pickle
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal-Allard
Rush
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Schroeder
Schumer
Scott
Serrano
Sharp
Shepherd
Sisisky
Skeen
Skelton
Slaughter
Spratt
Stark
Stokes
Strickland
Studds
Stupak
Swift
Synar
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Unsoeld
Valentine
Velazquez
Vento
Visclosky
Volkmer
Walsh
Waters
Watt
Waxman
Wheat
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates

NOES—182

Allard
Andrews (NJ)
Archer
Armey
Bachus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Bonilla
Bunning
Burton
Buyer
Calvert
Camp
Canady
Cantwell
Chapman
Coble
Collins (GA)
Combest
Condit
Cox
Crane
Crapo
Cunningham
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ewing
Fawell
Fields (TX)
Filner
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Grams
Grandy
Greenwood
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hefley
Herger
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Kasich
Kildee
Kim
King
Kingston
Klug
Knollenberg
Kolbe
Kyl
Lambert
Lancaster
Lazio
Leach
Levin
Levy
Lewis (KY)
Lightfoot
Linder
Livingston
Lucas
Machtley
Manzullo
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McHugh
McInnis
McKeon
McMillan
McNulty
Menendez
Meyers
Mica
Michel
Miller (FL)
Molinari
Moorhead
Morella
Myers
Nussle
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quillen
Ramstad
Regula
Ridge
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanders
Saxton
Schaefer
Schenk
Schiff
Sensenbrenner
Shays
Shuster
Skaggs
Smith (IA)
Smith (MI)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Swett
Talent
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torricelli
Upton
Vucanovich
Walker
Weldon
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Owens

NOT VOTING—16

Applegate
Fish
Ford (MI)
Gallo
Huffington
Inhofe
Lewis (FL)
Pelosi
Ravenel
Shaw
Slattery
Smith (OR)
Sundquist
Tucker
Washington
Whitten

☐ 0107

The Clerk announced the following pairs:

On this vote:

Mr. Slattery for, with Mr. Smith of Oregon against.

Mr. POMEROY changed his vote from "aye" to "no."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I was not recorded on roll call vote 500. I wish to state that I would have voted "aye" on passage of the joint resolution.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution just considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1348. An act to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2534. An act to revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I would inquire of the gentleman from Missouri [Mr. GEPHARDT], the distinguished Majority Leader, how we intend to proceed for the balance of the evening, and maybe tomorrow's schedule.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, our intention is to go to the rule now on California desert, and the conference report. Those votes will be the last votes of today, this evening, this morning.

Then tomorrow, I would like to move after that for unanimous consent that we come in tomorrow at noon. Then we go to the PILT bill, and we have a number of other conference reports. We are discussing with the minority a list of unanimous consent requests that we will work on tonight and tomorrow morning and refine. There is the matter of compliance that is still out there. That is about it.

Mr. Speaker, as to when we would finish tomorrow it is really difficult, not knowing what the Senate will produce and when it will produce it. I could imagine that we could get to a point where we cannot have further votes at some point tomorrow evening. What time that would be, there is no way to predict at this point. We will make it as early as possible.

□ 0110

Mr. MICHEL. Might I inquire, has the decision been made, then, that we would adjourn until the date in November?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. I thank the gentleman.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, if I could ask a question of the majority leader, I would appreciate it.

The gentleman from Missouri [Mr. GEPHARDT] and I have had a number of conversations today and the last several days as we have danced around the desert bill and I must say to the House and to him publicly that he has been extremely cooperative in trying to work out the schedules that make sense.

Earlier this evening we had a conversation that I had hoped would solve a part of this evening's problem; that is, it seemed to me that there were a couple of technical difficulties with this conference report that need to be solved between now and tomorrow. If we could solve them, we could easily put this whole thing over and get rid of this bill in 15 minutes tomorrow and because of a lack of solution, there appears to be a more extended discussion and maybe even votes this evening.

I want to know if anything has changed since the last time we talked. I would not suggest that the gentleman is the problem, but indeed there has been a technical problem.

Mr. GEPHARDT. If the gentleman will yield, we are still working on the technical problems and they may be able to be solved tonight, but we still need to process the bill tonight so that it can get to the Senate on a timely basis tomorrow. If we came in tomorrow at noon and even went through a shortened procedure, it would not meet up with the schedule that the leader on the Senate side is trying to meet. We will try to meet the technical problems this evening. It may be possible, we are working on it now, to solve those technical problems. The chairman of the Committee of Natural Resources and staff is working with Members on the other side to solve those problems.

Mr. LEWIS of California. If the gentleman will yield further, in commenting, I certainly would be willing to come in at 9:30 or 10 or otherwise, if we could solve those technical problems. I do not think we need an extended debate tonight and I know the gentleman does not, but it is not going to make a difference in time in a real way at the other end.

Mr. GEPHARDT. If the gentleman would yield, we would be happy to have a shortened procedure tonight if these technical problems are worked out. And I think they can be. There is no reason we could not go through a shortened debate on the rule and on the conference report. Again, it is not going to change the ultimate outcome and timing in the other body. Our problem is that the majority leader there needs the bill at about 11 in the morning, and the other side has asked for a conference in the morning and we have accommodated that request and, therefore, we really cannot get to the floor until about noontime.

Mr. LEWIS of California. If the gentleman would yield further, we do intend to go forward with the rule and we will have some debate there, cover part of the product, I suppose, and maybe some of those technical problems could be solved before we get to the bill.

In the meantime, I want the House to know that the majority leader and others have been very cooperative. It has not been totally satisfactory across the board, but we do appreciate the work of the gentleman from Missouri [Mr. GEPHARDT].

Mr. MICHEL. May I ask the gentleman from Missouri [Mr. GEPHARDT] if the hour for reconvening or for coming in, then, tomorrow, is definitely set for 12 noon?

Mr. GEPHARDT. I am going to ask unanimous consent in a moment to ask for that.

Mr. MICHEL. I thank the gentleman.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Georgia.

Mr. GINGRICH. On our side, I think we just want to make sure in case any Member is confused, that the conference was moved to 11, so the Members are aware that they need to be in by 11 in the morning prior to going in at 12.

Mr. LEWIS of California. I failed to mention that there will likely be votes, at least one vote in this process, not too far down the line, we hope.

HOUR OF MEETING ON TOMORROW

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns this morning it adjourn to meet at noon today.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CONFERENCE REPORT ON S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 568 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 568

Resolved, That immediately upon adoption of this resolution the House shall consider the conference report to accompany the bill (S. 21) to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read. The previous question shall be considered as ordered on the conference report to final adoption without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. PETERSON of Florida). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for the purpose of debate only, I yield the customary one-half hour of debate time to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 568 is the rule providing for the consideration of the conference report on S. 21, the California Desert Protection Act.

The rule waives all points of order against the conference report and against its consideration, provides that the conference report shall be considered as read, and provides one motion to recommit. The waivers apply to the 3-day layover rule and to the germaneness rule.

Mr. Speaker, while I am often sympathetic to my colleagues on the minority who frequently oppose the waiver of the 3-day layover rule, the waiver in this instance is needed because of the time considerations we face as we near adjournment tomorrow.

In addition, Mr. Speaker, as the chairman of the Natural Resources Committee has testified, the conference report is very favorable to the opponents of the legislation, accepting as it does almost all of the amendments on the most controversial issues that were approved by the House and which placed restrictions on the original committee bill.

This legislation is not new to us. It has been under debate for 8 long years by Congress; during consideration in the House this year alone, we spent more than 23 hours over 6 days on the bill. Over 40 amendments to the committee bill were filed and over 15 roll call votes were taken.

I do not need to remind my colleagues that, earlier this week, we spent over 5 hours of debate on going to conference on the legislation.

Mr. Speaker, the provisions that violate the germaneness rule had been a part of the bill as passed by the Senate. Those provisions include a study of the Mississippi Delta region and another establishing the New Orleans Jazz National Historical Park.

The California Desert Protection Act is, in terms of expansion of the national parks system and national wilderness preservation system, the most important single measure since the 1980 enactment of the Alaska Lands Act. It seeks to protect and preserve some of the most beautiful areas in the California desert.

As a Californian, I must say, Mr. Speaker, the California desert contains some of the truly rich and scenic areas not only of my State, but also of our entire Nation. Far from being a vast and useless wasteland, the rugged desert mountains and adjacent lowland terrain provide the habitat for some of the country's most unusual species of plants and wildlife.

The area is also a museum of human history—perhaps the most valuable in North America because much of it has, until recent years, been untouched for thousands of years. Unfortunately, the desert's historical and natural treasures are now being threatened, and we are seeing irreversible damage and deterioration there. We must preserve these valuable natural and historical resources for future generations.

Mr. Speaker, I commend the gentlemen from California [Mr. MILLER], the chairman of the Natural Resources Committee, for his tireless efforts and persistence in working on this legislation, which is so important, not just to our State, but to the entire country.

The California Desert Protection Act, which is the result of 8 years of active consideration, designates 69 wilderness areas comprised of approximately 3.5 million acres, as contained in the Senate bill.

Like both the House and Senate bills, it expands the existing Death Valley and Joshua Tree National Monuments and redesignates them as national parks. The conference report adopts the House provision establishing a Mojave National Preserve in which hunting will be permitted; the Senate bill would have established a new national park there.

Mr. Speaker, the House has given this legislation an almost unprecedented amount of time. I urge my colleagues to adopt the resolution so that we may proceed to the consideration of this important conference report expeditiously.

□ 0120

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, at 1:20 this morning as we prepared to march back to the California desert I would like to say this bill has been extremely controversial, as we all known, because it attempts the largest government heist of land in the lower 48 States without the support of the people of southern California who are most affected by this legislation. Consequently, the debate over both the process and the procedures for considering this legislation has been very acrimonious and this rule continues that acrimony by waiving all points of order against the conference report.

It is my understanding, Mr. Speaker, that the actual conference committee met for only 2 minutes, 2 action-packed minutes with no Republican Members present until the very end before a compromise was agreed to because most of the deals were cut long in advance of the conference.

In addition, Mr. Speaker, by waiving all points of order against the conference report, the rule allows at least two nongermane Senate provisions to be included in the conference report that have nothing to do with the California desert. They are the New Orleans Jazz National Historical Park Act and the Lower Mississippi Delta Region Heritage Study. While I am pleased to learn the House passed amendments to the Mojave National Preserve, law enforcement vehicles and private property rights are contained in the conference report, both the rule and the conference report are both complicated and very far reaching.

Mr. Speaker, most Americans support a balance between protecting the ecology of the desert and maintaining legitimate multiple land use activities. S. 21 does not provide that balance, and if adopted, Mr. Speaker, this rule would ensure that such a balance will never be achieved.

For this reason, Mr. Speaker, I urge a no vote on the rule. I strongly oppose it.

Mr. Speaker, I yield 5 minutes to my very good friend, the gentleman from Redlands, CA [Mr. LEWIS] who has led the charge on this.

Mr. LEWIS of California. Mr. Speaker, I thank my colleague very much for yielding the time.

Mr. Speaker, first I would like to begin by letting the House know very clearly that we do intend to have a discussion of the rule while we are trying to solve the technical problems which I mentioned earlier. It is not our intention to have dilatory discussions or a number of votes or otherwise. We may have to have a vote on the rule, for the difficulty is one that the gentleman from California [Mr. THOMAS] feels very strongly about. But from there I hope we will get through as soon as possible.

I do want to take the time of the House, however, to discuss with them what really has brought us to this point at this late hour after many, many hours of discussion on this bill and an extended series of votes as we went through the process the last several days. First and foremost, I want the House to know that the report before us is as good as I could have hoped for coming through this process, for at the beginning of the process I have told Members more than once the Members who are elected to represent the desert, five of us were not just disgusted, we were outraged by the way the committee treated us relative to the constituents that we represent. There are five Members who represent the desert. The committee chose not to discuss their idea of our world with us whatsoever. Instead they chose to go forward with a policy development of their own direction, and in my judgment they reflect the views of very few in America.

I might mention as an aside, it was an interesting thing, when I traveled to Haiti over the weekend with our Intelligence Committee and the defense subcommittee, and as we were talking about Haiti problems, one of our intelligence officers said to me that one of our difficulties comes from the factions in this country, and they have what they call in Haiti MREs. MREs are the things that servicemen eat, the food they talk about all the time. But MREs in Haiti means something else. And I said what was that. And he said Morally Repugnant Elite.

I must say that some of those who have driven this process that has led to this hassle over all of these, most reflect the MREs of that community within those who want to essentially decide what happens to the desert by never discussing it with those people who live there or those of us who represent it.

To illustrate the difficulty in clear form is to do so by repeating just what happened just other day. We finished our work here on the bill the other night. The last discussion on the bill ended at 6:02 in the evening. The conferees were appointed after that. After that conferees were appointed, at approximately 6:05, the conference was scheduled for 6:45. As all of my colleagues will remember, we had a series of five or six votes. They began at 6:46. One of our Republican conferees got to the conference room. There were two Members present at that time. The gentleman was asked if he wanted to comment. He spent 30 seconds. Following, the rest of the conferees on the House side arrived at 6:47. The conference was over. There was no Republican conferee that came from the Senate. Then I heard from those who are the experts on the way that committee runs conferences, this is the way it is done all of the time. You know how conferences are run. Well, on my defense subcommittee they are not run that way. We have give and take, we make real changes, we do not have staff do everything. It is just absolutely unacceptable that power should be exercised in that way, and it is a reflection of what happens when you have too much power too long in one committee, and it has treated us, to say the least, like second-class Members of the House.

Above and beyond that, I have a small comment about the rule itself, for there was a request made to waive points of order as well as to waive the 3-day rule. There is within the bill a minor little item that involves title 11 of the conference report that is entitled the Lower Mississippi Delta Region Initiatives. Obviously the lower Mississippi Delta Region is a heck of a long ways away from the California desert. I am not arguing the measure of this title. I do wonder why it is part of the California desert plant.

Title 11 of the conference report contains a provision establishing a New Orleans Jazz National Historical Park. Again, this provision has nothing to do with the California desert. It has been suggested that if we do not think that there are any turtles in Louisiana of the style we are trying to protect, there certainly are not any alligators in my desert.

But in the meantime, a provision that would dramatically affect the potential of a program that would involve $8 million to $10 million a year is put in the conference committee, has never been passed out of a committee in this House that I can find in any way, shape or form. One more time it is a combination of staff and committee that has chosen to be arbitrary with those Members who represent the desert. That, if not many other things that we have suggested over these many months, is a great reason to vote against this bill, and so I urge the Members to vote against the rule.

Mr. BEILENSON. Mr. Speaker, we have no requests for time on this side, and I am happy to defer to the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from La Quinta, CA, Mr. McCANDLESS, another of my great friends who has the privilege of representing the magnificent desert empire.

Mr. McCANDLESS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to this rule for a number of reasons. But let me try to summarize the best I can in view of the patience that the House has had on this legislation and the fact that we are finally bringing it to some kind of a conclusion.

Members have heard about the conference committee. The next afternoon at 1 o'clock the Rules Committee met. Our staff did not get a conference report from anyone other than the Senate until 11:20 a.m., prior to the 1 p.m. meeting in the Rules Committee.

□ 0130

We were unable to digest the conference report because of the short time. The conferees on that conference committee did not receive at that time, 1 o'clock, had not yet received the conference report.

Now, we can talk all we want to about this, that, or the other thing, but in my mind, the proper legislative process is that you have a conference report, that whatever happened that brought it about and gave it birth, at least you have it to read, and therein lies tonight a major problem with the district that my colleague, the gentleman from California [Mr. THOMAS] represents which he will eloquently, I am sure, bring to your attention.

However, when we consider a rule, we consider also what comes with the rule, and I just say rules that raise points of order, they offer amendments and do this kind of thing are troublesome because they bring with them many things of which the gentleman from California [Mr. LEWIS] touched on very briefly. And oddly enough, the California desert bill also authorizes the Lower Delta Region Heritage Study.

I have got a problem with the Lower Delta in Mississippi. Maybe the Lower Delta of Lower California, but not the Lower Delta of the Mississippi which, as near as I can tell, consists of pork, programs from the great States of Arkansas, Louisiana, Kentucky, Missouri, Illinois, Tennessee, Mississippi. This bill also creates, as we heard a little earlier, the New Orleans Jazz National Heritage Park to be administered by the National Park Service, and we have talked ad infinitum about the problems of the Park Service and its lack of ability to bring itself up to some standard with respect to its assets.

Now, they are no doubt worthy projects for the most part, but let me talk to you about a few more which are in this rule for which we have points of order waived: the Delta Region Heritage Corridors and Cultural Centers, the Music Heritage Program, with emphasis on the blues, of course, Delta Antiquities Survey, and I will come back to this one in a minute, and the Delta Region African-American Heritage Center.

Mr. Speaker, I do not have a problem with the content here as it relates to these particular kinds of projects. I am sure they are worthy, and there is no way that you can say that they are not, because there is no way that you can say anything if you are not familiar with them, because you did not receive the conference report.

I would hope that the 104th Congress would look itself in the mirror and say what is a conference report: a report on the conference that the conferees are entitled to see at least in enough time prior to going to get a rule on the conference.

Mr. Speaker, I am somewhat exercised tonight, as you can see. The hour is late, and I will conclude.

Mr. Speaker, I rise in opposition to the rule. It is nothing new to rise and complain about rules which restrict points of order or amendments; this does happen from time to time, and in fact happens to be the case with the rule now under consideration. But let me explain to you just what the inability to raise points of order, or offer amendments to this bill, means.

We are considering a piece of legislation with which I know my colleagues are now very familiar; perhaps more so than they ever planned or wished to be. It is the conference report on S. 21, the alleged California Desert Protection Act. One would anticipate a bill with this name to deal with desert matters, and it does. But, oddly enough, this California desert bill also authorizes a Lower Mississippi Delta Region Heritage Study, which, as near as I can tell, consists of pork programs for the great States of Arkansas, Louisiana, Kentucky, Missouri, Illinois, Tennessee, and Mississippi. This bill also creates the New Orleans Jazz National Historical Park, to be administered by the National Park Service.

There are no doubt worthy programs; no doubt there is a need for these programs down there in that part of our country. Here are a few of them: Delta Region Heritage Corridors and Cultural Centers; Music Heritage Program—with emphasis on the blues, of course; Delta Antiquities Survey—I will come back to this one; and, the Delta Region African American Heritage Center.

As I said, all obviously worthy endeavors in their own right; I just don't know what they are doing in a bill that claims to protect the California desert. I haven't seen them in this bill previously, and I would guess that my colleagues have not either, because they were not in the desert bill that this body voted on this past summer.

These programs don't belong here; there is an obvious question of germaneness. But under this rule, there is nothing you can do about it. It is hardly fair to my colleagues and the taxpayers whom they represent. It is an insult to them to absorb the considerable discussion and debate which we have had on this desert legislation, and then at the last minute try to add on these provisions, subject to appropriations, which no one has had the opportunity to review.

This is ridiculous. We don't know anything about these programs, and all we know about the New Orleans Jazz Park is that it will be added to the existing Park Service backlog. But, because points of order are waived, there is no recourse under this rule to act if you agree that this bill is an inappropriate place for these programs.

The last time I checked, we were not the other body, and one could not simply add to a bill whatever one wanted to. This bill does just that, and this rule spits in your eye and dares you to do something about it. This is election-year pork-barrel politics, pure and simple, and it has nothing to do with the California desert. You all know me as the desert rat, the guy with sand in his shoes, one of the five "Die Hards." Well, let me add to the list of problems with S. 21 the fact that it is loaded up with nongermane pork which will be supported by the taxpayers in your district. Try not to worry too much about the precedent this sets for future legislative business.

The desert bill is not supposed to be about Southern culture or heritage. But your constituents who pay the freight around here will sure be singing the blues when they realize they just paid for a New Orleans Jazz National Park in Louisiana, along with millions of acres of desert which they will never see.

I urge my colleagues to vote against this rule, and ask that my statement be entered in the RECORD.

Mr. DREIER. Mr. Speaker, I urge a no vote on this rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I urge my colleagues to vote for the rule so that we can get to the conference report on this important bill.

Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PETERSON of Florida). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 242, nays 140, not voting 52, as follows:

[Roll No. 501]

YEAS—242

Abercrombie
Ackerman
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Bacchus (FL)
Baesler
Barca
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Bereuter
Berman
Bevill
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Jacobs
Jefferson
Johnson (CT)
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Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
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Kennedy
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Lewis (GA)
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Roybal-Allard
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Wilson
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Zimmer

NAYS—140

Allard
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Armey
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bilirakis
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Buyer
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Castle
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Collins (GA)
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Cunningham
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Ros-Lehtinen
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Taylor (NC)
Thomas (CA)
Thomas (WY)
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Wolf
Young (AK)
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Zeliff

NOT VOTING—52

Applegate
Blackwell
Boucher
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Clay
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Ewing
Fish
Ford (MI)
Fowler
Gallo
Grandy
Hall (OH)
Hayes
Hefley
Houghton
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Hyde
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Johnson, Sam
LaFalce
Lewis (FL)
Lloyd
Manzullo
Martinez
McCurdy
McDade
McMillan
Michel
Montgomery
Murphy
Owens
Oxley
Pickett
Ravenel
Roberts
Rowland
Shaw
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Slattery
Smith (OR)
Sundquist
Synar
Tucker
Valentine
Vucanovich
Washington
Whitten
Williams
Yates

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The Clerk announced the following pair:

On this vote:

Mr. Tucker for, with Mr. Lewis of Florida against.

Mrs. KENNELLY and Mr. ZIMMER changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISCUSSION OF POSSIBILITY OF RECORDED VOTE ON CONFERENCE REPORT ON S. 21

(Mr. MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. MILLER of California. Mr. Speaker, for the information of the Members it is my understanding, and I will be glad to yield to the gentleman from Utah [Mr. HANSEN], but it is my understanding that the minority does not expect to ask for a recorded vote when we complete the debate on this bill. According to the gentleman from California [Mr. LEWIS] and others, the suggestion was that would be the case. Do we know if it is?

Mr. HANSEN. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlemen from Utah.

Mr. HANSEN. Mr. Speaker, I am not aware that that is the case very candidly. No one has said anything to me about it. There could very likely be a recorded vote. I hope there is not, if I may candidly say so.

Perhaps the gentleman from California [Mr. LEWIS] could shed further light and knowledge on this.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate the gentleman from California [Mr. MILLER] yielding to me, and I frankly think that the House has discussed the California desert as much as we need to discuss it.

Obviously we have some problems, but I do not think those problems are going to be solved by a vote this evening, but we would very much appreciate our colleagues' attendance through the remainder of the discussion this evening. I say to my colleagues, "It is just a delight to be with you."

Mr. MILLER of California. So Members can go home, and we do not expect a recorded vote?

Mr. LEWIS of California. And GEORGE and I can get along as usual?

Mr. MILLER of California. I guess Members will bear with us.

Mr. Speaker, pursuant to House Resolution 568, I call up the conference report on the Senate bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Pursuant to House Resolution 568, the conference report is considered as having been read.

(For conference report and statement, see Proceedings of the House of Tuesday, October 4, 1994, at page 27782.)

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge the adoption of this conference report.

Mr. Speaker, I rise in strong support of the conference report to S. 21, the California Desert Protection Act.

I need not tell anyone in this chamber that the process by which we have arrived here has been contentious but the conference report itself should not be. Several of the most controversial issues have been resolved in favor of positions supported by the House during bill consideration.

Among them are: Designation of 1.4 million acre Mojave National Preserve allowing hunting; Tauzin "Private Property" provision; motorized vehicles allowed in wilderness for wildlife management purposes; clarification that Federal, State, and local law enforcement agencies may use motorized vehicles in wilderness areas; advisory committees for Death Valley and Joshua Tree National Parks, and the Mojave National Preserve.

In addition, the conference report leaves open all roads requested by the American Motorcyclists Association, deletes all known active mines from park wilderness boundaries and removes mining claims of U.S. Borax, Viceroy, and Santa Fe Minerals, among other companies.

Orginally introduced in 1986, this legislation has been debated for 8 years. There have been a dozen hearings on this bill in Washington and California. Hundreds of amendments have been made since the legislation was originally introduced, including more than 60 this Congress.

Let me take just a few moments to describe the conference report.

WILDERNESS

The conference report designates 69 wilderness areas comprised of approximately 3.5 million acres to be managed by the Bureau of Land Management.

DEATH VALLEY AND JOSHUA TREE NATIONAL PARKS

The conference report expands the existing Joshua Tree and Death Valley National Monuments by 200,000 acres and 1.2 million acres respectively, and redesignates the areas as national parks.

MILITARY LANDS

The conference report substitute withdraws for 20 years land within China Lake Naval Weapons Center and Chocolate Mountains Aerial Gunnery Range from all forms of appropriation under the public land laws.

PROTECTION OF BODIE BOWL

The conference report withdraws from the mineral leasing laws all lands within the Bodie Bowl in California, as passed by the House.

LOWER MISSISSIPPI DELTA REGION INITIATIVES

The conference report authorizes several studies pertaining to transportation, historical and archaeological subjects to stimulate the improvement and development of human and physical resources in the impoverished Mississippi Delta in several States. This provision was originally contained in the Senate, but not in the House-passed bill. The conferees deleted those sections of the provision that created a new Office of Education within the Department of the Interior, the Minority College and University Initiative, scholarship and volunteer programs, a Center for Excellence in the Sciences, a Center for Aquaculture Studies, and other provisions.

During committee consideration of the bill earlier this year, any member of Committee on Natural Resources were permitted to offer any and all amendments. Despite full knowledge that obstructive and delaying tactics would be used during floor consideration, I sought and open rule with a pre-printing requirement so that, once again all amendments could be considered and voted upon. The passage of several amendments against the wishes of the committee demonstrate just how open that process was.

The House has spent more than 28 hours, over 8 days on this debate. Earlier this week we spent about 5 hours on procedural motions to get to conference as members of the minority called 11 recorded votes for no reason except to delay consideration and hopefully prevent this popular and important legislation from reaching the Presidents desk.

On two separate occasions—this year by a vote of 298 to 128, and in 1991 by a vote to 297 to 136—the House supported desert protection legislation.

It should be clear the minority isn't being silenced; it is being rejected, and rightly so.

And not just by the Congress. Public opinion polls in California—including the desert community—overwhelmingly endorse this bill. Newspapers from Los Angeles to San Diego to San Bernardino have not only supported S. 21 but have roundly denounced the stall tactics of a small band of fervent opponents.

The conference report was drafted in full accord with House rules and procedures and received the support and signature of the majority of conferees from five House committees. The conference was publicly announced, all conferees were notified, it was attended by members of both parties and the press, and the report was filed in accordance with House rules.

Those who protest the conference have protested every aspect of the legislative process. Their projects have been considered, and rejected, in the Congress and in California. I recognize their opposition to the bill; they have tried to persuade a majority of the Congress of their cause; and they have been defeated overwhelmingly, repeatedly and on a bipartisan basis.

I also want to address the vitriolic criticism of my management of this bill. Let me quote their leader, Mr. LEWIS of California, who yesterday told the Rules Committee, "I cannot criticize the Chairman for how he has handled himself in this process." I appreciate that honest statement, and I hope that observation will quiet the personal attacks and innuendo which opponents have often employed in attempting to delay and defeat the California desert bill.

The conference report is a balanced and sound blending of the two versions of S. 21. That such a reasonable product can emerge from the sound and fury of the debate is a high testament to leaders in the House, including Congressmen RICK LEHMAN and BRUCE VENTO, and to Senators DALE BUMPERS and J. BENNETT JOHNSTON.

Last, we should especially note the remarkable diligence and determination of Senator DIANNE FEINSTEIN in moving this legislation along. It will come as a surprise to no one who has followed this debate that much of the opposition to this legislation has been purely political in nature, an effort to deny Senator FEINSTEIN the victory she has long labored on, and richly deserves to win.

To those who respond that our action is meant merely to bolster her standing, let us recall the dedicated effort to enact the California Desert Protection Act began long before Senator FEINSTEIN was a Member of the Senate or the sponsor of this bill. It began 8 long years ago, with Senator Alan Cranston. And but for the disagreement of two Senators from California during those long 8 years, this issue would have been resolved, and the desert protected, a long time ago. Senator FEINSTEIN provided the pressure to get this job done at long last, and she fully deserves the credit.

Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me just briefly enter into a colloquy with the gentleman from California [Mr. MILLER], if I may.

I would like to clarify an issue relating to railroad rights of way in the Mojave National Preserve.

Section 511 of the conference report speaks to utility rights of way, but that section does not include the rights of way of railroads through the preserve which have been granted pursuant to the act of 1875 and other congressional acts that have been utilized for many years.

Section 512 of the conference report requires the Secretary to prepare a plan which evaluates the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to, and a facility for special interpretive, educational, and scientific programs within the preserve.

Therefore, it seems to me that this conference report is not intended to and does not in fact limit or restrict any existing railroad rights of way granted pursuant to existing law and located within the preserve, nor does the conference report limit or restrict the rights of way granted to the railroads by Federal acts to maintain, repair, or reconstruct their tracks and operations on existing rights of way to meet changing demands and circumstances.

I am advised that the railroads and Bureau of Land Management have worked together cooperatively to maintain the necessary level of efficient rail operations while protecting the resources of the area within the preserve. It is our expectation that the National Park Service, as the new land manager in the Mojave, will recognize and foster the continuation of this relationship and the programs that have developed from it. This is important to the goal of maintaining adequate transportation corridors while protecting the resources of the preserve.

I ask the gentleman if that is a correct statement.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, the gentleman is correct.

Mr. HANSEN. Mr. Speaker, I yield 10 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, I would like to tell my colleagues, "If what happened to me happened to you, you wouldn't stand back there being cute."

All I am asking for is what I thought was agreed upon on the floor of the House.

There has been some allusion to a 2-minute conference and that agreements had been reached prior to that conference.

On the floor of the House I had one simple amendment to the California desert protection bill. It had to do with 1 square mile. I attempted to remove 1 square mile for the possibility of building a road between a non-wilderness area and the Naval Weapons Center at China Lake. It happened across a finger of what was to be wilderness under this bill. The reason for the road was to assist in a project called Saline, which is a laser utilizing the geothermal power of China Lake to reenergize satellites from the Earth so they would not have to carry batteries and deal with solar power. It is an innovative, exciting, new technology that has not been proven.

In my negotiations with the Committee on Natural Resources, Mr. Speaker, we went through seven amendments to try to get one in which I could have the possibility of building the road in that area if this technology proved reasonable. We finally came to an agreement on the seventh version, and in the colloquy on June 10, 1994, after I had introduced the amendment to remove that land from wilderness, the chairman of the committee offered an amendment which would allow for a 15-year access if it was desirable to build the road. The fifth version of the amendment was "if it was necessary." We felt that "desirable" was more appropriate, and the chairman acquiesced. In a colloquy between myself and the gentleman from Minnesota [Mr. VENTO], Mr. Speaker, Mr. VENTO went on to examine the fact that rather than in perpetuity there was an offer of 5 years. We thought 5 years was too soon for this 21st century technology, and so we compromised at 15 years.

The gentleman from Minnesota said on page 12658:

> Mr. Chairman, the issue before us in terms of the one square mile road is of some concern. The basis for some of the negotiations, I might say, are directly related to the military withdrawal of China Lake which has been a longtime military reservation. The issue in the negotiations went on eliminated from perpetuity to a 15-year time period exactly matches those of what we are advocating as the House position in terms of,

and it says here,

> the eagle pact,

but it is supposed to be Engel act,

> and the withdrawals we have to renew every 15 years. That is the basis of the compromise.

The 15 years was a compromise since the land withdrawal for other areas of China Lake was to be 15 years as well.

We settled on that. That was included in the House version. In that 2-minute conference with the Senate that passed a bill which in fact provided for a 25-year withdrawal period, the House was 15 years, the Senate was 25, as is our fashion, the compromise was a 20-year withdrawal period. And in the bill, section 806, "Duration of withdrawals in the conference reports," "the withdrawals and reservations established by this title shall terminate 20 years after the date of enactment of this title." So the compromise between the Senate, which was 25, and the House, which was 15, was 20.

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But in the provision that the subcommittee chairman, the gentleman from Minnesota, told me was a compromise to equate itself with the land withdrawal from China Lake, which in the House bill was 15, it would seem to me if in the House bill it was 15, because it was tied to the land withdrawal, if the land withdrawal goes to 20, then the time for the road should go to 20. And in reviewing the conference report after the fact, we discovered that in fact the time for withdrawal had remained at 15.

So, once again, there is a difficulty in comparing the final work product with what I thought was the agreement. My belief is that this is an inadvertent error; that where they were doing conforming changes in other sections, they did not conform in this section.

Mr. Speaker, I would ask the chairman of the committee if he would be willing to engage in a very brief colloquy.

Mr. Speaker, I would ask the gentleman from California, Mr. Miller, based upon the subcommittee chairman's statement in the CONGRESSIONAL RECORD that in fact the compromise was to conform to the time frame within the other withdrawal periods, and since the withdrawal period had been changed in the conference, does the chairman believe that the failure to change the access road for the saline project was in fact an inadvertent error and could be conformed by a concurrent resolution?

Mr. MILLER of California. Mr. Speaker will the gentleman yield?

Mr. THOMAS of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, my understanding is the gentleman will offer, when we have completed the conference report, a concurrent resolution to correct this inadvertency.

Mr. THOMAS of California. Mr. Speaker, if it is in fact then nonintentional, it would be a technical correction, and we could accomplish it in this fashion. Is the chairman predisposed to telling me his willingness to accept the concurrent resolution?

Mr. MILLER of California. Mr. Speaker, if the gentleman will yield further, I thought we had already worked it out with the Parliamentarian that we could bring it up after this report.

Mr. THOMAS of California. Bringing it up and accepting in my vocabulary are two different things.

Mr. MILLER of California. I see. Like I told the gentleman 45 minutes ago, I support the effort to correct this.

Mr. THOMAS of California. Mr. Speaker, I appreciate that. I thank the gentleman from California.

Mr. Speaker, I yield back the balance of my time.

Mr. Speaker, I appreciate this opportunity to comment on the California Desert proposal, S. 21. Though the number of the bill has changed, unfortunately, its content is substantially the same as that of H.R. 2929 from the 102d Congress. As a result, I must once again express my opposition to this legislation.

Contrary to what the sponsors of S. 21 would have everyone believe, their bill does not represent a compromise, nor does it represent how land management decisions should be made. Certainly the concerns of my constituents, and of others who actually live, work, and recreate in the desert, have not been given adequate consideration in the development of this legislation. In fact, all four of the members of the California delegation who represent areas directly affected in S. 21 are opposed to the bill.

In 1976, Congress designated 12.1 million acres of Bureau of Land Management land as the California Desert Conservation Area, and directed the agency to study the area for wilderness potential. After 100 public hearings, 16 environmental impact statements, mineral surveys, and 40,000 comments reflecting the views of all who use the desert, the BLM recommended that Congress create 2.3 million of these acres of wilderness on BLM land. The study concluded that the remainer of those acres did not qualify for designation as "wilderness" because of existing roads and other factors. However, the authors of S. 21 ignored this study with its numerous environmental impact statements, mineral surveys, and thousands of public comments. The drafting of S. 21 rejected the very kind of public input decisionmaking process that should be employed when major land use decisions are made.

S. 21 appears to make raw acreage figures, not wilderness values or consideration of other interests, the primary determinant for deciding on wilderness. There are numerous sections of this bill that demonstrate how a public process would better serve our needs. I want to mention some of these problems to show what happens when the balanced approach is ignored.

The legislation creates wilderness and park land out of areas I never dreamed would be considered wilderness because they include sewage ponds, the Coachella water canal, private homes, abandoned trailer parks and areas with frequently used roads. When I helped produce the current Golden Trout, Machesna Mountain and Los Padres wilderness areas, I never thought it appropriate to include these kinds of things.

The bill creates hundreds of thousands of acres of inholdings—parcels of private and/or state property within the new wilderness and park areas. Inholdings, as anyone experienced with land use legislation knows, are a nightmare for the property owner and the government. It will cost hundreds of millions of dollars to buy these people out. In many instances we do not have Federal land we can exchange for these properties.

This bill also ignores the mineral potential of the California desert. Eighty-one different minerals can be recovered from the desert. The bill's authors do not even know what they are asking you to give up. Of the 7 million acres covered by S. 21, for example, 5 million acres have never been surveyed for minerals. Domestic industries that rely on minerals found in abundance in the California desert will have to seek other sources of supply, both in the United States and abroad.

For such reasons, S. 21 is not a compromise. It is clearly based on acreage rather than a thorough examination of the various interests and uses involved in the California desert. The wisdom of Congress' decision to mandate the process by which Bureau of Land Management conducted an exhaustive, thorough study of the California desert clearly shows that listening to all the public's interests and blending all of the factors included in the desert's future is the best way to reach a lasting agreement.

In ignoring the congressionally mandated study and forcing S. 21 upon the thousands of people who live, work, and recreate in the desert, the sponsors of this bill sacrifice the jobs of many of those who rely on the desert for their livelihood, and fail to take into account the concerns of all groups interested in the desert's future.

Mr. HANSEN. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MCCANDLESS].

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in opposition to the conference report. This is by and large a California desert issue, and I will try to focus my remarks on the problems S. 21 will cause for the desert and its residents. First, however, I want to draw my colleagues' attention to a portion of this desert bill that creates an Antiquities Survey in the Mississippi Delta Region. This begins on page 99 of my copy of the conference report, and reads as follows:

SECTION 1107—DELTA ANTIQUITIES SURVEY, SECTION (a)(4)

> In addition to the over 100 known ancient archeological sites located in the Delta region * * * such study shall also employ every practical means possible, including assistance from the National Aeronautics and Space Administration (NASA), the U.S. Forest Service and Soil Conservation Service, the Army Corps of Engineers, and other appropriate federal agencies, to locate and confirm the existence of a site known as Balbansha in southern Louisiana, and a site known as Autiamque in Arkansas. The heads of these Federal agencies shall cooperate with the Secretary as the Secretary requires, on a non reimbursable basis.

That's correct, ladies and gentlemen. The California Desert Act instructs at least five separate Federal agencies to locate the legendary site of Balbansha in the Louisiana bayou country. I hope the American people are watching this.

Back to California, the supposed focus of this exercise. There are a few points I'd like to make on behalf of the people who are getting the short end of the stick from this bill. These are the people who live, work, and recreate in the desert, and whose needs and views are ignored in this bill. It is important to note that these people have been enjoying the desert under the administration of the BLM, as mandated by Congress in 1976, and approved in 1980 by then-President Carter's Secretary of the Interior, Cecil Andrus. The claim that the desert is presently unprotected is a myth.

PUBLIC ACCESS

Since it would create more than 7 million acres of wilderness or parkland—roughly the size of the State of Maryland—S. 21 shuts off recreational access to untold numbers of citizens, all throughout California, who have been enjoying the desert in a responsible manner for years, or generations in some cases. Closing off access to this much public land is patently unfair to the vast majority of people whose opportunities to visit the desert are basically limited to day or weekend trips.

Most people lack the necessary time, resources, or physical abilities to enjoy a prolonged hiking or camping excursion into rugged and unforgiving desert terrain. For the majority of Californians, their desert experience generally consists of utilizing existing roads or paths—in vehicles, 4X4 or otherwise—to get to favored areas for day hikes, rockhounding, or simply enjoying the vast solitude of the desert—see letter No. 1). I and my other desert colleagues have received numerous letters opposing S. 21 from outdoors enthusiasts of all kinds, including senior citizens and disabled persons—see letter No. 2—who will be effectively shut out of much of the desert if this conference report is enacted.

ECONOMIC IMPACT IN DESERT AREAS

Small towns such as Blythe in Riverside County, Baker in San Bernardino County, and Brawley in Imperial County will suffer undue economic reverses under S. 21, due to the loss of tourist, vacation, or weekend traffic. These activities are the financial linchpin of these otherwise isolated or rural areas. Without regular weekend consumption of gas, food, lodging, and other goods and services, local income will dry up. Many jobs will be lost and not replaced. In some of these areas, unemployment has gone as high as 17 percent. Job loss will also occur in the fields of manufacturing, retail, and servicing of recreational vehicles. The ripple effect of job loss under S. 21 cannot be fully charted or measured, but it is considerable.

WILDERNESS DESIGNATION

Finally, I would like to point out that S. 21 makes a mockery of the original 1964 Wilderness Act, which quite clearly defines wilderness wilderness as an area "untrammeled by man, where man himself is a visitor who does not remain." The Act is supposedly one of our crown jewel environmental laws, yet hundreds of thousands of acres of the land covered by S. 21 simply do not measure up to that standard. Roads, railways, power lines, canals, active and abandoned mines, structures and dwellings both occupied and abandoned, and trash dumps are a few examples of things found in areas which would be designated as wilderness by S. 21. These are well-documented, and I'd be happy to share photos with my colleagues. This makes very little common sense in terms of sound land management; however, it dovetails quite nicely with the nonsensical "bigger is better" philosophy of the armchair environmentalists who bore this bill out of wedlock.

Mr. Speaker, I urge my colleagues to oppose the conference report on S. 21.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. McKEON].

Mr. McKEON. Mr. Speaker, you know, I have only done this a couple of times. Being a freshman, I have not taken the opportunity to speak down here many times, and I really enjoy the opportunity of speaking. The last time I think I spoke, I had the same thing, tail end of a long night, and all of you were just waiting to hear what I had to say. You treated me the same way.

Let me just tell you that I was elected as a freshman, and probably 25 percent of us have been here now less than 2 years. And we came here, most of us, to see if we could make a change and to have things done a little differently. And when we went to this conference that lasted 2 minutes, and when we had a lot of pork added in on the Senate side, there was not a lot of change. It seemed to me that after 2 years, now we are winding this session down, that we really have not made a lot of changes. And that is disappointing.

But there is another election coming up, and maybe there will be a lot more new freshmen in the next session, and maybe we can make a change.

Mr. Speaker, as a Representative of the Los Angeles County portion of the California desert, I rise in opposition to the conference report to S. 21.

Many of my constituents support reasonable desert protection. However, the measure we have before us raises serious funding and land management concerns. The conference report also establishes a potentially dangerous and open-ended commitment of scarce Federal dollars. If enacted, this legislation could conceivably cost billions of dollars, not millions, but billions.

Mr. Speaker, if Congress enacts a desert protection bill, it must approve a measure that prevents individual landowners from Federal takings of private property while reflecting the years of analysis, deliberation, and hearings conducted by the Bureau of Land Management. Since the conference report fails to achieve these basic objectives, I will oppose its passage.

Furthermore, I want to advise my House colleagues of provisions in the conference report added by the other body which have nothing to do with protecting the California desert. I am referring to language containing initiatives concerning the Lower Mississippi Delta Region which have not been considered through the normal legislative process, nor have they been the subject of any debate in the House of Representatives. For example, one section in the bill requires the Secretary of the Interior to establish three centers for aquaculture in specific cities in Louisiana, Arkansas, and Mississippi. The conference report also directs the Federal Government to study the establishment of cultural centers, heritage centers, structural surveys, and a music heritage program in the Mississippi Delta Region. Finally, the report establishes a national historical park in Louisiana dedicated to the exhibition and preservation of jazz music. None of these initiatives has been considered or debated by Members of the body.

Mr. Speaker, 25 percent of the Members in this Chamber, including myself, were elected within the last 2 years. When we campaigned, we promised that we would put a stop to business as usual, and we have an opportunity to do that tonight. I was appointed as a House conferee on this legislation, and when I arrived at the conference I was stunned to find out that it was over—it had only lasted 2 minutes. In fact, the conference report had already been written and Members, especially those like myself who represent the desert, did not have an opportunity to influence the contents in this legislation.

I will conclude by saying to Members who vote for the conference report that by doing so you are saying to your constituents that you support the other body's pork projects, support 2-minute conference committee's, and support business as usual.

Mr. HANSEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, The Los Angeles Times referred to the five of us, the five desert Congressmen who have fought the last several months and been dragged kicking and screaming to this point, as the five desert diehards. We just gave the gentleman from California [Mr. MCCANDLESS] a diehard battery the other day in acknowledgment of all the work he did on behalf of his constituents who are being locked out of his portion of the desert.

Let me just say to my colleagues, the gentleman from California [Mr. McKEON], the gentleman from California [Mr. MCCANDLESS], the gentleman from California [Mr. LEWIS], and the gentleman from California [Mr. THOMAS], with his great sense of humor, and the gentleman from Alabama [Mr. CALLAHAN], let me just say to my colleagues, you did a hell of a job, and you represented your constituents in the greatest sense of the term, and we will still have a chance of this bill not passing. God bless you. Great work.

Mr. HANSEN. Mr. Speaker, I yield the balance of time on this side to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, I associate myself with the remarks of the gentleman from California [Mr. MCCANDLESS] and I yield back the balance of my time.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I rise in support of this conference report. I congratulate the gentleman from California [Mr. MILLER] and the great staff we have on the Committee on Natural Resources.

Mr. Speaker, I rise in support of the conference report on S. 21, The California Desert Protection Act.

It has taken us some time to get to this point, but many recent votes have conclusively shown that the House strongly supports this vital land conservation measure, just as it has since the House first passed a similar bill in 1991.

As others have noted, this is a very important measure, one which will be remembered long after the world has forgotten many of the things that we have done here in the past 2 years.

This bill will make the largest additions to the National Park System and National Wilderness Preservation System of any bill since President Carter signed into law the Alaska Lands Act in 1980, thus giving protection to a great diversity of priceless resources and values of great national and world significance.

Mr. Speaker, the two gentlemen from California, Chairman MILLER and Mr. LEHMAN, the author of the House bill, deserve the thanks of the House for their leadership on this issue. Special recognition must also go to the senior Senator from California, Senator FEINSTEIN, for all that she has done to make it possible for this bill to reach this point.

After we pass this conference report, Mr. Speaker, it remains only for the Senate to do likewise and for President Clinton to cap a decade of dedicated work by signing the bill into law.

I am proud that as chairman of the Subcommittee on National Parks, Forests, and Public Lands, I have had an opportunity to participate in the numerous hearings, including field hearings in California concerning this matter and to have been able to play a role in shaping this historic California desert legislation.

There are specifics in the conference report that I find less than totally satisfactory—including the provisions related to grazing in the Death Valley and Mojave areas, the overbroad language related to management of fish and wildlife in wilderness, and the unnecessary sweeping provisions concerning overflights.

In addition, I note that the Senate found it necessary to insist on certain provisions dealing with the Lower Mississippi Delta Regional Commission, and for establishment of the New Orleans Jazz National Historical Park. The Jazz Park provisions implement a recommendation of the National Park Service, based on a congressionally mandated study, on which hearings have been held in both the House and the Senate.

Do I support every provision in the conference report? No, I don't—but I support the conference report.

The conference report is a compromise, which is the proper result of a conference, and the compromises on the California Desert do reflect the will of the House.

In fact, even if we had been given formal instructions, I do not think that we could have produced a conference report that more closely resembled the House's version of the California Desert Protection Act.

So, Mr. Speaker, this is a conference report that deserves the approval of the House, and I urge all Members to join in voting for its adoption.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN. Mr. Speaker, having worked on this legislation for 8 years, this is a very proud night. I rise in support of the legislation.

Mr. MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. Mr. Speaker, I rise in strong support of this legislation.

Mr. Speaker, I rise this morning to make the following points. The bill only authorizes funds, which are subject to pay-as-you go provisions and must go through the appropriations process. CBO estimates $100 million, 75 percent of which is for important roads which are critical for economic development of this region.

Roads have been neglected in the Delta in large part because the area is so poor. It did not participate in the Highway Trust Fund program—cities did not pay into the trust fund, and then did not receive funds back for new roads.

This is not "pork"—this is wise investment. It is a region rich with resources and heritage but lacking the infrastructure to be more productive. With this small investment we can begin to build up the region which will then contribute its resources to the nation.

Targeting a specific area for investment is not unusual or unwise. As a nation, we have an obligation to lift up those areas that have been left behind. Historically, the Delta has been denied the investment other areas have received. The Cultural Centers, research grants for HBCU's, and music heritage will support an area that is centered near the "poorest city in America" as cited by Time magazine's article on Lake Providence.

Provisions of the Delta Act implement several recommendations of the blue-ribbon Delta Development Commission, are non-controversial, and very important to the Delta.

To respond to the point that the roads money should go through committee—the Public Works Committee signed-off on the Conference report because of the tremendous need in the Delta and because the project is well-developed.

Mr. THOMAS of California. While I still oppose S. 21 because of its overall effect on Californians who live in the desert, I do want to note that conferees accepted my June 10, 1994 amendment to the Argus Range wilderness provisions so that a roadway facilitating development of a new laser technology can be built in the future.

Under the bill, the Secretary of Interior may grant a right of way to build a road if the Secretary of the Navy grants permission to use lands withdrawn for Navy use in the Naval Air Warfare Center at China Lake and the station and ranges it occupies in California. Formerly known as the Naval Weapons Center, China Lake enjoys a well-deserved reputation for having high quality research teams, excellent test ranges and a dedication to high performance. The amendment, in section 102 of the bill, makes it possible for these same resources to be brought to bear on an exciting new technology.

The amendment will help develop a Space Energy Laser (SELENE) facility on a China Lake test range adjacent to the Argus Wilderness, creating a brand new industry. SELENE, which would be developed under a public and private consortium, would utilize laser technology to beam power into space and power satellites. Because of the right focus achievable with laser technology, SELENE would permit smaller solar arrays to be used on satellites, saving as much as $72,000 per pound of eliminated weight in reduced satellite launch costs. The new technology would permit better maneuvering systems too, another means of extending satellites' useful lives.

China Lake is the best place for this project because this part of the desert has the best weather available. China Lake commonly has 260 days per year of clear skies which would facilitate power beaming. It even has a developed geothermal energy site nearby that can provide power for the free electron laser to be used in this project.

The amendment makes a right of way possible to access lands being withdrawn for Navy use by other portions of this bill. That right of way can significantly reduce the costs of entering this new field by perhaps as much as $3 million. The amendment does not overturn other environmental laws, just preserves an option that could lead this country into an exciting new technology. I am pleased that the importance of this new technology has been recognized by the House when members voted 396 to 1 to adopt my amendment last June and by the conferees who included this provision in the final bill.

Mr. FAZIO. Mr. Speaker, I rise in strong support of S. 21, The California Desert Protection Act, and I urge my colleagues to give final approval to this important bill.

Mr. Speaker, this bill provides wildlife habitat, protects natural resources, and creates recreational opportunities while protecting the rights of private property owners and preserving hunting, fishing, and gaming opportunities in the desert.

After some seven legislative days of consideration and more than 24 hours of floor debate, this legislation passed this House in July with 298 votes;—that's nearly 70% of this Chamber voting for this bill. Today the bill returns in virtually identical form. There is no reason why this bill should not receive quick approval again by this House.

This is an important piece of legislation. It is a well-balanced, reasonable approach to environmental protection that will not result in economic dislocation. The compromise struck during those many hours of sometimes painfully detailed debate under an open rule deserves the support of this House.

This legislation is the most significant land conservation measure since the 1980 Alaskan Lands Act. The conference report creates two national parks—the Death Valley and the Joshua Tree national parks—and one national preserve—the Mojave National Preserve. The wilderness areas within the parks and the preserve will be managed by the BLM in accordance with existing laws.

The California Desert Protection Act will preserve the unrivaled scenic, geologic, and wildlife resources associated with these distinctive desert landscapes. These newly designated areas are a public resource of extraordinary value for this and future generations.

What makes this legislation exceptional is that it protects the environment without diminishing the private property rights of land owners in and near the park. Under this bill, the private property within the parks' boundaries is not subject to regulations applicable to federal lands. Use and enjoyment of private property is not restricted. Private In-holders may construct, modify, repair, replace or improve their single family residences.

The rights of private land owners are also respected in the land acquisition provisions of this bill. The bill relies heavily upon willing sellers and land exchanges to acquire any additional lands. Private land owners' access to their properties is protected. In addition, the property appraisal provisions require property owners to be compensated at the fair market value of the property without endangered species present. In other words, the government pays for any loss of value due to endangered species.

The conference report also reflects the compromises reached on the issues hunting and grazing. Under the amendment offered in this House by Mr. LaRocco and others, the East Mojave area will become a national preserve in which hunting, fishing, and gaming will be allowed. Hunting and fishing opportunities in the Mojave National Preserve are traditional uses that will continue under the bill. In similar fashion, the grazing compromise allows for continuation of existing grazing practices.

Mr. Speaker, as an original co-sponsor of the Desert Protection Act I am pleased that we will finally have the chance to approve this important legislation. This balanced and reasonable compromise forged from hours of debate deserves the support of the Members of this House. I ask my colleagues for an aye vote.

Mr. MILLER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Under the rule, the previous question is ordered on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CORRECTING ENROLLMENT OF S. 21, CALIFORNIA DESERT PROTECTION ACT OF 1994

Mr. THOMAS of California. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 313) correcting the enrollment of the Senate bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 313

Resolved by the House of Representatives (the Senate concurring, That in the enrollment of the bill (S. 21) to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes, the Secretary of the Senate shall make the following correction:

In the second sentence of section 102(1), strike "fifteen" and insert "twenty".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 0210

DESIGNATION OF THE HONORABLE STENY H. HOYER TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH NOVEMBER 29, 1994

The Speaker pro tempore (Mr. PETERSON of Florida) laid before the House the following communication from the Speaker:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1994.

I hereby designate the Honorable STENY H. HOYER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through November 29, 1994.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

CROW BOUNDARY SETTLEMENT ACT OF 1994

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the Committee on Natural Resources be discharged from further consideration of the bill (H.R. 5200) to resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

Mr. THOMAS of Wyoming. Mr. Speaker, reserving the right to object, I will not object, and I yield to the gentleman from New Mexico [Mr. RICHARDSON] to explain the bill.

Mr. RICHARDSON. Mr. Speaker, H.R. 5200 provides for the settlement of a dispute between the Crow Indian Tribe of Montana and the United States in issues arising from the Federal Government's error in surveying the eastern boundary of the Crow Indian Reservation. The 1891 survey line caused approximately 36,000 acres of Crow land to be included in the Northern Cheyenne Reservation.

The survey error was not discovered until the 1950's. The settlement is the result of years of discussions. The settlement includes a land exchange, compensation for last lands and mineral rights, and several other provisions which are the product of years negotiations.

Mr. Speaker, my full description of the terms of the settlement will be made a part of the RECORD.

Mr. Speaker, this settlement is supported by the Crow Tribe, the Northern Cheyenne Tribe, and the administration.

I urge my colleagues to support it.

Mr. THOMAS of Wyoming. Mr. Speaker, further reserving the right to object, while this bill does involve a large payment from the United States, the potential liability of the United States runs into many millions, hundreds of millions of dollars, and I think it is a fair and equitable settlement.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5200

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crow Boundary Settlement Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Under the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649), the eastern boundary of the Crow Indian Reservation was established as the 107th meridian for approximately 90 miles from the Yellowstone River to the boundary between Montana and Wyoming.

(2) Under Executive orders issued in 1884 and 1900, the western boundary of the Northern Cheyenne Reservation was established as the 107th meridian. The 107th meridian was intended to be the common boundary between the Crow Reservation and Northern Cheyenne Reservation for approximately 25 miles.

(3) From 1889 through 1891, a survey was conducted of the eastern boundary of the Crow Reservation. The 1891 survey line strayed to the west, and resulted in the exclusion from the Crow Indian Reservation of a strip of land of approximately 36,164 acres. Approximately 12,964 acres of such strip of land were included in the Northern Cheyenne Reservation. Deposits of low sulphur coal underlie the land excluded from the Crow Indian Reservation, including the land included in the Northern Cheyenne Indian Reservation.

(4)(A) The erroneous nature of the survey was not discovered for several decades. Meanwhile, the areas along the 107th meridian to the north and south of the Northern Cheyenne Indian Reservation were opened to settlement in the late nineteenth century and early part of the twentieth century. Patents were issued to non-Indian persons and to the State of Montana for most of the surface land and a significant portion of the minerals in these areas between the 107th meridian and the 1891 survey line.

(B) The 12,964 acres included in the Northern Cheyenne Reservation have been treated as part of the Northern Cheyenne Reservation and occupied by the Northern Cheyenne Tribe and the Northern Cheyenne allottees, and their successors in interest.

(5) Legislation to resolve the 107th meridian boundary dispute was introduced in Congress in the 1960's and 1970's, and again in 1992, but no such legislation was enacted into law.

(b) PURPOSE.—The purpose of this Act is to settle the 107th meridian boundary dispute created by the erroneous survey of the eastern boundary of the Crow Indian Reservation made by the Federal Government described in subsection (a)(3).

SEC. 3. DEFINITIONS.

As used in this Act:

(1) CROW TRIBE.—The term "Crow Tribe" means the Crow Tribe of Indians, the duly recognized governing body of the Crow Indian Reservation.

(2) DISPUTED AREA.—The term "disputed area" means the approximately 36,164 acres of land, including the minerals, located between the 107th meridian on the east and the 1891 survey line on the west from the Yellowstone River on the north to the boundary between the State of Wyoming and the State of Montana on the south.

(3) 1891 SURVEY.—The term "1891 survey" means the survey of the eastern boundary of the Crow Reservation conducted by the United States Government from 1889 through 1891.

(4) 1891 SURVEY LINE.—The term "1891 survey line" means the erroneous boundary line resulting from the survey of the 107th meridian which was completed in 1891.

(5) NORTHERN CHEYENNE TRIBE.—The term "Northern Cheyenne Tribe" means the Northern Cheyenne Tribe of Indians, with the Northern Cheyenne Tribal Council as the duly recognized governing body of the Northern Cheyenne Indian Reservation.

(6) 107TH MERIDIAN BOUNDARY DISPUTE.—The term "107th meridian boundary dispute" means the dispute resulting from the disparity between the location of the 107th meridian and the location of the 1891 survey line.

(7) 107TH MERIDIAN ESCROW FUND.—The term "107th meridian escrow fund" means the revenues that arise from, or are derived from, parcel number 2, including all accrued interest on such revenues, which are held by the Bureau of Indian Affairs in an escrow account as of the date of enactment of this Act.

(8) PARCEL NUMBER 1.—The term "parcel number 1" means the area, encompassing approximately 11,317 acres, bounded on the south by the Montana-Wyoming border, on the east by the 107th meridian, on the north by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(9) PARCEL NUMBER 2.—The term "parcel number 2" means the area, encompassing approximately 12,964 acres, bounded on the south by the extension to the west of the southern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th meridian, on the north by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, and on the west by the 1891 survey line.

(10) PARCEL NUMBER 3.—The term "parcel number 3" means the area, encompassing approximately 2,469 acres, bounded on the south by the extension to the west of the northern boundary of the Northern Cheyenne Indian Reservation, on the east by the 107th

meridian, on the north by the northern boundary of the Crow Indian Reservation, and on the west by the 1891 survey line.

(11) PARCEL NUMBER 4.—The term "parcel number 4" means the area, encompassing approximately 9,415 acres, bounded on the south by the northern boundary of the Crow Indian Reservation, on the east by the 107th meridian, on the north by the midpoint of the Yellowstone River, and on the west by the 1891 survey line.

(12) PUBLIC LANDS.—The term "public lands" means any land or interest in land owned by the United States (without regard to the means by which the United States acquired ownership of the land or interest in land) and administered by the Secretary through the Bureau of Land Management.

(13) ROYALTIES RECEIVED AND RETAINED BY THE UNITED STATES.—The term "royalties received and retained by the United States" means the royalties derived from minerals owned by the United States that the United States retains after all payments from the royalties have been made to the State of Montana or any unit of local government of the State of Montana.

(14) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(15) SETTLEMENT AGREEMENT.—The term "Settlement Agreement" means the agreement between the Secretary, on behalf of the United States and the Crow Tribe, that provides for the resolution of all claims held by the Crow Tribe arising from the 107th meridian boundary dispute.

(16) UNDISPOSED OF COAL.—The term "undisposed of coal" means coal that has not been conveyed to private parties or to the State of Montana by the United States.

(17) UNDISPOSED OF SURFACE LANDS.—The term "undisposed of surface lands" means surface land that has not been conveyed to private parties or to the State of Montana by the United States.

(18) UNDISPOSED OF OIL, GAS, COAL METHANE, OR OTHER MINERALS.—The term "undisposed of oil, gas, coal methane, or other minerals" means oil, gas, coal methane, or other minerals (excluding coal) that have not been conveyed to private parties or to the State of Montana by the United States.

SEC. 4. SETTLEMENT AGREEMENT.

(a) EXECUTION OF THE SETTLEMENT AGREEMENT.—Subject to the terms and conditions of this Act, the Secretary shall enter into the Settlement Agreement with the Crow Tribe.

(b) RATIFICATION OF THE SETTLEMENT AGREEMENT.—Subject to the conditions set forth in section 9(a), the United States hereby approves, ratifies, and confirms the Settlement Agreement, to the extent that such Settlement Agreement does not conflict with this Act.

(c) MODIFICATION OF THE SETTLEMENT AGREEMENT.—The terms and conditions of the Settlement Agreement may be modified by mutual agreement of the Crow Tribe and the Secretary if such modification—

(1) is not inconsistent with this Act; and

(2) does not diminish or impair any right or benefit secured to the Northern Cheyenne Tribe, the Northern Cheyenne allottees, or their successors in interest by or pursuant to any provision of this Act.

(d) ENFORCEMENT OF THE SETTLEMENT AGREEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Settlement Agreement shall be subject to the enforcement provisions under chapter 7 of title 5, United States Code.

(2) ADDITIONAL ENFORCEMENT.—If, with respect to the enforcement of the Settlement Agreement, the remedies available under the provisions referred to in paragraph (1) do not provide adequate or complete relief, the Settlement Agreement shall be subject to the enforcement provisions under section 1505 of title 28, United States Code.

SEC. 5. SETTLEMENT TERMS AND CONDITIONS AND EXTINGUISHMENT OF CLAIMS.

(a) PROPERTY WITHIN PARCEL NUMBER 1.—

(1) IN GENERAL.—With respect to the property within parcel number 1, the following provisions shall apply:

(A) The boundary of the Crow Indian Reservation shall be the 107th meridian.

(B) Title to the undisposed of coal of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(C) Title to the undisposed of surface lands of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(D) Title to the undisposed of oil, gas, coal methane, or other minerals of such parcel shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) PROHIBITION.—Nothing in this Act or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, oil, gas, coal methane, or mineral within parcel number 1 that is based on the 1891 survey line, except for the specific rights that are vested in the United States for the sole use and benefit of the Crow Tribe pursuant to subparagraphs (B) through (D) of paragraph (1).

(3) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, title, claim, or interest in all the land and minerals within parcel number 1, except for the rights, titles, and interests recognized as beneficially owned by the Crow Tribe and as part of the Crow Indian Reservation in subparagraphs (B) through (D) of paragraph (1).

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 1.

(b) PROPERTY WITHIN PARCEL NUMBER 2.—

(1) IN GENERAL.—With respect to the property within parcel number 2, the following provisions shall apply:

(A) The boundary between the Crow and Northern Cheyenne Indian Reservations shall be the 1891 survey line.

(B) All surface lands and minerals of such parcel shall constitute part of the Northern Cheyenne Reservation.

(C) All surface lands, including all rights appurtenant to the surface lands, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe, except that surface lands that have been allotted shall be recognized as held in trust for, or owned in fee by (as the case may be), the Northern Cheyenne allottees or their successors in interest.

(D) The oil, gas, coal, coal methane, and other minerals, including all rights appurtenant to such minerals, of such parcel shall be vested in the United States in trust for the sole use and benefit of the Northern Cheyenne Tribe.

(2) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals within parcel number 2, including all rights appurtenant to such land and minerals.

(B) A release by the Crow Tribe of all persons and entities, including the United States, the Northern Cheyenne Tribe, the Northern Cheyenne allottees and their successors in interest, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 2.

(3) ENFORCEMENT.—The provisions of subsection (b) may be enforced, in law or in equity, by the Northern Cheyenne Tribe, Northern Cheyenne allottees, and their successors in interest, in accordance with their respective interests.

(c) PROPERTY WITHIN PARCEL NUMBER 3 AND PARCEL NUMBER 4.—

(1) IN GENERAL.—With respect to the property within parcel number 3 and parcel number 4, the boundary of the Crow Indian Reservation shall be the 1891 survey line.

(2) PROHIBITION.—Nothing in this Act or the Settlement Agreement may alter, diminish, disturb, or cause to be divested any right, title, or interest of any person or entity in any land, coal, or mineral within parcel number 3 or parcel number 4 that is based on the 1891 survey line.

(3) WAIVERS AND RELEASES.—The following waivers and releases shall be included in the Settlement Agreement:

(A) A disclaimer and relinquishment by the Crow Tribe of all right, jurisdiction, title, claim, or interest in the lands and minerals situated within parcel number 3 and parcel number 4.

(B) A release by the Crow Tribe of all persons and entities, including the United States, from any liability arising from, or related to, the 1891 survey and the subsequent occupancy and use of parcel number 3 and parcel number 4.

(d) EXCHANGE OF PUBLIC LANDS.—With respect to the land exchanges with the State of Montana and private landowners made under this Act the following provisions shall apply:

(1) IN GENERAL.—(A) The Secretary shall negotiate with the State of Montana for the purpose of exchanging public lands within the State of Montana for State trust lands within the Crow Reservation having a total value substantially equal to the value of the surface estate of the approximately 46,625 acres of State trust lands obtained by the State of Montana pursuant to the Act of February 22, 1889 (commonly known as the "Montana Enabling Act"; 25 Stat. 676, chapter 180), and the Act entitled "An Act to provide for the allotment of lands of the Crow Tribe for the distribution of tribal funds and for other purposes" approved June 4, 1920 (commonly known as the "Crow Allotment Act"; 41 Stat. 751, chapter 224) within the Crow Indian Reservation and the disputed area.

(B) The exchange described in subparagraph (A) shall be in accordance with the exchange procedures set forth in section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(C) In determining the fair market value of the lands described in subparagraph (A), the parties to the exchange shall give due consideration to the value of improvements on the lands.

(D) The Secretary shall ensure that lands exchanged pursuant to this paragraph as part of the settlement of the 107th Meridian boundary dispute made pursuant to this Act shall be selected in such manner that the financial impact on local governments, if any, will be minimized.

(E) The Secretary shall provide such financial or other assistance to the State of Montana and to the Crow Tribe as may be necessary to obtain the appraisals, and to satisfy administrative requirements, necessary to accomplish the exchanges made pursuant to subparagraph (A).

(F) Upon approving an exchange made pursuant to this paragraph, the Secretary shall—

(i) receive title to the State trust lands involved in the exchange on behalf of the United States; and

(ii) transfer title to the public lands disposed of pursuant to the exchanges with the State of Montana by such means of conveyance as the Secretary considers appropriate.

(G) Title to the State trust lands acquired pursuant to the exchanges made with the State of Montana pursuant to this paragraph shall be vested in the United States in trust for the sole use and benefit of the Crow Tribe and shall be recognized as part of the Crow Indian Reservation.

(2) Requirement for exchanges.—(A) In carrying out the exchanges with the State of Montana pursuant to paragraph (1), the Secretary shall, during a period of at least 5 years beginning on the date on which the Settlement Agreement becomes effective, give first priority to the exchange of public lands within the State of Montana for State trust lands owned by the State of Montana as of the date of the enactment of this Act.

(B) Subject to subparagraph (C), if, for any reason, after the expiration of the period specified in subparagraph (A), the exchanges of the State trust lands identified in paragraph (1) have not provided the Crow Tribe with a total of 46,625 acres of surface lands within the boundaries of the existing Crow Indian Reservation (including parcel number 1), the Secretary shall, at the request of, and in cooperation with, the Crow Tribe, develop and implement a program to provide the Crow Tribe with additional land within the Crow Indian Reservation (including parcel number 1) through land exchanges with private landowners.

(C) The total value of—

(i) the value of the lands exchanged and acquired for the Crow Tribe pursuant to paragraph (1), and

(ii) the value of the lands exchanged and acquired for the Crow Tribe pursuant to this paragraph,

shall not exceed the value of the surface estate of the 46,625 acres of land identified in paragraph (1)(A).

(D) In carrying out a program developed pursuant to this paragraph, the Secretary may exchange public lands within the State of Montana for private lands of substantially equal value within the boundaries of the existing Crow Indian Reservation in accordance with section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716).

(E) In determining the fair market value of the lands described in subparagraph (D), the parties to an exchange made pursuant to subparagraph (D) shall give due consideration to the value of improvements on the lands.

(F) If the Secretary obtains private lands pursuant to subparagraph (D), the Secretary shall transfer title to such lands to the Crow Tribe.

(G) Title to any private or public lands transferred to the Crow Tribe pursuant to this paragraph shall—

(i) be vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(ii) be recognized as part of the Crow Indian Reservation, if such lands are located within the boundaries of the Crow Indian Reservation.

(H) The Crow Tribe shall assist in obtaining prospective willing parties to exchange private lands within the Crow Indian Reservation for public lands within the State of Montana pursuant to this paragraph.

(e) Crow Tribal Trust Fund.—The Settlement Agreement shall include provisions governing the distribution of interest income to the Crow Tribe from the Crow Tribal Trust Fund pursuant to the terms and conditions described in section 6.

SEC. 6. ESTABLISHMENT AND ADMINISTRATION OF CROW TRIBAL TRUST FUND.

(a) Establishment of Crow Tribal Trust Fund.—

(1) In general.—There is established in the Treasury of the United States a trust fund to be known as the "Crow Tribal Trust Fund".

(2) Availability of amounts in the crow tribal trust fund.—Amounts in the Crow Tribal Trust Fund shall be available, without fiscal year limitation, to the Secretary for distribution to the Crow Tribe in accordance with subsection (d).

(b) Contributions to Crow Tribal Trust Fund.—

(1) In general.—Subject to paragraph (2) and the requirements of section 10—

(A) on or before November 30, 1994, the Secretary of the Treasury shall deposit into the Crow Tribal Trust Fund an amount equal to the amounts of royalties received and retained by the United States during fiscal year 1994 from the East Decker, West Decker, and Spring Creek coal mines; and

(B) commencing with fiscal year 1995 and for such period thereafter as may be necessary, the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into the Crow Tribal Trust Fund of the royalties received and retained by the United States for the immediately preceding month from the East Decker, West Decker, and Spring Creek coal mines in the State of Montana for the life of such mines, including any extensions of the existing leases for such mines and any expansions of such mines to nearby and adjacent federally owned coal deposits, as specified in the Settlement Agreement.

(2) Amount of royalties.—The total amount of royalties described in paragraph (1) that are paid, transferred, or deposited into the Crow Tribal Trust Fund shall not exceed, in the aggregate, $85,000,000, excluding—

(A) any interest earned on moneys in the Crow Tribal Trust Fund; and

(B) the funds transferred to the Suspension Accounts pursuant to section 10.

(3) Payments of royalties received and retained by the united states.—Subject to paragraph (2) and the requirements of section 10, the royalties received and retained by the United States from the East Decker, West Decker, and Spring Creek coal mines shall be paid, transferred or deposited into the Crow Tribal Trust Fund not later than 30 days after the date on which the royalties are due and paid.

(4) Additional payments.—The Federal Government shall make payments, in addition to the payments referred to in paragraph (3), from the royalties received and retained by the United States from other coal mines within the State of Montana into the Crow Tribal Trust Fund in an amount equal to any lost interest income (as determined by the Secretary), if any portion of the sums described in paragraph (3) are not paid, transferred or deposited into the Crow Tribal Trust Fund within the 30-day period prescribed in paragraph (3).

(c) Investment.—At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with the Act of February 12, 1929 (45 Stat. 1164, chapter 178; 25 U.S.C. 161a).

(d) Distribution of Interest.—

(1) In general.—Only the interest received on funds in the Crow Tribal Trust Fund shall be available for distribution by the Secretary to the Crow Tribe for use for education, land acquisition, economic development, youth and elderly programs or other tribal purposes in accordance with plans and budgets developed and approved by the Crow Tribe and approved by the Secretary.

(2) Requirements for distribution of interest.—Commencing with fiscal year 1996 and for each fiscal year thereafter, without fiscal year limitation, the interest received on monies in the Crow Tribal Trust Fund shall be available for distribution under this subsection only if—

(A) the United States and the Crow Tribe enter into the Settlement Agreement; and

(B) the requirements of section 9 relating to the approval and execution of the Settlement Agreement are satisfied.

(3) Prohibition.—No portion of the Crow Tribal Trust Fund or the interest earned on the Crow Tribal Trust Fund may be distributed to members of the Crow Tribe on a per capita basis.

(e) Use of Interest for Economic Development.—Notwithstanding any other provision of law, the Crow Tribe may, subject to approval by the Secretary, assign the right of the Crow Tribe to the interest earned on monies in the Crow Tribal Trust Fund to a third party in connection with loans made for economic development projects on or near the Crow Indian Reservation.

(f) Limitation.—Notwithstanding any other provision of law, no portion of the principal of the Crow Tribal Trust Fund shall be available for withdrawal or disbursement or used for any purpose other than the purposes specified in this section and section 10.

SEC. 7. ELIGIBILITY FOR OTHER FEDERAL SERVICES; TAX EXEMPTION.

No payments made or benefits conferred pursuant to this Act shall result in the reduction or denial of any Federal services or programs to any tribe or to any member of a tribe to which the tribe or member of the tribe is entitled or eligible because of the status of the tribe as a federally recognized Indian tribe or the status of a member of such tribe as a member.

SEC. 8. EXCHANGES OF LAND OR MINERALS.

(a) In General.—(1) Subject to approval by the Secretary, the Crow Tribe may exchange any land or minerals to which its title is recognized in or obtained pursuant to this Act for other land or minerals of substantially equivalent value within the Crow Indian Reservation (including parcel number 1).

(2) Lands or minerals received by the Crow Tribe in any exchange made pursuant to paragraph (1) shall be—

(A) vested in the United States in trust for the sole use and benefit of the Crow Tribe; and

(B) recognized as part of the Crow Indian Reservation.

(b) Ownership by Non-Indians.—Any land or minerals received by a person who is not an Indian in an exchange referred to in subsection (a) shall be owned in fee.

SEC. 9. APPLICABILITY.

(a) In General.—The Act shall take effect upon the occurrence of the following conditions:

(1) The Settlement Agreement is approved and executed by the Secretary.

(2) The Settlement Agreement is approved and executed by the Crow Tribe.

(3) The Settlement Agreement and the releases and waivers required by section 5 are approved and duly executed by the Crow Tribe in accordance with the requirements and procedures set forth in the constitution of the Crow Tribe.

(4) The Settlement Agreement becomes effective in accordance with the terms and conditions specified in the Settlement Agreement.

(b) Approval of Releases and Waivers.—The United States hereby approves and confirms the releases and waivers required by section 5.

SEC. 10. ESCROW FUNDS.

(a) In General.—As soon as practicable after the date of enactment of this Act, the Secretary shall make distributions from the 107th meridian escrow fund as follows:

(1) One-half of the fund shall be distributed to the Crow Tribe.

(2) One-half of the fund shall be distributed to the Northern Cheyenne Tribe.

(3) The receipt and acceptance by a tribe of funds distributed under this section shall be deemed to be—

(A) a disclaimer, relinquishment and waiver by such tribe of all right, claim or interest in the 107th meridian escrow fund; and

(B) a release by such tribe of all persons and entities, including the United States, from any liability arising from, or related to, the establishment and administration of the 107th meridian escrow fund.

(b) Establishment of Suspension Accounts.—As soon as practicable after the Settlement Agreement is executed and approved pursuant to this Act, the Secretary of the Treasury shall establish in the Treasury of the United States two interest bearing accounts to be known respectively as the "Crow Tribal Suspension Account" and the "Northern Cheyenne Tribal Suspension Account" (collectively referred to in this subsection as the "Suspension Accounts"), consisting of—

(1) such amounts as are transferred to the Suspension Accounts under subsection (c); and

(2) any interest earned on investments of amounts in the Suspension Accounts under subsection (e).

(c) Contributions to the Suspension Accounts.—

(1) In general.—Beginning with fiscal year 1995, and ending on the date on which the total amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d)), the Secretary and the Secretary of the Treasury shall make necessary and proper arrangements for the monthly payment, transfer, or deposit (or any combination thereof) into each of the Suspension Accounts of an amount equal to one-half of the royalties received and retained by the United States for the immediately preceding month, as determined in accordance with section 6(b)(1), by the date specified under section 6(b)(3).

(2) Subsequent deposits.—At such time as the amount deposited pursuant to this subsection into the Suspension Accounts is equal to $200,000 for each such account (as specified in subsection (d)), in accordance with section 6(b)(1), the Secretary and the Secretary of the Treasury shall thereafter deposit any remaining amounts determined under section 6(b)(1) in the Crow Tribal Trust Fund established under section 6(a).

(d) Limitation.—The Secretary and the Secretary of the Treasury shall not transfer more than a total amount equal to $200,000 to each of the Suspension Accounts from the amounts determined under section 6(b)(1).

(e) Investment.—All sums deposited in, accruing to and remaining in the Suspension Accounts shall be invested by the Secretary and the Secretary of the Treasury in interest bearing deposits and securities in accordance with the Act of June 24, 1938 (52 Stat. 1037, chapter 648; 25 U.S.C. 162a).

(f) Withdrawals and Termination.—

(1) In general.—(A) Beginning on the date that is 5 years after the date of enactment of this Act, the Crow Tribe and the Northern Cheyenne Tribe may each submit a duly authorized request to the Secretary for the withdrawal of all of the funds from the Suspension Account of the tribe established under subsection (b).

(B) Not later than 60 days after receiving a request for the distribution of funds from a Suspension Account made by a tribe under subparagraph (A)—

(i) the Secretary shall, in cooperation with the Secretary of the Treasury, withdraw and distribute such funds in accordance with such request; and

(ii) the Secretary of the Treasury shall terminate the Suspension Account.

(2) Other means of termination—With respect to a Suspension Account established under subsection (b) that is not terminated pursuant to paragraph (1), at such time as the corpus and the accrued interest of the Suspension Account of the Crow Tribe or the Northern Cheyenne Tribe is approximately equal to the amount specified in paragraph (1) or (2) of subsection (a), the Secretary of the Treasury shall terminate the Suspension Account and the Secretary of the Interior shall distribute the funds from the Suspension Account to the tribe.

SEC. 11. FORT LARAMIE TREATY OF 1868.

Except for the adjustment to the eastern boundary of the Crow Indian Reservation, nothing in this Act or in the Settlement Agreement shall affect or modify the terms and conditions of the treaty between the United States of America and the Crow Tribe of Indians concluded May 7, 1868 (commonly known as the "Fort Laramie Treaty of 1868"; 15 Stat. 649).

SEC. 12. SATISFACTION OF CLAIMS.

The benefits available to the Crow Tribe under the terms and conditions of this Act and the Settlement Agreement shall constitute full and complete satisfaction of all claims by the Crow Tribe and the members of the Crow Tribe arising from or related to the erroneous survey of the 107th meridian described in section 2(a)(3).

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior such sums as are necessary to carry out this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4307. An act to amend title 35, United States Code, with respect to applications for process patents, and for certain other purposes.

H.R. 4545. An act to amend the rail safety provisions of title 49, United States Code, and for other purposes.

H.R. 5123. An act to make a technical correction to an Act preempting State economic regulation of motor carriers.

The message also announced that the Senate had passed bills and joint resolutions of the following titles, in which the concurrence of the House is requested:

S. 1881. An act to establish and implement a technology investment policy for aeronautical and space activities of the National Aeronautics and Space Administration, and for other purposes.

S. 2036. An act to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes.

S. 2075. An act to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve programs under the Act.

S.J. Res. 90. Joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

S.J. Res. 181. Joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week".

S.J. Res. 209. Joint resolution designating November 21, 1994, as "National Military Families Recognition Day".

S.J. Res. 208. Joint resolution designating the week of November 6, 1994, through November 12, 1994, "National Health Information Management Week".

S.J. Res. 220. Joint resolution to designate October 19, 1994, as "National Mammography Day".

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1927) "An Act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans" with an amendment.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 2372) "An Act to reauthorize for three years the Commission on Civil Rights, and for other purposes" with an amendment.

THOMAS PAINE MEMORIAL

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution S.J. Res. 227) to approve the location of the Thomas Paine Memorial, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I will not object, and I yield to the gentleman from Minnesota, [Mr. VENTO], for an explanation.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman's cooperation. What I am doing is to, in fact, pass the Thomas Paine Memorial. The resolution would provide for the approval in area I of the location as a search site for the Thomas Paine Memorial. I also will offer further amendments which will provide for the consideration and approval of the World War II Memorial for area I.

Area I, of course, is the monumental core around the Capitol, the White House, for the location of monuments which we, as the Committee on Natural Resources, do screening of these proposals.

These proposals are introduced by the gentlewoman from New York [Mrs. LOWERY], and the gentlewoman from Ohio [Mrs. KAPTUR].

I intend to amend, with the approval of the House tonight, the proposal to include the World War II approval and send that back to the Senate for final action.

This is an important process. It has been a long process for both of these.

There are some technical problems with it, and the amendments will clarify that.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mrs. LOWEY. Mr. Speaker, I rise in support of Senate Joint Resolution 227, as amended. First, I want to extend my personal thanks to Chairmen MILLER and VENTO, and the ranking members of the Natural Resources Committee, Congressmen YOUNG of Alaska and HANSEN. They have been very helpful in moving this resolution through the House without delay.

This resolution gives congressional approval to the recommendations of the Secretary of the Interior to locate monuments to Thomas Paine and to those who served our Nation in World War II in the area designated as "Area I." That area is reserved for the most important of our Nation's monuments, and indeed both of these deserve that special treatment.

Tonight's action and the anticipated, Senate concurrence in our amendments to Senate Joint Resolution 227 should be the last time this Congress will need to take action with regard to these memorials. The responsibility now will lie with private organizations to generate the necessary resources to finance these memorials. Given the depth of conviction across America for extending these tributes, I am confident they will succeed so that long overdue recognition both to Thomas Paine and to those who served all of us in the World War II will soon be a reality.

I thank my colleagues for their cooperation.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 227

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407, as amended by Public Law 102-459, authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial may be located in Area I: Now, therefore, be it

Resolved by the Senate and House and Representatives of the United States of America in Congress assembled, That the location of a Thomas Paine Memorial, authorized by Public Law 102-407, as amended by Public Law 102-459, and within Area I as described in Public Law 99-652, is approved.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. VENTO: Strike all after the resolving clause and insert:

That (a) the location of a Thomas Paine Memorial, authorized by Public Law 102-407, as amended by Public Law 102-459, within either Area I or Area II as described in Public Law 99-652 (100 Stat. 3650), is approved and (b) the location of a World War II Memorial, authorized by Public Law 103-32, within either Area I or Area II as described in Public Law 99-652 (100 Stat. 3650), is hereby approved.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Minnesota [Mr. VENTO].

The amendment in the nature of a substitute was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. VENTO.

Mr. VENTO. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment offered by Mr. VENTO to the Preamble:

Strike the preamble and insert:

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407, as amended by Public Law 102-459, authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas Public Law 103-32, approved May 25, 1993 (107 Stat. 90), authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who served in World War II; and

Whereas the Secretary of the Interior has notified the Congress of his determination that such memorials should be located in Area I: Now, therefore, be it

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment to the preamble be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Minnesota [Mr. VENTO].

The amendment to the preamble was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

AMENDMENT TO THE TITLE OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. VENTO: Amend the title so as to read as follows: "Joint resolution approving the location of a Thomas Paine Memorial and a World War II Memorial in the Nation' Capitol."

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the measure just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

COMMEMORATION OF 75TH ANNIVERSARY OF GRAND CANYON NATIONAL PARK

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 221) to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. HANSEN. Mr. Speaker, reserving the right to object I will not object, and I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, Senate Joint Resolution 221 is a Senate-passed measure commemorating the 75th anniversary of the establishment of Grand Canyon National Park. The Grand Canyon is truly one of our national treasures. Its spectacular geologic features have inspired all who have seen them.

This is a noncontroversial resolution that is supported by Members of the Arizona delegation, in whose State the Grand Canyon is located. I recommend adoption of the resolution by the House.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 221

Whereas the Grand Canyon of the Colorado River is a feature of enormous scientific interest and significance, whose unique geological, biological and cultural resources represent a natural laboratory of unparalleled diversity;

Whereas Grand Canyon National Park represents an integral part of the greater Colorado Plateau Ecosystem whose significance to the health of the natural systems of the American West increases with time;

Whereas the Grand Canyon of the Colorado River is one of the most spectacular examples of arid-land erosion anywhere in the world and reveals a geologic record whose significance is unparalleled;

Whereas Grand Canyon is a world Heritage Site and a natural feature of international significance whose aesthetic beauty reflects the aspirations of a free and independent people;

Whereas Grand Canyon National Park has received over 100,000,000 visitors since its establishment in 1919 and continues to serve the people of the United States and the world in their need for a place of outstanding natural beauty and refuge; and

Whereas Grand Canyon National Park was established by Act of Congress on February 26, 1919: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States of America on this date salutes Grand Canyon National Park and its custodians, the employees of the National Park Service, in honor of the park's 75th anniversary year.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the measure just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

THE INDIAN LEGISLATION TECHNICAL CORRECTIONS ACT

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4709) to make certain technical corrections, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendment: Strike all after the enacting clause and insert the following:

The Clerk read the Senate amendment, as follows:

SECTION 1. LEASING AUTHORITY OF THE INDIAN PUEBLO FEDERAL DEVELOPMENT CORPORATION.

Notwithstanding the provisions of section 17 of the Act of June 18, 1934 (48 Stat. 988, chapter 576; 25 U.S.C. 477), the Indian Pueblo Federal Development Corporation, whose charter was issued pursuant to such section by the Secretary of the Interior on January 15, 1993, shall have the authority to lease or sublease trust or restricted Indian lands for up to 50 years.

SEC. 2. GRAND RONDE RESERVATION ACT.

(a) LANDS DESCRIBED.—Section 1 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes", approved September 9, 1988 (102 Stat. 1594), is amended—

(1) in subsection (c)—

(A) by striking "9,879.65" and inserting "10,120.68"; and

(B) by striking all after

"6	8	1	SW¼SW¼,W½SE¼SW¼	53.78"

and inserting the following:

7	8	1	S½E½SE¼SW¼	10.03
6	7	8	Tax lot 800	5.55
4	7	30	Lots 3, 4, SW¼NE¼, SE¼NW¼,E½SW¼	240
			Total	10,120.68.";

and

(2) by adding at the end the following new subsection:

"(d) CLAIMS EXTINGUISHED; LIABILITY.—

"(1) CLAIMS EXTINGUISHED.—All claims to lands within the State of Oregon based upon recognized title to the Grand Ronde Indian Reservation established by the Executive order of June 30, 1857, pursuant to treaties with the Kalapuya, Molalla, and other tribes, or any part thereof by the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor in interest, are hereby extinguished, and any transfers pursuant to the Act of April 28, 1904 (Chap. 1820; 33 Stat. 567) or other statute of the United States, by, from, or on behalf of the Confederated Tribes of the Grand Ronde Community of Oregon, or any predecessor or successor interest, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of lands or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe of Indians (including, but not limited to, the Act of July 22, 1790, commonly known as the 'Trade and Intercourse Act of 1790' (1 Stat. 137, chapter 33, section 4)).

"(2) LIABILITY.—The Tribe shall assume responsibility for lost revenues, if any, to any county because of the transfer of revested Oregon and California Railroad grant lands in section 30, Township 4 South, Range 7 West.".

(b) CIVIL AND CRIMINAL JURISDICTION.—Section 3 of such Act (102 Stat. 1595) is amended by adding at the end the following: "Such exercise shall not affect the Tribe's concurrent jurisdiction over such matters.".

SEC. 3. CONFEDERATED TRIBES OF THE SILETZ INDIANS OF OREGON.

Section 2 of the Act entitled "An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon, approved September 4, 1980 (Public Law 96–340; 94 Stat. 1072) is amended—

(1) by inserting "(a)" after "SEC. 2."; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Interior, acting at the request of the Confederated Tribes of the Siletz Indians of Oregon, shall accept (subject to all valid rights-of-way and easements existing on the date of such request) any appropriate warranty deed conveying to the United States in trust for the Confederated Tribes of the Siletz Indians of Oregon, contingent upon payment of all accrued and unpaid taxes, the following parcels of land located in Lincoln County, State of Oregon:

"(A) In Township 10 South, Range 8 West, Willamette Meridian—

"(i) a tract of land in the northwest and the northeast quarters of section 7 consisting of 208.50 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990; and

"(ii) 3 tracts of land in section 7 consisting of 18.07 acres, more or less, conveyed to the Tribe by warranty deed from John J. Jantzi and Erma M. Jantzi on March 30, 1990.

"(B) In Township 10 South, Range 10 West, Willamette Meridian—

"(i) a tract of land in section 4, including a portion of United States Government Lot 31 lying west and south of the Siletz River, consisting of 15.29 acres, more or less, conveyed to the Tribe by warranty deed from Patrick J. Collson and Patricia Ann Collson on February 27, 1991;

"(ii) a tract of land in section 9, located in Tract 60, consisting of 4.00 acres, more or less, conveyed to the Tribe by contract of sale from Gladys M. Faulkner on December 9, 1987;

"(iii) a tract of land in section 9, including portions of the north one-half of United States Government Lot 15, consisting of 7.34 acres, more or less, conveyed to the Tribe by contract of sale from Clayton E. Hursh and Anna L. Hursh on December 9, 1987;

"(iv) a tract of land in section 9, including a portion of the north one-half of United States Government Lot 16, consisting of 5.62 acres, more or less, conveyed to the Tribe by warranty

deed from Steve Jebert and Elizabeth Jebert on December 1, 1987;

"(v) a tract of land in the southwest quarter of the northwest quarter of section 9, consisting of 3.45 acres, more or less, conveyed to the Tribe by warranty deed from Eugenie Nashif on July 11, 1988; and

"(vi) a tract of land in section 10, including United States Government Lot 8 and portions of United States Government Lot 7, consisting of 29.93 acres, more or less, conveyed to the Tribe by warranty deed from Doyle Grooms on August 6, 1992.

"(C) In the northwest quarter of section 2 and the northeast quarter of section 3, Township 7 South, Range 11 West, Willamette Meridian, a tract of land comprising United States Government Lots 58, 59, 63, and 64, Lincoln Shore Star Resort, Lincoln City, Oregon.

"(2) The parcels of land described in paragraph (1), together with the following tracts of lands which have been conveyed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon—

"(A) a tract of land in section 3, Township 10 South, Range 10 West, Willamette Meridian, including portions of United States Government Lots 25, 26, 27, and 28, consisting of 49.35 acres, more or less, conveyed by the Siletz Tribe to the United States in trust for the Tribe on March 15, 1986; and

"(B) a tract of land in section 9, Township 10 South, Range 10 West, Willamette Meridian, including United States Government Lot 33, consisting of 2.27 acres, more or less, conveyed by warranty deed to the United States in trust for the Confederated Tribes of Siletz Indians of Oregon from Harold D. Alldridge and Sylvia C. Alldridge on June 30, 1981;

shall be subject to the limitations and provisions of sections 3, 4, and 5 of this Act and shall be deemed to be a restoration of land pursuant to section 7 of the Siletz Indian Tribe Restoration Act (25 U.S.C. 711(e)).

"(3) Notwithstanding any other provision of law, the United States should not incur any liability for conditions on any parcels of land taken into trust under this section.

"(4) As soon as practicable after the transfer of the parcels provided in paragraphs (1) and (2), the Secretary of the Interior shall convey such parcels and publish a description of such lands in the Federal Register.".

SEC. 4. TRANSFER OF PARCEL BY YSLETA DEL SUR PUEBLO.

(a) RATIFICATION.—The transfer of the land described in subsection (b), together with fixtures thereon, on July 12, 1991, by the Ysleta Del Sur Pueblo is hereby ratified and shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including section 2116 of the Revised Statutes (25 U.S.C. 177)) as if Congress had given its consent prior to the transfer.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are more particularly described as follows:

Tract 1–B–1 (1.9251 acres) and Tract 1–B–2–A (0.0748 acres), Block 2 San Elizario, El Paso County, Texas.

SEC. 5. AUTHORIZATION FOR 99-YEAR LEASES.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415(a)) is amended by inserting "the Viejas Indian Reservation," after "Soboba Indian Reservation,".

SEC. 6. WIND RIVER INDIAN IRRIGATION PROJECT.

Funds appropriated for construction of the Wind River Indian Irrigation Project for fiscal year 1990 (pursuant to Public Law 101–121), fiscal year 1991 (pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512)), and fiscal year 1992 (pursuant to the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102–154)) shall be made available on a nonreimbursable basis.

SEC. 7. REIMBURSEMENT OF COSTS INCURRED BY GILA RIVER INDIAN COMMUNITY FOR CERTAIN RECLAMATION CONSTRUCTION.

The Secretary of the Interior is authorized to pay $1,842,205 to the Gila River Indian Community as reimbursement for the costs incurred by the Gila River Indian Community for construction allocated to irrigation on the Sacaton Ranch that would have been nonreimbursable if such construction had been performed by the Bureau of Reclamation under section 402 of the Colorado River Basin Project Act (43 U.S.C. 1542).

SEC. 8. RECOGNITION OF INDIAN COMMUNITY.

Section 10 of the Indian Law Technical Amendments of 1987 (Public Law 100–153) is amended—

(1) by striking "The Frank's" and inserting "(a) Subject to subsection (b), the Frank's";

(2) by striking "recognized as eligible" and inserting the following:

"recognized—

"(1) as eligible";

(3) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) Notwithstanding any other provision of law, the Frank's Landing Indian Community shall not engage in any gaming activity (as defined in the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2703(8)).".

SEC. 9. RECONVEYANCE OF CERTAIN EXCESS LANDS.

(a) IN GENERAL.—The Congress finds that the Sac and Fox Nation of Oklahoma has determined the lands described in subsection (b) to be excess to their needs and should be returned to the original Indian grantors or their heirs. The Secretary of the Interior is authorized to accept transfer of title from the Sac and Fox Nation of Oklahoma of its interest in the lands described in subsection (b).

(b) PERSONS AND LANDS.—The lands and individuals referred to in subsection (a) are as follows:

(1) To the United States of America in trust for Sadie Davis, now Tyner, or her heirs or devisees, the Surface and Surface Rights only in and to the SE¼SE¼SE¼SE¼ of section 28, Township 17 North, Range 6 East of the Indian Meridian, Lincoln County, Oklahoma, containing 2.50 acres, more or less.

(2) To the United States of America in trust for Mabel Wakole, or her heirs or devisees, the Surface and Surface Rights only in and to the NE¼NE¼ of Lot 6 of NW¼ of section 14, Township 11 North, Range 4 East of the Indian Meridian, Pottawatomie County, Oklahoma, containing 2.50 acres, more or less.

SEC. 10. TITLE I OF PUBLIC LAW 97–459, PERTAINING TO THE DEVILS LAKE SIOUX TRIBE.

Paragraph (1) of section 108(a) of title I of Public Law 97–459 (96 Stat. 2515) is amended by striking out "of the date of death of the decedent" and inserting in lieu thereof "after the date on which the Secretary's determination of the heirs of the decedent becomes final".

SEC. 11. NORTHERN CHEYENNE LAND TRANSFER.

(a) IN GENERAL.—Notwithstanding any contrary provision of law, the Secretary of the Interior or an authorized representative of the Secretary (referred to in this section as the "Secretary") is hereby authorized and directed to transfer by deed to Lame Deer High School District No. 6, Rosebud County, Montana (referred to in this section as the "School District"), all right, title, and interest of the United States and the Northern Cheyenne Tribe (referred to in this section as the "Tribe") in and to the lands described in this subsection (referred to in this section as "Subject Lands"), to be held and used by the School District for the exclusive purpose of constructing and operating thereon a public high school and related facilities. The Subject Lands consist of a tract of approximately 40 acres within the Northern Cheyenne Indian Reservation, more particularly described as follows:

A tract of land located in the W½ SE¼ and the E½ SW¼ of section 10, Township 3 South, Range 41 East, M.P.M., described as follows: Beginning at the south ¼ corner of said section 10, thence south 89 degrees 56 minutes west 393.31 feet on and along the south line of said section 10 to the true point of beginning, thence south 89 degrees 56 minutes west 500.0 feet on and along said section line, thence north 00 degrees 00 minutes east, 575.0 feet, thence north 54 degrees 9 minutes 22 seconds east 2382.26 feet, thence south 23 degrees 44 minutes 21 seconds east 622.56 feet, thence south 51 degrees 14 minutes 40 seconds west 2177.19 feet to the true point of beginning, containing in all 40.0 acres, more or less.

(b) DEED AND LEASE.—

(1) IN GENERAL.—The deed issued under this section shall provide that—

(A) title to all coal and other minerals, including oil, gas, and other natural deposits, within the Subject Lands shall remain in the Secretary in trust for the Tribe, as provided in Public Law 90–424 (82 Stat. 424);

(B) the Subject Lands may be used for the purpose of constructing and operating a public high school and related facilities thereon, and for no other purpose;

(C) title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe, and the deed shall be of no further force or effect, if, within 8 years after the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such 8-year period, but the facility subsequently permanently ceases operating as a public high school; and

(D) at any time after the conclusion of the current litigation (commenced before the date of enactment of this Act and including all trial and, if any, appellate proceedings) challenging the November 9, 1993, decision of the Superintendent of Public Instruction for the State of Montana granting the petition to create the School District, and with the prior approval of the Superintendent of Public Instruction (referred to in this section as the "Superintendent's Approval"), the Tribe shall have the right to replace the deed with a lease covering the Subject Lands issued under section 1(a) of the Act of August 9, 1955 (69 Stat. 539, chapter 615; 25 U.S.C. 415(a)) having a term of 25 years, with a right to renew for an additional 25 years.

(2) CONDITIONS OF LEASE.—Under the lease referred to in paragraph (1)(D), the Subject Lands shall be leased rent free to the School District for the exclusive purpose of constructing and operating a public high school and related facilities thereon. The lease shall terminate if, within 8 years after the date of the deed, classes have not commenced in a permanent public high school facility established on the Subject Lands, or if such classes commence at the facility within such 8-year period, but the facility subsequently permanently ceases operating as a public high school. In the event the Tribe seeks and obtains the Superintendent's Approval, the Tribe may tender a lease, signed by the Tribe

and approved by the Secretary, which complies with the provisions of this subsection. Upon such tender, the deed shall be of no further force or effect, and, subject to the leasehold interest offered to the School District, title to the Subject Lands, free and clear of all liens and encumbrances, shall automatically revert to the Secretary in trust for the Tribe. The Tribe may at any time irrevocably relinquish the right provided to it under this subsection by resolution of the Northern Cheyenne Tribal Council explicitly so providing.

(c) EFFECT OF ACCEPTANCE OF DEED.—Upon the School District's acceptance of a deed delivered under this section, the School District, and any party who may subsequently acquire any right, title, or interest of any kind whatsoever in or to the Subject Lands by or through the School District, shall be subject to, be bound by, and comply with all terms and conditions set forth in subparagraphs (A) through (D) of subsection (b)(1).

SEC. 12. INDIAN AGRICULTURE AMENDMENT.

(a) LEASING OF INDIAN AGRICULTURAL LANDS.—Section 105 of the American Indian Agriculture Resource Management Act (25 U.S.C. 3715) is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(5) shall approve leases and permits of tribally owned agricultural lands at rates determined by the tribal governing body."; and

(2) in subsection (c), amending paragraph (1) to read as follows:

"(1) Nothing in this section shall be construed as limiting or altering the authority or right of an individual allottee or Indian tribe in the legal or beneficial use of his, her, or its own land or to enter into an agricultural lease of the surface interest of his, her, or its allotment or land under any other provision of law.".

(b) TRIBAL IMMUNITY.—The American Indian Agriculture Resource Management Act (25 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 306. TRIBAL IMMUNITY.

"Nothing in this Act shall be construed to affect, modify, diminish, or otherwise impair the sovereign immunity from suit enjoyed by Indian tribes.".

SEC. 13. SAN CARLOS APACHE WATER RIGHTS SETTLEMENT ACT OF 1992.

Section 3711(b)(1) of title XXXVII of the San Carlos Apache Tribe Water Rights Settlement Act of 1992 (106 Stat. 4752) is amended by striking "December 31, 1994" and inserting "December 31, 1995".

SEC. 14. RELATIONSHIP BETWEEN BUY INDIAN ACT AND MENTOR-PROTEGE PROGRAM.

Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47; commonly referred to as the "Buy Indian Act"), is amended by adding at the end the following: "Participation in the Mentor-Protege Program established under section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) or receipt of assistance pursuant to any developmental assistance agreement authorized under such program shall not render Indian labor or Indian industry ineligible to receive any assistance authorized under this section. For the purposes of this section—

"(1) no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f) of section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note); and

"(2) the terms 'protege firm' and 'mentor firm' have the meaning given such terms in subsection (c) of such section 831.".

SEC. 15. ACQUISITION OF LANDS ON WIND RIVER RESERVATION.

(a) AUTHORITY TO HOLD LANDS IN TRUST FOR THE INDIVIDUAL TRIBE.—The Secretary of the Interior is hereby authorized to acquire individually in the name of the United States in trust for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation or the Northern Arapaho Tribe of the Wind River Reservation, as appropriate, lands or other rights when the individual assets of only one of the tribes is used to acquire such lands or other rights.

(b) LANDS REMAIN PART OF JOINT RESERVATION SUBJECT TO EXCLUSIVE TRIBAL CONTROL.—Any lands acquired under subsection (a) within the exterior boundaries of the Wind River Reservation shall remain a part of the Reservation and subject to the joint tribal laws of the Reservation, except that the lands so acquired shall be subject to the exclusive use and control of the tribe for which such lands were acquired.

(c) INCOME.—The income from lands acquired under subsection (a) shall be credited to the tribe for which such lands were acquired.

(d) SAVINGS PROVISION.—Nothing in this section shall be construed to prevent the joint acquisition of lands for the benefit of the Eastern Shoshone Tribe of the Wind River Reservation and the Northern Arapaho Tribe of the Wind River Reservation.

SEC. 16. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Indian Health Care Improvement Act (25 U.S.C. 1616d) is amended—

(1) in subsection (a)—

(A) by striking "who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time"; and

(B) by adding at the end the following new sentence: "In selecting participants for a program established under this subsection, the Secretary, acting through the Service, shall give priority to applicants who are employed by the Indian Health Service, Indian tribes, tribal organizations, and urban Indian organizations, at the time of the submission of the applications."; and

(2) in subsection (b), by inserting after "Indian health program" the following: "(as defined in section 108(a)(2))".

(d) NURSING RESIDENCY PROGRAM.—Section 118(b) of such Act (25 U.S.C. 1616k(b)) is amended by inserting before the period the following: "or a Master's degree".

SEC. 17. REDESIGNATION OF YAKIMA INDIAN NATION TO YAKAMA INDIAN NATION.

(a) REDESIGNATION.—The Confederated Tribes and Bands of the Yakima Indian Nation shall be known and designated as the "Confederated Tribes and Bands of the Yakama Indian Nation".

(b) REFERENCES.—Any reference in a law (including any regulation), map, document, paper, or other record of the United States to Confederated Tribes and Bands of the Yakima Indian Nation referred to in subsection (a) shall be deemed to be a reference to the "Confederated Tribes and Bands of the Yakama Indian Nation".

SEC. 18. EXPENDITURE OF JUDGMENT FUNDS.

Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with the letter of Charles Dawes, the Chief of the Ottowa Tribe of Oklahoma, to the Bureau of Indian Affairs, Muskogee Area Office, dated September 21, 1993, and the accompanying Resolution that was approved by the Business Committee of the Ottawa Tribe of Oklahoma August 19, 1993, the specific changes in the Secretarial Plan that became effective on June 14, 1983, for the use of funds that were awarded in satisfaction of judgments in final awards by the Indian Claims Commission for claims with the following docket numbers: 133–A, 133–B, 133–C, 302, and 338.

SEC. 19. APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

The activities of the Department of the Interior associated with the Department's consultation with Indian tribes organizations related to the management of funds held in trust by the United States for Indian tribes shall be exempt from the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 20. POKAGON POTAWATOMI MEMBERSHIP LIST.

The Act entitled "An Act to restore Federal services to the Pokagon Band of Potawatomi Indians", approved September 21, 1994 (Public Law 103–323) is amended—

(1) by redesignating section 9 as section 10; and

(2) by inserting after section 8 the following new section:

"SEC. 9. MEMBERSHIP LIST.

"(a) LIST OF MEMBERS AS OF SEPTEMBER 1994.—Not later than 120 days after the date of enactment of this Act, the Bands shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the respective Bands.

"(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Bands shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Bands. Each such Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

"(2) PUBLICATION OF NOTICE.—At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls.

"(3) MAINTENANCE OF ROLLS.—The Bands shall ensure that the rolls are maintained and kept current.".

SEC. 21. ODAWA AND OTTAWA MEMBERSHIP LISTS.

The Little Traverse Bay Bands of Odawa and the Little River Band of Ottawa Indians Act (Public Law 103–324) is amended by adding at the end the following new section:

"SEC. 9. MEMBERSHIP LIST.

"(a) LIST OF PRESENT MEMBERSHIP.—Not later than 120 days after the date of enactment of this Act, the Band shall submit to the Secretary a list of all individuals who, as of September 21, 1994, were members of the Band.

"(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

"(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Band shall submit to the Secretary membership rolls that contain the names of all individuals eligible for membership in such Band. The Band, in consultation with the Secretary, shall determine whether an individual is eligible for membership in the Band on the basis of provisions in the governing documents of the Band that determine the qualifications for inclusion in the membership roll of the Band.

"(2) PUBLICATION OF NOTICE.—At such time as the rolls have been submitted to the Secretary, the Secretary shall immediately publish in the Federal Register a notice of such rolls.

"(3) MAINTENANCE OF ROLLS.—The Band shall ensure that the rolls are maintained and kept current.".

SEC. 22. INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) IN GENERAL.—The Indian Self-Determination Act is amended—

(1) in section 107(b)(2) (25 U.S.C. 450k(b)(2)), by striking "Committee on Interior and Insular Affairs" and inserting "Committee on Natural Resources";

(2) in section 301 (25 U.S.C. 450f note), by striking "eight" and inserting "18"; and

(3) in section 302(a) (25 U.S.C. 450f note), by striking "The Secretaries" and inserting "For each fiscal year, the Secretaries".

(b) ADVISORY COMMITTEES.—The Indian Self-Determination and Education Assistance Act Amendments of 1990 (title II of Public Law 101–644) is amended by adding at the end the following new section:

"SEC. 204. TRIBAL AND FEDERAL ADVISORY COMMITTEES.

"Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund advisory committees or other advisory bodies composed of members of Indian tribes or members of Indian tribes and representatives of the Federal Government to ensure tribal participation in the implementation of the Indian Self–Determination and Education Assistance Act (Public Law 93–638).".

SEC. 23. CROW BOUNDARY SETTLEMENT.

Section 6(c) of the Crow Boundary Settlement Act of 1994 is amended to read as follows:

"(c) INVESTMENT.—At the request of the Secretary, the Secretary of the Treasury shall invest all sums deposited into, accruing to, and remaining in, the Crow Tribal Trust Fund in accordance with the first section of the Act of February 12, 1929 (45 Stat. 1164, chapter 178, 25 U.S.C. 161a).".

Mr. RICHARDSON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New Mexico?

Mr. THOMAS of Wyoming. Mr. Speaker, reserving the right to object, I yield to the gentleman from New Mexico [Mr. RICHARDSON] to explain the bill.

Mr. RICHARDSON. Mr. Speaker, H.R. 4709 makes technical changes to several different laws.

The bill provides for the leasing authority for the Indian Pueblo Development Corporation; adds 240 acres to the Grand Ronde Reservation in Oregon pursuant to an agreement with the Interior Department; it adds land to the Siletz Reservation in Oregon; and it provides for a land transfer for the building of a school on the Northern Cheyenne Reservation.

Mr. Speaker, this bill was packaged so that we would not have to do 15 little bills. Suffice it to say that this bill, which contains leasing authorities, land transfers and other minor matters, is important to several tribes across the country including the Ysleta del Sur Pueblo of Texas, the Viejas Reservation in California, the Wind River Reservation in Wyoming, the Gila River Indian Community in Arizona, the Sac and Fox Nation of Oklahoma, the San Carlos Apache Tribe of Arizona, and the Devil's Lake Sioux Tribe of North Dakota. It also makes minor technical changes to the Indian Agriculture Act and other laws affecting Native Americans.

Mr. Speaker, the bill is supported by many Members of the House. The bill includes many amendments provided to the committee by the administration. The other body has added some amendments which I support.

I urge my colleagues to support this bill.

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Mr. THOMAS of Wyoming. Mr. Speaker, continuing my reservation of objection, if I may, I wish to enter into a colloquy with the gentleman from New Mexico [Mr. RICHARDSON].

Mr. Speaker, continuing my reservation of objection, I would like to discuss with the gentleman the Frank's Landing provision.

Mr. Speaker, I would say to the gentleman, it is my understanding that the language in the bill regarding Frank's Landing does not create a federally recognized Indian tribe, does not give the group the right to have gaming, does not give the group the right to tax or license businesses and does not give it other self-governing powers reserved only to federally recognized tribes.

Mr. RICHARDSON. Mr. Speaker, if the gentleman will yield, the gentleman is correct. The language regarding Frank's Landing does not confer the powers reserved to federally recognized Indian tribes upon this community. The language reflects the status quo as far as jurisdictional matters. The group cannot have a court, cannot assert civil regulatory authority, and cannot exercise the powers of a sovereign. It cannot get class II or class III gaming because it is not a federally recognized tribe. The group was authorized in the 100th Congress to enter into self-determination contracts. That is the full extent of their powers.

Mr. THOMAS of Wyoming. Mr. Speaker, continuing my reservation of objection, I agree with the chairman of the Subcommittee on Native American Affairs that this bill simply clarifies existing rights and does not confer any other powers on the community at Frank's Landing.

Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New Mexico?

There was no objection.

A motion to reconsider was laid on the table.

INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that the Committee on Natural Resources be discharged from further consideration of the bill (H.R. 4842) to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes, and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

Mr. THOMAS of Wyoming. Mr. Speaker, reserving the right to object, I yield to the gentleman from New Mexico [Mr. RICHARDSON] to explain the bill.

Mr. RICHARDSON. Mr. Speaker, title I of H.R. 4842 will allow Indian tribes to more easily exercise their right to enter into self-determination contracts with several agencies. The measure provides for a model contract which tribes in the United States can follow, and creates a procedure for expeditious rulemaking in a limited number of areas.

Mr. Speaker, the bill has been negotiated with and reflects the concerns of the tribes, the departments, and other committees. Both titles are supported by the administration and continue the avowed Federal policy of self-determination. I urge my colleagues to support it.

The following outlines the Indian Self-Determination Act Amendments of 1994:

PURPOSE

The purpose of Title I of H.R. 4842 is to limit the promulgation of regulations under the Indian Self-Determination and Education Assistance Act, and to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes.

The purpose of Title II of H.R. 4842 is to amend the Indian Self-Determination and Education Assistance Act to permanently establish Tribal Self-Governance in the Department of the Interior.

BACKGROUND

TITLE I. THE INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

The Indian Self-Determination and Education Assistance Act was signed into law in 1975 in order to maximize tribal participation in the planning and administration of federal services and programs, as well as to reduce the federal bureaucracy within those Indian programs. The policy of self-determination has proven to be very successful in terms of promoting tribal operation of federal programs and services administered by the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS).

The policy of self-determination has it origins in President Nixon's 1970 "Special Message to the Congress on Indian Affairs" which stated:

For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make that decision.

This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency.

Today, approximately $531 million of the funds appropriated to the BIA are administered by tribal governments or organizations under self-determination contracts. There are over 400 contracts between Indian tribes and the IHS involving approximately $497 million. Indian tribes contract with the IHS for the operation of 8 fully-accredited hospitals, 347 health centers and 70 service units.

Despite passage of the Act, tribal attempts to assume the operation of federal programs were hindered by an increased federal bureaucracy as well as restrictive and unnecessary contracting regulations. In fact, so many layers of bureaucracy and rules had been imposed that the contract approval process required an average of 6 months rather than the 60 days mandated by the Act.

In response, Congress amended the Indian Self-Determination Act in 1988 in order to remove these barriers to contracting. The 1988 Amendments required the Bureau of Indian Affairs and the Indian Health Service to develop new regulations with the participation of Indian tribes by October of 1989. Congress made clear that these amendments should be simple, straightforward, and short.

The 1988 amendments were intended to increase tribal participation through contracting in the management of federal Indian programs and to help ensure long-term financial stability for tribally-operated programs. The 1988 amendments also required the Securities of the Departments of the Interior and Health and Human Services to consider and formulate appropriate regulations with the participation of the Indian tribes. It was intended for the Departments to then issue joint regulations in order to avoid the unnecessary paperwork and confusion that two sets of regulations would entail.

Six years after passage of the 1988 Amendments, the Departments have yet to promulgate regulations. Despite two productive negotiating sessions between tribes and the Departments that resulted in the negotiation of draft regulations, the Departments in both instances rejected those negotiated drafts. The regulatory process has cost the tribes hundreds of thousands of dollars, and has led to great confusion within Indian Country and among the federal agencies.

On January 20, 1994, the Departments finally published the proposed joint set of regulations. The set of regulations which emerged, however, was not the simple vehicle that Congress had intended. Rather, the proposed regulations contain hundreds of new requirements. In fact, it is apparent that the new regulations are more complicated and restrictive than existing regulations and raise new obstacles and burdens for Indian tribes seeking to exercise the right of self-determination. Should the regulatory process continue on its present course, it is very likely to last an additional two to three years.

An overwhelming number of tribes throughout the country have denounced the proposed regulations. In May of this year, tribes attending a national conference with the Departments on the proposed regulations unanimously called for legislation that would supplant the regulatory process. The Committee has received numerous phone calls and letters from tribes regarding H.R. 4842. Every single such communication has been in strong support of H.R. 4842 and has requested its swift passage.

TITLE II. SELF-GOVERNANCE

In 1987, the Congress considered, as part of the amendments to P.L. 93-638, the Indian Self-Determination Act, the establishment of the Tribal Self-Governance Demonstration Project. The Tribal Self-Governance Project was authorized by Congress under Title III of P.L. 100-472. Under the Tribal Self-Governance Project, Indian tribes could enter into annual funding agreements with the Secretary of the Interior. These agreements authorized Indian tribes to plan, consolidate, and administer programs, services, and functions administered by the Bureau of Indian Affairs. It also authorized Indian tribes to redesign programs, functions, and services and to reallocate funds to carry out these activities. The Tribal Self-Governance Project provides Indian tribes with the flexibility to develop programs and to establish funding priorities to meet their specific needs.

In the annual funding agreements, Indian tribes are allocated funds from the agency, area, and central office accounts of the Bureau of Indian Affairs. The amount available under a funding agreement is determined on the basis of what the tribe would have received in funds and services in the absence of the agreement. In negotiating self-governance compacts, an Indian tribe may negotiate for all or part of the programs, services, functions, and other activities as well as any direct or indirect program costs incurred by the Secretary in delivering services to the Indian tribe and its members. Specifically exempted from the Self-Governance Project are funds from the Tribally Controlled Community College Assistance Act, the Indian School Equalization Formula, and the Flathead Irrigation Project.

Since 1988, twenty-eight Indian tribes have entered into Self-Governance compacts with the Department of the Interior. After the Self-Governance Project was expanded to include the programs of the Indian Health Service in 1992, fourteen Indian tribes have entered into compacts with the Secretary of Health and Human Services. Despite initial delays and setbacks in both the Department of the Interior and the Indian Health Service, the Committee has been encouraged by the demonstrated success of the Tribal Self-Governance Project. The Committee has concluded that due to the success of tribal self-governance, it is appropriate to make Tribal Self-Governance a permanent program within the Department of the Interior. The Committee will continue to monitor the progress made in implementing tribal self-governance within the Indian Health Service and after an appropriate period of time will make tribal self-governance a permanent program in the Indian Health Service.

The Committee is very concerned about reports from many of the Self-Governance tribes that officials of the Indian Health Service have refused to negotiate for the transfer of central office funds and have exhibited an overall resistance to tribal efforts to redesign programs and reallocate resources and personnel under the authority of Tribal Self-Governance. This resistance is due in large part to the misapprehension that Tribal Self-Governance is a temporary project. Tribal Self-Governance, as reflected in this legislation, will be a permanent program and it is the Committee's intent to expand Tribal Self-Governance to include each Department of the Federal government. Therefore, the Committee directs the Indian Health Service to begin to plan for and implement changes that will result in reductions in the Federal bureaucracy which correspond to the transfer of program funds, resources, and responsibilities to Self-Governance tribes. All Federal savings derived from these reductions should be transferred to the appropriate Indian tribe pursuant to the Tribal Self-Governance agreements.

Tribal Self-Governance is grounded upon the unique relationship between the Federal government and each Indian tribe. While there has been some progress made under the Indian Self-Determination Act, the Federal bureaucracy continues to erode tribal self-governance and dominate tribal affairs. The Tribal Self-Governance Demonstration Project has redefined the relationship between Indian tribes and the Federal government by placing control over Federal funding and program management in the hands of Indian tribes. Self-Governance promises an orderly transition from the Federal domination of programs and services benefitting Indian tribes to tribal authority and control over those programs and services. While tribal control over programs and services is enhanced under the Tribal Self-Governance process, there should be a corresponding reduction in the Federal bureaucracy. These agreements have streamlined management processes and removed layer upon layer of bureaucratic regulation and control. Tribal Self-Governance has encouraged experimentation and flexibility at both the tribal and Federal level. Tribal Self-Governance is premised upon bilateral, negotiated agreements between the Secretary and the Indian tribes which detail the transfer of programmatic responsibilities and the associated funds to Indian tribes. Tribal Self-Governance agreements are in part, a reflection of the treaties negotiated between Indian tribes and the Federal government. Like the earlier treaties, the Self-Governance agreements reflect bilateral, consensual negotiations which define the relationship between two sovereigns. The Committee intends Tribal Self-Governance to continue to develop as a major policy initiative and a blueprint for future Federal-tribal relations.

THE INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

TITLE I. THE INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

On July 27, 1994, Congressmen Richardson and Thomas (of Wyoming) introduced H.R. 4842, the Indian Self-Determination Act Amendments of 1994. As introduced, the Indian Self-Determination Act Amendments of 1994, amended Title I of the Indian Self-Determination and Education Assistance Act by limiting the Departments of the Interior and Health and Human Services by limiting the Departments' rulemaking authority and by establishing a model contract. The model contract would govern the terms under which Indian tribes and tribal organizations could assume the operation and management of federal programs and functions benefitting Indians that are operated within the Department of the Interior and the Department of Health and Human Services, including programs and functions of the Bureau of Indian Affairs and the Indian Health Service. H.R. 4842 would greatly simplify the contracting process, as the 1988 Amendments were originally intended to do. H.R. 4842 would also greatly reduce the unnecessary regulations, paperwork, cost and layers of federal bureaucracy that have prevented tribes from fully exercising the right to enter into self-determination contracts.

TITLE II. THE TRIBAL SELF-GOVERNANCE ACT OF 1994

On November 15, 1993, Congressman Richardson introduced H.R. 3508, the Tribal Self-Governance Act of 1993. H.R. 3508 amends the Indian Self-Determination and Education Assistance Act by creating a new Title IV to the Act. Under this new title, the Secretary is directed to establish the Tribal Self-Governance program within the Department of the Interior. The bill permanently establishes Tribal Self-Governance with the Department of the Interior. The bill would transfer Indian tribes participating in Self-Governance under Title III into the program established under Title IV. Title IV would govern all existing and future Self-Governance agreements with the Department of the Interior. While agreements with the Department of the Interior would no longer be governed by Title III, the existing and future agreements with the Indian Health Service will continue to be governed by Title III. The legislation authorizes the Secretary to select up to 20 new tribes per year to participate in Tribal Self-Governance. Any Indian tribe participating in a Self-Governance agreement may, at its discretion, elect to cease participation through exercise of their retrocession authorities or to refuse to renegotiate or renew an annual funding agreement.

The Bill also requires each applicant to complete the planning phase in order to be eligible to participate in Tribal Self-Governance. The bill provides that the Secretary shall negotiate annual funding agreements with each Indian tribe. These agreements authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities of the Department of the Interior that are otherwise available to Indian tribes or Indians. Pursuant to the terms of the agreement and at the request of the tribe, the Secretary shall provide funds to carry out the agreement in an amount equal to the amount that the Indian tribe would have been eligible for under Self-Determination Act contracts and grants. The bill also provides that the Secretary shall interpret each Federal law in a manner that will facilitate inclusion of programs or activities under the agreement. The bill also includes provisions which authorize the Secretary to receive application of a Federal regulations with regard to self-governance agreement. The Secretary is required to submit a report to the Congress on January 1st of each year which shall contain the relative cost and benefits of self-governance all funds functionally related to services and benefits under Self-Governance and the corresponding reduction in the Federal bureaucracy. The bill also authorizes the Secretary to initiate negotiated rulemaking procedures for the development of regulations under the Act.

The Subcommittee held a hearing on H.R. 3508 on February 25, 1994 at which time the Subcommittee took testimony from the Department of the Interior and several representatives of Indian tribes. The Department of Interior expressed general support for Tribal Self-Governance and requested that the Subcommittee staff work with the Department on amendments to the bill. The overwhelming majority of tribal witnesses supported the bill and the general concept of Tribal Self-Governance. Most of the witnesses were participants in the Self-Governance Demonstration Project and found the project to have had a positive impact on their tribal governments. An exception to the general approval of the tribal witnesses was provided by a representative of the allottees from the Quinault Indian reservation. The allottee witness was opposed to Tribal Self-Governance because he asserted that Tribal Self-Governance interfered with the trust responsibility which exists between an individual allottee and the Federal government. The witness contended that Tribal Self-Governance usurped the relationship between the allottee and his Federal trustee. The Committee notes that in the Committee Amendment the rights of individual allottees are upheld, and it is the Committee's intent that the trust responsibility between the United States and an individual allottee will continue after enactment of this measure. The Committee notes that the concept of Tribal Self-Governance was endorsed by all the tribal witnesses at the hearing except for the witness representing the allottees.

COMMITTEE AMENDMENT

The Committee Amendment in the nature of a substitute makes numerous modifications to H.R. 4842 as introduced. The Committee Amendment places the provisions regarding self-determination contracts into Title I and adds a new Title II which incorporates provisions of H.R. 3508, the Tribal Self-Governance Act of 1994.

TITLE I. THE INDIAN SELF-DETERMINATION CONTRACT REFORM ACT OF 1994

The Committee Amendment reflects changes made to accommodate the concerns of the Indian tribes, the Departments of the Interior and Health and Human Services, and the Committees on Merchant Marines and Fisheries and Education and Labor. A description of certain key changes follows.

In section 102(1), the Amendment deletes architectural and engineering services from the category of programs not covered by the Federal Acquisition Regulations that are applicable to construction contracts.

In section 102(6), the Amendment enlarges the declination timeframe from 60 days to 90 days. The Amendment also requires the Secretary to provide written notice to the contractor that sets forth a specific finding that clearly demonstrates the proposal falls within five enumerated declination criteria. The Committee adopted the "clearly demonstrates" standard for the Secretary's finding as an intermediate standard that is higher than a standard requiring the Secretary to support his or her finding by a preponderance of the evidence, but lower than a standard requiring the Secretary to support his or her finding by clear and convincing evidence. The Amendment also deletes references to "tribal organization" in declination criteria A and B and makes clear that funding and contractibility are separate declination criteria. The Amendment also deletes the proposed amendment to the "satisfactory services" standard of existing law. The Amendment also adds a new paragraph requiring the contractor to include program standards when submitting a contract proposal.

In section 102(9), the Amendment replaces the Secretary's "clear and convincing" burden of proof for sustaining for declination appeals with a standard requiring the Secretary to "establish by clearly demonstrating" the validity of his or her grounds for declining a contract proposal. The Committee adopted the "clearly demonstrating" burden of proof standard as an intermediate standard which is higher than a standard requiring the Secretary to support his or her decision by a preponderance of the evidence, but lower than a standard requiring the Secretary to support his or her decision by clear and convincing evidence. The Amendment deletes the requirement that a declination finding include a technical assistance finding. The Amendment also eliminates the Alaska tribal organization redelegation authority.

In section 102(10), the Amendment requires that program standards be included in contract proposals and in final contracts so that the Departments can evaluate those standards in light of the declination criteria. The Amendment also deletes the exemption from the Work Hours Act of 1962.

In section 102(11), the Amendment limits the authority of a tribal organization that is itself not a tribe to retrocede a program back to the government to instances where the authority has been previously delegated to the tribal organization by a tribe.

In section 102(12), the Amendment eliminates the limitation on return of property to the federal government which would have permitted such return only in instances where the property remained in use in support of the contracted program. The Amendment also makes clear that property vesting in the tribe or tribal organization remain eligible for replacement on the same basis as if title to such property were in the United States.

In section 102(13), the Amendment deletes virtually all of the divisibility section, leaving in place existing law, while adding in a new explicit protection for non-contracting tribes. The Amendment limits tribal authority to redesign non-construction contracts and prohibits any redesign that would be contrary to statute. The Amendment also clarifies that certain sections of Title I do not apply to construction contracts, including the model contract and the reassumption section.

In section 102(14), the Amendment adds language to assure against any inadvertent double payment of contract support costs duplicative of the Secretarial amount already included in the contract. The Committee wishes to make clear that by adding a new paragraph (3), the Congress is not creating a third funding category in addition to direct and contract support costs.

In section 102(15), the Amendment changes the reporting deadlines from March 15 to May 15, to provide the Departments adequate time to include reports relating to calendar year contracts within the supplemental appropriations cycle.

In section 102(17), the Amendment changes the word "allocate" to "add."

In section 102(19), the Amendment revises the suspension of contract funds to permit the Secretary to suspend funds upon a determination that the contractor has failed to substantially carry out the contract. The Amendment reflects the Committee's intent that the Secretary follow the reassumption procedures, but not criteria. The Amendment also requires the Secretary to "establish by clearly demonstrating" the validity of his or her grounds for suspending payments of contract funds. The Committee adopted the "clearly demonstrating" burden of proof standard as an intermediate standard which is higher than a standard requiring the Secretary to support his or her decision by a preponderance of the evidence, but lower than a standard requiring the Secretary to support his or her decision by clear and convincing evidence. The Amendment rewrites the savings provision so that savings equally benefit both contracted and non-contracted parts of the Secretary's programs.

In section 103 of the bill, the Amendment deletes the paragraph relating to tribal forums. The Amendment requires that the contract set forth the program standards applicable to the contracted programs. The Amendment revises the "limitation of cost" clause to comport with limitation of cost clauses currently used in self-determination contracts. The Amendment enlarges the Secretary's monitoring rights, and is not intended to restrict the Secretary's right to make trust-related monitoring visits. The Amendment clarifies that the funding amount specified in the annual funding agreement is tied to the funding amount required to be paid under section 106(a) of the Act.

In section 104 of the bill, the Amendment adds a new basis for reassumption relating to the endangerment of trust resources. The Amendment provides for partial reassumption. The Amendment also replaces the Secretary's "clear and convincing" burden of proof for sustaining on appeal the grounds for reassumption with a standard requiring the Secretary to "establish by clearly demonstrating" the validity of his or her grounds for reassuming a contract. The Committee adopted the "clearly demonstrating" burden of proof standard as an intermediate standard which is higher than a standard requiring the Secretary to support his or her decision by a preponderance of the evidence, but lower than a standard requiring the Secretary to support his or her decision by clear and convincing evidence.

In section 105 of the bill, the Amendment adds 11 additional topic areas with respect to which Congress delegates its legislative rulemaking authority to the Departments. The Amendment extends from 12 to 18 months the period for rulemaking. The Amendment adds an explicit regulatory repeal authority. The Amendment also substantially rewrites the waiver and exception provisions to make clear that the declination procedures, but not the declination criteria, apply to waiver requests.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 provides that the Act may be cited as the "Indian Self-Determination Act Amendments of 1994".

SECTION 101. SHORT TITLE

Section 101 provides that Title I may be cited as the "Indian Self-Determination Contract Reform Act of 1994."

SECTION 102. GENERAL AMENDMENTS

Section 102(1) amends the definitions section of the Act by changing the term "indirect costs rate" to "indirect cost rate" in order to comport with other provisions of the Act. Section 2(a) adds a new subsection (m) at the end of section 4. This new subsection provides a definition for the term "construction contract," a term which is presently used but not defined in the statute. The term excludes contracts for planning services and construction management services, programs administered under the Bureau of Indian Affairs' Housing Improvement Program and roads maintenance program, and the health facility and maintenance program administered by the Secretary of Health and Human Services. As the term is later used in the statute, the amendment will assure that the federal acquisition regulations are not applied to contracts which do not involve classic construction activities. The amendment clarifies that the BIA roads program is not to be considered a construction activity for purposes of the Act and the application of federal procurement laws.

Section 102(2) conforms portions of section 5(f) of the Act with the 1988 Amendments, and also clarifies and reinforces that intent of Congress to minimize the reporting requirements applicable to tribal contractors. One of the primary goals of the 1988 amendments was to eliminate excessive and burdensome reporting requirements. The amendment is designed to compel the Departments to substantially cut back on the amount of reporting now required from tribal contractors. The amendment provides that reporting requirements over and above the annual audit report are to be negotiated, with disagreements evaluated under the declination procedures of Section 102 of the Act.

Section 102(3) corrects a typographical error in section 7(a) of the Act, and also conforms the statute with the long-accepted Labor Department interpretation exempting tribal employees from the Davis-Bacon Act. The amendment makes a technical correction referring to multi-tribal organizations.

Section 102(4) amends section 7 of the statute to add a new subsection (c) to recognize tribal laws addressing employment preferences. Presently, tribal governments are unable to reconcile the terms of tribal employment rights ordinances (TERO) (which generally provide for tribal preferences in employment for tribal members) with section 7(b) of the Act (which establishes a general Indian preference). Presently, the Bureau of Indian Affairs and the Indian Health Service disagree on the applicability of tribal TERO ordinances to employment under a self-determination contract. The new amendment will remove the source of conflict by endorsing tribal TERO ordinances where they are in place. The amendment makes a technical grammatical change.

Section 102(5) amends section 102(a)(1) to reinforce the congressional intent that all programs and functions of the Secretary are contractible without regard to the level within the Department in which a program or a portion of the program is administered. The Secretary may not lawfully refuse to enter into a contract on the ground that the resources supporting the program are situated at an Area Office or other administrative location rather than in the field. It is complementary to the amendment to section 106(a)(1) addressed in section 102(14).

Section 102(6) addresses section 102(a) of the Act. The rewritten section reinforces the existing limitations on the Secretary when evaluating the merits of a contract proposal (although the current law appears unambiguous, the amendment would remove any potential doubt regarding the scope of the Secretary's review); makes explicit that the protections of the declination appeals process apply to proposals to amend or renew a self-determination contract, and not merely to initial contracting proposals; when declining a contract proposal, requires specific and written findings that clearly demonstrate the applicability of the declination criteria or are supported by controlling legal authority; refines the grounds for declining a contract proposal; makes clear that when a contract proposal involves the management of trust resources, the Secretary is to confine his examination to the trust resources directly involved in the contract proposed by the tribal organization; establishes a 90 day deadline by which the Secretary must either award the contract or make declination findings; and clarifies that the Secretary's determinations regarding whether a contract proposal is authorized by the Act (the issue known as "contractibility"), and regarding contract funding levels are issues which must be assessed as part of the declination contract review approval and appeal process set forth in section 102(a)(2) of the Act (that is, these issues may not be identified as part of some "threshold" assessment, nor in any other way that would escape the critical procedural protections available under section 102).

In addition, section 102(6) requires the contractor to include in its contract proposal the standards under which the contractor will operate the contracted program; and adds a new subsection 102(a)(4) to correct the prevailing departmental misinterpretation that a contract proposal must either be approved in its entirety or declined in its entirety. As originally intended, and as clarified by the amendment, the Secretary is to approve any severable and approvable portion of a contract proposal. The only condition on award of the contract is that the Secretary and the tribal organization must agree on any alteration in the proposed contract scope of work necessitated by the partial declination of the original proposal. The Secretary remains free to decline that portion of the contract which he determines should not be approved, and the tribal organization is free to appeal that determination as provided in the Act.

Section 102(7) of the bill has been added by the Committee to conform with the Committee's amendment to section 110(a) of the Act, assuring tribal access to immediate federal court review of decisions to decline a contract proposal, in lieu of first pursuing an administrative appeal process. The Committee notes that it is likely that the majority of appeals will remain administrative in nature, rather than judicial, because attorneys fees are recoverable for administrative appeals but not judicial appeals under the Equal Access to Justice Act. The Committee amendments also assures that traditional discovery procedures such as document production and depositions are available in declination administrative appeals.

Section 102(8) of the bill conforms liability protections under the Act with those that will be applicable to the Secretary under Title II of the Department of the Interior and Related Agencies 1995 Appropriations Act.

Section 102(9) amends section 102 to add new subsections (e) and (f). The addition of subsection (e) makes clear that the Secretary has the burden of proof to establish by clearly demonstrating that all of part of a contract proposal should be declined. The Committee adopted the "clearly demonstrating" standard, in the declination, suspension, and reassumption provisions of the Act, as an intermediate standard between the higher civil standard of "clear and convincing evidence" that was originally proposed, and the lower civil standard of "the preponderance of the evidence" which the Departments proposed. The amendment also removes the potential for a very real conflict of interest in resolving appeals, by requiring that appeals be decided at a level higher than the agency making the original decision or by an administrative law judge. For instance, appeals of IHS declinations would have to be finally resolved at a level no lower than the Assistant Secretary of Health or by an administrative law judge.

Section 102(10) amends section 105(a) of the Act to address both a technical and a substantive problem. The technical problem is that the 1988 Amendments overlooked the need to conform the 1975 language with the 1988 Amendments. As a substantive matter, the 1988 Amendments have been misconstrued as requiring that the full panoply of federal acquisition regulations must apply to construction contracts, despite the congressional intent in 1988 to minimize the application of federal acquisition regulations (FAR) to construction contracting activities. The amendment clarifies that the federal acquisition regulations are only to be applied to the limited extent that doing so is necessary to ensure that the contract may be carried out in a satisfactory manner, is directly related to the contraction activity, and is not inconsistent with the underlying purpose of the Self-Determination Act. The Committee wishes to underscore that Congress does not intend for the Departments to treat any Self-Determination Act contracts as ordinary federal contracts. They are not. Rather, Self-Determination Act contracts should be guided by the principle that Indian tribes are sovereign nations, contracts entered into with Indian tribes are done so on a government-to-government basis, and should be free of all unnecessary federal administrative oversight. The Committee amendment also narrows the scope of acquisition regulations and similar requirements which may be unilaterally imposed on tribal contractors.

Section 102(11) amends section 105(e) to clarify that a tribe may rescind a retrocession request and a retroceding tribe cannot be compelled to operate a contract beyond the contract termination date set forth in the contract, since no contract with the government under the Act can be unilaterally extended in time without the consent of the tribal organization. The amendment also makes clear that tribal organizations that have secured prior authorization from Indian tribes may also retrocede a contract.

Section 102(12) amends section 105(f)(2) to address both the acquisition of property with contract funds after a contract has been awarded and also the management of government-furnished property. Currently, standard grant regulations provide that title to property purchased with grant funds vests in the grantee. The amendment extends the same policy to property purchased with self-determination contract funds. The policy reasons underlying the Self-Determination Act strongly counsel in favor of such a regime, and the amendment eliminates the need for a technical "donation" of the property in such circumstances. At the same time, the amendment provides a mechanism for the return of property still in use to the Secretary, in the event a contracting program is retroceded back to the federal government. Finally, in conjunction with Paragraph 1(b)(7) of the model contract set forth in section 3 of the bill, the amendment assures that, although title to such property will vest in the tribe or tribal organization, the Secretary is to treat such property in the same manner for purposes of replacement as he or she would have had title to the property vested in the government.

Section 102(13) adds six new subsections to section 105 of the Act. New subsection (i) addresses the impact of dividing programs which serve many tribes in order to allow one or more tribes to contract for the operation of a portion of such programs. The amendment clarifies that the Secretary may take such action as necessary to ensure the tribes not served by the contract will are not reduced.

New subsection 105(j) clarifies that tribal organizations are authorized to propose a redesign of their programs to best meet their local needs. The amendment is consistent with the approach taken in Title III of the Self-Determination Act, as well as the original premise underlying the 1975 Act, and has been necessitated by the continuing efforts by the Department of the Interior and the Department of Health and Human Services to impose upon tribes program requirements, including reporting requirements and program standards, which in many instances compel tribal organizations to virtually duplicate the federal government's programs. Such duplication of programs undermines the statute's fundamental purpose of vesting in tribal governments greater authority and self-determination over how Indian programs are administered under contract. If the Secretary challenges a tribal organization's redesign proposal, such challenge must be within the criteria and framework of the declination process set forth in section 102 of the Act.

New subsection 105(k) cures a technical problem which has deprived tribal organizations of the ability to take advantage of the same federal airfares and lodging rates which apply when Indian programs are administered by federal employees. This unintended consequence has substantially increased the cost of administering programs subject to the Act, and effectively treats self-determination contracts as if they were ordinary government procurement contracts, ignoring the government-to-government relationship upon which the Act is based. The amendment corrects the problem and allows tribal organizations and their employees the same access as federal agencies to rates for air travel and similar sources of supply which are regularly negotiated by the General Services Administration.

New subsection 105(l) overcomes existing impediments to the leasing of facilities owned by Indian tribes and tribal organizations and which are used in the operation of programs contracted under the Act.

New subsection 105(m) provides clear guidance to the Secretary and to Indian tribes on the special procedures applicable to construction contracts. The amendments make clear that such contracts are not to be treated as ordinary procurement contracts but rather as government-to-government agreements entered into pursuant to the self-determination policy that is the foundation of the Act. Thus, construction contracts are subject to all provisions of the Act except sections 102(a)(2) (declination procedures), 106(l) (suspension of payments), 108 (the model contract), and 109 (reassumption procedures). The amendment requires the Secretary to provide important information to tribal contractors regarding construction projects, call for a pre-negotiation phase, allows for reasonable costs, and provides a mechanism for resolution of situations where the Secretary and the tribal organization cannot develop a mutually agreeable construction contract proposal.

New subsection 105(n) makes uniform existing policies governing government quarters which house federal and tribal employees carrying out contracts under the Act. Existing policies prohibit subsidy in rural Alaska, with the short-fall covered by program funds instead of rents. The 1,500 population standard currently applies to all states other than Alaska. Subsection(n) extends the same standard to Alaska. In this way, rents for rural quarters will not be fixed according to the less expensive Anchorage and Fairbanks markets.

Section 102(14) amends section 106(a) of the Act in several respects. The amendment to section 106(a)(1) provides that the Secretary may not withhold monies which fund a program simply because the monies are allocated for expenditure at a departmental level higher or other than the field office, service unit or agency level. The Committee amendment changes the format of this subsection.

The amendments to sections 106(a)(2) and (3) more fully define the meaning of the term "contract support costs" as presently used in the Act, defining it to include both funds required for administrative and other overhead expenses and "direct" type expenses of program operation. In the event the Secretarial amount under section 106(a)(1) for a particular function proves to be insufficient in light of a contractor's needs for prudent management of the contract, contract support costs are to be available to supplement such sums. The amendment also mandates the negotiation of such funding needs with the Secretary, including the optional periodic renegotiation of such funding needs as circumstances may warrant. The amendment does not alter the process employed by many tribal contractors for negotiating indirect cost agreements with the appropriate cognizant agency for purposes of cost-recovery accounting under the Act.

Throughout this section the Committee's objective has been to assure that there is no diminution in program resources when programs, services, functions or activities are transferred to tribal operation. In the absence of section 106(a)(2), as amended, a tribe would be compelled to divert program funds to prudently manage the contract, a result Congress has consistently sought to avoid.

New subsection 106(a)(4) makes clear that savings in funds obligated to construction cost-reimbursement contracts do not go back to the Government, but instead are to remain with the tribal contractor and subject to the Act's provisions regarding "savings."

The addition of new subsections (5) and (6) to section 106(a) clarify that the costs incurred in preparing for entering into a contract are to be made available as part of the contract support costs payable under section 106(a)(2) of the Act, including start-up costs incurred on a one-time basis and costs incurred prior to award of the contract, provided the Secretary has been notified in writing and in advance of the nature and extent of such costs.

Section 102(15) amends the reporting requirements of section 106(c) of the Act. The amendment moves the reporting deadline back from March 15 to May 15. The amendment to section 106(c)(1) adds existing contract support cost expenditures to the information required to be reported to Congress. The amendment to section 106(c)(2) makes clear that the Secretaries are required to report to Congress on all deficiencies regarding contract support costs. With this information Congress can then make an informed decision regarding whether to appropriate funds to address such deficiencies.

The addition of a new subsection (6) to section 106(c) is designed to deal with the tangential adverse impacts which contracting activities may produce on other portions of the Secretary's programs. In the event contracting activities, in fact, lead directly to a lower level of services being provided by the Secretary to any tribes affected by contracting activities, the new language will provide a mechanism for the Secretary to report the resulting funding needs to Congress.

Section 102(16) defines when the 365 day statute of limitation begins to run under section 106(f) of the Act.

Section 102(17) amends section 106(g) to clarify how contracts are to be funded under the Act pursuant to section 106(a).

Section 102(18) amends section 106(i) to strengthen and clarify the Secretaries' existing duty to consult with Indian tribes in the formulation of annual budget requests.

Section 102(19), as amended by the Committee, adds seven new subsections to section 106 of the Act.

Subsections (j) and (k) address the cost principles applicable to self-determination contracts. The purpose of these amendments is to remove those provisions of presently-applicable circulars which impede, rather than foster, the administration of self-determination contracts. While these improvements have been made in "self-governance compacts" entered into under Title III of the Act, the Departments have resisted extending these innovations to self-determination contracting. The Committee amendment corrects a typographical error in subsection (k)(1), and (as in Title III compacts) also adds as an allowable cost the cost of managing pension funds, self-insurance funds and like funds containing federal funds originally awarded under a self-determination contract.

Subsection (l) permits the Secretary to suspend, delay or withhold payments under a contract upon following the same procedures, but not criteria, generally applicable to reassumption. This subsection, which formerly prohibited suspension of payments, was revised in order to accommodate Departmental concerns that such a prohibition might encourage reassumption actions. The Amendment would authorize suspension in cases where the contractor has failed to substantially carry out the contract. In any hearing or appeal, the Secretary has the burden of proof to establish by clearly demonstrating the validity of the grounds for payment suspension.

Subsection (m) codifies the current policy and practice regarding program income earned by a tribal organization during the course of administering a contract (such as third party income paid by insurance companies insuring persons served by a tribal organization's health program).

Subsection (n) requires that the Secretary pass on to tribes the benefit of the reduced administrative burden, in the form of savings, resulting from the transfer of programs services, functions and activities from Secretarial administration to tribal administration. As observed in 1988, Congress' goal of shifting resources to tribal operation has continually been frustrated by the enormous growth in the government's contract monitoring and contract administration bureaucracy. The reduced role of the Secretaries in the wake of contracting activities requires that the bureaucracy be correspondingly trimmed and the savings put into tribal programs so as to increase the quality and quantity of services provided to Indian people.

Subsection (o) expands tribal rebudgeting authority to further the Act's purpose of vesting greater local control in tribal program administration as long as rebudgeting would not have an adverse impact on the performance of the contract.

SECTION 103. CONTRACT SPECIFICATIONS

Section 103 of the bill, as reported, sets forth model contract language for all self-determination contracts. These mandatory provisions are also made a part of the statute. These improvements build on the successful experiences of tribes involved in the Title III demonstration project.

Section 108 has been revised to conform with the definitions in Section 4(j) of the Act and use of the term "self-determination contract." Similarly, throughout the model contract, the wording has been revised to make reference to both tribes and tribal organizations, since contracting under P.L. 93-638 is available to both types of entities. (At Section 4(1) of the Act, "tribal organization" is the term used to refer to both a tribe and a separate organization sanctioned by one or more tribes). For ease of reference, the balance of the model contract uses the single term "Contractor."

Subsection 1(a)(1) of the model contract sets forth the authority for entering into the contract and incorporates the provisions of title I of the Indian Self-Determination Act into the contract.

Subsection 1(a)(2) of the model contract incorporates the longstanding canon of statutory interpretation that laws enacted for the benefit of Indians are to be liberally construed in their favor, and further to clarify that all functions, services, activities or programs or portions thereof, as well as all administrative functions, are contractible, as clearly provided in the Act.

Subsection 1(b)(1) of the model contract, as amended, sets forth the term of the contract. As provided in section 105(c)(1) of the Act, the amendment provides that upon the contractor's election, the calendar year will be utilized for a contract, unless the Secretary and the Contractor agree on a different period in the Annual Funding Agreement. These provisions conform with Sections 105(c)(1) and 105(d)(1) of the Act, and provide a place (i.e., the Annual Funding Agreement) for this agreement to be memorialized and a timeframe for doing so.

Subsection 1(b)(2) of the model contract, as amended, makes the effective date of the contract the date of execution unless otherwise agreed to by the Secretary and the Contractor.

Subsection 1(b)(3) of the model contract requires the contractor to administer the contract in accordance with program standards incorporated into the contract as a result of contract negotiations.

Subsection 1(b)(4) of the model contract, as amended, provides that the annual agreement will be known as an Annual Funding Agreement and references the funding amounts provided in Section 106(a) of the Act. That section provides that the Contractor shall receive no less than the Secretary would have provided for the operation of the programs or portions thereof for the period covered by the contract, plus funding for contract support cost needs.

Subsection 1(b)(5) has been added to protect contractors from being legally obligated to operate the contract when there are insufficient funds to do so, a principal which would be contrary to the purposes of the Act and current regulations (in particular, the "Limitation of Costs" clause). This subsection is intended to assist contractors that operate programs for which the agencies habitually request from Congress less that the minimum amount necessary to operate the program.

Subsection 1(b)(6) of the model contract, as revised, makes a variety of payment options available to tribes and tribal organizations. In addition, the Prompt Payment Act is made applicable to contract funding amounts.

Subsection 1(b)(7) of the model contract, as revised, is focused on ensuring that the Secretaries follow the mandate of the Act to eliminate excessive and burdensome reporting requirements, that the Secretaries limit and provide reasonable advance notice to contractors prior to routine Secretarial monitoring visits, and that the contract make clear that primary responsibility for day-to-day monitoring rests with the tribal contractor not the Secretary. These provisions are consistent with the monitoring guidelines which the respective Secretaries have recently set forth in their promulgated proposed regulations to implement the Indian Self-Determination Act.

Subsection 1(b)(8) of the model contract, as amended, is consistent with Section 105(f) of the Act. The new language carries out the original intent of the Act to place tribes and tribal organizations in the same position as those government agencies that would otherwise be carrying out the activities, so that no benefits or cost savings are lost merely by virtue of the contracting of an activity by a tribal organization. This section applies this principle to the area of property acquisition. Significantly, the section provides for the periodic replacement of transferred or acquired property as would occur had the Secretary retained title and continued operating the program directly.

Further, the General Services Administration (GSA) will be required to respect the tribal right of access to excess property and, under Section 1(b)(9) of the model contract, to provide access to government motor vehicle pools.

Subsection 1(b)(9) of the model contract, as revised, is consistent with Section 108 of the Act and with annual appropriation acts which make all funds subject to an Indian Self-Determination Act contract or grant award deemed obligated and thereafter available for carryover and expenditure without fiscal year limitation. See, e.g., Pub. L. No. 103-138, 107 Stat. 1379, 1390 (BIA) and 1408 (IHS) for FY '94 appropriations.

Subsection 1(b)(10) of the model contract allows the contractor to obtain interagency motor pool vehicles and services in performance of the contract.

Subsection 1(b)(11) makes clear that the contractor is not subject to the Department's manuals, guidelines, or unpublished requirements unless expressly authorized under the Act, other statutes, or agreed to by the Contractor.

Subsection 1(b)(12) of the model contract, as revised, provides alternative dispute resolution mechanisms. The provision permits mediation. The mediation alternatives are optional and require the consent of both parties in order to invoke them.

Subsection 1(b)(3) of the model contract requires tribal contractors to comply with the Indian Civil Rights Act.

Subsection 1(b)(4) governs the negotiation of the annual funding agreement and imposes information disclosure duties on the Secretary.

Subsection 1(b)(15) removes Secretarial pre-approval requirements for certain contracts, consistent with the policy of self-determination and independence from excessive Secretarial oversight. Subsection (b), as amended, clarifies that the section deals solely with requirements for contracts with third parties.

Section 1(c) of the model contract, relating to obligations of the tribal contractor, has been revised by the Committee to make various wording changes to clarify the intent and to make the section consistent with the remainder of the amendments. The first three subsections address the contractor's obligation to carry out the contracted functions, to execute a funding agreement, and to administer the contracted programs within available funds. Subsection (4) clarifies that maintaining the pre-existing level of services is mandatory with respect to certain trust resource programs. In other areas tribal contractors retain the flexibility within appropriation limitations to redesign their programs and rebudget their contract funds as local needs and conditions warrant.

Subsection 1(c)(5) of the model contract is included to comply with the specific mandate of section 105(h) of the Act.

Subsection 1(d)(1) of the model contract addresses the government's trust responsibility. The Committee believes that the government's trust responsibility is not limited to tangible assets, and includes federal services such as the delivery of health care. Nevertheless, the Committee amendment responds to Departmental objections to this interpretation, and thus places the Secretary of Health and Human Services' duties in a separate subsection. Subsection 1(d)(2) specifies that if the contract is to include a health program, the Secretary will assist the contractor in achieving the goals stated in the Indian Health Care Improvement Act. Subsection 1(d)(3) requires the Departments to continue operating those activities and functions not included in the contract and annual funding agreement.

Subsection 1(e)(1) of the model contract provides for the designation of federal senior officials. Subsection 1(e)(2) addresses contract modifications, and permits modifications of the contract upon mutual consent of the parties.

Subsections 1(e) (3) and (4) prevent Members of Congress and resident commissioners from personally benefitting from Self-Determination Act contracts and prevent third parties from soliciting or securing contracts on a contingency basis.

Subsection 1(f)(1) specifies that resolutions will be provided and attached to the contract if they have not already been submitted to the Department in prior years. Many tribes that belong to multi-tribal organizations grant authorizing resolutions which confer on the tribal organizations for an indefinite period the authority to contract on the tribe's behalf. Authority is granted to continue this process.

Subsection 1(f)(2) of the model contract contains a specific description of what is to be contained in the annual funding agreement and allows for additional terms to be included if the contractor so requests and the Secretary agrees. These amendments insure that the contract correctly describes the programs, services, functions, and activities to be performed by the contractor and that any further provisions are to be included only with the consent of the contractor in order to assure that the general purposes of the Act are carried out.

SECTION 104. ADDITIONAL AMENDMENTS

Section 104(1) amends section 109 to incorporate case law from recent administrative decisions under the Act regarding the reassumption process, and also establishes the Secretary's burden of proof, by clearly demonstrating the validity of the grounds for reassumption, in section 109 proceedings. The Secretary may immediately rescind a contract, in whole or in part, if the Secretary finds an immediate threat of harm to personal safety or an imminent substantial and irreparable harm to trust funds, trust lands, or interests in trust lands.

Section 104(2) amends section 110(a) to clarify the right of contractors to seek immediate judicial relief to review a declination finding or to secure the award and funding of an approved contract, without first invoking further administrative levels of appeal or similar "exhaustion" procedures which could further delay the contracting process.

Section 104(3) amends section 110(d) to direct that all appeals arising out of the Contract Disputes Act be heard by the Interior Board of Contract Appeals. The amendment will do away with the current practice of referring such appeals from the Department of Health and Human Services to the Armed Services Board of Contract Appeals, a result of the fact that DHHS does not have its own contract appeals board.

SECTION 105. REGULATIONS

Section 105 of the bill addresses the Secretaries' authority to promulgate interpretative regulations in carrying out the mandates of the Act. It amends Section 107 (a) and (b) of the Act by limiting the delegated authorization of the Secretaries to promulgate regulations. This action is a direct result of the failure of the Secretaries to respond promptly and appropriately to the comprehensive amendments developed by this Committee six years ago. The recently promulgated proposed regulations severely undercut Congress' intent in the original Act and those amendments to liberalize the contracting process and to put these programs firmly in the hands of the tribes. The proposed regulations erect a myriad of new barriers and restrictions upon contractors rather than simplifying the contracting process and freeing tribes from the yoke of excessive federal oversight and control. It is this unfortunate experience that is a major impetus of this bill.

Section 105(1) amends section 107(a) by delegating to the Secretary the authority only to promulgate implementing regulations in certain limited subject matter areas. By and large these areas correspond to the areas of concern identified by the Departments in testimony and in discussions. Beyond the ten areas specified in subsection (a)—the Federal Tort Claims Act, the Contract Disputes Act, declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures, property donation procedures, internal agency procedures, retrocession procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards—no further delegated authority is conferred.

A second key limitation on the delegation of rulemaking authority is provided in the eighteen month limitation on the Secretaries' authority to promulgate the regulations. This limit is necessary to prevent another regulation drafting process which goes on for years without satisfactory or final resolution.

Section 105(1) also amends section 107(b) to clarify that the Act's provisions supersede conflicting provisions of law and authorize the Secretary to repeals inconsistent regulations.

To remain consistent with the original intent of the Act and to assure that the input received from the tribes and tribal organizations in the regulation drafting process is not disregarded as has previously been the case, Section 107 also has been amended by adding a new subsection (d), requiring the Secretaries to employ the negotiated rulemaking process. It is expected that negotiations shall be conducted in a timely manner and that the regulations called for in the Act, as amended by the bill, will be published as a proposed rule within six months from the date of enactment of these amendments, unless the deadline is extended by Congress.

New Section 107(e) details the contours of the Secretaries' authority to waive regulatory provisions that impede contracting activities under the Act. The declination appeal process is made applicable to the Secretaries' action on waiver requests.

SECTION 106. CONFORMING AMENDMENTS

Section 106 of the bill provides for conforming amendments to be made to Sections 105(h) of the Act in order to delete specific references to rules and regulations. Such provisions are no longer appropriate in light of Section 5 of the bill.

Mr. THOMAS of Wyoming. Mr. Speaker, continuing my reservation of objection.

Mr. Speaker, the BIA had 6 years to enact these regulations and they failed; it's more than past time that we did it for them. Moreover, I have always been very supportive of efforts to turn more of the day-to-day decisionmaking and planning to the tribes. Self-governance works, it's time to make it available to all the tribes.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the requests of the gentleman from New Mexico?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Act Amendments of 1994".

SEC. 2. AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended as follows:

(1) At the beginning of section 4, insert the following new paragraph and redesignate all other paragraphs accordingly:

"(1) 'construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project. Contracts (i) limited to providing architectural and engineering services, planning services, and/or construction management services; (ii) for the Housing Improvement Program or roads maintenance program administered by the Secretary of the Interior; and (iii) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services, shall not be deemed to be construction contracts within the meaning of this Act;".

(2) Amend section 5(f) to read as follows:

"(f) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract or grant under this title, the tribal organization which requested such contract or grant shall submit to the appropriate Secretary a single agency audit report as required by chapter 75 of title 31, United States Code. Such tribal organization shall also submit such additional information on the conduct of the program or service involved as the tribal organization may negotiate with the Secretary. Any disagreement over reporting requirements shall be subject to the declination standards and procedures set forth in section 102 of this Act.".

(3) In section 7(a) strike "of subcontractors" and insert in lieu thereof "or subcontractors (excluding tribes and tribal organization)".

(4) At the end of section 7, insert the following new subsection:

"(c) Notwithstanding subsections (a) and (b), where a self-determination contract, or portion thereof, is intended to benefit one tribe, tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of such contract or portion thereof.".

(5) At the end of paragraph (1) of section 102(a), insert the following new sentence: "Such programs shall include administrative functions of the Department of the Interior or the Department of Health and Human Services which support the delivery of services to Indians, including those administrative activities related to, but not part of, the service delivery program, which are otherwise contractible, without regard to the organization level within the Department where such functions are carried out.".

(6) Amend paragraph (2) of section 102(a) as follows—

(A) insert ", or to amend or renew a self-determination contract," before "to the Secretary for review";

(B) in the second sentence strike "The" and insert "Subject to the provisions of subsection 4 hereof, the";

(C) insert "and award the contract" before "unless";

(D) in subparagraph (A), insert "by the tribal organization" after "rendered";

(E) in subparagraph (B), insert "by the tribal organization" after "resources";

(F) at the end of subparagraph (C) add the following: ", either because (i) the amount of funds proposed in the contract is in excess of the funding levels specified in section 106(a) of this Act, or (ii) the program (or portion thereof) to be contracted is beyond the scope of paragraph (1) thereof because the proposal includes activities which cannot be lawfully carried out by the contractor;"; and

(G) insert the following new paragraph:

"(4) The Secretary shall approve any severable portion of a contract proposal which does not support a declination finding as provided in paragraph (3) of this subsection. Whenever the Secretary determines under paragraph (3) that a contract proposal (A) proposes in part to plan, conduct, or administer a program that is beyond the scope of paragraph (1), or (B) proposes a funding level in excess of the funding levels specified in section 106(a) of this Act, the Secretary shall approve the proposal to the extent authorized to paragraph (1) of section 106(a) of this Act, as appropriate (subject to any agreed-upon alteration in the proposed scope of work). In the event the tribal organization elects to operate the severable portion of a contract proposal, subsection (b) thereof shall apply only with respect to the declined portion of the contract.".

(7) In section 102(b)(3), insert before the period ", subject to the tribe's or tribal organization's option to proceed directly to Federal district court as provided in section 110(a)".

(8) At the end of section 102, insert the following new subsections:

"(e) In any hearing or appeal provided under subsection (b)(3), the Secretary shall carry the burden of proof to establish by clear and convincing evidence that the contract proposal should be declined. Final departmental decisions in all such appeals shall be made at a level higher than the level of the agency whose decision under subsection (b) is appealed.

"(f) A tribal organization in Alaska authorized by tribal resolution or resolutions to contract under this Act the operation of one or more programs may redelegate that authority, by formal action of the tribal organization's governing body, to another tribal organization provided advance notice of such redelegation and a copy of the contracting proposal, prior to its submission to the Secretary, are provided to all tribes served by the tribal organization. Nothing herein is to be construed as a limitation on the authority of a tribe to limit, restrict or rescind its resolution at any time or in any manner whatsoever. A tribe receiving such notice shall have 60 days from receipt of the notice to notify the tribal organization in writing of its intent to adopt a limiting resolution prohibiting or conditioning the proposed redelegation, and thereafter shall have 60 days to adopt and transmit such resolution to the tribal organization. A tribal organization so notified of a tribe's intent shall not proceed with any redelegation proposal until the expiration of the 60-day period.".

(9) Amend section 105(a) to read as follows:

"(a) Contracts, grants, and cooperative agreements with tribal organizations pursuant to sections 102 and 103 of this title shall not be subject to general Federal contracting, discretionary grant or cooperative agreement laws and regulations, except to the extent such laws expressly apply to Indian tribes: *Provided*, That with respect to construction contracts as defined in section 4 of this Act (or subcontracts of such a construction contract), the Office of Federal Procurement Policy Act (88 Stat. 796; 41 U.S.C. 401 et seq.) and Federal acquisition regulations promulgated thereunder shall apply to the limited extent such statute or regulations are necessary to assure proper completion of the contract, are directly relevant to the construction activity, and are not inconsistent with the provisions or policy of this Act: *Provided further*, That all such requirements shall be negotiated between the Secretary and the tribal organization and set forth as an attachment to the contract: *Provided further*, That no other laws or executive orders shall be applicable to construction contracts subject to this Act unless expressly so stated in such other laws or orders, including chapter 10 of title 40, United States Code; section 9(a) and (c) of the Act of August 2, 1946, as amended, 60 Stat. 809; sections 301–310 of the Act of June 30, 1949, as amended, 63 Stat. 393–397; section 13 of the Act of October 3, 1944, as amended, 58 Stat. 770; chapters 21, 25, 27, 29, and 31 of title 44, United States Code; chapter 5 of title 40, United States Code, section 2 of the Act of June 13, 1934, as amended, 48 Stat. 948; sections 1–12 of the Act of June 30, 1936, as amended, 49 Stat. 2036–39; chapter 6 of title 41, United States Code; chapter 14A of title 15, United States Code; and Executive Orders 12138, 11246, 11701, and 11758.".

(10) Amend section 105(e) to read as follows:

"(e) Whenever an Indian tribe or tribal organization requests retrocession of the appropriate Secretary for any contract, or portion thereof, entered into pursuant to this Act, such retrocession shall, unless the request for retrocession is rescinded by such tribe or tribal organization, become effective one year from the date of the request by the Indian tribe or tribal organization, or the date of contract expiration, whichever is earlier, or at such date as may be mutually agreed by the Secretary and the Indian tribe.".

(11) Amend paragraph (2) of section 105(f) to read as follows:

"(2) donate to an Indian tribe or tribal organization the title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization, and upon retrocession, rescission, or termination of such self-determination contract or grant, title to such property having a present value in excess of $5,000 and remaining in use in support of the contracted program shall, at the Secretary's option, revert to the Secretary; and".

(12) At the end of section 105, insert the following new subsections:

"(i) Where a self-determination contract requires the Secretary to administratively divide a program which has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall—

"(1) endeavor to minimize any adverse effect on the level of services to be provided to all affected tribes;

"(2) notify all affected tribes not party to the contract of the receipt of the contract proposal at the earliest possible date, and of the right of such tribes to comment on how the Secretary's program should be divided to best meet the needs of all affected tribes;

"(3) explore the feasibility of instituting cooperative agreements amongst the affected tribes not a party to the contract, the tribal organization operating the contract, and the Secretary; and

"(4) identify and report to Congress the nature of any diminution in quality, level or quantity of services to any affected tribe resulting from the division of the Secretary's program, together with an estimate of the funds which would be required to correct such diminution. In determining whether to decline a contract under section 102(a)(2), the Secretary shall not consider the effect which a contract proposal will have on tribes not represented by the tribal organization submitting such proposal, nor on Indians not served by the portion of the program to be contracted. The Secretary shall make such special provisions as may be necessary to assure that services are provided to the tribes not served by a self-determination contract.

"(j) Upon notice to the Secretary, tribal organizations carrying out self-determination contracts are authorized to redesign programs, activities, functions and services under contract, including program standards, to best meet the local geographic, demographic, economic, cultural, health and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any redesign proposal against the declination criteria set forth in section 102 of this Act.

"(k) For purposes of section 201(a) of the Act of June 30, 1949 (40 U.S.C. 481(a)) (involving Federal sources of supply, including lodging providers, airlines, and other transportation providers), an Indian tribe or tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement.

"(l) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into leases with Indian tribes and tribal organizations which hold title to, a leasehold interest in, or a beneficial interest in, facilities used by Indian tribes or tribal organizations for the administration and delivery of contract services under the Act. The Secretary shall compensate such Indian tribes or tribal organizations for the use of leased facilities for contract purposes. Lease compensation may include: rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses determined by regulation to be allowable.

"(m) Construction contracts:

"(1) Construction contracts requested, approved, or awarded under this Act shall be subject to all of the provisions of this Act, including without intending any limitation, sections 7, 102(a), 102(b), 103(d) and (e), 105(f), 106(a), 106(f), 110, and 111, and section 314 of Public Law No. 101–512, as amended.

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide a requesting tribe or tribal organization, within 30 days of receipt of a request, with all available information regarding the construction project, including without intending any limitation, construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or impact reports, and archaeological reports.

"(3) Prior to finalization of a construction contract proposal pursuant to section 102(a), and upon request of the contracting tribe or tribal organization, there shall be a precontract negotiation phase which shall, at a minimum, include—

"(A) the provision of technical assistance pursuant to section 103 and paragraph (2) hereof;

"(B) a joint scoping session to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement;

"(C) an opportunity for the Secretary to revise his or her plans, designs, or cost estimates in response to concerns raised or information provided by the tribe or tribal organization;

"(D) a negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal;

"(E) upon the request of the tribe or tribal organization, use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the Administrative Dispute Resolution Act (5 U.S.C. 571); and

"(F) submission of a final contract proposal pursuant to section 102(a).

"(4) In funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall include funds for (A) the reasonable costs of the tribe or tribal organization for general administration to be incurred in connection with the contracted project, and (B) a reasonable profit in light of the risk and other relevant considerations: *Provided*, That the Secretary shall not be required to separately identify such components in the contract budget: and *Provided further*, That the total amount awarded under the contract shall reflect an overall fair and reasonable price to the parties, including but not limited to (i) the reasonable costs to the tribal organization of performing the contract given the terms of the contract and the requirements of this Act and any other applicable law, (ii) the costs of preparing the contract proposal and supporting cost data, (iii) the costs associated with the tribal organization's audited general and administrative costs, and (iv) in the case of a fixed-price contract, a fair profit determined in light of the relevant risks and local market conditions.".

(13) Amend section 106(a) as follows—

(A) at the end of paragraph (1), insert the following ", without regard to the organizational level or levels within the Department at which the program (or portion thereof), including supportive administrative functions which are otherwise contractible is operated";

(B) in paragraph (2), after "consist of", insert "an amount for", and add the following at the end thereof: "Contract support costs shall include, without distinction, funds to reimburse tribal contractors for reasonable and allowable costs of contracting attributable to direct program expenses, and reasonable additional administrative or other overhead expenses in connection with tribal operation of Federal programs. The amount of funds to which a tribe or tribal organization is entitled pursuant to this subparagraph shall be negotiated annually with the Secretary."; and

(C) strike paragraph (3) and insert the following new paragraphs (3) and (4):

"(3) Any savings in operation under a self-determination contract (including a cost reimbursement construction contract) shall be utilized to provide additional services or benefits under the contract or be expended in the succeeding fiscal year as provided in section 8 of this Act.

"(4) During the initial year of a self-determination contract there shall be included, in the amount required to be paid under paragraph (2), start-up costs consisting of the reasonable costs, either previously incurred or to be incurred under the contract on a one-time basis, necessary to plan, prepare for and take over operation of the contracted program and to also ensure compliance with the terms of the contract and prudent management: *Provided*, That previously incurred costs shall not be included to the extent the Secretary was not notified in advance and in writing of the nature and extent of the costs to be incurred.".

(14) Amend section 106(c) as follows:

(A) In each of paragraphs (1) and (2), strike "indirect costs" and insert in lieu thereof "indirect costs and other negotiated contract support costs".

(B) Strike "and" at the end of paragraph (4).

(C) Strike the period at the end of paragraph (5) and insert in lieu thereof "; and".

(D) Insert the following new paragraph:

"(6) a reporting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and the amount of funds needed for transitional purposes to enable contractors to convert from Federal fiscal year accounting to a different accounting cycle, as authorized under section 105(d) of this Act.".

(15) At the end of paragraph (2) of section 106(d), insert the following new sentence: "Notwithstanding any other provision of law, and subject to the availability of appropriations, every Federal agency and every State shall pay its full proportionate share of the indirect costs associated with federally funded contracts or grants awarded to tribes or tribal organizations under any other law. In the event that appropriations are not sufficient for agencies other than the Department of the Interior and the Department of Health and Human Services, or for State governments or State agencies, to pay their full proportionate share as provided herein, the Secretary shall, subject to the availability of appropriations for this purpose, fund and pay such shortfalls and report all unfunded shortfalls to the Congress, as provided in section 106(c)(2).".

(16) Amend section 106(f) by inserting immediately after the second sentence thereof the following: "For the purpose of the 365-day period, an audit report shall be deemed received on the date of actual receipt by the Secretary, absent a notice by the Secretary within 60 days of receipt that the report will be rejected as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or other applicable law.".

(17) Amend section 106(g) to read as follows:

"(g) Upon approval of a self-determination contract, the Secretary shall allocate to the contract the full amount to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that Federal programs are administered by such tribe or tribal organization.".

(18) Amend section 106(i) to read as follows:

"(i) The Secretary shall consult annually with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs, including participation in the formulation of annual budget requests to Congress.".

(19) Amend section 106 by adding at the end thereof the following new subsections:

"(j) A tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

"(k) Without intending any limitation, a tribal organization may, without approval, expend funds provided under a self-determination contract for the following purposes to the extent supportive of a contracted program—

"(1) depreciation and use allowances not otherwise specifically prohibited by law, including depreciation of facilities owned by the tribe or tribal organization and constructed with Federal financial assistance;

"(2) publication and printing costs;

"(3) building, realty and facilities costs, including rental costs or mortgage expenses;

"(4) automated data processing and similar equipment or services;

"(5) cost of capital assets and repairs;

"(6) management studies;

"(7) professional services other than services provided in connection with judicial proceedings by or against the United States;

"(8) insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property;

"(9) costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of a self-determination contract;

"(10) interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to secretarial delays in providing funds under a contract;

"(11) expenses of a tribal organization's governing body to the extent attributable to the management or operation of programs under this Act; and

"(12) costs associated with the management of pension, self-insurance and other funds which include Federal participation.

"(l) Within 12 months following the date of enactment of this subsection, the Office of Management and Budget, with the active participation of Indian tribes and tribal organizations, the Department of the Interior, Office of the Inspector General, and the Health and Human Services Department, Cost Determination Branch, shall develop a separate set of cost principles applicable to Indian tribes and tribal organizations consistent with the government-to-government Federal-tribal relationship embodied in this Act.

"(m) Except in connection with rescission and reassumption of a contract under section 109 of this Act, the Secretary shall in no circumstance suspend, withhold or delay the payment of funds to a tribal organization under a self-determination contract.

"(n) Program income earned by a tribal organization in the course of carrying out a self-determination contract shall be used by the tribal organization to further the general purposes of the contract and shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(o) To the extent contracting activities under this Act reduce the Secretary's administrative or other responsibilities in connection with the operation of Indian programs, resulting in savings which have not otherwise been included in the contract amount specified in subsection (a) of this section, and to the extent that doing so will not adversely affect the Secretary's ability to carry out his responsibilities to other tribes and tribal organizations, the Secretary shall make such savings available to tribal organizations contracting under this Act.

"(p) Notwithstanding any laws or regulations to the contrary, a tribal organization may rebudget within the approved budget of its contract to meet contract requirements, if such rebudgeting does not have a significant and adverse effect upon the level or nature of services.".

SEC. 3. CONTRACT SPECIFICATIONS.

Section 108 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j), currently reserved, is amended to read as follows:

"SEC. 108. CONTRACT OR GRANT SPECIFICATIONS.

"Each Self-Determination Contract or grant entered into under this Act shall contain, or incorporate by reference, the following provisions, with modifications where indicated and the blanks appropriately filled together with such other provisions as the parties may agree upon:

"(1) AUTHORITY AND PURPOSE.—

"(A) AUTHORITY.—This agreement, denoted a Self-Determination Contract (hereinafter referred to as the 'Contract'), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary'), for and on behalf of the United States pursuant to titles I and II of the Indian Self-Determination and Education Assistance Act and by the authority of the ___________ tribal government or tribal organization (hereinafter referred to as the 'Contractor'). Unless otherwise provided in this agreement, all of the provisions of title I of the Indian Self-Determination and Education Assistance Act are incorporated herein.

"(B) PURPOSE.—Each and every provision of the Indian Self-Determination Act and of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portion thereof), including all related administrative functions from the Federal Government to the Contractor: (List functions, services, activities, and programs.)

"(C) TRIBAL LAW AND FORUMS.—The laws and/or policies and procedures of the Contractor shall be applied in the performance of this Contract and the powers and decisions of the Contractor's Tribal Court or other dispute resolution mechanism shall be binding to the extent that Federal law, construed in accordance with the applicable canons of construction and the Indian Self-Determination and Education Assistance Act, is not inconsistent.

"(2) TERMS, PROVISIONS AND CONDITIONS.—

"(A) TERM.—The term of this Contract shall not exceed 3 years, unless the Secretary and the Contractor agree on a longer period pursuant to section 105(c)(1)(B) of the Indian Self-Determination and Education Assistance Act. Pursuant to section 105(d)(1) of the Act, upon the Contractor's election, the calendar year shall be the basis for contracts under this Act, unless the Secretary and the Contractor agree on a different period in the annual funding agreement.

"(B) EFFECTIVE DATE.—This Contract shall become effective upon approval and execution by the Contractor and the Secretary, unless otherwise agreed to by the Secretary and the Contractor.

"(C) FUNDING AMOUNT.—

"(i) AMOUNT OF ANNUAL FUNDING AGREEMENT.—Subject to the appropriation of funds by Congress, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in paragraph (6)(B), which amount shall not be less than the amounts specified in section 106(a) of the Act.

"(ii) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance beyond the amount of funds awarded, and if at any time the Contractor has reason to believe that the total amount for performance of this contract or a specific activity of this Contract will be greater than the amount awarded, the Contractor shall notify the appropriate Secretary. If the amount awarded is not increased, the Contractor may cease performance. In such event all duties and responsibilities previously assumed by the Contractor shall become the duties and responsibilities of the Secretary.

"(D) PAYMENT.—

"(i) IN GENERAL.—Payments shall be made as expeditiously as possible and shall include financial arrangements to cover funding during periods under continuing resolutions to the extent permitted by such resolutions.

"(ii) QUARTERLY SEMIANNUAL, LUMP SUM, AND OTHER METHODS OF PAYMENT.—Notwithstanding the provisions of any other law, for each fiscal year covered by this Contract, the Secretary is authorized to and shall make available the funds specified for the fiscal year under the annual funding agreement by paying to the Contractor on a quarterly basis one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, by making a lump-sum payment or semiannual payments, or by using any other method authorized by law, as may be requested by the Contractor and specified in the annual funding agreement. Each quarterly payment shall be made on the first day of each quarter of the fiscal year except that in instances where the contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, servicers, functions, and activities subject to the Contract. Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under the contract and the annual funding agreement.

"(E) RECORDS AND MONITORING.—(i) Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior and/or the Department of Health and Human Services, Contractor records shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(ii) The Contractor shall maintain a recordkeeping system, and upon reasonable advance request provide reasonable access to such records to the Secretary.

"(iii) Contractors are responsible for managing the day-to-day operations of the Contract and for monitoring activities to assure compliance with the Contract and applicable Federal requirements. Monitoring visits shall be limited to not more than one performance monitoring visit per contract by each operating division, departmental bureau or departmental agency or duly authorized representatives thereof unless (I) the Contractor has agreed to such additional visits, or (II) there is reasonable cause to believe that grounds for reassumption of the contract or other serious contract performance deficiency exists: *Provided, however*, That such additional visits shall not be made until after reasonable advance notice has been given to the Contractor, including the nature of the problem which requires the additional visits.

"(F) PROPERTY.—(i) As provided in section 105(f) of the Act, as amended, at the request of the Contractor the Secretary shall make available or transfer to the Contractor all reasonably divisible real property, facilities, equipment, and personal property that the Secretary had previously utilized to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared and periodically revised. The Secretary shall maintain a record of all such property for purposes of replacement and shall replace such property on the same basis as property remaining under the Secretary's control. Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the parties' shared use of real or personal property that is not reasonably divisible.

"(ii) The Secretary shall delegate to the Contractor the authority to acquire such 'excess' property as may be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract. The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments. A screener identification card (General Services Administration form 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

"(iii) The Contractor shall determine what capital equipment, leases, rentals, property, or services it shall require to perform its obligations under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through tribal procurement procedures.

"(G) SAVINGS.—Notwithstanding any other provision of law, any funds provided under this Contract shall remain available until expended and shall require no further approval by the Secretary nor further justifying documentation from the Contractor prior to expenditure.

"(H) TRANSPORTATION.—Upon the effective date of this contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities under this Contract.

"(I) REGULATORY AUTHORITY.—The Contractor is not required to abide by Federal program guidelines, manuals, or policy directives unless otherwise agreed to by the Contractor and the Secretary.

"(J) DISPUTES.—(i) In addition or as an alternative to remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act, the parties may jointly—

"(I) submit disputes under this Contract to third-party mediation, which for purposes of this section means that the Secretary and the Contractor nominate a third party who together choose a third party mediator ('third-party' means a person not employed by or significantly involved with either the Contractor, the Secretary, or the Department of the Interior or the Department of Health and Human Services);

"(II) submit the dispute to the court of the Contractor's adjudicatory body, including but not limited to the Contractor's tribal court;

"(III) submit the dispute to mediation processes provided for under the Contractor's laws, policies, or procedures; or

"(IV) use the processes authorized in the Administrative Dispute Resolution Act (5 U.S.C. 571).

"(ii) The Secretary shall be bound by decisions reached by the processes set forth in clause (i) of this subparagraph of this Contract, except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of the Indians or the United States.

"(K) CONTRACTOR'S ADMINISTRATIVE PROCEDURES.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the Contractor's laws, policies, and procedures shall provide for administrative due process (or its equivalent) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

"(L) SUCCESSOR ANNUAL FUNDING AGREEMENT.—Negotiations for a successor annual funding agreement, as provided for in paragraph (6)(B), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Funding of successor annual funding agreements shall only be reduced pursuant to section 106(b) of the Indian Self-Determination and Education Assistance Act. The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information reasonably needed to determine the funds that may be available for a successor annual funding agreement as provided for in paragraph (6)(B) of this Contract.

"(M) SECRETARIAL APPROVAL.—(i) Except as provided in clause (ii), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to any contract entered into in connection with this Contract.

"(ii) Each contract entered into by the Contractor with third parties in connection with performing its obligations under this Contract shall—

"(I) be in writing;

"(II) identify the interested parties, their authorities, and purposes;

"(III) state the work to be performed; and

"(IV) state the process for making any claim, the payments to be made, and the terms of the contract, which shall be fixed.

"(3) OBLIGATION OF THE CONTRACTOR.—

"(A) CONTRACT PERFORMANCE.—Except as provided in paragraph (4)(B), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under paragraph (6)(B) of this Contract.

"(B) AMOUNT OF FUNDS.—The total amount of funds to be paid under this Contract shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated in its entirety into this Contract.

"(C) CONTRACTED PROGRAMS.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified herein and funded through the annual funding agreement.

"(D) TRUST SERVICES FOR INDIVIDUAL INDIANS.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that were formerly provided by the Secretary, the Contractor shall maintain at least the same level of service as was previously provided by the Secretary, subject to the availability of appropriated funds for such services. Strictly for the purposes of this subsection only, "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

"(E) FAIR AND UNIFORM SERVICES.—The Contractor shall provide services under this contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

"(4) OBLIGATION OF THE UNITED STATES.—

"(A) TRUST RESPONSIBILITY.—The United States reaffirms its trust responsibility to the ____________ Indian tribes to protect and conserve the trust resources of the Indian tribes and of individual Indians. Nothing in this Contract is intended to, nor shall be construed, to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribes or individual Indians. The Secretary shall act in good faith in upholding said trust responsibility. To the extent that health programs are included in this Contract, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in chapter 18 of title 25, United States Code.

"(B) PROGRAMS RETAINED.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribes that are not specially assumed by the Contractor in the annual funding agreement.

"(5) OTHER PROVISIONS.—

"(A) DESIGNATED OFFICIALS.—On or before the effective date of this Contract, both the United States and the Contractor shall provide each other with a written designation of a senior official as its representative for notices, proposed amendments to the Contract and other purposes for this Contract.

"(B) CONTRACT MODIFICATIONS OR AMENDMENT.—To be effective any modifications of this Contract shall be in the form of a written amendment to the Contract, and shall require the written consent of the Contractor and the Secretary, except for the addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement.

"(C) OFFICIALS NOT TO BENEFIT.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to any contract under this Contract if made with a corporation for its general benefit.

"(D) COVENANT AGAINST CONTINGENT FEES.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business.

"(6) ATTACHMENTS.—

"(A) APPROVAL OF CONTRACT.—Unless previously furnished to the Secretary, the resolution of the ___ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified herein is (are) attached hereto as attachment 1.

"(B) ANNUAL FUNDING AGREEMENT.—The negotiated and duly approved annual funding agreement shall only contain terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, the time and method of payment, and such other provisions, including but not limited to, a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), as the Contractor may request and to which the parties agree. The annual funding agreement is hereby incorporated in its entirety in this Contract and attached hereto as attachment 2.".

SEC. 4. ADDITIONAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act is further amended as follows:

(1) In section 109—

(A) strike "as prescribed by him" and all that follows through "in such cases" and insert "prescribed by him to remedy the contract deficiency. The appropriate Secretary may, upon written notice to a tribal organization, and the tribes served thereby, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat of imminent harm to the safety of any person and that such threat arises from the Contractor's failure to fulfill the requirements of the contract. In such cases"; and

(B) insert the following immediately before the last sentence: "In any hearing or appeal provided for under this section, the Secretary shall carry the burden of proof to establish by clear and convincing evidence that the contract should be rescinded, assumed, or reassumed.".

(2) In section 110(a), insert before the period at the end thereof the following: "(including immediate injunctive relief to reverse a declination finding under section 102(a)(2) or to compel the Secretary to award and fund an approved self-determination contractor)".

(3) In section 110(d), insert before the period at the end thereof the following: "except that all such administrative appeals shall be heard by the Interior Board of Contract Appeals".

SEC. 5. REGULATIONS.

Section 107 of the Indian Self-Determination and Education Assistance Act is amended—

(1) by amending subsections (a) and (b) to read as follows:

"(a) GENERAL.—Except as may be specifically authorized herein and elsewhere in this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts: *Provided, however*, That the Secretary may promulgate regulations relating to the Federal Tort Claims Act, the Contract Disputes Act, declination appeal procedures, reassumption procedures, and retrocession procedures. All regulations including those referred to in this section shall be promulgated in conformity with sections 552 and 553 of title 5 of the United States Code and with subsections (c), (d), and (e) hereof, and shall be promulgated as a single set of regulations in title 25 of the Code of Federal Regulations. Any authorization to promulgate regulations set forth in this Act shall expire if such regulations are not finally promulgated within 12 months from the date of enactment of these amendments.

"(b) EXISTING REGULATIONS.—The provisions of this Act shall supersede any conflicting provisions of law or regulation in existence on the date of enactment of this Act.".

(2) Add the following new subsections:

"(d) In drafting and promulgating regulations as provided in section 107(a) of this Act (including any revisions or amendments thereto), the Secretaries shall confer with and allow for active participation by representatives of Indian tribes, tribal organizations, individual tribal members, and representatives of other parties interested in the implementation of this Act, as amended. The rulemaking process shall follow the guidance of the Negotiated Rulemaking Act of 1990 and of the Administrative Conference of the United States in Recommendations 82-094 and 85-095, 'Procedures for Negotiating Proposed Regulations' (1 CFR 305.82-094 and 305.85-095), and any successor recommendation, regulation, or law. Tribal participants in the negotiation shall be chosen by the tribes and tribal organizations participating in regional and national meetings to be convened by the Secretary, representing the groups described herein and shall include tribal representatives from all geographic regions. The negotiations shall be conducted in a timely manner and the proposed rule implementing these amendments shall be published in the Federal Register by the Secretaries no later than 6 months from the date of enactment of these amendments. Notwithstanding any other law or regulation to the contrary, the Secretary of the Interior and the Secretary of Health and Human Services shall be authorized to jointly establish and jointly fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this Act.

"(e) Notwithstanding any laws or regulations to the contrary, the Secretary shall waive or make exceptions to his regulations where the Secretary finds that such waiver or exceptions is in the best interest of the Indians served by the contract. The Secretary shall review a waiver request under the declination criteria and procedures contained in section 102(a)(2) of this Act.".

SEC. 6. CONFORMING AMENDMENT.

Section 105(h) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107 of this Act".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Richardson:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Self-Determination Act Amendments of 1994".

TITLE I—INDIAN SELF-DETERMINATION ACT CONTRACTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Indian Self-Determination Contract Reform Act of 1994".

SEC. 102. GENERAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended—

(1) in section 4—

(A) in subsection (g), by striking "indirect costs rate" and inserting "indirect cost rate";

(B) by striking "and" at the end of subsection (k);

(C) by striking the period at the end of subsection (l) and inserting "; and"; and

(D) by adding at the end the following new subsection:

"(m) 'construction contract' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

"(1) that is limited to providing planning services and construction management services (or a combination of such services);

"(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

"(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.";

(2) by striking subsection (f) of section 5 and inserting the following new subsection:

"(f)(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this Act, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31, United States Code.

"(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

"(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 102.";

(3) in section 7(a), by striking "of subcontractors" and inserting in lieu thereof "or subcontractors (excluding tribes and tribal organizations)";

(4) at the end of section 7, add the following new subsection:

"(c) Notwithstanding subsections (a) and (b), with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.";

(5) at the end of section 102(a)(1), add the following new flush sentence:

"The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the department that carries out such functions.";

(6) in section 102(a)—

(A) in paragraph (2)—

(i) in the first sentence, by inserting ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review";

(ii) in the second sentence—

(I) by striking "The" and inserting "Subject to the provisions of paragraph (4), the";

(II) by inserting "and award the contract" after "approve the proposal";

(III) by striking ", within sixty days of receipt of the proposal,"; and

(IV) by striking "a specific finding is made that" and inserting "the Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that";

(iii) in subparagraph (B), by striking "or" after the semicolon;

(iv) in subparagraph (C), by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following new subparagraphs:

"(D) the amount of funds proposed under the contract is in excess of the applicable funding level for the contract, as determined under section 106(a); or

"(E) the program, function, service, or activity (or portion thereof) that is the subject of the proposal is beyond the scope of programs, functions, services, or activities covered under paragraph (1) because the proposal includes activities that cannot lawfully be carried out by the contractor."; and

(vi) by adding at the end of the paragraph the following new flush material:

"Notwithstanding any other provision of law, the Secretary may extend or otherwise alter the 90-day period specified in the second sentence of this subsection, if before the expiration of such period, the Secretary obtains the voluntary and express written consent of the tribe or tribal organization to extend or otherwise alter such period. The contractor shall include in the proposal of the contractor the standards under which the tribal organization will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects, applicable health and safety standards, adherence to applicable Federal, State, local, or tribal building codes and engineering standards. The standards referred to in the preceding sentence shall ensure structural integrity, accountability of funds, adequate competition for subcontracting under tribal or other applicable law, the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of proper materials and workmanship, necessary inspection and testing, and changes, modifications, stop work, and termination of the work when warranted."; and

(B) by adding at the end the following new paragraph:

"(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding described in paragraph (2). If the Secretary determines under such paragraph that a contract proposal—

"(A) proposes in part to plan, conduct, or administer a program, function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

"(B) proposes a level of funding that is in excess of the applicable level determined under section 106(a),

subject to any alteration in the scope of the proposal that the Secretary and the tribal organization agree to, the Secretary shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1) or approve a level of funding authorized under section 106(a). If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) shall only apply to the portion of the contract that is declined by the Secretary pursuant to this subsection.";

(7) in section 102(b)(3)—

(A) by inserting after "record" the following: "with the right to engage in full discovery relevant to any issue raised in the matter"; and

(B) by inserting before the period the following: ", except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 110(a)";

(8) in section 102(d), by striking "as provided in section 2671 of title 28)" and inserting "as provided in section 2671 of title 28, United States Code, and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)";

(9) by adding at the end of section 102 the following new subsection:

"(e)(1) With respect to any hearing or appeal conducted pursuant to subsection (b)(3), the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for declining the contract proposal (or portion thereof).

"(2) Notwithstanding any other provision of law, a decision by an official of the Department of the Interior or the Department of Health and Human Services, as appropriate (referred to in this paragraph as the 'Department') that constitutes final agency action and that relates to an appeal within the Department that is conducted under subsection (b)(3) shall be made either—

"(A) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency (such as the Indian Health Service or the Bureau of Indian Affairs) in which the decision that is the subject of the appeal was made; or

"(B) by an administrative judge.";

(10) by striking subsection (a) of section 105 and inserting the following new subsection:

"(a)(1) Notwithstanding any other provision of law, subject to paragraph (3), the contracts and cooperative agreements entered into with tribal organizations pursuant to section 102 shall not be subject to Federal contracting or cooperative agreement laws (including any regulations), except to the extent that such laws expressly apply to Indian tribes.

"(2) Program standards applicable to a nonconstruction self-determination contract shall be set forth in the contract proposal and the final contract of the tribe or tribal organization.

"(3)(A) With respect to a construction contract (or a subcontract of such a construction contract), the provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the regulations relating to acquisitions promulgated under such Act shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is—

"(i) necessary to ensure that the contract may be carried out in a satisfactory manner;

"(ii) directly related to the construction activity; and

"(iii) not inconsistent with this Act.

"(B) A list of the Federal requirements that meet the requirements of clauses (i) through (iii) of subparagraph (A) shall be included in an attachment to the contract pursuant to negotiations between the Secretary and the tribal organization.

"(C)(i) Except as provided in subparagraph (B), no Federal law listed in clause (ii) or any other provision of Federal law (including an Executive order) relating to acquisition by the Federal Government shall apply to a construction contract that a tribe or tribal organization enters into under this Act, unless expressly provided in such law.

"(ii) The laws listed in this paragraph are as follows:

"(I) The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(II) Section 3709 of the Revised Statutes.

"(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

"(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288).

"(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479).

"(VI) Chapters 21, 25, 27, 29, and 31 of title 44, United States Code.

"(VII) Section 2 of the Act of June 13, 1934 (48 Stat 948, chapter 483).

"(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881).

"(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

"(X) The Small Business Act (15 U.S.C. 631 et seq.).

"(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.";

(11) by striking subsection (e) and inserting the following new subsection:

"(e) If an Indian tribe, or a tribal organization authorized by a tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this Act, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective on—

"(1) the earlier of—

"(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or

"(B) the date on which the contract expires; or

"(2) such date as may be mutually agreed by the Secretary and the Indian tribe.";

(12) by striking paragraph (2) of section 105(f) and inserting the following new paragraph:

"(2) donate to an Indian tribe or tribal organization title to any personal or real property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, except that—

"(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

"(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and

"(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and";

(13) by adding at the end of section 105 the following new subsections:

"(i)(1) If a self-determination contract requires the Secretary to divide the administration of a program that has previously been administered for the benefit of a greater number of tribes than are represented by the tribal organization that is a party to the contract, the Secretary shall take such action as may be necessary to ensure that services are provided to the tribes not served by a self-determination contract, including program redesign in consultation with the tribal organization and all affected tribes.

"(2) Nothing in this title shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 110.

"(j) Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the

Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 102.

"(k) For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this Act shall be deemed an executive agency when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

"(l)(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this Act.

"(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in such paragraph. Such compensation may include rent, depreciation based on the useful life of the facility, principal and interest paid or accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation, to be allowable.

"(m)(1) Each construction contract requested, approved, or awarded under this Act shall be subject to—

"(A) except as otherwise provided in this Act, the provisions of this Act, other than sections 102(a)(2), 106(l), 108 and 109; and

"(B) section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991 (104 Stat. 1959).

"(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days after receiving a request from a tribe or tribal organization, all information available to the Secretary regarding the construction project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates, environmental assessments or environmental impact reports, and archaeological reports.

"(3) Prior to finalizing a construction contract proposal pursuant to section 102(a), and upon request of the tribe or tribal organization that submits the proposal, the Secretary shall provide for a precontract negotiation phase in the development of a contract proposal. Such phase shall include, at a minimum, the following elements:

"(A) The provision of technical assistance pursuant to section 103 and paragraph (2).

"(B) A joint scoping session between the Secretary and the tribe or tribal organization to review all plans, specifications, engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying all areas of agreement and disagreement.

"(C) An opportunity for the Secretary to revise the plans, designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or tribal organization.

"(D) A negotiation session during which the Secretary and the tribe or tribal organization shall seek to develop a mutually agreeable contract proposal.

"(E) Upon the request of the tribe or tribal organization, the use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant to the dispute resolution provisions under subchapter IV of chapter 5 of title 5, United States Code.

"(F) The submission to the Secretary by the tribe or tribal organization of a final contract proposal pursuant to section 102(a).

"(4)(A) Subject to subparagraph (B), in funding a fixed-price construction contract pursuant to section 106(a), the Secretary shall provide for the following:

"(i) The reasonable costs to the tribe or tribal organization for general administration incurred in connection with the project that is the subject of the contract.

"(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into consideration the risks associated with carrying out the contract and other relevant considerations.

"(B) In establishing a contract budget for a construction project, the Secretary shall not be required to separately identify the components described in clauses (i) and (ii) of subparagraph (A).

"(C) The total amount awarded under a construction contract shall reflect an overall fair and reasonable price to the parties, including the following costs:

"(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of the contract and the requirements of this Act and any other applicable law.

"(ii) The costs of preparing the contract proposal and supporting cost data.

"(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with the management of the construction contract.

"(iv) In the case of a fixed-price contract, a fair profit determined by taking into consideration the relevant risks and local market conditions.

"(v) If the Secretary and the tribe or tribal organization are unable to develop a mutually agreeable construction contract proposal pursuant to the procedures set forth in this subsection, the tribe or tribal organization may submit a final contract proposal to the Secretary. Not later than 30 days after receiving such final contract proposal, the Secretary shall approve the contract proposal and award the contract, unless, during such period the Secretary declines the proposal pursuant to sections 102(a)(2) and 102(b) of section 102 (including providing opportunity for an appeal pursuant to section 102(b)).

"(n) Notwithstanding any other provision of law, the rental rates for housing provided to an employee by the Federal Government in Alaska pursuant to a self-determination contract shall be determined on the basis of—

"(1) the reasonable value of the quarters and facilities (as such terms are defined under section 5911 of title 5, United States Code) to such employee, and

"(2) the circumstances under which such quarters and facilities are provided to such employee,

as based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.";

(14) in section 106(a)—

(A) in paragraph (1), by inserting before the period at the end the following: ", without regard to any organizational level within the Department of the Interior or the Department of Health and Human Services, as appropriate, at which the program, function, service, or activity or portion thereof, including supportive administrative functions that are otherwise contractable, is operated";

(B) in paragraph (2), by inserting after "consist of" the following: "an amount for"; and

(C) by striking paragraph (3) and inserting the following new paragraphs:

"(3)(A) The contract support costs that are eligible costs for the purposes of receiving funding under this Act shall include the costs of reimbursing each tribal contractor for reasonable and allowable costs of—

"(i) direct program expenses for the operation of the Federal program that is the subject of the contract, and

"(ii) any additional administrative or other expense related to the overhead incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract,

except that such funding shall not duplicate any funding provided under section 106(a)(1).

"(B) On an annual basis, during such period as a tribe or tribal organization operates a Federal program, function, service, or activity pursuant to a contract entered into under this Act, the tribe or tribal organization shall have the option to negotiate with the Secretary the amount of funds that the tribe or tribal organization is entitled to receive under such contract pursuant to this paragraph.

"(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of a Federal program, function, service, or activity under a self-determination contract by a tribe or tribal organization (including a cost reimbursement construction contract) shall—

"(A) be used to provide additional services or benefits under the contract; or

"(B) be expended by the tribe or tribal organization in the succeeding fiscal year, as provided in section 8.

"(5) Subject to paragraph (6), during the initial year that a self-determination contract is in effect, the amount required to be paid under paragraph (2) shall include startup costs consisting of the reasonable costs that have been incurred or will be incurred on a one-time basis pursuant to the contract necessary—

"(A) to plan, prepare for, and assume operation of the program, function, service, or activity that is the subject of the contract; and

"(B) to ensure compliance with the terms of the contract and prudent management.

"(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.";

(15) in section 106(c)—

(A) by striking "March 15" and inserting "May 15";

(B) in paragraphs (1) and (2), by striking "indirect costs" each place it appears and inserting "contract support costs";

(C) in paragraph (4), by striking "and" at the end;

(D) in paragraph (5), by striking the period at the end and inserting "; and"; and

(E) by adding at the end the following new paragraph:

"(6) an accounting of any deficiency of funds needed to maintain the preexisting level of services to any tribes affected by contracting activities under this Act, and a statement of the amount of funds needed for transitional purposes to enable contractors to convert from a Federal fiscal year accounting cycle to a different accounting cycle, as authorized by section 105(d).";

(16) in section 106(f), by inserting immediately after the second sentence the following new sentence: "For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31, United States Code, or noncompliance with any other applicable law.";

(17) by striking subsection (g) of section 106 and inserting the following new subsection:

"(g) Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the contractor is entitled under section 106(a), subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.";

(18) by striking subsection (i) of section 106 and inserting the following new subsection:

"(i) On an annual basis, the Secretary shall consult with, and solicit the participation of, Indian tribes and tribal organizations in the development of the budget for the Indian Health Service and the Bureau of Indian Affairs (including participation of Indian tribes and tribal organizations in formulating annual budget requests that the Secretary submits to the President for submission to Congress pursuant to section 1105 of title 31, United States Code)."; and

(19) by adding at the end of section 106 the following new subsections:

"(j) Notwithstanding any other provision of law, a tribal organization may use funds provided under a self-determination contract to meet matching or cost participation requirements under other Federal and non-Federal programs.

"(k) Without intending any limitation, a tribal organization may, without the approval of the Secretary, expend funds provided under a self-determination contract for the following purposes, to the extent that the expenditure of the funds is supportive of a contracted program:

"(1) Depreciation and use allowances not otherwise specifically prohibited by law, including the depreciation of facilities owned by the tribe or tribal organization.

"(2) Publication and printing costs.

"(3) Building, realty, and facilities costs, including rental costs or mortgage expenses.

"(4) Automated data processing and similar equipment or services.

"(5) Costs for capital assets and repairs.

"(6) Management studies.

"(7) Professional services, other than services provided in connection with judicial proceedings by or against the United States.

"(8) Insurance and indemnification, including insurance covering the risk of loss of or damage to property used in connection with the contract without regard to the ownership of such property.

"(9) Costs incurred to raise funds or contributions from non-Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

"(10) Interest expenses paid on capital expenditures such as buildings, building renovation, or acquisition or fabrication of capital equipment, and interest expenses on loans necessitated due to delays by the Secretary in providing funds under a contract.

"(11) Expenses of a governing body of a tribal organization that are attributable to the management or operation of programs under this Act.

"(12) Costs associated with the management of pension funds, self-insurance funds, and other funds of the tribal organization that provide for participation by the Federal Government.

"(*l*) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the Secretary makes a determination under this paragraph to a tribal organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

"(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for suspending, withholding, or delaying payment of funds.

"(m) The program income earned by a tribal organization in the course of carrying out a self-determination contract—

"(1) shall be used by the tribal organization to further the general purposes of the contract; and

"(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

"(n) To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered into under this Act reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of contract funds determined under subsection (a), the Secretary shall make such savings available for the provision of additional services to program beneficiaries, either directly or through contractors, in a manner equitable to both direct and contracted programs.

"(o) Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect on the performance of the contract.".

SEC. 103. CONTRACT SPECIFICATIONS.

The Indian Self-Determination Education Assistance Act (25 U.S.C. 450 et seq.) is amended by inserting after section 107 the following new section:

"SEC. 108. CONTRACT OR GRANT SPECIFICATIONS.

"(a) Each self-determination contract entered into under this Act shall—

"(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) (with modifications where indicated and the blanks appropriately filled in), and

"(2) contain such other provisions as are agreed to by the parties.

"(b) Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(c) The model agreement referred to in subsection (a)(1) reads as follows:

"SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE ___ TRIBAL GOVERNMENT.

"'(a) AUTHORITY AND PURPOSE.—

"'(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the "Contract"), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the "Secretary"), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the ___ tribal government or tribal organization (referred to in this agreement as the "Contractor"). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"'(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

"'(b) TERMS, PROVISIONS, AND CONDITIONS.—

"'(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be ___ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

"'(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

"'(3) PROGRAM STANDARD.—The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

"'(4) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j-1).

"'(5) LIMITATION OF COSTS.—The Contractor shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe that the total amount required for performance of this Contract or a specific activity conducted under this Contract would be greater than the amount of funds awarded under this Contract, the Contractor shall provide reasonable notice to the appropriate Secretary. If the appropriate Secretary does not take such action as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

"'(6) PAYMENT.—

"'(A) IN GENERAL.—Payments to the Contractor under this Contract shall—

"'(i) be made as expeditiously as practicable; and

"'(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

"'(B) QUARTERLY, SEMIANNUAL, LUMP-SUM, AND OTHER METHODS OF PAYMENT.—

"'(i) IN GENERAL.—Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

"'(ii) METHOD OF QUARTERLY PAYMENT.—If quarterly payments are specified in the annual funding agreement incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

"'(iii) APPLICABILITY.—Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

"'(7) RECORDS AND MONITORING.—

"'(A) IN GENERAL.—Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"'(B) RECORDKEEPING SYSTEM.—The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

"'(C) RESPONSIBILITIES OF CONTRACTOR.—The Contractor shall be responsible for managing the day-to-day operations conducted under this Contract and for monitoring activities conducted under this Contract to ensure compliance with the contract and applicable Federal requirements. With respect to the monitoring activities of the Secretary, the routine monitoring visits shall be limited to not more than one performance monitoring visit for this Contract by the head of each operating division, departmental bureau, or departmental agency, or duly authorized representative of such head unless—

"'(i) the Contractor agrees to one or more additional visits; or

"'(ii) the appropriate official determines that there is reasonable cause to believe that grounds for reassumption of the Contract, suspension of contract payments, or other serious contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made until such time as reasonable advance notice that includes a description of the nature of the problem that requires the additional visit has been given to the Contractor.

"'(8) PROPERTY.—

"'(A) IN GENERAL.—As provided in section 105(f) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor, all reasonably divisible real property, facilities, equipment, and personal property that the Secretary has used to provide or administer the programs, services, functions, and activities covered by this Contract. A mutually agreed upon list specifying the property, facilities, and equipment so furnished shall also be prepared by the Secretary, with the concurrence of the Contractor, and periodically revised by the Secretary, with the concurrence of the Contractor.

"'(B) RECORDS.—The Contractor shall maintain a record of all property referred to in subparagraph (A) or other property acquired by the Contractor under section 105(f)(2)(A) of such Act for purposes of replacement.

"'(C) JOINT USE AGREEMENTS.—Upon the request of the Contractor, the Secretary and the Contractor shall enter into a separate joint use agreement to address the shared use by the parties of real or personal property that is not reasonably divisible.

"'(D) ACQUISITION OF PROPERTY.—The Contractor is granted the authority to acquire such excess property as the Contractor may determine to be appropriate in the judgment of the Contractor to support the programs, services, functions, and activities operated pursuant to this Contract.

"'(E) CONFISCATED OR EXCESS PROPERTY.—The Secretary shall assist the Contractor in obtaining such confiscated or excess property as may become available to tribes, tribal organizations, or local governments.

"'(F) SCREENER IDENTIFICATION CARD.—A screener identification card (General Services Administration form numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

"'(G) CAPITAL EQUIPMENT.—The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

"'(9) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, any funds provided under this contract—

"'(A) shall remain available until expended; and

"'(B) with respect to such funds, no further—

"'(i) approval by the Secretary, or

"'(ii) justifying documentation from the Contractor, shall be required prior to the expenditure of such funds.

"'(10) TRANSPORTATION.—Beginning on the effective date of this Contract, the Secretary shall authorize the Contractor to obtain interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

"'(11) FEDERAL PROGRAM GUIDELINES, MANUALS, OR POLICY DIRECTIVES.—Except as specifically provided in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary, unless otherwise agreed to by the Contractor and the Secretary, or otherwise required by law.

"'(12) DISPUTES.—

"'(A) THIRD-PARTY MEDIATION DEFINED.—For the purposes of this Contract, the term "third-party mediation" means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

"'(B) ALTERNATIVE PROCEDURES.—In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1), the parties to this Contract may jointly—

"'(i) submit disputes under this Contract to third-party mediation;

"'(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

"'(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

"'(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

"'(C) EFFECT OF DECISIONS.—The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

"'(13) ADMINISTRATIVE PROCEDURES OF CONTRACTOR.—Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

"'(14) SUCCESSOR ANNUAL FUNDING AGREEMENT.—

"'(A) IN GENERAL.—Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j-1(b)).

"'(B) Information.—The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

"'(15) Contract requirements; approval by secretary.—

"'(A) In general.—Except as provided in subparagraph (B), for the term of the Contract, section 2103 of the Revised Statutes (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (48 Stat. 987, chapter 576; 25 U.S.C. 476), shall not apply to any contract entered into in connection with this Contract.

"'(B) Requirements.—Each Contract entered into by the Contractor with a third party in connection with performing the obligations of the Contractor under this Contract shall—

"'(i) be in writing;

"'(ii) identify the interested parties, the authorities of such parties, and purposes of the Contract;

"'(iii) state the work to be performed under the Contract; and

"'(iv) state the process for making any claim, the payments to be made, and the terms of the Contract, which shall be fixed.

"'(c) Obligation of the Contractor.—

"'(1) Contract performance.—Except as provided in subsection (d)(2), the Contractor shall perform the programs, services, functions, and activities as provided in the annual funding agreement under subsection (f)(2) of this Contract.

"'(2) Amount of funds.—The total amount of funds to be paid under this Contract pursuant to section 106(a) shall be determined in an annual funding agreement entered into between the Secretary and the Contractor, which shall be incorporated into this Contract.

"'(3) Contracted programs.—Subject to the availability of appropriated funds, the Contractor shall administer the programs, services, functions, and activities identified in this Contract and funded through the annual funding agreement under subsection (f)(2).

"'(4) Trust services for individual Indians.—

"'(A) In general.—To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

"'(B) Trust services to individual Indians.—For the purposes of this paragraph only, the term "trust services for individual Indians" means only those services that pertain to land or financial management connected to individually held allotments.

"'(5) Fair and uniform services.—The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

"'(d) Obligation of the United States.—

"'(1) Trust responsibility.—

"'(A) In general.—The United States reaffirms the trust responsibility of the United States to the ___ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

"'(B) Construction of contract.—Nothing in this Contract may be construed to terminate, waive, modify, or reduce the trust responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in upholding such trust responsibility.

"'(2) Good faith.—To the extent that health programs are included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

"'(3) Programs retained.—As specified in the annual funding agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s) that are not specifically assumed by the Contractor in the annual funding agreement under subsection (f)(2).

"'(e) Other Provisions.—

"'(1) Designated officials.—Not later than the effective date of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a representative for notices, proposed amendments to the Contract, and other purposes for this Contract.

"'(2) Contract modifications or amendment.—

"'(A) In general.—Except as provided in subparagraph (B), no modification to this Contract shall take effect unless such modification is made in the form of a written amendment to the Contract, and the Contractor and the Secretary provide written consent for the modification.

"'(B) Exception.—The addition of supplemental funds for programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

"'(3) Officials not to benefit.—No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

"'(4) Covenant against contingent fees.—The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

"'(f) Attachments.—

"'(1) Approval of contract.—Unless previously furnished to the Secretary, the resolution of the ___ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

"'(2) Annual funding agreement.—

"'(A) In general.—The annual funding agreement under this Contract shall only contain—

"'(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and

"'(ii) such other provisions, including a brief description of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

"'(B) Incorporation by reference.—The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2.'".

SEC. 104. ADDITIONAL AMENDMENTS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 102 and 103, is further amended—

(1) in section 109—

(A) by inserting after "pursuant to such contract or grant agreement," the following "or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement,";

(B) by striking "action as prescribed by him" and all that follows through "in such cases, he" and inserting the following: "action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary";

(C) by inserting after "rescind such contract or grant agreement" the following: ", in whole or in part,";

(D) by striking the second period after "the tribal organization may approve"; and

(E) by inserting before the last sentence, the following new sentence: "In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrating the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing.";

(2) in section 110(a), by inserting immediately before the period at the end the following: "(including immediate injunctive relief to reverse a declination finding under section 102(a)(2) or to compel the Secretary to award and fund an approved self-determination contract)"; and

(3) in section 110(d), by inserting immediately before the period at the end the following: ", except that all administrative appeals relating to such contracts shall be heard by the Interior Board of Contract Appeals established pursuant to section 8 of such Act (41 U.S.C. 607)".

SEC. 105. REGULATIONS.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), as amended by sections 2 through 4, is further amended—

(1) by striking subsections (a) and (b) of section 107 and inserting the following new subsections:

"(a)(1) Except as may be specifically authorized in this subsection, or in any other provision of this Act, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this Act relating to chapter 171 of title 28, United States Code, commonly known as the 'Federal Tort Claims Act', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures for grants awarded under section 103, property donation procedures arising under section 105(f), internal agency procedures relating to the implementation of this Act, retrocession and tribal organization relinquishment procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards.

"(2)(A) The regulations promulgated under this Act, including the regulations referred to in this subsection, shall be promulgated—

"(i) in conformance with sections 552 and 553 of title 5, United States Code and subsections (c), (d), and (e) of this section; and

"(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

"(B) The authority to promulgate regulations set forth in this Act shall expire if final regulations are not promulgated within 18 months after the date of enactment of the Indian Self-Determination Contract Reform Act of 1994.

"(b) The provisions of this Act shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before the date of enactment of the Indian Self-Determination Contract Reform Act of 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this Act."; and

(2) by adding at the end of section 107, the following new subsections:

"(d)(1) In drafting and promulgating regulations as provided in subsection (a) (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members.

"(2)(A) In carrying out rulemaking processes under this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

"(i) subchapter III of chapter 5 of title 5, United States Code, commonly known as the 'Negotiated Rulemaking Act of 1990'; and

"(ii) the recommendations of the Administrative Conference of the United States numbered 82-4 and 85-5 entitled 'Procedures for Negotiating Proposed Regulations' under sections 305.82-4 and 305.85-5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

"(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

"(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after the date of enactment of such Act.

"(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this Act.

"(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

"(e) The Secretary may, with respect to a contract entered into under this Act, make exceptions in the regulations promulgated to carry out this Act, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this Act, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 102.".

SEC. 106. CONFORMING AMENDMENTS.

Section 105(h) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(h)) is amended by striking "and the rules and regulations adopted by the Secretaries of the Interior and Health and Human Services pursuant to section 107 of this Act".

TITLE II—SELF-GOVERNANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Tribal Self-Governance Act of 1994".

SEC. 202. FINDINGS.

Congress finds that—

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.

SEC. 203. DECLARATION OF POLICY.

It is the policy of this title to permanently establish and implement tribal self-governance—

(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

(3) to coexist with the provisions of the Indian Self-Determination Act relating to the provision of Indian services by designated Federal agencies;

(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.

SEC. 204. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act is amended by adding at the end the following new title:

"TITLE IV—TRIBAL SELF-GOVERNANCE

"SEC. 401. ESTABLISHMENT.

"The Secretary of the Interior (hereinafter in this title referred to as the 'Secretary') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this title referred to as 'Self-Governance') in accordance with this title.

"SEC. 402. SELECTION OF PARTICIPATING INDIAN TRIBES.

"(a) Continuing Participation.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III on the date of enactment of this title shall thereafter participate in Self-Governance under this title and cease participation in the Tribal Self-Governance Demonstration Project under title III with respect to the Department of the Interior.

"(b) Additional Participants.—(1) In addition to those Indian tribes participating in Self-Governance under subsection (a), the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) to participate in Self-Governance.

"(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

"(c) Applicant Pool.—The qualified applicant pool for Self-Governance shall consist of each tribe that—

"(1) successfully completes the planning phase described in subsection (d);

"(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

"(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

"(d) PLANNING PHASE.—Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

"(1) legal and budgetary research; and

"(2) internal tribal government planning and organizational preparation.

"SEC. 403. FUNDING AGREEMENTS.

"(a) AUTHORIZATION.—The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people.

"(b) CONTENTS.—Each funding agreement shall—

"(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs, without regard to the agency or office of the Bureau of Indian Affairs within which the program, service, function, and activity, or portion thereof, is performed, including funding for agency, area, and central office functions in accordance with subsection (g)(3), and including any program, service, function, and activity, or portion thereof, administered under the authority of—

"(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

"(B) the Act of November 2, 1921 (25 U.S.C. 13); and

"(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

"(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section 405(c), except that nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law;

"(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and reallocate funds for such programs, services, functions, and activities, or portions thereof, except that, with respect to the reallocation, consolidation, and redesign of programs described in paragraph (2), a joint agreement between the Secretary and the tribe shall be required;

"(4) prohibit the inclusion of funds provided—

"(A) pursuant to the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

"(B) for elementary and secondary schools under the formula developed pursuant to section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008); and

"(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 102;

"(5) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

"(6) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

"(7) allow for retrocession of programs or portions of programs pursuant to section 105(e);

"(8) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

"(A) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

"(9) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

"(c) ADDITIONAL ACTIVITIES.—Each funding agreement negotiated pursuant to subsections (a) and (b) may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

"(d) PROVISIONS RELATING TO THE SECRETARY.—Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

"(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

"(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resources, or public health and safety.

"(e) CONSTRUCTION PROJECTS.—(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act and Federal acquisition regulations in any funding agreement entered into under this Act. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

"(2) In all construction projects performed pursuant to this title, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

"(f) SUBMISSION FOR REVIEW.—Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

"(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

"(2) the Committee on Indian Affairs of the Senate; and

"(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

"(g) PAYMENT.—(1) At the request of the governing body of the tribe and under the terms of an agreement entered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

"(2) The funding agreements authorized by this title and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

"(3) Subject to paragraph (4) of this subsection and paragraphs (1) through (3) of subsection (b), the Secretary shall provide funds to the tribe under an agreement under this title for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this Act, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

"(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

"(h) CIVIL ACTIONS.—(1) Except as provided in paragraph (2), for the purposes of section 110, the term 'contract' shall include agreements entered into under this title.

"(2) For the period that an agreement entered into under this title is in effect, the provisions of section 2103 of the Revised Statutes of the United States (25 U.S.C. 81), and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this title.

"(i) FACILITATION.—(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

"(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

"(B) the implementation of agreements entered into under this section.

"(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

"(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. The Secretary's decision shall be final for the Department.

"(j) FUNDS.—All funds provided under funding agreements entered into pursuant to this Act, and all funds provided under contracts or grants made pursuant to this Act, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

"(k) DISCLAIMER.—Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under sections 403(b)(2) and 405(c)(1) with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe: *Provided*, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under section 403(b)(2).

"SEC. 404. BUDGET REQUEST.

"The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31, United States Code, any funds proposed to be included in agreements authorized under this title.

"SEC. 405. REPORTS.

"(a) REQUIREMENT.—The Secretary shall submit to Congress a written report on January 1 of each year following the date of enactment of this title regarding the administration of this title.

"(b) CONTENTS.—The report shall—

"(1) identify the relative costs and benefits of Self-Governance;

"(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

"(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

"(4) include the separate views of the tribes; and

"(5) include the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d).

"(c) REPORT ON NON-BIA PROGRAMS.—(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this title, the Secretary shall—

"(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

"(B) not later than 90 days after the date of enactment of this title, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this title, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

"(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this title, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 403.

"(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this title. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

"(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this title, a revised listing and programmatic targets.

"(d) REPORT ON CENTRAL OFFICE FUNDS.—Within 90 days after the date of the enactment of this title, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b), together with the views of the affected Indian tribes.

"SEC. 406. DISCLAIMERS.

"(a) OTHER SERVICES, CONTRACTS, AND FUNDS.—Nothing in this title shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law.

"(b) FEDERAL TRUST RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

"(c) APPLICATION OF OTHER SECTIONS OF ACT.—All provisions of sections 6, 102(c), 104, 105(f), 110, and 111 of this Act shall apply to agreements provided under this title.

"SEC. 407. REGULATIONS.

"(a) IN GENERAL.—Not later than 90 days after the date of enactment of this title, at the request of a majority of the Indian tribes with agreements under of this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

"(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this title.

"(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

"(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this title.".

Mr. RICHARDSON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from New Mexico [Mr. RICHARDSON].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. RICHARDSON: Amend the title so as to read: "A bill to specify the terms of contracts entered into by the United States and Indian tribal organizations under Indian Self-Determination and Education Assistance Act and to provide for tribal Self-Governance, and for other purposes.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING THE EXPORT-IMPORT BANK OF THE UNITED STATES TO PROVIDE FINANCING RELATIVE TO THE EXPORT OF CERTAIN DEFENSE ARTICLES AND SERVICES

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4455) to authorize the Export-Import Bank of the United States to provide financing for the export of nonlethal defense articles and defense services and primary end use of which will be for civilian purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. AUTHORITY TO PROVIDE FINANCING FOR THE EXPORT OF NONLETHAL DEFENSE ARTICLES OR SERVICES THE PRIMARY END USE OF WHICH WILL BE FOR CIVILIAN PURPOSES.

(a) IN GENERAL.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. (b)(6)) is amended by adding at the end the following:

"(I)(i) Subparagraph (A) shall not apply to a transaction involving defense articles or services if—

"(I) the bank determines that—

"(aa) the defense articles or services are nonlethal; and

"(bb) the primary end use of the defense articles or services will be for civilian purposes; and

"(II) at least 15 calendar days before the date on which the Board of Directors of the Bank gives final approval to Bank participation in the transaction, the Bank provides notice of the transaction to the Committees on Banking, Finance and Urban Affairs and on Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate.

"(ii) Not more than 10 percent of the loan, guarantee, and insurance authority available to the Bank for a fiscal year may be used by the Bank to support the sale of defense articles or services to which subparagraph (A) does not apply by reason of clause (i) of this subparagraph.

"(iii) Not later than September 1 of each fiscal year, the Comptroller General of the United States, in consultation with the Bank, shall submit to the Committees on Banking, Finance and Urban Affairs and on

Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and on Appropriations of the Senate a report on the end uses of any defense articles or services described in clause (i) with respect to which the Bank provided support during the second preceding fiscal year.''.

(b) REPORT TO THE CONGRESS.—Section 2(b)(6)(H) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(H)) is amended by inserting ''or described in subparagraph (I)(i)'' before the period at the end of the first sentence.

(c) PERIOD OF EFFECTIVENESS.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, 1997.

SEC. 2. PROMOTION OF EXPORTS OF ENVIRONMENTALLY BENEFICIAL GOODS AND SERVICES.

(a) IN GENERAL.—The first section 11(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–5(b)) is amended—

(1) by inserting before ''The Bank shall'' the following:

''(1) IN GENERAL.—'';

(2) in the first sentence, by inserting before the period ''(such as exports of products and services used to aid in the monitoring, abatement, control, or prevention of air, water, and ground contaminants or pollution, or which provide protection in the handling of toxic substances, subject to a final determination by the Bank, and products and services for foreign environmental projects dedicated entirely to the prevention, control, or cleanup of air, water, or ground pollution, including facilities to provide for control or cleanup, and used in the retrofitting of facility equipment for the sole purpose of mitigating, controlling, or preventing adverse environmental effects, subject to a final determination by the Bank)''; and

(3) by adding at the end the following:

''(2) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In addition to other funds available to support the export of goods and services described in paragraph (1), there are authorized to be appropriated to the Bank not more than $35,000,000 for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of supporting such exports. If, in any fiscal year, the funds appropriated in accordance with this paragraph are not fully utilized due to insufficient qualified transactions for the export of such goods and services, such funds may be expended for other purposes eligible for support by the Bank.''.

(b) TECHNICAL CORRECTION.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by redesignating the second section 11 (12 U.S.C. 635i–8) as section 14.

Mr. FRANK of Massachusetts (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Massachusetts?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, this Member does not intend to object, but wishes to express his support for the gentleman from Massachusetts [Mr. FRANK] in requesting that this legislation be considered under a unanimous-consent request.

This legislation, H.R. 4455, introduced by this Member, passed the house by voice vote under suspension of the rules on August 8, 1994. Yesterday, the Senate passed this measure under unanimous consent with a slight clarification of the language added by the Representative from Massachusetts [Mr. KENNEDY]—and with his consent—which encourages the Export-Import Bank to promote the export of environmentally beneficial goods and services.

Mr. Speaker, this Member would like to commend the gentleman from Massachusetts [Mr. FRANK], the chairman of the International Development, Finance, Trade, and Monetary Policy Subcommittee, for his hard work in getting this legislation passed. In addition, this Member would like to thank the chairman and the ranking member of the full Banking Committee, Mr. GONZALEZ and Mr. LEACH, for their support and assistance in moving this legislation to the floor today with the unanimous, bipartisan support of the Committee on Banking, Finance and Urban Affairs. And finally, this Member would like to commend the gentleman from Massachusetts [Mr. KENNEDY] for his valuable contribution to this legislation.

The principal purpose of the bill is to permit the Export-Import Bank, which now cannot finance any defense good and service unless it is used solely for civilian purposes or is used primarily for antinarcotics purposes, to consider financing for defense goods and services that are nonlethal but only in the narrow set of circumstances when the unquestionably primary use will be for civilian purposes. Without this legislation, we do not have a U.S. Government export finance program that can accommodate dual-use items that are used primarily for civilian purposes.

Thus, the bill provides a narrow exception to the current law. This Member does not consider the Eximbank to be an appropriate agency for financing defense sales for primarily military purposes nor for sales of lethal items. Many other Members share this view.

An example of an item which cannot now be financed by Eximbank, but which would be permitted if this bill is passed, is radar for air traffic control systems, if the radar feeds into both civilian and military air traffic control systems. The bill would allow such export sales to be considered for Eximbank financing as long as the primary use is for civil air traffic control. It does not make sense to cede to our trade competitors the whole field of high-technology dual-use electronics when the military use or involvement is clearly secondary and subsidiary to the civilian use. This step is consistent with the direction of conversion that many defense industries are seeking and being encouraged to pursue, and the current inflexible policy impedes export sales of such nonlethal dual-use items that are destined primarily for civilian purposes.

Mr. Speaker, again this Member would like to thank the chairman, the gentleman from Massachusetts [Mr. FRANK], and a number of other Members, including Appropriations Chairman OBEY and Representatives KENNEDY and WATT, for their assistance and that of their staff in crafting amendments to the original bill in a form that apparently satisfies their concerns about oversight, concerns about crowding out of other lending, and concerns about guarding against abuse. Adoption of this bill will help bolster U.S. exports of dual-use goods for primarily civilian purposes and create and sustain good, high skill jobs in the United States.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from Massachusetts, under my reservation of objection.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I would point out that this is very important from the standpoint of defense conversion. What this bill does is to say, among other things, to American companies that have been active in the defense business, that if they have nonlethal material which might deal with environmental sensing, which could deal with transportation, which could deal with a whole range of other things, if it is not lethal and it has a potential military use but is in fact sold for civilian use, this will now regularly be allowed to receive funding from the Export-Import Bank. We have very strict rules right now which interfere with the ability of many companies that are trying to convert from defense to civilian international sales, and this will clear it up.

Mr. Speaker, I think the gentleman from Nebraska [Mr. BEREUTER] is to be commended for bringing this forward. It also includes language that my colleague from Massachusetts offered to encourage the sale of environmental equipment with Export-Import Bank funding, and we believe it will be very useful. I hope that the bill will be passed.

Mr. BEREUTER. Mr. Speaker, continuing my reservation of objection, I thank the gentleman for his comments. The reporting requirements to the committees of Congress are very substantial and complete and appropriate. Indeed, this will help our defense industries to make the conversion to civilian uses.

Mr. Speaker, with these comments, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

BASE CLOSURE COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2534) to revise and improve the process for disposing of buildings and property at military installations under the base closure laws, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mrs. ROUKEMA. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Texas [Mr. GONZALEZ] for the purpose of explaining this measure.

Mr. GONZALEZ. Mr. Speaker, this legislation establishes a collaborative process between the community and homeless providers in determining the use of military bases after closure to ensure that the best use of these bases is made for housing and community development. This is a significant reform to the process that will balance the needs of the jurisdiction in which a military base is located among economic development, housing, and housing for the homeless. This is the sole remaining reform of the many that had been included in the housing reauthorization bill which the other body failed to pass. Members on both sides of the aisle, communities, and homeless providers and advocates agree that this reform is needed and, indeed, essential.

Let me add that I am pleased to have worked on this matter with the chairman of the House Committee on Government Operations, Mr. CONYERS, whose committee has jurisdiction over these matters. I want to clarify for the record that the authorities delegated by this act are an extension of the authorities of the Federal Property and Administrative Services Act of 1949 and the Stewart B. McKinney Homeless Assistance Act and that nothing in this bill is meant in any way to alter the Government Operations Committee's jurisdictional interest in these matters.

I am also pleased to have worked with the Committee on Armed Services and many Members of the House on this provision which we initiated in H.R. 3838, the housing reauthorization bill.

Mr. Speaker, let me add that we owe quite a bit to the gentleman from Michigan [Mr. CONYERS], the chairman of the Committee on Government Operations, who has primary jurisdiction in these matters, and whose committee worked very diligently with ours, and yielded this aspect to the Committee on Banking, Finance and Urban Affairs.

I am also very pleased to report that we had equal, reciprocal, and harmonious dealings with the Committee on Armed Services, and we have provided a much-needed method and mechanism that has a direct impact on at least 10 different jurisdictions in our country right now.

Mr. Speaker, I would like to also, for the record, express profound appreciation for the great work the gentlewoman from New Jersey [Mrs. ROUKEMA], the minority ranking member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs, has continued to perform on a sustained and very substantial basis.

Mrs. ROUKEMA. Mr. Speaker, further reserving the right to object, and I will not object, but I appreciate the gentleman's explanation of the bill. I think it is quite a thorough explanation. It certainly has my support, and adds further flexibility to local authorities in dealing with these very difficult problems, and at the same time giving the help and assistance to the homeless.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Nebraska [Mr. BEREUTER], who was a major force in moving this legislation.

Mr. BEREUTER. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, this Member does not intend to object, but simply rises to confirm that this measure is the very slightly modified version of legislation passed by the House in H.R. 3838 as this Member's amendment relating to the disposition of closing military bases to homeless assistance providers.

Mr. Speaker, this legislation is a compromise measure worked out among Members of this body, the other body, homeless advocates, community representatives with particular assistance from the office of Gov. Pete Wilson, who originally brought this issue to this Member's attention. Although this Member does not have any closing military bases in his district, or even in his State, he is pleased to have offered the original version of this language in the House, and is most pleased with this broader compromise measure. This legislation is good policy which will create a more rational, orderly method in bringing communities and homeless advocates together to formulate a re-use plan which provides economic viability for the community while addressing the needs of the homeless in that community. This is truly a bipartisan effort and this Member thanks the distinguished chairman of the Banking Committee, Mr. GONZALEZ, the distinguished ranking minority member of the Banking Committee, Mr. LEACH and the distinguished ranking minority member of the Housing Subcommittee, Mrs. ROUKEMA, and all those involved in bringing this compromise before us today. This Member strongly urges its passage.

□ 0230

Mrs. ROUKEMA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I thank the Members who worked on this, especially the staff. This is a simple little 4- or 5-page amendment that came up in the subcommittee markup on housing, and it has turned into some 25 pages, a rewrite of title V as it deals with base closures. This coordinates the McKinney Act and the base closure more closely while preserving the important excess property provisions of the McKinney Act. I thank the Members for their cooperation and patience and I think we saved what we could in regard to trying to provide housing for those who need it.

Mr. Speaker, I would like to give some perspective to this legislation we are considering now with regard to the rewrite of how McKinney title V surplus property rights for the homeless will be changed for military properties going through base closure procedures.

This legislation represents an agreement that has been carefully worked out between relevant committees on both sides of the Hill and on both sides of the aisle since legislation similar to this was passed by the House in July. We have reached this agreement between the Banking, Armed Services and Government Operations Committees to create a new and improved process for communities and homeless providers to come together to plan for "military base closure properties." This revised plan calls for them to come together at the same time, in the same process, in order to reduce the conflicts that localities, already under a great deal of stress, will have to go through in planning for their future.

Some are concerned that we have given away the store, here, with regard to using these Federal resources to assist the homeless.

Mr. Speaker, not only is that not our intent, it is not the case.

The provisions we would establish with this bill will create a process for notice and outreach to providers for the homeless, a defined process for applying for properties, a process for redevelopment plans, a review and approval of all of the above by the Secretary of HUD, an appropriate series of time lines, and a guarantee that applications approved prior to enactment will receive substantially equivalent properties, funds or services should a local redevelopment authority choose to fall under this new base closure redevelopment law.

This legislative proposal does not affect other surplus property, that is, those that are not military installations under base closure procedures, that fall under title V of the McKinney Act. It is a good compromise that represents a viable way to meet the serious homeless needs in our communities across the country while providing a sense of empowerment to communities so that they may move ahead with the redevelopment of their economies and their lives. And that too, Mr. Speaker, is good for those without jobs or economic opportunity; those who might be homeless or near homelessness themselves.

Mr. Speaker, perhaps this legislation will not be what everyone wants. it is, however, a well worked compromise that I am pleased we will bring to fruition now.

Mrs. ROUKEMA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. MCCOLLUM], another member of the committee.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I want to comment, not only being a member of the committee but being a Member that has a base being affected by this, on the fact that this has been a very good resolution of a difficult problem for many communities that have base closures, because now that we have gotten this legislation in place, there will be an opportunity for the Base Reuse Commission or the Redevelopment Agency as is described in this legislation of the local community to have much more input in relationship to the homeless and the needs of the homeless and in the use of the properties than was present under the existing law. I think that is going to make a lot of people feel better about it.

It also allows the specific consideration of the economic impact to the community, the various considerations that are to be taken into account, including the use of the property for the homeless.

For many reasons, this is a very, very important step for those communities such as Orlando's which are involved in this process right now.

I commend the gentlewoman, the chairman of the committee, and all of the others who worked on it, especially the gentleman from Nebraska [Mr. BEREUTER] whom I know has spent many hours on this.

Mrs. ROUKEMA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, the hour is late. I think much has been said. I want to thank the chairman, the gentlewoman, the gentleman from Nebraska, the gentleman from Minnesota, and all others who worked on this. I am in both categories, a member of the committee with a great interest in seeing we provide adequate housing for all Americans, and, second, someone with a base affected by this legislation. As has been said before, I think this bill reconciles both interests very, very well.

Mrs. ROUKEMA. Mr. Speaker, this work could not have been done without the assistance and leadership of the gentleman from New York [Mr. SCHUMER].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may cited as the "Base Closure Community Redevelopment and Homeless Assistance Act of 1994".

SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

(a) IN GENERAL.—Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Determinations of the use to assist the homeless of buildings and property located at installations approved for closure under this part after the date of the enactment of this paragraph shall be determined under this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determination referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and

"(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

"(II) notify the Secretary of Defense of the date.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

“(VI) An assessment of the time required in order to commence carrying out the program.

“(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

“(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

“(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J).

“(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

“(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

“(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

“(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

“(ii) A redevelopment authority shall include in an application under clause (i) the following:

“(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

“(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

“(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

“(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

“(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

“(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

“(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless—

“(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

“(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

“(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

“(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

“(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

“(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominate views on the plan of the communities in the vicinity of the installation covered by the plan.

“(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

“(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

“(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include—

“(I) an explanation of that determination; and

“(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

“(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

“(I) revise the plan in order to address the determination; and

“(II) submit the revised plan to the Secretary of Housing and Urban Development.

“(ii) A redevelopment authority shall submit a revised plan under this subparagraph to the Secretary of Housing and Urban Development, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

“(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

“(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

“(K) Upon receipt of a notice under subparagraph (H)(vi) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property located at the installation that are identified in the plan as available for use to assist the homeless in accordance with the provisions of the plan. The Secretary of Defense may dispose of such buildings or property directly to the representatives of the homeless concerned of to the redevelopment authority concerned. The Secretary of Defense shall dispose of the buildings and property under this subparagraph without consideration.

“(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall—

“(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

“(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

“(III) request that each such representative submit to that Secretary the items described in clause (ii); and

“(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meets the requirements set forth in subparagraph (H)(i).

“(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

“(I) A description of the program of such representative to assist the homeless.

“(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) The Secretary of Housing and Urban Development shall indicate to the Secretary of Defense and to the redevelopment authority concerned the buildings and property at an installation under clause (i)(IV) to be disposed of not later than 90 days after the date of a receipt of a revised plan for the installation under subparagraph (J).

"(iv) The Secretary of Defense shall dispose of the buildings and property at an installation referred to in clause (iii) to entities indicated by the Secretary of Housing and Urban Development or by transfer to the redevelopment authority concerned for transfer to such entities. Such disposal shall be in accordance with the indications of the Secretary of Housing and Urban Development under clause (i)(IV). Such disposal shall be without consideration.

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

"(O) For purposes of this paragraph, the term 'communities in the vicinity of the installation', in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.".

(b) Definition.—Section 2910 of such Act is amended by adding at the end the following:

"(10) The term 'representative of the homeless' has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).".

(c) Conforming Amendment to 1990 Base Closure Act.—Section 2905(b)(6)(A) of such Act is amended by adding at the end the following: "For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).".

(d) Conforming Amendment to McKinney Act.—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) Applicability to Property Under Base Closure Process.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) after the date of the enactment of this subsection.

"(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), before such date, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.".

(e) Applicability to Installations Approved for Closure Before Enactment of Act.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act, and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5)(A) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act and are pending with that Secretary on that date; and

(B) incorporate in the plan an accommodation of the needs of the homeless on or off the installation that is at least substantially equivalent to the accommodations of the needs of the homeless that were provided for in any such applications that were so received before such date and were approved by that Secretary before that date.

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term "1988 base closure Act" means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The term "1990 base closure Act" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(f) CLARIFYING AMENDMENTS TO BASE CLOSURE ACTS.—(1) Section 204(b)(6)(F)(i) of the Defense Authorization Amendments and Base Closure Act and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

(2) Section 2905(b)(6)(F)(i) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2534, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1569, DISADVANTAGED MINORITY HEALTH IMPROVEMENT ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–845) on the resolution (H. Res. 574) waiving points of order against the conference report to accompany the Senate bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO H.R. 1348, QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT OF 1993

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–846) on the resolution (H. Res. 575) providing for consideration of the Senate amendment to the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5231, PROVIDING FOR MANAGEMENT OF PORTIONS OF THE PRESIDIO

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103–847) on the resolution (H. Res. 576) providing for consideration of the bill (H.R. 5231) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, which was referred to the House Calendar and ordered to be printed.

PRINTING OF COLLECTION OF STATEMENTS MADE IN TRIBUTE TO THE LATE SPEAKER OF THE HOUSE, THOMAS P. "TIP" O'NEILL, JR.

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H.Con.Res. 292) providing for the printing of a collection of statements made in tribute to the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr., and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, I reserve the right to object, I yield to the gentleman from New York to explain the concurrent resolution.

Mr. MANTON. Mr. Speaker, H. Con. Res. 292 was introduced by Representative JOE MOAKLEY, and will authorize the printing of a collection of statements made in tribute to the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr., as prepared under the direction of the Joint Committee on Printing.

The Subcommittee on Personnel and Police, which I chair, approved this resolution on September 27, 1994. The Committee on House Administration approved this resolution on October 4, 1994. My colleagues should note that this resolution contains language to ensure that printing costs stay within GOP cost estimates.

Mr. Speaker, Tip O'Neill was a great and admirable man who had the personality and character that made him a magnificent leader. Tip O'Neill came to Congress in 1953 and for the next 34 years he never lost touch with the people he represented. Tip was a caring, compassionate and decent man.

Tip taught us that an essential ingredient in politics is compromise and that compromise means appealing to one's conscience, patriotism and loyalty. Tip O'Neill not only made an impact on this institution, but on each and every one of us. We all miss Tip terribly, but we must remember how fortunate we were to have had the opportunity to know him. I thank the gentlewoman for yielding and I urge adoption of the resolution.

Mr. MOAKLEY. Mr. Speaker, I rise today in strong support of the resolution authorizing the Tip O'Neill eulogy book.

As everyone knows, Tip O'Neill was my mentor and my dear friend. His memory serves as a great example to legislators from around the country. This eulogy book will help ensure that it continues to do so for years to come.

Tip O'Neill earned the reputation of being a true man of the people. He loved serving the people of Massachusetts; he loved public service; and he loved this institution. Unfortunately, we are seeing fewer and fewer people today who believe in the Tip O'Neill tradition of public service.

Tip's hard work, his big heart, and his selfless dedication to justice served the people of this Nation well. And, throughout his entire distinguished career, Tip never forgot where he came from.

He lived by his motto, "All politics is local," and the country is better for it.

I am very pleased to be the sponsor of this resolution to authorize the printing of Tip's eulogy book. It will include not only the many, many heartfelt homages made after his death, but also will be a very special tribute to the life and distinguished career of a very special man.

I want to thank Chairman CHARLIE ROSE and Subcommittee Chairman TOM MANTON and ranking members BILL THOMAS and JENNIFER DUNN for their assistance in bringing this resolution to the floor in such a timely manner. I also want to thank the staffs on both the subcommittee and full committee level for their assistance.

Ms. DUNN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 292

Resolved by the House of Representatives (the Senate concurring), That a collection of statements made in tribute to the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr., together with related materials, shall be printed as a House document, with illustrations and suitable binding. The document shall be prepared under the direction of the Joint Committee on Printing.

SEC. 2. In addition to the usual number, there shall be printed the lesser of—

(1) 5,000 casebound copies of the document, of which 1,760 copies shall be for the use of

the House of Representatives, 400 copies shall be for the use of the Senate, and 2,840 copies shall be for the use of the Joint Committee on Printing; or

(2) such number of casebound copies of the document as does not exceed a total production and printing cost of $79,500, with distribution to be allocated in the same proportion as described in paragraph (1).

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 292, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR PRINTING OF BOOK, "HISTORY OF THE HOUSE OF REPRESENTATIVES"

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 293) providing for the printing of the book entitled "History of the United States House of Representatives," and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York to explain the concurrent resolution.

Mr. MANTON. Mr. Speaker, House Concurrent Resolution 293, was introduced by Representative CHARLIE ROSE and will authorize the printing of the revised edition of "History of the United States House of Representatives," as prepared under the supervision of the Committee on House Administration.

This book will focus on structures, functions, processes, and people of the House. My colleagues should note that this resolution contains language to ensure that printing costs stay within GPO cost estimates. The resolution was amended in committee to make certain that each Member of the body receive at least five copies of this publication. I would like to commend Ms. DUNN for her work on this issue. I supported the amendment and I look forward to working with Ms. DUNN to make certain that all future printing resolutions contain similar language. I thank the gentlewoman for yielding and I urge adoption of the resolution.

Ms. DUNN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 293

Resolved by the House of Representatives (the Senate concurring), That a revised edition of the book entitled "History of the United States House of Representatives", prepared under the supervision of the Committee on House Administration of the House of Representatives, shall be printed as a House document.

SEC. 2. In addition to the usual number, there shall be printed the lesser of—

(1) 10,000 casebound copies of the document, of which 9,500 copies shall be for the use of the Committee on House Administration of the House of Representatives and 500 copies shall be for the use of the Senate; or

(2) such number of casebound copies of the document as does not exceed a total production printing cost of $150,000, with such copies to be allocated in the same proportion as described in paragraph (1).

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 1, line 9, strike out "10,000" and insert in lieu thereof "5,000".

Page 1, line 10, strike out "9,500" and insert in lieu thereof "4,750".

Page 2, line 2, strike out "500" and insert in lieu thereof "250".

Page 2, line 6, strike out "$150,000" and insert in lieu thereof "$75,000".

Page 2, after line 8, add the following new section:

SEC. 3. Of the copies of the document for the use of the Committee on House Administration of the House of Representatives under section 2(1), at the request of a Member of the House of Representatives, the Member shall be entitled to receive at least 5 copies. The Committee shall notify each Member of the entitlement under the preceding sentence. As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

Mr. MANTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

□ 0240

PRINTING OF BOOK ENTITLED "HISPANIC AMERICANS IN CONGRESS"

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 299) authorizing the printing of the book entitled "Hispanic Americans in Congress," and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON] to explain the legislation.

Mr. MANTON. Mr. Speaker, H. Con. Res. 299 was introduced by Representative JOSÉ SERRANO and will authorize the book entitled "Hispanic Americans in Congress" as prepared under the direction of the Joint Committee on Printing. The Subcommittee on Personnel and Police, which I chair, approved this resolution on September 27, 1994.

The Committee on House Administration approved this resolution on October 4, 1994. My colleagues should note that this resolution contains language to ensure that printing costs stay within GPO cost estimates. The resolution was amended to strike out the payment of administrative costs of compiling the document. This book will contain a biography and picture of Hispanic Americans who have served in Congress. Hispanics have a long and illustrious history of service in Congress. This book will chronicle the invaluable contributions Hispanics have made to this Congress and to our democratic form of government. I thank the gentlewoman for yielding and I urge the adoption of the resolution.

Ms. DUNN. Mr. Speaker, I congratulate the chairman of our subcommittee for doing such a fine job.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SERRANO. Mr. Speaker, on behalf of the Congressional Hispanic Caucus, I proudly rise in support of House Concurrent Resolution 299, a resolution authorizing the printing of "Hispanic Americans in Congress." I had the honor of introducing this legislation on behalf of the Congressional Hispanic Caucus on September 27 of this year.

I must extend my deep thanks to Chairman ROSE and Chairman MANTON for their leadership in guiding this important bill to the floor.

The contributions of Hispanics to the culture, society, and economy of this Nation are as varied as they are numerous. From the Southwest to the Northeast and many points in between, Hispanics have performed and excelled in their major industries and pursuits that have helped to make America what it is today. In fact, Hispanics have earned more Congressional Medals of Honor, per capita, than any other race or ethnic group in U.S. history.

With passage of this resolution, Members of the Congressional Hispanic Caucus hope to reveal to the Nation the little known history of Hispanic Americans in Congress. Hispanics have a long and illustrious history of service in the 19th century.

Hispanics have represented the congressional districts in the States of Florida, New Mexico, California, Louisiana, New York, Texas, New Jersey, Arizona, Illinois and the territories of Puerto Rico, the Virgin Islands and Guam. In addition, there have been three Hispanics, all from New Mexico, who have served in the United States Senate: Octaviano Larrazolo, Dennis Chavez and Joseph Montoya.

"Hispanic Americans in Congress" would parallel two other books—one on African-Americans and the other on women—in scope and content. Taken together, these three books offer role models from yesterday and today that might inspire future Hispanics, African-Americans and women to run for service in the Nation's highest legislative body.

It is my hope and expectation that this important publication will chronicle the first of many chapters of Hispanic participation in the Congress. Indeed, according to the Bureau of the Census, Hispanics will be the largest minority in the U.S. early in the next century. Already there are more Hispanic children, and future voters, than there are children of any other minority group.

As long as the constitutionally guaranteed voting rights of Hispanics are protected, there will be more and more Hispanic Members of Congress, offering their firsthand knowledge of the needs and concerns of the Hispanic community.

Mr. Speaker, I must thank my colleagues in the Hispanic Caucus for their support of this project. Without their support and guidance, the book, "Hispanic Americans in Congress," could never have become a reality.

Thus it is in the spirit of Hispanic Heritage Month, which runs through October 15, that I support this important concurrent resolution to authorize printing of the book, "Hispanic Americans in Congress" and urge my colleagues to vote aye.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 299

Resolved by the House of Representatives (the Senate concurring), That the book entitled "Hispanic Americans in Congress", prepared under the direction of the Joint Committee on Printing, shall be printed as a House document, with illustrations and suitable binding.

SEC. 2. There shall be paid from the contingent fund of the House of Representatives not more than $3,000 for administrative costs of compiling the document.

SEC. 3. In addition to the usual number, there shall be printed, for the use of the Joint Committee on Printing, the lesser of—

(1) 25,000 copies of the document; or

(2) such number of copies of the document as does not exceed a total production and print cost of $110,000.

AMENDMENT OFFERED BY MR. MANTON

Mr. MANTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MANTON: Page 1, strike out lines 6 through 8.

Page 2, line 1, redesignate section 3 as section 2.

Mr. MANTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. MANTON].

The amendment was agreed to.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 299, the current resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

HIGH-SPEED RAIL DEVELOPMENT ACT OF 1994

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4867) to authorize appropriations for high-speed rail transportation, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

House Amendment to Senate Amendment: In lieu of the matter proposed to be inserted by the Senate amendment to the text, insert the following:

TITLE I—HIGH-SPEED RAIL

SEC. 101. SHORT TITLE.

This title may be cited as the "Swift Rail Development Act of 1994".

SEC. 102. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) high-speed rail offers safe and efficient transportation in certain densely traveled corridors linking major metropolitan areas in the United States;

(2) high-speed rail may have environmental advantages over certain other forms of intercity transportation;

(3) Amtrak's Metroliner service between Washington, District of Columbia, and New York, New York, the United States premier high-speed rail service, has shown that Americans will use high-speed rail when that transportation option is available;

(4) new high-speed rail service should not receive Federal subsidies for operating and maintenance expenses;

(5) State and local governments should take the prime responsibility for the development and implementation of high-speed rail service;

(6) the private sector should participate in funding the development of high-speed rail systems;

(7) in some intercity corridors, Federal planning assistance may be required to supplement the funding commitments of State and local governments and the private sector to ensure the adequate planning, including reasonable estimates of the costs and benefits, of high-speed rail systems;

(8) improvement of existing technologies can facilitate the development of high-speed rail systems in the United States; and

(9) Federal assistance is required for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

(b) PURPOSE.—The purpose of this title is to encourage farsighted State, local, and private efforts in the analysis and planning for high-speed rail systems in appropriate intercity corridors.

SEC. 103. NATIONAL HIGH-SPEED RAIL ASSISTANCE PROGRAM.

(a) AMENDMENTS.—(1) Part D of subtitle V of title 49, United States Code, is redesignated as part E, chapter 261 of such title is redesignated as chapter 281, and sections 26101 and 26102 of such title are redesignated as sections 28101 and 28102.

(2) Subtitle V of title 49, United States Code, is amended by inserting after part C the following new part:

"PART D—HIGH-SPEED RAIL

"CHAPTER 261—HIGH-SPEED RAIL ASSISTANCE

"Sec.
"26101. Corridor planning.
"26102. High-speed rail technology improvements.
"26103. Safety regulations.
"26104. Authorization of appropriations.
"26105. Definitions.

"§ 26101. Corridor planning

"(a) CORRIDOR PLANNING ASSISTANCE.—(1) The Secretary may provide under this section financial assistance to a public agency or group of public agencies for corridor planning for up to 50 percent of the publicly financed costs associated with eligible activities.

"(2) No less than 20 percent of the publicly financed costs associated with eligible activities shall come from State and local sources, which State and local sources may not include funds from any Federal program.

"(b) ELIGIBLE ACTIVITIES.—(1) A corridor planning activity is eligible for financial assistance under subsection (a) if the Secretary determines that it is necessary to establish appropriate engineering, operational, financial, environmental, or socioeconomic projections for the establishment of high-speed rail service in the corridor and that it leads toward development of a prudent financial and institutional plan for implementation of specific high-speed rail improvements. Eligible corridor planning activities include—

"(A) environmental assessments;

"(B) feasibility studies emphasizing commercial technology improvements or applications;

"(C) economic analyses, including ridership, revenue, and operating expense forecasting;

"(D) assessing the impact on rail employment of developing high-speed rail corridors;

"(E) assessing community economic impacts;

"(F) coordination with State and metropolitan area transportation planning and corridor planning with other States;

"(G) operational planning;

"(H) route selection analyses and purchase of rights-of-way for proposed high-speed rail service;

"(I) preliminary engineering and design;

"(J) identification of specific improvements to a corridor, including electrification, line straightening and other right-of-way improvements, bridge rehabilitation and replacement, use of advanced locomotives and rolling stock, ticketing, coordination with other modes of transportation, parking and other means of passenger access, track, signal, station, and other capital work, and use of intermodal terminals;

"(K) preparation of financing plans and prospectuses; and

"(L) creation of public/private partnerships.

"(2) No financial assistance shall be provided under this section for corridor planning with respect to the main line of the Northeast Corridor, between Washington, District of Columbia, and Boston, Massachusetts.

"(c) CRITERIA FOR DETERMINING FINANCIAL ASSISTANCE.—Selection by the Secretary of recipients of financial assistance under this section shall be based on such criteria as the Secretary considers appropriate, including—

"(1) the relationship of the corridor to the Secretary's national high-speed ground transportation policy;

"(2) the extent to which the proposed planning focuses on systems which will achieve sustained speeds of 125 mph or greater;

"(3) the integration of the corridor into metropolitan area and statewide transportation planning;

"(4) the potential interconnection of the corridor with other parts of the Nation's transportation system, including the interconnection with other countries;

"(5) the anticipated effect of the corridor on the congestion of other modes of transportation;

"(6) whether the work to be funded will aid the efforts of State and local governments to comply with the Clean Air Act (42 U.S.C. 7401 et seq.);

"(7) the past and proposed financial commitments and other support of State and local governments and the private sector to the proposed high-speed rail program, including the acquisition of rolling stock;

"(8) the estimated level of ridership;

"(9) the estimated capital cost of corridor improvements, including the cost of closing, improving, or separating highway-rail grade crossings;

"(10) rail transportation employment impacts;

"(11) community economic impacts;

"(12) the extent to which the projected revenues of the proposed high-speed rail service, along with any financial commitments of State or local governments and the private sector, are expected to cover capital costs and operating and maintenance expenses;

"(13) whether a specific route has been selected, specific improvements identified, and capacity studies completed; and

"(14) whether the corridor has been designated as a high-speed rail corridor by the Secretary.

"§ 26102. High-speed rail technology improvements

"(a) AUTHORITY.—The Secretary may undertake activities for the improvement, adaptation, and integration of proven technologies for commercial application in high-speed rail service in the United States.

"(b) ELIGIBLE RECIPIENTS.—In carrying out activities authorized by subsection (a), the Secretary may provide financial assistance to any United States private business, educational institution located in the United States, State or local government or public authority, or agency of the Federal Government.

"(c) CONSULTATION WITH OTHER AGENCIES.—In carrying out activities authorized by subsection (a), the Secretary shall consult with such other governmental agencies as may be necessary concerning the availability of appropriate technologies for commercial application in high-speed rail service in the United States.

"§ 26103. Safety regulations

"The Secretary shall promulgate such safety regulations as may be necessary for high-speed rail services.

"§ 26104. Authorization of appropriations

"(a) FISCAL YEAR 1995.—There are authorized to be appropriated to the Secretary $29,000,000 for fiscal year 1995, for carrying out sections 26101 and 26102 (including payment of administrative expenses related thereto).

"(b) FISCAL YEAR 1996.—(1) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1996, for carrying out section 26101 (including payment of administrative expenses related thereto).

"(2) There are authorized to be appropriated to the Secretary $30,000,000 for fiscal year 1996, for carrying out section 26102 (including payment of administrative expenses related thereto).

"(c) FISCAL YEAR 1997.—(1) There are authorized to be appropriated to the Secretary $45,000,000 for fiscal year 1997, for carrying out section 26101 (including payment of administrative expenses related thereto).

"(2) There are authorized to be appropriated to the Secretary $40,000,000 for fiscal year 1997, for carrying out section 26102 (including payment of administrative expenses related thereto).

"(d) FUNDS TO REMAIN AVAILABLE.—Funds made available under this section shall remain available until expended.

"§ 26105. Definitions

"For purposes of this chapter—

"(1) the term 'financial assistance' includes grants, contracts, and cooperative agreements;

"(2) the term 'high-speed rail' has the meaning given such term under section 511(n) of the Railroad Revitalization and Regulatory Reform Act of 1976;

"(3) the term 'publicly financed costs' means the costs funded after April 29, 1993, by Federal, State, and local governments;

"(4) the term 'Secretary' means the Secretary of Transportation;

"(5) the term 'State' means any of the several States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

"(6) the term 'United States private business' means a business entity organized under the laws of the United States, or of a State, and conducting substantial business operations in the United States.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters of subtitle V of title 49, United States Code, is amended by striking the items relating to part D and inserting in lieu thereof the following:

"PART D—HIGH-SPEED RAIL

"261. HIGH-SPEED RAIL ASSISTANCE 26101

"PART E—MISCELLANEOUS

"281. LAW ENFORCEMENT .... 28101".

(2) The table of sections of chapter 281 of title 49, United States Code, as such chapter is redesignated by subsection (a)(1) of this section, is amended—

(A) by striking "26101" and inserting in lieu thereof "28101"; and

(B) by striking "26102" and inserting in lieu thereof "28102".

SEC. 104. COLUMBUS AND GREENVILLE RAILWAY.

(a) REDEMPTION OF OUTSTANDING OBLIGATIONS AND LIABILITIES.—Notwithstanding any other provision of law, the Secretary of Transportation, or the Secretary of the Treasury, if a holder of any of the obligations, shall allow the Delta Transportation Company, doing business as the Columbus and Greenville Railway, to redeem the obligations and liabilities of such company which remain outstanding under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825 and 831, respectively).

(b) VALUE.—For purposes of subsection (a), the value of each of the obligations and liabilities shall be an amount equal to the value established under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

TITLE II—RAIL SAFETY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Railroad Safety Authorization Act of 1994".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 20117(a)(1) of title 49, United States Code, is amended by adding after subparagraph (B) the following new subparagraphs:

"(C) $68,289,000 for fiscal year 1995.

"(D) $75,112,000 for fiscal year 1996.

"(E) $82,563,000 for fiscal year 1997.

"(F) $90,739,000 for fiscal year 1998.".

SEC. 203. HOURS OF SERVICE PILOT PROJECTS.

(a) AMENDMENT.—Chapter 211 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 21108. Pilot projects

"(a) WAIVER.—A railroad carrier or railroad carriers and all labor organizations representing any class or craft of directly affected covered service employees of the railroad carrier or railroad carriers, may jointly petition the Secretary of Transportation for approval of a waiver, in whole or in part, of compliance with this chapter, to enable the establishment of one or more pilot projects to demonstrate the possible benefits of implementing alternatives to the strict application of the requirements of this chapter to such class or craft of employees, including requirements concerning maximum on-duty and minimum off-duty periods. Based on such a joint petition, the Secretary may, after notice and opportunity for comment, waive in whole or in part compliance with this chapter for a period of no more than two years, if the Secretary determines that such waiver of compliance is in the public interest and is consistent with railroad safety. Any such waiver may, based on a new petition, be extended for additional periods of up to two years, after notice and opportunity for comment. An explanation of any waiver granted under this section shall be published in the Federal Register.

"(b) REPORT.—The Secretary of Transportation shall submit to Congress, no later than January 1, 1997, a report that—

"(1) explains and analyzes the effectiveness of all pilot projects established pursuant to a waiver granted under subsection (a);

"(2) describes the status of all other waivers granted under subsection (a) and their related pilot projects, if any; and

"(3) recommends appropriate legislative changes to this chapter.

"(c) DEFINITION.—For purposes of this section, the term 'directly affected covered service employees' means covered service employees to whose hours of service the terms of the waiver petitioned for specifically apply.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 211 of title 49, United States Code, is amended by adding at the end the following new item:

"21108. Pilot projects.".

SEC. 204. CONFORMING AMENDMENT REGARDING HOURS OF SERVICE VIOLATIONS.

Section 21303(a)(1) of title 49, United States Code, is amended by inserting "or violating any provision of a waiver applicable to that person that has been granted under section 21108 of this title," after "chapter 211 of this title".

SEC. 205. TECHNICAL AMENDMENT REGARDING FEDERAL RAILROAD SAFETY.

Section 20111(c) of title 49, United States Code, is amended by inserting "this chapter or any of the laws transferred to the jurisdiction of the Secretary of Transportation by subsection (e) (1), (2), and (6)(A) of section 6 of the Department of Transportation Act, as in effect on June 1, 1994, or" after "individual's violation of".

SEC. 206. BIENNIAL FEDERAL RAILROAD SAFETY REPORTING.

(a) Section 20116 of title 49, United States Code, is amended—

(1) by striking in its heading "**Annual**" and inserting in lieu thereof "**Biennial**";

(2) by striking "not later than July 1 of each year a report on carrying out this chapter for the prior calendar year. The report shall include the following information about the prior year" and inserting in lieu thereof "every two years, on or before July 1 of the year due, a comprehensive report on the administration of this chapter for the preceding two calendar years. The report shall include the following information about such calendar years"; and

(3) in paragraph (1), by inserting ", by calendar year" after "casualties by cause".

(b) The item relating to section 20116 in the table of sections for chapter 201 of title 49, United States Code, is amended to read as follows:

"20116. Biennial report.".

SEC. 207. REPORT ON BRIDGE DISPLACEMENT DETECTION SYSTEMS.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20145. Report on bridge displacement detection systems

"Not later than 18 months after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, the Secretary of Transportation shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary on railroad bridge displacement detection systems.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20145. Report on bridge displacement detection systems.".

SEC. 208. TRACK SAFETY.

Section 20142 of title 49, United States Code, is amended—

(1) in subsection (b), by striking "September 3, 1994" and inserting in lieu thereof "September 1, 1995";

(2) in subsection (a)(1), by inserting ", including cold weather installation procedures" after "attendant structure"; and

(3) by adding at the end the following new subsection:

"(d) IDENTIFICATION OF INTERNAL RAIL DEFECTS.—In carrying out subsections (a) and (b), the Secretary shall consider whether or not to prescribe regulations and issue orders concerning—

"(1) inspection procedures to identify internal rail defects, before they reach imminent failure size, in rail that has significant shelling; and

"(2) any specific actions that should be taken when a rail surface condition, such as shelling, prevents the identification of internal defects.".

SEC. 209. RESIDENCE OF EMPLOYEES.

The amendments made by section 7 of the Amtrak Reauthorization and Improvement Act of 1990 shall apply to all periods before and after the date of their enactment.

SEC. 210. INSTITUTE FOR RAILROAD SAFETY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20146. Institute for Railroad Safety

"The Secretary of Transportation, in conjunction with a university or college having expertise in transportation safety, shall establish, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, an Institute for Railroad Safety. The Institute shall research, develop, fund, and test measures for reducing the number of fatalities and injuries relevant to railroad operations. There are authorized to be appropriated to the Secretary $1,000,000 for each of the fiscal years 1996 through 2000 to fund activities carried out under this section by the Institute, which shall report at least once each year on its use of such funds in carrying out such activities and the results thereof to the Secretary of Transportation and the Congress.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20146. Institute for Railroad Safety.".

SEC. 211. WARNING OF CIVIL LIABILITY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20147. Warning of civil liability

"The Secretary of Transportation shall encourage railroad carriers to warn the public about potential liability for violation of regulations related to vandalism of railroad signs, devices, and equipment and to trespassing on railroad property.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20147. Warning of civil liability.".

SEC. 212. RAILROAD CAR VISIBILITY.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20148. Railroad car visibility

"(a) REVIEW OF RULES.—The Secretary of Transportation shall conduct a review of the Department of Transportation's rules with respect to railroad car visibility. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced visibility measures in service.

"(b) REGULATIONS.—If the review conducted under subsection (a) establishes that enhanced railroad car visibility would likely improve safety in a cost-effective manner, the Secretary shall initiate a rulemaking proceeding to prescribe regulations requiring enhanced visibility standards for newly manufactured and remanufactured railroad cars. In such proceeding the Secretary shall consider, at a minimum—

"(1) visibility of railroad cars from the perspective of nonrailroad traffic;

"(2) whether certain railroad car paint colors should be prohibited or required;

"(3) the use of reflective materials;

"(4) the visibility of lettering on railroad cars;

"(5) the effect of any enhanced visibility measures on the health and safety of train crew members; and

"(6) the cost/benefit ratio of any new regulations.

"(c) EXCLUSIONS.—In prescribing regulations under subsection (b), the Secretary may exclude from any specific visibility requirement any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20148. Railroad car visibility.".

SEC. 213. COORDINATION WITH THE DEPARTMENT OF LABOR.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20149. Coordination with the Department of Labor

"The Secretary of Transportation shall consult with the Secretary of Labor on a regular basis to ensure that all applicable laws affecting safe working conditions for railroad employees are appropriately enforced to ensure a safe and productive working environment for the railroad industry.".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20149. Coordination with the Department of Labor.".

SEC. 214. POSITIVE TRAIN CONTROL SYSTEM PROGRESS REPORT.

(a) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20150. Positive train control system progress report

"The Secretary of Transportation shall submit a report to the Congress on the development, deployment, and demonstration of positive train control systems by December 31, 1995.''.

(b) Table of Sections Amendment.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20150. Positive train control system progress report.''.

SEC. 215. PASSENGER CAR SAFETY STANDARDS.

(a) Amendment.—Section 20133 of title 49, United States Code, is amended to read as follows:

"§ 20133. Passenger cars

"(a) Minimum Standards.—The Secretary of Transportation shall prescribe regulations establishing minimum standards for the safety of cars used by railroad carriers to transport passengers. Before prescribing such regulations, the Secretary shall consider—

"(1) the crashworthiness of the cars;

"(2) interior features (including luggage restraints, seat belts, and exposed surfaces) that may affect passenger safety;

"(3) maintenance and inspection of the cars;

"(4) emergency response procedures and equipment; and

"(5) any operating rules and conditions that directly affect safety not otherwise governed by regulations.

The Secretary may make applicable some or all of the standards established under this subsection to cars existing at the time the regulations are prescribed, as well as to new cars, and the Secretary shall explain in the rulemaking document the basis for making such standards applicable to existing cars.

"(b) Initial and Final Regulations.—(1) The Secretary shall prescribe initial regulations under subsection (a) within 3 years after the date of enactment of the Federal Railroad Safety Authorization Act of 1994. The initial regulations may exempt equipment used by tourist, historic, scenic, and excursion railroad carriers to transport passengers.

"(2) The Secretary shall prescribe final regulations under subsection (a) within 5 years after such date of enactment.

"(c) Personnel.—The Secretary may establish within the Department of Transportation 2 additional full time equivalent positions beyond the number permitted under existing law to assist with the drafting, prescribing, and implementation of regulations under this section.

"(d) Consultation.—In prescribing regulations, issuing orders, and making amendments under this section, the Secretary may consult with Amtrak, public authorities operating railroad passenger service, other railroad carriers transporting passengers, organizations of passengers, and organizations of employees. A consultation is not subject to the Federal Advisory Committee Act (5 U.S.C. App.), but minutes of the consultation shall be placed in the public docket of the regulatory proceeding.''.

(b) Table of Sections Amendment.—The item relating to section 20133 in the table of sections for chapter 201 of title 49, United States Code, is amended to read as follows:

"20133. Passenger cars.''.

SEC. 216. CONTRACT AND GRANT AUTHORITY.

Section 103 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) Subject to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Secretary of Transportation may make, enter into, and perform such contracts, grants, leases, cooperative agreements, and other similar transactions with Federal or other public agencies (including State and local governments) and private organizations and persons, and make such payments, by way of advance or reimbursement, as the Secretary may determine to be necessary or appropriate to carry out functions of the Federal Railroad Administration. The authority of the Secretary granted by this subsection shall be carried out by the Administrator. Notwithstanding any other provision of this chapter, no authority to enter into contracts or to make payments under this subsection shall be effective, except as provided for in appropriations Acts.''.

SEC. 217. TOURIST RAILROAD CARRIERS.

Section 20103 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(f) Tourist Railroad Carriers.—In prescribing regulations that pertain to railroad safety that affect tourist, historic, scenic, or excursion railroad carriers, the Secretary of Transportation shall take into consideration any financial, operational, or other factors that may be unique to such railroad carriers. The Secretary shall submit a report to Congress not later than September 30, 1995, on actions taken under this subsection.''.

SEC. 218. OPERATION LIFESAVER.

Section 20117 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(e) Operation Lifesaver.—In addition to amounts otherwise authorized by law, there are authorized to be appropriated for railroad research and development $300,000 for fiscal year 1995, $500,000 for fiscal year 1996, and $750,000 for fiscal year 1997, to support Operation Lifesaver, Inc.''.

SEC. 219. RAILROAD TRESPASSING AND VANDALISM PREVENTION STRATEGY.

(a) Amendment.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20151. Railroad trespassing and vandalism prevention strategy

"(a) Evaluation of Existing Laws.—In consultation with affected parties, the Secretary of Transportation shall evaluate and review current local, State, and Federal laws regarding trespassing on railroad property and vandalism affecting railroad safety, and develop model prevention strategies and enforcement laws to be used for the consideration of State and local legislatures and governmental entities. The first such evaluation and review shall be completed within 1 year after the date of enactment of the Federal Railroad Safety Authorization Act of 1994. The Secretary shall revise such model prevention strategies and enforcement codes periodically.

"(b) Outreach Program.—The Secretary shall develop and maintain a comprehensive outreach program to improve communications among Federal railroad safety inspectors, State inspectors certified by the Federal Railroad Administration, railroad police, and State and local law enforcement officers, for the purpose of addressing trespassing and vandalism problems on railroad property, and strengthening relevant enforcement strategies. This program shall be designed to increase public and police awareness of the illegality of, dangers inherent in, and the extent of, trespassing on railroad rights-of-way, to develop strategies to improve the prevention of trespassing and vandalism, and to improve the enforcement of laws relating to railroad trespass, vandalism, and safety.

"(c) Model Legislation.—Within 18 months after the date of enactment of the Federal Railroad Safety Authorization Act of 1994, the Secretary, after consultation with State and local governments and railroad carriers, shall develop and make available to State and local governments model State legislation providing for—

"(1) civil or criminal penalties, or both, for vandalism of railroad equipment or property which could affect the safety of the public or of railroad employees; and

"(2) civil or criminal penalties, or both, for trespassing on a railroad owned or leased right-of-way.''.

(b) Table of Sections Amendment.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20151. Railroad trespassing and vandalism prevention strategy.''.

TITLE III—GRADE CROSSING SAFETY

SEC. 301. EMERGENCY NOTIFICATION OF GRADE CROSSING PROBLEMS.

(a) Amendment.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 20152. Emergency notification of grade crossing problems

"(a) Pilot Programs.—The Secretary of Transportation shall conduct a pilot program to demonstrate an emergency notification system utilizing a toll free telephone number that the public can use to convey to railroad carriers, either directly or through public safety personnel, information about malfunctions or other safety problems at railroad-highway grade crossings. The pilot program, at a minimum—

"(1) shall include railroad-highway grade crossings in at least 2 States;

"(2) shall include provisions for public education and awareness of the program; and

"(3) shall require information to be posted at the railroad-highway grade crossing describing the emergency notification system and instructions on how to use the system.

The Secretary may, by grant, provide funding for the expense of information signs and public awareness campaigns necessary to demonstrate the notification system.

"(b) Report.—The Secretary shall complete the pilot program not later than 24 months after the date of enactment of this section, and shall submit to the Congress not later than 30 months after that date an evaluation of the pilot program, together with findings as to the effectiveness of such emergency notification systems. The report shall compare and contrast the structure, cost, and effectiveness of the pilot program with other emergency notification systems in effect within other States. Such evaluation shall include analyses of the safety benefits derived from the programs, cost effectiveness, and the burdens on participants, including railroad carriers and law enforcement personnel.''.

(b) Table of Sections Amendment.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20152. Emergency notification of grade crossing problems.''.

SEC. 302. AUDIBLE WARNINGS AT HIGHWAY-RAIL GRADE CROSSINGS.

(a) Amendment.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:

"§20153. Audible warnings at highway-rail grade crossings

"(a) DEFINITIONS.—As used in this section—

"(1) the term "highway-rail grade crossing" includes any street or highway crossing over a line of railroad at grade;

"(2) the term "locomotive horn" refers to a train-borne audible warning device meeting standards specified by the Secretary of Transportation; and

"(3) the term "supplementary safety measure" refers to a safety system or procedure, provided by the appropriate traffic control authority or law enforcement authority responsible for safety at the highway-rail grade crossing, that is determined by the Secretary to be an effective substitute for the locomotive horn in the prevention of highway-rail casualties. A traffic control arrangement that prevents careless movement over the crossing (e.g., as where adequate median barriers prevent movement around crossing gates extending over the full width of the lanes in the particular direction of travel), and that conforms to standards prescribed by the Secretary under this subsection, shall be deemed to constitute a supplementary safety measure. The following do not, individually or in combination, constitute supplementary safety measures within the meaning of this subsection: standard traffic control devices or arrangements such as reflectorized crossbucks, stop signs, flashing lights, flashing lights with gates that do not completely block travel over the line of railroad, or traffic signals.

"(b) REQUIREMENT.—The Secretary of Transportation shall prescribe regulations requiring that a locomotive horn shall be sounded while each train is approaching and entering upon each public highway-rail grade crossing.

"(c) EXCEPTION.—(1) In issuing such regulations, the Secretary may except from the requirement to sound the locomotive horn any categories of rail operations or categories of highway-rail grade crossings (by train speed or other factors specified by regulation)—

"(A) that the Secretary determines not to present a significant risk with respect to loss of life or serious personal injury;

"(B) for which use of the locomotive horn as a warning measure is impractical; or

"(C) for which, in the judgment of the Secretary, supplementary safety measures fully compensate for the absence of the warning provided by the locomotive horn.

"(2) In order to provide for safety and the quiet of communities affected by train operations, the Secretary may specify in such regulations that any supplementary safety measures must be applied to all highway-rail grade crossings within a specified distance along the railroad in order to be excepted from the requirement of this section.

"(d) APPLICATION FOR WAIVER OR EXEMPTION.—Notwithstanding any other provision of this subchapter, the Secretary may not entertain an application for waiver or exemption of the regulations issued under this section unless such application shall have been submitted jointly by the railroad carrier owning, or controlling operations over, the crossing and by the appropriate traffic control authority or law enforcement authority. The Secretary shall not grant any such application unless, in the judgment of the Secretary, the application demonstrates that the safety of highway users will not be diminished.

"(e) DEVELOPMENT OF SUPPLEMENTARY SAFETY MEASURES.—(1) In order to promote the quiet of communities affected by rail operations and the development of innovative safety measures at highway-rail grade crossings, the Secretary may, in connection with demonstration of proposed new supplementary safety measures, order railroad carriers operating over one or more crossings to cease temporarily the sounding of locomotive horns at such crossings. Any such measures shall have been subject to testing and evaluation and deemed necessary by the Secretary prior to actual use in lieu of the locomotive horn.

"(2) The Secretary may include in regulations issued under this subsection special procedures for approval of new supplementary safety measures meeting the requirements of subsection (c)(1) of this section following successful demonstration of those measures.

"(f) SPECIFIC RULES.—The Secretary may, by regulation, provide that the following crossings over railroad lines shall be subject, in whole or in part, to the regulations required under this section:

"(1) Private highway-rail grade crossings.

"(2) Pedestrian crossings.

"(3) Crossings utilized primarily by nonmotorized vehicles and other special vehicles.

Regulations issued under this subsection shall not apply to any location where persons are not authorized to cross the railroad.

"(g) ISSUANCE.—The Secretary shall issue regulations required by this section pertaining to categories of highway-rail grade crossings that in the judgment of the Secretary pose the greatest safety hazard to rail and highway users not later than 24 months following the date of enactment of this section. The Secretary shall issue regulations pertaining to any other categories of crossings not later than 48 months following the date of enactment of this section.

"(h) IMPACT OF REGULATIONS.—The Secretary shall include in regulations prescribed under this section a concise statement of the impact of such regulations with respect to the operation of section 20106 of this title (national uniformity of regulation).".

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:

"20153. Audible warnings at highway-rail grade crossings.".

Mr. SWIFT (during the reading). Mr. Speaker, I ask unanimous consent that the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I will not object, but I take this reservation for the purpose of asking the gentleman from Washington [Mr. SWIFT] to explain what is in the legislation.

Mr. SWIFT. Mr. Speaker, the House amendment contains three titles.

Title I represents a compromise on high-speed rail that has been worked out with the other body.

It is the same bill that the House passed by a wide margin with only technical adjustments.

Title II provides a 4-year authorization for the rail safety activities of the Federal Railroad Administration. Title II includes the entire text of the rail safety bill which passed the House by a vote of 395 to 0 in August.

Included in title II are provisions which will strengthen the track safety regulations that FRA is currently working on as well as require that FRA set standards for passenger car safety and railroad car visibility.

Title III contains important provisions related to grade crossing safety—which is where the greatest number of fatalities occur.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I rise to support approval of this legislation to advance the development of high-speed rail passenger services in the United States. This bill is a modest first step in a long-term process: It is aimed at assisting State and local governments with the costs of preconstruction activities such as planning, environmental assessments, and refinement of developed technologies for use in high-speed rail corridors.

Although I had hoped for broader legislation in this area, H.R. 4867 will help lay the foundation for actual construction of the various infrastructure improvements needed for future high-speed rail passenger service.

I want to commend Chairman DINGELL, subcommittee Chairman SWIFT, and the subcommittee's ranking member, MIKE OXLEY, for their work on this legislation.

We in California are particularly conscious of the benefits of high-speed rail as part of our overall transportation strategy. It is energy efficient, environmentally benign, and it helps alleviate traffic congestion and meet our Clean Air Act air quality standards.

We know that the Nation's freight railroads will be key players in the ultimate operation of high-speed rail passenger service, because they own most of the rights-of-way which will have to be used for high-speed corridors. In California, we have so far been successful in obtaining the cooperation of the freight carriers in making rights-of-way available for our conventional passenger and commuter service. As we move on to high-speed rail, it is quite clear that suitable liability arrangements will have to be made to assure access to needed facilities. I believe that this is an area where the Department of Transportation can perform a vital service in its planning processes—both under current law and under this legislation. DOT can help to suggest approaches to addressing the liability problem as part of the planning and other preconstruction preparations provided for in this bill.

I also want to highlight the importance of the rail safety provisions in this amended version of the bill, corresponding to H.R. 4545, the rail safety reauthorization approved by the House in August. The amendment is in effect a common-denominator of House and Senate provisions to reauthorize and improve the rail safety programs of the Federal Railroad Administration. As with the high-speed rail legislation, the rail safety provisions have been crafted on a bipartisan basis with outstanding cooperation among the members of the Energy and Commerce Committee. I also want to commend the leadership of the Public Works Committee on both sides of the aisle for their assistance and cooperation with respect to the safety provisions in title III that involve the jurisdiction of that committee.

Mr. Speaker, I want to congratulate the gentleman from Washington [Mr. SWIFT] for his work on this bill and for his number of years of service to the House. This is one of his last bills, and he has really contributed a lot to each of us.

Mr. OXLEY. Mr. Speaker, I rise in strong support of H.R. 4867, a bill to move forward the process of selecting and planning high-speed rail corridors around the United States. This legislation is structured to assist State and local governments in planning and other preconstruction activities aimed at eventual construction of high-speed rail rights-of-way. It provides for a matching program under which the Federal Government will assist the State and local governments in funding planning, feasibility studies, and the refinement-ready developed technologies for use in high-speed rail passenger service.

One of these developed technologies that may well prove crucial to high-speed rail in corridors of lower population density is high-speed nonelectric locomotives, such as those powered by turbine. Amtrak has utilized first-generation locomotives of this type on certain routes outside the Northeast Corridor, and improved versions hold the promise of allowing true high-speed operation on other routes where construction of a complete overhead electrical catenary system is not cost-effective. Under H.R. 4867, DOT is authorized to assist in the funding of improvement and adaptation of developed technologies for high-speed rail use, and turbine-powered high-speed locomotives should clearly be considered as one of these key technologies.

I want to commend Chairman DINGELL, subcommittee Chairman SWIFT, and our committee's ranking member, Mr. MOORHEAD, for their diligent work in moving this legislation forward. The bill is only a first step toward future rail service, but it is at least a beginning. We know that high-speed rail service must be part of any balanced national transportation policy.

I also strongly support the amended rail safety authorization that is part of this legislation, corresponding to H.R. 4545, approved by the House in August. The amended text reflects a common-denominator of House and Senate rail safety provisions which will reauthorize and improve the various rail safety programs administered by the Federal Railroad Administration. This includes important new initiatives in human-factors safety research, improved grade-crossing safety measures, and safety standards for passenger cars. It is important the Congress give FRA a current operating charter to keep the railroad industry operating safely, and this legislation does that in a responsible and carefully targeted manner. I strongly support its approval by the House.

Mr. DINGELL. Mr. Speaker, I commend the chairman of the subcommittee on Transportation and Hazardous Materials, Mr. SWIFT, for his leadership and skill in crafting this legislation. It has been an honor and a privilege serving with AL. I also want to thank the ranking Republican member of the committee, Mr. MOORHEAD, and the ranking member of the subcommittee, Mr. OXLEY, for their help on this important legislation. I want to offer special thanks to Ms. SCHENK and to Mr. UPTON. I commend Members of the other body, for their hard work and spirit of cooperation on this matter. Finally, I want to thank the distinguished chairman of the Public Works and Transportation Committee, Mr. MINETA, and the ranking Republican member of the committee, Mr. SHUSTER, for their help.

I urge your support of H.R. 4867, which is a result of fruitful negotiations between our committee, the Public Works Committee, and our sister committee in the other body. I believe H.R. 4867 is a good compromise incorporating important rail legislation.

Title I of H.R. 4867 authorizes appropriations for high-speed rail transportation. Due to budget constraints, this is a scaled back high-speed rail package. It authorizes activities to assist in the implementation of steel-wheel high-speed rail transportation. It focuses on practical and efficient use of limited resources.

H.R. 4867 allows the Secretary of Transportation to provide financial assistance to States or public agencies for eligible high-speed rail corridor planning activities. It also allows the Secretary to provide financial assistance for developed technology improvements to assist in the implementation of high-speed rail service in the United States. This modest legislation is the best we can do at this time. I hope we can build and improve upon this framework in the future.

High-speed rail transportation offers many public benefits. It is recognized increasingly as an economically viable and socially acceptable solution to problems facing many intercity corridors. Changes need to be made in our transportation priorities by encouraging interested State and local governments to facilitate the development of needed high-speed rail corridors. This legislation is an important step in that direction.

Title II of H.R. 4867 authorizes railroad safety activities of the Federal Railroad Administration [FRA] for a period of 4 years ending September 30, 1998. FRA is responsible for oversight of the safety of the Nation's railroads. The Committee on Energy and Commerce passed comprehensive railroad safety legislation in 1988 and 1992. These bills mandated significant rulemaking and reporting actions by FRA as part of its safety and enforcement responsibilities. This legislation builds upon these legislative accomplishments.

Title II includes an important provision regarding bridge detection systems. It requires the Secretary of Transportation to issue a report concerning any action that the Department of Transportation has taken with regard to railroad bridge displacement detection systems. FRA is currently studying this matter as a result of the tragic train accident that occurred in Saraland, AL, on September 22, 1993. Another important provision requires FRA to address cold weather installation of continuous welded rail in issuing track safety regulations and to consider whether or not to issue regulations that address the problem of track shelling in the detection of internal rail defects. Finally, this title includes a provision on passenger car safety standards, requiring the Secretary of Transportation to prescribe regulations establishing minimum standards for the safety of cars used by railroad carriers to transport passengers.

Title III falls under the joint jurisdiction of the Committee on Energy and Commerce and the Committee on Public Works and Transportation. One important provision of this title directs the Secretary of Transportation to prescribe regulations requiring the use of locomotive horns for safety at highway-rail grade crossings. Over 600 persons die at highway-rail crossings each year, despite the expenditure of Federal and State funds to improve warning systems. Locomotive horns have been proven effective as an element of a warning system. This provision allows for exemptions from horn use where it is not needed. Title III also directs the Secretary of Transportation to conduct a pilot program to demonstrate an emergency notification system utilizing a toll-free telephone number that the public can use to convey to railroad carriers information about safety problems at railroad-highway grade crossings. The following is an exchange of correspondence between myself and Mr. MINETA, the distinguished chairman of the Committee on Public Works and Transportation, clarifying the jurisdiction of our two committees regarding title III. I include correspondence to be included for the RECORD.

I want to conclude by thanking Secretary Pēna and Administrator Molitoris for their efforts on this legislation.

I urge my colleagues to support H.R. 4867.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON PUBLIC WORKS AND
TRANSPORTATION,
Washington, DC, October 6, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Committee on Energy and Commerce is prepared to take up H.R. 4867, the "High Speed Rail Act of 1994", as amended by the Senate.

It is also my understanding that your Committee would like the Committee on Public Works and Transportation to waive any referral to it because of provisions in Title III of the bill which fall under the jurisdiction of the Committee on Public Works and Transportation, in order to permit final consideration of H.R. 4867 by the Congress before it adjourns.

After review of the bill, the Committee has no objection to its proceeding forward and, thus, will not seek to exercise our jurisdictional authority with respect to Title III.

While we are waving our right to any referral of this bill, we want to state this should in no context be construed that our Committee is relinquishing its jurisdiction over the matter addressed in H.R. 4867. We can certainly foresee circumstances in the future when we would exercise our jurisdictional rights on this matter. However, we are proceeding this way in order that the legislation be brought to the Floor expeditiously. We do reserve our right to have Members of our Committee named as conferees should there be a conference on this legislation.

Lastly, I would appreciate your including our exchange of correspondence in the Record during consideration of the bill. Thank you for your cooperation in this matter.

Sincerly,

NORMAN Y. MINETA,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 6, 1994.

Hon. NORMAN Y. MINETA,
Chairman, Committee on Public Works and Transportation,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am in receipt of your letter today regarding H.R. 4867, the High-Speed Rail Development Act of 1994, as amended.

The Committee on Energy and Commerce acknowledges that the Committee on Public Works and Transportation shares jurisdiction with our Committee regarding provisions of the legislation contained in Title III of H.R. 4867, as amended. We appreciate your willingness to waive your Committee's right to referral of these provisions and to agree to proceed to consideration of this measure by the House.

I will be please to include this exchange of correspondence in the record, along with statements to accompany the passage of H.R. 4867, as amended, and wish to convey our appreciation to you and Mr. Shuster for your cooperation and assistance in these matters.

Sincerely,

JOHN D. DINGELL,
Chariman.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

RECOGNIZING ACHIEVEMENTS OF RADIO AMATEURS

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 90) to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I will not object, but I want to give the gentleman from Washington [Mr. SWIFT] an opportunity to tell us what is in this bill.

Mr. SWIFT. Mr. Speaker, I would like to tell my good friend, with whom I have enjoyed working these many years, what a great pleasure it has been. Our committee, I have noted over the 16 years I have served on it, has had some fierce and wonderful battles, sometimes, not always along partisan lines, but never once do I know of an instance in which the fights were for partisan purposes. And I think the gentleman himself represents that spirit of cooperation which has been a hallmark of the Committee on Energy and Commerce.

I would tell the gentleman that the bill commends radio amateurs for their contributions.

It urges the FCC to continue and enhance development of amateur radio service as a public benefit, and it encourages reasonable accommodation for the effective operation of amateur radios at all levels of government.

I particularly want to commend the gentleman from Washington [Mr. KREIDLER], the author of the companion House version of this resolution for his diligence in seeking and obtaining consideration and passage of this bill.

Mr. MOORHEAD. Mr. Speaker, I support enactment of this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 90

Whereas Congress has expressed its determination in section 1 of the Communications Act of 1934 (47 U.S.C. 151) to promote safety of life and property through the use of radio communication;

Whereas Congress, in section 7 of the Communications Act of 1934 (47 U.S.C. 157), established a policy to encourage the provision of new technologies and services;

Whereas Congress, in section 3 of the Communications Act of 1934, defined radio stations to include amateur stations operated by persons interested in radio technique without pecuniary interest;

Whereas the Federal Communications Commission has created an effective regulatory framework through which the amateur radio service has been able to achieve the goals of the service;

Whereas these regulations, set forth in part 97 of title 47 of the Code of Federal Regulations clarify and extend the purposes of the amateur radio service as a—

(1) voluntary noncommercial communications service, particularly with respect to providing emergency communications;

(2) contributing service to the advancement of the telecommunications infrastructure;

(3) service which encourages improvement of an individual's technical and operating skills;

(4) service providing a national reservoir of trained operators, technicians and electronic experts; and

(5) service enhancing international good will;

Whereas Congress finds that members of the amateur radio service community has provided invaluable emergency communications services following such disasters as Hurricanes Hugo, Andrew, and Iniki, the Mt. St. Helens eruption, the Loma Prieta earthquake, tornadoes, floods, wild fires, and industrial accidents in great number and variety across the Nation; and

Whereas Congress finds that the amateur radio service has made a contribution to our Nation's communications by its crafting, in 1961, of the first Earth satellite licensed by the Federal Communications Commission, by its proof-of-concept for search and rescue satellites, by its continued exploration of the low Earth orbit in particular pointing the way to commercial use thereof in the 1990s, by its pioneering of communications using reflections from meteor trails, a technique now used for certain government and commercial communications, and by its leading role in development of low-cost, practical data transmission by radio which increasingly is being put to extensive use in, for instance, the land mobile service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS OF CONGRESS.

Congress finds and declares that—

(1) radio amateurs are hereby commended for their contribution to technical progress in electronics, and for their emergency radio communications in times of disaster;

(2) the Federal Communications Commission is urged to continue and enhance the development of the amateur radio service as a public benefit by adopting rules and regulations which encourage the use of new technologies within the amateur radio service; and

(3) reasonable accommodation should be made for the effective operation of amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit.

The Senate joint resolution was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ANIMAL MEDICINAL DRUG USE CLARIFICATION ACT OF 1994

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 340) to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I will not object, and I take this reservation for the purpose of asking the gentleman from California [Mr. WAXMAN] to explain this Senate bill.

Mr. WAXMAN. Mr. Speaker, this bill addresses a problem that has plagued veterinarians for many years; namely, the divergence between the law and veterinary practice with respect to the prescribing of animal drugs.

Here is what has happened. It is common medical practice for animal doctors to use drugs that have been approved by the FDA for unapproved uses. In other words, a drug that has been approved for sheep is often used in cows. Since there may be no drug approved for cows for a particular disease, the veterinarian has little choice but to break the law. In fact, as a matter of its enforcement discretion, the FDA permits animal doctors to prescribe drugs for unapproved uses.

In recent years, veterinarians have become increasingly concerned about this problem. They have convinced me that the law must be changed to take in account the realities of medical practice.

In drafting this bill, we have recognized that it is essential that the FDA know what animal drugs are used in food-producing animals for unapproved uses, and that it have the tools that it needs to monitor animal drug residue from those uses. I believe that this bill strikes the appropriate balance between the need of veterinarians and the need to protect the food supply. It will permit veterinarians to use drugs for unapproved uses, while giving the FDA the authority to regulate those uses and to impose requirements to protect the public health where appropriate.

The bill also contains a provision that would clarify that under the Federal Food, Drug, and Cosmetic Act the State of Vermont may retain its standard for maple syrup.

Considerable work has been required to craft the bill. I would like to note that Mr. STENHOLM introduced the original bill, H.R. 1423, which alerted us to this issue. The American Veterinary Medical Association has worked very hard and very constructively to develop this bill. I would like to acknowledge Kay Holcombe of the Energy and Commerce Committee staff and David Meade, our legislative counsel, who both made a significant contribution to this legislation.

I would also like to single out our subcommittee counsel, Mr. Bill Schultz, for his work in getting this bill to the point where it is today.

I am pleased that we have been able to resolve this issue, and I urge my colleagues to vote in support of this bill.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object. I am pleased to support this legislation. This bill is a modified version of H.R. 1432, a bill introduced by Representative STENHOLM which currently has 287 cosponsors. The primary purpose of this legislation is to permit veterinarians to prescribe approved animal or human drugs to species of animals for which the drugs are not currently approved.

The legislation is necessary because there are an insufficient number of drugs approved for all the various disease problems in all the animal species. Generally, an animal drug is approved on a species-by-species basis. For example, if a drug is approved for use in cows, the company must also go through the approval process to get that same drug approved for use in sheep. This process can be prohibitively expensive and, therefore, many animal drugs are not approved for use in multiple animals, especially for so-called minor species.

However, this bill does not address a very significant problem—the lack of drugs available to treat animals. A new animal drug application review process is required by law to be completed within 6 months. However, the reality is that the review process at FDA now averages 4 years. Hopefully, in the next Congress we can work to try to expedite the approval process for new animal drug applications.

I urge my colleagues to join me in supporting this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Medicinal Drug Use Clarification Act of 1994".

SEC. 2. UNAPPROVED USES.

(a) GENERAL RULE.—Section 512(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(a)) is amended by adding the following new paragraphs at the end:

"(4)(A) Except as provided in subparagraph (B), if an approval of an application filed under subsection (b) is in effect with respect to a particular use or intended use of a new animal drug, the drug shall not be deemed unsafe for the purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a different use or intended use of the drug, other than a use in or on animal feed, if such use or intended use—

"(i) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(ii) is in compliance with regulations promulgated by the Secretary that establish the conditions for such different use or intended use.

The regulations promulgated by the Secretary under clause (ii) may prohibit particular uses of an animal drug and shall not permit such different use of an animal drug if the labeling of another animal drug that contains the same active ingredient and which is in the same dosage form and concentration provides for such different use.

"(B) If the Secretary finds that there is a reasonable probability that a use of an animal drug authorized under subparagraph (A) may present a risk to the public health, the Secretary may—

"(i) establish a safe level for a residue of an animal drug when it is used for such different use authorized by subparagraph (A); and

"(ii) require the development of a practical, analytical method for the detection of residues of such drug above the safe level established under clause (i).

The use of an animal drug that results in residues exceeding a safe level established under clause (i) shall be considered an unsafe use of such drug under paragraph (1). Safe levels may be established under clause (i) either by regulation or order.

"(C) The Secretary may by general regulation provide access to the records of veterinarians to ascertain any use or intended use authorized under subparagraph (A) that the Secretary has determined may present a risk to the public health.

"(D) If the Secretary finds, after affording an opportunity for public comment, that a use of an animal drug authorized under subparagraph (A) presents a risk to the public health or that an analytical method required under subparagraph (B) has not been developed and submitted to the Secretary, the Secretary may, by order, prohibit any such use.

"(5) If the approval of an application filed under section 505 is in effect, the drug under such application shall not be deemed unsafe for purposes of paragraph (1) and shall be exempt from the requirements of section 502(f) with respect to a use or intended use of the drug in animals if such use or intended use—

"(A) is by or on the lawful written or oral order of a licensed veterinarian within the context of a veterinarian-client-patient relationship, as defined by the Secretary; and

"(B) is in compliance with regulations promulgated by the Secretary that establish the conditions for the use or intended use of the drug in animals.".

(b) OTHER AMENDMENTS.—

(1) SECTION 301.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(A) in paragraph (e), by striking "507(d) or (g)," and inserting "507(d) or (g), 512(a)(4)(C),"; and

(B) by adding at the end the following:

"(u) The failure to comply with any requirements of the provisions of, or any regulations or orders of the Secretary, under section 512(a)(4)(A), 512(a)(4)(D), or 512(a)(5).".

(2) SECTION 512(e).—Section 512(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)(1)(A)) is amended by inserting before the semicolon the following: "or the condition of use authorized under subsection (a)(4)(A)".

(3) SECTION 512(l).—Section 512(l)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(l)(1)) is amended by striking "relating to experience" and inserting "relating to experience, including experience with uses authorized under subsection (a)(4)(A)."

(c) REGULATIONS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations to implement paragraphs (4)(A) and (5) of section 512(a) of the Federal Food, Drug, and Cosmetic Act (as amended by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the adoption of the final regulations under subsection (c).

SEC. 3. MAPLE SYRUP.

(a) PREEMPTION.—Section 403(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of a State or political subdivision of a State for maple syrup that is of the type required by sections 401 and 403(g),";

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(c) and that is applicable to maple syrup,"; and

(3) in paragraph (3) by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State that is of the type required by section 403(h)(1) and that is applicable to maple syrup,".

(b) PROCEDURE.—Section 701(e)(1) (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations).".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore (Mr. PETERSON of Florida). Is there objection to the request of the gentleman from California?

There was no objection.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1994

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be discharged from further consideration of the Senate bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government.

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a definitive link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a health diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronoary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9)(A) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition; and

(B) nearly all consumers indicate that dietary supplements should not be regulated as drugs;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000.

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose regulatory barriers limiting or slowing the flow of safe products and needed information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the health status of the people of the United States and help constrain runaway health care spending by ensuring that the Federal Government erects no regulatory barriers that impede the ability of consumers to improve their nutrition through the free choice of safe dietary supplements;

(2) clarify that—

(A) dietary supplements are not drugs or food additives;

(B) dietary supplements should not be regulated as drugs;

(C) regulations relating to food additives are not applicable to dietary supplements and their ingredients used for food additive purposes, including stabilizers, processing agents, or preservatives; and

(D) the burden of proof is on the Food and Drug Administration to prove that a product is unsafe before it can be removed from the marketplace;

(3) establish a new definition of dietary supplement that differentiates dietary supplements from conventional foods, while recognizing the broad range of food ingredients used to supplement the diet;

(4) strengthen the current enforcement authority of the Food and Drug Administration by providing to the Administration additional mechanisms to take enforcement action against unsafe or fraudulent products;

(5) establish a series of labeling requirements that will provide consumers with greater information and assurance about the quality and content of dietary supplements, while at the same time assuring the consumers the freedom to use the supplements of their choice;

(6) provide new administrative and judicial review procedures to affected parties if the Food and Drug Administration takes certain actions to enforce dietary supplement requirements; and

(7) establish a Commission on Dietary Supplement Labels within the executive branch to develop recommendations on a procedure to evaluate health claims for dietary supplements and provide recommendations to the President and the Congress.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement' means—

"(1) a product intended to supplement the diet by increasing the total dietary intake that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) a herb or other botanical;

"(D) an amino acid;

"(E) another dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), (E) or (F);

"(2) a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement.".

(b) Exclusion From Definition of Drug.—Section 201(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)) is amended by adding at the end the following new subparagraph:

"(3) The term 'drug' does not include a dietary supplement as defined in paragraph (ff), except that—

"(A) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was, prior to such approval, certification or license, marketed as a dietary supplement or as a food, may continue to be offered for sale as a dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) an article that is approved as a new drug, certified as an antibiotic (under section 355 or 357), or licensed as a biologic (under section 351 of the Public Health Service Act (42 U.S.C. 262 et seq.)) and was not prior thereto marketed as a dietary supplement or as a food, may not be considered as a dietary ingredient or dietary supplement unless the Secretary has issued a regulation, after notice and comment, finding that the article would be lawful under section 402(f) under the conditions of use and dosages set forth in the recommended labeling for such article.".

(c) Exclusion From Definition of Food Additive.—Section 201(s) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(d) Form of Ingestion.—Section 411(c)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(f) If it is a dietary supplement that—

"(1) the Secretary finds, after rulemaking, presents a substantial and unreasonable risk of illness or injury under conditions of use recommended or suggested in labeling;

"(2) the Secretary declares to pose an imminent and substantial hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly thereafter convene rulemaking pursuant to section 701(e), (f), and (g) to affirm or withdraw the declaration; or

"(3) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this section, the United States bears the burden of proof on each element to show that a dietary supplement is adulterated.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

(a) Supplement Claims.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"Sec. 403B. An article, another publication, a chapter in books, or the official abstract of a peer-reviewed scientific publication that appears in the article and was prepared by the author or the editors of the publication, reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of dietary supplements to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement; and

"(4) if displayed in an establishment, is physically separate from the dietary supplements.

This section shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler. In any proceeding under this section, the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)) is amended by adding the following new sentence at the end: "For purposes of this subparagraph, a statement for a dietary supplement shall not be considered a claim of the relationship of a nutrient or dietary ingredient to a disease or health-related condition if the statement does not claim to diagnose, prevent, mitigate, treat, or cure a specific disease or class of diseases. A statement for a dietary supplement may be made if the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient.".

SEC. 7. CONFORMING AMENDMENTS.

(a) Section 201.—The next to the last sentence of section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) (as amended by section 3(b)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to section 403(r)(1)(B) and 403(r)(3) or section 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and nonmisleading statement is made in accordance with section 403(r)(1) is not a drug solely because the label or the labeling contains such a statement.".

(b) Section 403.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 8. ADMINISTRATIVE AND JUDICIAL REVIEW.

The Federal Food, Drug, and Cosmetic Act is amended by adding at the end of chapter III (21 U.S.C. 331 et seq.) the following new section:

"SEC. 311. WARNING LETTERS.

"Any warning letter or similar written threat of enforcement under the Federal Food, Drug, and Cosmetic Act constitutes final agency action for the purpose of obtaining judicial review under chapter 7 of title 5, United States Code, if the matter with respect to such letter or threat is not resolved within 60 days from the date such letter or threat is delivered to any person subject to this Act. In any proceeding for judicial review of a warning letter or similar written threat of enforcement under the Act, the United States bears the burden of proof on each element of each alleged violation of law described.".

SEC. 9. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

(a) In General.—The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700), the notices of proposed rulemaking concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33715–33731 and 58 FR 33731–33751), and the final rules and notices published in the Federal Register of January 4, 1944 concerning nutrition labeling for dietary supplements and nutrient content claims for dietary supplements (59 FR 354–378 and 378–395) are null and void and of no force or effect insofar as they apply to dietary supplements. Final regulations and notices published in the Federal Register of January 4, 1994 concerning health claims for dietary supplements under the Nutrition Labeling and Education Act of 1990 (59 FR 395–426) shall not be affected by this section and shall remain in effect until 120 days after the date of the submission of the final report of the Commission established under section 11 to the President and to Congress, or 28 months after the date of enactment of this Act, whichever is earlier.

(b) Notice of Revocation.—The Secretary of Health and Human Services shall publish notices in the Federal Register to revoke all of the items declared to be null and void and of no force or effect under subsection (a).

(c) Issuance of Regulations.—Notwithstanding any provision of the Nutrition Labeling and Education Act of 1990—

(1) no regulation is required to be issued pursuant to such Act with respect to dietary supplements of vitamins, minerals, herbs, amino acids, or other similar nutritional substances; and

(2) no regulation that is issued in whole or in part pursuant to such Act shall have any force or effect with respect to any dietary supplement of vitamins, minerals, herbs, amino acids, or other similar nutritional substances unless such regulation is issued pursuant to rulemaking proceedings that are initiated by an advance notice of proposed rulemaking that is published no earlier than 2 years after the date of enactment of this Act, and followed by, at least, a notice of proposed rulemaking prior to issuance of the final regulation, except insofar as the regulation authorizes the use of labeling about calcium, folic acid, or other matters and does not prohibit the use of any labeling.

SEC. 10. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff) (1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(1)) is amended by adding at the end the following: "A dietary supplement may bear on the nutrition label or in labeling a listing and quantity of ingredients that have not been deemed essential nutrients by the Secretary if such ingredients are prominently identified as not having been shown to be essential or not having an established daily value.".

(c) DIETARY SUPPLEMENT LABELING EXEMPTIONS.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended by adding at the end the following new clause:

"(H) The labels of dietary supplements shall not be required to bear the nutrition information under subparagraph (1), but shall be required to list immediately above the ingredient listing the amount of nutrients required by the Secretary to be listed pursuant to clause (C), (D) or (E) of subparagraph (1) or clause (A) of subparagraph (2) that are present in significant amounts in the supplement.".

(d) VITAMINS AND MINERALS.—Section 411(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins and minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

SEC. 11. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. No member of the Commission shall be biased against dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims for dietary supplements, including procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful and nonmisleading information to consumers so that such consumers may make informed health care choices for themselves and their families.

(d) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(e) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 12. GOOD MANUFACTURING PRACTICES.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) (as amended by section 4) is further amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with the Administrative Procedure Act.".

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 486 (42 U.S.C. 287c-3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 486E. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medical Practice;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health, and to provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs, on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(ff)).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer an amendment in the nature of a substitute:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WAXMAN:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Safety of dietary supplements and burden of proof on FDA.
Sec. 5. Dietary supplement claims.
Sec. 6. Statements of nutritional support.
Sec. 7. Dietary supplement ingredient labeling and nutrition information labeling.
Sec. 8. New dietary ingredients.
Sec. 9. Good manufacturing practices.
Sec. 10. Conforming amendments.
Sec. 11. Withdrawal of the regulations and notice.
Sec. 12. Commission on dietary supplement labels.
Sec. 13. Office of dietary supplements.

SEC. 2. FINDINGS.

Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose unreasonable regulatory barriers limiting or slowing the flow of safe products and accurate information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement'—

"(1) means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;

"(C) an herb or other botanical;

"(D) an amino acid;

"(E) a dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), or (E);

"(2) means a product that—

"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or

"(ii) complies with section 411(c)(1)(B)(ii); and

"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and

"(C) is labeled as a dietary supplement; and

(3) does—

"(A) include an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262) and was, prior to such approval, certification, or license, marketed as a dietary supplement or as a food unless the Secretary has issued a regulation, after notice and comment, finding that the article, when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and

"(B) not include—

"(i) an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262), or

"(ii) an article authorized for investigation as a new drug, antibiotic, or biological for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public,

which was not before such approval, certification, licensing, or authorization marketed as a dietary supplement or as a food unless the Secretary, in the Secretary's discretion, has issued a regulation, after notice and comment, finding that the article would be lawful under this Act.

Except for purposes of section 201(g), a dietary supplement shall be deemed to be a food within the meaning of this Act.".

(b) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) (21 U.S.C. 321(s)) is amended—

(1) by striking "or" at the end of subparagraph (4);

(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".

(c) FORM OF INGESTION.—Section 411(c)(1)(B) (21 U.S.C. 350(c)(1)(B)) is amended—

(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and

(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 (21 U.S.C. 342) is amended by adding at the end the following:

"(f)(1) If it is a dietary supplement or contains a dietary ingredient that—

"(A) presents a significant or unreasonable risk of illness or injury under—

"(i) conditions of use recommended or suggested in labeling, or

"(ii) if no conditions of use are suggested or recommended in the labeling, under ordinary conditions of use;

"(B) is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury;

"(C) the Secretary declares to pose an imminent hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly after such a declaration initiate a proceeding in accordance with sections 554 and 556 of title 5, United States Code, to affirm or withdraw the declaration; or

"(D) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.

In any proceeding under this subparagraph, the United States shall bear the burden of proof on each element to show that a dietary supplement is adulterated. The court shall decide any issue under this paragraph on a de novo basis.

"(2) Before the Secretary may report to a United States attorney a violation of paragraph (1)(A) for a civil proceeding, the person against whom such proceeding would be initiated shall be given appropriate notice and the opportunity to present views, orally and in writing, at least 10 days before such notice, with regard to such proceeding.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:

"DIETARY SUPPLEMENT LABELING EXEMPTIONS

"SEC. 403B. (a) IN GENERAL.—A publication, including an article, a chapter in a book, or an official abstract of a peer-reviewed scientific publication that appears in an article and was prepared by the author or the editors of the publication, which is reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of a dietary supplement to consumers when it—

"(1) is not false or misleading;

"(2) does not promote a particular manufacturer or brand of a dietary supplement;

"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement;

"(4) if displayed in an establishment, is physically separate from the dietary supplements; and

"(5) does not have appended to it any information by sticker or any other method.

"(b) APPLICATION.—Subsection (a) shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler.

"(c) BURDEN OF PROOF.—In any proceeding brought under subsection (a), the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r) (21 U.S.C. 343(r)) is amended by adding at the end the following:

"(6) For purposes of paragraph (r)(1)(B), a statement for a dietary supplement may be made if—

"(A) the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient,

"(B) the manufacturer of the dietary supplement has substantiation that such statement is truthful and not misleading, and

"(C) the statement contains, prominently displayed and in boldface type, the following: 'This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.'.

A statement under this subparagraph may not claim to diagnose, mitigate, treat, cure, or prevent a specific disease or class of diseases. If the manufacturer of a dietary supplement proposes to make a statement described in the first sentence of this subparagraph in the labeling of the dietary supplement, the manufacturer shall notify the Secretary no later than 30 days after the first marketing of the dietary supplement with such statement that such a statement is being made.".

SEC. 7. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:

"(s) If—

"(1) it is a dietary supplement; and

"(2)(A) the label or labeling of the supplement fails to list—

"(i) the name of each ingredient of the supplement that is described in section 201(ff); and

"(ii)(I) the quantity of each such ingredient; or

"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;

"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;

"(C) the supplement contains an ingredient described in section 201(ff)(1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;

"(D) the supplement—

"(i) is covered by the specifications of an official compendium;

"(ii) is represented as conforming to the specifications of an official compendium; and

"(iii) fails to so conform; or

"(E) the supplement—

"(i) is not covered by the specifications of an official compendium; and

"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or

"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(5)(F) (21 U.S.C. 343(q)(5)(F)) is amended to read as follows:

"(F) A dietary supplement product (including a food to which section 411 applies) shall comply with the requirements of subparagraphs (1) and (2) in a manner which is appropriate for the product and which is specified in regulations of the Secretary which shall provide that—

"(i) nutrition information shall first list those dietary ingredients that are present in the product in a significant amount and for which a recommendation for daily consumption has been established by the Secretary, except that a dietary ingredient shall not be required to be listed if it is not present in a significant amount, and shall list any other dietary ingredient present and identified as having no such recommendation;

"(ii) the listing of dietary ingredients shall include the quantity of each such ingredient (or of a proprietary blend of such ingredients) per serving;

"(iii) the listing of dietary ingredients may include the source of a dietary ingredient; and

"(iv) the nutrition information shall immediately precede the ingredient information required under subclause (i), except that no ingredient identified pursuant to subclause (i) shall be required to be identified a second time.".

(c) PERCENTAGE LEVEL CLAIMS.—Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding after clause (E) the following:

"(F) Subclause (i) clause (A) does not apply to a statement in the labeling of a dietary supplement that characterizes the percentage level of a dietary ingredient for which the Secretary has not established a reference daily intake, daily recommended value, or other recommendation for daily consumption."

(d) VITAMINS AND MINERALS.—Section 411(b)(2) (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins or minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

(e) EFFECTIVE DATE.—Dietary supplements—

(1) may be labeled after the date of the enactment of this Act in accordance with the amendments made by this section, and

(2) shall be labeled after December 31, 1996, in accordance with such amendments.

SEC. 8. NEW DIETARY INGREDIENTS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"NEW DIETARY INGREDIENTS

"SEC. 413. (a) IN GENERAL.—A dietary supplement which contains a new dietary ingredient shall be deemed adulterated under section 402(f) unless it meets one of the following requirements:

"(1) The dietary supplement contains only dietary ingredients which have been present in the food supply as an article used for food in a form in which the food has not been chemically altered.

"(2) There is a history of use or other evidence of safety establishing that the dietary ingredient when used under the conditions recommended or suggested in the labeling of the dietary supplement will reasonably be expected to be safe and, at least 75 days before being introduced or delivered for introduction into interstate commerce, the manufacturer or distributor of the dietary ingredient or dietary supplement provides the Secretary with information, including any citation to published articles, which is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such dietary ingredient will reasonably be expected to be safe.

The Secretary shall keep confidential any information provided under paragraph (2) for 90 days following its receipt. After the expiration of such 90 days, the Secretary shall place such information on public display, except matters in the information which are trade secrets or otherwise confidential, commercial information.

"(b) PETITION.—Any person may file with the Secretary a petition proposing the issuance of an order prescribing the conditions under which a new dietary ingredient under its intended conditions of use will reasonably be expected to be safe. The Secretary shall make a decision on such petition within 180 days of the date the petition is filed with the Secretary. For purposes of chapter 7 of title

5, United States Code, the decision of the Secretary shall be considered final agency action.

"(c) Definition.—For purposes of this section, the term 'new dietary ingredient' means a dietary ingredient that was not marketed in the United States before October 15, 1994 and does not include any dietary ingredient which was marketed in the United States before October 15, 1994.".

SEC. 9. GOOD MANUFACTURING PRACTICES.

Section 402 (21 U.S.C. 342), as amended by section 4, is amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations, including regulations requiring, when necessary, expiration date labeling, issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with chapter 5 of title 5, United States Code.".

SEC. 10. CONFORMING AMENDMENTS.

(a) Section 201.—The last sentence of section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and not misleading statement is made in accordance with section 403(r)(6) is not a drug under clause (C) solely because the label or the labeling contains such a statement.".

(b) Section 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(u) The introduction or delivery for introduction into interstate commerce of a dietary supplement that is unsafe under section 413.".

(c) Section 403.—Section 403 (21 U.S.C. 343), as amended by section 7, is amended by adding after paragraph (s) the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 11. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700) is null and void and of no force or effect insofar as it applies to dietary supplements. The Secretary of Health and Human Services shall publish a notice in the Federal Register to revoke the item declared to be null and void and of no force or effect under subsection (a).

SEC. 12. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) Establishment.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) Membership.—

(1) Composition.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) Expertise requirement.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. Members and staff of the Commission shall be without bias on the issue of dietary supplements.

(c) Functions of the Commission.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims and statements for dietary supplements, including the use of literature in connection with the sale of dietary supplements and procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful, scientifically valid, and not misleading information to consumers so that such consumers may make informed and appropriate health care choices for themselves and their families.

(d) Administrative Powers of the Commission.—

(1) Hearings.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) Information from federal agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) Authorization of appropriations.—There are authorized to be appropriated such sums as may necessary to carry out this section.

(e) Reports and Recommendations.—

(1) Final report required.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) Recommendations.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(3) Action on recommendations.—Within 90 days of the issuance of the report under paragraph (1), the Secretary of Health and Human Services shall publish in the Federal Register a notice of any recommendation of Commission for changes in regulations of the Secretary for the regulation of dietary supplements and shall include in such notice a notice of proposed rulemaking on such changes together with an opportunity to present views on such changes. Such rulemaking shall be completed not later than 2 years after the date of the issuance of such report. If such rulemaking is not completed on or before the expiration of such 2 years, regulations of the Secretary published in 59 F.R. 395-426 on January 4, 1994, shall not be in effect.

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) In General.—Title IV of the Public Health Service Act is amended by inserting after section 485B (42 U.S.C. 287c–3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 485C. DIETARY SUPPLEMENTS.

"(a) Establishment.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) Purpose.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) Duties.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medicine;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health and provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) Definition.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) Conforming Amendment.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California [Mr. Waxman] is recognized for 1 hour.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

There is no Member who is not aware of the issues addressed by this bill. We have all heard from constituents who are concerned about the regulation of dietary supplements.

I am pleased to announce that an agreement has been reached on dietary supplement legislation. This legislation will assure consumers access to all supplements on the market so long as they are not unsafe. It will allow manufacturers to distribute certain scientific publications and make certain statements about supplements if those publications and statements are not false and misleading.

The legislation also provides for a Presidential commission that will study a number of contentious issues pertaining to claims that can be made for supplements and the application of the Nutrition Labeling and Education Act to supplements. During the commission's consideration of these issues, the NLEA will remain in effect for supplements.

Mr. Speaker, this bill resolves an extremely contentious issue. Many members deserve credit for this compromise. In particular, I would like to acknowledge the chairman of my committee, Mr. DINGELL, as well as the lead sponsor of the House bill, Mr. RICHARDSON, and Mr. GALLEGLY who sponsored a similar bill. Mr. BLILEY and Mr. MOORHEAD were of great assistance. Senators HATCH, HARKIN, and KENNEDY also had enormous influence on the bill.

I would also like to acknowledge the untiring and skillful staff work of Kay Holcombe of the committee staff, as well as the important contribution made by Mary McGrane, counsel for the minority on our committee, and Melody Harned for the minority, as well as John Lewis of Mr. RICHARDSON's staff. David Meade, the House Legislative Counsel, was, as always, a superb draftsman who was available whenever we needed him.

Finally, the chief sponsors of the bill from both Chambers have agreed that the only legislative history for this legislation will be a statement of agreement that I ask be included in the RECORD immediately after this statement.

Mr. Speaker, I know of no opposition to the bill and I urge it be adopted by unanimous consent.

STATEMENT OF AGREEMENT

This statement comprises the entire legislative history for the Dietary Supplement Health and Education Act of 1994, S. 784. It is the intent of the chief sponsors of the bill (Senators HATCH, HARKIN and KENNEDY, and Congressmen RICHARDSON, BLILEY, MOORHEAD, GALLEGLY, DINGELL, WAXMAN) that no other reports or statements be considered as legislative history for the bill.

1. The bill does not affect the Food and Drug Administration's ("FDA's") existing authority under the Federal Food, Drug and Cosmetic Act to prohibit the import or sale of any product marketed as a drug in a foreign country.

2. In section 201(ff)(3)(B)(ii), added by section 3 of the bill, the term "substantial clinical investigations" does not include compassionate investigational new drug applications or an investigational new drug application submitted by a physical for a single patient.

3. Section 403B, added by section 5, does not apply to a summary of a publication other than an official abstract of a peer-reviewed scientific publication.

4. Section 403(r)(6)(A), added by section 6, does not permit premarket approval or require premarket review by the FDA of any statement permitted under that provision.

5. In section 413(a)(1), added by section 8, the term "chemically altered" does not include the following physical modifications: minor loss of volatile components, dehydration, lyophlization, milling, tincture or solution in water, slurry, powder, or solid in suspension.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California.

Mr. MOORHEAD. Mr. Speaker, I support enactment of this legislation. I certainly wish to commend all of the people who the gentleman from California has listed, those that have participated.

This legislation is the result of long hours of negotiations over a number of days, and certainly the gentleman from New Mexico has worked extremely hard to get this legislation. I know in my own district I have gotten hundreds of letters from people badly wanting this bill passed.

I am happy at this late moment in this Congress we are able to be successful and bring this bill before the House.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. Mr. Speaker, no Member has worked more tirelessly for this legislation than has the lead sponsor in the House of Representatives, the gentleman from New Mexico [Mr. RICHARDSON], and I am happy to yield to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in full support of this amendment, which represents a historic agreement on the Dietary Supplements Health and Education Act.

Guaranteeing access to dietary supplements and information about them started with the introduction of my bill, H.R. 1709, the Dietary Supplement Health and Education Act of 1993.

Two hundred sixty-two cosponsors in the House and 66 cosponsors in the Senate listened intently to the thousands of calls, letters, and personal messages urging Congress to act. I want to thank each and every one of those cosponsors for their support.

This agreement is a big victory for consumers of supplements. It guarantees access to safe supplements now and in the future.

This agreement contains a very clear definition of dietary supplements.

It ensures that people who want to learn more about the benefits of supplements can do so through literature and labeling.

This agreement creates a commission to study health claims and other means of communicating information to consumers about supplements.

This agreement will also encourage the advancement of research about the relationship between nutrients and diseases through the creation of the Office of Dietary Supplements.

And there are good manufacturing practices included in this amendment to ensure high-quality products for consumers.

This is an agreement that we can all be proud of. This has been a long and difficult road to meeting the concerns of all those involved, but we have done it.

I would like to thank Chairman WAXMAN and Chairman DINGELL for all the time and energy that they put into this. I appreciate your efforts and the work of your staffs.

My sincere thanks to our ranking minority members, Representatives BLILEY and MOORHEAD, and their staffs for their fine work, especially John Lewis, my staff, Kay Holcomb, Mr. DINGELL's staff, Bill Schultz, and Tricia Knight of Senator HATCH's staff, and Mary Magraine of Mr. MOORHEAD's staff.

I would also like to extend my thanks to Representative GALLEGLY for his work on pushing this issue to the forefront.

Finally, I would like to extend my great appreciation to Senator ORRIN HATCH of Utah for championing this cause in the Senate. He is truly the king of vitamins. His staff has also done a tremendous job.

And I would be forgetting something very important if I did not thank the grassroots groups for helping to bring us to this resolution. Citizens for Health, the Nutrition Health Alliance, and the Natural Nutritional Foods Association are just a few of the groups who deserve a great deal of credit.

This is a great victory for the more than 100 million Americans who use these products and I am proud to be part of it.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. WAXMAN].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, and was read the third time, and passed.

A motion to reconsider was laid on the table.

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce and the Committee on Ways and Means.

To the Congress of the United States:

I hereby submit to the Congress the Annual Report of the Railroad Retirement Board for Fiscal Year 1993, pursuant to the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(l) of the Railroad Unemployment Insurance Act.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *Oct. 6, 1994.*

MODIFICATION OF MORATORIUM ON ISSUANCE OF CERTIFICATES OF OPERATING AUTHORITY TO MEXICAN OWNED OR CONTROLLED MOTOR CARRIERS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 103-323)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Public Works and Transportation and ordered to be printed:

To the Congress of the United States:

In November 1993, in preparation for the implementation of the North American Free Trade Agreement [NAFTA] on January 1, 1994, I informed the Congress of my intent to modify the moratorium on the issuance of certificates of operating authority to Mexican owned or controlled motor carriers that was imposed by the Bus Regulatory Reform Act of 1982 (49 U.S.C. 10922(*l*)(2)(A)). The modification applied to Mexican charter and tour bus operations. At that time, I also informed the Congress that I would be notifying it of additional modifications to the moratorium with respect to Mexican operations as we continued to implement NAFTA's transportation provisions. In this regard, it is now my intention to further modify the moratorium to allow Mexican small package delivery services to operate in the United States provided that Mexico implements its NAFTA obligation to provide national treatment to U.S. small package delivery companies.

Prior to its implementation of the NAFTA, Mexico limited foreign-owned small package delivery services, such as that offered by United Parcel Service and Federal Express, to trucks approximately the size of a minivan. This made intercity service impractical and effectively limited small-package delivery companies to intracity service only. Mexico has no similar restriction on the size of trucks used by Mexican small package delivery services. Because Mexico did not take a reservation in this area, the NAFTA obligates Mexico to extend national treatment to U.S. small package and messenger service companies. Mexico must allow U.S. small package delivery services to use the same size trucks that Mexican small package delivery companies are permitted to use.

Mexico, earlier this year, enacted legislation that addresses the small package delivery issue. Amendments to the *Law on Roads, Bridges, and Federal Motor Carriers* authorize parcel delivery and messenger services to operate without restriction so long as they obtain a permit from the Secretariat of Communications and Transportation and direct that such permits be granted in a timely fashion. The law includes no restrictions on the size and weight of parcels nor on the dimensions of the vehicles that small package delivery services will be permitted to use.

At the North American Transportation Summit hosted by the United States on April 29, 1994, Mexico's Secretary of Communications and Transportation Emilio Gamboa reaffirmed his government's commitment to permit unrestricted operations by foreign-owned providers of small package delivery services in Mexico. In return, even though the United States does not have a similar obligation under the NAFTA, Secretary of Transportation Federico Peña stated the United States Government's intention to grant Mexican small package delivery service companies reciprocal operating rights in the United States by modifying the moratorium imposed by the Bus Regulatory Reform Act. Mexico and the United States agreed to establish a joint working group to specify the details of this arrangement by September 1, 1994.

The U.S. small package delivery service industry is supportive of United States Government efforts to eliminate Mexico's restrictions on small package delivery operations. Provided Mexico implements its NAFTA obligation to extend national treatment to U.S. small package delivery companies, the U.S. industry would not object to a modification of the moratorium that would provide Mexican small package delivery companies reciprocal treatment in the United States.

Provided that Mexico meets its NAFTA-imposed national treatment obligation to allow U.S.-owned small package delivery services unrestricted operations, I intend, pursuant to section 6 of the Bus Regulatory Reform Act, to modify the moratorium imposed by that section to permit Mexican small package delivery services to operate in the United States in exactly the same manner and to exactly the same extent that U.S. small package delivery services will be permitted to operate in Mexico. The Bus Regulatory Reform Act requires 60 days' advance notice to the Congress of my intention to modify or remove the moratorium. With this message, I am providing the advance notice so required.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *Oct. 6, 1994.*

REMOVAL OF NAME OF MEMBER AS A COSPONSOR OF HOUSE JOINT RESOLUTION 415

Mr. WALKER. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Joint Resolution 415.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

GENERAL LEAVE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to enter into the RECORD special orders relating to the retirement of Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REMOVAL OF NAME OF MEMBER AS A COSPONSOR OF H.R. 3392

Mr. RICHARDSON. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3392.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

□ 0300

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PETERSON of Florida). As it is beyond the hour of midnight, under the Speaker's announced policy of February 11, 1994, and June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each for insertions into the RECORD.

TRIBUTE TO ROY ROWLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I rise today to join my colleagues in recognizing my friend from Georgia, ROY ROWLAND.

It has been a distinct honor and privilege to have served in the House of

Representatives with Dr. ROWLAND and to have learned from him over the years. He brought a special contribution to every debate, particularly the recent health care debate, for which he was so qualified. His work to enact a bipartisan health care bill speaks for his entire career in the House. He put the best interest of every American ahead of partisan politics and did what was right.

Dr. ROWLAND can go back to Dublin, GA, proud of the work he has done here in Congress, and I know my colleagues from Georgia will continue to call on him for advice.

I wish only the best to both Dr. ROWLAND and his wife, Luella. He will be sorely missed by every Georgian and every Member of this body.

Mr. STUMP. Mr. Speaker, I rise today before the House of Representatives to pay tribute to one of this Chamber's most distinguished Members, Representative J. ROY ROWLAND of Dublin, GA, a statesman, a great personal friend, a physician, and a tireless advocate of America's veterans.

I have had the distinct pleasure of serving with Dr. ROWLAND in this great body since his first election to Congress in 1982 and for 12 years as a member of the Veterans, Affairs Committee of which I am the ranking minority member. Mr. ROWLAND was elected chairman of the Subcommittee on Hospitals and Health Care of the Veterans, Affairs Committee in 1992 and has distinguished himself in that position as the guiding force in efforts to reform veterans' health care and ensure that quality and compassion remain the keystones of the Nation's obligation to the men and women who have proudly served this country.

Dr. ROWLAND made history as the only physician serving in Congress from 1985 through 1988. Born in Wrightsville, GA on February 3, 1926, ROY decided at the age of 12 to follow in the footsteps of his great grandfather and great uncle and chose medicine as a career. He graduated from the Medical College of Georgia in 1952 and distinguished himself in the field of family practice medicine. In 1991 he was honored by the American Medical Association as the recipient of the Nathan Davis Award in recognition of his national contributions to U.S. medicine.

Dr. ROWLAND is a remarkable public servant. His love of medicine and his role as healer have had an impact far beyond traditional medical practice. ROY played a leadership role on controversial AIDS legislation. As a member of the Veterans, Affairs Committee, he introduced legislation calling for the creation of a national AIDS advisory commission and was instrumental in the fight to develop a national policy on the care and treatment of this deadly disease. His prophetic statement that "the AIDS virus does not stop at state boundary lines. It is a national problem and we need a national strategy," served to redirect and refocus the national debate on AIDS and precipitated the coordination and efficient administration of programs developed to fight this disease.

As the chairman of the Subcommittee on Hospitals and Health Care, Dr. ROWLAND made an incalculable contribution to the improvement of the veterans' health care system. He cosponsored legislation to increase compensation to VA nurses and to provide disability assistance to veterans racked by the mysterious yet debilitating Persian Gulf Syndrome. He was also in the forefront of providing disability benefits for those veterans suffering from radiation related illnesses. Perhaps, Dr. ROWLAND's most significant contribution is yet to be realized. It is his role in steering the VA toward full participation in emerging health care markets and as a player in a nationally reformed health care system.

Dr. ROWLAND's impact on the Nation's medical system can be traced in many areas, including women and children, and from the youngest to the oldest of our citizens. He served as the vice chairman of the Sunbelt Caucus Task Force on Infant Mortality and on the House Rural Health Care Coalition. As a leader of this coalition, he helped to draft and co-sponsor a wide range of legislation to improve the delivery of rural health care and measures to increase Medicare reimbursements for rural hospitals and to establish new incentives to attract health care professionals to underserved areas. He has introduced legislation to help older citizens obtain long-term care insurance and has cosponsored several measures to provide prenatal and child health care services to high-risk mothers.

Dr. ROWLAND has made lifelong contributions to the betterment of the environment, budget reduction, drug abuse, and to addressing the problems of community and infrastructure development. He has long supported a capital gains tax rate to help the timber and economic interests of south Georgia and has worked tirelessly to improve U.S. competitiveness with foreign countries through tort reform.

The Congress and the American people have been enriched through the dedicated public service of Dr. ROWLAND. In the words of Hippocrates, the Father of Medicine, "If I keep this oath faithfully, may I enjoy my life and practice my art, respected by all men and in all times." This is indeed a true reflection of Dr. ROWLAND, physician, public servant, and a man of the people.

I am proud to have had the opportunity to serve with him and ask my colleagues to join with me in thanking him for his great service to his country.

Mrs. FOWLER. Mr. Speaker, I rise this evening to pay tribute to someone I admire greatly, my good friend ROY ROWLAND, who will be retiring at the end of this Congress.

I have had the good fortune to know Congressman ROWLAND for many years because of his close and longstanding relationship with my family. He is a fellow Emory graduate, he served with my father in the Georgia legislature, and he represented my hometown of Milledgeville here in the House with a great deal of hard work and commitment.

For all these reasons, it has been a special pleasure for me to work with Congressman ROWLAND. But I can honestly say that even if I had never met him before coming to Congress, I would still hold him in the same high esteem, because he is a true southern gentleman. His kindness and good nature are legendary; his word is his bond; and he always gives a hundred and one percent to the task at hand.

As a physician, Congressman ROWLAND is especially knowledgeable about health care, and he has been a leader on issues such as rural health, infant mortality and veterans health. He also authored the legislation which created the National AIDS Commission. And everyone here is familiar with his impressive work on this year's health care debate in Congress. However, the Rowland-Bilirakis Health Care Plan is just the most recent entry in an impressive ledger of legislative achievement which includes work on such diverse issues as defense, transportation and the environment.

ROY ROWLAND is a man of character, courage and compassion, and I am proud to call him my friend. I join his many other friends and admirers on both sides of the aisle in wishing him the very best as he moves on to his next challenge. He will be greatly missed by everyone here on Capitol Hill, and by the people he has served so well.

Mr. JOHNSON of Georgia. Mr. Speaker, I am pleased to take this opportunity to pay tribute to the dean of the Georgia delegation, Dr. J. ROY ROWLAND, as he concludes his 12 years of service to the people of his district, the State of Georgia, and the Nation.

On a personal level, I have found many opportunities during my freshman term to turn to Dr. ROWLAND for guidance. As we all know, this is a unique institution. My 6 years in the Georgia State Senate were of some help as I began to negotiate the intricacies of the legislative process, but I often found myself in need of guidance, direction, explanation or just plain help. ROY ROWLAND was many times the person who offered that help.

Last summer, he honored my constituency by holding a field hearing of his committee on veterans hospitals and health care in my district. The topic of the hearing was the working relationship between the Eisenhower Army Medical Center, located at Fort Gordon in Augusta, GA, and the Veterans Hospital and the Medical College of Georgia. These three facilities are an invaluable medical resource not only for the 10th district but for the entire southeastern United States, and I want to thank ROY again for holding that hearing. I believe it successfully highlighted the advancements that have been made in medical care by sharing and integrating the resources of each facility with the other through technology.

On a broader level, Dr. ROWLAND has shown true leadership in the area of health care. While partisan interests played to the media and the public's fears, Dr. ROWLAND worked very hard, but quietly, to develop a plan to reform our Nation's health care system. He sought a plan that, first and foremost, solved the problems of access and equity. He sought a plan that could be supported by Members of both parties, a goal too often neglected in this House. And he sought a plan that responded to the people's desire to see improvements without more Government.

Though health care reform is dead for this session, we know that many Members supported the type of approach Dr. ROWLAND laid out for the process. When the 104th Congress takes up the task of health care reform again, they will doubtless build on the good work of Dr. ROWLAND. And for that, he deserves our thanks and praise.

No tribute to Dr. ROWLAND would be complete without mention of his tireless work on behalf of America's veterans. As chairman of the Veterans Subcommittee on hospitals and health care, he combined his interests in health care and veterans issues. He sponsored numerous bills to improve the state of veteran benefits and worked for their passage. Just a few examples are: bills to elevate health services for women veterans and veterans of the Persian Gulf war; legislation to expand agent orange care; measures to expand former POW's and Medal of Honor recipients' eligibility for medical care; and a bill to establish a veterans health-care pilot program.

For 12 years Dr. ROWLAND has served the peopled of his district with dignity and caring. He has served the people of this country equally well. I am proud to call him my friend. We will miss him, and I wish him well in his life after Congress.

Mr. DEAL. Mr. Speaker, I rise to join with many of my colleagues in the House to honor a fellow member of our Georgia delegation who has chosen to leave our ranks at the end of this term, the Honorable J. ROY ROWLAND of the Eighth District of Georgia. Many of his contributions will be highlighted by those who served here with him the entire length of his tenure in this body. I would like to focus on what I as a freshman have learned from observing him and studying his accomplishments as a legislator in the U.S. House of Representatives.

When Dr. ROWLAND left the House in the Georgia General Assembly, I was completing my first term in the Georgia Senate. So here we are again, but this time, both in the same house. I'm completing my first term, but this time, he is retiring from public office. I say retiring from public office because most of us have difficulty imagining him and Miss Lou Ella sitting on the front porch in rocking chairs.

A first term legislator spends much of the first few months watching how others operate, looking for those who share views, principles, goals, to seek out solutions across party lines. I decided early on that one of my objectives would be to work on as many bipartisan approaches as possible. The bipartisan road, as many of you know, can be a very rough one filled with potholes and barricades. The journey is slow and tiring.

However, as our colleague from Georgia has demonstrated these past few months, the end product of the bipartisan approach often is the wisest choice. However, on the issue of health care, too many realized it too late.

If we look back over the gentleman from Georgia's legislative career here, we will probably find that one of the keys to his success in passing legislation has been traveling down that arduous bipartisan road. Another factor is that he has focused mainly on two areas—one, his area of expertise, the medical field, and the other, legislation to address the specific needs of his district.

While it is not uncommon for the chairmen of committees and subcommittees to author major pieces of legislation which become laws, it is of note when those who do not hold those positions successfully steer the bill they introduce to becoming laws. Our honoree holds quite an impressive record in that respect.

The list includes:

The Anti-hassle Medicare administration law;

A wide range of initiatives to improve the delivery of rural health care services;

The law creating the National AIDS Commission to coordinate and establish some efficiency among separate programs dealing with the disease;

Banning the prescribing of methaqualone (Quaalude) nationwide, attacking directly a serious drug abuse problem;

Helping to write the 1990 Clean Air Act and the 1987 Clean Water Act, serving on conference committees for both and authoring key provisions, such as those for storm water runoff, the first national standards for nonpoint source pollution;

Author of the health assessment provisions to provide compensation to citizens injured by toxic wastes in Superfund law;

Author of amendments to the 1987 Federal highway aid reauthorization bill to enable States to shift Interstate funds to non-Interstate projects;

Author of "Wayport" legislation to relieve congestion at the country's major airports by building major new airports away from metropolitan areas;

Sponsor of the legislation making the acquisition of the Bond Swamp National Wildlife Refuge possible; and

Author, co-author and cosponsor of many bills improving benefits for our veterans, the one of most note being the "Atomic Veterans" bill giving long-denied disability benefits to veterans suffering from severe illnesses potentially related to radiation exposure in the military.

Mr. CALLAHAN. Mr. Speaker, the House will lose a true statesman when Dr. ROY ROWLAND retires at the end of this Congress. I join his many friends in wishing him and Luella well-deserved rest and relaxation.

ROY ROWLAND has been a free spirit in the House, a term I use in the most complimentary way. He has rarely been persuaded to take a position for party or political reasons and, as such, has often bucked conventional wisdom on how he might be expected to act. On most occasions, I imagine that Dr. ROWLAND has been right.

Dr. ROWLAND and I had the honor to serve together on the Energy and Commerce Committee. We were both lucky enough to arrive there just in time to take up the Clean Air Act amendments. We had similar constituencies involved in this legislation and our interests were alike on many aspects of this complex issue. Dr. ROWLAND was a tireless and effective legislator in this instance, and I think the final law was better for his efforts.

Because of his medical background, Dr. ROWLAND contributed greatly to the health care reform debate this year. His reasoned approach and tireless efforts to reach a bipartisan agreement will serve us well even when he is gone. His ideas will certainly continue to be an option we will consider when the debate resumes next year.

It has been my great privilege to know Dr. ROY ROWLAND. He is a great American who has always endeavored to do the right thing. We need more individuals in this body with Dr. ROWLAND's integrity. I and all Americans who desire good government will miss him.

Mr. PICKLE. Mr. Speaker, I rise today to join my colleagues in paying tribute to the Honorable Dr. ROY ROWLAND, Mr. ROWLAND is a fine man, a country doctor, who served the people for many years in that capacity. He is a learned man, with a great deal of practical experience, and with an exemplary record as a legislator. I have always been impressed with what a caring individual he is, close to the people and close to the soil.

During this body's consideration of health care reform legislation, there were none more knowledgeable than he. His recommendations became the centerpiece of debate for many in this Congress, and indeed many in the entire nation. Throughout that important debate, I held no one's opinion in higher regard.

I have been privileged to serve with him in the House, and to visit with him and his family on a social as well as professional basis. I have even had the good fortune to travel with him as Representatives of our country.

In my 31 years in the Congress, I have seldom met a Member who was more caring, more compassionate, or more dedicated to the service of his district and his country. I am more than proud to stand with the rest of the Congress in a farewell tribute to our very esteemed colleague, the Honorable Dr. J. ROY ROWLAND.

Mr. STENHOLM. Mr. Speaker, it is with mixed feelings that I come to the floor this evening to pay tribute to my colleague, Dr. J. ROY ROWLAND. Naturally, I gladly offer my words of congratulations and appreciation to my friend from the Eighth District of Georgia. But my feelings are mixed because our good wishes are delivered to him as he ends his 12 years of service in the House of Representatives, and he will be sorely missed.

I have been privileged to share many efforts and battles with ROY over the years. Whether the arena dealt with health care, veterans, or a host of other issues taken on by the Conservative Democratic Forum, Dr. ROWLAND never forgot the political ways of his youth, learned from his father the judge and his grandfather, a member of the State legislature. From them, the legacy of public service was passed along. ROY'S second career as a thoughtful, concerned, genuine public servant would make them proud.

In an era when politics has become increasingly contentious and heated, Dr. ROWLAND has always managed to maintain the soft voice and courteous manner that in past years earned him the nickname "Marcus Welby, M.D." His southern ways of hospitality and courtesy will be sorely missed in this body next year.

I have eaten a lot of ROY's peanuts and drunk his cokes. I have sat through hours and hours of meetings in his office. I have hosted him in the 17th District of Texas and visited him in Georgia. I have taken his advice on health issues and tried to convince him to take mine on agriculture.

I have debated, deliberated, diagnosed, discussed, deficit-reduced, decreed, developed and depended upon this Democrat from Georgia and now I can deduce but one thing: We sure will miss you, Doc!

Mr. COLLINS of Georgia. Mr. Speaker, I join my colleagues from Georgia to pay tribute to our friend Congressman ROY ROWLAND of Georgia.

Prior to joining this body, I heard many favorable comments about ROY ROWLAND, many of those comments from a mutual friend, Bill Jones, who resides in Jackson, GA. Mr. Jones was a member of the Georgia House of representatives and was ROY'S seat-mate during his tenure in the Georgia General Assembly.

My first personal contact with ROY was during the long hours of waiting for the 1992 State legislature to finalize the redrawing of the 11 congressional districts prior to the 1992 campaigns. I could see and feel the respect the members of the conference committee had for Congressman ROWLAND.

When I arrived on the scene here in Washington, Congressman ROWLAND was one of the first to greet and welcome me to the House of Representatives. His greeting was sincere and respectful.

I know ROY could tell I was anxious to learn the ropes in my new job. Drawing on his many years of experience, he began to involve and introduce me to other Members. He helped familiarize me with the workings of the world's greatest deliberative body, and for that I am grateful.

ROY invited me to participate in a hearing at the V.A. Hospital in his home town of Dublin, GA. ROY wanted me to become familiar with and hear first hand the concerns of our brave veterans. By listening to his questions and remarks, it was evident to me that the veterans were ROY'S top priority and that their issues were the ones near and dear to his heart.

Congressman ROWLAND accepted invitations from me to participate in health care forums throughout the Third District to listen and to answer questions from my constituents about the direction of health care reform.

I have appreciated ROY ROWLAND'S generosity and his guidance. He is a man who sees beyond partisan politics and thinks only of the good of the people he represents. I can think of no greater compliment to pay a Representative of the people.

Mr. Speaker, this House of Representatives will lose a valuable and dedicated Member when this 103d Congress adjourns, and the people of Georgia will lose a valuable and dedicated representative.

On the other hand, Mr. Speaker, I imagine Mrs. Rowland and her family will welcome the full-time return of a valuable and dedicated husband, father, and grandfather.

I appreciate this opportunity to commend ROY ROWLAND for is many years of service and we should not forget to thank our Lord and the family of Congressman ROY ROWLAND for sharing this astute gentleman and statesman with us and with the country. We are deeply grateful.

God bless Congressman and Mrs. Roy Rowland. God bless the United States of America.

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to my good friend and colleague, ROY ROWLAND, who is retiring from Congress after 12 outstanding years of service.

"DOC" ROWLAND, as we fondly call him, came to Congress in 1983 and for many years was the only physician serving in the House. All of us have considered him an expert on health issues and he certainly has used his expertise wisely and to a good purpose.

He has pushed for health benefits for the unemployed and he has been active in the drive to prevent infant mortality.

He has taken a hard line on drug abuse and was instrumental in passing legislation to make the drug Quaalude illegal and to bar physicians from using heroin to treat cancer patients.

"DOC" ROWLAND cared a great deal about veterans and worked hard over the years to ensure that veterans receive proper health care benefits and treatment.

The people of Georgia and the people of this Nation have been well-served by "DOC" ROWLAND. He is one of the finest, most highly-respected Members to ever serve in Congress.

I have enjoyed serving with him and I will be among his many friends and colleagues who will miss him greatly. His contributions to the well-being of people everywhere will long be remembered.

Mr. SENSENBRENNER. Mr. Speaker, I rise to pay tribute to our favorite doctor in the House, Congressman Dr. J. ROY ROWLAND of Georgia. Congressman ROWLAND is known for his colorful personality and honest character. His small town background and common sense approach lends itself to his approachable and effective manner in the House of Representatives.

Representative ROWLAND'S public service career began as he created an organization to help inform Georgia physicians about medical issues. This involvement reinforced the Congressman's belief that more physicians should participate in the political process. Pursuing his desire to become more politically active, he sought office in the Georgia House of Representatives. After serving 6 years, he ran for the U.S. House of Representatives, where he was elected and has served diligently since 1983.

Being only one of two physicians in the House, Representative ROWLAND was asked to bring his specific knowledge and authority to the table as he argued that the AIDS virus is a national problem. Representative ROWLAND championed passage of legislation creating the National AIDS Commission. The Commission is responsible for establishing better coordination and efficiency in administering the many programs dealing with the disease.

Congressman ROWLAND'S talents have also been utilized in other areas of health care. He authored and sought passage of legislation to reduce unnecessary red tape in the administration of Medicare, called the "anti-hassle" bill. This bill eliminated additional Medicare regulations passed as part of comprehensive legislation. As a leader in the House Rural Health Care Coalition, Representative ROWLAND also helped draft and co-sponsor a wide range of legislation to improve the delivery of rural health care. This includes legislation to increase Medicare reimbursements for rural hospitals and the establishment of new incentives to attract health care professionals to underserved areas.

Representative ROWLAND'S medical background has strengthened his ability to communicate authoritatively with his constituents and colleagues while serving in the House of Representatives. It has been an honor to serve with Representative ROWLAND and I wish him every future success.

Mr. BALLENGER. Mr. Speaker, I am happy to join in a farewell tribute to my good friend ROY ROWLAND.

We enjoyed an occasional golf game and ROY always managed to play a competitive game and "hit the ball long and straight"—something that I intend to continue to work on with the help of "Boom Boom"!

In my considered opinion, ROY was one of the most reasonable and fair Democrats in the House! He will surely be missed next year—particularly in the health care debate. As one of the few physicians in the Congress, ROY put together a thoughtful and bipartisan health care bill. The bill he introduced with MIKE BILIRAKIS included reforms that had wide support and would have greatly improved health care benefits for more Americans without disrupting the current system. It had the support of many in the House and could have and should have been passed by Congress this year.

ROY, thanks for your years of dedicated service—you will be missed. Enjoy your retirement and come back and visit every now and then.

Mr. OXLEY. Mr. Speaker, I'd like to add to this tribute to Representative ROY ROWLAND, who will be concluding his service to the 8th District of Georgia at the end of this Congress.

He is perhaps best known as being the only physician currently serving in the House or the Senate. While he holds that public distinction, those of us who have been fortunate to serve with him know him to be a caring legislator and good friend. ROY ROWLAND has used his medical credentials in his work on health care, the prevention and cure of AIDS, and responsible use of prescription drugs. He took a particular interest in the Nation's health care system for veterans. I remember early in my career I held a meeting about some of the problems of rural hospitals, and the first Member to show up was ROY ROWLAND. His medical experience made him a particularly valuable resource for other Members on all of these issues that hold such importance for everyone in this country.

Congratulations to Dr. ROWLAND for his productive contributions to this legislative body. Best wishes to him and his family for a happy and productive retirement.

Mr. DARDEN. Mr. Speaker, the House of Representatives is losing a great statesman, patriot, physician, and American with the retirement of my good personal friend, Dr. J. ROY ROWLAND.

Dr. ROWLAND came to Congress in 1983 after a distinguished career in Georgia politics. He began his public service to Georgians in 1974 when he created an organization to ensure that Georgia's physicians were informed about the pending political issues of concern.

He then ran successfully for the Georgia House of Representatives in 1976 and was subsequently reelected twice without opposition. I first became friends with Dr. ROWLAND while we were both serving in the State House. Although he represented a rural area, and I represented a suburban district, I looked to him for guidance and wisdom, just as I have since I joined him in the U.S. House of Representatives.

Many people seek a position in Congress for the prestige or for the glamor and lifestyle. Not J. ROY. He came to Congress because he had a burning need to further serve his friends and fellow Georgians. I am sure he will tell you that, deep down, he really longed for his days of service to rural Georgians as their family physician. This is where his heart is, with medicine and helping everyday folks to stay healthy.

But, when he saw that big government was complicating people's lives, making it more difficult for them to receive good competent health care through more and more regulations, he knew that personal sacrifice was in order. So, unlike some opportunists who run for Congress, Dr. ROWLAND sacrificed his medical practice, his true love, in order to come to Washington and serve his friends and associates in rural Georgia.

And, the citizens of Georgia have appreciated his sacrifice. He has made the hard vote when the political consequences could have disastrous. He has taken the road less travelled and followed the hearts of this fellow Georgians.

Mr. Speaker, many of us believe J. ROY should remain in Congress to finish the health care debate. Many of us believe he has many more years of leadership left. And, there is no question to anyone in this body that we will suffer without his guidance on any upcoming health care initiatives. But, like the ballplayer who wants to retire in his prime, before the blemishes of time have worked their course, Dr. ROWLAND has elected to retire. Every member in this body regrets his decision. Every Member in this body knows there can be no replacement for Dr. ROWLAND.

And, J. ROY's wife, Louella, is equally important to this body. She has shown each of our spouses the dignity that is incumbent and demanded of a Congressional spouse. Together, J. ROY's and Louella's friendship is cherised by Lillian and me and we look forward to many future years.

In closing, J. ROY, we all wish you the best and I hope we will conduct this body in a way that will honor your service. You have been an inspiration to us all and we will miss you. I personally thank you for your service, the citizens of Georgia thank you for your service, and all Americans are better because you have been a Member of Congress. God bless you.

Mr. THOMAS of California. Mr. Speaker, a quiet achiever—that is what ROY ROWLAND has been during his service in Congress, and throughout his life for that matter.

Whether it was helping his fellow infantrymen during World War II, where ROY earned the Bronze Star by risking his life to help rescue U.S. troops, or in decades-long service to his fellow physicians, earning ROY the American Medical Association's Nathan Davis award for national contributions to Medicine, he has demonstrated a strong sense of service to his fellow man.

I personally experienced ROY's reputation during our work together on the bi-partisan working group on health care reform. Throughout the months-long process of negotiation and compromise, ROY helped keep the group focused on the goal of producing an honest bipartisan health care reform bill.

And I am happy to say that we did meet our goal. As a tribute to ROY and the whole group, I hope this bi-partisan process can serve as a model of how Congress should proceed next session. We demonstrated that we could achieve an increase in coverage—92 percent; reduce our Federal deficit—$65 billion; and do it without new taxes or job-killing mandates. Through his leadership we showed that Republicans and Democrats can cooperate to achieve an end. This is a fine legacy.

But this is not the only area ROY helped provide leadership. He has also played a major role in efforts to address a wide range of other issues including deficit reduction, the environment, economic development, drug abuse, crime and upgrading the country's infrastructure.

ROY ROWLAND can go back to Georgia sure that he will be missed and certain that his good works will not be forgotten. However, I cannot end without asking a couple questions. ROY, what exactly is Fruitopia and why do you have cases of it stacked in your closet?

Mr. HUGHES. Mr. Speaker, I rise to join in paying tribute this evening to a good friend and colleague, ROY ROWLAND, who like me, will be retiring from Congress at the end of this session.

It has been a real privilege for me to serve in the Congress with ROY these past 12 years. I have come to know him as a man of great honesty and integrity, who represents the very best in public service.

He is also one of the hardest working and most effective Members of Congress. He has made a lasting impression in the fields of health care, the environment, and veterans affairs.

From his first day in office, ROY brought with him a sense of compassion which too often is missing in government. I suppose that was simply the doctor in him coming out. Whatever it was, it helped ROY form a special bond with his constituents, and enabled him to be both an effective Congressman and highly respected figure throughout his district.

From his position as vice chairman of the National Commission To Prevent Infant Mortality, to his diligent efforts to clean up the air and water, ROY always did his best to cure our Nation's ills, and to make his district and our country a better place to live.

With ROY ROWLAND's retirement, the Eighth District of Georgia is losing a fine Congressman, but at least they are regaining a wonderful doctor. He will truly be missed here in Washington.

Mr. LEHMAN. Mr. Speaker, I rise today to pay tribute to a dear friend and colleague, Dr. ROY ROWLAND. My contact with Dr. ROWLAND while working on the Food Quality Protection Act and as a fellow member of the Energy and Commerce Committee has been richly rewarding. His presence and participation in this Chamber will be greatly missed.

Dr. ROWLAND's notable accomplishments in health care and veterans legislation have distinguished him as a respected and effective leader. Having practiced medicine, his ideas on specific medical issues and comprehensive health care reform always attracted the interest and consideration of his colleagues. Dr. ROWLAND's fight against the spread of AIDS and for the rights of HIV-infected individuals has provided direction for this Chamber's efforts on these vital issues.

I would also like to take note of Dr. ROWLAND's dedication to the concerns of veterans. As a member of the Veterans Affairs Committee, he has played an important role in providing veterans in my district with the benefits and services they justly deserve.

It has been a pleasure to work with Dr. ROWLAND on food safety legislation. His intense focus on public health concerns and clear view of the merits of pesticide reform helped form and maintain the broad, bipartisan coalition supporting our bill.

I offer my best wishes to ROY as he pursues his interests outside of Congress, and I thank him for all that he has done.

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to pay tribute to a distinguished colleague and a great American, Congressman J. ROY ROWLAND. I want to take a moment to honor this Member—a man whom I greatly respect.

For more than 17 years, Congressman ROWLAND has been in the forefront of the public health initiatives on AIDS, health care reform and infant mortality. This Congressman has given more than 100 percent effort in representing the Eighth District of Georgia. The people of the Eighth District and the State of Georgia have been blessed with the leadership of J. ROY ROWLAND.

Congressman ROWLAND personifies the very best in the American tradition. He has dedicated his life to public service, first as a physician and second as a member of the House of Representatives.

The accomplishments of J. ROY ROWLAND are many. His efforts as a public health activist has helped to empower thousands of people. His leadership is unparalleled. His devotion to improving public health is complete.

I have known this man for several years. I know him well. He is a good and decent man. He is a leader in the truest sense of the word. He is a crusader.

J. ROY ROWLAND has been able to organize the unorganized. He gave many hope in a time of hopelessness. His work and his cause enhanced the dignity of humanity everywhere.

J. ROY ROWLAND is persistent and consistent. He has had a vision of a new America, a better America. He had a dream of what America could become. He has kept his eyes on the prize.

Mr. BISHOP. Mr. Speaker, when the Speaker gavels the 103d Congress to a close, the House of Representatives and the delegation from the great State of Georgia will bid farewell to our delegation's dean and a man who is arguable the most effective legislator Georgians have ever sent to Washington.

In the mid-1970's, Dr. ROY ROWLAND noticed that physicians like himself were missing from the legislative process yet essential to many of the issues facing Americans. And so in 1976 ROY sought election to the House of Representatives. Since then, he has dutifully represented the needs of all Georgians, particularly the people of the Eighth Congressional District.

During much of his service in the House, Congressman ROWLAND was the only Member of Congress with a degree in medicine. His insight and participation in the health care debate has been regarded by many as the most learned and thorough. While I regret the fact that Congress will not have the opportunity to act on ROY's health care reform proposal before he leaves, his wisdom and hard work has provided those of us who will continue to carry that responsibility a foundation on which the Congress can build and enact a solid reform bill.

A native of Georgia, ROY was born in the town of Wrightsville, where he attended the local high school that shared the town's name. A varsity letterman in both basketball and football, he, like me, is also an Eagle Scout. Upon graduation, he was honored as the best all-around student of his high school class.

Young ROWLAND's college education at Emory University was quickly interrupted by World War II. Serving the U.S. Army in Europe, ROY earned a Bronze Star for crossing a river under heavy enemy fire in order to save American troops pinned down on the opposite bank.

When he returned to the States, ROY married his high school sweetheart and lifetime friend Luella Price. Luella's patience and support, I am told, helped ROY make it through the rigorous years at the Medical College of Georgia and his internship in Macon, where the midnight oil frequently burned into the early mornings.

And that midnight oil has continued to burn in room 2134 of the Rayburn House Office Building, where ROY and his staff have worked tirelessly to provide the people of the Eighth Congressional District with a sound and reasonable representative voice in Washington while providing middle and southern Georgians with effective legislative skills.1

Other than laying the foundation for comprehensive health care reform, perhaps one of ROY'S biggest contributions was a bill he authored to ban nationwide the prescribing of the highly addictive methaqualone, known on the street as the quaalude. With ROY'S hard work and medical knowledge, millions or Americans have been spared the addictive horrors that accompany that drug's use as quaaludes are today virtually unobtainable.

ROY has served his fellow American veterans as chairman of the Veterans' Affairs Hospitals and Health Care Subcommittee, of which I am a member. ROY has worked hard to make sure that veterans suffering from the mysterious Persian Gulf syndrome are not ignored as were our troops who returned home ill from Southeast Asia after being exposed to agent orange and other chemicals.

His accomplishments are innumerable, Mr. Speaker, but to illustrate how effective a leader and legislator Congressman ROY ROWLAND has been, I offer this figure; 80 percent of the bills ROY has authored have been made into law.

From health care to veterans issues to budget reduction, Dr. ROY ROWLAND has always provided the proper prescription to remedy the problems that have confronted Americans over the past two decades.

On behalf of the people of Georgia, the members of the Georgia delegation, and all of the Members of Congress, I would like to thank ROY for his wisdom, his guidance, and his exemplary commitment to his constituents. His work ethic has been, and even in his absence, will be the measure by which Georgia legislators, will be judged.

As the doctor's successor I prescribe this medicine: Take two aspirin before you get to Washington, because you will have a tough time filling Dr. ROY ROWLAND's shoes.

Mr. KLINK. Mr. Speaker, I would like to pay tribute to ROY ROWLAND.

Congressman J. ROY ROWLAND is leaving Congress this year after six terms. We will miss him as a legislator and as a friend.

In my short time in Congress, I have witnessed ROY ROWLAND's leadership on the issue of health care. He brings a unique perspective to this area: ROY is one of only two physicians in Congress today.

Congressman ROWLAND is active in all areas of the health care debate. He served this term as the chairman of the Veterans' Affairs Hospitals and Health Care Subcommittee, which has jurisdiction over the veterans' health care system. He is a leader in the House Rural Health Care Caucus and is vice-chair of the National Commission to Prevent Infant Mortality.

ROY ROWLAND authored the Medicare antihassle bill and legislation to create the National AIDS Commission. He has helped to draft legislation to improve the delivery of rural health care.

I have also seen first hand, ROY'S commitment to his own health. Virtually every morning that we are in Washington, ROY is in the House gym working out. I believe this personal dedication is translated to his work on national health care issues.

Mr. Speaker, the House is losing a rare combination in ROY ROWLAND, one that will be sorely missed as we debate health care and other important issues in the future.

Mr. GOSS. Mr. Speaker, I am proud to pay tribute to Dr. J. ROY ROWLAND. Dr. ROWLAND is retiring from Congress this year after representing the Eighth District of Georgia honorably for more than a decade.

As a Congressman, he has stood tall in the eyes of his colleagues. He is a likable and devoted Representative. As one of only two physicians in the House, He's well respected for his leadership on health policy issues. And as a veteran, and a tireless advocate of veterans' issues, he has earned the respect of those men and women who have worn a uniform for this country.

Dr. ROWLAND has served the Nation in one capacity or another for more than 50 years. First as an infantryman in the European theater in World War II. Then as a family practitioner back home in Georgia. After more than 20 years of healing and comforting his patients, he went ahead to represent them in the Georgia State Legislature.

In 1982 he came to Washington, and this body and the American people have benefited from his compassion and commitment to serving others ever since. Here he is known as a true Southern gentleman. And a strong and independent voice for his constituents.

I was fortunate to have the opportunity to work with him this summer on developing the bipartisan Health Care Reform Act. In many ways that bill typifies what "Doc" ROWLAND is all about. As a physician, Doc ROWLAND was committed to advancing the health debate. He reached out to Republicans and fellow Democrats alike to try and force a consensus.

In retrospect, joining with him and eight other Members to hammer out a compromise bipartisan health bill was one of the most gratifying experiences I've had since coming here. We spent many long nights holed up in the Doc's personal office hashing out our differences and debating the merits of different reform approaches.

In the process, I think I learned quite a bit about him. His leadership was instrumental in keeping our group at the task. And the end product, which will certainly impact the health debate next year, is as much a tribute to his commitment to improving people's health as it is to his coalition building skills. Through hours of sometimes tense debate, he was the perfect host, providing just the right mixture of refreshments and cajoling to keep us on track and moving forward.

While it's a regret Congress was unable to pass a proper health reform bill this year, I am proud of what we accomplished. And I give Doctor ROWLAND much of the credit for seeing the bipartisan effort through. I suspect that if America sent more people like Doc ROWLAND to Congress, a lot of things in America, not just the health system, would be greatly improved.

We will all miss Doc ROWLAND. He has earned our respect and selflessly given us his friendship. And he has served this country like few have ever done.

Mr. MAZZOLI. Mr. Speaker, I rise to honor my colleague and my friend, Congressman J. ROY ROWLAND of the Eighth Congressional District of Georgia.

From an early age, ROY wanted to become a physician. Although he fulfilled that dream, ROY later entered the world of politics because he saw the need for representation of medical professionals in the field.

Throughout his tenure in the House, ROY has offered his medical expertise by serving on the many health care panels. His other interests include the budget, the environment, and infrastructure development.

ROY successfully made the transition from physician to public servant. As he returns to the life of a private citizen, I wish him all the best.

Mr. MOORHEAD. Mr. Speaker, Congressman ROY ROWLAND is leaving the U.S. Congress after a dozen years of valuable service and numerous contributions to his Nation, his State, and the residents of his district.

I have gotten to know Dr. ROWLAND better since he joined the Energy and Commerce Committee 6 years ago. In this capacity as the only medical doctor on the committee, he has made outstanding contributions to the committee's unparalleled record of achievement.

He was especially active in the recent and all-consuming health care debate. ROY ROWLAND's experience and insights were of enormous help to his colleagues as we worked to understand and solve the problems within this most important and complex of industries.

Mr. Speaker, I want to express my gratitude to Dr. ROWLAND for his friendship and support and wish him all the best as he departs the Congress and begins another chapter in his very successful life.

Mr. BILIRAKIS. Mr. Speaker, I want to join my colleagues in wishing my good friend, Congressman ROY ROWLAND, the best of luck in his future endeavors. I know he is looking forward to retiring from the Congress. Unfortunately, his retirement leaves a void in the House of Representatives that will never be completely filled. For many years, Congressman ROWLAND has been the only family physician in the entire Congress. He willingly shared his experience and medical knowledge with his colleagues on numerous occasions. Many times, when health care legislation was debated by the House Energy and Commerce Committee, Congressman ROWLAND's opinions and suggestions were sought out. My colleagues on both sides of the aisle and I always found them invaluable.

Over the past year, I have had the opportunity to work closely with Congressman ROWLAND and his very capable staff, especially Kathy Hennemuth, on health care reform. Before that, we had served on the House Energy and Commerce Committee and the Veterans Committee. In addition, we served as cochairmen of the Congressional Sunbelt Caucus on Infant Mortality.

In my opinion, our greatest legislative accomplishment together was drafting two separate and completely bipartisan health care bills in the 103d Congress. H.R. 3955, the Health Reform Consensus Act, was the first comprehensive health bill introduced in the Congress that was truly bipartisan. In addition, Congressman ROWLAND and I forged a completely bipartisan group of five House Republicans and five House Democrats. This congressional group was responsible for drafting the House bipartisan health bill, which drew significant support in the House this past summer—as well as interest in the other body. In my opinion, Congressman ROWLAND's medical background provided this bill with crucial credibility among our House colleagues.

Prior to this year, Congressman ROWLAND already had established himself as a legislative leader on health issues. A bill authored by Congressman ROWLAND to reduce unnecessary red tape in the Medicare Program was enacted into law. As a leader in the House rural health care coalition, Congressman ROWLAND assisted in drafting a wide range of bills to improve the delivery of rural health care that later became public law. He also authored legislation creating the National AIDS Commission to establish better coordination among programs associated with the disease. Finally, while serving as the vice chairman of the National Commission to Prevent Infant Mortality, he cosponsored several measures to provide prenatal and child health care services to high-risk mothers.

Throughout his congressional career, Congressman ROWLAND has been an effective legislator in other legislative areas as well. He has been actively involved in environmental issues and, in fact, served on the joint conference committee that authored the 1990 Clean Air Act. He also played a key role in the 1987 Clean Water Act and served as a House conferee when the final version of this legislation was debated by a House-Senate conference committee. In addition, Congressman ROWLAND served as one of the leaders in promoting the proposed balanced budget amendment to the Constitution.

With regard to veterans, Congressman ROWLAND served as the chairman of the House Veterans' Hospitals and Health Care Subcommittee. He has been a leader in fighting for improvements in the veterans' health care system and cosponsored several legislative measures to assist our veterans.

These are some of the highlights of Congressman ROWLAND's accomplishments as a Member of the House of Representatives. He has had numerous legislative achievements throughout his congressional career in Washington. While I congratulate Congressman ROWLAND on this distinguished career on the occasion of his retirement, I believe the U.S. Congress is losing one of its finest and most respected Members. He will be sorely missed, not only by me, but by all of us.

Mr. REGULA. Mr. Speaker, I am pleased to join a Special Order for my colleague and friend from Georgia, ROY ROWLAND. ROY has been a first class Member of this body.

His thoughtful, responsible leadership has served his constituents well while always recognizing the national interest.

Each of us, through experience, counsel with certain colleagues because we have a confidence in their judgments and look to them for leadership. ROY has been a Member that fills that role for me.

On a personal note, I will miss the delightful and instructive moments of "shop talk" with ROY as we shared early morning gym time staying fit.

Mary joins me in wishing ROY and Luella good health and a life with new challenges.

Mr. KINGSTON. Mr. Speaker, those of us who live in south Georgia are pretty close knit. Regardless of where we live in that area, there are many common threads of heritage, history, and culture that bind us together as neighbors, regardless of our education, income, family status, religion or other personal or social characteristics. Citizens of that area identify themselves as being—not just from the State of Georgia—but being from south Georgia.

It is a place—a region—a way of life that helps build quick relationships among friends, courtesy among strangers, and a warmth among neighbors. When someone moves from the area, we feel sorrow at their leaving—we feel sorry for them because they are going to live somewhere else and we feel sorry for ourselves at not having them nearby as a friend or as a confidant.

This is what I feel like because of Dr. ROY ROWLAND's retirement from the House of Representatives of the Congressman from the Eighth Congressional District. In Georgia, ROY has been my immediate neighbor to the west, as the western counties of the First Congressional District form the longest common boundary with another Georgia congressional district. When you travel west from six of the First District's western counties, you enter six of the Eighth District' counties.

Many of ROY's constituents work, play and shop within my district; likewise, many of my constituents cross county borders to do the same. Furthermore, in the 1992 election cycle, Roy's former constituents in five counties were redistricted into the First District from the Eighth District.

In Washington, I have come to know ROY so well that I feel he is more than just a neighbor. With the common constituent concerns we share, I have come to seek his advice and trust his judgment on many legislative matters. Our staffs have worked together on mutual legislative and constituent issues. Even though our political party identifications are different, that has not kept us from working closely in a coordinated manner to help with problems and concerns which our constituencies have in common.

My other delegation colleagues will touch on the specifics of ROY's background. It was his variety of experience—which included military service as a decorated infantryman in Europe in World War II and 28 years as a practicing physician in Dublin, GA—that helped to give him the practical background to make such his significant contribution in his committee assignments on the Veterans' Affairs Committee and the Energy and Commerce Committee. Through his membership on these two committees, ROY helped to gain legislative successes with issues dealing with rural health care, highway aid, Superfund, clean water, clean air, medicare reform, and veterans' health matters.

He became a recognized leader in crafting solutions to the problems faced by the Veterans' Affairs Hospital system and its health care delivery to our former military personnel. The culmination of his real-life experiences came this year in his working with Representative MICHAEL BILIRAKIS to draft the Rowland-Bilirakis Health Reform Consensus Act, a bill that many felt could well end up becoming the common-ground approach to legislated changes in the Nation's health care delivery system.

Circumstances ended up that no one version of the numerous health care reform proposals was debated or voted on by the House during the 103d Congress; but, ROY ROWLAND will leave behind a significant contribution by the hard work that he and his staff put into developing a consensus approach that many Members felt they would eventually end up supporting, if the concepts or another reform bill they initially supported did not advance.

Mr. Speaker, when ROY returns to his home town, I am sure one of his first priorities will be to take advantage of the opportunity to spend more personal time with his wife Luella, his two daughters, his son, his five grandsons, and his new born great-granddaughter. He will have the time to focus on noncongressional activities because he will not be scheduled to attend week-end events throughout the 32 counties of the 8th District; and, he will not be rushing to catch a plane back to Washington for late Monday or early Tuesday votes. ROY will have time to relax, spend time with friends and get back into synch with the day-to-day pace of living in south Georgia.

However, I do not think it will be too long before ROY is applying his tremendous energies and abilities to promoting health care reform and to addressing other social and economic issues in the city of Dublin, in Laurens County, in Atlanta with the State of Georgia government, and on the national level back here in Washington. It would indeed be a shame if decision makers and policy shapers on the local, State and national level did not have the advantage of ROY ROWLAND's experiences and his views on political, social, economic and cultural issues.

I would like to close my remarks with a special note of thanks and tribute to his talented and dedicated staff in Washington and those who have served in his seven district offices. Both I and my staff members have worked especially closely with Barbara Schlein, his Staff

Director who has helped coordinate many activities; with Cyndi Purkiss, a Legislative Assistant who has excelled in helping with the numerous demands created by the location of military bases in the District; and with Kathy Hennemuth, the Legislative Director who has done the principal staff work on the consensus health reform proposal.

All of us in the Georgia Delegation and those who have been fortunate to work with him through the years will miss ROY's counsel, his loyalty and his friendship. Although he will not longer be our neighbor in the Delegation here in Washington, we do look forward to having him still with us down home in south Georgia.

Mr. BEVILL. Mr. Speaker, I rise today to thank our colleague, Congressman ROY ROWLAND, for his outstanding service to the Nation.

As you know, ROY is one of the only Members of Congress who has also been a practicing medical doctor. He used this training and experience to bring many medical issues to the attention of this body. When Dr. ROWLAND speaks on a health-related issue, we all listen with open ears. He is honest and forthright in his opinions and thorough in his research. We will lose much with his retirement.

I first met ROY 12 years ago when he was elected to serve as Congressman for the Eighth District of Georgia. Over the years I have come to respect ROY for his judgment and to appreciate him even more for his friendship. I wish to let him know that, though I am sorry to see such a distinguished Member retire, I am confident that he will be happy and successful in his life after Congress. ROY has already been successful in two careers and I would not be surprised if he decides to take up a third.

My wife Lou wishes to join me in wishing ROY and his lovely wife Luella all the best in the years to come.

THE RETIREMENT OF REPRESENTATIVE TOM LEWIS, OCTOBER 6, 1994

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida [Mrs. FOWLER] is recognized for 5 minutes.

Mrs. FOWLER. Mr. Speaker, I rise this evening to pay tribute to my friend and colleague, Representative TOM LEWIS of Florida, who will be retiring at the conclusion of the 103d Congress.

Although as a freshman I have only known Mr. LEWIS for the last 2 years, I hold him in high esteem and have looked to him as an example of what a good legislator should be.

TOM LEWIS is a man of great intelligence and character, and he has served his constituents and his Nation with energy and dedication. He has been a stalwart defender of agriculture, which is Florida's second largest business. And he has put his engineering and aviation background to good use during his service on the Science, Space, and Technology Committee, working to keep American aviation competitive and on the cutting edge.

Representative LEWIS has also been a strong advocate for commonsense Government and fiscal responsibility, standing against the tide of increasing government regulations and reckless spending with courage.

Mr. Speaker, TOM LEWIS is the kind of man we need in Washington, and he has earned the friendship and respect of Members on both sides of the aisle. Honest, straightforward and kind, he has always put the good of Florida and this Nation at the top of his agenda. And from his service in World War II to his service here in Washington, he has always given his best. He will be greatly missed but as he leaves this body he takes with him the best wishes of his friends and colleagues.

Mr. WOLF. Mr. Speaker, it is a pleasure for me to join with my colleagues in recognizing the outstanding service to Congress and our Nation of my friend and colleague, TOM LEWIS.

TOM has been a Member of Congress since 1982 but has a record of public service which stretched over 50 years. A native of Philadelphia, which is also my hometown, TOM served for 11 years in the United States Air force. After completing his tenure in the Air Force, during which TOM fought in both World war II and the Korean War, TOM settled in Florida, graduated from the University of Florida, and began his work as the chief of rocket and jet engine testing with Pratt and Whitney.

In 1964, TOM successfully ran for mayor of North Palm Beach, FL, and has not looked back since, winning races for the Florida House, where he was the minority leader, the Florida Senate, and in 1982 to the U.S. House of Representatives from Florida's 16th District, which includes the beautiful coastal areas of Palm Beach.

Throughout his tenure in Congress, TOM has earned the respect of his colleagues through his hard work and support of programs beneficial to his district and our Nation. As a senior member of the House Science, Space, and Technology Committee, TOM has championed public-private business partnerships to help our Nation's aerospace and defense industries, which are essential especially in light of the downsizing of the military as we enter the next millennium. Through his position on the House Agriculture Committee, and as ranking minority member of the speciality crops and natural resources subcommittee, TOM has also worked on behalf of farmers across the Nation, opening up trade barriers and strengthening worker-safety provisions.

Above all, TOM has earned my respect and admiration, as well as the respect of his colleagues and constituents, through his integrity, devotion to this institution and his constituents, and his hard work. TOM LEWIS will be missed, and it is a pleasure for me to join with TOM's friends and colleagues in wishing him, his wife Marian, and his family all the best as he begins his retirement.

Mr. QUILLEN. Mr. Speaker, I am glad to be here tonight to honor my good friend TOM LEWIS, who has so ably represented the 16th District of Florida here in the House of Representatives for the last 12 years. I am saddened that he has chosen to retire at the end of this Congress, but this is not the first time that TOM has left one career to do something different.

TOM only came to Congress after 11 years in the Air Force, 17 years in the aerospace industry, 7 years in local government, and 10 years in Florida State government. I can think of few Members of this body with a greater breadth of experience gained before coming to Congress, and it shows in the broad perspective that TOM has brought to his work here.

TOM LEWIS has put in a tremendous amount of hard work on the House Agriculture Committee. As someone whose district is heavily dependent on growing specialty crops, I have come to appreciate TOM's good work as ranking minority member on the Specialty Crops and Natural Resources Subcommittee. We will sorely miss his expertise as the House tackles next year's farm bill.

TOM's work on the Committee on Science, Space, and Technology has also been exemplary, and I know that his close attention to detail in these matters has made the country better off. Here on the House floor, he has agreed with me on almost every issue that I can recall, and I deeply appreciate the advice and counsel he has given me over the years.

TOM will be sorely missed here, but it is good to know that he and Marian will be enjoying retirement at home in Palm Beach Gardens, thinking of TOM's next career choice. I hope he keeps in touch, and that he continues to come by the floor and see us now and then.

Mr. SENSENBRENNER. Mr. Speaker, I rise today to pay tribute to a gentleman whose public service career will have spanned 30 years. The House of Representatives has been a fortunate beneficiary of Congressman TOM LEWIS' talents. I am pleased to have worked closely with Congressman LEWIS on the Science, Space, and Technology Committee.

While serving on Science, Space, and Technology, Representative LEWIS' personal expertise has made him a natural proponent of programs promoting U.S. aerospace competitiveness, and a keen watcher of the Federal Aviation Administration [FAA].

During the 102d Congress, Representative LEWIS monitored the FAA's implementation of two measures for increasing aviation safety that had passed in the previous Congresses. His National Air Safety Act of 1988 orders the FAA to spend a minimum of 15 percent of its annual research budget on a variety of safety issues. In the 101st Congress, Congressman LEWIS also wrote a law to require the FAA to perform additional research aimed at detecting problems that could lead to accidents involving aging airliners.

Congressman LEWIS' efforts continued in the 102d and 103d Congress, where he pushed for legislation providing a joint planning board from which NASA, the Defense Department, and private companies could map out future research development projects in the aerospace industry. This system would have afforded private companies the opportunity to advocate for defense-related projects that have commercial applications.

I know I am joined by my colleagues in saying Congressman LEWIS has served this body with dedication, virtue, and dignity. The Science, Space, and Technology Committee will be at a loss without the invaluable contributions of Representative LEWIS.

Mr. MOORHEAD. Mr. Speaker, I would like to join my colleagues in saying "Thank You" and "Goodbye" to our good friend from Florida, Congressman TOM LEWIS.

Representative LEWIS first came to the House in 1982. He retires today after more than a decade of distinguished service, which followed an equally distinguished period of service in the Florida House and Senate.

Mr. Speaker, the House of Representatives will be less for the loss of TOM LEWIS. He was a gentleman; a contributor; a friend and supporter. I wish him the very best.

Mr. STEARNS. Mr. Speaker, I am pleased to rise today in honor of a colleague and a dear friend, the Honorable TOM LEWIS of Florida. It is appropriate to praise TOM LEWIS' years of service in this House as he is retiring at the end of the 103d Congress.

TOM LEWIS has served in the people's House for six terms and he has been helpful to me since I first came to this body in 1989. I have great respect for TOM, because he truly is a man of the people. He is a workhorse, rather than a showhorse. TOM knows the people of the 16th Congressional District of Florida. He has served them ably in the Florida State Legislature and, for the past 12 years, in the U.S. House of Representatives.

TOM has been a tireless advocate of the U.S. aerospace industry, which is a key component of his south Florida district. TOM's work on the Science, Space, and Technology Committee has helped to ensure that our aerospace industry stays competitive with the rest of the world. TOM LEWIS has also made sure that Florida's Atlantic Coast benefit from the top-of-the-line hurricane detection technology, because the safety of the people he represents is of utmost importance to him.

As a member of the House Agriculture Committee, TOM LEWIS has also been an outstanding leader in ensuring that Florida's agriculture industry stays competitive in the world marketplace.

As an 11-year veteran of the U.S. Air Force, TOM LEWIS knows first-hand about the experiences of those who have put their lives on the line in service of our great country. TOM has made sure that needy veterans in his district were provided for, and he was instrumental in supporting the construction of the Department of Veterans Affairs Medical Center in Palm Beach County.

It is quite understandable, then, why the publication "Politics in America" stated about TOM LEWIS, that, quote, "his more important role in Congress is to come up with creative solutions that few other legislators have thought much about."

George Bush once said that quote,

> Tom Lewis means business. His work on the Agriculture Committee and the Science and Technology Committee means that if you ride in it, drive it, sail it, fly it, or eat it, Tom Lewis has something to do with it.

Mr. Speaker, as a colleague and friend of TOM LEWIS, I must say that I will miss him and I hate to see him go. He is a tough act to follow. But I know that all of us here wish him the very best in the years ahead.

TRIBUTE TO MAJ. GEN. JOHN J. CLOSNER III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, I want to take this opportunity to recognize and pay tribute to Maj. Gen. John J. Closner III for his dedicated and exemplary service to this Nation as chief of the Air Force Reserve and commander of the Air Force Reserve. General Closner served as the principal advisor to the Chief of Staff of the Air Force and to the Secretary of the Air Force on all Reserve matters. As commander of the Air Force Reserve, he had overall responsibility for the command, control, and supervision of all U.S. Air Force Reserve units around the world. Over the past 4 years, General Closner performed outstanding service and exhibited exceptional commitment to the Air Force Reserve. His indepth knowledge of Air Force issues was a tremendous asset to the Congress as we deliberated the major national defense issues impacting both our Active and Reserve Forces. During his tour, General Closner's leadership and commitment to a free and open exchange of information and ideas provided a superlative framework for deliberations on Air Force and Air Force Reserve programs.

General Closner, a native of Houston, TX, was commissioned through the Air Force Reserve Officer Training Corps program at Texas A&M University where he also earned a bachelor's degree in business administration. He completed Squadron Officer School in 1971, Air Command and Staff College in 1973, and industrial college of the Armed Forces in 1976.

General Closner served in numerous leadership positions to include commander of the 466th Tactical Fighter Squadron at Tinker Air Force Base, OK; the 917th Tactical Fighter Group at Barksdale Air Force Base, LA; the 419th Tactical Fighter Wing at Hill Air Force Base, UT; and commander of the 10th Air Force at Bergstrom Air Force Base, TX. In July 1989, General Closner was assigned as Deputy Chief of the Air Force Reserve at Headquarters U.S. Air Force, and assumed his present duties in November 1990.

A motivated fighter pilot, General Closner flew over 300 combat missions while serving with the 615th Tactical Fighter Squadron, Phan Rang Air Base, South Vietnam in 1967. He has flown the A–10, A–37, F–16, F–100, and F–105 and has more than 5,000 flying hours as a command pilot. His military awards include the Distinguished Service Medal, Legion of Merit, Distinguished Flying Cross, Meritorious Service Medal, Air Medal with 14 Oak Leaf Clusters, Air Force Commendation Medal and the Air Force Outstanding Unit Award with 3 Oak Leaf Clusters.

Mr. Speaker, we have been extremely fortunate to have had the opportunity to work with General Closner, as the Air Force Reserve's ambassador to the Congress. In today's ever changing world, decisions on downsizing of our defense forces or analysis of the budget effects on Weapons System Programs require accurate and timely information. In that regard, General Closner has served us all well by providing clear and concise data covering the full spectrum of Air Force Reserve issues which helped in the decision process.

It was a personal pleasure to work with Jay Closner as our bridge with the Air Force Reserve. As our primary point of contact, he served with distinction. His contributions to the defense of our country did not go unnoticed. He has been my friend as well as my close associate. I wish him and his wife, Angela, a fond farewell, success in their future endeavors and godspeed as they leave.

RETIREMENT OF BILL HUGHES AND DEAN GALLO

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey [Mrs. ROUKEMA] is recognized for 5 minutes.

Mrs. ROUKEMA. Mr. Speaker, I rise to inform the House of the pending retirement of two of the most highly respected members of the New Jersey delegation, Representatives BILL HUGHES and DEAN GALLO.

It was New Jersey's own Woodrow Wilson who said, "There is no cause so sacred as the cause of a people. There is no idea so uplifting as the idea of the service of humanity."

BILL HUGHES and DEAN GALLO are two of New Jersey's most distinguished public servants. They have served with honor and distinction during their time here in Washington and have never forgotten the concerns of those back home in New Jersey. They have been well-known as leaders in their respective parties and we often looked to them for leadership in the bipartisan interests of our State. The New Jersey delegation has distinguished itself as one that always closed ranks in the interest of our beloved State. Representative HUGHES and Representative GALLO have outstanding reputations in seeking common ground between the political parties as well as regional concerns. In seeking common ground they have always advanced the best interest of the people of our State.

BILL HUGHES is the dean of our delegation. BILL was first elected in 1974—a full 20 years ago—and has served longer than any other Member of Congress now in the New Jersey delegation. In fact, he's represented the second district longer than anyone in New Jersey history.

Why has he served the second district for so long? We need to look only to his dedication to law enforcement and crime fighting, his protection of our New Jersey shore and his advocacy on behalf of older residents in New Jersey. The list goes on. I, for one, frequently sought him out to confer on these matters. I knew he would be objective and knowledgeable. You can rely on his judgment.

BILL HUGHES is a native of southern New Jersey, born in Salen and a graduate of Peens Grove Regional High School. He is a graduate of our State university, Rutgers, and of Rutgers Law School. His training at Rutgers law gave him the background he needed to go on to become one of New Jersey's most prominent attorneys. He spent 10 years as first assistant prosecutor in Cape May County, where his long string of successful prosecutions were never overturned on appeal. He left the Prosecutor's Office to join the law firm of Loveland, Hughes & Garrett in Ocean City. He became president of that firm before his election to Congress. He is a member of the American, New Jersey, and Cape May County Bar Associations.

BILL HUGHES' dedication to public service has not been limited to his professional and political interests. He had dedicated his time as an officer of the Ocean City Exchange Club, the Ocean City Chamber of Commerce, Shore Memorial Hospital, and the Ocean City Historical Museum.

DEAN GALLO is no newcomer himself. I can still remember when he arrived here after the 1984 election. His reputation was legend and we welcomed him warmly to the New Jersey delegation overall and the New Jersey Republican delegation in particular. We soon learned that his reputation was well-deserved. He is a thoughtful legislator. While DEAN is a man of few words, his opinions are valued and when he speaks, we listen!

But DEAN's background in public service began long before Congress. He got his start on the Parisippany-Troy Hills Township Council in 1968, becoming president of the council only 2 years later. From the Township council, DEAN moved on to become a member of the Morris County Board of Chosen Freeholders, where he distinguished himself as freeholder director. In 1976, DEAN became a member of the New Jersey Assembly. Showing ability for leadership once again, he was chosen as Republican leader in 1982.

Recognition of DEAN's leadership abilities have continued here in Congress. He is a member of the House Appropriations Committee and has been the Republican regional whip since the 100th Congress.

DEAN has been stricken with a serious illness that has kept him away from Congress in many of the recent weeks. We miss DEAN. We miss him in our delegation meetings. We miss him on the floor. We miss his quiet leadership and his counsel. We even miss him at Newark Airport. I know that I speak for all of us when we offer him our prayers and support.

DEAN's decision to step down is a sign of his integrity. To try to remain in office while battling this illness would force DEAN to cut back to a part-time schedule. And DEAN believes that the citizens of the 11th district deserve a full time representative in Congress. He has made the honorable decision, putting his constituents first as always.

BILL and DEAN's time here in Congress has come to a close and they have accomplished much during this time. Our lasting memory of them will be their valuable public service. We hope that their lasting memory of us will be our friendship.

Mr. PALLONE. Mr. Speaker, this is a somewhat bettersweet occasion for the members of the New Jersey Delegation. Tonight, we pay tribute to two very distinguished colleagues who have decided to retire at the end of this session: BILL HUGHES and DEAN GALLO. Congressmen HUGHES and GALLO have been exemplary public servants for our State of New Jersey and for our great Nation. They have also been very special friends whose presence in the halls of Congress will be acutely missed.

Mr. Speaker, I know that when I arrived here 6 years ago I greatly benefited from the experience and expertise of BILL HUGHES and DEAN GALLO, and I'm sure that the same has been true of the more recent arrivals in our State's delegation. With BILL and DEAN now moving on, our delegation's clout will obviously suffer and those of us who plan to come back next year have our work cut out for us. I hope we can live up to the high standards set by our retiring colleagues in fighting for the needs of the people of our State.

The work of BILL HUGHES with regard to crime and judiciary matters is well known to the Members of this House. But I would like to pay particular tribute to Congressman HUGHES leadership on environmental protection. BILL and I, along with our colleague JIM SAXTON, as the Garden State's members of the Merchant Marine and Fisheries Committee, represent a sort of delegation unto ourselves on behalf of the Jersey Coast area. Since the coastal issues have been one of my primary legislative concerns, it has been very rewarding to work with someone like BILL HUGHES who shares my commitment to fight for clean water and clean beaches, and to look out for the interests of our fishermen, boaters and beachgoers.

Congressman HUGHES believes that environmental protection requires sound planning, and not just reacting to crises once they occur. In New Jersey, BILL HUGHES is perhaps best known for writing the law that banned the dumping of sewage sludge in the ocean. From the time that this legislation was first adopted, in the late 1970's Congressman HUGHES closely monitored progress and compliance. He worked for passage of a follow-up law in 1988 to impose tough fines on those who failed to comply. His tireless work has paid off: every municipal and industrial ocean dumper is now out of the ocean. Under the enforcement provisions included in the 1998 law, more than $51 million in fees was collected by the EPA, most of which was used to monitor sludge barges and to help develop environmentally sound, land-based disposal alternatives.

BILL HUGHES also authored the 1987 law that banned the disposal of plastic debris in the ocean from ships, including military vessels, and authorized a study of land-based sources of plastic pollution entering the ocean. He wrote important laws placing tough restrictions on the dumping of medical wastes in coastal waters, establishing improved tracking systems, and setting stringent regulations on the handling and transportation of garbage by barge. He won federal funds to develop a plan to clean up the New York Bight. He has also been working hard to develop legislation addressing the problems of combined sewer overflows, agricultural run-off and other nonpoint sources of pollution and has pushed for get-tough measures against polluters.

Congressman HUGHES has written legislation which would require coastal States to adopt beach and ocean testing procedures nationwide which are comparable to the stringent regulations we now have in place in New Jersey, with a system for notifying the public of potential health risks during periods when the water quality falls below minimum standards. He has also been a leader in the effort to restrict offshore oil and gas drilling operations off the New Jersey coast.

BILL HUGHES has always taken great pride in the scenic beauty of southern New Jersey, and he has worked hard to protect these natural resources. He has been a leader in the protection of the unique Pinelands region of South Jersey. He successfully worked for the creation of the Cape May National Wildlife Refuge, and the protection of some of the area's great waterways, including the Great Egg Harbor in Atlantic Harbor, and the Maurice, Manumuskin, Menmantico and Muskee Rivers in Cumberland County.

Another issue on which BILL HUGHES has distinguished himself is as an advocate for senior citizens. Since his election in 1974, BILL served as a member of the Select Committee on Aging, eventually being named chairman. After the committee was abolished, BILL founded and chaired the bipartisan House Older American Caucus. He has been a staunch defender of Social Security, and has shown true vision in stressing the need to build up a reserve to help pay for the retirement of future generations of Americans.

Mr. Speaker, the career of DEAN GALLO has truly represented, as the West Essex Tribune recently editorialized, "The Best in Public Service." Like BILL HUGHES, DEAN GALLO was not one of the Members of this body who were obsessed with the spotlight. But DEAN GALLO got things done. With the retirement our colleague Barney Dwyer in 1992, DEAN was New Jersey's sole member of the Appropriations Committee. During the appropriations process, Congressman GALLO was attentive to the funding concerns of all members of the New Jersey delegation. His membership on the Subcommittees on Energy and Water Development, and the VA, HUD and Independent Agencies put him in a position to fight for projects and programs vitally needed by our State. He could always be counted on to champion our concerns and to keep us apprised through every step of the appropriations process. For this hard work, DEAN GALLO deserves the gratitude of thousands and thousands of New Jerseyans, many of whom probably never knew about his work but who benefitted from his efforts.

DEAN GALLO's hard work on Appropriations was particularly important in terms of the water projects that he helped obtain funding for. In working for shore protection and water cleanup initiatives, I could always count on DEAN to help make these projects a reality. As a former member of the Water Resources Subcommittee of the Public Works and Transportation Committee, I was pleased with the cooperation between the authorizing and appropriating sides. Congressman GALLO's staff was always professional and dependable, working without any regard to partisanship.

Congressman GALLO also served as co-chairman of the Northeast-Midwest Coalition, a bipartisan alliance of members from 18 States in this region. The industrial States of the north have been losing influence to the Sunbelt in recent years, and this coalition allows us an appropriate forum to advance our interests and concerns. Congressman GALLO has truly made his mark on this coalition on behalf of our State and our region.

It has often been noted—correctly, I believe—that small business is the engine of our economy, the place where jobs are created and innovation happens. Congressman GALLO was a strong fighter for the small business people. As a small businessman himself, DEAN has won recognition and awards for his efforts. In 1985, he opposed efforts to dismantle the Small Business Administration, and fought for reforms to improve the SBA and make it more responsive to the small business people it is intended to serve. He has consistently worked against red tape and tax laws that hurt small businesses.

DEAN GALLO will be fondly remembered for his honesty and candor. His colleagues, Congressional staff, the press and, most importantly, his constituents, could always count on getting a straight answer from him. This honesty came through in DEAN GALLO's decision to retire at the end of this term and the classy way he went about announcing his decision. When DEAN began to experience a recurrence of cancer, he made the conclusion that the extensive treatment that he would have to undergo would take away from his ability to fulfill his responsibilities and represent his constituents full-time. That is the kind of public servant DEAN GALLO has been throughout his career.

Mr. Speaker, as I indicated, this is a bittersweet occasion for us. We will be saying goodbye to two good friends and esteemed colleagues. But looking back on their remarkable achievements, we can take pride that we had the opportunity to work with them and strive to aspire to the high standards they set.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to honor two outstanding members of the New Jersey delegation who will be stepping down at the end of the 103d Congress, DEAN GALLO and BILL HUGHES. Both of these distinguished public servants have been invaluable colleagues for many years, and I wish them every success and happiness.

I have always known DEAN GALLO to be straightforward, honest, and extremely pleasant. As the only New Jersey member on Appropriations, DEAN has been crucial in securing much-needed funding for improvements to the State of New Jersey. On that committee, DEAN has been supportive and has helped protect my amendments and provisions to provide funding for flood projects in Monmouth County and beach erosion projects along the shore in my district. I'm grateful for his work, support, and assistance with these important projects.

His work outside the Appropriations Committee has also been of great assistance to all people nationwide. In the wake of the terrible oil disaster in Alaska involving the Exxon *Valdez*, DEAN fought to ensure that oil tankers are built with double hulls. I strongly supported his efforts, and I believe that because of DEAN, there is a greatly diminished chance that this tragedy will occur again.

Furthermore, his work on projects such as Superfund reform and flood control are true testaments to DEAN's responsible approach to lawmaking. His dedication to public service is rare and will be missed.

Because DEAN has always committed his full energy to everything he has set out to conquer, it is now necessary for him to focus on his illness and beat it. I am sure I speak for every Member of Congress, and all who know DEAN GALLO, when I wish him God's blessing and the speediest of recoveries and a long and healthy career outside of Congress.

BILL HUGHES has ably represented New Jersey's 2d Congressional District since his election in 1974. BILL's influence on improving his district is evident wherever you travel in South Jersey. My family and I regularly vacation in BILL's hometown of Ocean City. The valuable time we have enjoyed on Ocean City's beautiful beaches is testament both to BILL's commitment to his district and to his hard work in ensuring that New Jersey's beaches are among the best in the country.

As dean of the delegation, BILL has exhibited a deft touch rallying the delegation around causes of mutual concern to all the State's citizens. Many of us have joined him in petitioning Federal officials in support of funding for projects as diverse as blueberries for the Department of Agriculture to grants for homeless veterans. By and large, these requests were granted and resulted in further improvements in the quality of life for the people of New Jersey.

As a member of the Aging Committee, I looked forward to working with BILL, who was slated to become chairman at the beginning of the 103d Congress. Unfortunately, the House voted to abolish all select committees, and that opportunity was lost. Still, BILL's work on various issues of importance to senior citizens foreshadowed serious examination by several standing committees during the past years. Over and over again, BILL has led—and Congress has followed.

BILL'S exceptional skills as a legislator are well known. His dedication to his constituents is unquestioned. He is well liked—and respected by both Republicans and Democrats. Knowing BILL's energy and capacity for hard work, I am certain BILL will succeed in all of his new endeavors. And perhaps he will now have a little more time to spend with his wonderful family.

Mr. KLEIN. I want to thank my good friend and colleague, MARGE ROUKEMA, for arranging this special order this evening.

It is with mixed emotions that I stand here tonight to say farewell and pay tribute to two of New Jersey's finest Representatives—BILL HUGHES and DEAN GALLO.

First, to my friend and mentor, BILL HUGHES, let me say that this institution will not be the same without you.

In a Congressional career that spans 20 years, you have served New Jersey's 2nd District with distinction and devotion that can never be duplicated.

From your early days as a prosecuting attorney in Cape May County and throughout your tenure as a Member of the House Judiciary Committee, you have compiled an anticrime record that is second to none. In so doing, you have helped rid our streets of drugs and drug traffickers; you have protected American consumers, businesses and products; you have helped crack down on child pornography; and you have helped enact the toughest sentencing laws this Nation has ever seen.

I can think of no finer tribute to those efforts than enactment of this year's crime bill. It was your leadership and your knowledge of the issues that helped steer this legislation through.

As a Member of the Merchant Marine and Fisheries Committee and a strong environmental advocate, you have dedicated yourself to the protection of our Nation's oceans. It was your legislation that banned the dumping of harmful sewage sludge in the ocean and imposed stiff fines on municipalities that continued to do so. Beyond that, you pushed for new laws to ban the disposal of plastics and medical wastes in our Nation's oceans and coastal waters. Our oceans and beaches are cleaner and safer because of BILL HUGHES.

Your long list of accomplishments is so extensive, BILL, that there is no way I can do them or you justice in the brief time we have allotted here this evening.

Suffice it to say that your tireless efforts on behalf of your constituents and our State will never be forgotten and will always serve as a model for others to follow. As dean of our delegation, you have set an example of leadership and fairness that all of us aspire to.

BILL, I wish you all the best—health and happiness; a long and prosperous retirement with your lovely wife, Nancy; time with your children and grandchildren; and lots of enjoyable hours fishing in the Great State of New Jersey and wherever your travels might take you. You will be sorely missed.

And now on to the other great dean of the New Jersey delegation, the Honorable DEAN GALLO.

DEAN, it has been a genuine pleasure for me to serve with you in the Congress these past 2 years.

From the early years as a member of the Parsippany-Troy Hills Township Council, a freeholder in Morris County, a member of the New Jersey General Assembly, and most recently as a Member of Congress, you have dedicated your life to helping others.

Your straight-forward businessman's approach to solving problems has helped hundreds of people break through the morass of bureaucratic red tape. I know your greatest satisfaction comes from helping others, DEAN, and in that respect, no one in this body can match your record of service.

Your time here in Washington has been of great benefit to both New Jersey and the Nation as a whole. Under your leadership, we have made a great deal of progress in a number of areas. Housing for our seniors, small business protection, veterans programs, and Clean Air Act compliance are just a few of the areas that have benefitted from your efforts. As co-chairman of the Northeast-Midwest Congressional Coalition, you have vigorously fought to protect our unique interests and to insure that our region receives its rightful share of any Federal funds which might be available.

The one project that I think you can take the most pride in and one that will outlast all of us in this Chamber today, is the Tokamak Fusion Experiment at Princeton. A hundred years from now, our great grandchildren will be living in a world powered by fusion energy, an eventuality that would not have occurred without the vigorous efforts of DEAN GALLO.

DEAN, I want to congratulate you on your recent marriage, and I wish both you and Betsy many years of happiness together. Let me also wish you a complete and speedy recovery. You will be missed by our colleagues here in Washington, but those of us up in New Jersey hope to see a great deal more of you in the future.

Mr. HUGHES. Mr. Speaker, I rise today to pay tribute to my friend and colleague, DEAN GALLO. After 10 years of exemplary service in the House of Representatives and an outstanding record of accomplishment for his constituents in New Jersey's 11th district, DEAN has announced his retirement. New Jersey will miss his dedication and his leadership.

Representing our State on the House Appropriations Committee, DEAN has worked tirelessly on issues of importance to all New Jersey residents. I am most grateful for the assistance DEAN has given to me and to the entire delegation in securing funding for numerous projects that benefit our individual constituencies and the entire State. His knowledge and expertise are second to none, and his stewardship in the area of appropriations will be difficult to replace.

DEAN GALLO's distinguished record of public service extends over a 25-year period, beginning in 1968 when he was first elected to the Parsippany-Troy Hills Township Council. Having also served as a Morris County freeholder, and a member of the New Jersey General Assembly, DEAN GALLO embodies what it means to be a dedicated and hard-working public servant.

It is for this reason that I rise with mixed emotions to congratulate my esteemed colleague on such a distinguished career.

DEAN GALLO is a tribute to the House of Representatives, and his premature retirement is a tremendous loss for the institution and for the Nation. If we had more public servants of the caliber of DEAN GALLO, I'm convinced this institution would be held in higher esteem by the American public.

But now I only wish the very best of everything to DEAN and Betty in the years ahead. My thoughts and prayers are with DEAN for a quick and successful recovery and a retirement filled with every joy and happiness life can offer.

Mr. SAXTON. Mr. Speaker, it is with considerable regret and a heavy heart that I make these remarks about my good friend, DEAN GALLO. I have had the deep pleasure of working with DEAN for over two decades. During that time, I have found him to be not only a colleague of the highest caliber, but a real professional in everything he does—including bestowing his friendship.

I can remember the first time I met DEAN. We had both just been elected to the New Jersey General Assembly in 1975. I noticed immediately that he was already recognized as one of our leaders. I continued to work closely with him after I went on to the State senate and DEAN became minority leader of the Assembly. 1984 was a special year for both of us. That was the year, 9 years after we met, that we were both elected to the U.S. House of Representatives.

I have met many people during the years I have been active in public service. None were DEAN's equal in their devotion to their constituents, passion for doing the right thing, willingness to stand upright, if often alone, for the things he believed in, and all without giving offense, or making an opponent into an enemy. The English language has a word for this kind of person—"thoroughbred."

As an influential member of the House Appropriations Committee, DEAN has always come through for New Jersey. No request ever made was too small for his meticulous attention. All one has to do is look around the State to see DEAN's congressional legacy. He fought for all of New Jersey with the same energy and commitment he did for his district. And so our constituents became his constituents. And DEAN became more than the Representative from New Jersey's 11th district. He evolved into a Congressman's Congressman.

All through his career, DEAN's colleagues recognized the leadership qualities in him. He is one of that rare breed of natural leaders. As Assembly Republican leader in Trenton and as Republican regional whip in Washington, DEAN has put his talents to the test and has forged winning coalitions from seemingly diverse groups and interests. In all his years in Washington, he was New Jersey's voice and was New Jersey at its best.

In all our years of public life, I always could count on DEAN to put things in perspective as we spent countless evenings discussing the day's events over dinner. I could always rely on him to remind me who I was, from where I came, and why I was here. If the truth be known, it was he who kept me from taking on too many of the ways of Washington.

I thank him not only for this, but for all he has meant for me, his colleagues, and the entire State of New Jersey. He will always be my friend. I look forward to continuing to call upon his wise counsel.

I would like to relate one short story which tells mountains about how people we know feel about DEAN.

A few weeks ago, DEAN's administrative assistant called to ask if, in DEAN's absence, I would have my picture taken on the House step's with his staff.

I met Donna and the staff at the steps a short time later. As we positioned ourselves on the steps, I noticed that each staff member held a bumper sticker. Donna handed me one and we held them in front of each of us as the photographer took our picture.

The bumper sticker said, "We love you, DEAN."

Mr. BLILEY. Mr. Speaker, I rise today to speak of a man who Congressional Quarterly's "Politics in America" describes as the "garrulous GALLO, known for his back-slapping, deal-making style." Well, my fellow Members, this fine gentleman from New Jersey is not only a valued Member of this fine body, but also a good friend and a trusted colleague of mine.

Some have called DEAN GALLO "old-fashioned" because of his preference for calm deliberations, instead of heated, partisan confrontations. Well, if old-fashioned means accomplishing great things while earning the respect of Members from both sides of the aisle, then I hope DEAN wears that label proudly.

With a steady hand guiding the wants and needs of his constituents, DEAN has steered many a debate in the House through the smooth waters of agreement and the stormy seas of dissent. But, through it all, this loyal public servant has stayed the course—offering guidance and good humor to all along the way.

However, Mr. Speaker, what has distinguished this gentleman the most in his years of service is his devotion—his devotion to see the good in his fellow man and woman. While others only would see the bad; his devotion to guard not only for the things that would be food for the Garden State, but also for the things that would help all American families; and finally, his devotion to his party and this institution has been a constant source of inspiration to all those who may have forgotten the true meaning of public service.

It has been a distinct pleasure and privilege to serve in the U.S. House with DEAN GALLO. While his presence in this body will be greatly missed, there are plenty of us who understand his desire to conquer the new challenges that lie ahead. Thank you, DEAN, for your tireless efforts and your loyal commitment to your party and to your Nation—your hard work certainly did not go unnoticed.

Mr. DELAY. Mr. Speaker, Ralph Waldo Emerson once said, "A friend is a person with whom I may be sincere. Before him I may think aloud." How many of us will miss thinking aloud with DEAN GALLO in the cloakroom, on the House floor, or wherever else we had the privilege and pleasure of sharing time with him.

We may not have agreed on every issue, but looking back I cannot recall a divisive dispute with DEAN. That is the strength of DEAN GALLO. Even in opposition, DEAN remained a friend. And in this House that is rare.

His insight and strength are great traits that the Congress will sorely miss. DEAN was able to break down difficult issues with a pragmatic and logical analysis that not many possess.

As DEAN prepares to begin his new life free of the everyday hassles of Congress, I wish him the best of luck and happiness. Morris Country's gain will be Capitol Hill's loss. When I'm traveling in New Jersey, DEAN, please be sure and save me a seat at your favorite Italian restaurant where we can share great food and stories of past and future political wars.

Mr. SAXTON. Mr. Speaker, I rise to pay tribute to Congressman WILLIAM J. HUGHES, Dean of the New Jersey delegation who, as we all know, is retiring from congressional life this year.

BILL HUGHES has served for 10 terms in the House, representing New Jersey's Second Congressional District longer than anyone in history. The Second District is the largest and most diverse in New Jersey, geographically covering close to thirty percent of the State. It is a real tribute to BILL that he was able to be elected and re-elected ten times in a district that is ideologically and traditionally Republican-leaning. He is well-loved by his constituents and has selflessly represented their views. He is a native and life-long resident of southern New Jersey and cares deeply for the State and its people. He has worked long hours and weekends in service to his constituents. His eagerness to return to its natural beauty is obvious.

His rise in seniority in the House has been swift and well-deserved. Through his ten terms, BILL HUGHES rose to 49th in seniority out of the 435 Members. He has made his mark serving as chairman of the House Judiciary Committee's Subcommittee on Crime from 1981 to 1990 and wrote more than 40 major anti-crime bills which were enacted to strengthen our Nation's criminal laws. In 1991, he was chosen chairman of the House Judiciary Committee's Subcommittee on Intellectual Property and Judicial Administration. As chairman, he has worked to enact strong laws to protect American films, books, computer software and music, both here and abroad.

While he has worked diligently to make New Jersey and the Nation a safer place, BILL HUGHES has also been a leader in Congress on environmental issues. He is second in Democrat seniority on the House Merchant Marine and Fisheries Committee, on which we both serve.

During my tenure in Congress, I have worked very closely with BILL on issues of importance to the New Jersey coastline, the interests of which we both represent in Congress. It has been a pleasure to join him in introducing and working for the passage of legislation to protect the shoreline of southern New Jersey as well as the Nation's coastline.

We have united to enact legislation to finally ban the ocean dumping of sewage sludge and ban the ocean disposal of plastic from ships.

One initiative that brought me especially close to BILL resulted in a law to require the Environmental Protection Agency to develop a cradle-to-grave system for tracking medical waste so it will never wash onto our beaches again. During the summer of 1988, medical waste washups were a persistent problem along the Northeastern coast. Because of our mutual concern, shared coastline, and service together on the Merchant Marine and Fisheries Committee, Bill and I held field hearings in tandem to solve this problem. Siting the hearings in both our districts helped us to gain diverse viewpoints. This assisted us in our later strategy sessions, which resulted in the medical waste tracking law. I learned a lot from him through this experience.

More recently, we teamed up to include the Mullica River/Great Bay system, which divides our districts, in the National Estuarine Research Reserve.

BILL HUGHES has also written laws to include five southern New Jersey rivers in the Wild and Scenic River system, to establish the Pinelands National Reserve, and to authorize the beach restoration project in Cape May.

It has been my true pleasure to collaborate with him throughout my time here. He has been a leader for New Jersey and for the Congress and will be sorely missed.

Mrs. LLOYD. Mr. Speaker, I join my colleagues this evening to pay the highest tribute to a dear friend of mine who, like myself, will be retiring at the end of the 103rd Congress—Representative BILL HUGHES.

BILL HUGHES and I entered Congress at the same time in 1975. Twenty years later we find ourselves at the same point in our careers. Together we have grown as members and legislators doing the best we can to help those whom elected us. While I chose to pursue interests in energy policy and defense, BILL became a leading voice on the House Judiciary Committee. He has fought tirelessly to fight crime and as a former chairman of the Crime and Criminal Punishment Subcommittee, he never lost sight of his goals brining to the floor many critical crime prevention and enforcement measures that reinforced the motto that "Crime Does Not Pay." Bill later moved on to the Intellectual Property Subcommittee and became Congress' leading authority on a difficult and complex issue.

Representing the beautiful coastal communities of Southern New Jersey, BILL was a champion on the Merchant Marine and Fisheries Committee for coastal protection and clean up. I believe that many of the beaches that many of us have walked along on both coasts are a lot better off due to the efforts of BILL HUGHES.

BILL and I literally served side by side on the now defunct House Aging Committee. BILL's passionate work on the Aging Committee and for the cause of the elderly is without equal. I have been consistently impressed and inspired by his efforts on behalf of our aging population.

My colleagues, while I have the utmost respect for the Congressman BILL HUGHES, what I will miss most is the friend BILL HUGHES. He has always been an understanding and caring friend who has been a source of advice, and guidance on many issues professional and personal. His wife Nancy, and I have become close also.

It is my hope and belief that after we adjourn that we won't have heard the last from BILL HUGHES. This body and this country is losing an effective and respected legislator that won't easily be replaced. BILL, my best of luck and warmest regard upon your retirement. I hope our paths will cross many times in the future.

Mr. ZIMMER. Mr. Speaker, as the 103d Congress draws to a close, I would like to take a moment to recognize two members of New Jersey's delegation who are retiring this year.

DEAN GALLO, my good friend from New Jersey's 11th District and BILL HUGHES, who has ably represented New Jersey's Second District since 1975, are not seeking reelection.

DEAN GALLO is a member of the GOP leadership team who has worked hard during his decade in Congress as a whip lining up support for our party's initiatives.

I've known DEAN since 1982, when I joined the New Jersey Assembly where he was Republican leader. DEAN became both a mentor and a friend, showing me the ropes and helping me avoid the pitfalls.

DEAN left the Assembly in 1984 to come to Congress, where he quickly became a leader in his party, initially as a freshman class whip and then as a regional whip.

As a member of the House Public Works and Transportation Committee, DEAN fought for his Morris County-based district and for New Jersey, winning passage of legislation to fight acid rain and using tax incentives to encourage mass transit and van pooling.

On the House Appropriations Committee, DEAN continued his work on behalf of the entire State, making sure that New Jersey got its fair share of federal resources.

When I came to Congress in 1991, DEAN again showed me the ropes and has served as a continuing source of inspiration and guidance.

DEAN and I have worked on several projects over the years, including cleaning up the Combe Fill South Superfund site in Washington Township, saving Picatinny Arsenal and trying to get the Federal Aviation Administration to deal responsibly with aircraft noise.

DEAN, I know I am expressing the thoughts of all your colleagues here in Washington when I say we will miss you and wish you the very best.

BILL HUGHES is going on to other pursuits after an active 20 years in Congress that saw him rise through the ranks to become the senior member of New Jersey's delegation.

BILL has managed to leave his mark both on New Jersey and the Nation during his tenure in Washington. He has been a fervent protector of the Jersey Shore, writing legislation banning ocean dumping of sewage sludge and trash and fighting proposals to burn toxic waste off the coast of New Jersey. He also obtained millions of dollars in federal funds to restore and enhance the beaches of the Jersey Shore.

As chairman of the House Crime and Criminal Justice Subcommittee for a decade, BILL drew upon his background as an assistant Cape May County prosecutor to leave his mark on every major crime bill to emerge from this House.

In 1991, he took on a new challenge as chairman of the Intellectual Property and Judicial Administration Subcommittee, a panel of immense importance to American commerce and industry.

BILL also worked hard on the Select Committee on Aging, where he was in line to become chairman until it was abolished in 1993. His efforts on behalf of Older Americans have appropriately led to his consideration to be head of the Social Security Administration.

We will all miss BILL and wish him well in his new ventures.

Mr. MENENDEZ. Mr. Speaker, I would like to thank Congresswoman ROUKEMA for arranging time this evening so that we can publicly acknowledge the contributions of Congressman BILL HUGHES and Congressman DEAN GALLO, both of whom have decided to retire from the House of Representatives.

BILL HUGHES, the dean of the New Jersey delegation, has had a long and distinguished career. A former prosecutor from Ocean City, NJ, BILL was well qualified to take a seat on the House Judiciary Committee when he came to Congress after the 1974 election.

During the 1980's, BILL chaired the Subcommittee on Crime, where his expertise as an attorney and a prosecutor served him well as he fashioned the 1984 and 1990 crime acts and the 1986 and 1988 drug bills. His demeanor, intelligence and knowledge of the legislative process assured success as he shepherded these bills through the House. Mr. Speaker, we all know from our experience with this year's crime bill that this is no small feat. These bills are always controversial and demanding and yet BILL HUGHES was able to manage these measures with a decorum and professionalism which is sadly lacking in many of our current debates.

In 1991, BILL gave up the Crime Subcommittee to chair the Subcommittee on Courts, Intellectual Property and Judicial Administration. While this subcommittee on its surface lacks the high profile of the Crime Subcommittee, to me it is evidence of the high regard in which BILL HUGHES holds our legal system. The subject matter with which this subcommittee deals is detailed, and to some, dry. Intellectual property, patent, trademark and copyright laws are all under the jurisdiction of this subcommittee and the importance of these matters to the United States cannot be overstated.

Congressman HUGHES has left his mark on legislation which increased the penalties for child pornography; enabled the DEA to track chemicals used to produce illegal drugs; and imposed criminal penalties in product tampering incidents.

As a Representative from a coastal area, BILL HUGHES also made significant contributions in the area of environmental protection of our oceans. While serving on the Merchant Marine and Fisheries Committee, he wrote the historic 1978 ocean dumping law, which banned the dumping of sewer sludge into our oceans.

Mr. Speaker, anyone who lives in New Jersey remembers the summer beach crises where medical waste was washing up on our shores. BILL HUGHES authored legislation, which has been enacted, to impose tough restrictions and penalties on the dumping of medical wastes in coastal waters.

We will miss BILL HUGHES. We will miss his leadership, his integrity and his personal commitment to his district and his constituents. I want to wish BILL and his wife Nancy many years of pleasant South Jersey living.

At the reception honoring him on Tuesday night, BILL HUGHES said that he was only retiring from the House. He was not retiring from his life of service and activity. BILL, we're going to hold you to that.

Mr. Speaker, I would also like to reluctantly say good-bye to another Member of our delegation, DEAN GALLO.

As we all know, DEAN's medical problems have forced him into this decision so that he can focus his considerable energy into the fight he faces for his health.

However, it would be wrong for us to let this terrible situation overshadow the work and contributions which DEAN GALLO has made during his 10 years in the House.

DEAN GALLO has never forgotten who sent him to Congress and he has dedicated himself to working to help his communities and his constituents. He has been a true public servant. The West Essex Tribune, in an editorial after Mr. GALLO announced his retirement, stated that, his sincere concern for public service has earned him the respect and appreciation of people of all political persuasions. This is a testament which every public official would love to have applied to themselves, but which few will ever see.

DEAN has worked quietly, but effectively during his Congressional career, never seeking the limelight but always willing to help.

As New Jersey's lone member on the House Appropriations Committee during the 103d Congress, DEAN has been willing to help all of New Jersey. If there was a project which could benefit our State, DEAN was always willing to lend his support. We will all miss that. Our State will miss that.

As a small businessman, himself, DEAN could relate personally to the problems of small businesses and took a special interest in efforts to keep the SBA intact as well as overseeing bureaucratic administrative regulations which had the potential of overburdening them.

DEAN GALLO is a gentleman and the proof of his love of people and his treatment of them could be seen no more clearly than it was on Tuesday evening. The love, dedication and esteem in which DEAN is held was clearly seen on the faces of his staff as their boss was honored at a farewell reception. The loss of DEAN GALLO in the House of Representatives is something to which we can all relate.

I want to wish DEAN and bride Betty, Godspeed. He will be in my prayers.

Mr. EDWARDS of California. Mr. Speaker, I'm delighted to have an opportunity to participate in this special order on behalf of my friend and colleague, BILL HUGHES.

One of the finest experiences of my congressional life has been my close association with BILL. He and I have served for 20 years together on the House Judiciary Committee, and it's hard to think of an issue that has come before the Committee in that time where I have not sought out BILL and benefitted from his insight and advice.

I think especially of our work on criminal justice issues. The courts and the federal judiciary could have no finer champion than BILL. Always he has worked to ensure the efficient operation of our judicial system, but he has been equally committed to ensuring that the system is just and that due process is upheld.

BILL was especially creative in our work on the omnibus crime bill which was recently enacted. His efforts resulted in the very sound provisions of the bill which provide funding to states for needed new prison construction. Even more important was his work on creating within our sentencing structure a vitally important safety valve to restore to judges the discretion to moderate sentences for certain first time, non-violent offenders.

On this issue, BILL courageously bucked the popular trend of more and more mandatory minimum sentences, an approach to sentencing which has tied the hands of judges in meting out appropriate sentences to criminal offenders based on the particular circumstances of the case. As judges, criminal justice advocates and our Attorney General have pointed out, mandatory minimums have caused serious problems in the Federal prison system, resulting in overcrowding, and locking up for long sentences otherwise good candidates for rehabilitation. The safety valve provision that BILL insisted be included in the crime bill will do much to ameliorate the harmful effects of mandatory minimums.

BILL exemplifies the very best sort of Member of Congress—attentive to the needs of his district, but also sensitive to the needs and concerns of the whole country. I've been proud to call him a colleague and a dear friend. I suppose in a way that I'm happy that he and I are leaving our congressional service at that same time, because I cannot imagine being a member of the Judiciary Committee without his counsel and support.

Lastly, Mr. Speaker, Nancy Hughes, BILL's wife, has been a gracious member of the Capitol Hill community. My wife, Edie, and I always look forward to hours spent with BILL and Nancy. I wish them many happy and productive years after Congress.

Mr. ANDREWS of New Jersey. Mr. Speaker, I rise today to say farewell to two of our colleagues with whom I have had the honor of serving. Congressman GALLO and Congressman HUGHES have both represented with distinction, and the State of New Jersey will greatly miss them.

As a member of the Appropriations Committee and a veteran legislator, Mr. GALLO has been instrumental in key legislative initiatives for the State of New Jersey. The entire delegation has greatly appreciated his bi-partisan leadership. I wish him the best of luck and our thoughts are with him and his family.

Mr. HUGHES is one of the most honorable, dedicated, and principled individuals who I have had the good fortune of serving with. He has had a profound impact on this country and we are better off as a result of his efforts. He has worked diligently to fight crime and to enact tough and fair laws. He has been the driving force in protecting our natural resources and preserving the beauty of the Jersey shore. Most importantly, he has always put service to his constituents above all else.

Chairman HUGHES has set a personal standard of conduct which I can only hope to live up to. I have found his leadership and guidance to be invaluable and I will sorely miss him. I know he will be as successful in his future endeavors, but he should know on his leaving Congress, that he has made a difference.

Mr. PAYNE of New Jersey. Mr. Speaker, I am proud to join in paying tribute to two of the finest men I have had the pleasure of serving with in Congress, Representatives BILL HUGHES and DEAN GALLO.

In our years of working together as New Jersey colleagues, BILL HUGHES and DEAN GALLO have been helpful, accessible, hard-working, and committed to making a difference. Even as they both gained in seniority and had increasing demands placed on their schedules, they always had time to listen. Both gained the respect of their colleagues in Congress and their constituents back home.

As dean of our delegation, BILL HUGHES was always attentive to New Jersey concerns and to the needs of his colleagues. We looked to him for guidance and advice and we benefitted from his vast knowledge and experience.

Before coming to Congress, he distinguished himself as a lawyer and prosecutor in Cape May County. His legal background and familiarity with law enforcement issues prepared him well for his outstanding service on the House Judiciary Committee, when he served as chairman first of the Crime Subcommittee and later, the Subcommittee on Intellectual Property and Judicial Administration.

DEAN GALLO distinguished himself by rising to the position of minority leader in the New Jersey Assembly before his election to Congress. In the U.S. House of Representatives, he gained a seat on the powerful House Appropriations Committee. Whenever I went to DEAN with a request on behalf of my congressional district, he and his staff were always extremely responsive and helpful. I greatly appreciate everything he did for my area of New Jersey.

My heartfelt thanks and best wishes go to BILL HUGHES and DEAN GALLO as they conclude their years of honorable and distinguished service here in the U.S. House of Representatives. They will be greatly missed.

Mr. PACKARD. Mr. Speaker, I rise to pay special tribute to my colleague and friend

DEAN GALLO. DEAN has served this body with great distinction. My colleagues and I will miss him when he retires at the end of this legislative session.

DEAN and I have worked together for a number of years—first on the Public Works and Transportation Committee and now on the Appropriations Committee. Throughout our service together I have known DEAN to be a forthright, hard working Member of this body.

He has made great contributions not only on behalf of those he represents in his home State of New Jersey, but to this body and the Nation as a whole.

I wish him a speedy recovery and good fortune in his future endeavors.

Mr. ZIMMER. I rise today on behalf of my colleague Congressman GALLO, who is on medical leave, and request that his statement be read into the RECORD on his behalf.

Mr. Speaker, in 1993, when health care reform came to the forefront of the Nation's agenda, I formed an advisory group for the purpose of helping me analyze and recommend solutions for reforming our health care system. I rise today to thank the members, and to the chairman, Mr. Ken Courey, for helping me with the task of determining the health care reform needs of District 11 residents.

The advisory group I formed was comprised of District 11 residents who are, as I have come to learn, some of the finest individuals I have had the opportunity to work with in my years of public service. Their dedication to the task of helping me far exceeded my expectations. Not only did they commit much personal time and energy, they provided me with a report that contains some of the more sensible and responsible reform proposals I have read to date. It is my hope that my colleagues will consider their recommendations when the issue arises again in the 104th Congress.

Although it's disappointing for us who were involved in the process, or for those who are suffering from a lack of health care, that the 103d Congress will soon adjourn without having passed any reform, I urge members of my advisory group, either individually or as a group, to continue their work.

It is clear that Americans need and want reasonable, responsible and much-needed reforms—and they deserve action. Mr. Speaker, this is a national problem that impacts every American, and I urge returning Members of Congress to consider my advisory group recommendations.

At this time I would like to recognize the members of my advisory group, including: Kenneth M. Courey, Fred Palace, Mark T. Olesnicky, Robert G. O'Driscoll, Gary S. Safier, Harvey Weinberg, Golden Bethune, Muriel Shore, Judith Quinn, Mario Casabona, Tom Marotta, Russell Hawkins, Karen Manning, Sal Risalvato, Jeff Baum, William Testa, Stanley Bergen, Cheryl Tice, Alex DeCroce, Mary Hastings Hager, Rosanna Hirshkind, Dennis F. Marco, Pat DeDeo, Dana Benbow, Ray Harper, Andrew Preston, Paul Melrose, Robert Brehm, Anne Liebers, William Ryan, Charles Johnson, Anthony Lori, George R. Laufenberg, Donald Scheidt, Bettina Gryzbowski, and Ken Becker.

Finally, Mr. Speaker, as I look back over my years in Congress, I do not recall any other group of individuals I have had the opportunity to work with of whom I am so proud or honored to have known. Their work has been exemplary and indispensable to me, and for this I extend my deepest gratitude. I look forward to continuing my work and friendship with each of them back in the district.

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to two of my outstanding colleagues from New Jersey, DEAN GALLO and BILL HUGHES, who are both retiring at the end of the 103d Congress.

I wish both of them the best, but I am sorry to see them go.

DEAN GALLO

I have had the great pleasure to work with DEAN GALLO on my Energy and Water Development Appropriations Committee. He has been one of the most dedicated and loyal Members of Congress I have ever had the opportunity to serve with.

I deeply appreciate his friendship over the years and the great work he has done on our committee. We will miss him on Appropriations, but more than that, I know that his constituents in New Jersey and the people of our Nation will miss his many contributions.

DEAN has worked diligently for flood control projects not only in his State, but also throughout the country. He has gone to bat for the Passaic River flood control project in New Jersey and been very supportive when other States desperately needed funding for flood control. He recognizes the importance of improving our Nations' infrastructure and the importance of saving lives and property. Through his work on our committee, DEAN GALLO has dedicated himself to bettering the lives of people everywhere.

No one has been more of a champion for energy research programs than DEAN GALLO and his support has been very instrumental to the continued success of energy research at Princeton University. Dean has been a tremendous supporter of Princeton's magnetic fusion program, as well as other on-going energy programs.

As you know, DEAN has chosen not to seek another term in Congress for health reasons. I certainly wish him a full and speedy recovery and many years of happiness and good health. Congress is losing one of its finest members, but DEAN'S outstanding record of public service will certainly not be forgotten.

BILL HUGHES

I have had the honor of serving with BILL HUGHES, the dean of the New Jersey delegation, since he came to Congress in 1975. And, I have had the pleasure of spending time off Capitol Hill with BILL and his lovely wife Nancy. I must say, they were good company.

BILL has decided to leave the Congress to pursue other interests and I know that he will be highly successful in his future endeavors.

Throughout his years in Congress, BILL has been a very hard worker. He is not afraid to tackle tough and complicated issues and he always stands up for what he believes is right. This attitude has won him widespread respect among his colleagues.

BILL built a solid record on the House Judiciary Committee, especially in his 10 years, from 1981 to 1991, as chairman of the Crime Subcommittee, and in more recent years, as chairman of the Subcommittee on Intellectual Property and Judicial Administration.

He has put his stamp on many pieces of legislation and will long be remembered for his efforts to fight violent crime.

When BILL HUGHES steps down, the Congress will lose one of its most honorable Members. However, his record of service will stand as a fine example to public servants everywhere.

My hopes for a very fine future go with both DEAN and BILL. We will remember both of you for many years to come.

Mr. PAYNE of New Jersey. Mr. Speaker, I am proud to join in paying tribute to two of the finest men I have had the pleasure of serving with in Congress, Representatives BILL HUGHES and DEAN GALLO.

In our years of working together as New Jersey colleagues, BILL HUGHES and DEAN GALLO have been helpful, accessible, hardworking and committed to making a difference. Even as they both gained in seniority and had increasing demands placed on their schedules, they always had time to listen. Both gained the respect of their colleagues in Congress and their constituents back home.

As dean of our delegation, BILL HUGHES was always attentive to New Jersey concerns. We looked to him for guidance and advice and we benefitted from his vast knowledge and experience.

Before coming to Congress, he distinguished himself as a lawyer and prosecutor in Cape May County. His legal background and familiarity with law enforcement issues prepared him well for his outstanding service on the House Judiciary Committee, where he served as chairman first of the Crime Subcommittee and later, the Subcommittee on Intellectual Property and Judicial Administration.

DEAN GALLO distinguished himself by rising to the position of minority leader in the New Jersey Assembly before his election to Congress. In the U.S. House of Representatives, he gained a seat on the powerful House Appropriations Committee. Whenever I went to DEAN with a request on behalf of my congressional district, he and his staff were always extremely responsive and helpful. I greatly appreciate everything he did for my area of New Jersey.

My heartfelt thanks and best wishes go to BILL HUGHES and DEAN GALLO as they conclude their years of honorable and distinguished service here in the U.S. House of Representatives. They will be greatly missed.

Mr. DE LUGO. Mr. Speaker, I rise to commend one of the most skilled and hardworking Members of this body and one of my closest friends, the gentleman from the 2d District of New Jersey, BILL HUGHES.

My wife, Sheila, and I count BILL and his charming wife, Nancy, among our dearest friends.

As families, we and our children have been together many times while BILL and Nancy and their children, Nancy Lynne, Barbara Ann, Tama Beth, and Bill, Jr., visited their part-time home in my district of St. Thomas.

So, in a sense, BILL and his family have been constituents of mine for more than 20 years, and I'm very proud of that.

So, it was somewhat of a coincidence that BILL and I each chose to retire from the House in the same year. We'd discussed our plans to retire, and perhaps taking that step at the end of this session.

It was an even greater coincidence when we each decided to announce our retirements before the House on the same day, and that we were both leaving this House after 10 terms in office.

That is why I am privileged to make these remarks today.

I mean it when I say there are few Members whom I admire more than BILL HUGHES.

Before coming to Washington, BILL worked as a lawyer and served for a decade as first assistant prosecutor in Cape May County, where he was never once reversed on appeal, an extraordinary accomplishment.

In his 20 years in the House, BILL HUGHES's record of service is a remarkable and distinguished one.

He has been among the most active members of the Judiciary Committee.

He served 9 years as chairman of the Subcommittee on Crime, where he wrote more than 40 anti-crime bills. In 1991, he became chairman of the Intellectual Property Subcommittee where he played a key role in negotiations on GATT.

As a senior member of the House Merchant Marine and Fisheries Committee, BILL HUGHES was responsible for legislation prohibiting ocean dumping, controlling ocean pollution, and protecting wild and scenic rivers.

At the end of this year, when BILL HUGHES retires from this House, this body will lose one of its hardest working and most talented Members.

The men and women of the 2d District of New Jersey will lose the longest serving and most effective Representative in their history, and a man who has left an indelible mark on the laws of this Nation.

Mr. Speaker, I commend BILL HUGHES for his long and distinguished service to this House and to this country.

And I take this opportunity to say a personal, Thank you, BILL. Good job, well done, and I look forward to seeing you and your family in years to come on St. Thomas and at Hawk's Nest on St. John, where we will enjoy Nancy's great shrimp salad. That's Hawk's Nest Beach. What a life.

Mr. BROOKS. Mr. Speaker, I rise today to pay tribute to Congressman WILLIAM J. HUGHES of the Second District of New Jersey. BILL HUGHES has decided to retire after a distinguished career in this body spanning 20 years. BILL and I became colleagues on the Judiciary Committee in January 1975 when BILL began his service there. Congressman HUGHES first chaired the Subcommittee on Crime and then became chairman of the Subcommittee on Intellectual Property and Judicial Administration at the beginning of the 102d Congress. He has been an outstanding leader in Congress on all issues on which he has worked.

BILL has dealt with the difficult problems arising before his subcommittee in a workman like and skillful manner. His skill as a prosecutor and his grasp of intellectual property issues make him one of the finest lawyers ever to serve this body. He has been a loyal friend and staunch ally and I shall miss him on the committee and in the well of this House. BILL and his wife Nancy have a splendid and loving family they will now have more time to enjoy, but we will all miss BILL's dedicated service to his constituents, the Congress, and the Nation.

Mr. MAZZOLI. Mr. Speaker, it is with great pleasure that I pay tribute to Representative BILL HUGHES, my close friend and colleague of 20 years.

BILL HUGHES, a native of Salem, NJ, and lifelong resident of New Jersey, is a consummate Congressman. Since he was first elected to Congress in 1974, he has always remembered, in the words of former Speaker of the House Tip O'Neill, that "* * * all politics is local." In keeping with this belief, BILL HUGHES, throughout his career, has spent all but one weekend per year in New Jersey's Second District. BILL understood early into the game that you never forget who sent you here and you never forget your roots back home.

BILL HUGHES has devoted much of his professional life in the area of law enforcement serving 10 years as a prosecuting attorney in Cape May County, NJ, and 20 years in Congress as a member of the House Judiciary Committee. In his capacity as chairman of the Subcommittee on Crime and Criminal Justice, he has spearheaded efforts to establish boot camps for the rehabilitation of juvenile offenders and has pushed Congress to appropriate funds for new prisons. He has also led the fight against computer crime, child pornography, firearms violations, arson, drug offenders, product tampering, and many other problems plaguing our Nation.

Along with his work as chairman of the Subcommittee on Intellectual Property and Judicial Administration and his work on the Merchant Marine and Fisheries Committee, BILL HUGHES has also been very supportive of campaign finance reform legislation, an issue in which I have also been very involved. In his own campaigns, BILL HUGHES has sought to raise most of his campaign funds from small individual contributions, rather than from sources outside the State of New Jersey. He has limited PAC contributions to less than a third of his total campaign funds and he suggests that other members follow suit.

Through his work as chairman of the Subcommittee on Intellectual Property and Judicial Administration, BILL HUGHES has worked diligently to protect the interests of authors of software programs and books, composers, and film makers throughout the country as well as other areas of the world. He has also been very instrumental in advancing the GATT negotiations, working to remove trade barriers and strengthen the U.S. economy.

BILL has been the recipient of numerous awards and recognitions including: The Senior Distinguished Alumni Award for Rutgers University; the Leo Fraser Super Achiever Award from the Juvenile Diabetes Foundation; Man of the Year award by the Girl Scouts of America and; Congressman of the Year award by the National Association of Police Organizations.

But above all of these recognitions, BILL HUGHES' most lasting tribute is that the people of New Jersey's Second Congressional District has reposed their faith and trust in him for two decades and would have done so for another two decades or more if BILL and Nancy, his beloved wife, were not anxious to return home to start a new phase of their life.

For my part, I am losing a friend and a seatmate of long standing. I wish him, Nancy, and the family the best of health and happiness in retirement.

Mr. MAZZOLI. Mr. Speaker, it is a honor for me to join the many other Members, from both sides of the aisle, paying tribute to Representative DEAN GALLO, our friend and colleague.

DEAN GALLO, first elected to New Jersey's 11th Congressional District in 1985, has served as a constant voice for the small businesses of New Jersey, and has insured that resources and financial backing are available to small businesses. DEAN himself a real estate agent, understands the needs of small businesses and, through his work on the House Small Business Committee, has strengthened and expanded the Small Business Association, which, at the time of DEAN's arrival to the Congress in 1985, was threatened with extinction.

His efforts in Washington have not gone unnoticed. In 1989, DEAN GALLO was awarded the New Jersey Small Business Development Center's excellence award. Furthermore, he is a five-time recipient of the Guardian of Small Business Award, and a five-time recipient of the Spirit of Enterprise Award from the U.S. Chamber of Commerce.

Throughout DEAN GALLO's career in public service, beginning in 1968 as a member of the Parsippany-Troy Hills Township Council, he has been a champion of small businesses, and has understood that today's larger corporations and all businesses were once small businesses. DEAN has spearheaded the effort in Congress to increase exports and expand our international trade routes, most recently in dealing with the European Community. As a member of the House Appropriations Committee, DEAN GALLO helped to increase Export-Import Bank funding from $500 million to $750 million.

Under the circumstances of DEAN's retirement, he should know that my prayers are with him and his family for a full and speedy recovery. May God bless you, DEAN.

CLARIFYING CONCERN FOR CONFERENCE REPORT ON TRANSPORTATION APPROPRIATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, the transportation appropriations conference report was signed by the President and the new fiscal year is now underway. During the conference of the transportation bill there were several issues that were left somewhat unclear and I am taking this opportunity to clarify my concerns regarding two issues.

There is a small but very important provision in the conference report regarding section 13(c) of the Federal Transit Act. This language attempts to down play and even ignore the delays experienced in 13(c) processing by the Department of Labor. Put simply, this language ignores the fact that significant delays have occurred and continue to occur in obtaining 13(c) certification—delays that have caused numerous transit properties to wait substantial periods of time to receive capital and operating assistance for transit services. Even the Department of Labor itself recognized earlier this year that a problem existed, finding that over 57 grants amounting to roughly $300 million were held up due to 13(c) processing.

The concern voiced by the original House Report (H. Report 103–543) that an identifiable problem existed was echoed in the Senate on a bipartisan basis. At the time the fiscal year 1995 DOT appropriations bill was considered by the Senate, several Senators expressed disagreement with the notion contained in the Senate Report (S. Report 103–310), that the 13(c) program was not broken. Senator BUMPERS stated that:

> This language, quite frankly does not adequately reflect the experience in my State and, I am sure, many others. The Senate language stands in stark contrast to the House report which indicates that numerous transit grants have been delayed due to 13(c), and that "[t]hese delays frustrate the effectuation of the Committee's spending priorities and allocation of scarce resources for important transit projects." One of the fundamental problems in the 13(c) program is the lack of time frames for the negotiation or development of 13(c) protections or for certification action by the Department of Labor.

Similarly, Senator KASSEBAUM stated that:

> [T]he current process is not working and our local transit system cannot afford these needless and costly delays.

Senator BOND also commented that not only were considerable delays experienced in receiving transit funding, but the Department of Labor has issued determinations of questionable validity which directly conflict with State law and the process initiated for establishing terms and conditions of employment. Senator BOND concluded by stating that:

> For the Senate report to say that the 13(c) program is working well simply ignores these very real and considerable problems.

I believe that these statements verify that it is undisputed that important transit projects have failed to be promptly obligated because of delays in the Department of Labor's section 13(c) case processing. There is a clear need for the Department of Labor to develop a more time sensitive process for certification of transit projects by establishing time frames for the negotiation and mediation process, and by making its own determinations on contested issues as promptly as possible, and in accordance with clearly articulated legal standards. Further, to avoid unnecessary delays in the issuance of section 13(c) certifications, the obligation for negotiating new 13(c) protections should only be triggered by a showing of potential employee harm tied to the specific Federal project involved. With such changes to the 13(c) processing of grants, the Congress spending priorities can be fully effectuated and important transit projects can be promptly undertaken.

Mr. Speaker, my second concern has to do with a commitment that the Federal Aviation Administration has made with regards to the Dallas-Fort Worth International Airport.

First and foremost, I want to encourage the FAA to continue to obligate federal funds in a manner that will provide the greatest benefit to the national air transportation system. In this regard, the FAA should honor its commitment to allocate $75 million over a 3-year period to complete the east-side runway now under construction at the Dallas-Fort Worth International Airport. This project will substantially increase the capacity of the U.S. air transportation system, thereby benefiting the system as a whole.

The funding plan for the new runway was eventually finalized after numerous internal discussions and lengthy negotiations with the airport's tenant airlines. The funding program was based on certain assumptions. One of these assumptions was the use of an $82.7 million amended letter of intent that was issued by the FAA in 1989. A second source of funds is the $75 million in joint revenue bonds that were sold in November 1993. The airport was also assuming funds from passenger facility charges.

The final source of funds was contingent upon the FAA's assurance to commit an additional $75 million in the form of a letter of intent. Through efforts of several of my colleagues, it became apparent that the FAA had agreed to commit the additional $75 million in Federal funds to DFW's east-side project. At that time, it was understood that the $75 million would be paid to the airport from the AIP discretionary fund over 3 years. Specifically, in fiscal year 1994 the airport would receive $12.5 million; in fiscal year 1995, $25 million; and in fiscal year 1996, $37.5 million.

Since this announcement, the FAA indicated that some of the funding might be allocated over additional years. This is not necessarily good news. I feel that it is important for the FAA to clarify exactly what the payment schedule in the distribution of these funds will be.

Thank you Mr. Speaker.

HONORING REPRESENTATIVE DON EDWARDS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California, [Ms. ESHOO] is recognized for 5 minutes.

Ms. ESHOO. Mr. Speaker, I am honored to join with my colleagues tonight to honor our distinguished colleague from California, Congressman DON EDWARDS.

I have had the pleasure of knowing DON EDWARDS for years and serving with him in the 103d Congress. He has served in this body and represented his San Jose district since 1962.

Over the years he has proven himself a true public servant. His acts of public service transcend his district. Indeed, he has been a key player in our country's civil rights movement, a committed steward of the environment, an unwavering advocate of veterans, and a champion of human rights and peace throughout the world.

DON EDWARDS has served as chairman of the Subcommittee on Civil and Constitutional Rights where he has steadfastly protected our individual rights under the Constitution. He was the floor manager in the House for the equal rights amendment and author of both the Freedom of Choice Act and the Religious Freedom Restoration Act.

He has been an unyielding leader in the push for civil rights for all Americans. Working first with President Kennedy and then President Johnson, Mr. EDWARDS was a floor leader in the enactment of the 1964 Omnibus Civil Rights Act and the Voting Rights Act of 1965. He participated in the civil rights demonstration and marches in Washington and in the south and in 1963, he visited Dr. Martin Luther King, Jr., in the Birmingham jail.

When it comes to civil rights and constitutional law he is often called "the conscience of the Congress." DON EDWARDS has also been an active member of the Veterans Affairs Committee for 31 years. During his tenure he sponsored legislation to establish neighborhood clinics for veterans and was the first Member of Congress to alert the public about the effects of agent orange on our veterans.

At home, in the Bay Area of San Francisco, DON EDWARDS is known well for his leadership in creating and expanding the 40,000-acre San Francisco Bay Federal Wildlife Refuge. He also authored the Wetlands Reform Act to protect the Nation's remaining wetlands.

DON EDWARDS served our country in World War II and continues to be active in foreign affairs. He was one of Congress' most active Members opposing the Vietnam War; he helped organize the American Committee for Democracy in Greece; he was an active opponent of apartheid in South Africa; he helped lead opposition to United States military aid to Nicaragua and El Salvador; and more recently has led efforts to limit conventional arms sales.

Clearly, DON EDWARDS legislative and public service record speaks for itself. What it doesn't say is how Mr. EDWARDS conducted himself throughout his long distinguished career.

Although he has stood firmly behind the principles he supports, he has always been a fair and honest legislator. He has not only been a gentleman but he has also been a gentle man.

To me, he has also been a friend and I will sorely miss him. Thank you, Dear DON, for all you have done for your constituents, our State, and the United States of America.

Mr. MONTGOMERY. Mr. Speaker, I want to join my colleagues ANNA ESHOO and NORM MINETA in paying tribute to DON EDWARDS, who is retiring this year after serving San Jose, California so effectively since 1962.

I count DON and his wife Edie as two of my closest friends in Washington. They have graciously had me over to their summer home on the Chesapeake Bay on several occasions and we have played a lot of tennis together over the years here in Washington.

DON has been a member of the House Veterans' Affairs Committee for 31 years and has truly been a leader in passing legislation to help our veterans in so many areas. I will also always appreciate the fact that DON gave me the chance to be chairman of the Veterans' Affairs Committee. He had seniority and could have taken the gavel of the Veterans' Affairs Committee, but he chose to chair a Judiciary Subcommittee instead, where he was one of this Chamber's most knowledgeable Members on the Constitution.

I will miss DON and Edie and wish them the best on their retirement.

Mr. MCDERMOTT. Mr. Speaker, I would like to take a few moments to speak on behalf of the retiring chairman from California, Representative DON EDWARDS.

Many of us in Congress have followed Mr. EDWARDS' accomplishments with awe and are sorry to see him leave. As chairman of the Subcommittee on Civil and Constitutional Rights, he has worked nonstop to protect the rights of the individual throughout his decades of congressional service. Whether it be his courageous efforts to codify civil rights legislation in the 1960's, his work in support of women's rights by sponsoring such needed legislation as the Equal Rights Amendment in the 1970s, or the Freedom of Choice Act in the 1980s, Representative EDWARDS has served the American people well.

As a cosponsor of H.R. 1200, the American Health Security Act, Representative EDWARDS illustrated that security and rights come in many different forms in the 1990s. He recognized that the major issue of the day which threatens the American family is their inability to obtain comprehensive medical care without the fear of being bankrupted. As a cosponsor of single-payer health care legislation, he serves as an important voice in identifying this problem and bringing it to the forefront of the congressional agenda.

Regardless of the issue, Congressman EDWARDS' proactive efforts have set an example to all of us here in Congress and his strong legislative presence will be missed.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise this evening to pay honor to an outstanding American, Congressman DON EDWARDS of California. Throughout his long and distinguished career in the House of Representatives, Congressman EDWARDS has been one of the great leaders of civil and constitutional rights in America.

Through his efforts as chairman of the Judiciary Committee's Subcommittee on Civil and Constitutional Rights, Congressman EDWARDS has proved a true pioneer in the area of constitutional rights.

His commitment to this most important facet of American life and Government has been without pomp and circumstance.

He has remained resolute and undaunted in his leadership, and uncommonly candid about the issues that embrace the very heart of civil rights.

He has been praised by organizations like the NAACP Legal Defense Fund, for his devotion to the civil rights movement

He has been heralded for having the courage and the fortitude to speak up for those issues that so many others refer to as "too liberal."

For Congressman EDWARDS, a great American, "liberal" is still a moniker that indicates the commitment to do what is right by our fellow man: a word that suggests freedom and justice, not for a particular group or class, but for all people, everywhere.

I am therefore proud to have served with this courageous American, and I will always consider the day that I met Congressman DON EDWARDS one of the shining moments of my career in the U.S. Congress.

Mr. SENSENBRENNER. Mr. Speaker, I have had the distinct honor of serving 16 years in Congress with the distinguished gentleman from California, Congressman DON EDWARDS. Throughout his years in the U.S. House of Representatives, he has served tirelessly and with dedication for the betterment of our society. I am fortunate to have worked closely with him on the Judiciary Committee.

Since early in his first term, Congressman EDWARDS has served on the Judiciary Committee, and since 1971 as Chairman of the Subcommittee on Civil and Constitutional Rights. It is his work on the Subcommittee and the full Judiciary Committee that has been the driving force behind his energies in the House of Representatives.

Congressman EDWARDS has been a staunch defender of civil liberties. He has taken a firm stand in the enforcement of individual rights protected by the Constitution and its Bill of Rights. He was floor leader in the House for the Equal Rights Amendment, the 1964 Omnibus Civil Rights Act, the Voting Rights Act of 1965, the Religious Freedom Restoration Act, and the Americans with Disabilities Act.

In 1973, the Judiciary Subcommittee chaired by Rep. EDWARDS was assigned jurisdiction over the FBI for oversight. Congressman EDWARDS assumed the role as the House's self-appointed overseer of the FBI, his one-time employer. In this capacity, he was the bureau's "best friend but severest critic." He held several subcommittee hearings to investigate FBI undercover activities and ordered several General Accounting Office audits. These actions proved invaluable in cleaning up the misconduct of the organization.

In addition, he has been a member of the House Veterans Affairs' Committee for 31 years. Here he has played an active role in the committee's work. In 1978, the Congressman was the first Member of Congress to sound the alarm about the effects of Agent Orange on the health of Vietnam veterans.

I now I am joined by my colleagues in saying that Congressman EDWARDS has served with distinction. His tireless drive and determination to serve his convictions and this Congress are beyond approach. Although we often disagreed on the merits of the issue, I can say honestly that Mr. EDWARDS' commitment to the ideals in which he believes so strongly has elevated the quality of debate in the House and contributed greatly to the discourse of some of the most fundamental and divisive issues in our nation's struggle to define itself and who we are as a people. His contributions will be missed.

Mr. WHITTEN. Mr. Speaker, I would like to take this opportunity to say how much I will miss the counsel and friendship of my colleague DON EDWARDS, who is joining me in retiring this year.

For many years in Congress, DON and I have been across the hall from each other and our staffs have worked closely as friends and neighbors. Leaving Congress, for both of us, will be like moving to a new neighborhood.

DON EDWARDS has been a capable Representative for the people of California and has been outstanding in his leadership role on the Judiciary Committee and Veterans Affairs Committee. His service has always been honest and straight-forward. While we may have disagreed on some specific issues through the years, I have always had the greatest respect for DON's views. We have always been able to disagree without being disagreeable.

As he leaves Congress, I know he has been an asset to this institution and his many contributions in veterans affairs, civil liberties, housing, education and all the rest will be greatly missed.

I wish him, Edie, McKeever and the rest of his family the best for the future.

Mr. DIXON. Mr. Speaker, I rise today in special tribute to the Honorable DON EDWARDS. Congressman EDWARDS' 34 years of dedicated service and leadership rank him among the top ten senior members of Congress. He is the dean of the California Congressional Delegation, and chairman of its democratic delegation. He is also the Vice Chairman of both the Judiciary Committee and the Veterans' Affairs Committee. Congressman EDWARDS chairs the Judiciary Subcommittee on Civil and Constitutional Rights. His many years as a staunch defender of civil rights has earned him the title of "the conscience of the Congress." Though the subcommittee has been the primary focus of his energies in the House, DON has also made his mark in legislation dealing with veterans' issues, foreign affairs, and the environment. His strong presence in the House leadership has been instrumental in passing such landmark legislation as the 1964 Omnibus Civil Rights Act, the Voting Rights Act of 1965, and the Equal Rights Amendment. The Dean brought to this institution an unwavering commitment to the protection of civil rights, an enthusiasm for upholding the Constitution, and a genuine respect for the American people. it is my pleasure to offer just a few words in honor of this distinguished gentleman and admired colleague.

Born on January 6, 1915, DON EDWARDS attended public schools in his native city before going to Stanford University and then Stanford Law School. Before being elected to Congress, he served as an FBI agent in 1940 and 1941, and as a Naval intelligence officer and a gunnery officer at sea during World War II.

Upon his election to the House of Representatives in 1962, DON proved to be a man before his time. His views were not always the popular choices among some of his colleagues, but Congressman EDWARDS never failed to recognize our most basic rights, like free speech and due process of the law. Early in his first term, for example, he spoke out against the House Committee on UnAmerican Activities, and was instrumental in its eventual abolishment. His convictions were evident outside of Congress as well, as he participated in civil rights marches and demonstrations throughout the country. More recently, the Dean was the author of both the Freedom of Choice Act and the Religious Freedom Restoration Act.

Congressman EDWARDS has been a champion for veterans, and was an active member of the Veterans' Affairs Committee for 31 years. In 1976, he introduced legislation to establish neighborhood clinics for our veterans known as Vet Centers. He was the first member of Congress to vocalize the detrimental effects of Agent Orange on the health of Vietnam veterans. Furthermore, in testimony to his drive and determination, DON ended a long struggle when his bill establishing a special veterans appeals court to rule on veterans' health and compensation claims was passed in 1988.

Congressman EDWARDS has also been active in foreign affairs and environmental issues. From opposing the Vietnam war to standing up against apartheid in South Africa, he has worked ardently towards preserving peace and spreading the principles of democracy. He has also been a leader in the fight to limit conventional arms sales. Congressman EDWARDS is responsible for creating the 40,000 acre San Francisco Bay Federal Wildlife Refuge, and introduced in the 103d Congress major legislation to protect our remaining wetlands, the Wetlands Reform Act.

Mr. Speaker, I join my colleagues in the House of Representatives in acknowledging the illustrious career and leadership of Congressman DON EDWARDS. He has served nobly in the U.S. Congress for over three decades, and his reputation as the consummate, committed statesman remains a challenge to all of us. I join his wife, Edith; their children, Judge Leonard Perry Edwards, Judge Thomas C. Edwards, Samuel Dwyer Edwards, Dr. Bruce Haven Edwards, and William Don Edwards, Esq.; and a host of family and friends in saying well done, and in wishing him continued happiness in the future.

Mr. NADLER. Mr. Speaker, I rise to join my colleagues in honoring our colleague, DON EDWARDS of California, who is retiring at the end of this session.

The courage and foresight of DON EDWARDS was first made apparent to me when, as a high school student, I heard of his courageous vote to abolish the House Committee on Un-American Activities. A junior Member of Congress, with few allies on his side, DON EDWARDS had the courage to defy the tide of public opinion and his more senior colleagues, and stand up for what we now know was right. His courage was inspirational and would be repeated many times during his long and impressive career.

My next encounter with my future chairman was in December 1967, when he spoke at the National Conference of Concerned Democrats. His speech about the direction of the country so inspired me that I have saved the text of his speech of 27 years.

Throughout his career, DON EDWARDS has been a stalwart defender of the civil rights of all, and has never cowered in the face of controversy. From his excellent work defending women's right to choose, to his advocacy to end the war in Vietnam, to his principled stand against the death penalty, DON EDWARDS is a skilled legislator, and an effective activist.

But in addition to his vast collection of legislative accomplishments, DON EDWARDS has managed to win the respect and friendship of his colleagues from all parts of the ideological spectrum. He has led with grace, and with courage, and with compassion.

It has been an honor to serve with him in the House, and an inspiration to serve on the Subcommittee on Civil and Constitutional Rights under his leadership. He will be missed dearly not only by his colleagues, but by all who have benefited from his work over the years. I wish him well.

Mr. FAZIO. Mr. Speaker, as we near the end of the 103d Congress, I rise in tribute to a Member who, after 16 terms, has chosen to move on to another phase in his life.

It has been said that a constitutional statesman is "* * * a man of common opinions and uncommon abilities." This aptly describes DON EDWARDS, who has consistently utilized his interpersonal and intellectual skills in defense of the constitutional principles to which he has always been so strongly committed.

DON has never run from controversy. Whether working to abolish the House Committee on UnAmerican Activities, championing the equal rights amendment, or denouncing the horrors of South African apartheid, DON has always been consistent in his defense of the rights of the individual—even when his stand was not popular and even if it meant he stood alone.

I know that, wherever life takes Chairman EDWARDS, he will continue to live his life as he always has—as an activist, a statesman and the true gentleman that he is. It is my honor and privilege to have known and served with DON. I salute him as dean of my delegation, my colleague, and my friend.

Ms. WOOLSEY. Mr. Speaker, every new Member of Congress has a political idol. Someone with similar values and ideals. Someone who sets an example. Someone whose experience proves that if you stick with your convictions and vote your beliefs, you can, indeed, fulfill your duties, and still keep a sense of yourself.

When I came to Congress in 1993, I was fortunate, because my political idol was still here. That person is DON EDWARDS.

Throughout his career, DON EDWARDS has stood up for what is right, not necessarily what is popular.

History will record his successful effort to abolish the House Committee on Un-American Activities. His fight to pass the Landmark Civil Rights Act and Voting Rights Act. His unflagging support of the equal rights amendment and women's reproductive rights.

Californians will remember his tireless work on behalf of our State. As dean of the California delegation, DON EDWARDS taught us all—Democrat and Republican, liberal and conservative, northern Californian and southern Californian—how to work together for the good of our State.

DON EDWARDS' achievements are given even greater weight by the manner in which he did them. He has treated his colleagues, staff, and constituents with a respect and humility that show that his successes are not only the fruit of hard work and great mind, but also of an extraordinary heart and soul.

DON, thank you for being you. Thank you for your guidance and friendship. You are my idol and I will miss you.

Mr. BERMAN. Mr. Speaker, I am saddened by the occasion of this special order, but since I have now had several months to get used to the prospect of a U.S. Congress without DON EDWARDS, I am happy to offer my words of tribute in honor of this great American.

All Americans are in the debt of DON EDWARDS. I have no doubt whatsoever that he will be remembered as one of the great heroes of our republic. For here was a public official who understood that the bedrock principles of our Constitution and Bill of Rights must be protected from the temptations of temporary partisan advantage or the enflamed passions of the mob.

His valiant defense of the great writ of habeas corpus was part and parcel of his commitment to ensuring that all Americans, including the most despised among us, are accorded the full measure of our civil and constitutional rights.

How well DON EDWARDS understands the words of Justice Felix Frankfurter, that "the history of liberty has largely been the history of the observance of procedural safeguards." Others might impatiently assign those safeguards to a lower priority in the interest of law enforcement or national security, but DON EDWARDS' career in this body is a reminder that in a free and democratic nation, the objectives of law enforcement and national security must always be reconciled with individual rights. That task is an arduous one, but DON EDWARDS and his staff accomplished it superbly.

A number of years ago, DON filed a Freedom of Information Act request, seeking to review any files the FBI may have kept on him. He discovered a memo written to J. Edgar Hoover reporting a rumor, obviously mistaken, of DON's imminent retirement. Hoover had written on the memo, "good riddance!" J. Edgar Hoover might have said, "good riddance," but I say Congress and the American people are the poorer for losing this great Member.

But it is not only for his principles and his deeds that I revere DON EDWARDS. It is also the way in which he conducted himself in this body which I seek to honor.

His commitment to the dignity and human rights of all people was reflected in his treatment of all the individuals with whom he came in contact throughout his career. Since he announced his retirement, I have heard countless individuals throughout this body, from the most junior staff to the most senior Members recount fondly their experiences with this man.

I have also been struck by the very kind words of DON EDWARDS' ranking Republican on the Civil and Constitutional Rights Subcommittee, the gentleman from Illinois [Mr. HYDE] who has saluted DON for the civility and courtesy with which he conducted his business in this body.

Whether you agreed with DON EDWARDS, as I did, or disagreed, you always understood that this was one of the most honorable Members who ever graced this body.

And no tribute to DON would be complete without some words in honor of his elegant and accomplished wife, Edie Wilkie, who from her post as Executive Director of the Arms Control and Disarmament Caucus, has been a indefatigable force in the fight to end the dangerous and destabilizing arms race. For those of us in what is loosely called the arms control community, Edie was an invaluable source of information, analysis, and strategy. She has truly been an instrument for peace on earth and I am proud beyond words to be her friend and colleague.

Now we are faced with the arduous task of carrying on without DON and Edie. I hope we can continue to count on their good counsel—I know I will. But the responsibility for protecting and defending the civil and constitutional rights of all Americans and for fighting against the proliferation of instruments of destruction now rest with us. I hope we are up to the task.

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to join my colleagues in honoring a man of courage and integrity who has left his mark on the U.S. House of Representatives, Congressman DON EDWARDS.

Throughout his career, DON EDWARDS has championed the cause of justice and fairness for all members of our society. As chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights, he led the fight to reverse a number of damaging Supreme Court decisions that had made it more difficult to challenge discrimination in the workplace. He has worked hard to promote fair housing, voting rights, and a more equitable criminal justice system.

As dean of the California delegation, Congressman EDWARDS has worked diligently in behalf of his State. He helped secure funding for the San Francisco Bay National Wildlife Refuge and he worked tirelessly to protect jobs and promote economic prosperity in industries important to California.

Mr. Speaker, I have long admired DON EDWARDS not only as a symbol of fairness and justice, but also as a true gentleman. Even in the face of the most contentious debate, he never lost his sense of dignity and grace. Let me join in extending best wishes to Congressman EDWARDS and his family. I know he will continue to make significant contributions of his time and talent as he moves on to new challenges.

Mr. WAXMAN. Mr. Speaker, when you gavel the close of the 103d session, you will be marking the beginning of retirement for one of the most respected Members of Congress, DON EDWARDS.

DON EDWARDS has spent his career in Congress fighting to protect and preserve our constitutional rights, often for the most unpopular in our society, and during times when it has been least popular to do so. When he first came to Congress in 1963, DON voted with only 19 other House Members to abolish the House Committee on Unamerican Activities. He stuck to principle, as he always has, and finally won this fight on the House floor in 1975.

As a member of the House Judiciary Committee, and as chairman of the Subcommittee on Civil and Constitutional Rights since 1971, DON'S influence has been legendary in its reach across so many segments of our society. DON was a leading force in moving some of the most significant civil rights legislation in our history including the 1964 Civil Rights Act, the 1965 Voting Rights Act, the equal rights amendment, the Americans with Disabilities Act, and the Religious Freedom Restoration Act. During the last decade, he succeeded in passing legislation that reversed a number of Supreme Court decisions that weakened voting rights, equal education opportunity, and fair employment rights.

DON has been an ardent supporter of abortion rights and legislation to outlaw discrimination against persons on the basis of sexual orientation. We will sorely miss him as we continue our fight to codify Roe versus Wade and to extend civil rights protections to gay and lesbian Americans.

A number of years ago, "Politics in America" described DON eloquently:

> The self-doubt that has afflicted many House liberals in recent years has stopped somewhere short of EDWARDS, whose belief in social change has all the gentle passion it did twenty years ago.

Throughout his career, DON has never abandoned principle for temporary political gain. He protected Richard Nixon's right to due process during the House Judiciary Committee's 1974 impeachment inquiry just as steadfastly as he worked to protect the rights of CISPES against FBI abuses during the 1980's. With DON's retirement, we Democrats have a big void to fill. Our work will be made significantly more difficult without his guidance, but we are inheriting a legacy of achievement on which to build. Our greatest tribute to him will be a constant vigilance over our precious freedoms and ensuring their extension to everyone in our society.

Janet and I extend our heartfelt best wishes to DON and Edith as they enter this new phase in their lives.

Mr. MAZZOLI. Mr. Speaker, I rise to honor my friend, Congressman DON EDWARDS of the 16th Congressional District of California. Don and I have served together on the House Judiciary Committee for most of my tenure in the House.

DON has invariably pursued the rights of the common good and rejected the route to conformity and popularity. Although such conduct is considered rare for a politician, DON has proved, since his election to Congress in 1962, that legislators do not have to go along to get along. Instead, he has earned the respect of numerous colleagues and constituents because of his remarkable ability to voice unpopular stands on legislative issues.

Over the years, I have admired DON for his integrity, determination, and dedication as an elected official. The House of Representatives will never be the same without DON, who has exemplified the life of a public servant through his words and deeds.

Mr. FILNER. Mr. Speaker and colleagues, I rise today to join in paying tribute to a great legislator, upholder of constitutional rights and good friend—Congressman DON EDWARDS.

DON has had no equal in his commitment to and action on behalf of our constitutional rights. He has served as chairman of the Subcommittee on Civil and Constitutional Rights, leading this House in the consideration of the Equal Rights Amendment. He was also the author of the Freedom of Choice Act and the Religious Freedom Restoration Act.

Although his legislative accomplishments are many, I am most awed by his leadership skills. He led the charge on all important battles during the last 30 years on behalf of civil liberties, civil rights, alternatives to nuclear destruction, environmental protection, and women's rights.

Being a Member of Congress is not easy. But DON showed us how to do it with style, grace, and an unwavering commitment to do what is right for all Americans.

This Congress is losing a great champion in the cause for freedom—and it is up to the rest of us to take his lead and continue this important work for the future of our great Nation.

DON, we wish you and Edie a wonderful future filled with great accomplishments and an abundance of blessings. It is comforting to know, however, that even though you won't be in Congress, you will still be out there fighting to make a difference in the lives of all Americans.

Mr. TORRES. Mr. Speaker, I rise today to pay homage to one of the finest, most honorable men to serve this institution, the people of the 16th Congressional District of California, and the people of this Nation.

Since first being elected to Congress in 1962, DON EDWARDS has fought for the constitutional rights of all Americans. His record as a civil rights leader is exemplary. DON has been and will always be a shining example of the true meaning of public service. During the civil rights movement of the 1960's, DON was an active participant in marches and other public demonstrations in both Washington and in the South. In 1963, DON visited Dr. Martin Luther King, Jr., in the Birmingham jail to show his support and solidarity for the civil rights leader before it was popular to be allied with Dr. King. DON wasn't interested in doing what was popular, but in doing what was right.

In Congress, DON has been a leader in the enactment of both the Civil Rights Act of 1964 and the Voting Rights Act of 1965. As chairman of the Subcommittee on Civil and Constitutional Rights, his accomplishments are almost too numerous to name. Most recently DON has demonstrated his outstanding leadership in passing the Religious Freedom Restoration Act.

Known as a consensus builder, DON is respected by members of both parties. DON has carried his fight for protection of our rights to other areas: concern for the environment; protection for the health of our veterans; opposition to the Vietnam war; and strong condemnation of apartheid in South Africa.

It is no wonder that DON is often called the conscience of the Congress. No Member will be more missed than DON EDWARDS.

It is so fitting that the same day we rise to pay honor to DON, is also the day that the President of South Africa, Nelson Mandela, spoke to a joint session of Congress. It is as if all the effort and diligence of DON EDWARDS to rid South Africa of the ugly specter of apartheid had suddenly come to fruition. DON's heart must have been happy to know that he played a role in such a great accomplishment like this. Today was the reward of all that he has done as we do this tribute to him. Perhaps DON's hopes and dreams for South Africa can best be described by President Mandela when he quoted T.S. Eliot:

> Lo, the most excellent sun so calm and haughty,
> The violet and purple morn with just felt breezes,
> The gentle soft-born measureless light,
> The miracle spreading bathing all, the fulfill'd noon,
> The coming eve delicious, the welcome night and the stars,
> Over my cities shining all, enveloping man and land.

It has been my extreme privilege to have been able to serve with a man like DON EDWARDS. Not only has he been the Dean of our State Delegation, but a personal mentor to me. I shall try to follow his example.

Mr. FARR of California. Mr. Speaker, I rise today in tribute to Congressman DON EDWARDS, who is retiring from public service after 16 terms in the U.S. House of Representatives.

For more than 30 years, Congressman EDWARDS has served the 16th District and the people of California with leadership and wisdom. He has long been admired by those in his district and by members of both parties for his warmth, fairness, and commitment to principle.

He has been a leader for the State of California, having served as Dean of the California Congressional Delegation. It was his leadership that led to the creation of the California Institute, a bipartisan think tank in Washington, DC. He also worked to develop bipartisan approaches to issues unique to California, such as environmental protection, immigration, and military base closures.

But Congressman EDWARDS will perhaps be best known for his tireless work in the area of civil and constitutional rights. From his early work in the American Civil Liberties Union, the National Association for the Advancement of Colored People, and other civil rights organizations, to his work as Chairman of the Civil and Constitutional Rights Subcommittee, Congressman EDWARDS has worked to protect the constitutional rights of all Americans. He has been a leader in the House of Representatives in fighting discrimination in employment, housing, and the criminal justice system.

Few have spoken out for the rights of Americans with such eloquence and thoughtfulness as Mr. EDWARDS, or have fought to protect those rights so consistently or with such commitment. Congressman EDWARDS has served as the conscience of Congress, reminding us that while it is often tempting to ignore the rights of the few in pursuing what is most popular, it is our duty to protect and uphold the constitutional rights of all Americans, no matter how unpopular.

The departure of Congressman EDWARDS is indeed a great loss to this body. But his leadership, courage, and dedicated public service serve as an inspiration for us and for future leaders in Congress. I look forward to having him as my constituent when he moves to Carmel, CA, and I wish him, his wife Edie, and his family well.

Mrs. MINK of Hawaii. It is with great honor and some sadness that I pay this tribute to our distinguished colleague DON EDWARDS for his 32 years of service to the Congress and the people of the 16th District of California.

There are very few in our history who have contributed more to the protection of our most fundamental rights and preserving the integrity of the Constitution than DON EDWARDS. Over the last three decades he has worked diligently and effectively to assure that everyone in this Nation, no matter their race, sex, economic status, sexual orientations, or disability is assured their basic civil rights.

The Civil Rights Act of 1964, the Voting Rights Act of 1965, the Equal Rights Amendment, the Americans With Disabilities Act, the Civil Rights Restoration Act of 1988, the Fair Housing Act of 1990, the Civil Rights Act of 1991, and the Religious Restoration Act, are all products of DON's hard work and dedication.

This is an accomplishment to be tremendously proud of, for individuals all across the country have gained, and will gain in the future, employment, housing, educational opportunities, religious freedom, and access to the electoral process all because of these laws.

When I first came to the Congress in 1965 DON had already made a mark by taking a leadership role in the passage of the 1964 Civil Rights Act. His strength and resolve to stand up for what he believed no matter how unpopular it might be was an inspiration to me as a new Member faced with many difficult votes during difficult times.

We did take some tough votes together, against the Vietnam War, against amendments to the Constitution that were popular at the time, and we took strong stands on civil rights, voting rights, and women's rights. I can remember a few times when only a handful of members went against the grain on a popular vote and DON and I always seemed to end up among the handful on the unpopular side.

His persistence, integrity and strong resolve has made him an effective legislator for the people of California and for many across the country who are often forgotten—our children, those in poverty, minorities, the disabled, and new immigrants.

Returning to Congress in 1990 it almost felt like old times when we found ourselves again fighting together on civil rights, trying to restore the original intent of the Civil Rights Act of 1964 which had been weakened by the Courts. The passage of the Civil Rights Act of 1991 during the Bush administration is a testament to the political and legislative skill of DON EDWARDS.

We did not win all the battles on that bill. But DON did not give up and helped us lead the effort to eliminate the exemption in the Civil Rights Bill for the Alaskan Wards Cove Co.—the very company whose plantation like treatment of Asian and Pacific workers started the case which led to the Civil Rights Act of 1991.

We have not won that one yet, but DON, we are going to continue your good efforts on this on.

For his efforts on Wards Cove and many other issues the newly formed Congressional Asian Pacific American Caucus unanimously elected DON to be a member of the Executive Committee this year. DON served as one of only three Members on the Executive Committee that were not of Asian or Pacific Island ancestry, which I believe demonstrates the high regard for DON in the Asian Pacific community.

With your retirement DON, we lose a great ally on many issues that we both care so much about. I am very sorry to see you go, but I feel privileged to have served along side you for many years and that I can call you my colleague, my mentor, and my friend.

We live in a better world because of your many years of service to this country. We will miss you, DON. Best of luck and much happiness in this exciting new chapter of your life.

Mr. DELLUMS. Mr. Speaker, I rise to honor a distinguished colleague upon his retirement. He is the dean of the California delegation, of which I am a part, and has served in that capacity with distinction and dignity. I refer to my close personal friend, DON EDWARDS.

DON EDWARDS has been an unwavering defender of the Constitution and the civil liberties that it provides for our population since he was first elected in 1962. He has served with distinction on the House Judiciary Committee and as the Chairman of its Subcommittee on Civil and Constitutional Rights. DON was a floor leader in the enactment of the historic civil rights legislation of the sixties—the 1964 Omnibus Civil Rights Act and the Voting Rights Act of 1965. He participated in the civil rights demonstrations and marches in Washington and in the South. He was the floor manager in the debate concerning the Equal Rights Amendment. He was a floor leader of the Americans with Disabilities Act. He has successfully brought forth legislation to overturn the Supreme Court decisions of the mid-80's that saw a reversal of decades of progress in civil rights. He has authored both the Freedom of Choice Act and the Religious Freedom Restoration Act. These are just the highlights. His contribution to the civil rights movement has been immeasurable.

DON EDWARDS has vociferously fought to ensure a fair, unbiased judicial process and has not allowed a questionable process to go unchallenged. He pursued the case of Ben Chavis until he was freed and has continually worked for clemency in the case of Leonard Peltier, a case that I am also pursuing. DON has worked to ensure that habeas corpus, the historic right to seek review in a higher court of an unjust criminal conviction, remains the right of every American.

Nelson Mandela's address today brought back many memories of our struggle here in the US to focus attention on the injustice of apartheid. DON EDWARDS was a part of that struggle. After visiting South Africa in 1978, Don was deeply affected and appalled by the persecution of blacks in that country. Back in this country, he joined me and other Members in our campaign of civil disobedience by picketing the South African Embassy here in Washington and was arrested for it. He also joined in calling for the imposition of strict sanctions against South Africa.

In a short time I could never do justice to the career and contributions that DON has made to this country. It is with a sad heart that I bid farewell to my dear friend DON EDWARDS. You have been an inspiration. You have led by example and have been the conscience of this institution. A great void will be left with your departure. You have served the people of California and this country well. I wish you well, my friend, on your new journey.

Ms. HARMAN. Mr. Speaker, we are on the eve of the departure from Congress of one of its most decent and quietly courageous Members, the gentleman from California [Mr. EDWARDS].

No doubt he will flinch at being called a giant, but DON EDWARDS is a giant. A moral giant. An intellectual giant. A thoroughly decent human being and mentor and friend.

Two decades ago I served as chief counsel and staff director to the Senate Judiciary Subcommittee on Constitutional Rights, under the chairmanship of former California Senator John Tunney. Then as now, Mr. EDWARDS chaired the House counterpart, and we worked closely together. Then as now, he carefully guarded the U.S. Constitution, and worked for equal rights for all Americans. Then as now, he was beloved and respected.

DON, I learned a great deal from you and will miss you very much. Godspeed as you and Edie enjoy the gentler and quieter joys of life. You have earned some peace and enriched us all.

Mr. MINETA. Mr. Speaker, I am very proud to be here this evening to talk about someone whom I consider to be one of the finest and most principled Members ever to serve in this Congress, my close friend, Congressman DON EDWARDS.

For the past 20 years, I have had the honor of jointly representing our home town of San Jose, CA, with DON. I've known DON since 1958, and, in 1962, I had the privilege of being the treasurer for DON'S first campaign for Congress. At the time, I had no idea I would be serving with him in the Congress one day, but I can honestly say that serving together with DON in the House has been one of the greatest joys of my time in Washington, DC.

Mr. Speaker, we live in a cynical age—an age in which all too many of our political leaders determine their positions on the issues on the basis of the latest opinion poll or focus group. To me, DON EDWARDS has always been the antidote to that cynicism.

DON has never worried about what sounds right or looks right. He only cares about what actually is right.

You know, I hosted a retirement dinner for DON along with the California Democratic delegation. We went around the table to talk about our association with DON, and something extraordinary happened.

Every Member who was there said the same thing: That he or she hadn't taken a single vote on a controversial issue in this Congress without looking up on the board to see how DON EDWARDS had voted.

We didn't always vote the same way DON did, but all of us knew that DON—on every single vote—was making a statement of principle.

It's no wonder that DON EDWARDS has more than once been called the conscience of the Congress.

Throughout his career, DON's passion has been the protection of our Constitution, and the protection of the rights of Americans whose rights have meant little to most of the people in this country.

He has placed his mark on every single piece of civil rights legislation to pass this Congress during the past 32 years—and every single one of those bills was made better, and more just, because of his leadership.

DON EDWARDS is the elected representative of the 16th Congressional District of California. And I can tell you that no one could possibly have been more effective in representing the constituents of that district than DON.

But DON does not just represent his own constituents. Throughout his 32 years in the Congress, he has represented the highest principles of this country and the most basic precepts of fairness and justice enshrined in our Constitution.

In short, DON EDWARDS has dedicated his career in public service to representing a dream of what this Nation has the power to be: a nation with liberty and justice for all.

Time and time again over the past 32 years, DON has moved this Nation closer to that dream.

There are many of us in this country who began our lives on the margins of society—and I count myself among them.

We have moved into the mainstream of American life, and had opportunities opened to us that would never have been available before, because of DON EDWARDS' life and work here in the Congress.

There simply are no words to adequately describe how much that means.

How many Americans today have jobs they never would have had, attend schools they could never have attended, vote in elections in which they would never have been allowed to vote, have access to restaurants and public buildings to which they would never have had access, if it were not for DON EDWARDS' vision and dedication to principle?

I am sure that the number must be in the tens of millions.

But I know that this is a better and more just Nation, and that the principles of our Constitution are stronger and more vibrant today, because DON EDWARDS' leadership has made them so.

DON's retirement will be a loss to this Congress, this Nation, and to the State of California.

For me personally, I will lose the benefit of having a colleague in the Congress who is also my best friend.

But if anyone has earned the right to some rest, and a little peaceful time with his family, it is DON EDWARDS.

Mr. Speaker, I know that I can speak for all of my colleagues when I wish DON and his wife, Edie all the best in his retirement, and when I tell him how much his work has meant to this Congress and to this Nation.

His energy, his drive, his principle and his courage will be sorely missed.

Ms. PELOSI. Mr. Speaker, I rise today to join my colleagues in honoring DON EDWARDS on his retirement from the House of Representatives. DON has been a colleague, a mentor, a constitutional scholar, a voice for greater civil rights, the dean of my State's delegation, and above all, a friend. DON EDWARDS is a great patriot—no one loves our Constitution more and fights harder to protect it.

Mr. Speaker, DON's career has spanned eight Presidents and has seen many historic changes in our country. His legislative accomplishments over that period of time are vast and reflect DON's underlying belief that our Government has a moral obligation to work for peace and to end discrimination in all forms.

From the earliest days of his tenure as a Member of this House, DON has worked steadfastly to achieve peace and reduce military spending. He was one of the first opponents of the Vietnam war and has been a staunch advocate of a sensible, realistic and down-sized defense budget.

The true hallmark of DON's legislative career has been the struggle to remove discrimination from all levels of American society and to preserve our constitutional rights. DON has played a critical role in every piece of civil rights legislation since the Civil Rights Act of 1964. As the chairman of the House Judiciary Subcommittee on Civil and Constitutional Rights and as a leader on the full committee, DON has worked to enact legislation like the Voting Rights Act extension of 1982, the Fair Housing Amendments Act of 1988, the Americans With Disabilities Act of 1990, and the Civil Rights Act of 1991. DON also led the House passage of the equal rights amendment of 1971. For this body of legislation, every American is indebted to DON EDWARDS.

Mr. Speaker, DON also deserves our thanks for protecting our privacy from an increasingly intrusive Government. He has been a resolute foe of domestic surveillance operations and of all inhibitions on the free expression of political vies. In fact, DON has passed up opportunities to chair other committees so that he could keep his position as monitor of the FBI and CIA.

As the dean of California's 52-member House delegation, DON EDWARDS unified us in the face of partisan division. He has worked with Members who span the political spectrum to forge a California agenda and he has never let his ideology undermine his commitment to California.

Mr. Speaker, as this House enters an era where we seem more divided than ever, DON will be missed not only for his vast institutional knowledge, but also for his courtly manner and kind words. This House is losing a giant, Mr. Speaker and we already miss him.

Mr. YATES. Mr. Speaker, DON EDWARDS has been a very good friend and colleague of mine for over 30 years. He has been an exceptional member of this institution and I am honored to have shared this time with him.

Known to many as the conscience of the Congress, Mr. EDWARDS has been a champion of social change. He has successfully led the charge to protect a woman's right to choose, to guarantee civil rights and civil liberties for all people, and to protect the environment.

DON will be remembered in this Chamber for many years to come for his undying commitment to what is just and fair. He won the respect from both sides of the aisle for being a decent, honorable gentleman.

I regret to see such a good friend leave this House, and I am sorry that the State of California and this country is losing an outstanding legislator. However, I am grateful to have had the distinct pleasure of serving with a man whose integrity and convictions are an example to us all.

It has been an honor to have shared this floor with DON EDWARDS. He will truly be missed.

Mr. MOORHEAD. Mr. Speaker, I have served with DON EDWARDS in the House since I arrived in 1973.

We worked together on the Judiciary Committee for the same length of time.

As the senior members of the California congressional delegation, we worked cooperatively on issues of importance and concerns to the State for nearly a decade.

Through all of this, DON EDWARDS has always been the consummate gentleman. After hundreds of issues, endless hours of debate, and discussion, the decency of DON EDWARDS has never dimmed or diminished. He has always been respectful, friendly, courteous, approachable.

DON EDWARDS has always understood that if differences and partisan dialog were rooted in mutual respect and common decency, the House would serve its noble purpose of bettering the lives of all Americans.

Mr. Speaker, it is difficult to wrap the gratitude and admiration of years into a few sentences in the CONGRESSIONAL RECORD. I will miss DON EDWARDS, a great Californian, an outstanding Member of the House, a fine gentleman and a very good friend.

Mr. RANGEL. Mr. Speaker, please join me in honoring our distinguished colleague, Representative DON EDWARDS, who is retiring from the House of Representatives at the end of this, the 103d Congress, Representative EDWARDS, the dean of the California delegation, has represented his San Jose district with considerable distinction since 1962.

Representative DON EDWARDS was born and raised in the community that he now represents. He attended public schools in San Jose and received both his bachelors and juris doctorate degrees from nearby Stanford University. Don served as a Federal Bureau of Investigation agent from 1940 to 1941, and during World War II as a Naval intelligence officer and gunnery officer at sea. He and his wife, Edith B. Wilkie, a native New Yorker and presently executive director of the Arms Control and Foreign Policy Caucus, raised five sons: Judge Leonard Perry Edwards and Judge Thomas C. Edwards, both of Santa Clara County Superior Court; Samuel Dwyer Edwards, a software designer living in Portola Valley; Dr. Bruce Haven Edwards, a mathematics professor at the University of Florida; and William Don Edwards, a San Jose lawyer. By perpetuating the leadership and commitment to serving fellow human beings, these five men will serve, perhaps, as DON and Edith's greatest legacy.

Matching his legacy of congressional service, which he will bestow upon the Members of this body in a few short weeks, will prove difficult, if not impossible. Upon arriving in Washington, he made clear his goals to serve the people of San Jose and southern San Francisco Bay and to defend the liberties and laws of the Constitution. Working with both Presidents Kennedy and Johnson, Representative EDWARDS was the floor leader in the enactment of the 1964 Omnibus Civil Rights Act and the Voting Rights Act of 1965. He participated in civil rights demonstrations and marches in Washington and throughout the South. In 1963, he visited Dr. Martin Luther King, Jr. in the Birmingham Jail. Later, he helped to shepherd the equal rights amendment through the House and authored both the Freedom of Choice Act and the Religious Freedom Act. His respect for civil liberties and consistent support of those principles have led many of us to refer to Mr. EDWARDS as "The Conscience of the Congress."

Representative EDWARDS never wavered in his adherence to those principles, even when it led to helping those outside of this body's realm. Whether referring to his work on oversight of the FBI, United States involvement in El Salvador, Nicaragua, Vietnam, or South Africa, DON brought his integrity and decency with him. It has touched all who know him.

And by doing so, DON EDWARDS has better served his constituency and his country. In his 32 years of service, Mr. EDWARDS' legislation has: doubled the size of the San Francisco Bay Wildlife Refuge; established environmental education centers in Alviso and Fremont; given copyright protection to semiconductor manufacturers; streamlined export licensing; helped build the Robert F. Peckham U.S. Courthouse and Federal Building in San Jose, and many other highway, flood control, earthquake relief, and rail projects.

I find it perfectly appropriate that we honor Representative EDWARDS in the same week that this body honored President Nelson Mandela of the Republic of South Africa and welcomed him here to address Congress and the Nation. Like President Mandela, DON EDWARDS believes that our society's enemy is never an organization, an event, a symbol, or a race of people. Humanity's true enemies are tyranny, contempt for liberty, and injustice. In waging a never-ending battle against these foes, DON has transcended the legislative works of this body. In doing so, he has inspired generations of constituents, colleagues, and friends, including this humble legislator.

Mr. LEWIS of Georgia. Mr. Speaker, I rise to honor Congressman DON EDWARDS, a distinguished colleague and a great American. I want to take a few moments to honor this man because he means a great deal to me.

DON EDWARDS is one of those brave men we have read and studied about throughout history. He embodies the courage of those countless numbers of Americans who struggled for change before us. We stand on the shoulders of many great men and women who dedicated their lives to making sure that we are able to enjoy all of the rights and freedoms of this great Nation. We are fortunate to honor such an individual.

His retirement means the loss of one of the most able Members of the House of Representatives. DON EDWARDS has been one of the most progressive and most liberal voices in the Congress. The American people, those who believe in fairness, civil and human rights, and consumer rights are indebted to this man.

Congressman EDWARDS will be deeply missed, not only by the people of California whom he served so well, but by people throughout America. He has been a champion for the weak, for those who do not have much of a voice and for those who had very little power.

I have known and admired the good work of DON EDWARDS long before I came to Congress. During the civil rights movement, a much younger Congressman EDWARDS was often seen on the front lines of the struggle in places like Alabama, Georgia and Mississippi.

I am proud of the legacy that men and women, such as DON EDWARDS have left for us. Were it not for his past achievements, I would not be here.

We all knew where DON stands on the great issues of our times. He has truly made a difference and for that we are truly grateful. We are blessed for his service.

Mr. BROOKS. Mr. Speaker, I rise today joining with all my colleagues in bidding farewell to Congressman DON EDWARDS, the Dean of the California Delegation. DON's distinguished career in this House spans 32 years and he has spent that same number of years in diligent work on the House Committee on the Judiciary. He became Chairman of the Subcommittee on Civil and Constitutional Rights in the 93d Congress and has served in that capacity since. I have noted in many publications the use of two titles in referring to my good friend from California—"Mr. Civil and Constitutional rights" and "Guardian of the Constitution."

DON has justly earned these titles from his many years of vigorous and dedicated work in behalf of the rights of all his fellow Americans. My memories of DON are formed from the many issues, such as Watergate, where we spent long hours sitting next to one another on the Judiciary Committee. For the Nation, However, the memories of DON will be his legendary work on all civil rights issues coming before the Congress for the past 30 years, all of which have greatly benefited this Nation. I know Edie and DON will remember all their friends here as they travel the next road and I wish both of them good health and many years of enjoyment together.

Mr. STARK. Mr. Speaker, the adjournment of this 103d Congress will mark the end of the remarkable congressional career of my good friend from San Jose, DON EDWARDS.

When he announced his intention to end his service in this House several months ago, the news was greeted with headlines that included such phrases as guardian of the Constitution, champion of civil liberties, principled politician and liberal champion. It's my judgment that this was not the usual newspaper hyperbole. These phrases were an accurate reflection of what DON meant to the people of California and the Nation during the 32 years he served them in Congress.

His absence from our ranks when the 104th Congress convenes will be apparent. There will be a large gap in the line of those who defend the constitutional liberties we take for granted in this country. Others will rally to fill this void, but no one will take DON EDWARDS' place. He is unique and irreplaceable.

I have known and worked with DON since I came to Congress in 1973. He has been a wise counselor, a supportive colleague and a constructive critic. I will miss him and his wife Edie—she once served as my administrative assistant—greatly. I am pleased that the two of them will be able to travel and have time for pursuits their busy lives didn't permit before, but their absences will be tough to abide.

It's not that they will disappear from our lives. We will still have the advantage of their penetrating views of public affairs, their counsel on how to make this the peaceful and just world we know it can be. They have earned the more relaxed lives they have chosen. A part-time contribution from DON and Edie is still more than most people contribute working full time. But things will not be quite the same when the people of San Jose are no longer represented by the ever-youthful DON EDWARDS.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. HASTERT, for 5 minutes, today.

Mr. SHAYS, for 5 minutes, today.

Mrs. ROUKEMA, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes, on October 7.

(The following Members (at the request of Mr. RICHARDSON) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DARDEN, for 5 minutes, today.

Mr. KLINK, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Ms. DANNER, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mr. GLICKMAN, for 5 minutes, today.

Mr. DURBIN, for 5 minutes, today.

Mr. DEAL, for 5 minutes, today.

Mr. PARKER, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. LEHMAN, for 5 minutes, today.

Mr. STENHOLM, for 5 minutes, today.

Mr. BARLOW, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. MCCLOSKEY, for 5 minutes, today.

Ms. ESHOO, for 5 minutes, today.

Mr. RICHARDSON, for 5 minutes, today.

Mr. PICKLE, in support of Dellums-Murtha-Hastings on House Joint Resolution 416 in the Committee of the Whole, today.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1520. An act to amend the Petroleum Marketing Practices Act.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

H.R. 2902. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to reauthorize the annual Federal payment to the District of Columbia for fiscal year 1996, and for other purposes.

H.R. 3485. An act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1995 and 1996.

H.R. 4308. An act to authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes.

H.R. 4653. An act to settle Indian land claims within the State of Connecticut, and for other purposes.

H.J. Res. 401. Joint resolution designating the months of March 1995 and March 1996 as "Irish-American Heritage Month".

H.J. Res. 417. Joint resolution providing for the temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

S. 2406. An act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

ADJOURNMENT

Mr. RICHARDSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 3 o'clock and 2 minutes a.m.), under its previous order, the House adjourned until today, Friday, October 7, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3919. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Review of Implementation of the D.C. Depository Act During Fiscal Year 1992 and 1993," pursuant to D.C. Code, section 47–117(d); to the Committee on the District of Columbia.

3920. A letter from the Inspector General, Environmental Protection Agency, transmitting the EPA's annual Superfund report for fiscal year 1993, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

3921. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on missile proliferation, pursuant to 22 U.S.C. 2797 note; to the Committee on Foreign Affairs.

3922. A letter from the Acting Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1999 resulting from passage of H.R. 3841, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

3923. A letter from the Chair, Federal Energy Regulatory Commission, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the fiscal year 1993, pursuant to 5 U.S.C. 552b(j); to the Committee on Energy and Commerce.

3924. A letter from the Administrator, Federal Aviation Administration, transmitting its report on progress in correcting deficiencies in the Airmen and Aircraft Registry System, pursuant to 49 U.S.C. app. 1401 note; to the Committee on Public Works and Transportation.

3925. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the President's determination that the Russian Federation is in full compliance with the criteria of the Jackson-Vanik Amendment and of the Trade Act of 1974 concerning the freedom to emigrate to join a close relative in the United States, pursuant to 19 U.S.C. 2432(c), (d) and 19 U.S.C. 2439(b); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Natural Resources. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with amendments (Rept. 103–601 Pt. 6). Ordered to be printed.

Mr. GIBBONS: Committee of Conference. Conference report on H.R. 4278. A bill to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act (Rept. 103–842). Ordered to be printed.

Mr. DINGELL: Committee of Conference. Conference report on S. 1569. An act to amend the Public Health Service Act to revise and extend programs relating to the health of individuals who are members of minority groups, and for other purposes (Rept. 103–843). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4522. A bill to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes; with an amendment (Rept. 103–844). Referred to the Committee of the Whole House on the State of the Union.

Ms. SLAUGHTER: Committee on Rules, House Resolution 574. Resolution waiving points of order against the conference report to accompany the bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes (Rept. 103–845). Referred to the House Calendar.

Mr. MOAKLEY: Committee on Rules, House Resolution 575. Resolution providing for the consideration of the Senate amendment to the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes (Rept. 103–846). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules, House Resolution 576. Resolution providing for consideration of the bill (H.R. 5231) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior (Rept. 103–847). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 5199. A bill to amend the National Institute of Standards and Technology Act to provide for the establishment and management of voluntary encryption standards to protect the privacy and security of electronic information, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. WILLIAMS:

H.R. 5200. A bill to resolve the 107th merdian boundary dispute between the Crow Indian Tribe and the United States; to the Committee on Natural Resources.

By Mr. WYDEN:

H.R. 5201. A bill to amend the Internal Revenue Code of 1986 to provide for nonrecognition of gain on the sale of eligible small business stock if the proceeds of the sale are reinvested in other eligible small business stock; to the Committee on Ways and Means.

H.R. 5202. A bill to amend the Internal Revenue Code of 1986 to index the basis of certain capital assets for purposes of determining gain or loss; to the Committee on Ways and Means.

H.R. 5203. A bill to improve small business export assistance; to the Committee on Foreign Affairs.

H.R. 5204. A bill to amend the Internal Revenue Code of 1986 to provide incentives for awards to an employee under a performance-based reward plan and to direct the Administrator of the Small Business Administration to establish a program to promote implementation of performance-based reward plans and employee decisionmaking participation programs, and for other purposes; jointly, to the Committees on Ways and Means, Education and Labor, and Small Business.

By Ms. MARGOLIES-MEZVINSKY:

H.R. 5205. A bill to provide Federal assistance for compliance with federally-mandated motor vehicle inspection and maintenance requirements and employee trip reduction requirements in effect under the Clean Air Act; to the Committee on Energy and Commerce.

By Mr. BACCHUS of Florida (for himself and Mr. SHAW):

H.R. 5206. A bill to authorize the reliquidation of certain entries; to the Committee on Ways and Means.

By Mr. BAKER of California:

H.R. 5207. A bill to amend the Internal Revenue Code of 1986 to allow the one-time exclusion on gain from sale of a principal residence to be taken before age 55 if the taxpayer or a family member suffers a catastrophic illness; to the Committee on Ways and Means.

By Mr. BARTON of Texas (for himself, Mr. BREWSTER, Mr. SAM JOHNSON, Mr. BOEHNER, Mr. DELAY, Mr. HEFLEY, and Mr. CUNNINGHAM):

H.R. 5208. A bill to establish limits on wage continuation and severance benefits for Amtrak employees displaced by a discontinuance of service, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BARTON of Texas:

H.R. 5209. A bill to establish a wholly owned Government corporation for the operation of the air traffic control system, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. COLEMAN (for himself, Mrs. SCHROEDER, Mr. RICHARDSON, and Mr. SCHIFF):

H.R. 5210. A bill to direct the Secretary of Transportation to carry out a demonstration project to establish a highway corridor from Chihuahua, Mexico, through El Paso, TX to Denver, CO; to the Committee on Public Works and Transportation.

By Mr. DELAY:

H.R. 5211. A bill to amend the Clean Air Act to repeal certain emissions standards for motor vehicles which have not yet taken effect; to the Committee on Energy and Commerce.

H.R. 5212. A bill to amend the Clean Air Act to allow emission reductions caused by fleet turnover to be credited to the emission reduction requirements of the act; to the Committee on Energy and Commerce.

H.R. 5213. A bill to amend the Clean Air Act to prohibit the Federal Government from requiring State plans to mandate trip reduction measures; to the Committee on Energy and Commerce.

H.R. 5214. A bill to repeal provisions of the Clean Air Act dealing with toxic air emissions; to the Committee on Energy and Commerce.

H.R. 5215. A bill to repeal provisions of the Clean Air Act dealing with acid rain; to the Committee on Energy and Commerce.

H.R. 5216. A bill to repeal provisions of the Clean Air Act dealing with stratospheric ozone protection; to the Committee on Energy and Commerce.

H.R. 5217. A bill to repeal the Clean Air Act Amendments of 1990 (Public Law 101-549); to the Committee on Energy and Commerce.

By Mr. DELLUMS (for himself, Mr. HINCHEY, Mr. EVANS, Mr. RANGEL, Mr. OWENS, Mr. LEWIS of Georgia, Mr. CONYERS, Ms. NORTON, Ms. VELÁZQUEZ, Mr. TOWNS, Mr. NADLER, and Mr. BONIOR):

H.R. 5218. A bill to promote the fulfillment of basic unmet needs and to protect certain basic economic rights of the people of the United States, and for other purposes; jointly, to the Committees on Education and Labor, Foreign Affairs, Banking, Finance and Urban Affairs, Government Operations, Armed Services, and Ways and Means.

By Mr. EMERSON:

H.R. 5219. A bill to amend the Food Stamp Act of 1977 to permit participating households to use food stamp benefits to purchase nutritional supplements of vitamins, minerals, or vitamins and minerals; to the Committee on Agriculture.

By Ms. ENGLISH of Arizona (for herself and Mr. COPPERSMITH):

H.R. 5220. A bill to provide for the acceptance by the Secretary of Education of applications submitted by the local educational agency serving the Window Rock Unified School District, Window Rock, AZ, under section 3 of the act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1994 and 1995; to the Committee on Education and Labor.

By Mr. FIELDS of Texas (by request):

H.R. 5221. A bill to amend the Panama Canal Act of 1979 to reconstitute the Panama Canal Commission as a U.S. Government corporation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LANTOS (for himself, Mr. ACKERMAN, Mr. BEILENSON, Mr. BROWN of California, Mr. DEFAZIO, Mr. DELLUMS, Mr. GEJDENSON, Mr. HAMBURG, Mr. HOCHBRUECKNER, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. KLECZKA, Mr. MANTON, Mr. MINETA, Mr. MORAN, Mr. NEAL of Massachusetts, Mr. RAVENEL, Ms. ROYBAL-ALLARD, Mr. SHAYS, Mr. SWETT, Mr. SWIFT, and Mr. TOWNS):

H.R. 5222. A bill to provide for nonanimal acute toxicity testing by the Federal Government; to the Committee on Energy and Commerce.

By Mrs. MALONEY:

H.R. 5223. A bill to provide that a spouse, former spouse, surviving spouse, or surviving former spouse may qualify for retirement, survivor, and health benefits under the Foreign Service Act if the Foreign Service participant is disqualified for such benefits for reasons of misconduct or disloyalty to the United States; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

By Ms. MARGOLIES-MEZVINSKY:

H.R. 5224. A bill to direct the Secretary of Transportation to carry out a project for the implementation of a comprehensive transportation improvement program in Kulpsville, PA; to the Committee on Public Works and Transportation.

By Mr. MENENDEZ:

H.R. 5225. A bill to strengthen child support enforcement; jointly, to the Committees on Ways and Means, Education and Labor, and Banking, Finance and Urban Affairs.

By Mrs. MINK of Hawaii:

H.R. 5226. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to improve enforcement of such title by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Education and Labor.

By Mr. PETRI (for himself, Mr. COX, Mr. ARMEY, and Mr. LEVY):

H.R. 5227. A bill to provide for a system of guaranteeing the deposits and certain other liabilities of depository institutions through a self-regulating system of cross guarantees, to protect taxpayers against deposit insurance losses, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

By Mr. ROWLAND (for himself, Mr. COOPER, Mr. BILIRAKIS, Mr. GRANDY, Mr. MCCURDY, Mr. GOSS, Mr. PARKER, Mr. HASTERT, Mr. STENHOLM, and Mr. THOMAS of California):

H.R. 5228. A bill to reform the health insurance market, to promote the availability and continuity of health coverage, to remove financial barriers to access, to reform the Medicaid Program, to enhance health care quality, to contain costs through market incentives and administrative reforms, to provide incentives to purchase long-term care insurance, and for other purposes; jointly, to the Committees on Energy and Commerce, Ways and Means, Education and Labor, the Judiciary, and Veterans' Affairs.

By Mr. TAUZIN (for himself and Mr. FIELDS of Texas) (both by request):

H.R. 5229. A bill to amend the Panama Canal Act of 1979 to reconstitute the Panama Canal Commission as a U.S. Government corporation, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO:

H.R. 5230. A bill to require a revision of criteria, policies, and practices regarding the provision of housing to National Park Service employees; to the Committee on Natural Resources.

By Ms. PELOSI:

H.R. 5231. A bill to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior; to the Committee on Natural Resources.

By Mr. MCMILLAN:

H.R. 5232. A bill to ensure that only persons eligible to receive a firearm may purchase and possess firearms, and to prevent felons and persons adjudicated mentally incompetent from obtaining firearms from firearms dealers by providing for a system for identifying persons prohibited from possessing firearms through a magnetic strip affixed to driver's licenses and other identification documents; to the Committee on the Judiciary.

By Mr. NADLER (for himself, Mr. SCHUMER, Mr. SAXTON, Mr. LIPINSKI, Mrs. MALONEY, Mr. ENGEL, Mr. HASTINGS, Mr. CARDIN, and Mr. OWENS):

H.R. 5233. A bill to amend title VII of the Civil Rights Act of 1964 with respect to religious accommodation in employment; to the Committee on Education and Labor.

By Mr. PENNY:

H.R. 5234. A bill to amend the Agricultural, Trade, Development, and Assistance Act of 1954 to authorize the use of agricultural commodities in promote market development; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. WILSON:

H.R. 5235. A bill to provide a minimum for payments with respect to counties in the

State of Texas from receipts from national forests; to the Committee on Agriculture.

By Mr. KOPETSKI:

H.R. 5236. A bill to provide for the establishment and management of the Opal Creek Forest Preserve in the State of Oregon; jointly, to the Committees on Natural Resources and Agriculture.

By Mr. SANTORUM:

H.R. 5237. A bill to amend title 31, United States Code, to close appropriation accounts available for an indefinite period; to the Committee on Government Operations.

By Mr. ISTOOK (for himself, Mr. Inhofe, Mr. Barrett of Nebraska, Mr. Bateman, Mr. Dornan, Mr. Moorhead, Mr. Hansen, Mr. DeLay, Mr. McNulty, Mr. Skeen, Mr. Baker of California, Mr. Roberts, Mr. Livingston, Mr. Packard, Mr. Callahan, Mrs. Vucanovich, Mr. Hutto, Mr. Taylor of North Carolina, Mr. Ballenger, Mr. Bunning, Mr. Armey, Mr. Bartlett of Maryland, Mr. Bachus of Alabama, Mr. Kingston, Mr. Doolittle, Mr. Duncan, Mr. Emerson, Mr. Goodlatte, Mr. Herger, Mr. Hancock, Mr. McCollum, Mr. Solomon, Mr. Taylor of Mississippi, Mr. Brewster, Mr. Pete Geren of Texas, Mr. Dickey, Mr. Ewing, Mr. Gingrich, Mr. Hall of Texas, Mr. Stearns, Mr. Orton, Mr. Condit, Mr. Hyde, Mr. Lucas, and Mr. Everett):

H.J. Res. 424. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. BARTON of Texas:

H. Con. Res. 309. Concurrent resolution expressing the sense of the Congress with respect to the use of selective inspection and maintenance [I&M] programs as part of State implementation plans under the Clean Air Act; to the Committee on Energy and Commerce.

By Mr. BROWDER:

H. Con. Res. 310. Concurrent resolution expressing the sense of the Congress that any comprehensive health care reform legislation that is enacted should not take effect until the legislation is approved through a national referendum; jointly, to the Committee on Energy and Commerce and Ways and Means.

By Mr. FARR (for himself, Mr. Johnson of South Dakota, and Mr. Mica):

H. Con. Res. 311. Concurrent resolution expressing the sense of the Congress that the percentage of United States Armed Forces participating in the U.N. led peacekeeping force in Haiti should not exceed the annual percentage assessed the United States by the United Nations for contributions to finance the peacekeeping activities of the United Nations; to the Committee on Foreign Affairs.

By Mr. HALL of Texas:

H. Con. Res. 312. Concurrent resolution to honor the U.S. military astronauts who flew to the Moon While on duty with the National Aeronautics and Space Administration; to the Committee on Armed Services.

By Mr. THOMAS of California:

H. Con. Res. 313. Concurrent resolution providing for a technical correction in the enrollment of S.21; considered and agreed to.

By Mr. FRANK of Massachusetts:

H. Res. 572. Resolution expressing the sense of the House of Representatives relating to the eradication of slavery where it exists throughout the world; to the Committee on Foreign Affairs.

By Mr. POMEROY:

H. Res. 573. Resolution requiring Members of the House of Representatives to pay, from the Official Expenses Allowance, the actual cost of extraneous matter printed in that portion of the Congressional Record entitled "Extensions of Remarks"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROOKS:

H.R. 5238. A bill to authorize the vessel R/V *Ross Seal* to be documented under the laws of a foreign country during a 3-year period; to the Committee on Merchant Marine and Fisheries.

By Mr. KOPETSKI:

H.R. 5239. A bill to amend the fishing endorsement issued to a vessel owned by Ronnie C. Fisheries, Inc.; to the Committee on Merchant Marine and Fisheries.

By Mr. TORRES:

H.R. 5240. A bill for the relief of Jose J. Aceves; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 50: Mr. Martinez and Mr. Nadler.

H.R. 140: Mr. Smith of Iowa and Mr. Lewis of Kentucky.

H.R. 162: Mr. Goodlatte Mr. Ehlers, and Mr. Levy.

H.R. 635: Mr. Abercrombie.

H.R. 642: Mr. Furse, Ms. Shepherd, and Mr. Skaggs.

H.R. 672: Mr. Reed and Ms. DeLauro.

H.R. 1705: Mr. Machtley, Mr. Wise, Mr. Kopetski, Mr. Payne of New Jersey, Mr. Thomas of California, and Mr. Kleczka.

H.R. 1780: Mr. Manton.

H.R. 2420: Mr. Calvert and Mr. Hastings.

H.R. 2543: Ms. Eshoo and Mr. Sanders.

H.R. 2717: Mr. Hutchinson and Mr. Knollenberg.

H.R. 2863: Ms. Lowey.

H.R. 3137: Mr. Bachus of Alabama.

H.R. 3207: Mr. Moakley.

H.R. 3334: Mr. Ramstad.

H.R. 3434: Mr. Levin.

H.R. 3526: Mr. Ford of Tennessee, Ms. Norton, and Mr. Price of North Carolina.

H.R. 3628: Ms. Eddie Bernice Johnson of Texas, Mr. Hilliard, Mr. Frost, Mr. Quinn, and Mr. Fingerhut.

H.R. 3630: Mr. Evans.

H.R. 3756: Mr. Dreier, Mr. Pombo, Mr. Kim, Mr. Royce, Mr. Moorhead, Mr. Baker of California, Mr. Doolittle, Mr. Dornan, Mr. Gallegly, Mr. Herger, Mr. Horn, Mr. Hunter, Mr. Packard, Mr. Rohrabacher, Mr. Thomas of California, Mr. McCandless, Mr. Cunningham, Mr. Calvert, and Mr. Huffington.

H.R. 3795: Mr. Packard.

H.R. 3866: Mr. Dixon.

H.R. 3906: Mrs. Thurman, Mr. Quinn, and Ms. Cantwell.

H.R. 3971: Mr. Kingston and Mr. Solomon.

H.R. 4056: Mr. Canady, Mr. Gordon, Mr. Andrews of Texas, and Mr. Zeliff.

H.R. 4142: Mr. Wyden.

H.R. 4163: Mr. Skaggs.

H.R. 4289: Mr. McHale.

H.R. 4303: Mr. Fawell.

H.R. 4356: Mr. McInnis, Mr. Machtley, Mr. Manzullo, and Mr. McCollum.

H.R. 4427: Ms. Margolies-Mezvinsky.

H.R. 4491: Mr. Packard.

H.R. 4496: Mr. Laughlin, Mr. Berman, Mr. Owens, Mr. Manton, and Mr. Serrano.

H.R. 4507: Mr. Hastings.

H.R. 4514: Mr. Doolittle, Mr. Gejdenson, and Mr. Wilson.

H.R. 4531: Mr. Johnston of Florida, Mr. Hastings, and Mr. Brown of Ohio.

H.R. 4562: Mr. Bonilla, Mr. Dooley, Mr. Bereuter, and Mr. Minge.

H.R. 4589: Mr. McHale.

H.R. 4831: Mr. Peterson of Florida and Mrs. Fowler.

H.R. 4897: Mr. Johnson of Georgia and Mr. Solomon.

H.R. 4898: Mr. Johnson of Georgia and Mr. Solomon.

H.R. 4936: Mr. Stupak and Mr. Smith of New Jersey.

H.R. 4949: Mr. Thomas of Wyoming and Mr. Solomon.

H.R. 4977: Mr. Kildee.

H.R. 4978: Mr. Kildee.

H.R. 4979: Mr. Kildee.

H.R. 4997: Mr. Klein, Mr. Bonior, Mr. Torricelli, Mr. Goss, and Mr. Frank of Massachusetts.

H.R. 5043: Mrs. Kennelly, Mr. Rahall, Mr. Menendez, Mr. Hoyer, Mr. Gekas, Mr. Barlow, Mr. Kleczka, Mr. Johnson of South Dakota, Mr. Walsh, and Mr. Evans.

H.R. 5055: Mr. Towns, Mr. Torricelli, and Mr. Kreidler.

H.R. 5056: Mr. Shays.

H.R. 5068: Mr. Evans.

H.R. 5073: Mr. DeLay, Mr. Portman, and Mr. Bachus of Alabama.

H.R. 5076: Mr. Neal of Massachusetts, and Mr. Solomon.

H.R. 5082: Mr. Young of Alaska, Mr. Hutchinson, Mr. Castle, Mr. Bartlett of Maryland, Mrs. Morella, Mr. Upton, Mr. Franks of New Jersey, Mr. King, Ms. Molinari, Mr. Fish, Mr. Boehlert, Mr. Walsh, Mr. Quinn, Mr. Houghton, Mr. Taylor of North Carolina, Mr. Greenwood, Mr. Ravenel, Mr. Inglis of South Carolina, Mr. Duncan, Mr. Ridge, Mr. Quillen, Mr. Hansen, Mr. Dickey, Mr. Schaefer, Mr. Livingston, Mr. Smith of New Jersey, Mr. Schiff, Mr. Solomon, Mr. Kingston, Mr. Paxon, Mr. Goodlatte, Mr. Everett, Mr. Collins of Georgia, Mr. Leach, Mr. Baker of Louisiana, Mrs. Roukema, Mr. Gilman, Mr. Ballenger, Mr. Inhofe, Mr. Shuster, Mr. Bateman, Ms. Dunn, Mr. Rogers, Mr. Kasich, Mr. Callahan, Mr. Roth, Mr. Zeliff, Mrs. Vucanovich, Mr. Bereuter, Mr. Camp, Mr. Lightfoot, Mr. Smith of Michigan, Mr. Skeen, Ms. Brown of Florida, Mr. Levy, Mr. Machtley, Mr. Gekas, Mrs. Bentley, Mr. Wheat, and Mr. Spence.

H.R. 5092: Mr. Underwood, Mr. Barca of Wisconsin, and Ms. English of Arizona.

H.R. 5100: Mr. Canady.

H.R. 5106: Mr. Ballenger and Mr. Deutsch.

H.R. 5111: Ms. DeLauro and Mr. Hughes.

H.R. 5135: Mr. Barton of Texas, Mr. Ballenger, Mr. Zimmer, Mr. Cox, Mr. Armey, and Mr. Ramstad.

H.R. 5141: Ms. Slaughter, Mr. Neal of Massachusetts, Ms. Lowey, Mr. Durbin, Mrs. Byrne, Ms. Shepherd, Mr. de Lugo, Mr. Farr, Mr. Hillard, Mr. Jacobs, Mr. Fazio, Mr. Torkildsen, Mr. Hinchey, Ms. Furse, Mr. Romero-Barcelo, Mr. Tucker, Mr. Vento, Mr. Coppersmith, Mr. Coleman, Ms. Roybal-Allard, Mr. Engel, Ms. Eddie Bernice Johnson of Texas, and Mr. Neal of North Carolina.

H.R. 5185: Mr. Pombo, Mr. Dornan, and Mr. Packard.

H.J. Res. 44: Ms. Dunn and Mr. Deal.

H.J. Res. 184: Mrs. LLOYD, Ms. SLAUGHTER, Mr. FLAKE, Mr. DIXON, Mr. DELLUMS, Mr. PAYNE of New Jersey, Mr. ROSE, Mr. TRAFICANT, Mr. THOMPSON, Mr. HYDE, Mr. PORTER, Mr. ANDREWS of Texas, Mr. BAESLER, Mr. GLICKMAN, Miss COLLINS of Michigan, Mr. DUNCAN, Mr. SUNDQUIST, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LEWIS of Florida, Mrs. BENTLEY, Mr. KLEIN, Mr. HUTTO, Mr. ACKERMAN, Mr. SANGMEISTER, Mr. ANDREWS of New Jersey, Mr. MCCOLLUM, Mr. FIELDS of Texas, Mr. STUMP, Mrs. BYRNE, Mr. CASTLE, Mr. FORD of Tennessee, Mr. KANJORSKI, Ms. MCKINNEY, Mr. BROWN of California, Mr. MOORHEAD, Ms. KAPTUR, Mrs. MEYERS of Kansas, Mr. BATEMAN, Mr. BLUTE, Mr. BREWSTER, Mr. BLILEY, Mr. BROWDER, Mr. LEVY, Mr. REYNOLDS, Mr. HOCHBRUECKNER, Mr. DORNAN, Mr. BILBRAY, Mr. ANDREWS of Maine, Mr. TORKILDSEN, Mr. DELAY, Mr. GINGRICH, Mr. SAXTON, Mrs. JOHNSON of Connecticut, Mr. FORD of Michigan, and Mr. BLACKWELL.

H.J. Res. 230: Mr. BAKER of Louisiana, Mr. BATEMAN, Mr. BILIRAKIS, Mr. BLACKWELL, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. DEFAZIO, Mr. EMERSON, Mr. FLAKE, Mr. HOYER, Mr. HUTTO, Mr. KIM, Mrs. MEEK of Florida, Ms. MOLINARI, Mr. NADLER, Mr. TORRES, and Mr. YOUNG of Alaska.

H.J. Res. 231: Mrs. BYRNE, Mr. ANDREWS of New Jersey, Mr. KLEIN, Mr. LIVINGSTON, Mrs. MEEK of Florida, Mr. SCHAEFER, Mr. BORSKI, Mr. KING, Mr. MURPHY, Mr. HOAGLAND, Mr. FRANK of Massachusetts, Mr. YOUNG of Alaska, Mr. PICKETT, Mr. REED, Mr. FROST, Mrs. LLOYD, Mr. MANTON, and Mr. HOYER.

H.J. Res. 244: Mr. MOORHEAD, Mr. GALLEGLY, Mr. ROTH, Mr. VALENTINE, Mr. BROWN of California, Mr. FILNER, Mr. SABO, Mr. STUMP, Mr. BALLENGER, Mr. CALVERT, Mr. DIAZ-BALART, Mr. REGULA, Mr. EVANS, Mrs. BENTLEY, Mr. GOODLATTE, Mr. MARTINEZ, Mr. DORNAN, and Mr. FLAKE.

H.J. Res. 402: Mr. SOLOMON, and Mr. THOMAS of Wyoming.

H.J. Res. 411: Mrs. BYRNE, Mr. BACCHUS of Florida, Mr. BARCA of Wisconsin, Mr. EHLERS, Mr. FRANKS of New Jersey, Mr. MACHTLEY, Mr. RAMSTAD, Mr. GALLO, Mr. HASTERT, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. BROWN of California, Mr. WOLF, Mr. ROGERS, Mr. SMITH of Oregon, Mr. STOKES, Mrs. VUCANOVICH, Mr. BEVILL, Mr. LAUGHLIN, Mr. OLVER, Mr. HAMBURG, Mr. BECERRA, Mr. SCOTT, Mr. ROSTENKOWSKI, Mr. FIELDS of Louisiana, Mrs. MINK of Hawaii, Ms. MARGOLIES-MEZVINSKY, Ms. SHEPHERD, Mr. DARDEN, Mr. DEAL, Mr. MENENDEZ, Mr. NEAL of Massachusetts, Mr. DELLUMS, Mr. HUTTO, Mr. KANJORSKI, Mr. MAZZOLI, Mr. MOAKLEY, Mr. SPENCE, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. MCCOLLUM, Mr. GEKAS, Mr. HOLDEN, Mr. SHUSTER, Mr. MURPHY, Mr. RIDGE, Mr. ORTON, Mr. ANDREWS of Maine, Mr. KLINK, Mr. NEAL of North Carolina, Mr. SARPALIUS, Mr. LEVY, Mr. FLAKE, Mr. NADLER, Mr. SCHUMER, Mr. TOWNS, Ms. VELÁZQUEZ, Ms. MOLINARI, Mr. RANGEL, Mr. ENGEL, Mr. GILMAN, Mr. PAXON, Mr. LAFALCE, Mr. HOUGHTON, Mr. SAM JOHNSON, Mr. SMITH of Michigan, Mr. ROHRABACHER, Mr. ZIMMER, Mr. CALVERT, Mr. HOKE, Mr. BARTLETT of Maryland, Mr. GRAMS, Ms. SNOWE, Mr. UPTON, Mr. YOUNG of Florida, Ms. DELAURO, Mr. HOCHBRUECKNER, Mr. CARDIN, Mr. TAUZIN, Mr. LEHMAN, Mr. HASTINGS, Mr. DOOLITTLE, Mr. HUNTER, Mr. LEACH, Mrs. MEYERS of Kansas, Mr. QUILLEN, Mr. RAVENEL, Mr. ROEMER, Mr. FALEOMAVAEGA, Mr. SERRANO, Mr. HALL of Texas, Mr. ANDREWS of Texas, Mr. ABERCROMBIE, Mr. BARCIA of Michigan, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BROWDER, Mr. CARR, Mrs. CLAYTON, Mr. CLYBURN, Miss COLLINS of Michigan, Mr. COYNE, Mr. CRAMER, Ms. DANNER, Mr. DEFAZIO, Mr. EDWARDS of Texas, Ms. ENGLISH of Arizona, Mr. FARR, Mr. FINGERHUT, Mr. FOGLIETTA, Ms. FURSE, Mr. HUGHES, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. KLECZKA, Mr. KOPETSKI, Ms. LAMBERT, Mrs. LOWEY, Mr. MANTON, Mr. MARKEY, Mr. MCHALE, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MINGE, Mr. MORAN, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. GEPHARDT, Mr. GONZALEZ, Mr. HAMILTON, Mr. PETERSON of Florida, Mr. POMEROY, Mr. RAHALL, Mr. ROMERO-BARCELÓ, Mr. ROSE, Mr. RUSH, Mr. SMITH of Iowa, Mr. STENHOLM, Mr. STUPAK, Mr. SYNAR, Mrs. THURMAN, Mrs. UNSOELD, Ms. WATERS, Ms. WOOLSEY, Mr. WYDEN, and Mr. DELAY.

H.J. Res. 413: Mr. PASTOR, Mr. BLUTE, Mr. JEFFERSON, Mr. TAUZIN, Mr. HAMILTON, Mr. GONZALEZ, Mr. LIPINSKI, Mr. EMERSON, Mr. ROMERO-BARCELO, Mrs. MINK of Hawaii, Mr. FLAKE, Ms. ENGLISH of Arizona, Mr. GILMAN, Mrs. MORELLA, Mr. TORKILDSEN, Mrs. BENTLEY, Mr. SHAW, Mrs. MEYERS of Kansas, Mr. CRANE, Mr. HOBSON, Mr. HYDE, Mr. BOEHLERT, Mr. FIELDS of Texas, Mr. HUNTER, Mr. REGULA, Mr. THOMAS of California, Mr. OXLEY, Mr. MYERS of Indiana, Mr. PACKARD, Mr. LIGHTFOOT, Mr. BALLENGER, Mr. WALSH, Mr. BARRETT of Nebraska, Mr. WELDON, Mr. DIAZ-BALART, Mr. DELAY, Mr. SKEEN, Mr. LEACH, Mr. SOLOMON, Mr. LIVINGSTON, Mr. RAMSTAD, Mr. MCMILLAN, MR. ROBERTS, Mr. TAYLOR of North Carolina, Mr. COBLE, Mr. HOUGHTON, Mr. HANSEN, Mr. MCCRERY, Mr. HAYES, Mr. COX, Mr. STUMP, Mr. CALLAHAN, Mr. DUNCAN, Mr. LAUGHLIN, Mr. SPENCE, Mr. KIM, Mr. RIDGE, Mr. DORNAN, Mr. BLILEY, Mr. POMBO, Mr. LUCAS, Mr. GINGRICH, Mr. LEWIS of California, Mr. HASTERT, Mr. MCHUGH, Mr. SMITH of New Jersey, Mr. GILCHREST, MR. GREENWOOD, Mr. HOEKSTRA, Mr. ROTH, Ms. SNOWE, Mr. GRANDY, Mr. KOLBE, Mr. EHLERS, Mr. YOUNG of Alaska, Mr. RAVENEL, Mr. PORTER, Mr. GEKAS, Mrs. FOWLER, Mr. BUNNING, Mr. SMITH of Iowa, Mr. SMITH of Texas, Mr. DURBIN, Mr. ROGERS, Mr. HALL of Texas, Mr. FAWELL, Mr. CUNNINGHAM, Mr. SAM JOHNSON, Mr. GRAMS, Mr. UPTON, Mr. GUNDERSON, Mr. MCCOLLUM, Mr. QUINN, Mr. ZIMMER, Mr. BEREUTER, Ms. MOLINARI, Mr. SCHAEFER, Mr. ROYCE, Mr. ROHRABACHER, Mr. CAMP, Mr. PETRI, Mr. CALVERT, Mr. SAXTON, Mr. MCKEON, Mr. DOOLITTLE, Ms. PRYCE of Ohio, Mr. CASTLE, Ms. DUNN, Mr. SANTORUM, Mr. QUILLEN, Mr. KASICH, Mr. MACHTLEY, Mr. HUTCHINSON, Mr. LEVY, Mr. LAZIO, Mr. BAKER of California, Mr. HERGER, Mr. FISH, Mr. PORTMAN, Mr. APPLEGATE, Mr. MILLER of Florida, Ms. LONG, Mr. KNOLLENBERG, Mr. FROST, Mr. BILIRAKIS, Mr. BROOKS, Mr. TRAFICANT, Mr. MURPHY, Mr. MILLER of California, Mr. FARR, Ms. MCKINNEY, Mr. GLICKMAN, Mr. COLEMAN, Mr. REED, Ms. COLLINS of Michigan, Ms. VELAZQUEZ, Mr. SERRANO, Mr. CARDIN, Mr. PAYNE of Virginia, Mr. HOAGLAND, Mr. HASTINGS, Mr. FORD of Michigan, Mr. VOLKMER, Mr. BARCA of Wisconsin, Ms. DANNER, Mr. THORNTON, Mr. MAZZOLI, Mr. PAXON, Mr. MOORHEAD, Mr. ARMEY, Mr. BAKER of Louisiana, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BATEMAN, Mr. BUYER, Mr. CLINGER, Mr. COLLINS of Georgia, Mr. DICKEY, Mr. DREIER, Mr. YOUNG of Florida, Mr. EWING, Mr. FRANKS of Connecticut, Mr. GALLEGLY, Ms. SLAUGHTER, Mr. VISCLOSKY, Mr. GOODLATTE, Mr. HOKE, Mr. HORN, Mrs. JOHNSON of Connecticut, Mr. KING, Mr. KLUG, Mr. LEWIS of Kentucky, Mr. LEWIS of Florida, Mr. MCCANDLESS, Mr. MCDADE, Mr. MCINNIS, Mr. MICHEL, Mr. NUSSLE, Mr. SCHIFF, Mr. SHUSTER, Mr. SMITH of Michigan, Mr. TALENT, Mr. THOMAS of Wyoming, Mrs. VUCANOVICH, Mr. WOLF, Mr. BACHUS of Alabama, Mr. KINGSTON, Mr. MINETA, Mr. BROWN of California, Mr. FAZIO, Mr. SKELTON, Mr. SISISKY, Mr. KILDEE, Mr. STUDDS, Mr. GIBBONS, Mr. GENE GREEN of Texas, Mr. JACOBS, Mr. VENTO, Mr. BEILENSON, Mr. BERMAN, Mr. MONTGOMERY, Mr. MARKEY, Mr. DINGELL, MR. BILBRAY, Mr. KREIDLER, Ms. DELAURO, Ms. LAMBERT, Mr. KANJORSKI, Mr. FORD of Tennessee, Mr. RAHALL, Mr. ROSE, Mr. POSHARD, Mr. PETE GEREN of Texas, Mr. CONDIT, Mr. WISE, Mr. WILSON, Mr. CHAPMAN, Mr. COYNE, and Mr. BORSKI.

H.J. Res. 418: Mr. PAXON and Ms. DUNN.

H.J. Res. 419: Mr. WOLF, Mr. EWING, Mr. DUNCAN, and Mrs. VUCANOVICH.

H.J. Res. 422: Mr. WHEAT, Mr. MEEHAN, Mr. DEUTSCH, Ms. LOWEY, Mr. OWENS, Mr. BARRETT of Wisconsin, and Ms. MARGOLIES-MEZVINSKY.

H. Con. Res. 148: Mrs. VUCANOVICH and Mr. WILSON.

H. Con. Res. 173: Mr. ROEMER, Mr. MONTGOMERY, Mr. GEJDENSON, Mr. MILLER of California, Mr. POMEROY, Mr. MCDERMOTT, Mr. BISHOP, Mr. PALLONE, Mr. HASTINGS, Mrs. BYRNE, Mr. STOKES, and Mr. COX.

H. Con. Res. 233: Mr. ROSE, Mr. NADLER, Ms. CANTWELL, and Mr. NEAL of Massachusetts.

H. Con. Res. 239: Mr. FILNER, Mr. COLEMAN, and Mr. VOLKMER.

H. Con. Res. 243: Mr. PASTOR.

H. Con. Res. 247: Mr. KILDEE, Mr. BEILENSON, and Mr. WYDEN.

H. Res. 497: Ms. FURSE and Mr. LEWIS of Georgia.

H. Res. 525: Mr. GRAMS.

H. Res. 529: Mr. THORNTON.

H. Res. 531: Mr. CLEMENT.

H. Res. 569: Mr. LINDER, Mr. DUNCAN, Mr. ROGERS, Mr. THOMAS of Wyoming, Mr. DELAY, Mr. ROTH, Mr. GOODLATTE, and Mr. DICKEY.

EXTENSIONS OF REMARKS

A LOPSIDED TRADE POLICY MUST STOP

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. McNULTY. Mr. Speaker, during the past 2 years, the United States has witnessed an unprecedented level of investment in our long distance industry by foreign telephone companies. In 1993, British Telecom announced it planned to acquire a 20-percent investment—the limit allowed by law—in MCI, the Nation's second largest long distance carrier. Now, less than 1 year later, France Telecom and Deutsche Bundespost, France and Germany's state telephone entities, say they plan to make a similar level of investment in our Nation's third largest long distance carrier, Sprint Corp.

Mr. Speaker, the United States has been willing to allow foreign entities to enter our robust domestic long distance telecommunications market. This is a cornerstone of our competitive telecommunications policy. Unfortunately, when some of our largest telecommunications companies attempt to break into lucrative foreign markets such as Germany, France, and Britain, they find the doors to these markets are closed.

Robert E. Allen, chairman of AT&T, our Nation's largest long distance company, recently addressed a networked economy conference of Communications Week International here in Washington. In his keynote speech, Mr. Allen explained with great clarity why this lopsided trade policy must stop. As Mr. Allen correctly pointed out to those gathered at the conference, this policy is unfair and deprives U.S. customers of important competitive choices in the current global market. The growing presence of foreign, state run competitors in our domestic long distance marketplace also has the distinct possibility of seriously reducing competition in the United States, where more than 500 long distance companies compete for the business of American consumers.

Mr. Speaker, I urge my colleagues to read carefully the relevant portions of Mr. Allen's speech, which I submit for the record. The issues raised need to be examined carefully by the Federal Communications Commission, the Department of Justice, the Department of Commerce and the United States Trade Representative before another state supported competitor gets easy access to our market while U.S. based competitors still do not receive comparable market access in other countries.

LOPSIDED TRADE POLICY

(Speech by Robert E. Allen, chairman of AT&T)

Congress has been debating the first major communications legislation in this country in 60 years.

Unfortunately, events compelled withdrawal of the Hollings bill in the Senate on Friday. So apparently there won't be telecommunications reform this year.

We've supported the Hollings bill because it provides a logical approach to the expansion of competition.

It anticipated the local exchange companies' eventual freedom to enter the already competitive long distance market. But not until the introduction of real competition, in the local exchange market, where the local exchange companies still have a monopoly.

That arranagement strikes me as fair. And hopefully, these principles will be part of any legislation proposed in Congress next year.

Meanwhile, the size and relative openness of the U.S. market have attracted competition from all over the industrialized world. Unfortunately the open door policy of the U.S. market has not generated comparable progress in other countries. They want the freedom to compete for customers in the United States, but they haven't taken significant steps to dismantle their monopoly control at home.

I don't mean any disrespect to my fellow panelists or to their companies. And I certainly don't want to suggest that anyone in America should be telling another country how to run its telecommunications system.

France Telecom and the Deutsche Bundespost have crested some of the best technical infrastructure in the world. They've been serving their own populations for most of this century without any policy advice from the United States, thank you very much.

But the problems created by closed markets transcend the borders of any one nation.

The proposal of France Telecom and Deutsche Bundespost Telekom to enter the U.S. network services market through their investment in Sprint goes well beyond the internal policies of any of the countries involved. It underscores the question of whether America can afford to open the door to competitors from countries which offer very little in the way of comparable market access.

If I may be permitted to answer my own question: The time for this lop-sided arrangement is long past.

Not just because it strikes many people as unfair, but more important, it deprives U.S. customers of competitive choices in the global market, and it poses the risk of reducing the competition that's already the strength of the U.S. market.

Meanwhile, business and residential customers are looking for the best possible combination of price and service here and abroad. They want the option of buying exactly the services they want from the carrier of their choice. And they want that carrier to meet their needs inside and across the borders of other countries.

Even putting aside the new information services that will be coming down the superhighway, competitive access is crucial for delivering the full benefits of the voice and data services that make up most of the global market right now.

The big multinational customers whose buying power drives that market are growing impatient. They've been teased long enough with the promise of competitive choices for seamless global connections through the world's public switched networks.

That's impossible right now. Not because technology is lacking, but because competition is lacking. And competition will remain lacking as long as carriers from other countries are allowed to compete in the U.S. at the same time they sharply restrict access to their home markets.

This just doesn't make sense for customers. They are being denied the economic benefits of facilities-based competition among carriers outside the United States.

Permitting any country to operate this kind of a closed market while its own affiliate competes on an equal footing in the United States is not in the best interests of full and fair competition.

And the France Telecom/Deutsche Bundespost Telekom/ Sprint deal as proposed now would not fit any reasonable definition of full and fair competition.

Not as long as France and Germany have recently made significant strides in bringing international settlement rates down closer to cost—a practice we'd like to see more countries emulate.

American international callers pay out $4 billion a year more than the U.S. takes in from all foreign governments. An estimated $2.3 billion of that is pure subsidy. It amounts to a tax on Americans.

And while they're collecting this premium to complete calls from America, many countries use discriminatory rates to charge carriers from other parts of the world substantially less for similar access.

High and discriminatory settlement rates are symptoms of uncompetitive markets. They represent toll booths on the Global Information Superhighway, and the tolls are still too high.

It's time for strong action by the U.S. government to demonstrate that comparable market access is not longer an abstract hope. It's a principle, a standard for telecommunications trade between the U.S. and other countries, and a necessity for giving customers the level of services they want.

Specifically, we are asking the Federal government to take action now.

We are requesting that the FCC act on the filing we made a year ago and develop uniform rules that would make comparable market access a standard for foreign carriers to enter the U.S. telecom services market. And we're asking the FCC to review the France Telecom/Deutsche Bundespost/Sprint deal in the context of that standard.

We're calling on the commission to use its statutory authority to require foreign carriers looking to do business in the U.S. to first demonstrate that their home markets are open to competition in basic services, and provide the kind of network interconnections that go with true competition.

And, of course, we want the commission to insist that any foreign carrier looking to compete in this market offer cost-based, non-discriminatory accounting rates to all U.S. carriers.

The Department of Justice is already reviewing the antitrust issues raised by the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

France Telecom/Deutsche Bundespost Telekom investment in Sprint. But I can't imagine any set of conditions imposed here that would be more effective than the establishment of real competition in France and Germany.

With that in mind, we're requesting that the U.S. Trade representative begin negotiations to achieve comparable access in France and Germany, and we're asking the U.S. Congress to examine the larger issue of comparable market access globally.

This kind of attention to the market for services would be entirely consistent with the support already provided by the Clinton Administration for the rising trend in American exports of telecommunications equipment. The freedom of American carriers to provide their customers with end-to-end global services should not be impeded by political boundaries.

We're not asking the U.S. government to create a draconian set of market entry conditions here. The bottom line is simply this: We want U.S. carriers to have the practical opportunity to compete in the home markets of other carriers on a comparable basis with the opportunity those carriers have in the U.S.

I have great respect for France Telecom, Deutsche Bundespost Telekom and Sprint. AT&T has known them individually as customers, competitors and suppliers. I don't even fault the French and German companies for trying to take advantage of the lopsided market access policies in America.

But I would find fault with American public policy if it continues to allow this kind of market imbalance on a case by case basis. American policy-makers should be leaders in seeing that national boundaries don't stand between customers and competitive choices.

We appreciate the progressive forces at work in Europe. They recognize the value and the necessity of competition in delivering the benefits of the Information Superhighway.

We applaud their efforts to open up their markets to competition. And we sincerely hope that the U.S. government will support those efforts by setting policies that encourage full and fair competition in basic communications services.

If our government is successful in that, America will earn the gratitude of all future travelers on the Global Information Superhighway, whatever their starting points, and whatever their destinations. Thank you very much.

TRIBUTE TO VIRGINIA MARIA CARREIRO DA MOTA

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today on behalf of an outstanding Rhode Islander, Virginia Maria Carreiro da Mota, who is being honored this month by International Institute as their 1994 Outstanding Citizen. Each year, the International Institute recognizes a foreign-born naturalized citizen for their distinguished and noteworthy contributions to the community.

Virginia da Mota was born in Vila da Povoacao, Sao Miguel, in the Azores, immigrated to the United States in 1967, and became a United States citizen in 1972. Ms. da Mota is a leader in the Portuguese community of Rhode Island and is renown for the significant contribution she has made in the administration of educational programs for linguistically and culturally diverse students. Ms. da Mota received both her bachelor of arts degree in education and a master of education in bilingual and bicultural education from Rhode Island College. She went on to earn an additional master of arts in ESL and cross-cultural studies from Brown University in May of 1993.

In 1975, as a teacher in the East Providence School system, Ms. da Mota designed and implemented the city's first bilingual education program. Since 1976, she has worked in the Rhode Island Department of Education and is credited with creating the State Office of Bilingual Education which insures that students with limited English have access to high quality education and support.

Ms. da Mota is dedicated to community and public service endeavors and is an active member of St. Xavier Parish. In addition, she was recently appointed by the East Providence City Council to serve on the Municipal Land Trust and has served as president of Citizens Concerned for Human Progress.

As a member of the Education and Labor Committee of the U.S. House of Representatives, I am proud to acknowledge the work of an individual whose legacy to education will positively impact the lives of countless young people for generations to come.

Mr. Speaker, on behalf of my home State of Rhode Island, I would respectfully ask my fellow colleagues to join me in honoring an outstanding individual, Virginia Maria Carreiro da Mota.

HONORING EMIL PROPPER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ENGEL. Mr. Speaker, I would like to take this opportunity to recognize the contributions of Mr. Emil Propper, who is retiring from the United Federation of Teachers after more than 16 years of service.

As the Representative of District 11 in the Bronx, and as a chapter leader at Truman High School, Mr. Propper has worked with his colleagues to improve conditions for both students and teachers. His dedication to his profession is well known, and the has touched many young lives in a positive way.

Mr. Propper has had a stellar career in the private sector and as a teacher. A graduate of Stevens Institute in Hoboken, NJ, he earned a graduate degree in Mechanical Engineering from Long Island University. He worked as an engineer for 20 years at Grumman and other aeronautic firms, and worked on the LEM space vehicle that landed on the moon. He then shared his breadth of knowledge with students as a math teacher at Truman High School.

I know Emil's wife Marilyn, and his daughter Beth, are also proud of his accomplishments. On behalf of all the people who have worked with Emil Propper, I extend best wishes for a happy retirement.

THE FAITH LUTHERAN CHURCH CELEBRATES ITS 70TH ANNIVERSARY

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HOKE. Mr. Speaker, I rise today to congratulate the Faith Lutheran Church on the 70th Anniversary of its founding and join the Lakewood community in recognizing this church as a longstanding center of worship and community.

Initially established by the Home Mission Board of the Evangelical Lutheran Joint Synod of Ohio, the Faith Lutheran Church celebrated it first service 70 years ago at a storefront on Madison Avenue under the direction of the Reverend Edward W. Schramm, its first pastor. As the congregation expanded, the need for a larger facility became apparent and the groundbreaking for the new edifice took place on August 4, 1931, followed by the dedication ceremony held Easter Sunday, March 27, 1932.

The Faith Lutheran Church serves not only as a house of worship but an elegant example of gothic architecture. In honor of its 70th year, the church will hold a commemorative service officiated by its pastor, Richard G. Schluep, on Sunday, October 9, 1994. On this day the church members will also welcome a special guest of honor, the Reverend A. Otto Baumann II, a former parishioner and resident of Lakewood.

Please join me in congratulating the congregation and clergy of the Faith Lutheran Church for their continued commitment to those religious traditions and beliefs which have served the Lakewood community for the past 70 years.

TRIBUTE TO CLAWSON COMMUNITY COALITION

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. LEVIN. Mr. Speaker, from October 23–31, 1994, the City of Clawson, MI will hold a Red Ribbon Celebration, as part of a national campaign to eliminate the illegal use of drugs in schools, workplaces, and communities.

Over 5,000 ribbons imprinted with this year's theme, "Healthy Means Drug Free", will be distributed throughout the community. Adults and children are encouraged to wear the ribbon in support of drug free lifestyles. At the end of the week, the Clawson participants will be asked to sign the back of their ribbons with the name of someone for whom they wish a drug-free life, and send it to a Member of Congress. I am pleased the Clawson Coalition has volunteered to collect the ribbons and present them to my office.

The newly formed Clawson Community Coalition is the sponsor of this year's event and I congratulate them on their first effort at bringing together a community to address a serious societal problem. The use of illegal drugs in our places of work and in our schools jeopardizes the safety of our workplace and the safety of our children. We have long recognized that too many young children find drugs to be part of a glamorous lifestyle, but it is the exact opposite. It has a poisonous effect on an individual's abilities and judgment, and too often leads to serious physical injury or death.

It is vital that individuals, especially young Americans, take notice that their peers are drug-free. it will combat the pressure on schoolchildren to begin experimenting with drugs, and demonstrate the reality that illegal drug use is not tolerated by our society.

Mr. Speaker, I applaud the action of the Clawson Community Coalition to reduce illegal drug use in schools and in the workplace. Their Red Ribbon Celebration is an important undertaking and deserves our full support.

DRUGS AND THE INFORMATION SUPERHIGHWAY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SOLOMON. Mr. Speaker, it was recently brought to my attention that drug legalization advocates are using the electronic information superhighway to organize the legalization movement and share information on drug use. The information superhighway was certainly not created to propagate such misinformation and the criminal activity associated with it.

This use was brought to my attention by drug legalization opponents who use the information superhighway everyday in their vocations. Apparently, the National Organization for the Reform of Marijuana Laws recently entered remarks which I personally made in opposition to drug legalization on this House floor as an example of "rabid, right-wing prohibitionist propaganda." Because I believe, along with 95 percent of America, that the use of illicit drugs is wrong, I was singled out as an enemy of drug users. Well, Mr. Speaker, I am honored. The use of illegal drugs in an anathema to the social and moral fabric of our Nation. President Reagan's and President Bush's "War on Drugs" was premised on the belief that society was better served and protected if our Nation universally and actively opposed drug use. This program worked as planned. The use of cocaine, marijuana, heroin, and most other illegal drugs declined. Our Nation's young children and teenagers who grew up during the 1980's were told and made aware of the evils and the hardships associated with drug use. I fear for the kind of message the children growing up in the 1990's are receiving. Pro-drug use and legalization messages on the information superhighway through Internet are wrong.

I was appalled to learn that this information even includes such things as tips on growing marijuana and ways to evade law enforcement. As more and more Americans jump onto this latest technological advancement, more and more citizens will have access to this ill-advised information. For example, the information superhighway is now available in most elementary and secondary schools and in many American homes. Now elementary students like my own grandson can obtain valuable information about an obscure nation in the South Pacific during a social studies class and then flip a screen to discover the glories of drug use and criminal activity.

Drug legalization advocates from all over the country are using this universal technology to further their movement and deceive more Americans. As Congress reviews this very important technology during the 104th Congress, the use of this service by pro-drug organizations and individuals for the propagation of this ilk must be addressed. As a nation founded on the freedoms of speech and press, the rights of life, liberty, and the pursuit of happiness must not be trampled by the disease of illegal drugs.

THE DAILY BREEZE OF REDONDO BEACH, CA—100 YEARS OF FAITHFUL REPORTING OF THE NEWS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HORN. Mr. Speaker, I rise today to honor 100 years of journalistic history in southern California's South Bay area. Though physically located in California's 36th District—which is represented by U.S. Representative JANE HARMAN—the Daily Breeze also has a large and loyal readership in my district, California's 38th.

In these days of consolidating news organizations and increased emphasis on the worldwide scene, the Daily Breeze has preserved its comprehensive coverage of local as well as national and international news.

The hometown flavor that is maintained by the Daily Breeze—in spite of the sophisticated coverage offered to its readers—is grounded in the paper's beginnings. The Daily Breeze was started by a local resident and politician, S.D. "Doc" Barkley, who is reported to have remarked to a friend, "I'm going to start a newspaper in this town tomorrow and call it the Breeze, because the breeze always blows here." And so the Daily Breeze was launched in 1894, housed in tiny, ramshackle quarters that also included an establishment called Nick's Bootery.

From that folksy launching, the Daily Breeze has grown to become a cosmopolitan journal, faithfully reporting the news to local readers through wars, depressions, good times, and bad. It has cared about good government at all levels—local, State, and Federal.

I salute the writers, editors, and employees of the Daily Breeze—current and past—for their long and dedicated service to the South Bay area. Our communities are the richer for their presence and their work.

TRIBUTE TO LT. WAYLAND E. BENNETT

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PICKLE. Mr. Speaker, I rise today to pay tribute to Lt. Wayland E. Bennett, a Marine Corps pilot who perished on a training mission during World War II, but was only recently brought back to this country for burial. The story of his return is a remarkable tale of friendship and dedication, and deserving of special recognition.

Mr. Bennett was a young man of 18 when he left home to join the war effort in the South Pacific. In 1943, he was commissioned a second lieutenant in the Marine Corps, and was sent to a small island 1,200 miles northeast of Australia to complete his training and join the elite Black Sheep Squadron of fighter pilots. On October 22, 1943, his Corsair crashed into a jungle area of the island too dense and too dangerous to risk a patrol. The wreckage, and Mr. Bennett's remains, were considered by the military to be unrecoverable.

But the story doesn't end there, thanks in large measure to the devotion of Mr. Robert Bowden of Texarkana, TX. He refused to let his memories of his childhood friend end with a plane crash in the jungle. In 1988, he began a friendship with Dr. Dan Bookout, and together the two men decided to search for the wreckage. Enlisting family, friends, and strangers alike, Mr. Bowden and Dr. Bookout began to raise money and to organize an expedition to the South Pacific to scour the jungle for the plane.

Dr. Bookout led teams of volunteers in searching high and low within a 15-mile radius of the estimated crashsite. Ultimately, however, they were frustrated by their lack of success and the strain of the trips—in both physical and financial terms—and they called off the searches in 1993. Their luck changed when, a couple of months later, they received news from a friend that natives on the island had discovered an ancient plane wreck with the skeleton of the pilot still in the cockpit. A military investigation confirmed that the body was indeed that of Lieutenant Bennett. On September 16, 1994, more than a half-century after the crash, Lt. Wayland Bennett was finally given the welcome home he deserved.

I know I speak for all Members when I say the selflessness and dedication of Mr. Bowden and Dr. Bookout deserves recognition. I hope you will all join me in extending best wishes to them, as well as to the families of Lieutenant Bennett. I am proud that their efforts led to the return of a native son of Texas.

NATIONAL BREAST CANCER AWARENESS MONTH

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PALLONE. Mr. Speaker, this body has designated October as National Breast Cancer

Awareness Month. I would like to take this opportunity to focus national attention on a group of individuals who may not be aware that they are at risk of contracting breast cancer: men.

Seymour Kramer, a constituent of mine from North Brunswick, NJ, learned that he had breast cancer in June of 1992. I submit, for the RECORD, an article he wrote describing his case and the lack of public attention to male breast cancer. As with female breast cancer, early detection of breast cancer in males can save lives. The medical community should make breast exams a regular part of physical examinations for males and males should be advised that they are at risk for this kind of cancer.

These preventive steps cost little in time and money and will save the lives of men whose cancer is detected early. Let us work to make men aware of their risk during National Breast Cancer Awareness Month.

THE SILENT MEN-ORITY

(By Seymour Kramer)

June 1992 will forever remain a traumatic period for me. I was told by my physician that I had breast cancer; the biopsy showed abnormal cells—carcinoma-commonly called "cancer." It started with a spot of blood on my pajama top. My wife placed an emergency call to our physician. He took a pap smear from the nipple of my left breast. I was certain that it was a scratch from a branch of one of our trees since I am a gardener. But the return of the smear showed abnormal cells. My next trek was to the radiology group for a mammogram. Again, my mind raced with the idea that a mammogram was for women. I must admit that my ego was deflated. Indeed, the x-ray revealed cancer.

The excellent team of physicians agreed that I undergo a lumpectomy rather than a mastectomy. I was resigned to the fact that I would need the operation and whatever treatment was to follow. However, I did not want to cancel the wonderful plans I had made for my wife and me that summer. Therefore, the biopsy took place between our tour of the midwest for two weeks and our cruise to Alaska for another two weeks.

In the meantime, phone calls were made from our tours to learn the surgical decision. I was determined to carry out my well-made plans for the summer. During our cruise, I made a "ship to shore" telephone call to my doctor who told me I would have a lumpectomy and that he would make the necessary arrangements not only for surgery, but for treatments as well.

Of course, I was not looking forward to losing the nipple on my left breast, but I put it aside and continued to enjoy the holiday. My attitude was that I was in good hands, and that I would handle the situation.

Now comes the disturbing part. While I awaited my radiation treatments, all literature pertaining to breast cancer was for women; support groups, self-examination, mammograms, etc. Then, articles that appeared in magazines, newspapers, brochures and the like, again addressed women. Even talk shows focused upon women only. True, the number among women is much too great, but that does not mean men should be overlooked just because they are a minority.

I became angry! For every article or program I viewed, I responded with the plea that men should become aware of breast cancer. The reported 1,000 cases of breast cancer in men is just that, the reported.

Could it be that men do not believe that the spots from a nipple could be cancer? Could it be that men wait until it spreads to more obvious areas, such as the lungs?

I have written to the president, to my senator, and to every cancer organization. I feel that if I make enough noise, somewhere somehow, I will be heard.

The treatment I now receive is based upon the treatment women receive. I take tamoxifen and have a yearly mammogram. I feel I am on a one-man crusade for cancer societies to include men in their programs. Yes, Males are subject to the same disease as females and just because we are in the "Men-ority" is not a reason for us to be overlooked.

My attitude is a positive one for my personal condition. I continue to enjoy life and look forward to many years of planning and going and doing whatever I want. My distress is with the lack of understanding for men.

AN EXAMPLE OF FAMILY VALUES

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. STEARNS. Mr. Speaker, I am pleased to put into the RECORD a wonderful eulogy to a great man. His son, Ed Holder, wrote this piece upon the death of his father. It surely illustrates the values and qualities of the families that made this Nation great.

EULOGY FOR DAD

(By Ed Holder)

Dad accepted the responsibility of serving family and mankind at a very early age. His father was taken away from him when he was only nine months old. He served his mom from the very beginning until he and mom could not physically keep up with demands of her final care.

He served his country by fighting the Germans in World War II. He never talked about war; but, I do remember well that Dad harbored no hate for the Germans.

Dad and mom worked at pretty meager wages and for long hours denying themselves of current pleasures so as to provide a brighter future for their more immediate family and soon to be extended family. Could you imagine the courage and guts it took to pack up your wife and infant daughter to move from Georgia to an area that you had no friends, family or business contacts?

They had very little capital and certainly no borrowing capacity from the banks. Dad and Uncle Charles established one of the first taxi businesses in Lake County as automobiles were in short supply after the war. At night he would do body and fender work to supplement that income. Eventually, he had the opportunity to take over a closed gas station and expanded it to include a very small luncheonette.

As time went on, Dad and Mom both got more opportunity to serve mankind. The luncheonette grew into a diner, again with hard work and denial of but a few immediate pleasures. They continued to put all of their capital back into their business. They never took a vacation in the twenty-seven years the restaurant was open and they took very few holidays except for a quick trip to Georgia during Christmas.

Holder's restaurant was really Dad and Mom's mission and homes for the extended family that they created when they came to Tavares. You didn't have to be born into the family, be a blood relative nor could you be divorced out of it. The family got together at various times, seldom all together. There was one group of Blantons, Freemans, Tamsetts, Taylors and others who were standing at the door at 6:00 a.m. waiting for their breakfast. Occasionally, they would bring family gifts like gophers which they would turn loose in the restaurant to liven the morning. Another group from the courthouse, the phone company and the high school would come by for plate lunches and hamburgers for dinner (in the South and in those days dinner was served at 12:00 noon). The afternoon family consisted of the normal 'drug store cowboys', politicos and political hopefuls. There was more politics discussed at Holder's than there was at the courthouse. On a Few occasions we were allowed to bring our high school friends home for a meal. The more you ate the more appreciation mom and dad felt. Jim Stinson and Tamsett both ran a close race, neither yet determined a winner. The biggest complement you could pay to mom and dad was to enjoy a meal with them, even when the restaurant wasn't open. For many of those people here today or that visited yesterday there is a wealth of stories and memories that you are going to hear. If you saw the movie 'Fried Green Tomatoes' you would get a feel for the atmosphere.

As I said before, you didn't have to be a blood relative, born in the family of even married to it, nor could you be divorced from it. This homecoming and family reunion today will allow us to share some memories of Holder's restaurant with you, the extended family, that came to honor Dad today.

TRIBUTE TO THE LATE ROY BASSETT

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SKELTON. Mr. Speaker, Missouri lost an outstanding law enforcement officer in a tragic shootout in Maries County recently. That county's sheriff, Roy Bassett, was fatally wounded when he went to the scene of a traffic accident near Vienna to assist a State trooper.

Roy Bassett was an outstanding citizen and professional in his law enforcement duties. The Reverend Tom Waickman said during the funeral service "I know quite a few people he helped out not as a sheriff but as a Christian person." The executive director of the Missouri Sheriff's Association, Jim Vermeersch, said that Bassett was "a hero, who placed helping others ahead of helping himself." The neighboring Osage County Sheriff Carl Fowler called Bassett outstanding in providing assistance to other law enforcement officers.

Sheriff Basset was very popular and will be remembered as a warm caring person who liked people. He was an Air Force Vietnam War Veteran. His wife Marilyn and three children survive.

Through the years, I had the pleasure of calling Roy Bassett my friend. He was a good and decent man in the finest sense of those words. He will be greatly missed by those who knew him. I know that the members of this body join me in sending sympathy to the entire Bassett family on the loss of this outstanding Missourian.

TRIBUTE TO THE PULASKI CITIZENS CLUB OF HAMMOND, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the Pulaski Citizens Club of Hammond, IN, on their 25th anniversary. The Pulaski Citizens Club will honor their distinguished existence on November 12, 1994, with an anniversary banquet to be held at the Polish Veterans' Hall Post 140 in Hammond, IN.

In 1969, a group of Polish-Americans in Hammond formulated a committee to honor General Casimir Pulaski, a hero from the American Revolution, and his military achievements. This group, under the initiative of William Napiwocki, Walter Kasprzycki and an organizational meeting of patriotic citizens, formulated the Pulaski Citizens Club of Hammond. On February 8, 1970, the first officers were elected. These honored officers consisted of William Napiwocki, president; Anthony Zientara, vice-president; Casimir Panek, treasurer; and Stanley Kocel, recording secretary. In addition, the board of directors was composed of Walter Kasprzycki, Steve Chraponski, Mary Moskal and Casimir Modrzejewski.

The past 25 years of the Pulaski Citizens Club have proven to be very successful as this organization has generated numerous accomplishments. In 1974, a force, composed of Indiana State officials and officers of the Pulaski Citizens Club, was instrumental in creating the statewide observance of Pulaski Day in the State of Indiana. This day is now observed on the first Monday of March. In 1978, the Pulaski Citizens Club joined the Polish-American Congress—Indiana Division, in a cooperative effort to persuade the State Highway Department to rename a 37-mile stretch of Interstate-65 the General Casimir Pulaski Highway. Finally, that same year, a coalition of the Pulaski Citizens Club, Hammond Mayor Edward Raskowsky and the Common Council of the City of Hammond, were instrumental in renaming Douglas Park of Hammond to Pulaski Park. Today, this park includes a monument that honors the Polish nobelman.

The Pulaski Citizens Club has also been instrumental in promoting the life and history of General Pulaski through a yearly observance. This observance begins with a mass at St. Casimir Parish followed by a testimonial program featuring prominent speakers, various choral groups, children's dance groups from the schools of Polish language and musical bands from throughout Lake County. Furthermore, this distinguished organization remains active throughout the year by organizing several cultural events, including an annual picnic held at the Pulaski Park for the families and friends of club members.

I am proud to commend every member of the Pulaski Citizens Group of Hammond for their loyalty and radiant display of passion for their ethnicity, as well as their many achievements. May this 25th anniversary be most joyous.

TRIBUTE TO MATTHEW R. SIEDZIK

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is Matthew R. Siedzik of Troop 44 in Glocester, RI, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, Matthew performed a major cleanup of the Sprague Farm which is part of the Glocester Land Trust.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Matthew R. Siedzik. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Matthew R. Siedzik will continue his public service and in so doing will further distinguish himself and consequently better his community. I join friends, colleagues, and family who this week salute him.

IN HONOR OF THE MARINE CORPS LEAGUE OF EFFINGHAM, ILLINOIS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. POSHARD. Mr. Speaker, I rise today to honor the members of the Marine Corps League of Effigham, Illinois, and their efforts to enhance the well being of our community. Chartered in 1985, the Marine Corps League has continuously worked to provide support to various projects and individuals throughout the Effingham area.

The Effingham Marine Corps League is probably best known in our community for its annual M&M Day. Beginning in 1987, the League has set aside two days each November to pass out M&M candies in return for donations. The League chose M&M candies, because the M&M also stands for "Marines In Motion," reflecting the League's commitment to making our community a better place in which to live through positive action. The League has used its M&M donations to fund such local projects over the years as the YMCA's Partners with Youth, Meals on Wheels, The Boy Scouts of America, and the Association of Retarded Citizens. The group has also been able to establish a local scholarship fund and Americanism essay contest to provide local young people with financial assistance for college.

In addition to their annual M&M Day, members of the Effigham Marine Corps League provide color guards for local parades and sporting events. Members also spend time teaching local children how to properly fold the American flag.

I include in the CONGRESSIONAL RECORD the names of members of the Effingham Marine Corps League who have served this organization diligently: Darrell Schwerman, Robert St. Denis, Richard Fruchtl, Herbert T. Gaffingan, Arthur A. Johnson, Philip H. Mette, J.D. "Jimmie" Rodgers, Michael Niebrugge, Raymond B.W. Nuxoll, William A. Funneman, and B. Wayne Carmichael.

On behalf of the people of the 19th Congressional District, I thank the members of the Effigham Marine Corps League for having served our country as distinguished members of our Nation's armed forces and for now serving our community as public servants. These men are truly individuals who are care about the future of our children, our community, and this great country in which we live.

TRIBUTE TO JOHN F. "JACK" FRYER

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. MINETA. Mr. Speaker, I rise to make this statement with feelings of both great pride and great sorrow.

Pride in the long list of legislative accomplishments of John F. "Jack" Fryer, my majority counsel to the Subcommittee on Surface Transportation.

Sorrow, because after two decades of loyal service to the Committee on Public Works and Transportation, Jack is moving into a much-deserved retirement.

Before coming to the committee, Jack began his Federal career at the Interstate Commerce Commission [ICC], where he served as legal counsel in various positions starting in 1963. At the ICC, Jack developed his encyclopedic knowledge of surface transportation regulatory law.

Prior to that, Jack served ably in the general counsel's office of the Commonwealth of Pennsylvania, soon after graduating from Mount Saint Mary's College and Georgetown University Law School.

Jack joined the staff of the Committee on Public Works and Transportation in 1975 and immediately impressed the members of the committee with his legislative abilities. Some of the significant legislation in whose passage Jack played a major role includes:

The Pipeline Safety Act of 1979; the Motor Carrier Act of 1980; the Household Goods Transportation Act of 1980; the Surface Transportation Assistance Act of 1982; the Bus Regulatory Reform Act of 1982; the Motor Carrier Safety Act of 1984; the Hazardous Materials Transportation Act Amendments of 1984; the Pipeline Safety Act of 1985; the Commercial Motor Vehicle Safety Act of 1986; the Motor Carrier Safety Act of 1988; the Pipeline Safety Act Amendments of 1988; the Hazardous Materials Transportation Act of 1990; the Sanitary Food Transportation Act of 1990; the Pipeline Safety Act of 1990; the Intermodal Surface Transportation Efficiency Act of 1991; Title 18 of the Comprehensive National Energy Policy Act of 1992; the Pipeline Safety Act of 1992; the Negotiated Rates Act of 1993; the Hazardous Materials Transportation Act of 1993; the Trucking Industry Regulatory Reform Act of 1994, and Title VI of the Federal Aviation Administration Authorization Act of 1994—Preemption of Intrastate Transportation of Property.

This lengthy list clearly shows the breadth of Jack's contribution to the committee. They have helped make our streets and highways safer, eliminated miles of bureaucratic redtape, and helped save consumers millions of dollars.

I have known Jack Fryer for almost 20 years. We started our congressional careers together. Over the years, we have worked closely together. He knows the true meaning of hard work and during the years he has worked on the committee, I have never seen him lose his cool—an amazing feat in the Capitol Hill pressure cooker.

I have always appreciated his counsel and integrity. He will be remembered as a valued staff member and a friend to me.

I am sure that my colleagues join me in wishing Jack a safe and happy retirement.

DOMESTIC VIOLENCE

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HOKE. Mr. Speaker, violence against women, and especially domestic violence, is an issue that should give us cause for great concern. Domestic violence is a stain upon our country's social fabric, one that shatters lives and inflicts much pain.

The statistics on family violence are staggering: Every year, at least 572,000 women are victims of reported domestic violence. Over 2,000 women are raped every week, with unreported rapes probably adding up to several times that number. And 30 percent of all female murder victims are killed by their husband or boyfriend.

These facts are alarming. But the thousands of individual real-life tragedies that make up these numbers are even worse. I'd like to share with my colleagues the thoughts of one of my constituents, Charlotte Mann. Ms. Mann is president of the board of trustees of Templum, a private non-profit organization that offers emergency shelter and legal advocacy services to women in domestic crisis situations. In that capacity, Ms. Mann has encountered time and time again the terrible results of violence in the home. Her description ought to be required reading for all those who take this issue seriously.

THE TRAGEDY OF DOMESTIC VIOLENCE

(By Charlotte Mann, President of the Board of Trustees, Templum, Cleveland, OH)

Right now, somewhere in this city a woman is in harm's way behind the closed doors of her own home. She is being hit. She is being kicked. She is being stomped and choked and even threatened with guns and knives. She is cleaning her own blood from the walls and floors of her own home, what should be her safe place, her sanctuary. She is a crime victim of domestic violence.

Battering is the single largest cause of injury to women nationally, occurring more often than car accidents, muggings and rape combined. But it has been our dirty little secret and only recently have we begun to put our attention to the issue of domestic violence.

Who is the perpetrator, the man who makes her wish she were dead and finally safe—safe from him—her own husband or boyfriend or significant other? He is a man who sees a woman as a victim, someone to control. He is a man who believes in his right to maintain that power and control by any means necessary. He is a man who relishes the fear he sees in a woman's blackened eyes. He is a man who batters because he can get away with it. He isn't much of a man and he is a criminal. Domestic violence is not a victimless crime. Up to ten million children witness domestic violence each year. In nine out of ten cases the mother is the victim. When she leaves her violent partner she increases her risk of murder by seventy five percent.

For too long our society has tolerated violence against women. Our institutions and our legal system have failed to provide the badly needed understanding, equality, protection and redress. Every fifteen seconds a woman is stalked, threatened, beaten and terrorized by her partner. The overwhelming need for social change and action is clear.

Mr. Speaker, Charlotte Mann knows what she is talking about. Fortunately for the citizens of Cleveland, she's not just talking, but actually doing something about the scourge of domestic violence. In addition to shelter and legal aid, Templum also provides a hotline and conducts counseling and follow-up programs for victims of spousal abuse and their children. Templum's work serves as an example of the good that a handful of committed and dedicated individuals can do.

I also want to commend the work of the House Republican Task Force on Women's Issues, which recently conducted field hearings on violence against women in Tarrant County, TX. The hearing, held in a county with a commendable track record in combatting violence against women, heard valuable testimony from law enforcement officials and victims' advocates as well as victims of abuse. It was an important way to expose Members of Congress more fully to this grave societal problem.

Mr. Speaker, I bring this to the attention of my colleagues because I believe that this Nation will never get a handle on the problem of domestic violence and spousal abuse until more people take an interest and an active role in understanding why domestic abuse occurs and how we can combat it. There's no better way to do this than to listen to and learn from those in the front lines.

TOO DETERMINED TO LOSE

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. GORDON. Mr. Speaker, the professional baseball season may have been canceled this year for the first time ever, but that doesn't mean America's favorite past-time suffered everywhere this summer. In fact, in Hendersonville, TN, fans of the sport were doing just fine thanks to a rather unique team.

The team is noteworthy for several reasons. Phyllis Reaver, Julia French, Katie Rion, Phoebia Witt, Dora Franklin, Gail Rich, Carole Robinson, Valerie Ledbetter, Shirley Grizzle, Shirley Pike, Mary Frank Adgent, Betty Fulcher, Vera Jeanette, Margie Roberson, Maxine Valley, and Clemmie Waltrip can tell about their double play combinations and their ability to hit their cut-off woman.

However, they will probably not mention too quickly that everyone on the team is over the age of 55 or that they are all women. What they will most likely tell you is that this was the first year ever that Hendersonville sent a team to the Senior Games, now in its 13th year. The Senior Games recognizes people who have maintained their health, it recognizes the importance of fitness, and most importantly, provides a community activity.

The Hendersonville Senior Women caused waves at the State championship held in Clarksville on July 26, After an impressive come from behind victory in the first game, they beat teams from Memphis and Chattanooga by wide margins: 13 to 1 and 13 to 0. After the victories, coach Homer Witt admitted that this was the happiest moment in all the years he has coached softball. And coach Wayne King paid tribute to the ladies saying they "were just too determined" to lose.

The next challenge for the Hendersonville senior women will be in San Antonio, TX, May 17–24, 1995 at the National Senior Games. In this tournament, they will be representing all of Tennessee on ESPN. The opportunity to play in the national championship is an honor; but, prior to May the team has to raise a great deal of money. To help with the team, the Nation's Bank in Hendersonville has been kind enough to establish a nonprofit account, the Tennessee State Senior Women's Champs Fund.

I commend these women for their talent and ambition and I thank the people of Hendersonville for their enthusiastic support. Other interested women who are over 49 years old can call 824–7980 for information about next year's season.

TRIBUTE TO ELOUISE W. REDDICK

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MEEK of Florida. Mr. Speaker, this past September, schoolteachers all across America ended their summer and went back to their jobs educating our children for a better tomorrow. For the first time in 37 years, students in Central Florida went back to school without the guidance and caring of Elouise W. Reddick who retired this past July.

Mrs. Reddick has served her community as a teacher and guidance counselor for nearly 40 years, and in that time has continually made the welfare of all students an utmost priority.

She began her life of public service as a teacher at the very same high school which she herself had attended. The principal knew what everyone who has met her has come to know—Elouise W. Reddick is an individual dedicated to education and determined in her efforts to bring an education to everyone.

Mrs. Reddick has always believed that a vast majority of our Nation's children are good students who will become good citizens. They are intelligent and they are longing for knowledge. She has also always felt that society cannot, and should not, forget that small minority of students who are not good students or citizens. We cannot just cast those few children, who simply lack proper leadership, out into the cold solitude of ignorance. If anything, it is these few who we as a society should truly concentrate upon. It is our responsibility as role models to keep our youth on the right path—in schools, in class, and involved.

I would like to congratulate Elouise W. Reddick upon her retirement. She has truly lived the life of a model citizen who has made a big difference in the lives of countless young Americans. Enjoy your retirement, to Mrs. Reddick. We'll never forget your outstanding contributions to your students and to your community.

TRIBUTE TO THE CHALDEAN FEDERATION OF AMERICA

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. LEVIN. Mr. Speaker, on October 20, 1994, I will be honored to be in attendance at the 2nd annual dinner and awards banquet of the Chaldean Federation of America.

The Chaldean Federation of America has worked since 1980 to serve Chaldeans and our communities at large. The group has focused directly on improving race relations, as well as providing social services and programs to senior citizens and our youth. The Chaldean Federation of America continues to work with Chaldean-American youth to ensure that education is a top priority in their lives.

The Chaldean Federation of America brings together 65,000 Chaldean-Americans who reside in the Detroit area. The annual dinner allows Chaldean-Americans to gather to celebrate their cultural ancestry, and honor individuals who have made significant contributions to the Chaldean-American community. This year, the Chaldean Federation of America will honor our colleague, DAVID BONIOR, by presenting him their Civic-Humanitarian Award.

Mr. Speaker, Chaldean-Americans continue to embrace and promote their ancestral culture, while contributing to America's ethnic diversity. I will be honored to be a part of the continuing role of the Chaldean Federation of America in furthering Chaldean cultural activities.

HONORING THE BERLOFSKYS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ENGEL. Mr. Speaker, it is with great pleasure that I honor two good friends and neighbors, Miriam and Jerome Berlofsky, who are celebrating 35 years of marriage this November.

The Berlofskys have been active and vital citizens in my home community of Co-op City, where they have been affiliated with several Bronx organizations. Since 1951, Jerome has been a knight in the Fraternal Order Knights of Pythias, Kingsbridge Lodge No. 810, and has participated in many of the altruistic endeavors of that organization. Miriam joined the Pythias Sisters in 1960 and has worked tirelessly and held many titles, culminating in her election as grand chief of the State of New York in 1984.

The Berlofskys have also always been active in the Jewish faith, having joined the membership of the Traditional Synagogue of Co-op City and holding several important positions. They are charter members of the AARP Co-op City chapter and they bring culture and entertainment to the community as members of the Bronx Concert Singers.

This is just a partial list of the many good deeds performed by the Berlofskys. Perhaps more than anything else, however, they are most proud of their enduring love and the joy they have had in raising their son, Rodger. That is why the anniversary they are celebrating this year is so special, and why I join their family and friends in wishing them happiness and good health.

THE DEMISE OF AN AUSTIN INSTITUTION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PICKLE. Mr. Speaker, the Nighthawk, one of the favorite eateries of my city, has called it quits after more than 60 years. The Nighthawk not only provided good food and a comfortable atmosphere at an affordable price, but it served as a political, economic, and cultural center for all of Austin, and indeed, for all of Texas. As much history has been made at the Nighthawk as at the University of Texas or the capitol. It was the centerpiece of political and civic activities for Texans.

The original Nighthawk Restaurant opened for business on Christmas Eve way back in 1932. It was begun by a man named Harry Akin, who got his start in the business selling bottled apple cider on Congress Avenue in downtown Austin. The early success of the first Nighthawk prompted him to open a second barely a year later. At the peak of its popularity, the Nighthawk chain boasted seven restaurants in Austin, San Antonio, and Houston. Numerous requests for takeout food even spawned a line of frozen foods, which are more popular now than ever. The plant in nearby Buda, TX today generates 25,000 meals daily for sale nationwide.

During its prime, the Nighthawk was frequented by numerous business and civic leaders of Austin, including President Lyndon Johnson. A great deal of business was conducted in those booths, and a great deal of apple pie was consumed. Through it all, however, the Nighthawk never lost its friendly, neighborhood style. It was the kind of place where you could meet for a quick lunch, take a date for some home-cooking, or just relax with friends and family.

In those 60 years, I don't believe I ever had a bad meal at the Nighthawk. When I look back at the good times I shared there with others, I feel almost as if I have lost a dear friend. For many of us who make our home in Austin, that restaurant was as much a public institution as the capitol. The town won't be the same without it.

It's unfortunate when tradition is unbalanced by economics. But I believe one of the first things I'll do when I get back to Austin this fall is call some of those old friends over to share a piece of apple pie, and remember the Nighthawk Restraurant.

A FINAL SAY-SO IN HEALTH CARE

HON. GLEN BROWDER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BROWDER. Mr. Speaker, I want the American people to have the final say-so—through a national referendum—on health care reform.

Today I am introducing a sense-of-Congress resolution calling for any comprehensive health care reform law passed by Congress to be approved by a majority of the American electorate before being implemented.

This idea is not going to thrill the Washington crowd, but health care reform is too important for business-as-usual politics.

Health care reform is the most important and most expensive social proposal since the Social Security Act of the 1930's. Americans are demanding a greater voice in public policymaking. Inside-the-beltway politicians might be more responsive and responsible if they know that their final plan has to pass judgment by the American electorate.

PRIVATE PROPERTY RIGHTS

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PACKARD. Mr. Speaker, for 40 years big Government has ridden roughshod over our private property rights. The liberal leadership's heavy-handed brand of environmental regulation hurts average Americans. My constituents suffer the consequences as overzealous Federal bureaucrats administer costly, outdated regulations.

In recent decades regulatory agencies, and even legislatures, have abused their powers. These days human rights take a back seat to animal rights. Mandates and regulations protect rodents, shrimp, owls, and birds, but harm humans. The devastating results include: loss of private property, job loss, and even human loss.

We must look to strike a balance between the need to protect our environment and the need to protect ourselves. The contract I signed with the American people last week seeks to do just this.

A Republican controlled Congress will vote on reforms designed to restore our private property rights and bring some sanity back into the environmental protection process. Measures requiring Federal agencies to assess risk, report cost, and complete regulatory impact statements before implementing legislation will come to the floor for a vote.

This agenda works for the American people, not against them. It restores our Founding Fathers' conviction that Government act to protect our rights—not violate them.

WILLIAM H. GRAY: THE UNHERALDED VOICE ON HAITI

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. RANGEL. Mr. Speaker, I rise to recognize the many contributions of my former colleague, William H. Gray III, who since May 1994, has served as the President's special envoy to Haiti. His strong leadership, exceptional negotiating abilities, and his commendable personal qualities have had a positive, although unheralded, impact on the recent peacekeeping event in Haiti. Without William Gray's diplomatic efforts, it is doubtful we would have come this far in resolving the current crisis in Haiti.

Once appointed as the special adviser on Haiti, he sought to enlist the support of the international community against the leaders of the military coup. He was also instrumental in getting the assistance of the Dominican Republic to stop the flow of gasoline and other goods, which were being smuggled into Haiti in direct violation of the international embargo. He also persuaded other nations to share in receiving refugees from Haiti.

Mr. Gray's greatest strength is his ability to forge consensus among disparate factions. This quality was evident during his tenure as House Democratic majority whip and as chair of the House Budget Committee.

He has left his mark not only on domestic issues but certainly on international affairs. No stranger to foreign policy, his appointment to the Haiti issue was not his first exposure to international conflicts. He played a pivotal role on South Africa policy as the author, in 1986, of the bill to ban new investments or loans to South Africa.

For the edification of my colleagues, I call to their attention an article by Christopher Matthews that appeared in the Washington Times on September 22, 1994.

WILLIAM H. GRAY: THE UNHERALDED VOICE OF HAITI

(By Christopher Matthews)

John Kennedy once observed, that "Victory has 100 fathers, defeat is an orphan." He was noting the speed with which politicians stand forth to take credit following a success and fade into the gloom when events go awry.

Bill Gray, 53, is an exception. Without him, this week's Haiti deal would, in all likelihood, not have been struck. Our efforts to oust Gen. Raoul Cedras would have lacked legitimacy. The Haitian military boss might have resisted. The Haitian businessmen who undergird his power might have insisted on it.

Finally, President Jean-Bertrand Aristide might have exploded the fragile deal former President Jimmy Carter, Gen. Colin Powell and Sen. Sam Nunn managed to forge with Gen. Cedras.

Mr. Gray has been the back-room broker advancing U.S.-Haiti policy since President Clinton named him his special envoy. The former U.S. congressman from Pennsylvania deserves credit for three critical breakthroughs, all of which were essential to Sunday's deal.

First, he personally traveled the Caribbean, lining up governmental support for the Clinton policy. Because Mr. Gray was able to win the backing of countries like Barbados, the Bahamas, Jamaica, Grenada, Dominica, St. Lucia and St. Vincents, plus South American allies like Argentina, the United States became the champion of the hemisphere, rather than simply "the Goliath of the North."

Second, Mr. Gray coaxed Mr. Aristide toward reconciliation. Instead of acting the firebrand revolutionary last week, the Catholic priest-politician was talking a more Christian language. "We say no to vengeance, no to retaliation," he told envoys from the 24 nations allied against the Haitian junta Friday. "Let us embrace peace. The restoration of democracy will bring peace for all, reconciliation among all, respect and justice for every single citizen."

Mr. Aristide made an equally potent commitment to free markets. He told his White House audience of his personal commitment to free market economics.

"I think President Aristide understands the dynamics of the marketplace and market economies," Mr. Gray said after Mr. Aristide's remarks Friday, "that the way to grow is to have individual freedom, free markets. That's what democracy has produced." Mr. Aristide realizes, Mr. Gray assured the White House press corps afterward, that the socialism or other state-directed economic systems "have fallen under their own weight."

Both messages were critical to the deal won in Port-au-Prince late Sunday. Without Mr. Aristide's promise of reconciliation, it is doubtful that Gen. Cedras would have agreed to retire by Oct. 15. Without the promise of free markets, Haiti's business class would have been too afraid of looting and nationalization to let him.

The man who deserves the largest share of credit for converting the fiery clergyman-turned-president to the cause of nonviolence is the Baptist minister-turned-U.S. congressman-turned United Negro College Fund president, Bill Gray.

Mr. Gray's second success has been getting Mr. Aristide to quietly accept the deal the American team cut Sunday. A sign of how difficult this was is painfully obvious. It can be heard in the howls of protest coming from Mr. Aristide's most militant supporters, including those in this country.

When Bill Gray quit the congressional leadership after being the first African-American to reach it, he said he did not want to spend his most active, influential years waiting his turn to become Speaker of the House. He wanted to get out and do things.

He has.

NEW OPPORTUNITIES ABROAD FOR AMERICAN BUSINESSES

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ACKERMAN. Mr. Speaker, Energy Secretary Hazel O'Leary has just returned from a highly successful mission to Pakistan, which has opened new doors to American business leaders and may represent as well an important turning point in our diplomatic relationship with Pakistan.

Secretary O'Leary was accompanied by 80 American business executives, primarily from the energy sector. The O'Leary trip resulted in the signing of 16 contracts worth nearly $4 billion—breathing life into President Clinton's hope that "this mission will strengthen our mutual ties and advance free trade, sustainable development and private investment in South Asia."

In the White House message Secretary O'Leary carried with her to Pakistan, President Clinton also called attention to the key role Prime Minister Benazir Bhutto has played in reforming Pakistani institutions to encourage international investment and United States economic partnerships.

Mr. Speaker, in view of the importance of the O'Leary mission, I urge my colleagues to read President Clinton's message and an article about the trip which appeared in the Christian Science Monitor. Both are reprinted below:

PRESIDENT CLINTON'S MESSAGE TO THE TWO-DAY ENERGY CONFERENCE IN LAHORE

I am pleased to join secretary Hazel O'Leary in introducing the members of the Presidential mission on Energy Investment in Pakistan. The United States highly values our rich history of friendship with the people of Pakistan. I hope that this mission will strengthen our mutual ties and advance free trade, sustainable development and private investment in South Asia.

Prime Minister Bhutto initiated this mission with her personal invitation. She had made market-driven energy development her chief priority in expanding Pakistan's economy. Through her leadership the Government of Pakistan has made great strides in reforming its institutions to encourage international investment and U.S. partnerships in energy projects.

In response, Secretary O'Leary has recruited a distinguished delegation. Its membership signifies the U.S. business community's positive appraisal of Pakistan's dynamic market. This delegation represents the best that America has to offer from a broad spectrum of energy companies, financiers, environmental groups and government specialists. It includes those with expertise in traditional energy production as well as in innovative renewable and energy efficiency technologies—all selected for particular viability in meeting Pakistan's energy needs. Most importantly, they possess the creativity and ingenuity to make this mission successful and historic.

The delegation is led by Secretary O'Leary, one of our nation's foremost leaders in sustainable energy development. Her background as a business executive, government official and community leader provides a unique asset that will enrich the mission.

It is my fervent hope that this mission will demonstrate that, through free and fair competition, international partnerships can flourish. These partnerships can also reconcile economic growth with protection of the global environment, upon which our prosperity ultimately depends.

I commend these delegates to you in the hope that together you will build lasting friendships and forge enduring partnerships which can serve the people of both our great nations.

[From the Christian Science Monitor, Sept. 28, 1994]

BIG US CONTRACTS WON IN PAKISTAN HELP MEND FENCES

(By Farhan Bokhari)

ISLAMABAD, PAKISTAN.—American investment prospects in Pakistan appear to have been livened up after the recent return to Washington of Hazel O'Leary, the United States Energy secretary, following a five-day presidential mission to the Asian nation. Business executives accompanying Ms. O'Leary used the opportunity to sign 16 contracts worth roughly $4 billion, mainly in power-generation and oil-exploration sectors.

That investment commitment is one of the largest in the history of Pakistan. In the past 47 years, American businesses have invested only about $450 million in equity in Pakistan. O'Leary's visit also marks a turning point in the two countries' bilateral relations, which were at their lowest point until recently.

Less than two years ago, Washington considered declaring Pakistan a terrorist state. The US cut military and economic aid to the country for almost four years under a US congressional provision, dubbed the Pressler Amendment. It restricts assistance unless Islamabad accepts international safeguards on its nuclear facilities.

However, the two sides appear to be trying to expand contacts through areas such as private business investment. These are not barred under the Pressler law. "[O'Leary's] visit here signifies the broadening of the US-Pakistan relationship; this is a multidimensional relationship," declared Benazir Bhutto, the Pakistani prime minister, as she presided over a ceremony celebrating the signing of the contracts.

Other officials from the US and Pakistan acknowledge that the two countries are trying to contain the difficulties over the nuclear issue so that the issue does not harm a broad range of potential contacts, especially business opportunities.

This month, the Clinton administration announced a $10 million grant for nongovernmental groups working to improve Pakistan's social sector. And Pakistani officials are examining prospects for purchase of up to $20 million in US soybean oil.

These amounts may seem small compared with the more than $7 billion committed by the US in military and economic aid to Pakistan during the height of the 1980s cold war when Islamabad played a key role in supporting the Western alliance against the Soviet occupation of Afghanistan. But they have added to the enthusiasm of Pakistani officials, who say the two countries are now out of the crisis mold.

"We have brought in the US delegation of businesspeople, the best experts that we have to offer," O'Leary said at the end of her visit. She repeatedly commended Pakistan's energy policy during her stay. That policy, which has now opened the doors for American businesses, has been welcomed by a wide range of businesspeople since its announcement this year.

Under the policy, a complicated procedure to seek official permission for setting up an electricity-generating plant has been replaced by a "one window" government office in Islamabad. There prospective investors can get the official paperwork processed at a fast pace.

Also, the government's decision to assure investors a bulk tariff rate of 6.5 cents per kilowatt hour for electricity generated in such new plants marks one of the most attractive incentives the Pakistan government has ever offered.

Pakistan officials hope progress over the energy projects will help attract US investments in other sectors, too. Many officials here are heartened about the $10 million grant and the possible soybean-oil sale.

These initiatives represent an important shift at a time when, despite little movement over the nuclear issue, Pakistan wants to mend fences with the US.

CROATIAN FEDERATION TO CELEBRATE 100TH ANNIVERSARY OF ARRIVAL IN WESTERN PENNSYLVANIA

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. MURTHA. Mr. Speaker, one of the factors which has made western Pennsylvania a unique and exciting place to live is the wide range of different ethnic groups which came to the area in search of the many jobs available at the end of the 19th century and the beginning of the 20th century.

The story of our area is really the story of the United States, and its growth to be the major industrial power in the world in the 20th century. The immigrants who arrived by themselves, with families, or in groups worked in the mills and the mines, carrying the growing potential of the Nation on their backs as they found a better way of life in their new home without forgetting the traditions and community spirit of their old homes. We're telling the story of these people and their contribution to the United States in America's industrial Heritage project.

On Sunday, October 16, one group will celebrate the 100th anniversary of their ancestors coming to western Pennsylvania. The St. Rochus Croatian Fraternal Union of America Lodge 5 will host this celebration of Croatian heritage, and will honor the memories of the hard-working men and women who established themselves in our area and contributed so much to the development of the region and the Nation.

I'd like to congratulate the members of the St. Rochus CFU Lodge 5 on this historic occasion, and thank them and their families for the efforts they've made on behalf of our area. We're blessed with many fine organizations and groups in western Pennsylvania, and the work that the Croatian Fraternal Union of America has done in the community and with their members has made our area a better place to live, and one I'm proud to call home.

ENCRYPTION STANDARDS AND PROCEDURES ACT OF 1994

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BROWN of California. Mr. Speaker, today I am introducing the Encryption Standards and Procedures Act of 1994. The purpose of this legislation is to establish Federal policy governing the development and use of encryption technology for unclassified information that strikes the proper balance between the public's right to private and secure communications and the Government's need to decipher information obtained through lawful electronic surveillance.

The legislation would authorize the National Institute of Standards and Technology [NIST] to develop and issue, by regulation, Federal encryption standards for ensuring the privacy, security, and authenticity of domestic and international electronic communications in a way that preserves privacy rights and maintains the Government's authority and ability to conduct electronic surveillance. The development of such standards under a rulemaking process will ensure that all stakeholders have an opportunity to influence the final program. With respect to policy, the bill would permit wider use of encryption technology while reasserting fourth amendment privacy rights and the Government's authority to conduct lawful electronic surveillance. To ensure those rights are preserved, the bill would impose new legal requirements on escrow agents that may be part of an encryption standard established under the legislation. It would also establish a research and development program at NIST to develop next generation encryption technology, and would authorize the use of available appropriations to implement the legislation.

Mr. Speaker, this administration has placed a high priority on promoting the National Information Infrastructure [NII] and in realizing fully the economic and social benefits of that infrastructure. To achieve those goals, which I strongly endorse, information communicated over the NII must be secure, private, and authentic. Otherwise, the public will not fully use the NII and we will not realize its vast potential benefits. Encryption technology provides this capability.

During the cold war, the Federal Government pursued a de facto policy of suppressing private sector development, use, and export of encryption technology for national security reasons. Recent advancements in encryption technology and its proliferation make enforcement of that policy increasingly difficult. Moreover, fulfilling the goals of the national information infrastructure requires private and secure communications that can only be achieved with encryption technology. The widespread use of that technology, however, threatens to impede the Government's ability to conduct lawful electronic surveillance.

In February 1994 the administration responded to this dilemma by formally adopting a voluntary Federal Escrowed Encryption Standard [EES] for electronic voice communications known as Clipper. The standard would be implemented in computer chips that use a classified mathematical formula to encrypt unclassified telephone conversations and computer data transmitted over public telephone networks. Authorized Government agencies can decode those communications by presenting a legal request to two escrow agents, which would hold two halves of a mathematical key that can decipher the code.

The purposes of Clipper are twofold—first, to provide a means to safeguard public and private electronic voice communications and, second, to enable Government law enforcement authorities and intelligence gathering agencies to decipher such communications that have been lawfully intercepted. Similar voluntary standards for electronic data communications are under development by the Government and may soon be issued. The administration contends that it has authority under the Computer Security Act to issue such standards. Others, however, have raised concerns about the proper interpretation and application of the act with respect to Clipper and similar standards.

The Computer Security Act, which the Committee on Science, Space, and Technology reported and the Congress enacted in 1987, authorized NIST, in consolidation with other appropriate Federal agencies, to develop and issue standards and guidelines for protecting unclassified sensitive information in Federal computer systems. The act did not explicitly contemplate the development or issuance of standards for safeguarding private communications and satisfying the information needs of law enforcement and the intelligence community. Such communications are considered private property subject to separate and distinct constitutional rights and legal protections. The administration's interpretation of the Computer Security Act to cover such matters appears to go beyond the original intent of the act and may be inconsistent with other law pertaining to individual privacy, protection of private property, and Government authority to conduct lawful electronic surveillance.

In testimony at hearings before our committee, witnesses from industry and privacy groups objected to the secretive way Clipper was developed, and stated that the initiative does not go far enough to promote widespread use of encryption technology. They argued the program will hamper business opportunities for U.S. firms, may infringe on individual privacy rights, and is prone to abuse. The administration refutes these claims and intends to proceed with the initiative arguing that it is essential for public safety and national security. The issue currently is stalemated unless there is legislation or third party intervention.

The administration has publicly stated that it does not intend to seek legislation expressly authorizing Clipper or any other Federal encryption standard because it wants flexibility to modify its encryption policy and program in response to changing circumstances. The administration's desire for flexibility, however, contributes to the public's mistrust and opposition to Clipper. The proposal was developed under an administrative directive and, therefore, could just as easily be changed in a way that might be construed to diminish privacy rights without giving the public adequate opportunity to affect the program. For this reason alone, the public is unlikely to ever accept Clipper Chip in its present form.

I, along with others, believe that a viable approach to gain public support for an initiative like Clipper is legislation to codify Federal encryption policy and govern how that policy would be implemented. In so doing, all stakeholders would have an opportunity to influence the policy. The final program would have been subjected to greater scrutiny and its implementation would be under the rule of law. It may well be that only under these circumstances would the public accept a Federal encryption standard and the needs of law enforcement could be satisfied without compromising privacy rights.

The Office of Technology Assessment [OTA] issued in September an extensive report entitled "Information Security and Privacy in Network Environments" that is consistent with this view. The report concluded that "appropriate institutional and technical safeguards are required for a broad range of personal * * * information, [o]therwise, concerns for the security and privacy of networked information may limit the usefulness and acceptance of the global information infrastructure." OTA also stated that such safeguards can only be developed successfully through an open process and with congressional involvement so the views of all affected parties can be considered properly in arriving at a final outcome. Public trust in Government and acceptance of Federal encryption standards can only be achieved through such a process. This sentiment was shared by most respondents to a draft of the bill that I circulated earlier this summer for comments.

Mr. Speaker, the bill I have introduced today has been drafted, not as a perfect solution to the problem of privacy and security in the electronic information age, but as a means for getting the various factions to talk to each other in an open process to reach a sensible and effective resolution of this critical issue. I invite all interested parties to comment on the bill. My intention is to modify the bill to reflect comments made and to introduce it again early in the 104th Congress for consideration by this body.

A TRIBUTE TO WASHINGTON EPISCOPAL SCHOOL

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MORELLA. Mr. Speaker, I rise to congratulate the faculty, parents, and students of the Washington Episcopal School in Bethesda, MD, on winning the Blue Ribbon School Award under the Department of Education's school recognition program.

Washington Episcopal School won the Blue Ribbon Award based on several factors, including a sense of shared purpose and strategy among teachers in meeting the needs of an ethnically diverse student body, an accelerated academic curriculum, and an enriched international program.

Students at Washington Episcopal begin their foreign language studies at age 4 with instruction in French. At the kindergarten level, students learn computer skills, science, and physical education. Latin is introduced in fifth grade, and at the culmination of their sixth grade social studies program, students take a 9-day study trip to Italy.

The outstanding language studies and international outreach programs at Washington Episcopal promote a broad understanding of diverse cultures among the student body. The school has arranged partner projects with schools in Moscow and Honduras, an exchange program with French students, and an outreach project to a school in Haiti. An international fair is held each school year, with each class concentrating on a different foreign country.

The teachers at Washington Episcopal are talented and experienced educators. Under the able auspices of the school's principal, Mrs. Isabelle Schuessler, Washington Episcopal exhibits the strong leadership and sense of mission that characterizes blue ribbon schools.

As a former teacher, I am delighted that Washington Episcopal School is receiving the recognition it deserves. Mr. Speaker, it is a proud moment for me to pay tribute to the winning combination of teachers, students, and parents of this outstanding school for their commitment in providing a quality education to a diversity of students. I wish them continued success in achieving excellence in education.

TRIBUTE TO JOHN ENRIGHT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor an American of great courage and determination—John Enright.

As we speak today, John is heading across this great country of ours, approaching San Diego. But there is something unique about this trip—John will have completed his 15,000 mile journey not by car or by foot—but by pushing his wheelchair 40–50 miles each day.

But this isn't the first time he has achieved this amazing feat.

Since being paralyzed in October 1992, Enright has completed two previous cross-country wheelchair trips, this one being the Naiton's longest wheelchair trip in history.

John is a shining example to all of us that you can achieve whatever goals you set, as long as you believe in yourself and are determined to rise to the challenge.

I applaud John for being an inspiration to millions, with and without disabilities. Many people think that one person can't make a difference. But John Enright, with every turn of the wheel, proves them wrong.

I wish him well on his journey and look forward to hearing about his next amazing accomplishment.

TRIBUTE TO VELLA NUTT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to my constituent, Mrs. Vella Nutt, who will be celebrating her 100th birthday on October 8, 1994. Mrs. Nutt has been a resident of Carlsbad by the Sea for 18 years. Her contributions to our community have been many. She was a devoted wife to her husband of 50 years, and she is a caring mother to their three daughters.

Mrs. Nutt graduated from the University of California at Berkeley with a degree in health nutrition. She also excelled in athletics as a tennis champion and a basketball player. Throughout her life, she has witnessed numerous triumphs and tragedies, from the Great Depression to the Apollo Mission on the Moon to the advanced technologies in the health field today. I am extremely pleased to recognize Mrs. Vella Nutt on her 100th birthday, and I offer her my best wishes as she begins another 100 years.

A CENTENNIAL CELEBRATION OF A TRADITION OF SERVICE—BELLFLOWER MASONIC LODGE NO. 320

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HORN. Mr. Speaker, I rise today to honor a tradition of service in my district—California's 38th—as the Bellflower Masonic Lodge No. 320 prepares for its centennial celebration. The Masons of Bellflower have long provided their community with committed support, both spiritual and material. It is a privilege to recognize them and their efforts.

Masonry is a centuries old institution founded upon the principles of honesty, fairness, courtesy, compassion, forgiveness, love for fellow man, and reverence for God. The Masons of Bellflower have exemplified these ideals, particularly in service to their community. They have a long and strong history of working with devotion and dedication so that those in need might have their lives improved. Through their efforts, local schools not only receive scholarship money for students, but other kinds of support as well. The Masons of Bellflower work hard for the Shrine Crippled Children's Hospital and Burn Center, the Masonic Home of the Elderly and for Children, the Masonic Scholarship Foundation, Knights Templar Eye Foundation, and the Scottish Rite Clinics for Children with Language Disorders.

The Masons of Bellflower have done a fine job of exemplifying their theme of "Freemasonry: for God, for country, and for family," and our region is the better for it. I wish them well as they move into the 21st century, and thank them for their years of faithful service and support which has enriched all of us.

IN HONOR OF ST. MARTIN'S EPISCOPAL CHURCH

HON. KAREN L. THURMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. THURMAN. Mr. Speaker, I rise today to call the attention of my colleagues to a wonderful event that will be taking place in Hudson, FL, which is in my congressional district.

Warm congratulations are in order, Mr. Speaker, for the dedicated parishioners of St. Martin's Episcopal Church. Mr. Speaker, on January 31, 1982, 57 people gathered together and began the long and arduous process of forming their own church. Their dedication and perseverance is about to be rewarded, because on Friday, October 7, St. Martin's will become a full fledged parish church in the Diocese of southwest Florida.

The members of St. Martins's plan a Parish-wide party on Sunday, October 9, where they will give thanks and properly celebrate this long-awaited event.

Mr. Speaker, words alone are unable to convey the depth of my pride and happiness for the members of St. Martin's Episcopal Church. Their action speaks volumes about the American spirit. Their commitment, independence and strong faith in God carried them through the years it took to reach this goal, especially during the inevitable days when doubt raised its ugly head.

The light at the end of the tunnel may have been faint sometimes, but the members of St. Martin's never gave up, never looked back. With the power of God's love in their hearts, they pressed on. On the eve of their goal, I ant them to know that their stunning achievement inspires us and gives us all a sense of hope for the future of the world our children will inherit.

ROBERT B. LITERSKI NAMED 1994 MAN OF THE YEAR BY MILWAUKEE'S SOUTH SIDE BUSINESS CLUB

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. KLECZKA. Mr. Speaker, I rise today to commend Mr. Robert B. Literski on being named 1994 Man of the Year by Milwaukee's South Side Business Club.

In addition to operating a successful business on Milwaukee's south side for nearly 50 years, Robert Literski has established a name for himself as an active member of Milwaukee's Polish-American community and as a proud husband and father.

As president of Tower Chicken Farm, Mr. Literski has been making quality poultry products and specialty food items available to the people of Milwaukee for 47 years. The outstanding reputation of his quality products has spread beyond Milwaukee and in fact has reached Capitol Hill. On numerous occasions, many of many colleagues have enjoyed the delicious Polish delicacies which Mr. Literski provides.

Robert Literski has also shown himself to be a concerned and active citizen. He proudly served our country as a lieutenant in the U.S. Army during the Second World War. In addition, he has been active in numerous volunteer and civic activities throughout his career. Through his involvement with the organizations such as the Boy Scouts and Little League, Mr. Literski has helped to make a positive impact on the lives of many of our area's young people. Through his years of involvement with the South Side Business Club, Knights of Columbus, and the Council of South Side Advancement Associations, Robert Literski has done much to make our community a better place.

Mr. Speaker, I congratulate Robert Literski on being name Man of the Year by the South Side Business Club, and I wish him continued success in the years to come.

25TH ANNIVERSARY OF PBS

HON. DOUGLAS "PETE" PETERSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PETERSON of Florida. Mr. Speaker, next month marks the 25th anniversary of the Public Broadcasting Service [PBS]. Today, I rise to pay tribute to PBS and its 346 member stations across this country. Together they have produced an unparalleled tradition of excellence in television programming.

PBS maintains a unique position as an independent, noncommercial organization owned and directed by its member stations. Unlike other networks which depend on advertisers' funding to support programming, PBS remains reliant on donations from viewers, corporate sponsors, and to a small degree, Federal funding through the Corporation for Public Broadcasting.

Free from commercial constraints, PBS has efficiently and effectively brought a diverse range of educational, cultural, and informative programming to over 96 million Americans each week. With series such as Sesame Street, NOVA, Masterpiece Theater and The MacNeil/Lehrer Newshour, combined with special programming such as the Civil War, Eyes on the Prize, and most recently Baseball, PBS has proven its ability to offer quality programming in a noncommercial environment.

Recently, critics have attacked PBS for certain programming which ventured into controversial issue areas. Despite an organized effort to punish PBS by cutting off Federal funding, I applaud Congress's decision to once again support the continued investment in this important institution.

While public television has been accused at different times of being both too conservative and too liberal, I firmly believe that throughout its 25 year history, PBS has demonstrated a commitment to fair and balanced coverage of differing points of view. Above all, PBS has created truly public television, generating a high standard of programming produced by member stations in local communities that reflect the great diversity of this Nation.

Beyond the programming legacy PBS has given us, they also have pioneered the use of new telecommunications technologies. In the early 1970's, PBS proved instrumental in developing closed captions for the deaf and hearing-impaired. In 1978, PBS became the first American station to distribute its programming nationwide via satellite and in 1984, a member station in Chicago became the first in the United States to broadcast direct stereo sound. Clearly, PBS has a proven record of achievement in both programming and technology.

While the accomplishments of PBS's first 25 years have been many, the promises for the future are just as great. As the entire world of telecommunication continues to change, one challenge is to ensure that America does not divide into a society of information haves and have-nots. To this end, public television can play a critical role in providing equal access to educational and informational programming. By assuring continued Federal funding, I believe Congress can and must do its part in investing in this future.

TRIBUTE TO THE AMERICAN JEWISH JOINT DISTRIBUTION COMMITTEE

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. REED. Mr. Speaker, I rise today in honor of the 80th anniversary of the American Jewish Joint Distribution Committee, and to recognize their continued outstanding service to the needs of the Jewish community worldwide.

The Joint Distribution Committee [JDC] was established during World War I and, since 1914, the JDC has expanded its efforts to assist and meet the needs of the entire Jewish community. The JDC serves as the overseas arm of the American Jewish community by sponsoring programs of relief, rescue and reconstruction, always adhering to the notion that, "To save one person is to save the world".

The JDC continues today to reach out to the Jewish community everywhere. The JDC has helped provide assistance to Eastern European countries which are struggling with overwhelming political and economic changes. The JDC is working with Holocaust survivors, and at the same time working with the younger generations to help renew and establish their Jewish Heritage. The JDC has been part of the U.S. Government's non-sectarian program of food assistance to the former Soviet Union, providing food packages to the neediest members of the Jewish community. Moreover, the JDC has worked with the Jews in Asia and Africa, as well as assisting new immigrants in Israel. Their service and efforts see no boundaries.

For 80 years, the JDC has worked tirelessly to improve the quality of life for the whole Jewish Community, worldwide. For their outstanding efforts, I am proud to honor and recognize the American Jewish Joint Distribution Committee.

HUGO PRINCZ' FIGHT FOR JUSTICE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PALLONE. Mr. Speaker, I have been working to help Hugo Princz, a resident of Highland Park, NJ and a survivor of the Holocaust, in his fight for reparations from Germany. I would like to submit for the RECORD an article which appeared in the New York Times on October 3, 1994.

[From the New York Times, Oct. 3, 1994]

HOPE FADING FOR HOLOCAUST SURVIVOR'S REPARATIONS

(By Kimberly J. McLarin)

HIGHLAND PARK, N.J., Oct. 2—Had it not been shattered years ago in a concentration camp, Hugo Princz's heart would surely be breaking now. Not at the imminent death of his 40-year battle to extract reparations from the German Government, but at the fact that it is his own beloved America that stands in the way.

"I cannot understand how they could side with the German Government," Mr. Princz said in an interview in his home here in the still suburbs of northern New Jersey. "I just cannot understand. One American should help out another American, especially in a case like this."

Because of the quirky circumstances of his birth and his rescue from the Nazis, Mr. Princz has been denied reparations by the Germans for four decades. Diplomatic efforts on his behalf have failed. A lawsuit stalled under the weight of a Federal law prohibiting Americans from suing foreign governments. Now, bills to amend that law are winding their way through both houses of Congress and could come to the floor before Congress recesses in the coming days.

But vehement opposition from the State Department and Justice Department threatens to quash the amendment and with it, what Mr. Princz sees as his last chance at gaining the reparations that many of his fellow camp survivors have already received.

"I am very disturbed that in something so serious politics should enter," he said. "It is just a shameful thing."

From a chair in his rose-colored living room, Mr. Princz recounted his time in Nazi death camps with dispassion. He was born to a naturalized American businessman in 1922 in what is now Slovakia, making him a United States citizen at birth. In March 1942 his family's house was surrounded by local towns people. They were given 30 minutes to pack and were handed over as Jewish prisoners to the Nazis, who ignored the family's American passports and refused to include them in a Red Cross civilian prisoner exchange program.

At the Maidanek concentration camp, the family was separated. His parents and sisters disappeared into the notorious Treblinka death camp.

The Nazis sent Mr. Princz and his two brothers to Auschwitz. One day his younger brother was hurt in a work-related accident.

"I passed by a building that was supposed to be a hospital," he said. "It was a pigsty. If you got sick and they threw you in there you got sicker because they didn't feed you. I look in there and I see my young brother, 14 years old. Nothing but bones."

Seven days later, the Nazis killed everyone in the hospital, Mr. Princz said. His other brother was lashed for sneaking Mr. Princz some food and later died.

Mr. Princz said he spent time in Auschwitz, was sent to do forced labor in Warsaw after the Warsaw Ghetto uprising, and was also enslaved in an underground airplane factory at Dachau. All told he endured more than three years of torture, enslavement and deprivation at the hands of the Nazis.

"That's a lifetime," he said. "Jail would have been a picnic in comparison."

He was liberated May 1, 1945, by American soldiers, who saw the "U.S.A." the Nazis had stitched on his shirt and sent him to an American military hospital for treatment. After searching futilely for his family, Mr. Princz left Europe and settled in the United States.

When West Germany began compensating Holocaust survivors in the early 1950's, Mr. Princz applied for reparations. But he was turned down by the Germans with the explanation that as an American, he was neither a German citizen nor a refugee under the guidelines of the Geneva Convention. And because he had been sent directly to an American hospital, Mr. Princz had not been registered as a Holocaust victim through a displaced-persons camp.

Since then, Mr. Princz said, he has waged a dogged battle against the German Government, driven both by a desire for the money and the vindication it would represent. The monthly checks his friends receive gnaw at him. Although he would have settled for the $550 a month he believes he was entitled to in 1953, he wants a lump-sum payment now.

"It bugged me," he said, "Why should I be excluded? It's like a cancer in you."

Mr. Princz said he got nowhere until he hired a lawyer, Steven Peries, in the mid-1980's. But by 1992, even the diplomatic efforts Mr. Peries had begun had stalled, so Mr. Princz sued Germany. He won the first round: Judge Stanley Sporkin of United States District Court in Washington denied the German Government's motion to dismiss on the grounds of immunity.

But Germany appealed and this July the United States Court of Appeals for the District of Columbia Circuit ruled that Germany could not be sued, under the Foreign

Sovereignty Immunity Act. That law prohibits most suits by American citizens in United States courts against foreign governments

But in a powerful dissent to the Princz decision, Judge Patricia Wald wrote that the German Government had forfeited its claims to immunity with its barbaric treatment of Mr. Princz.

"When the Nazis tore off Princz's clothes, exchanged them for a prison uniform and a tattoo, shoved him behind the spiked barbed wire fences of Auschwitz and Dachau, and sold him to the German armament industry as fodder for their wartime labor operation, Germany rescinded any claim under international law to immunity from this court's jurisdiction," she wrote.

That dissent figures prominently in Mr. Princz's appeal to the Supreme Court. But William R. Marks, a Washington lawyer who joined the Princz case last year at no charge, said amending the law was probably Mr. Princz's last hope.

The bills now in Congress would allow United States citizens who are the victims of torture, genecide or state-sponsored terrorism to file suit in American courts against the foreign government that committed the act.

Both the Senate and House bills have cleared judiciary committees and could be taken up by Congress before it recesses this month. But supporters say opposition to the bills from the Clinton Administration and some Republican members of Congress has stalled their passage.

"We have a tough fight," said Representative Charles E. Schumer, a Democrat from Brooklyn who shepherded the bill through the House Judiciary Committee.

The State Department has argued that tinkering with the immunity act could damage delicate international relations and might not accomplish the objective intended. The Administration also fears that if the United States allows its citizens to sue foreign governments, those governments will reciprocate.

"But the difficulty lies in forcing a foreign government to do something it doesn't want to do," said Jamison Borek Selby, a deputy legal adviser with the State Department.

Ms. Selby said the State Department preferred to press such claims through diplomatic channels, as they have for Mr. Princz. Indeed President Clinton himself raised the issue when he met with the German Chancellor, Helmut Kohl, in January, the State Department says.

The German Government, through a lawyer, Peter Heidenberger, has argued that the immunity act protects it from Mr. Princz's lawsuit. It has also said that it cannot risk triggering a flurry of similar lawsuits by settling with Mr. Princz for any amount approaching the $17 million he is seeking.

Mr. Heidenberger did not return repeated phone calls to his office in Washington. But in an interview with the weekly newspaper Legal Times, Mr. Heidenberger said Germany has offered Mr. Princz a lump-sum payment of $4,500 and monthly payments of about $400. The Government cannot afford more, he said.

Mr. Marks said that the German offer appeared only after Judge Sporkin's ruling denying Germany immunity under the law. He said the offer was made as part of a German program compensating Holocaust survivors living in former Communist countries, and in it, Mr. Princz would be considered a Slovak instead of an American. It is a technicality, but for Mr. Princz, who still shakes with anger at the way many Slovaks collaborated with the Nazis, it was unacceptable.

POLITICAL CORRECTNESS: AMERICA THROUGH THE EYES OF THE SMITHSONIAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SOLOMON. Mr. Speaker, did you know that the United States is under constant oppression by the narrow, exclusionary and overly rational dominant culture? Well, many college campuses have been spewing forth this unfounded rhetoric for years, but now the Federal Government has joined them through the sponsorship of a plethora of historical and scientific exhibits in Smithsonian museums.

Yes, an American family from my rural, farming district in upstate New York can come to Washington, DC, to visit our wonderful Smithsonian museums. However, this visit will be only to learn that their dear grandfather who was an American fighter pilot in World War I was responsible for the vast slaughter of civilians and soldiers because he used stealth and surprise rather than dramatic dogfights to shoot down enemy planes. The Air and Space Museum portrays these beloved relatives as unfair, imperialistic warmongers who slaughtered innocent civilians rather than the heroic defenders of democracy fighting the expansionist, totalitarian and anti-democratic regimes of Central and Eastern Europe.

This World War I exhibit is not a solitary incident, but a shining example of the type of politically correct and inaccurate messages that the Smithsonian sends to tens of millions of people every year. Fortunately, veterans of World War II were able to thwart the Smithsonian's most recent attempt to broadcast revisionist history through the Enola Gay Exhibit. Living participants of this event were able to correct the grave misstatements and gross inaccuracies by our national science museum. I fear these museums' interpretation of those events for which there are no living participants to plead their case. The results of such circumstances can already be seen in many existing Smithsonian programs and exhibits.

I commend to your concerted attention the following article by John Leo, entitled "The National Museums of PC" in the October 10, 1994 issue of U.S. News and World Report, which further details the flood of political correctness through our national museums.

Congress possesses the power of the purse. Perhaps this power must be utilized as Congress reauthorizes and appropriates funding for the Smithsonian during the 104th Congress. I know that I will be following this issue closely and will act accordingly.

[From U.S. News and World Report, Oct. 10, 1994]

THE NATIONAL MUSEUMS OF PC

By John Leo

The Enola Gay controversy at the National Air and Space Museum in Washington is no isolated incident, just the most publicized example so far of the politically correct make-over underway at the various museums of the Smithsonian Institution.

The folks at Air and Space went way too far with plans for next year's exhibition on the end of World War II and the atomic bombing of Hiroshima and Nagasaki, arguing that America was conducting a racist war of vengeance against Japan, while "for most Japanese, it was a war to defend their unique culture against Western imperialism."

That perverse view of the war and American motives, running through hundreds of pages of early draft versions of the show, was bound to attract attention from veterans and historians who know better. But the same dark vision of America as arrogant, oppressive, racist and destructive increasingly runs through the Smithsonian complex.

Part of the new Smithsonian strategy is to keep stressing the negatives. The end of America's most honorable and successful war is celebrated by focusing on the morally ambiguous act of bombing Japanese cities. At the National Museum of American History, the 200th anniversary of the Constitution was celebrated by an exhibition on the document's most spectacular violation—the interment of Japanese-Americans during World War II. It's a good show and Americans ought to know about the internments, but that was it—nothing else from the Smithsonian on the bicentennial of a stupendous political achievement.

The current "Science in American Life exhibit at the Smithsonian's Museum of American History is another exercise in accentuating the negative. It's a disparaging, politically loaded look at American science, concentrating single-mindedly on failures and dangers: DDT, Three Mile Island, the ozone hole, acid rain, the explosion of the Challenger, Love Canal, nonbiodegradable plastics, possible threats in genetically altered foods.

WEIRD SCIENCE

A reconstruction of an 1876 chemistry lab features two chemists arguing bitterly over who deserves credit for the discovery of saccharin. One of the few scientific achievements the show praises is the birth control pill, but even here a sign says: "Some African Americans . . . believed there were two kinds of pills: one for white women and one for us, and the one for us causes sterilization." This notion, that sterilization pills were secretly distributed to blacks, is left unrebutted.

An "Avenge Pearl Harbor" poster at the science exhibit makes the same point that the Enola Gay text does: that the dropping of atomic bombs on Japan was an irrational act of vengeance. The exhibition veers well away from science to remind us that armed forces were still segregated in World War II, with a black soldier decrying America as a "so-called democracy." IQ tests, discussed in the same sentence as phrenology, presumably to disparage IQ testing, were sometimes "used to rationalize racism."

At the Air and Space Museum, a show on World War I is essentially used to indict the airplane and technology in general for the vast slaughter of civilians and soldiers over the past 75 years. The show is impatient with the idea of military valor: Famous fighter pilots should not be considered heroes or "knights of the air"—even Germany's famous "Red Baron" downed many pilots by "stealth and surprise," not in dramatic dogfights as many imagine.

Up in the Air and Space planetarium, a film on *Exploring New Worlds*, recently closed, was even more heavily politicized. Exploring the heavens was linked to "the frantic exploration and exploitation" conducted on Earth by Columbus and Europeans in general. A walk-through exhibit—"Where Next, Columbus?"—raises the question of whether the West will repeat this alleged exploitation in space. A lighted display asks the vexing question, "Does Mars Have Rights?" Below, the display says: "Historically, the arrival of explorers has not always been benign."

Large sections of the Museum of Natural History are closed to the public, presumably for renovation. Meanwhile "dilemma labels" on the walls apologize for older, unreformed exhibits. One dilemma label complains that in these displays, "Humans are treated as more important than other mammals," which is obviously incorrect.

Over at the Museum of American History, a highly multiculturalized exhibition on America from 1780 to 1800 treats Indians, blacks and Europeans as three equally excellent cultures, with Indians and blacks perhaps a bit more excellent because they "studied nature in order to work in harmony with it—not to control it" and they "developed sophisticated methods of systematizing their knowledge . . . and elaborate technologies."

On a recent two-hour trek through the history museum, I noticed very little celebrating American achievement, nothing about the Founding Fathers, the idea of America or what Americans have in common.

Instead, the emphasis is on separateness and the alleged need to resist the constant oppression by the narrow, exclusionary and overly rational dominant culture. This is the familiar ideology of campus political correctness, imported whole into our national museum structure. Your tax dollars at work.

THE DEMOGRAPHIC CHALLENGE OF THE 21ST CENTURY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HAMILTON. Mr. Speaker, at last month's population conference in Cairo, delegates from nearly 180 countries wrestled with some of the most pressing questions of our day.

One of the highlights of the proceedings at Cairo was the address delivered by Prime Minister Benazir Bhutto of Pakistan during the conference's opening session. Her speech addresses the important linkage between development, women's empowerment, family values, and limiting population growth.

Mr. Speaker, I believe my colleague will find her speech insightful, and I ask that Prime Minister Bhutto's address be reprinted in the RECORD.

ADDRESS BY MOHTARMA BENAZIR BHUTTO, PRIME MINISTER OF PAKISTAN, BISMILLAH ARRAHAMA NIRRAHEEM

Mr. President, Secretary General, Distinguished Delegates, Ladies and Gentlemen: I come before you as a Woman; as a Mother; and as a Wife.

I come before you as the democratically elected Prime Minister of a great Muslim nation—the Islamic Republic of Pakistan.

I come before you as the leader of the ninth largest population on earth. Ladies and Gentlemen.

We stand at the cross roads of history.

The choices that we make today will affect the future of mankind.

Out of the debris of the second world war arose the impulse to reconstruct the world.

Large communities of people exercised their right of self-determination by establishing nation-states of their own.

The challenge of economic development led, in several instances, to group-formation where states subordinated their individual destiny to collective initiatives.

It seemed for a while that these collective efforts would determine the political architecture of the future.

The events of the last few years have, however, made us aware of the growing complexity and contradictions of the human situation.

The end of the Cold War, should have freed immense resources for development.

Unfortunately, it led to the re-emergence of sub-regional tensions and conflicts. In extreme cases, there was a break up of nation-states.

Sadly, instead of coming nearer, the objective of a concerted global action to address common problems of mankind, seems lost in the twilight.

The problem of population stabilization faced by us today cannot be divorced from our yesterdays.

Ironically enough, population has risen fastest in areas which were weakened most by the unfortunate experience of colonial domination.

The third world communities have scarce resources spread thinly over a vast stretch of pressing human needs.

We are unable to tackle questions of population growth on a scale commensurate with the demographic challenge.

Since demographic pressure, together with migration from disadvantaged areas to affluent states, are urgent problems, transcending national frontiers, it is imperative that in the field of population control, global strategies and national plans work in unison.

Perhaps that is a dream. But we all have a right to dream.

Ladies and gentlemen, I dream of a Pakistan, of an Asia, of a world where every pregnancy is planned, and every child conceived is nurtured, loved, educated and supported.

I dream of a Pakistan, of an Asia, of a world not undermined by ethnic divisions brought upon by population growth, starvation, crime and anarchy.

I dream of a Pakistan, of an Asia, of a world, where we can commit our social resources to the development of human life and not its destruction.

That dream is far from the reality we endure.

We are a planet in crisis, a planet out of control, a planet moving towards catastrophe. The question before us at this conference is whether we have the will, the energy, the strength to do something about it.

I say we do. We must.

What we need is a global partnership for improving the human condition.

We must concentrate on that which unites us. We should not examine issues that divide us.

Our document should seek to promote the objective of planned parenthood of population, of population control.

This conference must not be viewed by the teaming masses of the world as a universal social charter seeking to impose adultery, abortion, sex education and other such matters on individuals, societies and religions which have their own social ethos.

By convening this conference, the international community is reaffirming its resolve that problems of a global nature will be solved through global efforts.

Governments can do a great deal to improve the quality of life in our society.

But there is much that governments cannot do.

Governments do not educate our children. Parents educate children. More often mothers educate children.

Governments do not teach values to our children. Parents teach values to our children. More often mothers teach values to children.

Governments do not socialize youngsters into responsible citizens. Parents are the primary socializing agents in society. In most societies, that job belongs to the mother.

How do we tackle population growth in a country like Pakistan? We tackle it by tackling infant mortality. By providing villages with electrification. By raising an army of women, 33,000 strong, to educate our mothers, sisters and daughters in child welfare and population control.

By setting up a bank run by women for women, to help women achieve economic independence. And, with economic independence, have the wherewithal to make independent choices.

I am what I am today because of a beloved father who left me independent means, to make independent decisions, free of male prejudice in my society, or even in my family.

As chief executive of one of the nine largest populated countries in the world, I and the Government are faced with the awesome task of providing for homes, schools, hospitals, sewerage, drainage, food, gas, electricity, employment and infrastructure.

In Pakistan, in a period of 30 years—from 1951 to 1981—our population rose by 50 million.

At present it is 126 million.

By the year 2020, our population may be 213 million.

In 1960 one acre of land sustained one person. Today one acre of land sustains 2½ people.

Pakistan cannot progress, if it cannot check its rapid population growth.

Check if we must, for it is not the destiny of the people of Pakistan to live in squalor and poverty condemned to a future of hunger and horror.

That is why, with the 33,000 lady health workers and the women's bank, the government has appointed 12,000 community motivaters across the country.

To educate and motivate our people to a higher standard of living through planned families, spaced families, families that can be nurtured.

In our first budget, we demonstrated our commitment to human resource development.

We increased social sector spending by 33%.

And by the year 2000, we intend to take Pakistan's educational expenditure from 2.19% where we found it to 3% of our GNP.

This is no easy task for a country with a difficult IMF structural program.

With a ban on economic and military assistance from the only super power in the world.

With 2.4 million Afghan refugees forgotten by the world.

With more Kashmiri refugees coming in needing protection.

But we are determined to do it. For we have a commitment to our people.

A commitment based on principles.

Such a commitment demands that we take decisions which are right, which are not always popular.

Leaders are elected to lead nations.

Leaders are not elected to let a vocal narrow-mined minority dictate an agenda of backwardness.

We are committed to an agenda for change.

An agenda to take our mothers and our infants into the 21th century with the hope of a better future.

A future free from diseases that rack and ruin.

A future free from polio, from goiter, from blindness caused by deficiency in vitamin A.

These are the battles that we must fight, not only as a nation but as a global community.

These are the battles on which history—and our people—will judge us. These are the battles to which the mosque and the church must contribute, along with governments and NGO's and families.

Empowerment of women is one part of this battle.

Today women pilots fly planes in Pakistan, women serve as judges in the superior judiciary, women work in police stations, women work in our civil service, our foreign service and our media.

Our working women uphold the Islamic principles that all individuals are equal in the eyes of God.

By empowering our women, we work for our goal of population stabilization and, with it, promotion of human dignity.

But the march of mankind to higher heights is a universal and collective concern.

Regrettably, the conference's document contains serious flaws in striking at the heart of a great many cultural values, in the north and in the south, in the mosque and in the church.

In Pakistan our response will doubtless be shaped by our belief in the eternal teachings of Islam.

Islam is a dynamic religion committed to human progress. It makes no unfair demands of its followers.

The Holy Quran says:

"Allah wishes you ease, and wishes not hardship for you."

Again the Holy Book says:

"He has chosen you, and has not laid on you any hardship in religion."

The followers of Islam have no conceptual difficulty in addressing questions of regulating population in light of available resources.

The only constraint is that the process must be consistent with abiding moral principles.

Islam lays a great deal of stress on the sanctity of life.

The Holy Book tells us:

"Kill not your children on a plea of want. We provide sustenance for them and for you."

Islam, therefore, except in exceptional circumstances rejects abortion as a method of population control.

There is little compromise on Islam's emphasis on the family unit.

The traditional family is the basic unity on which any society rests.

It is the anchor on which the individual relies as he embarks upon the Journey of Life.

Islam aims at harmonious lives built upon a bedrock of conjugal fidelity and parental responsibility.

Many suspect that the disintegration of the traditional family has contributed to moral decay.

Let me state, categorically, Mr. Chairman, that the traditional family is the union sanctified by marriage.

Muslims, with their overriding commitment to knowledge, would have no difficulty with dissemination of information about reproductive health, so long as its modalities remain compatible with their religious and spiritual heritage.

Lack of an adequate infrastructure of services and not ideology, constitutes our basic problems.

The major objective of the population policy of the newly elected democratic government is a commitment to improve the quality of life of the people through provision of family planning and health services.

Mr. Chairman, we refuse to be daunted by the immensity of the task.

But the goals set by this conference would become realistic only with the whole-hearted cooperation amongst the nations of the world.

Bosnia, Somalia, Rwanda and Kashmir are but a few examples of nation-states under siege.

The rise of so-called fundamentalism in some of our societies, and the emergence of neo-fascism, in some western communities, are symptoms of a deeper malaise.

I believe the nation-states might just have failed to meet their people's expectations within their own limited national resources of ideological framework.

If so, the malady is probably none other than a retreat from the ideals of the founding fathers of the United Nations.

We can, perhaps, still restore mankind to vibrant health by returning to those ideals of Global Cooperation.

Given the background, I hope that the delegates participating in this conference will act in wisdom, and with vision to promote population stabilization.

Pakistan's delegation will work constructively for the finalization of a document enjoying the widest consensus.

Ladies and Gentleman, our destiny does not lie in our stars. It lies within us. Our destiny beckons us. Let us have the strength to grasp it.

Thank you President Mubarak, for hosting this Conference on such an important global concern. And thank you Mr. Secretary General and Dr. Nafis Sadik for making it possible.

Thank you.

CONGRATULATIONS COUNTRY MUSIC AWARD WINNERS

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CLEMENT. Mr. Speaker, last night, in the home of country music, Nashville, TN, the 28th Annual Country Music Awards were presented before a nationwide television audience.

Mr. Speaker, the reasons for country music's popularity were evident as one watched last night's awards show. Country music has some of the brightest and most talented songwriters, artists, and musicians in the music industry today and it is indeed an honor for me to represent them here in the Congress.

I congratulate all of the award winners and the nominees for helping make 1994 one of country music's best years.

I have included with my remarks a list of the CMA award winners.

WINNERS OF THE 1994 COUNTRY MUSIC AWARDS

(By the Associated Press)

Winners of the 1994 Country Music Association awards:

Entertainer of the Year: Vince Gill.

Female Vocalist of the Year: Pam Tillis.

Male Vocalist of the Year: Vince Gill.

Single of the Year (for singer): "I Swear," John Michael Montgomery.

Album of the Year: "Common Thread: The Songs of the Eagles," John Anderson, Clint Black, Suzy Bogguss, Brooks & Dunn, Billy Dean, Diamond Rio, Vince Gill, Alan Jackson, Little Texas, Lorrie Morgan, Travis Tritt, Tanya Tucker and Trisha Yearwood.

Horizon Award: John Michael Montgomery.

Vocal Group of the Year: Diamond Rio.

Vocal Duo of the Year: Brooks & Dunn.

Music Video of the Year: "Independence Day," Martina McBride.

Song of the Year (for songwriter): "Chattahoochee," Alan Jackson-Jim McBride.

Vocal Event of the Year: Reba McEntire with Linda Davis, "Does He Love You."

Musician of the Year: Mark O'Connor, fiddle.

TRIBUTE TO THE ORTHODOX SOCIETY

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HOKE. Mr. Speaker, It is my privilege to introduce into the RECORD a statement of mission of the Orthodox Society of America, which will be holding its 25th quadrennial convention in Westlake, OH, in my congressional district.

I commend the Orthodox Society for its fine work over the years, and call their statement to the attention of my colleagues.

THE ORTHODOX SOCIETY OF AMERICA HOSTS ITS 25TH QUADRENNIAL CONVENTION

The Orthodox Society of America, founded at Monessen, Pennsylvania in 1915 by Russian Orthodox immigrants, and currently representing Americans of the Eastern Orthodox Christian faith, as well as our brethern of Eastern European heritage, will hold its 25th Quadrennial Convention on October 21–24, 1994 at the Holiday Inn in Westlake, Ohio.

The members of the Orthodox Society of America benefit financially through fraternal insurance, and retirement programs. The Society also encourages the education of Orthodox Christian youth by offering scholarship programs for both undergraduate and graduate student/members.

In addition, the Orthodox Society of America encourages children of the Orthodox Christian faith to set good examples for their peers, to maintain strong family values, to uphold the teachings of the Orthodox Church, and to volunteer in their communities, through the Society's "Outstanding Young Citizen" award program.

The Orthodox Society of America also actively supports the efforts of several charitable and cultural organizations both here and abroad, including various Orthodox churches, the Federated Russian Orthodox Clubs of the U.S.A., the American Carpatho-Russian Youth, Habitat for Humanity, and International Orthodox Christian Charities.

INTRODUCTION OF THE PANAMA CANAL ACT AMENDMENTS OF 1994: OCTOBER 6, 1994

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FIELDS of Texas. Mr. Speaker, today I am introducing, at the request of the administration, the Panama Canal Amendments Act of 1994.

The fundamental goal of this proposed bill is to improve the organization and management of the Panama Canal Commission.

Mr. Speaker, during the last Congress, I proposed a measure that would have made a number of important improvements in the Panama Canal Act of 1979. These changes would have: Directed the President to select a civilian nongovernmental business person to serve for 7 years as Chairman of the Board of Directors; altered the makeup and eligibility requirements for those Americans serving on the Board; and changed the Commission's financial structure and to create a fund to cover any costs associated with the dissolution of the Panama Canal Commission.

While the Dissolution Fund was incorporated within the Department of Defense Authorization Act of 1993—Public Law 102-484—the other provisions of H.R. 1558 were the subject of considerable debate. In fact, a leadership compromise was developed which directed the President to develop a plan, with the cooperation of several Federal agencies, to make the Canal enterprise operate more like an autonomous shipping entity. In addition, the General Accounting Office, was asked to conduct a study on how the Commission's operational structure can be modified to ensure an efficient transportation business in the future.

This bill is the product of those efforts and it is my hope that interested parties will carefully review this proposal during the next few months and will provide us with their cogent comments.

While I am not absolutely committed to the details of this bill, I remain convinced that it is in our Nation's best interest to have a viable and well functioning canal waterway in the post-2000 year period.

Mr. Speaker, I urge my colleagues to review the Panama Canal Act Amendments of 1994 and I am hopeful that legislation, such as this, is seriously considered in the 104th Congress.

Thank you, Mr. Speaker.

A section-by-section analysis of this bill follows:

SECTION-BY-SECTION ANALYSIS

Section 1. This section would provide that the bill may be referred by the short title, "Panama Canal Amendments Act of 1994."

Section 2. This section would amend section 1101 of the Panama Canal Act of 1979 (hereinafter referred to as the Act) in several substantive respects. First, it would establish the Commission as a wholly-owned government corporation, subject to 31 U.S.C. 9103(3), within the executive branch of the Government of the United States and subject to the standard requirements of such entities.

The section would provide for the establishment of the Commission's headquarters in Panama and authorize branch offices in such other places as are deemed necessary or appropriate. Finally, it would make the Commission a resident of the District of Columbia and the eastern district of Louisiana for purposes of venue in civil actions involving the agency.

Section 3. This section would revise section 1102 of the Act dealing with the Commission's Board. It would remove the current requirement that specific enumerated sectors of the martitime trade be represented on the Board. Instead, it allows the President much more flexibility in selecting nominees for the Board based on their unique and individual qualifications.

Section 4. This provision would allow the addition of two "designated international advisors" to the Board who are selected by the United States and the Republic of Panama, but who are nationals of neither country. These advisors would be chosen for the individual perspectives they could bring to the Commission's affairs, but would not have voting powers. This provision is intended to allow the Board to broaden its deliberations by the inclusion of distinguished participants, in keeping with its importance as a neutral and truly international resource.

Section 5. This section would add to the Act new sections 1102a and 1102b which would set out, respectively, the general and specific powers of the Commission as a U.S. Government corporation. The listing of general powers would include those relating to the adoption of a corporate seal; to the promulgation of bylaws governing the conduct of Commission business and the performance of its legal powers and duties, to the authority to sue and be sued in its corporate name (except as presently limited by the Panama Canal Treaty of 1977, section 1401 of the Act and otherwise by law; existing exemptions regarding garnishments of employee salaries and interest on claims and judgments would be included in this section); to the authority to enter into contracts, leases, etc.; to the determination of the character and necessity of its obligations and expenditures; and to the authority to deal in real and personal property. The Commission would retain its present priority of the United States in the payment of debts out of bankrupt estates.

Specific powers conferred on the Commission would be made subject to both the Panama Canal Treaty of 1977 and the Government Corporation Control Act and would include the power to manage, operate and maintain the Canal; to construct, acquire, operate and maintain harbor, shop, marine, railway, towing, motor transportation facilities, power, water and telephone systems; living quarters, guest houses, storehouses, other buildings, a printing plant, manufacturing, processing and service facilities and other business-type activities, facilities and appurtenances necessary and appropriate for the accomplishment of its mission. The section would also empower the Commission to make sales to vessels, employees and agencies of the U.S. and other Governments, and to use the United States mails under the same conditions as the executive departments of the United States Government. A final provision would authorize the agency to take such other actions as are necessary or appropriate to carry out the foregoing specific powers.

Section 6. This section would amend section 1302 of the Act to make that provision consistent with the rechartering of the Commission as a government corporation. Redesignations of numbered subsections would be accomplished. Section 1302(e) would be revised to incorporate the budgetary review provisions of the Government Corporation Control Act.

Section 7. This section would implement the President's recommendations concerning audit of the Commission's financial statements and internal controls by authorizing the Commission's Board to hire independent external auditors to perform the audit and reporting functions otherwise assigned to the Comptroller General of the United States. This auditing arrangement would be in lieu of that provided by section 9105 of title 31, U.S. Code for government corporations generally.

This section would also implement the President's recommendation to require that the Commission certify annually that it is on course to liquidate all its liabilities on December 31, 1999. Such certification would be in the form of a statement of obligations and resources accompanying the Commission's audited financial statements for each fiscal year.

Section 8. This section would amend section 1601 of the Act by transferring from the President to the Commission the authority to prescribe and change both the rules for the measurement of vessels using the Panama Canal and the tolls levied for use of the waterway.

Section 9. This section would, in accordance with the change made by section 8 of this bill, amend section 1604 of the Act to remove references to the President from the statutory procedures for effecting changes in the measurement rules and tolls rates for use of the Canal.

Section 10. This section would make appropriate technical and conforming amendments to various sections in the Act.

Section 11. This section would amend the Government Corporation Control Act by adding the Panama Canal Commission to the list of wholly-owned Government corporations at 31 U.S.C. 9101(3). While no amendments are proposed to the text of the Inspector General Act of 1978, as amended, appendix 3, title 5, United States Code, it is the President's recommendation that, with the restructuring of the Commission as a U.S. government corporation, the head of that designated federal entity for purposes of the Inspector General Act should be the Commission's Board of Directors. Currently, the Chairman of the Board, not the Board as a whole, is considered the head of the agency for this purpose. It was the legislative history to the Inspector General Act Amendments of 1988 (P.L. 100-504) which indicated the Congressional intent with respect to this issue. H.R. Conf. Rep. No. 100-1020, 100th Cong., 2d Sess. 27 (1988), reprinted in 1988 U.S.C.C.A.N. 3179, 3186. In order to carry out this recommendation, the Administration recommends that the legislative history for this Act express the legislative intent that the Board as a whole, rather than just the Chairman of the Board, be considered the agency head for purposes of the Inspection General Act. This is in keeping with the other changes in the governance of the Commission made by this Act.

TRIBUTE TO WOODBRIDGE, NJ ON ITS 325TH ANNIVERSARY

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise to pay tribute to Woodbridge, NJ, on its 325th anniversary. Woodbridge has much to celebrate as its citizens consider the remarkable history of the oldest original township in New Jersey.

The township of Woodbridge, named in honor of Rev. John Woodbridge of Newbury, MA, was settled in 1664. With a charter granted by King Charles of England, the first residents of Woodbridge briefly coexisted with the native inhabitants of the area, the Lenni Lenape Indians. And by using New England towns as a model, Woodbridge was laid out with a church, community facilities, and common open space forming the town center, surrounded by cultivated fields.

The colonial history of Woodbridge is especially rich. In 1751, Woodbridge established the first permanent printing house in New Jersey. During the American Revolution, widespread destruction occurred in Woodbridge as a result of 29 skirmishes. And on the seventh anniversary of our Nation's independence, Woodbridge planted the seeds of another freedom movement by hosting the first antislavery meeting ever held in the United States, on July 4, 1783.

Of course, no true colonial history would be complete without an instance of "George Washington slept here." Indeed, President-elect Washington spent a night at the Cross Keys Tavern in Woodbridge only 1 week before his inauguration in 1789.

Woodbridge offers much more than history; its people have always presented their township as a model of growth and prosperity for both the State and the Nation. Its modern civic government and strong corporate growth have resulted in Woodbridge earning the prestigious All-American City Award and being recognized for distinguished achievement in the National Cleanest Town Contest.

Woodbridge's diversity is a great source of pride to its residents and to the State. As the seventh largest municipality in the State, Woodbridge is made up of many small communities, each with a distinctive character: Avenel, Colonia, Fords, Hopelawn, Iselin, Keasbey, Port Reading, Sewaren, and Woodbridge proper. Furthermore, Woodbridge has been able to strike an admirable balance of industry and manufacturing with residential neighborhoods and parks.

Woodbridge is also a major transportation hub. the Garden State Parkway and the New Jersey Turnpike intersect in Woodbridge, and the Metropark train station in Iselin provides high speed rail service from Boston to Washington. Furthermore, the now standard highway cloverleaf design was first built in Woodbridge at the junction of Route 1 and Route 9.

Mr. Speaker, I am proud to represent the citizens of Woodbridge in the House of Representatives. I urge my colleagues to join me in commending Woodbridge, NJ on its 325th anniversary.

CELEBRATING GERMAN-AMERICAN DAY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BOEHLERT. Mr. Speaker, today, on German-American Day, it is appropriate to reflect upon the long history and shared vision of freedom among our diverse ethnic peoples of America.

Representatives of the Steuben Society of America, Heinz Obry and Ilse Hoffman, paid a visit to my office to share the work of the society and continue its important mission: maintaining a strong democracy, encouraging civic virtue, participation in government, and freedom for all.

This year also marks the 200th anniversary of the death of the great patriot, Baron Frederick von Steuben, "Drillmaster of the Revolution." This German-American was indispensable to the patriot cause in the struggle for independence, and I am proud to report that a number of events in the Baron's adopted home in central New York were undertaken this year in an August commemoration.

As part of the northern frontier project's campaign to share more information about unique and underreported events and personalities from the New York colony in the revolution, I am sharing an excellent speech by West Point historian, Alan C. Aimone.

Delivered on July 9, 1994 to the Rome Historical Society, this speech celebrates the opening of an exhibit honoring the Baron.

Americans will find belonging, pride, and inspiration in the sacrifices and contributions from diverse ethnic peoples from the northern frontier in the cause of our independence.

Mr. Alan C. Aimone:

BARON VON STEUBEN'S OPENING PROGRAM [200TH ANNIVERSARY OF BARON VON STEUBEN'S DEATH, 8, JULY–30 SEPTEMBER 1994], SATURDAY, 9 JULY, 1994 ROME HISTORICAL SOCIETY

Thank you for your introductory remarks. Distinguished guest, ladies and gentleman of the Rome Historical Society and Mohawk Valley patriotic and historical organizations I bring greetings from the Superintendent of the United States Military Academy, Lieutenant General Howard D. Graves on the bicentennial anniversary of Baron von Steuben's service to the United States. West Point is considered by many people the premier leader development institution in the world. It is not hard to compare many of the leadership qualities of the West Point program with what Baron von Steuben initiated as the "First Teacher" of the American military development.

I will discuss three Baron von Steuben topics today:

1. How Steuben trained and disciplined the American Army
2. The role of the blue book: As the first guide for American soldiers
3. Steuben's influence of the American military tradition

During the course of his life Steuben went by as many as seven German first names, but in America he was known as Frederick William Augustus Steuben (17 September 1730–28 November 1794). He was a legend in his own time and after. Starting at the age of sixteen, Steuben attained no higher rank than an infantry captain. However, he served at the Royal Headquarters as a general staff officer and as one of the aides-de-camp to Frederick the Great. In 1763 Steuben was one of only fifteen officers selected to be taught the art of war under the personal supervision of Frederick, but soon after the Seven Years' War, probably because he was not of the heredity nobility, he was retired from the Army. The significance of Steuben's general staff training and service has not been sufficiently appreciated. During the next twelve years the Baron served as an official to the household of a minor German prince's court.

In 1777 Steuben went to Paris to seek employment. By gaining the support of the French War Minister and persuading the American representatives led by Benjamin Franklin he secured a volunteer position in the Continental Army. Franklin saw in von Steuben the hope of creating a more professional fighting force to take the field against King George III's experienced troops. By his training and experience he brought to Washington's staff a technical training that was unknown in either the French or the British armies at that time.

Washington in a letter to the committee of the Continental Congress on 28 January 1778 said that his original conception of an Inspector General with assistants down to brigade level, was still firm. It would require a combination of competence and good humor to grapple with the problems facing the Continental Army, which was at a low ebb in February 1778.

There was no meat, the horses were dying, and the bare country surrounding the camp was a poor location. Things were even worse than they looked. To begin with, there was no uniform organization of the army. "I have seen a regiment consisting of thirty men, and company of one corporal!" said Steuben, "nothing was so difficult, and often so impossible as to get a correct list of the state or return of any company, regiment, or corps." Many of the troops were scattered on various fatigue details while several thousand more were being used as officers' servants. This manpower had to be restored to the tactical units to gain the full benefit of training.

Steuben's proposal to stake his fortune upon the success of the cause made a deep impression upon the Continental Congress. He also made a profound impression upon the officer and men of the Continental Army. Washington was so favorably impressed by his practical knowledge and experience that he prevailed upon him to serve as Acting Inspector General and to; undertake the training of the army.

The Baron was up early in the morning of March 19, 1778 while his German soldier servant, Carl Vogel, was dressing his pigtail, he smoked a pipe and drank a cup of coffee. He mounted his horse and rode to the parade ground. Training of the Commander in Chief's guard began with Steuben in charge. Steuben himself trained one squad first, then set his subinspectors, whom Washington had been appointing for several days, to drill other squads, while he galloped about the camp, supervising. Steuben shocked American officers by personally teaching the men the manual of arms and drill, but his success helped to convince them. He disapproved of the British-inspired distance between the soldiers and American officers, who had been content to leave instructions to sergeants. Steuben not only offered a good example, but specifically instructed officers in how to train their own men.

The Baron succeeded, not because he had an exceptionally intelligent military mind, but because he was a diligent organizer who was willing to adapt the principles of professional warfare to the needs of the American soldiers. Steuben decided to start small. He taught a greatly simplified manual of arms, because there was no time to follow elaborate European practices. He had about two months to train a partially experienced Continental Army before the campaign season would commence. The baron learned English as quickly as possible. During the drills he sometimes lost his temper and then he would swear in German and French. At first he only knew one English swear word, "Goddam." When he had exhausted his oaths, he would turn to an aide and say, "Come and swear for me in English!" The outburst were rather comical and they amused the men, who burst into laughter.

As usual some soldiers could not master the new lessons as quickly as the rest and were formed into separate squads of awkward troops for learning the new maneuvers. New recruits were placed into these squads and had to earn their way out by competence in the mastery of the new ways.

After the model guard company was ready, he extended his system to battalions, then brigades, and in three weeks was able to maneuver an entire division for Washington. His inspectors were his agents. The results of the training were impressive and it did not take long to persuade Washington that Steuben knew what he was doing. Three days after the new drilling began, Washington issued orders to the Army paving the way for Steuben's promotion on March 28 to Inspector General by directing unit commanders to stop all drills under systems then in use and begin preparations to use Steuben's methods. A few days later, he directed them to begin practicing under Steuben's supervision. At that time Washington also appointed four lieutenant colonels to act as subinspectors, while the next day he appointed brigade inspectors for all brigades. By May 5, Steuben duties were expanded to being responsible for training of all American troops.

No less an improvisation was the way the regulations were first distributed. A unique solution was reached to assure rapid reproduction. There were no printing presses at Valley Forge, while circumstances demanded the fastest possible dissemination of the regulations. One chapter was prepared at a time. To distribute the drill regulations, brigade inspectors wrote out copies for themselves, then entered copies in the orderly books of the brigades and each regiment. From regimental orderly books copies were made for each company, from which each officer and drillmaster made his own copy. It required two to three days for each chapter to be distributed.

Steuben and his staff spent the winter of 1778–1779 in Philadelphia preparing the manuscript of his now famous Regulations or "Blue Book." It became the military bible of the Continental Army for drill and field service regulations. The manual contained the essentials of military instruction and procedure adapted to the needs of the American citizen soldier. Writing from memory, he salvaged whatever seemed essential from the Prussian regulations that could be adapted to a system based upon British organization, and in a situation where soldiers were motivated by devotion to the cause and their leader.

No important book has ever been produced under greater difficulties. The Baron first wrote each passage in German which he translated into inelegant French. Pierre Etienne Duponceau, his secretary, translated the text into literary French, but he was no military man. Another aide, Captain Francois Louis de Fleury rewrote the text into workable French. Captain Benjamin Walker translated the French into English. Washington's aides John Laurens and Alexander Hamilton then edited the instructions into a military style, and Steuben memorized the text as well as his broken English allowed.

The manual is illustrated by 38 plates showing the positions of the soldier. Steuben had explicit drawings of the manual of arms and basic troop movements, prepared by Captain Pierre Charles L'Enfant, a military engineer and architect, who later gained fame as the city planner of Washington, DC.

Despite the printing business shortages of paper, ink, and other materials in Philadelphia, binding proved to be the major obstacle as production dragged through the summer and into the fall of 1779. At last the binders adopted substitutes in order to get the job done. The actual printing of the manual was given to a thrifty Scottsman, named James Aitken. Aitken came up with the idea of using surplus Pennsylvania Magazine paper. Three reams of the unused newspaper was used as end and frontice pages for the manuals. Aitken's records show that 2,969 copies were actually printed by November 1779. Among the substitutions was blue paper for half-covers, instead of full leather. That substitution gave Steuben's regulations the name they would bear thereafter—Steuben's "Blue Book." Few of the original copies printed at Philadelphia in 1779 are extant. Relatively few copies of the subsequent printings are also available.

It immediately became canon for all the military from Washington down and was adopted by Congress in March 1779 as official for the officers and men in the service of the United States. It was composed specifically for the Continental Army and was not a reprint of an European treatise. The manual differed from its predecessors by being written for the wartime use of a national army and not solely for employment by militia units. The handbook, had twenty-five chapters, which covered elementary tactics and army administration. The earlier manuals of arms were full of movements which were not absolutely essential, excessive motions were eliminated. Steuben replaced the three ranks of men with the easier and more efficient two ranks of men. Instructors were requested to refrain from castigating the soldiers with verbal abuse, [something Steuben preached but did not always followed] and were remined to exercise patience and moderation during training.

The official sanction which had been given by the Continental Congress led to an uniformity of use which had never before been achieved by an American martial handbook. After the passage of the Militia Acts in the early 1790's, virtually all states adopted Steuben's Regulations which accounts for the large number of printings in 1794. The "Blue Book" continued to be used as the official drill manual of the United States' militia until it was supplanted in the Militia Act of 1820. By then, its reputation was firmly established with the public and it was the most famous of all American military manuals and one of the most important documents in the history of our country.

Many have paid tribute to the memory of Steuben and to his distinctive contributions to the cause of American independence, but of all testimonials the general probably would have most preferred the 1792 "Creed adopted by the Officers of the American Army at Verplanck's Point," affirming:

"We believe that George Washington is the only fit man in the world to head the American Army * * * that Nathaniel Greene was born a general * * * (and) that Baron Steuben has made us soldiers, and that he is capable of forming the whole world into solid column, and deploying it from the center. We believe in his Blue Book. We believe in General Knox and his artillery. And we believe in our bayonets. Amen!"

Rules were applied to military inspection, which was made a subject of the regulations. But it was not presented as an activity of designated inspectors, rather as a function of command. The regulations made inspection a routine duty of company commanders. At "troop beating," company officers were to "inspect into the dress of their men," to "see that the clothes are whole and put on properly, their hair combed, their accouterments properly fixed and every article about them in the greatest order." Steuben founded the army's long tradition of the Saturday morning inspection, when captains were to "examine into the state of the men's necessaries."

Steuben's signal accomplishment was to train the Continental Army as regular infantry of the line capable of standing up to the British in the field. He perceived that the American units had difficulty in going from column of march into line of battle. The source of the problem was the customary marching formation of a column of files ("Indian file"), stringing the force out impossibly. That was one reason why many units had arrived late at the battles of Brandywine and Germantown. Steuben moved quickly to correct that bad habit, training battalions to occupy no more road space than they would require room in battle. At his instigation, Washington outlawed the column of files. Thereafter, in all situations all sizes of units were to march exactly as they were taught on the drill field. The result was an army that marched faster and deployed faster for battle.

Steuben also wanted the Army to fight as well as to march, and that required weapons instruction. He prepared and taught a simplified manual of arms, with many-fewer movements than those of European armies, and emphasized the use of the bayonet, the essential infantry assault weapon of the day. The bayonets supplemented or replaced the unreliable flintlock muskets. Previously lacking the discipline essential to bayonet charges, American soldiers had shied away from the weapons. Steuben himself observed that their chief utility in the Continental Army was as spits for roast meat. He turned the Americans into confident bayonet fighters, something they demonstrated within a few weeks at Monmouth.

Washington also commissioned von Steuben with the formation of an elite corps (light infantry) which was to be comprised of hand-picked soldiers. Because of its rapid mobility the corps could be deployed whenever the fighting flared up and likewise, operate loosely, using familiar Indian tactics. This unit—like the entire army—also received its first instruction on the use of the bayonet. The light infantry particularly demonstrated their effectiveness at Stony Point and at Yorktown.

His duties as Inspector General also included his development of a system of property accountability that went far to check the waste of public property which had formerly prevailed in the American army. During the war he grew steadily in popularity throughout the army and grew more and more in Washington's confidence. He was consulted upon all questions of strategic and administrative policy and performed all of the essential functions of a modern general staff officer. During the winter of 1779–1780 he was Washington's representative with the Continental Congress in the efforts to reorganize the army.

The last years of the War Steuben served as Washington's trusted adviser in all military affairs. In the spring of 1783 he assisted Washington in the preparation of a plan for the future defense of the United States and in the arrangements for demobilizing the Continental Army. At the same time he took a leading part in forming the Society of the Cincinnati which helped to keep alive the ideals of the American Revolution. When Washington relinquished command of the army, December 23, 1783, he deliberately made it his last official act to write a letter to the Baron commending his invaluable services to the United States throughout the war.

He continued to write on military affairs, and in his recommendations for a Swiss militia system to supplement the small Regular Army, for the harbor defenses of New York City, and the establishment of a military academy, Steuben continued to contribute to the military needs of the young Republic. His proposals for national defense although not adopted by Congress in his lifetime, foreshadowed the system eventually adopted in 1920.

Long familiar to schoolchildren as the Prussian who drilled the Continental Army at Valley Forge, his memory has served as the principal inspiration for the Inspector General's Department of the United States Army, its successor, and other organizations patterned after it. His genuine concern for individuals, personal integrity, and willingness to devote his time to the training of those less experienced epitomized the standards expected of those who followed him. The relationship he eventually developed with the commander in chief remains the pattern for modern military inspectors.

Steuben was of middle height but superb military bearing when he would don his most resplendent uniform. He had a fine soldierly bearing and his manners were graceful and courtly. His picturesque personality made a strong impression upon his contemporaries and the anecdotal history of the Revolution presents him as one of the most conspicuous figures in the esteem and affections of the rank and file of the Continental Army. Through his influence in converting the American army into an effective and highly disciplined military force he was an indispensable figure in the achievement of American Independence. Here he performed an essential service that none of his contemporaries in America was qualified to perform.

A United States Military Academy plaque sponsored by the National Council of the Steuben Society in America located where a majority of cadets and instructors pass daily honors Baron von Steuben:

As Washington's principal advisor he gave military training and discipline to the citizen soldiers who achieved the Independence of the United States. His service was indispensable to the achievement of American Independence.

DR. BRAGDON AND INTERMODAL TRANSPORTATION

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, the dean of Dowling College's School of Aviation and Transportation, Dr. Clifford R. Bragdon, is one of the world's preeminent scholars in the area of transportation planning. I highly recommend that my colleagues read Dr. Bragdon's paper entitled "Intermodal Transportation Planning for the 21st Century: A New Paradigm". Dr. Bragdon offers an important perspective on how our Nation can improve intermodal transportation capabilities. I ask unanimous consent that Dr. Bragdon's paper be printed in the RECORD at the end of my remarks.

INTERMODAL TRANSPORTATION PLANNING FOR THE 21ST CENTURY: A NEW PARADIGM[1]

The paper provides an overview of where our society is now in terms of intermodalism, and equally important where we are going for the twenty-first century. Intermodalism in the next century is going to be very different from what it is currently occurring. I will present this subject from a multi-dimensional and multi-sensory perspective.

We are all part of an environmental stewardship system since the earth's biosphere supports all human, plant, and animal life. This biotic life support system is essential for survival. Whatever we do intermodally will impact the biosphere since it consists of three intermodal components: air (atmosphere), land (lithosphere), and water (hydrosphere).

We are rapidly developing surface gridlock, with the automobile and our present dependence at the epicenter. The automobile has become an inseparable part of human life, from birth to death. However, such spatial gridlock is not limited to the ground, since gridlock is also occurring in the air. There is congestion in our skies, particularly in navigable airspace, where aircraft flight operations in the vicinity of airports are concentrated. We need to establish a more efficient aerial management system for this space since it is critical for maintaining essential interstate commerce and economic development for the United States. A global positioning system (GPS) for aerial management appears to be a more effective technology from both a safety and spatial efficiency perspective due to its precision and accuracy. There are however not only limitations to the amount transportation systems that can operate on land, and in air but also on water. Aquatic gridlock in preferred shipping channels, ports, as well as recreational and tourist locations are becoming more common. The management of space, as part of an asset management system, is essential for the preservation of our biosphere, particularly as the worlds urban population density and number of continues growing. World population is expected to double in approximately 60 years, with 40% of the present total living in cities. Densities throughout the world are rising, with Hong Kong the highest, numbering 256,000 people per square mile.

A new paradigm is needed to place time and space, as a function of mobility, in the proper perspective. Transportation needs to be fully integrated vertically and horizontally in our three-dimensional spatial universe. Intermodalism appears to be an effective host for understanding transportation problems and the needed solutions. The word intermodalism involves the efficient movement of people, goods, resources and information that are integrated using multiple modes of transportation in a compatible manner. Currently in most instances each mode of transportation is looked upon as an independent entity, often competing rather than complimenting one another. this has been a counter productive approach to the overall goal of maximizing transportation. to be effective, transportation needs to operate as an integrated system for the 21st century. The National Aviation and Transportation Center℠ located in Long Island, New York at Dowling College can be an effective agent for creating and demonstrating that harmonious intermodal transportation environment, since this Center has been designed for this specific purpose.

SPATIAL PLANNING

Historically our approach to planning has involved two dimensional, flat thinking. If you examine master plans and zoning ordinances for cities they are written two dimensionally. Flat thinking leads to flat ideas and to a general lack or appreciation of innovation. In actuality the description of property ownership has a subsurface, surface and an air space component. A more accurate term to be used to describe master planning is space not land use planning. Land is a two dimensional term, rather than property. Sometimes we have to go back in history to look into the future. One of the earliest examples of multiple use of space was the Ponte Vechio, a very famous bridge over the Po River in the fourteenth century in Florence, Italy. This spatial system of mixed use development was constructed nearly 600 years ago, providing recreational transportation, residential and commercial activity all on one bridge system. The first application of this bridge planning in the United States took place in Savannah, Georgia, nearly 300 years ago. This was the first use of a bridge over a public right-of-way connected to a private use and the Cotton Exchange Building. Another 200 years passed before this concept was applied to a highway. The Massachusetts Turnpike permitted the Star Market to be constructed within the air rights of the turnpike, outside the city of Boston, in 1953.

Even today, there are less than 20 departments of transportation in the United States that allow private air rights development over expressways. The most extensive project of this type today has been constructed in metropolitan Seattle, Washington. This air rights development involves Seattle Freeway Park, built over Interstate 5. In addition to a linear six acre park with five different waterfalls, office buildings and a commercial center has been built on top of the Interstate right-of-way. Also completed in this air rights master plan is a 190,000 square foot convention center. Seattle Freeway Park acts like a skin or platform that reunites two neighborhoods previously severed physically by the expressway. Air rights development is being extended over other parts of Interstate 5, including Mercer Island.

This new spatial paradigm for transportation applies to all modes including airports where both taxiways and active runways now crossover highways at airports throughout the world. We are starting to use space three dimensionally but we do not always use this concept as planners as we need to. In Oklahoma City, they have used a bridge as an arboretum. The Crystal Bridge includes a bridge garden over a water course that has a natural museum built into it. A three dimensional transportation development has also been proposed for Atlanta and the 1996 Olympics. Referred to as, The Atlanta International Vertipark, it has been described as the twenty-first century Eiffel Tower. The idea is to bring new technologies including vertical flight aircraft, into a system that involves light rail, heavy rail, as well as automobiles, trucks and buses. It can become a new central business district for transportation as an economic development tool. Currently, there are over 40 intermodal 3-dimensional projects under development in this country with others developing in Europe (e.g. Nice, France) and Asia.

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[1] Paper presented at the 74th Annual Meeting of the Transportation Research Board.

How about the tops of buildings? What is being done with the rooftops in the United States? We have a vast array of rooftops that basically are sitting as latent rain collectors, primarily supporting advertising systems and television cable dishes. What I would propose is rooftop master plan for New York City. It is a spatial element that is divorced from reality at the present time, and under planned. Why? We don't have spatial planners to advocate this use since we presently have "land use planners and thinkers." Rooftop demand is one of the fastest growing areas of real estate. It is endangered because there are limited rooftops available. In reality there are numerous rooftop potential uses including vertiports, telecommunication systems, agricultural, residential, commercial, recreation, and utilities that need to be carefully planned and integrated as part of a strategic master planning process.

Space below rooftops and elevated highway structures also offer potential for development, rather than letting this space atrophy as non-productive three dimensional property. For example, underneath the elevated ramps to the Coronado Bay Bridge in San Diego, California, Chicano Park relating to the nearby community has been designed and constructed. This has included elaborate, historically based paintings describing the ethnic contribution of the Hispanic population to the nation, graphically applied to the highway support columns. After 12 years the park has been very successful in terms of active use by the neighborhood, and without any graffiti or vandalism. This demonstrates a meaningful partnership integrating the interest of the community working with the transportation system, all of this under the air rights of a public right-of-way.

Three dimensional opportunities do not only involve air and surface potential but also subsurface space. To date much of the subterranean activity has involved negative use, landfills including toxic waste and hazardous waste sites. Large amounts of funds are now being used for environmental remediation purposes. We need to develop spatial plans for cities that take advantage of these three dimensions, including transportation opportunities. Intermodal transportation centers and vertiports offer such positive visionary potential.

In summary, the spatial element for transportation planning must incorporate three planes, the multiple use of space, adaptive use of space, joint use of space and lastly, value capture to maximize spatial and economic potential while enhancing the physical and social environment.

SENSORY PLANNING

The second key ingredient to do effective strategic planning for cities and transportation systems is the incorporation of all five senses in the planning and design process.

Human beings are born with five senses and in fact, at least two become operative before birth. The sense of hearing develops after three months in the fetus, while the tactile sense develops shortly thereafter. We are sensory alive well before actual birth. Studies have shown that the fetal movement may well be related to the sound exposure the pregnant woman experiences. In some instances during this time, the fetus can be exposed to sound levels from 60 to 90 decibels. Despite this sensory activity, we still mistakenly believe that the learning process is primarily visual. What we need to develop is a fully integrated sensory map of our cities; a sensory map that is three dimensional and that deals with all five senses. This paradigm means that we need to use a new sensory chip that appreciates the total experience. Take out the old chip and put a new one in and say, I'm going to smell our city, I'm going to hear the city, I'm going to feel the city, I'm going to see the city and I'm going to taste the city. We therefore need to create a sensory map of the city that is responsive to all five senses.

Our present day culture is sensory biased. We are a society so biased that vision is our predominant sense. As a result, our other four senses are really becoming subdominant in our culture. So basically we plan our cities, design our cities and engineer our cities with vision as our driver. Our approach to the senses has nearly a singular emphasis. We need to move into what the Japanese call "kansai," which represents the harmonic balance of all senses, where all five senses are utilized on an equal basis. Presently we do not do this, consequently we have a sensory deficit that impairs our future city planning and transportation goals. Technologists claim we are creating a virtual environment. However, virtual reality is a Victorian technology at the present time because it primarily uses the sense of vision. It is creating a 3-D "view" but it is only using the sense of vision. By the turn of the century, people are going to say, you know, that was a pretty archaic approach.

The point is, we use vision as our perceptual probe while we navigate through the environment. Virtual reality now is one sense, the sense of vision or S^1. Currently we are operating at S to the first power, or virtual visual reality. We need to rapidly advance at least to S^3 (vision, hearing, and smell). We are ultimately headed to S^5 in terms of our total sensory system potential. Our language even supports this sensory bias. When you say this person is a visionary, that's based on vision; they have a great vision. Well, what do they have? Do they have a great smell? A great hearing? A great taste and touch? Consider these words: insight, focus, foresight, vision, insightful, or I'm from Missouri, show me. We are using words that are so biased that they are visually driven. Our goal, in part, is to have the National Aviation and Transportation Center℠ develop an Institute for Spatial, Sensory, Simulation, Systems which can examine and plan our environment from an S^5 perspective, which would be the first in the United States, and possibly the world.

What we need to do is eliminate noise and create sound, or go from the negative to the positive. So we call it sound cancellation technology which takes the sinusoidal wave and creates an anti-wave. Although we now have sound cancellation earphones, we may have this technology applied to airplanes and expressways by the 21st century. The principal applies to odor in terms of aroma or smell. It is equally important to eliminate odor and create fragrance. To this end, the NAT Center℠ is developing an aromacology system application for transportation cockpit resource management to enhance human performance in the built environment. The same process needs to be applied to all five senses. The issue of sound is something very important because it is the first human sense to develop and it is the only sense that uses a 360 degree field. Instead of eyesight we need to have earsight. The merging of sound with vision, a term I refer to as "geosonics", creates an exciting new approach to solving transportation problems. It represents the integration of sound with a three dimensional perspective.

There are other senses that can be replicated beside sound including aroma. Aromacology is one of the fastest growing areas of interest since it addresses the science, effects, and applications to enhance the environment from an olfactory perspective. The Japanese are advancing this technology significantly in both vehicles and buildings. They have designed a system for hotel use to be awakened in the morning, instead of having the telephone ring, you get a fragrance coming into your room, it's lemon. We are beginning to test this same concept in various transport cockpits to assess the role of aroma to enhance performance and reduce stress for drivers, pilots, passengers, among others.

In New York, with the development of the largest waste treatment plant considered the three dimensional potential by designing a park above the plant itself. Unfortunately, the River Bank State Park failed to take into consideration odor of this plant as it impacted the residences along Riverside Drive. Clearly a multi-sensory approach is needed, since the park has not achieved its intended goal, due to aerial contamination.

We can use new visual stimuli. Technology is now there to create electronic architecture, which is essentially constructing images onto buildings in the evening or at night. A twenty-four hour city would thus be created with limitless electronic architectural images to develop appropriate themes. Some of these concepts I have proposed for the 1996 Summer Olympics. There is some new evidence that suggests we can enhance our environment and thereby increase our IQ and behavior by virtue of using enhancement tools such as acoustics, fragrance along with other sensory stimuli.

SIMULATION

How we simulate the future? In part this can be done by electronic computer based simulation. Some of the aviation simulation which have been really the backbone of visualization to date is not only being applied to fixed wing aircraft but also to rotor wing or helicopter based aircraft. But we can go further into what is called cockpit resource management and apply the concept to automobiles, ships, rail, truck as well as aircraft. Electronic multi-media simulation can be applied to large scale transportation planning projects and issues as well. United Parcel Service, Federal Express, as well as other carriers are now starting to look at the integration of transportation systems. They deal with air, ground and water, tying them together, because they have to move products promptly and efficiently. Walmart is adjusting their inventory demands to ensure that no product is in their warehouse for more than eight hours. A disconnect means that we don't have a true intermodal system, which is the case at many airports. In a heavy rain storm, carrying two suitcases out of the Washington National Airport terminal, how do you get downtown if you don't want to ride a cab? You have to walk outdoors for about a quarter of a mile to get on the transit line to go downtown on the Metro. That's a disconnect. In contrast there are others that connect intermodally including Atlanta Hartsfield Airport with the downtown. In St. Louis they are completing the Metro Link which is a light rail system, to the downtown from the airport. We need to re-examine the airport relative to the demographics and population. This is going to become the second central business district for the twenty-first century. Look at Pittsburgh, Atlanta, and Dallas. They are starting to design air malls into their airports spaces, to use them as shopping and multi-use centers. Intermodal economic development is vitally important to every major city, and transportation centers will grow in economic importance.

Let's talk about the communication of ideas using the electronic highway. Telecommuting will increase among the total workforce nationwide. This electronic transportation system is something that Dowling College and the National Aviation and Transportation Center℠ is analyzing. Electronic highways for the twenty-first century for education, among other uses will be common. Transportation will become a more balanced system of physical and electronic movement through three dimensional space. Telecommuting will be in partnership with vehicular commuting.

The next century will require the use of a new urban vocabulary as well. For example, three dimensional will replace the term one or two dimensional, while the word space will be used more commonly than land. Parallel thinking rather than serial thinking, will take place and conflict/resolution will be more operative than litigation. This new vocabulary needs to stimulate the form, shape, and use of the city.

We feel the National Aviation and Transportation Center℠ can provide services on an intermodal basis anywhere in the world and it can be a platform for cooperation and partnerships. This facility is designed for intermodal transportation education and its application to the world. Based on several surveys and studies, including the MARCAR report done in conjunction with Dowling College, intermodal transportation education and careers will stimulate nearly 700,000 new jobs by 2005. This growth area of transportation will involve new academic programs that are multi-disciplined. New job descriptions and careers will emerge. Using an intermodal approach to transportation, education blends all modes into a three-dimensional, multi-sensory environment where time and space become increasingly important in shaping and influencing our lives. The National Aviation and Transportation Center℠ will play a major role in evaluating, planning and implementing this 21st century intermodal society.

CAMINO REAL CORRIDOR AND COMMISSION

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. COLEMAN. Mr. Speaker, I rise to announce that I am introducing legislation today to create the Camino Real Corridor and Commission. I realize that we are near the end of the legislative session, but I want to raise this important issue as we organize for the new Congress.

While the passage of the North American Free Trade Agreement will no doubt affect the entire Nation, perhaps no area will witness greater changes than the Southwestern region along the Mexican border. Not only will the area continue to experience the benefits of increasing international economic integration, but it will also be profoundly impacted by the large influx of traffic that is the necessary by-product of expanding trade. The district which I represent, El Paso, TX, has an infrastructure system that will be among the hardest hit by the increasing levels of commerce between the United States and Mexico.

A report prepared by the Center for the New West confirms that El Paso is one of the most important border crossings in the world. Over $12 billion in trade passes over the El Paso-Ciudad Juarez, Chihuahua border each year. Eighteen percent of United States exports to and 25 percent of United States imports from Mexico pass through this transborder metropolitan region. Furthermore, it is the busiest point of entry for commercial trucks. In light of the fact that the trade volume transported through this port of entry is projected to nearly double by the year 2000, and that the population of the El Paso area is one of the fastest-growing in the Nation, the highways and border infrastructure of this area warrant our particular attention.

But we must bear in mind that El Paso is only one point on a trade route that extends from the Mexican State of Chihuahua into the interior portion of the United States. A natural trade corridor is emerging from the Mexican border State of Chihuahua to Denver through El Paso and New Mexico. The Mexican Government has already demonstrated its commitment to the region, with the construction of a new highway system that extends to the State of Chihuahua through several of Mexico's largest cities in the industrialized north—a highway over 600 miles long. On the U.S. side, the emerging corridor bears great resemblance to the highway systems designated by section 1105c of the 1991 Intermodal Surface Transportation Efficiency Act as "corridors of national significance." Like those highway systems, the highway system from El Paso to Denver has undergone a great increase in use, particularly in the form of commercial traffic, since the designation of the Federal interstate system. This trend will be amplified in the next decade, as trade and population growth continue to soar in the region.

Therefore, today I am introducing legislation to create the Camino Real corridor. The historical reference herein recognizes the importance of this trade route to the development of the Southwest. The Camino Real de la Tierra Adentro, the Royal Highway of the Interior Lands, was the route travelled by people from Mexico City to Santa Fe. The modern corridor would be achieved through the enhancement of the trade route that today connects El Paso to Albuquerque to Denver, and of the border arterials that feed into this route. The improvements in infrastructure along this route, would include the use of Intelligent Vehicle Highway Systems where appropriate. Thus, information, communications, and control technologies will be applied to improve the efficiency of this surface transportation system. These changes would guarantee that the roads which carry goods between Mexico and the interior portion of the United States could handle the heavy flow of traffic that is anticipated in the upcoming decades. Further, Denver is at the crossroads to the West and Midwest, and positioned to develop North to Canada.

Unfortunately, good roads alone cannot guarantee the efficient cross-border passage of people, goods and capital. Indeed, many of the current delays in United States-Mexico trade occur at the border. So to ensure the smooth operation of the corridor system, I also propose the creation of the Camino Real Corridor Commission. This Commission would report to the Secretary of Transportation, and would be responsible for making recommendations to maximize effective utilization of the highways and border crossings of the corridor. It would also ensure the development of more efficient trade routes. One year after its formation, this Commission would make recommendations to the Secretary of Transportation indicating the most desirable routes for East-West expansion of the corridor, and for possible expansion of the corridor to the Canadian border.

We should not wait until our borders and our trade routes are completely overwhelmed to take decisive action. Rather, our infrastructure and our border enforcement agencies should keep pace with growing trade levels, and with the realities of increasing international interdependence.

The Camino real corridor is clearly the best place to start, but it need not be an end point. This project ought to serve as a model for future initiatives in other major border cities. It will also serve as a starting point for an important highway network that will connect Mexico with the interior United States, and possibly with Canada. Because of the services it will supply and the model that it will provide, the creation of the Camino real corridor and its accompanying Commission deserves the support of my colleagues.

IN RECOGNITION OF STUDENTS FOR 60,000

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ACKERMAN. Mr. Speaker, I rise today with great pride to share with my colleagues in the House of Representatives the inspiring story of a group of Northport High School students in my district, who have taken a hands-on approach to aiding their community, and far beyond. The group was named after the estimated 60,000 homeless people living in New York City when the group was formed.

With the aid and counsel of their advisor, Peter White, this student club of approximately 150 student members have worked actively to aid the needy since its founding in 1986. The group's mission is defined by the mandate in the New York State Constitution which provides: "The aid, care and support of the needy are public concerns and shall be provided by the State." Taking into consideration this directive, the students began to gather and deliver clothing to New York shelters.

Now, the projects undertaken by Students for 60,000 include not only Long Island and New York City area, but most notably, Chacraseca, in rural Nicaragua. Locally, the Students for 60,000 have come to the assistance of needy families, providing rent assistance to families on the verge of eviction, to providing diapers, food, and home heating oil. Students for 60,000 have also worked for Habitat for Humanity, organizing and leading a coalition of 20 Long Island high schools in an effort to fund and construct a house each year from student-raised funds. Hundreds of homeless people have been provided with complete Thanksgiving dinners due to the efforts of Students for 60,000. Nationally, the students have purchased a trailer for an indigent woman in Mississippi, sent supplies to homeless people in Brownsville, TX, and made repairs on a school in South Carolina damaged by Hurricane Hugo. Internationally, aside from making financial contributions to countries in dire need of such assistance, the most distinguished achievement the Students for 60,000 must be recognized for is their electrification of the rural Nicaraguan village of Chacraseca. This village of 40 small dwellings had no electricity. These students not only raised the funding for this monumental project, but actually went to the village, lived in the village, and installed, with the assistance of qualified volunteers from the Northport area, four generators and electric water pumps. Year after year, Students for 60,000 return to Chacraseca, bringing with them much needed medical and school supplies, and work on various projects with the villagers. In 1994, Students for 60,000 built a three room schoolhouse in which 75 children now attend classes.

Most important, Mr. Speaker, is the dedication, and effort demonstrated by the Students for 60,000 each and every day of the year. They raise all the funds for the projects they undertake, from Central Park Bikeathons, to community car washes to oldies music concerts.

These students do not want publicity for their efforts. They offer themselves as an example that locally, every person can make a difference. That with the support of their friends, family and community, they can make a contribution to the lives of others who desperately need their help. One story I have learned of concerning Students for 60,000 that I would like to share, as I think it demonstrates the efforts of this group and the effect they have on their community, is that of a waitress from Huntington that the students know only as Mrs. N. She had been at a Students for 60,000 fundraising concert, and was so moved by the positive energy of the club, that she arrived at the club several days later with $450.00 worth of change she had saved from her tips. Several months later, she returned, and needed two students to help her up the steps with her donation of $650.00 in change.

Mr. Speaker, it is my privilege and distinct pleasure to bring the Students for 60,000 to the attention of my colleagues, and hope they will join me in saluting Students for 60,000 for their demonstrated dedication to the needy people of the world.

LAKEWOOD ROTARY—40 YEARS OF EXEMPLARY COMMUNITY SERVICE

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HORN. Mr. Speaker, I am pleased to day to honor the Lakewood Rotary, an organization in my district—California's 38th—which has set a high standard of service to the community.

For 40 years, the Lakewood Rotary has provided its assistance to every sector of community life in Lakewood, CA. When the call went out to provide polio immunizations for our community's children, Lakewood Rotary answered. When Su Casa women's shelter asked for help with its battered women's support services, the men and women of Lakewood Rotary provided it. When Lakewood High School wanted to secure scholarships for deserving students, Lakewood Rotary responded. And when, the Lakewood High School administration sought to help students from varied backgrounds understand each other, Lakewood Rotary initiated the high school's Interact Club.

In addition, Lakewood Rotary members serve the community through their sponsorship of American Red Cross blood drivers and health fairs and support of the Weingart Family YMCA, Lakewood's Arbor Week, the Los Angeles County Paramedic Squad's stuffed animal program, recognition of middle-school students for outstanding volunteer efforts, an annual Lakewood 5K run for families, and cosponsorship of the Lakewood Business Beautiful program honoring Lakewood's most attractive business.

Lakewood Rotary embodies the spirit of caring, dedication, and enthusiasm that has been the hallmark of successful communities throughout our Nation's history. As we move into the 21st century as a nation and a community, organizations like Lakewood Rotary will ensure that the American tradition of community service will be on-going.

On this anniversary of their 40 years of community service, I wish the members of the Lakewood Rotary well. The 38th District is richer for their presence and their work.

SALUTING THE ACHIEVEMENTS OF ANDREW S. FISHER

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MALONEY. Mr. Speaker, I ask my colleagues to join with me in paying tribute to Andrew S. Fisher, one of Brooklyn's finest citizens.

Mr. Fisher's commitment to the Borough of Brooklyn, NY began at an early age. He was educated at Long Island University, Brooklyn Campus, and then went on to law school at St. John's School of Law.

His strong belief in the vitality and spirit of Brooklyn is best demonstrated by his involvement with the Brooklyn Economic Development Corp. [BEDC]. As the first chairman of the board of directors, from 1979, to June of this year, Mr. Fisher has played an instrumental part in guiding the BEDC through its early years. Its mission is to provide small businesses and entrepreneurs in Brooklyn with assistance and advice so that they may succeed in the highly competitive business world.

Through his tenure, Mr. Fisher has helped shape BEDC into a multi-service business consulting agency with over 1,200 clients, making it possible for minorities, women, and business owners from all walks of life to start their own businesses in Brooklyn. Not only does Mr. Fisher provide assistance to new companies, but he has also helped existing businesses in all industries to expand and thrive. It is estimated that under Mr. Fisher's energetic leadership, BEDC has created or retained over 20,000 jobs in Brooklyn.

In addition to his involvement with the Brooklyn Economic Development Corp., Mr. Fisher has also been a highly active member of the legal community. He is a renowned author, specializing in property law and underground construction. He has also served in the battle against crime by serving as an assistant district attorney of Kings County, and is currently a trustee of the Brooklyn Bar Association.

Mr. Speaker, I am respectful of Andrew Fisher's achievements, and I am proud to know him. I salute his long commitment to the Borough of Brooklyn, and I urge my colleagues to join me in congratulating Mr. Fisher for his long record of service to the community.

TRIBUTE TO SAINT MARY'S COLLEGE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ROEMER. Mr. Speaker, I rise today to honor and pay tribute to one of the finest institutions of higher learning in the United States. Saint Mary's College is a Catholic women's college located in my hometown of South Bend, IN. This year, the entire Saint Mary's community commemorates and celebrates the college's 150th birthday. As we do, we remember the distinct history, tradition and calling of Saint Mary's, and it's educational mission.

In 1844, four newly-initiated Holy Cross Sisters from LeMans, France, made their way to Southern Michigan where they joined a group of Holy Cross Brothers nearby who had, 2 years earlier, traveled the same path. The Brothers founded what we know today as the University of Notre Dame.

Upon their arrival on the shores of the Saint Joseph River, the young women also founded a school, Saint Mary's, where they taught the children of area settlers and local Potowatomi Indians, and cared for orphans. Eleven years later, in 1855, the school was moved to its present site adjacent to Notre Dame and there it has remained and flourished.

From the beginning, Saint Mary's has been committed to the education of young women.

In the early days, indeed until very recently, the concept of educating women beyond home economics was considered unnecessary, even reckless. But the sisters at Saint Mary's remained steadfast, teaching their young wards philosophy, theology, mathematics, literature and the sciences. This tradition of excellence in education has resulted in generation after generation of women sending their daughters to Saint Mary's.

Although a premier liberal arts college, Saint Mary's is—first and foremost—a Catholic college, devoted to developing young women as strong in spirit as they are in mind and body. Perhaps there are those who believe that spirituality has no place in education. As the product of a Catholic education myself, I must disagree.

Speaking at the Saint Mary's Center for Spirituality in 1985, noted theologian Monica Helwig addressed the importance of "Christian women in a troubled world." She pointed out the unique position and approach of the educated Christian woman, and her ability to change situations for the better. Saint Mary's helps create women very much aware of this calling, women capable of incorporating tradition while stirring meaningful change.

A perfect example of this synthesis came in the form of Sister Madeleva, noted poet and past president of the college. In 1972, when educators nationwide questioned the need for women's colleges, Sister Madeleva contemplated an offer to merge with the University of Notre Dame. In the 11 hour, she refused the offer, convinced that the unique identity of Saint Mary's would be lost if a merger took place. Notre Dame went co-ed without Saint Mary's, and many blamed Sister Madeleva for the impending death of the small college. Instead, Sister Madeleva guided Saint Mary's through a period of modernization and growth, and no one doubts the wisdom of her decision today. Rather, we all thank this incredible woman for having the faith and foresight to preserve and strengthen Saint Mary's College for future generations.

On a personal note, Mr. Speaker, I must confess my great affection and respect for Saint Mary's. More than a few Roemers have passed through the doors of LeMans Hall, including my grandmother, Carmel Luther Roemer, who attended Saint Mary's in the 1920's. And today, my great aunt, Sister Cecile Marie, C.S.C., is living her retirement at the beautiful Saint Mary's convent. It is, indeed, a special place.

Mr. Speaker, in closing just let me say that this year, U.S. News and World Report ranked Saint Mary's as the No. 1 liberal arts college in the Midwest. Although the recognition is welcome, it only serves to tell the rest of the Nation what we in the Saint Mary's community already know: Saint Mary's is a special place of community, faith and excellence in education. I am proud to represent this exceptional college, and to recall my own ties to this extraordinary community.

SAFARI CLUB INTERNATIONAL RESOLUTION ON ETHICAL CONDUCT FOR SPORTSMEN

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FIELDS of Texas. Mr. Speaker, Safari Club International, an international sportsmen's conservation organization dedicated to promote conservation of wildlife of the world as a valuable renewable resource in which hunting is one management tool among many, recently adopted a resolution establishing guidelines for polar bear hunting. Since Congress recently amended the Marine Mammal Protection Act to allow U.S. citizens to import legally harvested polar bear trophies from Canada, the resolution is very timely. I, therefore, commend this resolution to my colleagues.

The text of the resolution follows:

SAFARI CLUB INTERNATIONAL RESOLUTION

Whereas Congress recently recognized the value of the hunter in the management of the polar bear in Canada by passing the Marine Mammal Protection Act Amendments of 1994, which permit U.S. citizens to import legally harvested polar bear trophies, and

Whereas S.C.I. is deeply committed to the well founded principle that conservation and selective harvest by sportsmen provide for expansion of wildlife populations and the vast majority of funds to accomplish the same for the benefit of all concerned, and

Whereas S.C.I. is committed to the ethical conduct and supportive role sportsmen and women should play in enhancing respect for the environment, respect for each other, respect for wildlife and respect for the traditions of hunting and fishing, and

Whereas conservation of polar bears is the cornerstone of management strategies of the U.S. Government, the Canadian Government, and the Government of the Northwest Territories of Canada, and

Whereas these steps build a foundation for further expansion of the polar bear population in Canada and around the world;

Therefore Safari Club International hereby establishes the following guidelines for its members who hunt polar bear, and furthermore requests that these guidelines are followed by all who are in any way involved in polar bear hunting. These guidelines are issued in pursuit of deportment and conduct by U.S. hunters and outfitters which will demonstrate their true commitment to preserving our hunting heritage, as well as conserving the polar bear and its habitat:

Therefore be it resolved, that each hunter avoid even the appearance of impropriety, and

That each hunter shall strictly adhere to all laws, guidelines and customs, and

That pursuit, harassment or hazing of bear by helicopter, aircraft or snowmobile will result in ethics committee action and may disqualify a bear from record book entry, and

That the time honored customs of the area regarding fair chase be honored, and

That S.C.I. recommends that any video and photography be done in an appropriate manner that shows respect for wildlife, that emphasizes conservation, that focuses on the stalk and a humane termination, and

That the harvesting of a polar bear must be secondary to participating in the hunt, one of the truly unique experiences in the world of hunting. Dogsled transportation, authentic Inuit clothing, Inuit guides, the Arctic environment, and the search for the white giants on the ice should be reward enough. The trophy should be viewed as a bonus if it comes, and

That the U.S. polar bear hunter must direct the hunt toward conservation, which means harvesting a mature male polar bear. Harvesting such polar bears is good conservation because it removes cannibalistic males, and leaves younger bears and females in the population. The hunter always accepts the risk of going home empty-handed as a part of the hunt experience. In the case of polar bear hunting, harvesting any bear that is other than a mature male is to be avoided virtually at all costs. The hunter must be prepared to forego opportunities to take lesser bears, even if it means taking no bear at all, and

That we must encourage, promote and assist continued excellent management of the polar bear in Canada, and assist the government there to continue to adequately fund the polar bear management programs. Stable or increasing polar bear populations are the norm there currently, and every effort should be expended to assure a continued flow of accurate and reliable scientific data, harvest statistics, and other necessary information on the polar bear population. This will insure that future harvest quotas are appropriate, and that the Canadian polar bear population will remain healthy, and

Be it further resolved, that the U.S. hunter is under observation. We have won a heard-fought victory based on undeniable indications that the change will contribute positively to conservation of the polar bear. We must exhibit our highest level of ethnical behavior in the field while hunting polar bear, to demonstrate our commitment of responsibility to the world, and to model such conduct for our Inuit hosts. With the privilege of hunting these magnificent creatures comes a correspondingly lofty level of obligation that each hunter should recógnize before undertaking a polar bear hunt.

D. PATRICK BOLLMAN,
President.

ON THE CURRENT SITUATION IN TAJIKISTAN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HOYER. Mr. Speaker, I would like to express my support for House Concurrent Resolution 302, which urges the President to promote political stability and respect for human rights in Tajikistan. The beleaguered people of that country have endured enormous hardships in the last 2 years; the grim centerpiece of their afflictions has been a brutal civil war that has claimed more victims than any other conflict in the former Soviet Union. The conflict was multilayered, with regional antagonisms exacerbating a battle between the entrenched Communist nomenklatura and opposition forces composed of democratic and Islamic groups.

There is some cause for relief. Many of the displaced persons and refugees have now returned, a ceasefire was recently announced, and negotiations between the government and opposition forces have taken place in Moscow and Teheran, with the next round slated for Islamabad. In principle, these talks offer some hope of a reconciliation. On the other hand, they have actually brought little to cheer about; on many important issues, the sides are as far apart as ever, and dislocation and suffering remain widespread.

The Government of Tajikistan will soon hold Presidential elections. Previously, they were scheduled for September, but there were so many objections from the international community about the continued ban on opposition parties and the impossibility of holding a fair campaign and election that they were put off until November 6. Unfortunately, in my view, the postponement is far too short, and the conditions are still inappropriate for elections. What Tajikistan needs is not elections, but the convening of some sort of national forum that would bring the contending sides together, rather than force them to compete for seats in a Parliament that many Tajiks will not even consider legitimate or representative.

For this reason, I echo the language of the resolution to the effect that procedures for nomination, registration and balloting are inadequate to ensure that the elections will be free and fair. It may no longer be possible to have the elections delayed again, or, even better, put off entirely. But at least the Congress should be on record as having voiced its doubts and objections in advance.

At the same time, the resolution calls on President Clinton to support existing efforts of the CSCE and the United Nations at national reconciliation in Tajikistan, to urge the Government of Tajikistan to respect basic freedoms and human rights, and to maintain support for humanitarian assistance. The provision of economic assistance to the Government of Tajikistan, however, should be conditioned on progress in human rights and democratization, including free and fair elections, as well as good faith participation in negotiation efforts, cooperation with the International Red Cross in visiting prisoners, and facilitating the protection and reintegration of refugees.

Mr. Speaker, the people of Tajikistan have lived through a nightmare since 1992, and they need our help in getting the difficult period ahead. What their current government needs is to hear from us, and other member states of the CSCE, that while we are prepared to offer humanitarian assistance, international recognition and legitimacy remain a distant goal as long as basic human rights are trampled upon, and democratization remains illusory. The mere holding of elections, in conditions wholly unconducive to a reliable reading of the national will, is not tantamount to democratization.

Finally, Mr. Speaker, I want to congratulate my colleagues, particularly Mr. Andrews and Mr. Gilman, for bringing this resolution to the floor. It is important that the Congress be engaged in Central Asia, and help foster its democratization.

A PRESCRIPTION FOR PROGRESS

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, the debate over health care reform has understandably focused on what is wrong with our current system. While I agree that there are numerous aspects that need improvement, we should be careful not to destroy the innovative spirit of a system that has provided our Nation with the finest quality health care in the world.

Despite its flaws, the current system has fostered an environment that has led to the development of revolutionary new drugs. And one of America's most innovative industries, pharmaceutical companies have been the engine of medical progress for decades. Countless discoveries of life-saving drugs and cures for deadly diseases have been the direct result of the pharmaceutical industry's efforts.

To this end, I would like to share with my colleagues the miraculous discovery of a drug, Sandimmune, which enables transplant recipients to resume normal lives. In fact, Sandimmune has transformed organ transplants from a medical experiment to a widely accepted medical therapy. Prior to the introduction of Sandimmune in 1982, organ transplants were relatively rare. Today, however, Sandimmune is used in over 120,000 kidney transplants annually.

Testament to the drugs invaluable impact are the stories of three young Americans whose lives were forever changed by treatment with a therapeutic drug, Sandimmune. Writing to its manufacturer, Sandoz Corp., they described what Sandimmune has meant to them.

Joe Canze from Owosso, MI, a kidney transplant recipient, writes, "I love basketball! If you asked me what I would like to do for a day, it would be to shoot baskets. I have always dreamed about playing in a three on three basketball tournament."

"Before my transplant February 19, 1987, I couldn't play in a three on three tournament. I was on a pac-X cycler for twelve hours every night. Some days when I got off the machine I felt pretty weak. Also my dialysis tube was hindering my jumping."

"Two years after my transplant I played in my first tournament. My team, 'The Fearsome Foursome' didn't win but we played three games and got a free tee shirt. The courts were awesome!"

"It was great to finally be on the court not on the sidelines watching."

The second story is by Kim Kaminski, the mother of a child who received a heart transplant. "Our first baby was born with a fatal heart defect. Our dreams were crushed. With a miracle from God, the Gift of Kalie's new heart was received. We were able to celebrate Kalie's first birthday with family, friends, and the entire community. Kalie's touched so many hearts and gave inspiration and meaning to all our lives."

"We thank God and modern medicine for our happiness, hopes and dreams and to a future of special moments we'll cherish."

Kristopher Brown of Stanley, WI writes, "Doctors say it's a miracle I am alive. My life has changed since I received my new heart one year ago. I can play my all time favorite sport, football. If I am lucky I would be a quarterback. When I am on my Aunt's four wheeler, I can be wild and free. If dreams come true, I'll own my own someday. Thanks to Sandimmune I have a second chance to be a teenager and enjoy life."

These real life experiences are what is right with our health care system. In recent years, pharmaceutical companies, many of which are located in my home State of New Jersey, have developed a wide variety of breakthrough drugs that are saving countless thousands of lives every year. We must make certain that this industry is not handcuffed in their efforts to develop more miracle cures for diseases like AIDS, cancer and heart disease.

ADDRESS BY MRS. DOROTHY THOMPSON BEFORE THE GEORGIA STATE CONFERENCE OF THE DAUGHTERS OF THE AMERICAN REVOLUTION

HON. DON JOHNSON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. JOHNSON of Georgia. Mr. Speaker, on March 10, 1994, the 96th Georgia State Conference of the Daughters of the American Revolution met in Athens, GA. The meeting was called to order by Mrs. H. Randolph Holder of Athens, the keynote address was given by Mrs. James A. (Dorothy Thompson) Williams, the national chairman of the program of the DAR.

Mrs. Williams was introduced by Mrs. Jerido Ward, regent of the Georgia State Society. The subject of Mrs. William's address is most timely as America memorializes the 50th anniversary of the close of World War II. She developed her speech, "The Georgia Daughters and How They Helped Bear the Burden of a Nation at War," to involve the dedication of all women of the Society of the Daughters of the American Revolution in the war effort.

Because the accompanying address is a wonderful tribute to all those patriotic women of World War II who followed in the footsteps of their ancestors of the American Revolution, I ask to place in the CONGRESSIONAL RECORD the introduction and the text of her message so a permanent record may be preserved of the unselfish part women once again played in making the world safe for democracy.

INTRODUCTION BY MRS. WARD

I'm honored to present our speaker for tonight, a native Georgian who grew up in the south Georgia town of Vidalia. Dorothy met and married James Andrew Williams, a young man from Arkansas. In 1945, the couple moved to Arkansas where James engaged in farming and was president of the Bank of Parkdale. They had a daughter and a son, and Dorothy is now a grandmother of three. Since James' death in 1977, Dorothy has continued active involvement in family business interests and the civic and cultural affairs of her community.

Beginning her career in the Daughters of the American Revolution in 1952, as a junior member of the Vidalia chapter, . . . she transferred membership to the General

Henry Lee chapter in Arkansas [and later to] the Colonel Frances Vivian Brooking chapter in Hamburg. After serving her state as chaplain and vice regent, Dorothy was elected state regent in 1968 for a 2 year term. She has served as state parliamentarian under two administrations. Dorothy [has been] chairman of the DAR Room Committee . . . since 1989. She wrote "The History of the Arkansas DAR Room" and "The Wide Blue Ribbon".

Dorothy has served as vice president general and recording secretary general and has chaired several national committees. She was the first chairman of the Friends of the Library Committee and designed the Friends of the Library Committee pin.

An officer in the National Officers Club since 1988, she is currently serving as president and was president of the National Chairman Association 1979–1981. She wears with pride the C.A.R. Endowment Fund pin and the SAR medal of appreciation.

Dorothy claims two Revolutionary War soldiers from Georgia in her lineage, Jonathan Coleman and Reubin Thompson. It is with great pleasure I present to you the National Chairman of the program committee, Mrs. James Andrew Thompson. Dorothy.

ADDRESS OF MRS. JAMES A. WILLIAMS

Thank you, Madam Regent, madam State Regent, distinguished guests, Georgia Daughters of the American Revolution, hodars and guests. What a joy and special privilege it is to be with you this evening.

In the late 60's, it was my pleasure to meet Annis Richardson and Lanette Reid who became my good friends, and since, many of you Georgia Daughters have become friends. You have added much pleasure to my life.

When Mrs. Ward invited me to your conference, she asked if I would speak on Georgia DAR during World War II. Of course, I said yes. The research for this speech reminded me of that afternoon at LaGrange College when I learned of the treacherous attack on Pearl Harbor. I was reminded of singing at Fort Benning with the USO; teaching school in Monticello, planting victory gardens and learning to fire rifles and spot enemy planes. I remembered working in Washington for the Signal Corps later. The deep sadness of a darkened Capitol and country was everywhere. However, victory was finally claimed by the Allies. And, I remember the exhilaration I felt standing at the Memorial Bridge when General Eisenhower made his triumphant entry into Washington. Research for these remarks has been a sentimental journey.

Last month at our DAR headquarters, I saw an exhibit with a poster depicting a girl in World War II uniform carrying a sack of groceries. The caption read, "I'll tote mine" and the exhibit was entitled "The Daughters Bear the Burden." Immediately I knew what I wanted to speak of tonight. The Georgia Daughters and how they helped "Bear the Burden" of a nation at war.

In that war, over sixteen million Americans served in uniform. We, with our Allies, were engaged in a life and death struggle for freedom. Totalitarian regimes intent on world domination posed a grave threat to all free, sovereign nations. In response to that threat, millions of Americans rallied to defend the cause of liberty.

Today, fifty years after the dark days of World War II, a grateful nation honors heroes of that war and their families, and remembers sacrifices of those who served on the home front.

When Japan attacked Pearl Harbor, Mrs. William H. Pouch was President General. On V–J Day, August 14, 1945, Mrs. Julius Y. Talmadge of Georgia wore the Wide Blue Ribbon. How fortunate that two such able women led the Society during this chaotic period.

War was raging in Europe when Mrs. Pouch became President General. Realizing that the society must be prepared to meet any crisis, she immediately asked each member to enlist in some branch of military or civil defense. In addition to putting on uniforms and serving in the armed forces, there were untold opportunities for women to serve. A card was prepared for each member to document available DAR women power, which later would be an account of individual and collective service. When Mrs. Pouch requested that DAR pause each day at twelve o'clock for a moment of silent prayer, the response was instantaneous! In the first twelve months of the war, a successful foundation was laid for effective DAR war service for the duration.

War projects were planned for DAR on national and local levels. At our national headquarters, microfilm copies of thousands of members, past and present, and their ancestors were made and placed in safe keeping. The American Red Cross was given use of all available space in Constitution Hall and room was made to accommodate the Office of Civilian Defense. Rare museum treasures and furnishings were packed away and the museum was used by the National War Relief Service. A war service center was operated daily for the entertainment of service men. Memorial Continental Hall housed the volunteer service officers, including the prisoners of war section which supplied food, clothing, and medicine to American and allied soldiers in foreign prison camps. The national DAR board room was used by the Pan American Bureau. The basement in Constitution Hall became a day nursery for children of enlisted men whose wives were working. The children were given lunch, a playground, and an R.N. was on duty. A rest nook in the war service room was provided for WACS and WAVES. Juniors and members of the CAR were active. It was everybody's war and preparedness was the order of the day.

Due to danger zones and blackouts, Continental Congress was not held at our headquarters buildings from 1942 through 1944, but in Chicago, Cincinnati, and in New York.

At the Congress in Chicago in 1942, war service committees were created: war bonds and stamps, American Red Cross, buddy bags. National War Projects Fund, Blood Plasma Program and the purchase of medical and surgical equipment. A DAR war service open was awarded to those daughters who gave 750 hours or more to war service. That's a lot of time! Seven hundred and fifty hours equates into 31¼ twenty-four hours! That's more than an entire month! Is anyone here this evening who wears DAR war service pin?

President Franklin Roosevelt's message to that Congress in 1942 included: "During times of peace, there are intervals when it seems difficult to keep alive the outward manifestations of patriotism. The war is now five months old and we have had our answer. In far places and near, our soldiers, sailors, air pilots, the beleaguered men of the Merchant Marine have shown the stuff of heroes. There was no confusion of purpose, no softness in deeds in Bataan. There were heroes at Wake Island and Pearl Harbor and in the rice paddies of Java."

Mrs. Pouch's messages give us an idea of the tenor of the times; hear her: "1941 has gone, taking with it hours of pleasure and sorrow. All are overshadowed by the unproved and frightful attack upon American lives and property in the Pacific on December 7th. Our hearts and souls have been torn with the anguish of sending our beloved young men into the horrors of war."

In 1943, the 52nd Continental Congress in Cincinnati expanded the war program: One resolution of that Congress was that members make every effort to salvage a minimum of one tablespoon of grease per day.

In the DAR magazine Mrs. Pouch wrote, "One lesson we have certainly learned in these years of frightful warfare, that if there is to be peace in the future that there must be an adequate Army, Navy and Air Force to ensure it. Eternal vigilance is the price of safety." Later she wrote: "No longer is victory a question of manpower, rather it is woman-power that plays a vital part in producing war materials, freeing men for participation in the fighting areas."

Mrs. Pouch's last message as President General contained a poignant story: "One day in a camp in Ireland a load of DAR buddy bags from America was received. The DAR letters and the name of the maker of the bag are usually somewhere on the bag, often on the inside. When one of the men opened the one handed to him, to his joy and amazement, he found his mother's name on the inner hem."

President Roosevelt said in his message to Continental Congress: "At this critical stage of the war, we rely heavily on the strength and courage of America's women. In war plants, on farms, in civilian jobs, and in the services, they still are urgently wanted to replace men now in uniform.

As the war dragged on, some aspects of DAR war activities shifted, just as the scenes of battle shifted.

Mrs. Julius Y. Talmadge, your own May E. Talmadge, elected President General in 1944 said, "The time may come soon when returning soldiers, sailors, Marines and Coast Guardsmen will need our assistance. Let us be ready."

After V–J Day, September 1945, the society began reconverting, but the work of most war-related committees continued until 1946. For example, men on 81 landing craft infantry ships were sent 16,000 letters assuring them that DAR was launching a program to secure jobs for them in their own communities after their discharge.

All the while, veteran's hospitals were filling with returning wounded service men. Money in the DAR war projects' fund was used for their care and comfort, and $150,000 of that fund built libraries at permanent government hospitals.

In November 1944, Mrs. Talmadge wrote, "My very dear friends: What a boon to the ill in mind and body will be our hospitals libraries. Do you realize that two to three thousand men are already in each of the three hospitals and more are arriving daily?"

Continental Congress was cancelled in 1945 at the request of the United States Office of Defense Transportation! This DAR sacrifice gave added comfort and convenience to service men en route to and from their lines of duty.

At the conclusion of the war Mrs. Talmadge said: "As we face the brave new world-to-be, after complete victory is ours, let us be careful to lose nothing that was learned in the ways of the war."

On the national level, DAR war effort statistics are incredible, including $340,000 that was raised for blood plasma equipment. Over $69,000 was subscribed in war bonds!

Georgia DAR contributed significantly to the war work of the national society. A summary of DAR general war activities reveals that Georgia Daughters were outstanding in Red Cross Work, were community leaders in all phases of the war work and post war plans, and had an outstanding buddy bag record. They presented mobile ship service stores to U.S. Naval hospitals at Dublin and Lawson General Hospital and compiled two volumes of World War II service records.

Georgia Daughters bore the burden of a more personal nature, also. They baked thousands of cookies and cakes for army camps, the USO and other recreational centers, often using ingredients from scanty shelves and rationed supplies. They distributed food to soldiers, sailors, and Marines in trains, camps, and canteens and adopted English children for the duration. Homes near training camps were open to service men. Georgia DAR provided spiritual leadership, manned plane spotter posts, drove station wagons, buses and ambulances, and worked in machine shops and munitions plants. (Do you remember Rosie the Riveter?)

Wearing a smart uniform and driving a Red Cross station wagon or ambulance presents an attractive picture, but the hardships Georgia Daughters endured do not appear within the frame. These women went on difficult and dangerous missions, driving wounded and dying service men, a heart breaking task.

Some Georgia Daughters unable to qualify as nurses aids did menial work in hospital kitchens and service rooms, paying little attention to tired muscles and aching feet. Needless to say, Georgia DAR was represented in all branches of service.

In our DAR archives, there is an account of World War II work where you will read that Georgia Daughters gave over $12,000 to the blood plasma fund, gave a mobile unit and plasma center; and 329 members were blood donors. Georgia DAR contributed over $18,000 to the Red Cross; 1,950 Daughters worked for the Red Cross as nurses, aides, dietitians, grey ladies, teachers, or in canteens, the motor corps, or first aid. An incredible 558,979 hours (15,871.166 24-hour days, or 453.46 years) were given in Red Cross work by Georgia Daughters. They contributed over 27,000 articles for the service men. More than 9,000 buddy bags were filled, valued at nearly $19,000. Georgia gave $2,253.91 to the War Projects Fund, sponsored by L.C.I. Craft #591–644. A total of 4,721 Georgia Daughters were WACS, WAVES, SPARS, or nurses, and 6 were Gold Star members. War bonds and stamps bought by Georgia DAR was $6,324.835.50, including $38,500 subscribed by Mrs. E.D. Napier, of Milledgeville. Georgia gave a total of 380,908 hours to war services! How many 24 hours days would this be? Over 15,837! Georgia Daughters, I salute you!

The statistics presented in this account are only highlights of the magnificent work of Georgia Daughters during World War II. The complete story can never be told as so much individual effort was expended in ways never recorded. These intangibles are threads of gold in the war records of the Georgia Daughters of the American Revolution.

This evening, here in Athens, Georgia, as we commemorate the 50th anniversary of World War II, let us resolve to preserve the legacy bequeathed us by World War II heroes and by Georgia Daughters who served in the trenches and on the home front, these were the ones who bore the burden; let us resolve to preserve our priceless legacy of service to God, home and country; let us teach our young people that the young men and women of World War II also faced seemingly insurmountable problems, but overcame them gloriously! Let us teach them our faith in that matchless heritage and let us each Georgia Daughters of the American Revolution here this evening cling to the truth, the wisdom, the vision of our founding fathers who gave us the Constitution of the United States of America. Let us strive to expend its truths, until, in God's good time, men are truly free.

Let us pray for wise, virtuous leaders, so that here on American soil, beneath the stars and stripes, someday will be fulfilled the promise of the ages, "Peace."

I believe in America and its future and that there is more good in us than bad. Much of the good and glorious has been reviewed this evening.

Today is your day and mine—the only day we have. The day in which we play our part. What our part may signify in the great whole, we may not understand, but we are here to play it, and now is the time. "For yesterday is but a dream—and tomorrow is only a vision, but today well-lived makes every yesterday a dream of happiness." (From The Sanskrit) I salute you, Georgia Daughters!

MISSING IN CYPRUS LEGISLATION PASSES

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to celebrate the passage of H.R. 2826, legislation which calls upon the President to investigate the whereabouts of the missing from the Cyprus conflict of 1974. The total missing from that conflict is 1,619 and includes 5 American citizens. I am a proud cosponsor of the original House version of this legislation and commend Congress for passing this important resolution.

In July of this year many of us commemorated the 20th anniversary of the illegal Turkish invasion and occupation of 37 percent of Cyprus. The greatest tragedy of that invasion are its 1,619 missing victims. Yet we must also acknowledge the shattered lives of their families and friends. For 20 years they have been waiting, hoping, and praying. Their pain deserves to be relieved and this resolution is a step in that direction.

This bill calls for three things: An investigation into the whereabouts of the missing; a report to the families and to Congress on the results of that investigation, and; for the administration to do everything in its power to return the missing to their families and resolve these questions once and for all.

The other body, in it deliberations on this bill, saw fit to amend the original House version. In my view, the original was the superior measure, calling as it did for an investigation into all of the missing. The bill as passed in its final version calls for a thorough investigation of the 5 missing Americans. It also directs the President to report on the fate of other missing Cypriots discovered during that investigation.

Mr. Speaker, we must not let the world forget this tragedy by turning our backs on the people of Cyprus. Instead, we must press the Turkish Cypriot leadership, and their allies in Ankara, to release or account for the fate of these 1,619 persons. This bill will begin that process and I again commend Congress for its passage.

MR. AND MRS. WILLIE N. POUGH CELEBRATE 50TH WEDDING ANNIVERSARY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to salute Mr. and Mrs. Willie Newton Pough, of Orangeburg, SC, on the occasion of their 50th wedding anniversary.

Mr. and Mrs. Pough's half century of devotion to each other will be celebrated on October 7, 1994, at Funderburk's at Middleborough, Columbia, SC, hosted by their daughter, Carmen Pough. The couple were married October 12, 1944.

Mr. Pough was born in Orangeburg County on July 4, 1921. He received his juris doctor degree from South Carolina State University and practiced law in Orangeburg County for approximately 40 years. He was very active in the civil rights movement during the 1950's and 1960's.

Mrs. Altamese B. Pough was born in Polk County, FL, on November 22, 1923. She received her master's degree in education from South Carolina State University and worked as a public service social worker with the Neighborhood Youth Corps, CETA, and JTPA until her retirement.

Mr. and Mrs. Pough are members of Trinity United Methodist Church. Both are members of the NAACP and the South Carolina State University Alumni Association.

Mr. Pough is a member of Phi Beta Sigma Fraternity and is active in a number of lodges, including the Edisto Lodge No. 39 Free and Accepted Masons, Prince Hall Affiliate; the Robert Shaw Wilkinson Consistory No. 220; Jeddah Temple No. 160 of the Ancient Egyptian Arabic Order Nobles of the Mystic Shrine; the Most Worshipful Prince Hall Grand Lodge of Free and Accepted Masons, Jurisdiction of South Carolina; Imperial Council of the Ancient Egyptian Arabic Order Nobles of the Mystic Shrine; and 33d and Last Degree of the Ancient and Accepted Scottish Rite of Free Masonry Prince Hall Affiliate, for the southern jurisdiction of the United States.

Mrs. Pough is a member of the Robert Shaw Wilkinson Assembly of the Golden Circle, Jeddah Court No. 86 of the Daughters of Isis of the Ancient Egyptian Arabic Order Nobles of the Mystic Shrine, and the Alston Wilkes Society.

Mr. Speaker, please join me and the Pough's family and friends in wishing them many more happy years together.

INTRODUCTION OF LEGISLATIVE PACKAGE TO BOOST SMALL BUSINESS GROWTH, PRODUCTIVITY AND JOB CREATION

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. WYDEN. Mr. Speaker, today I am introducing a package of four bills to help small businesses fulfill their potential as the engine of U.S. economic growth and job creation. This package is designed to overcome structural barriers that limit small businesses' ability to raise capital, attract and motivate skilled employees, and export to fast-growing foreign markets.

These are three important challenges that face small businesses today, but too often these companies are victimized by government indifference. Consequently, literally thousands of promising small companies die each year, not because they lack a good product or skilled management, but simply because they are too small to have the same opportunities for money, workers and markets that larger companies take for granted.

Mr. Speaker, if the U.S. economy is to continue to grow and create jobs, small business will have to be out front. Statistics clearly show that, despite the barriers they face, small companies are the key to the economy's future. In the 1980's large companies lost a net 2 million jobs while small companies created a net 20 million. Moreover, in my home State of Oregon, perhaps the most predominantly small business state in the country, 98 percent of the businesses employ fewer than 100 workers, and the State government projects that fully 70 percent of the State's job creation in the 1990's will come from those small firms.

Mr. Speaker, the legislative package I am introducing today will give small businesses a fair chance to grow and prosper. It will not give small companies any special breaks; rather, it will clear away some of the structural impediments that prevent them from competing on an equal footing.

These are the four bills in the package:

1. THE ENTREPRENEURSHIP PROMOTION ACT

At some point in its development, nearly every small business faces a crisis in finding the capital necessary to finance continued growth. Nearly every company gets caught in the awkward position of being too large to be financed internally, but not yet large enough to tap the public capital markets or adequate bank financing. Capital is the lifeblood of every small company spreading nutrients throughout its operations, and without sufficient capital, an otherwise healthy small company with a great product line will be doomed to wither away.

Companies caught in this position frequently turn for help to so-called angels—venture capitalists willing to invest their own money in companies they think have a real chance to succeed. Today, there is just not enough venture capital money available for these companies. Investing in new firms is risky, and most investors would rather take the more predictable returns of bluechip stocks or government securities than take a flyer on a small company. Moreover, in those parts of the country not near a financial center, there is frequently not a sufficient mass of potential investors who know the local companies well enough to risk an investment.

Again, in my home State of Oregon, with its fast growing software, computer, environmental, biotech, wood products, and other industries, numerous companies that could be global competitors and create thousands of jobs are at risk, simply for want of venture capital funds.

It is imperative, Mr. Speaker, to pump more funds into the venture capital pipeline and to direct more of those funds to the companies that really need them. The Entrepreneurship Promotion Act is designed to do that by creating a tax incentive to get more investors involved—and keep them involved—in starting and growing job creating small businesses.

This bill would create a tax rollover, similar to the one available to homeowners, to enable an investor who sold his stake in a qualified small business to reinvest the money in another qualified small business and defer paying taxes on the capital gain.

With this bill, investors would have an incentives to keep their money in the productive sector of the economy, rather than simply cashing out their investment. Moreover, the bill would target the incentive at investments in firms with less than $20 million in annual sales—those companies with the fewest financing alternatives and, therefore, more in need of venture funds.

2. THE FAMILY SAVINGS AND INVESTORS PROTECTION ACT

A second vital step to increasing the availability of capital to small business is to increase the return on investments and thereby draw more funds into the investment sector.

Currently, investors who hold long-term assets get taxed on both the real gain in value of their investment and on the gain due solely to inflation. When the Government taxes paper profits, not real profits, the added tax burden can be so great that investors can actually end up paying a higher effective tax on capital gains than even the top income tax rate.

The message this backward tax policy sends to investors is, "don't save, don't invest, just consume." That is the opposite of what is needed to nurture a healthy, inflation-free environment in which small businesses can grow and prosper.

The Family Savings and Investors Protection Act would index capital gains prospectively so that investors would pay taxes only on the real gain in their investment and not on the phantom gains due to inflation.

A recent report by the Institute for Policy Innovation calculated that lowering the cost of capital by prospectively indexing capital gains would, by the year 2000, increase capital formation in the United States by $995 billion and create 260,000 jobs. Reflecting the higher economic growth, and resulting tax payments, net Federal revenue would increase by over $40 billion.

Combined with the tax rollover bill, indexing capital gains would provide significant relief to those small businesses that have good products and good management but are starving to death for lack of capital.

Mr. Speaker, capital gains tax policy has been caught in fearsome partisan debate for many years but I believe it is time to move beyond old divisions and recognize that indexing capital gains is good for small business, good for investors and good for the Federal Government.

3. THE EMPLOYEE PARTNERSHIP REWARD ACT

If Americans are going to enjoy long-term economic growth and more well-paying jobs without triggering inflation, it will be vital to raise productivity. Without rising productivity levels, long-term living standards will stagnate and American jobs will be increasingly vulnerable to global competition.

One proven way to increase productivity at a firm is to put in place a performance based reward plan, in which workers receive direct benefits based on their success in achieving certain measurable goals for the firm.

Those goals can vary depending on the priorities of the firm at a given time. For example, a young company may want to boost sales or market share, a company making major new investments may want to raise productivity, and a more mature company may simply want to increase profits. All of those goals are valid—the crucial issue is that those goals must be communicated clearly to workers and the rewards must be tied directly to the firm's performance relative to those goals.

These types of plans come under many different names—profit sharing, gain sharing, performance pay, and so on—but they all share the key characteristic that employees have a stake in the success of their firms and that they will share in that success with managers and investors.

The results where such reward plans have been put into place are dramatic. One comprehensive study found that the average productivity improvement in firms that implemented such plans was 7.4 percent—significantly higher than recent economywide productivity growth rates of 1 to 3 percent. Moreover, in Japan, where about 25 percent of a worker's pay is tied to the performance of the company, fully 93 percent of the workers feel they benefit from an increase in the company's productivity, compared to just 9 percent in the United States.

Performance based reward plans also help make labor costs more flexible. This flexibility encourages firms to create more jobs, because the marginal cost of hiring an additional worker is less. Moreover, layoffs are less likely because when a firm goes through a bad spell and cash is short, its fixed labor costs are lower, as well.

One great example of this benefit is a company called Lincoln Electric, a Cleveland based manufacturer of welding machines and motors. This company suffered a 40-percent decline in revenues during the 1981–83 recession, yet it laid no one off, and has not done so since the early 1940's. And, in Japan, the unemployment rate has stayed around 3 percent through the recent recession—about half the level in the United States during the recovery.

The Employee Partnership Reward Act would provide firms and workers with tax incentives to implement performance based reward plans. Firms would be able to deduct 110 percent of their payments to workers under such a plan, while workers would receive a tax credit of $100 to $500, depending on how much of their salary came from payments under the plan.

It is entirely appropriate for the Federal Government to encourage such plans through tax incentives because increased productivity and new job creation are good for the whole economy.

Today, the Federal Government offers billions of dollars of tax incentives for deferred pension plans, which help people save for retirement but have been shown to have little effect on productivity or job creation. The United States also offers incentives for investments in machinery—in effect, encouraging firms to replace workers with machines. Last year, such capital investments received $22 billion in tax breaks, while investments in workers got just $2 billion.

Surely, there is room within the budget to reorder priorities so there can be an incentive for firms to implement plans that benefit the whole economy by boosting productivity and creating new jobs.

4. THE SMALL BUSINESS EXPORT ENHANCEMENT ACT

Mr. Speaker, even if a firm succeeds in attracting sufficient capital and boosting productivity, it will in many cases still need to compete in fast-growing foreign markets in order to prosper.

Exports are becoming an increasingly important part of the U.S. economy. Nationally, exports are growing three times as fast as overall economic growth. Over the past 40 years, the rate of job creation in trade-related fields grew three times faster than overall job creation. One in six U.S. manufacturing jobs is now related to exports, and those jobs pay 22 percent more than the average U.S. wage.

The lesson is clear: As the global economy continues to develop, successful exporting will make the difference between a good economy and a great economy.

While the U.S. economy overall has reached world-class exporting status, small businesses in the United States still lag behind. Smaller companies face special challenges in getting into foreign markets, but export assistance generally has not been provided in a way they find useful.

The trade statistics clearly show that small business has not fully shared in the global bounty. According to the Commerce Department, only 10 percent of U.S. firms are regular exporters. A few large firms account for the bulk of U.S. exports, despite the fact that 90 percent of U.S. manufacturers are small and mid-size firms.

Clearly, small businesses remain a large untapped resource of potential export growth for the U.S. economy. However, small businesses with competitive products frequently face high transactions costs and inadequate information about foreign markets, which limit their ability to export. They need some additional help, but government is not successfully providing it.

The Federal Government is the major provider of export assistance, spending over $3 billion a year. A quick look at its export assistance programs reveals why small businesses are having such a hard time.

There are over 150 Federal export promotion programs fragmented among 19 different Federal agencies. These programs are characterized by duplication of effort, overlap, inefficient dissemination of services and information, turf battles and confusion among both providers and users of assistance. The Trade Promotion Coordinating Committee concluded that for many small- and medium-sized firms, getting through the bureaucracy may be as great a hurdle as foreign market barriers.

While Federal programs trip over each other and frequently miss their intended targets, many State-based export assistance providers—including State departments of trade, local industry associations, international freight forwarding companies, local and regional banks, chambers of commerce and world trade centers—have established good local networks that can effectively deliver timely, accurate, and useful assistance to would-be small business exporters.

For example, in Oregon the State department of trade, working closely with the private sector, has set up an admirable model. It is focused on identifying specific, targeted trade leads, doing outreach to companies to inform them of opportunities, and working closely with the companies to help them through the export process. It is a classic example of local leaders who know the local economy working cooperatively to get the most out of the State's export potential. Unfortunately, in Oregon as in other States, these providers of export assistance are woefully short of resources.

The Small Business Export Enhancement Act would redirect millions of dollars from the Federal Government to State-based export providers. For the most part, this money will be used to fund partnership programs, designed to combine the resources of the Federal Government with the local networks of State-based export providers. The bill also directs the trade promotion agencies to offset this new spending by identifying in a report to Congress savings of at least $100 million to be achieved through consolidating or eliminating some of those 150 Federal programs that provide overlapping or duplicative services.

Mr. Speaker, the report of the National Performance Review stressed that the Federal Government needs to reallocate its export assistance resources to sectors that have clearly shown growth potential while it works to make its services more accessible to clients. Clearly, small business is the obvious place to turn to boost U.S. export growth, and the best way to help small business to export is through State-based providers that know the local companies and their particular needs.

If the United States can successfully turn the small business sector into a source of export strength, it can provide a structural economic boost that can put the country on a permanently higher plane of income growth and job creation.

TRIBUTE TO CONGRESSMAN DON EDWARDS

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BROWN of California. Mr. Speaker, it gives me great pleasure to rise today to honor and pay tribute to Congressman DON EDWARDS who is retiring after 32 years of service to this institution. It has been a personal and professional privilege for me to have worked with DON EDWARDS over the last three decades serving the people and State of California. I would like to take this opportunity to call the attention of my colleagues to an editorial by Albert R. Hunt of the Wall Street Journal which pays homage to a Congressman of unwavering principles and commitment to public service.

[From the Wall Street Journal, Sept. 29, 1994]

THE CONGRESSMAN FROM THE CONSTITUTION

(By Albert R. Hunt)

Henry Hyde, the Illinois congressman, calls his retiring colleague "a man of unshakable beliefs and integrity * * * a genuine asset to this place." You would think he was lamenting the departure of a fellow conservative Republican.

Instead, he's talking about Don Edwards, a liberal California Democrat. Reps. Hyde and Edwards, as the two top members on the House Judiciary Committee's Constitutional Rights Subcommittee, have clashed repeatedly on some of the most divisive issues in American politics, such as abortion and the death penalty. But these two gifted legislators are exceptions to the decline of civility in American politics. "I don't agree with Don on very much, but I have the utmost respect for him as a person and legislator," says Rep. Hyde. "I only wish he and I were 20 years younger to carry on longer."

Rep. Edwards, whose birth certificate says he's 79 years old, though he looks and acts more than a decade younger, is retiring after a 32-year career. Proponents of civil liberties and civil rights are losing one of their greatest champions. And the huge 52-member California congressional delegation is losing its dean, who was able to maintain some cohesion among this unruly lot.

He leaves an impressive legislative record. He also leaves a marker for the way politics ought to be practiced. In a time when political fingers constantly test prevailing winds Don Edwards—like his adversary Henry Hyde—sticks to principles even if it means sailing against those winds. Amid all the clamor for term limits, he's a reminder of the value of experience and institutional memory. And in an environment of simplistic sound bites and cynicism, he's a testament to thoughtfulness and decency.

W. Donlon Edwards arrived in Washington in 1963 with an unusual background for a liberal Democrat. He was a former FBI agent and a former Republican. (He was the president of California Young Republicans during Richard Nixon's 1950 Senate race.) But he switched parties and came to Congress a committed champion of civil rights.

In one of his first votes, the San Jose lawyer was one of only 20 members who tried to kill the House Unamerican Activities Committee. Back in his district many thought that would end his career. But he went on to win 15 more elections and continued to champion causes he thought were right, whether politically popular or not.

In 1967 he was one of 16 legislators to vote against a bill to make it a federal crime to desecrate the American flag. That legislation subsequently was declared unconstitutional by the Supreme Court. And in 1990 when President Bush advocated a constitutional amendment to prohibit flag burning, Rep. Edwards successfully led the fight against changing the Constitution.

This World War II Navy veteran has little use for people who tarnish the flag. But, in the spirit of Hugo Black, he passionately believes the Constitution protects outrageous speech as well as rational speech. "I consider him the congressman from the Constitution," says Nat Hentoff, the columnist and civil liberties expert. "Don is very low-key, but he's about the most passionate person I've known in politics about the Bill of Rights."

This was on display again earlier this year when Congress moved to denounce a speech of Khalid Muhammad, the Louis Farrakhan disciple, who was peddling anti-Semitic, anti-Catholic and anti-white venom. "Each of us ought to condemn the terrible obscene things that Mr. Muhammad said," Rep. Edwards told his colleagues. "It is terrible, really it is disgraceful." But, the California Democrat went on, "We have no business officially attacking a speech and condemning it. * * *

"Yes, it is hateful speech, but it is entitled to be heard." He was in a minority of 34.

On constitutional matters he doesn't worry about political correctness. As a member of the House Judiciary Committee considering the impeachment of President Nixon in 1974, Rep. Edwards insisted that the proceedings not be treated like a grand jury and that the president's lawyer, James St. Clair, be allowed to participate and question witnesses. And he opposes the speech codes forbidding offensive language that are in vogue on some liberal college campuses today.

As chairman of the Constitutional Rights Subcommittee, the 16-term legislator's infinite patience has proved invaluable. "There is a lot of bad legislation that is not on the books because Don had the capacity to sit on it." says Abner J. Mikva, a former House colleague and the about-to-be White House counsel. Don Edwards may have stopped more constitutional measures than James Madison wrote.

But Chairman Edwards is rarely heavy-handed; he's unfailingly courteous and generous to the powerful and nonpowerful alike. Unlike more than a few of his fellow liberals, Don Edwards likes human beings as well as humanity. And like more than a few other successful politicians, his career has been helped immeasurably by the fact he married above himself; his wife, Edith Wilkie, who runs the bipartisan Congressional Arms Control Caucus, has had a profound influence on the California Democrat for the past two decades.

A dyed-in-the-wool liberal, he was one of the first opponents of the Vietnam War, has been in the forefront of all civil rights legislation and has consistently espoused efforts to help the poor and create "a more caring society." But he's not a knee-jerk. The best recent attorney general, he believes, was a Republican, Edward Levi, who served under President Ford. And there's considerable mutual respect between Reps. Edwards and Hyde: "I disagree with most of Henry's views, but I trust him totally; we have no secrets from one another," Rep. Edwards says. He totally agrees with the Illinois Republican's complaint that the current fad of "inveighing against careerism is know-nothingism at its worst." Mr. Edwards opposes term limits but thinks restricting tenure on committees would be healthy. While Congress may not be as fun or collegial as it used to be, he says it's a lot more ethical; "$100 bills used to pass around freely."

Although liberalism is in retreat these days, Rep. Edwards thinks it'll come back, and he views the past three decades with enormous satisfaction. "When I came here, the 11 states of the Old South practiced apartheid. There was a House Unamerican Activities Committee. And the FBI was out of control threatening individual liberties. This is a much better country today."

Once in 1970, for personal reasons, he considered retiring. An aide brought a news clipping to J. Edgar Hoover, the dictatorial FBI director, who wrote, "Good riddance." It's a better country today because it was Mr. Hoover who left the scene a few years later while Don Edwards, who was to play a critical role in cleaning up the FBI's abuses, served almost a quarter-century more.

ECONOMIC IMPACT OF INSOMNIA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PORTER. Mr. Speaker, I want to discuss a recent study that should be a wake up call to every person in America. In an article to be published this month in the medical journal, Clinical Therapeutics, Melissa Stoller of the University of Chicago estimates the annual economic cost of insomnia due to reduced productivity, accidents, and medical problems at between $92.5 and $107.5 billion. That figure does not include the costs associated with loss of opportunity, deteriorated personal and professional relationships, and decreased quality of life—common experiences of insomnia sufferers.

Contrary to popular perception, insomnia affects a wide cross section of the population. Research consistently shows that in any given year insomnia affects up to 40 percent of the U.S. population. This is also true for the people of Australia and Europe. About one-half of all cases are moderate to severe and the majority are not associated with psychiatric or medical problems.

Every business owner in the country should be concerned that the average person is absent from work 1 day per month. By contrast, however, the average worker suffering from insomnia misses 2.8 additional days per month. The predominant result of nighttime insomnia is daytime fatigue. This daytime impairment is associated with markedly reduced productivity, more sleeping during work breaks, and job dissatisfaction. The estimated annual cost of performance impairment due to insomnia is $41.1 billion.

In addition, both work-related and motor vehicle accidents are more likely to be committed by someone suffering from insomnia than by an individual who is well rested. Insomniacs have about 1.5 times as many work-related accidents as the rest of the population and have auto accidents 2 to 3 times more often. Sleep-related accidents cost $43 to $56 billion annually.

Studies also demonstrate that insomnia is directly linked with several serious illnesses including heart disease, high blood pressure, diabetes, stroke, and depression. Persons who sleep poorly see the doctor more often and have more health problems than those who sleep well, placing a burden on the health care system. Insomnia has also been related to higher levels of depressive illness and alcohol consumption. The death rate for those who sleep less than 6 hours per day is 30 percent higher than for those who sleep 7 to 8 hours.

I became interested in the enormous problem of sleep disorders when a constituent of mine who suffers from another sleep disorder called narcolepsy brought it to my attention several years ago. Since then I have been a firm believer in the need to address this serious problem. In 1993, after several years of work, the National Commission on Sleep Disorder Research reported to Congress on the need to establish a National Center for Sleep Disorders Research. The 1993 NIH reauthorization established the National Center within the National Heart, Lung and Blood Institute. During its short existence, the National Center has done a tremendous job in establishing a national public awareness campaign on sleep disorders and coordinating its activities with other Federal agencies. But, as Stoller article demonstrates, much remains to be done. The National Center needs the participation and cooperation of all branches of the government in order to make the public and health professionals aware of the seriousness of insomnia and other sleep disorders.

Insomnia has an astronomical economic impact on our society. Given these grave consequences, we must address it as a not merely irritating but pervasive and inevitable part of modern life. It is a destructive and potentially life threatening condition that can and must be better diagnosed and treated.

CONGRATULATING JEFFERY BROSS

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. MANN. Mr. Speaker, I rise today to congratulate Jeffery Bross for earning the Boy Scout's highest rank, the Eagle Scout. Through all his work in Troop 828, and in school, he has faithfully fulfilled his scout oath in every way.

Jeffery will be recognized for his achievement at a special Court of Honor ceremony to be held on October 23, 1994.

Jeffery has worked hard for several years to achieve the rank of Eagle Scout. His scouting career has been highlighted with other awards such as the Arrow of Light award, the Cub Scouts' highest honor, and the God and Country Medal.

Jeffery has completed over 21 merit badges and he has organized an outstanding community service project. He coordinated the laying of the foundation and placement of the school bell in Colerain Historical Park. This school bell monument is now a part of a larger bicentennial exhibit designed to celebrate the historic beginnings of Colerain Township in Cincinnati, OH. Not only has he contributed to his community, but he is an excellent student with a 3.8 grade point average.

I salute Jeffery on his accomplishments, as well as his parents, Ray and Susan Bross, and his scout leaders whose support helped make it possible.

TRIBUTE TO WILLIAM H. CLAGETT

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SCHAEFER. Mr. Speaker, I am honored today to pay tribute to William H. Clagett, a constituent of mine who retired from public service September 30, 1994, after 9 years as the administrator of the Western Area Power Administration.

As part of a distinguished career in the hydropower industry that included stints at the Bonneville Power Administration, the Bureau of Reclamation, and Southwestern Power Administration, Bill Clagett has led WAPA to a position of prominence and respect in the power-marketing industry.

Under his leadership, the new financial management system was instituted, greatly improving economic efficiencies; the California-Oregon Transmission Project was inaugurated, increasing power system reliability; and WAPA became a leader in the research and testing of advanced products and technologies.

In the past 9 years, with Bill Clagett as administrator, the WAPA Area Power Administration has become a Federal agency that stands for product quality and efficiency. At the same time Clagett led Western to an enviable international reputation for private/public cooperation, he ensured that WAPA never lost sight of its bottom line: electrical power to its customers at the most economical cost.

Bill Clagett is an example to all who profess to be in public service. I am proud to honor him today and wish him much good fortune in the years to come.

PAYING TRIBUTE TO ALFRED E. JENNINGS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to bring to the attention of my colleagues the accomplishments of a man who has played an invaluable role in bettering the community of Brooklyn. As an employee of Brooklyn Union Gas Co., Alfred E. Jennings has been involved with various community programs for more than 40 years.

Perhaps most notable is his involvement with Brooklyn Union's Cinderella Program, which began in 1967 as an initiative to get families of all income levels to move to the city. More than 25 years later, it is still a viable program providing housing to these families.

Mr. Jennings' activities have not stopped at Brooklyn Union Gas: Since 1992, he has served as the executive director of the Downtown Brooklyn Development Association. He provides years of experience to the association's efforts in the area of business retention and community revitalization.

The Greenpoint YMCA has also benefited from Mr. Jennings' broad experience in helping the community. He has been chairman of the board of managers of the Greenpoint YMCA since 1988. In that time he has overseen a resurgence in the YMCA's physical fitness programs, the expansion of the preschool-after-school programs and actively supported efforts to provide self-confidence and encouragement to the youth of Brooklyn.

But Mr. Jennings' activities have not ended with these organizations. He is also a member of the board of the American Cancer Society, the Snug Harbor Restoration, and has been involved with the Boy Scouts of America for over 50 years, during which he served as the vice president of the Brooklyn and Staten Island units.

Recently, Mr. Jennings was chairman of the St. John's University annual dinner—his alma mater—and grand marshall of the 1994 Brooklyn St. Patrick's Day parade. He has also been honored by the Catholic Teachers Association of the New York City board of education for his contributions to educational programs.

Mr. Speaker, I ask my colleagues to join with me in saluting Mr. Jennings' tremendous achievements, and wish him a long and active retirement.

THE RANSOM OF HAGERSTOWN

HON. ROSCOE G. BARTLETT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BARTLETT of Maryland. Mr. Speaker, on October 8, the city of Hagerstown will commemorate the Civil War's Ransom of Hagerstown, an event that changed the course of history for this small western Maryland town.

Each day of our lives we take certain things for granted. Our freedom, perhaps. Our Nation's sovereignty, or maybe the simple reliable beauty of the town in which we live.

The people of Hagerstown, MD, 130 years ago, were faced with a choice and an interesting twist of fate—a twist that saved the town from burning to the ground at the hands of Confederate troops during the Civil War.

When Confederate troops marched into Hagerstown July 6, 1864 threatening to burn the town to the ground unless she paid a ransom of $200,000 in retribution for the Yankee destruction of much of the Shenandoah Valley, the city leaders and residents were distraught. $200,000 was an impossible sum to acquire, and they had seen other towns destroyed for the inability to raise the ransom. Freed slaves, military equipment, goods, and livestock were all rushed out of town to protect them from the Confederate army.

But a funny—and lucky—thing happened on the way to Hagerstown. The $200,000 ransom ordered by Gen. Jubal Early was misunderstood by Gen. John McCausland, who was commanding the calvary being led into Hagerstown. The graduate of Virginia Military Institute, who was schooled in math and artillery tactics, forgot a zero, and stormed into Hagerstown demanding $20,000 to spare the town.

The town's three banks and city councilman Matthew Barber were able to pull together the money. $20,000 was a whole lot easier to pull together than $200,000, and Hagerstown, MD was saved from almost certain ruin.

So, in the name of history, each day when Hagerstown's citizens wake to their beautiful and historical town, they know there are many things, people, and events that have molded them to be the unique city they are. But the real hero in saving the city of Hagerstown and making it a premier historical tourist attraction today, was just one lost zero, 130 years ago.

The events of this week to commemorate the Ransom of Hagerstown are commendable, and speak well of the strong sense of history the community embodies. This heritage of Hagerstown is one to celebrate, and I am proud to be a part of the festivities.

TRIBUTE TO PHARMACIA DIAGNOSTICS

HON. DEBORAH PRYCE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Ms. PRYCE of Ohio. Mr. Speaker, I would like to take this time to extend a warm Buckeye State welcome to a company moving to Dublin, OH, and the 15th Congressional District. Pharmacia Diagnostics, a leader in the development of asthma, allergy and immunology products, and testing, will be joining its Columbus affiliates, formerly Adria Laboratories, at their new location outside Columbus.

The company will be located on a new 100-acre complex and will be home to over 500 employees and serve as the United States headquarters for the Swedish pharmaceutical company, Pharmacia AB. The new Dublin facility will contain divisions such as therapeutics, plasma products, peptides hormones, oncology, and immunology.

Pharmacia Diagnostics is a cutting edge company in the treatment and testing of allergies. Its revolutionary method of allergy blood testing called radioallergosorbent or RAST testing, has gained worldwide acceptance as an alternative to skin or scratch testing.

By withdrawing a small amount of blood from a patient, doctors using RAST testing can screen individuals for a multitude of allergic substances, without pain, time, and potential health risks associated with skin testing. This new technology also reduces the number of allergy patients that are misdiagnosed every year for allergies they do not have.

Pharmacia Diagnostics is a welcomed addition to the neighborhood in Ohio. With its new advanced research facility and many other divisions, Dublin will now be a focal point for advancements in the vital area of allergy and asthma testing. The company and its employees are a wonderful extension to our community in the 15th Congressional District, and I want to join with others in welcoming them to Ohio. Thank you, Mr. Speaker.

THE IMPORTANCE OF INVESTING IN AMERICA'S FUTURE

HON. THOMAS J. BARLOW III

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BARLOW. Mr. Speaker, public works are good works. Down through the decades the Federal Government has powerfully assisted in the creation of the physical ties that bind our Nation together. Private investment is, of course, the leading edge. But the back up of public investment has been essential to ensuring that all Americans can be reaching for the fruits of America's full potential.

The growth of our Nation in the early days depended on water improvements and canals; later came the railroads; and now we have come to depend upon the existence of a dependable highway system to deliver people and goods to their destinations. Think of the core networks of electrical generation and power distribution, water supply for residences and business and industry, sewage treatment plants—our infrastructure is vital to the Nation's health and wealth, and indeed, our very well being.

Recently I had the honor of celebrating with Western Kentucky the 50th anniversary of the building of Kentucky Dam. Damming the Tennessee River and creating a reservoir over 50 miles long, Kentucky Lake brought Kentucky clean water, power for business, electricity for households, efficient transportation for industry, and a booming recreation resource. When the dam was started we were coming out of the Nation's Depression, a period of fear and uncertainty. It was Kentucky's families pulling together, and it was a great Senator, Alben Barkley, who looked ahead, and said, "Let's make the investment." And generations since then have been the beneficiaries. This project literally brought us out of unemployment, started our economy moving up, became a powerful engine for economic development in our region. Kentucky Dam helped make Western Kentucky the prosperous center of commerce that it is today.

Mr. Speaker, our people are demanding that their tax money be spent wisely. I concur with our people—we need to cut the fat out of the budget. Our people want Federal spending reduced. People want us to halt deficit spending. Our people want a balanced budget. Indeed, our people want our Federal debt of over $4 trillion reduced because we are currently spending over $200 billion a year in interest on the debt—approximately 18 percent of our Federal budget. Needless to say, this interest expenditure is money that many of us want to spend in more constructive ways—including tax reduction—than on interest payments.

At the same time, we want to heed the lesson Kentucky Dam and other such wise investments teach us: wise public investment creates future public prosperity. Public works are an investment for our Nation, just as a new factory, or a new rail spur, or a new tanker is an investment for a company or corporation and its future prosperity. We need to continue to make wise investments for our people's future prosperity.

Mr. Speaker, today we must continue our investments in clean water. We must have dependable supplies, readily available with accessibility, and of course pure and clean. The health of our citizens, our families, our business and industry is absolutely, totally dependent on clean water.

Danny and Donna Hearell, of Marion, recently came to Washington from Crittenden County in my district to share their insights into the problems of water distribution in our part of the country. Mr. and Mrs. Hearell, part of a project called Water 2000, participated in a roundtable discussion with the Secretary of Agriculture and other officials. The conference addressed the needs of Americans who, I am deeply troubled to say, 30 years after we put a man on the moon, do not have safe, adequate water.

Currently, more than a half-million rural American households lack clean, running water in their homes. Kentucky has more of these homes without clean, running water than any other State in our Nation. Poor water supplies are a constant threat to the health of children and adults, and compound the heart and soul rending difficulties of rural poverty. The goal of Water 2000 is to put safe, pure tap water in every rural American home by the year 2000. I am determined that we achieve this goal in my First District of Kentucky on a county-wide basis.

The paramount problem for rural areas in need of clean, accessible water is funding. Rural areas face funding problems because they have a dispersed customer base. Counties simply cannot afford to spend hundreds or thousands of dollars constructing the infrastructure networks for water supply. And, in the case of population concentrations such as our small towns, there is not a financing base sufficiently strong for the sewage treatment that must come with water supply networks. Kentuckians on meager fixed incomes cannot afford to pay as much as $25 dollars a month and higher for water and sewer service. if we want all Americans to have access to clean water, then we must be of assistance.

Community grants, as well as wisely structured loans, are a major part of the answer. The Farmers Home Administration is playing a vital role in rural development. We need to increase that role and provide more money to enterprising communities. Our counties and rural communities need to be able to tap into the investment resources the Federal Government can marshall. They need loan guarantees, low interest loans, grants and other seed money. We need to consider strategies such as those employed by the Rural Electrification Administration and the rural telephone system used 50 years ago to bring the basic necessities to rural areas. We need to consider ways to fund low-cost, county-wide water systems.

Mr. Speaker, we must increase the flexibility local managers have for funding projects and meeting environmental and other requirements. Red tape and paperwork requirements strangle many of these projects before they ever get off the ground. Small-town mayors, working part time and without pay, are simply unable to sort through the exhaustive grant, loan, and environmental applications that unfortunately have become a part of Federal assistance today. Environmental requirements need to be streamlined and heavily pruned, so that approval is simple and swift, and construction is speedy.

It is the responsibility of Congress to ensure that the Federal Government does not impose costly and impractical requirements on small systems.

Mr. and Mrs. Hearell, who run a dairy operation which, of course, uses a lot of water, lost their water source when an earthquake struck our region 3 years ago. They had to start trucking water, which is expensive. When the Crittenden-Livingston Water District came to their aid by installing a new water system for them, their water bills dropped dramatically. The Hearells testify to the value, indeed the necessity of good water.

When we look at the need for economic development in our counties, it is quite understandable that no business will locate where water treatment is inadequate, where drinking water is unsafe, or where waste treatment is expensive. Effective water and sewer systems are a linchpin of economic development. We must not fail to provide such systems in our counties and rural communities.

Today, clean water is as important to a town like Grand Rivers, KY, right by Kentucky Dam, as Kentucky Dam was 50 years ago. Just as Kentucky Dam was a wise investment of public money, reaping returns for our Nation decades into the future, clean water is a wise investment today for the benefit of future generations in Kentucky.

We must come together now to ensure that every American can drink clean, clear, safe water. And we must come together now to ensure that America continues to believe in itself. We must believe in our future. We must invest in that future. Thank you very much.

OPPOSING THE USE OF U.S. MILITARY FORCES IN HAITI

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SWETT. Mr. Speaker, I welcome this debate in the House of Representatives regarding the Administration's decision to send U.S. military forces to Haiti. I regret, however, that we are debating this issue after the President has already committed our military forces to action in Haiti. This is a matter that should have been fully debated and considered before the troops were sent into potential combat.

In our democratic society, decisions about committing our armed forces to potential or actual hostile action is not solely a prerogative of the Executive Branch, it is a critical decision that must be made based upon thorough consideration of the alternatives and it is a decision that under our Constitution requires the action of the Congress. Most importantly, this is a decision that requires the commitment of the American people. Clearly, Mr. Speaker, the American people are not supportive of this military action.

Mr. Speaker, there have been a number of occasions over the past three years when the Congress has debated American interests in Haiti and the policy the United States should follow in dealing with the serious problems of Haiti. I have consistently indicated my very strong opposition to the sending of U.S. military forces to Haiti. At the same time, I have consistently supported the use of economic, political, and diplomatic sanctions in order to bring about the restoration of democracy and the end of military authoritarianism on that Caribbean island.

I still believe, Mr. Speaker, that this is the policy we should pursue in Haiti. Sanctions can be effective, and we should have given those sanctions more time to accomplish their effect. Sanctions were having the desired effect in Haiti, but sanctions are not an instant solution. We should have had the patience to allow the sanctions to work.

While I think most of us here in this body deeply deplore the Haitian military's brutal coup against the democratically elected president of Haiti, Jean-Bertrand Aristide, and its arbitrary and tyrannical repression of the Haitian people, it is very clear to me, Mr. Speaker, that Haiti is not a vital national interest of the United States. The tragic problems of Haiti are no threat to our Nation's immediate or long term security. The problems are an irritating boil, but not a life-threatening disease.

Despite my strong opposition to the commitment of U.S. troops in Haiti, Mr. Speaker, I do wish to make clear my commendation for the activities of the delegation to Haiti consisting of former President Jimmy Carter, our colleague from the Senate SAM NUNN, and for the former Chairman of the Joint Chiefs of Staff, General Colin Powell. I am sorry American troops are in Haiti, but it is infinitely better that our armed forces entered Haiti with the consent and cooperation of Haitian military leaders, rather than having to fight their way in against a resisting and hostile force. We owe these three distinguished men a debt of gratitude for their diplomatic success.

Mr. Speaker, I also want to make clear that my opposition to the placement of our troops in Haiti should in no way be seen as a criticism of the fine men and women who are now serving in our forces in Haiti. Our Nation's military personnel should be commended for the outstanding professional way in which they have undertaken the very difficult and awkward task of establishing control in Haiti. Our military personnel have shown superior performance under very difficult circumstances. Our troops have acted with great discipline and restraint in situations that could easily turn violent. The actions of our forces are a great credit to their professionalism, their excellent training, and their extremely competent leadership.

Nevertheless, Mr. Speaker, the decision to put our troops in Haiti is a flawed decision, and it is essential we take action to withdraw them from Haiti as quickly as this can be done without destabilizing the situation there. We are already seeing an inflation in the numbers of troops that are required—initially we were told that up to fifteen thousand would be necessary to accomplish the task, but now the number has exceeded twenty thousand. In a situation such as Haiti—as we learned so tragically in Somalia—there is a great danger of "mission-creep" as limited humanitarian goals are imperceptibly expanded to include the goals of nation-building and the difficult task of establishing a democratic civic culture. Inevitably our troops will become embroiled in clearly domestic political problems, with a tragic consequences that we remember so well in Somalia.

We must bring our forces home as quickly as possible. I urge my colleagues to join me in supporting action which will assure that our troops are returned quickly and that our limited interests in Haiti are more defined, more clearly and carefully defined.

BUCHEIT INTERNATIONAL CASE SHOULD BE INVESTIGATED

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. TRAFICANT. Mr. Speaker, at this time I would like to insert into the RECORD a summary of a case involving a company based in my congressional district, Bucheit International, and several banks—including a bank based in Switzerland. This case is a microcosm of how major international banks regularly rip off American businesses. I intend to initiate a full investigation of this case through my congressional office, and I intend to press for a full inquiry on part of all the relevant committees in the Congress.

THE PARTIES

Bucheit International Inc., Youngstown, Ohio; Ameritrust Company National Association, Cleveland, Ohio; Morgan Guaranty Trust Co., New York, New York; J.P. Morgan (Suisse) S.A., Geneva, Switzerland.

In 1985 Bucheit was asked to furnish a maintenance bond in the form of a Letter of Credit to cover defects in a shopping mall Bucheit had constructed in Riyadh, Saudi Arabia for H.R.H. Prince Mishal (brother of King Fahd).

Bucheit (an Ohio Corporation) contracted with Ameritrust (an Ohio Corporation) to issue a $1.3 million dollar Letter of Credit #SB26521 in favor of H.R.H. Prince Mishal. At Prince Mishal's insistence, Bucheit agreed to have the Ameritrust Letter of Credit guaranteed by either Morgan Suisse or Saudi American Bank, Bucheit opted to mandate Morgan Suisse to guarantee the Letter of Credit.

Morgan Suisse, having no direct ties with Ameritrust, decided to use Morgan New York (Morgan Suisse's Parent Company) as a liaison bank. Morgan Suisse issued their Guarantee on February 21, 1985.

Consequently, Ameritrust issued an Irrevocable Letter of Credit thru Morgan New York and a Guarantee by Morgan Suisse. Ameritrust's Letter of Credit bound Morgan Suisse to Honor the Letter of Credit under the following contingencies:

A) Drafts at sight on Morgan Guaranty Trust Co.

B) Copy of a key tested telex from Pictet and Cie.

C) Letter from Engineer Omar Jazzar Consulting Engineers of Riyadh.

D) An accompanying Estimate of the Engineer or a quote by the appropriate subcontractor.

Morgan Suisse and Morgan New York worked in close conjunction to supervise all future transactions regarding their Guarantee of Ameritrust's Letter of Credit. Neither of these Banks kept Bucheit abreast of these transactions.

In internal memos during November 1985, Morgan Suisse informed Morgan New York about telephone conversations with Prince Mishal. During these telephone conversations Prince Mishal manifested his intentions to draw on the Letter of Credit. Also mentioned in these internal memos to Morgan New York are faxes received by Morgan Suisse from Prince Mishal. These same memos contain a request from Morgan Suisse to Morgan New York to verify if the faxed documents from Prince Mishal were acceptable for calling the Letter of Credit.

Morgan New York faxed Morgan Suisse copies of Prince Mishal's letter referring to: 1) A Letter from Omar Jazzar, and 2) An Estimate from Omar Jazzar.

It should be noted that the "Estimate" that was presented at this time was bogus due to it's being based on the original punch list which had previously been corrected.

Following these discussions Prince Mishal submitted a Formal Request in December 1985 to call the $1.2 million dollar Letter of Credit. The Formal Request from H.R.H. Prince Mishal contained:

(A) Draft from Morgan Guaranty Trust Co.

(B) Key Tested telex from Pictet Cie.

(C) Letter from Omar Jazzar.

Missing from the documents required to call the Letter of Credit was the most important document: The Estimate:

Morgan Suisse accepted the documents from Prince Mishal and forwarded them to Morgan New York with a transmittal letter which read:

Dear Sirs: Please find enclosed the documents you require concerning the above mentioned Letter of Credit.

After scrutiny, we consider these documents to be in compliance with the terms set forth in the Letter of Credit. Please credit our account $1,126,217.

Yours Truly,

J.P. Morgan Suisse.

Enc:

(A) Letter from Omar Jazzar.

(B) Draft on Morgan New York.

(C) Copy of Pictet Telex.

Again, no Estimate accompanied these documents.

On December 13, 1985 Morgan N.Y. sent a cable message to Ameritrust stating that on December 16, 1985 they would debit their account $1,126,217 as documents presented are in good order per Letter of Credit terms.

On December 16, 1985 Morgan New York debited Ameritrust's account and Ameritrust in turn debited Bucheit's account $1,126,000. In fact, Ameritrust debited Bucheit's account without seeing the documents, and without checking that the documents conformed to the Letter of Credit that *they* issued. The documents had been sent from Morgan New York to Ameritrust via over-night airbill #513 223270 for delivery on the morning of December 17, 1985.

On December 20, 1985 Ameritrust sent Bucheit via U.S. Mail a debit memo for the transaction which had occurred on December 16, 1985, along with a copy of the documents they received from Morgan New York. Again, no Estimate was accompanying these documents.

COMMENTS

What you have here is a typical case of the little guy who does not have the clout or the resources to take on major international banks who have conspired with a personal customer who keeps massive deposits in the Swiss banking system.

The Swiss Bank thru it's Parent in New York "tells" it's corresponding bank in Ohio that all the documents are in order and to pay the amount without looking at the documents (trust me).

Whe Bucheit called Ameritrust to ask why they had paid without the "Estimate", they replied, "The money is gone."

It is obvious that the Banks failed to exercise the duty of care required of a trusted institution, and even more specifically, in my opinion, credit fraud was prepared intentionally and systematically, Morgan New York and Morgan Suisse applied themselves to the task with criminal energy and with the specific intent to keep a very large depositor happy.

Furthermore, due to preferential banking laws in New York and Ohio, and in addition to a completely different set of laws in Switzerland, a small company like Bucheit find legal recourse a very difficult and costly ordeal to say the least.

CONCERNS RAISED AT EMERGENCY MANAGEMENT SEMINAR

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ANDREWS of New Jersey. Mr. Speaker, our Nation has had more than its fair share of natural disasters. While volunteers, FEMA personnel, State and local officials continue to work hard when disasters strike, it is clear that Federal response to emergencies could be improved. Earlier this session I introduced the Presidential FEMA Reform Act of 1993 (H.R. 3397). This bill calls for a Presidential Commission, composed of people who are in the field, helping the victims of natural disasters, to rethink the way we respond to natural disasters.

As a follow-up to my legislation, I held an emergency management seminar in my district. I rise today to share with my colleagues some of the concerns that were raised by those who attended that seminar. The participants of the seminar included local emergency coordinators and representatives from ambulance squads, fire and police agencies, the insurance industry, the media, and labor unions. Those who attended the seminar had various comments on possible methods to improve FEMA. They have also made comments on some specific problems they have observed. The results of this seminar demonstrate how important it is to convene those who work with FEMA in order to learn more of the site specific concerns.

The representatives from the local police departments discussed the current lack of communications capabilities between the police, firefighters, and emergency medical personnel. They mentioned that most of the police agencies have recently upgraded their radios with ones that operate at 500 megahertz. The problem is that the EMS and firefighters are still using radios that operate at 400 megahertz. The police representatives also discussed that not all of their personnel have been trained in the incident command system. There has also not been any refresher training in this system. They also recommended a country-wide mock exercise to test the systems already in existence to see if changes or improvements are necessary. Their last comments regarded the Assistance Standard Handbook and the Public Assistance Manual do not include any chapters on major disasters. They believe that these sections should be added so the local welfare agencies will have the authority to act in the case of a disaster. They stated that a lack of funding was the primary cause for all of these problems.

Representatives from the local fire groups felt that there is a need to improve the communications between fire personnel and local public utilities. They also commented that FEMA should provide training, improve coordination on a local level, and provide criteria for when FEMA will get involved.

Representatives from the local government were concerned over the lack of oversight regarding the construction of public buildings. Many plans name certain facilities as emergency shelters, but they are not equipped for that purpose. They representatives said that money should be made available for upgrading schools and other public buildings for use in the Emergency Services Plan. They propose a review process for the plans of these emergency shelters. They also recommended that a State or Federal agency should be placed in charge of researching available resources such as water availability, food, equipment, etc. This information should then be provided to local and county EMS. They also commented that there is currently no coordination between the medical facilities plan and the local and county EMS plan. They also recommended that a chain of command should be clearly defined at each incident.

The emergency management coordinators recommended that FEMA should have an emergency operating plan. They also recommended that FEMA should have a flow chart that includes the Incident Command System and have better communications at the local level. They also commented that FEMA should provide more training at the local level in order to better deal with possible emergencies. In regards to the goals of FEMA, they recommended that FEMA should move away from its cold war civil defense policies and revamp its mission statement and objectives. They also suggested that FEMA should not be responders to an emergency, but should be involved heavily in recovery when requested by the governor of a state.

This is just an example of the good ideas and initiatives that result when professionals have the opportunity to sit down and develop solutions to their problems. We need to foster more of this type of productive dialogue.

Mr. Speaker, I hope that the above expressed concerns will be taken into consideration when Congress cosniders FEMA reform in the 104th session.

Participants of the seminar are listed below.

Mr. Richard Burger; Mr. Chuck Van Camp; Mr. Fred DeLia; Mr. Michael DiPierri, Jr.; Mr. Gerald Dilmore; Mr. Paul Dost; Mr. William B. Duffy; Mr. Donald Elmer; Mr. Edward Emrich; Mr. William Fortier.

Mr. Michael Grasso; Ms. Nancy Hallahan; Mr. Dan Holben; Mr. Richard H. Loock; Mr. Richard Newhard; Mr. Ralph J. Persico; Mr. Edward Reynolds; Mr. Gene Richards; Mr. Theodore Roth; Mr. Robert J. Saunders.

Mr. Cyrus Saxon; Ms. Patricia Speas; Mr. Carl Wentzell; Chief David G. Aron; Chief Bill Bates; Mr. Harry Clayton; Chief George Cox; Chief Gene Dannenfelser; Mr. Cassamiro Delaurentis; Chief Scott A. Graboyes.

Mr. Paul E. Hartstein; Mr. Joe Jackson; Mr. Samuel Jenkins; Mr. Paul Lidaka; Mr. Scott Longfellow; Mr. Charles W. Mars; Mr. George Martin; Mr. Donald Maxfield; Mr. William B. Murrow; Mr. John O'Leary.

Mr. Gregory J. Price; Mr. Patrick J. Robinson; Mr. George W. Rogers; Chief Joel Rosenberg; Deputy Chief Kevin Scanlon; Chief William Schaffer; Deputy Chief William Shelton; Chief William Wakeman; Mr. John D. West; Mr. Joseph Whalen.

Chief Richard Wright; Hon. Beatrice A. Cerkez; Ms. Rosemarie Chisholm-Cohen; Ms. Jean DiGennaro; Mr. Charles V. DiPietropolo; Mr. Forrest Eichmann; Hon. Pamela J. Hammer; Mr. Sheriff James Hogan; Hon. Walter Jost; Hon. Frank F. Law, Jr.

Hon. Raymond E. Muller; Mr. Walter G. Sandell, Jr; Hon. Donald W. Steward; Hon. Harry J. Stone, Jr.; Mr. Fred Vilardo; Mr. Don Benedik; Ms. Eslyn Byarm; Ms. Joyce Drumming; Mr. Thomas J. Duffy; Mr. Wayne Eastlack.

Ms. Yolanda Edwards; Mr. Don Gibbs; Mr. Gary Ginsberg; Mr. Joseph Giordano; Mr. Martin Idler; Dr. Frank Levin; Mr. Martin Marzullo; Mr. Sean McGovern; Mr. John McInerney; Dr. Mary C. O'Brien.

Ms. Lisa Palmer; Mr. James Richmann; Mr. Thomas A. Starr; Mr. James Wood; Mr. James B. Kehoe; Mr. Donald Norcross; Mr. Thomas C. Ober; Ms. Cathie Abookire; Mr. Rich Archut; Mr. Glenn F. Holdcraft.

Ms. Janet Kowalczyk; Ms. Andrea Ramsey; Ms. Robin Rieger; Mr. Charles Barone; Chief Joseph L. Batten; Ms. Kathleen V. Benton; Mr. Charles Dawalt III; Mr. Sheldon L. Fortune; Mr. William Gahagan; Chief Hank Jefferson.

Mr. George Kimble; Mr. Richard Kirshbaum; Mr. James Marcott; Mr. Craig W. Martin; Mr. Michael McCarthy; Chief William Moffett; Chief Dominic Palese; Chief Joseph M. Palladino, Jr.; Chief Charles Pope; Mr. John Prettyman.

Mr. Kenneth Saunders; Mr. Leo Selb; Mr. Theodore Taylor; Mr. Fred Wolcott; Mr. Frank Ambrouse; Mr. Clarence M. Davis; Mr. Chris DeLuzio; Mr. Robert Ellis; Ms. Priscilla R. Flynn; Ms. Shawn Hodges.

Ms. Karen Nixon; Ms. Kathy O'Leary; Mr. John Barlas; Mr. Arthur Candenquist; Mr. Bob Carney; Mr. Skip Elliott; Mr. Steven Fasano; Mr. Bob Fatzinger; Mr. Robert E. Fonash; Mr. Robert Livingston; Mr. Arthur E. Shearman, Jr.; and Mr. David R. Tideman.

S. 423, THE INVESTMENT ADVISERS ACT AMENDMENTS OF 1994

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BOUCHER. Mr. Speaker, more and more people are using financial planners to help them plan for their children's education and for their retirement years. Since 1981, the financial planning industry has grown dramatically from 5,100 to 22,000 registered investment advisers, and the assets they manage have increased from $450 billion in 1981 to more than $9 trillion today. Meanwhile, the Securities and Exchange Commission [SEC] has acknowledged that it does not have the resources to police the industry adequately.

As the number of consumers who are using financial planners has increased, so too has the number of consumers who are losing their life savings through the activities of dishonest financial planners. While most financial planners are conscientious and law-abiding, recent studies indicate that consumers may be losing up to $1 billion annually as a result of misfeasance by some disreputable members of the industry. Clearly, some action is necessary.

I first introduced legislation in 1990 designed to improve investment protections. Since that time, need for these protections has escalated. It is critical that this year we take affirmative action to remedy these problems. I want to thank Chairman DINGELL, Chairman MARKEY, and Mr. FIELDS for their assistance and that of their staffs throughout this process of crafting legislation that does just that.

This legislation represents a compromise between my bill, H.R. 578, passed unanimously by the House on May 4, 1993, and the Senate measure, S. 423, passed by that body on November 20, 1993. Credit for this compromise must go to House and Senate staff, who conducted extensive negotiations to reconcile the difference between the two bills. I thank them for their hard work.

The goal of the legislation, to provide greater protections to consumers who entrust their financial decisionmaking—and often their life's saving—to investment advisers, remains. Some of the provisions of the House bill have been deleted; others have been modified. I have agreed to these changes because of the commitment of the Securities and Exchange Commission to address some of my concerns through rulemaking proceedings and in recognition of the fact that they were necessary to gain support of the full Senate.

The bill before the House will provide additional resources for investment adviser supervision by the SEC to fund more frequent inspections of registered investment advisers. It gives the SEC authority to designate one or more self-regulatory organizations to conduct periodic examinations of investment advisers and requires that surveys be conducted to identify unregistered investment advisers and requires the SEC to correct any patterns of noncompliance.

Within 1 year from the date of enactment, the SEC must examine conflicts of interest that may arise when an investment adviser is compensated on the basis of commissions or fees from sales. The SEC must then prescribe the necessary rules to require disclosure of material conflicts. The bill authorizes the SEC to develop a filing system designed to reduce paperwork for advisers and regulators and provides for a telephone or other electronic listing to provide investors with access to information concerning investment advisers.

The SEC is directed to report on its proposals to revise the investment adviser registration form and to include an analysis of the methods by which these revisions will result in disclosure of background, compensation, services, practices, conflicts of interest, method for securing additional information, dispute remedies, and convictions of any crime punishable by imprisonment for 1 year or more within 10 years preceding the registration application filing. Finally, the bill authorizes the SEC to require that investment advisers obtain fidelity bonds against larceny and embezzlement.

I hope my colleagues will join me in approving this measure. It will substantially improve the regulation of financial planners and investment advisers and will provide consumers with the types of protections they need to protect their assets.–

ARTHUR WOLF: A TIRELESS ADVOCATE OF SENIOR CITIZENS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MALONEY. Mr. Speaker, I rise to bring to the attention of my colleagues the everyday efforts of a fine constituent of mine, who served the senior citizens of New York City for 35 years.

Arthur Wolf, who worked as a caseworker for the Social Security Administration for 35 years, turns 65 on Sunday, October 9. So he's throwing himself a party and warned everybody whom he invited that they had better be there.

Finally, after helping thousands of seniors obtain the Social Security benefits to which they are entitled, Arthur Wolf will not be collecting Social Security. For all of his hard work, I assure you, Mr. Speaker, that he will get less than he deserves.

In this session of Congress, we have taken landmark measures to reinvent government, to make the Federal Government more user-friendly, more efficient, and less costly. It is too bad that we do not have the genetic technology to clone Arthur Wolf, because if we did, we wouldn't need to reinvent government.

Before working for the Social Security Administration, Arthur Wolf was a welfare investigator. He forayed into New York City's poorest neighborhoods. In neighborhoods like the South Bronx, Arthur Wolf made certain that people got a fair shake from the Federal Government in terms of the welfare benefits which they were entitled. He also made sure that the taxpayers weren't getting ripped off by people who didn't qualify for welfare benefits but filed fraudulent forms.

We in Congress make the laws, which is a much easier task then actually enforcing them. Arthur Wolf, in his own mild-mannered way, did the hard part for the taxpayers and for those in need.

Mr. Speaker, you will rarely meet a 65-year-old with as much energy, vitality, and personality as Arthur Wolf. Arthur is never at a loss for words. Get him talking and you might not be able to get him to stop. But before he does, you can be sure he'll make you laugh.

Arthur Wolf lives in Peter Cooper Village, one of the last bastions of the middle class in Manhattan, which I am proud to represent. Every day, Arthur helps the seniors in Peter Cooper Village with unpaid counseling about how to traverse the Social Security bureaucracy.

You'll never see Arthur on the cover of a magazine. He is not a superman; he is an everyman. But Arthur Wolf symbolizes the generous spirit of New York City. He helps people with "the little things." But "the little things" can make a big difference, especially for seniors. And on behalf of all the thousands of New Yorkers that Arthur Wolf has assisted in his lifelong career in public service, I thank Arthur Wolf for making a difference.

COMMENDING THE CITIZEN POLICE ACADEMY OF FREMONT, CA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. STARK. Mr. Speaker, I rise today to honor the Fremont Police Department which recently created a Citizen's Police Academy to inform local citizens about Fremont's various police services. In our efforts to fight crime at the national level, we have often stressed the need for improved police-community relations. It was good to hear that the Freemont Police Department has already taken steps at the local level to do just that by implementing a model community policing program—the Citizen's Police Academy.

Under the direction of Chief Craig T. Steckler and Lt. Jan Gove, the first class of this free 11 week program was held on September 8, 1994. Topics covered include: selection and training of police officers, criminal law, internal affairs, patrol operations, communications, special investigations, community relations, and firearm safety. Academy classes are taught by members of the Fremont Police Department staff, which include administrative officers, senior patrol officers, and civilian employees.

The academy's goals include fostering direct communication between community members and police officers, allowing citizens to have the opportunity to voice their law enforcement concerns, and improving relations between the police department and the community. It is hoped that once participants have gotten a behind the scenes look at the operation of their police department, they will feel more secure in their community, and understand more about the challenges of police work.

It seems to me that the residents of our communities need to know how their police departments operate, so that the channels of communication are in place when needed. Community policing programs such as this one take the police out of their offices and patrol cars and into the community, so that the residents can see for themselves who the officers are and learn to trust and respect them. In addition, the course will educate participants on which law enforcement issues face their community and ask for their participation in finding ways to address those problems. I am certain that cooperation between the police and public will be enhanced as a result of the Citizen's Police Academy.

I am proud that the Fremont Police Department has provided their community with such a wonderful educational opportunity. This program in my district complements the community policing provisions in the crime bill, and is exactly the type of effort we want to see happening nationwide. I hope other police departments will follow Fremont's lead and establish citizen's police academies of their own.

A TRIBUTE TO DR. PATRICIA WIRTH

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FAZIO. Mr. Speaker, I rise today to give honor to Dr. Patricia L. Wirth, who is retiring as superintendent and president of the Yuba Community College District. Dr. Wirth has served well in her tenure for over 10 years, having assumed the position in April 1984.

Her responsibilities have been directed at the Linda campus which serves students from Sutter and Colusa Counties and the campus in Woodland, all within the Third District which I represent. Beale AFB Center and the Lake County Campus, also part of the complete educational opportunity afforded by Yuba College, have been under the competent eye of Dr. Wirth.

Dr. Wirth's outstanding career in education has included several administrative positions in Modesto, CA, as well as Vancouver and Yakima Valley in the State of Washington. Additionally, her teaching career spanned several years at colleges in the State of Oregon.

Dr. Wirth's activities have also extended to membership on various community and junior college boards. She has provided leadership on board groups on nursing, legislation, and finance and health occupations. Her most recent service has been on the California Community Colleges CEO Board of Directors.

The local Yuba-Sutter community has profited from Dr. Wirth's expertise and concern for issues through her participation as President of the South Yuba-Linda Rotary Club, Board Member of the Yuba-Sutter Chamber of Commerce, President of the Yuba-Sutter Professionals' Network and President of the Yuba-Sutter United Way.

Dr. Wirth has shared her experience and knowledge of education through material now used extensively by universities and businesses in teaching management skills. She has authored texts such as Managing to the Top and Setting Career Goals.

In 1988, Dr. Wirth was recognized as the outstanding educator by the Yolo County School Boards Association, receiving its "Golden Apple Award". Finally, the high regard and respect which Pat Wirth has earned in the Yuba-Sutter community was shown by her receiving the Athena Award in 1989 which recognized her as the outstanding woman leader.

Mr. Speaker, Dr. Wirth has exemplified the best in leadership for those seeking an education through the community college system. Her dedication, sincere commitment and personal integrity will be missed, but her contribution to education will be reflected in the sound foundation she has established.

TRIBUTE TO COMMANDER WILLIAM BURKE

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. KOLBE. Mr. Speaker, it is a personal privilege for me today to pay tribute to a truly outstanding Naval Officer, Comdr. William R. Burke. Bill Burke has served with distinction as Deputy Director of the House of Representative's Navy Legislative Liaison Office these last 2 years. Today I want to recognize his many achievements and commend him for the superb service he has provided to Members of Congress and to our Nation.

A native of Hornell, NY, Commander Burke earned a bachelor of science degree in systems engineering from the U.S. Naval Academy in Annapolis, MD. Upon graduation in 1978, he was commissioned an ensign in the U.S. Navy. Commander Burke then completed a rigorous nuclear propulsion training program and submarine officers basic course.

Following his initial training, Commander Burke reported to his first ship, the U.S.S. *Lafayette* (SSBN 616), serving as main propulsion assistant and damage control assistant. While on the U.S.S. *Lafayette,* Commander Burke completed three strategic deterrent patrols. Those serving on ships such as the U.S.S. *Lafayette* played a critical role in maintaining a key component of the nuclear deterrence triad during the height of the cold war.

Completing his tour of duty on the U.S.S. *Lafayette,* Commander Burke served on the Chief of Naval Operations Staff. There he was responsible for tactical development for the Director of the Attack Submarine Division. While stationed in Washington, DC, he also completed a masters of business administration degree at Marymount University.

Commander Burke was next given an opportunity to put into practice his experience in submarine tactical development. As part of the commissioning crew of the U.S.S. *Key West* (SSN 722), Commander Burke served as weapons officer and is a plank owner of the *Key West.* After spending 2 years on the *Key West,* he transferred to the U.S.S. *Omaha* (SSN 692) homeported in Pearl Harbor, HI, where he served as navigator.

Immediately prior to his tour here in the Navy's House Legislative Affairs Office, Commander Burke was executive officer of the U.S.S. *Cavalla* (SSN 684) also in Pearl Harbor. While on the *Cavalla,* he was awarded the Admiral Chick Cleary Award for the outstanding naval officer afloat presented by the U.S. Navy League. Now, at the Legislative Affairs Office, Commander Burke has provided members of the House Armed Services Committee, our professional and personal staffs, as well as many of you seated here today, with superior support regarding navy plans and programs. His work has contributed to building a more cooperative relationship between Congress and the Department of the Navy—no easy task given the difficult environment for the Navy these past 2 years.

I have had an opportunity to make many visits to Navy ships and facilities with Bill Burke. I can honestly say I have never traveled with a better escort officer. Bill Burke is efficient, organized, and easy going. On one occasion, we arrived on the U.S.S. *Nimitz* while his luggage went elsewhere on the helicopter. Bill Burke showed great resourcefulness as he patched together enough of a uniform—not easy considering his size—to make do. But he was never bothered or upset by such mixups. Bill Burke is both professional and an enjoyable traveling companion. I shall personally miss him.

Mr. Speaker, Bill Burke, his wife Mary, and their two children, Jacqueline and William, have made many sacrifices during his 17-year naval career. In four submarine tours of duty, he has spent a lot of time underway and gone from his family. He has done this, as so many other officers and enlisted men and women have done, to make a significant contribution to the outstanding naval forces upon which our country relies so heavily. Commander Burke is a great credit to the Navy whose uniform he wears and the country he so proudly serves. As he departs to his next tour of duty, I know my colleagues join in wishing him every success, or in Navy parlance, may he have fair wind, and following sea.

EXHIBIT OF NEW HAMPSHIRE PHOTOGRAPHY ON CAPITOL HILL

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SWETT. Mr. Speaker, I wish to pay tribute to Ric Blake and the photo group of the New Hampshire Art Association, who earlier this month brought a little bit of New Hampshire to Washington by means of an outstanding photography exhibit of the Cannon House Building rotunda.

Thirteen photographers, members of the oldest statewide professional artist association in the country, presented "Main Street, New Hampshire" and "Government in Person." These two shows offered a glimpse of New Hampshire people and scenery to the Capitol community and its visitors.

Project developer, Ric Blake, invited Terry Barum, Rick Berke, Michelle Duford, Irene E. DuPont, Jane Fithian, James C. Freed, Mary Holland, Suzanne R. Laurent, Paul Roach, Carolyn Schroeder, Pat Tilton, and Ann Underwood to photograph the New Hampshire community of their choice, interpreting the idea of "Main Street" according to their individual styles and visions.

Fifteen towns were explored with varied interpretations, from the traditional "Rockwellesque," to social statement, to interpretive impressions.

The group photo project, entitled "Government in Person," gave citizens a closer view of New Hampshire's public servants.

Both displays have provided a wonderfully artistic window to life in the Granite State. The exhibit has been admired by many Members of Congress and the thousands of visitors to our Nation's Capital who have seen it.

Mr. Speaker, I invite my colleagues to join me in recognition of these talented artists.

A TRIBUTE TO CITIZENS FOR PROGRESS—PRAISE FOR ITS FOUNDER, MRS. NOVELLA WILLIAMS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BLACKWELL. Mr. Speaker, on Saturday, October 29, 1994, at the fabulous, new Pennsylvania Convention Center, hundreds will gather to celebrate the 30th anniversary of a nonprofit organization in my congressional district, Citizens for Progress. This multipurpose, national, human rights organization was founded in Philadelphia in 1964.

The celebration will be a tribute to the work of this organization, but it will also provide an opportunity to acknowledge and honor the founder, president and chief executive officer of the organization, Mrs. Novella Williams.

A tireless community leader and organizer, Mrs. Williams has founded more than two dozen citizen action groups, focusing her powerful attention in such areas as education, alcohol and drug abuse prevention, recreation, housing, health care, crime prevention and economic development. This parent, wife, loving mother, and activist is a native of Raleigh, NC. She has resided in Philadelphia since 1948 with her husband, Thomas. She is the natural mother of one son and three daughters, and the surrogate mother of three sons since their toddler years, who were born to her deceased sister.

Mrs. Williams has received numerous awards for her hard work and dedication. From the Philadelphia Urban Coalition, she obtained the Outstanding Member Award. The National Association of Public Accountants named her Woman of the Year. The Bronze Association honored her with the Cultural Advancement Award. From West Philadelphia High School, she received the Community Service Award. The National Opportunities Industrialization Center [OIC] recognized her with the Humanitarian Award. The National Association of University Women honored her with their Community Service Award. And, from the Philadelphia Health and Welfare Council, she was given the Achievement Award. These are just a representative sampling of the many awards, tributes, and recognition Mrs. Williams has received over her years of community and public service.

It is obvious, therefore, why the Citizens for Progress have been so effective. Through the years, they have forced the closing of many undesirable establishments, including liquor stores. They were a catalyst for the development of the West Philadelphia Community Free School. They provide outreach, sponsoring workshops and programs to help keep the citizens informed about employment and educational opportunities. And, they provide health information.

The program for the evening will include dinner, musical entertainment, and cultural enrichment, centered around the theme, "Families Networking for Peace," this black tie affair should offer a memorable evening.

Mr. Speaker, it is rare that one combines talent and tenderness in a way that makes an impact and helps to improve the quality of life not only for the downtrodden and those without hope, but also for those at various stations in life, striving to find a better way for themselves and their families. We give tribute to the Citizens for Progress, and we praise Mrs. Novella Williams because the organization and the woman have dared to make a difference.

FOOD STAMP PROGRAM SHOULD MEET NUTRITIONAL NEEDS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. EMERSON. Mr. Speaker, today, I am introducing legislation that would broaden the permissible uses of food stamp coupons to include the purchase of vitamin and mineral nutritional supplements. Of course, the Food Stamp Program is our Nation's first line of defense against hunger. Each month, approximately 27 million low-income Americans rely on the Food Stamp Program to meet their basic nutritional needs. In so doing, food stamp coupons may be redeemed for food and, in certain cases, garden seeds and meals prepared by authorized services or institutions, and hunting and fishing equipment for subsistence uses.

There is an impressive body of scientific literature regarding the nutritional contribution of vitamin and mineral supplements. These products are very effective and economical in helping Americans meet their nutritional needs. Many parts of the population, such as pregnant women and children, are routinely advised by physicians to take multivitamins. The legislation I am introducing, so that it may be thoroughly discussed prior to next year's reauthorization of the Food Stamp Program, would permit vitamin and mineral nutritional supplements to be purchased with food stamp coupons.

I view this legislation as a positive step in providing low-income Americans greater flexibility in meeting their nutritional needs through the use of wholesome and healthful vitamin and mineral supplements.

A TRIBUTE TO HATTIE LITTLE SMITH ON THE OCCASION OF THE SOUTH BALDWIN CHAMBER OF COMMERCE'S 50TH ANNIVERSARY

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CALLAHAN. Mr. Speaker, I rise today to recognize an American success story in leadership and free enterprise. A story that should inspire and encourage others to realize that despite all the problems we as a country may face, through persistence and vision all things are possible.

In just a few weeks, the South Baldwin Chamber of Commerce in Foley, AL will be celebrating its 50th anniversary. This would be a milestone in and of itself, however the real reason for celebration lies in the advances that Foley and Baldwin County has gone through.

Fifty years ago Baldwin County was a completely rural setting, growing crops and harvesting seafood. The most notable personality to have his roots there was All-American and Super Bowl quarterback Ken Stabler.

But the fertile ground of south Baldwin County was intended to produce more than Silver Queen corn, new potatoes, and soy beans. With its natural resources, favorable climate, labor force with an intense work ethic, all that was needed was a leader to provide the determination and vision to see a dream come true; 25 years ago that leader arrived at the chamber of commerce and her name is Hattie Little Smith.

Her dream was for manufacturing and service jobs, educational opportunities for its young people, and cultural opportunities to all its citizens.

Today, Mr. Speaker, that dream is a reality. Because of Hattie's diligent work, Foley, AL is home to such manufacturing facilities as Packard/Hughes Interconnect and Rohr Industries, both aerospace companies and to Peavey Electronics, one of, if not the only domestic producers of electronic musical instruments and components.

But her crowning success would have to be the Riviera Outlet Centre. Working with local officials and developers, Hattie promoted the location for a manufacturers retail outlet. That initial shopping facility has now grown to over 124 stores and is the largest outdoor outlet mall in the Nation. It provides hundreds of jobs and over $2 million in revenue to the city of Foley annually.

However her efforts have not solely concentrated on the recruitment of outside industry to the Foley area, but on developing and encouraging local entrepreneurs. Countless small businesses, the backbone of any economy, have received assistance starting and expanding through the Chamber and its resources. One unique example is the 300 plus antique dealers housed in six mall style shopping complexes.

As we speak, there is no commercial real estate available in Foley and their unemployment hovers around 2 percent. An accomplishment most cities should envy.

But her love for south Alabama and Foley isn't limited to economic success. Under her leardship, the chamber has spearheaded the Adopt-a-School Program allowing students to have contact with local businesses and business to directly participate in the education of its future work force. Likewise, Hattie served on the core committee to design and build the Foley Civic Center. And the city wide beautification began at the chamber and now can be seen on every street corner and park in town as flowers are in constant bloom.

Hattie's work through the chamber has also promoted cultural programs such as the Performing Arts Association and the Foley Art Center. She also helped establish the Baldwin Heritage Museum which celebrates the many ethnic cultures that have settled in Baldwin County.

And never let it be said that Hattie ever allowed an opportunity to pass by. She has turned a personal hobby of seashell collecting into an extensive passion, one that includes utilizing her collection to teach young children about respect for our coastal shoreline and the environmental treasures we have along the gulf.

And when her country, or at least her Congressman, called she has always been there to serve as moderator during my annual high school conferences or to provide space if the chamber where constituents can meet with my field representative.

Even with all this, Hattie has never lost sight of the most important thing in life, her family. A devoted wife, mother of three, and grandmother of five.

When Robert Harling penned his masterpiece "Steel Magnolias," he wasn't thinking of Hattie Little Smith but he sure could have been. Her foresight, her determination, her ability to get others to work together for the good of the community, her resilience, and most of all her positive attitude toward life makes her a very special person and those of us who have the privilege of calling her friend very blessed.

TRIBUTE TO MAYOR DAN YOUNG

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. DORNAN. Mr. Speaker, one of the greatest pleasures of serving in this legislative body is the opportunity we occasionally get to publicly acknowledge certain individuals. It is therefore with great pleasure that I have the opportunity to pay tribute to the city of Santa Ana's first elected mayor, Dan Young, who will be retiring this year after 11 years in office.

Dan began his distinguished career in local government back in 1976, when he served as an assistant to the city manager of Long Beach. In this capacity he coordinated grant applications and downtown redevelopment projects. It was in 1979, however, that Dan began to focus his attention on the city of Santa Ana.

As a former congressional aide, Dan performed constituent services and acted as a liaison to the local community. It was here that Dan developed a keen awareness and sensitivity to the issues facing the city of Santa Ana and its residents. In April 1983, Dan was elected to the Santa Ana City Council and was subsequently chosen to become mayor by the Council in November 1986. In November 1988, he became the city's first democratically elected mayor.

Perhaps Dan's greatest legacy as a member of the Santa Ana City Council and as mayor was his involvement in transportation issues. He has served on the board of directors of the Transportation Corridor Agencies, the Orange County Central Fixed Guideway Agency, and is currently on the board of directors and the executive committee of the Orange County Transportation Authority. Indeed, over the years I joined forces with Dan to help secure Federal funding for a number of important transportation projects, including the Bristol Street Improvement project. As well, Dan and I have worked together on such local initiatives as the Santa Ana Federal Courthouse and the Santa Ana River Flood Control project.

Throughout his entire career, Dan has exhibited fine leadership, competence, and professionalism. He has been a model of excellence and an inspiration to those aspiring to serve their local community. As he embarks on what I expect will be a new and exciting career, I hope he takes with him a sense of great pride and accomplishment. Thank you, Dan, for all that you have done for the citizens of Santa Ana.

TRIBUTE TO DR. STEVE BLEDSOE

HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FORD of Tennessee. Mr. Speaker, I would like to commend Dr. Steve Bledsoe, Jr., an outstanding Tennessean who has been elected to the American Academy and Board of Head, Neck and Facial Pain. On July 28–31, 1994, this group held its "Tenth Annual International Symposium on Clinical Management of Head, Neck and Facial Pain" here in Washington. At that time, the organization selected members of its prestigious board.

Over the years, this board has been a selective one, with its rigorous membership requirements outline in its by-laws. By electing Dr. Bledsoe to this board, his colleagues acknowledge his continuing professional contribution to his field. The requirements for Board Certification show that this Academy and Board continue to monitor the level of excellence required in this specialized area of the health care field. Dr. Bledsoe has dedicated his career to the highest standards for the treatment of procedures to alleviate head, neck, face and temporomanidbular joint dysfunctions. I salute Dr. Bledsoe and the American Academy of Head, Neck, and Facial Pain.

GOOD RIDDANCE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BEREUTER. Mr. Speaker, this Member commends to his colleagues an editorial which appeared in the Norfolk Daily News on October 6, 1994. This is an excellent and perceptive common sense editorial with which this Member agrees. This represents not only an editorial point of view, but it also reflects the sentiment that has been conveyed to this Member time and again in constituent letters and during town hall meetings in the last 12 months since President Clinton unveiled his health care reform proposal. This editorial illustrates that in America's heartland, there is a strong belief that bigger government will not solve our Nation's health care problems.

[From the Norfolk Daily News, Oct. 6, 1994]

GOOD RIDDANCE

Changes in providing and financing of health care in America are needed; "reform" of the sort outlined in President Clinton's complex, 1,342-page plan is not.

So the lengthy debate produced one satisfactory result, though Senate Majority Leader George Mitchell and Hillary Rodham Clinton, among others, are lamenting the outcome. It indicated what people do not want.

Consequently, a lot of costly mistakes are being avoided because there was no consensus and there will be no further action this session on health care.

Prospects for important legislation seemed good at the outset. The President controlled both houses of Congress. He had given health care legislation his No. 1 priority. Polls initially indicated 60 percent of the American people supporting him on the subject. Media support for the Clinton plan or variations of it were significant.

President Clinton worked hard in behalf of the plan, and even agreed to abandon much of it in order to seek compromises that might be acceptable. The problem was that neither Americans generally nor a sufficient majority of members of Congress were willing to concede that, when it comes to health care, Washington is capable of devising an all-inclusive plan which would solve the complex problems involving the way it is provided, where and by whom it is provided and how costs are to be met.

A "national plan" for health care was attempted, in much the same way that one for Social Security was set forth in the 1930s. It proved to be a much more difficult task, and less readily accepted by the public because the federal government has proven much better at making promises of benefits than of controlling costs and keeping taxes affordable.

Big Government lost the health care battle this year. It should continue to lose. Americans will be much better served by a simpler, cost-effective system based on free choice, on private insurance, on recognition in the tax code that people ought to be able to establish their own medical savings accounts.

Mr. Clinton raised voters expectations when he campaigned against more intrusive government and emphasized Washington's limits. His health plan was a contradiction, and its defeat should therefore not be a surprise but testimony to how important it is for a politician to work harder at keeping his word than finding excuses for exceptions. His predecessor, Mr. Bush, and his experience with taxes, should have provided a sufficient lesson.

TRIBUTE TO CHARLES AND MARY KEEN

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PORTMAN. Mr. Speaker, last weekend I had the pleasure of celebrating not only the thirtieth anniversary of the First Baptist Church in Milford, OH., but also 30 years of service by the Pastor, Dr. Charles Keen, and his wife Mary.

In 1964, Dr. Keen and his wife Mary moved from Pontiac, MI. to Milford, OH. to begin a ministry that is flourishing today. Dr. Keen has devoted 30 years of his life preaching, helping those in need and working to create a true international congregation through missionary work. He has continued to be a devoted husband to his wife Mary and an exemplary father to their four children, Pam, Gary, Jill, and Joy and grandfather to their 15 children.

Among the highlights of Dr. Keen's long list of accomplishments is his establishment of the Milford Christian Academy. It is a school founded for the youth in our community providing them with a sound education and a grounding in moral values. Later, he helped to create a Bible Institute called the "School of the Scriptures" as well as a printing ministry known as "Bearing Precious Seed."

I hope that you will all join me in recognizing the First Baptist Church and Pastor and Mrs. Keen for 30 years of service and in thanking them for all they continue to offer to Milford, OH.

IN MEMORY OF STATE POLICE SGT. JAMES NOYES

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. ZELIFF. Mr. Speaker, I rise today to pay tribute to a dedicated State trooper from Madison, NH, Sgt. James Noyes, who was shot in the line of duty Monday, October 3, 1994. He was the first State trooper to be killed by gunfire in the 57-year history of the New Hampshire State Police. Sergeant Noyes was shot and killed in Gilford, NH, while trying to negotiate an end to an armed stand off with a distraught man.

Sergeant Noyes was a 17-year veteran and a leader of the State police SWAT team. He will be remembered as an active community leader, a dedicated police officer, and a loving, devoted father and husband. He is described by his community as a "100-percent State police and family man." Ironically, when two police officers died in 1989 in a car accident, Sergeant Noyes was assigned to help the families deal with the loss.

Sergeant Noyes' death not only affects his family and his community, it affects the entire State of New Hampshire and every member of law enforcement across the country. He was a courageous individual who lost his life in an attempt to save the lives of innocent people. He was an exemplary State trooper who will be missed by the entire State of the New Hampshire. A statue will be erected to honor New Hampshire officers who have died while serving in law enforcement. This memorial is a dedication to the courageous men and women who have lost their lives. Police officers, sheriffs, conservation officers, and government officials have worked together to create a commemoration to these brave people. The citizens of New Hampshire also join to pay tribute.

Police officers risk their lives everyday in order to provide a safe environment in which others may live. Each member of the law enforcement community must be a well trained, highly experienced individual. A police officer does not work in a safe and secure environment, but instead risks his or her life on a daily basis. This is true for police officers working on the streets of a large city or on the roads of a quite rural suburban town. Sergeant Noyes was one of those officers who put his life on the line. He was a brave man who served the State and the people of New Hampshire well.

I would ask my colleagues to join me in expressing our condolences to his wife Debra and his three children. Nathan, Daniel, and Brianna.

SENATE MINORITY LEADER MANFRED OHRENSTEIN HONORED FOR LIFETIME OF SERVICE

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. MALONEY. Mr. Speaker, I rise to bring to the attention of my colleagues the distinguished career of a mentor of mine who had a profound, positive impact on me.

Working for New York State Senator and Senate Minority Leader Manfred Ohrenstein was like playing three dimensional chess. He came at problems from every conceivable angle.

While he has a brilliant intellect, Manfred Ohrenstein is driven above all by what he believes is right. His progressive values are rock solid. In 34 years of public service, his commitment to equal opportunity for women and minorities, a woman's right to choose, education and civil rights has never wavered.

Manfred Ohrenstein was a Democrat practically from the time he set foot on American soil 56 years ago, when he entered the United States in 1938 with his family, escaping Nazi Germany.

He was deeply inspired by President Roosevelt. Democrat politics began almost immediately to shape his views and the way he looked at life in his new country. FDR's magnificent leadership both domestically and internationally during World War II defined for him what great leadership was all about.

In 1959, he became active in New York City as a reform Democrat. In 1960, he ran for the State senate. It proved to be a watershed year for Democratic politics. In the primary, he was honored to run with the support of former Gov. Herbert Lehman and Eleanor Roosevelt. In November, it was with great pride that he shared the Democratic ticket with John Fitzgerald Kennedy.

The Kennedy years and those that immediately followed were an exhilarating time for Manfred Ohrenstein. He thrived on working alongside other like-minded Democrats in the civil rights movement, in the women's movement, in the struggle to ban nuclear weapons, and in opposing the Vietnam War. It was a time unlike any other, and Manfred Ohrenstein was proud: proud to be a Democrat and proud that his party was the party that worked for change and new ideas.

After President Kennedy was senselessly assassinated in 1963, many of the people, who had believed so strongly in him—and his vision for America—went to work for Robert Kennedy. Manfred Ohrenstein was one of those people. And few people experienced more heartbreak when RFK's life was also taken by an assassins bullet.

But Manfred Ohrenstein never lost faith. On the contrary, he fought for the ideals of the Kennedy brothers which changed this Nation forever, molding the post-war generation of Democrats and heralding a new age of progressive Democratic politics.

Manfred Ohrenstein was thrilled to be a part of that generation. Still, in the twilight of his career as Senate Minority Leader, Manfred Ohrenstein continues to keep the Kennedy legacy alive, missing no opportunity to acknowledge the deep personal debt we owe to this unique family for its contribution to our party and to this country.

We just lost another outstanding member of this family and a constituent of mine, Jacqueline Kennedy Onassis, who was a great woman in her own right. Her passing symbolizes the end of an era.

A few weeks ago, Congressman JOSEPH KENNEDY came to my district to chair a congressional field hearing in my district which reunited Manfred Ohrenstein with the family he has served so faithfully. It was a touching moment to see the two of them standing side by side, with a microphone, speaking in a unified voice for positive change.

Following the Kennedy years, Manfred Ohrenstein found new and different challenges in Democratic politics. In 1975, his Democratic colleagues in the State senate elected Manfred Ohrenstein as their leader. It was the post-Watergate year and Hugh Carey took office as Governor, breaking a 16-year Republican stranglehold on New York State's Executive Mansion. Stanley Steingut took over as Speaker with a new Democratic Majority in the Assembly.

Their mettle as new Democratic leaders was put to the test immediately during the New York City fiscal crisis, as the prevailed in rescuing New York City from bankruptcy. Minority Leader Ohrenstein has always been proud that the Senate Democrats time and again have provided the narrow margin of victory in the Senate that kept the greatest city in the world from going into decline.

At the end of the Carey years, Mario Cuomo was elected Governor. Manfred Ohrenstein relished the rare opportunity to work with someone whose intellectual gifts equaled his own. Together with the Democrats in the assembly, they brought stability to New York State during difficult economic times.

This fall, Manfred Ohrenstein will be handing over the reins to an exciting group of talented, committed Democrats who are certain to make great strides in New York State politics for years to come: Karen Burstein, Carl McCall, and of course, Mario Cuomo.

With that cast of characters and many others, New York State can move into the future, continuing to fight for education, abolishing assault weapons, controlling handguns, passing a hate crime bill, passing a gay rights bill and advancing a woman's right to choose.

As Manfred Ohrenstein said when he announced his decision not to run for reelection, he is not retiring. He is simply moving on. In the days ahead, he expects to be deeply involved in the struggle in Washington, to advance President Clinton's progressive agenda for this country, and to return Hillary Clinton to the White House as well, preserving the best one-two punch the United States of America has seen since Franklin and Eleanor Roosevelt.

Not since the years of the Kennedy's has there been such a commitment to change, to the reinvigoration of the Democratic party, and the exploration of bold new ideals. And if I know Manfred Ohrenstein, he will be fighting on the front lines for that agenda and those ideals until the day he dies.

Mr. Speaker, it was an honor to work with Manfred Ohrenstein, but it was more of an honor just to know him. Neither I nor the State of New York can thank him enough for all he has done for us.

TRIBUTE TO JOHN SWOPE, NEW HAMPSHIRE CITIZEN OF THE YEAR

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to John Swope, who was recently named "Distinguished Citizen of the Year" in Concord, NH.

John, an outstanding granite stater and a dear friend, has exemplified outstanding citizenship in business, education, social services, and the arts.

After graduating from Yale Law School in 1963, John and his wife, Majority, moved to Concord where he began working as an attorney for a company that would later become Chubb Life. In 1977 he was made president, where he delivered his message of social responsibility throughout the ranks of employees while directing what has become one of the Nation's premier and innovative insurers.

John has backed up his message with an active example. He has served as president of the United Way of Merrimack County, founder and chair of the New Hampshire Business Committee for the Arts in Concord, vice chair of the Currier Gallery of Art in Manchester, director of the Health Insurance Association of America, director of the Business and Industry Association of New Hampshire, and vice chair of the New England Foundation for the Arts in Cambridge, MA.

He has worked with the New Hampshire Higher Education Assistance Foundation, the Shaker Village in Canterbury, and the Capitol Region Health Care Corp. He is a former president and current member of the New Hampshire Public Television's board of governors. He is also a trustee for the Capitol Center for the Arts, and a director of the Public Broadcasting Service.

John has been named Business Leader of the Year by Business New Hampshire magazine, Outstanding Northern New England Philanthropist, and has been given the Granite State Award presented by the University System of New Hampshire.

He is the father of three outstanding boys. I have had the honor and pleasure of having two or them serve on my staff. They were a tremendous asset and have obviously inherited many of their father's fine qualities.

Mr. Speaker, I ask my colleagues to join me in recognizing the achievement of John Swope, an example of an impressive and dedicated citizen.

IN RECOGNITION OF THE HORIZONS-ON-THE-HUDSON MAGNET SCHOOL

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. HINCHEY. Mr. Speaker, it is an honor and a privilege to bring to your attention a ceremony which will take place on October 26, at which the Horizons-On-The-Hudson Magnet School for the Gifted and Talented will receive a 1993–94 Blue Ribbon National School of Excellence Award.

This is the second time in the last 5 years that the Horizons-On-The-Hudson School, which is located in my district in Newburgh, NY, has been selected by the Department of Education in recognition of its excellence in leadership, teaching, curriculum, student achievement, and parental involvement. The award serves as an affirmation of the effectiveness of the school's mission. That mission is defined by the belief that all children can and will learn in an environment which nurtures each individual's unique gifts and talents in order to assure that each child is challenged to reach his or her own personal best.

The Horizons-On-The-Hudson Magnet School is a community of learners working in a vital, creative, exciting, child-centered environment. I am proud to have the school in my district and I ask that my colleagues join me in congratulating its students, teachers, administration, and parents on their well-deserved national recognition.

POSSIBLE MAGIC RESULTS OF FUNDING CRISIS IN DOD

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. INHOFE. Mr. Speaker, as you may know, the Department of the Air Force is conducting article 32 hearings for the personnel involved in the accidental shoot-down of two U.S. Army Black Hawk helicopters while enforcing the northern no-fly zone over Iraq. During these proceedings, a military equivalent of a grand jury hearing, five AWACS crew members will be charged with dereliction of duty and an F–15 pilot has been charged with 26 counts of negligent homicide.

An internal Department of Defense investigation into this friendly-fire accident was concluded on May 27, 1994. In reviewing this report it is clear to me that mistakes were made in carrying out the objectives that day under Operation Provide Comfort. However, the tragic incident in Iraq points to a mounting problem that is not service specific, but applies to the Department of Defense as a whole. It is, of course, inadequate funding and its resulting consequences. This funding crisis has led to less training, longer missions, greater personnel strains, and other negative results.

The DOD report stated that:

> The ATO (Air Tasking Order) and its accompanying flow sheet give individual crew members the information needed for their particular missions, and provide them with awareness of other aircraft scheduled to be in the area at the same time.

It is interesting to note that detailed information on Black Hawk helicopter flights in the area was not included in the ATO. Moreover, the report concludes that the helicopter crew members were apparently not aware of the correct transponder codes—codes used to identify friendly aircraft—for use within the area.

A definite cause for the unsuccessful electronic identification of the two Black Hawks could not be found. However, the report concluded that the following were likely:

> Both F-15 pilots may have selected the incorrect interrogation mode; both F-15 Air to Air interrogators may have incorrectly processed the Black Hawks' transponder signals; both helicopter IFF (identification friend or foe) transponders may have been loaded incorrectly or there may have been garbling of the friendly Black Hawks IFF responses, produced by two helicopters using the same code in close proximity to each other.

Lastly, the investigation report stated that, "neither F–15 pilot had received recent, adequate visual recognition training." What could be more basic than this? Clearly, it is not the responsibility of the pilots to see that they receive the best possible training available. Unless, of course, the services start holding its members accountable for accidents that are as much their responsibility as the individuals involved.

Also of importance are the recent remarks to Defense Secretary William Perry made by Brig. Gen. John Dallager, commander of a fighter wing in Germany. (Daily Oklahoman Wednesday, October 5) In his discussions with the Secretary he detailed the strains of military life, specifically citing that his pilots are overworked, undertrained, and consequently military readiness is suffering.

My reason for citing this report and General Dallager comments is not to interfere with the prosecution of the hearings, but to only point out that this information confirms my fear that President Clinton, with the help of liberal Members of Congress, are well on their way to jeopardizing the U.S. military capability. As the funding for the DOD continues to decrease, unfortunate incidents like the Black Hawk helicopter shoot-down will continue to occur.

We should not blame our men and women in uniform solely for the mistakes that will undoubtedly continue to occur if we don't reverse this alarming trend in funding. Instead, we should praise these brave men and women for serving their country at a time when our Commander in Chief seeks to transform their missions from the conduct of war, to the conduct of peacekeeping, peacemaking, and nation building.

In closing, as I mentioned earlier mistakes were made by the AWACS crew and the F–15 pilot. A tragedy occurred. No one mourns the loss of life of the Black Hawk's crews more than I. Still, certain questions must be answered. What mistakes were there in training? How long had the crew been away from home? What procedural deficiencies were there that could have averted this tragedy? Has the military been forced to take too many shortcuts in these areas because of the Clinton military reductions?

The men and women of our Armed Forces must know that when they are solely responsible for gross negligence there will be consequences. They must also know that when the system is to blame, the military will not use them as scapegoats. The morale of our entire Armed Forces depends on this.

TRIBUTE TO ELDON LUCE

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Ms. ESHOO. Mr. Speaker, I rise today to salute Eldon Luce, an extraordinary community leader from California's 14th Congressional District who is being honored by the Center for the Independence of the Disabled [CID] for dedicating so much of his time and energy to making life better for others in San Mateo County.

Eldon Luce has brightened the lives of countless people through his strength and courage in overcoming his own physical disability, as well as his commitment to making independent living a reality for the disabled. While serving as executive director of CID, Mr. Luce helped that agency become one of the most effective independent-living centers in California. His vision and implementation of innovative policies kept the center on track through years of problematic financing, built a stable and dedicated staff, and led to a 300-percent increase in the number of people served by CID.

In addition to working as CID's executive director, Mr. Luce has served our community as president of the California Foundation for the Independent Living Centers; president of the San Mateo Commission on Disability; president of the San Mateo County Task Force on Disability; president of the San Mateo County Paratransit Coordinating Council; chairman of the San Mateo County In-Home Supportive Services Work Group; commissioner of the San Mateo Health Commission; and founding member of the San Mateo County New Beginning Coalition. In addition, he has been a member of the San Mateo County Council on Developmental Disability and San Mateo County AIDS Program Community Advisory Board, along with over 20 other statewide and county commissions, boards, and committees.

Mr. Speaker, Eldon Luce is an outstanding citizen of California's 14th Congressional District. I ask my colleagues to join me in honoring him for his remarkable contributions and unswerving commitment to our community. I am privileged to know Eldon Luce, to have worked by his side, and to call him my friend.

HAPPY BIRTHDAY AND CONGRATULATIONS TO MRS. JANET GOESKE

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CALVERT. Mr. Speaker, today is the 83d birthday of a remarkable woman who lives in my district in Riverside, CA. For most of her four score plus 3 years, Mrs. Janet Goeske has been a mainstay of State and local Republican parties. She was a personal friend of President and Mrs. Nixon and their family, and walked precincts with Grandma Nixon. And, she published the first Republican cook book, which contained recipes from Presidents, First Ladies, and Members of Congress.

There is no truth to the rumor that Janet Goeske was a personal friend of Abraham Lincoln, but she is an honorary member of our local Lincoln Club, and she has an incredible collection of Republican political memorabilia. But, above all, Mrs. Janet Goeske is a patriot. She wears red, white, and blue every single day, and she believes very strongly in the American political system and the American way of life.

Janet Goeske also realizes that there is more to life than politics, and she is heavily involved in programs to improve life for our county's senior citizens. She is a volunteer and coordinator for the Grandparent's Program at Laternman Hospital for the mentally disabled, and an ombudsman for senior's rights.

For these and other contributions, the local Senior Citizens' Center was named after her.

So, on behalf of the many people whose lives this remarkable woman has touched, I would like to wish a very happy 83d birthday to Mrs. Janet Goeske.

TRIBUTE TO ELLA YARDLEY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CARR of Michigan. Mr. Speaker, I would like to congratulate Ms. Ella Yardley for her service and commitment to the Coalition of Labor Union Women. On October 12, Ms. Yardley will be recognized for her dedication as she is presented with the Coalition of Labor Union Women Award. Ms. Yardley has proven herself as a remarkably warm and caring person whose lifetime accomplishments are greatly admired by her peers.

Since the late 1950's, Ms. Yardley has been a working mother. She was employed by Chrysler Engineering for 35 years. She has proven to her peers that it is possible to raise four children while maintaining a leadership role inside and outside of the workplace. Today, her family has grown to include nine grandchildren.

Ms. Yardley has been an active member of the UAW 412 executive board and has served as 2d vice president, trustee and guide. In 1993, Ms. Yardley was honored as the Region 1 Women's Council "Woman of the Year." She has also received the prestigious Harriet Tubman CBTU/APRI Award. Ms. Yardley became an active member of CLUW, 20 years ago, and has since served as the 1st vice president and recording secretary of the Macomb and Oakland Chapters.

She is currently the CLUW Chapter correspondence secretary as well as a chapter pay equity delegate, financial treasurer of UAW 412 Retiree Chapter, and a member of the Women's Committee and CAP Committee of UAW 412. In addition, she is a member of the UAW Region 1 Women's Council Retiree Committee Recording Secretary Communications Chairperson.

Ella Yardley extends her strong moral conviction beyond her family and work. She has been an outspoken supporter of the Equal Rights Amendment and an active member of the Democratic Party in Livingston County.

Ms. Ella Yardley is an inspiration to all, and I would like to extend my congratulations to her as she is honored with the Coalition of Labor Union Women's Annual Award.

WE NEED ACTION TO CURB TRADE IN BLACK BEAR PARTS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. BENTLEY. Mr. Speaker, one of the more repulsive things that I have seen in my lifetime is video footage of gallbladders and paws being removed from an illegally killed American black bear and its cubs. Poaching in and of itself is a ugly practice, but this is particularly sinister in that many of these black bear body parts are shipped from the United States to Asia where they are prized as food and medicinal products. Several years ago, I introduced legislation to focus attention on this growing problem which, to date, has remained largely obscured from public view.

Unfortunately, even though there is a substantial body of evidence regarding the existence of this trade, there remains a lack of consensus on the actual or potential threat posed to the American black bear by the trade of gallbladders, paws, and other parts. On the one hand, the U.S. Fish and Wildlife Service has repeatedly stated that, on the basis of its own internal reviews of available evidence, the trade does not pose a threat to black bears. The U.S. Fish and Wildlife Service argues that: First, black bears number some 500,000 to 600,000 in the United States and Canada, and most populations are currently stable or increasing; and second, annually more than 40,000 black bears are harvested legally in the United States and Canada, and the majority of the bear gallbladders in trade are obtained from these legally harvested bears.

However, many Federal and State law enforcement agents believe that the trade poses at least a potential threat to the American black hear and seriously question our ability to control a growing trade in bear body parts which now extends to virtually every corner of Asia.

Last month, the International Symposium on Trade of Bear Parts for Medicinal Use was convened in Seattle by a number of sponsoring groups including Traffic USA, the wildlife trade monitoring program of World Wildlife Fund; the Woodland Park Zoo; and the IUCN/SSC Bear Specialist Group. The Symposium was intended as a forum in which wildlife managers, administrators, and law enforcement personnel from Federal and State agencies in the United States and Canada could exchange information and views and come to some consensus on the bear trade issue.

Participants at the Seattle Symposium agreed that Asian bear species have already declined dramatically in part because of this trade. And although the American black bear is not currently threatened, the trade of parts from the American black bear is an issue that merits careful attention, research, and monitoring. The conference participants also believe that law enforcement is a critical tool for understanding and monitoring as well as controlling the trade of bear parts in North America, and that special operations and undercover investigations currently play a particularly important role in efforts to understand and respond to the trade.

Unfortunately, budgetary and personnel cutbacks in many jurisdictions have severely reduced the amount of resources available for such operations. There also are many obstacles to the adequate exchange of information on the scale and impact of the trade among State, Federal, and provincial wildlife and law enforcement agencies, a situation that must be addressed if the trade is to be effectively monitored and controlled.

The U.S. Fish and Wildlife Service, through its law enforcement investigations and during the course of the 1992 study on the bear gallbladder trade, has acquired a selective database on the trade of bear parts. This database could assist Fish & Wildlife agents in understanding the bear trade and conducting covert operations in a consistent and coordinated fashion. It could assist the State agencies charged with the management of black bear populations in monitoring and investigation the gallbladder trade, increasing the effectiveness of limited budgetary and personnel resources. Unfortunately, this data base is not being used to enhance our ability to monitor and control the trade, because the U.S. Fish and Wildlife Service has not released it to its own agents and it has not made the information available to state agencies. Nor has the 1992 Service report on the trade of bear gallbladders—upon which it has based both internal policy and its answers to this body—been released to Service personnel, state agencies, or the public.

I would be remiss in not voicing disappointment that this Congress has yet to hold one single hearing on this issue despite the fact that there is ample evidence to suggest the existence of organized networks around the Nation that orchestrate the illegal domestic and international trafficking in black bear body parts. Several months ago, the owner of a restaurant here on Capitol Hill handed me a price list that was given to him by a local food supplier who specializes in exotic meats. Black bear paws were on the list. So were black bear gallbladders which were priced at $100 a pound. In Asia, the gallbladder will routinely command up to 20 times that amount. In fact, a September 26th AP story regarding bear gallbladders quoted from a recent survey of traditional Chinese doctors in Korea, 92 percent of whom said that they would pay between $1,000 and $18,000 for a bear gallbladder.

Now, when you have products like black bear gallbladders being quietly peddled right here on Capitol Hill, I would read that as a signal that we have a serious problem on our hands. The State of Maryland now supports a relatively small population of black bear, perhaps 200, and I am concerned about the origin of the gallbladders being sold in Washington DC.

Unfortunately, within a matter of days, the 103d Congress will conclude its official business for the year, having again missed a critical opportunity to give this issue the security that it deserves. It is imperative that we implement corrective measures now or else our domestic bear population runs the risk of being decimated much as it has throughout Asia.

NPS EMPLOYEE HOUSING ACT OF 1994

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. VENTO. Mr. Speaker, today I am introducing the National Park Service Employee Housing Act of 1994. National Park Service [NPS] employee housing has been and continues to be of deep concern to me. On September 29, 1994, I released a General Accounting Office [GAO] report, which was undertaken at my request that called for a re-examination of employee housing needs within the National Park Service.

The GAO report is a more comprehensive review of concerns that I have continued to raise regarding the needs side of the NPS housing issue and details several options available to the NPS to deal with its housing problems. The report also compares the NPS housing situation with the Forest Service and the Bureau of Land Management within the Department of the Interior. This report, as well as an earlier GAO report, questions the justification for about 12 percent of the National Park Service's housing inventory, as well as the accuracy of its backlog estimate of $546 million, which could not be verified because of the lack of documentation.

Mr. Speaker, let me emphasize that where there is a valid need for NPS employee housing it should be provided. Importantly, while there are certainly examples of deplorable employee housing, the overall housing needs of the agency have not been accurately identified, nor does the agency have a plan in place to deal with its housing problems. In order to properly address this growing dilemma, the Congress needs an accurate assessment of the agency's housing requirements, the costs associated with those requirements, and a viable working plan to get there. Ironically, Mr. Speaker, major proposals have been advanced without a thorough review of the existing policy or sound objectives. Such an approach merely circumvents the real issues and compounds the housing problems. Before we pump more money into the NPS housing program, the Congress and the agency must set new priorities and reframe the old policies to fit the needs of 1994 and beyond.

The legislation before you does just that. It requires the agency to revise its housing policies to fit present circumstances; to justify its housing requirements on a park unit-by-park basis; and, to carefully examine who should occupy government housing and determine when it is necessary and justified to meet the mission of the agency. The bill also requires the agency to undertake a park unit-by-park unit review of existing government-owned employee housing to assess the physical condition and suitability of such housing to effectively carry out the agency's mission. The review is to contain cost estimates to bring such housing units up to suitability standards or if obsolete, the cost to replace the unit if it is still warranted. The results of this review are to be sent to the Congress along with a strategy and a plan to meet employee housing needs. Once these critical factors have been met, the bill authorizes the Secretary of the Interior to undertake various alternatives to meet the legitimate housing needs of NPS employees.

Mr. Speaker, I believe this to be a sound bill which addresses the housing issue head on—both from a needs and a supply basis. It reexamines existing policy, it justifies housing requirements, it re-certifies employee housing eligibility, it identifies cost, it calls for a plan of action, and it authorizes alternatives to meet the needs. I urge my colleagues' support.

TRIBUTE TO DR. HARVEY NUSSBAUM

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, today I rise to pay tribute to Dr. Harvey Nussbaum for his long and distinguished career as a physician with St. Barnabas Hospital in Livingston, NJ. Dr. Nussbaum has dedicated more than 50 years to the medical profession and to his community. Last Sunday, the following article appeared in the Newark Star Ledger, our local newspaper, outlining the many achievements of Dr. Nussbaum. I commend this article to my colleagues' attention and I congratulate Dr. Nussbaum for his unselfish service to the residents of Northern and Central New Jersey.

[From the Star-Ledger, Oct. 2, 1994]

A MEDICAL JOURNEY

ST. BARNABAS HONORS DOCTOR'S LONG SERVICE

(By George Berkin)

Harvey Nussbaum's parents who ran a haberdashery in the Ironbound section of Newark, never wanted their son to become a doctor.

"My mother said, 'You're the only boy we have. Who will we turn the business over to?' "Nussbaum recalled.

But he prevailed over his parents' plans and went on to become a physician. He has continued to practice medicine, as an internist and a cardiologist, for more than a half-century.

From the beginning, except for a stint in the Army during World War II, Dr. Nussbaum practiced at St. Barnabas Medical Center, following the hospital from its earlier home in Newark to its present location in Livingston.

So, in a small token of thanks, the hospital in which Nussbaum has spent most of his career will honor him Oct. 16 with a special dinner in the Hilton at Short Hills.

"I'm overwhelmed by the honor," said Nussbaum. "Being a modest guy, I think they must be thinking about somebody else."

The dinner, in addition to recognizing the large role Nussbaum has played in St. Barnabas, will publicize a research foundation named in honor of Nussbaum, who also teaches at UMDMJ in Newark.

The foundation will help pay for research into everything from the possibility of manipulating genes to cure cancer to the use of advanced medicines for the treatment of burn patients.

All the attention, and the long way medicine has come since Nussbaum began practice at St. Barnabas in 1938, has him a bit overwhelmed.

Shortly after he graduated from New York Medical College in 1938, for example, sulfa drugs and other antibiotics first made their appearance.

"Diseases like pneumonia, which was then the leading cause of death, suddenly became curable," said Nussbaum. In its place, heart disease shot up the list of killers.

Later on, Nussbaum witnessed great strides in other medical fields, from ways to keep premature infants alive to methods of increasing the odds for severely burned patients.

"My excitement about medicine only increases," said Nussbaum. "If you're knowledgeable, you can't help but be excited about seeing all these semi-miraculous things."

Nussbaum also saw St. Barnabas grow. In 1964, for example, he helped the hospital make the move from High Street in Newark to Livingston.

In addition, as clinical chief of the Department of Medicine for 14 years, and then as chairman of the department and director of the hospital's residency program for 12 years, Nussbaum helped hundreds of young doctors put their training into practice.

"I saw this wonderful growth in this wonderful institution," he said.

Nussbaum's medical practice also put him in contact with the miraculous—and the tragic—during his service in the Army fighting the Nazis.

Two weeks after D-Day, Nussbaum led the setting up of the 16th Field Hospital at Normandy to care for wounded Allied soldiers.

The doctors used makeshift equipment to treat the wounded. Soldiers were operated on on canvas sheets strung between wooden "horses" used by carpenters. It was Nussbaum's job as commanding officer to decide which patients were operated on in what order.

The Army mobile hospital then followed the Allied forces east across Europe. On one occasion, the hospital, packing up quickly and moving under the cover of night, and man-made Army "fog," outran the Army and landed smack in the middle of German troops.

Stunned to be confronted by unarmed medics, the Germans surrendered. "They were probably tired of it all," said Nussbaum.

"'Doctor from Newark captures 1,000 German troops' was the headline back home," Nussbaum recalled. More than 40 German officers also surrendered.

Later on, Nussbaum's unit went on to liberate the inmates at the Mauthausen concentration camp in Austria.

"We took care of what inmates were still alive," Nussbaum said. "Each day, some 20 or 25 more died, because they were skin and bones."

It was then on to Czechoslovakia, where Nussbaum's unit met up with the Russians. After running a hospital in occupied Germany, Nussbaum returned home as a major after the war to St. Barnabas.

Medicine holds many more surprises, said Nussbaum. A cure for cancer? Maybe. Genetic research involving computers holds out a lot of promise. The cure is still decades away, but it looks promising.

Will people commonly live to be 100?

"I think its a breakable barrier," the doctor said.

OPPOSE UNITED STATES INTERVENTION IN HAITI

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PORTER. Mr. Speaker, I strongly oppose United States military intervention in Haiti. The U.S. has no strategic or economic interest there. This is made evident by President Clinton's inconceivably misguided decision to ask the United Nations for authority to invade Haiti. If invading or occupying Haiti is in our national security interest, we most certainly do not need permission from the United Nations or anyone else to take action. Clearly it is not.

In the wake of the cold war, the United States must be willing to stand up for what is right and lead the world. We cannot, however, intervene militarily everywhere oppression occurs, nor can we accept in this country every person who wishes to flee economic or political persecution. We must carefully calibrate our responses.

I believe the United States should put our servicemen and women in harm's way only when our national security interests are at stake, and then only when Congress provides the constitutionally required authority. Short of that, we should use diplomacy, economic pressures where appropriate, foreign assistance, and work with the United Nations and other multilateral institutions to achieve our foreign policy objectives.

While we must promote human rights and democracy, we simply cannot afford a policy of intervening militarily to ensure that every person on earth lives under a democratic system. In any event, it is unclear whether a United States occupation will be able to create lasting solutions to Haiti's political and economic problems. More likely, United States troops will find themselves in the intractable position—much as they did in Somalia—of trying to promote democracy in an unfamiliar, fractious political environment where friends and enemies are virtually indistinguishable. We are already seeing "mission creep" as the military is taking on police duty and crowd control.

I advocated a vote in Congress before any U.S. troops were deployed, and I joined my friend Mr. SKAGGS and dozens of other members in sending a letter to the President reinforcing this constitutional requirement. Unfortunately, the President decided to act without congressional approval. The timing of this debate is regrettable. It should have come weeks ago before U.S. troops landed rather than after the fact.

We support our troops and members are understandably uneasy about voting in any way that seems to endanger them or denigrate their efforts to this point in any way. American troops are the best trained and best disciplined in the world. In Haiti they have been called to undertake a humanitarian mission and have proven more than up to the job, but it is not rightly their responsibility and they should not be asked to risk their lives to do it.

The Michel-Gilman resolution calls for the immediate, safer and orderly withdrawal of United States troops from Haiti and provides for an expedited vote on the issue early next year if the President does not comply. Let us not compound the mistakes of the last few weeks by keeping United States troops in Haiti one day longer than necessary.

A TRIBUTE TO VETERANS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BONIOR. Mr. Speaker, on November 6, 1 month from today, my hometown community will gather to commemorate Veterans Day at the annual Veterans Day Parade in Eastpointe, formerly East Detroit, MI. We will gather to honor all Americans who have served in uniform and to remember those who have made the ultimate sacrifice for our great Nation.

This past Memorial Day, the mayor of Eastpointe, my friend Harvey Curley, made an exceptionally moving speech. As we prepare to commemorate Veterans Day, and in honor of all Americans who have defended the United States, I am proud to share Mayor Curley's remarks.

MAYOR HARVEY CURLEY—MEMORIAL DAY REMARKS—MAY 30, 1994

When a soldier falls on the field of a battle, far from home, far from a summer day with the smell of fresh cut grass, or the sound of a baseball cracking against a bat; when a soldier falls, he rises to heights of honor many of us cannot imagine.

When a young man in uniform throws himself between his buddy and a fatal shot, far from family and the smell of his first shave, or his sweetheart's perfumed hair; when a young man in uniform takes the fatal hit he takes the touch of pure glory that many of us cannot conceive.

When a young woman chooses a service that subjects her to the arena of strength and defeat, escape and captivity, comfort and anguish, she chooses a path few would undertake.

When anyone, man or woman, any color, any nationality, has served these magnificent United States of America in war, it means they have distinguished themselves as champions of freedom; for they have fallen that we may stand free. They have shielded us with their bodies that we may be spared;

they have fought the honorable and glorious fight, and gone beyond human endurance in the performance of their duty * * * all of this and more, so that liberty and justice would prevail.

If we had a chance to dress a soldier's wound, or raise a glass of water to his lips; if we had the chance to huddle close to weary men trapped in a foxhole, or pinned down behind enemy lines—if we had a chance to carry a message to a young man, or woman, from their loved ones back home, maybe a photograph of their new born child, or bring them a pair of warm socks from their mom, who among us wouldn't seize the opportunity? If we knew one of our own was alone in a dark, strange land, facing an unknown aggressor, if we knew one of our own was walking into a trap, or about to be cut down, who among us wouldn't want to be the voice to shout 'Look out!'

If one of our young women stood eye to eye with deadly warriors and defied ruthless force, if she carried orphan after orphan in her tireless arms away from the shelling and slaughter of war—who among us wouldn't lend stronger arms? Americans—all of us, each one would answer the call if it came. For some, it has come, and taken their lives. For the rest of us, it has come on a day like today when we gather together in remembrance of our fellow patriots whose lives have insured our safety.

By recognizing the importance of their deeds, we have sat beside every soldier in his last moments; we have read letters from loved ones to every one of them that never made it home; we have given something of ourselves to sons and daughters, fathers and mothers, whose passing on the battlegrounds has made our earth all the more precious and sweet. The call, my friends, the call to us is to make their memory eternal.

Put your hands over your hearts with me—do this in remembrance of every fallen soldier who should have been here with us, today; do this in memory of every young man and woman in uniform we should have embraced in our grateful arms before they shipped out; do this in sacred honor of gallant men and women who put their lives, their futures, their individual hopes and dreams on the line for their fellow Americans. That the line is red, white, and blue.

Every patriot who answered the call, and served this bountiful land proudly, fiercely, and passionately is an angel among the stars that rise above us. As you feel your heartbeat against your hand, feel too, the spirit of courageous men and women whose sense of duty and responsibility to freedom have insured our liberty, and our rights.

Remember the countless who have died every time you regard our country's flag, for our flag—the American flag—is the candle we light in memory of every soldier who perished in war. It is the homecoming of every brave man and woman who put themselves in harm's way. It is the beating heart of this country that pumps with honor, glory, and pride because of the hundreds and thousands who have made it strong.

To our beloved heroes—each and everyone, known and unknown, we commemorate you with profound gratitude, respect, love, and tremendous admiration for your service to this country.

God Bless America.

CLOSING THE LOOPHOLE IN THE 104TH

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. FILNER. Mr. Speaker, on May 26, 1994, 14 Members of this Chamber joined with me introducing legislation, the Insurance Tax Fairness Act, which would close a $1.5 to $2 billion per year loophole. This loophole has been enjoyed by just a few of the largest mutual life insurance companies in America.

We have seen data from the Internal Revenue Service Bureau of Public Statistics which convinces us that this legislation, now reintroduced as H.R. 5064, is necessary to close this loophole. Our bill would accomplish this by collecting the taxes Congress intended for all life insurance companies to pay—It would not raise new taxes. The revenues generated would be directed toward important social needs: Children who need health care, the Women , Infants, and Children [WIC] program, and school meal plans.

I take pride in offering for the RECORD a letter I recently received from Congressman PETE STARK, chairman, of the Ways and Means Subcommittee on Health. In his letter, Chairman STARK recognizes the need for hearings on this issue early in the 104th Congress. My fellow California, Mr. STARK, knows more about this subject than anyone in Congress and his sense of fair play will assure that equity is achieved.

Mr. Speaker, I also ask unanimous consent to print a copy of my response to Chairman STARK, and that my remarks and both letters appear together in this RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 30, 1994.

Hon. BOB FILNER,
Washington, DC.

DEAR BOB: I am sorry that we do not have time left in this session to get a hearing scheduled on your bill, HR 5064, The Insurance Tax Fairness Act of 1994.

However, I look forward to setting hearings on this important matter at the start of the 104th Congress. Our goal must be to determine whether life insurance companies are paying their share of federal taxes as envisioned by Congress. If they are not, we shall work together to amend the Internal Revenue Code to assure that they will pay their fair share of taxes.

Bob, I salute you for your leadership and courage in this matter. I know that it has not been easy to take on such a complex issue. I look forward to working with you to ensure tax fairness for all individuals and businesses in this country.

Sincerely,

PETE STARK,
Chairman.

HOUSE OF REPRESENTATIVES,
Washington, DC, October 6, 1994.

Congressman FORTNEY PETE STARK,
Chairman, Subcommittee on Health, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: Thanks for your letter of September 30, 1994, concerning hearings on my bill H.R. 5064, the Insurance Tax Fairness Act of 1994.

Although you were unable to schedule hearings in your subcommittee before Congress adjourns this week, I was extremely encouraged to know that you are committed to setting those hearings at the start of the 104th Congress.

As you know, my bill would close a loophole which has allowed a few of the largest mutual insurance companies to pay little, if any, federal taxes. It also gives relief to hundreds of small companies which are paying too heavy a tax burden.

I believe you may want to request the General Accounting Office and the Treasury Department to update on an expedited basis their findings and to report to your subcommittee early in 1995. The data now available to you and your staff is pretty conclusive as to the existence of a serious revenue problem that H.R. 5064 will correct.

I hope that I may continue to work with you and your staff in order that we may direct these critical revenues toward important areas of social need.

Sincerely,

BOB FILNER.

CBO REPORT ON HEALTH CARE REFORM

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BILIRAKIS. Mr. Speaker, today we will be releasing the final CBO report on the bipartisan health care reform bill introduced by myself, and nine other Members of Congress evenly divided by party.

This report will show that it is possible to extend health care coverage to 21 million people—and to fully cover 92 percent of all Americans—without increasing taxes, creating new entitlements, or imposing new mandates.

I believe, in short, that the new CBO report proves that health care is not dead, but that we have a stable foundation on which to build a reform effort. I believe the new report shows that when you take the politics out of health care, you end up with real results, not empty rhetoric.

Congressman ROWLAND, I, and the other members of our bipartisan group met for weeks in a small office without scores of committee staff, without access to resources of the Federal bureaucracy, and without special interests camped on our doorstep. And we produced a plan that works and that would actually reduce the deficit by over $60 billion.

Maybe the next Congress and the administration will learn from our experience. Next year, let us forget the think tanks and the political posturing. What we have proven is that if you have a committed group of legislators, all you need to reform health care is a small room and an open mind.

THE STRENGTHENING BONDS BETWEEN THE UNITED STATES AND TAIWAN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PORTER. Mr. Speaker, the cold war is over and the United States is struggling to reshape our foreign policy. I believe there is a clear principle we should use as our guiding light in this effort—shared values.

We are the only remaining superpower, and we have an unprecedented opportunity to shed our old policies and base our relations with other nations on their willingness to embrace the tenets that are the founding principles of our country—democracy, human rights, rule of law, and free markets. I believe the United States should cultivate relations with nations that share these values and are moving toward them. With these nations we should promote trade, educational and technical exchanges, strategic assistance, and where appropriate, foreign aid. At the same time, we should make abundantly clear that we have no interest in cooperating with nor assisting nations that do not share our values.

One nation that clearly shares our values in the area of democracy, human rights, rule of law, and most certainly in the business arena is Taiwan.

Taiwan has followed a pattern that I believe is the best path for the development of stable, deeply rooted democracies. Taiwan focused initially on economic growth, the development of free markets and capitalism, an aggressive financial sector, access to credit—in short, economic freedom. This base of economic freedom led to a growing middle class that demanded a greater say in government and greater personal freedoms.

The Taiwanese Government has responded positively and undertaken broad and deep reforms. The so-called black list, which prohibited hundreds of Taiwanese labeled by the government as political undesirables from returning to their homes, was abolished. Restrictions on the press have been rescinded and new radio and cable television laws have begun the breakup of the state monopoly on the broadcast media. Freewheeling political debate in the print media has become the norm. Martial law was ended in 1987, and since the Taiwan garrison general headquarters was disbanded in 1992 most law enforcement is now handled by civilian forces. Unfortunately, there continue to be credible reports of abuse by the police of detainees, shortcomings in worker rights, and unequal treatment for women. Obviously Taiwan must continue on its path of progress and address these concerns, but I have confidence it will.

Taiwan is an economically vibrant nation—America's fifth largest trading partner—with a strong, stable democracy, the rule of law, free press and all the other elements of a modern, developed nation. It shares our values and should take its rightful place among all the nations of the world in trade, culture, science, finance, and diplomacy.

I believe, the United States must recognize these shared values by strengthening ties with Taiwan and by helping it promote its interests overseas. Specifically, I believe the United States should work to have the seat in the United Nations that was taken from Taiwan in October 1971 restored. The United States should also work to have Taiwan's application to GATT considered on its merits, which are indisputable, and adopted. Finally, the Government should promote increased high level visits of United States officials to Taiwan and Taiwanese officials to the United States, perhaps upgrading the status of the Taiwanese mission in Washington, DC.

In many ways, Taiwan is a model nation in its political and economic development. It is nations like Taiwan that the United States should be encouraging and building strong bonds with in the post-cold war era. I urge the President, the Secretary of State, and the USTR to carefully consider what is in the best interest of the United States and be supportive of Taiwan in our bilateral relations and on the international stage.

TRIBUTE IN MEMORY OF MAYOR NORMAND R. TREMBLAY

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. TEJEDA. Mr. Speaker, it is with great sadness that I rise today to pay tribute to a great community leader whose life was cut short only a few weeks ago by a heart attack and the ravages of cancer. Normand Tremblay, or just Norm to his many friends, exemplified the best American values: Community service, concern for others, patriotism. He was also blessed with a friendliness for which Texans are famous.

In 1986, Norm was elected to serve as mayor of Live Oak, a town of approximately 10,000 people located near San Antonio. He did so with distinction until 1992. As mayor, he gave of himself and, through his hard work, brought many benefits to his constituents. Improved city streets, a refurbished city hall, a newly-constructed policy complex, and the renovation of old commercial space into a busy civic center are a few of the tangible accomplishments of his tenure.

Norm always impressed me as accessible, even when the demands of his office were great. He made it so by reaching out to others with a smile on his face and a ready handshake. Foremost on his mind was searching for ways to help his community. And he found many ways to give of himself.

Prior to service as mayor, Norm served as Live Oak city councilman from 1982 to 1986. Working with our youth was important: he took the opportunity to serve as Cub Master of Pack 805 and as a committee member of Boy Scout Troop 805. Living close to Randolph Air Force Base, the "Show Place of the Air Force," made sense: The Air Force was an important part of his life. Prior to leaving the Air Force in 1974 as a staff sergeant after 8½ years of service, Norm served in Thailand during the Vietnam war and thereafter in Germany. Over the subsequent years, Norm served as a diplomat of the Randolph Metrocom Chamber of Commerce and a member of the Randolph Field Rotary Club, president of the Texas Municipal League's Region 7 and regional manager of the American Automobile Association in Austin. Norm appreciated the value of higher education, receiving a bachelor's degree and then a master's degree in business administration.

We all benefited from Norm's service, commitment, and dedication. But for his untimely death, I am positive that Norm would have continued on his chosen path to even greater accomplishments. I and his many friends will miss him. His wife, Stephanie, and his six children certainly suffered the greatest loss, but they can take solace in the love Norm gave, and the love he received from so many.

TRIBUTE TO DR. ALAIN C. ENTHOVEN

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Ms. ESHOO. Mr. Speaker, I rise today to salute Dr. Alain C. Enthoven, a brilliant economist from Stanford University in California's 14th Congressional District who is being presented with the first Clifton J. Latiolais Honor Medal by the American Managed Care Pharmacy Association.

Dr. Enthoven has made outstanding contributions to the way our country thinks about health-care delivery, and truly deserves this prestigious award. Not only is he the Marriner S. Eccles Professor of Public and Private Management at Stanford's Graduate School of Business, but he is also a founding member of the Jackson Hole Group. In fact, his 1989 proposal in the "New England Journal of Medicine" for a combination of employer- and government-provided health insurance later became the basis for the Jackson Hole Group's managed competition plan, which led to several of the managed health-care proposals introduced in Congress this year. No wonder Dr. Enthoven has been called the "father of health-care reform" and the "undisputed godfather of managed competition."

Earlier in his career, Dr. Enthoven received the coveted President's Award for Distinguished Federal Civilian Service from President John F. Kennedy. While serving as a consultant to the Department of Health and Human Resources under Secretary Joseph Califano in 1977, he designed and proposed the Consumer Choice Health Plan to provide universal health insurance based on managed competition in the private sector.

Mr. Speaker, Dr. Enthoven was working on creative solutions to this Nation's health-care crisis long before most Americans were aware we had one. I ask my colleagues to join me in honoring him for his remarkable insights and tremendous contributions to our society as he receives the Latiolais Honor Medal.

THE PLIGHT OF ARMENIA

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, the harsh Caucasus mountains in Armenia offer a geographical metaphor for the rugged character of Armenian citizens and the historical hardships they have endured. The Ottoman and Persian Empire's occupation of Armenia set an unfortunate precedent of foreign encroachment for hundreds of years to come.

Sadly, modern times have afforded Armenia little rest. In the early part of this century, Armenians residing in Ottoman controlled Armenia were forced into labor camps, pressed into military service, violently deported, and killed. Armenians recognize April 24, as the beginning of this travesty, and I would like to acknowledge the horrible events that occurred for the 3 years following this date as a tragedy for all humanity.

Now, landlocked Armenia is caught in the strangle hold of Turkey's and Azerbaijan's blockades. In addition, the Armenia-Azerbaijan conflict over the Nagoro-Karabakh Autonomous Oblast is draining Armenia of its precariously limited resources. What can the United States do to prevent Armenia from slipping into yet another horrible epoch?

I have decided to cosponsor two proposals in the house which I feel represent some of the steps needed to aid Armenia, and bring peace to this area of the transcaucus region.

First, the Humanitarian Aid Corridor Act, (H.R. 4142) introduced by Representative LEHMAN would prohibit foreign assistance to countries that restrict the transport of American humanitarian assistance. I have long been a supporter of a fiscally responsible government. Blockades, such as the one Turkey is imposing, drive our costs of delivering aid up, and reciprocally reduce the effectiveness of any money we appropriate for humanitarian purposes. H.R. 4142 would cut off aid to countries like Turkey (barring Presidential objections for national interests or natural disasters), offering them an incentive to drop their costly blockades.

Second, H.R. 86 reaffirms the United States desire to continue humanitarian assistance to Armenia. In addition, this resolution expresses the sense that Congress would like to see a peaceful and lasting resolution to the Nagorno-Karabakh conflict negotiated through the United Nations and the Conference on Security and Cooperation in Europe.

I hope that my support for these two measures will bring a deserved and enduring peace to the people of Armenia and the transcaucas region. I pray that this issue may be resolved without further bloodshed and suffering.

IN RECOGNITION OF THE UTSA CONFERENCE ON WOMEN AND TRADE

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. BONILLA. Mr. Speaker, I rise today to recognize the University of Texas at San Antonio (UTSA) and its efforts to promote free trade throughout our hemisphere. In particular, Mr. Speaker, UTSA has been in the forefront of promoting the role of women in international trade. Through the Center for the Study of Women and Gender, UTSA has taken a bold initiative to study and to increase the visibility of women in business.

Mr. Speaker, shortly after this Congress adjourns for the year, UTSA will be hosting a conference on "U.S.—Latin American Trade and Women: Breaking Trade and Gender Barriers." This conference will be held on October 23rd and 24th in San Antonio, Texas.

San Antonio has been in the eye of America for sometime now. Its strategic location in relation to trade with Latin America and its ever-growing presence in the international trade arena has helped the city become a major player in the free trade negotiating process. UTSA will take Texas a step further into the international trade spotlight with its conference to highlight and promote the role of women in trade.

Women, over the years, have been playing major roles in all aspects of all businesses. As entrepreneurs they have developed the ideas and provided the knowledge to keep our economy generating jobs and providing opportunities for other Americans. As cabinet officials and trade representatives women have provided strong stewardship of our national priorities and have effectively promoted our national interests. I am pleased that UTSA will highlight this and explore new possibilities for women to play even greater roles than they now play.

The possibilities for our country in the international trade arena are endless. Men and women, alike, will provide the needed leadership for our Nation into the next century. They will provide the ideas that will move our country towards greater economic prosperity. They will ensure that future generations of Americans are provided with equal opportunities to compete and succeed.

Mr. Speaker, UTSA is to be commended for this timely conference. The ideas generated from the brilliant minds gathered will no doubt catapult women and America even further ahead of our world-wide competitors.

INTRODUCING THE WORKPLACE RELIGIOUS FREEDOM ACT

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. NADLER. Mr. Speaker, today, I am introducing the Workplace Religious Freedom Act of 1994. This legislation will overturn two key Supreme Court decisions which severely limited the rights of employees to be free from religious discrimination on the job.

While title VII of the Civil Rights Act of 1964 prohibits discrimination in employment on the basis of religion and requires employers to reasonably accommodate an employee's religious practices provided that the accommodation did not impose an undue hardship on the employer's business.

This anti-discrimination statute was designed to ensure that religious Americans not be forced to choose between their jobs and their religious obligations—such as observing the sabbath or other religious days, or wearing religiously mandated articles, and their jobs. Title VII struck a reasonable balance between the religious rights of working people and the needs of private business.

Unfortunately, in two separate decisions, the Supreme Court upset this delicate balance. In *Trans World Airlines* v. *Hardison,* 432 U.S. 63 (1977), the Supreme Court held an undue burden to be anything more than a de minimis cost to the employer. This ruling effectively relieved employers of any meaningful obligation to accommodate the religious practices of their employees.

In a second opinion, *Ansonia Board of Education* v. *Philbrook,* 479 U.S. 60 (1986), the Supreme Court held that "any reasonable accommodation by the employer is sufficient to meet the obligation to accommodate" and that the employer could refuse to consider reasonable alternatives which would be less onerous to the employee. As a result, employers can lawfully offer to accommodate religious employees in ways which unnecessarily rob them of employment benefits.

The Workplace Religious Freedom Act restores the requirement that employers make a real and common sense effort to accommodate the religious practices of working people. Like the Americans with Disabilities Act, it defines "undue hardship" as an action requiring a significant difficulty or expense. Employers should not be unduly burdened, but they should take reasonable steps to allow people of all faiths to earn a living.

This legislation also makes clear that if a reasonable, not unduly burdensome means of accommodating the employee exists, the employer cannot choose an alternative solution to the problem which proves more burdensome on the employee.

Accommodating the religious practices of employees is fair, reasonable, good business sense, and entirely feasible in the workplace. Even federal workers are permitted to adjust their work schedules to obtain compensatory time off for religious observances such as the sabbath or other religious days. Even members of the United States armed forces who are required to wear uniforms may wear religious articles which diverge from military dress codes. Shouldn't the working men and women of this country have at least the same rights on their jobs as do Federal workers and soldiers?

Mr. Speaker, the Workplace Religious Freedom Act restores the balance between the needs of business and the rights of working Americans. No one should ever have to choose between the right to religious freedom and the right to earn a living. This country was founded by people seeking religious liberty. The Workplace Religious Freedom Act is in that proud tradition.

TRIBUTE IN MEMORY OF THE HEROISM DISPLAYED BY SAN ANTONIO PARK RANGER PAUL PYTEL

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. TEJEDA. Mr. Speaker, I rise today to pay tribute to the memory of an exemplary young man from my hometown of San Antonio, a man who dedicated his life to helping others and gave his life in the line of duty. Only days after his 29th birthday, park ranger Paul Pytel lost his life in pursuit of a shooting suspect.

This tragedy touched all of us. His family has suffered an incalculable loss; his fellow rangers were left in a state of shock. Ranger Pytel is the first San Antonio park ranger to lose his life in the line of duty. The story is tragic, yet it bespeaks of heroism: an apparent gang fight led to gunfire and calls to police. Park rangers near the crime scene moved into action. As officers gave chase to suspects, ranger Pytel bravely proceeded to investigate a wooded area near a steep creek bed. His pursuit of the suspects took him into the water; heroic efforts to save his life were futile.

Ranger Pytel, A 9-year veteran of the force, had law enforcement in his bones. His brother, who described Paul as private, quiet and loving, was a member of the park rangers honor guard, a field training officer and a bike patrol officer. Paul Pytel was entering the prime of his life; he had plans for the future. His willingness to translate his concern for others into action is his legacy.

We in Congress should take a moment to remember the sacrifice of park ranger, Paul Pytel, and his family, and we should recognize the daily service and sacrifice performed by peace officers at all levels of government.

AGAINST REDLINING IN THE CHICAGO-AREA HEALTH CARE MARKET

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mrs. COLLINS of Illinois. Mr. Speaker, in February of this year, the Commerce, Consumer Protection and Competitiveness Subcommittee, which I chair, held a hearing in Chicago on the development of provider networks and health plans in the greater Chicago area. A focal point of the hearing was the need for these organizations to serve a broad cross-section of the population, without discriminating against people of particular neighborhoods, income-levels, or ethnic and cultural backgrounds.

Testimony was received from, among others, Dr. Bruce Spivey, president of the Northwestern Healthcare Network, who established that his network's facilities are overwhelmingly located in the affluent, predominately white north and northwest sides of town. Concerns were stressed to Dr. Spivey about the current absence—and possible avoidance—of relationships with major facilities on the heavily African-American and low-income west and south sides of Chicago. In response, he stated, "Clearly we started out with the institutions that have historically worked together and now we begin to go into areas, not north, as I mentioned earlier, but west and south."

A few months ago, the network announced that it is expanding by adding Swedish Covenant Hospital, located on the north side between two of the network's principal facilities. Once again, Northwestern is contracting for a patient base which is predominantly white and affluent, in direct contravention to the intentions expressed by Dr. Spivey.

My concern about the possibility of redlining and other forms of discrimination which give rise to the February hearing have been intensified. Following testimony about the network's strong efforts to provide service to the underserved west and south sides of Chicago, it is troubling when the network's subsequent actions culminate in a further expansion of care for the north and northwest sides.

Since the network's intentions were clearly stated, it is not unreasonable to expect results. I hope that the Northwestern Healthcare Network's commitment to a dramatic increase in service to the west and south sides of Chicago remains steadfast. I trust that future expansions will be in these sectors of the metropolitan area. I look forward to significant, prompt results in this area.

Rampant discrimination and redlining in our health care system are too insidious to even contemplate. It is not enough to be on the lookout for their occurrences. We must take affirmative steps to ensure against such a virus ever developing. Such practices absolutely must not be tolerated from provider networks and health plans that are already benefiting greatly by consolidation of the health care market. The potential for such practices, in Chicago or any other community in the United States argues very strongly for fierce government regulation of network activities and severe penalties for inappropriate actions.

SOUTH AFRICA

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Ms. FURSE. Mr. Speaker, this morning, we had the privilege of being with South African President Nelson Mandela. He was proof positive in our midst that economic sanctions do work and governments can change without bloodshed. There are alternatives to military solutions.

The principles of conflict resolution and strengthening of internal democracy movements must be brought to bear as early as possible to prevent the situation we find ourselves in today in Haiti. We did not do that in Haiti. Short of that, we should have been serious about applying tough economic sanctions as soon as President Aristide's legitimately elected government was overthrown. We didn't do that, either, and although I am relieved that a military invasion was avoided by the work of President Carter and his negotiating team, our choices are now very limited.

Before we ever resort to a military response, we must always have a clear mission, agreed upon by the Congress and the administration before we go. We must rely on multi-national responses in situations like this. We can no longer be the world's top cop.

Given the fact that we are in Haiti with our troops now, we must first clarify our mission. Then we must move as quickly as possible from a unilaterial U.S. military approach to a multi-national civilian presence as soon as feasible.

It is for these reasons that I support the Dellums amendment.

TRIBUTE TO LEN RAY

HON. MARJORIE MARGOLIES-MEZVINSKY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Ms. MARGOLIES-MEZVINSKY. Mr. Speaker, I salute Mr. Len Ray as the U.S. Small Business Administration's Region III "Minority Small Business Person of the Year." I am very proud that this honor has been bestowed upon a businessman in Montgomery County.

The success and growth of Mr. Ray's company is a fine example that the United States is still the land of opportunity. Mr. Ray deserves broad recognition for his ability to create the outstanding enterprise which exists today. From the beginning in 1984 with only one hundred and fifty dollars of borrowed money and a dream, Mr. Ray has matured a business which today employs eighty people and projects sales of fifteen million dollars.

Mr. Ray's achievement is only enhanced by his civic and charitable involvement in the communities where he does business, for his support of religious and educational institutions, and for his work with young people.

I congratulate Mr. Ray on this outstanding achievement and thank him for the fine example he provides for Montgomery County.

SANTA FE FIGHTS DRUNK DRIVING AND WINS AWARD

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in recognizing the city of Santa Fe as a grand prize winner of the 1994 National Cities Challenge to Stop Drunk Driving, which is a program of the U.S. Conference of Mayors. With the help of Mayor Debbie Jaramillo, Santa Fe took top honors in the category for cities with a population under 100,000.

The State of New Mexico chronically suffers from one of the highest alcohol-related fatality rates in the Nation. By winning this award, Santa Fe has shown its commitment to reversing this trend. The city created a Driving While Intoxicated [DWI] task force which dealt with numerous problems, the most important one being public unawareness. This task force worked with involving the community through innovative programs such as Faith Community Initiative and "adopt-a-holiday." These different approaches have helped Santa Fe to reduce the number of drunk driving fatalities and injuries.

I encourage every city to get involved with fighting DWI through education and tougher enforcement, especially when it comes to minors. It is only through public participation that the fatality rates will go down. I am proud of those who work hard at pursuing efforts to stop drunk driving in Santa Fe and I hope other cities in the Nation will follow Santa Fe's lead in fighting against drunk driving.

TRIBUTE TO MR. LUCIAN ADAMS

HON. FRANK TEJEDA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. TEJEDA. Mr. Speaker, I am proud to announce that on October 29, 1994 the city of San Antonio will rename interstate highway 37 from Loop 410 to interstate highway 10/90 in honor of Mr. Lucian Adams. Lucian is a remarkable individual with almost forty-five years of military and peacetime service to this nation, including a medal of honor earned during World War II.

Lucian Adams was born in Port Arthur, Texas on October 26, 1922. He entered the Army at the age of 20, and with the 30th infantry, 3rd infantry division in Italy earned the combat infantry badge, purple heart and bronze star. The 3rd division fought through Anzio and Cassino, spearheaded the invasion of southern France, and fought through the Rhone Valley and into the Vosges Mountains.

His medal of honor citation reads, "for conspicuous gallantry and intrepidity at risk of life above and beyond the call of duty on 28 October 1944, near St. Die, France. When his company was stopped in its effort to drive through the Mortagne Forest to reopen the supply line to the isolated third battalion, S/Sgt Adams braved the concentrated fire of machineguns in a lone assault on a force of German troops * * * in the course of the action, he personally killed 9 Germans, eliminated 3 enemy machineguns, vanquished a special force which was armed with automatic weapons and grenade launchers, cleared the woods of hostile elements, and reopened the severed supply lines to the assault companies of his battalion."

After returning from the war, Mr. Adams began work for the veterans' administration. He remained in the VA for forty years, assisting veterans in their efforts to obtain much needed and deserved medical care and benefits. He joined my state senate staff in 1992 as a veterans consultant, and currently serves the constituents of the 28th district of Texas in the same capacity.

I am honored to work with Lucian Adams, and I am particularly pleased that the city of San Antonio has seen fit to pay tribute to this great American.

TRIBUTE TO RON DE LUGO

SPEECH OF

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. UNDERWOOD. Mr. Speaker, after 20 years of public service, our distinguished colleague, the Honorable RON DE LUGO, delegate from the Virgin Islands, will be retiring. RON DE LUGO is currently the chairman of the House Subcommittee on Insular and International Affairs, a position he has held since 1987. I would like to take this opportunity to commend and congratulate our esteemed colleague for his dedicated service to our Nation and for his many accomplishments on behalf of the United States Virgin Islands and the insular territories.

Chairman DE LUGO's roots in the Virgin Islands run deep. Antonio Lugo y Suarez migrated to the Virgin Islands from Puerto Rico in 1879 and became a merchant, operating various wholesale and retail businesses. Antonio's business was passed on to his son, Angelo, who was born on St. Thomas in 1892. Angelo de Lugo was blessed with two sons. One of them is Win, the former Director and current National Representative of the Virgin Islands Film Promotion Office. Angelo de Lugo's other son, RON, went to become the only man to hold the office of Washington Representative from the Virgin Islands and the first in 1972 to occupy the newly created seat of the Washington Delegate in the U.S. Congress from the Virgin Islands.

Even in his early years, RON left a definite mark in his home islands. In his efforts to improve himself through education, he attended academic institutions in the Virgin Islands, Puerto Rico and the U.S. mainland. He returned to St. Thomas in 1950 after a tour of duty with the U.S. Army and helped start WSTA, the first radio station in the Virgin Islands. It was here that he created the popular, wise-comic character of "Mango Jones," still fondly remembered today forty years after the fact! Another lasting legacy attributed to this dynamic fellow is the institution of the Virgin Islands Carnival that we know and enjoy today. He led the revival of this community institution in 1952, exhibiting the leadership skills that would assist him in a lifetime of public service.

It was not long before his flair for politics and destiny towards public service began to emerge. He moved to St. Croix in 1955 and embarked on what was to become his life's work the following year. At the age of twenty-six, he was elected at-large to the Virgin Islands Legislature, the youngest member to serve in that body up to that time. Consistently elected by large pluralities, he served as a legislator for ten years with one break to serve as St. Croix Administrator. He was elected in 1968 and, again, in 1970 to be Virgin Islands' first Washington Representative. Due in large measure to RON's efforts, the office of the Virgin Islands' Delegate to the U.S. Congress was established in 1972, clearly a great step forward in the islands' political development. He eventually became the first man elected to occupy this seat. He has since won further approval from the people of the Virgin Islands through subsequent re-elections in 1974 and 1976 and, again, in successive elections from 1980 through 1992.

Chairman DE LUGO is a ranking member of the Committee on Natural Resources, the House Public Works Committee, and the House Education and Labor Committee. As Chairman of the Subcommittee on Insular and International Affairs, he presides over a committee with jurisdiction over the Caribbean and Pacific Island territories and freely associated states, U.S. Department of the Interior assistance to other countries, and Antarctica.

The Chairman has left an indelible mark on the history of the U.S. territories and the freely associated states. Just days ago, on the first of October, the Trust Territory of the Pacific Islands was terminated when Palau became the Republic of Palau. Chairman DE LUGO's work on behalf of Palau to implement their Compact of Free Association with the United States is an example of his tenacity in resolving the political status issues.

RON DE LUGO can list as his accomplishments the legislation implementing the covenant between the United States and the Commonwealth of the Northern Mariana Islands, and the Compact of Free Association establishing a new free association with the Republic of the Marshall Islands and the Federated States of Micronesia. He championed the provisions in the Compact legislation authorizing reimbursements to Hawaii, Guam and the Northern Marianas for the educational and social services impact of immigration from the freely associated states. He was also effective in passing the political status plebiscite legislation for Puerto Rico in 1990, the only bill concerning Puerto Rico's status to pass the House in decades.

RON DE LUGO worked tirelessly on Guam status issues. He urged the Clinton administration to focus on the issue of Guam's Commonwealth and has been my greatest ally in Congress on political status issues. He understands Guam, and he understands the history of our people, our determination to right past injustices, and our commitment to a new Commonwealth.

He was instrumental in passing H.R. 2144, the Guam Excess Lands Act, the first legislation enacted by Congress to return lands declared excess by the military over seventeen years ago to the people of Guam. He has been a strong and vocal advocate of restitution to the people of Guam for past atrocities committed by the enemy during Guam's occupation in World War II. And finally, he will always be remembered on Guam for his close friendship with Antonio B. Won Pat, Guam's first Delegate to Congress, who also arrived in Washington at the same time with RON to break new ground as Territorial Delegates.

Few political leaders in the U.S. territories can claim the record of accomplishment of RON DE LUGO. Fewer still can boast of friends stretching from the far flung reaches of the Caribbean to the Pacific. RON's departure will be felt, and his presence will most certainly be missed by those who have come to count on his ability and integrity. For those of us who reside in the insular territories, he is one of us, he is cut from the same cloth, he has walked in our shoes. He has been a loyal advocate and a true friend. Our final tribute, is to say to a great statesman and friend, thank you.

FRIVOLOUS SUIT REDUCTION ACT INTRODUCED

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. LIVINGSTON. Mr. Speaker, like cannon fire on a besieged city, frivolous lawsuits are bombarding our legal system with increasing frequency and overwhelming intensity. If this is allowed to continue, I'm afraid our legal system will be reduced to rubble.

To address this crisis, I've introduced legislation which will help curtail frivolous suits. My bill, the Frivolous Suit Reduction Act, will award reasonable attorney's fees as part of the cost to the prevailing defendant in Federal civil actions. In other words, the loser pays. Great Britain already has a similar law in place, and I am pleased to report that the Republican Contract With America's Common Sense Legal Reform Act contains a loser pays rule.

The Frivolous Suit Reduction Act will greatly discourage petty suits and rightfully compensate defendants who must fight such cases. While some judges occasionally require a plaintiff to pay a defendant's legal fees, unless it is mandatory we will have little success in our effort to reduce frivolous suits.

Mr. Speaker, it is time to put an end to petty litigation. I urge all my colleagues to cosponsor the Frivolous Suit Reduction Act.

TV VIOLENCE IS ON THE RISE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. PORTER. Mr. Speaker, violence on television has increased by 41 percent since 1992 according to a study recently conducted by the Center for Media and Public Affairs. The study monitored 10 television stations over a 12 hour period and found 2,605 violent scenes compared with 1,846 in 1992. The numbers and percentages are not important, what is important is that violence on television is continuing to escalate.

These shows permeate our living rooms and expose our children and grandchildren to violence on a daily basis. Studies on behavior have proven that there is a link between exposure to violence and future acts of violence. The American people understand this link and want TV violence drastically reduced.

Last year the Congress held several hearings on this issue and concluded that the television industry should monitor themselves. I supported that decision then and I still do now. However, the study further demonstrates that the television industry has made little effort at controlling violent program content and congressional action to do so may, in fact, be necessary.

The television industry must be reminded of the seriousness with which Congress views this issue, and take action to address it before Congress is forced to do their job for them.

LEGISLATION TO CHARGE MEMBERS' OFFICE ACCOUNTS FOR PRINTING COST OF COMMENTS PUT IN "EXTENSIONS OF REMARKS" INTRODUCED

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. POMEROY. Mr. Speaker, I rise today to introduce legislation which will charge the cost of printing comments in the Extensions of Remarks to Member's office accounts.

It has been estimated by the Joint Committee on Printing that each page of extraneous material costs taxpayers $480.90. I believe the cost to the taxpayers would be reduced over the long run if Members were directly responsible for these expenditures.

Extensions of Remarks are not related to the legislative business in hand. Members often use the Extensions of Remarks to honor constituents from their districts. While these are often appropriate, their expense should be taken into consideration. If Members are accountable for them, I believe cost will be factored into the equation and we can ultimately save money.

EXPRESSING APPRECIATION TO HON. ALFRED A. McCANDLESS ON HIS RETIREMENT

HON. JAMES A. LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. LEACH. Mr. Speaker, it is with enormous regret that his many friends bid farewell to the Honorable AL McCANDLESS as he prepares to leave public service at the end of this Congress.

I have had the good fortune to serve on the Banking Committee with this consistent and principled conservative since he came to the Congress in 1982.

During his tenure on the Banking Committee, the Committee had the difficult task of dealing with a savings and loan industry in crisis. AL, in particular had the wisdom to foresee difficulties in the industry and the courage to be part of the solution. For example, in 1990 AL was at the forefront of the effort to strengthen laws on bank fraud, thus enhancing the ability of the Federal Government to recover some of the lost money from the S&L debacle.

During the last 4 years, AL has served as the Ranking Member of the Consumer Affairs Subcommittee. He has been a leader in the movement to ease the regulation burden on our financial institution. After 3 years of being out front on this issue, the President this week has been presented for signature a bill do just that.

As an implacable foe of burdensome regulations, AL has worked particularly assiduously to ease the burden on small institutions that must grapple with the cumbersome paper work requirements of the Community Reinvestment Act.

Of all the legislators I have ever served with, AL is the most "get-at-the-heart-of-the-matter" Representative. AL couldn't be discursive if he wanted to be. Instead, he could always be counted upon to object to repetitive debate in committee. In particular, he abhored political rather than substantive opening statements of his colleagues. Calm by nature, the only impatience he ever reflected was a desire to get on with the people's business. The appreciation of Members on both sides of the aisle was always evident in his insistent moves for previous question—that is, his desire to put an end to individual talk and make a collective decision, whatever the outcome.

Let me add that though AL's record in Congress is distinguished, he has served the public in many different ways. For 12 years, beginning in 1970, he served on the board of supervisors in his home of Riverside County. AL understood the interrelationship of levels of government and never suffered from the all-too-prevalent "Washington-knows-best" syndrome.

He also understood the private section. Before coming to Congress AL was a respected automobile dealer. Because of his wide experience and evident maturity, when AL waded in to conversations with an opinion, his succinct views were particularly appreciated and seldom countered, at least within Republican ranks.

A former marine, who served two stints in the Armed Services—1945–46 and 1950–52—AL is tough. He never waffles, never is wanting for an internal compass.

All of us will miss AL McCANDLESS, particularly this Member. With his steadfast calm, dry sense of humor, and decency of character, AL as a singular counterpoint to what the public has come to disrespect in Congress.

Mr. Speaker, Riverside, CA, is losing a distinguished Congressman, and the House is losing a gentleman and great public servant. I know I am joined by all of his colleagues in wishing AL and his wife Gail the happy retirement they so richly deserve.

MENDING FENCES IN PAKISTAN

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. LIVINGSTON. Mr. Speaker, unfortunately, the longstanding conflicts between India and Pakistan have placed strains on our relationship with both countries. I am especially concerned that United States policy in the region has been unfair in its treatment of Pakistan.

Under the Pressler amendment, the United States conditions aid to Pakistan upon a certification by our government that Pakistan is not developing a nuclear weapons program. Given that other countries in the region have such a program, but do not have their aid conditioned, the Pakistani people feel that the United States has a double standard. I agree and I believe that we need to reconsider our unbalanced policy toward Pakistan. Next year we should revisit this important issue.

Despite the controversy in our official policies, I an pleased that the private sector has recognized the great opportunities for trade and investment in Pakistan. I commend the following three articles which outline the signing of 16 contracts worth about $4 billion, with American power-generation and oil-exploration companies. I submit these articles for my colleagues.

The articles follow:

[From the Christian Science Monitor, Sept. 28, 1994]

BIG U.S. CONTRACTS WON IN PAKISTAN HELP MEND FENCES

(By Farhan Bokhari)

ISLAMABAD, PAKISTAN.—American investment prospects in Pakistan appear to have been livened up after the recent return to Washington of Hazel O'Leary, the United States Energy secretary, following a five-day presidential mission to the Asian nation. Business executives accompanying Ms. O'Leary used the opportunity to sign 16 contracts worth roughly $4 billion, mainly in power-generation and oil-exploration sectors.

That investment commitment is one of the largest in the history of Pakistan. In the past 47 years. American businesses have invested only about $450 million in equity in Pakistan. O'Leary's visit also marks a turning point in the two countries's bilateral relations which were at their lowest point until recently.

Less than two years ago Washington considered declaring Pakistan a terrorist state. The U.S. cut military and economic aid to the country for almost four years under a U.S. congressional provision, dubbed the Pressler Amendment. It restricts assistance unless Islamabad accepts international safeguards on its nuclear facilities.

However, the two sides appear to be trying to expand contacts through areas such as private business investment. These are not barred under the Pressler law. "[O'Leary's] visit here signifies the broadening of the U.S.-Pakistan relationship; this is a multidimensional relationship," declared Benazir Bhutto, the Pakistani prime minister, as she presided over a ceremony celebrating the signing of the contracts.

Other officials from the U.S. and Pakistan acknowledge that the two countries are trying to contain the difficulties over the nuclear issue so that the issue does not harm a broad range of potential contacts, especially business opportunities.

This month, the Clinton administration announced a $10 million grant for nongovernment groups working to improve Pakistan's social sector. And Pakistani officials are examining prospects for purchase of up to $20 million in U.S. soybean oil.

These amounts may seem small compared with the more than $7 billion committed by the U.S. in military and economic aid to Pakistan during the height of the 1980's cold war when Islamabad played a key role in supporting the Western alliance against the Soviet occupation of Afghanistan. But they have added to the enthusiasm of Pakistani officials, who say the two countries are now out of the crisis mold.

"We have brought in the U.S. delegation of businesspeople, the best experts that we have to offer," O'Leary said at the end of her visit. She repeatedly commended Pakistan's energy policy during her stay. That policy, which has not opened the doors for American businesses, has been welcomed by a wide range of businesspeople since its announcement this year.

Under the policy, a complicated procedure to seek official permission for setting up an electricity-generating plant has been replaced by a "one window" government office in Islamabad. There prospective investors can get the official paperwork processes at a fast pace.

Also, the government's decision to assure investors a bulk tariff rate of 6.5 cents per kilowatt hour for electricity generated in such new plants marks one of the most attractive incentives the Pakistan government has ever offered.

Pakistan officials hope progress over the energy projects will help attract U.S. investments in other sectors, too. Many officials here are heartened about the $10 million grant and the possible soybean-oil sale.

These initiatives represent an important shift at a time when despite little movement over the nuclear issue. Pakistan wants to mend fences with the U.S.

ENTERGY CUTS FOREIGN DEALS

(By James Welsh)

Entergy Corp., already involved in Argentina and China, ventured deeper into emerging markets Thursday with a $50 million investment in a Pakistan power project.

The investment is being made with a consortium developing a new $1.6 billion project near Karachi, Pakistan.

The group, Hubco, will operate and own a 1,292-megawatt, oil-fired power plant. Officials at Entergy said the project will boost Pakistan's generating capacity by 13 percent.

Entergy's overseas excursions are making it a leader among American utility companies in emerging markets. The company recently invested about $115 million in two projects in China, and bought into a separate project in Argentina last year.

Pakistan's demand for electricity is not as great as that of China. But as with other foreign markets, the new venture promises substantial profits because it falls outside regulated electricity sales mandated in the United States.

"Obviously, no market compares in potential to what China represents," Entergy spokesman Patrick Sweeney said. "At the same time, this is a really solid project that has been under way for about a year and a half. The participants are well established in that part of the world, and we're comfortable with it from that standpoint."

The station in Pakistan will have four generating units. The first should be in operation by the summer of 1996, and completion of the whole project is expected by the next spring.

Entergy will hold a seat on Hubco's board of directors. The project's other major investors include National Power PLC of Great Britain, Xenel Industries of Saudi Arabia, and Pakistan Power Limited of Singapore.

Entergy's domestic holdings include Arkansas Power & Light Co., Gulf States Utilities Co., Louisiana Power & Light Co., Mississippi Power & Light Co. and New Orleans Public Service Inc.

Entergy closed up ¼ at $23⅛ in New York Stock Exchange trading Thursday.

[From Far Eastern Economic Review, Oct. 6, 1994]

NOW DELIVER—PAKISTAN PREPARES FOR NEXT ROUND OF ENERGY PROJECTS

(By Ahmed Rashid in Lahore)

The hard part, it seems, is over, Pakistan has won credibility among international investors and, with it, 19 agreements worth US $5 billion to build power plants that will help meet the country's growing energy shortfall. Eight of those were signed on September 24, the last day of a visit by American executives traveling with the United States energy secretary, Hazel O'Leary.

Now all Islamabad has to figure out is how to get fuel to the plants, most of which will be oil-fired and how to deliver the electricity that they eventually will produce. To that end the government in October will unveil plans designed to attract at least US $5 billion more to support energy-related infrastructure projects according to Shahid Hassan Khan, special adviser on economic affairs to Prime Minister Benazir Bhutto.

"We now want to concentrate on infrastructure such as railways which have totally neglected the logistics of moving fuel for the plants, and oil and gas transmission to the cities." Khan says few details about the incentives the government might offer potential investors are available.

Among projects that will be critical to the operation of power plants are new oil pipelines, a US $25 billion railway to transport oil from Karachi's port to inland plants, and the laying of seven 500-kilowatt transmission lines, costing about US $25 billion. The Karachi port may also require refurbishing.

Khan has been the driving force in moving the country's lethargic bureaucracy to coordinate better and put together packages attractive enough to draw foreign backing. The rate of return of 22–23% offered to investors in power plants is perhaps the most favorable in the region. The generous energy package has brought support for 19 power projects that together would generate 5,000 megawatts of power—nearly double the current supply.

Pakistan's ambitious energy policy received a ringing endorsement from American investors who recently signed 16 power-related deals—worth nearly US$4 billion—with Pakistani industrialists. Few expected that Bhutto's government would receive such a financial pick-me-up when O'Leary arrived on September 20 with 80 American energy executives in tow.

By the end of the five-day trip, the U.S. contingent had signed agreements to invest in eight power plants and develop three petroleum concessions, among other deals. "Increasing oil and gas exploration is crucial and our oil policy is already attracting new international players who have not been here before," says Khan.

After the deals were signed on September 24, Bhutto hailed them as "a landmark" in the country's history of foreign investment. "Today, Pakistan is a country which offers macroeconomic stability, which comes about if a government has the popular support to take harsh measures that put the economy on track," Bhutto declared.

Four hundred top Pakistani businessmen and bureaucrats nearly fell off their seats when United States Energy Secretary Hazel O'Leary began her address to them in Lahore. Dressed in a designer power suit, with a skirt cut above the knee, the glamorous O'Leary approached the podium and then climbed down from the stage. She strolled the aisles, making eye contact with her audience as she spoke.

The style was more Oprah Winfrey than *Inside Washington*. And it stunned the conservative local audience. The energetic and unconventional O'Leary, an expert on private-sector power generation and law, is acknowledged as one of the few stars of the beleaguered Clinton cabinet. "In all her presentations, she was brilliant and articulate," says a Pakistani energy executive.

However, O'Leary requested a proviso, asking the government for "a clear strategy for implementation of the projects."

O'Leary carried a letter from President Bill Clinton to Bhutto that gave unstinting praise to her policies. "She has made market-driven energy development the chief priority in expanding Pakistan's economy * * * Pakistan has made great strides in reforming its institutions to encourage international investment," wrote Clinton. The endorsement, despite continuing disputes with Islamabad over its nuclear programme, buoyed the government just as the opposition launched a nationwide strike to try to topple Bhutto.

O'Leary also expressed support for nuclear-power generation—a thorny issue in the past between the two countries. "We have no intention to walk away from a power source like nuclear energy," she said. "Any capping of this technology would cap the development of the world."

Pakistani officials said that cementing economic links with Washington without conceding anything on its nuclear-bomb programme was a major success. Maleeha Lodhi, Pakistan's ambassador to Washington, said: "We are reshaping the U.S.-Pakistan relationship and taking it beyond the confines of the Cold War into a new era of cooperation between the private sectors of both countries."

O'Leary, 58, was a hit from the moment she touched down with 80 American businessmen in a glitzy plane chartered from Hollywood's MGM studios. Islamabad pulled out all the stops to entertain its visitors in style. One dinner was held at a 15th-century Mughal fort in Lahore, lit by oil lamps while dancing camels provided entertainment. O'Leary wore the traditional *shalwar kameez*, a long dress over trousers, much to the delight of her hosts.

Later, visiting a village without electricity, O'Leary sipped tea while chatting with giggling village women. She dismissed her crew-cut bodyguards, saying: "We girls want to be alone."

O'Leary also hit it off with Prime Minister Benazir Bhutto, who put aside protocol to host ceremonies in Islamabad during which US$4 billion in energy deals were signed between U.S. and Pakistani companies. The excitement was palpable. "These are the largest single foreign-investment deals ever made in Pakistan's history," said a senior bureaucrat. "We have wasted so much time. This is how business is done."

RAILROAD RETIREMENT BOARD

SPEECH OF

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 6, 1994

Mr. CLINGER. Mr. Speaker, railroads played a vital role in the dawning of the industrial age in America, and no other State's history and heritage have been enriched more by the rail industry than Pennsylvania's.

During the late 1800's and early 1900's, hundreds of miles of railroad tracks stretched across Pennsylvania, allowing merchants to ship freight and transport passengers in and out of the State. The birth of mass production in America created enormous demands for Pennsylvania coal, iron, and steel, and these industries relied heavily on the railroad network to move their goods to manufacturers in St. Louis, Chicago, New York, and other areas of the country.

Aside from serving as the lifeline of Pennsylvania commerce, the rail industry employed thousands of hard-working Pennsylvanians as engineers, operators, mechanics, and railyard workers. Many employees were immigrants or first- and second-generation Americans whose parents and grandparents left England, Ireland, Germany, or Eastern Europe in search of opportunity and prosperity.

Working for the railroad was not always easy or pleasant. Pennsylvania railroad employees toiled through the high times and economic growth of the Industrial Revolution; endured the bitter clashes between labor and management; and witnessed the decline of the rail industry as automobiles, highways, and other technological advances provided alternative modes of transportation.

Today, thousands of railroad employees, retirees, and their families still live in Pennsylvania. Over the past year, I've heard from a great number of them in my district who are worried the railroad retirement system will be dismantled and their hard-earned benefits put at risk.

Indeed, proposals to eliminate the Railroad Retirement Board have surfaced a number of times over the past several years. Most recently, Vice President GORE's National Performance Review recommended eliminating the Board and transferring its functions to other Federal agencies. Under the proposal, retirement benefits would be administered by the Social Security Administration, unemployment benefits would become the responsibility of State unemployment agencies, and sickness benefits would be managed by Medicare.

While I wholeheartedly support the goals of Vice President GORE's National Performance Review to make Government work better and cost less, I fail to see any justification for dismantling the Board. I do not believe the proposal will increase Government efficiency or save the American taxpayers money.

The Railroad Retirement Board was established in 1934 to protect the solvency of rail industry pension programs during the Great Depression. The Board oversees the railroad retirement system and its trust funds which are financed by payroll taxes levied on railroad employers and employees. Over the past 60 years, millions of railworkers have paid into the system with expectations of receiving retirement, sickness, disability, and survivor benefits when and if they are needed.

Although the Clinton administration's intentions to eliminate Government waste may be genuine, its recommendation to dissolve the Board is misguided. Since the cost of the railroad retirement system is borne by the rail industry, elimination of the Railroad Retirement Board will not yield any savings for American taxpayers. Instead, dismantling the railroad retirement system may only make it more burdensome for railroad workers and their survivors to get the benefits they have paid for and need.

Mr. Speaker, today I am introducing a resolution expressing the sense of the House of Representatives with respect to preserving the Railroad Retirement Board and the railroad retirement system. Realizing the 103d Congress will soon come to a close, I fully intend to reintroduce the measure at the beginning of the 104th Congress. Nevertheless, I encourage my colleagues to demonstrate their support for railroad workers and their families by joining me as a cosponsor of this resolution.

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NATIONAL ENDOWMENT BOARD

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

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